

# The Importance of Reconstitution as a Criminalistics Tactical Procedure

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**ABSTRACT:** The advantages of reconstitution in finding out the truth, the necessary requirement for obtaining a fair criminal conviction, are undeniable, of which it is noticeable to carry out the verification directly by the judicial body regarding the possibility of committing the criminal facts, in the way in which they were claimed by denunciation, complaint or the notification of ex officio, and of the perception of these criminal facts by the eyewitnesses or the persons directly involved in their commission. With the help of this tactical procedure, a series of questionable evidence or simple indications can be confirmed or removed, which, in the absence of the reconstitution, would make the investigation more difficult than it would help the criminal investigation bodies. In any case, the conclusions of a reconstitution, like any other means of proof in the criminal process, do not have a special probative value, by themselves, but must be appreciated and analyzed in relation to the other evidence administered in the criminal case, as required by the rules established in par. 97 of the Code of Criminal Procedure.

**KEYWORDS:** reconstitution, tactical procedure, eyewitness, criminal investigation, criminal facts, truth, criminal conviction, judicial body, evidence, rules

## The notion, object and functions of reconstitution

Due to the need to find out the truth through as many ways as possible, over time, in criminal law, various procedures have been regulated that have the role of facilitating the finding of the truth or obtaining new evidence in the criminal investigation of a crime.

Such a regulated procedure is also the reconstitution of the scene, of the conditions and the way in which the act was committed.

According to the provisions of Article 193 of the new Code of Criminal Procedure, depending on various factors (location, weather, light), the reconstitution can be completed in whole or in part and only if the judicial body or court considers it necessary.

The reconstitution is essentially an ancillary procedure activity, a trial procedure aimed at the criminal trial purpose (Dongoroz, Daringa, Kahane, Lucescu, Nemes, Popovici, Sîrbulescu, and Stoian 1969, 81), an ancillary form of on-the-spot investigation through which can be checked whether the facts and circumstances of a case under investigation have been committed in a given manner.

The characteristic defining feature of the reconstitution is shaped by the experimental reproduction of the conditions existing at the time of the commission of a criminal offense, for the purposes of direct verification by the judicial body of their authenticity, of their perception possibilities and of verification of data obtained by other means of evidence: Statements by suspects or defendants, clashes (Stancu 2015, 543).

It is ordered at any time of the trial, by resolution of the judicial body, after the commencement of the criminal prosecution or by a conclusion ordered by the court in the trial phase (Buzatu 2013, 132).

They represent functions of the reconstitution, verification and specification of some data by means of full or partial reproduction, drawing conclusions not only on the veracity of the statements made by the accused or defendant, or of witnesses, but also on the versions drawn up in the respective case (Pop 1947, 429) and the possibility of further evidence.

After the reconstitution has been carried out, evidence which were previously considered as mere indications or if doubts existed on certain evidence, may become serious conclusive

evidence or prove to be useless and irrelevant in the criminal investigation of the act which is the subject of the reconstitution.

Although of great importance as the forensic tactics used in criminal prosecution, as provided for in Article 97 new Code of Criminal Procedure, the reconstitution, as well as other means of proof, cannot be attributed a particular evidentiary value, the conclusions drawn from the specification and verification of the facts are to be appreciated in relation to the other evidence administered in the case (Papadopol and Popovici 1977, 369). Depending on the intended use of the result of the reconstitution, it may be split into:

- Reconstitution aimed at checking the veracity of witness statements (Stancu 2015, 545) obtained prior to their reconstitution;
- Reconstitution aimed at checking the perception possibilities (Stancu 2015, 545) which may or may not be influenced by external factors;
- Reconstitution designed to check the possibilities of certain actions under given conditions (Stancu 2015, 545), also used to establish whether an offense has been simulated for the purpose of concealing another offense.

The use of the reconstitution typologies listed above helps judicial bodies to know as well as possible where the act was committed, and also gives them the possibility to check several versions of the offense under investigation.

- It is not possible to do the reconstitution without consideration for and following the necessary preparatory work, highlighting the most important:
- Inviting witnesses and the representative of the unit to the place where the reconstitution will take place;
- Taking a photograph of where the act was committed;
- Verification and re-arrangement of the place of reconstitution, in order to reproduce as accurately as possible the conditions existing at the time of the fact;
- Installation and retraining of participants;
- Establishing signs and arrangements for linking participants.

