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Objectives and importance of on-site research

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Abstract. On-site investigation is a procedural and forensic tactical activity whose object is to directly perceive the place where a criminal act was committed, search, discover, reveal, fix, seize and examine evidence, including specifying their position and condition. On-site research is an immediate and irreplaceable activity, it must be carried out without delay and as completely as possible, since its repetition, although possible and recommended in certain situations, may lead to some results, but not always satisfactory. The importance of the investigation on the spot lies in the fact that the criminal investigation body directly perceives the circumstances in which the perpetrator acted, the objects he used in the implementation of the criminal resolution, the objects he touched in the criminal field, the ways of access and leaving the place where the act was committed. On-site investigation is an integrated activity in the criminal investigation. Since it is not the place where some considerations relating to the management and management of the investigation can be analysed, it must, however, be stressed that professional investigation work on the spot can fundamentally contribute to clarifying problems which, taken as a whole, the investigation of one or other of the offences must resolve.

Keywords. code, features, judicial bodies, importance, objectives, criminal investigation

1. General considerations on the objectives and importance of on-site research

Getting started with the objectives and importance of on-site research

Place of the crime – Place where the action was committed. Place of crime means the area where all or part of an illegal activity took place or is alleged to have taken place, or the place where its result occurred, including areas where disasters or disasters occurred. The scene of the crime is not strictly limited to the location of the incident, but also includes areas where relevant acts were committed before or after the crime was committed. The crime scene can also be called a criminal field.

On-site research. On-site investigation is the activity of searching, locating, discovering, revealing, documenting/fixing, lifting/collecting, packing and transporting evidence discovered at the scene.

The first policeman present at the scene. This is the first police officer or officer to observe or become aware, in any way, of the progress of a crime. This can be both during office hours and outside it.

Head of the on-site research team. The head of the investigation team on the spot is the prosecutor, when the crime falls within his competence, or a policeman from the Criminal Police structures, when the act is within the competence of the police investigation¹.

Forensic officer². The person responsible for forensic activities is the police officer or agent from the Forensic Services for technical-scientific investigation of the crime scene, which also mentioned in the job description and investigation duties on the spot.

Author. The term "perpetrator" is a generic name designating both the suspect and the person against whom criminal proceedings have been initiated or criminal proceedings have been initiated, both singular and plural, the masculine form and the feminine form.

Evidence and material evidence. Any factual element which serves to establish the existence or non-existence of an offence, to identify the person who committed it and to know the circumstances necessary for the just resolution of the case constitutes evidence. Material evidence shall include objects containing or bearing a trace of a crime, objects which have been found or intended to be used to commit a criminal offence, objects which are the proceeds of crime and any other objects which may serve to ascertain the truth.

Fixing the scene of the crime. The activity of "fixation" refers to the scene of the crime, evidence and/or material means of evidence and involves the cumulative performance of the following activities:

- taking orientation, sketch, main and detail photographs using photographic cameras and metric landmarks / standards under artificial or natural lighting conditions;
- videofilming;
- making sketches / drawings to scale;
- description in the report of the on-the-spot investigation.

Videofilming and scale sketching/drawing of the crime scene are additional fixing procedures and are only performed when the nature of the event and the complexity of the crime scene require it.

Document. The activity of "documenting" refers to evidence and/or material means of evidence and cumulates the activities of:

- photographic and video fixation of them;
- establishing and recording the position of the sample by relating to landmarks or depending on the support on which it is located;
- description and detailed recording of samples (nature, colour, shape, dimensions, state of aggregation, general and/or individual identification characteristics),
- marking on the sketch or drawing by symbols or script;.

Contamination/inter-contamination. Contamination is the contamination of a sample with various external contaminants unrelated to the sample, obtaining a sample with the characteristics of all contaminants along with its original structure. Intercontamination is the process by which an exchange of material is carried out between two or more individualised samples, resulting in samples which no longer allow individualisation or which generate a mixture incompatible with determination.

