

On the need for a code of professional ethics and arguments to the contrary

Background

The group of professions with their own codes of professional ethics is negligible compared to the total number of professions. Despite this, it has long aroused interest, and it is often the interest of opponents of these codes. Usually, the voices of the latter not only question the need for the code, but express the belief that the creation of codes of professional ethics is harmful, both socially and to professional morality.

In this article, we refer to several native publications in which the authors spoke against the need for a code of professional ethics, including references from discussions from years ago in the editorial team of “Etyka”, devoted to professional ethics, in which a large group of Polish philosophers participated. Among other publications, we also refer to the position of, among others, P. Łuków, W. Galewicz, and L. Kołakowski.

Statements against codes of professional ethics have also occurred in other discussions on this subject, e.g. in academic circles considering the need for their own code of ethics. The most common argument of opponents to such a code is the claim about own, sufficient and natural, moral dispositions of each person, without the need to support their ethical arrangements of the given community.³ Another justification for the negation of codes of professional ethics is the belief that the norms of universal morality or the so-called general ethics, are simply sufficient.

A big weakness of these discussions was the formulation of many theses in complete detachment from the reality of the functioning of professional ethics. In the statements, the existence of some professional ethics was barely signaled, but the actual provisions of any code of professional ethics were not invoked. The exception was the statement by M. Wichrowski on the code of medical ethics.⁴ Some examples of ethical standards were false – nonexistent or incompatible with those actually enshrined in the Code of Professional Ethics. For instance, that the principle of respecting patient autonomy is the highest credo in medical ethics or that there is an ethical obligation

¹ Dr n.farm., Uniwersytet Medyczny w Poznaniu.

² Dr n.med., Uniwersytet Medyczny w Poznaniu.

³ *Etyka zawodowa*, Instytut Problemów Współczesnej Cywilizacji, Seminarium, Warszawa, 20 May, 1997, Published by: SGGW, Warszawa 1997; *Etyka w środowisku akademickim*, Ed: J. Zieliński and L. Tyszkiewicz, (Materials) Symposium organised at the Silesian University in Katowice, by Górnośląskie Międzyuczelniane Towarzystwo Akademickie „Universitas”, 6 June, 1992, Warszawa 1994.

⁴ M. Wichrowski, *Etyka lekarska*, “Etyka” 1994, R. 27, p. 191–193.

on the part of the physician to use “the best available therapeutic agents”.⁵ Showing examples of a possible contradiction of professional ethics standards with general ethics standards, i.e. arguments from practice proving their superfluosity or harmfulness – would constitute conclusive evidence, but the discussants did not refer to real examples.

We believe that the accusation of unnecessary codes of professional ethics is not substantiated. We present below an attempt to classify the main charges against professional codes of ethics, trying to show that they are not right in support of them. The order in which the charges are presented does not imply a hierarchy of their validity.

First objection – ethical codes are superfluous

According to opponents of the code of professional ethics, it is unnecessary, mainly because they do not see the sense of codifying the morality or functions of professional ethics. Leszek Kołakowski’s essay of 1962 “Ethics without a Code” is very important for opponents of professional ethics, where the title of the publication itself is treated as an argument supporting the negative position and recognition that the code is a negation of morality.

L. Kołakowski in his lecture argues that the desire to have a moral code is a component of the pursuit of security and an escape from deciding, “is the desire to live in a world where all decisions have been made once and for all. In its ideal form, the code is to be a set of abstract decisions replacing any specific decision; is to be a sufficient condition for each resolution, is to automatically locate every situation in the world of value, reduce its elements to points on a homogeneous universal scale, annihilate the hesitancy field and create conditions of certainty, where satisfaction with good implementation of orders can be predicted in advance, as well as a sense of guilt in the face of an accomplished offence. The Code gives us a ready life, it provides the satisfaction that comes from the complete predictability of the world [...]”.⁶

The Code, which L. Kołakowski writes about, is an ideal code: “it contains all the hints thanks to which we know for sure under what conditions we will be free from guilt in every situation and allow us to achieve this freedom indeed by submitting to its rules”.⁷ However, there is no such code in reality, because no one ever gets rid of independent thinking. L. Kołakowski’s position is similarly interpreted by I. Lazari-Pawłowska: “that the construction of the code understood in this way is not entirely possible for technical reasons and – more importantly – that it is not desirable for moral reasons”.⁸

This escape from moral responsibility in the examples given was called “refusal to pay one’s debt” to the world for which justification is being sought in two forms – “ei-

⁵ I. Lazari-Pawłowska, *Etyka zawodowa bez kodeksu*, “Etyka” 1994, R. 27, p. 177–180; J. Górnicka, *W obronie kodeksów etyki zawodowej*, “Etyka” 1994, nr 27, p. 187–189.

⁶ L. Kołakowski, *Etyka bez kodeksu*, in: *Kultura i fetysze. Eseje*, Wydawnictwo Naukowe PWN, Warszawa 2000, p. 156.

⁷ L. Kołakowski, *Etyka bez kodeksu*, p. 157.

