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## Use of weapons provided

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**Abstract.** The topic presents the organization of the police institution, as well as its framing in the political realities of the interwar period. In order to achieve this objective, I have used a bibliographic material as extensive as possible, so that the result is as close as possible to scientific historical research. Following the analysis of human society, it should be specified that despite the modernization and improvement of the legislative system, the intensification of state intervention, justice and public safety, there is an increase in crime in all spheres, which implies the increasingly active presence of the police in places with a high degree of danger and mobilizing them to use the weapon provided when the situation requires it. Thus, in a society, man must respect the norms and principles for the smooth development of life, that is why norms and rules are indispensable in a society. My opinion is that, in the content of this paper, I have included all these aspects related to the policeman's duties, the way to use weapons in borderline situations, the smooth running of activities and the successful fulfillment of all objectives, but last but not least, those situations in which the police officer inadvertently endangers his life or bodily integrity. Regardless of the missions in which they are to participate, a good policeman will adopt an impartial behavior towards everyone present at the scene and will avoid the use of the equipped weapon as much as possible. Thus, I consider it necessary for a policeman who carries out his activity in the interest of the citizen, to ensure his protection, to be well trained before using the weapon provided, in order to avoid possible injuries, or even the death of a person. I think that the weapon in the equipment is in most situations, the only way to mobilize particularly dangerous criminals, to avoid injury, endangering the policeman and other people present in the place.

**Keywords.** Police rules, material endowment, compliance with the law, preventive activities, notices

### **I. The appearance of the first weapons**

As we well know, "The Romanian Police is the competent authority that exercises control over the possession, carrying and use of weapons, parts and ammunition, as well as regarding operations with weapons and ammunition, having the authority to exercise control, according to the law, over the possession of the carrying and the use of weapons and ammunition, explosive materials, on how to carry out operations with weapons, ammunition and explosive materials, as well as on the operation of weapons repair shops and shooting ranges."<sup>1</sup>

Lethal weapons and ammunition are those types of weapons, the use of which can cause death or serious injury to persons. Instead, non-lethal weapons and ammunition represent those

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<sup>1</sup> Article 26, Law of organization and functioning police Romania

weapons intended for a utilitarian purpose or for self-defense, being manufactured in such a way that their use does not result in the death of people.

"The weapon is any object or device whose operation causes the throwing of one or more projectiles, explosive, burning or luminous substances, incendiary mixtures or the dispersion of harmful, irritating or neutralizing gases."<sup>2</sup>

"Ammunition is the assembly consisting of the tube, cartridge, propellant charge, firing pin and, where appropriate, projectiles. Weapons and ammunition whose procurement, carrying and use are prohibited for natural and legal persons, with the exception of public institutions that have powers in the field of national defense, of the unit under their subordination or coordination."<sup>3</sup>

In ancient times, the production of weapons coincided with the tools of work, used both for hunting animals and for attack and defense against other human beings.

The use of the weapon provided by the policeman, in the execution of specific missions, requires knowledge of it, of the legal situations provided by the normative acts in force, a good psychological training and last but not least, a very good training in the execution of fire.

Analyzing what I mentioned above, weapons and ammunition can be used by specialized personnel, those who have competences in the field of defense, public order, and by natural or legal persons only in the case of holding a valid gun carrying permit.

#### I.1. General aspects of gun knowledge

The gun is a self-loading weapon because the energy produced by the gases resulting from the combustion of the powder is used both to impart rotational and translational motion to the bullet at the required velocity and to impart backward motion to the breech.

Its small format and magnification allow it to be worn unnoticeably. It is simple in construction and handling.

The 7.65 mm pistol, model 1974, serves for attack and defense at short distances (up to 50 m), as well as in hand-to-hand combat. Firing with this gun is fire-by-fire only, and firing is done manually, by repetition.

The safety of handling the gun against premature operation is ensured by the safety barrier, which during non-operation, must be in the "Safe" position, locking the trigger.

The main parts and mechanisms of the 1974 pistol are:

- The body
- Pipe
- The closing sleeve
- rooster
- The lever of the rooster
- The shutter stop
- The hanger
- Trigger lever
- trigger
- charger

After the cartridges in the magazine are consumed, the closing sleeve must be retained in the rearmost position by its stop. Dismantling the gun is done for cleaning, greasing and checking it, as well as for repairing or replacing defective or missing parts.

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<sup>2</sup> Article 2, Law no. 295/2004 regarding REGIME weapons and ammunition \_

<sup>3</sup> Article 2, Law no. 295/2004 regarding REGIME weapons and ammunition \_

The gun must always be found clean and in good working order. This is achieved by timely lubrication, proper handling and storage of the gun.

Accurate shooting is shooting in which the point of impact exactly overlaps the control point or the middle of the "target", or does not deviate by more than half a millimeter, corresponding to the distance at which it is fired, from it.

The ammunition used for the armament in the equipment has the following component parts: the tube, the cartridge, the clip, the bullet and the propellant charge.

Dismantling the gun is done for cleaning, greasing and checking it, as well as for repairing or replacing defective or missing parts. Holding the pistol in the right hand, with the left hand insert the Charger into the pistol grip through the lower window in the grip.

The pistol is simple in construction and handling and its small format and magnification allow it to be carried unobtrusively.

The use of the weaponry provided by the police requires knowledge of it, a good psychological training and, last but not least, a very good training in firing.

#### I.2. Rules of tactics for the use of weapons

"The policeman, in the exercise of the public authority with which he is vested, contributes, through his entire activity, to the defense of public order and security. Being vested with the exercise of public authority, he has the right to carry the necessary weapons and ammunition, regardless of whether he is in uniform or in civilian clothes, and to use, for the performance of missions, vehicles equipped with or without the distinguishing marks of the Police."<sup>4</sup>

The use of the equipment provided for the performance of duties, under the conditions and in the situations provided for by law, removes the criminal nature of the act, according to the Law on the Operation of the Romanian Police. Through the activity of verifying data and information, police officers must not in any way harm or put limits on someone's freedom, privacy, honor or reputation.

Carrying out specific activities in the field, they have the obligation to seriously intervene, at any time, to prevent and combat any actions that affect the lives of people, the rights and assets of the citizen, the public property, private life.

