

CIVIL RIGHTS AND POLICE COURT SERVICES

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Abstract

The aim of this thesis is to present to the reader information about the operation of preventive, investigative and emergency that the police court offers to the citizens. Police court is always in service of the community, therefore the activity of the police court services is based on the principles of the rule of law and citizens' active participation in the solution of common problems. For these reasons, community policing should be understood as democracy in action, as a philosophy, according to which the police cooperates with citizens to serve, solve problems and to build a society where people feel safe and free in their economic and social activity.

While police court services should be considered as the beginning, "the gate" that opens the criminal justice system. They perform a variety of functions such as tracking and detection of crime, stopping, arresting and bringing to justice the perpetrators of criminal acts. Responsibility of the police to serve the citizens stems from the mission and the tasks that the law has granted them to watch over the lives and safety of citizens, their health, wealth, freedom of movement, organization, gathering, private activity, etc. In the implementation of this service takes advantage the ensuring of standards for the respect of human rights. During the police service offers citizens, it must demonstrate a maturity and correct professional behavior, observe the code of conduct and ethical standards with all age groups, particularly the treatment of juveniles and women. This is one more reason that the role of the police court service in relation to the services offered by other bodies of state administration, is special and very important, because it has to do with the guarantee and fulfillment of freedom and fundamental rights of individual in daily basis.

A short introduction to the human rights

The basic human rights and freedoms will always be the cornerstone of every democratic society. This is sanctioned in the first sentence of the Universal Declaration of the Human Rights, which has declared that the respect for the human rights and freedom is the “foundation of freedom, justice and peace in the world”. It should be considered that the concept of human rights is an early one in the history of mankind dating back to the Magna Carta, on the 12th of June 1215. Later on, in the England of 1679, the Habeas Corpus act was approved regarding the freedom of movement. In 1776 the American Declaration of Independence pointed out that all people are born with the rights of life, freedom and pursuit of happiness. The main documents that we refer to nowadays for the application of standards of human rights are: The Universal Declaration of Human Rights, approved by the General Assembly of the United Nations (1948) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950).

According to these documents, the human rights can be considered as those rights which are innate and without which humankind cannot live. The fundamental rights and freedoms allow the development and the proper use of human virtues like intelligence, talent, conscience and also the pursuit of spiritual and material needs. They are crucial for the growing need of human race for a secure life that protects dignity and the deeds of every individual.

In the countries with a developed democratic tradition the human rights are the ruling element of the social development, while in the countries with a young democratic tradition human rights remain the main priority to be developed and consolidated. Furthermore, the denial of human rights and freedoms is not only an individual drama but it also fosters an environment of violence and conflicts nationally and internationally. Therefore the whole society is engaged in the protection of human rights as well as the main powers of the state: legislative, executive and judiciary. All things considered these rights must be first respected by the appropriate organs, i.e. the court police services.

Many countries worldwide have evaluated the role of the police court as an important one therefore the respective institutions are engaged in the control of its activity. The police court have the delicate role of discovering and preventing criminal activity, thus these services date back in the earlier ages. They have competences which include the discovery, the prevention, and the investigation of crimes; the accumulation and confrontation of evidence in the case of criminal activity committed by individuals or groups. Every service of the police court is first of all considered as a service to the citizen, which means the police should serve with devotion to the community and it also should be able to respond accordingly to its problems in order for the citizens to feel safe and secure in their everyday activities.

The concept of “police” inside the frames of a democratic society

The word “police” comes from the ancient Greek word *politeuein*, which includes being a citizen or the engagement in politic activity; and *polis* which refers to the city states of that time. These definitions emphasize the importance of the individual, the political process and the state: How do people behave under the control of the law? Who will be the ones to govern and enforce the law?

All types of governance need the police authority to ensure the public safety and order, the prevention of crimes, the law obedience and morality because every society needs a structure. These structures ensure the basic means of survival such as the safe environment to fulfill the social and economic needs of a society. The police, as an organization and the system of law obedience, as an institution carry great part of the burden of social development.