The evidentiary procedure, called in the Code of Criminal Procedure the investigation on the spot, also known in Western laws as the investigation of the crime scene or the crime scene, as in the case of the Anglo-Saxon or American judicial system, represents the beginning

¹ Buzescu Gheorghe, *Place and role of the civil servant in the state apparatus*, Sitech Publishing House, Craiova, 2017

² Gheorghe Alecu, *Forensics*, Ex Ponto Publishing House, Constanta, 2009

act of investigations into acts of particular danger: homicides, rapes or robberies followed by the death of the victim, destruction, catastrophes or serious accidents, organised crime.

Based on a rich jurisprudence, the specialized authors are unanimous in considering that this initial act of criminal prosecution has an obvious significance in all the concerns dedicated to solving a criminal case. It requires immediate, direct and complete knowledge of the place where the criminal act was committed.

The on-site investigation shall be carried out when necessary:

- Ascertaining the situation of the place where the crime was committed³;
- Discovering and fixing traces of the crime;
- Establish the position and condition of the material evidence and the circumstances in which the crime was committed.

With regard to the meaning of the term "place or place of the act", as sometimes used in practice or in specialized literature, a clarification must be made: this expression refers not only to the actual place where the crime was committed, but also to the areas closer to or other places from which data relating to preparations may be derived, the commission and consequences of the act, including the ways of access and withdrawal of the perpetrator from the criminal field.

Undoubtedly, on-the-spot investigation is among the activities that contribute substantially to achieving the purpose of the criminal proceedings. Within the meaning of the criminal procedure law, on-the-spot investigation is also an evidentiary procedure that serves to administer or obtain evidence. At the doctrinal level, it is unanimously accepted the idea that, despite the so-called auxiliary character, the on-site investigation activity is assigned a special significance, on which it depends directly on finding out the truth about the facts and circumstances of the case, including about the person of the perpetrator.

On-site investigation is a procedural and forensic tactical activity whose object is to directly perceive the place where a criminal act was committed, search, discover, reveal, fix, seize and examine evidence, including specifying their position and condition.

The "place where the act was committed" means, according to the law, the place where the criminal activity took place, in whole or in part, or the place where its result occurred. This definition also covers almost all the meaning of the expression 'spot'⁴.

Some authors consider that "spot" should be understood not only an area of land or a room where the material activity of the crime occurred, but also the place where the consequences of the committed act occurred, as well as the place that preserves data, information, traces related to the committed act.

Depending on the nature of the crime committed, the investigation on site will be extended to all areas where traces and material evidence can be discovered, the examination of which may help clarify aspects of the crime or identify the perpetrator.

On-site investigation is an activity of great importance for the proper conduct of the prosecution. It is carried out in order to know the nature and circumstances of the act, as well as to establish a causal link between the traces and bodies found in the field of crime and the act in respect of which the criminal investigation is being made.

The investigation on the spot is carried out by the prosecuting body in the presence of assisting witnesses, unless this is not possible. Where necessary, the on-the-spot investigation

³ General Inspectorate of Romanian Police, National Institute of Forensics, *Manual of Good Practice on On-Site Investigation Procedure*

⁴ Buzescu Gheorghe, *Particularities of contravention law*, Sitech Publishing House, Craiova, 2017

shall be carried out in the presence of the parties. The non-appearance of the informed parties shall not prevent the investigation from being carried out on the spot.

Taking into account the legal provisions and judicial practice, it can be said that the place where the crime was committed differs from case to case, depending on the nature of the act committed, with the multitude of methods and means used for this purpose, with the consequences of the illicit activity carried out by the perpetrators.

Thus, the place where the crime was committed may be:

- the portion of land or room where the offence was actually committed;
- the portion of land or room where the consequences of the crime occurred; (for example, the place where death occurred, if it does not coincide with the place where the material killing activity was carried out);
- the portion of land or the room in which the objects constituting the proceeds of crime are located (for example, the stolen goods), or the objects used to commit the crime (for example, the place where the weapon used, knife, pistol, axe was abandoned), as well as the place where traces of the crime are preserved, respectively the access and removal routes from the place where the act was committed.