"The special status is conferred by the special duties and risks, by the carrying of weapons, as well as by the professional tasks he has to perform. He has rights and obligations specific to the quality he holds."<sup>5</sup>

Police officers must have a thorough professional training, know that they have no other judge than the law and their own conscience, and the measures they take must be in accordance with the legal provisions, not to destroy the rights and freedoms of citizens.

Every policeman must know and respect the rules regarding the carrying of weapons and other equipment. The formation of the correct skills in this regard gives him confidence and security in his actions, being constantly prepared for intervention. The gun, ammunition and other means will be checked upon entry into service, as well as after each use.

When intervening in a hostile environment, the possibility of a surprise attack by others who are not in his field of vision will not be neglected. Therefore, it is recommended not to neglect seemingly harmless objects, such as: credit cards, combs (which can be sharp), mobile phones. In certain situations, any object within reach of the person can become a dangerous

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<sup>4</sup> Article 23 of the Law of organization and functioning police Romania

<sup>5</sup> Gheorghe Buzescu, *Theory Rules and practice for police usage*, Pro Universitaria Publishing House, Bucharest 2016

weapon that will be used against the policeman. Stereotypical images that only certain people can be aggressive must be removed. Any individual in a certain circumstance can manifest violently. So, the policeman will pay attention to the actions of all the people who are at that place at the time of the intervention. In the case of aggression directed against them or other people, the police must show firmness and determination, and in case of disobedience they will take the necessary measures.

"The public order policeman performs the service only in uniform, having on him the appropriate equipment, which he wears, permanently, on the belt applied over the clothing, with the accessories fixed in the holsters and specially designed devices."<sup>6</sup>

With quick thinking and adequate physical endurance, the police officer will be able to choose and apply the right force at the right time. First of all, he must observe the opponent, what objects he has on him, in order to dominate and disarm him, if necessary. If there are objects that the offender can use as a weapon, they must be placed between them and the potential attacker.

A good policeman must keep himself in optimal physical condition, the lack of which can sometimes put him in difficulty because it is very important to act as quickly as possible in a mission, in order not to give criminals the opportunity to react one way or another.

For the best possible performance of the duties, but also of the missions in which they take part, "it is prohibited to carry weapons and related ammunition in pockets, folders, briefcases, or in other places that do not ensure full security and may favor their loss or evasion. Police officers who carry weapons and ammunition permanently on them, while they are at home, are obliged to secure them in such a way as to eliminate any possibility of their loss or use by family members or other persons, keeping them in places provided with locking systems, the ammunition separate from the gun."<sup>7</sup>

It is forbidden for the police officer to give the weapon from the equipment to another unauthorized person, a family member or any citizens, or to remove the gun from the holster and handle it in the presence of other people, except in cases of its legal use. When asking a person for help, the policeman must be very explicit and make sure that the person in question clearly understands what he has to do.

Police work requires strong personalities who inspire respect and trust in citizens. The presence of the policeman in the community implies a much fairer and more dignified behavior on his part than that of any other citizen. Their work, which represents the law, ensures the safety of people daily and in any situation, according to the law, is to be appreciated.

The general rules of police tactics must be respected and applied depending on a multitude of factors, such as the concrete situation that requires intervention, the action and conduct of the person being intervened, the circumstances of the time and place in which the action is to be taken, the purpose pursued by intervention in certain situations, the forces available, the training but also the experience of the policeman.

Acquiring and strictly following the general rules of police tactics guarantees the success of the intervention and the proper performance of the duties. Unfortunately, in practical work it often happens that police officers pay with their own lives, due to inattention in the execution of the intervention, in certain situations. The policeman has the duty to intervene officially, when the situation requires, towards any person.

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<sup>6</sup> Gheorghe Buzescu, *Elements of Public Order*, Pro Universitaria Publishing House, Bucharest, 2016

<sup>7</sup> *Good manual intervention practices for the law enforcement officer*, Annex 1 to the IGPR Provision of 25.12.2015

"The uniformed policeman must wear the distinctive insignia and the equipment provided by law, in order to be protected and easily recognized during missions. Also, considering that he projects the image of the institution, being a true "Police showcase", representing for citizens more of a symbol than an individual, he must have an impeccable outfit, a certain attitude in presentation."<sup>8</sup>

"Under certain conditions, the wearing of the Police uniform or by unauthorized persons wearing the uniform of the police or of a public authority may constitute the crime of usurpation of official qualities. Non-compliance with the rules regarding the dress and wearing of the police uniform attracts the policeman's legal liability, under the law."<sup>9</sup>

Every policeman is obliged to know and also to respect the rules regarding the carrying of weapons and other means. Accumulating experience in this regard gives him confidence and above all security in his actions, being constantly prepared for intervention. On each occasion of entry into service, the pistol, ammunition and other means will be strictly checked, but also after each use.

Due to the risks and duties they face on a daily basis, the police officer has a special status for the exercise of professional duties respecting the human rights provided for in the Constitution. Man has always been a being eager to do justice to himself, by any means, be it just or not. Until the advent of law enforcement, people meted out harsh punishments to those they believed to be guilty. One of the human qualities, noted since the beginning of human existence, is fairness because, since ancient times, the individual knew how to value principles, and those who violated them paid even with the price of their lives.

A particularly important aspect that must be addressed by the police before but also after the intervention is to take all the necessary measures to ensure the protection of those present at the action.

The principles underlying a successful mission are constituted in a way to coerce, oblige individuals to comply with the laws, as well as the application of concrete sanctions for violating the rules of law, determining their re-education.

The policeman is the person who exercises an important authority in the state, having the role of ensuring the safety of the citizen, of public goods, and any attempt to cause the death or serious injury of the policeman will be punished by deprivation of liberty, or other restrictions or legal prohibitions .

Since a potential attack on a police officer can occur in the course of any mission or even outside of duty hours, due to a person resorting to the facts following many threats, it is the duty of the police officer to use the weapon and the means as quickly as possible, gradual and professional but also a good psychological preparation to anticipate a possible attack.

