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FROM VIRTUES ETHICS TO OPERATIONAL ETHICAL VALUES IN POLICE ACTIVITY

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Abstract

This paper aims to clarify the operational ethical values of the police activity from the perspective of developing the institutional capacity of the police to act as guarantor of the rule of law. Professional virtue represents the ability to continuously perform one's professional duty with fairness, honesty, and responsibility, avoiding any behavior that undermines the professional dignity of the police officer.

Keywords

Ethics of police office; operational ethical values, integrity.

Introducere

Professional virtue represents the ability to continuously perform one's professional duty with fairness, honesty, and responsibility, avoiding any behavior that undermines the professional dignity of the police officer (Sandu, 2015).

In order to be considered virtuous, the individual's behavior and actions must not only be meritorious in themselves, but must be performed by an individual fully aware of what he is doing, while having the precise intention of doing precisely the thing that he considers to be in accordance with virtue and then performing it with unwavering firmness (Balca, 1982: 2222).

For Aristotle, the virtuous individual is only the one who continually practices virtue, which is not due to a particular good deed that happened by chance, or even to the "goodness of his heart", but to the habit of doing virtuous deeds, and to avoid committing acts

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considered evil or vicious, consciously and deliberately (Balca, 1982: 222). This paper aims to clarify the operational ethical values of the police activity from the perspective of developing the institutional capacity of the police to act as guarantor of the rule of law.

Introductory perspectives on the ethics of the police officer

Only the one who practices virtue "could become a virtuous man" (Aristotle, 1998). "Virtue is an action of will done with pre-conceit and which consists in preserving the equilibrium, freely chosen by reason, following a discernment. Every virtue, in its quality of virtue, perfects the one who possesses it and his work" (Balca, 1982: 222).

The calling of any representative of the legal profession, be it a magistrate, lawyer, notary, or police officer, is performing justice. This represents "the moral disposition by which we are capable of acts of justice and by which we actually perform them or wish to perform them" (Aristotle, 1998: V.1.1129a). For the philosopher of Stagira (Aristotle was born in the Greek fortress Stagira, although he spent almost all of his life and activity in Athens), justice did not represent a virtue among others, but was "sovereign among virtues, brighter than the evening star, brighter than the morning star" (Aristotle, 1998: V. IV.1.1132a), "justice concentrates the whole virtue in it" (Aristotle, 1998: V., I. 1129a. 27-30; Dunca, 2009: 73-74), later adding: "justice is not a part of virtue, but virtue as a whole ...; injustice is not only a part of vice, but vice in full" (Aristotle, 1998: V., I. 1129a. 27-30).

Justice as a virtue is exercised for another and not just for oneself. "Justice is the only virtue that does good for another, manifesting itself in favor of another" (Aristotle, 1998: 106). This intrinsic connection between justice and its fulfillment (Bădescu, 2017) is precisely what makes this virtue represent the constitutive value of the legal professions. The conjunction between moral values, oriented - in Aristotle's vision - for guiding ones own behavior, and social-political behaviors - oriented towards the public good -, is done precisely in the sphere of the concepts of public good and of justice, because both act in the public sphere, and also in the private (Sandu, 2015). The correlation between individual and public interest leads to the social construction of law (Sandu, 2015). The orientation towards the pursuit of justice must first of all take into account the idea of public good, with which it correlates (Sandu, 2017). Antonio Sandu distinguishes between the
constitutive values of a profession, like pursuing justice in the case of the policeman, and operational ones, which guide the way constitutive are put into practice and which are included in the professional ethical codes and regulations (Sandu, 2017: 15).

