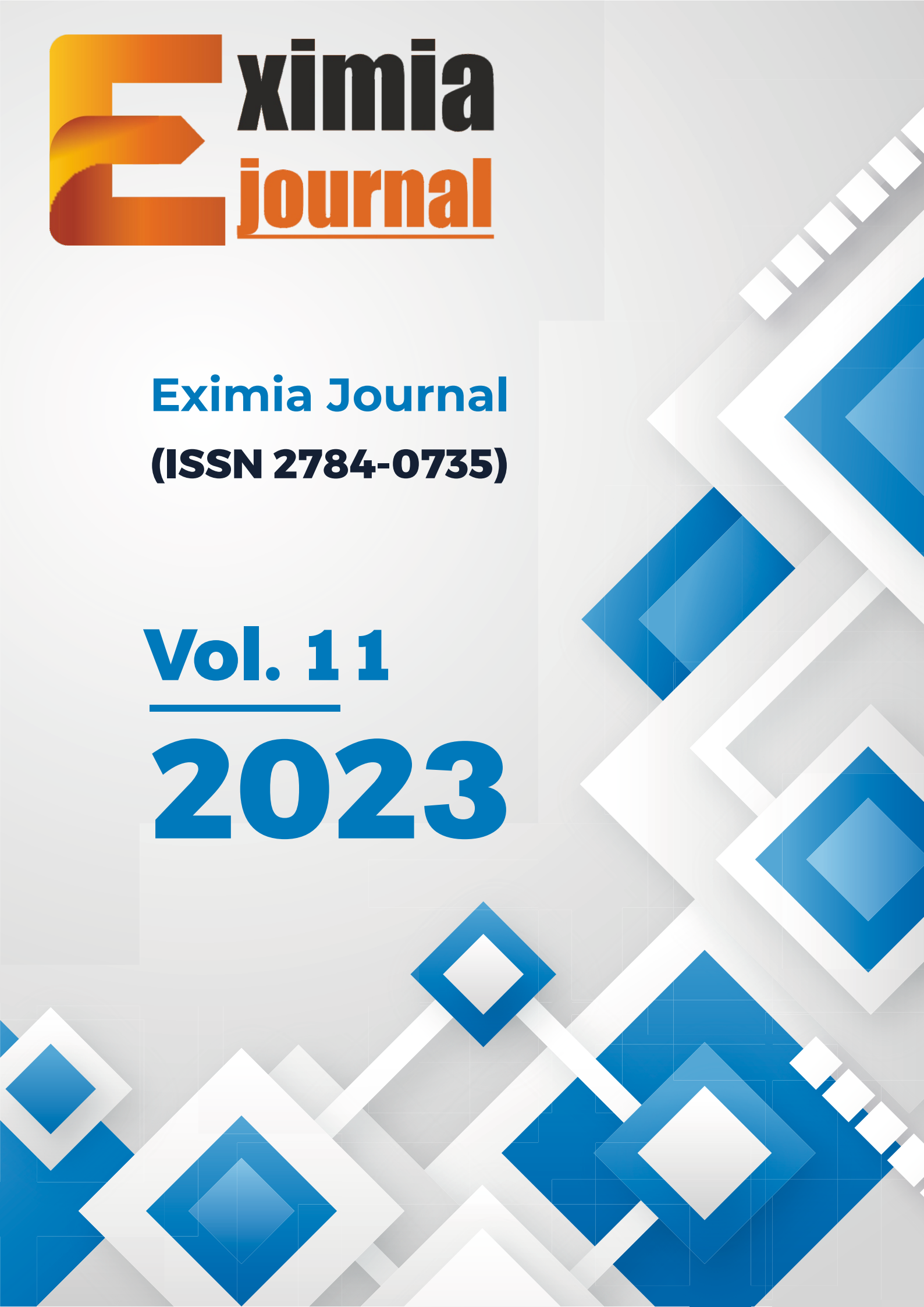




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Vehicle control

Andreea-Cornelia Brînză

Independent researcher

Abstract. Through the activities carried out, a police officer constantly seeks to protect life and the bodily integrity and other legitimate rights and interests of citizens. In this sense, the action to impose the law is fully justified and must be explained to those concerned, to make them understand that as long as they align with the established norms, they will not be subject to its repressive side. The activity of a traffic policeman is carried out in a planned manner, according to the daily activity plan and established patrol variants, which eliminates its random character. Traffic police activities are carried out by crews (patrols) made up of at least two traffic policemen. In special situations, when for objective reasons this configuration of the crew cannot be ensured, it is accepted that one of the policemen belongs to another police formation, or is replaced by a gendarme or by support persons. At the request of the traffic participant, a policeman presents himself with his service ID. If the citizen has doubts about the policeman's presence in traffic in the place and at that time or if he is interested in whether he is in the exercise of his duties, he can contact the nearest police unit (municipal or city police, respectively police station) communal), the policeman being obliged to present the personal documents or the devices used only to the competent authorities.

Keywords. Means of intervention, compliance with the law, regulatory stop signal, mixed patrol, preventive actions

I. Stopping a motor vehicle

I.1. Stopping one or more individuals in a parked vehicle by a pedestrian patrol

The foot patrol is a police element that operates on the territory of municipalities, cities and communes, on patrol routes that are established according to the places and environments favorable to the commission of crimes or misdemeanors, as well as the places where criminal elements are concentrated or act.

