

# ETHICS OF THE POLICE PROFESSION AND RESPECTING THE HUMAN RIGHTS

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## Abstract

*An issue discussed at international as well as national level on how the police officer, as a representative of the executive power of the state, performs his duty under the conditions of respect for human rights. The dispute in the matter is permanent, even if there are major changes in the current police behaviour. At the same time it is necessary to identify the limits to which the policeman should be careful so as to carry out his activity as a defender of the security of the person and the property. At the level of the Romanian Police, through the strategies and plans made, as well as by the enforcement of the Code of Conduct, it is found that the current policeman has a normal behavior towards the citizen, so citizens' trust in the Police is constantly increasing.*

**Keywords:** *human rights; ethics; policeman; profession; legal status of the police*

## 1. Introduction

The policeman, as a civilian or military civil servant, has been permanently involved in providing a safe environment for the development of social, economic, cultural life for the general development of society, having as main task the observance of the laws by all the citizens of the state.

The progress of this service has undergone various fluctuations in relation to a specific historical period. It was found, however, that through this institution, the need for public order and security was partially met, which led to the desire to create a new institution with specific attributions in terms of providing order and a safe environment. As a result, a number of police-specific functions such as the "hetman" or "spătarul"<sup>2</sup> have been created.

With the general development of society, police duties and responsibilities have specialized, the activity being strictly regulated by specific laws. Little by little, after the establishment of the principles governing a democratic

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<sup>2</sup> High dignitary at the royal court during the feudal period, who, in the beginning, had the main task to carry the royal sword at festivities and later headman of the army and of the police; title in the hierarchy of Romanian boyars of the respective era.

and independent society in the state, the state institutions have experienced a specialization and a division of their attributions towards the establishment of bodies conducting governmental policies. Thus, the police powers are strictly defined and the police have their own legal framework, which allows them to perform their service in optimal conditions.

When talking about the public police service in modern societies, there is only exceptionally confusion between the police and the administration. Public needs are equally solved by both institutions, between which there must be close collaboration. The unification of the Ministry of the Interior with the Ministry of Public Administration has only strengthened and given new value to the legitimacy of this collaboration.

The social need that determined the execution of the police lies even in the law underlying the organization and functioning of the Romanian Police, in that "the police have certain competencies regarding the observance of the peace and the public order, the defense of the private and public property and, last but not least, the defense of human rights and fundamental freedoms, under the conditions imposed by law." Lately, the police have undergone profound transformations, both structural and organizational, driven by the dynamic and complex character of the social change.

Professional reshaping of police activities, strengthening a structure to act as a public service for the citizen's benefit and harmonizing it with community requirements, have been a priority. All these elements of novelty aim at making the police more accountable to the community the policeman represents, to the citizens, the achievement of a normalization that the whole society dreams of.

## **2. Police Public Service**

The public police service has as primary objectives to ensure the necessary climate for the functioning of state institutions, to carry out the reform process, to increase the capacity for action and to adapt to the requirements of a modern and European institution of the rule of law. In order to achieve an increased efficiency in ensuring the public order climate, all police actions should be oriented towards increasing civic safety.

When all police officers become aware that their source of income is made by the contribution of all citizens, and their discontent must not be neglected, we can say that we have a professional police institution with a competent staff.

It must be realized that the hierarchical pyramid is the citizen, whose satisfaction for the paid service depends on the quality of the service

rendered. Accepting the idea that the citizen is the sole master of the policeman, and his work must be directed towards the satisfaction of his wishes, constitute the secret of the success of the activities of the entire institution, the office and the team.

Considering the provisions of art. 5 of Law no. 188/1999, it is clear that civil servants within certain public services (under the letter "f" it is stated: "the police and other structures of the Ministry of Justice") may benefit from special statutes.

According to these provisions, by adopting Law no. 360/2002, police officers were the first category of civil servants who acquired a special status. The policeman exercising the attributions established for the Romanian Police by law, as a specialized institution of the state, is the civilian civil servant, armed, usually wearing a uniform.

The policeman as civilian civil servant has a special status. The peculiarity of the special status is given by the special risks and duties involved in the execution of the service, carrying a gun and other differentiations granted by the Police Officer's Statute. The policeman is invested with the right to exercise public authority during the performance of his / her duties, but within the limits of the powers that are prescribed by law. As a rule, the police officer wears a uniform and professional in the interests of the state, community and person institutions, on the basis of the law and its execution, in accordance with the following features: gradual, proportionate, impartial and non-discriminatory.

The exercise of the service duties implies the observance of the fundamental freedoms and human rights, the observance of the provisions of the Constitution and the laws of the country, the oath of faith towards the country, the provisions of the service regulations and the fulfillment of the legal provisions of the hierarchical chiefs regarding the professional activity.

