

The Psychological Process of Forming Witness Statements

Valentina Avrămescu

*“Dimitrie Cantemir” Christian University of Bucharest, Romania
valentina.avramescu@gmail.com*

ABSTRACT: In this paper, we have analyzed aspects of the psychological mechanisms underlying the formation of the authenticity of the testimony. The elements that define the sensory reception are identified, the sensation and the perception shaping the psychic process of knowledge. Also, the factors likely to distort the sensory reception of the witnesses are presented and aspects of a subjective nature that influence the perceptual process are highlighted.

KEYWORDS: perception, sensory reception, emotional state, memory storage, memory reactivation

Introduction

Throughout the legal literature, forensics or forensic psychology, it is rightly emphasized that the veracity of the statements of a witness even of goodwill being, as well as the appreciation of their probative force, cannot be conceived without the knowledge of psychological mechanisms which form the basis of the formation of the testimony.

If we were to define the testimony, from the perspective of forensic psychology, we would say that it is the result of a process of involuntary observation and memorization of a legal fact, followed by its reproduction, in oral or written form, before criminal prosecution bodies or courts (Stancu 2017, 414).

From a psychological point of view, the testimony consists in the involuntary observation and memorization of an act and then its reproduction, in writing or orally before the court (Bogdan 1973, 156). Establishing the sincerity of the witness is a particularly important element, as if the judicial body is not fully convinced that the witness is sincere, it will not use the statement to resolve the case (Buzatu 2013, 119).

When listening to witnesses, several elements will have to be taken into account that can influence both the objectivity of the realities and their accuracy. In order to be able to assess the objectivity of the witnesses' statements, in addition to observing the tactical rules of listening, it is necessary for the investigator to know and understand the psychic postulates on which the processes of knowing objective reality are based: perception and memorization (Ionescu 2003, 133-134).

Reception of facts and circumstances by witnesses

The elements that define the sensory reception of some events as the first stage of the formation of the testimony outline a psychic process of knowledge, which goes through several stages (Roșca 1975, 237):

a) Sensation is the simplest form of sensory reflection of the isolated properties of objects or persons, through one of our sense organs. The appearance of sensations and, subsequently, of perception, depends on the intensity of the stimuli that act on the analyzers.

It is important to note that the minimum or maximum intensity through which stimuli can cause a sensation-known as sensation thresholds, varies from person to person, the magistrate must assess in each case the limits of the possibilities of perception of a witness (Stancu 2017, 415).

b) Perception is a superior form of sensory knowledge (Zlate 2006, 173). The transition from sensation to perception occurs as sensory impressions or sensations begin to function not only as signals, but also as images of objects (Rubinstein 1962, 87).

The limits of the possibilities of perception are also determined by the quality of the receiving organs, by the presence of some disease states that can negatively influence the appearance of the sensation or distort the information. Facts, objects or persons are perceived differently, some being recorded immediately, as opposed to others that pass on a secondary place, although they have the possibility to influence the analyzers (Stancu 2017, 415-416).

Factors distorting the sensory reception of witnesses from a forensic perspective

Factors of an objective nature, determined by the circumstances in which perception takes place, are:

a) *Visibility* can be reduced by the distance from which the perception is made, by the lighting conditions (darkness, shadow, sun beating in front etc.), by the meteorological conditions (fog, snow, rain), by various obstacles between the one who it also perceives the place where the event takes place.

b) *Audibility* is influenced by distance, by the conditions of sound propagation, specific to each place, by the existence of sound sources that can disturb hearing and meteorological factors (wind, rain, storm), obstacles that can give rise to echoes etc.

c) *The duration* of perception is another important objective factor on which the quality of reception depends. The time interval in which perception is possible may depend on the longer or shorter period in which an action takes place, the speed of movement, or of the person or object perceived, or of the perceiver, and sometimes the type of lighting (for example, facts perceived in the light of lightning or headlights of a car). Some of the factors mentioned above can also influence tactile or olfactory perception. For example, the specific smell of toxic substances or gunfire can be reduced under the action of air currents, heat.

d) *The concealment of the appearance* is determined by the person of the perpetrator himself, who tries to be perceived as difficult as possible, in this sense appeal to disguises, acting quickly, seeking to distract even with the help of accomplices, using darkness or various obstacles so as not to be seen.