⁸ I. Lazari-Pawłowska, *Etyka zawodowa bez kodeksu*, “Etyka” 1994, R. 27, p. 177–180.

ther as nihilism of juveniles, or as conservatism of the elderly. They are two, according to age, variations of the same mask that cowardice puts on to avoid responsibility for life”.⁹ For a nihilist, every decision is equally good or equally bad – evading one’s decision is stigmatizing reality. For the conservative, the world is irreparable, hence disagreement with all ideas of reforms. The code would decide for both. Ultimately, both nihilism and conservatism are to be self-defence against the compulsion to make moral decisions. It’s just that the nihilist gets rid of responsibility by questioning the effectiveness of any ventures aimed at realizing values, and the conservative relinquishes moral responsibility by creating, for him/herself, lasting and absolute hierarchies of values, “that is, by creating ethical codes”.¹⁰

It is significant that the supporters of Kołakowski’s thesis about the redundancy of the code for morality did not pay attention to the fact that his analysis refers to persons who are fundamentally sociopathic (as he points out!), to those who feel burdened with moral responsibility, to those who for whom their own perpetration is a problem, and not pride in self-fulfilment. So it refers to those who would like to escape from moral responsibility – and therefore from life. Thus, when L. Kołakowski accepts the thesis that ethics do not need a code, he means ethics in the sense of morality – actual human beliefs, and not ethics as a description of morality. Everyday morality does not really need a code, and it is not surprising that each of us does without a code of our own morality.

In Kołakowski’s thought we will not find the answer, why should man avoid one of the basic ways of self-realisation? L. Kołakowski speaks out – in general terms – against moral thoughtlessness, against codes that could prove to be “a means of anesthetising consciousness against certain real properties of moral situations”, because he believes that “well codified moral awareness contributes to contempt for certain values, which have an otherwise high place in the cultural tradition to which we confess”.¹¹

L. Kołakowski’s position would be better understood not as a disagreement with ethical codes, but as a warning against replacing moral thinking with imposed behavioural patterns, and as a caution against giving up one’s own choices and adopting ready-made life regulations that release from liability for their own conduct and give a sense of security of operation according to the instructions. Reading Kołakowski does not show that all codes are bad. As for the codes of professional ethics, it is known that they do not refer to cowardly persons, but to active and not afraid of responsibility for their own behaviour and choices, because they concern individuals undertaking important professional tasks.

Zygmunt Bauman is another authority questioning the code of ethics. Z. Bauman believes that moral matter is so changeable and indefinite that all attempts to capture it in some rigid and unambiguous codes are missed. However, his justifications are not convincing. As, for example, his statement that “There are no inviolable principles that you can absorb, learn by heart and apply to escape from a situation without a way out or protect yourself from the aftertaste of bitterness (whether we call it scruples, guilt or sin),

⁹ L. Kołakowski, *Etyka bez kodeksu*, p. 143.

¹⁰ L. Kołakowski, *Etyka bez kodeksu*, p. 149.

¹¹ L. Kołakowski, *Etyka bez kodeksu*, p. 158.

which comes uninvited in the wake of the decision and its implementation”.¹² Equally discretionary and doubtful is the author’s belief that “human reality is disordered and ambiguous, and such moral decisions, unlike abstract ethical principles, are ambivalent. That is the world we are bound to live in”.¹³ Meanwhile, not every reflection or thought can be called ambivalence. If one considers that ethical principles are shaky (in fact, they are more often unambiguous!), they can still be chosen, memorised and followed or written. With the same firmness (as Z. Bauman) it can be argued that human reality is so ordered and unambiguous that it is understandable and operational, as evidenced by the existence of human culture and civilisation. Many people will also acknowledge that they see no more lasting thing in this world than their own moral beliefs.

Some of the authors share the arguments given by L. Kołakowski and Z. Bauman, seeing in the ethical code a denial of the nature of morality: “morality is reflective and indelibly conflicting. Professional ethics, especially its form (code), are based on the morally dangerous assumption that the world of values and duties can be transformed into an orderly and clear instruction of moral conduct. Therefore, the Code of Professional Ethics reduces the problem of liability to obedience to standards. The criterion for moral assessment here is the fulfilment of obligations given, not reflection, an individual pause for thought on conscience”.¹⁴

According to other participants in the discussion, the very essence of codification is contrary to the nature of ethical actions: “the ethical sense of action is lost and deformed as soon as it begins to be codified, included in the systems of applicable norms, whether by the State or churches or professional groups”,¹⁵ or that “positive patterns of ‘morality of aspirations’ cannot be confined to the area of ready-made code formulas”.¹⁶

There were also voices in the discussion saying that no code of ethics is needed because of the functioning of “general ethics”: “someone who acts in one or other professional role can always determine how to deal with a given situation by referring to the principles and the value of general ethics or even to one’s conscience”.¹⁷ Similar arguments against the ethical code, i.e. the sufficient strength of “general ethics” and sufficient resources of one’s morality, also appeared in discussions about the ethics of the academic community: “... It seems reasonable to conclude that meeting ethical requirements depends on the perception of human ethics and the scholar’s conscience. This is what provides the basic argument against the codification of professional ethics”.¹⁸

The principles of “general ethics” were considered sufficient: “it is therefore justified [...] to formulate a question about the need for professional ethics as the ethics of individual professions: physician, scientist, teacher, social worker, policeman, military man, etc. The problem is important, that there is not always agreement as to the need

¹² Z. Bauman, *Moralne obowiązki, etyczne zasady*, “Etyka” 1994, nr 27, p. 24.

