

DISSERTATIONES PHILOSOPHICAE UNIVERSITATIS TARTUENSIS

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AIVE PEVKUR

Professional ethics:
philosophy and practice



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PREFACE

The present work has been motivated by my long-standing interest in issues concerning freedom in ethical decision-making in practical life. In my master's thesis, I explored alternative ways of making choices in medical ethics, both within the framework of one particular society and from a wider, cross-cultural perspective. Why do we find societies which tolerate abortion and euthanasia whereas some other societies prohibit it? I came to the conclusion that in our modern, pluralistic world, the range of possible options is affected by value attitudes accepted or tolerated by the society.

As the next step, it was logical to ask about the freedom of each individual to choose his values and to use them as a foundation in making ethical decisions. A person as a patient, a client or a citizen is in principle free to choose any strategy of conduct not condemned or prohibited by the society. Nowadays, when making such choices (in the contexts of medicine, governance, education, *etc*), a person is often assisted by some kind of a professional. The professional, when offering certain services, has to make her own – often difficult – moral decisions. While an individual is free to choose from a broad range of behavioural strategies, the professional's freedom of choice is much more limited.

Professional activities are constituted mainly by two factors or aspects. First, there are the content, knowledge, and skills normally acquired through extensive education or specialised training, and described in the best practices of the profession. Second, professional action is influenced or partly determined by ethical requirements. The greater the interest of individuals in participating in the process of making decisions that affect their lives, the greater also the attention paid to the moral choices of professionals, both by the society and by the professional community. In recent years, interest of this kind has become increasingly strong, and the present work can be seen as an example of this trend.

The relationship between the individual and the state, a person's acting within the state, forms the inevitable frame of reference for his moral choices in practical life. This contributed to my interest in public (or civic) service as a specific branch of research. Public service is often characterised as a field of activity where “whatever is not permitted is prohibited”, in contrast to other fields where “whatever is not prohibited is allowed”. In other words, being an official is one of the most strictly regulated occupations.

Regulations of public service operate at two levels: first, there is the frame set by laws and, second, there is the frame of professional ethics. Laws are not really a topic in my dissertation: in the context of public service, they are of interest mainly to theorists of public administration. As opposed to that, the frames set by professional ethics are the main focus of the present work.

In order to understand the specifics and content of public service ethics, it was necessary to have a deeper empirical look at it, to come into contact with social science research and analyses, both within the Estonian society and in comparison to other countries. Accordingly, the study consists of two parts

which are equally important but very different in content. In the section “Publications”, one can find the articles which help formulate the main philosophical problem. Articles I, II and, to some extent, III specify the theoretical starting-point. They deal with some particular philosophical aspects of professional ethics. Articles IV–VII contain research which is of empirical kind. They reflect the empirical material which helped raise additional questions concerning ethical constraints on professional activities and ways of professional behaviour. Also, they can be seen as a point of reference for testing the soundness of some theoretical reasonings.

The first part of the dissertation presents an overview article which is a philosophical analysis of issues of professional ethics. Its main aim is to create a framework for constructing answers to problems of professional ethics emerging in actual life. The empirical articles are of a more descriptive nature and do not explicitly raise philosophical issues; this, however, does not mean that they do not contain material for philosophical discussion.

At the practical level, I had a chance to participate in the construction of the system of public service ethics in Estonia. During this process, I felt a constant conflict between two roles: public servant as a practitioner vs philosopher as a theorist. In practical contexts, the practitioner usually prevailed. In compensation, the present work is a theoretical deliberation on some problems encountered during my practical work – problems which, at that time, remained without any philosophical answer.

In spite of the fact that my thesis focuses mainly on two fields – mostly, public service and, to a lesser extent, medicine – I hope it will be useful to all theorists and practitioners facing the need of a more systematic interpretation and understanding of the ethical requirements associated with professions.

In the process of writing this work, many people inspired me who generously offered their time for discussions and made valuable comments and suggestions. My special thanks go to the members of the Ethics and Integrity of Governance Study Group of the EGPA (European Group of Public Administration). Thanks to them and to Howard Whitton, I learned to understand the methodology of social sciences and the many-facetedness of public service ethics. I am grateful to them for accepting someone with a purely philosophical background in their community, and for their criticisms and encouragement.

Without participating in the workgroup on integrity of the NISPAcee (The Network of Institutes and Schools of Public Administration in Central and Eastern Europe), I could not have come to acknowledge the influence of national differences on norms of professional ethics.

I owe a great debt to professor Albert W. Musschenga who made me believe that it is indeed possible to philosophically discuss professional ethics, and to my colleagues from the State Chancellery of Estonia who sometimes brought me back to reality when I was carried too far away by ideals. I am indebted to the Centre for Ethics of the University of Tartu and to the *Volkswagen Stiftung* for financial support during my doctoral studies. This dissertation is a contri-

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Finally, three people need special mentioning without whom this work could not have been completed. My supervisor, professor Margit Sutrop, got never tired of asking fundamental questions and pointing to confusions in my thoughts and reasonings. Tiiu Hallap gave form to the English version of my text. Without her, my thoughts could not have been expressed logically and clearly. During the hectic time of writing this work, my entire world has been held together by my husband Taavi who has been a support person, a psychologist, an unending source of encouragement and inspiration – and who at times had to fulfil the roles of both mother and father to our three children.

CONTENTS

LIST OF RELEVANT PUBLICATIONS	9
INTRODUCTION	10
CHAPTER 1. Profession	19
1.1. Overview of the concept of profession	19
1.2. The limits of the concept of profession	24
1.3. Profession and role	26
1.4. Profession as a social role with specific ethical standards	28
CHAPTER 2. Professional ethics	31
2.1. Professional ethics as compared to discipline ethics	33
2.2. Professional ethics as a separate branch of practical ethics	37
2.3. Institutional influences on professional ethics	41
2.4. Codes of ethics	44
2.5. Professional values	48
CHAPTER 3. Grounding professional ethics	53
3.1. The morality of pluralism in the context of professional ethics	55
3.2. An overview of moral theories offered to ground professional ethics ...	58
3.2.1 Classical ethical theories	60
3.2.2 Integrity-based approach	63
3.3. Common morality	70
3.4. The role of moral deliberation	82
CONCLUSIONS	87
REFERENCES	92
SUMMARY IN ESTONIAN	96
PUBLICATIONS	101
CURRICULUM VITAE	223
ELULOOKIRJELDUS	224
LIST OF OTHER PUBLICATIONS	225

LIST OF RELEVANT PUBLICATIONS

- I. Pevkur, A. (2006) "Professiooneetikad eetikateooriate valguses." Jakapi, R.; Kangilaski, J. (eds.). *Studia Philosophica* V: 85–94
- II. Pevkur, A. (2009) "Pluralistlik lähenemine meditsiinieetikale." *Akadeemia* 8: 1540–1558
- III. Pevkur, A. (2007) "Compatibility of Public Administration Systems and Ethics Management." *Viesoji Politika ir Administravimas* 19: 16–24
- IV. Palidauskaite, J.; Pevkur, Aive; Reinholde, I. (2010) "A Comparative Approach to Civil Service Ethics in Estonia, Latvia and Lithuania." *Journal of Baltic Studies* 41(1): 45–71
- V. Van der Wal, Z.; Pevkur, A.; Vrangbaek, K. (2008) "Public Sector Value Congruence Among Old and New EU Member-States? Empirical Evidence from the Netherlands, Denmark and Estonia." *Public Integrity* 10(4): 317–333
- VI. Pevkur, A. (2007) "Ethical Values in Estonian Public Service Organisations." Coombes, D.; Vass, L. (eds.). *Post-Communist Public Administration: Restoring Professionalism and Accountability* (127–138). Bratislava: NISPAcee
- VII. Pevkur, A. (2008) "Training Public Service Ethics – Lessons Learned in Estonia." Vass, L.; Kulenkova-Orzhel, O.; Pollitt, C. (eds.). *Leadership and Management in the Public Sector: Values, Standards and Competencies in Central and Eastern Europe* (63–71). Bratislava: NISPAcee

INTRODUCTION

In recent times, we are witnessing a tremendous increase of interest in professional ethics. The global economic crisis raised the issue of the ethical dimension in business and of the ethical responsibility of those involved in it. Great administrative reforms which began in the 1990s in almost all Western countries gave rise to extensive debates about ethical standards applicable to persons working in the government sector. As a mark of such interest, EGPA (the European Group for Public Administration) and NISPAcee (the Network of Institutes and Schools of Public Administration in Central and Eastern Europe) created working groups on ethics and integrity in public administration. International organisations such as the OECD, the UN and the EU are concerned about how public servants fulfil their duty from the ethical point of view. After financial scandals associated with the allocation of UN aid, Ban Ki-moon, on taking the oath of office on December 14, 2006, said in his address to the General Assembly:

I will seek to set the highest ethical standard. The good name of the United Nations is one of its most valuable assets but also one of its most vulnerable. The Charter calls on staff to uphold the highest levels of efficiency, competence and integrity, and I will seek to ensure to build a solid reputation for living up to that standard.

The European Union has stated its interest in the ethical standards applicable to officials working in the EU structures as well as to those that should be upheld by public administration officials in its member states.

We can observe the same kind of increase of interest in the ethical standards of professional conduct in the society at large. Professional organisations and associations create their own codes of conduct. The media investigates and discusses ethical problems emerging in the context of various professions. Such developments both deepen the public's understanding that ethical action is crucial and put pressure on the professional communities to analyse their practices from the ethical point of view. At the same time, the citizens' awareness of their rights has grown. In medicine, a paradigm shift has occurred, from prior paternalist attitude towards a framework built on respect for individual autonomy. The public is more and more interested not only in *what* professionals do but also *how* they do it, and whether their actions are consistent with certain values and ethical expectations.

The classical account of profession as an occupation that requires extensive education or specialized training is beginning to seem outmoded. Theorists have become unsatisfied with this approach because discussions of issues in professional ethics based on it seem incapable of taking into account real life and established practice. One of the most problematic aspects of the classical view is its understanding of profession as a life-long commitment to one particular discipline or field of activity. Modern society is in constant changing.

This means that the requirements and standards applied to specific professions are changing rapidly as well. New skills have constantly to be acquired, frequent reorientation and reeducation has become a norm. There are less and less people whose entire professional career takes place in the framework of one narrow speciality or role.

To take the medical profession as an example: the basics of medical ethics are a compulsory element in the process of doctors' training, whereas the skills necessary for leadership, teaching or management are not specifically taught to medical students despite the fact that few doctors can avoid such roles during their working career. When a person has to carry the roles of a leader and of a medical doctor at the same time, conflict between these roles may easily emerge. Yet theoretical accounts of professional ethics rarely pay attention to such aspects.

Michael Davis finds that modern ethics booms are in part an answer to the limitations of legal regulation and market forces, and help coordinate people's conduct in a way that makes life in society bearable. The ethics booms manifest themselves in the establishment of institutions such as ethics centers, journals, courses, *etc.*, that enable social groups (like professional organisations) to discuss ethical issues and develop common standards of conduct. These discussions are the means through which standards become social practice (Davis 1990).

Dennis Thomson suggests two causes of changes. First, ethical conduct is becoming more and more regulated. If there is no rule, there is nothing to breach. If there are rules and codes, violations and breaches of these rules and codes become possible, which makes one feel that there is increasingly more unethical conduct (Thomson 2005: 2–3). Pritchard and Musschenga point to the fact that society is highly specialized and people are unable to evaluate expert knowledge and have to trust professionals (Pritchard 2006; Musschenga 2002). Freidson, proposing his analysis of the concept of profession, indicates that traditionally professions were regarded as corresponding to the classical disciplines taught already in medieval universities (medical science, law, and divinity; teachers and professors belonged to the third category). In later times, however, the list of occupations to be seen as professions has greatly expanded (Freidson 1994). Accountants, architects, engineers, social workers and so forth are now all regarded as professions. Since members of all these new professions have paid attention to formulating or strengthening the standards of conduct in their field, it is unsurprising that the number of systems of norms which can be violated is constantly growing.

Second, Thomson argues that the escalation of ethical scrutiny is in part due to the calling for greater moral responsibility of those large institutions that govern our daily lives. The influence of professional advice on ordinary people is steadily growing: specific expertise of a notary, a lawyer, a tax official or a public servant often deeply affects our everyday affairs. From time to time, all people need to use professional services for which they lack the special

competence themselves. Such interaction does not take place at the personal level; rather, we encounter someone as a representative of a certain profession, placing trust in him or her as a member of the relevant professional community. This invites the question as to whether the decisions of professionals are made ethically, whether they are honest and justified. M. Pritchard has put it like this:

...professionals do not stand alone. They are members of professions that themselves avow certain ethical standards. They are employed by others, whether individual clients or institutions, who have ethical (and other) expectations of them, as well. All of this gives rise to serious questions about how individual professionals should conduct themselves in their professional lives. (Pritchard 2006: 4)

Changes in society and in the specific environment wherein professionals act raise many questions concerning the ethical values and demands of different professions. Explosive growth in the amount of literature dealing with such topics is a clear indication of this trend. A sizeable part of publications is devoted to offering practical guidance on how to behave ethically in some particular profession. Often, such guidebooks are written by professionals in the relevant field. When we look at the literature analysing issues of professional ethics theoretically rather than practically, we may notice two trends. On the one hand, professional ethics is dealt with by authors who have some broad interest in the ethical issues of some particular field. For example, in biomedical ethics we have such authors and well-known works as Beauchamp and Childress (2001), or Gert, Cluver, and Clouser (1997); in public service, there are authors such as Lewis and Gilman (2005); Frederickson and Ghore (2005); Cooper (2006); Huberts *et al* (2008); Menzel (2010). All the works listed analyse professional activity as a part of ethical questions that arise within a field of practice: it is not examined as a subject of special attention. The question of whether and how to separate general ethical issues within a field from the more specific issues of professional ethics will be analysed later on in the present work.

It is interesting to note that in biomedical ethics there is a clear tendency towards using philosophical analysis as the main method (see also Borry *et al.* 2005), whereas in public service ethics another approach prevails which is more characteristic to social science. To cite Borry *et al.*:

Sociologists do not want to solve ethical problems or evaluate whether ethical problems are solved properly or improperly. They are interested in how ethical problems arise, how they are structured, and how they are managed. (Borry *et al* 2005: 55)

Until recently, the public service as a profession was of little interest to philosophers, although as intermediary between state and citizen it offers a number of philosophically interesting examples of “borderline situations”. To my mind,

since the emergence of public servants as a clearly delineated professional community is in many countries – especially in the “new democracies” – still an ongoing process, it enables us to see such difficulties in regulating ethical behaviour which may remain unnoticed in the case of established professions like doctors or teachers. Also, philosophical analysis is especially important for new, emerging professions since it helps better understand the role and mutual impact of practice and theory in the shaping of ethical attitudes. It is one of the aims of the present dissertation to bring more philosophical discussion into public service ethics and to show how issues typical to this particular sphere may bear on issues of professional ethics more generally.

Another group of authors exploring professional ethics from a theoretical viewpoint consists of philosophers. Dilemmas of professional ethics have sometimes been used as illustrations or instances of more general dilemmas or conceptions (by Raz, Williams, Rawls and many others). But there is also a growing amount of philosophical work being done on theoretical and philosophical issues of professional ethics proper (Koehn 1994; Martin 2000; Cocking and Oakley 2001; Musschenga 2002; Thompson 2005; Pritchard 2006). As summarized by Dennis Thompson:

Yet institutional ethics does not aspire to be a branch of philosophy. It counsels theoretical modesty: concentrate on institutional norms rather than philosophical doctrines. (Thompson 2005: 7)

Normally, professional ethics is considered a branch of applied ethics, the latter being seen as application of ethical theories to any policy or practice – personal or social – for the purpose of evaluating these policies or practices from an ethical viewpoint. I find that such an approach is too narrow and does not look at practical ethics more broadly as an essential part of the general system of morality. Instead, it sees practical ethics as something secondary or second-rate which only has to apply theoretical reasonings to practical situations. In my view, practical ethics – including professional ethics – not only applies the results of theoretical musings but also gives material for such musings. As for the present work, I will examine issues of professional ethics from a general philosophical viewpoint. It is my aim to analyse professional ethics, theories used to offer ethical norms to professional practice, and the practice guided by these norms. The analysis will be built around the professional practice of public service (discussed especially in articles IV-VI added to this thesis). On the one hand, focusing on a particular field gives an opportunity to test the applicability of various philosophical and theoretical approaches in practice; on the other hand, it helps improve and elaborate theoretical insights, and it also helps philosophically justify the established professional norms, or changes in these norms, if necessary.

On the methodological plane, both normative-prescriptive and descriptive methods are employed to explore professional ethics. Professional norms are

under scrutiny from the point of view of their origin and legitimacy, whereas empirical information is reference material for theoretical thoughts. As Daryl Koehn puts it:

It should be clear... that any grounding of professional authority will and must be both a normative and descriptive enterprise. The grounding is normative because we shall be trying to discover which standards or norms, if any, should regulate professional conduct. It is descriptive because we cannot know whether professional authority is illegitimate until we examine the character of the professions. (Koehn 1994: 9–10)

Michael S. Pritchard notes that although ethics is a major branch of philosophical study, one cannot conceive of practical ethics as an area of inquiry without the involvement of those actively engaged in the relevant field. Otherwise, any account of issues and problems will remain at the level of pure imagination without connecting with real ethical problems that arise in actual life (Pritchard 2006). In addition to that, Annette Baier emphasises the importance of the theorist's personal experience:

Still, for anyone to reflect even intellectually about moral choices, they must have some experience of them. They must themselves have some sort of record of wise or less wise choices, apt or non-apt feelings, and have learned something from their own experience and reflection on it. ... This request for some information about how much an author knows from personal experience about the moral issue upon which he or she pronounces would also, if acceded to, give more authority to a lot of our current philosophical literature. (Baier 1993: 133, 140)

Hugo Adam Bedau points out that philosophers engaged in applied ethics have two possibilities for obtaining an accurate and complete account of all relevant facts in dealing with ethical questions. They must either rely on experts in the fields involved to provide them with the relevant data, or they must develop the skills necessary to gather their own data. To quote Bedau: "Applied ethics independent of empirical information is like Hamlet without the Prince of Denmark." (Encyclopedia of Ethics 2001: 83)

These attitudes of theorists may be summed up as a requirement that in order to talk meaningfully about professional ethics one has to take into account the practical applicability of theoretical views and to give justice to real-life situations, whenever moral theory should be empirically informed. In bioethical discussions, which have for some time been at the forefront of new developments in practical ethics, analyses in the spirit of empirical ethics have become more frequent in recent years (Molewijk *et al.* 2004; Borry *et al.* 2005; Musschenga 2005; de Vries and Gordijn 2009; Leget *et al.* 2009). The main message of these analyses is that, in practical ethical studies, ethicists and descriptive scientists should cooperate in refining ethical theories and approaches (Molewijk *et al.* 2004), and that the facts collected in empirical-ethical

studies and the way in which these views are incorporated into ethical theory are determined by the researchers' subscribing to the value of "practicality" (de Vries and Gordijn 2009: 201).

Molewijk *et al* (2004: 60) propose a list of five main approaches in discussing the relationship between the theoretical and the empirical in practical ethics: prescriptive applied ethicists, theorists, critical applied ethicists, integrated empirical ethicists, and particularists. Taking this list as a system of reference, I would classify the present work as one of critical applied ethics. The latter may be characterised by the following features: moral authority is in both moral theory and social practice; the central goal is to evaluate social practice and to improve moral theory; the use of empirical data as an object of study and as a means to improve moral theory; the method is both deductive and inductive when empirical data are mutually confronted with moral theory.

So far, interaction of sociological-empirical and philosophical-theoretical viewpoints has not been very noticeable in public service ethics. Hopefully, the present work will contribute something to this kind of mutual influence. It should be stressed, however, that my study does not belong to the domain of empirical ethics since the empirical and sociological research presented in some of my articles helps formulate problems rather than elaborate details of theory.

I would also like to note that, originally, various issues for this research arose from my actual involvement in the process of shaping the framework for public service ethics in Estonia. In this process, one often had to deal with the fact that existing norms were helpful for decision-making in common situations, or established certain ideals, but were clearly insufficient for resolving complex real-life dilemmas of professional ethics. For example, theoretical accounts of public service ethics left unanswered the question of how one should evaluate the conduct of someone who steps out from the framework of professional action in order to pursue greater public good, if such an act involves a violation of some norm of professional ethics. This raised the philosophical question of whether we can find moral theories which would enable us to evaluate the conduct of a professional in a broader context than, e.g., the context determined by norms expressed in professional codes, and whether analysis of such situations would have a bearing on the norms themselves, encouraging us to change, specify, or otherwise revise them. Or, alternatively, the problem may rather lie in the fact that the concept of profession and, accordingly, the concept of professional ethics itself, need critical revision.

To answer these main philosophical questions, the following sub-questions will be explored in the present work:

1. What is a profession? To what extent are discussions in professional ethics affected by specific accounts of this concept? This is the main question of Chapter 1. It gives an overview of the sociological account of professions which has been predominant until now and suggests that it pays insufficient attention to ethical aspects. Contemporary professions are better described by a role-

based account which takes into consideration both the changing roles within a field of activity and the different ethical requirements for different roles.

2. What do we talk about when we talk about professional ethics? Chapter 2 attempts to define the domain and borders of professional ethics. It finds that the treatment of professional ethics as a separate discipline in practical ethics is well-grounded, and draws a distinction between professional ethics as an ethics of a certain social role, and “discipline ethics” (“valdkonnaeetika”) as consideration of ethical problems emerging in some particular discipline.

3. What kind of moral theory or framework should be used for analysing the norms of professional ethics? Chapter 3 is aimed at finding a moral theory suitable as a starting-point for professional ethics. On the basis of the analysis presented it may be said that the “framework theory” of professional ethics should meet the requirements of being essentially pluralistic and taking into account practical aspects, of being capable of providing a broader framework for the justification of professional moral norms, and for finding rational solutions in situations where the existing normative basis proves insufficient. These requirements can be met by the theory of “common morality”.

As said, my approach in this work is interdisciplinary by its nature and involves two different directions – philosophical analysis and empirical analysis. Most philosophical analyses of professional ethics consider a broad spectrum of occupations, whereas in my thesis the main focus will be on public service ethics, with occasional insights into other professions (mostly medicine).¹

Professions have an important role in modern life and this is why it is necessary to have a clear understanding of the principles and norms of professional action, so that we may – whenever we feel it is necessary – ethically scrutinize the activities of professionals who have the right to interfere with our lives.

People in modern, highly differentiated societies are dependent on all kinds of often anonymous officials, experts, producers and retailers for getting goods, benefits, services, treatments, and so on. Therefore they have, especially when the relations are asymmetrical, an interest in the trustworthiness and reliability of persons acting in such roles or capacities. (Musschenga 2002: 174)

Choosing public service as the main focus of this study has two reasons. First, it is an occupation currently in the phase of developing into a profession. The public service tries to encourage and deepen ethical conduct at the organisational level and in a systematic way. As a rule, organisational structure plays an important role in the process of transforming an occupation into a profession. Second, the number of studies on public service ethics is rapidly growing. This has been accompanied by application of various theoretical analyses both at the

¹ Empirical information is presented in the “sociological” articles annexed to the dissertation.

national and international levels and has launched intensive discussions about the ethical framework of public service, enabling one to relate theoretical insights to the practical realm. A thorough examination of one particular field gives an opportunity to investigate professional ethics from various viewpoints and in a more systematic way, revealing problems and connections which otherwise might remain unnoticed.

My analysis is divided into two parts. The first part is a theoretical overview aimed at outlining a general framework for discussing issues in professional ethics. Also, it is meant to situate the empirical articles (see Publications) in a broader context. Provisionally, the articles may be divided into two groups. Articles I, II and (to a lesser extent) III examine some theoretical aspects of professional ethics. Articles IV-VII are empirically or practically oriented.

The main topic of Article I is the application of ethical theories to issues in professional ethics. It finds that, in the field of practical ethics, it is reasonable to distinguish between ethical issues pertinent to some particular field or discipline (in medicine, examples of such issues are the use of stem cells, abortion, and euthanasia) and those which are directly related to a profession (in medicine, e.g., the use of personal information and trust between doctor and patient). Article II compares monistic vs pluralistic ethical theories as applied to the professional practice of medicine.² It suggests that pluralism is better suited for resolving ethical problems in this context. Article III analyses the idea that public service ethics will be applied more successfully if, when choosing a model for the ethics management system, its suitability to a given public administration system is taken into account. It is suggested that the dualist account currently prevailing in literature is unsatisfactory; instead, a three-fold approach is proposed which may help harmonise public administration and ethics management and integrate ethics more deeply into public service.