The service report for both police officers and other categories of civil servants (those with special status) arises when the first professional degree is granted and the oath of faith is given.

Police service relations also have specific features, starting with the obligation to take the oath of faith, such as the mandatory and permanent character, which require the policeman to reach the workplace, according to the operative needs of the institution, for the defense of order and public peace. In the same spirit, of the continuity of police service relations, it is also worth mentioning that the police officer has the obligation to present immediately to the police unit to which he belongs, in the case of large-

scale disorder of order and public peace, in situations such as disasters, catastrophes, or other such events.

Such elements of specificity, which state the special status of police officers, are also those that refer to the fact that, in certain special situations, such as: the state of mobilization or war, the establishment of a state of siege or emergency, the police service relations may not, under these exceptional circumstances, cease by resignation, as it may be the case for contract staff or civil servants.

Police service reports are considered to be typical forms of legal employment relationships. This is substantiated by specific elements of the performance of some service relations similar to those stated in the status of the employees, but also by the fact that the Civil Servants' Statute constitutes a general legal framework for this category of civil servants with special status.

The State of the policeman is therefore the normative act stating the rights and obligations of civil servants with special status and setting the conditions that a person has to fulfill in order to be a policeman. However, the police officers represent a distinct category of civil servants and thus the provision of reference in Art. 78 par. (1) of the Law no. 360/2002 appears to be well founded. Under that article: 'The provisions of Law 360/2002 shall be supplemented, where appropriate, by the provisions. State coercion is carried out by the executive power and is organized by legislative power.

Domestic forces are responsible for maintaining the peace and public order and respecting the rules of social coexistence and have as their attributions the defense of the person and his possessions, as well as of the public hearing. We distinguish among them those that ensure the order in the state, such as police, gendarmes, border police.

### **3. The Officer and the Rule of Law**

Police institutions, as a component of the rule of law, are of great importance. The importance is due to their mission, which implies the exercise of duties with dignity and in accordance with human rights. The police officer, through its office and the public power it represents, has a great responsibility. This is still due to the fact that it is always in the service of the citizen. Its main mission is to provide a climate of peace and order in which the most valued social values such as life, property, sexual freedom, etc. should be respected.

The police officer through its duties is in direct contact with the citizen. It can not operate without its support. The police officer's role in the proper functioning of the rule of law is essential, precisely through its mission.

Taking into account the above-mentioned issues, we can say that the police function must have clear employment conditions. They must be objective and non-discriminatory. But having this objective character, there is no picture of the way in which it should function. Also non-discriminatory, it is in line with the European Convention on Human Rights. Moreover, the conditions for becoming a police officer must be accurate and not subject to interpretation.

In this respect, at the Romania level, the conditions for acquiring the quality of police officer are based on two normative acts, Law 188/1999 on the Statute of the Civil Servant, which provides the general legislative framework, and Law 360/2002 on the Status of the police officer providing the special legislative framework. By introducing the criteria for occupying positions in these normative acts, a basis for the recruitment conditions that can not be questioned and which is uniform is created. However, some of the provisions of Law 188/1999 on the Statute of a Civil Servant are also found in the Police Officer's Statute. We believe that this aspect is redundant and that the discrepancy should be removed. Important elements regarding the conditions for acquiring the position are also regulated in a minister's order or a regulation on the organization and conduct of the admission contest for undergraduate studies. We believe that they could replace redundant elements in Law 360/2002. However, as far as the conditions for acquiring the quality of police officer are concerned, we can say that they are characterized by transparency.

At the same time, we consider that the design of rigorous policing conditions is beneficial. Thus, it ensures that the public order and safety system does not have inappropriate people, which is not in line with the profile of the officer. The lack of rigorous conditions would lead to their interpretation, and inappropriate people could serve as a police officer. Such a situation would bring much damage, primarily to the citizen, as well as to the image of the institution.

Following the analysis of the national provisions and the recommendations made in the European Code of Ethics for Police, we have found a full concordance. This is gratifying. Achieving high-performing standards, such as European ones, is a proof that recruitment is done in a fair, objective and non-discriminatory manner. At the level of Romania, the recommendation regarding the representation of ethnic minorities within the Police is also respected. At the level of educational institutions within

the Ministry of Education. there are places for Hungarian and Roma students.

As a result of a comparative analysis with other states regarding the conditions for acquiring the quality of police officer, it would appear that they follow the same guiding principles outlined in the European Code of Ethics for Police. This is positive for the entire European community. In the context of increasing cross-border crime, cooperation between police institutions is needed. The fact that police officers, irrespective of country, are recruited through transparent and objective procedures can only strengthen this cooperation because it creates a climate of trust between the forces involved.

