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Personal and Real (Material) Evidence

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Abstract

If we look at the evidence based on the nature of where it comes from, we can make a classification into material or real and personal evidence. If the source of evidence is an object or trace of a criminal act, then it is material evidence. The core of proof is discovery, production, verification and evaluation of evidence. In the paper, the author tries to make a classification of real evidence in order to present the basic characteristics of each of them. The aim of the work is to indicate the legal provisions on the basis of which all actions related to this type of evidence are carried out, but also to highlight the importance of material evidence which, due to technologies that offer great technical analysis possibilities, can be essential for the procedure itself. It should also be noted that despite the huge the importance of material evidence in modern criminal proceedings, errors may occur in the execution itself, but also in the actions in which they are used, which can never be excluded, and therefore material evidence cannot be considered absolutely superior. The process of proving takes place by looking at material evidence, but material evidence is also the subject of different types of expertise, from which it can be concluded that they become the basis for determining the factual situation in criminal proceedings.

Keywords: *Material Evidence; Criminal Procedure; Evidence Procedure*

1. Introduction

Objective parts of reality that represent traces or objects of a criminal offense or otherwise influence the determination of the factual situation in criminal proceedings are material evidence.By undertaking evidentiary actions, the authority leading the proceedings obtains evidence. Material evidence is provided by combining different actions such as search and temporary confiscation of the case, however, the parties themselves or interested persons in the procedure can submit to the court material evidence that they consider to be important for the procedure. Material evidence is still provided by investigation, taking samples, as well as checking accounts and suspicious transactions." Proving itself is accomplished by looking at material evidence, but these evidences can also be the subject and other acts of proof, and above all expert testimony." Authors Jašarević and Maloku best

analyze crime prevention and suppression (2015, 2016a, 2016b, 2018, 2021, 2021a) as well as Personal and Real (Material) evidence in criminal proceedings I and II. (2021b). Likewise criminal law concepts are extremely well explained by the author Maloku & Maloku (2021), while criminal law concepts related to victimology are analyzed in the dictionary victimology (Maloku, 2019). The authors Shabani and Maloku (2019a, 2019b) describe and analyze criminality extremely well from the point of view of criminological theories.

This paper contributes to the existing scientific literature, especially in the legal field. (Qerimi, Maloku & Maloku, 2022:289)

2. Methodology

Because of the research's intricacy, numerous approaches have been modified to help each other solve the problem (Maloku, Qerimi & Maloku, 2022:176). The scientific methods used in this paper are mainly methods of analysis,synthesis and comparative, which help to analyze, synthesize and compare the theoretical views of local and foreign authors. (Maloku & Maloku, 2020:323). Such research enables us to obtain relevant knowledge with the help of scientific methods and research techniques — scientific knowledge (Maloku, Kastrati, Gabela & amp; Maloku,2022:138). The defined object of research requires the use of different methods and scientific knowledge from many scientific disciplines, in particular, the paper will use theoretical analysis methods, comparative methods and the unity of inductive-deductive methods. (Maloku,2021:76). The research conducted in this thesis has the characteristics of scientific theoretical research, which is necessarily qualitative in nature. As it is theoretical research of a qualitative nature, the qualitative method of document content analysis is mainly applied as one of the methods of data collection. In addition to this method, all the basic analytical-synthetic methods will be used as individual methods and in certain combinations, correlations, and relationships as necessary, as well as the hypothetico-deductive, axiomatic and comparative methods of the group of general scientific methods. (Qerimi, Kastrati, Maloku, gabela & Maloku, 2023:183)

3. Results and Discussion

3.1. Personal Evidence

3.1.1. The Suspect 's Statement

The suspect's statement is a statement he gives in that capacity about the criminal offense he is charged with and other issues of the criminal matter that is the subject of the trial.(which is taken into account when determining the facts). The suspect's statement is used as an important tool not only because in some cases there is no other evidence, but also because it can be useful for checking the credibility and veracity of other evidence.Criminal proceedings cannot waive the use of the suspect's statement as evidence, because the the suspect, as a direct participant in the event being judged, as a rule, knows best whether and how the crime was committed.The state could waive the suspect's testimony as evidence in criminal proceedings only if the prosecutor always or mostly had sufficient other evidence, with which the facts established in the criminal proceedings could be established with certainty . In that case, the suspect would have the position of exclusively procedural subject in criminal proceedings. The suspect's statement can be a means of evidence even when it does not contain a confession, because the elements of evidence are provided from all parts of his statement that relate to the facts that are the subject of evidence. The prosecutor is obliged to check all evidentiary elements of the suspect's statement with other means of evidence. In our criminal procedure, the suspect, or the accused, cannot act as a witness in the criminal matter in which he is responsible, even when he needs to provide information about facts related to third parties. A person can be heard as a witness only if he does not have the