The use of the weapon will always be determined by the legal provisions, the number and behavior of the people, the act committed, but not least the time available to the policeman and the measure to be taken after the verbal notices.

Acts that endanger public order and safety are sanctioned according to the law, because increasing the safety of the citizen is the objective pursued by the public authorities, in order to give confidence to the population, in order to solve all the problems of the community.

Before entering the service, each police officer is obliged to check that he has the appropriate equipment and equipment to perform the tasks appropriate to his position. Involvement in community issues earns the police officer respect and trust from both citizens

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<sup>8</sup> Sandu Florin, *Police Theory and Tactics*, All Beck Publishing House, 2002

<sup>9</sup> *Tactics manual for the police*, Publishing House of the Royal Foundation for Literature and Art, Bucharest, 2011

and superiors. They encourage the population to resolve conflicts peacefully, creating a peaceful atmosphere in society, preventing criminality.

The formation of professional skills, the accumulation of experience requires time and involvement to a great extent. Before using the weapon, a good preparation is necessary because various injuries can occur inadvertently.

## II. Weapon use

As stated in the Constitution, "The right to life of any person is protected by law. Death shall not be willfully caused to any person, except in execution of a capital sentence pronounced by a court where the offense is punishable by such punishment by law."<sup>10</sup>

Death shall not be deemed to have been caused by a violation of this Article in cases where it would result from cases where it would be absolutely necessary to resort to force:

- To guarantee the protection of individuals against violence
- To effect a lawful arrest or to prevent the escape of a lawfully detained person
- To stop violent disturbances, according to law

That's why "the use of a weapon is the measure that consists in firing a firearm at people and property." Police officers with firearms may use firearms to carry out their duties and missions under the Arms and Ammunition Act."<sup>11</sup>

Weapons may be used when the following conditions are met, provided by article 47 of Law no. 17/1996:

- If absolutely necessary
- If the use of other means of obstruction or coercion is not possible or has not yielded results

Police officers can use weapons to fulfill their duties in the following situations:

- Against those who attack police officers on guard duty
- There is an immediate, unjust, surprise attack on the police officer or other persons
- By the act committed by surprise, the life or bodily integrity of other persons is endangered

The seriousness of the act will be estimated in relation to the damage caused, the violent actions of the offender, the frequency of these categories of acts, the number of participants, the objects they have on them.

"A weapon can also be used against any means of transport used by the aggressors as well as against their drivers who refuse to stop at the regulatory signals of the competent authorities, if there are solid indications that they have committed a crime or that a crime is imminent."<sup>12</sup>

Firearms are not used against motor vehicles that do not stop at the policeman's signal unless, by the manner of driving, the life or bodily integrity of the policeman or other persons is deliberately endangered.

Before proceeding with the use of weapons, the situation on the spot is analyzed.

The use of the weapon provided is a measure that limits the person's right to life, and the policeman uses the weapon in strict compliance with the legal provisions. The use of weapons will be applied taking into account the nature of the crime, the identity of the aggressor and all other circumstances. The role of communication is to reduce the risks in the event of an

<sup>10</sup> Article 2 of the Convention for Protection human rights and the fundamental freedom

<sup>11</sup> Ivan Anane, *Elements of Theory and Tactics of the Pursuing of Criminasl*, Pro Universitaria Publishing House, 2014

<sup>12</sup> Gheorghe Buzescu, *Police Law - university course*, Sitech Publishing House, Craiova, 2019

incident and to prevent the unjustified use of the equipped weapon.

The language of communication must be coherent, precise, useful and fast. Ensuring public order is achieved through a set of rules and measures that must be strictly followed.

Public order can be defined as the whole, the totality, the system of all social relations for the purpose of ensuring public peace, the organization and operation of public services, the safety of goods and people.

In case of violation of the rules by the policemen, they will be legally responsible and it is imposed only if a violation has been committed and if there is no cause which, according to the law, would cancel the responsibility. The liability and sanction applied to the police officer has both a preventive and educational purpose, as well as a sanctioned and reparative one for the damage caused by the committed act.

Violation of the legal provisions, by committing an illegal act, by the police officer in connection with the service, may attract criminal or disciplinary liability. Also, if his act caused material damage to the unit of which the policeman is a part, the material liability of the policeman may intervene.

For committing disciplinary violations, the following disciplinary sanctions may be applied to police officers:

- Observation
- Reprimand
- Demotion in office
- Downgrading to special grade by one step
- Dismissal

The Ministry of Internal Affairs has the right to apply any disciplinary sanction, except

- Demotion in rank and dismissal from internal affairs bodies of persons from the supreme command body

The police officers must show special attention to the citizens' problems, get in their way, trying to solve their problems, in a professional manner. The policeman is obliged to continuously improve his specialized training and develop his ability to understand social problems, specific to the population where he exercises his profession.

Constantly in contact with the population, they must be constantly disciplined, act bravely and endure the hardships of the performance of their duties. In the relationship with the citizen, aggressiveness, actions that express disregard for the citizen are prohibited.

The police profession can only be exercised by the person who has acquired this quality under the law. The prosecution of police officers is carried out by the prosecutor, and among the most serious crimes committed by police officers are abuse of office, negligence in office.

#### II.1. The use of a weapon in the case of a surprise attack

The weapon in the equipment is used only after the execution of legal notices. "The verbal notice is made with the words: "Police, wait!", and in case of disobedience, the notice is repeated with the words "Wait, I'm shooting!". If the person in question does not obey even this time, the notice is carried out by firing a warning shot in a vertical plane. If those in question do not obey even this legal notice, a weapon is used in their direction, shooting, as much as possible, at their feet, so as to immobilize them and avoid killing people."<sup>13</sup>

As an exception, a weapon can be used without a notice, in the case of a surprise attack on the policeman or other persons, as well as for the arrest of criminals who retaliate with

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<sup>13</sup> Ivan Anane, *The Investigation and tracking of criminals*, Pro Universitaria Publishing House, Bucharest, 2014



weapons or firearms, if the necessary time is lacking in the vertical plane.

If his life and integrity or that of other people is in danger, as a result of the violent actions of some people who use or clearly intend to use white weapons or firearms, it is possible to use a weapon using any other weapon that it does not belong to the policeman, but it is at hand at that moment, under the same conditions in which he uses the weapon, with the service weapon.

