

Crime Scene Reconstruction

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ABSTRACT: In the present paper, aspects were analyzed regarding the tactical activity of artificial reproduction of the circumstances in which the criminal act was committed, known as reconstruction. It is possible to observe the way of carrying out this activity, by performing the verification of both the depositions and the samples. The characteristics underlying the reconstruction, the purpose and, last but not least, the importance of this probative procedure for finding out the truth are also presented. In order to carry out the reconstruction, there must be prior preparation and organization regarding the determination of the purpose and the establishment of activities to be carried out, so that the conduct of the reconstruction has positive results.

KEYWORDS: reconstruction, forensic tactics, criminal offence, artificial reproduction, investigator

Introduction

Reconstruction has been defined in the literature as a procedural activity and forensic tactics, which consists in the artificial reproduction of the circumstances in which the crime was committed or another fact of importance in the case, to determine whether the act was committed or could be committed in the given circumstances.

According to art. 193 alin. (1) of Criminal Procedure Code, "The criminal investigation body or the court, if they deem it necessary for the verification and ascertainment of data or evidence produced or to establish factual circumstances of importance for a case resolution, may proceed to the full or partial reconstruction of the manner and circumstances under which an act was committed".

Reconstruction is, in essence, an auxiliary procedural activity, a probative procedure intended to achieve the purpose of criminal proceedings (Dongoroz, Daringa, Kahane, Lucinescu, Nemeş, Popovici, Sîrbulescu and Stoian 1969, 81).

The defining characteristic feature of the reconstruction is outlined by the experimental reproduction of the conditions existing at the time of committing a criminal act, in order to directly verify by the judicial body their veracity, possibilities of perception, as well as verification of data obtained by other means - statements given by suspects or defendants, confrontations (Stancu 2015, 543).

The object of the reconstruction

The object of the reconstruction is the experimental reproduction, in whole or in part, of the facts investigated, of the manner and circumstances in which they were committed, including the conditions.

The judicial bodies proceed to the reconstruction of activities or situations, taking into account the circumstances in which the criminal act took place, based on the evidence administered. If the statements of the witnesses, parties or main procedural subjects regarding the reconstituted activities or situations are different, the reconstruction must be performed separately for each variant of the deed described by them (Ciobanu and Stancu 2017, 292-293).

The reconstruction takes place, preferably, right at the crime scene where certain activities will be reproduced, noting the possibility of perceiving them in the manner presented in the statements.

Reconstruction will check if the suspect has actually been able to perform certain activities alone (for example, opening a safe without proper keys, climbing a wall).

Generally, reconstruction is performed to verify all depositions and samples. Although the procedural law does not stipulate it as mandatory, we note that in practice, in almost all cases of murder and in numerous burglaries, reconstruction appears as a way of research (Ionescu 2007, 189).

Characteristics, purpose and importance of reconstruction

The *characteristics* of reconstruction are as follows:

- Reconstruction is an attempt to establish experimentally the possibilities of existence of facts or phenomena (Aionițoaie and Stancu 1992, 256).

- Reconstruction ensures the direct perception by the judicial body of the factual circumstances and realities on the spot in connection with the behavior of the perpetrator, witnesses, victims, their position and actions. The phenomena, the actions, and not their traces are perceived directly. Reconstruction does not have to mean the restoration or reproduction of the place of the deed;

- Reconstruction involves the artificial reproduction of circumstances, actions or phenomena related to the moment of committing crimes. In this sense, large-scale phenomena or actions taken in isolation, necessary to clarify certain aspects related to the commission of the crime, shall be reproduced. Reconstruction must be carried out in such a way that no law or public order is violated, no public moral harm is done; not to endanger the life or health of persons (Grofu 2019, 153-154). It is forbidden to commit new crimes or to harm the legitimate interests of the parties by reproducing an event (Theodoru 2008, 411).

The *purpose* of reconstruction consists in:

- Confirmation or refutation of the versions elaborated in question prior to the development of this activity (Ionescu 2009, 302).

- Verification and illustration of evidence obtained on the occasion of other criminal investigation activities;

- Obtaining new evidence in question (Grofu 2019, 154).

The importance of reconstruction results, first of all, from the role that this probative procedure has in shaping the constitutive elements of the crime, in finding out the truth. By reconstruction, questionable or simple evidence can, as the case may be, be retained as serious evidence or removed as worthless (Stancu 2015, 544).

The *functions* of reconstruction are:

- Verification and specification of data regarding the objective and subjective side of the crime, by artificial reproduction, total or partial, of the facts or circumstances of the case (Ciobanu and Stancu 2017, 293);

- Drawing conclusions not only regarding the veracity of the statements of the suspect or defendant or of the witness, but also in connection with the versions elaborated in the respective case (Pop 1947, 429);

- Possible obtaining of new evidence, undiscovered in an earlier phase, such as, for example, on-site research, even a search, followed by reconstruction (Ciobanu and Stancu 2017, 293).