On-site research is an immediate and irreplaceable activity, it had to be carried out without delay and as completely as possible, because its repetition, although possible and recommended in certain situations, may lead to some results, but not always satisfactory.

Direct knowledge of the place where the crime was committed offers the possibility of a fairer interpretation of the traces discovered during the investigations, by framing them in the overall picture of the crime scene, ensuring a more accurate representation of the circumstances that gave rise to them. The collection of primary evidentiary material, necessary to fix the versions as fairly as possible, helps to represent as clearly as possible the mechanism of committing the respective crimes and the sequence in which the various actions of the offender took place.

Direct knowledge of the place where the crime was committed gives the possibility of a more accurate verification of the testimony of eyewitnesses, of establishing the time when the crime took place, of the path traveled by the offender.

The importance of on-site research

The importance of on-site research is emphasized in the literature, both criminal procedure and forensics, the vast majority of authors agreeing that this evidentiary procedure has a deep significance in finding out the truth.

The movement of the judicial body to the site is one of the most effective procedural measures⁵. The fact that the criminal investigation body, as well as the court, have the possibility to directly investigate the place where the act was committed and to assess the consequences of the crime, to establish the circumstances in which the criminal act was committed and to identify the perpetrator by discovering, fixing, collecting and forensic investigation of traces, material means of evidence, being likely to effectively contribute to achieving the purpose of the criminal proceedings⁶.

Thus, it is stated that the investigation on the spot is not a mere initial act of prosecution, but an activity of utmost importance of an immediate and irreplaceable nature, in

⁵ Buzescu Gheorghe, *Police Law - university course*, Sitech Publishing House, Craiova, 2019

⁶ Petruț Ciobanu, *Criminal Code; Code of Criminal Procedure*, ROSETTI International Publishing House, Bucharest, 2019

many cases being almost impossible to repeat, under the same conditions and with the same results.

In fact, in crimes such as homicide, examination of the crime scene is the most important part of the investigation of the criminal case. The explanation lies in the fact that the place of the crime of committing a criminal act is the richest in traces or data relating to the crime and its perpetrator, so the way in which the entire investigation, search and removal of traces or material evidence is carried out, as well as the fixing of the results, will depend to a large extent on the resolution of the case, identification of the perpetrator, of the other participants in the commission of the criminal act.

The importance of the investigation on the spot lies in the fact that the criminal investigation body directly perceives the circumstances in which the perpetrator acted, the objects he used in the implementation of the criminal resolution, the objects he touched in the criminal field, the ways of access and leaving the place where the act was committed. Both literature and judicial practice rightly consider on-site investigation to be the basic condition and starting point in forensic investigation of crimes.

In the vast majority of cases, the results obtained on this occasion determine the directions in which the research in question will subsequently be carried out. Other times, on-site investigation is the only way to obtain evidence at the initial stage of the investigation. In light of the above, the on-the-spot investigation proves to be one of the most complex activities carried out by the criminal investigation bodies, conditioning the very purpose of the investigations carried out in this case. It's Out of any discussion the fact that the place where the crime was committed, where the consequences of the illicit activity occurred or which, in any way, preserves its traces, is the source of the most accurate information that can be used to find out the truth.

The importance of investigating the crime scene is often the only way to obtain evidence at the initial stage. It is a particularly relevant evidentiary element for finding out the truth, contributing to identifying the perpetrator, establishing the necessary data regarding his personality and the modus operandi used.

The on-site research activity has three important characters that distinguish it from other similar situations, in that it is an initial, immediate and, in principle, unrepeatable activity.

It is an initial activity because it precedes any other activities carried out by the prosecution bodies, being located at the beginning of investigations. It is an immediate activity, because it is carried out as soon as the criminal investigation body has been notified about a criminal act, before the scene of the crime has undergone any change.

