



Ianuș ERHAN,  
dr., conf. univ.  
PhD,  
Associate Professor



Stanislav REABOI,  
doctorand  
PhD student

## REGISTRATION AND RECORDS PROCEDURE OF CONTRAVENTIONS AND CONTRAVENTIONAL CAUSES

*In order to prevent, combat and take effective measures against the contraventional phenomenon, it is necessary to know the statistical data, to understand the figures that describe our criminal and/or contraventional picture. At the same time, in order to generate different statistical products, the extensive process of registration and record of crimes and misdemeanors must be ensured.*

*The existence of a unitary and interoperable information system today allows the authorities and bodies with specific attributions for the contravention process to have the possibility of entering/extracting information in/from the system in real time, so that everyone can correctly and effectively exercise their legal duties in the field of detection and examination of contraventions.*

*Thus, the centralization of contraventional information in the Automated Information System for recording contraventions, contraventional causes and persons who have committed contraventions allows ensuring the efficient functioning of all state bodies and institutions, invested with the powers of ascertaining and/or solving contraventional cases, the development of their interaction, the wider use of the information collected for the purpose of preventing and countering the contraventional phenomenon.*

*Keywords: contravention, contraventional phenomenon, registration and records procedure, automated informational system for recording contraventions, intimation, contravention e-file.*

## PROCEDURA DE ÎNREGISTRARE ȘI EVIDENȚĂ A CONTRAVENȚIILOR ȘI CAUZELOR CONTRAVENȚIONALE

*Pentru a preveni, combate și întreprinde măsuri eficiente în vederea diminuării fenomenului contravențional este nevoie de a cunoaște datele statistice, de a înțelege cifrele ce ne descriu tabloul infracțional și/sau contravențional. Totodată, pentru a genera diferite produse statistice urmează a fi asigurat amplul proces de înregistrare și evidență a infracțiunilor și contravențiilor.*

*Existența unui sistem informațional unitar și interoperabil astăzi permite autorităților și organelor cu atribuții specifice procesului contravențional să dispună de posibilitatea introducerii/extragerii informației în/din sistem în timp real, astfel încât fiecare să-și exercite în mod corect și eficient atribuțiile legale în domeniul constatării și examinării contravențiilor.*

*Astfel, centralizarea informației cu caracter contravențional în Sistemul informațional automatizat de evidență a contravențiilor, a cauzelor contravenționale și a persoanelor care au săvârșit contravenții permite asigurarea funcționării eficiente a tuturor autorităților și instituțiilor de stat, investite cu atribuții de constatare și/sau soluționare a cauzelor contravenționale, dezvoltarea interacțiunii lor, utilizarea mai amplă a informației colectate în scopul prevenirii și contracarării fenomenului contravențional.*

*Cuvinte-cheie: contravenție, fenomen contravențional, procedură de înregistrare și evidență, sistem informațional automatizat de evidență a contravențiilor, sesizare, e-dosar contravențional.*

### 1. INTRODUCTION.

According to art. 2 of the Contravention Code, the purpose of the contravention law is “to defend the legitimate rights and freedoms of the person, the defense of property, public order, other values protected by law, in the resolution of contravention cases, as well as in the prevention of the commission of new contraventions” [1].

As the authors Pantea O. and Antoci A. correctly observe, “the element of prevention is very important to the extent that the state, through the competent bodies, must ensure the restoration of the legal order and undertake all the necessary actions to prevent the commission of new contraventions” [2, p. 21].

We will not refer to all the authorities empowered with powers, in this sense, but we will analyze the achievement of this desideratum by the Police.

In democratic societies, governed by the principle of legality, the police perform the traditional functions of preventing, combating and detecting crime; protecting public order and security, respecting the law and protecting the fundamental rights of the person [3, p. 22].

Thus, the Law on the Activity of the Police and the status of the policeman provides that “in its capacity as a specialized public institution of the state, subordinated to the Ministry of Internal Affairs; the Police has the basic role of defending the fundamental rights and freedoms of the person through activities of maintaining, ensuring and restoring public order and security, preventing, investigating and discovering crimes and misdemeanors [4]”.

At the same time, another article, namely, art. 19 indicates that “in the field of crime prevention and misdemeanors, the Police has several duties, including: collects information for the purpose of knowing, preventing and combating crimes, as well as other illegal acts, as well as having its own prevention, forensic and operative records in order to support its own activity.”