**Ethical principles that guide the activity of the policeman**

The general ethical principles that guide the activity of the policeman, according to those mentioned in the Code of ethics of the police officer, are: the principle of legality, the principle of equal treatment, impartiality and the principle of transparency, the principle of expression understood as possibility and duty, the principle of availability, the principle of the priority of public interest, the principle of professionalism, the principle of respecting confidentiality in police work, the principle of respect for persons and institutions, the principle of moral integrity, the principle of operational independence, the principle of loyalty and attachment to the organization and the values promoted by it (Stolojescu & Radu, 2013: 167-177).

a) The principle of legality defines the obligation of the police officer to respect the law throughout his professional activity. The activity of ensuring public order, preventing and combating crimes is carried out only by applying the specific legislation, the norms of constitutional law, including the fundamental human rights and freedoms of citizens guaranteed by the constitution and the treaties to which Romania is a party. The legal framework in which the Police, as an institution, functions, the legal status of the policeman and the limits of his freedom to act comprises the principle of legality (Stolojescu & Radu, 2013: 167-177). This principle represents for the activity of the policeman the transposition of the constitutive value of defending the law, a value for which the police force exists and functions as a modern institution involved in maintaining public order, preventing and sanctioning the violation of law. The principle of legality transposes, at the same time, an operational value when it imposes that the police officer carry out his activity in compliance with the law, without committing abuses or violations of rights, even in the case of those persons against whom the public disgrace is manifested. The principle of legality involves respecting the presumption of innocence, the right to defense and the procedural guarantees during the stages of investigation.
in criminal prosecution of persons suspected of having committed violations of the law.

For the democratization and uniformization of the specificities of police activity, a series of standards have been developed in the European Union, contained in the European Code of Police Ethics. These standards ensure respect for human rights by setting legal limits and ethical standards for police activity in the Member States. According to this Code, the objective of the police activity is to respect the rule of law. For this, the police assume the supervision of enforcing and observing the fundamental law of the state, ensuring the public tranquility and the safety of the citizens. In order to do this, the policemen must remain exclusively within the limits of the prerogatives stated by law, abstaining from any form of arbitrary attitude (Stolojescu & Radu, 2013: 167-177).

There are situations in the police activity when, in order to exercise the duties of service and the proper application of law, it is necessary to temporarily restrict, within the limits of the exercise given by their specific mandate, some rights and freedoms of the citizens, such as physical freedom, privacy, or even the right to life (Stolojescu & Radu, 2013: 167-177). For this reason, the requirement of strictly observing the legal framework of action represents both a professional and an ethical duty, and the moral conscience should, along with the professional one, guide the police officer towards observing all legal norms, including those contained in internal regulations, without abuse of power or abuse of rights (Ignătescu, 2013). A fundamental requirement to respect the principle of legality is knowing the legal provisions, including the existing secondary legislation and the regulations specific to police activity.

In exercising his duties, the police officer must demonstrate self-control, by continuously comparing his actions to the provisions of the law. Self-control is considered to be even more important than hierarchical control, because the latter cannot be exercised permanently, especially when the police activity is carried out at the scene of the crime, in isolated places, which reduces the possibility of immediate hierarchical control. Of course, the existence of hierarchical control, as well as the prosecutor's or the court's control, represent, for the citizen, a guarantee of law enforcement by the police (Torje, 2014: 171-178). Citizens' trust in police forces is vital to the democratic functioning of this institution, it is directly influenced by the public perception of the police officer's compliance with the principle of legality, self-control and the exercise of
hierarchical control in order to limit and sanction any form of abuse by the police.