These articles form one part of the discussion of norms in professional ethics, and of the distinction between professional ethics and “discipline ethics”. They also address the question of how ethical theories should be applied in the process of shaping the normative basis of professional ethics.

Articles IV, V and VI analyse the current state of public service ethics in different countries and look for possible insights from these empirical data for theoretical generalisations.³ Article IV presents a comparative approach to civil service ethics in Estonia, Latvia, and Lithuania. It takes a closer look at the different models and features of civil service systems and discusses the predominant values of public servants in the Baltic states. The role of the author was to provide data about Estonian civil service and to compare the

² By “monistic” theories I mean ethical theories based on one main or overriding value, as opposed to “pluralistic” theories which admit many values. A prominent defender of pluralistic value theory is John Kekes.

³ Article IV was co-authored with Jolanta Palidauskaite; article V was co-authored with Zeger van der Wal and Karsten Vrangbaeck.

expectations and values associated with civil service in the three Baltic states.⁴ The main focus of article V is on the current state of public service values in three European countries – the Netherlands, Denmark, and Estonia. It compares the findings of empirical studies on values in these countries and analyses those findings in the light of formal statements about the values which should characterise the public service *ethos*. The role of the author was to give an overview of the Estonian public service values and to analyse and discuss the empirical data involved.

Article VI is devoted to the exploration of the values actually held in Estonian public service. It scrutinises the issue of what kind of values are in fact espoused by Estonian public servants and of whether and how they differ from the expected values. Do these actual values indicate the existence of a genuinely professional body of public service? Can we speak about the Estonian public service as a relatively homogenous entity or do we find notable dissimilarities in the values of the different branches and organisations of public service? When asking about possible value differences in article VI, it was necessary to investigate the personnel parameters of various organisations. The analysis suggests that empirically identifiable differences can be found in individual attitudes and group-based professional norms.

Article VII discusses personal development in professional ethics which may be achieved through relevant training. It explores several approaches to training processes in contemporary professional ethics. Also, it gives some insight into the question of what are the best methods for analysing dilemmas in professional ethics. Finally, the overview article outlines a theoretical framework for the published articles and answers the question of whether we can find a general conceptual basis for analysing issues in professional ethics such that succeeds in taking into account the realities and necessities of actual, practical life.

⁴ The author's task in this collaborative work was to compare and analyse the values of public service in the three Baltic states, relying on national and international surveys.

CHAPTER I.

Profession

As noted in the introduction, philosophers' participation in the development of views on professional ethics has so far been insignificant. Some people may even ask whether this subject is of any real philosophical interest at all. Philosopher Michael Davis, a well-known specialist in professional ethics, has put the problem in the following way:

What seems to me to make a subject "philosophically interesting" is confusion about fundamental concepts. By "confusion" I mean an understanding of a subject so flawed that even those who know all that is known about it do not know whether they can answer the questions they are putting or even what they need to know to answer them. (Davis 2003: 354)

This is a rather apt description of the situation we observe in the landscape of professional ethics. It is intensely discussed, for instance, what does an ethical professional look like in some particular field, but the "philosophically interesting" questions often remain without deeper insight. There appears to be no consensus on how to interpret the core concepts. In this first chapter, I will examine the concept of profession in some detail because "we ... need a more restricted meaning for the term 'profession' in order to appreciate the context of professional ethics" (Beauchamp, Childress 2001: 6).

I.1. Overview of the concept of profession

'Profession' is one of the key concepts in discussions about professional ethics. We talk about *professional* ethics, but to whom will the results of our discussions be applied? To begin with, I will leave aside the idea that there might be no such things as professions as some critics of professionalism (mostly organisational analysts) have claimed (Koehn 1994: 4). Among those who think that it makes sense to talk about professions, we find no agreement on a single, definitive list of traits which are constitutive of a professional. Abbott admits that "There is much to lose and little to gain by insisting on a precise definition" (Abbott 1983: 856). Pritchard adds that "There are no generally accepted definitions of "profession" and "professional", but this should not present a barrier to fruitful inquiry" (Pritchard 2006: 4). In what follows, I will present a short overview of the relevant discussions.

The etymology of the word 'profession' comes from Latin *pro* + *fateor* and means 'forth + acknowledge, confess'. *Professio* means something that has been declared publicly. One of the opposite terms is *amator*, 'lover' or 'admirer', which also means 'non-professional', 'dilettante', 'tyro', 'novice'.

The occupations which later came to be called 'professions' in English have a rather special history. In Europe, medieval universities gave birth to the three

original learned professions of medicine, law, and clergy (university teaching belonged to the third category). Hence, the rather common understanding of profession as a calling requiring specialized knowledge, long and intensive academic preparation.

The process of industrialisation was associated with major changes in the structure of these older professions. New occupational groups emerged, many of which subsequently claimed professional status. These changes were reflected in the sociological literature, in the attempt to define the distinguishing characteristics of modern professions. This approach is sometimes called the “trait” or “check-list” approach. In the 1970s, the literature on professions become more critical.

Ignoring for the moment differences within sociological literature, we may usefully speak of the so-called “sociologist” view on professions. According to Freidson, this means seeing professionals as

honored servants of public need, conceiving of them as occupations especially distinguished from others by their orientation to serving the needs of the public through the schooled application of their unusually esoteric knowledge and complex skills (Freidson 1994: 13).

Abbott agrees with this approach and brings out two different levels of societal demands on professions. The first level is focused on the professions’ corporate obligation to serve the society (as stressed by sociologists like Durkheim or Marshall); the second level concerns those obligations of professions which have to do with the individual professional/client relationship (as stressed by Parsons) (Abbott 1983: 855–856).

Terrence Johnson defined ‘profession’ as a method of controlling work – an occupation which exercises control over the actions of its practitioners. He emphasised the role of power in maintaining such control (Freidson 1994: 3). Freidson himself had stressed, in the 1970s, the ideological character of professional claims, the unjustified aspects of monopolistic privilege, and the way organized professional institutions create and sustain authority over clients and associated occupations. So, it seems fair to say that both Freidson and Johnson moved away from the trait approach to something like the “power approach”. The same kind of tendency in the US of the 1970s is pointed out by Koehn who says that, at that time, an influential view saw professions not merely as economic institutions but also as effective monopolistic devices aiming at restricting trade to maximise professional income and power.

Frendreis and Vertz (1988) give a taxonomy of approaches to conceptualising profession. They list four predominant perspectives. In the “characteristics” or “traits” approach, which is the most common one in the discourse on sociology of professions, scholars attempt to list the essential characteristics of a profession that distinguish it from other occupations. The biggest vulnerability here is to specify the precise list of those characteristics. The “process” approach attempts to provide a linkage between the factors

mentioned in the characteristics' approach by listing them in a sequence. The "symbolic" account suggests that a profession is a collective symbol we are all capable of recognizing. This leaves open the question of how an occupation achieves the status of profession. According to the "conspiracy" approach, members of an occupation conspire to attain professional status so that they may increase their power, prestige, wealth, and independence.

Freidson and Vertz point out (1988: 81) that these four approaches are of less value when we are more interested in individual decision-makers. Only the first and second approach involve an implication to formal codes of ethics. Ethics is not seen as an inevitable part of a profession. In general, all those authors who define professions sociologically, pay very little attention to ethical demands in a professional field; and definitions of profession within a social stratification research tradition give us no hint on how to deal with ethical issues emerging in professional activity.⁵

To conclude this overview of the main sociological views on profession, a remark on geographical differences is in order. Freidson points to some important differences in the European and Anglo-American discourses on professions. Until the 1980s, European scholars did not use the Anglo-American concept of profession in the type of discussions we are talking about. Freidson suggests several reasons for this. First, the absence of a term with similar implications in European languages was a factor. Second, and perhaps more importantly, the European professions were in general more closely bound to the state than it was the case in English-speaking countries. In Europe, the state plays an active role in initiating and recognizing professions; it is also the prime employer (Freidson 1994: 5). It is notable that in several major European countries representatives of the so-called "classical" professions belong to the cluster of public servants. In France, for example, employees of public hospitals (including medical doctors) are civil servants; in Germany, most of the teachers are civil servants (*Beamte*).

As opposed to the sociological view, philosophers (like Michael D. Bayles, Benjamin Freedman, and more recently, Michael S. Pritchard and Arthur I. Applbaum) admit the role of ethics in professions. Mainly, they have been willing to grant that professions have a certain kind of non-ideological ethics – a distinctive *ethos* devoted to a particular good (Koehn 1994: 3). An approach presented by another group of philosophers concludes that

for professional ethics to constitute legitimate norms or standards for governing professional behaviour with respect to clients and non-clients, these ethics must either be derived from, be identical with, or be an intensification of ordinary morality (*ibid.* 4).

⁵ In some contexts, professions can be seen from a purely commercial point of view. Koehn's example here is a conversation between doctor and patient which can be regarded as just another form of commercial speech (Koehn 1994: 183). From this perspective, professions have no special status, they are one of the many forms of commerce.

These two views will be examined in more detail later when I discuss the distinction between “separatist” and “nonseparatist” accounts of professional ethics.

I hold the view that the role of philosophers is not only to underline the importance of ethics, when speaking about professions, but something more radical – to point to a clear need of explicitly incorporating an ethical component into the ideology and self-determination of professions. In a way, it means making ethics a part of the concept of profession. One of the reasons why it seems increasingly important to introduce “more ethics” into professions (and professional discourse) is the fact that there is a growing number of cases where professional action is in fact being evaluated not only on the basis of expert knowledge and skills but also from the viewpoint of certain ethical expectations.

In support of this stance let us examine two examples. First, consider a surgeon. Suppose there is a good surgeon employed at a hospital, whose operating skills are well-known and respected. However, he is very inadequate, when communicating with patients, so that the administration and ethics committee of the hospital receive frequent complaints to this effect. The fact of repeated complaints shows clearly that patients and their relatives are not satisfied with mere professional skills, but have firm expectations as to how they should be treated or informed. The importance of such expectations is now widely recognised both by the medical community and the society at large. Second, consider a plumber. His task is to install and maintain sanitary equipment so that clients may use it with maximal convenience and without problems. As with the surgeon, we assume that the plumber knows and applies his craft well. However, like the surgeon, he has communication problems. For example, he installs a bath in the apartment, but takes no interest in explaining to the client that it must not be cleaned with abrasive substances. Again, we can talk of an ethical component in the profession: it should be part of the plumber’s responsibility to inform clients about how to maintain the elements of the sanitary system so that they may function properly.

These two examples help illustrate the idea that ethical expectations to jobs and professions are now commonplace. But we can also point to differences between surgeons and plumbers. The importance, or the range of influence, to person’s lives is not the same in case of all occupations. Second, not all occupations have professional institutions. (The second aspect is related to the first.) The greater the influence of an occupation to persons’ lives and actions (doctors, teachers, lawyers, and social workers being obvious examples of “important” occupations), the greater the need to establish professional standards – including ethical values and norms – so that the expectations of individuals may be satisfied. Through these ethical expectations, the society exerts influence on professions and occupations, or mutually interacts with them. In order to establish the standards of behaviour, professional organisations have to be created. But in case of occupations like plumbers

whose influence is not so great, the expectations of the public are not so urgent as to force the representatives of the occupation to organise themselves into full-blown professional communities. So, we might say in conclusion that in case of some occupations – potential professions – society should require (and is in fact beginning to require) the establishment of explicit ethical values and standards, whereas other, “less important”, occupations are invited but not really required to do so.

But there is also another kind of reason, which points towards the same conclusion. If we look at the actual changes in the labour market, at what kind of specialists societies need most, we see an ever-increasing number of jobs which are not so tightly related to prior formal education or skills. Nowadays, representatives of quite a number of professions have been trained in some other field, not in the area of their current professional community. Professional skills are acquired in the process of practicing in a particular area. Public servants, for instance, belong to the community of public professionals, but few of them have received a formal education in public administration.⁶ Another example of the same trend can be found in the distance-learning sector. It employs teachers, curriculum developers, and librarians, but it also requires that they have some additional computer and communications-related skills. The ICT sector generally is prominent for its insistence on actual skills instead of formal education; and many of its representatives also share strong ideological commitments (including ethical ones).

Finally, it is important to stress the *autonomy* of the professional community in all this. Despite expectations and trends, it is ultimately up to professions themselves how they decide to determine their identity. Koehn who says that “... Professions are not mere ideologies but inherently ethical practices” (Koehn 1994: 7), also warns against insistence upon a purely descriptive understanding of professionalism which is favoured by social scientists (*ibid.* 6). When identifying professions, the central focus should not be on whether the society wants to acknowledge some occupation as a profession but on the inner requirements of the relevant community. Frendreis and Vertz (1988) stress the same point with respect to the public sector occupations. Although one may ask whether the public sector occupations, especially the public service, can meet the requirements of being a profession, one should not rely on external criteria but rather on the inner willingness of the community to professionalise. Professionalisation of public service is best seen as a process in which a certain body of expert knowledge and a specific type of occupation-based group identity are emerging.

At present, the debate on how best to define and to understand the concept of profession continues (Burns 2007). But there appears to be no doubt that the concept of profession is presently undergoing transformation. This can be taken

⁶ The criteria of choice for public servants in the three Baltic states are described more fully in Article IV.

as an empirical fact. What exactly are or will be the criteria of professions as opposed to simply occupations is as yet not very clear. To bring one last example: recently, the issue has been raised as to whether business management should be seen as a profession or not. In this connection, it has also been asked whether training in professional ethics should become a part of the business management curricula (Khurana and Nohria 2008; Barker 2010). But the changes and unclarity with the concept of profession also hint that one should start to reinterpret the conception of professional ethics as well. This will be the topic of the next chapter.

1.2. The limits of the concept of profession

When discussing ethical requirements pertinent to some occupation, the question of whether the occupation involved is a profession often serves as a starting-point. It is presumed that talk of ethics makes sense only with reference to professions. However, as we have seen, the concept of profession is itself confused. During the period of time when the term ‘profession’, in its modern sense, emerged in the Indo-European languages, a person’s belonging to some professional community was determined by devotion to a certain occupation. By the way, the Estonian word corresponding to the English terms ‘profession’, ‘occupation’, and ‘vocation’ is ‘elukutse’. In literal translation it means “call of life”, which also implies that a person has devoted himself to a particular occupation for all of his lifetime. One significant part of the problems in discussions of professional ethics has to do with the fact that nowadays a profession cannot be seen as a life-long commitment any more.

Considering the relationship between the concepts of profession and of ethics, a number of problems can be identified which emerge only if we think of ethics in occupational contexts from the “professional” perspective. Quite often, deciding whether an occupational community should be seen as a profession is problematic, even if the community has clear requirements for its practitioners and firm core values. For example, in the case of public service one may often hear the reproach that people entering this field lack special higher education and extensive training. (This is true for those countries, where the public service system is open, position-based.) Sometimes people are recruited on the basis of their formal training and education, but often it is done by taking into account their actual specialised knowledge, if it seems suitable from the viewpoint of the specific requirements of the vacancy. So, a marine biologist may successfully apply for a position in the Ministry of the Environment although she lacks formal education in public administration. Or, a specialist in human resources management gets a job in the same ministry. Again, she may lack training in public administration; instead, she may have both formal education and practical training in human resources management, and belong to the relevant professional community. In such a case, is she a professional in one sphere but not in the other, even if she meets all the criteria for a public servant?

Such examples reveal two general problems. First, theories about professions are theories about so-to-say one speciality. The traditional account of professions assumes that a person can only be a professional in one particular sphere. Yet modern society offers plenty of examples of persons being professionals in some classical field but practicing in other fields as well, which also present professional requirements to them. So, for instance, a medical doctor may act, in addition to his medical practice, as an administrator or a university teacher, being committed to the standards and demands of all these three areas of activity. Second, there is the problem of classification. Freidson points out that the status of profession adds credibility and authority to an occupation. That's why classical professions are not interested in the expansion of the relevant group.

If we regard the concept of profession in the descriptive rather than in the normative vein, we should introduce intermediate links between profession and occupation to create some kind of gradation – semi-profession, quasi-profession or alike. To elaborate a bit on this idea, let us consider Ammon's and King's list of professional characteristics presented by Frendreis and Vertz who see it as one of the most comprehensive ones. It mentions the following criteria:

1. Reliance on a body of specialised, theoretical knowledge;
2. Skill based on formal, standardised education, training and experience;
3. Existence of a rigorous screening system to assure competence;
4. Adherence to an ethical code of conduct;
5. Provision of a service devoted to the public good and strong public service commitment among practitioners, including a sense of calling to the field;
6. A system of monetary and honorary rewards which have symbolic importance as indicators of achievement;
7. Organisation, especially through a representative association which serves as a major referent for practitioners;
8. Remuneration commonly through fees for services to clients or customers;
9. A system of self-regulation and belief in the importance of self-regulation and autonomy among practitioners. (Frendreis and Vertz 1988: 78–79)

Occupational communities which meet these nine criteria entirely, or almost entirely, can be acknowledged as professions while those occupational communities which meet only some of these criteria can be seen as semi- or quasiprofessions. Of course, this does not mean that the aforementioned list of criteria should be taken as final and never needing revision.

In sum, it can be said that a profession delivers vital services, makes a commitment to serve the public and claims a special relationship to the marketplace. An occupation becomes a profession, if a group of individuals sharing the same occupation organise their activities and practices in a morally permissible way, or work to support a moral ideal; members of the group set and follow special standards for carrying on their occupational work. Some of these standards can go beyond the demands of ordinary morality: acts which are required, say, from a soldier are not permissible in ordinary morality. These

special standards are morally binding to the “professed” members of the profession. If a person freely declares (or professes) herself to belong to a profession, she is voluntarily implying that she will follow these special moral codes. If the majority of the members of a profession follow the standards, the professional community in question will have a good reputation and the members will generally benefit from this; if the majority of the members violate these voluntary standards, professed members of a profession will be at a disadvantage, or at least receive no benefit from declaring themselves professionals (Davis 2009).

1.3. Profession and role

The examples of the previous sections suggest that nowadays professional communities are no longer so clearly defined as they used to be. Occupational activities may require that a person has different kinds of professional skills, which means that he also commits himself to several different sets of professional-ethical norms. To borrow B. Musschenga’s words: in the area of morality, in the realm of “norms and ideals”, social life in modern society is not only complex and differentiated but also fragmented. The same tendency is pointed out by Cooper. Trying to deal with pure professional ethics it can be seen that this development makes it almost impossible for people to see themselves as a singular self, as a unity, because their attitude and behaviour has to be different in so many distinct areas and so many social roles.

People no longer identify themselves with one role or even a few. Our lives become an intricate network of interrelated roles, and we move through these roles without thinking very explicitly about the changes in behaviour they require. (Cooper 2006: 48)

Taking into account such limits of the concept of profession, we may, alternatively, view professional activity as a network of action shaped by several different roles. As put by William Goode already in 1960, the “status account” is giving way to the “role account”. It is the role which should be seen as the main structural unit in social institutions where an agent may face a moral demand.

For even when “the norms of the society” are fully accepted by the individual, they are not adequate guides for individual action. Order cannot be imposed by any general solution for all role decisions, since the total set of role obligations is probably unique for every individual. On the other hand, the individual may face different types of role demands and conflicts, which he feels as “role strains” when he wishes to carry out specific obligations. (Goode 1960: 484)

A person may have different private roles as a parent, a child, a friend, a member of a hobby club, *etc*; on the other hand, she may also have different

public roles as a citizen, an entrepreneur, a doctor, an official, *etc.* In this connection, Applbaum points out that role is an important moral concept: “Roles characteristically claim to generate moral prescriptions that vary from professional role to role.” (Applbaum 1999: 10) Goode puts the same point somewhat more generally: when individuals participate in different role relationships, each of them may generate different obligations (Goode 1960: 485). It seems that, often enough, issues in professional ethics derive from conflict between the norms and ideals of different roles. To bring a simple example: the role of a public servant may require keeping a secret although, as a citizen, the person in question may wish and feel that revealing the secret would contribute to the greater transparency of society. Or, to take another example: a doctor may wish to give quick aid to a close relative although another patient should be preferred in the order of treatment.

In the recent history of the Estonian society, we find several cases where such role conflicts have attracted wider attention and generated intense discussion. In the first case, a former medical doctor became an official in public service. As a citizen, he had a well-developed sense of justice. When practicing medicine, he had often publicly criticised the shortcomings of the “system”, thereby fulfilling his duty as a citizen. After having entered public service, he continued to put forward this kind of criticisms. Law, however, limits such freedom of officials, and this led to his statements being condemned as inappropriate. Another prominent case happened during the electoral campaign for the next presidency, when a government official used the rostrum of the parliament (*Riigikogu*) to encourage its members to fulfil their duty as citizens. Such cases raise the question of whether an official is ever allowed to forget her role as an official, if she sincerely considers her role as a citizen superior to any other role. Discussions of this type of situations have so far yielded no definite input into the sets of norms of professional ethics. But some role conflicts are considered clearly harmful or dangerous to society; in consequence, they have been criminalised as corruptive actions.

The same problem has been discussed from the individual’s decision-making perspective by John P. Frendreis ja Laura L. Vertz. They ask how professionalism enters into the decision calculus of individual agents, if professionalism is only one factor among many which affect decision-making. Their answer is that this happens through role orientation. To use their own words: “Professionalism is a role orientation, not the exhibition of a specific set of traits or behaviors.” (Frendreis and Vertz 1988: 83)

All this shows that problems emerge if we regard professions as purely sociological phenomena, ignoring ethical and value requirements. The latter should be seen as an inseparable part of modern discourse on professions. A professional should be defined as a member of an occupational group who sees other members as peers/colleagues, upholds relevant professional standards, and accepts the profession’s inner agreement to work in a morally permissible way (often expressed as a code of ethics).

The present work uses the concept of professional ethics in the sense of a set of different occupational, or role-ethical, requirements. In literature, the concept of professional ethics is used for description of ethical norms applying to different roles, without any prior analysis of the question whether a given occupation qualifies as a profession or not. For the sake of clarity, it is reasonable to continue this tradition here. Although many authors have adopted the role-based account to analyse professions, the advantages of such an account have not as yet been examined deeply enough. It seems quite clear, however, that the concept of role gives better justice to the many-facetedness of modern occupational life, and reveals how, in the process of practicing one particular profession, role conflicts may arise within the framework of this profession itself.

1.4. Profession as a social role with specific ethical standards

The term ‘profession’ should not be taken as referring to monopoly and power as suggested by Freidson. Occupations consensually seen as professions, like medical doctors, teachers, and lawyers, share the characteristic of having great impact on people’s everyday lives. Doctors control our body, the clergy used to be in command of our soul, teachers rule over our children, and lawyers guide us as legal entities. This means that the representatives of professions have a greater right to interfere with our being and actions which requires a deeper relation of trust. Daryl Koehn sees the latter as the core of professional ethics:

I will argue that professional practices qualify as morally legitimate because, and to the extent that, they are structured to merit the trust of clients. (Koehn 1994: 9)

It seems likely that it is precisely the relation of trust, which grounds the need for establishing ethical criteria. The greater the pretensions of an occupation on our person, the stricter the requirements one may apply to this occupation. To expand the definition of profession, one may say that there is reason to speak of profession, if an occupation satisfies the following preconditions for a relationship of trust:

- specialist competence created by special (higher) education and practical experience in the relevant field
- awareness of one’s role, of its impact on society and individual
- awareness of one’s responsibility towards individual and society.

William J. Goode (1957) saw professions as an ideal of service to society. The criteria of a professional community are summarized by Goode as follows:

Each profession is a community without physical locus and, like other communities with heavy in-migration, one whose founding fathers are linked only

rarely by blood with the present generation. It may nevertheless be called a community by virtue of these characteristics: (1) Its members are bound by a sense of identity. (2) Once in it, few leave, so that it is a terminal or continuing status for the most part. (3) Its members share values in common. (4) Its role definitions vis-à-vis both members and nonmembers are agreed upon and are the same for all members. (5) Within the areas of communal action there is a common language, which is understood only partially by outsiders. (6) The Community has power over its members. (7) Its limits are reasonably clear, though they are not physical and geographical, but social. (8) Though it does not produce the next generation biologically, it does so socially through its control over the selection of professional trainees, and through its training processes it sends these recruits through an adult socialization process. (Goode 1957: 194)

Belonging to a professional community is special in the sense that, on the one hand, trust and responsibility are personal, but, on the other hand, they extend to the whole group. Mistakes or misconduct by one member discredit the whole community. Mike W. Martin, when defining professional ethics, says that it consists of shared duties and episodic dilemmas – the responsibilities incumbent on all members of specific professions, together with the dilemmas that arise when these responsibilities conflict (Martin 2000: vii).