capacity of a suspect or accused in that criminal case. Of particular importance is the confession (confessio) that the suspect can give in his statement. The confession is a statement by which the suspect accuses himself of committing a criminal offense, that is, he partially or fully accepts the accusations by which he is identified as the perpetrator.Confession is one of the most disputed pieces of evidence in criminal proceedings, according to which in court practice and in science there are a lot of prejudices and extreme interpretations. On the one hand, the confession was once overestimated, it was considered the ideal proof, the queen of proof (regina probationum) and all efforts were directed towards obtaining it, which was considered the goal of proof. A confession exists if the suspect fully or partially accepts the charge. The suspect's confession, understood in the narrower sense, is the suspect's confirmation that he committeda criminal offense.A confession in the broadest sense is any statement by the suspect that some important fact concerning his guilt is true, and is unfavorable to him. The suspect's confession must be explicit. It means that there is no tacit recognition. Confession, furthermore, can be: (a) extrajudicial, according to whether it was obtained before a court in a criminal proceeding or out of a proceeding; before the prosecutor, the police or any official or private person. Both confessions have probative value, which is valued according to free belief, and the only difference is that proving by extrajudicial confession is more complex, (b) Simple and qualified. A simple confession exists when the suspect admits what he is accused of, without any restrictions. Qualified confession exists when the suspect, admitting the commission of the crime, points out at the same time the circumstances that exclude the criminal offense or criminal responsibility or at least reduce it,(c) Complete and incomplete (partial), according to whether the suspect admits to all the allegations from the lawsuit that are presented to him charge or only some, and reject others, (g) Court confession in the narrower sense is considered a confession given before a judge, i.e. trial panel at the main trial,and court confession in a broader sense - a confession given before some other body of criminal proceedings. Judicial confession in a broad sense is compounded in the same way as extrajudicial confession, (d) Voluntary and inevitable confession, according to whether the suspect freely decides to admit or do so under the influence of already discovered facts and circumstances.

3.1.2. Problems Related to the Suspect's Statement

The complex questions of the suspect's examination arise, first of all, from the fact that he knows best the facts about the crime he is accused of, but also that the suspect has an interest in not telling the truth, if it is unfavorable for him. This is the problem (as some call it) of the "suspect as an active means of evidence", where the suspect, by active participation, by giving a statement (primarily a confession), makes it possible to find out the truth, and the question arises whether At today's level of social development, should the suspect's cooperation be used, how should it be used, what methods can be applied to get the suspect to cooperate, and what means are allowed to overcome resistance to that cooperation (e.g. presenting material evidence evidence, pointing out contradictions, appealing to conscience and honor, keeping in suspense about the collected evidence).

3.1.3. Evaluation of the Suspect's Statement

The suspect's statement, especially when it contains a confession, has been given different importance both in theory and in practice. The positions ranged from the unconditional probative value of the confession (conffesio est regina probationem) to renouncing all of its probative value. In our law, the following position is taken on this issue: the suspect's statement, even when it contains a confession, is valued like any other evidence. There are no legal differences for that evaluation, as well as the evaluation of any evidence in criminal proceedings. The suspect's testimony can be full evidence or have no evidentiary value, so the court, considering all the evidentiary material, can acquit the accused who confessed, and convict the accused who did not confess.

3.2. Witness Statement

In practice, the testimony of a witness is the most common piece of evidence in criminal proceedings, but the evaluation of the evidentiary value of a witness's statement is the most difficult of all evaluations of the evidentiary value of evidence. The assessment that new technical evidence for establishing the facts will replace the subjective statements of witnesses has turned out to be unrealistic, because they are limited only to certain cases. In such a state of affairs, the only thing left is to use the witnesses and assess the value of their statements in such a way that the perceived shortcomings are eliminated or reduced to the smallest possible extent, which depends on the prosecutor, i.e. the judge, who should, first of all, properly receive the witness's testimony. , and then to evaluate its value. That it complicates the work of the prosecutor, that is, the judge, and assumes that, in addition to legal knowledge, he also knows psychology and logic.