The foot patrol usually consists of at least two policemen.

Its composition can include students / pupils of MAI educational institutions, community police officers, personnel from security companies, volunteers.

The members of the patrol usually move side by side, and where this is not possible, one after the other, respecting the traffic rules imposed for pedestrians.

The patrol policeman, before intervening in an event for which he is reported ex officio or about which he is reported directly by citizens, is obliged to communicate this to the dispatcher or the duty officer of the sub-unit. At the end of the intervention, he is obliged to inform the dispatcher or the duty officer of the subunit again.

Travel must be done on the outer edge of the sidewalks, on the left side of the roadway or in the middle of non-circulated roads.

During the night, passing through dark places, covered places, abandoned houses, etc., must be done after a prior observation, with great caution and with the equipment prepared for the intervention.

At night, while moving through unlit places, the flashlight should not be turned on too often, as this can alert criminals about the presence of the police in that place.

In general, before entering covered, dark areas, a short stop is made, but to avoid profiling one's own silhouette while parking for this purpose.

In order to exercise their rights and obligations, in addition to the general duties of the police officers in the service of maintaining the public safety climate, the members of the pedestrian patrols have the following obligations:

a) to act permanently for the prevention of thefts from objects within the scope of competence, of thefts from and from cars, public street telephones, as well as for the prevention of rapes, robberies, scandals and other manifestations that violate the norms of social coexistence, public order, traffic on public roads and the rights and freedoms of citizens, the life and bodily integrity of the person, public and private property are affected, taking firm measures, according to the legal provisions, when these acts have been committed;

b) to act to combat illegal acts;

c) to participate in organized actions, based on the plans drawn up in this regard, to combat antisocial acts;

d) to act to combat acts of social parasitism and to detect those who pollute the street (beggars, vagabonds, prostitutes, etc.);

f) to maintain permanent contact with the gendarmes, the community police, the personnel of the security system operating in the area, in order to exchange information, ask for and provide support in solving situations that arise during the service;

g) to supervise persons under police custody who reside in the area of responsibility;

h) to intervene to ensure road flow on the patrol itinerary, when the situation requires, tracking the detection of persons who have stolen vehicles or criminals who transport stolen goods or are being pursued;

i) to check in the database, the vehicles that are suspicious due to their long standing or state of degradation;

j) to be at the established times at the points fixed in the patrol variants, if there are no reasons that can prevent this;

k) to participate in the maintenance of public order during the occurrence of natural calamities, catastrophes, disasters, as well as to limit their effects by taking the first measures.

These means can be used against people who: take actions that endanger the bodily integrity, health or property of other people; blocks, outside the conditions of the law, public roads, tries to enter, enters without right or refuses to leave the premises of public authorities, political parties, institutions and organizations of public or private interest, endangers in any way their integrity or security or personnel or disturbs the normal performance of the activity¹; offends persons with positions involving the exercise of public authority; they oppose or do not submit, by any means, to the fulfillment of the policeman's legal requests, only if there is a legitimate fear that their actions may endanger his bodily integrity or his life. In case of necessity, the policeman can use, in the situations and under the conditions provided by law, the force of weapons or firearms. The use of weapons will be done in compliance with the legal

¹Gheorghe Buzescu, *Elements of public order*, Publishing House Pro Universitaria, Bucharest, 2016

provisions, respectively Law no. 17/1996 regarding the regime of firearms and ammunition .²"

The filter is a control action executed by order or with the approval of the immediate boss at certain fixed points, in mandatory crossing points, aiming at detecting and catching the authors of antisocial acts, deserters.

The total filter represents a control action of all vehicles and people that travel through a certain point, enter or leave a certain place or area.

The partial filter represents a selective control of people or vehicles that travel through a certain point (only people, only vehicles, those traveling in one direction of traffic, those entering, those leaving or for a certain category of people).

During this action, the vehicles are stopped by officers and agents, who have the capacity of traffic policemen.

As it follows from this theme, exercising the police profession involves special duties and risks, due to the fact that he comes into direct and permanent contact with numerous individuals in conflict with the law.

On the occasion of the application of legal procedures, although the policeman strives to show respect for values such as: integrity, impartiality, respect for order, professionalism and discretion, he must always take into account the police procedures specific to the legitimization of driving at headquarters, immobilizations, etc.

The conclusion that can be drawn is that it is very important to know and respect these police procedures, so that ignoring or applying them incorrectly can lead to the creation of conflict situations, with the risk, not negligible, that some police officers will be outraged, injured, etc.