The police undertake a series of dedicated and focused measures to respond to

challenges and threats to the state of law, order and public security both proactively and reactively, so that the specific measures are adapted and correspond concretely to the need for effective prevention and powerful combating of the criminal phenomenon, as well as the contravention [3, p. 72].

Thus, in order to prevent, fight and take effective measures in this regard, it is necessary to know the statistical data, to understand the figures that describe our criminal and/or contravention picture. Simultaneously, in order to generate different statistical products, the extensive process of registration and record of crimes and misdemeanors must be ensured.

The Police through the responsible subdivisions and the employees designated for this purpose carry out these activities on a daily basis.

### 2. RESULTS.

The registration and record of contraventions and contravention causes is an analysis of the indicators related to the contraventions committed and registered on the territory of the Republic of Moldova which allows us to generate statistical data describing the contravention phenomenon, at the national/local level, for different periods of the year, as well as for a distinct offense in particular; data that can be compared at any time with the similar period of the previous year, in order to establish the dynamics of the commission of contraventions.

In the same way, the purpose of registering and keeping records of contravention cases is to offer decision-makers/leaders of any level support in establishing strategies and institutional priorities in order to prevent and reduce threats aimed at activity in the fields of competence, depending on the evolution of the contravention phenomenon.

The analysis of statistical data helps to anticipate the contraventional phenomenon by planning the activities that are required, in order to reduce the contraventional phenomenon, by the Police subdivisions that have recorded increases in the analyzed coefficients,

as well as the mobilization of subordinate staff in order to carry out actions to prevent and discover contraventions.

The object of this analysis is the contravention causes registered on the territory of the Republic of Moldova during different periods, revealing the dynamics of the contraventional phenomena recorded and their type, the top of the committed contraventions, the committing environment in terms of territory and time, the offender's profile, etc.

From the analysis of national statistical data, we determine that, in 2022, 685.2 thousand contraventions were found; or by 55.9 thousand more compared to the year 2021. From the total number of decisions taken on contravention cases, in most cases decisions were adopted to apply the contravention sanction - 97.7% or in 665.2 thousand of cases. In 2.7 thousand cases (0.4%) decisions were made to forward the materials to the criminal investigation bodies, given the fact that the offenders' actions contained signs of a criminal offense. In 13,000 of cases, the contravention process was completed for various reasons (1,9%). On average, 255 decisions to apply the contravention sanction were returned to 1000 inhabitants [5].

Regarding the statistical data dedicated to the Police, during the year 2022, 672,765 contraventions were registered. Out of the total number of contraventions found, 33,600 contravention reports were drawn up by Police employees for cases of not too serious hooliganism (*art. 354 of the Contravention Code*), 20,951 reports on cases of consumption of alcoholic beverages in public places and appearing in such places in a state of intoxication caused by alcohol (*art. 355 of the Contravention Code*), 9,220 reports on cases of disturbance of public order (*art. 357 of the Contravention Code*), 2,360 reports for the illegal procurement or possession of drugs in small quantities or the consumption of drugs without a doctor's prescription (*art. 85 of the Contravention Code*).

According to statistical data, during the period of 6 months of the year 2023, the contravention phenomenon registered a 17%

increase compared to the similar period of the previous year, being detected 384,188 contraventions. The contravention sanction in the form of a fine was the most applied, for 355,423 cases, in the total amount of 247,510,200 lei.

Out of the total number of contraventions found, 18,045 contravention reports were drawn up by Police employees for cases of not too serious hooliganism (*art. 354 of the Contravention Code*), 4,508 reports of incidents of disturbance of public order (*art. 357 of the Contravention Code*), 1,848 reports on cases of injury to bodily integrity (*art. 78 of the Contravention Code*). Furthermore, during the first half of the year, 304,281 contraventions in the field of road traffic were detected, in addition to 285,598 fines amounting to 193,259,645 lei.

As for the crime record procedure, beginning with the year 2003 the Law on the Automated Integrated Information System for the record of crimes, criminal causes and persons who have committed crimes was adopted, which establishes the main rules and conditions for its creation and operation of the given System, as well as the rights and obligations of its participants.

The system consists of technical and program resources of information and communication technology, human resources, procedures, means and methodologies for the accumulation and use of information of a criminal nature, intended for the collection, storage, processing, transmission and use of information, as well as records of crimes, criminal causes and persons who have committed crimes [6].