The largest number of witnesses who saw a criminal event come from the circle of acquaintances of the accused or the victim, friends or relatives, from whom it is a priori difficult to expect a complete and reliable testimony. And those who are not, often cannot give such a statement for at least four reasons:

1.Due to errors in observation (a criminal offense is usually a sudden and violent event, the psychophysical state of a person is such that he does not have good feelings, etc.).
2. Due to lack of memory (e.g. complete forgetfulness, so-called false memory occurred)
3. Due to errors in imagination (people tend, especially in front of the authorities, to confabulate, change or supplement information from memory - to create a better impression,to are made important, etc.)
4. Due to errors in reasoning ((misinterpretations of data, lack of self-criticism or excessiveness in it, etc.) In addition to a true statement (when there is a match between the statement and the reality of the facts), there are also false and erroneous statements. false when there is a statement mismatch witness with reality for reasons beyond the will and consciousness of the witness.

A false statement can be sent due to mistakes" when receiving impressions (errors in perception) and remembering them, as well as due to the presentation of what the witness received (errors in reproduction). Inconsistency of the testimony of the witness with reality can occur for reasons that depend on the will /consciousness of the witness, and then the testimony is false. In order to evaluate the credibility of the testimony of the witness, the prosecutor, that is, the judge, must take into account several elements, which are evaluated subjectively and objectively:

(a) Whether the testimony was given freely or under persuasion, under duress and the like, (b) whether the witness is physically and mentally capable of observing the facts, remembering them and reproducing them,
(c) whether his character and moral qualities instill confidence or cause suspicion, (d) Whether he is in some relationship with the parties (relatives, official or debt dependencies, etc.) or is he independent,
(e) whether the content of the given statement is logical, solid, stable, clear and determined,
(f) whether the statement is the result of direct observation or hearsay testimony,
(g) whether the statement agrees with other evidence and known circumstances of the case,
(h) whether it agrees with the statements of other witnesses,
(i) whether it originates from the main trial or was given only in the investigation,
(j) whether it was given under oath.

3.3. The Concept of a Witness and His Testimony

Expert testimony is the statement of procedurally disinterested persons, which the parties and the court take to observe certain facts, circumstances or phenomena, or to give their opinion on them, based on their professional training or skills (lege artis) acquired by making calls, because for this professional legal training and general the education of judges is not enough. It is generally accepted that there are three groups of reasons for expert testimony: (a) communication of general views of science and art, (b) concrete procedural facts and (c) special knowledge of the matter. An expert, as a special type of witness, is not needed if the parties and the court can understand and evaluate the evidence without the help of persons who have specialized understanding and knowledge of a subject. Expertise is the activity of experts on collection findings (visum repertum) and opinions (parere). In the report, the expert gives what he observed and established through examination, which is important for clarifying the relevant facts.The opinion, which as a whole must be founded and explained,represents the expert's solution to the task and the answer to the highlighted questions for elucidation of important facts in a specific criminal matter. The finding and the opinion are usually given in one procedure, but it is possible that only the opinion or only the finding is given. Expertise today extends to the criminological examination of the suspect, i.e. the accused during the procedure and during the execution of security measures and educational measures of indefinite duration (criminological expertise), and this came about as a result of the evolution of substantive criminal law and new requests that were put before the court regarding with the identity of the suspect. What the expert examines is the subject of evidence, and what the expert submits is not any definitive judgment on the subject of evidence, but evidence as well as any other that the court should evaluate and accept or reject based on that. The expert should have the professional (technical) and legal ability to provide expertise. In terms of professional ability, certain necessary knowledge (professional training) is understood, which will enable him to observe certain facts and give his opinion about them. Professional knowledge is proven by an appropriate certificate or diploma on professional training and competence to perform a certain activity or experience in the performance of a profession, vocation or skill. Experts' expertise means both formal education in a certain field and many years of experience, notable results in work, modern knowledge of theoretical and practical problems of a certain field, mastery of modern methodology, constant monitoring and familiarization with developments and perspectives in the respective field. disciplines. The required expertise of an expert is always specific, both with regard to the standards of the specific professional field, and also with regard to the needs of the criminal procedure. does not possess narrow. Evaluating the probative value of expert testimony is an extremely complex activity that requires a good knowledge of criminology and the basic possibilities and limitations of certain types of expert testimony. The judge must be critical in analyzing the expert's findings and opinions. The problem is that the judge does not possess narrowly specialized knowledge that would enable him to critically and completely check the expertise. As a result, in practice it happens that the judge uncritically accepts the expert's findings and opinion and that the actual expert is the one who decisively influences the court decision. Basically, the court evaluates each expert's finding and opinion in accordance with the judge's free evaluation of the evidence by first examining it separately and then in connection with other evidence.

