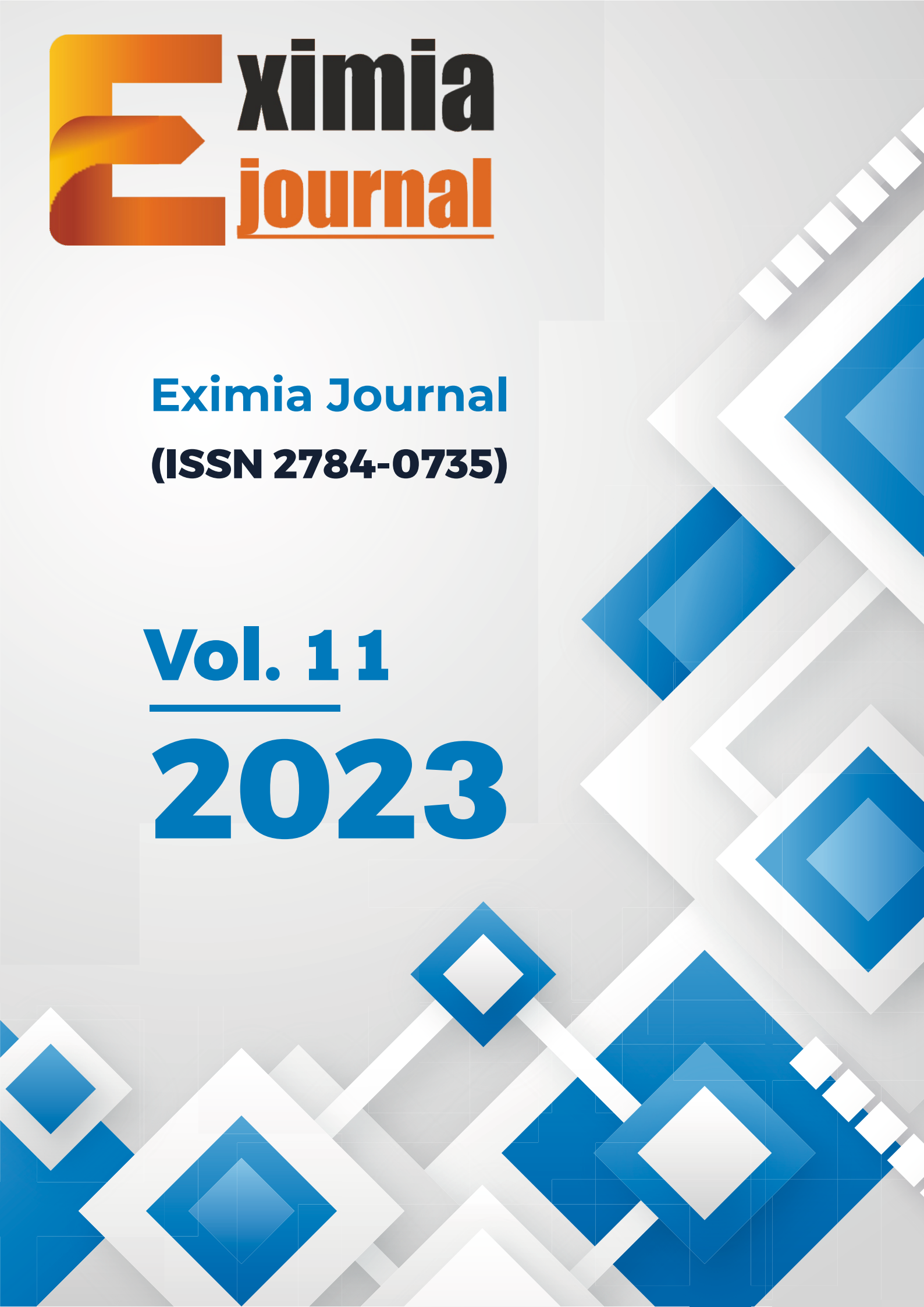




Eximia Journal
(ISSN 2784-0735)

Vol. 11

2023



Stop and account process

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Abstract. Over time, we notice that the measure of identification of persons has undergone small changes, and the refusal of identification has become a problem among police officers performing their duties. Thus, the laws were created to ensure public order and the safety of citizens, and then to sanction violators. In the theme, we took into account what various authors have published in the books written by them, regarding the identification of people and all the activities that a policeman has the obligation to perform, as well as the laws by which the French police carry out their activity. The purpose of stop and account a person is to procure a set of rules for establishing a person's identity and carrying out the tasks regarding the preparation and approval of the documents related to this procedure. Romanian and foreign citizens have the obligation to legitimize themselves on the territory of Romania either with an identity document, or verbally if they do not have any document on them, whenever they are asked to do so by the officers and agents of the Romanian Police, as well as on the territory of France.

Keywords. Public order, preventive measures, legal measures, teamwork, suspicious persons

I. General considerations regarding identification of persons

I.1. The content of the procedure for stop and account persons, the purpose and scope of applicability

From the very beginning, among the needs of the first variants of human collectivities was also the need for safety and order. Over the years, the notion of public order and safety has been studied and treated in various styles, but each time it has been closely related to the police right of the state.

The preservation and evolution of the state as a socio-political entity up to the established level nowadays is based, among other things, on the maintenance of public order and tranquility.