In this sense, if the provisions related to the procedure for registering and recording crimes and criminal causes have been applied for a long time, then the normative framework regarding the procedure for registering and recording contraventions has been developed in recent years, in particular, with the adoption of the Law on the Automated Information System for recording contraventions, contravention causes and persons who have committed contraventions [7].

From the informative note that accompanied the aforementioned draft law, at the stage of its promotion, we deduce that “the need to establish a unique system of record of contravention actions (contraventions, contravention causes, contraveners, etc.) is justified and dictated by the lack of coherent and integrated approaches and the existence of practical difficulties [8]”.

Consequently, attention was drawn to the vicious practices according to which certain public entities had their own information systems, which generated the existence of segmented information resources and the duplication of information records.

Such a disintegration of the information resources in the respective field did not allow the efficient use of the stored information for the purpose of knowledge, as a whole, as well as effective combating of the contravention phenomenon. In order to solve the existing situation, it was necessary to create the unique informational resource of all state bodies and institutions that have the right to examine contravention cases in accordance with the provisions of the Contravention Code [9].

Therefore, the existence of a unitary and interoperable system, today allows authorities and bodies with specific attributions for the contravention process to have the possibility of entering/extracting information in/from the system in real time, so that everyone can exercise their legal attributions correctly and efficiently in the field of detection and examination of contraventions.

Returning to the Law on the Automated Information System for the record of contraventions, contravention causes and persons who have committed contraventions; it determines that the given information system “is the totality of informational resources and technologies, technical program means, interconnected methodologies and intended for the storage, processing and use of contravention information within the System, as well as the unique record of contraventions.” At the same time, it defines “contravention information” as “information about the registered contraventions, the contravention causes,

the persons against whom the contravention process was initiated, the coercive procedural measures applied, the sanctions applied and the status of their execution [7]”.

As we can see, the contraventional information covers all stages of the contravention process, starting with reporting/registration of the contravention and ending with the procedure related to the execution of the contraventional sanction, i.e. the entire cycle that a contravention/a contravention case goes through.

In order to implement the given law, the Government Decision was approved for the approval of the Concept of the Automated Information System for the record of contraventions, contravention causes and persons who have committed contraventions and the Regulation on the single record of contraventions, contravention causes and to persons who have committed contraventions [9].

According to its provisions, the system has the following functions:

1) collecting, recording, processing, keeping and updating information with a contraventional nature;

2) ensuring at the state level of the single record: of contraventions and persons who have committed contraventions, as well as judgments and decisions issued in contravention cases; of contravention causes; of information of a contraventional nature;

3) providing operational and statistical information to state bodies and public authorities;

4) ensuring the exchange of information of a contraventional nature between the investigating agents and other public authorities, within the limits of competence, as well as similar bodies from other countries with which respective agreements have been concluded;

5) supervising compliance with the discipline of registration and records of contraventions and persons who have committed contraventions, of other contraventional information, as well as providing information for the development and implementation of timely reaction measures to negative trends and manifestations;

6) ensuring organizational support for

the activity of investigative agents who directly exercise the functions of recording information of a contravention nature.

The owner of the given System is the state, which realizes its right of ownership, management and use of the data in the System. The owner of the System is the Ministry of Internal Affairs, and the participants in the System are the competent authorities to detect contraventions, examine and resolve contravention cases.

The system includes the following informational objects (compartments):

1. **contravention cases:** under review; resolved: with the solution regarding the guilt of the person for committing the imputed contravention or with the solution regarding the termination of the contravention process;

2. **documents issued and procedural documents concluded within the contravention process:** with or without special numbering;

3. **natural persons:** in respect of which the contravention process was initiated; owners or possessors of means of transport;

4. **legal persons:** in respect of which the contravention process was initiated; owners or possessors of means of transport; who committed the offences;

5. **persons with responsibility:** in respect of which the contravention process was initiated; owners or possessors of means of transport;

6. **means of transport:** objects of the commission of the contravention; placed on the wanted list.

The record of contraventional cases involves the registration in the System of the records drawn up at the time of the start of the contravention process, those drawn up during the examination of the case, as well as the registration of the judgments and decisions issued in the contraventional cases.