"Police officers with the right to verify compliance with the legal rules regarding the use of weapons by the personnel subordinate to the Romanian Police, in the case of the use of weapons, carry out the following activities":<sup>14</sup>

- It verifies the consequences of the use of a weapon, and in the event of the death or injury of a person, as a result of the use of a weapon, the competent prosecutor will be notified, according to the law
- Establishing the police officers who used the weapon
- Establishing the manner of execution of the notices
- It verifies the fulfillment of the conditions and the situations in which the weapon was used, preventing the aggressive actions of people
- Checking the way of action after the event (providing first aid, securing the crime scene)
- Verification of compliance with the procedures related to the use of weapons

It is recommended not to intervene on the aggressors, if the intervention endangers the life or bodily integrity of the persons. The use of force depends on the adversary and his violence and must represent a form of defense, or allow the application of preventive measures, and the level of force used must be strictly necessary to dominate the adversary and the situation.

Due to the situations created by the use of force, equipment and weaponry by police officers, it is necessary for them to master very well the aspects related to the use of weapons: the legal and practical aspects.

Depending on the gravity of the facts, the police officer uses force, only if absolutely necessary, and after the execution of the notices, the aggressor has not stopped the actions that endanger the life of the people or the police officer. So, in a society, man must respect the norms and principles.

If the theoretical aspect can be memorized easily, the practical one is more difficult because it requires, along with other personal qualities, the knowledge and application of specific techniques and action tactics. To achieve this objective, the attitude of an operational police officer to solve problems whose gravity and complexity can be particularly important in a legal system. For the best possible performance of the actions and a guaranteed result, certain principles must be taken into account, such as: minimum risk, limitation of the use of force, fair use of means of intervention.

"The gradualness of the intervention represents the successive application of warning, notices, means in the case of action against an adversary and allows the differentiated, progressive and effective treatment of a situation in which the use of weapons is the last resort."<sup>15</sup>

At the warning signs and the first elements of threat, they must try to control the situation through communication. As mentioned above, we conclude that the communication between the police officer and the adversary must be permanent and aimed at deterring and stopping the

<sup>14</sup> EUGENE Niece, Mihai Pruteanu, *Tactical elements for the police*, Publishing House Hamangiu, 2013

<sup>15</sup> Ivan Anane, *Elements of criminal procedural law*, Pro Publishing House University, Bucharest, 2015

actions of the adversary, at the same time as ensuring the physical protection of the police officer. Effective communication plays an important role in successfully resolving conflict situations.

If verbal communication (warnings, notices) does not achieve the expected result, using the weapon provided is the only remaining option, who at any moment must be concerned with his own safety and the effectiveness of the mission.

If the shooter is trained in how to use the gun and applies the five fundamental safety rules, he will not cause accidents. The basic security rules are as follows:

- Always handle a weapon in such a way that it is loaded
- The weapon is held in the contact position, horizontally, in the direction of the threat
- Before pointing the weapon at the target, the officer must be sure that he has correctly identified the opponent and that he is isolated from other people
- The index finger is kept along the trigger guard without contact with the trigger

When the policeman is attacked by surprise by different criminals, his main objective must be the defense of his own life, but also of the other people at the scene of the action. For real success, when acting in different circumstances, a good theoretical, but above all practical, training of all practices is necessary.

In general, experience is very important and you will see the results obtained every time, in a short period of time. In order to prevent actions that endanger one's own life, the purpose of the police officers is to conduct a thorough investigation of the places where they are going to act, of the people who usually disturb public order and peace in that area. Always, when acting, it is recommended to pay close attention to all persons on the spot to prevent a potential attack, since the cyst and the most insignificant objects can be used against it.

Man has always been a being eager to do justice to himself, by any means, be it just or not. Until the advent of law enforcement, people used to deal harshly with those they thought were guilty. One of the human qualities, noted since the beginning of human existence, is fairness, which these days is as difficult as possible to preserve. Man has known since ancient times to value principles, and those who violated them paid the price of their lives.

So, decisive in changing the historical course is the conception according to which "the shedding of blood represents a divine sin". With the establishment of a strong authority and the appearance of the first systems of written laws, crimes are prohibited, which come under the relentless jurisdiction of the law.

Any attempt to endanger public order and safety, endangering certain people, will be punished according to the law. In cases where certain actions are directed against the policeman or citizens, the necessary measures will be taken as soon as possible.

Good cooperation is required in all missions, in the performance of duties. No society can accept assassination, arms trafficking, drug trafficking, theft, forgery of banknotes and their trafficking. For these reasons, police cooperation is extremely important and aims to prevent and repress criminals.

Since the problems related to gun trafficking continue and crimes tend to increase in most regions of the country, good training is needed before participating in the various operations, for a result as close as possible to the expected one. Certain particularly dangerous criminals may appear harmless, which is why the attention of the police is needed. In order to immobilize various criminals, communication is the first method applied. Some keywords can convince aggressors to abandon actions against citizens that endanger public order.

It is noteworthy the courage of the policemen, who face various dangerous criminals every day, interact with all kinds of people, the only goal being the return to law and order. They have the obligation to intervene towards any person, regardless of their age, ethnicity, religion, social position. Every day, the policeman faces many situations, but every time he must act according to the law, respecting the fundamental human rights, because they have no other judge than the law and their own conscience.

Through the activity of collecting data, requesting as much information as possible, the policeman must respect the privacy of people, not in any way damage their honor or reputation.

Daily missions can only be completed by following the rules of police tactics, and learning daily experiences that test their skills. Precisely for this reason, the observance of tactical rules protects the policeman from committing abuses and mistakes in certain interventions of a special nature, ensures the success of the intervention as well as the domination of the opponent.

The ability to adapt to certain situations in the field is of particular importance and presupposes respect for the constitutional rights of individuals. The policeman must be perceived by citizens as a reliable person who provides them with safety at all times, without discrimination. Groups subject to discrimination are usually those who belong to ethnic, religious minorities, immigrants.