The conduct of the police partially is determined by the type of the ruling government of a country. Mostly, in the totalitarian regimes the power is concentrated in the hands of one individual (a dictator), a small number of individuals or one single party, thus the systems aim is to protect these forces. In this case, the price paid for social order is the human rights and freedoms of the society. The democratic societies and government are based upon the idea of “participation and inclusiveness of the citizens in the governance”. They participate directly in the decision making process by referendums or indirectly by choosing the representatives in the legislative institutions like the parliament.

Democratic countries are focused in the enforcement of law and the social obligation of the police forces to protect and guarantee the human rights and freedoms; on the other side they limit the use of police force by the government, therefore the democracy is always skeptic towards the police. The police forces, theoretically and practically, are in contradiction with some of the main characteristics of a democratic society. The police represent the legal force of the state which is used to oblige the citizens to obey the law. Patrolling and policing means keeping under control the communities, the inhabited areas and the public spaces in order to ensure the constitutional order and the execution of law.

The mains systems of policing

Theoretically there are 4 main forms of policing in a democratic country:

- Policing which is carried out by the citizens (self-policing of the communities),
- Policing which is carried out by the private police and security,
- Public policing,
- Public policing inside the private areas.

These types of policing are used either interchangeably or combined from time to time, but the main of focus will be on the policing conducted by the public police court. The State Police is the most common form of the police court in all the public spaces of a country, and accordingly also in private areas when authorized. On the other hand the other forms of policing are more limited in space and attributions. In democratic societies it is not unusual for the citizens to be an active part of the process of policing. Besides the police forces and services, either private or public, the citizens bear partially the responsibility of policing the societies in which they live.

The police-citizens in their earliest appearance were in the form of self-policing of the communities from the residents. Nowadays this form of policing is manifested when the citizens decide to react to catch the individuals that commit crimes against the communities or disrupt the public order. Another case is when the citizens that notice a crime that has been or is being committed, report to the authorities and furthermore collaborate in the investigative process. Another type of involvement of the citizens in the policing process reflects the legal doctrine of *posse comitatus*, according to which the citizens can be summoned to assist the public police services to accomplish their duty. This kind of participation can somehow bring in mind the secret services and the espionage in the totalitarian regimes; nevertheless in the democratic countries this concept is completely different. The collaboration citizen-police includes all the citizens which are ready to give their contribution and not only selected groups.

Alertness is another good example of the direct participation of the citizens in the process of maintaining law and order. Historically, the people that were alert were part of the communities (for example citizens, business or religion leaders) or were groups of people that had taken into their own hands the responsibility for the law obedience and social norms. These groups usually arise when the public perceives that the existing systems are ineffective or have been corrupted and furthermore cannot protect the interests of the public. Although this kind of participation has been evident mostly during the Middle Age or the XIX century, it is still present nowadays.

The Public Police is the institution of the public administration that hires and pays individuals which are selected, professionally trained, specialized and further divided into groups to protect the interests of all citizens. Theoretically, the public police in the democratic societies can be seen in different forms of the military structures such as Nation Gendarmerie in France or Carabinieri in Italy. Other forms of the police organization can be the public services like State Police in Albania, Polizia di Stato in Italy and Police Nationale in France. These two forms of organization don't overlap into each other and do not interfere with their democratic characters because for the police the main importance is not what duty is performed but how it is performed. The way can be democratic or dictatorial; it can respect the fundamental rights and freedoms of individuals or it can transgress them without any limitation or punishment. In most countries a democratic policing exists, including Albania. There are also cases when the police service is turned into a tool in the hands of the government and it is used against the opposing forces to suppress them.

Private police are those organizations whose employees are vested with the responsibility of serving in specific duties inside the legal frame. They can be guards at private banks, depots, shops or clubs and bodyguards of businessman or artists. The competences and the responsibilities of these private police are sanctioned and regulated by specific laws.

Public Police system in Albania

From a comparative point of view the Albanian police court has no significant difference from the police of the other Balkan countries regarding the policing model, mission, competences and responsibilities. Most of the countries have had these institutions of combined nature and origin, sometimes military and sometimes civil, depending on the central administration. Meanwhile, the circle of the individuals that have practiced the attributes of police court has been enlarged or reduced in compliance with the changes in legislation or with the historical changes.