The reconstitution plan shall include the date and place, purpose, manner of operation, participants, the material insurance (the objects used, from which they were acquired, the technical means of determining the results, the means of travel), the date and place of the training and the name of the person who carried out the training.

### **The arrangement of the reconstitution**

Under the provisions of Article 193 of the new Code of Criminal Procedure, the reconstitution may be ordered with reasons by the prosecution or the court, if it considers it necessary to verify or specify a series of data which are important for the resolution of the case and which have not been clarified by other means of evidence (Stancu 2015, 546).

Reconstitution requires the same careful preparation as for other procedural documents, the same organization in a technical-tactical manner, based on a sensible plan, and the judicial body in charge of carrying out must take into account certain aspects (Stancu 2015, 546; Volonciu 1988, 280), such as determining the exact problems to be checked, determining the participants and ensuring that the reconstitution takes into consideration place, time and manner.

By giving more interest to and developing information about the participants, it should be evidenced that participants must necessarily be the suspect, accused, witnesses and injured persons whose statements are checked.

Where, in addition to the participation of the listed parties, other parties are considered necessary, this can be done to achieve the most fair outcome possible, but it is not mandatory.

### **Preliminary measures**

The completion of preparations is followed by the observance and verification of preliminary measures before the judicial body proceeds to the reconstitution in accordance with the law.

The conditions of preliminary measures are reflected in the choice of time of reconstitution, verification that the conditions have been fulfilled verification that the persons established to participate in the reconstitution are present, verification of the existence of the necessary technical forensic means and means of evidence.

In the framework of the reconstitution, the means of proof used shall always be those used for committing the offense, except where firearms, surveying or other weapons of gender have been used in the act, and are reproduced by means of objects which render the matter as accurate as possible, the color and shape of the object.

Defenders chosen by the parties may ask for further explanations, object to the case, provided that they are well-founded and do not obstruct the conduct of such probative process (Stancu 2015, 548).

### **Performing the actual reconstitution**

No matter the nature of the subject of the verification, the reconstitution must take place in an atmosphere of calm and sobriety, without exaggerations, gestures or spectacular, insignificant, unnecessary actions.

The limitation will not be made to a single reconstitution, but replies will have to be made as many times as necessary to precisely determine the results.

Also, sufficient time will be allocated and consideration will be given to the pace of deployment being similar to that declared to have been at the time of the deed.

The facts that endanger the safety of the state, life, bodily integrity, health, honor and dignity of persons do not reproduce. Also, the actual scenes of the sexual offenses will not be reconstructed, the scenes of harm will not be reproduced in dangerous places and the corpse will not be used to reconstruct the murder (Buzatu 2013, 132).

The most important thing will be stressed and suggestions will be avoided, in order for the participating person to act in accordance with what he has stated.

### **The fixing of the results of the reconstitution**

Following the reconstitution, the information obtained will be fixed in various ways and means such as minutes, photography or audio-video tape.

The minutes are the main means of fixation. It is drafted in compliance with legal provisions and forensic norms and must reflect the whole process and the results achieved.

It has a printed typical layout: the introductory part, the descriptive part, the final part containing both elements common to minutes and its own elements.

The photographs and drawings shall supplement the minutes and shall be taken in order to increase the demonstrative character of the minutes.

The fixation with the application of some technical means, is reduced to the obtaining of the images that is to the material - fixed reflection of the one who carries the forensic information, in the form of visual or audio images based on the direct or indirect perception.

Imaging means are very important because they reproduce those presented in the minutes and contribute to a correct understanding and an accurate perception of the records of the judicial body. Taking into account at the completion of the minute there may be unintentional omissions and details which may escape being observed at the moment, by fixing them using photographic, audio or video means, at a subsequent re-examination of the fixed means and information, the previously unhighlighted details may be observed.

## Conclusions

Although it is a much more elaborate forensic process involving many more resources (financial, material), the reconstitution provides much more obvious and eloquent information, clues and data that can change the course of the criminal prosecution or speed up and prove the guilt of the defendant.

In an attempt to find out the truth in question under investigation, the judicial body appeals to all the necessary processes and techniques that can help it, and reconstitution is considered one of the most important.

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