The investigation on the spot is, in principle, an unrepeatable activity, because after its execution, the scene of the crime undergoes changes, so in the event that it were to be resumed, the scene of the crime no longer presents the same conditions as in the initial phase.

The place where the perpetrator carried out his criminal activity, the place where the consequences of the crime occurred or, which preserves data, traces related to the commission of the act, constitute the source of the widest and most accurate information.

On-site research is called upon to solve several tasks, objectives, such as:

a) Examination and procedural fixation of the environment at the place where the crime was committed. This requires knowledge and direct investigation by the criminal investigation body or by the court of the place where the act was committed. Direct contact of the judicial body with the "scene" or "ambience of the place" serves to form an accurate picture of the frame in which the act was committed, to determine the position and distance between the main objects.

b) Searching, revealing, fixing, removing and interpreting traces and material means of evidence, as well as their procedural fixation. The discovery of traces and their interpretation immediately on the spot, as far as possible, is likely to give clues as to the nature of the act and the person of the perpetrator;

c) Obtaining data on the *modus operandi*, on the number of persons who took part in committing the crime. It allows versions to be drawn up of the various circumstances of committing the act, place, time, activities carried out, methods and means used, motive and purpose, consequences produced;

d) Identification of possible witnesses, since depending on the concrete conditions of the place and time of the act it can be established whether, and to what extent, the activity of the offender can be perceived by someone. This clarification is necessary because there are not a few cases in which witnesses of the event are immediately identified;

e) Determining the causes, conditions and circumstances that allowed or favored the commission of the crime, as well as the necessary preventive measures;

f) Elaboration of versions on how the act was committed, its purpose and the participants in its commission.

Determining the scope of the notion of "spot of place" is particularly important because the activity, in its essence, is circumscribed and takes place objectively within a perimeter, which must be clearly determined. Whereas this could constitute an opportunity for abuses and violations of constitutionally guaranteed rights and freedoms to occur insofar as it is carried out unprofessionally, it is necessary that the judicial body, when determining the nature and purposes of the activity to be carried out, make a detailed analysis of the specific conditions and limits, circumscribing on-site research.

Objectives of on-site research

According to a rich practical experience in the field, also repeated in the specialized literature, the main tasks of on-site research can be highlighted, these being:

a) Knowledge and direct investigation by the criminal investigation body or by the court of the crime scene or places included in the category of "crime scene". For example, the provisions of the Belgian Code of Criminal Investigation⁷, relating to the main tasks of the investigation on the spot, which indicate among the objectives: ascertaining the bodies of crime, their condition, the scene of the crime, the seizure of weapons and other objects that can serve to obey, identify persons. The direct, direct contact of the judicial body with what is called the "scene" or "ambience" of the crime scene serves to form an accurate picture of the frame in which the act was committed, to determine the position and distance between the main objects⁸.

b) Discovering, fixing and removing traces of the crime, material evidence. The discovery of the traces, followed by their immediate interpretation on the spot, is likely to give clues, at least of a general nature, as to the nature of the act and even to the person of the perpetrator.

c) Obtaining data on the perpetrator's *modus operandi*, on the number of persons who took part in committing the crime. From the on-site investigation, it can be deduced how the criminal activity was carried out, starting from the moment the perpetrator entered the investigated field and ending with his withdrawal.

⁷ Buzescu Gheorghe, *Internal and international police cooperation – university course*, Sitech Publishing House, Craiova, 2020

⁸ Stancu Emilian, *Treatise on Forensics*, Universul Juridic, 5th edition, Bucharest, 2010

d) Identification of possible witnesses, since depending on the concrete conditions of the place and the time when the act was committed, it can be established whether, and to what extent, the offender's activity can be perceived by someone. This clarification is necessary because there are not a few cases in which witnesses of the event are immediately found.

e) Elaboration of general versions regarding the criminal act and the participants in its commission, at least provisionally. The tasks of the on-the-spot investigation are, after all, objectives of the investigation.