The notion of public order and safety should be perceived in close connection with society's effort to maintain social stability by observing determined and generally approved social provisions, protecting the life and health of citizens, protecting social rights and freedoms, property rights and others social values, generally recognized in a country.

It can be stated, without dispute, that public order and safety have an indestructible duality, in the sense that they are presented simultaneously under the constitution of a legal situation.

In modern society, there is a large diversity of powers whose duties are to maintain public order and safety, such as:

- The police;

- Gendarmerie;
- Border Police;
- Local police;
- Information services.

The purpose of the procedure for identification of persons reflects obtaining an inseparable set of rules for establishing identification of persons and obtaining responsibilities regarding the drafting and approval of documents related to these activities.

"In the performance of his duties, according to Law no. 218/2002 on the organization and operation of the Romanian Police, the policeman has the right to ask us to prove ourselves and to find out our identity if we violate the legal provisions or there are indications that we are planning or have committed an illegal act."¹

The procedure for identification of persons is used by the officers and agents of the Romanian Police. "The activity of the Romanian Police is carried out exclusively on the basis and execution of the law. Police officers cannot be part of political parties or formations."²

Before the public order bodies proceed to identify the person, they intercept the person in question. The person is not deprived of his freedom by interception, he is justified "to stay in place for a short time"³, in the sense of clarifying an existing circumstance.

The interception of a person also entails the execution of the police identification measure.

"The interventions, procedures and methods used by the policeman depend on the situation, it is important that he does exactly what is necessary and is able to appreciate the situation, doing his duty with minimal efforts and risks."⁴

The intervention operation, in addition to the ethnic configurations that need to be resolved, also requires taking into account some rules on which it is based and whose fulfillment leads to the success of the police actions.

These rules have their basis in the existing legal provisions (laws, provisions, instructions, procedures), but also in the experience gained by police officers over time and constitute a guide for those who carry out work in the field.

Drawing a parallel to the manner and rules according to which the French police carry out their activities, we can say that "Judicial police officers, as well as police agents, under their command and responsibility can verify by any means the identity of a person regarding whom there are several suspicions, respectively:

- that he has committed or is trying to commit a crime;
- that he is preparing to commit a crime or a misdemeanor;
- that it is likely to provide useful details to an investigation in the case of a crime;
- in case of violation of obligations or prohibitions in the framework of judicial control or in the case of a preventive measure of house arrest under electronic surveillance, as well as in the case of execution of a prison sentence ordered by the court;
- if it is the subject of a warrant/tracking files ordered by a judicial authority; on the basis of an order of the prosecutor in order to establish the mentioned crimes, the identity of any persons can also be verified in the same way, in certain places and periods of time established

¹https://www.avocatnet.ro/articol_51083/Soferii-vor-putea-plăti-din-nou-amnzile-rutiere-direct-la-polițist-a-votat-Senatul.html

²Law no. 26 of May 2, 1994 regarding the organization and functioning of the Romanian Police

³Buzescu Gheorghe, *Rules of police theory and practice*, Pro Universitaria Publishing House, Bucharest 2016

⁴Buzescu Gheorghe, *Police Law - university course*, Sitech Publishing House, Craiova, 2019

by the magistrate. The fact that, following the identity check, other crimes specified in the prosecutor's order are found, does not constitute a cause of nullity.

The identity of any person, whatever his behavior, can also be verified according to the provisions of the first paragraph in order to prevent the disturbance of public order, especially the safety of people and property.

In an area between the land border of France together with the states participating in the Schengen Convention of 19.06.1990 and a perimeter of 20 km inside the French territory, as well as in areas accessible to the public (ports, railway stations, airports, etc.) open to traffic international, for the prevention and combating of cross-border crimes, the identity of any person can also be verified according to the provisions of the first paragraph, in order to comply with the obligations of holding, handling and respecting the documents provided by law. Once the control takes place in a train making an international connection, the control can be carried out in the area of the route located between the border and the first stop located 25 km from the border."⁵

The local police, established approximately recently, in Romania, is described as a unit with a prominent social function holding a strong public service authority entrusted to the citizen.

The essential reason for the appearance of the local police in Romania is closely related to the proximity of the public order and security forces to the citizen and civil society, to the acquisition of the sympathy and trust of the citizen, who daily encounters circumstances that require the intervention of the law enforcement forces to restore order social or ask for protection in the face of the wave of crime that our country faced after December 1989.

"The local police is a public service of local interest, which appeared for the purpose of ensuring public order and safety, compliance with legal provisions regarding traffic on public roads, ensuring security and protection of objectives of local interest, compliance with legislation in the field of urban planning and construction discipline, the protection of the environment, trade and other norms of local interest established by laws and administrative acts."⁶

The local police in Romania actively collaborates with other forces to maintain order and public safety based on the legislation in force, such as:

- Romanian police;
- Gendarmerie;
- Border Police;
- Secret services;
- Prosecutor's offices and courts of law;
- Other central and local public administration authorities.

"Throughout history, different communities and human societies have constantly manifested their need to defend their members, the rules of coexistence established by mutual agreement, as well as collective and private property. Preserving order and peace in the community was the basic concern of human communities and societies regardless of the historical period or social order.