b) The principle of equal treatment of non-discrimination demands that, in fulfilling their professional duties, policemen apply equal treatment to all persons, by taking the same measures in similar situations when the law is violated, regardless of the ethnicity to which the person belongs, their race, nationality, religion, social status, sexual orientation, political affiliation, financial situation or other considerations related to the mentioned criteria. In general, equality of treatment is correlated with the principle of non-discrimination, the first being the affirmative presentation of the action - similar in similar situations -, and the second is the interdictive measure of not discriminating, that is to treat equally persons belonging to groups at risk of discrimination if they belong to ethnic, racial, sexual or religious minorities (Sandu, 2017). It is necessary for the police officers to equally consider the persons with whom they come in contact, to investigate and to solve in an impartial and non-discriminatory manner all the cases that are being referred to them. Violation of this principle by the police officers leads to the erosion of the confidence of the population in police institutions. There are a number of stereotypes regarding the inappropriate behavior of policemen, which have sometimes manifested themselves through harassment and verbal aggression, violence, and even unjustified arrests, under the conditions of a certain impermeability to minority cultures and inherited racist prejudices (Stolojescu & Radu, 2013: 167-177). One such stereotype is that belonging to a certain ethnic or racial group predisposes the individual to antisocial activity, ethnic profiling sometimes leading to breaking the obligation of non-discrimination and to harshly or disproportionate actions towards citizens belonging to these minorities, which differ from actions taken in similar situations to persons belonging to other ethnic or racial groups, considered risk-free. Unfortunately, racial stereotypes are sustained by the high rate of crimes committed by ethnic representatives, which obviously does not in any way justify the automatic labeling of the representatives of the respective minorities as potential criminals and their blind inclusion among potential suspects.

c) The principle of impartiality requires the police worker to represent society as a whole, and not to become an instrument of repression as policemen are unfortunately forced to be in dictatorial systems. By acting impartially, the police officers enjoy the trust of
different communities, especially those who have been subjected to harmful and repressive actions by the police (Stolojescu & Radu, 2013: 167-177).

c) The principle of transparency represents the public's awareness regarding the specificity of police activity, implying the openness to the public of the police officer, within the limits of police regulations and respecting the secrecy of police activity, the right to privacy and the image of investigated persons. Transparency involves several aspects: decision-making transparency, regarding the way laws are issued, an activity that does not have the character of professional secrecy, and transparency of police activity, that requires the public to know the specifics of police activity, the way of solving petitions etc. A particular element of transparency involved in police activity is ensuring the right to defense at all stages of the investigation, except some specific investigative activities which, considering their specificity, require the person not to be informed of the respective procedural steps. A number of elements related to ongoing investigations cannot be made public due to the need to respect the presumption of innocence, and hence the need to protect the identity and privacy of the persons investigated, and the data obtained from the investigation, to protect the identity of informants and so on. A number of important elements in ensuring transparency in police activity reside in communication with the media (Torje, 2014: 171-178).

d) The principle of the policeman's right of expression implies his right to analyze the professional situations he encounters and to express his point of view regarding those situations, taking into account his competence and experience. This implies that the policeman can express his views without fear of repercussions or reprisals by hierarchical staff members or other persons, regardless of their position. The right to expression cannot be exercised in breach of police secrecy. This right, that the police officer has in countries with a democratic regime, comes in conflict with the principle of respecting hierarchical authority, a basic principle in military activity, according to which orders are executed without being discussed. The right to expression does not impede on executing orders, but on the contrary, it aims to make police activity more efficient by recognizing the effective contribution of police officers (Stolojescu & Radu, 2013: 167-177).

e) The principle of availability implies the intervention of the policeman in any situation in which he becomes aware of breaking any
values protected by law. This implies the ability to listen to and to solve the problems of those who resort to police assistance, or, when the request is not within the competence of the police, to guide the applicants to other competent authorities. The principle of availability involves treating all cases with maximum professional attention, even though apparently they may be considered unimportant (Torje, 2014: 171-178). Of course police work implies a certain prioritization of the activity according to the urgency and complexity of the case, but this should not impede on investigating all law violations that the policeman becomes aware of, according to the tasks assigned to him. It is necessary for the police officer to show a proactive behavior, aiming to prevent the various violations of law, as well as reactive attitude, if he becomes aware of a situation when individual rights are violated, private property is endangered etc. This principle implies a series of requirements, restrictions or limitations specific to police activity, such as: doing overtime, availability to perform diverse tasks, the obligation to intervene in flagrant situations or in cases of disturbance of public order, including during weekends, outside working hours, during holidays, permits etc. Also, police officers are prohibited to perform lucrative activities in their free time, both to avoid conflict of interests and to be available to carry out urgent missions when the situation requires it.