2. Tactical elements specific to on-site research

Preparation of the crime scene investigation team. The preparation of the on-site investigation involves the initiation of a series of specific measures by the judicial body called upon to carry out the investigation (measures known in literature or specialized practice as preparatory or preliminary action) for the prompt and efficient organization, in technical and tactical terms, of the research.

Under forensic tactical report, the preparation as such of the investigation of the crime scene is carried out in two directions:

a) The actual preparation of the team that is to go to the site, in order to carry out the investigation, both from a judicial and technical-forensic point of view;

b) Ordering preliminary measures, taken directly on the spot, to rescue victims, remove dangers, fix circumstances that may change in one form or another.

The investigation on the spot implies, first, that the criminal investigation body be notified about the commission of a criminal act, in one of the ways provided by the Code of Criminal Procedure, namely complaint, denunciation or ex officio notification.

Upon receipt of the notification, the prosecuting body, whether competent or not, has the duty to immediately do the following:

- Identification of the person who made the complaint or denunciation, if the notification was made in this way. In the case of telephone notifications, it is necessary to verify them, in order to prevent possible misinformation;

- Determining the place, nature, gravity and any element that will serve to form a first image of the deed that occurred;

- Ordering urgent, strictly necessary measures prior to the investigation on the spot, measures to be taken by the criminal investigation body that immediately goes to the indicated place or is already there. In special cases, a crew with a mobile forensic laboratory moves.

The prosecuting body must verify its competence by proceeding, as appropriate, either to carry out the investigation or to inform the competent prosecution body and obliged to carry out the investigation, but it will carry out the investigative acts which are not subject to delay. The Code of Criminal Procedure obliges the carrying out of investigative acts that do not suffer postponement, even those who do not have special competence to do so.

In the cases provided for in the Code of Criminal Procedure, prosecution must be carried out by the prosecutor competent to exercise supervision (e.g. homicide, crimes against the freedom of the person, rape, robbery and piracy, bribery, drug trafficking). The research team is composed according to the same criterion. For example, in the case of a murder, the coroner participates alongside the prosecutor, the team leader, as well as police officers, including forensic specialists. In the case of fires, the participation of firefighters' research bodies is natural.

Preparation of forensic scientific-technical means

In terms of forensic technical-tactical report, special attention will be paid to the verification and preparation of forensic technical-scientific means to be used during the research.

For research which does not involve the deployment of special means, it is necessary:

- Universal forensic kit, which will have to have the complete instruments in the compartments for the execution of measurements and markings, for discovering, fixing and lifting traces, for executing drawings and sketches.

- The photo kit will have cameras, lenses and photosensitive materials, including lighting devices appropriate to the circumstances.

- Specialized forensic kits (for investigating latent traces, biological traces, traffic accidents, fires, explosions, for the discovery of narcotics).

In order to carry out investigations with a higher degree of complexity, mobile forensic laboratories are used, laboratories that are equipped with the units of the Ministry of Internal Affairs and the Prosecutor's Office⁹. The mobile forensic laboratories at the disposal of the Police have, in addition to forensic kits, the following:

- a) Analogue or digital photographic and video recording equipment for obtaining images from crime scene investigations, as well as statements of victims, witnesses or suspects.

- b) Miscellaneous detection equipment, namely:

- Metal detectors, used to discover hidden or buried metal objects.

- Cadaver detectors, the best known being the Bansgrad detector, which works on the principle of reaction between putrefactive gases (hydrogen sulfide) and a chemical reagent.

- Detectors with invisible radiation, such as infrared, ultraviolet and röntgen. Among them, thermal imaging cameras or electrono-optical transformers are detached.

- Detectors for explosive substances, radioactive substances (radiometers), or various toxic substances, including drugs.

- c) Technical means for identifying people by external signals, such as "Identi-kit" or "Mimi composer", and more recently, computers for making computerized robot portraits.