3.4. Actual (Material) Evidence

3.4.1. Procedures at the Scene

Crime scene is usually defined as the place where a criminal act took place. This term refers to the entire region in a macroscopic sense, not just a specific location; thus, the body of the victim and every part of the instrument used to commit the crime 27 also represents the scene of the event. Furthermore, every other place or person involved in the crime enters the continuity of the scene. 26 The place where the crime was committed is called the primary place, and in the case of the subsequent transfer of the body or means of committing the crime, the new place is called the secondary

place. In a microscopic sense, any object or piece of material associated with a crime scene is considered part of the scene. For proper the solution of each individual case requires a macroscopic and microscopic analysis of the scene and bringing it into a logical connection with the victim or the perpetrator of the crime.The scene is usually a large area with numerous traces and objects. Therefore, it is necessary for the site investigator to have the ability to initially determine the number of sites, the nature of each site, and the boundaries and condition of each site. Therefore, the essence of the entire process of searching the scene of the incident is to determine and collect only important evidence and clues that can lead to the solving of the crime and the discovery of the perpetrator. Therefore, experience and expertise are the wo most important determinants of the investigation team.

3.4.2. A search

A search is a material investigation of persons or things with the aim of finding traces of a criminal act or objects important for criminal proceedings (including a corpse) or with the aim of catching a suspect or an accused. The object of the search can be a person (person search) or an apartment and other premises (apartment premises). A search of an apartment, other premises and movable property can only be ordered if there are sufficient grounds for suspicion that during the search:

1. To find the presumed perpetrator of the criminal act or his accomplice,
2. To discover traces of the criminal act
3. To find items important for criminal proceedings

The formal requirement for a search is a court order, which must be written and explained.

3.4.3. Insight and Reconstruction

Investigation is an action by which important facts related to the place of commission of a criminal offense are gathered by direct observation. The goal of the investigation is to discover and collect material evidence or clues about the existence and type of criminal offense, which can be used to find and identify the perpetrators of the offense or to clarify these facts or to trace the consequences of the criminal offense or verify the veracity of other evidence. It can be defined as a series of tactical and technical measures that are carried out at the scene of the incident. As a result of the investigation, the investigative judge or police experts draw up a report on the investigation, which serves as evidence of the completed investigation, which records the most important facts so that they can be processed, and the entire action subject to analysis. Usually, together with the report on the investigation, a sketch of the scene and a photo report on the investigation are made. Each investigation consists of a static and a dynamic part, although these two ways of inspecting the scene overlap with each other. In the first part of the investigation, the static method of examination without moving the object prevails. In the static part of the investigation, the following actions must be taken:

- Security of the event site,
- Description of the event site and marking of traces,
- Photography and video recording,
- Creation of a sketch of the event site to scale.

In the dynamic part of the investigation, objects and traces are moved for the first time, in this order:

- Collection of physical, chemical and biological traces from the scene, their packaging, marking and preparation for transport to the forensic-medical laboratory;
- Writing down important facts that are found when turning objects or examining the body. Any investigation should begin with securing the scene. It is necessary to designate an official person

to mark the event site, with the aim of controlling the entry of other persons. The leader of the investigation team arrives at the scene and, without touching anything (with his hands in his pockets!) describes the scene: date, time, weather conditions, people present, distances between objects. A good investigation record should answer the questions: who, what, where, when, why and how? After this description, the team leader appoints a person who will collect the traces, photograph the traces and take fingerprints etc. The position of the traces and objects and their mutual relationship at the scene should be recorded by photography and video recording.The general rule of photography should be to take pictures from general shots to specific ones in order to avoid confusion, and all objects and evidence must be marked with specific marks and numbers that are given during the investigation. A sketch of the scene is made before moving and taking tracks, the sides of the world at the scene are determined, and objects are located on the sketch by measuring the distance from a fixed measuring point and their mutual distances.

