

# Tactical Framework for Organizing a Criminal Investigation

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**ABSTRACT:** It is said that each man is his own judge, thus deciding for himself whether he wants to live in freedom or under the sanction of the law. Human acts that are against the norms of social cohabitation led to the development of technical-scientific research called criminal investigations. In this article, I will present the management of a criminal investigation, starting from the phase of the preceding acts to the sentencing phase. The article will be structured in two stages, namely the notions and principles of the criminal investigation organization and the versions of criminal prosecution. In the first stage of the article, the principles of the organization of criminal prosecution that refer to the criminal process's fundamental rules and implicitly the investigation's planning in relation to the specific principles of criminal science will be brought into question. These principles fall into two main categories: individuality and dynamism, aspects that I will develop within the article. In the first stage, I will capitalize on the structure and content of the criminal investigation plan. I will consider the tactical report, the timing of drawing up an investigation plan, the formula of the seven questions, and the formula of the four questions. In the other half of the full table of contents of the article, I will develop the second stage, respectively, the prosecution versions. These versions refer to the classification criteria structured on the main, general, and secondary versions. The tactic of developing the prosecution versions spread over three phases: possession of data, the elaboration of the versions, and their reasoning. Towards the end of the article, I will expose the ways of checking the versions of the criminal investigation. At the end of the article, I will conclude with the technical-scientific tactics of a criminal investigation in relation to the doctrine of criminal law and the specialists concerned.

**KEYWORDS:** Criminal Law, investigation, tactics, principles, dynamism, versions, science

## **Introduction**

To begin with, we must understand that criminal acts are discovered and sanctioned following a complex criminal trial, which aims to reveal them in their absolute truth, but not with regard to the statements of the parties. Thus, according to article 5 of the New Code of Criminal Procedure, the criminal investigation bodies must adopt technical-scientific and tactical means ordered by the science of forensics, in the conduct of the investigation. In order to apply the above, the judicial bodies must build in an organized manner, a judicious plan aimed at fulfilling a scientific basis for criminal investigation (Mircea 1971, 145-146).

As far as the performance of judicial functions is concerned, starting from the previous acts, they are under the control of the criminal investigation. This management is considered as a fundamental method of criminal tactics regarding the investigation of crimes, since the investigation is aimed at the timely establishment of criminal acts, in a complete way. The result shall be presented in the manner in which any natural or legal person committing a criminal offence will be sanctioned under the law, with the aim of ensuring with great care that no innocent person is under the effect of the judicial error. These aspects are pursued by determining the directions and extent of the necessary investigations that lead to the elucidation of the facts incriminated by the law. In the literature, planning is the link between the purpose and the tasks of criminal prosecution, but nevertheless, it can be said that by looking from a different angle, it is also the way of achieving through concrete actions the purpose and task of criminal prosecution. The objectives or directions of the research are determined on the basis of existing results when we refer to the complete establishment of the type of crime and the guilt of the perpetrator(s) (Suciu 1972, 227).

For example, if we have a body discovered near a building under renovation, the forensic examination is concluded by the deed that caused the death, respectively the fall from a height. So, the first activity that the judicial investigation team must consider would be to establish the nature of the deed: accident, suicide or murder?! Following the data obtained from the witnesses, but also from the traseological establishment, it was found out that the victim was not part of the personnel who took specific actions in the building, but it did not have any connection with it. In conjunction with all these data that establish the circumstances that led to the death of the victim, it is determined that there can be no murder or accident at work. By deepening the investigations, more precisely by planning the new criminal investigation activities, it is concluded that the person in question committed suicide, because he had embezzled a large amount of money, being under judicial control (Stancu 2015, 399).

### **Principles of organization of criminal prosecution**

The planning of criminal prosecution will be based on the basis of rules or principles, as follows:

- a. *the fundamental rules of the criminal process*: this is where the principle of legality or finding out the truth is brought into question;
- b. *the specific principles of this science*: in this case we recall the principle of identity that of efficiency or the one according to which any act provided for by the criminal law causes changes in the environment.

In conjunction with those mentioned above, there are also the principles specific to the planning of criminal shouldering which, in the literature, it is considered that the two basic rules would be individuality and dynamics. Of course, we cannot say that there are only these two basic rules, many specialists also refer to the principle of legality, which apparently is a defining principle for the entire criminal process. There is also another principle that is found in the category of those mentioned above, we are talking about continuity, it is classified as a principle specific to planning, although this is an element that is part of the very nature of the process itself (Zăhărescu 1981, 86).

