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**The Reform of the Romanian Police**  
**Forces between Necessity and Possibility**

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**Abstract:** Police Forces today face new challenges requiring the requirement to redefine (review) procedures to identify the most effective responses. All these years, the theme of police reform in Romania has been a constant one. Under these conditions we must consider the particular factors in which these forces were established and evolved over time. The purpose of this article concerns the basic aspects from the legislative perspective of the organization and functioning of the public order forces in Romania and the arguments for which the gendarmerie forces must be rethought as police forces in the field of Public Order, and by reference to the most important moments in the evolution of this institution. The Romanian Gendarmerie was founded on the French model, but the developments were interrupted by historical events that fundamentally changed its role and duties.

**Keywords:** reform; police; gendarmerie; government authorities; Public Service; Public Order

The analysis of the normative acts that regulate the organization and functioning of the Romanian Police, the Romanian Border Police and the Romanian Gendarmerie highlights a common aspect in their definition as specialized state institutions and components of the Ministry of Internal Affairs. At the same time, the legislative framework also stipulates that the Romanian Gendarmerie has military status, but in reality, it has civilian attributions, and “the activity of the Romanian Police is a specialized public service and is performed in the interest of the person, the community and state institutions, exclusively on the basis and in the execution of the law”<sup>2</sup>. At the same time, we find that in Romania it is organized a centralized police system, specific to the European continent, through the existence of two forces, police and gendarmerie, which is not unique only in European countries. It is interesting that in the period 2004 - 2010 the *Community Police*<sup>3</sup> also functioned, “for public order, as a local, specialized public service”<sup>4</sup>, through the reorganization of the Public Guard Corps, and later, in 2010, transformed into the Local Police<sup>5</sup> operating at the level of administrative-territorial units. The fact that the law stipulates that “the Ministry of Administration and Interior elaborates, in consultation with the associative structures of local public administration authorities, the Framework

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<sup>2</sup> Law no. 218 of April 23, 2002 (republished) regarding the organization and functioning of the Romanian Police, Official Monitor no. 170 of March 2, 2020.

<sup>3</sup> Law no. 371 of September 20, 2004 on the establishment, organization and operation of the Community Police, Official Monitor no. 878 of September 27, 2004.

<sup>4</sup> Law no. 371 of September 20, 2004 on the establishment, organization and operation of the Community Police, Official Monitor no. 878 of September 27, 2004, art. 1, para. 1.

<sup>5</sup> Law no. 155 of July 12, 2010 of the local police, Official Monitor no. 488 of July 15, 2010 (republished, Official Monitor no. 339 of May 8, 2014).

Regulation for the organization and functioning of local police, which is approved by Government decision”<sup>1</sup> highlights the nature of relations between these institutions. It was a recognition of this institution, and implicitly its nature, surprisingly the police nature of the gendarmerie's attributions is not recognized. Thus, the Framework Regulation on the organization and functioning of the local police<sup>2</sup> “regulates the organization and functioning of the local police and applies to its staff”<sup>3</sup> and at local level there are adopted “decisions for approving the regulation on the organization and functioning of the local police established at the unit / administrative-territorial subdivision”<sup>4</sup>. Although the Community Police Act entered into force in 2004, this structure has been designed since 2002. Thus, it was provided that “the establishment, organization and operation of the Community Police for public order at the level of administrative-territorial units is regulated by law”<sup>5</sup>. We agree with the concept of *community police* for *public order* from two perspectives, one related to the implementation of this strategy according to the Western model and the other related to the opening of an academic debate *on public order policing*. Or, from our point of view, the concept of community police, of public order, must refer to the public order structures of the police and gendarmerie, as governmental structures and less the local police which is organized and operates by “decision of the deliberative authority of the administration local public bodies, as a functional compartment within the specialized apparatus of the mayor / general mayor or as a public institution of local interest”<sup>6</sup>. We believe that the functioning of such a structure, community police, was made from a strategic level error without knowing what this concept of *community police (policing)*<sup>7</sup> implies. In general, public order structures (police and gendarmerie), including those of the traffic police, are the most visible in society and must also be available to the public because today “society (...) requires the police to deal with an incredible and wide range of difficult situations” (Goldstein, 1990, p. 1). Thus, we appreciate that it is the moment when the role of the police forces can be enhanced, the strategies adopted and implicitly their efficiency, as well as their relationship with the community. At the same time, “the police is the most visible manifestation of the highest-performing governmental authority, obvious, immediate and intrusive tasks to ensure<sup>8</sup> “peace and tranquility of the community, remaining one of the fundamental public services of peaceful coexistence. At the same time, the fundamental right to security<sup>9</sup> is ensured and preserved by maintaining a state of peaceful coexistence through which the effective exercise of citizens' rights and freedoms can be achieved.