3.4.4. Reconstruction of Events

As part of the investigation, as an integral part of it or as a supplement to the investigation or as a way of checking other evidentiary actions, a reconstruction of the event may be carried out. The reconstruction consists in checking the derived evidence or establishing facts that are important for clarifying the matter, which is done by repeating the actions or situations in the conditions under which, according to the derived evidence, the event took place. The reconstruction is, as a rule, carried out at the place where the event took place, and it is carried out in such a way that, if possible, the entire event is carried out as it follows from the questioning of the suspect, that is, the accused, the testimony of witnesses and experts and other evidence (investigative documents, sketches and photographs), as well as the fact that the organ determined by his own observation. In doing so, the same or (if this is impossible) similar material means are used that were used in the actual event, and the participation of subjects who observed the criminal event or participated in it is ensured.Reconstruction is determined by the authority leading the procedure. In itself, reconstruction is not a means of proof, but a method of checking evidence that is carried out through investigations. It therefore has more to do with the assessment of evidence than with the issue of evidence. For the reconstruction, the rules prescribed for inspections apply. However, the reconstruction must not be carried out in a way that offends public order and morality or endangers people's lives or health. When performing the reconstruction of the event, human rights must be respected and any material damage must be taken into account. Also, as part of the reconstruction, certain pieces of evidence can be presented again, if necessary, and the provisions depending on the stage of the procedure apply. In addition, the investigation and the reconstruction of the event differ in that, unlike the minutes of the investigation, statements of witnesses or experts can be entered into the minutes of the reconstruction. The criminal experiment is a conscious, planned and repeated variation of new circumstances during their investigation into the disputed factual structure of the investigated criminal event in order to determine the conditions, causes and mechanism of the development of the criminal event in order to determine the conditions, causes and mechanism of the development of the criminal event as well as the lawfulness of its occurrence consequences and traces with the aim of checking existing and obtaining new evidence. Probative value of reconstruction and criminal experiment:

in principle, the probative value of the obtained results can be accepted if:

a) It is established that the conditions in which the reconstruction was carried out or the experiments were carried out, are mutually similar to the conditions in which the investigated event took place;
b) When repeating the reconstruction and the experiment, an unequivocal result was obtained;
c) Excluded the possibility of accidental achievement of the obtained results.

3.4.5. Organizing Insights

The nature of the investigation and the goals to be achieved dictated that the law does not contain any special rules on the organization of the investigation. It is about direct sensory perception and the application of technical means and procedures that take place according to the appropriate rules and laws of a certain science, profession and skill. Instead of relying on the law, the authority that conducts the investigation procedure uses the help of experts, who, as necessary, help it find, secure and describe traces, perform the necessary recording measurements, make sketches or collect other data. As a procedural action, the investigation must be carried out in compliance with the formalities prescribed by law. Investigation is in the investigation primarily in the jurisdiction of the prosecutor conducting the investigation. Secondary, after notifying the prosecutor, the investigation in the investigation can be carried out by an authorized official, and if the prosecutor is present on the spot during the investigation by authorized officials, he can request that the authorized official perform certain actions that he considers necessary, whereby all actions taken during the investigation must be documented and explained in detail both in the minutes and in a separate official report. The reconstruction of events can be carried out during the entire procedure, namely in the investigation: then in the phase of the main trial and in the trial before the second-instance court.The prosecutor and the authorized official do not have the obligation to invite the suspect and his defense attorney to the investigation, regardless of the fact that they may be known at the time of the investigation. In contrast, in other procedural situations, when the court is the authority that undertakes the investigation, calling the parties and defense counsel is mandatory. As an act of proof, the investigation must be carried out with: the help of an expert in forensics or another profession who will help in finding, securing or describing traces, perform the necessary measurements and recordings, make a sketch and photo documentation or collect other data. As experts who provide assistance to the authority that performs the investigation, officials of the police authorities can also be engaged. From the of the expert does not depend on the direction in which his help will be directed, but the authority that manages the investigation or reconstruction of the event should determine to the expert what actions should be performed, what questions should be answered Future actions of the expert are important for clarifying a specific matter, it is necessary to minutes. An expert can also be invited to the inspection or reconstruction, if his presence would be useful for providing findings and opinions. On that occasion, the expert may suggest that certain points be clarified circumstances or to ask certain questions to the person being interrogated. In such cases, it is not a question of some kind of merging of investigation and expert opinion, because during the investigation or reconstruction of the event, as a rule, expert opinion is not carried out. If there was an exceptional need for expert testimony to be carried out during the investigation or reconstruction of the event, then two separate minutes would have to be drawn up about those acts of proof.