f) The principle of prioritizing public interest supposes that, in fulfilling his duties, the police officer grants priority to police activity, and places police missions in the benefit of the community, and it is manifested by the fact that, for the fulfillment of his functional duties, the policeman gives priority to accomplishing his tasks for the benefit to the community, even if this prejudices or delays the pursuit of personal interests (Stolojescu & Radu, 2013: 167-177). Public interest, as defined by the Code of Ethics of Police Officers, is any element that is of interest to the community, or to civil society, including respect for human rights, as defined in national law and international conventions (Stolojescu & Radu, 2013: 167-177).

g) The principle of professionalism implies the correct and responsible application of theoretical knowledge and practical skills for exercising professional duties. The skills required of a good policeman are linked to the ability to gather information. This implies the ability to listen and observe, but also to ask relevant questions, to carry out surveillance, to access existing data in computer sources, in essence the ability to obtain, in compliance with the law and specific procedures,
relevant evidence, while showing a high level of respect for the citizens and human rights. The police officer must have critical thinking skills, be able to corroborate various pieces of evidence obtained, but also psychological skills, to know people, to understand verbal language, including communication in other languages, and also nonverbal communication, which means perceiving voluntary or involuntary messages (Sandu, 2017). Police work also requires the ability to cooperate with other police officers and even perform teamwork (Stolojescu & Radu, 2013: 167-177).

h) The principle of confidentiality involves the obligation to ensure the security of personal data and information obtained during police activity, and of the sources from which the data were obtained (Stolojescu & Radu, 2013: 167-177). This obligation should be correlated with that of respecting classified information. Some of the police's means, techniques and tactics are considered secret, in order to prevent the situation when alleged criminals, knowing the specifics of police work, could avoid investigation or hide evidence (Stolojescu & Radu, 2013: 167-177). Maintaining secrecy regarding police actions, methods and practices must be made in such a way that it does not conflict with respecting the principle of transparency, which involves informing the public about police activity. In this regard, in 2015 the organization APADOR-CH obtained a court order that forced the police to publish the procedures in case of identification and management at the police section, as part of ensuring the transparency of police work (Radu, 2016).

i) The principle of respect for the individual implies manifesting respect both for citizens, during duty performance, as well as for colleagues, superiors and subordinates (Torje, 2014: 171-178). Also, in exercising his activity, the policeman must impose respect by his attitude and behavior, especially by the respect he shows towards citizens, institutions, laws, citizens' rights and freedoms, ethical and best practice guidelines (Stolojescu & Radu, 2013: 167-177).

j) The principle of moral and professional integrity requires from the policeman to behave in accordance with the common norms accepted by the community where they perform their duties, as long as these norms do not contravene the laws of the country. Integrity implies the adherence to and observance of ethical and best practices principles specific to police work, but also of social morality, because the policeman should be an example of conduct for citizens (Sandu, 2017). Regarding professional deontology, according to the European Code of
Police Ethics (Recommendation 10/2001), this requires that "organizing police activity must include effective measures, in order to guarantee the integrity of police personnel and their proper behavior, in the execution of missions, and in particular, the respect of fundamental rights and freedoms recognized especially by the European Convention on Human Rights" (Government decision no. 991/2005).

Being a police officer involves exemplary ethical conduct, as it is demanded to policemen to show capacity of self-sacrifice in carrying out their tasks. Inefficiency in fulfilling professional tasks can lead to situations of transfer of criminality, facilitation of certain types of crimes, creating a negative image regarding the control exercised by state authorities, the loss of confidence in the police activity and state authorities in general (Stolojescu & Radu, 2013: 167-177). The integrity of the policeman has a significant influence on the level of trust and credibility of the police institution among the public opinion (Torje, 2014: 171-178). Integrity is an essential quality for the professional profile of policemen. It is required that the policeman be an honorable and integral person. Integrity represents one of the most important concepts in today's theoretical ethics, where it is often seen as synonymous with the idea of moral conduct, but also in applied ethics, where it denotes the ethical behavior of the professional in any field of activity. The concept of integrity is part of the ethics of virtues, where integrity is a fundamental virtue that is consistent with the individual's own moral beliefs (Cox, La Caze, & Levine, 2017).