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<sup>1</sup> Law no. 155 of July 12, 2010 of the local police, Official Monitor no. 488 of July 15, 2010 (republished, Official Monitor no. 339 of May 8, 2014), art. 45, para. (2).

<sup>2</sup> Government Decision no. 1332/2010 on the approval of the Framework Regulation for the organization and functioning of the local police, Official Monitor no. 882 of December 29, 2010.

<sup>3</sup> Art. 1, Government Decision no. 1332/2010 on the approval of the Framework Regulation for the organization and functioning of the local police, Official Monitor no. 882 of December 29, 2010.

<sup>4</sup> Art. 2, Government Decision no. 1332/2010 on the approval of the Framework Regulation for the organization and functioning of the local police, Official Monitor no. 882 of December 29, 2010.

<sup>5</sup> Art. 65, Law no. 218 of April 23, 2002 (republished) regarding the organization and functioning of the Romanian Police, Official Monitor no. 170 of March 2, 2020.

<sup>6</sup> Art. 4, para. (1), Law no. 155 of July 12, 2010 of the local police, Official Monitor no. 488 of July 15, 2010 (republished, Official Monitor no. 339 of May 8, 2014).

<sup>7</sup> Community policing has evolved slowly since the civil rights movement of the 1960s exposed the weaknesses of the traditional police model. Although its origins can be traced to this crisis in police-community relations, its development has been influenced by a wide variety of factors over the last forty years. <https://law.jrank.org/pages/1649/Police-Community-Policing-Origins-evolution-community-policing.html>, accessed on 07.04.2020.

<sup>8</sup> *Guidebook on Democratic Policing*, OSCE, Vienna, May 2008, 2nd Edition, p. 11.

<sup>9</sup> Art. 22 The right to life and to physical and mental integrity (1) The right to life as well as the right to physical and mental integrity of the person are guaranteed. (2) No one shall be subjected to torture or to inhuman or degrading treatment or punishment. (3) The death penalty shall be prohibited; art. 23 Individual freedom (1) The individual freedom and security of the person are inviolable, the Romanian Constitution, Official Monitor no. 233 of 21 November 1991 (amended and supplemented, Official Monitor no. 767 of 31 October 2003).

The need to reconsider the attributions of the gendarmerie as being of a police nature leads us to reorganize it by bringing to the present day the rural gendarmerie structures, as a real force of continuity, because “in any circumstances (peace, crisis or war) it ensures continuity of state action on the entire national territory”<sup>1</sup>, provided even by the very law of organization and functioning with reference to the attributions in the field of public order and military actions. It is necessary to point out that implicitly, the functional police competencies of the gendarmerie structures are recognized by the applicability of the Code of Ethics and Deontology in the sense that it “applies (...) to the Romanian Gendarmerie personnel under the provisions of Law no. 550/2004 regarding the organization and functioning of the Romanian Gendarmerie, regardless of the structure in which it is employed and the position it holds”<sup>2</sup>. The Gendarmerie can thus be considered as a military institution with civilian attributions. A separation of functional and territorial competences at the level of public order, governmental forces, aims at consolidating public order, especially from the perspective of the constitutionally recognized social interest.

From a legal perspective, it is at least difficult to clarify the relationship between the Ministry of Internal Affairs and the local (formerly Community) Police, especially since the evolution of these national police and gendarmerie structures was adapted to the socio-political context after 1990, and their reform had to relate to at least three dimensions: the political dimension that falls under the responsibility of the political class to promote and implement public safety policies; the institutional dimension through which the relationship between state and society imposed the need for profound structural change of law enforcement; the institutional-organizational dimension regarding the selection, training and career development of the staff. We could also add the historical dimension through which it was possible to return to the Rural Gendarmerie and implicitly to “its police attributions”. (Alexe, 2014, p. 16) During the communist period, “the communist discourse and communist historiography in particular had as a constant permanent denigration of the gendarmes, presenting them as tools of bourgeois-landlord repression, working class executioners, repression troops and other expressions specific to the specialized wooden language in discrediting the institutions of the former regime” (Alexe, 2014, p. 21).