¹³ Z. Bauman, *Moralne obowiązki, etyczne zasady*...

¹⁴ M. Środa, *Argumenty za i przeciw etyce zawodowej*, “Etyka” 1994, nr 27, p. 167–169.

¹⁵ B. Skarga, *Usankcjonowanie niecnoty*, “Etyka” 1994, nr 27, p. 167–171.

¹⁶ W. Pawlik, *Niecnota uregulowana*, “Etyka” 1994, nr 27, p. 171–174.

¹⁷ K. Kiciński, *Etyka zawodowa a kodeks*, “Etyka” 1994, nr 27, p. 174–177.

¹⁸ R. Sobański, *Uwagi o ewentualnym kodeksie etyki pracownika nauki*, in: *Etyka w środowisku akademickim*, Ed: J. Zieliński and L. Tyszkiewicz, (Materials) Symposium organised at the Silesian University in Katowice, by Górnośląskie Międzyuczelniane Towarzystwo Akademickie „Universitas”, 6 June, 1992, Warszawa 1994, p. 51.

for such ethics. You can even meet [...] with aversion to what is referred to as professional ethics. It is supposed to be an expression of theoretically unjustified and practically harmful particularistic and relativistic tendencies in the field of ethics. Voices are often heard that there is no place for the rules of ethics of individual professions, there is only one ethics that applies to all citizens”.¹⁹ No justification was seen for professional codes of ethics, also due to their alleged ineffectiveness: “Creating codes does not lead to solving ethical problems or to raising the moral level of the professional circles represented by the initiators and creators of these codes”.²⁰ On the example of the Medical Code (but only the presumption in it), it was argued that it was unable to resolve real moral conflicts, and it was judged that it had no “meaningful role”.²¹ Another author on the establishment of codes of professional ethics recommended “maximum caution in this field and permitting codification only if a number of conditions are met”. The most important of them was to be the condition of “accepting the content of the code by the overwhelming majority of the group”.²² The Code was opposed to its own moral intuition: “Perhaps, a code of ethics for an academic teacher should be developed. But maybe we can act ethically and without a code? After all, it depends only on ourselves”.²³

The discussions did not look for the criterion according to which the need for a code of professional ethics should be determined for a specific professional environment, but – as the statements indicate – they referred to their own intuition that, for example, physicians should have their own code of ethics, and teachers not necessarily: “Personally, I did not question the admissibility of the very issue of the Code of Medical Ethics. The doctors’ environment may establish a code, because the law does not forbid that. I only ask if it was needed at that time? I think, when it comes to the medical environment, that the Code of Medical Ethics is probably needed [...] I would have serious doubts [...], whether a Code of Teacher Ethics is needed? [...] I must say that there has never been a need to use such a code. I think that in the teaching environment, broadly understood, including academic teachers, one can be guided by certain unwritten rules that have long been established in these circles, and to the very old Roman *paremia* [...] namely the formula: [...] ‘live honestly, don’t hurt anyone, give everyone their credit’. We can also use these general rules in university life. Certain rules are set here and no code is needed”.²⁴ Despite these words, however, there remains a doubt, do we really always know what it means to “live honestly”, know when we are harming someone, and we, at one, know what one deserves?

Contrary to the view that the code of professional ethics is superfluous, we take the view that codes of professional ethics are needed, fulfil their important social role, fulfil the functions to which they are called. And they are not, as some persons think,

¹⁹ H. Skorowski, *Dlaczego etyka zawodowa?*, in: *Etyka w środowisku akademickim*, p. 11.

²⁰ A. Jawłowska, *Życie i kodeksy*, “Etyka” 1994, nr 27, p. 194–195.

²¹ R. Piłat, *Kodeks heroizmu*, “Etyka” 1994, nr 27, p. 189–191.

²² K. Kiciński, *Etyka zawodowa a kodeks*, “Etyka” 1994, nr 27, p. 174–177.

²³ R. W. Schramm, *Etyka względna*, in: *Etyka w środowisku akademickim*, p. 113.

²⁴ T. Zieliński, *Głos w dyskusji nad prawem i moralnością na tle kodeksów etyk zawodowych*, in: *Etyka w środowisku akademickim*, Ed: J. Zieliński and L. Tyszkiewicz, (Materials) Symposium organised at the Silesian University in Katowice, by Górnośląskie Międzyuczelniane Towarzystwo Akademickie „Universitas”, 6 June, 1992, Warszawa 1994, p. 67.

practical tasks that improve professional activities, but they are (as per their name) ethical tasks – protection of basic moral values and affirmation of human dignity.