II. Stopping some criminals in a car by the police on mobile patrol

II.1. Tactical rules regarding stopping vehicles :

- a) stop the vehicles in traffic by using the means of acoustic, light or police signals;
- b) choose an appropriate place that allows vehicles to be positioned outside the roadway, in parking lots or other spaces, so that the flow of road traffic is not affected. During the night, these places must, as a rule, be illuminated, avoiding as much as possible, stopping in places where this maneuver is prohibited by law;
- c) make the stop signal with your arm during the day , and at night, with the illuminated or reflective stick, and in its absence by swinging a device with a red light in the vertical plane. In both situations, the supplied whistle can be used;
- d) position yourself in the traffic lane of the vehicle to be stopped, without exceeding the longitudinal axis of the road, and at night as close as possible to its shoulder, when the stop signal is executed. These positions ensure your protection and allow the driver to notice the signal in time and stop safely;
- e) when the vehicle to be stopped is traveling in the same direction, activate the red and blue light signals and the sound ones, after which, as a rule, drive behind the targeted vehicle until its driver conforms to the signals and stop it. You can also stop by turning on the device with variable messages, which will be set to the "Stop, Police" position or with your arm;
- f) if the driver in question does not comply with the given signals, use the voice amplification device, prompting him to stop and, as the case may be, also execute the regulatory signal with his arm, during the day, or with the reflective stick, during the time nightly;
- g) when the vehicle to be stopped is traveling in the opposite direction, execute the stop

²Manual of police tactics, Publishing House of the Royal Foundation for Literature and Art, Bucharest 2011

signal from the vehicle, on the left window, by swinging the arm or the reflective stick in the vertical plane;

h) if the driver of the vehicle does not stop, start following him, at the same time as notifying the dispatcher about the situation created, the identification data of the vehicle.³

Physical force and hand-to-hand combat procedures for self-defense and immobilization are used by the police officer, if necessary and possible, to defeat small-scale violent attacks directed against him or others, as well as to immobilize suspicious persons who oppose the execution to some police measures (legitimization, control of persons, driving to the police headquarters) or carry out aggressive actions, by which they disturb public order and peace.

In order to defeat aggressive actions and immobilize turbulent people, the procedures specific to hand-to-hand combat are used; punches, hands and feet, knees, elbows and other parts of the body can also be applied.

The application of blows in vital areas and with an exaggerated intensity, likely to cause serious bodily injury or death of persons, is avoided.

Physical force and methods of hand-to-hand combat are used only after those who are violent have been ordered to stop the aggressive action and to submit to the justified request of the policeman using the formula: " *POLICE, STOP!*".

A verbal notice is not required if the policeman is attacked by surprise or the bodily integrity or life of any person is immediately endangered.

II.2. Car chase

When the person is in a vehicle and it is necessary to follow him, the police can use both the vehicles belonging to the police and those belonging to natural or legal persons, except for the cases provided by law.

Movement in order to catch the suspect is carried out as close as possible to the axis of the road, using sound and light warning means.

The pursuit of a vehicle that did not stop at the legally performed signal is carried out only after notifying the unit's dispatcher about the start of the action, communicating data about the signals of the pursued car and its occupants, as well as about any other event.

A safe distance is kept behind the pursued vehicle, so that the policemen are not surprised by an unexpected maneuver, and acoustic and light signals are still used.

The vehicle is not followed over a long distance, attempts are made to block it with the vehicle with which the pursuit is carried out or with the support of other forces that will be posted at certain points on the route.

The pursued vehicle stops by overtaking it and blocking the road transversely, a maneuver that is not carried out immediately after overtaking, but at a short distance.

After blocking the road, the police quickly leave the vehicle and move to the side of the road, ready to act to stop and immobilize the suspect, taking personal protection measures.

The weapon equipped on the pursued vehicle is not used on the streets of localities, in congested areas or on roads with heavy traffic, unless the pursued person is caught red-handed at the time of committing a serious crime or when, by the way of driving, puts in danger to the lives of other people.⁴

Car patrols carry out specific activities in the public safety area, for observation, ensuring visibility and intervention at events, in order to prevent and combat antisocial acts .

³ Anane Ivan, *Elements of theory and tactics of the tracking bodies criminal*, Pro Universitaria Publishing House, Bucharest, 2014

⁴Buzescu Gheorghe, *Rules of police theory and practice*, Pro Universitaria Publishing House, Bucharest, 2016

The car patrols ensure the connection with the pedestrian patrols, which operate in the same sector (area) of public safety. Mandatory stopping points are established for the car patrols in order to observe congested areas or where suspicious persons are concentrated, an activity that will be carried out by these policemen, being in the immediate vicinity of the vehicle and having on them all the means of intervention provided.

The parking will last up to 15 minutes, while the members of the patrol will move to the area to fulfill their duties. During the parking, the police officers are forbidden to stay in the means of transport, except when they are on a break. Car patrol performs the service with specially designed cars and consists of at least two policemen or one policeman with professional experience and a student/pupil/community policeman. Patrolling in the area of competence can be carried out with the light signals in operation, both during the day and at night. This modality is established by the heads of units and subunits, depending on the operational situation or the specifics of certain patrol areas or missions to be carried out⁵.

The mentioned heads establish, if necessary, including certain times when the light signals are to be used. The essential condition is not to hinder the movement of other vehicles, so the lane next to the road shoulder is used. In order not to create confusion among road traffic participants that vehicles are moving to events, during the patrol it is recommended to use a low speed (20 - 40 km/hour). In the event that the patrol is interrupted to travel to a signaled event or for an emergency activity, the driver of the vehicle will activate the acoustic and light signals simultaneously. While traveling to events, the YELP type sound is used - button 2! When entering and crossing intersections, use the PIERCER type sound - button 3!