⁵Criminal Procedure Code, Legislative Part, General Part: Conduct of general policy, exercise of public action, Title II: Investigations and identity checks, ch. III, art.78.2, amended by Law 2017-1510 of 30.10.2017

⁶Popa George, *The local police in today's Romania* , Muntenia Publishing House, Constanta 2013

In order to ensure this climate of order and discipline, of respect for social norms, state police law was promoted in various forms."⁷

The purpose for which the local police is established is the exercise of tasks on the defense of the fundamental rights and freedoms of the person, of private and public property, the prevention and detection of crimes, in areas such as:

- Public order and peace;
- Traffic on public roads;
- Construction discipline and street display;
- Environment protection;
- Commercial activity;
- Records of persons;
- Other areas established by law.

"The local police carry out their activity based on the principles:

- o Legality;
- o Trusts;
- o Predictability;
- o Proximity and proportionality;
- o Openings and transparency;
- o Efficiency and effectiveness;
- o Liability and responsibility;
- o Impartiality and non-discrimination."⁸

According to the law in force, in order to fulfill their duties, local police personnel exercise their competence within the administrative-territorial unit/subdivision where they perform their work.

I.2. Description of the procedure

"The stop and account of a person is a preventive police measure, which consists in requesting and verifying the identity card or other identification documents, in order to know their civil status data, citizenship, domicile, or residence."⁹

The application of the police activity emphasized the need to respect some tactical principles and a certain procedure with reference to the conduct of identification in the street, namely:

- The police body has the duty to salute and decline its status, and when in civilian uniform to present the badge and service ID;
- It is executed with caution, in order to avoid an attack on the part of the authorized person, or his escape. At the moment of identification, the policeman will hold the identity document at an appropriate height, remaining in front of the person being identified at a relative distance of 1-2 meters, attentive to any action of the person, so that he can intervene effectively, if the situation requires it;
- The identity card or other document presented is checked with great vigilance, to ascertain whether it belongs to the respective person, contains changes, erasures, falsifications and whether the photo matches the person's appearance. Questions are also asked with reference to the justification of the presence in that place and the data entered on the identity document;

⁷Popa George, *The local police in today's Romania*, Muntenia Publishing House, Constanta 2013

⁸Law no. 155/2010- regarding the Local Police Law

⁹Buzescu Gheorghe, *Elements of public order*, Pro Universitaria Publishing House, Bucharest 2016

- Avoid, as much as possible, identification in overcrowded, dark places or where this measure could not be carried out in good conditions, either due to the curiosity of the people participating, or the unwanted intervention of some of them.

"The policeman takes the identification measure when:

- a) The person violates the legal provisions;
- b) There are solid indications that the person is preparing or has committed an illegal act;
- c) The person is suspicious (according to his behavior, luggage, outfit, the place where he is, creates suspicion among the police officers on duty).
- d) The person can give clarifications or other aspects that present interests for solving the duties of the policemen;
- e) The person requests entry into a legally restricted perimeter;
- f) The authorized person is used as an assistant witness."¹⁰

"One of the following procedures is used to identify individuals:

- a) Verification of the identity documents of the person;
- b) Verification of another document issued by institutions or other public authorities (passport, driver's license, service card), with recent photographs.
- c) Establishing the identity of a person with the help of other citizens, who can provide information about his identity.
- d) Carrying out checks in the records/databases that can be accessed by the Romanian Police."¹¹

"For the identification of a person, the policeman performs the following activities:

- a) Intercept the person;
- b) Ask for your ID, using the formula: GOOD MORNING (EVENING)! I AM (policeman's last name, first name and professional rank) FROM (police unit), PLEASE SHOW MY IDENTITY.
- c) When identification is carried out by two policemen, one of them checks the identity document, and the other supervises the behavior of the person being identified, positioning himself 2-3 steps away from him, towards the back and to the side. As the case may be, the police officer who supervises the authorized person will have the means of the endowment ready to intervene at any time.
- d) The identity document is kept at an appropriate height, which allows both the permanent and careful supervision of the person's behavior, as well as the verification and reading of its content.
- e) Questions regarding the identity data of the person are addressed in a different order than those that are recorded in the act."¹²

The police officer checks whether the document presented:

- a) It is developed by the competent authority;
- b) Agree in form and content;

¹⁰Anane Ivan, *Elements of theory and tactics of criminal investigation bodies*, Pro Universitaria Publishing House, Bucharest 2014

¹¹Anane Ivan, *Elements of computerized records of the person*, Pro Universitaria Publishing House, Bucharest, 2015

¹²Buzescu Gheorghe, *Elements of public order*, Pro Universitaria Publishing House, Bucharest 2016

- c) Does it belong to the person or not, in the sense that the photo in the document matches the owner's appearance and whether the civil status data matches those declared by the person in question;
- d) The validity period for which it was issued has expired;
- e) It shows traces of forgery, has erasures, changes, corrections, additions, or includes impermissible written or stamped mentions, or is damaged.
- f) It is kept in appropriate conditions, it is not degraded, and if the person has taken measures to avoid its degradation or destruction.
- g) It includes the prohibition for the holder to be in that locality or to abandon a locality without consent.