Subjective factors are represented entirely by psychic-physiological features and individual personality, able to influence the perceptual process. Among them, we mention the most important:

a) *The quality of the sense organs* is an essential psycho-physiological factor for a good perception, any defect in them, either on the perceptual side or on the cortex (blindness, myopia, deafness, etc.), reducing to cancellation some of the receptive possibilities of person (Stancu 2017, 415-416).

b) *The personality and the degree of training of the individual* play a significant role in the perceptual process, especially when they are higher or closer to the specifics of the deed they are witnessing. For example, the doctor who may perceive a certain pathological condition or the driver who more accurately assesses the speed of a vehicle.

c) *The age and intelligence of the person* represent other major subjective factors in perception, both life experience and intellectual qualities having a special contribution in receiving the facts, the circumstances in which a particular event took place.

d) *The temperament and the degree of mobility of the thought processes* are factors according to which the distinction must be made between one individual and another regarding the capacity and the way to reason and to distinguish facts or data.

e) *Fatigue*, as well as reduced perceptual capacity due to the influence of alcohol, drugs, medications, also lead to a decrease in sensory acuity.

f) *Affective states*, especially those with a certain degree of intensity have an inhibitory influence on the perceptual process, causing its alteration or disorganization, a situation quite common in people who witness acts of a shocking nature (serious accidents, scandals, murders, etc.) and especially when, in the commission of those acts, relatives, friends or close acquaintances are involved.

g) *Attention* is one of the factors on which the quality and informational realism of perception directly depend. First of all, the qualities of attention should be taken into account, such as its stability and mobility, the degree of concentration and its distribution. Secondly, we must take into account the types of attention, voluntary or involuntary, the latter more common in the case of witnesses, due to the unexpected appearance of a strong, shocking stimulus (screaming, shooting) or the interest that a person, object, discussion, action can attract.

h) *Perceptual type*. The analytical type control witness (generally specific to women) has the ability to retain more details, as opposed to the synthetic type, which retains the whole, its general characteristics.

We specify that to these subjective factors must be added the distortion factors typical of the general laws of sensoriality mentioned above (Stancu 2017, 416-418).

Information processing

The information received is decoded, even partially, acquiring a certain meaning in the consciousness of others. The most important factors that directly influence the quality of processing are: stored experience, profession, the meaning given to words and phenomena, the ability to appreciate time, distances, speeds etc. (Buzatu 2013, 119).

Appreciation of space and size

The appreciation of space, of the dimensions of some objects is a relative process that presupposes a life experience or skills encountered in a small number of professions (military, builders, pilots). Thus, depending on the concrete situation, the judicial body will have to test the reception capacity of the listener, making him appreciate the distance between various objects or people, the size of some bodies at hand, the surface of the room, a piece of land, on the street. We mention that these checks are necessary due to the tendencies of overestimating the dimensions of some objects perceived from a very short distance or located in the vicinity of smaller bodies.

The perception of the time

The perception of the time or duration of an event is relative, to which a multitude of factors contributes:

- locating an event in time is difficult as the period between the moment of perception and that of rendering increases. Thus, at the interval of one year, the witness who was not interested in a certain fact or who cannot associate it with an event in his life will find it more difficult to indicate on what day or at what time it happened, as he will admit a person with real difficulty.

- the appreciation of the duration of an action depends on the subjective time, different from the official one, the tendencies of time compression, meeting in the positive affective states (Ciobanu and Stancu 2017, 94-96).

The appreciation of speed

The appreciation of speed and, in general, of movement, is, in turn, a complex process involving temporal and spatial perceptions related to the road traveled in a certain time, the objects you pass, as well as the distance from which you pass makes the perception. The

assessment of speed depends directly on the degree of specialization of the witness. For example, a driver or traffic officer is able to more accurately assess the speed of a vehicle involved in an accident, as opposed to a person unfamiliar with driving it.