We can also say that those occupations or roles should be seen as professions whose successful practicing presumes a great degree of positive freedom and rights, while setting the greatest limits to the individual's negative freedom. The exact extent of positive freedom and the constraints on negative freedom are matters of social contract, and the latter changes in time.

Societies differ from one another in their interpretations of moral rules, so the scope of the right to privacy and even whether there is any right of privacy can differ in different societies. Even within a single society interpretations can change, so that the right of privacy can expand or contract. (Gert 2004: 144)

Paternalistic attitude which, until recently, was a norm in medicine, meant a great degree of doctor's positive freedom. In the last decades, the principle of patient's autonomy has been substituted for paternalism and this of course lessened the degree of doctor's positive freedom. It now seems possible that the principle of autonomy may become the foundation for all legal regulation in the medical field.⁷ However, the degree of a doctor's freedom has not decreased to the extent that we should begin doubting whether we are dealing with a profession at all. In earlier days, there have been various types of fortune-tellers, astrologists, exorcists, and quacks, who formed groups bearing some similarities to modern professional communities. Their influence on

⁷ In Estonian legislation, e.g., the Law of Obligations Act (*Võlaõigusseadus*) §776 p.3 says: The patient may be examined and any medical services offered to him/her only with his/her consent.

individuals' actions was at times significant. Later, such practitioners lost their positive freedom to a great extent, and they also lost their general status.

To summarise Chapter 1, we can say that professions have traditionally been defined by the society through special expertise, through services related to such expertise and offered by the relevant group, and through special organizations that regulate the practices and activities of the group. In addition to that, society often assigns special obligations to professions, and sometimes it also interprets them as trying to exercise monopolistic power over certain spheres of activity. The traditional concept of profession has to do with a particular discipline or field, be it medicine, engineering, teaching, or something else. Due to the flexibility of modern labour market, life-long education, and multi-functional working life such an account has become unsatisfactory. In our time, the working life is characterised by a plurality of roles. A role-based account to professional ethics opens the door to a more profound analysis of situations and ethical requirements applicable to various professional activities.

CHAPTER 2.

Professional ethics

Philosophically, the concept of ethics is as interesting as the concept of profession. The term ‘ethics’ has several different senses in the languages which adopted the word from ancient Greek. In order to clarify these from the particular viewpoint of professional ethics, I shall give an overview of how Michael Davis (2003) explains the possible meanings of the term. He considers four different meanings to be especially relevant in the context of engineering ethics. I will extend his discussion somewhat to include all professional ethics.

In the first sense, ‘ethics’ is a synonym for ordinary morality. It refers to those standards of conduct that apply to everyone as moral agent: “Don’t lie”, “Don’t cheat”, “Keep your promises”, “Help the needy”, *etc.* Anyone understanding ‘ethics’ in this sense will interpret the term in the context of some profession as more or less equivalent to “moral problems in that profession”. According to Davis, in that case, professional ethics will seem a special kind of casuistry – the kind involving cases from one profession or another, instead of other kinds.

Second, ‘ethics’ can be understood as “the art of living well”. Professional ethics in this sense has two sides. One – the individual side – is concerned with what professionals should do to flourish as human beings. The individual art of living well includes morality but not only that. It also involves, for example, developing various intellectual virtues and may involve other aspects as well. The social side of the art of living well concerns mostly what professionals should do to help others flourish. Professional ethics in this sense will differ from other kinds of ethics (in the same sense) only insofar as professionals in different areas differ in nature or position from other people.

Third, ‘ethics’ can be understood as those special moral standards of conduct that apply to members of a group simply because they are members of that group. Nursing ethics applies to nurses and no one else; public service ethics – to public servants and no one else. Ethics in this sense resembles law in being relative to a group. It is not mere *ethos* but something distinct from other positive standards.

In the first sense of ‘ethics’, and also the third, there is an important distinction to be drawn between general (or *prima facie*) standards and their application in particular circumstances (“actual obligation, all things considered”). Standards may be rules (that apply or don’t apply), principles (considerations that have certain weight), or ideals (what it is good to try to achieve but not wrong not to try to achieve). Despite the fact that Davis does not mention values in this list it seems reasonable to equate values with ideals. Ideals as values can be understood as aspirational, as something desirable.

An ethical standard should be followed – where ‘should’ may mean either “required subject to certain specified exceptions” or a consideration sufficient to decide a question, if all else is equal. A requirement cannot be overridden,

though an exception to it can be justified. There is, for example, a general rule “Don’t kill”. It has a few exceptions (self-defense, protection of the innocent, a just war). To show that an act falls under one of the exceptions is to offer a justification. In the case of the rule against killing, to show that a killing was justified is not only to show that the rule does not cover the act, shielding one from moral blame, but also to show that the act was in some respect positively good, inviting moral praise. Here, it deserves to be noted that often it is precisely professional ethics which gives a justification for making exceptions in the general moral rules. A soldier is justified to kill not only in order to protect his life, but also to pursue an aim set before him professionally; a lawyer is justified not to tell the truth in order not to harm the defendant.

Like rules, principles cannot be overridden. But, unlike rules, they can be outweighed. For instance, although the principle “Help the needy” has no exceptions, I may nonetheless (justifiably) not help the needy any time other considerations (even my own convenience) outweigh my “obligation” to help. Helping the needy is not a requirement. It is only an “obligation” or “responsibility” in a weaker sense – it is a consideration that, in particular circumstances, can be outweighed, individually or collectively, by an indefinitely large number of other considerations. I do all I should to help the needy, if I give due weight to that principle in all my deliberations.

Fourth, ‘ethics’ can mean a field of philosophy. It is the attempt to understand ethics, in one or more of its other senses, as a rational undertaking. A philosophical treatment in professional ethics attempts to understand what professionals and others say about what professionals of a particular field (e.g., engineers or public servants) should do; it tries to evaluate the arguments they offer, suggests improvements in the arguments and in the formulations of issues, *etc.* Philosophical ethics concerns problems about conduct, but it does not offer specific recipes for moral action.

Clearly, in the case of all these four meanings, we may talk of ethics both from a theoretical and a practical perspective. There is theoretical ethics as well as practical (or applied) ethics. As to the latter, a terminological remark is in order. Practical ethics and applied ethics should not be taken as complete synonyms. Pritchard, e.g., prefers to speak of practical ethics (2006), not of applied ethics, because ‘applied ethics’ suggests a controversial relationship between theory and practice – namely, that ethical theory has logical priority. When we instead talk of practical ethics, the question of priority is left open. Pritchard’s attitude is shared in this work also. As to the question of whether we are dealing with theoretical or practical ethics, this depends mostly on aim and context. If we are interested in analysing general, abstract views, this is theoretical ethics; if, on the other hand, ethical considerations are employed to guide individual and collective conduct, this is practical ethics. In both cases

philosophical analysis can take place. Professional ethics is, first and foremost, a branch of practical ethics.⁸

Adopting this view, one should point to two different possibilities in defining the role of philosophers, when examining issues of practical ethics (including professional ethics). In the first case, a philosopher tries to point to the right theory for resolving ethical problems and to help apply this theory in the best way. Such an approach might be called *axiomatic*. In the second case, the task of philosophers is to indicate the “playground” or wider framework in which the problems of professional ethics should be discussed; and also to point to rules of deliberation and reasoning for treating issues. Here, the philosopher does not prescribe solutions but rather stresses the need of the members of professional community to find a solution themselves through a process of deliberation. Such an approach tries to maximally take into account the details and complexities of practical life. In this connection, one may speak of the “deliberative autonomy” of professional groups. The present work is based on the second ideology. Accordingly, in Chapter III, when discussing the grounding of professional ethics, the aim is to find and to outline a fundamental framework for thinking about professional ethics, not to offer ready-made axiomatic schemes for creating norms or solving issues.

To summarise, the field of professional ethics is the study of principles and standards underlying the professions’ responsibilities and conduct. It examines ethical dilemmas and challenges met by the practitioners of professions, the way in which professionals organize and develop ethical standards for members of their profession, and how these standards are applied in everyday practice. In other words, professional ethics is a set of standards developed by an organized group of people working in the same occupation and held by them to be the ideal way for practicing their profession. These standards only apply to members of the profession, whereas morality applies to every rational person.

2.1. Professional ethics as compared to discipline ethics

When issues of practical ethics are discussed, it is not always clear whether we are talking about norms of action (traditionally understood as normative ethics)

⁸ The Cambridge Dictionary of Philosophy (1999) defines ‘professional ethics’ as follows: “A term designating one or more of (1) the justified moral values that should govern the work of professionals; (2) the moral values that actually do guide groups of professionals, whether those values are identified as (a) principles in codes of ethics promulgated by professional societies or (b) actual beliefs and conduct of professionals; and (3) the study of professional ethics in the preceding senses, either (i) normative (philosophical) inquiries into the values desirable for professionals to embrace, or (ii) descriptive (scientific) studies of the actual beliefs and conduct of groups of professionals. Professional values include principles of obligation and rights, as well as virtues and personal moral ideals.”

in the context of a specific discipline, or we are talking about norms of conduct for professionals (practical or applied ethics). This distinction is one of the main topics of article I. Margit Sutrop describes the situation in contemporary ethical discussion in such words: "... it becomes impossible to make a firm distinction between metaethics, normative ethics, and applied ethics" (Sutrop 2010). Confusion about concepts generates confusion in considering problems and finding solutions. The key factor here appears to be the subject matter which is analysed.

Let us consider two examples – medicine and public service. These two fields represent two characteristic areas of practical ethics. Medical ethics is a field where ethical issues arise in connection with scientific research or role relationships between doctor and patient. Both these aspects are universal which means that problems and approaches in medical ethics tend to be universal as well. Also, medical ethics is one of the oldest branches of practical ethics. As compared to that, public service ethics represents a direction where ethical issues are tied to a very specific framework (country-specific laws, differing models of public administration, cultural preferences, *etc.*)

This means that, on the one hand, medical ethics has to do with very general, universal ethical issues such as life and death; on the other hand, it examines requirements and constraints specific to medical practice such as handling of sensitive information or doctor-patient relations. It seems that there are in fact two quite different sets of topics here, but ethical discourse considers them all as a branch of applied (or practical) ethics without distinguishing between discipline-specific problems and professional-ethical problems.

N. Preston claims that **ethics is interpersonal or intrapersonal while the public sphere is suprapersonal or impersonal** (Preston 1996). Since public institutions such as law, education, medicine, governance, and business affect society as a whole, talk of ethics in these spheres is not entirely an issue of individual's free choice. Recognition of the influence of ethical decisions on commerce, economy, and society at large has turned ethics into a separate branch of business (Hyatt 2005). However, we may also ask – as, for instance, Timo Airaksinen has asked – how far we should go in the search for applications of philosophical theory. Airaksinen hopes that philosophical arguments have natural reasonable limits: for example, taking care of the morality of business life appears to be a task which is quite external to philosophy (Airaksinen 1993: 2603). This suggests that we must ask ourselves more clearly what kind of practical ethics is needed by society and, more narrowly, by professions themselves.

The first known document which looked at doctors' activities from the ethical point of view was the Hippocratic oath. A broader discussion of ethical problems in medicine started as an aftermath of the crimes committed by Nazi doctors in World War II. Medical ethics was officially recognized as a separate discipline in the 1970s. As to public service ethics, issues in this field began to

be discussed almost at the same time, but it emerged more powerfully only in the 1990s.

The relatively brief history of both medical ethics and public service ethics is in part due to the same kind of reasons. At some point of time, societies began to recognize and respect individual and group differences, and their right to uphold different moral values. But there are also dissimilarities in the development of these two fields. The role of medical ethics has become more important mainly owing to the growth of novel treatment and life-supporting opportunities offered by medical technology. These developments have created new types of problems which have more to do with ethics than with medicine in the literal sense. As compared to that, the main factors in the evolution of public service ethics have been the diversification of public administration models and the entrenchment of multiculturalism in societies.

In earlier times, before the emergence of applied ethics in its modern forms, ethical issues in medicine and public administration were regulated by custom. In the 1950s things changed: medical professionals started to look for solutions of the new kind of ethical problems in theories of classical ethics. It was hard, however, to work out such solutions on the basis of classical accounts.⁹ At first, theorists from the US led the discussion and the approaches proposed by them spread over the world. The most well-known theoretical foundation for resolving bioethical issues was the so-called “Georgetown mantra” – the four principles offered by Beauchamp and Childress (2001). These principles are: autonomy, non-maleficence, beneficence, and justice. In Europe, theorists asked about the applicability of such accounts to the European cultural space (see, e.g., Kemp *et al.* 2003).

Approach to ethical issues in public administration has been different from the beginning, solutions have always been offered with the needs and traditions of a particular society in mind. Terry L. Cooper (2004), when characterising theories suggested as cornerstones of public administration (social justice by Rawls, virtue by Lilla, public interest by Friedrich, Flathman, and Goodsell), says that these theories presume the US society as a background and have no pretensions to universal applicability. Hence, despite quite similar genesis and function – to systematically examine ethical issues characteristic of some practical field – general theoretical inquiry has been of different character. In medical ethics, such inquiry is intended to find a universal grounding for the whole field, whereas the public service ethics has laid more emphasis on offering concrete solutions for particular societies (see also articles IV and V). This means that we are dealing with two separate spheres which can both be discussed in terms and concepts of practical ethics, but yield results of different nature.

When exploring ethical issues in the medical sphere, we can make several distinctions between the various sub-fields. First, we have professional ethics

⁹ For a more detailed discussion of this topic see Chapter 3.

that branches into more specific disciplines like physician ethics, nursing ethics, medical social worker ethics, *etc.* Professional ethics in this sense deals with such problems as informed consent, autonomy, codes of ethics. Second, there is bioethics which is a kind of discipline ethics and considers problems like genetic databases, cloning, questions of life and death.

Medical ethics uses philosophical and theoretical reasonings as its foundation, and it is mostly practiced by philosophers (many of them having a medical training as well). Clinical ethics, in contrast, as exemplified by nursing ethics, social worker's ethics and so forth, is mainly based on the pragmatic needs of medical practitioners (physicians and nurses), and the role of philosophers in such discussions is less important.

This results in a situation where "disciplinary" discussions of medicine (as a field) are grounded on normative ethics – the main question being what is the exact normative framework to be preferred in resolving practical problems – whereas the general framework of professional ethics is much more unclear and not so commonly accepted. The main problem in professional ethics is often stated somewhat vaguely as "how to ensure ethical (good) professionals" without deep insight into how "good" should be defined here.

In the sphere of public service ethics, it is possible to separate the issues of public administration and good governance from issues concerning directly the behaviour of public servants. The latter belong to professional ethics: it is asked how, for example, accountants, medical professionals, or ICT specialists have to behave if they are employed as public servants. The former are issues in discipline ethics: one may ask whether corruption affects credibility or how to maximise effectiveness, *etc.*

So far the discourse on public service ethics has been dominated by theorists specialising in public administration or in social sciences. The formulations of issues and solutions offered are mostly of a practical kind. The classical theories of ethics have almost disappeared from the background. Discussants are mainly interested in specific values such as trust (Marlowe 2004), responsibility (Petter 2005), or accountability (Michael 2005). In publications, we find references to various accounts of public administration and organisational theory but few references to general ethical theories. The philosophical basis for ethical insight remains rather unclear.

When one talks about ethics in the context of public service, it usually happens by way of discussing norms, laws, and codes. To refer to the individuals' inner development of "ethicalness", the term 'integrity' is used (see also I, III, IV, Huberts *et al.* 2008, Lasthuizen 2008). Ethics and integrity are not the same thing. Normally, ethics focuses on standardising behaviour appropriate in a certain situation. In contrast, integrity aims at ensuring suitable conduct not by appeal to codes and laws, but relying on inner moral orientation which guides those professionally engaged in the public sphere (Blijswijk *et al.* 2004). With respect to this account, one may notice the tendency of ethics being interpreted more and more positivistically, as a sphere of rights and obligations,

whereas “integrity” prevails in the sphere of concrete considerations and deliberation. Inner ethicalness is encouraged through measures such as personnel policy or remuneration.¹⁰

While issues arising in medical ethics require a broader value context to be adequately discussed (e.g., Christian vs utilitarian understanding of life and death), the public service ethics involves themes like working environment, politeness and respect towards citizens as clients, permissibility of gifts. It is not asked, for instance, what are the motives of someone offering a gift to the public servant. Rather, the situation is approached in a utilitarian way: every act has certain consequences, so one tries to establish such limits on the conditions for performing actions that cause minimally harmful consequences to the functioning of public administration.

As said before, the application of the concept of ethics in practical, profession-related spheres of life has created a situation where the boundaries of ethics have become more confused and vague. Discussions in applied ethics may involve the concept of ethics, but often there is not much intention of trying to analyse more deeply the ethical problems of a profession.

2.2. Professional ethics as a separate branch of practical ethics

In the previous chapter, it was asked whether professional ethics is something which could be seen as a separate branch of practical (or applied) ethics. Alan H. Goldman considers it the most important question in professional ethics.

The most fundamental question for professional ethics is whether those in professional roles require special norms and principles to guide their well-intentioned conduct. This is the most interesting issue from the point of view of moral theory, since its answer affects the structure of any complete moral system. It is also the most crucial for professionals themselves and for those who attempt to evaluate their conduct, since many decisions and evaluations in this area will differ according to whether special norms are required. (Goldman 1980: 1)

We presume the existence of moral norms, when entering into any human relationship, and it may well be thought that the most important part of these norms must be universal and context-independent. This attitude has been succinctly characterised by Benjamin Freedman as follows:

For our standard academic conception of morality is one of a unitary construct, applying in the same way and with equal force to all human beings (with account taken for morally relevant differences). This is the underpinning to the principle of generalization in ethics. (Freedman 1978: 1)

¹⁰ The concept of integrity will be discussed in detail in Section 3.2.

When we encounter someone in a professional role, we assume that he possesses special knowledge and skills enabling him to help us in a sphere where we are not experts ourselves. But does this mean a change at the level of ethical relations? If we answer this question, conclusions must follow as to whether there exists a discrete professional morality or not. Allan Gewirth has called the claim involved the “separatist thesis” and he states it in the following way:

According to this thesis, professionals, by virtue of their expertise and their consequent roles, have rights and duties that are unique to themselves and that may hence be not only different from, but even contrary to, the rights and duties that are found in other segments of morality. (Gewirth 1986: 282)

It should be noted that this definition refers to professions as role-based functions. The problem pointed out by Gewirth is also mentioned by Goldman. He is concerned whether professional roles are “strongly” or “weakly” differentiated. A professional role may be defined as strongly differentiated, if it requires unique principles, or if it requires its norms to be weighed more heavily than they would be against other principles in other contexts. In contrast, a professional role is weakly differentiated, if we acknowledge that its occupier must take into account, in her moral calculations, all consequences deriving from the institutional relations with others created by the position, but the professional role also involves relations which can be evaluated by applying the usual moral principles (Goldman 1980: 1–2).

Benjamin Freedman is one of those who defend the separatist thesis. He claims that

... in addition to these covert and overt acknowledgements of professional expertise, we sometimes attribute to professionals a morality of their own, attached to their professional role. By that I mean to say, we feel that in reaching decisions professionals are more constrained by their professional values than are nonprofessionals and, conversely, take into less account those considerations which ordinarily apply. (Freedman 1978: 1)

To explain the phenomenon of professional morality, Freedman uses the problem of confidentiality in medical practice and psychotherapy. He suggests that one possible way to understand medical confidentiality is to see it as more binding than ordinary confidentiality (Freedman 1978: 3). In his opinion, this is proved by the fact that, in the courts of most countries, medical practitioners enjoy a special privilege of medical confidentiality, which is granted to them, so that they need not divulge information gained in their professional capacity. Another kind of situations is considered by Arthur I. Applbaum:

The adversary professions in law, business, and government typically claim a moral permission to harm others in ways that, if not for the role, would be wrong. (Applbaum 1999: 3)

If this is so, then we may suppose that professional ethical values have content which differs from the content of the values of ordinary ethics. Role-based professional morality causes deviations from what we would ordinarily consider the morally correct decision. To bring another example, in the sphere of public service, decisions are not allowed which give preference to friends or relatives, whereas in ordinary morality the attitude would mostly be the other way round.

Freedman thinks that we may talk of the aforementioned situations as of deviations of meaning, as of a shift in concepts. Hence, he draws the conclusion that

Because medical confidentiality is more stringent than is ordinary confidentiality, and because medical confidentiality is part of the professional morality of physicians, it appears that professional morality can be inconsistent with ordinary morality. (Freedman 1978: 4)

In order to explain the difference in the requirements of ordinary and professional morality, Freedman draws a distinction between “non-acquired” and “acquired” requirements. The non-acquired requirements are such that are incumbent upon men regardless of any actions they may have performed. The acquired obligations form another segment of morality – these obligations acquire their obligatoriness from something one has done to bind oneself to them. We may see some analogy here with Applbaum’s account which distinguishes between “personal attributes of moral prescriptions” (person-neutral prescriptions) and “role-relative prescriptions” which vary from one professional role to another (Applbaum 1999: 10).

Freedman suggests an interesting point on the relationship between non-acquired and acquired obligations. It is clear that, as a professional, you need to fulfil the acquired obligations arising from your professional role. “Acquired morality states that by virtue of some action I have performed, I have bound myself to some further course of action.” (Freedman 1978: 5) But how exactly are we to relate the acquired obligations to non-acquired obligations, if we feel that the latter represent true, “natural” morality? Freedman thinks that, in non-acquired morality, there is a “bare ought” which requires us to fulfil our acquired obligations. Thus, logically, the acquired morality ultimately refers back to norms in non-acquired morality. In case of conflict, however, it often happens that the requirements of acquired morality are given precedence. Professional ethics offers plenty of examples of this.

Alan Gewirth has criticised the separatist thesis. He bases his critique on two premisses. First, he holds that an important component of the thesis is the idea of the autonomy of a professional role. Second, he sees separatism as based on the general doctrine saying that “the end justifies the means”. Or, at least, it justifies certain means that would be morally wrong outside the context of the professional’s acting for his valuable role-based ends (Gewirth 1986). These premisses do not seem quite correct. Freedman does not actually say that

professional moral norms are ultimately autonomous: he thinks they are strongly based on non-acquired morality and refer back to them instead of having their own ends. True, Freedman gives no satisfying account of what he means by the ordinary morality of non-acquired obligations. This issue will be examined below when considering the relationship between professional ethics and common morality.

It is helpful to summarise the main points of Freedman's "separatism" as follows:

- a) acquired morality can conflict with non-acquired morality;
- b) even though acquired morality derives from non-acquired morality;
- c) acquired morality can emerge as the stronger in this conflict;
- d) in part, this is revealed as a conflict within non-acquired morality, for a norm of non-acquired morality has served as the ultimate source for the instituting of promises as morally binding entities. (Freedman 1978: 8)

The entire range of acquired obligations seems to be a separate system because it creates rights and obligations and generates "ought"-statements not derivable solely from common morality. This separate system of morality emerges because the nature of the reason-giving "oughts", which it offers, is unique. It does not mean that there is a hermetic separation between these two kinds of reasons for action. Acquired and non-acquired "oughts" freely intermingle in the process of deciding.

Such an account of fulfilling "oughts" makes sense in case we regard professional ethics as role-based. Otherwise it is not clear which morality we are to choose for acting – the acquired or the non-acquired one. Yet if we pay attention to what actions are performed in what roles, we can analyse whether the violation of a non-acquired "ought" was justified or not. For example, killing is not right, but if somebody kills a person in the role of a soldier, the justifiability of his action may be considered. Or, a soldier may even be blamed, if he does not kill. A professional role gives a person certain rights and obligations.

Goldman ties professional roles to the deeper moral teleology of particular professions. It must be shown that some central institutional value will fail to be realised without limitations on agents' authority or responsibility, and that the realisation of this value is worth the moral price paid for strong role differentiation (Goldman 1980: 7). But why is this so? Here, Freedman rejects the deontological and act-utilitarian arguments, adopting instead a rule-utilitarian line. We recognize the valuableness of certain institutions (medical service, army, courts, public service), and the necessary conditions for maintaining these institutions (i.e. we acknowledge the central value of professions with all its corollaries), which then makes us allow deviations from common morality to preserve the institutions.

