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**Technical Paper**

**EXPERT OPINION ON SERBIAN CODE OF POLICE ETHICS**

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## 1. Introduction

PACS Risk Analysis of Corruption within Law Enforcement (ECCU-PACS SERBIA-eng-TP10-2014) finalised in April 2014, sets a number of recommendations that concern reforms the Serbian Ministry of Interior should undertake. One of these recommendations discusses the Code of Ethics of Serbian Police. It suggests that the Serbian Police, in its Code of Ethics, should *'consider a change of approach from regulative to 'inspirational' (regulation can be formulated in the form of police rules). It is also recommended the police put emphasis on ethical behaviour in the context of professional conduct (Article 39), write the code in the first person plural (it is easier for police officers to identify with such content) and include a section in the code on integrity, leadership by example and mutual relations, which are not present in the existing Code of Police Ethics'*.

With regard to this particular recommendation, on 18 December 2014, a meeting was held between the Serbian Police leadership and the Council of Europe/PACS project representatives and consultant. The aim of the meeting was to discuss further steps in amending the Code of Ethics. The outcome of the meeting is the expert opinion, the content of which consists of a theoretical background on police ethics, the European perspective on policing with examples of good practice, a brief description of the Serbian Police Code of Ethics and recommendations on how the Serbian Police Code of Ethics should be amended to fully comply with international standards and good practice.

## 2. Theoretical background

There is no common definition of an ethical code, however one can find three common factors of these codes (Pater and Gils 2003):

1. A code of ethics is a formal and written document.
2. The content of such a document is based on the moral-oriented policy, which can be displayed in the form of moral standards, fundamental values, principles or general statements of ethical orientation of the organisation.
3. Such a policy is formalised in order to regulate the behaviour of employees or the organisation as a whole.

The code of ethics should be covered by the four fundamental values that underline an individual's ethical behaviour. These are ***integrity, fairness, competence and usefulness*** (Coughlan, 2001).

The main purpose of an ethical code is to affect the employees' ethical behaviour with the formalisation of expected behaviour, which in turn determines the ethical climate in the organisation (Pater and Gils, 2003). On the one hand, the code is supposed to influence the

employees' perception and understanding of the importance of ethical behaviour and ethical climate, while, on the other hand ethical codes have limited power because of their inability to define appropriate behaviour in all possible situations (ibid).

### **Three types of codes of ethics**

Some well-known experts in this matter (P. Shachaf; Farrell & Cobbin; Froehlich; Frankel) distinguish three types of codes of ethics, namely *inspirational, regulative and educational*:

#### a) Inspirational code of ethics

The purpose of inspirational ethical codes is to encourage employees to be ethical. They consist of values, according to which employees should act when making ethical decisions. These values represent an ideal that has been deemed ethically appropriate by the organisation. Authors of such codes assume that employees are naturally inclined to follow ethical standards and rather than telling employees how to act, include only statements of values and provide an environment in which individuals can freely make ethical decisions.

#### b) Regulative code of ethics

Regulative or prescriptive codes of ethics provide a detailed list of rules for ethical behaviour. They describe the required behaviour under certain circumstances and apply specific moral philosophy (utilitarian, individualistic, moral rights, etc.) to determine the desired values. The rules in this kind of ethical codes are solutions to ethical dilemmas. With these codes, the employees don't make their own ethical decisions but instead must follow the predetermined rules.

#### c) Educational code of ethics

The third type of code is the educational code of ethics and while they may include both inspirational and regulative elements, they also provide explanations and practical examples. This way, they try to substantiate the basic guidelines with commentaries and interpretations.

Definitions aside, it is important to understand that just having a code of ethics is not enough, one must be ethical and live by the code of ethics (Brauer 2007). It is also insufficient to only have the rules. One needs to understand why these rules exist, and it is not enough just to obey them, but the employee/functioner needs to internalise them and live by them (ibid).

It is also important to recognise that ethics are not just about what we have to do, but rather how and why we should do something. Answer to this question and recognition of the usefulness of the answer are the prerequisites for the correct attitude toward ethics and for acceptance of all kinds of ethical discussions, trainings, educations, ethical codes, etc.