Types of reconstruction

Depending on the particularities of each case, the probative force of the administered data and the purpose pursued, in judicial practice the following categories of reconstructions are used:

a) *Reconstruction intended to verify the statements of the suspect or defendant regarding the manner of committing the crime* (Buzatu 2013, 131). This kind of reconstruction aims at verifying the possibilities of committing crimes in the context of the facts and circumstances existing at the place where the illicit activity took place. As a rule, the actions taken by the suspect or defendant to enter or leave a certain place, for the transport of goods - product of the illicit activity, are artificially reproduced in conditions similar to those at the time of the crime. Such reconstructions result, for example, in the verification of the way in which the suspect climbed a fence, a wall, a balcony, of the way in which certain objects were removed through openings, cracks or holes of different shapes and sizes (Olteanu and Ruiu 2009, 279).

b) *Reconstruction performed in order to verify the statements of eyewitnesses and the injured person* (Buzatu 2013, 132).

The reconstruction verifies the fidelity of the witnesses, the facts and the circumstances of the case in the conditions of place, visibility, meteorological existing at the moment of committing the crime.

Because in the process of sensory perception the determining role belongs to sight and hearing, in judicial practice reconstructions are usually performed to verify the conditions under which the visual or auditory perception was made. Such reconstructions are conclusive in the case of false testimonies or biased complaints, when the reproductions are made impossible to perceive or fix in memory the facts and phenomena in the given conditions or on the contrary, the possibility to see the wrongful actions of the perpetrator or to hear noise during the commission of the crime (Olteanu and Ruiu 2009, 280).

c) *Reconstruction performed to verify the skills and abilities of the suspect or defendant to take certain actions, similar to those of the facts for which he is being investigated*. This kind of reconstruction is required whenever, in order to obtain the product of the illicit activity, specialized knowledge is required as well as practical qualities, skills and abilities that condition the success of the actions undertaken by the perpetrator (Olteanu and Ruiu 2009, 281).

Preparation and organization of reconstruction

The reconstruction involves a judicious organization based on a plan, which mainly considers: determining the purpose of the reconstruction, establishing the activities to be performed and the participants and ensuring the necessary technical means.

This activity must be carried out in conditions as close as possible to the place, time and manner with which the deed was committed.

The rules regarding the presence of the defender, legal representative or interpreter are mandatory. The reconstruction must be done in an atmosphere of calm and sobriety, without exaggerations or suggestions (Buzatu 2013, 132).

Reconstruction can be carried out both in the criminal investigation phase and in the trial phase, after the start of the judicial investigation, when the verification or specification of some data relevant to finding out the truth is not possible by administering other means of proof.

The moment of ordering the reconstruction depends on the particularities of each cause and the purpose pursued by this activity. Thus, if the reconstruction aims at obtaining new evidence, it will be carried out at the beginning of the criminal investigation, immediately after hearing the suspect, if from his statements it results that other traces or material evidence can be discovered whose removal must be done urgently for avoid degradation or destruction. At other times, when, for example, contradictions between witness statements could not be removed through confrontations and the data on which there are contradictions are essential to

the resolution of the case, the reconstruction will take place at the end of the criminal investigation.

The criminal investigation body orders the reconstruction by reasoned resolution and the court by conclusion.

In order to ensure the efficiency of the activities that are being reconstituted and the achievement of the aim pursued, the judicial body carries out the following preparatory activities:

- a) Establishing the opportunity for reconstruction;
- b) Determining the purpose of reconstruction;
- c) Establishing the participants in the reconstruction and their tasks;
- d) Technical-material insurance;
- e) Re-arranging the place of the crime, when the verification or specification of the data from the case file is possible only by restoring the ambiance from the place where the illicit activity took place;
- f) Preparation of the reconstruction plan (Olteanu and Ruiu 2009, 282).

Tactical rules for reconstruction

Reconstruction can be performed both in the criminal investigation phase and in the trial phase (Aionițoaie and Stancu 1992, 264).

When performing the reconstruction, the criminal investigation body or the court may order the presence of the forensic doctor or of any person whose presence deems it necessary. When the suspect or defendant is in one of the situations of mandatory legal aid, the reconstruction is made in his presence, assisted by the defense counsel. When the suspect or defendant cannot or refuses to participate in the reconstruction, this is done with the participation of another person.