According to the provisions of the Government Decision mentioned above, the following documents issued and procedural documents concluded in the contravention process are subject to registration and record within the System:

**1) with special numbering (strict record keeping forms):**

a) the fine collection receipt at the place of detection of the contravention;

b) the decision on the contravention case;

c) the decision on the examination of the contravention based on the personal finding of the ascertaining agent;

d) the report on the contravention;

e) the report on the registration of the contravention;

f) the request regarding the submission of the statement concerning the identity of the driver of the vehicle at the time of committing the contravention;

**2) without special numbering:**

a) collaboration agreement;

b) fine payment receipt;

c) conclusions based on medico-legal examinations, forensic, auto technical and trasological investigations;

d) proof of technical breakdown of vehicles in road accidents;

e) the decision of the court issued within the context of the examination of the appeal against the decision of the ascertaining agent;

f) the contravention court decision;

g) the lifting ordinance;

h) the prosecutor's ordinance regarding the initiation of the trial regarding the misdemeanor, in relation to the refusal to start the criminal prosecution, the termination of the criminal prosecution due to the fact that the deed constitutes a misdemeanor, as well as in cases of release from criminal liability of the person charged with a misdemeanor;

i) the record of detention;

j) the body search report;

k) the record of lifting the objects and documents;

l) the technical inspection report;

m) the record of lifting the plates with the registration number;

n) the record of lifting and bringing the vehicle to the special parking lot;

o) the report of the on-site investigation;

p) sketch of the road accident.

The activities of registration and record of contraventions, of record documents

within the contravention process, as well as the management of forms with special numbering are carried out by the specialized units for record of contraventions or the persons designated for this purpose, among the participants of the System [9].

The insert of data into the Register is carried out on the basis of the records issued or received (on paper or in electronic format) by the participants, and ensuring the security, confidentiality and integrity of the data processed within the Register is carried out in compliance with the normative requirements for ensuring security personal data when processing them within the information systems.

The first stage in the process of registering contraventions is the notification, and the Police subdivisions can be notified in the following way:

- 1) notifications received by the Guard Service of the Police units;
- 2) notifications received by phone;
- 3) self-appraisals;
- 4) petitions submitted to the secretariat/office or petitions received by post;
- 5) petitions submitted in electronic form (via web portal or e-mail);
- 6) alerts received through the road traffic video monitoring system.

*Notification* is the act of bringing a case (considered illegal) to the attention of the Police in order to investigate and solve it, and represents the primary source of information regarding possible acts committed, which may have a criminal, contraventional, administrative or disciplinary nature.

Depending on the form of submission, the content of the information and the examination procedure, notifications are divided into two categories: 1. notifications regarding crimes and 2. other information about crimes and incidents.

**Notifications regarding crimes** include complaints, denunciations, self-denunciations made by a natural or legal person, reports on the direct detection by the criminal investigation body or prosecutor of the reasonable suspicion regarding the commission of a crime, drawn up in accordance with the

provisions of articles 262-264 of the Code of Criminal Procedure.

**Other information about crimes and incidents** - includes information publicized by the mass media, received by telephone, telefax, fax, teletype, the "Internet" network and other unverified sources, anonymous complaints and denunciations, as well as verbal and written signals about facts and incidents, which do not contain the description of a concrete crime, and contain deviations from the provisions of articles 262-264 of the Code of Criminal Procedure [10].

The registration and record of notifications regarding crimes and other information regarding crimes and incidents is carried out in the Register on paper and in the Automated Information System "Register of Forensic and Criminological Information".

The registration and record of notifications regarding crimes and other information regarding crimes and incidents are carried out in the Register on paper and in the Automated Information System "Register of forensic and criminological information, about criminal cases and of persons who have committed crimes, the method of informational assurance of the activity of law enforcement bodies in combating crime and corruption by using operative and truthful information about crimes, criminal causes, as well as about the persons who have committed crimes and other objects subject to the record, data protection requirements for the collection, accumulation, updating, storage, processing and transmission of criminal information.

Thus, in order to execute the regulations mentioned above at the level of the competent subdivisions of the MIA, according to the competence, records are organized and kept about the following:

1. notifications about crimes and misdemeanors;
2. crimes, criminal causes and people who have committed crimes;
3. contraventions, the people who committed them and the sanctions that were applied to these people;
4. persons announced as wanted, miss-

ing without a trace, corpses and unidentified patients;

5. persons recognized as injured parties in criminal cases;

6. stolen, detected, seized objects (marked and antique objects, documents, weapons, means of transport, etc.);

7. other forensic and criminological information, in accordance with the legislation in force.