- d) Radio communication equipment for maintaining an operational link with the basic units of judicial bodies.

- e) Own sources of electricity, equipment for processing photosensitive materials, first-aid cough, protective suits.

Depending on the needs, the research team may also resort to other means, including specialists from various branches of activity, familiar with the specifics of the field in which the criminal act was committed. For example, in the event of a fire at a petrochemical plant, the support of petrochemical specialists is called upon, or, in the event of a mine accident, it is natural to include mining specialists in the research team.

Tactical rules specific to crime scene investigation:

1. The person who arrives first at the scene must urgently take the following measures:

- providing first aid to victims, even at the risk of altering the act;

- marking the initial appearance of the crime scene and establishing the changes occurred, removing curious people;

- removal of imminent aspects: fires, explosions, floods;

- protection and preservation of traces from weather conditions;

- identification and hearing of eyewitnesses;

⁹ Buzescu Gheorghe, *Comparative Systems of Public Order – university course I*, Sitech Publishing House, Craiova, 2020

- recording circumstances that may disappear: the presence of odors, the position of furniture, the operation of household appliances, as well as the time of arrival;
- identification of suspects;
- notification to the judicial body competent to carry out the investigation of the crime scene.

2. In the preparation phase, only the head of the team enters the criminal field, who has:

- fixing access routes for other team members and priorities: coroner, forensic officer, tracking dog;
- prohibition of any activities that may confuse research: smoking, cleaning clothes, creating other traces;
- the choice of assistant witnesses from among persons who are not related to the perpetrator or to the injured parties;
- obtaining useful information on establishing the circle of suspects among the persons in the victim's entourage or suspected by him. The information will be supplemented with data provided by the perpetrator, relatives, neighbors, eyewitnesses;
- investigation of persons found at the scene in order to establish conclusive data on the initial situation of the crime scene.

3. Need for on-site research

Committing a crime, as well as any human activity, produces transformations in the external environment, which materialize, from a forensic point of view, in traces of the crime¹⁰. The notion of trace must be accepted, in a broad sense, as any material change, occurring in the environment, as a result of the commission of an act of a criminal nature, including, in addition to contact traces, material traces and, even consummation of the crime or *modus operandi*.

The judicial bodies, analyzing considerations related to the usefulness, necessity and opportunity of carrying out an activity, may decide to go within the spatial reference system, one or more, on which there are traces and material means of evidence, where the research activity is carried out on site in order to:

- examination of the crime scene and procedural fixation of those discovered;
- searching, discovering, revealing, fixing, lifting, examining and interpreting traces and means of evidence;
- elaboration and verification of versions regarding the nature of the crime committed, the number and identity of the perpetrators, as well as aspects related to place, time, nature of activities carried out by perpetrators, methods and means used, motive, purpose, consequences occurred as a result of committing crimes;
- establishing the places from which the activity carried out by the perpetrators could be perceived, in whole or in part;;
- identification of eyewitnesses, injured persons, other persons who know data about the commission of the crime and, in some cases, of the perpetrators themselves;
- taking measures to limit damages, determining the causes, conditions and circumstances that determined or favored the commission of the offence and the necessary preventive measures, both in relation to the act and with regard to the occurrence of new consequences.

¹⁰ Panfil Georgică, Nechita Dănuț, Enache Petruț, Vasile Viorel, *Forensic technique. Theoretical and practical guide*, EstFalia Publishing House, Bucharest, 2014

On-site investigation is an integrated activity in the criminal investigation. Since it is not the place to analyse some considerations relating to the management and management of the investigation, it must, however, be emphasised that professional investigation work on the spot can fundamentally contribute to clarifying problems which, taken as a whole, the investigation of one or other of the offences must resolve. The on-site investigation must be carried out, even if the first data do not indicate a mode of operation, which by its nature necessarily requires the appearance of traces, which require their search, fixation, lifting, analysis and interpretation. The refusal of the judicial body to go to the scene out of convenience or ignorance deprives the investigation of one of the most valuable activities, through which important data can be known about the investigated crime.