"The local police carry out their activity:

- a) In the interest of the local community, exclusively based on and in execution of the law, as well as the acts of the deliberative and executive authority of the local public administration;
- b) In accordance with the regulations specific to each field of activity, established by administrative acts of the central and local public authorities."¹³

By applying the most effective techniques, methods and procedures and by following the principles of police tactics, police officers can complete their missions safely, because, as we well know, police officers encounter different circumstances that can only be clarified on the basis of the laws and using all time the tactical rules appropriate to each situation.

Strict compliance with the tactical rules ensures the public order body of the successful solution of the encountered problem, avoiding mistakes in the intervention and managing to finish the mission successfully.

In order for a policeman not to be subjected to difficult situations in the event of an intervention, he must maintain an optimal physical condition. Also, he must have quick thinking and increased physical resistance, so he will be able to choose and apply the necessary force in the required situations.

The rule "One policeman covers and the other moves and takes the initiative" is always followed.

I.3. Responsibilities of public order bodies

" Complying with the principles and rules of this code is a policeman's duty of honor."¹⁴

The head directly coordinates, supports, guides and verifies the persons who execute the procedure, following the observance of it and the revised versions.

The persons who apply this procedure use the original version, as well as the revised versions from the date of their entry into force.

The current procedure does not remove or delimit the duty of the personnel involved in these activities to adopt and honor the normative acts or provisions in force, as well as the provisions of the Organization and Operation Regulation and the Job Description.

"In the exercise of his duties, the policeman is obliged to present his badge or service card, as the case may be, in order to make his quality known in advance, except in cases where the result of the intervention or the subsequent safety of the policeman would be endangered."¹⁵

Legitimation is carried out only for the purpose of performing official duties.

¹³Buzescu Gheorghe, *Elements of public order*, Pro Universitaria Publishing House, Bucharest 2016

¹⁴The code of ethics and deontology of the policeman. Decision 991/2005

¹⁵Law no. 218 of April 23, 2002 regarding the organization and functioning of the Romanian Police

Public order bodies are responsible, under the law, for the way they carry out their duties. If they, otherwise, violate their service duties, they will be held disciplinary, patrimonial, civil or criminal, as the case may be, according to the law.

The public order bodies have the duty not to commit acts that bring damage to natural or legal persons or to the prestige of the police units from which they originate and/or public authorities.

In the execution of his official duties according to the law, the policeman must "legitimize and establish the identity of persons who violate the legal provisions or are suspicious and take the necessary legal measures."¹⁶

The bodies in charge of maintaining public order are responsible for avoiding stopping people "in bumpy areas, in the middle of the road, in the crowd or in dark places".¹⁷

During an intervention, the policeman has the responsibility to adopt an appropriate, honest, but authoritative behavior. He must treat the situation with calmness, courage and firmness and approach a decisive attitude.

His wrong or incorrect intervention can lead to unpleasant reactions, to the instigation of people, unsuccessful intervention or even outrage of the policeman. In order for the policeman's action to be effective in any situation, he must adopt an appropriate vocabulary, speak rarely and persuasively, using an authoritative tone and rely on logical and legal arguments in order to persuade the criminal to stop the criminal action.

"The opportunity to intervene and the execution of professional tasks involves respecting the dignity of persons and presupposes humanity, politeness, tact, respect, avoiding uncertain assertions without legal basis, tendentious or threatening, short and concise discussions."¹⁸

The reputation of the policeman has a real impact on the success of his action. The public order body must be sure of the fact that, without gaining the trust of the citizens, without the support of public opinion, neither the work of the police, by virtue of public excellence, would achieve its objective.

Based on the prosecutor's order, the French judicial police officers have permission to enter professional premises, as well as their annexes, except in the case where they constitute a residence or are in the course of construction, repair, in order to:

- Ensuring that the activities have been registered in the Trade Register;
- Verification of the unique staff register and related documents;
- Verification of the identity of the persons appearing in the Register.

The local police have the duty to communicate in the shortest possible time the data related to the violation of the law, other than those that they can establish, obtained through the performance of specific missions and activities.

The local police have duties in the field of:

- ✓ Public order and tranquility;
- ✓ Traffic on public roads.

In order for the local police officers to be able to carry out their work, they have access, under the law, to the databases of the Ministry of Internal Affairs.

¹⁶Law no. 218 of April 23, 2002 on the organization and functioning of the Romanian Police

¹⁷Buzescu Gheorghe, *Rules of police theory and practice*, Pro Universitaria Publishing House, Bucharest 2016

¹⁸Anane Ivan, *Management of criminal investigation bodies*, Pro Universitaria Publishing House, Bucharest, 2014

The local policeman who holds a leadership position is responsible for the orders and dispositions given to subordinates. He has the obligation to check whether they have been transmitted and understood correctly and to control the method of implementation.

"The local police officer with a leadership position is obliged to support the motivated proposals and initiatives of subordinate personnel, in order to improve the activity of the local police in which they carry out their activity, as well as the quality of public services offered to citizens."¹⁹

The Romanian Gendarmerie is a military organization with duties in ensuring, maintaining and restoring public order and tranquility, transporting and guarding valuables, goods and dangerous materials, as well as guarding and defending the objectives of particular importance. This institution is subordinate to the Ministry of Internal Affairs.