In the following, I will develop the first principle, namely that of individuality, which refers to the individualization of the planning of the judicial research activity, depending on the particularities of each case. In criminal doctrine, the individualization of planning is explained as the identical similarity of each circumstance, thus being distinguished from the other specific elements, more precisely becoming unrepeatable. But nevertheless, a template scheme cannot establish the acts committed, because each individual case meets individual conditions of place and time, of injured persons and institutions, of witnesses who actually perceived the deed, etc.

The second principle, namely dynamism, is a fundamental rule by which the judicial bodies should respect it when conducting the planning and organisation of the criminal investigation. According to the specialized literature, the principle is found in two directions, the dynamic conduct of research and the malleability of planning.

- a. *conducting the dynamics of forensic investigations*: it is necessary in this principle by contributing to the increase of the efficiency of the criminal investigation.
- b. *malleability of planning*: by this it is meant that dynamism is interpreted by the permanent adaptation of the criminal investigation plan to the situations and data that appeared new during the investigation.

In terms of the malleability of planning, there were many moments when new elements appeared in the completion of the investigation, changing the way of organizing and the way of drawing up the plans. These changes contain activities that at first glance do not seem to be important pieces of the file, from these we mention confrontations, reconstructions, searches, etc. For example, a case in which the suspect claims to have committed the incriminated act,

but during the investigation, he offers a new statement specifying that he was not alone at the time of committing the crime and especially that he committed another crime in conjunction with the one for which he was being heard, radically changes the way the investigation is conducted and leads to a new criminal procedure, respectively to a new organization and tactical planning. As a result, we must not look at an investigation in the form of an exact science, but rather in a science in which everything varies but which is based on the foundation of mixes of rules from which investigators can choose to elucidate it (Constantin and Sandu 1992).

### **The structure and the content of the prosecution plan**

The components that make up the prosecution plan must be on a common front with the aim of streamlining the work of the plan, and this aspect is divided into the tactical report and the timing of the elaboration of an investigation plan.

- a. *tactically*: in the specialized literature, it is considered that the main elements that constitute the criminal investigation plan are the versions and problems that appear in solving cases under the empire of forensic science, the one that can give a shape to the versions and especially can solve the problems. In this case, it is noted that the versions are on a central position regarding the resolution of the acts committed. The rest of the abovementioned elements remain in a well-defined position, which highlights their common front in the prosecution plan, thus occupying a specific character throughout the plan process.
- b. *the moment of an investigation plan*: it refers to the fact that the design of a prosecution plan should not be done in a premature phase, as long as there is some summary data that can only build a false track on which the investigation will go, and the consequence would be to delay the resolution of the deed. (Ciopraga and Iacobuță 1997, 277)

The plan of the investigation will be carried out in written form because omissions can be monitored during it and thus can be repaired, thus reducing the chance of prejudice to the subsequent course of the trial.

### **Content of the criminal procedure plan**

In principle, the content of the investigation plan is due to problems arising which need to be clarified sooner or later, regardless of the manner in which they are resolved. Regarding the road to reaching the denouement, more precisely the finding of the truth, the investigation leads to a certain extent in which there are found, verified and clarified, data and circumstances, meant to outline the elements that constitute the crime, that is, even until the identification of the perpetrator of the deed (Ciopraga 1996, 13).

Like any criminal investigation body, which conceives of a criminal investigation, it must first resort to a self-interview, from which it can learn elementary notions that can help with the investigation. This method is called the formula of the seven questions, and it is described as follows (see in detail Buzatu 2013, 135-136):

- *What act was committed* and what is its nature?
- *Where was the crime* under investigation committed?
- *When was it committed?*
- *Who is its author?*
- *How*, in what way did he commit it?
- *With whose help?*
- *For what purpose* was it committed?

Well, this formula is not the only one of its kind, there is another formula in the criminal doctrine, recognized as the formula of the four questions, which is clearly superior to

the first formula in that it synthesizes much more clearly the content of the crime. So, we recall:

- *Determination of the object of the crime*, more precisely the social relationship harmed by the commission of the deed against the object that was exercised the wrongful action;
- *Establishing the objective side of the crime*, the causal relationship between it and the consequences of the deed;
- *Identification of the active subject*, of the crime, of the participants and of the passive subject of criminal offences;
- *Determining the subjective side*, more precisely by establishing the form of guilt as well as the motive of the deed.

### **Versions of the prosecution**

In the criminal doctrine, as a definition, the version of the prosecution can be found in the form of "an assumption, an assumption, an assumption, based on a date held at a certain point in the prosecution, by which the facts and circumstances of a case may be explained, it shall be subject to review by the prosecution body'.