Police officers on car patrol must keep the following rules in mind:

- a) to comply with the legislation regarding traffic on public roads;
- b) to wear the service uniform, regardless of which compartment it belongs to;
- c) wear a seat belt;
- d) to use the vehicle only for the execution of the service;
- e) in special situations, to intervene for the granting of first aid and the transportation to a health facility of persons whose lives are in danger;
- f) if necessary, to intervene quickly in support of the other police officers in the field, as well as for the operative transport of detected persons to the police;
- g) to intervene promptly to resolve some situations, found ex officio, at the request of citizens or at the disposal of his immediate boss, duty officer, dispatcher, etc.;
- h) to maintain contact directly or through the transmission-reception station with the police officers on duty, in order to exchange information and provide the necessary support, if necessary;
- i) before leaving the patrol itinerary, to report, through the available means, to his immediate boss or the duty officer, the dispatcher.

During the execution of the service in the car patrol, the policemen who compose it will have in mind:

- a) areas where aggressive, turbulent elements, recidivist criminals, hosts of criminals and other such persons live;
- b) places favorable to the commission of violent crimes, as well as those where parasitic, criminal elements usually meet or appear, discos, bars or other places of public food with a night program;
- c) isolated homes of elderly people, defenseless or who by way of life and behavior are

⁵ Anane Ivan, *Management tracking bodies _ criminal law*, Pro Universitaria Publishing House, Bucharest; 2014

potential victims of criminals;

- d) roads with heavy traffic or where road accidents are frequently recorded;
- e) taximeter parking places and prompt intervention in case of special events;
- f) kindergartens, schools, nursing homes, etc.;
- g) economic units with night shifts;
- h) houses under construction, cabins, newly built neighborhoods in peripheral areas.

Police officers can use any means of transport, regardless of owner or keeper, natural person or legal person, to take legal measures that cannot be postponed and cannot be carried out otherwise.

They cannot be used:

- the means of transport belonging to the diplomatic corps;
- means of transport belonging to the rescue or fire department (even if they are not on duty);
- vehicles engaged in traffic accidents resulting in victims, in sports competitions and those in the column (including those in the official columns);
- vehicles used by officials (the president of the country, the prime minister, parliamentarians, ministers, prefects).

The expenses are paid later, at the request of the owners, and are borne from the funds of the police units or, as the case may be, by the people who determined the intervention, no later than 15 days.

Police officers can use the means of transport for:

- a) catching the wanted persons or for emergency travel to certain places where they have information that a wanted person is located;
- b) the driving to the police headquarters of turbulent persons who have caused acts of disorder and who are trying to disappear from those places;
- c) catching people who try to disappear from the scene of a crime;
- d) saving life, protecting the bodily integrity or health of persons, private and public property, other legitimate rights and interests of citizens and the community.
- e) travel to the places where traffic accidents occurred;
- f) moving to places where calamities or other special events have occurred, requiring the presence of the police;
- g) the exercise of service duties in the performance of specific police activities, regardless of whether it is during or outside the program hours.

The policeman introduces himself to the driver of the means of transport, shows him his service card and explains that he has an urgent mission to perform, which cannot be delayed, indicating the route.

In the case of using the vehicle belonging to a legal entity, it is mentioned in the route sheet or in the service order: the time and place of the stop, the route traveled, the number of kilometers traveled, the time the mission ended, the first and last name of the police officer (clearly), the police unit which includes the number of the service card and the signature.

In the case of using a vehicle belonging to a natural person, upon his request, the policeman issues a proof showing: rank, name and surname, the police unit he belongs to, the number of kilometers traveled and the duration of the mission (in hours).

Upon returning from the mission, a report is drawn up that must include: the situation that determined the intervention, the action of the policeman, the means of transport used and the owner, the route and the number of kilometers traveled, the time it took.

II.3. Pursuit on foot

Pursuit is a coercive police measure that is carried out in order to catch suspicious persons or those who, after committing an illegal act, try to run away and do not obey the policeman's verbal notice to stop .

The policeman usually runs away, summoning the suspect with the formula "*POLICE! STOP!*", a verbal notice that can be repeated during the chase.

The notices also aims to warn potential people in the area of action in order to create the necessary space for movement.

The duty officer (dispatcher) is informed to notify the other patrols in the field and supplement with other forces in order to catch and identify the person in a timely manner.

The action is usually carried out by two police officers who will avoid dispersing (if there are more suspects, a favorable force ratio will be maintained).

The police are attentive to the configuration and details of the terrain, elements that can influence the pursuit action, in the sense that it can be favored or hindered.

A certain distance is kept from the person being followed , in order to observe any possible obstacles that may exist on the ground .

The policemen climb the obstacles, as a rule, through the same points used by the suspect, with caution, to prevent a possible attack from him.

The corners of the buildings are rounded at a distance of at least one meter.

Avoid following people walking past walls with entrances or on the road side of the street.

If the person enters a dark area (narrow alley, corridor, bridge, cellar), the policemen stop for a few moments listening carefully to possible noises and then resume the pursuit, respecting the rules of personal security.