Before deciding on an action, they will consider all possible risks and act on the basis of a well-thought-out plan. It is recommended that before acting in a hostile environment, not to exclude the possibility of a surprise attack, therefore the policeman will be attentive to the gestures and reactions of any person who is at the scene at the time of the intervention. The policeman must not be arrogant, but a good psychologist, act tactfully, without offending the people around him, because sometimes, the simple presence of the policeman in uniform is enough to dominate certain people <sup>16</sup>.

Violent, aggressive people, drunk or under the influence of alcoholic beverages will be treated in a certain way, and a normal person compared to another mentally ill person will be treated in a completely different way.

For a good performance of the various interventions, the policeman must know the places where he intervenes, details as detailed as possible about the people in the respective environment and have in mind certain aspects related to elderly, defenseless people. During the execution of his duties, the policeman is prohibited from making violent gestures.

## II.2. The use of weapons resulting in casualties or material damage

According to article 32d of Law no. 295/2002 regarding the weapon and ammunition regime, if casualties or material damage resulted from the use of weapons, the following measures are taken:

- The intervention of specialized personnel is requested, or the person is transported to a medical institution, for the provision of care
- They are informed immediately, by any means, about the case and its consequences
- The place of the crime, the marking and preservation of the traces are ensured
- The event is reported hierarchically and the competent territorial prosecutor's office is informed, in order to carry out the on-site investigation

When using "equipped weapons", fire will be executed for the purpose of immobilization, avoiding hitting vital areas. Police officers with the right to verify compliance

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<sup>16</sup> Gheorghe Buzescu, *The place and role of the civil servant in the state apparatus*, Sitech Publishing House, Craiova, 2017

with legal rules, regarding the use of equipment by police officers, in the case of the use of weapons, carry out the following activities:

- Check the consequences of weapon use and proficiency
- Identifies the person who used the "equipped weapon"
- They verify the fulfillment of the conditions and establish the circumstances in which the weapon was used, as well as the activities carried out to deter, prevent and neutralize the aggressive actions of persons
- I decide how to execute the notices
- I decide how to report the event
- Controls the action mode after the event

During the immobilization of an individual and the loading of cartridges, the weapon is inserted into the holster. "Weapons are used against vehicles only if there is certainty that their occupants are committing or have committed a serious crime, are moving property obtained as a result of the commission of illegal acts and do not stop at the regulatory signal of a uniformed police officer."

Weapons can be used against vehicles that do not stop at the policeman's "regular signal" and when, through the way of driving, the life or bodily integrity of the policeman or other persons is endangered. Fire on the vehicles is executed only in the area of the tires. Each situation in which a weapon was used is reported hierarchically, as an emergency. As soon as possible, the report is made in writing.

The policeman will always have a clear perception of the streets or the place where he is, in such a way that, if he is in a possible intervention, he will benefit from the advantage of the terrain. In this sense, they must know: the topography of the streets, the access ways on shorter routes.

Before carrying out the intervention, which cannot be postponed, the policeman must present himself verbally, and after its conclusion, identify himself and declare the position he occupies in the police unit of which he is a part <sup>17</sup>. Compliance with this procedure is a manifestation of respect for the people with whom the policeman comes into contact, and on the other hand, a way to eliminate the uncertainties related to the fact that the people in question are dealing with an impostor.

In their practical work, police officers face a multitude of situations, which they must resolve in the spirit and on the basis of the laws.

The policeman must avoid using the weapon from his equipment as much as possible, and the use of weapons should be the last resort applied, if the other procedures did not give the expected result.

Regardless of the police measure to be applied or the way the policeman intervenes, the opponent and the people around must be carefully watched. During the discussions, he will focus on the interlocutor by watching his reactions, which can give him multiple clues (for example, an innocent man has no reason to be restless, to panic, while a criminal has plenty of reasons, which he will be able to observe his facial expressions, gestures, way of speaking).

During the execution of the service mission, or when facing an imminent danger, the policeman must not neglect certain aspects such as the attitude, because he must be constantly focused on the mission or the duties of the service, without taking into account consider problems at home during working hours, and the position towards people who present a

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<sup>17</sup> Gheorghe Buzescu, *Peculiarities of contraventional law*, Sitech Publishing House, Craiova, 2017

potential danger is also important, and it is advisable not to allow the person to be summoned to occupy a better position than his or her his car.

If the gun is handled and maintained in good condition, its parts and mechanisms work reliably and without interruption for a long time. However, due to soiling of the mechanisms, joining of parts and incorrect handling of the gun, as well as when the cartridges are defective, certain incidents can occur.

" During the execution of the missions, the police officers must wear the belt on which they will fix the holster with the supplied pistol and the two chargers. In situations where they act in civilian clothes, the pistol will be carried in a holster on the belt of the trousers or in a specially made harness, ensuring its concealment."<sup>18</sup>

The conditions that provide for the use of weapons, the use of weapons, reveal the exceptional character of the measure of the use of weapons, which requires a lot of discernment, since the abusive use as well as the non-use in legal cases are sanctioned according to the law.

The policeman must bear in mind that an adversary, even if unarmed, can retaliate with any object he has at hand, and while having a conversation with a person, he must adopt a position in such a way that he can observe everything that happens, to be in a position to act if he is attacked or the person tries to run away.

According to article 16 of the Romanian Constitution, "citizens are equal before the law and the public authority, without privileges and without discrimination. No one is above the law."<sup>19</sup> Therefore, the policeman will always act according to the law, considering that any violation will attract his responsibility.

The policeman must legally justify any action he takes during his duty hours, this rule presupposing that the activities carried out are carried out only for the purpose of fulfilling his duties. Another important factor is the observance in the intervention of establishing the mode of action and the required forces, before any intervention.

When the police officer uses force, respecting the principles of its use, he acts until the resistance of the aggressive person is defeated, no more. Any policeman will be carefully trained before using the weapon provided, because any mistake can cost him his life, endangering other citizens and last but not least causing material damage to the various people present at the incident.

The transfer of the weapon from one police officer to another must be carried out in secure conditions, both at the place of storage and on duty. The weapon is delivered unloaded, with the sleeve locked to the rear, and the magazine is delivered separately.