#### ***Version classification criteria***

The classified versions are of major importance, more in practice than in theory, because the assumptions and assumptions about the deed include a greater scope, especially when we also raise the author of the deed. Depending on their classification, the organization and planning of the whole activity is determined. In literature, it has been concluded that the most important criterion is the object and extent of the versions (Butoi 1989).

#### ***Main or general versions***

In this case, we are talking about the act itself characterized by its nature, the way in which it was done, but also its constituent elements. Therefore, these main versions are actually trying to establish whether the offense committed is punishable by law, whether or not it is punishable by criminal law. The main versions are divided as follows:

- The versions *of the objective side of the crime* are characterized by their nature and are very numerous. They are intended to determine the material element of the offense and the causal link between the offense and its consequences;
- The versions *of the subjective side* are directly related to the form of guilt and the purpose of its humiliation, analyzing the deed of the author and of the other participants;
- The versions *of the subject-matter of the offense shall* refer to the subject-matter of the offense, the circumstances which led to the offense. These versions are often put into legal practice because they know from the outset what has been the object of the crime.

#### ***Secondary versions***

As a definition, in judicial practice we find them mere assumptions about the main versions, which may or may not change the criminal investigation. The Aois tracks are actually the incipient of the investigation, which is then checked, and with the help of the investigators can switch directly to the main versions of the crime committed (Stancu 2015, 406-407).

#### ***The tactics of drafting the criminal prosecution versions***

This tactic is part of the category of tactics important to the investigation, serving fully the outcome of the investigation, which should be favorable, in terms of the following conditions (Constantin 1992):

- *the possession of data or information on the offense committed*, broken down in quantitative and qualitative terms, which refers to data kept in the course of the investigation on the basis of the main and secondary versions. The lack of such data may lead to research into false paths, with a waste of materials, human resources and artificial or human intelligence;

- the development of versions that are close to reality calls for multilateral preparation;
- the use of logical forms of reasoning.

### ***Use of logical forms of reasoning***

The logical forms of reasoning are thus divided between the deductive reasoning, the inductive reasoning and the reasoning by analogue.

To begin with, the deductive reasoning is a logical operation and starts from the premise of the problem, and is only necessary on the basis of concrete data and a process of thinking. Inductive reasoning is a logical operation, i.e., an inverse operation to the previous one, with a series of judgments aimed at finding out the particular elements of the case and finally at the essential points.

The reasoning by analogue is a form of thinking that is more common to criminal investigation bodies, because this reasoning is uncertain or probably uncertain. Such reasoning is also framed by a logical operation in which the conclusion is made on the basis of the similarity between the characteristic elements and those of the fact being known (Stancu 2015, 407).

### ***Means of verifying the prosecution versions***

As a result of the development of versions of the investigation, whether they are major or secondary, investigators reach the most important stage in the file, namely the verification of versions based on the data collected, thus eliminating incorrect assumptions or assumptions. So the only version that is left to the discretion of truth will be the one that gives trueness not being denied in one way or another (Suciu 1972, 507).

In the actual settlement, it is necessary to observe the tactical rules imposed by the right necessity of the resolution of the case, this concerns the verification of all versions. We therefore recall the stages of the development of the versions:

- simultaneous version of all versions;
- giving priority to those issues whose delay may hinder the truth;
- fully qualifying each issue.

## **Conclusions**

From the above, we therefore remember the principles of the organization of prosecution and the versions of prosecution. We thus understand that a criminal investigation must have a basis of principles on which it is possible to determine exactly how the deed was committed. These principles are being followed by the defining deontological requirements in the justice of a rule of law, for which the law and the quality of the judiciary have a common front in developing the organization of criminal prosecution.

The science of forensic science in conjunction with the principles of the organization of criminal investigation has a distinctive role to play in order to increase the efficiency of the criminal justice system. With regard to the criminal prosecution versions that we have developed in the Article, I conclude that in an investigation plan, these are an essential key that leads to the desired outcome. We need to understand that these versions are actually events or facts that have taken place in the past but in a concrete way. All these versions must go through the verification process in order to avoid a possible failure of the criminal investigation. We have developed in the Article that these assumptions are of several main, general and secondary kinds.

It was understood that the secondary versions, although not for the real sense of the investigation, are indirectly bridges to the main or general versions. These secondary versions are in fact assumptions or assumptions from which a main version can be developed, but they are not taken into account because they can lead to errors and thus to false paths in the course of criminal investigation.

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