Freedman's approach is criticised by Mike W. Martin. He finds that Freedman moves falsely from claims about relationships between parts of the

systems of professional and ordinary morality to claims about the two systems themselves. Martin accuses Freedman of using the expression “ordinary morality” as a contrast to professional morality. Instead, the contrast should be drawn between professional and non-professional morality – or, better put, a morality considered apart from the specific moral obligations of professionals. Freedman’s theory fails to provide moral justification for the specific content and limits of professional obligations. As an alternative, Martin offers a deontological approach which sees confidentiality as an obligation towards a particular patient (or penitent, employer, *etc*) rather than some general obligation towards society at large, or towards future patients. (Martin 1981a)

It is hard to agree with Martin’s point of view. Martin approaches the issue from the perspective of a client or a consumer, regarding the relationship between a professional and a nonprofessional as a singular act. Yet we see in actual practice that expectations towards a particular professional exist prior to any real contact and arise purely from the fact that she is a representative of a professional community (Musschenga 2002). It is a matter of trust. Breach of trust in case of one particular professional affects the public’s trust in the profession as a whole.

Freedman himself replies to Martin that he has misunderstood what Freedman sees as conflict between ordinary and professional morality (Freedman 1981). The latter calls upon us to perform acts (or refrain from performing acts) whose omission (or performance) would be immoral, save for the fact of the actor’s professional identity. In other words, a person in a professional role and a person in an “ordinary role” make different decisions in one and the same situation. Freedman points out that the ordinary moral considerations, referred to by Martin, that take into account the circumstances of medical practice can’t be described as *circumstances*: in fact, they *are* the medical practice. Making exceptions does not depend on circumstances that grant a special privilege: it derives from the fact of someone belonging to a privileged profession. The privilege was granted to an institution, not on a case-by-case basis. Giving a professional oath is like entering a new world with different values where ordinary morality ceases to give answers to ethical questions.

2.3. Institutional influences on professional ethics

The previous chapter was mostly interested in the nature of professional ethics. It was asked, for example, whether and why professional ethics should be analysed as a separate discipline within practical philosophy. This chapter will focus on so-to-say external factors influencing professional ethics.

Already in chapter 1, when exploring the concept of profession, the organisational management of professional (including ethical) demands was mentioned several times.

Ethics in the workplace cannot be left solely to each person's conscience for two obvious reasons. First, temptations and pressures in the workplace may overcome conscience. Second, a person's unethical behaviour invariably affects other people. Ethics, therefore, must be an organizational as well as individual responsibility. (Brumbach 1998: 61)

To begin with, one may note that the spheres of public administration and public service, as compared to other professions, have paid quite a lot of attention to the aforementioned facets of professional ethics (Lewis and Gilman 2005; Frederickson and Ghore 2005; Cooper 2006; Huberts *et al.* 2008; Menzel 2010). The practical, management-related aspects of public service ethics in some particular countries are considered in my articles IV, V, and VI. These articles use an empirical approach, taking into account the relevant historical, cultural, and social aspects of public service. Their focus is descriptive, centered on the question "How things in fact are". When comparing the results of these three articles, we may point to some specific management-related aspects which have influenced the development and structure of public service in the countries considered. In case of Estonia, Latvia, and Lithuania, similarities in the historical background have been a key factor. These states were part of the Soviet Union where the Communist Party administration was integrated into the state administration, giving rise to such traditions as lack of accountability, trust in external control mechanisms, rigidity in hierarchy. This in turn meant that, in the early 1990s, after Estonia, Latvia, and Lithuania had regained their independence, the public service system had to be built anew on totally different principles. The Netherlands and Denmark could develop their system of public service in a more stable environment. Nevertheless, two Baltic states – Estonia and Lithuania – and the Netherlands and Denmark were deeply influenced by quite similar *New Public Management* reforms while Latvia chose a Weberian merit-based civil service system. Reforms in public service have forced all these countries to conduct extensive debates on public service values. Interestingly, the so-called "new democracies" formulated their codes for public service ethics earlier than the "old democracies".¹¹ This can be explained by the more urgent need of the new democracies to offer their officials new values for grounding their actions, different from those which had historically prevailed.

Cooper explains the interest in the context in the following way:

To examine best the ethical dimensions of administration, it is necessary to understand the administrative role as it relates to the social and cultural context in which it functions. This perspective is crucial for both adequately describing ethical situations and developing realistic prescriptions for dealing with them. (Cooper 2006: 45)

¹¹ The respective codes were accepted in these countries in the following chronological order: Estonia 1999, Latvia 2001, Lithuania 2002, the Netherlands 2005, Denmark 2006.

The normative question – “How things ought to be?” – should always be posed within the context of a particular system. One may ask, for example, how best to minimize violations of integrity, to avoid corruption, or to improve ethics management – in *this particular* system. Article III is devoted to the issue of compatibility. By this I mean the idea that a public service ethics must harmonise with the actual administration system which has evolved as a specific historical phenomenon and is dependent on the general phase of development of society. Here, it should be mentioned that despite the condition suggested in the previous chapter, stating that professional ethics and “discipline ethics” should be treated separately, this distinction is not drawn very clearly in article III. By the way, in the field of public service, the way of making this distinction is not so obvious as it was in the case of medicine (see also Article I). One may also add that, when dealing with theoretical issues, the distinction is quite important, but in empirical treatments it often stays unnoticed.

In public administration theory and practice, there are two commonly accepted and to some extent contrasting routes to managing professional ethics. John Rohr (1989) speaks here of the “high and low road”. The “high road” stresses social equity:

Relying on moral character, this route counts on ethical managers individually to reflect, decide, and act. Individual responsibility is both a starting and an end point on the integrity route in public service. (Lewis and Gilman 2005: 16–17)

In this connection, Rohr examines approaches to ethics grounded on political philosophy, especially on J. Rawls’s theory of justice, on humanistic psychology, and on social and political (or constitutional) regime values. He suggests that the latter – i.e. the regime values – give the best method for integrating the study of ethics into a public administration curriculum (Rohr 1989: 68). This account has widely come to be known as the “integrity-based approach” (Maesschalk 2004).

As opposed to that, the “low road” addresses ethical issues almost exclusively in terms of adherence to agency rules. Ethical behaviour is reduced to staying out of trouble (Rohr 1989: 60–62). The “low road” of compliance is designed to spur obedience to minimum standards and legal prohibitions. Formal rules and legalistic problem-solving are the keywords here. In managerial terms, compliance translates into oversight and control (Lewis and Gilman 2005: 16):

The low road of compliance does not care that most people want to make good decisions but only that most people meet minimum standards of conduct. (*ibid.* 17)

Article III discusses the narrowness of the dichotomical understanding in ethical management, offering instead a three-fold approach – based on values, rules, and laws. As shown before, such an approach fits better with existing practice.

It should be noted that nothing is here presumed about the origin of professional norms: only the application of norms – in a particular society and to a particular profession – is under consideration. The focus of discussion is on choosing such tools for ethics management that suit better conditions of certain type.

As proven by empirical studies (Hoekstra *et al.* 2008; Blijswijk *et al.* 2004), the general tendency is clearly one of moving towards integrity-based management. Encouraging ethical behaviour is seen as more important than control and punishment (Lamboo *et al.* 2008).

2.4. Codes of ethics

Sooner or later any discussion of professional ethics will reach the topic of codes of ethics. Codes of ethics (or codes of conduct) represent the efforts of a professional community to organise, in a systematic way, the main ethical standards, rules, and principles of conduct for the profession. The term ‘code’ refers to the fact that we are dealing with a codified set of ethical norms, established for a profession at some point of time.

Such codes suggest that professionals may be guided in their practice by special norms that express the central values of the profession and that override considerations that might guide the behaviour of nonprofessionals in similar contexts of conflict or potential conflict. (Encyclopedia of Ethics 2001: entry ‘professional ethics’)

Pritchard sees codes of ethics as the very basis for guiding professional behaviour. As he puts it:

Codes of professional ethics emphasize duties or obligations deemed so basic that failure to fulfill them warrants reproach or even formal sanctions. (Pritchard 2006: 85)

As can be noted, Pritchard thinks of codes as expressions of duties. He understands duties in a way close to Bernard Gert’s, seeing them as dependent on roles. Most roles have duties – which are more or less concrete – attached to them. When we speak about roles with acquired obligations, in Freedman’s sense, any paid employment (doctors, nurses, police officials, teachers, *etc*) is associated with a duty to do things in a specified way. Duty is here not understood in the broad sense as moral requirement.

In ordinary usage, “duty” is not used in this very wide sense but is restricted to moral requirements that stem from a social role or job or from being in some special circumstances. (Gert 2004: 53)

According to this approach, requirements to professional behaviour derive from the purpose and inner logic of roles. Codes are no more than its formal expression.

Dale Beyerstein (1993) proposes a different understanding of codes of ethics. Codes are often criticised on the ground of being unhelpful in solving moral dilemmas. In Beyerstein's view, this is not the purpose of codes. To resolve moral dilemmas, one needs ethical theories that give a foundation for ethical reasoning and problem-solving. The purpose of codes is different. Beyerstein lists the following functions of a code of ethics:

1. it gives guidance to the individual professional,
2. its principles are statements, of the agreed-upon standards of ethical practice and thus provide guidance for ethics committees,
3. it is a public pronouncement of the ethical principles agreed upon by the majority of the profession and thus serves to inform clients about what they have a right to expect from their profession,
4. it informs other professionals with whom the professional must work about the kind of cooperation they have a right to expect from the professional.

So, Beyerstein sees codes more like declarations or vehicles of communication both within the professional community and in its interactions with wider society. Codes may be regarded as some kind of contract which can be relied on, while being engaged in professional activities, but they must not be expected to offer solutions to ethical dilemmas. This latter task requires skills of reflection and knowledge of moral theories.

If we look at codes of ethics from the perspective of organisational management, the viewpoint seeing codes as expressions of role duties is characteristic of the integrity-based approach ("high road"), whereas the compliance-based approach ("low road") regards codes as guidances for action to be followed by professionals. The former are often stated as *ethics codes*, e.g., in terms of core values, while the latter are of a more normative kind, often stated as *codes for conduct* (Aavik *et al.* 2007: 23–26). What kind of expression suits best a particular profession in particular conditions is in part dependent on the ethics management system and institutional arrangements (see Article III). At the same time, it is clear that codes of ethics do not make up the whole of professional ethics. Should codes be more like duties or guidances, is a matter of formulation: the important thing is a clear understanding of what is the grounding of the norms expressed in codes.

There is a great variety of forms and kinds of ethical codes. Often, international organisations recommend professions to create their own codes. Plimmer, for instance, points out that the European Commission has encouraged all professions to develop a Code of Conduct as a device for enhancing the quality of services. In 2007, the Commission published its guidelines on the development of a European Code for Conduct for professional associations (Plimmer 2009). Many professions prefer to adopt the international code. So,

for example, Estonian auditors use the code of ethics adopted by The Institute of Internal Auditors. However, important differences may exist in the practices of particular professions between different countries. Plimmer writes:

There is evidence of diversity within the surveying professions as practiced in different European countries. It is hardly surprising, given that, until very recently, each nation's surveying profession developed in isolation from any other, reflecting only the needs of the national market and local and national demands for its services. Language too reinforced the isolation, as did legislation which governs much of the surveying activities. (Plimmer 2009: 3)

Such a situation may be found in many professions. Notwithstanding regional differences, codes of ethics for one particular profession should mainly be influenced by the general purposes of this profession and not depend too much on societal differences. Pritchard comments on that:

...as expression of shared commitments by a broad spectrum of practitioners, codes must navigate a course that is compatible with a wide range of moral and religious differences. (Pritchard 2006: 86)

Article IV analyses the general features of codes of ethics in the three Baltic states. The Estonian public service code of ethics expresses values rather than rules of conduct. The Latvian "Principles of ethical behaviour for civil servants" is more specific and offers some concrete recipes for conduct. In Lithuania, "The ethical rules for public servants" explains how to implement the eight key ethical principles of civil service. Despite all differences, we find clear resemblances in the main principles. All these codes state such requirements for public servants as legality, sense of responsibility, impartiality, serving the public, loyalty to the nation and government. But the list of principles is more exhaustive in Latvia and Lithuania. The profession being the same in all three countries – which, in addition, have similar cultural and historical backgrounds – the question is raised as to how one should explain the differences in codes. One reason for these differences may lie in the practical needs, so-to-say. In the code, each of these countries emphasises those aspects which, taking into account the specific needs of this particular country, require more attention or should be explicated in more detail. Codes are to be seen as instruments which focus the attention of the officials, or direct their behaviour, towards those values and norms that ensure good governance in the given circumstances. Also, codes may function as means for stressing those aspects which are deficient or where good practice is not rooted yet. As an example of this kind of explanation, one could refer to the p.3 of the Estonian code: "An official shall adhere, in his or her activities, to the legally expressed will of politicians who have received a mandate from the citizens." This formulation was added into the code after an empirical study which showed that many officials saw themselves – not the politicians – as the shapers of politics.

Codes are multi-functional. They may be regarded at least in the following ways (Pritchard 2006: 86):

1. as expressions of shared commitment on the part of a professional society's members to strive to satisfy certain ethical standards and principles;
2. as a tool of resistance to pressure from the others to engage in unethical behaviour;
3. as fostering an ethical environment;
4. as guidance in specific situations;
5. as encouraging ethical reflection;
6. as valuable educational tools;
7. as indicators to society about the commitment to responsible conduct.

Here, one must keep in mind at what level codes of ethics are considered. If we interpret codes as standards for conduct, at some fixed point of time, which govern the professional pursuit of a service activity, they are morally binding. But from the philosophical point of view one should not attribute a central or determining role to codes. They are more like verbal expressions of a profession's ethical views. Such an expression may succeed or not in stating the most important principles of the profession in question: the extent to which it has succeeded in this will become evident only in actual practice.

As an illustration, consider a case from Estonia's recent history. A lawyer was suspected of a conflict of interests in connection with a land property. It became known that he had bought a real estate property which had previously belonged to his client. The client had tried to restitute the property, with the help of the same lawyer, but the state had, lawfully, decided against it. After the case had become public, it was referred to the Board of the Estonian Bar Association for taking stand on the ethicalness of the lawyer's conduct. The Board found that the code of ethics had not been violated, so, there was not enough ground for discussing the case in the lawyers' Court of Honour. But it was clear that although the lawyer's actions could not be criticised on the basis of the code, they still deserved condemnation. As a result, the code of ethics was changed in a way which would allow condemnation of analogous action in the future. This shows that the ethical standard of a profession is sometimes wider than the code and may suggest revisions or improvements to it.

There is also another kind of situation which may prove problematic. The values, as expressed in codes, may allow various and even conflicting judgments of a particular behaviour. So, for example, the code of ethics of the Estonian public service requires that officials should act in the interests of the public (p. 1) and, at the same time, that they should enact the legitimate interests of politicians (p.3). Yet it may sometimes happen that the politicians' will serves some narrow interests of a party or an interest group: in this case, it is not clear whether the public servant should act on the basis of p. 1 or p.3 of the code.

Thus, the following question emerges: exactly what moral theory should be taken as the basis for formulating ethical norms of professions? This question needs to be answered in order to give guidance to professions on how to analyse their existing codes of ethics, and how to resolve situations where the code gives no satisfactory basis for judging professional actions. Finding a suitable moral framework would help both in developing new codes and in revising and improving the existing ones.

2.5. Professional values

The real content of codes of ethics and the aspirational ideal for personal behaviour in a professional role lies, first and foremost, in professional values. The latter are ethical values – dealing with such issues as right and wrong, obligation, virtue, and vice – involved in the practice of a profession. The professionals' actions are intended to be in accordance with their role, i.e., they pursue the aims valued by the profession. For medical professionals, the main aim is health, for clerics – salvation, for lawyers – the protection of legal rights, for teachers – providing education. Commitment to the ideals expressing professional values is reflected in many codes of ethics that guide professionals in their practice. Problems in professional ethics typically arise when the values dominant within a profession come into conflict with other, nonprofessional values (Encyclopedia of Ethics 2001, entry 'professional ethics').

Henry Sidgwick suggested that insofar as there is no consensus on the foundations of morality, one should rely on the morality of common sense, when facing problems in practical ethics. We should look for the main focus in the moral values we share, despite possibly deep differences in the grounding we give them (Sidgwick 1998[1898]). Alasdair MacIntyre (1999a) defines virtue in terms of complex forms of human activity which he calls "practice". Practices are organised around certain "internal goods" that cannot be achieved except through practice (Cooper 2006: 191). According to MacIntyre

A practice involves standards of excellence and obedience to rules as well as the achievement of goods. To enter into a practice is to accept the authority of those standards and the inadequacy of my own performance as judged by them. (MacIntyre 1999a: 190)

MacIntyre's stance is in accordance with the separatist view which finds the essence of professional morality to be captured by the idea that professionals are more constrained by their professional values than they would be, were they not professionals. Or, to put it differently, if a person occupies a professional role, the values of the profession affect all her activities, differently from people who occupy no professional role. Professional morality gives professional values a higher position in the value hierarchy, attaching them greater importance than ordinary morality.

The question “what exactly are values or virtues?” is answered by MacIntyre in the following way:

A virtue is an acquired human quality, the possession and exercise of which tends to enable us to achieve those goods which are internal to practices, and the lack of which effectively prevents us from achieving any such goods. (MacIntyre 1999a: 191)

This invites the next question: what are these “goods internal to professional practice”? Freedman thinks that a professional value serves as a connecting link between professional and ordinary morality, since it is recognised in both. For example, medical morality is linked to health, and health, in its turn, is linked to ordinary morality. But in the professional morality of medical practice, health is a fundamental value while in ordinary morality it is only one value among many. The difference between professional morality and ordinary morality is also revealed in the way they resolve value conflicts, because professional morality grants an added weight to its own values. In medicine, for instance, *primum non nocere* is given a preeminent moral position, and its corollaries, like confidentiality, gain added moral weight of their own as values (Freedman 1978: 14).

Generally, if we want the society to benefit from a profession, we must acknowledge and accept such phenomena. To bring one more recent example from the Estonian society: there was a discussion in the media on whether a journalist has the right not to reveal her sources. If we want journalism to be a socially defined role, and confidentiality is one of the values of this profession, we should accept the idea that journalists may keep their sources of information in secret.

In identifying professional values, we should look at the actual practice. As regards public service, questions concerning the values of this particular profession are well elaborated in theoretical works and implemented at international as well as at national and organisational levels. Articles IV, V and VI describe the expected and the actually held professional values in public service. (For some additional aspects see below.) It is notable that the list of values for public service contains not only moral values but other values as well (for a fuller account see van der Wal 2008). This makes one wonder whether professional ethics is a purely ethical domain. I will elaborate on this a bit later.

What does the set of values for public servants consist in? I will next compare the values which have been figuring in major US theories during the last 30 years (Cooper 2004), with the core values for public service given by some international organizations (EU 2004; OECD 2000).¹² Terry L. Cooper

¹² Articles IV, V and VI consider in more detail how the values recommended by the EU and the OECD are reflected in the practices of particular countries. See also <http://www.dgap.gov.pt/media/0601010000/finlandia/Comparative%20study.pdf>; <http://www.riigikogu.ee/rito/index.php?id=10912>.

presents five theoretical accounts for a normative foundation of ethics in public service. These accounts are not grounded in some “givens”, or in the “nature” of things, but are to be seen as social constructs.¹³

The first of these theories is John Rohr’s account of regime values, constitutional theory, and founding thought. Regime values are to be found in the US Constitution and in its interpretations by the US Supreme Court. If we compare these values to the list of core values specified by international organisations, we find that legality, or the principle of the rule of law, is the common underlying idea. In the US case, regime values include freedom, equality, and property, while in the constitutions of other countries these values may be different. However, in both cases there is the view that the constitution and laws embed the fundamental values for public servants.

International organisations such as the EU and the OECD have declared that the principle of the rule of law (legality) should be accepted as a core value in the public service of the member states. Generally, the list of core values is grounded in the relevant practices of the states. On the one hand, they are models of good practice; on the other hand, they are most frequently declared or stated by the member states. Here we can see how the aspirational values have both a descriptive and a prescriptive (evaluative) character.

The second theory is the so-called “citizenship theory”. Ethical obligations of public administrators are associated with the concept of being a good citizen (in American society). One should be responsive to citizens, encourage their participation, be accountable to them, view them as the ultimate locus of loyalty, respect the dignity of the individual, *etc.* If we compare this account to the OECD or the EU understanding of values, we see that in these latter approaches the “citizen values” are not expressed so clearly and explicitly. The closest analogues in the respective EU values seem to be courtesy and willingness to help in a respectful manner. In explanation, it is said that civil servants should be focused on the interests of the public, who depend on the public service, and that the citizens should be treated with respect. It is also added that this value includes factors such as helpfulness, decency, and others.

The principle of social equity as a standard for conduct has its roots in John Rawls’s theory of justice. According to Cooper, Rawls’s theory had in general little impact on the US public service practices, where it was not accepted as a prevailing ethical principle:

Social equity never achieved acceptance in the field as the single central ethical principle, but clearly it has become one of the major normative touchstones for administrative ethics. ... However, it is equally clear that it is not the cornerstone of the administrative ethics edifice. (Cooper 2004: 397)

Yet in the European context the value of social equity appears to be of importance, especially in the egalitarian atmosphere of Northern Europe. Equality is

¹³ All these accounts are based on the US context.

counted among core values in 11 OECD member states. In the EU list, we find such values as impartiality and objectivity: it is explained that the administration should refrain from favouring some individuals more than others.

The virtue approach as an alternative to the “analytical” approach in ethical decision-making was introduced by Mark T. Lilla (Cooper 2004: 398). It argued “for the cultivation of a democratic *ethos* in public organisations that would be conducive to the formation of character appropriate for public service”. The corresponding value in the practice-oriented literature is integrity. The latter is one of the three most frequently stated core public values in the OECD countries. In the EU countries, this idea is embodied in the value of professionalism, the latter being defined as “conduct appropriate to a civil servant”. To be professional means more than merely to perform one’s duties in an appropriate manner; it also means acting with integrity in the ethical sense. According to Blijswijk *et al.*, the concepts of ethicalness and integrity differ because

... ethical questions are typically concerned with standardizing appropriate behaviour in a given situation. Integrity, as a concept, seeks to assure appropriate behaviour, not by relying on law-like codes and values, but instead relying on the presence of an internal moral compass that guides the behaviour of public professionals. (Blijswijk *et al.* 2004: 719)

So integrity may be interpreted as an alternative for “formal” ethics in the public service (“formal” here means ethics as a provider of norms and codes).

The last – and, according to Cooper, the most widely recognized – normative foundation for public administration ethics is based on the notion of public interest. Here, the main idea is that the public servants have to act in the interests of public, not some specific groups. In the OECD countries, impartiality is the most commonly identified value. In the EU context, the meaning of impartiality as a core value is explained as “refraining from favouring some more than others”. Objectivity and transparency are values which help to ensure impartiality.

To summarise, when we consider countries situated in democratic context, the normative value basis for public servants may be seen as uniform despite theoretical differences (as described by Cooper). Theoretical views as well as actual normative expectations show a similar understanding of the values required of public service professionals. We may call this general foundation the “core values” or the “primary values”. These values are: legality, respect for citizenship, integrity, social equity, and concern for public interest. But there should always remain doubt as to whether the core values so identified are entirely adequate – in other words, whether they take sufficiently into account all the important facets of democratic governance, or one is rather dealing with an extension of a particular value system which is deeply entrenched, but has not been subjected to critical reflection. In bioethics, for example, a firm conviction persisted for a long time that the main values of bioethics should be expressed in the basic terms of autonomy, non-maleficence, beneficence, and

justice (Beauchamp and Childress 2001).¹⁴ Now there is increased understanding that these values are better seen as specifically American ones, whereas European attitudes are more aptly described in terms of autonomy, dignity, integrity, and vulnerability (Kemp *et al.* 2000)

The last section looked at what kind of values are acknowledged in the actual practice of public service systems. The approaches considered so far lacked clear philosophical justification. The next chapter will ask about the general grounding of value sets for professions. The main task will be to identify a suitable theoretical frame for justification.

¹⁴ For the discussion for and against principlism, see Clouser and Gert (1990), Beauchamp (1994), Beauchamp (2002).

CHAPTER 3.