Police officers carrying out specific activities must demonstrate correct conduct, act tactfully and comply with constitutional provisions on human rights, law and international standards.<sup>1</sup> Are forbidden: witness violence, intimidation, threats, promises made with the intention of obtaining evidence or evidence, reports and statements. It is also forbidden to influence the outcome of the checks as well as the findings.<sup>2</sup>

A non-discriminatory and objective attitude in the police officer's current work is in line with the European Convention on Human Rights and the Principles of Democracy. Respecting these recommendations brings benefits to citizens and the community by creating a climate of balance and equal opportunities, as well as eliminating tense or conflicting situations between different ethnic, religious groups.

The principle that the police officer should be guided in law enforcement is the presumption of innocence. By observing it, every person under investigation shall be granted the right to justice, under the conditions laid down by law. In fulfilling the specific tasks, the police officer will adopt a neutral and objective manner. It will respect and protect the fundamental rights and freedoms of the citizen provided by the Constitution, as well as the provisions of other domestic and international normative acts.<sup>3</sup>

The code of ethics and deontology provides that, in carrying out the duties and professional tasks, the police officer:

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<sup>1</sup> Art. 23 para. (1), Law 360/2002 on the Status of the Police Officer, as amended and supplemented.

<sup>2</sup> Ibidem, art. 23 par. (2).

<sup>3</sup> Universal Declaration of Human Rights, December 10, 1948.

- collaborates with the population and provides protection, assistance and services to the police, according to police missions and attributions;<sup>1</sup>
- benefits from the protection of the institution, which provides it with adequate support;
- benefits from the support of the public authorities, according to the legal norms in force.<sup>2</sup>

In fulfilling a legitimate objective, in a situation of necessity, the police officer can execute actions in force. It is, however, an exceptional measure whose application the police officer should consider while respecting the principles of necessity, graduality and proportionality, as well as the respect for human dignity. The equipment, especially the firearms, will be used in situations only in case of absolute necessity, strictly observing the legislation in force. Force action ceases when the legitimate goal is achieved. When faced with physical violence or there are real threats to use force, especially the physical one against him/her or other persons, the police officer is obliged to take an initiative, acting firmly, to restore order, while respecting the legal limits.<sup>3</sup>

The ethical principles imposed by the same Code provide that police measures involving the detention of a person are taken only in cases where they have indications of the existence or the possibility of committing an offense. These must be carried out in objective and real operational time to achieve the goal.

The people deprived of their liberty will be compulsorily informed by the police officer of the reasons for the measure and of the applicable procedure. At the same time, they will be provided with all the conditions related to the safety of the person, proper hygiene and nutrition as well as the monitoring of their health condition. From the above, it is clear that the police officer has to strictly observe the procedural norms provided by the law in relation to the people who have been deprived of liberty.<sup>4</sup>

The senior police officer is responsible for the provisions given to his/her subordinates, based on the authority it exercises according to the legal rights.

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<sup>1</sup> Art. 7, H.G. no. 991 of 25 August 2005 for the approval of the Police Code of Ethics and Deontology.

<sup>2</sup> *Ibidem*, art. 8.

<sup>3</sup> *Ibidem*, art. 9.

<sup>4</sup> *Ibidem*, art. 10.

Respecting the legal provisions regarding the rights and duties conferred by Law no. 360/2002, police officers will certainly have the same behavior required by civil servants in general, ie professional and regular but also kind and moral.

#### **4. Concluding Remarks**

It is easy to understand that the progress of the human community would not have existed unless there is a whole socially created organism, which is validated by the invested staff, with a diversity of functions. From the interwar period of our country, the police officer's statute respects tradition, there are arguments from the comparative law which may justify this status.

The multitude of management tasks requires a very wide range of services, and also a trained staff ready to meet the everyday needs of the community at any time. When looking from a sociological perspective, public administration is a totality of human collectives, responsible for organizing certain actions for other people. From this perspective, the issue of people working in administration is of considerable importance. In Romania, the ethics of civil servants, police officers in particular, has a distinct importance, compared to other states with solid democracies. It is not suitable to pretend that it is enough to apply the law, ignoring the development of the ethics of the profession of police officer, since there are people who come from different backgrounds and have their own values. Their desire for fulfilment, from a professional point of view, can not be reduced to salary, incentives, conformism, sanction, because the identity that belongs to the profession, turns into an important component of the personal identity.

The major condition of self-esteem and a particularly important part of human fulfillment is professional fulfillment. The ethical area of police officers is a sensitive part, as the main objective is to maintain the population's trust in the police institution.

#### **5. References**

Law 360/2002 on the Police Status, with subsequent amendments and completions.

Universal Declaration of Human Rights, December 10, 1948.

Code of ethics and deontology of the cop, approved by H.G. no. 991 of August 25, 2005.