If several policemen participate in the chase, different travel routes can be used, and if the route is known, the policeman can use a shortcut to get to the suspect.

During the pursuit, the police do not run with the gun in hand. The weapon provided is not used against the fleeing person, unless he has committed a serious crime and was caught in the act.⁶

II.4. The body search of the person

The body search of the person is a police measure that consists in checking by touch and observation the body, its clothing and its footwear, without losing sight of the control of any other article of clothing or accessory that belongs to it.

In the situation where there is data and information that crimes have been committed, and the vehicles in question are transporting goods, values derived from the commission of such acts or persons pursued, the following rules must be observed when controlling the vehicle:

- after checking the documents, ask the driver and passengers to get out of the vehicle, one at a time, and supervise them carefully;

- identify an assistant witness, if possible;

- check the interior of the vehicle and, after that, the trunk;

- in the situation where goods and values derived from the commission of illegal acts are found, proceed to their inventory and collection for investigation purposes, in accordance with the legal provisions. This activity can be carried out on the spot or at the police headquarters;

- if a wanted person is found, you will take him to the police headquarters;

- if the person refuses the inspection in the trunk and passenger compartment, request

⁶ Buzescu Gheorghe, *Police law* - university course, Sitech Publishing House, Craiova, 2019

reinforcements, if necessary, and proceed to perform the inspection without their consent. If he resists, take immobilization measures;

The control of the person does not impose the need for authorization by the magistrate, being a right of the policeman enshrined in the law on the organization and operation of the Romanian Police. It is carried out in the field, by the policeman, whenever he deems that the situation requires it, while also ensuring respect for the rights and freedoms of the citizens.

Thus, the police have the right to control the following categories of persons ⁷:

a) those about whom there are solid indications that they have committed crimes, that they are preparing to commit such acts or that they would prepare possible terrorist actions;

b) who have violated the legal provisions, are aggressive and are to be taken to the police headquarters;

c) who violate public order and are known for violent behavior or criminal records for serious crimes;

d) who have committed contraventions, when, according to the law, the collection of the goods subject to confiscation is required;

e) who refuses to present their identity documents for control, in order to identify them;

f) which are suspicious, due to the place and time of detection, the behavior or are under the attention of the police;

g) who are in a state of unconsciousness and it is necessary to identify them;

h) who participates in public demonstrations or in other places where access with weapons, products or dangerous substances is prohibited.

The control of the person is carried out for the purpose of:

a) the discovery of objects and materials that could be used to commit crimes or misdemeanors or that come from the commission of such acts;

b) finding weapons and other objects or substances that are illegally possessed and are subject to confiscation;

c) the discovery of objects with the help of which the policeman could be attacked (knife, dagger, box or other objects specially made for cutting, stabbing or hitting) or other persons;

d) finding identity documents or other documents that people refuse to present at the justified request of the police.

The person or persons are intercepted and identified according to the procedures specific to these police measures ⁸.

The control is carried out only on people of the same sex as the policeman.

Female persons can be controlled by male policemen, asking them to present the contents of their purses, to unbutton their jackets, overcoats, coats, etc., to remove the objects they have on them from their pockets, without the policeman to arrest the person in question.

If it is necessary to palpate the person's clothing and body, the support of a woman, who will be properly trained, is called upon.

The control is usually carried out in the place where the person was detected.

If necessary, the person is led to a place protected from public access (in a closed space - during the day or in a well-lit place - at night).

⁷ Anane Ivan , *The Investigation tracking bodies _ criminal* , Pro Universitaria Publishing House , Bucharest , 2014

⁸ Anane Ivan , *Elements of computerized records of the person* , Pro Universitaria Publishing House , Bucharest , 2015

When the control is not carried out at the place of detection of the person, while driving to the place of carrying out the activity, he is watched very carefully, so that he does not have the possibility to attack, run away or abandon different objects.

It is avoided, as much as possible, to carry out the control in public, crowded places, in public transport, in rooms where the public has access, where the attitude of the citizens towards the measure taken, in most cases, is not favorable, and sometimes even hostile.

The reason for taking this measure is communicated to the person in question, reminding him of the obligation to obey.

The person in question is under constant surveillance, even if he is apparently calm and submissive.

When the control is carried out by two policemen, the head of the team performs the actual control, and the partner ensures the protection of the first, by monitoring the person and the surroundings.

The policeman who carries out the surveillance of the person and the surroundings does not intervene between the controlled person and the policeman who takes the measure.

The controlled person is asked to sit in the most uncomfortable position (in the prone-supported position, leaning with his hands against a wall, tree, pole, fence or vehicle and with his feet as far apart as possible), in order not to give him the opportunity to attack or run away and can be easily unbalanced and immobilized.

Depending on the concrete conditions existing at the place where the person is checked, it can also be done with the person sitting on his knees, with his hands up, on his head or behind his back, lying on the ground, with his face down and his hands at nape or back.

The policeman must choose a position that allows him the best possible observation, stability and mobility in the use of the equipment, if necessary.

The control is usually carried out from behind the person, with the hand corresponding to the controlled part, and with the other hand the person is held from behind, by the collar of the shirt or the belt of the pants.