In this context, we should highlight the year 1850 (April 3) when the Gendarmerie was established by royal office. Prince Grigore Alexandru Ghica approved the decision of the Public Divan, signing the Legislation for the reform of the Corps of Servants in the Gendarmes according to the French model. At the same time, six years earlier, on March 28, 1844, the Spanish Civil Guard was created by royal decree as a “*special corpus of the armed forces of infantry and cavalry.*” Although, they were inspired by the French model and established around the same time, they evolved in relation to the particularities of each society, except the Gendarmerie whose police duties in rural areas were taken over by the Militia in 1949. In Romania, the Rural Gendarmerie was founded in 1893, when the Draft Law on the Rural Gendarmerie was adopted and promulgated by Royal Decree no. 2919 of August 30, 1893 and published in the Official Monitor of September 1, 1893.

The conceptual dimension was somewhat non-existent because with the evolution of society, some Western concepts, visions and strategies were not known, academic research was almost non-existent and hence was the starting point for organizing and operating law enforcement specific to the rule of law. This is how community policing is “essentially a collaboration between the police and the community, which identifies and solves community problems. As the police are no longer the only

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<sup>1</sup> *mémoGEND*, 2016, p. 6.

<sup>2</sup> Art. 25, para. (1), Government Decision no. 991 of August 25, 2005 for the approval of the Code of ethics and deontology of the police officer, Official Monitor no. 813 of September 7, 2005.

guardians of law and order, all members of the community become active allies in the effort to increase the safety and quality of neighborhoods<sup>1</sup>. It is considered that “community policing represents the democracy in action, requiring the active participation of local governments, civic and business leaders, public and private agencies, residents, churches, schools and hospitals.”<sup>2</sup> As part of a national strategy to combat crime, Community policing “comprises three major key components: Community partnerships between the law enforcement agency and the people and organizations they serve to develop solutions to problems and increase trust in the police; organizational transformation by relocating organizational management, structure, staff and information systems to support community partnerships and proactively solve problems; problem solving through proactive involvement and systematic examination of identified problems to develop and evaluate effective responses<sup>3</sup>”. After all, community policing is becoming a “law enforcement strategy that highlights the systematic use and involvement of the community, partnerships and problem-solving techniques to proactively address the conditions that cultivate crime and social unrest”<sup>4</sup>. Along with this law enforcement strategy, two more have been established in modern societies, the problem-oriented police and the intelligence police. Problem-oriented policing is a set of techniques and procedures through which “a new dimension of effectiveness is achieved” (John & Spelman, 1987, p. ix) and it involves “the analysis of groups of incidents from which solutions based on a wide variety of resources are derived.” (John & Spelman, 1987, p. ix)

Information-driven policing “is based on analytical understanding of multi-jurisdictional crime threats, developing a path to solving criminal problems and leading on information sharing”<sup>5</sup> threat indicators and intervenes. The vision of this law enforcement strategy is outlined as “a tool for the exchange of information both within law enforcement agencies and between all participants in the intelligence environment. The concept helps law enforcement agencies identify threats and develop responses to prevent them.” (Carter & Carter, 2008, pp. 310-325) Or, in the context of 1990, it was somewhat difficult to create a rural gendarmerie in the imperatives of democratizing Romanian society, when the problem of reforming the Security Troops Command, a fully military structure through organization, training and missions, certainly arose. Throughout this period, the concerns in all democratic societies have been to reduce crime, by continuously adapting the strategies of law enforcement agencies (regardless of their name) to public policy challenges. At least at the Western level, academic studies in the field are extremely advanced on the role of the police in a democratic society. At the social level, there is another dynamic of social interactions that need specific control through the subtle use of power, so that law enforcement is perceived to act in the interest of the citizen and the community of which he is part.