### 3. European perspective focused on policing

The Common Curriculum on Police Ethics and Integrity prepared by the European Police College (CEPOL) states that legal instruments, as well as national and international codes of ethics, determine norms for police action, and that they have to be incorporated into everyday police practice. The Curriculum underlines the importance of proper leadership as a potentially powerful tool for improving police ethics. It means that practical examples of proper application of the code are equally important as the quality of the code itself. If managers behave incorrectly rather than in accordance with the formal and informal ethical rules, other employees are likely to follow their bad example and interpret it as acceptable behaviour within the group.

CEPOL also puts emphasis on the ethics training which has to bridge the gap between basic European values and guidelines (as they are set in the European Code of Police Ethics, the European Convention Against Corruption, national constitutions, laws, etc.) and autonomous ethical decision-making in daily police practice with a view to improve the effectiveness of a police work (ibid).

The Toolkit on Police Integrity (prepared by Centre for the Democratic Control of Armed Forces - DCAF, 2012) emphasises that the adoption of new codes of ethics or conduct, rather than repression against misbehaviour, may be seen as a more positive and forward looking approach. The code of ethics should contain norms and desired behaviour which reflects values and principles of the culture and subcultures of police organisation.

The Handbook for the Self-Assessment of Law Enforcement Forces to Prevent Corruption and Enhance Integrity (EU Council, 2014) defines that each and every law enforcement authority should have a charter or a code of ethics (conduct) to which its members can refer in their decision-making processes. The Handbook stresses the importance of training as a key factor for ensuring the high quality of law enforcement officers, which has to be provided by appropriately qualified trainers. The results of the training should be reflected in the strengthening of values essential to police or law enforcement services, such as integrity, a sense of public service and incorruptibility. These moral values have to be incorporated into key documents - including a code of ethics. The Handbook also states that the most experienced police officers (not only leaders) have to be aware of their role in terms of being a good example to others, especially when it comes to integrity. Such an environment has a very strong impact on young police officers (recruits).

The Handbook on Police Ethics (OSCE, 2014) defines general professional and personal values that exist in almost all codes of ethics of organisations whose work focuses on interaction with people. These values include autonomy, harmless intervention, improvement of situation, integrity, fairness, commitment and reliability, competence, respecting rights and personal dignity, caring about the welfare of others, professional accountability and social responsibility.

The Handbook also defines elements of the policing profession, namely: a.) members have a specific body of knowledge that is not easily acquired, but requires special training and education; b.) members are characterised by commitment to serve citizens and/or the public; c.) members are committed to promote the common good; d.) members share professional

principles and codes of ethics that require from them a higher standard of conduct than in some other professions (ibid, 20-21).

## **European Code of Police Ethics**

The European Code of Police Ethics (2001) in form of Recommendation, was adopted by the Committee of Ministers of the Council of Europe on 19 September 2001. This Code presents a document, which, as its basis, has an educational philosophy. As the first of its kind in Europe, the Code defines a common framework for the functioning and organisation such as police in a modern democratic society, and is therefore of great significance. It also represents an important guideline on ethics not only for police officers, police management and police organisations, but also for governments, trade unions and other agencies which could have an impact on police organisation and functioning in a society.

As already stated, and determined by the nature of its content, the European Code of Police Ethics is an educational code. It is divided into seven chapters, which together contain 66 articles, each one with its own comments.

It is a comprehensive document detailing several different areas, such as objectives of the police, legal basis for its functioning in line with the rule of law principles, the police and the criminal justice system, organisational structures of the police (with sections on qualifications, recruitment and retention of police employees, training and rights of police personnel), guidelines for police action/intervention (with sections on general principles, police investigation, arrest and deprivation of liberty), accountability and control of police forces, research and international co-operation.

## **Examples of good European practice**

This section of this opinion briefly presents two examples of good European practice – one from Great Britain and another from Slovenia, both being consistent with the philosophy of the European Code of Police Ethics. The opinion also makes several references to the Croatian Police Code of Ethics.