Second objection – professional ethics is self-interested

Almost all the participants discussed the assumption that the Code of Professional Ethics is a regulation that is to serve primarily the profession and the members of the profession. This made it possible to form an accusation of its “self-interest”. Underlying this allegation is the belief that if a code of professional ethics is created by professional circles, it must serve their professional interests. In addition, recognition that “the feature of moral judgment and behaviour is the fact that they are selfless” has led to the conclusion that “professional ethics, including praxeological and socio-technical elements, is “calculative”; and therefore does not belong to the field of morality”.²⁵

B. Skarga took the view that since practicing a profession is an activity, “and every activity should be effective, then professional ethics should set standards for this effectiveness”.²⁶ This erroneous opinion preceded further statements, such as, for example, that “professional effectiveness sometimes requires deception, lies, violation of human intimacy, even human dignity”.²⁷ Based on the statement of M. Ossowska, B. Skarga recognized that professional ethics not only counts on supporting or at least not forbidding that which improves professional activity, but even justifies – and for this is called – “everything that is contrary to values in European culture, but what is indispensable for professional effectiveness”.²⁸

However, the assumption that if the “primary criterion” of professional activity is effectiveness, then professional ethics must also serve this purpose – is unfounded. Ethical requirements are not only not calculated to increase the effectiveness of professional activities, but – by placing additional operating conditions (the respect for human being) – they hamper professional activities to the extent that it is difficult to meet two conditions instead of one. The first condition is, of course, the professional proficiency of persons practicing the profession, the second condition requiring fulfilment is to practice the profession so as not to violate human dignity – all those values that make up it. If only for this reason it can be seen that if professional ethics are “calculative/self-interested”, it is only in this way that they defend the moral interests of individuals using the services of professions having their own codes of professional ethics.

Third objection – the code destroys moral reflection

Among the authors who believe that the purpose of ethical codes is to replace moral reflection is, among others, P. Łuków. This author refers to L. Kołakowski and, like him, doubts the promise given by the code of “the decidability of any or almost every prob-

²⁵ M. Środa, *Argumenty za i przeciw etyce zawodowej*, “Etyka” 1994, nr 27, p. 167–169.

²⁶ B. Skarga, *Usankcjonowanie niecznoty...*

²⁷ B. Skarga, *Usankcjonowanie niecznoty...*

²⁸ B. Skarga, *Usankcjonowanie niecznoty...*

lem in a relatively simple manner”.²⁹ For this, according to P. Łuków, one needs his/her own moral reflection, and the code of ethics not only does not help but otherwise, it disturbs. Some other authors similarly think that “a norm that does not flow from personal reflection is ineffective and is gradually compromised. Thus, what seems to be a plus (saving time and simplifying the necessary reflection) turns into a great disadvantage – the degradation of the norm itself”.³⁰

According to P. Łuków, the code alone cannot fulfil the hopes placed in it and give the moral shape of a doctor’s work or the entire professional group, because the use of the code requires a suitably shaped character”.³¹ “Even if ethics in medicine really requires a code or if it is desirable for some reasons, then its influence on the actions of physicians can only be made under the condition that they have appropriately shaped characters, and so far as the basis for moral regulation is already there.”³² P. Łuków does not see the practical need of the code: “If the thesis about the role of judgment in the use of codices and prohibitions is accurate, the code cannot significantly shape the actual attitudes of doctors, but assumes their specific, existing shape.” It is also possible that “a person with a formed moral personality does not need a code of ethics at all. And if so, only exceptionally”.³³ The remark that many individuals with a formed moral personality do not need a code at all, seems apt.

P. Łuków also believes that the code of ethics (specifically the code of medical ethics) also does not shape the views of physicians or their characters. Indeed, one should agree that the code of ethics is not able to form morality, but one cannot agree with the thesis that the code of ethics would replace moral reflection – this is not the purpose of every ethical professional code and, moreover, no code is capable of it.

It is not the task of the code of professional ethics to shape the morality of the members of the profession – it is assumed that mature individuals already have such morality. In the ideal version of the impact of the code of professional ethics, it demands from the members of the profession such ethical obligations that are already their own moral obligations. The author’s fear would have been justified if it were considered that doctors, who were picking up the code of medical ethics for the first time, do not have their own moral beliefs.³⁴ This is hard to imagine. Stating that the code of ethics is not used to form characters, we do not exclude its other functions.

Although the code of professional ethics is to influence the choices made by medicals, its primary task is to protect the good of the patient, not to shape the perfection of medical characters. The Code does not shape medical characters, but it can be thought that this “drawback” is insignificant for at least two reasons. First of all, it should be assumed that persons entering the profession are mature – they already have their morality and relatively well-established characters, so reading the code of professional ethics will not affect them too much. Secondly, the benefit that codification of profes-

²⁹ P. Łuków, *Moralność medycyny. O sztuce dobrego życia i o sztuce leczenia*, Wydawnictwo Naukowe Semper, Warszawa 2012, p. 20.

³⁰ R. Piłat, *Kodeks heroizmu*, “Etyka” 1994, nr 27, p. 189–191.

³¹ P. Łuków, *Moralność medycyny...*, p. 18–19.

³² P. Łuków, *Moralność medycyny...*, p. 34.

³³ P. Łuków, *Moralność medycyny...*, p. 35.