The individual means of intervention in the equipment of the police officers, used for the execution of police tasks are:

- ✓ Handcuffs;
- ✓ Self-defense sticks;
- ✓ Electrostatic batons;
- ✓ Firearms or rubber bullets;
- ✓ Devices with irritating lachrymatory substances;
- ✓ Other means of immobilization that do not endanger life or cause serious bodily injury.

Police officers can use weapons only in situations that oppose this action, under the conditions of the law in force.

In order for police officers to be able to use the individual equipment provided, they must take into account:

- The constitutional rights of individuals and of the law;
- To legally justify all actions undertaken;
- To estimate the level of danger of the persons against whom measures will be taken;
- To constantly monitor the targeted persons and those around them;
- Fixing the attributions of action in the team;
- The consternation of people who behave violently towards the measures to be taken and the description of the measures to which they are subject in case of opposition;
- Protection of the life, health and bodily integrity of the persons whose protection is ensured;
- Maintaining proper posture and self-control.

The use of resources by the public order bodies must not exceed the real needs for stopping or annihilating aggressive actions.

II. The stop and account of persons

II.1. The mode of intervention in case of identification of a group of people

In the case of identification of a group of people, they are placed in a line, the identity documents of each one are collected, and in the condition where the work is carried out by two policemen, one of them monitors the behavior of those identified.

If the searched document is in order and does not require legal action against the authorized person, the policeman returns the document to him and continues his activity.

¹⁹Buzescu Gheorghe, *Elements of public order*, Pro Universitaria Publishing House, Bucharest 2016

If the authorized person does not have any identity documents, but procures the personal data, the policeman checks them in the databases and, depending on the situation, takes legal measures.

The policeman prevents, as far as possible, the identification in overcrowded areas, where this measure cannot be carried out in good conditions due to the indiscretion of the people nearby, or the undesirable intervention of some of them, or in places protected from light.

"Method of intervention in case of identification of a group of persons:

Policeman A:

- He stops people and causes them to sit in a line in front of him;
- Keep a distance of approximately 1-2 meters from the group slightly to the left or right side;
- He goes to each member of the group, asking for his ID;
- Check each identity document separately, respecting the general rules.

Policeman B:

- Help policeman A to stop the group and get them to line up;
- He is posted on the left side or on the right side of the group, depending on the position of police officer A, whom he constantly supervises, ready to intervene at any moment.
- He is attentive to any noise or people passing by;
- In case of aggression against policeman A, he intervenes with the rubber baton to immobilize the unseated person, and in extreme case, he uses the weapon provided, under the law."²⁰

If the policeman intervenes for stop and account on a family group, he must pay extra attention to the reaction of the children, the husband, the wife, the parents, the grandparents, as the case may be, and especially not to humiliate one or some of them in front of the others. The competent police officer must not take measures in the presence of other family members. They can stop him from exercising his legal duties and give you the wrong impression about the policeman, the police or the uniform.

"Based on the prosecutor's order, in certain places and for a determined period of time, which cannot exceed 24 hours, which can be renewed based on an express request, the police can proceed to carry out identity checks to prevent and combat the following crimes :

- Acts of terrorism, provided for in art. 421-1, 421-6 of the Criminal Code;
- Offenses against the regime of weapons of mass destruction provided for in the Defense Code;
- Offenses regarding the weapons regime provided for in the Internal Security Code;
- Offenses under the regime of explosive substances provided for in the Defense Code;
- Offenses of theft provided for in the Criminal Code;
- Drug trafficking." ²¹on French territory.

II.2. Refusal of identification

The refusal of identification, according to the current laws, is a contravention, thus the execution of the contraventional law brings difficulties at the community level, any community consists and works under certain laws, any action that contravenes the law applied in a state, attracts legal liability, and this liability it varies depending on the nature of the directive or the social risk.

²⁰Buzescu Gheorghe, *Rules of police theory and practice* , Pro Universitaria Publishing House, Bucharest 2016

²¹Criminal Procedure Code, Legislative Part, General Part: Conduct of general policy, exercise of public action, Title II: Investigations and identity checks

In the situation where the person refuses identification, or to provide statements regarding his identity, the policeman draws his attention to the fact that his action constitutes a contravention and is penalized according to the law. We can say that, "refusal of a person to provide information to establish his identity, to identify himself with an identity document or to appear at the police headquarters, at the request or at the justified invitation of the criminal prosecution or law enforcement bodies public authorities, in the exercise of their duties constitutes a contravention" ²², this "being sanctioned with a fine from 100 lei to 500 lei" ²³.

If the person does not continue to present the identity document or does not declare the identification data, the police officer performs a brief body control, in compliance with the legal provisions in force, and if he discovers the document on the person, after establishing the identity, he applies the contraventional sanction.

"Persons suspected of actions endangering public order, people's lives or other social values, who refuse to decline their identity or it cannot be established, are taken to the police headquarters for clarification of the situation and, as the case may be, their presentation, by immediately, in front of the competent criminal investigation body, activities that cannot last more than 24 hours."²⁴

In the situation where, following the execution of the control of the person, the identity document is not on him, the policeman will act to accompany the person to the police headquarters. After the person is brought to the police headquarters, they are identified by fingerprinting and photographing, by the forensics service worker on duty. After which, after querying the NBIS database (database that brings together Imagetrak - a facial recognition program and Afis2000 - recognition system based on papillary impressions) the person will be identified.