In connection with the appreciation of speed, as well as time or space, it should be emphasized that this process occurs as a result of collaboration between the organs of sense and thought, memory, which explains the influence of associative processes on the reception and processing of information (Stancu 2017, 419).

Memorization

The information storage phase is influenced by memory qualities, i.e. belonging to the auditory or visual type, intellectual abilities that are influenced by fatigue, alcohol consumption and how it is stored in primary or short-term memory or in secondary or relative memory (Buzatu 2013, 119).

Memorial storage is not a simple mechanical recording, an absolutely accurate photograph of what is perceived by a person, but a dynamic, active process of processing and systematization of received data, depending on the personality of each individual, the interest shown in a particular problem. In listening to witnesses, several factors will have to be taken into accounts that condition the memorization process, such as:

a) *Speed and duration of memory storage*

The speed of fixation and the retention time of the perceived information, which depends on the memory duration (short, medium or long) and the cause of forgetting.

We meet witnesses with a quick perception, but in whose memory the received data is kept for a short time. Their testimony can be correct and faithful only if the listening takes place in an interval as close as possible to the moment of perception.

Other witnesses have a slower perception and fixation, but store those received longer. Their statements can be correct only insofar as the perceived event was not too complex and did not take place quickly, thus the reception becoming incomplete.

b) *Witness memory type*. Depending on this criterion, there are witnesses with a dominant visual, auditory, affective memory so that the memory can be mechanical or logical, as it is absent or shows the understanding of the received informative material.

The memory can be voluntary or involuntary, depending on the attitude, of the interest shown by the witness in retaining the perceived aspects.

We mention the fact that the testimony involves involuntary memory, in relation to the character of the perceived aspects, if they had a certain psychological influence on the witness. (Ciobanu and Stancu 2017, 98).

c) *Forgetting* is of course a natural and even natural phenomenon necessary, resulting from the degradation of temporary connections of cortical nerve cells, without this degradation meaning their total disappearance. On the other hand, it must be borne in mind that the intervention of too long emotional states (fear, humiliation) can inhibit temporary nerve connections, affecting the memory process.

Under these conditions, against the background of negative stimuli, false memories and involuntary interpretations imprinted distorted in the person's mind can appear. Other factors may also occur over time, such as: rumors, distortions that deform the stored image (Ionescu 2003, 135).

Memorial reactivation is the last stage of the memorization process, encountered either in the form of reproduction or in the form of recognition, in its psychological sense (Ciobanu and Stancu 2017, 99)

Reproduction may be verbal or written. The quality of the reproduced data content depends on the quality of perception of facts or circumstances, on the objective and subjective

conditions that could have influenced the perceptual process, on fixing the data in the witness's memory (Mitrofan, Zdrengea and Butoi 1992, 158-159).

This phase depends on certain factors such as: time elapsed from the event, verbal ability, attitude towards the event and investigator, as well as other phenomena such as memory forcing conditions, repetition, audience pressure, investigator pressure, uncertainty, persistence in error (Buzatu 2013, 119-120).

Conclusions

In the relationship that forms between the witness and the investigator, there are those psychological phenomena consisting of their consciousness and conduct. It can be appreciated that there is a concordance relationship between the two, and in the absence of this relationship, the whole investigation may have repercussions.

There are many causes for the alteration of reality, and one of them refers to the inability of the human brain to receive and take all the information around.

To find out the truth, the statements of witnesses, even those of goodwill, cannot be conceived without the psychological methods underlying the testimony, as the forensic, legal or judicial psychology literature points out.

The testimony is, in fact, an involuntary observation and memorization that is related to a legal act and, later, can be reproduced either orally or in writing, before the criminal investigation bodies or the court.

Forensics uses various tactical procedures to hear witnesses, so that the prosecuting body that conducts the hearing obtains the best result. The literature shows us that, in order to obtain a valuable statement that leads to finding out the truth, we must start from the psychology of the witness and from the preparation of the hearing.

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