³⁴ P. Łuków, *Moralność medycyny...*, p. 35.

sional ethics guarantees, is the expectation that such decisions under similar conditions will be similar, and thus that they will not depend on individual attitudes and systems. This effect of the functioning of the code of professional ethics is also noticed by other authors: J. Kraszewski considers it important for the code to limit freedom in resolving conflicts, and therefore a certain rigor imposed by the code provision seems to be necessary in the practicing of some professions.³⁵ A similar position was adopted by I. Lazari-Pawłowska, recognising that “persons of the best will, with careful penetration into the specificity of the situation, may possibly resolve different conflicts of values in a different way, and yet reconciliation and unification are also necessary where strong arguments speak for both sides”.³⁶ Thus, it is the written form and codex recognition of the hierarchy of norms that prevent conflict of reasons, because their strength is determined in advance.

Contrary to the position that the functioning of the code of professional ethics requires moral reflection on its standards, we believe that this is not a necessary condition. The Code cannot shape attitudes in acts of sporadic impact, but it can enforce specific actions regardless of the existing attitude of the actor, under the threat of sanctions. The Code of Medical Ethics is not written to shape the moral views of physicians, it is written to demand compliance with them!

Regardless of his own views, the mere order to comply with the provisions of the Code of Professional Ethics may be sufficient to enforce the ethically appropriate actions of the addressee. The patient, like everyone we direct our actions at, most likely will not be able to discern whether what we do for him/her is done for our own (moral) motive or only for ethical motivation (because this is what the code of professional ethics imposes on us). In both versions, however, we work for the benefit of the patient.

When assessing the code of professional ethics, we should also see it as a criterion, which is, indeed, professional routine. If, as a community, we recommend a specific goal or method of operation, then they have probably already been verified many times before. Acting reasonably, we operate within our conscious freedom, but we do not have to (and do not want to) each time undertake the effort to design our own actions – in situations with a moral aspect, it is also helpful to rely on experience and refer to a previously defined (and most often repeatedly substantiated) pattern of (in this case ethical) actions. Routine may imply a lack of reflection, including a lack of moral judgment, but because chance of the full repetition of a given situation is negligible, we are doomed (as persons and as professional specialists) to continuous moral judgments. Our freedom is also the result of our reflection, so it is not something that is granted, but it is always established – it is made aware. What action the person chooses, to take advantage of his freedom in a particular situation, may depend on his circumstances at the time of taking the action – so reflection/decision can change or stop it. This is the case even if we carry out the announced action once again, it is because each time we must make sure that this action actually corresponds to the previously identified circumstances. So why should we not refer to the most repetitive professional, and also ethical situations, of already established moral judgments, especially when they meet with strong confirmation among the professional community? Why should we not pre-

³⁵ I. Lazari-Pawłowska, *Etyka zawodowa bez kodeksu*, “Etyka” 1994, R. 27, p. 177–180.

³⁶ I. Lazari-Pawłowska, *Etyka zawodowa bez kodeksu*...

sent our professional, ethical, repetitive judgments in the form of ethical standards, contained in the code of professional ethics?

Professional ethics is not only a code, but also an ethical reflection on its obligations. In no way does the presence of written norms kill moral reflection. It is also difficult to charge that “the code settles disputes concerning one solution of the dilemma and adopts one moral perspective”³⁷ – this is precisely one of the basic tasks of the code of ethics. Ethical discussion and the voice of conscience do not have to be silent – they can always refer to the already adopted decision. A code that completely replaces moral thinking would be one thing, and something else is a code that is the result of moral reflection.

Professional ethics is a sphere of moral reflection for many members of the community and all provisions refer to this reflection. Therefore, the code of professional ethics should be seen as understanding, reconciliation and documentation of this reflection, not a replacement.

Fourth plea – the functioning of codes of ethics is harmful

The harmfulness of codes of professional ethics, according to various authors, is essentially due to two situations: first, being allegedly in contradiction with the non-existent provisions of “general ethics”, the codes introduce moral relativism; secondly, by changing the hierarchy of moral values (norms), codes of professional ethics undermine the universally recognized hierarchy of values (norms) of “general ethics”.

It was feared that “a norm, strengthened by a given code may rise above others, otherwise much more valued in a given community, e.g. the principle of discretion will be put above the protection of life. Perhaps a thorough analysis of the mutual relationship of different moral values would show whether this is a real threat, or whether the actual strengthening of a morally decent order can have negative moral effects”.³⁸ The codes are intended to make the inclusion of certain decisions “always harmful”, e.g. a norm requiring the patient to be informed, or a norm ordering the patient not to be informed, hence the conclusion that such a code “would only sanction non-respect of human rights”. The presumptive form of this statement was maintained, although at the time of discussion the medical code of ethics existed as realistically as possible and one could refer to its provisions.

B. Skarga accepted the thesis that “professional ethics are supposed to justify everything that contradicts the values professed in European culture, but which is sometimes necessary for professional effectiveness, yet which is, however, a professional failing. Representatives of various professions need justification for their attitudes and activities, understanding that they are not a collection of holy people”.³⁹ Also in this matter, an example of a professional, recommended or postulated, in the code of ethics, iniquity could be credible with this surprising assertion, but no such example was given. Therefore, B. Skarga’s thesis took then the final form: “various codes are there-

³⁷ M. Wichrowski, *Etyka lekarska*, “Etyka” 1994, nr 27, p. 191–193.

³⁸ R. Piłat, *Kodeks heroizmu*, “Etyka” 1994, nr 27, p. 189–191.