The first example is the Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales (2014), which is a guide for the day-to-day ethical behaviour and decision making. This code also presents a different theoretical approach than it was the case before - prevention was given priority versus repression, therefore the code presents a step forward in that direction. Its aim is to help each member of the police to perform according to the highest professional standards when serving the public. It is a mixture of both - *inspirational* and *educational* ethical codes.

The code stresses that ethical behaviour comes from the values, beliefs, attitudes and knowledge that guide the judgements of each individual. It describes nine policing principles, written in the second person plural (Accountability, Fairness, Honesty, Integrity, Leadership, Objectivity, Openness, Respect and Selflessness) and ten standards of professional behaviour, written in the first person singular with explanations mostly in the second person plural (Honesty and Integrity, Authority, Respect and Courtesy, Equality and Diversity, Use of Force, Orders and

Instructions, Duties and Responsibilities, Confidentiality, Fitness for Work, Conduct and Challenging and Reporting Improper Behaviour).

Policing principles underpin and strengthen the existing procedures and regulations by ensuring standards of professional behaviour for police officers and other police employees, while policing standards reflect the expectations that the professional body and the public have of the behaviour of police employees. The reason for combining policing principles and standards in one code was to create one single document and to replace a plethora of existing material (*Annex 1*).

The second example is the Slovenian Code of Police Ethics (2008), which belongs to the category of inspirational codes of ethics. It determines the relations between police officers and the relations between police officers and citizens, state authorities, non-governmental organisations and other institutions. It establishes moral and ethical standards of the Police and is an upgrade from the Code of Conduct for Civil Servants in Slovenia.

The code is very short and consists of general and final provisions and basic principles (Respect for Equality before the Law, Protection of Reputation, Incorruptibility, Public Nature of Work, Professionalism and Independence, Protection of Professional Secrecy, Mutual Relations and Compliance with the Code). All together there are fourteen articles only. The main purpose of the code is to raise police officers' awareness of the importance of respecting ethical principles and to strengthen ethical and moral conduct in practice.

The authors of the code wanted to strengthen the awareness of the police mission and, in a specific manner, inspire all police employees. Therefore they wrote the code in the first person plural and did not include disciplinary regulations, which are an integral part of other legislation that regulates police work.

In its special appendix, there is a list of values and virtues expressing the mission of the Police, namely that Slovenian police officers serve the people, protect people's lives and property, protect the weak from the strong, ensure that all the people enjoy constitutional and legal rights under the same conditions, have a high level of integrity, separate personal issues from professional ones, are brave and determined even in life-threatening situations, are aware that a police identity card signifies accountability and public confidence in the police, maintain confidentiality and do not abuse data and information, and always act in an ethical, lawful and professional manner. This list is printed on the back of the code. It is also printed separately and displayed on the walls in all units within police (*Annex 2*).

As a third example of good European practice would be the Code of Ethics of Croatian police (2012), which is, with some minor modifications, written in the third person plural, and, with this exception, is almost identical as the Slovenian Code of Police Ethics (*Annex 3*).

## 4. Serbian Code of Police Ethics

The Serbian Code of Police Ethics (Official Gazette of the Republic of Serbia, no. 92/2006) find its legal basis in the Serbian Law on Police (Official Gazette of the Republic of Serbia, no. 101/2005, 63/2009 and 92/2011) and more specifically its Article 12, paragraph 5, which states that the Police force has its own code of ethics adopted by the Government.

Article 31, paragraph 5, explains that police employees with police powers have to act in accordance with the European Code of Police Ethics.

The Serbian Code of Police Ethics is signed by the President of the Serbian Government and contains 11 chapters and 49 articles, wherein Article 2 refers directly to the European Code of Police Ethics. It is written in the third person plural and is based on the philosophy of regulation.

Furthermore, the Code regulates certain organisational principles and functioning of the police, recruitment, control of police, researches that could be conducted within police, international cooperation and also disciplinary measures.

Employees of the Serbian Police should also adhere to the Code of Ethics for Civil Servants (Official Gazette of the Republic of Serbia, no. 29/2008). Conduct which would be contrary with the principles of this code would be a subject to the aforementioned disciplinary measures.