The models and the types of investigative activity of the police have changed accordingly with the system of penal proceedings applied year after year. For instance, during the totalitarian regime in Albania, the police organs have been attached with the paramilitary structures, while the investigative process and techniques applied at that time were almost closed. The activity of the police at that time had the following traits: it was secret, uneven and it constantly infringing the rights of the citizens. According to this model the priority was given to the secret police tracking, turning the police into a tool in the hands of the government.

The most appropriate model of public police is one with an open system, applied in Albania after the 90's, which is characterized by principles of equality and justice. According to this model, the police organs are democratic and also are subject to public surveillance. This means there is space for complaints, revision and establishment of correct relations with the community to which they serve. The activity of the police is based upon a system where a penal processing is under the monitoring of the public and the complete control of the prosecutor. The preliminary proactive phase of investigation is combined with the active reaction of the police taking into consideration only the legitimate and reasonable doubts about a crime which is, has or will be committed. On this basis the police court services evaluate and decide for the continuation of the investigative process, the methods, techniques and tactics of investigation taking into consideration the standards of human rights and freedoms in the procedures of evidence accumulation.

Currently the police court services in Albania are composed of: State Police, Tax and Customs Police, Military Police and Forest Police which enjoy the attributes of police court services. There are also other police services that accomplish tasks of the executive and administrative nature such as the Municipal Police, Prison Police, Urban Construction Inspectorate, Electric Police etc. So, there are various forms of police services which need to be remodeled and reconstructed in accordance with the standards of the EU countries.

Police as a service to the citizens

All the police structures should have the primary mission of serving the citizens by protecting their lives and ensuring the public order and safety by law enforcement. Therefore the police services have the consent and authorization of the society to ensure the safety of its members. The police activity should be based and developed in complete accordance with the legal acts approved by the state organs and institutions. The internal legal system and the international ones are the main source on which the activity of police court service is based in Albania. These legal sources are also the ones that guarantee the constitutional rights and freedoms of the citizens. Specifically the Police State services are unique and centralized with coverage of all the territories of the Republic of Albania. In this context they act and provide an equal service to all the population.

Besides the responsibilities and duties, the law attributes to the police the right to intervene in special cases by means of administrative punishments, controls or restrictive force, always respecting the penal proceedings and the human rights. At the same time the community has the right to monitor the police as a public service in order to assess the way it uses the power it has been given.

Serving to the citizens means to respond in time to the needs and demands of the population to provide safety for their properties and businesses; if these services are not provided accordingly the public can react to the police by many forms such as: accusation, disregard, loss

of faith and negative reactions towards public police officers. The late responses to the citizen's needs are intolerable in the cases their lives, fortunes or businesses are in danger.

The conception of the police as a service to the citizens means that its structures should be as close to the public as possible. This can be analyzed in two plans:

Firstly: the police services should be institutionally close to the public, which means its buildings and offices should be near to the residential centers and neighborhoods. In this context there can be the building of new police station in order to have a better coverage, of course without organic extensions.

Secondly: The operating and implementing organic functions of the government should be conducted in the base, near to the public. The removal of direct operations in the terrain and the gathering in regional and central regions it is inefficient and not in accordance with the current spirit of democratic policing.

The police activity as a service towards the citizens requires being open to the public. All police should be open with the public except for the cases predefined by law where there is no real public interest. Police activity it is considered open because it is carried out under the monitoring of the public to protect its interests. On the other side, the internal activity of the police services, the hierarchical relations or the technical procedures do not pose any interest for the public. The latter is only interested in the type of security and order the police offers, the quality and culture put into this service and how responsive it is towards the needs of the society. Therefore, expect for the technical procedures which obviously are held private because are irrelevant to the public, all the activity of the policy is open to the public and it is realized in its presence. Thanks to the modern technology of information and the journalist investigation almost all police operations are published or even held publicly. These operations can consist in the liberation of hostages, deactivation of explosive substances, capturing wanted individuals, opening up the roads in cases of accidents, first aid and assistance in case of natural disasters etc.

The performance of these activities is evaluated by the public considering the professionalism, dignity and culture by which the police service offers its services.