People can be fingerprinted and photographed only with their consent.

If the registered person tries to run away or attack the policeman, he takes measures to immobilize and drive him to the police headquarters.

"The verification of the person's situation and the taking of legal measures, as the case may be, is carried out in no more than 24 hours, as an administrative measure, the police trying to establish the identity through other identification procedures."²⁵

In the case of accompanying the person to the police headquarters to identify his identity, the police officer draws up a verbal identification process.

"According to Government Ordinance no. 2/2001- regarding the legal regime of misdemeanors, with subsequent amendments and additions, the misdemeanor is defined as the deed committed with guilt, established and sanctioned by law, ordinance, by decision of the Government or, as the case may be, by decision of the local council of the commune, the city, the municipality or the sector of the municipality of Bucharest, the county council or the General Council of the Municipality of Bucharest."²⁶

Legitimization is carried out only for the purpose of the performance of official duties, and the personal data procured are subsequently modified, only in compliance with the

²²Law no. 61/1991 for the sanctioning of acts of violation of some rules of social coexistence of order and public tranquility, art. 2, point 31

²³Law no. 61/1991 for the sanctioning of acts of violation of some norms of social coexistence of order and public peace, art.3, point 1, letter a

²⁴Law no. 218 of April 23, 2002 regarding the organization and functioning of the Romanian Police, ch. IV, art. 16, letter b

²⁵Buzescu Gheorghe, *Elements of public order*, Pro Universitaria Publishing House, Bucharest 2016

²⁶Buzescu Gheorghe, *Peculiarities of contraventional law*, Sitech Publishing House, Craiova 2017

provisions of the law on the protection of personal data, according to Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and their free circulation, which "aims to guarantee and protect the fundamental rights and freedoms of natural persons, especially the right to intimate, family and private life, regarding processing of personal data."

"If the person does not present the identity document, the policeman performs the physical control of the person and, depending on the result, proceeds to:

- Sanctioning the person for contravention (if the police officer finds that the person refused to show identification, but had the document on him);
- Driving to the police headquarters (in case the identity document is not discovered during the body control) for checking in the database."²⁷

According to the French Penal Code, "if the person in question refuses or finds himself unable to identify himself, he can be detained on the spot or at the headquarters of a police unit, where he is taken at the end of his identity verification. In any case, he is immediately presented to a judicial police officer, who gives him the opportunity to provide by any means elements that allow the establishment of identity and who proceeds, if necessary, with the necessary verification operations. He is also informed by it of his right to inform the prosecutor of the verification of his identity or to notify, at any time, the family or any other person mentioned. In certain situations, the judicial police officer can himself notify the family or the mentioned person.

In the case of a minor under the age of 18, the prosecutor must be informed from the moment of detention. If this is not possible, the minor must be assisted by his legal representative.

The person who is the subject of identification can only be detained for the time necessary to establish his identity.

The detention cannot exceed 4 hours from the moment of the control, with the application of art. 78-2, and the prosecutor can decide to end the detention period at any time.

If the interrogated person continues to refuse to declare his identity or submits inaccurate identity elements, the checks may continue, only with the prosecutor's approval, with the fingerprinting and photographing of the person in question, if this is the only means of establishing the identity."²⁸

According to the definition of the contravention, we can say that its organization is accentuated by a multitude of characteristic components intended to legalize administrative law.

The contravention constitutes a:

- Deed committed with guilt;
- Deed with less danger than the crime;
- Act foreseen and sanctioned by the decision of the Government or the Council of the Municipality of Bucharest.

The contravention is representative of the perpetrator's attitude in the social sphere, his process against social importance, but which is not defined as a criminal act.

²⁷<http://www.editura.mai.gov.ro/documente/biblioteca/2010/Ghid%20circulatie%20Schengen/ghid%20privind%20circulatia%20si%20schengen.pdf>

²⁸Criminal Procedure Code, Legislative Part, General Part: Conduct of general policy, exercise of public action, Title II: Investigations and identity checks

"The place of committing the contravention is determined by the commission or omission nature of the contravention. If the offense is committed by action, the place of commission of the offense is the place where the result of the illegal action occurred."²⁹

"Responsibility must exist at the time of committing the contravention and is distinguished from contraventional liability. Responsibility is a psychological category, while contraventional liability represents the obligation of the person who committed a contravention to bear the consequences of his act."³⁰

III. Stop and account of Romanian and foreign citizens on the territory of Romania

III.1. Stop and account of foreign citizens

According to the legislation in force, the concept of foreigner is perceived as a person who does not have Romanian citizenship.

In Romania, foreigners benefit from the general security of the person and the property, ensured by the Constitution and other laws, as well as by the jurisprudence provided for in the international treaties in which Romania participates.

Foreigners located on the territory of Romania cannot benefit from the advantages of founding political parties or other concerns or other concepts similar to them, nor can they participate in them, they cannot hold positions and titles in the public, civil or military administration and they cannot train, coordinate or attend demonstrations or activities that offend public order and peace or national and local security.

If the legalization measure is carried out against a foreign citizen, against whom there are suspicions regarding the legality of entering and living in the territory of Romania, the police officer asks for the help of the competent structures.

Also, foreigners cannot subsidize groups, structures or demonstrations or gatherings, during their residence in Romania, instead they have the duty to respect the laws of the country.