In carrying out the actual reconstruction, the following tactical rules will be observed (Grofu 2019, 158):

- Carrying out the reconstruction in conditions of proximity or similarity (Pletea 2003, 368). This implies the similarity between the conditions of the act and those of the experimental reproductions. The place and time of the reconstruction will be chosen so as to correspond to the place and time of the commission of the deed;

- The reproductions should not present a danger for the protected social values (Grofu 2019, 158). Facts that endanger the security of the state, life, bodily integrity, health, honor and dignity of persons are not reproduced. Also, the actual scenes of sexual crimes will not be reconstructed, the injury scenes will not be reproduced in dangerous places and the corpse will not be used to reconstruct the murder.

On the spot, it will not be fired with a firearm, but in the firing range. Explosive or incendiary materials will not be used on site, but in specially designed places (Buzatu 2013, 132).

- Carrying out the reconstruction in conditions of ensuring the quantity and quality of reproductions.

From a quantitative point of view, the following aspects must be taken into account: the planned activities must be carried out in rhythms that allow their correct observation by the participants; it is possible to proceed to the complication or simplification of the actions, to their development on different stages in order to ensure the possibilities of observation, notation, fixation and comparison of the results; in order to obtain a certain result, each activity must be repeated several times (Grofu 2019, 158-159).

In order to carry out the reconstruction, the team will be established, the persons to be present (suspect or defendant, defense counsel, experts, injured party, witnesses), the necessary technical equipment, the means to travel to the respective place. If possible, they

will respect the conditions of time and lighting in which the event to be reconstituted took place.

Certain activities can be reconstituted without moving to the scene, such as opening a car, picking up a package, hitting a person. Other activities, such as the verification of visibility or audibility, will necessarily be performed at the crime scene as close as possible to those existing at the time of the crime.

Reconstruction will be performed under the direction of the investigator, ensuring the presence of persons involved in the verified activity (perpetrator, victim, witness) produces strong emotions or fear generated by reliving events (Ionescu 2007, 189-190).

The reconstruction will not be limited to a single reproduction of the deed or of some circumstances, being necessary a repetition of them, so as to observe and fix the results accurately. For a correct assessment of the results, to avoid errors of perception, it is good to repeat the action at a slightly slower pace.

In order to ensure objectivity, correctness, and suggestions will be avoided, indications regarding the correct performance of certain gestures or deeds, the verified person being allowed to act according to his previous claims (Ciobanu and Stancu 2017, 304-305).

The results of the reconstruction, regardless of whether they are certain or positive, attest to a simple state of affairs, respectively whether or not the deed could have been committed or whether the circumstances of its commission could or could not be perceived. Such a state of affairs is insufficient to prove the existence or non-existence of the crime, as well as the guilt / innocence of the suspect / defendant.

Therefore, the results of the reconstruction cannot be grounds for criminal prosecution unless they are corroborated with the other evidence in question, or, in other words, unless they confirm the evidence in the file (Olteanu and Ruiu 2009, 291).

Fixing the reconstruction results

All activities performed during reconstruction shall be recorded in a report, a procedural act that refutes or confirms the reality of the data subject to verification. It will specify the atmospheric conditions, the conditions in which certain sequences were repeated and the result obtained, the replacement of some instruments etc. (Buzatu 2013, 133).

A technical means of fixing the results of the reconstruction is video recording and photography. The criminal investigation body must capture those sequences from which it results that the action was possible to be committed in the given conditions of time and space or that it was possible to perceive it in those circumstances.

A superior technical means of fixation is the audio-video recording; in special cases it is necessary for the complete and exact retention of the way in which the entire reconstruction took place.

Photographs and other recordings will accompany the minutes in which the mentions will be made regarding the sequence of images, the technical ways of rendering, as well as the sequences or scenes they represent (Stancu 2017, 550).

It is recommended that the entire reconstruction be as accurately as possible in the minutes and the forensic technique offers a series of means whose use can be of real use for the case (forensic photography, filming etc.).

During the reconstruction, the operative judicial fixation photograph is mainly used, which has the role of illustrating the mentions in the minutes that end on this occasion, but as with the other means of proof, the photograph faithfully illustrates the conditions under which the reconstruction was performed, the activities carried out on this occasion, but also the results obtained (Olteanu and Ruiu 2009, 292).

Conclusions

Reconstruction is a process of auxiliary forensic tactics that contributes to the possibility of finding out the truth about the facts and circumstances that led to the commission of a crime.

The purpose for this evidentiary procedure is performed to verify some data obtained through the statements given by suspects or defendants or witnesses, the reconstruction being an experimental reproduction of the investigated facts.

According to the legal provisions, the verification can be performed by the criminal investigation bodies or by the court at the crime scene, either in part or in full.

The results of the reconstruction are of real importance, helping investigators to find out the truth, without which further clarification would be needed on previous evidence.

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