As for notifications regarding crimes, they are registered in the *Register of Notifications regarding Crimes* (Register no. 1), and other information about crimes and incidents, including misdemeanors, in *Register of Records of Other Information Regarding Crimes and Incidents* (Register no. 2).

A delimitation is to be made between the notions discussed above (reports and other information regarding crimes and incidents) and that of **petition**, which means any request or proposal addressed to a public authority by a natural or legal person, as well as the **request** demanding the issuance of an individual administrative act or the performance of an administrative operation, both of which are examined in the order established by the Administrative Code [12].

In the event that the petition or request registered and ordered for examination according to art. 73 of the Administrative Code possibly meets the constituent elements of a contravention, the Police subdivision shall correctly terminate its examination initiated according to the Administrative Code and transfer it in the order established by the Contravention Code, taking into account, in the imperative manner, that the Administrative Code does not apply to the legal relations of the public authority acting on the basis of the Contravention Code or the Criminal Code.

Under the conditions described above, the employee authorized to examine the petition or request will draw up a reasoned conclusion according to art. 31 and art. 118 of the Administrative Code with the submission of the proposal to stop their examination according to the Administrative Code with their passage for examination in the order of

the Contravention Code [13].

During receiving information about contraventions via fax, e-mail or web applications, to the address of the Guard Service, the responsible employee prints the received information and records it in Register no. 2, after which it is sent for examination according to the established procedure.

Police employees, in the exercise of their duties outside the service premises, receiving other information about crimes, immediately transmit its content to the Guard Service, by telephone or through other means of communication.

The term for examination of other information on crimes and incidents is 30 days. Thus, the head of the subdivision, through his resolution, will establish a minimum period necessary for the examination, but it should not exceed the period of 30 calendar days.

At the same time, art. 440, paragraph (3) of the Contravention Code stipulates that within 15 days from the notification date, the ascertaining agent is obliged to verify the notification and take the necessary measures to establish the existence or non-existence of the contravention. Thus, we conclude that the indicated 15-day term is not a separate and distinct one, but is included within the 30 days of examination of other information regarding crimes and incidents.

Simultaneously with the presentation of the reasoned conclusion about the results of the verification of other information regarding crimes and incidents registered in Register no. 2, if in the process of examining them sufficient information has been accumulated to consider with a high degree of probability that a misdemeanor has been committed, the Police employee examining the case completes and submits the Misdemeanor Registration Report (RAP) to the head of the subdivision.

Under the given conditions, the report is the primary record document through which the record of all contraventions found/examined by the investigating agents competent to examine contraventions is made, with the exception of flagrant contraventions and

those detected with the help of certified technical means or homologated and metrologically verified technical means that operate in automated mode.

Thus, the Report on the registration of the contravention should be completed in the following cases:

- notification of the ascertaining agent regarding the commission of the contravention;
- self-notification of the investigating agent regarding the commission of the contravention;
- receiving the contravention case, according to the jurisdiction, from another body for resolution.

Subsequently, the contravention is considered recorded, only after the data of the report regarding the registration of the contravention, and in the case of flagrant contravention, the decision regarding the examination of the contravention based on the personal findings of the ascertaining agent, are recorded in the Record Register and entered into the Information System.

If in the process of examination of the contravention, it is not possible to identify/bring the offender to account or the circumstances established in art. 441 of the Contravention Code (*Grounds for termination of the contravention process*), the ascertaining agent issues *the decision to terminate the contravention process*, which is registered in the System within 24 hours at most from the moment of issue.

Accordingly, depending on the method of notification/detection of contraventions, we distinguish two procedures for registering of contravention cases.

In the case of flagrant contraventions, when the investigating agent resolves the contravention case at the scene of the act and issues a solution per case, one of the following forms is filled out: ***The decision on the examination of the contravention based on the personal finding of the ascertaining agent; The decision on the contravention case; offense report***, the contravention is registered within 24 hours in the paper-based Register of contraventions and in the automated informational system for recording contraven-

tions, contravention causes and persons who have committed contraventions.