In contemporary deontological systems, integrity represents compliance with the rules of professional ethics, especially with those that limit unacceptable behaviors, especially correlated with abstaining from any deceptive, fraudulent, duplicitous behavior (Sandu, 2017). The term is commonly understood as being synonymous with that of honesty, probity and incorruptibility. In some specialized works, it is shown that a person can act in violation of ethical or moral norms, but still remain integral in his behavior, when he is wrong about what is right and wrong (Cox et al., 2017). For this reason, philosophers such as Plato and Aristotle were striving to define the concept of good, then, explaining it to others, encourage integral people to apply it in their life. In applied ethics, one speaks less about the theory of moral good, because doing good is no longer generally seen as unique and transcendent, but depending on social context. Instead, theories of
ethical decision are preferred, allowing the moral actor to act in a manner accepted by the community as ethical (Sandu, 2017).

k) The principle of operational autonomy resides in the performance of duties and missions according to the necessary competences and existing regulations, without interference of other police officers or authorities, except for the exercise of hierarchical control tasks (Stolojescu & Radu, 2013: 167-177). The operational autonomy of the police officer involves adapting the methods and means of working to the particularities of each case, and carrying out specific police intervention activities depending on the reaction of the persons concerned, the particularities of the area of intervention or the moment when the intervention is carried out (Stolojescu & Radu, 2013: 167-177).

1) The principle of loyalty to the police institution and the values promoted by the organization calls for a conscientious adherence of the police officer to these values, respect for police hierarchy, and for commands, conscientiousness in fulfilling the duties of service and respecting the principles mentioned above, as well as ethical ones, that emphasize the activity of the police officer (Stolojescu & Radu, 2013: 167-177).

The fight against corruption as a strategy of social modernization

Integrity is generally seen in antithesis to corruption. An integral man is incorruptible. The causes and effects of corruption and how to combat it have been on the political agenda for the last decades. But the theme of corruption is not new, it is found in the writings of Plato (The Laws), Machiavelli (The Prince) of Montesquieu (About the Spirit Laws) etc.

The fight against corruption is an element of modernity. In the medieval era, betrayal of the ruler by the boyars for obtaining money, estates or promises of favors was a common fact. Moreover, the payment of tribute was a way of exercising the sovereign power over vassal states. This payment was equivalent to what we now call a protection, institutionalized tax. Modern tax systems have emerged when taxes owed by citizens and companies were collected in a rational and predictable manner, and were used by the state in a transparent manner and not discretionary, by individuals who ruled the state. Buying titles by boyars and even reign privileges during the Phanariotic era was a form of widespread corruption. In the Middle Ages, the provision of benefits to
governors - the equivalent of senior civil servants - but also to other categories of people invested with state power was normal and was even considered a necessary form of courtesy. Power was exercised as a personal privilege and, as such, the personal interests of the persons in power were considered, especially of kings and rulers, and it was believed that these interests represented the public interest (Dobrinoiu, 1995). The actions that they carried out in favor of the majority of citizens represented acts of kindness that proved the generosity of the respective ruler.

A modern society is achieved by rationalizing policy and institutionalizing power. Power is not exercised as a personal privilege and the civil service serves the interests of citizens (Zamfir, 1999). The corrupted medieval mentality, according to which a person holding a management position is entitled to personally benefit from it, in other ways than through the remuneration received, is the central element of corruption in today's society.

Corruption was not eliminated with the establishment of capitalist productive relations, but it was the liberal capitalist model that defined the use of any form of power for personal purposes as corruption.