There are a lot of safety rules that must be taken into account before and after using the weapon, because accidents can happen at any time. These accidents can be easily avoided thanks to the training of the policeman and special attention to the people present in front of the scene of the accident.

If the policeman has been attacked by surprise by a seemingly harmless person, he must act as quickly and cautiously as possible to defend his own life, any second can be fatal. Therefore, a distributive attention is recommended when taking action, and each person should be considered a suspect.

In places with a high degree of crime, those that are particularly dangerous, as a result of the violent actions of certain people, the policeman can use a weapon, even with a weapon

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<sup>18</sup> <https://andreivocila.wordpress.com>

<sup>19</sup> Article 16 of the Constitution of Romania

that does not belong to him, but that is at hand at that moment, but the fire will be used only for the purpose of immobilization, avoiding hitting the vital areas.

During the execution of the service mission or when facing an imminent danger, the policeman must not neglect certain aspects such as the attitude, because he must be constantly focused on the mission, or the duties of the service, without taking into account consider problems at home during working hours, and the position towards people who present a potential danger is also important, and it is advisable not to allow the person to notice, to occupy a better position than his or the car its.

According to article 16 of the Romanian Constitution, "citizens are equal before the law and public authorities, without privileges or discrimination. No one is above the law." Therefore, it will always act according to the law, considering that any violation will attract its responsibility. It is necessary for the policeman to justify any action taken in the performance of his duties, and the most important factor is the observance in the intervention of establishing the mode of action and the required force, before any intervention.

When it is absolutely necessary, force will be used, respecting the principles of its use and acting until the resistance of the aggressive person is defeated, no more. Any policeman will be carefully trained before moving on to use the weapon, because any mistake can endanger his life, that of other people and last but not least the accommodation of material damage to the various people present at the incident.

The transfer of the weapon from one police officer to another must be carried out under security conditions, both at the place of and on duty. The weapon is always delivered unloaded, with the magazine locked to the rear, and the magazine is delivered separately, so that the use of the weapon can be carried out in a proper manner, according to the law. The policeman has the obligation to inform the citizen about arms trafficking, the methods of prevention, the avoidance of becoming a victim in the case of these crimes. Organized activities in areas with a high degree of danger, where the most notorious criminals operate, help prevent many criminal activities, improve gun trafficking. In this sense, the police mobilized in as large a number as possible to stop these crimes, to give the criminals as few reasons as possible to act in those areas and to give up in time the practice of these crimes, the reduction of criminal groups .

The police are also endowed with special rights, among which the right to carry and use the weapon in the situations imposed by the law, being in the service of the citizen.

The policeman endangers both his own life and that of his family, because, through contact with other adversaries, in the performance of his duties, no matter how much he tries to act tactfully and in a fair and efficient way, he can attract rivals, to move from simple insulting words to threats or even carrying out threats.

However, the policeman must adopt a firm attitude, avoid violent actions that may affect public order.

In the case of threats, from opponents, the policeman must keep his distance from the opponent in order to be able to act at the right time and to be in control throughout the created situation until the dangers are removed.

The courage and power of persuasion of the policeman, who faces different situations every day, from the simplest to the most complicated and with a high degree of danger, is worth noting. Attitude and communication are the key to the success of every mission and especially in the relationship with the citizen, because man is a being who respects his neighbor but expects the same from him, because no person accepts to have his fundamental rights violated, provided for in the Constitution. That is why a police officer who acquires these traits will be appreciated

by the whole community and avoid misunderstandings.

### III. Prevention and detection of weapons offenses

In Romania, crimes of great violence committed with firearms may continue to register high values. The number of events produced by the use of lethal and non-lethal weapons without complying with the legal provisions is constantly increasing. However, the increase in the demands of the police, within the actions carried out, regarding the compliance with the legal provisions by the gun owners, led to the taking of the measure of canceling or suspending the right to own, respectively carry and use weapons.

In the field of dangerous substances, there is an increase in criminality related to the trafficking of toxic substances, the regime of dangerous chemical substances and crimes related to the protection of the environment. Your own activities and cooperation with the institutions with attributions in the field, led to keeping under control the operational situation in this segment, no negative events were recorded that could have been caused by the use of such substances outside the legal framework.

"Action along the lines of detecting and holding accountable persons suspected of committing the crime of qualified smuggling, unlawful possession of weapons and ammunition, illegal trafficking, unlawful execution of operations with weapons and ammunition."<sup>20</sup>

In recent years, weapons have been a means frequently used by organized crime groups, not only to commit a crime, but also to ensure their escape, when they were caught in the act of committing the act criminalized by the law.

"On the other hand, ensuring public order and peace, life, physical integrity of people, their assets, as well as legal entities and, last but not least, the security of the state, require complex activities carried out by the competent bodies of the state, such as and the prohibition of certain activities, namely the manufacture, assembly, carrying, possession of special weapons."<sup>21</sup>

Within ten days from the date of the notification of the measure of suspension or cancellation of the right to carry and use lethal weapons, the owner is obliged to prove that he has deposited the weapons and the entire amount of ammunition held at an authorized gunsmith, except in cases those who are raised by the Police bodies. The crime will exist when, the natural person legal possessor of a weapon and the related ammunition has not carried out the steps.

According to article 133 of the New Penal Code, "the crime of using a lethal weapon, without the right, which costs in the act of the person who uses the weapon in violation of the legal provisions."

Most of the people who possessed and continue to possess firearms illegally are poachers, and the most dangerous possessors have so far proven to be Turkish, Moldovan citizens. Weapons are introduced into Romania in small quantities, there is information that they come from international traffic networks that transit with our country, which implies a mobilization of the police to prevent and repress such situations, but also the control of state borders with a increased attention.

If we were to put ourselves in the place of a policeman, we would feel the difficulties they go through on a daily basis, in the performance of their duties, having their lives at risk on a daily basis.

#### III.1. The use of weapons during the communist period, the commission of abuses

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<sup>20</sup> Article 6 of Law no. 295/2005 regarding REGIME weapons and ammunition \_

<sup>21</sup> Article 5 of Law no. 295/2005 regarding REGIME weapons and ammunition \_

After the establishment of the communist regime in Romania, contrary to reality, the population was presented in the media as dedicated to communism. Any idea of personal identity or individual rights and freedoms, such as private property, freedom of speech, or freedom of conscience, was harshly criticized and censored.