In the case of the execution of order measures, in the case of public gatherings or sports events, the control can be carried out, by visualization and possibly palpation, and in front of the person.

When performing the control, the following order is observed:

- a) the head (remove the hat, hat, cap, etc.), search the hair (if applicable);
- b) the right arm, from the shoulder to the wrist;
- c) the part from the neck to the middle (front and back);
- d) the right side of the body from the waist down;
- e) pool area (front, back);
- f) the right leg, from the hip to the heel;
- g) cuff and shoes (if applicable).

Then palpate, in the same order, the left side of the body and the clothing.

If necessary, in order to facilitate the control activity, the person is asked to take off his coat, coat or shoes.

When the lower part of the person's body is controlled, the policeman does not lean forward too much, so as not to be hit with the knee by the controlled person.

The policeman shows the partner, witnesses and other interested persons (the injured person) the objects found on the person.

In the case of the discovery of illegally possessed weapons, the person is handcuffed immediately, it is checked whether the discovered weapon has ammunition in the magazine,

whether it is loaded or armed, it is secured and handed over to the other police officer in the team, to be kept in complete safety conditions, and the control continues, in order to discover other possible objects.

In the case of the control of a group of people, they are placed in a line, in the most uncomfortable position, with a distance of about 2-3 steps from each other, the other policeman in the team supervises one of the ends of the group and the control starts from the other part.

As one person in the group is controlled, it is sent to the other end, proceeding in this way until the operation is finished.

The objects discovered on the controlled person are retained, as they could be used for an attack, and the possessor is questioned about them.

After the control, a report is drawn up, in the presence of an assistant witness, if there is one, otherwise his absence will be justified.⁹

III. Tactical rules regarding vehicle control

Vehicle control is the activity that aims to thoroughly check them (including the trunk), the documents of the driver and, as the case may be, of the travelers and passengers, the luggage they have on them, as well as the legality of the transport of goods or people.

Police officers can control any vehicle in the area of competence and during the performance of specific missions in order to prevent the commission of crimes or to prove them (except for those of the Diplomatic Corps).

Stopping and controlling a vehicle is carried out when:

- a) there are data and information that crimes and misdemeanors have been committed;
- b) there are suspicions that the targeted vehicles are transporting goods, values derived from the commission of illegal acts or wanted persons;
- c) specific actions are performed;
- d) special measures are applied (quarantine, filters, protection of calamity areas, isolation of areas where catastrophes occurred);

On the occasion of the control, the discovery is aimed at:

- a) to persons hidden in the vehicle in order to evade pursuit or to enter or leave prohibited places;
- b) kidnapped or seized persons, escapees, deserters;
- c) assets that come from crimes or misdemeanors or that can be used to commit them;

The stopping of vehicles in traffic is carried out by using the means of acoustic and light signaling or by the police signals provided for in "art. 88 of the Implementing Regulation of GEO 195/2002 regarding traffic on public roads, republished."¹⁰

An appropriate place is chosen that allows vehicles to be positioned outside the roadway, in parking lots or other spaces, so that the flow of road traffic is not affected.

During the night, these places must, as a rule, be illuminated, avoiding as much as possible, stopping in places where this maneuver is prohibited by law.

The stop signal is made with the arm during the day, and at night, with the illuminated or reflective stick, and in its absence by swinging a device with a red light in the vertical plane. In both situations, the supplied whistle can be used.

The policeman is stationed in the traffic lane of the vehicle to be stopped, but without exceeding the longitudinal axis of the road, and at night as close as possible to its shoulder,

⁹Eugen Neata, Mihai Pruneanu, Elements of police tactics and procedures

¹⁰Art. 88 of the Regulation on the application of GEO 195/2002 regarding traffic on public roads, republished.

when the stop signal is executed. These positions ensure the protection of the policeman and allow the driver to notice the signal in time and stop safely.

When the vehicle to be stopped travels in the same direction, the red and blue light signals and the sound signals are activated, after which, as a rule, it will drive behind the targeted vehicle until its driver complies with the signals and stop it.

Stopping can also be done by activating the device with variable messages, which will be set to the position "Stop, Police" or with the arm.

If the targeted driver does not comply with the given signals, the voice amplification device is used, asking him to stop and, as the case may be, the regulatory arm signal is executed, during the day, or with the reflective stick, during the time nightly.

When the vehicle to be stopped travels from the opposite direction, the stop signal is executed from the vehicle, on the left window, by swinging the arm or the reflective stick in the vertical plane.

If the driver of the vehicle does not stop, the pursuit is started, simultaneously with the notification of the dispatcher about the situation, the identification data of the vehicle and the reasons that led to the action, requesting the help of the forces in the area.