³⁹ B. Skarga, *Usankcjonowanie niecnoty*, p. 169–171.

fore a sanction of moral vice”.⁴⁰ The social harm of professional ethics understood as “professional iniquity” is evident.

Despite its erroneousness, this position gained support and, for example, W. Pawlik agreed with the complaint of B. Skarga: “it is difficult to deny that professional circles, by carrying out specific tasks, institutionalise moral shortcomings that are unacceptable from the point of view of universalistic ethics”. However, the author proposes to see professional ethics as a normative system of “iniquity” regulating, because it is not so that “professional ethics gives full consent to the practice of ‘moral vice’, but professional ethics self-limits the claims of the professional circles to practice ‘moral iniquity’, ‘prevents us from opening the door wide to it’”.⁴¹ Therefore, according to the author, bad ethical professional practices are a matter of course, and codes of professional ethics only limit them. U. Schrade also assessed the attempts to create professional ethics’ codices “extremely pessimistically”, accusing them not only of moral harmfulness but also of ineffectiveness: “A shaky voice of conscience or even its total silence will not be replaced by any code-related, ethical prosthesis”.⁴²

In the discussion on the ethics of the academic community, it was alleged that the code of professional ethics was the expression of “theoretically unjustified and practically harmful, particularistic and relativistic tendencies in the field of ethics”, while there is no place for the rules of ethics of individual professions, because “there is only one ethics, binding on all citizens”.⁴³ It was added: “to someone who has some ethical knowledge and is quite morally sensitive, professional ethics is not necessary”.⁴⁴

There were fewer voices demonstrating the positive role of codes of professional ethics in a purely moral aspect. It was argued that the emergence of professional ethics is not “sanctioning of moral failing, nor adherence to moral relativism, but on the contrary – counteracting relativism, and an expression of moral awareness of the professional community,” said J. Kraszewski.⁴⁵

It has been rightly noted that a request from candidates for some professions of “moral impeccability” can be used as a way of “eliminating inconvenient persons, e.g. politically”,⁴⁶ but it should also be recognised that written ethical requirements (code of ethics) limit this discretion meeting, or not meeting, ethical standards that would be completely free when referring to the unwritten principles and requirements of “general ethics”, or – also unwritten – the ethical tradition of the profession.

When benefits from the existence of codes of professional ethics were demonstrated, practical effects were often referred to, especially the prevention of “social harm”. The arguments in favour of the medical code of ethics also indicate its practical usefulness: shaping the attitudes of physicians, supporting medical decisions, making legal norms more specific, creating standards for legalisation, or providing a basis for disciplining physicians.⁴⁷

⁴⁰ B. Skarga, *Usankcjonowanie niecnoty...*

⁴¹ W. Pawlik, *Niecnota uregulowana*, “Etyka” 1994, nr 27, p. 171–174.

⁴² U. Schrade, *Dyskusja*, in: *Etyka w środowisku akademickim*, p. 63.

⁴³ H. Skorowski, *Dlaczego etyka zawodowa?*, in: *Etyka w środowisku akademickim*, p. 11.

⁴⁴ H. Borowski, *Dyskusja*, in: *Etyka w środowisku akademickim*, p. 38.

⁴⁵ J. Kraszewski, *Zachować prestiż zawodu*, “Etyka” 1994, nr 27, p. 202–204.

⁴⁶ J. Woleński, *Przeciw etyce zawodowej*, “Etyka” 1994, nr 27, p. 184–187.

⁴⁷ P. Łuków, *Moralność medycyny...*, p. 19.

However, if we consider materially measurable results, and social functionality as ethical benefits, and we interpret them as ethical responsibility, then the human-human relationship is usually omitted, i.e. the real sphere of functioning of moral values is omitted. It is therefore right to remind that “the subject of morality is man as a man (regardless of who he is, what social role or roles he plays)”, and one cannot agree with the thesis that professional ethics reduce “the moral subject to the functions man performs in social life”, which means here – in professional life.⁴⁸ Therefore, professional ethics should not be reduced to rules of operation that bring measurable material benefits, because then we recognise a person as a good person only when he/she is a producer of goods and services that can be valued on the market.

Fifth plea – professional morality is contrary to universal morality

As previously noted, one of the arguments against professional codes of ethics is the alleged sufficiency of “general ethics” standards. A step further is taken by the authors who believe that the provisions of the codes of professional ethics not only unnecessarily duplicate the principles of “general ethics”, but may conflict with them. It is often believed that individual professions represent specific (and thus not universally recognised) moral values. This is the position of, among others, B. Skarga, who believes that “every profession focuses on its own values, so that specific values exist for it, which are not necessarily compatible with those that are generally considered universal – if they exist – and they not identical to those of other professions anyway”.⁴⁹ Similarly, M. Środa notes that supporters of professional ethics “see the need, or even the necessity, to create specific moral norms for the needs of specific professions”.⁵⁰ Ija Lazari-Pawłowska also believes that the professions have moral principles “specific to the particular professional groups”.⁵¹ W. Pawlik is convinced that individual professional environments, by carrying out specific tasks, “institutionalise moral errors that are unacceptable from the point of view of universalistic ethics”.