Collaboration: an important cog in the improvement of services to the citizens

Theoretically and practically it has been proved that the laws cannot exert any power without the consent of the community. Therefore, the efficiency of the actions of the police services depends entirely on its collaboration with the citizens. Studies have shown that the velocity of action or the advanced technology is not enough to reduce and prevent the criminal activity. The citizen's support, information, testimony, understanding and trust are crucial to effectively accomplish the tasks. The citizens are the most interested ones in the functioning of the laws that guarantee the public order and punish the law violators; therefore they offer their collaboration, partnership and support for the police actions in discovering, preventing and punishing criminal activity.

Nevertheless, the relations and collaboration with the citizens depends entirely on how the police service manages and evaluates this partnership. Every police officer should consider himself first of all as a member of community, who provides security and the protection of life, rights and freedoms guaranteed by the law for all the citizens. Sometimes it is not enough to point out the force of the law; there should be the pressure of punishment but only by making

clear the causes and the conditions of the development of criminality, its behavior mechanisms and the system of preventive measures against it.

Some of the most important directions of collaboration with the citizens can be:

- The regular information of the population for the dangers that can be derived in the cases of the encroachment of public order or natural disasters. Appropriate care is devoted to the information of the young ages in the private or public schools upon the personalities, biologic or physiologic indicators of the criminals, their typology, tendency, aims and behaviors in order to prevent them from falling prey to these criminals.
- Advices about the specific precautions that the citizens can take themselves in order to protect their properties and businesses :
 - ✓ Usage of technical tools in order to control the residential blocks, street lighting etc
 - ✓ Incorporation of signaling system in residential spaces or business areas like security cameras and other signaling tools.
 - ✓ Usage of safe keys, closing of doors, windows and the taps of liquids which can lead to fire or flood.
 - ✓ The improvement of the patrolling system in areas with high population which are more prone to criminal activity.
- Collaboration with the services of private police and security.
- Charge free telephones to encourage the citizens to notify at any time or place in case of criminal activity or possible corruption witnessed by the citizens.
- Putting appropriate road signs to orient the citizens and avoid accidents
- Asking for the help of the public for information about the criminals, in exchange for specific protection.

It should be pointed out the fact that in Albania, in the last decade, a clear vision is accepted by all regarding the opening of the police to the community. For many years now there is collaboration spirit between the police, local power and the community, which ensures an important mechanism for an effective police service for the Albanian taxpayers. In every organ of the police service there is public relations office that functions as a bridge of communication with the community and local media. These methods are used in order to ensure that the community views the collaboration with the police as a **civic value**. Every citizen should not only trust the police, but should also know how to collaborate and communicate with it.

The day of the “Opened doors of the police” is a new tradition which happens every 13th of January, to honor the establishment of the Albanian police. Transparency is one of the most important features of the police nowadays. Meanwhile consists in acknowledging and respecting the human rights in schools, in the public law and order, the road traffic rules etc.

Some recommendations for the development of police services

For the defense and respect of the human rights, the police officers should convert the values to practice. The human rights are part of the national law for every state member of the European Council; therefore every police officer should be familiar with them.

In order to ensure a better future for the police and for further support from the community there should be some changes in the following directions:

- The recruiting and selection of police employees should be done considering the type of the person being recruited. The candidate should have the personality, qualities and good will to protect the human rights.
- In-job and managerial training should be the main source for the professional growth of police employees.
- The structure and composition of the police service forces should reflect the society to which it serves. This means that the recruitment strategy should guarantee the employment of women, men, religious and ethnic minorities etc. in proportion with their numbers in the society. To ensure healthy communication between the police and the community, special care should be paid to the balance between local policing needs and the demands of the national police authorities.
- The creation of a working culture based on human rights means that the police employees should be able to work professionally without discrimination, racism or corruption
- Transparency and accountability serves as necessary principles to guarantee that the police services has the needed mechanisms of control that include all the population and to show that the complaints are pursued thoroughly.
- When special operations are planned, the respect for human rights should be considered in the operational objectives.
- National collaboration and exchange of experiences assists the police services to guarantee that their structures and practices comply with the international standards of efficient policing. This includes the exchange of techniques and technologies of policing.
- The police services cannot fight crime and maintain public order exclusively; it is partner in a process which need constant dialogue with all the other partners such as the government, social organizations, academic institutions and the general public.

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