Grounding professional ethics

The aim of the exposition so far has been to define more precisely what is meant by “professional ethics”. Professional ethics is an independent branch of inquiry that is not identical with what we might call “discipline ethics” – the ethics of some particular discipline. The latter is concerned with ethical issues suggested by a discipline: in this sense, we may speak, for example, of business ethics, journalism ethics, bioethics, environmental ethics. Professional ethics, on the other hand, examines ethical requirements associated with a specific role within a professional practice. These requirements depend on the exact nature of the role. For instance, if we are interested in medicine, professional ethics does not deal with the issue of whether abortion should be morally allowed. Instead, it focuses on questions like “what are the doctor’s opportunities for ethical action, if he faces a situation in his professional life, where a decision has to be made on whether to perform an abortion or not”. Thus, professional ethics is concerned with the standards that must be met in decision-making, if the person in question is occupying some specific role – such as a doctor, a researcher or a teacher.

This chapter will explore the question of whether it is possible to find a general theory for justifying the ethical requirements corresponding to some professional role. Or, to put it a bit differently: what is the general foundation or conceptual framework for meaningful discussion of professional ethical norms? Here, “theory” should not be understood in a narrow sense, meaning just classical ethical theories; rather, it should be taken as referring to any coherent group of general propositions used as principles of explanation for professional ethical norms.

Why is such a general theory necessary? Suppose we have to pass judgment on the ethicalness of an action performed by someone in a professional role. To do this, one must evaluate whether the person’s actions or decisions conform with certain ethical expectations or norms. These norms must be derived from something. Supposing the requirements of professional ethics to be general norms somehow grounded in actual, practical needs, this still leaves open the question of why exactly these norms should constitute the ethical core of a profession. Ethical evaluation of professional activities, in principle, presumes the possibility of judging *any* role action which carries some moral burden. So, the norms must have some kind of a system and universality, at least within the bounds of a given profession. This system cannot be quite the same as the system of ordinary moral rules. Situations are easy to imagine where an action corresponds to some well-known norm of morality like “Do not lie”, for example, but where telling the truth might mean betraying one’s state or releasing classified information, thereby causing significant harm to many.

If we think of professional codes of ethics – or codes of conduct – which function as sets of norms, these also require a broader theoretical background. It

is through codes that the need to take into account practical life is especially clearly revealed. Codes specify which values and norms are essential to the practice of some particular profession. Norms aiming at some ideal but having no real connection with actual life are worthless. Also, a concrete norm may justify some specific action, but generate disharmony and conflict with other norms; in a wider context, the action in question may seem morally doubtful. As an example, consider a hypothetical case, where public service officials participate in an externally funded project during their working hours. The aims of the project harmonise with the aims of the public service and the chief of the office is aware of such participation. In fact, she participates in the project herself. This is a clear case of double remuneration. Yet formally all documentation is correct and there is no violation of the public service's code of ethics.

Articles IV and V analyse the norms and values required from public servants in different European countries. A comparison of officials' ethics in the three Baltic states – as expressed in the corresponding codes of ethics – showed that, to a great extent, the norms and principles coincide (see Table 7, article IV, p. 60). The study carried out in Article IV demonstrated that the officials do indeed follow the required principles in their professional activity. When comparing the public sector values in Estonia, Denmark, and the Netherlands (article V), it turned out that there are significant similarities between those countries but also a series of differences. Such fundamental values as openness, transparency, and efficiency were seen as important in all these countries. The surveys also reflect such values as responsibility and predictability. Since the survey on Estonia was carried out immediately after Estonia's joining the EU, the similarities in the value base cannot be seen as deriving from shared membership in the EU, but rather appear to be a consequence of the nature of the profession and of similar culture space. As to the differences, one may note that officials in Denmark attributed greater importance to business-like values such as efficiency. It was not so highly ranked in the Netherlands and was among the lowest-ranked values in Estonia. Values with a strong moral connotation such as honesty, incorruptibility, and dutifulness scored much higher in Estonia and the Netherlands than in Denmark. Responsiveness to the citizens (in the Netherlands survey) and attentiveness to public opinion (in the Denmark survey) both received low scores. Courtesy and helpfulness were valued relatively highly in Estonia.

All these empirical findings help emphasise one essential part of the general normative problem: the theoretical framework we are searching for should contain an answer to the question, whether the ethical norms of some particular profession should be uniform and universal, applicable to any country where this profession exists; or is it possible to rationally justify normative differences between countries.

As pointed out above, a theory of professional ethics makes sense only in case it helps resolve ethical issues confronted in actual practice. Therefore, a "litmus test" or a "quality control" of a theory consists in its being able to

succeed in giving rational solutions to ethical problems which cannot be addressed by mere adherence to norms, or which require considering more than just one individual action before passing final ethical judgment. In the sphere of public service we frequently encounter cases where judging just one person's activities is insufficient, since the decisions of several officials are connected, generating the need to examine the role performances of all officials involved. Consider the following example: a citizen makes a request to an official that an information stand be set up near her home. In order to realise this simple wish, the citizen has to communicate with many different officials and the whole process turns out to be much more painful than expected. Finally, she starts to accuse the officials of unethicallness. In such a case, the citizen may not be aware of the details and time-consumingness of the official procedure, so, she may easily come to think that the officials involved are indifferent or lazy. However, since decisions on this kind of issues depend on more than just one official, one should – before passing final judgment – look at the activities of all persons concerned. Similar situations occur in many other professions. Individual actions of a professional are usually tied up with a whole network of other individual actions.

To summarise: in the search for a theory of professional ethics, we are looking for a framework which is able to 1) offer a rationale for a coherent system of norms of professional ethics; 2) justify the differences between professional and ordinary morality; 3) generate solutions to novel situations and complex issues whenever the existing codes of ethics fail to do so.

It was suggested in Articles II and IV-VI that the ethical norms of various professions are not grounded in some one fundamental value but rather in a set of different values. As shown by empirical studies, it makes sense to speak of a pluralistic framework in the context of professional ethics. The search for a general theory and value pluralism will be my main topics in the next sections.

3.1. The morality of pluralism in the context of professional ethics

The concept of pluralism refers to a *plurality*. In moral theory, pluralism is a relatively recent phenomenon. Such thinkers as Aristotle, David Hume, John Stuart Mill, Max Weber and William James can be seen as forerunners of the pluralist attitude. Among contemporary authors, more or less pluralistic views have been discussed and defended by I. Berlin, T. Nagel, D. Nortoni, M. Nussbaum, J. Rawls, P. Strawson and B. Williams (Kekes 1996: 12).

The need to speak about plurality within the context of professional ethics emerges due to the fact that the various professional values, which give rise to norms, are not reducible to some one fundamental value. In order to meet the needs of professions and take into account their real practices, one has to pay

attention to this plurality of values. In what follows, I will try to work out this idea in more detail by using John Kekes's theory of moral pluralism. Kekes discusses morality in general while I am going to apply his value pluralism to the specific context of professional ethics. Like Kekes says – that a plurality of values in the conceptions of good life is a fact – we can also call it a fact that a plurality of values is acknowledged by professional ethics. Yet plurality alone is insufficient for resolving conflicts encountered in professional ethics. This I will discuss in more detail later.

One of the central theses of Kekes's theory is the thought that values which bear on morality are plural and conditional. This inevitably generates conflicts. To resolve the conflicts we must rank values. Some values – Kekes calls them the "primary" values – are permanent but some are "secondary", in the sense that they are expressions of primary values which depend on cultural, social, historical and possibly other circumstances. In order to be able to rank values we must have moral imagination: we must be capable of imagining what will be the consequences of our commitment to a particular value or to a set of values. At the same time, our choices are not entirely arbitrary because there are restrictions to what we can choose. In my opinion, it is natural to apply this kind of pluralist framework for resolving conflicts in situations where, first, equally important values are present, and, second, certain values are prescribed and imposed by some "external" system. Both of these two conditions are typical to situations considered by professional ethics.

According to Kekes, the focus of a pluralist theory of ethics is not on establishing norms but on identifying and explicating the values involved and on describing their mutual relationships which in fact determine the moral decisions made. Kekes himself puts this in the following way: "Pluralism is a theory about the nature of values whose realisation would make lives good." (Kekes 1996: 9) If we interpret professional ethics as something broader than merely adherence to normative codes, this applies to professional ethics as well. Asking about values is essential to good professional life.

From the perspective of pluralist theory, a life should be called "good" only if it provides personal satisfaction *and* is morally meritorious. These components are interconnected but not overlapping. Often enough, what is morally laudable is also personally satisfying, but satisfaction may also be provided by many things which are morally neutral – like aesthetical experiences, sense of humor, professionalism and so forth. In Kekes's view, personal satisfaction may be derived both from the pursuit of moral and nonmoral values. This means that the question of a good life is not reduced to the question of moral good and evil (*ibid.* 10). As said, the presence of both moral and nonmoral values is characteristic to professional ethics as well. In the public service, for example, ethics is not only about morality but has also to do with efficient governance and administration. So, the range of values required from public servants includes both honesty as a moral value and accountability as a non-moral value.

Kekes says that “Conceptions of a good life are broader, more inclusive than conceptions of a moral life” (*ibid.* 10). The same is true about professions. It is implied in the very definition of a professional that he or she is not just a morally good person with the right values: at the very least, he or she must also have special expertise and training. A pluralistic framework enables us to assign nonmoral values a place in the set of the basic values of a profession – which is often problematic for theorists who tend to see only values with a strong moral connotation, or professional *ethos*, as a foundation for norms in professional ethics.

As we saw earlier, problematic situations in professional ethics are often caused by value conflicts. Such conflicts are inevitable if there are more core values than just one. Pluralism admits value conflicts including those where the clash is between moral and nonmoral values; it even says that sometimes it is reasonable to resolve the conflict in favor of the nonmoral because it will contribute more to the pursuit of good life. For example, when analysing the issue of whether or not to prefer one’s relatives in the professional context of public service, it is reasonable to prioritise transparency (nonmoral professional value) before reliability (moral personal value). If an official repeatedly prefers friends or relatives in her job context, this would lead to such a major clash with the general professional *ethos* that it might prove unreasonable to let her continue in her role as a public servant.

However, it is emphasised by Kekes that not every ethical conflict indicates a plurality of values. There is reason to suspect such a plurality only if both sides of a dilemma are related to some essential values; neither of them can be realised, fully or partially; and there is no internal standard for comparing them (*ibid.* 61).

The pluralist theory’s account of primary and secondary values offers one possible way of interpreting an issue mentioned several times already: the values of a particular profession are identical, or greatly overlapping, in different countries, although in certain aspects they may be somewhat differently expressed. Although individuals pursue different values and for different reasons, every profession typically regards some values as more central than others. These main values are related to the nature of the profession and form an inseparable part of the concept of a good professional in the relevant field.

Consider once more public service ethics. We listed such professional values as legality, respect for citizenship, integrity, social equity, and concern for public interest. As shown in Articles IV, V and VI, the public service systems of all countries analysed endorse these values. We can regard these as the “primary” values in Kekes’s sense. The “secondary” values, for Kekes, depend on individual, society, tradition, and historical moment. The empirical analyses of the public service values revealed that while in the Netherlands and in Denmark “accountability” is an essential value, it is not as clearly acknowledged in the three Baltic states. The secondary values of public service

are affected by such factors as social role, way of living, forms of government and economy, society's wealth, national temperament, *etc.* While the primary values are shared by all practitioners of a profession, the secondary values are relative to cultures and concrete professional communities. In the case of public servants, the secondary values are determined by how the primary values are applied in the legislation of particular states and what exactly is the structure of the administrative system and public service. The primary values remain constant and do not change: they are determined by the general features of public service as a profession. The secondary values are expressed in the differing practices of particular states: whether justice is supported in a liberal or in a social democratic way; whether the administrative system is based on a hierarchical (Weberian) career-based principle or on the position-based principle of openness; whether the public servants' ethics is regulated by law or by stressing integrity, *etc.*

Such an account of primary and secondary values does not imply relativism. The fact that certain values have been assigned a central place in the normative life of a profession, does not mean that these values are the group's so-to-say "inner affair". As shown by Friedman, the acquired morality – including professional values – is connected to the non-acquired morality. The rest of the society has to accept the values of a professional group so that the aims of the profession in question may be achieved for the benefit of the society. If, for instance, the society refuses to accept the lawyers' right to confidentiality, law professionals cannot use it in their practice, which undermines both their identity and success in achieving the profession's aims.

The benefits and harms reflected in the primary values are of a universal nature, but the ways for achieving or avoiding them are uncountable. There is no overriding value, all values are conditional. In any given situation, one should consider how to maximally maintain and promote the primary values. If it should happen that the social or cultural context does not support our choices, one should not interpret these contexts as rigid frames but rather as a dynamic, changing environment. Values are to be seen as being constantly deliberated and, if necessary, revised, depending on how we evaluate their role in pursuing the profession's ideals.

3.2. An overview of moral theories offered to ground professional ethics

In attempting to find a theoretical framework for discussing and justifying the norms of professional ethics, I will first briefly mention a distinction offered by Henry Sidgwick in 1898. He said:

There are two distinct ways of treating ethical questions, the difference between which, in respect of method, is fundamental; though it does not necessarily lead to controversy or diversity of systems. We may begin by establishing funda-

mental principles of abstract or ideal morality, and then proceed to work out deductively the particular rules of duty or practical conceptions of human good or well-being, through the adoption of which these principles may be as far as possible realized, under the actual conditions of human life. Or, we may contemplate morality as social fact – “positive morality”, as it has been called – i.e., the body of opinions and sentiments as to right and wrong, good and evil, which we find actually prevalent in the society of which we are members; and endeavor, by reflective analysis, removing vagueness and ambiguity, solving apparent contradictions, correcting lapses and supplying omissions, to reduce this body of current opinions, so far as possible, to a rational and coherent system. (Sidgwick 1998 [1898]: 31)

Certain parallels to this distinction may be drawn in professional ethics, where the discourse mostly mentions three main theoretical frameworks. Two of these can be regarded as “fundamental” or “ideal-based”, in Sidgwick’s sense. First, classical ethical theories have sometimes been seen as a suitable foundation; second, the accounts relying on the concept of moral integrity may, in some respect, also be seen as ideal-based. Sidgwick’s second type of approach is exemplified by the theory of “common morality” which contemplates morality as a social fact. Yet although it is helpful to keep Sidgwick’s distinction in mind, when considering various approaches, it should not be taken too literally, mostly because interpreting theories founded on the concept of integrity as ideal-based is questionable.

Using ethical theories to solve specific moral problems characteristic to professional contexts is a relatively recent phenomenon. A closer examination and critical revision of the normative systems of professions began in the 1970s. At that time, utilitarianism and Kantianism were the dominant approaches (Cocking and Oakley 2001: 2). These two theories have retained their importance in the discourse on professional ethics up to the present day (Lewis and Gilman 2005: 125).

According to the mainstream of the 1970s and 1980s, professions themselves are unable to offer ethical generalisations. Robert M. Veatch, for example, expressed the view that an ethics suggested by a profession itself is meaningless both in theory and practice. What is really needed is a more general moral standard (Veatch 1981: 106). In later times, some authors have come to recognise that an essential part of professional ethics gets lost, if we consider professional behaviour only via the conceptual networks of general theories of ethics. Churchill and Fried, for instance, have claimed that neither Kantianism or utilitarianism are able to treat role-based obligations or character traits typical, say, of a good physician; Fried has claimed the same about lawyers and Blum about teachers (Cocking and Oakley 2001: 2). Thus we have views insisting that a theoretical foundation is necessary as well as views against it, regarding any such foundation as potentially too narrow or constraining.

3.2.1 Classical ethical theories

First, I will consider classical ethical theories – like deontology or utilitarianism – as a possible foundation for professional ethics. The first thing to be said here is that, when we speak of the value basis of any particular professional ethics, it cannot be built around just one main value, but this is exactly what classical theories mostly do.

Some major figures on the history of ethics... accept one supreme moral value as overriding all other conflicting values (moral and non-moral)... The only ought they maintain, is the ought generated by the supreme value. (Beauchamp and Childress 2001: 11)

John Kekes, speaking of “overriding values”, points out that

Monists think that the conflicts can be resolved because it is possible to establish an authoritative system of values in which there is a highest value that will justifiably override lower-ranked values and in which the standing of all values will be determined by their contribution to the highest-ranked value. (Kekes 1996: 19)

The chief advantage of monistic ethical theories consists in giving clear rules for conflict-solving. One should prefer the course of action which contributes most to the realisation of the main value. To illustrate this, let us consider a conflict regarding abortion. The divine command theory sees life as the main value, therefore, abortion is categorically forbidden. No exceptions are allowed for any reason whatsoever. For utilitarianism, the right decision will be what maximises the general good. Abortion is allowed, or even compulsory, if prohibiting it would mean a decrease in the amount of general good. The ethics of duty appeals to a woman’s duty to the yet unborn child, and to a doctor’s duty to help support life, which means that abortion would rather be prohibited. According to the ethics of rights, abortion is allowed because it helps promote a woman’s rights, and rights are the main value for this theory.

Such rules are applicable to situations where there is no clash between differing values, and the personal and professional values are in harmony with the general values of society. But, frequently, this is not the case.

Utilitarian accounts are often reproached for maximising personal preferences and ignoring the fact that such preferences are not always morally acceptable. A maximising result may be brought about by an immoral action which for the utilitarian is not only justified but even required (Beauchamp and Childress 2001: 345–346). So, for example, conducting clinical experiments on subjects sentenced to life-long imprisonment can be justified from the viewpoint of the general good, in just the same way as one can defend compulsory sterilisation of mentally handicapped persons; yet such attitudes would contradict the right to self-determination of the individuals involved.

Since utilitarianism requires that the utility be maximised, the question arises as to which deeds are morally obligatory (*ibid.* 346). Is the donating of organs a moral duty? Do I have the right to refuse to donate a kidney to a close relative? Utilitarian answers to such questions are not obvious. There is also the problem of justice. The chief aim of utilitarianism is to increase the total amount of good, which means that social justice and protection of minority interests are not necessarily guaranteed in the process of distributing goods.

As for duty-based theories within the context of medical ethics, one reason for relying on the concept of duty lies in the fact that the medical profession has been traditionally seen in terms of doctors' obligations to patients. The disadvantages of this theory become clear in situations where duties conflict, but deontological considerations fail to tell us how to choose between the alternatives (*ibid.* 354). Suppose there are two patients lying side by side in a hospital: one of them is a newborn baby with a severe brain defect, the other is a baby with a heart deficiency whose life would be saved by a donor heart. What should the doctor opt for in such a case? In the end, both babies may die.

The ethics of duty overemphasises rules, laws, regulations, and underestimates close relationships. Our commitments to family and friends are hardly built on duties, aims or rules. When parents take care of their kids, does it happen because it is their duty or for some other reason? We often think of family relations as belonging to the sphere of morality, but it is unlikely that they are based only on duties. In addition, the ethics of duty as a theory is too formal (*ibid.* 355) for offering a system of moral norms (e.g., for professional ethics).

One has to agree with the view that such theories fail to give a comprehensive account of morality (Gert *et al.* 1997: 19). Gert *et al.* maintain that most theories of this kind are not really meant to address specific, real-life moral problems, although the authors of such theories typically believe that every problem in morality has a unique right answer (*ibid.* 19).

Lawrence Hinman suggests that since there is no agreement on what is the one and only – the “right” – moral principle, we should revise our expectations for monistic moral theory and consider the possibility that an adequate theory needs to be pluralistic (Hinman 1994: 62). Ethical systems built around one core value function well as long as they do not have to confront other hierarchies of values. But it is hard to believe that a viable moral system can be grounded on a single value. Our expectations to theory have mostly to do with its “applicability” or “workability”. In a difficult situation, we expect that a theory offers us a range of possible solutions, instead of insisting that there is only one right solution applicable to all persons and circumstances.

Individuals or groups may give different ordering or priorities to particular moral values, which may lead rational individuals to make radically different choices in similar circumstances. There may be differences between the ordering of the values of professional groups and those of the broader society or culture of which that group is a part, and individuals within that group may make differing

choices depending on the *role* that they are playing or these responsibilities that they see themselves to have. (The New Dictionary of Medical Ethics 1997: 267, article “value”)

To take one more concrete example, let us ask: does monism provide a satisfactory theoretical basis for shaping public service ethics? Is it conceivable that a single value proves sufficient to describe the whole sphere of public service in a democratic state? Basically, democracy is the idea of “governing people by the people”, but this says nothing about the exact ways of pursuing the democratic ideal in actual life. If we restrict the value base of public service too much, we may thereby narrow down the range of different ways of realising administrative capacity. In fact, it seems quite obvious that the public service systems may endorse diverse values which are to be seen as having an equal standing: for instance, transparency and efficiency are both valuable, but in a particular situation, where they come into conflict, we may have to prefer one of them to the other.

As shown in Article II, the main weakness of classical ethical theories – like deontology or utilitarianism – lies in the difficulty of applying them to real-life moral issues which professional practice has to face. While in medical ethics maximising utility or fulfilling a duty is accepted as an argument, in the case of a public servant’s ethics it is hard to employ such classical approaches. If an official, for example, has to decide whether he is allowed to act simultaneously as a public servant and a consultant, analyses grounded on the concepts of duty or utility lead to no clear answers. Monistic theories, as applied to the public service, have other deficiencies as well. Among other things, they are difficult to adjust to rapidly changing circumstances, such as globalization or wide-ranging administrative reforms.

Here, let us return to Bernard Gert once more:

If a person accepts the standard view of moral theories that morality always provides a unique correct answer to every moral question about how one morally ought to act, then all moral disagreements must be explained away. Those who disagree must be not equally informed, not impartial, or not rational. (Gert 2004: 145)

Gert thinks that this kind of attitude leads to having no ground for respectful and fruitful discussion of controversial moral issues. Even the theoretical systems created by best thinkers like Kant or Mill oversimplify the network of moral ideas used in ordinary life. Morality is always much more complex, which means that a classical monistic theory is unable to offer solutions acceptable to all. This also means that such theories are not the best framework for resolving problems encountered in professional ethics.

3.2.2 Integrity-based approach

The second approach offered as a basis for ethical generalisations in professional life centers around the concept of integrity. 'Integrity' is probably the most confusing term in professional ethics discourse. It is used in multiple ways, in different frameworks relating to different areas of research. Most authors agree that integrity is a complex concept, or even suggest that we are dealing with more than one concept here. The Latin word *integritas* means 'wholeness', 'completeness', 'honesty', but also 'decency', 'modesty'. Often it is defined as the state of being undivided, of being an integral whole. In recent times, integrity has occasionally been interpreted as authenticity although this connotation of the word was absent in antiquity. One may also encounter definitions where integrity is understood as firm adherence to a code of some special moral values – like incorruptibility. Integrity may function as an ideal – as a value to be pursued but never wholly realised. But it is also applied as a standard by which we measure other people and their ways of expression.

In professional ethics, especially in discussions on public service ethics, the integrity-based account emerges as one possible approach to ethics management (Maesschalk 2004; Lewis and Gilman 2005), or as incorruptibility in the broad sense, as nonviolated professional behaviour (Huberts *et al* 2008; Lasthuizen 2008), or just as a core value. Six and Huberts (2008: 66) name five perspectives of speaking about integrity: as a wholeness; as a specific value (incorruptibility), or as several specific values and norms; as the quality of acting in accordance with laws and codes; as the quality of acting in accordance with relevant moral values and norms; and as exemplary moral behaviour. If integrity manifests itself in professional ethics in so many forms, is it possible that this concept constitutes the very essence of professional ethics and is capable of grounding systems of norms in professions?

Despite the fact that in the literature concerning social sciences and organisational culture we find an enormously wide discussion about professional, organisational and institutional integrity, Musschenga says that "there is hardly any cross-fertilisation between the general philosophical discussion on integrity and its application to practical questions" (Musschenga 2002: 170). However, it does seem important to understand the philosophical conceptual field around integrity and analyse its practical implications for professional ethics.