At the same time, in the case of notices regarding contraventions, when the ascertaining agent within no more than 15 days from the date of notification, according to art. 440 paragraph (3) of the Contravention Code, established the existence of the contravention, identified the perpetrator and issued a decision per case, likewise, the contravention will be registered in the Register of records of contraventions and in the Automated Information System through the procedural documents mentioned above.

When, in the process of examination of the contravention, sufficient information was accumulated to consider with a high degree of probability that a contravention was committed, but the sanctioning decision was not issued, for various reasons (whether due to lack of evidence, non-identification of the person, etc.), the Police employee who examines the case, completes and submits, in the same way, the Report on the registration of the contravention to the head of the subdivision for approval which, subsequently, within up to 24 hours, is registered in the Register of records of contraventions and in the Automated Information System.

The report on the registration of the contravention is also submitted in the case of reception through the secretariat/office of the Police subdivision for examination of the contravention case detected or ascertained by other competent authorities and forwarded according to competence.

Regarding the facilitation of the process of registration and examination of contraventions, at the moment, the technical concept of the “e-Contravention File” Automated Information System (SIA e-Contravention File) is in the process of development, which aims to raise the level of quality and simplify the activity of detection bodies in the exercise of the contravention process, by excluding or significantly reducing the flow of procedural documents drawn up on paper.

The purpose of implementing the contravention file in electronic format consists



in: creation and development of a unique informational resource of the ascertaining bodies; improving the quality of the ascertaining agent's work; facilitating the development of the activity standards of the ascertaining agent, through the automated evaluation of performances and the establishment of mechanisms for the monitoring of his activity; ensuring interconnectivity with all authorities and institutions with powers to detect and examine contraventions, etc.

Thus, the contravention e-file will allow:

- digitalization of the contravention process;
- facilitating citizens' access to information that is of personal interest;
- automation of processes and exclusion of the human factor and corruption phenomena when documenting the contravention and adopting the decision;
- correct legal qualification of the contravention;
- improving the forms of control over the activity of the ascertaining agent;
- optimizing the activity of the authorities and institutions in which the investigating agents work;
- improving discipline and institutional control over the contravention process;
- reducing the number of court decisions against the state institution;
- improving the quality of the judicial act [3, p. 250-251].

### 3. CONCLUSIONS

In conclusion, we can mention that the need to elaborate the described regulations appeared as a result of the analysis of the normative framework, as well as in the process of recording information of a contraventional nature on the territory of the Republic of Moldova, being found that some public authorities have their own information systems, following the activity of which certain segmented resources are created. Such a disintegration of the information resources in the respective field did not allow the efficient use of the stored information to the point of combating the contravention phenomenon. In order to

solve the existing situation, it was decided to create a unique information resource of all state bodies and institutions, which have the right to examine contravention cases.

Accordingly, the centralization of contraventional information in the Automated Information System for recording contraventions, contravention causes and persons who have committed contraventions allows ensuring the efficient functioning of all state authorities and institutions, invested with the powers of ascertaining and/or resolving contravention cases, the considerable improvement of their interaction, the wider use of the information collected in order to effectively prevent and combat the contraventional phenomenon.

In addition to the above, the integrated concept establishes the introduction of unique record-keeping rules for authorities and bodies with attributions in the contravention field; a unified and interoperable register and electronic system for recording contraventions, implemented at national level, standardizing and ensuring the quality of the statistics regarding the contravention phenomenon as a whole. At the same time, the system allows expanding the spectrum of managed information and, respectively, the possibilities of providing public services (identification of the persons, which are going to pay the fines, the possibility of issuing the contravention record for all contraventions, setting up a contravention profile of the person, etc.).

The creation of an informational opportunity dedicated to the contraventional phenomenon also requires a better analysis of it, the deduction of certain legalities and quantifiable characteristics, in order to receive dedicated and prompt decisions and carry out some activities in advance, to discourage the commission of contraventions, as well as to ensure speed and positive impact to the prevention activity.

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**Ianuș ERHAN,**

*doctor în drept, conferențiar universitar,  
cercetător științific superior,  
Academia „Ștefan cel Mare” a MAI,  
comisar-șef  
e-mail: ianus.erhan@mai.gov.md  
ORCID ID: 0000-0003-4110-8133*

**DESPRE AUTORI****Stanislav REABOI,**

*șef al Secției statistice și evidențe  
a Inspectoratului General al Poliției,  
inspector principal,  
e-mail: stanislav.reaboi@igp.gov.md*