4. Characteristic features of on-site research

The characteristic features of the on-site investigation activity are such as to particularize and differentiate this activity from other activities carried out by judicial bodies. Thus, characteristic for on-site research is the fact that it constitutes an initial, urgent, mandatory and, as a rule, unrepeatable activity.

The investigation on the spot is an initial activity because, carried out within the framework of the criminal investigation, it is at the beginning of the investigation, with it it begins, it constitutes the beginning of the investigation of crimes which, by their nature, make the activity necessary.

The urgency with which the investigation must be carried out on the spot is determined by the danger of changing the state and position of traces and material means of evidence, by the possibility of their disappearance or destruction, with special effects, involving erroneous interpretations of the facts, making it difficult to manage the activity and, in general, the entire investigation.

The obligation to carry out the investigation on the spot is imposed by the very reason of the criminal investigation; direct perception of the place where the crime was committed, discovery and interpretation of traces and material means of evidence cannot be achieved through other activities, and judicial bodies cannot stay in expeditiousness, they must show an active role, specialized intervention, both considering their tasks as qualified state bodies and taking into account the interested persons concerned, Performing this activity superficially, ignoring tactical requirements, rules of discovery, revealing, lifting, may ultimately lead to serious damage to the interests of individuals, to judicial errors.

On-site research is an activity that, as a rule, cannot be repeated, due to the intervention of the research team in the initial state of the place to be investigated, which thus undergoes changes, during a new on-site research, discovering, first of all, the traces of the team that carried out the first activity and only incidentally traces that interest the research and that have not been vitiated. As an exception, in conditions generated by carrying out the activity incompletely, due to improper weather conditions, due to the non-inclusion, within the place to be investigated, of all parts of the land on which it is possible to find traces of interest to the investigation or for other reasons, which do not fundamentally impair the place to be investigated, The on-site investigation may be repeated. The above were stated in the hypothesis of carrying out the investigation on the spot, within the criminal investigation, as provided by the Code of Criminal Procedure.

Conclusions:

In view of the characteristic features, on-site research shall be carried out as soon as possible before other activities. The question arises here as to whether, in each individual case, the on-the-spot investigation takes place when the formal conditions imposed by law are complied with, in connection with the existence of an ongoing criminal trial.

The criminal proceedings begin with the initiation of the criminal investigation, through a procedural disposition act, issued by the competent criminal investigation body. For this, the judicial body must verify that any of the cases of impeding the initiation of criminal proceedings, provided for by the Code of Criminal Procedure, are not applicable in the case. The verification is based on the information, obtained from the notification document or from the documents, through which the results of the preliminary acts are materialized.

In case of committing crimes of result, such as those directed against persons or property, in which case traces of actions carried out by perpetrators and injured persons necessarily appear, in order to verify the need to order criminal prosecution, the investigation on the spot may be carried out as a preliminary act. The Criminal Procedure Law defines preliminary acts as activities intended to be carried out in order to obtain information, in order to order the initiation or non-initiation of criminal prosecution. Both the on-the-spot investigation and the preparatory documents are mainly materialized by minutes, which constitute evidence in one case and in the other¹¹.

Since the investigation activity, by its nature and place of conduct, may prejudice the legitimate interests, fundamental rights and freedoms guaranteed to individuals, it may be carried out only in the context of criminal proceedings commenced. As a preliminary act, the notification can be verified, some urgent measures can be taken, but the activity cannot be carried out, as such. In the case of the on-the-spot investigation carried out by the court, things are somewhat different.

The activity is carried out by summoning the parties and in the presence of the prosecutor, when his/her participation in the trial is mandatory.

The investigation activity on the spot, carried out by the court, has neither the scope nor the depth of that carried out by the criminal investigation bodies, but its significance is just as great, the court having the possibility to make direct contact with the place where the crime was committed, to observe and appreciate the results of the previous investigation, carried out by the criminal investigation bodies.

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