In the situation where there is data and information that crimes have been committed, and the vehicles in question are transporting goods, values derived from the commission of such acts or persons pursued, the following rules must be observed when controlling the vehicle:

a) after checking the documents, the driver and passengers are asked to get out of the vehicle, one at a time, and are carefully supervised;

b) an assistant witness is identified, if possible;

c) check the interior of the vehicle and, after that, the trunk;

d) in the situation where goods and values derived from the commission of illegal acts are found, they are inventoried and collected for investigation, in accordance with the legal provisions; this activity can be carried out on the spot or at the police headquarters;

e) if a wanted person is detected, he will be taken to the police headquarters;

f) if the person refuses the control in the trunk and passenger compartment, reinforcements are requested, if necessary, and the control is carried out without his consent; if he opposes, immobilization measures are taken;

g) in the event that the driver of the vehicle must be taken to the police headquarters, his vehicle will remain parked in the place of detection, the locking systems being ensured; if possible, the vehicle will remain in the custody of a person, recording their identification data; in case the vehicle must be brought to the police headquarters, it will not be driven by the driver in question.

The control is usually carried out by at least two police officers, at least one of whom will have a protective role by adopting a favorable position to supervise both his partner and the occupants of the vehicle, being prepared to intervene immediately.

The controlled vehicles and the persons registered on this occasion will be entered in the report drawn up by the police officer upon leaving the service, mentioning the registration number, the name and surname of the owner and driver of the vehicle, the time, the place, the reason for the stop and the measures taken.

The vehicle control is performed in the presence of at least one assistant witness who will be informed about the activity to be performed.

After the control of the vehicle, a report will be drawn up describing the activity carried out, the objections of the participants as well as any statements of the owner. The minutes will be drawn up in two copies, one of which will be given to the owner of the vehicle.

If goods prohibited for possession are found in the vehicle, this will be mentioned in the minutes, with a detailed description of the goods.¹¹

The control of the vehicle does not have the character of a search within the meaning of art. 100 of the Code of Criminal Procedure, it is a police activity carried out when there are solid indications regarding the commission of crimes, acts of a contraventional nature, the existence of goods prohibited for possession or derived from crimes.

III.1. Confiscation of assets intended or used to commit contraventions

The measure of confiscation of goods is applied in a complementary way to the main sanctions ordered by the control bodies of the authorities, in certain special conditions, which can result either from the general rule that disposes of the legal regime of contraventions, respectively OG 2/2001, or from special laws¹².

Mainly, in the procedure of investigation and ascertainment of the commission of a contravention act, the person authorized to apply the main sanction is also empowered to apply complementary measures, when required. The general purpose of the confiscation of goods is that of prevention, correction of illegal behavior and sanctioning by educating the commercial conduct of a violator.

In practice, the simple application of a contravention fine has not, in most cases, been effective, so that depending on the seriousness of the contravention act, as well as the degree of danger, the application of this complementary measure on goods destined for, used or resulting from misdemeanors appears as a practical measure that sanctions the violator by suffering a material damage higher than the value of the applied fine, as the case may be.

The method of application of the confiscation is addressed in detail in the content of art. 5 para. (6) and (7) and in chapter III of OG no. 2/2001 from which it follows that the assets identified by the control body of the authority, which are to be subject to confiscation, must necessarily be highlighted in a report and all the necessary conservation and preservation measures will be taken regarding them, which will be mentioned in the sanctioning act. In special cases, where the destruction of goods is required for reasons of potential danger, this mention will be made in the statement of findings.

When the goods that are the object of confiscation belong to a person other than that of the violator, the legislator establishes in art. 24 para. (3) from OG 2/2001 the duty of the ascertaining agent to establish who is the owner of the confiscated goods and if they belong to a person other than the violator, the minutes shall mention, if possible, the identification data of the owner or specify the reasons why identification was not possible. The minutes are communicated to her as well, with the possibility to challenge the sanctioning act, but only with regard to the measure imposed on her assets. Complaints against the measure of the fine can be made exclusively by the violator.

The active procedural quality in the two cases above is justified by the material damage suffered by each of the parties. That being the case, the fine that the violator pays creates a direct damage to his patrimony, and the measure of confiscation causes the third party owner of the goods to suffer a diminution of his own patrimony, as a result, neither of the two parties can challenge the minutes for values that are not theirs. are directly imputed.

Opelegis character of confiscation

Both from the interpretation of the provisions that provide for the complementary

¹¹Ion Tomescu, Tactics Manual Edition 8, CH Beck Publishing House, Bucharest, 2012

¹²Buzescu Gheorghe, *Peculiarities of contraventional law*, Sitech Publishing House, Craiova 2017

sanction of confiscation, as well as from the practice of the courts, we observe the fact that this is applied *ope legis* in the event that the ascertaining agent applies a main sanction, regardless of what it is, if there are goods destined for, used or results from the contravention.

Thus, it is considered that the application of the complementary contravention sanction of confiscation derives from the simple finding of the contravention, its application being mandatory, unless the special law provides otherwise, without the intervention of a court.

The *ope legis* character of the confiscation produces procedural effects, because it has been appreciated in jurisprudence that the court can give effect only to the re-individualization of the main sanction, and not to the re-individualization of the complementary sanction of confiscation. However, what would be the effects of the principle of proportionality regarding the complementary sanction of confiscation?

We could state that the principle of proportionality applies only in the case of the application of the other complementary sanctions provided for in art. 5 para. (3) from Ordinance no. 2/2001:

- b) suspension or cancellation, as the case may be, of the approval, his agreement of the authorization to exercise an activity;
- c) closure of the unit;
- d) blocking the bank account;
- e) suspension of the activity of the economic agent;
- f) withdrawal of the license or approval for certain operations or foreign trade activities, temporarily or permanently;
- g) dismantling the works and bringing the land to its original state.