Considering national security as “the internal and external security of the state<sup>6</sup>” and that, in general, security is a core value of interpersonal relations, the idea that “the need for security results from the fact that people want to live together and are thus vulnerable to each other” (Preece, 2011, p. 16). We can conclude that, at least, the police and the gendarmerie represent internal security forces through which the essential function of the state of maintaining public order is fulfilled, in accordance with the

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<sup>1</sup> Bureau of Justice Assistance, *Understanding Community Policing. A Framework for Action, Monograph*, August 1994, p. vii.

<sup>2</sup> Bureau of Justice Assistance, *Understanding Community Policing. A Framework for Action, Monograph*, August 1994, p. 3.

<sup>3</sup> Community Oriented Policing Services, *Community Policing Defined*, U.S. Department of Justice, 2012, p. 1.

<sup>4</sup> National League of Cities (NLC), *City officials guide to Policing in the 21st Century*, Washington, 2016, p. 2.

<sup>5</sup> *Reducing Crime through Intelligence-Led Policing*, Bureau of Justice Assistance, 2008, p. 2.

<sup>6</sup> *Recommendations on the Protection of Fundamental Rights in the Context of National Security*, Council of Bars & Law Societies of Europe, 2019, p. 17.

provisions of art. 4 (2) of the Treaty on European Union<sup>1</sup>. In the context in which we reconsider the police and gendarmerie as public security forces “it is interesting to note that there is no unambiguous definition or clear guidance on what is meant by national security”<sup>2</sup>, as there is no such definition of order as a variety of determinants and particular factors intervene that project a certain national (territorial) vision on these concepts.

We also draw attention to another relatively new concept, *mobility security*<sup>3</sup> which refers to the security of communication routes (routes) which “is a major problem for society: economic competitiveness, administrative performance, social cohesion, openness to the international environment”<sup>4</sup> which generates a special criminal typology.

One of the great problems of today's society is that of the culture of violence, so that “cultural and social norms have a great influence in shaping individual behavior, including the use of violence. The rules can protect against violence, but they can also support and encourage its use.”<sup>5</sup> We are therefore in the manifestation of a public order with attributes of territoriality and culturalism in which the forces of public order are organized and operationalized. In applying the above-mentioned strategies, new concepts related to procedural fairness have also been implemented, which “refer to the actions and procedures used by a police officer so that community members feel that they are treated correctly and with due respect”<sup>6</sup> or the concept of legitimacy which refers to the fact that “the public perception of the police is as a justified authority”<sup>7</sup>, so that the observance of the norms must be rather voluntary by changing the cultural perception on the public authority.

In addition to the reform of law enforcement, there is a need for cultural change through a dynamic and continuous adaptation to the challenges of the public space, the cultivation of individual responsibility based on values and beliefs through awareness of fairness and legitimacy, especially that “the role of The police is best understood as a mechanism for the distribution of the non-negotiable coercive force employed in accordance with the requirements of an intuitive understanding of situational requirements” (apud (Jobard, 2014) which “are not defined in themselves, but are left to the discretion of the police ...” (apud (Jobard, 2014). Such a culture becomes an instinctive one and only in this way can those unforeseen situations be overcome in which law enforcement can be overcome. Also, as “police and gendarmes exercise their duties with loyalty, a sense of honor and devotion”<sup>8</sup>, strong discipline and fidelity will further strengthen legitimacy and public recognition in all actions.

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<sup>1</sup> The Union shall respect the equality of Member States in relation to the Treaties, as well as their national identity, which is inherent in their fundamental political and constitutional structures, including local and regional self-government. It respects the essential functions of the State and, in particular, those aimed at ensuring its territorial integrity, maintaining law and order and defending national security. In particular, national security remains the sole responsibility of each Member State, art. 4, para. (2), Treaty on European Union (consolidated version), Official Journal of the European Union, C 326/13, 26.10.2012.

<sup>2</sup> *Recommendations on the Protection of Fundamental Rights in the Context of National Security*, Council of Bars & Law Societies of Europe, 2019, p. 9

<sup>3</sup> The National Center for Mobility Security (CNSM) was created in 2017 to improve mobility security on the national territory, Gend’Info, Direction générale de la gendarmerie nationale, Juin / Juillet/ General Directorate of the National Gendarmerie, June / July 2019, p. 23.