In 1948, the General Directorate of People's Security was established, with the mission of arresting anyone who opposed the totalitarian regime, including students. Under the division of the struggle against the "class enemy" in 1950, any criticism of communism, of the party was violently repressed, a single negative comment could land you in jail. After release, they were required to collaborate with the Security, thus they were constantly followed and faced major difficulties in having a normal life.

Different categories of people, politicians, intellectuals, minorities, were considered "class enemies" and sent to prison, where many died, being subjected to starvation, torture, forced labor.

The crimes of the communist regime are still being investigated, and it is currently estimated that between 1944 and 1989, hundreds of thousands of people were persecuted by the communist regime. Blinded by ideology, communist leaders constantly sought ways to ensure that citizens obeyed the regime through a mixture of censorship and violence. In this framework, the idea of re-educating those imprisoned for the crime of opposing the government was incorporated. "Hostile elements" had to be dried up of any thought of resistance, of any hope, in order to obtain total submission.

The method chosen for re-education was physical and mental torture, the maximum point reached at the prison in Pitesti, against those imprisoned there, where the most abuses and crimes against innocent people took place. Physical torture was permanent, frequent beatings, supplemented by various techniques, pulling out hair, crushing fingers, immobilization in agonizing positions with blindfolded eyes, even in sleep being forced to sit still, with the tin plate as an upright pillow. Starvation was systematic and detainees were often denied medical treatment. But the mental torture was based on humiliation, they were forced to eat sitting on their knees without using their hands. The key to the experiment was to choose the torturers from among the inmates, adding to the torture the awareness that the aggressors were former friends or colleagues.

The system of police constitutes a set of elements of the public force that carry out their activity for the purpose of implementing the law of the State Police. It is worth noting that at that time, weapons were used to torture those who did not accept the regime and did not obey it. The regime had absolute power and everyone else had to meet its conditions in order to have an acceptable life. During that period, the most abuses were committed, any citizen who refused to obey the regime, being tortured, treated in conditions difficult to bear and sometimes even committing horrible crimes.

It is known that this period had a completely negative impact on the population, being violated human rights, guaranteed by the constitution, including the right to intimate life, communism managing to discover every detail related to the intimate life of everyday life.

Among the torture methods were listening to telephone conversations, violating postal messages, and a strong network of informants was established.

The establishment of the communist regime greatly affected the development of the state, because the TV program had become reduced, the ban on crossing the country's borders, the population had to be totally dedicated to the communist regime.

Communist leaders abused the population, and at that time fear was the most common feeling among the citizens.



During the communist period, the citizen was only focused on defending his own life, which was only possible if he obeyed the regime, sided with the communist party and fulfilled the tasks placed by them. From the moment of coming under the influence of the communist leaders, any hope for a normal life was in vain. The rulers of that time reduced the food, so that the population had to eat with portions, being very difficult to find or procure.

Any attempt to evolve, to go to schools, was unsuccessful, because the leaders ordered their closure, practicing terror on them. At the same time, the crimes of that period threatened the population daily, living with the fear of not being the next in that trap. The gun was most often used to commit terrible crimes, innocent people lost their lives simply because they could not accept the regime.

During the dictatorship, violations of human rights were found, crimes that are being investigated even today. The Security forces committed abuses against the citizens, the people who lost their lives in those prisons of the time, as well as their families suffered for a long time.

The abuses and crimes resulting from the communist era had a strong impact on human society, which has influenced the population even to this day. Through these crimes, the communist leaders demonstrated their power, and the victims served as an example for potential opponents of the regime. The harshest abuses were committed during communism, on those who did not accept the regime, great scientists, doctors, minorities, students and many other personalities with a significant contribution at that time.

It is said that the communist regime began with violence and ended in the same way, and many of the victims were never found and identified.

Those leaving the prisons were forced to sign that they would not say anything, which is another method of the communists, that of submitting to silence, so that the rest of the population would not know or suspect about the abuses that were taking place. We, the young people, know about this period from various documentaries, from the stories of our parents or grandparents. Most were silenced and even today are afraid to talk about that time.

The communist period has left its mark even today on people's mentality. There was confiscation of land, livestock, and those who had were thrown into prisons after having everything confiscated, without any fault. In communism there was no longer private property, all goods belonging to society as a whole.

Thus began the discrimination against minorities, the Jews were removed from their jobs and subjected to racial laws, they were denied their rights, being subjected to physical and mental torture.

All attempts at anti-communist resistance were suppressed due to the absolute power enjoyed by the communist leaders. Even different policemen lost their lives, with the appearance of the Security, because they did not obey its demands, to use the weapon to commit crimes against those who rejected the regime.

The economic disaster of communist Romania was total, with great consequences both in the economic sector and in the mentalities of the people, therefore a long period of time was necessary to recover the lagging behind the advanced countries.

The use of weapons was the method chosen by the communists to repress the actions of those who did not accept the regime, although there could have been other ways. Once under the supervision of the communists, it was very difficult to remove this abuse, which followed the targeted persons at every step. The citizens, for fear of endangering their own family, of losing their lives, were silenced and could no longer act in any way, because any covert attempt was discovered by violating the correspondence, and the one in cause bears the particularly serious consequences, directed most of the time at the family.

### III.2. Methods of intervention and the use of weapons in the case of arms trafficking

Although Romania's armaments industry has significantly reduced its activity since the 1980s, it still has the capacity to produce and export a wide range of armaments.

The term manufacture of lethal weapons, parts or ammunition is a complex process that results in a finished product, namely a lethal weapon, a component part of a weapon or a certain category of ammunition. For the purposes of the Act, a part is any part or replacement part specially designed for a firearm which is essential to its operation, including a barrel, gas recovery device, movable sleeve and any device designed or adapted to reduce noise caused by firing a gun.