In the US, for example, with the ongoing development of capitalism, corruption has made it possible for the "influx of people and new interests into public life and has served as a means of perpetuating already established interests." Corruption "of government officials and public life in general was dominant in nineteenth-century America, despite attempts to reform public services and to develop the status of professional bureaucracy. Throughout the nineteenth century, corruption was a key feature of most European states" (Zamfir, 1999).

In the twentieth century, as a consequence the emerging professional model of the civil servant, new forms of corruption appeared, specific to modern bureaucracy. Along with its traditional forms, a more and more frequent form of corruption becomes that of officials who sell privileges of his position as a commodity in exchange for the acquisition of some goods and services.

By implying "the expansion of governmental authority and the inflation of social activities under government control, modernization enhances the phenomenon of corruption, especially by amplifying corruption contexts and corruptibility. The functions of corruption in any modern society are similar to violence, means that individuals use
illegally to achieve their goals, in direct relation to the weaknesses of the
political system. But while violence is a form of protest against social
order, corruption represents adherence to the political system and the
ability to use its breaches in the interest of a client who is well adapted to
the deficiencies of the functioning of this system” (Keller, 1989).

The term corruption is known as a "deviation from morality, as
an act of violation of social boundaries" (Breban, 1992). It derives from
the Latin "coruptio, -onis" which means deviation from morality, honor,
but also defiance, depravity. According to other authors, the root of the
word "corruption" comes from the Latin verb "rumpere", which means
to break, thus designating a fracture, a crack, a crime. The break may
consist of a violation of a moral rule or a social code of conduct, or of an
administrative regulation, but each time the one disposed to such
violations seeks to obtain for himself, his family, friends or social group,
a benefit (Cernea, 1996: 47).

Corruption is defined as "all activities that take place between
two parties in which one of them, by appealing to the function or quality
of the second, offers them an illegal gain in exchange for a mutual
advantage" (Zamfir, 1999).

The constitutive conditions of the crime of corruption are: the
existence of two parties in the corruption process, the abusive use of the
function or quality that one of the parties has, the offering of an illicit
gain between parties, facilitating an advantage to the one who offers the
gain.

As an essential condition for a crime to be corruption "it should
be mentioned that the benefit offered must be in the sphere of the illicit,
in the sense that the corrupt person receives a benefit to which he was
not entitled, which is illegal or immoral" (Mureșan, 1995).

According to the the way corruption is put into action, there are:

a) facts of active corruption, which refers to the action carried out by the
corrupting element, in the form of bribery, usually sanctioned by milder
punishments; b) facts of passive corruption, which concern the criminal
activity of the corrupt element, called bribe taking, punished more
severely.

According to the frequency of corruption facts, we have:
occasional corruption facts and continuous corruption facts. In general,
the acts of corruption and those assimilated to them are sanctioned by
the criminal law. The causes that generate corruption can be grouped
into: economic causes, of which the most significant are poverty and the
imperfections of the economic-social system, the absence or softness of
the legislation regarding the acts of corruption and their sanction,
legislative ambiguities, lack of firmness and inconsistency of the state in
applying the law, the form of dominant property and the political regime,
grounded mentalities, lack of education.

Conclusions

Placing the activity of any law specialist, as well as that of the
police officer in subordination to justice, and under the obligation to
perform acts of justice represents a special honor, and at the same time
an obligation to such professionals, to act in compliance with the
regulations and standards of professional ethics. The calling of any
specialist who has a legal profession, be it a magistrate, lawyer, notary, or
police officer, is the exercise of justice. This value is therefore a
constitutive value of the police activity and defending it justifies the
existence of police forces as a social institution. Operational values are
those values that guide the activity of the police officer. In practice, they
are expressed in the form of specific ethical principles: the principle of
legality, the principle of equal treatment and non-discrimination, the
principle of impartiality, the principle of transparency, the principle of
exercising the the policeman’s right of expression, the principle of
availability, the principle of prioritizing public interest, the principle of
professionalism, the principle of respect for the individual, the principle
of professional integrity, the principle of operational autonomy, the
principle of loyalty to the police institution.

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