<sup>4</sup> Gend’Info, Direction générale de la gendarmerie nationale, Juin / Juillet/ General Directorate of the National Gendarmerie, June / July 2019, p. 23.

<sup>5</sup> *Changing cultural and social norms that support violence*, World Health Organization, 2009, p. 3.

<sup>6</sup> *Operational Strategies to Build Police-Community Trust and Reduce Crime in Minority Communities: The Minneapolis Cedar-Riverside Exploratory Policing Study*, Police Executive Research Forum, Washington, D.C., 2017, p. 11.

<sup>7</sup> *Operational Strategies to Build Police-Community Trust and Reduce Crime in Minority Communities: The Minneapolis Cedar-Riverside Exploratory Policing Study*, Police Executive Research Forum, Washington, D.C., 2017, p. 11.

<sup>8</sup> *Article R. 434-2, Code de déontologie de la police nationale et de la gendarmerie nationale/ Article R. 434-2, Code of Ethics of the National Police and National Gendarmerie*, Ministère de l’intérieur, République Française, 2014.

A real reform at the level of the Ministry of Internal Affairs would involve returning to the rural gendarmerie (by reporting on mobility security, assigning skills in the field of traffic policing, appropriate to territorial powers), adapting and implementing Western police concepts and strategies, re-evaluating Law no. 60 of 1991 on the organization and conduct of public meetings and Law no. 61 of 1991 for sanctioning acts of violation of social coexistence rules, public order and peace and promoting a law of public order (code of public order), reforming the training of staff at several levels of execution and management, including in the field of organization, planning and execution of specific operations in higher military education. We believe that it would be effective to introduce in the name of these institutions the attribute of national (Romanian National Police, Romanian National Gendarmerie), rethinking training (initial and continuous levels of leadership skills), clear differentiation of status, career promotion, etc. From an even empirical perspective, without having access to data from human resources structures, the surprisingly large number of gendarmes transferred to police structures will be observed, which demonstrates the almost insignificant differences between the professional competencies of the gendarmerie staff compared to those of police personnel. A future reform must clearly differentiate the bodies of these two categories of personnel (police and gendarme), especially in terms of status, equivalence (similarity) of ranks (military and professional), reassessment of the law on police status<sup>1</sup>. With particular reference to art. 49<sup>2</sup> on the National Police Corps, in correlation with the organization and functioning of the police and contract staff unions, a re-evaluation of this structure is necessary, which was most likely considered as a structure with union nuances. A real reform falls within the attributes of the state, focused on public security, justified, accepted and claimed by society in its interest.

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- \*\*\* Law no. 218 of April 23, 2002 (republished) regarding the organization and functioning of the Romanian Police, Official Monitor no. 170 of March 2, 2020.
- \*\*\* Law no. 550 of November 29, 2004 on the organization and functioning of the Romanian Gendarmerie, Official Monitor of Romania no. 1175 of December 13, 2004, with subsequent amendments.

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<sup>1</sup> Law no. 360 of June 6, 2002 (updated) on the Statute of the police officer, Official Monitor no. 440 of June 24, 2002.

<sup>2</sup> Art. 49 (1) The National Police Corps is established, as a legal entity under public law, hereinafter referred to as the Police Corps, based in Bucharest, representing the form of professional, autonomous, apolitical and non-profit organization of police officers. (2) The body promotes the interests of police officers and defends their rights.

\*\*\* Law no. 371 of September 20, 2004 on the establishment, organization and operation of the Community Police, Official Monitor no. 878 of September 27, 2004.

\*\*\* Law no. 155 of July 12, 2010 of the local police, Official Monitor no. 488 of July 15, 2010 (republished, Official Monitor no. 339 of May 8, 2014).

\*\*\* Law no. 360 of June 6, 2002 (updated) on the Statute of the police officer, Official Monitor no. 440 of June 24, 2002.

\*\*\* Organic Law 2/1986, of March 13, on Security Forces and Corps, Head of State, Official State Monitor, no. 63, March 14, 1986.

\*\*\* Organic Law 4/2015, of March 30, on the protection of citizen security, Head of State, Official State Monitor, no. 77, March 31, 2015.

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\*\*\* *mémoGEND*, 2016.