Unlawful possession of a lethal weapon can be found in the following situations b

- The individual owns such a weapon without possessing a weapon permit (regardless of how he possesses it)
- Although the holder of a gun permit, the natural person in question has had his right to carry and use lethal weapons suspended or revoked, or his right to possess

The legislator makes a clear distinction between the action of possession and that of carrying and using lethal weapons. The finding of these situations is done by the Police bodies, which can take the measure of canceling or suspending this right. This measure is communicated in writing to the holder of the right or to his relatives or to the persons who lived with him (in the case of the death of the holder), who within ten days from the date on which this measure was brought to his attention, has the obligation to hand over the weapon and related ammunition at a licensed gunsmith.

Both the measure of suspension and the cancellation of the right to carry and use lethal weapons, as well as the right of possession, are subject to judicial control according to the law of administrative litigation. However, the exercise of the right of appeal does not suspend the obligation of the person to entrust the weapons to an authorized gunsmith. The requirement will also be fulfilled if the relatives or persons who lived together with the weapon owner, did not deposit the weapon and ammunition within the mentioned term, in the conditions where the legal holder has died or is declared missing by a final court decision.

Legal entities established as gunsmiths can carry out operations with weapons and ammunition, only after obtaining the authorization, or, as the case may be, after its appropriate completion, which is carried out, upon request, by the police body in whose territorial jurisdiction it is located the headquarters or work point where these operations are to be carried out.

Unlawful possession of a non-lethal weapon can be established when a natural or legal person has received such a weapon under any title and they do not meet the legal conditions that allow such an operation. Possession, carrying and use without right can occur when a natural person owns such a weapon, under the law, but this right has been canceled and suspended. The police officers have the obligation to monitor all these actions on the illegal carrying of weapons, to consider people who have already committed such a crime, or if they have solid indications that a natural or legal person is about to commit such a crime. Nowadays, gun trafficking has become more and more intense, the number of crimes has increased, and from these illegal activities the criminals are getting as much income as possible, which motivates them to continue these activities.

The provisions related to the cancellation or suspension of the right to possess or carry lethal weapons are identical in the case of non-lethal weapons, in which case, the essential requirement will be met, when the natural person in question does not prove that he has deposited the weapon and the related ammunition within the stipulated period by law.

Non-compliance with the arms and ammunition regime is the act of a natural or sometimes legal person, who owns, carries, manufactures or carries out any operation that refers to the circulation of lethal weapons, ammunition, their mechanisms or devices, or the act of ensuring the operation of a workshop repaired weapons without right.

A final way of committing the crime, which can also be committed by a legal person, consists in the manufacture or assembly of a lethal weapon, parts or ammunition for them, from essential components illegally trafficked, without authorization issued under the law or without marking at the date of their production.

The law also provides for two aggravated ways, the first of which consists in the illegal carrying of these categories of weapons in places prohibited by law, such as the headquarters of public authorities, public institutions, or other legal entities of public interest or in spaces reserved for the electoral process, and the second, possession, carrying, of prohibited weapons or ammunition, their mechanisms or devices.

The need to criminalize such acts results, on the one hand, from the evolution of crime in the field, and on the other hand from the special social danger that such activities represent.

In recent years, weapons have been a means frequently used by organized crime groups, not only to commit crimes (often against personal life), but also to ensure their escape, when caught in the act criminalized by law.

On the other hand, ensuring public order and peace, the life, physical integrity of individuals, their assets as well as legal entities, and last but not least the security of the state, presuppose activities carried out by the competent bodies of the state, as well as the prohibition certain activities.

For the crime to exist, it is necessary that the person in question carries a weapon, whether it is loaded or not. The offense will exist even when a person is identified as having the relevant ammunition on him. It is important that both the lethal weapon and the ammunition are in working order.

Prohibited weapons are those weapons whose procurement, possession and carrying are prohibited for natural and legal persons, with the exception of public institutions that have powers in the field of national defense and security.

Illegal arms trafficking harms our state, as well as the fact that it constitutes a threat to citizens, social progress, but also a violation of the right to live in peace. Therefore, any state must take certain measures, including activated police cooperation.

The police is the only instrument that can cooperate in the removal of illegal traffic, that can oppose their manufacture and will support the activities to prevent and fight this type of crime.

Unlawful possession of a weapon can be found in the following situations:

- The individual owns a gun without having a gun license (regardless of how he holds it)
- Although the holder of a gun permit, the individual in question has had his right to carry and use lethal weapons suspended or revoked

Police bodies can find situations in which they have been violated, the law regarding the carrying or possession of weapons without a permit or authorization, and take the necessary measures.

In recent years, weapons have been a means frequently used by organized crime groups, not only to commit crimes (often against personal life), but also to ensure their escape, when caught in the act criminalized by law.

On the other hand, ensuring public order and peace, the life, physical integrity of people, their assets as well as legal entities and last but not least the security of the state, presuppose the prohibition of certain activities<sup>22</sup>.

The law also provides for two aggravated ways, which consist in the unauthorized carrying of these categories of weapons in places prohibited by law, such as the headquarters of public authorities, public institutions.

The policemen who intervene in the case of arms trafficking, have the obligation to act in the spirit and on the basis of the law, to act promptly and with a firm decision, adopting an authoritative attitude in front of the criminals so that their mere presence in the action creates a certain fear, state of confusion.

Arms trafficking varies depending on the number of people involved, the type of victims, the type of traffickers and the forms in which this action takes place, as well as the methods of police action. Before acting, it is required to be as clear as possible regarding the description of the alleged criminals, the means with which they are to act and the construction of the necessary forces. It is known that arms trafficking represents the most serious threat to all citizens of our country, but also the most dangerous form of crime that endangers the lives of all people who are aware of such actions or not.

Police officers will intervene in areas with a serious rise in crime to prevent and combat gun trafficking, will use the means provided in extreme situations and will in principle have in mind to protect the lives of citizens. Certain groups at the national level dealing with the trafficking of arms, human beings, and last but not least drug trafficking, have developed networks even outside the country, obtaining considerable income from these activities, violating the legislation of our country.

That is why, in order to achieve positive results in the missions that foresee the trafficking of weapons, police officers who will act, will use the most effective methods, will collaborate with the authorities outside our country, including all the member countries of the European Union, will intensify controls at the border level and will organize actions to inform citizens.

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