The OSCE Handbook on Police Ethics (2014), so far being the only international document that provided in-depth analysis of this code, states that the Serbian Code of Police Ethics ensures the achievement of the highest national and international standards in this area, thus enabling police officers to perform their duties in compliance with the law and international standards and in line with the objectives the police has in a democratic society under the rule of law principle.

## 5. Recommendations

This section provides the recommendations on how the Serbian Code of Police Ethics could be amended as to fully comply with international standards and good practice. These recommendations are compliant with those provided in the Risk Analysis on the Current Situation with Regard to the Possibilities and Actual Extent of Corruption within Law Enforcement (ECCU-PACS SERBIA-eng-TP10-2014 from April 2014).

Firstly, it is recommended that the Serbian Police consider changing their approach from a regulative to an inspirational code of ethics, while regulation can be formulated in the form of police rules. This is especially true for the police, whose procedures, powers, rules and obligations are typically specified by the law. Therefore, it is much more appropriate and effective if the code of ethics focuses solely on the mission, values, ethical principles, integrity and inspiration or motivation for police work. Disciplinary sanctions for violations of the provisions of the code are anyway regulated by other acts and, for that reason, do not need to be included in the code itself.



Secondly, it is recommended that more emphasis be put on ethical behaviour in the context of professional conduct (Article 39), and to include in the code a section on integrity (personal and organisational), leading by example and mutual relations, all of which are not present in the existing code of police ethics.

Thirdly, the recommendation is to prepare the code in the first person plural for simple reason that it is much easier and more efficient for police officers to identify with its content.

Arguments that support these recommendations are as follows:

- a.) the code of police ethics should be focused on raising police officers' awareness on the importance of values, ethical principles and moral behaviour in daily police practice;
- b.) the most efficient code of ethics is inspirational in its nature;
- c.) inspirational codes of ethics stress the police mission in society, personal and organisational integrity, good mutual relations and organisational climate;
- d.) given the fact that the ethical behaviour of employees cannot be effectively demanded only expected, the most efficient long term measure against unethical behaviour is the high moral responsibility of each individual (Šumi, 2008).

If the aforementioned suggestions are used in the context of drafting a new code of ethics, the first task would be to prepare a code with a core content which would truly flourish in practice. The content should include all important values and virtues that reflect European perspective on the one hand and cultural characteristic of Serbian society on the other. It is necessary to reach a general consensus within the police organisation, with the appropriate inclusion of all police officers in the discussion of the content of the revised code of ethics. When consensus is reached, the next stage would be the appropriate type of preparation, implementation, training and adequate monitoring of employees' behaviour in compliance with the ethical norms. Indeed, it is really very important to be aware that the simple existence of a code of ethics does not affect the behaviour of employees, it can be effective only if the employees agree with its content and purpose (Singh et al, 2005). This means that preparation and adoption of a code of ethics alone is not enough. The indispensable part is the phase of implementation or deployment of the code of ethics, including all necessary internal and external communication, promotion and appropriate supervision of behaviour in compliance with its provisions. The content should also be the subject of a special training programme on strengthening police officers' integrity, which is expected to be implemented by the Serbian Police in the future.

Therefore, the experts team would propose to the Serbian Police to consider the possibility of preparing new content of the code in close cooperation with the Police Union and, if there is a chance, to issue the code as a separate booklet and deliver it to each and every employee in the Police.

Finally, with a view to the possible realisation of the above mentioned recommendations, it would be very useful to realise the intention of the Serbian Police to establish a special group for renewing or re-developing the existing code of ethics - this idea was presented by the Head of the Internal Control Sector of the Ministry of Interior at the meeting mentioned in the

introductory part of this document. It is worth noting that the Slovenian Police changed its code of ethics in the same way in 2008. Members of such a group should have an excellent personal and professional reputation among their colleagues and should represent all sovereign hierarchical levels and the basic internal organisational units of the Police and the Ministry of the Interior. Only a group with such structure, empowered for the adoption of a final decision, could consider given suggestions and examples of good practice and decide on the best and the most appropriate solution for the Serbian Police.

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## **7. Appendix**

1. Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales.
2. Slovenian Code of Police Ethics.
3. Croatian Code of Police Ethics.