The policeman should be able to record in the report the identity data of the authorized persons and the measures ordered when leaving the service. "The collection, storage and use of personal data by the police are done in accordance with the law and will be strictly limited to what is necessary to achieve the legitimate and specific legal objectives of the police."³¹

Foreigners can enter Romania for the following activities:

- ✓ Business;
- ✓ Press activities;
- ✓ Employment;
- ✓ For study;
- ✓ In transit;
- ✓ As tourists;
- ✓ In other interests, under the current law.

The entry of foreigners into the territory of Romania is carried out by presenting valid documents for crossing the state border, identified and accepted by the Romanian state, as well as the Romanian visa.

"Foreign citizens on the territory of Romania can prove their identity with one of the following documents:

- Passport or any other legal border crossing document;

²⁹Buzescu Gheorghe, *Peculiarities of contraventional law*, Sitech Publishing House, Craiova 2017

³⁰Anane Ivan, *The investigation of criminal investigation bodies*, Pro Universitaria Publishing House, Bucharest, 2014

³¹The code of ethics and deontology of the policeman. Decision 991/2005

- The residence card for residents who are issued to foreign citizens by the Romanian authorities and who have received permission to establish their domicile in Romania;
- Temporary identity document;
- The temporary identity document issued by the Romanian authorities to applicants for refugee status;
- Temporary residence permit;
- Travel title;
- The passport for stateless persons."³²

In the French Republic, "any person who is in the national territory is obliged to submit to an identity check carried out under legal conditions and by the police authorities" ³³charged with these duties.

The government can decide to exempt certain citizens of other states from the requirement of visas.

The entry of foreign citizens into the territory of Romania can be carried out through any control point for crossing the state border open to internal and international traffic.

The crossing of the Romanian state border by foreigners can also be done through other points, in the situations established by Romania and the neighboring states. The Romanian visa is issued, upon request, by the state institutions or consular offices of Romania.

The government can unilaterally decide the destruction or acquisition of the Romanian visa by the citizens of some states at the control points for crossing the state border. Depending on the objective of the foreigner's trip, the visa can be:

- Diplomacy;
- On duty;
- Simple;
- For transit.

The visa can be issued as follows:

- ✚ Diplomatic visa and service visa by the Ministry of Foreign Affairs;
- ✚ Simple visa and transit visa by the diplomatic missions or consular offices of Romania, the control points for crossing the state border, the Ministry of Foreign Affairs or the Ministry of Internal Affairs.

The simple visa can be issued for:

- Business;
- Press activities;
- Request for employment;
- Studies;
- Tourist purpose;
- Visit;
- Other needs for which the foreigner requests to obtain a visa under the conditions provided by the laws of the Romanian state.

"Foreign citizens can enter Romania under the conditions of the Government Ordinance no. 194/2002 regarding the regime of foreigners in Romania, with subsequent amendments and additions and the Emergency Ordinance no. 102/2005 regarding the free movement on the

³²<https://www.politisti.ro/forums/topic/6690-legitimarea-cetatenilor-romani-si-straini-pe-teritoriul-romaniei/>

³³Criminal Procedure Code, Legislative Part, General Part: Conduct of general policy, exercise of public action, Title II: Investigations and identity checks, Chapter III, art. 78.1, amended by Law 99-291 of 15.04.1999

territory of Romania of the citizens of the member states of the European Union and European Economic Area, updated."³⁴

Before returning to Romania, the Border Police suggests contacting the diplomatic delegation of Romania in your country, in order to obtain subsidiary information regarding Romanian legislation.

III.2. The identity documents with which Romanian and foreign citizens are stop and account on the territory of Romania

The identity of Romanian citizens is established with the help of the identity card. This is a document that proves a person's identity.

Identity documents were produced to keep a record of natural persons, unique for each individual due to a set of data.

"Romanian citizens are registered in the National Register of Persons (NR.EP) at birth, based on the civil status data from the birth certificates"³⁵, forming an important administrative source.

Each person is given, starting from birth, a CNP which is registered in the civil status documents and certificates and is received in the other official documents, drawn up in the name of the respective person, as well as in the NR.EP

"The personal numerical code represents a significant number that individualizes a natural person and constitutes the only identifier for all computer systems that process personal data regarding the natural person."³⁶

The CNP is assigned, in the country, by the community public services for the registration of persons, respectively abroad, by the Ministry of Foreign Affairs, through the diplomatic missions and consular offices of Romania, based on the lists, with pre-calculated personal numerical codes for the current year .

The temporary identity card is issued when the natural person does not possess every document necessary for the issuance of the identity card, practiced only in the case of Romanian citizens residing abroad, for a maximum of 1 year, who live temporarily in Romania.

The identity card is the document issued to the Romanian citizen and which certifies the identity, domicile and residence of the holder. The document is issued from the age of 14.