Philosophical accounts of integrity focus on the individual as a whole, as an undivided entity with a definite identity:

Integrity is a defining characteristic of identity or identity presupposes integrity. Both concepts are central to our thinking about who we are and what we should do. (Musschenga 2002: 169)

An individual may be characterised as "being a whole" or "being a person" if he has well-developed ideals and is consistent in pursuing them. Among other

things, it means that in similar situations he makes decisions based on the same principles and resolves them in a similar way. In actual life, such sameness is important to us because

we are interested in the reliability of people and the predictability of their behaviour, in general or in particular roles. ... What unites those we regard as persons of integrity is that they stick to their promises, act according to the principles they have subscribed to or are expected to act upon in the offices and roles they fulfill, and are loyal to their commitments. (Musschenga 2001: 219–220)

When speaking of integrity in the sense described, one refers first and foremost to the fact that a person's thoughts or motives, words or actions, cohere with certain principles, values or norms. More specifically, it is common to point to two basic criteria or formal requirements in connection with integrity – consistency and coherence. Consistency means “consistency within one's set of principles or commitments” (McFall 1987: 7) or “that there is no logical contradiction between judgements or rules” (Musschenga 2002: 172). Coherence is understood as “coherence between principle and action” (McFall 1987: 7) or as coherence between beliefs, values and conduct (Musschenga 2001: 221). Sometimes, a further dimension of congruence is added: first, one may speak of congruence between observable utterances and what people really feel and think, and second, there may be or not be congruence between what people say and what they actually do (Musschenga 2002: 172). But this last criterion does not seem really different from the criterion of coherence, so, I will consider only the first two.

The criteria of consistency and coherence may be applied from two angles: either formally, when we are interested only in strict formal correspondence between words and action, or “materially”, nonformally, when we pay attention to the content of the values, principles, and rules involved, and try to evaluate how well this “real” content is reflected in the sayings and doings of a person.

In some cases judgements concerning integrity only evaluate the quality of these relations [between someone's belief and conduct], abstracting from the substance of a person's beliefs, principles and commitments. In other cases in evaluating integrity one starts from values, principles and rules that are valid in the agent's own community and examines how the subject deals with them and how they are expressed in his behaviour. (Musschenga 2001: 221)

As we shall see below, professional ethics discourse operates with both these angles. In order to become more clear about how professional ethics is related to integrity, let us next consider some different types of integrity. On the basis of the type or origin of the principles, values, or norms to be held, one may distinguish between personal, moral, and professional integrity.

Personal integrity has to do with the case where an individual establishes for herself some ideal or standard of conduct. The concept of personal integrity is applicable when the following requirements are met: an agent 1) subscribes to some consistent set of principles or commitments and 2) in the face of temptation or challenge 3) upholds these principles or commitments 4) for what the agent takes to be the right reason (McFall 1987: 9). Musschenga puts it differently: when someone is seen as having personal integrity, he not only

shows coherence and consistency in his convictions and coherence, he also has a distinctive character, in which his identificatory valuations reflect his deepest convictions. A man of personal integrity is true to himself, has authenticity. (Musschenga 2001: 222)

Moral integrity means that a person adheres to some set of recognizable moral principles or commitments. But there is some disagreement between different authors as to what the exact content of this concept amounts to. For example, Lynne McFall maintains that it is impossible to draw a clear line between moral and personal integrity. She thinks that every morality is, fundamentally, a personal morality, and that moral integrity adds a moral requirement to personal integrity (McFall 1987). But Musschenga sees moral integrity as the core of the whole concept of integrity (Musschenga 2001: 222). He emphasises that moral integrity is “socially loaded” because it has to do with moral expectations which should be the same or universal for all. So, it is intimately linked with social ties:

Moral integrity presupposes that a person has identified himself with social moral values and principles. A person’s social morality will usually coincide largely with that of his community. (Musschenga 2001: 226)

Yet moral integrity does not mean that social morality is internalised without reflection. On the contrary, it presupposes critical attention to social moral values and principles. “A person of moral integrity cannot just conform to the prevailing morality.” (*ibid.* 226) An agent possessing moral integrity has internalised the values, principles, and obligations, but she also knows their rationale, how to interpret them and how to criticise their conventional applications.

If criticism or revision of moral principles is allowed, the question arises as to whether it is possible to speak about integrity at all: if the moral principles are not rigid and definite, then what does the principle of consistency mean? For Musschenga, this does not appear to be a serious problem:

Social morality is not a matter of sets of virtues and principles with crystal clear criteria of application and interpretation. In almost every case there are various legitimate interpretations of the relevant virtues, principles and values. (*ibid.* 227)

Although he adds that the requirement of consistency should be seen as evaluative, and introduces a gradation of moral persons – speaking, for instance, of “partly” or “incompletely” moral persons – and mentions the need to develop oneself towards greater moral unity, such an approach is apt to generate confusion.

To avoid relativism in understanding moral integrity, I would see the problem not so much in the lack of consistence between values and principles but rather, as pointed out by Gert, in their different applications in practice – above all, in disagreements about the probabilities of the consequences of the proposed action and its alternatives (Gert 2004: 13).

A third kind of integrity is *professional* integrity. In order to regard a person as having professional integrity, she must express in her words and actions conformity to the values, principles, and norms of a particular profession:

Professional integrity is not a matter of remaining true to oneself; it is, very roughly, a matter of remaining true to the fundamental role and character of one's profession – to its principles, values, ideals, goals and standards. This requires that professionals not merely remain true to and publicly endorse personal values and principles but that they remain true to the role they are publicly entrusted with. (Cox *et al.* 2003: 103 [*op cit* Pritchard 2006: 68])

Musschenga treats professional integrity as a sub-species of *local* integrity. The latter also includes occupational, civic, political, managerial and other kinds of integrity, and it may be generalised as *role* integrity (Musschenga 2001: 222; 2002: 174). Such an account accords well with what was discussed earlier in this work – the need to see professional ethics as role-based. It should also be noted that it is precisely this type of integrity which is most frequently discussed and elaborated in the works on organisational, institutional and professional ethics.

For now, I will leave aside the practical implications of the concept of professional integrity and focus on its more theoretical aspects. When speaking about professional integrity, the latter is assumed to be different from personal and moral integrity. One crucial difference between personal and professional integrity derives from the fact that professional values and principles are not acquired by individual's voluntary commitment. They are situated in a wider social context, since the professional role itself is socially constructed and constituted. At the same time, as stressed by Musschenga, the same kind of social ladenness is also characteristic to moral integrity.

The difference between professional and moral integrity comes from their different scope of application. We can try to identify and evaluate moral integrity in respect to all moral agents, whereas professional (or local) integrity is limited to the morality of a particular social role. Every person who occupies a political or public role, should act in accordance with the social rules, values, and standards that are constitutive of that specific role.

Someone is said to have integrity in a certain role or practice if he is strongly committed to its constitutive aims and goals, and acts consistently in accordance with the rules, values and standards connected to that role or practice. He does not abuse the power, privileges and opportunities that the role provides, for monetary or non-monetary gains, either for himself or for others with whom he has a special relation. In a society like ours, we usually deal with people only in certain capacities or roles. In evaluating the integrity of a role player, we are only looking at a part of his behaviour – his behaviour in that role. We want to be sure in dealing with that person that he is trustworthy and reliable; that he abides by his beliefs and values, even if pressure builds up. (Musschenga 2002: 190)

Thus, professional integrity is above all integrity of a certain social role. While personal integrity consists in upholding some consistent set of principles or commitments which are the personal choice of the agent, and which he follows both in his words and actions, and moral integrity differs from professional integrity in that these commitments are socially approved moral identity-conferring commitments, local integrity means that a person is committed to the rules, values and standards connected to a particular – in our case, professional – social role.

Let us examine this framework on two hypothetical examples. First, consider a situation where employees of a central bank use credit cards without any serious constraints. The media publicises the times and places of credit card use, pointing out that several uses of these cards seem to have nothing to do with job tasks. In answer to that, the central bank announces that some of their employees have very special job tasks, which cannot be publicly discussed because of the strategical importance of the bank, and that no employees have violated any rules applicable to those who work at the central bank. Second, consider a situation where a social worker is informed that Mr X is abusing his mentally handicapped wife. The social worker pays Mr and Mrs X an obligatory visit and after a brief survey of the situation concludes that there is no real problem. Later, it becomes known that the woman has been abused for a long period of time already. But all formal requirements of the professional role were met by the social worker.

It is clear that when we evaluate such actions, the criteria of evaluation are based on the values and norms applying to a social or professional role. Can we here speak of professional integrity? Intuition says that in both cases such integrity was violated. There are two possible ways of explaining the intuition. On the one hand, there may be genuine inconsistency in the values and principles involved. If this is so, the codes may need revision. (This was discussed more generally in an earlier part of this work.) On the other hand, it may be that the values and principles in themselves were sufficient and coherent. The problem lied not in conforming or not conforming to those values and principles, but in interpreting their real content, in putting them into concrete context. In other words, the problem lies not in the formal interpretation of integrity but in its material interpretation.

Alasdair MacIntyre (1999b) discusses analogous situations. He claims that, in our society, people have split themselves up into several selves. This is the reaction to the nature of social life in a compartmentalised social order. Individuals change and exchange their roles and spheres constantly. Every role has its own requirements. Such autonomy of various roles may lead to the absence of external criticism. The outcome might be that morality falls apart into insulated local moralities. The quest for excellence in the performance of a particular role often leads a person to a certain blindness to the values and obligations of other roles.

He had made himself into what the roles said that he was. By so doing he had assented to doing, reasoning and knowing only as the standards governing his roles prescribed. And in so assenting he had excluded the possibility of moral conflict. (MacIntyre 1999b: 328)

In order to overcome such compartmentalisation, it is not enough just to comply with the narrow criterion of formal consistence or coherence: professional integrity should be interpreted in a broader sense, and more materially, assuming a person with moral integrity. This is why Musschenga states that it is most unlikely that one can have professional integrity, if one is not a moral person.

Such a broad view of professional integrity is by no means generally accepted. Frequently, we encounter accounts which understand professional integrity in a purely formal way, as mere compliance with norms and values. An official should not ask why he is doing what he is doing, but rather to learn to apply certain mechanisms for resolving dilemmas. This kind of attitude seems to assume a relatively constant environment surrounding the practice of a profession. In contrast, if a representative of a particular profession supports values required of a good professional, and does so by constantly reinterpreting her role in a broader context, she is able to respond to changes in the surrounding circumstances. To act with integrity a professional should not only take rules and regulations seriously, she should also be able to interpret them intelligently and creatively or, if needed, overrule them.

Talk of integrity is characteristic to modern pluralist societies. Integrity, in Musschenga's view, embraces a plurality of diverse virtues, values, and principles. This, among other factors, points to the relevance of the pluralistic approach adopted in the present work. In situations, where there is no single, definite system of values, or no prevalent moral theory, a professional may need to interpret anew the values of his profession and their influence on conduct. Actions requiring moral decisions cannot be classified into simple types supplied with typical solutions. Therefore, the focus of professional conduct is increasingly moving towards individual responsibility, thereby making discussion of professional integrity more and more important.

To come back to the aforementioned organisational and institutional integrity, one may say – applying the formal criterion – that if consistency and coherence of values, principles, norms, and deeds is guaranteed, such an

organisation or institution can be regarded as possessing integrity. Meanwhile, it is clear that organisational or institutional integrity depends crucially on whether its individual members have integrity or not, although it is the organisation who creates or establishes the content of the values, principles, and norms constituting professional integrity.

In the case of personal integrity, the moral agent chooses the values and principles for himself; he himself has also to make sure that the requirements of consistency and coherence are met. In the case of moral integrity, the group of reference is given by the community of all moral agents. In the case of professional integrity, as said, the unity of norms should be guaranteed by an organisation or a professional community who, in this case, state the rules, values, and standards of a professional role, in accordance with the constitutive aims and goals of the profession involved.

In practical discourse on professional ethics, it is common to talk of integrity not as of a generic concept or theoretical generalisation but rather as of a core value of some profession, say, the public service. Upholding this value may run into difficulties, if moral integrity gets into conflict with integrity as a value of a specific profession. One of the most important norms in officials' set of values is legality, which means that following the law is one of the formal criteria for evaluating professional integrity. Consider the following example. In the mid-1990s, using drugs was criminalised in Estonia. At the same time, campaigns had already been launched for organising exchange of syringes for drug addicts, with the aim of preventing the AIDS virus from further spreading. Police officials who did not arrest addicts having come to obtain new syringes failed to follow the law. Their conduct was against the law and in conflict with professional integrity, but, on the other hand, it conformed with their moral integrity. After a while, the law was changed so that it was not required any more that the addicts who had come to obtain new syringes should be arrested. This example shows once more that in order to avoid conflict with moral integrity, the norms of professional integrity need a broader framework, a wider system of morality that would take into account the content of moral integrity as well.

To summarise the topic of integrity, one could say that there are two different aspects or sub-meanings to the concept of professional integrity. In a narrow sense, the term points to the conformity of a professional's conduct with the values, principles, and norms of her profession. Commonly, the values, principles, and norms in this case are established by the professional community or institution, and the minimum requirement consists in maintaining consistency and coherence within the framework of professional activity. In a broad sense, professional integrity means that, in addition to professional values, principles, and norms, a professional's conduct must also conform to *moral* values and principles. Only then can we regard a professional as possessing integrity. This broad meaning of the term 'professional integrity' presupposes the existence of a wider system of morality which gives us the moral values and principles involved.

3.3. Common morality

To explain the nature of professional ethics and how it is situated in the overall system of morality, it is often compared to ordinary and common morality. In what follows, I will have a closer look at how professional ethics connects with these two other moral networks. What is the exact difference (if any) between ordinary and common morality, will also be discussed below.

Peter Singer defines ordinary morality as “the morality that we intuitively accept” (Singer 1991: 625). Ordinary morality does not require actions which would pursue such values or mean fulfilling such norms that are ordinarily not expected from a common person. If it is known, for instance, that there are some kids in the house that has caught fire, it is not expected from an ordinary citizen who happens to pass by, that he should enter the house and try to save the kids, risking his own life and health. If he prefers not to do this, he will get no blame. Yet if he decides to take the risk, his actions will surely be praised and characterised as behaviour which superseded the expectations of ordinary morality. Freedman (1978) speaks of ordinary morality as a morality whose obligations are non-acquired. Professional morality which operates with acquired obligations may require more than ordinary morality. If a fire-fighter refuses to enter into a burning house with people inside, his behaviour will be condemned and evaluated as immoral.

‘Common morality’ is accepted by many philosophers as a basic concept in studies of practical ethics and professional morality. According to Henry Sidgwick, the “morality of common Sense” is the minimum of morality, the moral values we all share (Sidgwick 1998 [1898]). He holds that common morality does not derive from any particular moral theory but precedes to any theory, being based on some universal features of human nature – like fallibility, rationality, and vulnerability. Gert, Cluver and Clouser, when they start to describe their approach to biomedical ethics, state that

Common morality is the foundation on which we build: first by explicating how morality works, then by justifying the practice as a public system for everyone, and finally by showing how it is manifested in different cultures, including subcultures like professions, all the while remaining one integrated morality. (Gert *et al.* 1997: 1)

They explain that the fact of biomedical ethics having its basis in common morality is the reason why one is able to have sophisticated discussions about moral problems within this area of practical ethics, without ever having taken any courses in ethics or moral theory.¹⁵ Beauchamp and Childress also speak of common morality. They take this term to refer to the set of norms that all morally serious persons share: “The common morality contains moral norms

¹⁵ Gert *et al* have specifically bioethics in mind, but what they say may be extended to other branches of practical ethics, including professional ethics.

that bind all persons in all places; no norms are more basic in the moral life.” (Beauchamp and Childress 2001: 3) In another passage, Beauchamp says that

I define the “common morality” as the set of norms shared by all persons committed to the objectives of morality. The objectives of morality, I will argue, are those of promoting human flourishing by counteracting conditions that cause the quality of people’s lives to worsen. (Beauchamp 2003: 260)

Speaking about norms expressed in ethical codes, Pritchard points to the circumstance that

Although... codes articulate standards, rules, and principles for practitioners in particular professions, if they are well grounded morally, they should make good sense from the standpoint of common morality. (Pritchard 2006: 85)

To summarise, we may suggest that while ‘ordinary morality’ refers to manifestations of morality in everyday life, ‘common morality’ points to the most fundamental norms grounding ordinary morality. Here, I disagree with those authors (Alexandra and Miller 2009: 70) who maintain that ordinary morality is identical to common morality.

What was said previously invites a question: if ordinary morality is grounded in common morality, is it possible to use the latter also as the basic framework for professional morality? I will propose and examine three claims:

1. professional morality differs from ordinary morality;
2. common morality is the basis for ordinary morality;
3. common morality is the basis for professional morality.

The first claim was discussed in Chapter 2 (section 2.2). It was shown that ethical requirements associated with various professions have to be seen as a separate branch of inquiry in practical ethics. One of the central theses here is the claim that professional morality may sometimes require acts that are immoral for anyone except persons belonging to a certain profession – as far as they are acting in a professional role. To draw a clearer line between ordinary morality and professional morality, it can be said that

(1) Professional morality consists of the standards endorsed by professionals or professional societies. Ordinary morality is the set of standards people endorse in their nonprofessional, private lives. (2) Professional morality is the set of binding moral obligations to which professionals ought to be committed because of their special skills, functions, working milieu, *etc.* Ordinary morality is the set of valid moral considerations and morally correct judgements considered in abstraction from the special context of the professions and the specific moral obligations of professionals. (3) Ordinary morality in some sense “emanates from” or has its origin (or justification?) in basic features of the human condition, whereas professional morality derives from the special roles of professionals. (4) Professional morality is a set of valid moral principles which sometimes requires

acts that are immoral for anyone except persons having professional status. Ordinary morality is the set of considerations which would make the acts immoral in the case of nonprofessional agents. (Martin 1981b: 631)

The second claim – that common morality is the basis for ordinary morality – is not of crucial importance for the purposes of this study, but we may provisionally assume it is true.

So, it remains to establish whether the third claim is also true. To give a short overview of the concept of common morality, I will rely on the approaches of Bernard Gert and Tom L. Beauchamp. These two authors discuss common morality from the viewpoint of issues arising in practical ethics. In other words, their account is responsive to the issues of professional ethics. Alexandra and Miller regard Gert's account of common morality as "one of the best worked-out contemporary systematizing theories" (Alexandra, Miller 2009: 70).

Gert begins his account with the following statement:

Common morality is a framework or system that can help individuals decide what to do when faced with a moral problem, but within limits, it allows for divergent answers to most controversial questions. Recognizing that there are several morally acceptable answers to most controversial moral questions makes it less likely that people will believe that they themselves have the unique correct answer and everyone else is mistaken. This may promote moral tolerance and far more fruitful discussions for moral questions. (Gert 2004: 4–5)

As incorrect as it is to argue for relativism on the basis of the idea that equally informed rational persons need not agree on what is the right answer to some concrete moral question, it is also incorrect to argue that equally informed rational persons *must* agree on the answer to every moral question – even if they indeed do agree in most questions.

Morality as a guide for behaviour becomes important when a person encounters other persons, directly or indirectly. In the words of Beauchamp: "Virtually all people in all cultures grow up with an understanding of the basic demands that morality makes upon everyone." (Beauchamp 2003: 260) Moral rules are the aspect of morality that seeks to lessen harms, by prohibiting those actions that cause them or cause an increased risk of them. Moral ideals are the aspect of morality that directly encourages lessening these harms. The moral system also includes a two-step procedure for determining what counts as the same kind of violation: it involves estimating the harm that would result from everyone knowing that a certain kind of violation of a moral rule is allowed or not allowed. This procedure is used when moral rules conflict, or when a moral ideal conflicts with a moral rule (Gert 2004: 7).

Gert claims that when we find disagreements about moral issues, these are in fact not caused by disagreement about values but by disagreement about facts. There are four kinds of such disagreement:

1. differences concerning who besides human moral agents are impartially protected, or protected at all, by morality (e.g. non-human animals, fetus);
2. differences in the ranking of the various harms and benefits – such as whether reducing the risk of being killed or injured outweighs the liberty of not fastening one's seat-belt;
3. differences in the estimates of the harmful and beneficial consequences of everyone knowing that a given kind of violation is allowed or not allowed (e.g. possible allowed exceptions to the rule against lying might include the desire not to hurt strongly someone's feelings or the desire to protect the reputation of a state)
4. differences about whether the action is of a kind that would be immoral if not justified – differences in the interpretations of moral rules. (*ibid.* 14–15)

Beauchamp distinguishes between common morality as a locus of universality, and non-universal morality that can be found in some parts of the moral life, which he calls “particular moralities” (Beauchamp 2003: 259). Professional morality is an example of the latter:

Professional moralities are one type of particular morality. These moralities may vary legitimately in the way in which they handle conflicts of interest, protocol review, advance directives, and many other subjects. (Beauchamp 2003: 262)

Common morality contains only general moral standards that are conspicuously abstract, universal, and content-thin, while particular moralities present concrete, non-universal, and content-rich norms. These moralities implement the many responsibilities, aspirations, ideals, attitudes, and sensitivities that spring from cultural traditions, religious traditions, professional practice, institutional rules, and the like. In some cases, explication of the values in these moralities requires special knowledge and may involve refinement by experts or scholars (Beauchamp 2003: 261).

Gert thinks that one of the primary tasks of applied ethics is to interpret the rules in a concrete setting – for example, when we need to know what kinds of actions count as deceiving or killing, in this particular setting (Gert 2004: 14–15). For Gert, common morality is a framework that within limits allows different persons to shape their own view about (1) the scope of morality, (2) the rankings of the relevant harms and benefits, (3) the harmful and beneficial consequences of everyone knowing that a given kind of violation is allowed or not allowed, and (4) the interpretation of rules.

If we consider Gert's view from the perspective of professional ethics, it seems that in case of a profession the evaluation of these four criteria is not left to the competence of an individual, but is carried out by the professional community. More precisely, it is the professional community who defines the scope of its morality, the relevant harms, benefits and rules, in accordance with

the profession's defining objectives and ends, but taking the norms of common morality as a basis.

Both Gert and Beauchamp see the core of common morality in ten general moral rules that account for all kinds of actions that are morally prohibited or required. Rules 1–5 in Gert's list may be roughly summed up as "Do not cause harm" and rules 6–9 as "Do not violate trust". His list includes the following:

1. Do not kill.
2. Do not cause pain.
3. Do not disable.
4. Do not deprive of freedom.
5. Do not deprive of pleasure.
6. Do not deceive.
7. Keep your promises.
8. Do not cheat.
9. Obey the law.
10. Do your duty.

Beauchamp's list contains such rules:

1. Don't kill.
2. Don't cause pain or suffering to others.
3. Prevent evil or harm from occurring.
4. Rescue persons in danger.
5. Tell the truth.
6. Nurture the young and dependent.
7. Keep your promises.
8. Don't steal.
9. Don't punish the innocent.
10. Treat all persons with equal moral consideration.

We see that there are more similarities than differences in the two lists. But the aim of the present work is not to clarify the exact content of the common morality. The question was rather "Can common morality be taken as the basic framework for professional ethics?" So, the next question is how can the ten rules listed above, or the standards based on these rules, help establish the norms of professional ethics.¹⁶

Gert and Beauchamp think – like John Stuart Mill – that moral ideals are something to be aspired to. For Beauchamp, virtues are such traits of character which are universally admired. Moral ideals are optional. Gert says that, unlike moral rules, people are only encouraged, not required, to follow moral ideals (Gert 2004: 22). For him, moral ideals are a part of common morality. Beauchamp disagrees on this point: he regards ideals as instructive examples of particular moralities.

The distinction between moral rules and moral ideals becomes especially significant in the context of codes. Often, when codes of ethics are discussed, it is not too important whether we are speaking about codes of conduct, which present concrete rules for action and behavior, or about codes of ethics, which state the expected values to be reflected in professional conduct. It now seems appropriate to say a few words about the main difference between these two kinds of codes. *Codes of conduct* are formulations of norms which are obligatory to the members of a professional community. If a person fails to adhere to these norms, sanctions may be applied to him. This corresponds to the "compliance approach" in ethics management. In contrast, *codes of ethics* state

¹⁶ In Beauchamp's view, the standards in question are: 1. nonmalevolence; 2. honesty; 3. integrity; 4. conscientiousness; 5. trustworthiness; 6. fidelity; 7. gratitude; 8. truthfulness; 9. lovingness; 10. kindness.

the ideals which the professionals should pursue. Values and the ways of achieving them play a more significant role here. This corresponds to the integrity-based approach to ethics management.

Gert points to the potential tension between ideals and norms:

Stated abstractly, it may sound paradoxical to say that doing what is morally encouraged can justify not doing what is morally required, but examples show its truth. (Gert 2004: 24)

Consider the following example. A civil servant steps forward and encourages the members of the parliament to fulfil their duty. From the professional point of view, the official should regard the parliament as an organ whose opinions she must respect and it is not part of her job to tell the legislative body what they should do.¹⁷ However, if the official interprets her role in a more general spirit, as contributing to ensuring good governance and helping improve it, she endorses an ideal which comes into conflict with a norm.