W. Galewicz is also skeptical about the role of professional ethics, who in his analysis, like most of the authors cited here, does not refer to any specific code of professional ethics, but criticizes the “code of professional ethics” as such. Asking the question: “Can professional morality disagree with general morality?”⁵², he states that the norms of professional ethics and general ethics are contradictory, which allows the conclusion that “the norms of one theory do not overlap, and sometimes even conflict with the rules of the other”.⁵³ On this basis, it introduces the division into ‘professional particularism’ and ‘professional universalism’.⁵⁴ Because in the analysis, moral

⁴⁸ M. Środa, *Argumenty za i przeciw etyce zawodowej*, “Etyka” 1994, nr 27, p. 167–169.

⁴⁹ B. Skarga, *Usankcjonowanie niecnoty*, “Etyka” 1994, nr 27, p. 169–171.

⁵⁰ M. Środa, *Argumenty za i przeciw etyce zawodowej*, “Etyka” 1994, nr 27, p. 167–169.

⁵¹ I. Lazari-Pawłowska, *Etyka zawodowa bez kodeksu* ...

⁵² W. Galewicz, *W sprawie odrębności etyk zawodowych*, in: *Moralność i profesjonalizm. Spór o pozycję etyk zawodowych*, joint publication, Ed: W. Galewicz, TAIWPN Universitas, Kraków 2010, p. 9.

⁵³ W. Galewicz, *W sprawie odrębności etyk zawodowych*, p. 27.

⁵⁴ W. Galewicz, *W sprawie odrębności etyk zawodowych*, p. 45.

particularism is combined with moral relativism, it should authorise the claim that the morality proper to a given group of persons may differ from the morality proper to individuals from another group.⁵⁵ In the same way, “just norms of professional morality, that is, concerning representatives of a certain profession, may differ from right norms of universal morality, that is, applicable to all persons”.⁵⁶ An example confirming such an eventuality is also missing here.

If particularism is called any difference in the code of professional ethics from the functioning of imagined social morality, then this difference does not seem to be a disadvantage, but a virtue, because it consists in increasing the moral requirements of the addressees, not in reducing them.⁵⁷ Secondly, the particularism of professional ethics has nothing to do with axiological relativism in morality.

It is also deceptive to believe that it is the nature of the profession that affects the moral obligations of the performers of that profession, that is also the ethical norms that oblige them on the ground of the profession. To the question: can particular social roles generate specific moral obligations, not overlapping or even incompatible with the requirements of universal morality, such as honesty, kindness or respect for others⁵⁸ – we can give only one answer. There are no “specific moral duties”, but there are only the same duties of man towards man, regardless of all circumstances, and also regardless of any professional situation (relationship). Reality shows that none of the professional ethics creates other than generally recognised moral (ethical) norms. Talking about “moral principles specific to particular professional groups” is therefore unreasonable, and probably for this reason those who talk about them never give an example of such a “specific” principle. Professionals (of every profession) have the same ethical principles as all persons, only their rank changes – what is an ordinary obligation for everyone, for a given profession can be an extraordinary obligation. What is a daily recommendation for us can be a commitment in the profession. For example, we all require patience, but to what extent? In the “ordinary”, “normal” degree, when we get an idea from observation and practice about what “normality” is. However, we expect extraordinary patience from a caregiver of a child or of a sick person.

In the editorial debate being discussed, J. Górnicka took the stand showing the sense and need of professional ethics, stating that “there is nothing more erroneous than to think that each profession uses its own category of good, which is contradictory (or at least not related) to the understanding of good in other professional circles. It seems absurd then to contrast professional ethics with general ethics. I think – the cited author explained – that in both cases the starting point is the same concept of good, while the specific “particularism” of professional ethics comes from the simple fact of division of labour in society and the related diversity of social and professional roles”.⁵⁹ This is understandable if we realise that the rules of ethical behaviour apply to persons, and not to professions. A profession is only the specific situation in which individuals find themselves in, and in which by their action they are to meet universally recognised and com-

⁵⁵ W. Galewicz, *W sprawie odrębności etyk zawodowych*, p. 49.

⁵⁶ W. Galewicz, *W sprawie odrębności etyk zawodowych*, p. 51.

⁵⁷ H. Jankowski, *Kilka uwag na temat etyki zawodowej...*

⁵⁸ J. Górnicka, *W obronie kodeksów etyki zawodowej*, “Etyka” 1994, nr 27, p. 187–189.

⁵⁹ J. Górnicka, *W obronie kodeksów etyki zawodowej...*

mon values for all persons. Furthermore, no inconsistency can be found between general ethics and any professional morality, because while specific individual professional morals exist (and are described), general morality exists only as a mental construct of some ethics, especially of utilitarian orientation. General ethics or “universal human morality” are also such imprecise terms that their content can be almost any. Both concepts usually refer to moral beliefs held by the general public, which is in itself a utopian position.