Therefore, the application of one or more of these complementary sanctions will be carried out depending on the nature and gravity of the act.

We reach this conclusion following the interpretation of the provisions of art. 24 para. (1) from Ordinance no. 2/2001, which stipulates: "The person empowered to apply the sanction also orders the confiscation of assets intended for, used or resulting from contraventions."¹³

It is obvious, thus, that it does not remain at the discretion of the investigating agent to apply this complementary sanction in the event that goods were intended, used for the commission of the contravention act or goods were obtained as a result of the commission of this act. Moreover, the legislator has even regulated the hypothesis in which these goods are no longer found, in this situation the offender is obliged to pay their consideration.

It is important to state that there are express provisions in various special laws regarding the confiscation of illicit income obtained as a result of the commission of the contravention act.

"The following acts impose the confiscation of the goods intended for, used or resulting from the contravention, as well as the income obtained, the protection of the population against commercial activities, the protection of the ¹⁴consumer ¹⁵and the obligation of economic operators to use the marking machines. ¹⁶"

However, the CJEU established that the states have the right to establish sanctions, but when using this competence they are obliged to comply with Community legislation and the

¹³Art. 24 paragraph (1) of Ordinance no. 2/2001

¹⁴Art. 3 of Law no. 12/1990 on protecting the population against illicit production, trade or service activities, republished

¹⁵Art. 61 para. (1) from Ordinance 21/1992 on consumer protection, republished

¹⁶Art. 61 para. (1) from Ordinance 21/1992 on consumer protection, republished

principle of proportionality by virtue of which the administrative measures and established sanctions must not exceed what is strictly necessary to achieve the objectives pursued, and the control procedures must not be accompanied by a sanction that is disproportionate to the seriousness of the violation so as to constitute an obstacle to the freedoms conferred by the Treaty of the European Communities.

The suspensive nature of the contraventional complaint

OG no. 2/2001 expressly provides through art. 32 para. (3) the suspensive character of the contravention complaint regarding the contested measure, explicitly showing the fact that the fine measure will be suspended for the violator if he is the plaintiff before the court, and for the case that the owner of the goods is someone other than the person of the violator petitioner, the complaint will suspend execution only with respect to the goods.

In case of admission of a complaint submitted against the measure of confiscation, the goods or their value will be returned immediately, to the extent that it is no longer possible to return them.

III.2. Immobilization of the vehicle

According to the traffic regulations, art. 216:

1. The immobilization of a vehicle is ordered and carried out by the traffic police, in the cases and under the conditions provided by law.

2. The immobilization is done in the presence of an assistant witness, by using, inside or outside the vehicle, some technical devices or other means of blocking, which are recorded in the record of the fact for which the measure was ordered.

3. In the absence of an assistant witness, the traffic policeman specifies the reasons that led to the conclusion of the report in this way.

4. Immobilization of a vehicle is prohibited in all places where stopping or parking is prohibited.

Art. 217:

1. When the immobilization of a vehicle transporting dangerous products or substances is required, according to the law, the traffic policeman is obliged to notify, immediately, the police unit of which he is a part in order to establish himself, together with the units of the General Inspectorate for Emergency situations, the final destination for parking the vehicle.

2. The immobilization of a vehicle that transports goods or dangerous products or with exceeded dimensions and/or masses is ordered by the traffic police, under the conditions established together with the representatives of the authorities with attributions in the field.

Art. 218:

The revocation of the immobilization is ordered:

1. by the traffic policeman who ordered it, if he is present, and the reasons for which it was ordered have ceased;

2. by the head of the traffic police service of which the investigating officer is a part, if the reasons for which the measure was ordered have ceased;

3. by the prosecutor or the court, when the vehicle was the object of a crime.¹⁷

III.3. Preventive measures

For the purpose of applying the legal provisions, defending public order and peace, the fundamental rights and freedoms of citizens, public and private property, preventing and

¹⁷Florin Mihăiță, Criminal law. Aspects regarding the complementary measure of confiscation of the means of transport provided for by GEO no. 12/2006.

discovering crimes and other violations of the laws in force, protecting the fundamental institutions of the state and combating acts of terrorism, police officers carry out certain operational (tactical) measures with the aim of preventing antisocial acts or for identifying, catching and immobilizing criminals, releasing some people, etc.

Police measures are administrative in nature and is executed in compliance with the legal provisions, based on tactical rules derived from the activity of law enforcement and public safety forces and from European police standards. The execution of police measures is subject to the control of magistrates, to the extent that a crime has been committed through the method of application and the consequences of their execution, as well as to hierarchical control in the event that non-compliance with the orders and provisions issued by the Minister of the Interior and Administrative Reform and the inspector is found general of the police. Police measures can be: preventive: interception, identification, body control of the person, baggage control, vehicle control; coercive: immobilization, driving to headquarters and using the equipment provided. The measures provided by criminal and contraventional legislation (detention, body search, contraventional sanctions, etc.) will be executed under the conditions provided by the code of criminal procedure and special laws, being subject to the control of magistrates.

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