When Beauchamp says that

Actions done from these ideals are morally good and praiseworthy, and those who fulfill their ideals can be praised and admired, but they cannot be blamed or disdained by others if they fail to fulfill their ideals (Beauchamp 2003: 262),

we might conclude that the norms of common morality are more important than moral ideals; that moral ideals are more important than the norms of professional morality; and that adhering to the norms of professional morality is the minimum requirement for a professionally moral person. As for Gert, he holds that a person who never follows any moral ideals cannot be a morally good person, even if he never violates a moral rule. Such a view is controversial in professional ethics. Some authors believe that the primary aim lies in analysing how professionals make decisions in dilemmatic situations, taking into account structures established by bureaucrats. Or, in other words, perhaps professionals should not be so much interested in interpreting moral ideals but in following norms. As for myself, however, I would rather agree with those who think that the shaping and grounding of moral ideals is important in morality, including professional morality. Society's expectations to professional conduct change in time. If we do not reconsider and reinterpret the moral ideals from time to time, concrete norms may become too rigid and start to hinder the progress of society.

Gert ties the rule requiring a person to do his duty with a special role, such as being a doctor, a lawyer, a parent, or a teacher (Gert 2004: 50). This means that fulfilling a duty has not to do with belonging to some specific professional

¹⁷ P.3 of the Estonian public service code of ethics says: "An official shall adhere, in his or her activities, to the legally expressed will of politicians who have received a mandate from the citizens."

community but with acting in a certain context, in a certain role. A professional may fulfil his duty whenever she is in the corresponding role. When a public service official goes shopping in her spare time, it is not her duty to answer the questions of a citizen, whom she happens to meet at the same shop, as to how the review of some request or application is progressing. However, the term “duty” has taken on a broader moral connotation which connects fulfilling a duty to a person rather than role, and this creates misunderstandings. A citizen may assume that the professional has to fulfil her duty at any time, not only during the official working hours, or otherwise in a clearly professional context.

I shall now give a preliminary summary clarifying the relationship between ordinary, professional, and common morality. Common morality is the set of norms shared by all persons committed to the objectives of morality. These norms are the most fundamental moral rules: they are universal prescriptions stating the minimum of such behaviour which is either morally prohibited or morally required. At the same time, common morality is not identical to what describes or regulates our everyday moral practices. These practices are determined by particular moralities that are specific and dependent on cultural and religious traditions, general arrangement of the society, customs, and so forth.

Ordinary morality and professional morality are expressions (or instances) of particular morality. Since the particular moralities are content-rich, they differ in their forms of expression. Ordinary morality is the set of standards people endorse in their private lives. In ordinary morality, different persons shape their own view about morally permissible actions. Professional morality is the set of standards endorsed by people in their professional role. In order to distinguish between different particular moralities, it is important not to talk of profession as such – which does not distinguish between different roles of a person – but of a *professional role*, which can be distinguished from private roles.

The content of professional morality is not created by an individual person who occupies a professional role; rather, it is created by an institution or a professional community. In this sense, a professional community can be seen as a kind of autonomous body. The content of professional morality depends on what is seen as the scope of a professional role. Commonly, the rules of professional morality are expressed in codes of ethics or codes of conduct. The first kind of codes – the codes of ethics – state the ideals of role-based behaviour whereas the codes of conduct state the obligatory norms of behaviour. Since societies are in constant changing, the rules of particular moralities – including professional morality – are also changing, but the rules of common morality never change, being fundamental. It is the task of the professional community to ensure that its rules are responsive to the changing circumstances, needs, and expectations, without coming into conflict with common morality.

As to the violation of moral rules, Gert and Beauchamp disagree on this matter. Beauchamp believes that a person cannot be regarded as moral if he breaks the rules of common morality, whereas Gert says that

All persons are morally required to obey the moral rules unless they have an adequate justification for violating the rule. (Gert 2004: 54)

If we endorse moral pluralism, we should support Gert's attitude. To use Kekes's terms, common morality expresses primary values while professional values can be interpreted as one type of secondary values. If, in some situation, secondary values – for example, professional values – happen to be more important than the primary ones, we are actually dealing with a violation of the rules of common morality.

Thus, a soldier who kills, or a doctor who helps perform euthanasia, or an official who tells a lie, cannot be moral persons, according to Beauchamp, but Gert and Kekes believe they can, if there is adequate justification. Of course, a soldier may be morally permitted to kill only in a professional context; if he kills civilians in a war zone, or if he kills in a situation that has nothing to do with his professional role (e.g., in a pub fight), he is not a moral person.

According to Gert, the process of justification is related to the decisions of other autonomous moral agents. When every qualified person – that is, an impartial rational person who knows all the morally relevant features of a violation – agrees that this particular violation should be allowed, then the violation is strongly justified and no person should be liable to punishment for it. But if it is not the case that every qualified person would view the matter like that, and there is significant disagreement on the matter, then one should say that the violation is at best weakly justified and the person who violated the rule should be liable to punishment.

Gert proposes a two-step procedure for establishing whether a violation of a moral rule is justified. The first step is to identify the morally relevant features of the act in question. First, it means finding out all the relevant facts and giving a complete description of the act. Second, since the rules of common morality must be intelligible to all moral agents, all facts must be described in a way that all moral agents understand.

A morally relevant feature of a moral rule violation is a fact such that if it were different it could affect whether some rational person would hold that everyone should know that a violation with this feature is allowed, that is, should be publicly allowed. (Gert 2004: 58)

In order to identify those features of an act that can change the moral decisions and judgements of impartial rational persons, Gert proposes ten questions which may be of help:

1. Which moral rule is being violated?
2. Which evil or harm is caused or prevented by the violation?
3. What are the desires and beliefs of the person toward whom the rule is being violated?
4. What kind of relationship holds between the person violating the rule and the person toward whom the rule is being violated?

5. Which goods or benefits are being promoted by the violation?
6. Is the rule being violated toward a person in order to prevent her from violating a moral rule, when her violating would be unjustified or weakly justified?
7. Is the rule being violated toward a person because he has violated a moral rule unjustifiably or with a weak justification?
8. Are there any alternative actions or policies that would be morally preferable?
9. Is the violation being done intentionally or only knowingly?
10. Is the situation an emergency such that people are not likely to plan to be in that kind of situation?¹⁸

Again, a feature does not count as morally relevant unless it can be formulated in a way that is understandable to all moral agents. This is not just a theoretical constraint but also a practical one: such generality is necessary for ensuring the kind of impartiality required in morality. Thus, Gert stresses the importance of practice, of the actual situation, when evaluating some action. In this respect, he differs from many moral theories which do not regard the details of an act as essential for passing moral judgements on the act. To return to the example of a soldier who violates the rule “Do not kill”, it is clear that if a soldier does kill, one has first to find out the circumstances of the killing and only after that we shall be able to evaluate this act.

Beauchamp also regards “real life” as important. He points out that the rules of common morality may manifest themselves in various ways. However, this does not mean violation of these rules, but rather shows the existence of nonuniversal particular moralities:

Empirical investigations of morality study differences in the way such rules are embedded in different cultures. These studies assume rather than question these general standards. They show differences in the interpretation and specification of these shared standards; they do not show that cultures reject them. (Beauchamp 2003: 264)

The second step in Gert’s procedure for the possible justification of a violation is the estimation of the consequences of everyone knowing that this kind of violation is allowed. In other words, one has to evaluate the broader influence of prohibitions or allowed violations. As an example, Gert discusses the possible consequences of deception being allowed to obtain consent for an urgently needed surgical operation. Allowing deception in such a context could

¹⁸ It is remarkable that many practical guidelines for resolving ethical conflicts or moral dilemmas offer very similar steps for analysing issues. See, e.g., <http://www.ethics.org/resource/plus-decision-making-model>; <http://www.authenticityconsulting.com/misc/long.pdf>; <http://www.socialworkers.org/pubs/code/oepr/steps.asp> (all accessed 15.04.2011).

mean great harm in the long run by causing general loss of trust, and also loss of specific trust involved in medical situations (Gert 2004: 75).

This latter kind of consideration has great importance in professional ethics. As said before, the mistakes and misconduct of one professional affect the reliability of the professional community as a whole. That's why breaches of rules by individual practitioners have to be evaluated from a broader point of view. If a profession allows some particular type of violation once, all similar situations in the future would have to be evaluated in the same way.

When examining the relationship between professional ethics and common morality, our main question has been: what is – or what should be – the role of common morality in the process of creating and interpreting the standards of professional ethics? Does common morality have any advantages over monistic theories or the integrity-based approach? We saw earlier that classical theories of ethics run into difficulties when trying to resolve dilemmas of professional ethics. Sets of ethical norms associated with professions always rely on more than just one single value, so, the classical theories are unable to propose mechanisms for choosing between the alternatives, if several values are involved. The integrity-based approach points to the necessity of harmonising values, norms, and actions, but fails to say what should ground these values and norms.

If we endorse the view that common morality offers a framework for evaluating professional moral norms, two separate levels will have to be kept apart. The first level corresponds to evaluating professional activities from the perspective of norms. If a profession's system of norms enables to evaluate the actions of an individual practitioner, without any questions arising in society as to whether the professional actions are justified, one may say that this system of norms is coherent and consistent and in harmony with the norms presumed by common morality. But if a situation occurs where a professional acts in accordance with norms, but nevertheless his actions are evaluated – from outside the professional community – as unjust, or if a professional violates some norm, but the violation is seen as justified, one has to turn to common morality and evaluate the professional norms on this basis.¹⁹

I shall explain this on a simple example. Some officials of state are entitled to compensation for using their personal cars if they do not use, simultaneously, cars provided by the employer. A high official X does not have a driver's license, so she cannot use the car for which she is entitled to compensation. Nevertheless, the official accepts the compensation. Leaving aside the legal aspects of this case and viewing it from a purely ethical point of view, our first concern is to look at what is said in the ethics code. It turns out that such a way of acting does not violate any norm of the code. Meanwhile, it seems clear that this kind of behaviour is unacceptable and the public is very critical of it. We

¹⁹ An analogous meta-level mechanism for evaluating and revising norms is described by John Kekes, in his account of moral pluralism, which is the main topic of Article I.

may conclude that the existing system of norms for public service is lacking. In order to correct the situation we have to turn to the norms of common morality, to find out whether the behaviour described is in conflict with any of these norms. In the given case, two rules – ”Do not cheat” and ”Do your duty” – may be seen as relevant. These two rules are often expressed as ”accountability” in the normative systems of public service ethics. On this basis, one may suggest that the norms of public service should be expanded. The professional community has two options here. First, to modify the norms, bringing them into harmony with the expectations of society; or, second, to leave things as they are at the risk of widening the gap between professional behaviour and the expectations of the public.

Gert gives no closer description of what might be called the ”local character of the moral world”. His account of common morality is unable to answer the question of why there are, on the one hand, essential similarities and overlappings in the norms of professional ethics but, on the other hand, differences in the emphases and forms of expression – in values and norms – of particular professional moralities (as pointed out in articles IV and V). In contrast, Beauchamp’s account offers some perspectives for thinking about this issue.

For Beauchamp, professional morality is one kind of particular morality. The latter, in general, presents concrete, non-universal, and content-rich norms:

These moralities may vary legitimately in the way in which they handle conflicts of interest, protocol review, advance directives, and many other subjects. (Beauchamp 2003: 262)

Differences in professional moralities – as particular moralities in this sense – derive from cultural, historical, and other circumstances. To quote Beauchamp once more:

The reason why norms in particular moralities so often differ is that the abstract starting points in the common morality can be developed coherently in a variety of ways to create practical guidelines and procedures. ... Empirical data show variation in ... particular moralities and in specification of the rules of the common morality. (*ibid.* 264, 267)

We may suggest that one possible reason for overlapping and similarities in systems of professional ethics (over communities, societies, and countries) lies in their being grounded on shared norms of common morality. Here, one may see parallels to John Kekes’s views which regard primary values of common morality as finding different expression in secondary values, the latter depending on historical, cultural, and other circumstances.

Beauchamp points out that not all norms in particular moralities are justified (*ibid.* 268). The same thought can be clearly seen in the next passage by Gert:

Although there is not always only one morally acceptable way of acting, in every moral situation there are always morally better and morally worse ways of acting. Unlike law, morality is not a formal system that has procedures for determining a unique correct answer in every case. Morality is an informal system, like a neighborhood game, in which there is agreement on how the game is to be played in the overwhelming majority of cases, but in which there are some cases about which there is some limited disagreement. (Gert 2004: 137)

This means that the professional's skills of deliberating and evaluating, whether a violation of some professional norm might be justified, become important. If a professional is able to show that the professional norms run into conflict with common morality, a violation of norms is strongly justified and no sanctions follow; it is then clear that the existing norms should be analysed and perhaps modified. But if a violation is only weakly justified, sanctions for the violation are in order.

It is worth noting that the skills of moral deliberation and evaluation are necessary both in case a professional remains within the framework of the existing norms and in case she goes beyond this framework. In the first case she has to understand and interpret the existing norms in order to act as a person with professional integrity. The understanding of norms is necessary for being able to act in harmony with them. In the second case, a professional needs the skills of deliberation for showing the existence of a conflict between entrenched professional norms and common morality. (How to best develop such skills is the topic of the next section.)

Alexandra and Miller criticise Gert's account of common morality in the context of professional ethics, saying that

If, as Gert believes, professional morality is simply a localized development of common morality, he owes us an explanation: how it is that while in general we follow the moral rules simply by not harming others, there are rules of professional morality which require us to actively help others? (Alexandra and Miller 2009: 75)

This criticism might be fair if we assumed that common morality is the only foundation of professional morality. In such a case there would be no reason to speak of professional morality as something separate from ordinary morality. The present work has defended the idea that there are good grounds for analysing professional ethics as a relatively independent sphere of practical ethics. Speaking of common morality is necessary for understanding the basis and rationale for the norms of professional ethics, but it is too general for building up entire normative systems for particular professions. For this latter task, one must be clear about the aims, context, institutional structure, and many other factors which all influence professional ethics.

I agree with Pritchard who summarises Gert's account of common morality by saying that it provides ample room for unresolved disagreement among well-

informed reasonable persons. Gert rejects the idea that, for every moral question, there is only one rationally supported answer. Common morality provides us with a structure within which we must operate if we are to be moral, and it is sufficiently detailed and restrictive to enable those who agree on the relevant facts to come to moral agreement in the overwhelming majority of cases (Pritchard 2006: 21).

Gert compares common morality to grammar. The grammar gives a structure to a language; likewise, the common morality gives a structure to morality. From the viewpoint of practical ethics, it is important to know whether the structure or framework used for examining moral issues takes into account the practical, applied aspects. Having analysed various problems encountered while working as a practical ethicist, within the frameworks offered both by Gert and Beauchamp, I believe that the account based on common morality offers a working tool to handle these problems. Common morality should be understood as a starting-point for professional norms in cases where the framework of professional ethics itself fails to resolve a conflict, or when the existing normative system clearly needs revision. Morality in the community-specific sense reflects significant cultural differences, but it contains fundamental precepts.

These fundamental precepts alone make it possible for persons to make cross-temporal and cross-cultural judgements and to assert firmly that not all practices in all cultural groups are morally acceptable. (Beauchamp and Childress 2001: 4–5)

3.4. The role of moral deliberation

The previous chapter pointed to the fact that one of the characteristics of a good professional is his ability for moral deliberation which allows him to critically analyse the norms of his profession. In order to be an ethical professional, one should, as a minimum, understand the ethical norms of a profession and adhere to these norms in one's actions. In some cases, ethical norms have been expressed in laws or codes of conduct, and an ethical professional is the one who complies with these norms. The more detailed and thorough the written norm, the less interpretation is expected from a professional. In other cases, expectations to conduct have been stated in codes of ethics through aspirational ideals or values. A professional is expected to understand the content and meaning of the values; also, he must be able to translate the values into the language of norms.

Let us take the following example. A professional value of “trustworthiness” may be expressed in the language of norms in different ways. In law it may take this form: “The relationship between the lawyer and his client is founded upon trust. Therefore, all information given or received by him that a lawyer has obtained in the course of rendering legal services, is confidential.” (Code of

Conduct of the Estonian Bar Association, § 5 (1)) Trustworthiness in journalism may be codified like that: “Media outlets have a moral obligation to safeguard the identity of confidential sources of information.” (Code of Ethics of the Estonian Press, 3.4) The medical profession puts the same idea in the following words: “A doctor must prefer the interests of his or her patients to purely scientific and public interests, but in doing so he or she must also take into account the resources and needs of society.” (Code of Ethics of Estonian doctors, I, 7)

Beauchamp maintains that:

Specifying the norms with which one starts – whether those in the common morality or norms previously specified – is accomplished by narrowing the scope of the norms, not by explaining what the general norms mean. (Beauchamp 2003: 267)

Here, one should ask: in order to be able to interpret norms and values in the context of professional ethics, so that professional conduct based on these norms and values may be sufficiently justified, is it necessary to have taken courses in philosophy?

Michael S. Pritchard, among others, has asked about the role of philosophy in teaching professional ethics courses. He argues against an approach which builds such courses around major ethical theories. In his view, attempts to fit professional ethical problems within standard theories cut off many of their most interesting features. A purely theoretical approach makes only a weak attempt to connect philosophical, ethical discussion with professional practice. As he says, there is “the risk of using practical examples primarily to clarify and test the theory, rather than using the theory to illuminate the practical problems” (Pritchard 2006: x). It was shown in the previous chapter that such dangers are characteristic not only of teaching professional ethics, but also of practicing it.

For practical ethics, the crucial question is what are the potential benefits of applying ethical theories in solving practical issues, and to what extent are theories useful at all. Theory-based approach to treating issues starts from very general principles, looks for their possible applications in practice, and then attempts to derive appropriate conclusions. This means that one needs good general principles enabling us to solve as many practical moral issues as possible. The danger here lurks in the fact that a complex moral issue generated by actual life will be modified or redefined in order to make possible the application of a general principle. Yet this may rob the problem of some essential details.

Another difficulty lies in the choice of the relevant moral principle. Necessarily, the choice of principles will affect what circumstances of the real-life situation are seen as most important. There will be the danger of over-emphasising these special circumstances in order to demonstrate the applicability of what one considers the best principle in the given case. In

reality, several different principles may be applicable to one and the same situation, if we stress different aspects of it.

Consider, for example, abortion. A young woman has become pregnant for the first time. She is not quite sure about what to do or what she really wants. Having come to the GP, she asks the doctor to help her decide. As a matter of fact, she delegates the decision to the doctor. On the one hand, a doctor may rely on the principle of not harming the patient and the principle of duty, resulting in the recommendation not to interrupt the pregnancy. On the other hand, he may view the situation in a utilitarian way: he may consider whether the woman is sufficiently mature, both mentally and socially, for being a parent, and the circumstances may push the doctor towards recommending an abortion. If so, which of these two principles is more correct or more justified? There is also a third option. The doctor may avoid making a decision or interfering with the decision-making process in any way. It is unlikely that a philosopher's presence in the situation and its ethical and philosophical analysis would yield a single right answer to the question.²⁰ At the same time, a doctor has to choose a definite course of action, and he must also be able to give some rationale for his choice. Developing such skills may be called the "moral development" of a professional.

The main objective of moral development is to help improve skills and knowledge needed in the search for those acts which are best from the viewpoint of professional morality. I will discuss this topic from two angles. First, I will briefly consider three types of teaching and training methods used in public service ethics. In this particular sphere, more attention has been paid to developing teaching and training methods than in many other professions. One reason for this may lie in the fact that in "classical" professions, ethics has traditionally been a part of official curriculum and additional training is not considered so essential. Another reason may have to do with the fact that the professional body of public servants is formed from many individuals with very different specialised educational backgrounds, so, the harmonisation and unification of ethical knowledge and values becomes an important task. (I describe the methods in more detail in article VII.) Second, I discuss which method suits best the aims of moral development in professional context.

Skilfulness in ethics is mostly described as including the following components: 1) the ability to identify and formulate moral problems; 2) the ability to reason about moral issues; 3) the ability to clarify one's own moral aspirations (Siipi 2006: 279). Accordingly, three somewhat separate (partly overlapping) types of training can be distinguished in the process of professional moral development.

²⁰ In the general philosophical discourse, critical attitude towards the idea that philosophers can act as "ethical experts" in important dilemmatic real-life situations has been expressed, for example, by James Rachels (1993) and Bernard Williams (1993).

The first type of skill may be defined as the ability to identify and formulate moral issues, and the ability to find a corresponding norm in professional ethics (or sometimes in law). Training directed towards developing such skills pays a lot of attention to problem-solving skills (Rieger 2005). This approach is more characteristic of the compliance-based style of ethical management.

A capacity-building strategy to develop “ethical competence” is based on the assumption that ethical codes cannot prescribe actions for every conceivable situation that may arise in professional context. Thus, it is necessary to develop the problem-solving capacity of a public official in a broader sense (Whitton 2009). As compared to the first approach, here the ability to reason about moral issues – skills of deliberation and argumentation – is added.

The third approach relies on the idea that it is the independent moral judgment of a particular civil servant that is the foundation of integrity in governance. Training is focused on clarifying and analysing ethical concepts and arguments and weighing their suitability as grounds of action (Delnoij 2006). This approach uses a Socratic method to stimulate critical and creative thinking, encouraging innovative ways of thinking about moral issues. Also, this approach regards deliberation on the basic values as necessary. The last two concepts of training are more characteristic of the integrity-based approach to ethics management.

When speaking about moral development, Pritchard points to the role of philosophy. Philosophical discussion offers the professional an opportunity to put her activities in a broader perspective. It is the task of philosophers to propose conceptual frameworks that are best suited for thinking about issues and resolving problems. But philosophy has a different kind of role as well: through clear reasoning and argumentation it should try to describe moral ideals – aspirational objectives. This was a theme in Platonic dialogues already. On the other hand, in his “Crito”, for example, it can be seen that a person must not be a philosopher or metaphysician in order to be able to judge which behaviour is right or wrong.

As mentioned above, the third approach to ethical training also lays stress on the Socratic method. Since professional ethics should be seen pluralistically, not as a maximising calculation of some specific virtue or value, critical Socratic methods are best suited for discussion here. The chief aim should lie in discussing and weighing values; it is only after that that one is able to make decisions for action. Philosophical discussion helps make the motives and reasons of actions more transparent and better intelligible. In this connection, Pritchard says that more challenging cases in professional ethics require the exercise of interpretative and critical skills.

To summarise: a good professional’s ethical skills include awareness of the existing norms and the ability to apply them; the ability to critically analyse the content and nature of these norms; and the ability to understand the deeper significance of the values and concepts underlying the norms. The task of developing these skills is addressed by the three methods described above. If a

professional possesses such skills and relies on the fundamental norms of common morality, this gives a solid ground to his considerations and decisions. One needs not to be a philosopher for moral development within the context of some profession, but having the skills and knowledge to analyse the basic norms and values helps one be a better, more ethical practitioner of a profession.

CONCLUSIONS

The aim of this thesis is to analyse the theory and practice of professional ethics and to situate them in a broader philosophical context. My study consists of two parts – Articles I–VII (see Appendix) and a theoretical overview. The articles are of two types: IV–VII are of a descriptive, empirical kind, I–III are analytical. The aim of the overview article is to outline a wider theoretical framework and to tie the aspects described and analysed in the articles into one whole. I consider examples and issues from several professions, but the main focus of interest, both in the articles and theoretical analysis, lies on public service ethics.

The empirical articles reflect some research projects on public service ethics in Estonia and other European countries. They examine such aspects of public service ethics like similarities and differences in the systems of norms (codes) of different countries, and value attitudes both within the public service system of Estonia and in comparison with other countries. It should be noted that, in ethical studies, attitudes towards using empirical data differ greatly. One may encounter views seeing empirical data as second-rate or secondary, but there are also authors denying any fundamental difference between the theoretical and the empirical. The present study may be classified as a work in critical applied ethics. This latter approach holds that the main purpose of empirical research is to provide material for themes and issues that need ethical interpretation.

The analytical articles form one part of a theoretical quest which tries to situate professional ethics in a more general philosophical framework. The articles explore such topics as the relationship of professional ethics to ethical theories, the advantages of a pluralist account of values, as compared to monistic ones, in the treatment of issues of practical ethics, and the influence of the public administration system on the structure of particular (public service) systems of professional ethics.