It should be noted that so far the attempt to codify the “general morality” is unknown and the absurdity of this intention is probably transferred to special situations – and such a “special situation” is to practice any profession and to negate the need to codify some professional morals. General ethics indicates important values, but it rather does not indicate which of them should be prioritised. Everyone decides it for himself – if not in free reflection, then in situations of making dramatic, good choices. Yes, the misconduct is revealed enough by general ethics, but – as one of the authors believes – “its norms and values may be too general to help in specific situations for a given profession”.⁶⁰ However, the thing is not in “too general wording”, but in the absence of indicated preferences of values or norms. Therefore, the weakness of “general ethics” (as common beliefs) is that it is too general. It indicates ‘good values’ or ‘good standards’, but it does not, in principle, show their importance with one another. It is unable to resolve many conflicts of norms (and values), for which a “formal or informal code of professional ethics” may be useful, preferring specific preferences of norms.⁶¹

The requirements of professional ethics do not make any break in the colloquial, informal ethical opinions, as noted by I. Bogucka and T. Pietrzykowski, “because we have the same expectations for anyone who has assumed responsibility for a good or a person [...]” and professional ethics are a repetition of general ethics standards.⁶² However, the authors’ belief that professional ethics is a repetition of general ethics standards is hasty. Professional ethics are not a “repetition” of general ethics, because it is the hierarchy of norms (and values) – essentially its absence in “general ethics”, and the necessary presence in professional ethics – that sets them apart strongly. The same elements in two different systems can have different meanings. The ethical system as a hierarchically ordered system operates as a whole, not fragmentarily; the arrangement of elements determines the differences between individual professional ethics, in particular the primary value of the professional ethical system. Therefore, it is impossible to justify the separateness of professional ethics by the fact that its norms contradict with colloquial morality, as there is no such contradiction. It is not that one system of norms recommends “don’t lie” and professional morality recommends lying. Nor can the needlessness of professional ethics be justified by the alleged repetition of the “general ethics” requirements in the former.

It is also not true that the standards of professional ethics are limited to “the behaviour and goals of a particular profession” – which would constitute ethical relativism, but these are socially recognised standards to be applied also in a specific profession. The goals of a “particular profession” are at the same time the goals of all those per-

⁶⁰ K. Kiciński, *Etyka zawodowa a kodeks*, “Etyka” 1994, nr 27, p. 174–177.

⁶¹ K. Kiciński, *Etyka zawodowa a kodeks*, “Etyka” 1994, nr 27, p. 174–177.

⁶² I. Bogucka, T. Pietrzykowski, *Etyka w administracji publicznej*, NexisLexis Polska Sp. z o.o., 2nd edition, Warszawa 2010, p. 96.

sons who rely on the services of that particular profession. Talking (without examples) about “specific moral norms in professional ethics” does not refer to the reality of professional ethics. Therefore – generally recognised standards and applied in the profession do not constitute ethical relativism and also the goals of particular, specific professions referring to their own professional ethics are commonly accepted goals.

J. Górnicka’s opinion should be acknowledged: “The specificity of codes of professional ethics is not that these codes come up with new specific obligations for representatives of individual professions – but they suggest at most a change in the axiological hierarchy in the code of general ethics. Certain general obligations take on special importance in professional ethics, they cannot be neglected (e.g. the obligation to translate someone else’s interest over one’s own ...).⁶³ Therefore, professional ethics is then not a ‘legalisation of professional iniquity’, it is not intended to justify behaviour contrary to general values, while necessary to fulfil a professional role”.⁶⁴ Professional ethics does not invalidate any of the generally recognised norms, but gives preferences to the chosen one.

It is difficult to argue with the reasons for the conflict between professional morality and “general ethics”, when it is stated that such a conflict does not correspond to reality. It is on the basis of utilitarian “ethics”, its vagueness/indeterminacy and freedom in the choice of norms (this ethics does not generally recognise the value) – that it is possible to look up for such conflicts.

Other of the allegations that are made against codes of professional ethics are, first and foremost, the conviction of the inadmissibility of changing the hierarchy of values in the system of “general morality”, also the claim that ethical codes have no impact on shaping morality, as well as about unjustified creation of codes of professional ethics in professions that they do not need. We will discuss these allegations in the second part of the article.

Summary

In comparison to the total number of professions, those with their own codes of professional ethics are sparse. In spite of this, it has long aroused interest, and it is often the interest of opponents of these codes. Typically, the voices of such individuals not only question the need for the code, but express the conviction that the creation of codes of professional ethics is harmful both socially and to professional morality.

Key words: code of professional ethics of physicians, professional morality

O potrzebie kodeksu etyki zawodowej i argumentach przeciwnych

Streszczenie

Grupa zawodów posiadających swoje kodeksy etyki zawodowej, w porównaniu do ogólnej liczby zawodów, jest znikoma. Mimo to od dawna wzbudza zainteresowanie, przy czym nie-

⁶³ J. Górnicka, *W obronie kodeksów etyki zawodowej...*

⁶⁴ I. Bogucka, T. Pietrzykowski, *Etyka w administracji publicznej*, s. 96–97.

rzadko jest to zainteresowanie przeciwników tych kodeksów. Zwykle głosy przeciwników kodeksu etyki zawodowej nie tylko kwestionują potrzebę kodeksu, ale wyrażają przekonanie, że tworzenie kodeksów etyki zawodowej jest szkodliwe i społecznie, i dla moralności zawodowej.

Słowa kluczowe: kodeks etyki zawodowej lekarzy, moralność zawodowa