"The identity card is issued as follows:

- a) the first identity card is issued upon reaching the age of 14;
- b) for persons aged between 14-18 years, the term of validity of the identity card is 4 years;
- c) for persons aged between 18-25 years, the term of validity of the identity card is 7 years;
- d) identity cards issued after reaching the age of 25 have a validity period of 10 years."³⁷

"The proof of Romanian identity and citizenship in the case of a minor who has not reached the age of 14 is made with his birth certificate, and the proof of domicile is made with the identity document of the parent with whom he lives permanently or with the identity document of his representative legally, as well as with the necessary documents."³⁸

³⁴<https://www.politiadefrontiera.ro/ro/main/pg-cetateni-straini-78.html>

³⁵https://www.academia.edu/11461590/MANUAL_DE_TACTIC%C4%82

³⁶https://www.academia.edu/11461590/MANUAL_DE_TACTIC%C4%82

³⁷Emergency Ordinance no. 97 of July 14, 2005 regarding the records, domicile, residence and identity documents of Romanian citizens, ch. IV, art. 16, point 1

³⁸https://www.academia.edu/11461590/MANUAL_DE_TACTIC%C4%82

"Documents that can be issued to Romanian citizens and that can be used for identification:

- The permit or work ID;
- The seaman's card that is issued to sailors on board Romanian ships;
- Passport;
- The flight license issued to personnel on board Romanian aircraft;
- Proof for Romanian citizens expelled from other states with which there are no agreements concluded in this regard and who do not have identity documents on them."³⁹

Romanian citizens living abroad can hand in the application for the issuance of the identity document, along with the documents required by law, to the diplomatic missions or consular offices of Romania in the respective state.

The documents proving the name, surname, citizenship and domicile, necessary for the issuance of the identity document, are presented in original and copy.

"By the legality of the personal numerical code, we understand, on the one hand, that the CNP is recognized, as an aptitude, by law, and on the other hand, the conditions for acquiring, modifying or changing the personal numerical code are established by the methodological norms issued in the unitary application of to it."⁴⁰

Romanian citizenship is acquired, maintained or consumed depending on the legal provisions, Romanian citizenship cannot be withdrawn from the one who acquired it by birth.

Violation of the legal provisions entails contravention liability, which is sanctioned with a fine between 40 lei and 80 lei, without the possibility of payment within 48 hours, of half of the minimum amount provided.

The validity of the identity document is:

- a) 4 years for persons aged between 14-18 years;
- b) 7 years for persons aged between 18-25 years;
- c) 10 years after the holder has reached the age of 25;
- d) permanently after reaching the age of 55.

In the event that the identity document is stolen, the holder is obliged to report the act to the nearest police unit within a maximum of 24 hours from the occurrence of the event, and in the case of the loss or destruction of the identity document, the report shall be made to the community service of record of people from the place of residence or residence. The identity document declared lost or stolen and later found by the holder must be handed in within 48 hours to the community service for records of persons where the event was declared, due to the fact that documents declared stolen or lost are null and void.

Citizens of member countries, subject to the obligation to possess a visa based on Regulation (EC) no. 539/2001, must transit Romania for a period not exceeding 5 days and have the right to live in Romania for a maximum of 90 days in any period of 180 days without obtaining a Romanian visa in advance if:

- ✓ They are holders of documents issued by the member countries of the European Union that fully administer the Schengen acquis (Austria, Belgium, the Czech Republic, Estonia, France, Finland, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg,

³⁹<https://www.politisti.ro/forums/topic/6690-legitimarea-cetatenilor-romani-si-straini-pe-teritoriul-romaniei/>

⁴⁰Anane Ivan, *Elements of computerized records of the person*, Pro Universitaria Publishing House, Bucharest 2015

- Malta, the Netherlands, Poland, Portugal, Spain, Slovenia, Slovakia, Sweden, Hungary, Switzerland, Iceland, Liechtenstein, Norway):
- ❖ A uniform visa, defined in art. 2 point 3 of the Visa Code, valid for two entries or for multiple entries;
 - ❖ A long-stay visa, referred to in art. 18 of the Convention implementing the Schengen Agreement;
 - ❖ A residence permit, defined in article 2 point 15 of Regulation (EC) no. 562/2006.
 - ✓ Holds a short-stay national visa, a long-stay national visa or a valid residence permit issued by Bulgaria, Cyprus and Croatia.
- "Conditions for exemption from the obligation to obtain a Romanian visa:
- The period of validity of the mentioned documents must cover the duration of the transit stay in Romania.
 - The citizens in question are exempt from the obligation to obtain a Romanian visa, but must still meet the entry conditions established in Article 5 (1) of Regulation 562/2006 of the European Parliament and of the Council of March 15, 2006 - Schengen Borders Code (valid document of crossing the border, supporting documents of the purpose and conditions of travel, proof of having sufficient means of subsistence).
 - In order to equate a uniform visa, a national visa or a residence permit with a Romanian transit visa, it is necessary that the transit of the territory of Romania falls within a natural route to the country that issued the visa or to return to the country of which citizen is, or the country of residence.
 - Holders of a single-trip visa, exhausted in terms of the right of residence, will be allowed to transit only during the period of validity of the visa."⁴¹

The right to permanent residence can be acquired automatically if, as a European citizen, you have lived in that country legally for a period of 5 years without interruption.

The right to stay on the territory of a state can be lost if the citizen lives outside the country for a period not exceeding 2 consecutive years.

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⁴¹<https://www.politiadefrontiera.ro/ro/main/pg-conditii-in-care-citatenii-straini-pot-tranzita-teritoriul-romaniei-si-calatori-in-romania-fara-visa-156.html>

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