In the course of philosophical analysis, three important questions concerning professional ethics emerged. First, when we talk about ethical norms applying to a profession, how should one define the target group of these norms? What exactly is a profession, in the first place? This question is analysed in Chapter 1.

So far, definitions of profession have mostly been suggested and discussed by sociologists. The sociological viewpoint sees professions as a special social group who has certain advantages as compared to other occupations. When classifying an occupation as a profession, two main characteristics are usually emphasised: expert knowledge acquired through extensive special education and training, and practical experience in the relevant field. As pointed out by Freidson, there are two prominent trends in the sociological discourse for defining profession. The “trait approach” holds that it is possible to list and define the characteristics an occupation must possess in order to be acknowledged as a profession. The main difficulty here lies in finding consensus as regards these defining characteristics. The “power approach” thinks of a

profession as of a special group which, through a special status in the society, tries to dominate in some particular field of activity, thereby acquiring power or social control over the field.

If we observe processes and trends in the labour market which have taken place in the last decades, one serious drawback of sociological accounts lies in the fact that a profession is understood as a life-long (or at least a long-term) commitment to one single activity. Nowadays, it is increasingly common to change jobs, occupational functions, roles, and fields of activity. Talk of “occupational mobility” is now commonplace. Traditional sociological accounts are unable to take into account these changes and aspects. Another problem can be seen in the fact that sociological approaches tend to ignore ethical aspects in the practices and ideologies of professions.

The growing interest of the members of society not only in what professions do, but also in how they do it, also means a growing interest in professional ethics. The sociological account centers on the special expert skills of a professional. But from the viewpoint of ordinary citizens, the label of a “professional” generates two different kinds of expectations: expert knowledge and skills are assumed, but in addition there are the ethical (behavioural) expectations as well.

The analysis presented in this work suggests that it makes more sense to speak of a “professional role” instead of a “profession”. This also means that one should begin to discuss professional ethics as something associated with an occupational role, or as something associated with a certain type of occupational context. Such an account appears to have several advantages. It pays attention to the general tendency towards occupational mobility. Also, it fits better with modern life in the sense that a person nowadays often fulfils various roles within a short frame of time or almost simultaneously: he may be an administrator, a teacher, a specialist, a member of an organisation, a colleague or an employee. So, for example, we can differentiate between varying occupational contexts in the working life of a person who is a public servant, lectures at a university and comments publicly on issues as an expert or a specialist. The role-based account enables us to discuss and delineate ethical requirements more clearly. If we try to evaluate the actions of the aforementioned multi-functional public servant from some general viewpoint, or from the perspective of one single profession (public servant *or* lecturer *or* expert-commentator), the basis of evaluation may become vague, the specific details of particular contexts get lost. Obviously, ethical expectations to these three roles are quite different.

Not only the concept of profession needs clarity and revision, but also the concept of professional ethics. This is the topic of Chapter 2 of the overview article. It is common to classify professional ethics as a branch of practical or applied ethics. If we look at how the concept of professional ethics is discussed in the discourse, we may notice that, frequently, issues belonging to “disciplinary ethics” are not really distinguished from ethical issues having

directly to do with professional behaviour (“professional ethics”). To take the example of medicine, problems of disciplinary ethics might include cloning, use of embryonic stem cells, issues which have to do with the beginning or the end of life. In public service, issues concerning efficiency or accountability can be regarded as examples of disciplinary ethics. As compared to that, professional ethics in both these fields may discuss, for instance, truth-telling and reliability, but also politeness and helpfulness.

The analysis shows that these two directions of practical ethics need different methodological approaches and possibly different ways of resolving problems. Theoretical solutions suggested to issues of disciplinary ethics should be universally applicable while in case of ethical issues emerging in professional activity pure theoretical or philosophical analysis may not give practicable or “working” solutions. When dealing with practical professional behaviour, it is important to pay attention to cultural, historical, and social contexts, and also to institutions which greatly determine the framework of professional action.

In the present work, I endorse the view suggested by Freedman which holds that professional ethics should be seen as a separate branch of practical ethics. Also, it should be clearly distinguished from ordinary morality. Ethical evaluation of a person’s actions depends on the role which the person was fulfilling at the time of the action. Acts which are, or should be, condemned from the viewpoint of ordinary morality – such as ignoring relatives or close friends, or even killing – can be interpreted very differently from the viewpoint of professional ethics. An act prohibited by ordinary morality may be acceptable for professional morality.

One essential component of professional ethics is the set of values of the profession based on its function and aims, and the ethical codes and norms derived from those values. However, the view which regards norms – and especially codes – as the core of professional ethics, is questionable. Codes are necessary and obligatory, but this does not mean that the profession should not discuss, question or modify them, from time to time. It is more reasonable to regard codes as a means of achieving ethical behaviour, not as an end in itself, and they should have a broader ethical background.

Chapter 3 of the overview article looks at the relationship between moral theory and professional ethics. The focus here lies on analysing the question of whether we can find a carcass or a foundation, in the form of some specific moral theory, upon which we can construct the normative systems of professional ethics – something that we can refer back to, if gaps or defects are discovered in the “surface structure”.

Since norms are grounded in values, I first discuss the values. In the search for a theoretical framework, professional ethicists have often turned to classical ethical theories such as deontology, utilitarianism, or the ethics of rights. These theories are mono-valued: they presume pursuing or maximising of one main value (duty, utility, rights). Classical ethical theories are unable to offer

satisfactory solutions to situations, frequently encountered in real life, where one has to choose between two equally important values. That is one important reason why none of these theories can be seen as a suitable base for professional ethics. Practical life suggests that, in the context of professional ethics, several values are usually intertwined. Not only moral values but also the nonmoral ones come into play (part of them having to do with the aims of a profession). So, a pluralistic foundation for norms seems more plausible and promising. Accordingly, I adopt a pluralistic viewpoint when searching for a general framework of professional ethics; more specifically, I rely on John Kekes's theory of moral pluralism. Yet a pluralistic understanding of values in itself is insufficient because it does not give any algorithms or procedures for deciding what are the criteria of choice for professional-ethical values.

One possible way of finding a framework for professional ethics is to turn to the moral commitments and convictions of the professional as an individual. In the discourse, especially in the debates on public service ethics, there is a lot of talk of "integrity". Albert Musschenga distinguishes between personal, moral and professional integrity. These different conceptions of integrity point, first of all, to the unity of intentions (or motives), words and deeds. A person possessing professional integrity is a person who follows professional ideals and standards in his thoughts, words and actions. The conception of integrity may be seen as another cornerstone of professional ethics. This conception, however, says nothing about what should ground the values and norms of a profession and what exactly they should consist in.

A third way of finding a framework for professional ethics is to turn to "common morality", distinguishing it from "ordinary morality". Common morality contains the fundamental set of the most important rules of behaviour shared by all rational persons and obligatory for them all. Ordinary morality includes all usual norms of behaviour in specific situations. Several renowned philosophers (Bernard Gert, Tom. L. Beauchamp) regard common morality as the foundation or core of all morality. This view is also endorsed in the present work which, in addition, takes common morality as the foundation of professional morality. In Chapter 3 of my thesis, I discuss the conception of common morality in some detail.

From this perspective, professional morality can be interpreted as a so-to-say "particular morality" – as one possible expression of common morality. Thus, the relativist attitude, which sees systems of professional ethics as independent from the rest of morality, is unjustified. While common morality includes only fundamental and universal rules, professional morality specifies the norms of common morality according to cultural and religious traditions, specificities of professional practice and professional aims, institutional rules, *etc.* So, professional morality unites universal and particular norms. Violation of the fundamental rules of common morality may be acceptable but only if – as indicated by Gert – it is justified as a result of a two-step deliberation procedure: if all rational and informed moral agents would agree with the

violation. For example, a lawyer's not telling the truth is justified, if all rational moral agents accept such behaviour in this particular type of professional context.

The conception of common morality offers a sufficient basis to serve as a foundation for professional ethics. It assumes a plurality of values, but it also assumes a moral agent who acts in accordance with norms and endorses certain moral ideals. Such an approach is able to embrace both value pluralism and individual integrity (or "inner unity") that are both essential to professional ethics.

Understanding the norms of common morality and ideals of professional ethics, and applying these norms to practice require well-developed skills of moral deliberation. In the context of professional ethics, moral development can be seen as the growth of such skills and knowledge which improve the ability to understand professional-ethical ideals and apply the relevant norms in practice.

Every ethicist who wants to construct a system of norms for a profession, or fully analyse the ethics and values of some profession, inevitably encounters issues examined in this thesis. By paying attention to aspects indicated in my work and using the analysis presented as a checklist or a map, it hopefully contributes to better orientation in the many-faceted and sometimes paradoxical landscape of professional ethics.

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SUMMARY IN ESTONIAN

Kutse-eetika filosoofia ja praktika

Käesoleva töö eesmärgiks on analüüsida kutse-eetika teooriat ja praktikat ning mõtestada neid laiemas filosoofilises kontekstis. Uurimus koosneb kahest osast: artiklitest ja teoreetilisest ülevaatest. Artiklid on esitatud dissertatsiooni lisas ning on oma loomult kahte tüüpi: osa on kirjeldavat, empiirilist laadi, osa on analüütilised. Ülevaateartikli eesmärk on luua laiem teoreetiline raamistik esitatud artiklitele ning siduda neis kirjeldatud ja analüüsitud aspektid ühtseks tervikuks. Töös käsitletakse näiteid mitmetest professionidest, kuid eriline roll nii artiklites kui teoreetilises analüüsis on avaliku teenistuse eetikal.

Empiirilise sisuga artiklites kajastatakse mõningaid Eesti ja teiste Euroopa riikide avaliku teenistuse eetika kohta teostatud uuringuid. Käsitletakse avaliku teenistuse eetika selliseid tahke nagu eri riikides kehtivate normistike (koodeksite) sarnasused ja erinevused ning väärtushoiakute analüüs nii ühe riigi avaliku teenistuse sees kui võrdluses teiste riikide avalike teenistustega. Tuleks märkida, et eetilistes analüüsides on suhtumine empiiriliste andmete kasutamisse väga erinev. Kohata võib seisukohti, mis peavad empiirilisi andmeid teisejärguliseks, aga ka seisukohti, mis eitavad teooria ja empiiria fundamentaalset erinevust. Antud tööd võib määratleda kui kriitilisse rakenduseetikasse (*critical applied ethics*) kuuluvat. Selle lähenemise kohaselt on empiiriliste uuringute peamine roll anda ainek küsimustele, mis vajavad eetilist mõtestamist.

Analüüsivad artiklid on üheks osaks teoreetilistest otsingutest, mis püüavad paigutada professionieetika laiemasse alusraami. Nendes vaadeldakse selliseid aspekte nagu professionieetika suhestatus eetikateooriatega, pluralistliku väärtuskäsitluse eelised (võrreldes monistlikega) praktilise eetika probleemide käsitlemisel ning avaliku halduse süsteemi mõju konkreetse (avaliku teenistuse) professionieetilise süsteemi ülesehitusele.

Kutse-eetika küsimuste filosoofilises analüüsis kerkisid üles kolm olulist küsimust. Esiteks, kui kõneldakse kutsele esitatavatest eetilistest normidest, siis kuidas täpsemalt määratleda sihtgruppi, kellele normid rakenduvad? Mida kujutab endast professioni ehk kutse mõiste? Seda probleemi analüüsitakse esimeses peatükis.

Professionii mõiste määratlusega on peamiselt tegeletud sotsioloogilises kirjanduses. Sotsioloogiline vaatevinkel näeb professione ühiskonnas erilise sotsiaalse grupina, kellel on teatud eelised võrreldes teiste ametite esindajatega. Ameti professionina määratlemisel osutatakse eelkõige kahele tunnusele: läbi põhjaliku erialase koolituse saadud ekspertteadmisele ja vastaval tegevusalal praktiseerimise kogemusele. Nagu osutab Freidson, kõneldakse sotsioloogilises diskursuses enim kahest suunast professionide määratlemisel. Tunnusepõhise lähenemise (*trait approach*) järgi on võimalik loetleda ja määratleda tunnused, millele amet peab vastama, et saaksime sellest kõnelda kui professionist. Probleemiks antud käsitluse puhul on üksmeele leidmine professioni defineerivate tunnuste nimekirjas. Võimupõhine lähenemine (*power approach*) käsitleb

professiooni kui erilist rühma, kes püüab läbi eristaatuse ühiskonnas saavutada teatud valdkonnas domineerivat positsiooni, omandades seeläbi võimu või sotsiaalse kontrolli antud valdkonna üle.

Vaadeldes viimastel aastakümnetel tööturul toimuvaid protsesse, on selliste lähenemiste üheks põhiprobleemiks arusaam professionist kui eluaegsest (või vähemalt pikaajalisest) pühendumusest ühele tegevusalale. Tänapäeval vahetavad inimesed üha sagedamini töökohti, töölaseid funktsioone, rolle ning tegevusvaldkondi. On saanud tavaks kõnelda tööalasest mobiilsusest. Traditsioonilised kutsekäsitlused ei suuda seesugust olukorda hästi kirjeldada. Teise probleemina võib välja tuua sotsioloogiliste käsitluste vähese tähelepanu eetilistele aspektidele professionide praktikas ja ideoloogias. Arvestades ühiskonnaliikmete kasvavat huvi mitte ainult selle vastu, mida professionid teevad, vaid ka selle vastu, kuidas nad seda teevad, on viimasega lahutamatu seotud ühiskonna huvi kutse-eetika vastu. Sotsioloogiline kutsekäsitlus pöörab peatähelepanu professionaali erialastele oskustele. Kuid tavateadvuses on professionaali mõistes segunenud kaks eripalgelist ootust: eeldatakse erialast pädevust, aga sellele lisanduvad eetilised (käitumuslikud) ootused.

Käesolevas töös läbiviidud analüüs osutab selles suunas, et mõttekam on kõneleda “professiooni” või “kutse” asemel “professionaalsest või kutsealasest rollist”, mistõttu tuleks ka kutse-eetikast hakata rääkima rohkem kui töölase rolli või tüüpkonteksti juurde kuuluvast. Niisugusel käsitlusel on mitmeid eeliseid. Lisaks juba mainitud üldise mobiilsustendentsi arvestamisele võimaldab rollipõhine professiooni-käsitlus paremini kirjeldada nüüdisaegset elupraktikat, kus inimene täidab sageli vaheldumisi mitmeid rolle, olleks kas juht, õpetaja, spetsialist, organisatsiooni liige, kolleeg või alluv. Nii saab eristada erinevaid töölaseid kontekste näiteks sellise inimese elus, kes on avalik teenistuja, peab loenguid ülikoolis ja võtab avalikkuses sõna kui spetsialist. Rollipõhise lähenemise puhul saab täpsemini ja selgemini arutada ja piiritleda eetilisi nõudeid. Püüdes anda eelkirjeldatud mitmerollilise inimese tegudele eetilisi hinnanguid üldiselt või lähtuvalt ühestainsast professionist (avalik teenistuja, õppejõud, arvamusekspert), võib hinnangu alus muutuda häguseks, eri kontekstide eripärad lähevad kaduma. Ilmselt on selliste erilaadsete rollidega seotud eetilised ootused küllaltki erinevad.

Lisaks professiooni mõiste täpsustamisele vajab selgemat piiritlemist ka kutse-eetika (professionieetika) mõiste. Sellele ülesandele on pühendatud ülevaateartikli teine peatükk. Kutse-eetika liigitatakse tavapäraselt praktilise või rakenduseetika allharuks. Analüüsides kutse-eetika mõiste kasutamist kirjanduses, ilmneb, et sageli ei eristata küsimusi, mis puudutavad valdkondlikke eetikaprobleeme (*disciplinary ethics*) ja otseselt kutsealase käitumisega seotud eetilisi probleeme (*professional ethics*). Kui võtta meditsiini näide, siis valdkonnaeetilisteks probleemideks on siin näiteks kloonimine, embrüonaalsete tüvirakkude kasutamine, elu alguse ja lõpuga seotud eetilised küsimused. Avalikus teenistuses saab valdkondlike probleemidena käsitleda avaliku halduse eetiliselt laetud küsimusi nagu tõhusus ja mõjus (efficiency, effectiveness) või

vastutavus (*accountability*). Kutsealase käitumise puhul arutletakse mõlemal juhul näiteks aususe, usaldusväärsuse, aga ka viisakuse ja abivalmiduse üle.

Nagu analüüs näitab, on praktilise eetika kahel viidatud suunal erinevad nii metodoloogiline lähenemine kui võimalikud lahendusteed. Kui valdkonnaeetika küsimustele pakutavad teoreetilised lahendused peaksid olema universaalselt rakendatavad, siis kutsealases tegevuses ettetulevate eetiliste probleemide puhul ei anna puhas teoreetilis-filosoofiline analüüs sageli kasutatavaid või “hästi töötavaid” lahendeid. Praktiliste tööalase käitumise probleemide puhul on väga oluline kultuuriline, ajalooline ja ühiskondlik kontekst, aga ka institutsioonid, mis loovad raamid kutsealasele tegutsemisele.

Töös pooldatakse Freedmani seisukohta, et kutse-eetikast on mõttekas rääkida kui eraldi praktilise eetika valdkonnast. Kutse-eetikat tuleb eristada tavamoraalist (*ordinary morality*). Inimese tegudele eetilise või kutse-eetilise hinnangu andmine sõltub rollist, milles tegu on sooritatud. Tavamoraali mõttes hukkamõistetavad teod nagu lähedastest mittehoolimise või tapmine omandavad professionieetilisest võtmes teise tähenduse. Tavamoraalis keelatud tegu võib kutsemoraalis olla aktsepteeritav.

Kutse-eetika üks oluline osa on professioni funktsioonist või eesmärgist tulenevad väärtused ning nende baasil sõnastatud eetikakoodeksid ja käitumisnormid. Seisukohad, mis peavad eeskätt just konkreetseid norme ja eriti eetikakoodekseid professionieetika tuumaks, on vaieldavad. Koodeksid on vajalikud ja kohustuslikud, kuid see ei tähenda, et nende üle ei peaks arutlema või neid vastavalt vajadusele muutma. Koodekseid tuleb näha kui vahendeid eetilise käitumise saavutamiseks, mitte kui eesmärgi omaette, ning nende taustaks peaks olema üldisem eetiline raamistik.

Ülevaateartikli kolmas peatükk vaatleb moraaliteooria ja kutse-eetika vahet. Põhieesmärk on analüüsida küsimust, kas leidub mingi konkreetse moraaliteooria näol karkass või vundament professionieetikale, millele saaks üles ehitada kutse-eetilised normistikud ning mille juurde saaks tagasi pöörduda, kui pealisehituses ilmnevad lüngad või vead.

Kuna normid põhinevad väärtustel, uuritakse kõigepealt just väärtustega seonduvat. Kutse-eetika analüüsid on teoreetilise alusraami otsingul sageli pöördunud klassikaliste eetikateooriate poole, nagu näiteks deontoloogia, utilitarism või õiguste eetika. Need teooriad on monoväärtuselised: nad eeldavad ühe väärtuse (kohus, kasu, õigused) keskset silmaspidamist või maksimeerimist. Klassikalised eetikateooriad ei suuda pakkuda rahuldavaid lahendusi praktilises elus sageli ettetulevatele olukordadele, kus tuleb valida kahe võrdselt olulise väärtuse vahel. Seetõttu ei saa neid teooriaid pidada sobivaks professionieetika alusteooriaks. Elupraktika kallutab pigem arvamusel, et kutse-eetika kontekstis põimuvad tavaliselt mitmed väärtused. Sealhulgas tuleb tegemist teha nii moraalsete kui mittemoraalsete väärtustega (osa neist on seotud professioni eesmärkidega). Normide alusena tundub usutavam ja paljulubavam pluralistlik alus. Sellest tulenevalt käsitlen professionieetika alusraami küsimusi just moraalipluralismi võtmes, tuginedes John Kekesi üldisele moraalipluralismi

teooriale. Siinjuures aga ei ole pluralistlik väärtuskäsitlus iseendast veel piisav, sest ei anna algoritmi või otsustusprotseduuri, milline on professionieetiliste väärtuste valikukriteerium.

Üks võimalik tee kutse-eetikale sobiva normatiivse alusraami otsimisel on pöörduda professionaali kui indiviidi moraalsete tõekspidamiste poole. Professionieetilises diskursuses, eriti avaliku teenistuse eetika debattides räägitakse palju “integriteedist” (*integrity*, eesti keeles ka ‘ausus’, ‘moraaliterviklikkus’, ‘ametiväärikus’). Seejuures eristatakse personaalset, moraalset ja professionaalset integriteeti (Musschenga). Integriteedi erinevad kontseptsioonid osutavad eeskätt kavatsuste (motiivide), sõnade ja tegude ühtsusele. Professionaalse integriteediga on inimene, kes nii mõtetes, sõnades kui tegudes järgib professionaalseid ideaale ja standardeid. Integriteedikontseptsiooni võib pidada teiseks professionieetika nurgakiviks. Samas ei käsitlen integriteedikontseptsioon küsimust, millel peaksid professioni ideaalid ja normid põhinema ja millised konkreetselt olema.

Kolmas võimalik tee professionieetikale alusraamistiku otsingul on pöörduda ühismoraali (*common morality*) poole, eristades seda tavamoraalist (*ordinary morality*). Ühismoraal kätkeb endas fundamentaalset käitumise kõige tähtsamate alusreeglite kogumit, mida kõik mõistuspärased inimesed jagavad ja mis on nende kõikide jaoks siduv. Tavamoraal hõlmab kõikvõimalikke tavapäraseid käitumisnorme konkreetses situatsioonis.

Ühismoraali nähakse rea filosoofide (sh Bernard Gert, Tom L. Beauchamp) poolt kui moraalsuse alust, kui kogu moraali tuuma. Käesolev töö pooldab seda lähenemist ja käsitlen ühismoraali ka kui kutsemoraali vundamenti. Töös antakse pikem sissevaade ühismoraali kontseptsiooni. Kutsemoraali tuleb sellest kontseptsioonist lähtuvalt näha kui niiöelda “partikulaarset moraali” – kui ühismoraali üht võimalikku väljendust. Seetõttu ei ole õigustatud relativistlik suhtumine, et professionieetikad on ülejäänud moraaლისüsteemist sõltumatud. Kui ühismoraal sisaldab endas ainult fundamentaalseid ja universaalseid seisukohti, siis kutsemoraal spetsifitseerib ühismoraali normid vastavalt kultuurilistele ja religioossetele traditsioonidele, professionaalse praktika eripärale ja eesmärkidele, institutsionaalsetele reeglitele jne.

Seega on kutsemoraalis ühendatud nii universaalsed kui partikulaarsed normid. Ühismoraali fundamentaalsete reeglite rikkumine professionaalses kontekstis võib olla aktsepteeritav, kuid seda vaid siis, nagu osutab Gert, kui see on kaheastmelise kaalutlemisprotseduuriga põhjendatud: kui kõik arukad ja informeeritud moraaლიagendid nõustuksid selle rikkumisega. Näiteks on advokaadi puhul tõe mitterääkimine õigustatud, kui kõik ratsionaalsed moraaლიagendid sellist käitumist antud kutsealase rolli puhul aktsepteerivad.

Ühismoraali kontseptsioon pakub piisavat alust, et olla professionieetika jaoks vundamenti või alusteooria rollis. Ta eeldab ühelt poolt väärtuste paljususe aktsepteerimist, teisalt normidega kooskõlas tegutsevat ja ideaale püüdlevat moraaლიagenti. Kõnealune lähenemine suudab hõlmata nii väärtus-

pluralismi kui arusaama indiviidi integriteedist (seesmisest ühtsusest), mis mõlemad on professioonieetika seisukohast vajalikud.

Nii ühismoraali normide kui kutse-eetiliste ideaalide mõistmine ja praktikas rakendamine eeldab toimijalt moraalse kaalutlemise oskust. Kutse-eetilises kontekstis saab moraalseks arenguks pidada selliste teadmiste ja oskuste kasvu, mis suurendavad võimet mõista professioonieetilisi ideaale ning kaalutletult rakendada oma tegevuses professioonieetilisi norme.

Iga kutse-eetik, kes hakkab üles ehitama või põhjalikult analüüsima mingi professiooni eetikat ja väärtusbaasi, puutub paratamatult kokku küsimustega, mida käesolev töö käsitleb. Pöörates tähelepanu töös osutatud aspektidele ja kasutades esitatud analüüsi omamoodi kontroll-lehe või kaardina, võimaldab see paremini orienteeruda kutse-eetika mitmetahulisel ja vastuolulisel maastikul.

PUBLICATIONS

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