3.4.6. Inspect Closed Rooms

It is necessary to pay attention to the existence of traces already when approaching the scene of the event, and when reading about the investigation of a blood crime, look for traces of blood. After fixing the traces, a systematic search of the premises is started. Such a procedure will often establish the existence of clues that can point to a motive, reconstruction of the movements of the perpetrator or victim, the manner and place of the crime, etc. In the order of the search actions, you should start from the floor first, in such a way that no object or piece of furniture is moved from the place where it was found. The inspection should be carried out from one side to the other (without skipping certain areas) covering the area from about 50-60 cm. In cases where traces of blood have been removed, it is necessary to perform a benzidine and luminol test. The next stage of the floor inspection is the inspection of those areas of the floor that were partially or completely covered by objects that can be easily moved (eg an overturned chair).Even in this situation, the rule of systematization and regularity of the order (sit facing the other side) applies.Before the object is moved, it is necessary to observe whether there are traces of blood on it, where they are located, what shape they are, whether the object prevented the blood from falling on the

floor or was placed on an already bloodied floor, whether at the moment when was stained with blood in the position in which he was found or in another. The contours of the object should be outlined on the floor and the object should be taken for a more detailed examination (to a place with suitable conditions, eg better lighting). After that, the chairs, tables and other furniture are inspected. Even when inspecting wall surfaces, the rule of systematization and the rule of a specific order apply. It moves from one side of the entrance the door and slowly part by part (by looking) the examined wall is searched (without skipping parts of the wall). In parallel with this inspection, an inspection of things leaning against the wall (cupboards, racks, chests of drawers,stove, etc.) is carried out. We finish the inspection at the same door, only on the other side. In case of poor lighting (especially when inspecting darker surfaces), it is mandatory to use additional lighting sources (hand lamps, reflectors, etc.). The next stage of the work is the inspection of individual pieces of furniture that are located next to the walls (again in a determined order and system). The final stage of the inspection of the closed room belongs to the inspection of the ceiling. Whenever possible, premises in in which a certain event happened, it is necessary to lock and seal it, due to the possible need for re-investigation or verification of some facts. The opposite procedure allows certain traces to be changed or completely destroyed by those who use those rooms.Practice has shown that the inspection of closed premises is approached irresponsibly, because more than often in certain documents or oral reports it is stated that a detailed inspection of the apartment was carried out in an hour or an hour and a half, which is impossible from the point of view of complete regularity of the inspection. The authorized person who is the first to arrive at the scene of the event should first remove all persons who happen to be there, to prevent the access of all uninvited and unnecessary entry.

3.4.7. Insight into the Open Space

An investigation in an open space differs from an investigation in a closed one in that:

- It can cover a larger area (but not always)
- It depends on weather conditions.

When inspecting smaller spaces, the method of inspection will not be significantly different from the one used in a closed room. Weather conditions must be taken into account from the very beginning of the investigation (it must be assessed whether the investigation will be able to be completed during daylight hours or before a change in atmospheric conditions) because incorrect or untimely judgment can make a complete (further) search difficult or impossible. Night investigation is very delicate and difficult, and in those situations it is necessary to use an aggregate for lighting. In case of possible changes in atmospheric conditions (possibility of precipitation - rain, snow), visible blood traces should be photographed as soon as possible, entered in the sketch and covered. In this way in some cases, other authorized persons may be included in the search, who will report to the front with a mutual distance of about 1 m. It will move at the same speed from one end of the field to the other, from where it will return after the front has covered a new part of the land (until the entire area has been inspected). When one of the searchers finds a clue, all searchers stop and inform the police. technician, who is the organizer of the search on such extraordinary occasions. When crime. the technician approaches the found clue; the others continue their search. Only a narrow place should be given to Crimea. the technician, who will visit the appropriate area in increasingly large circles. The open space also has its own specificities, above all the possibility of the influence of atmospheric conditions - rain, snow, sun. If we want to prevent blood stains from being diluted or washed away by snow or rain, the stain should be covered with a plank bridged over two stones, a tin box, or nylon. If heavy rain is expected, it is mandatory to use nylon, and make small ones around the stain channels that would prevent water from flowing towards the blood stain. Protection of blood traces must not be done at the expense of other traces. Protecting tracks from the sun is much simpler (it is enough to create a shadow on that part). In addition, it is necessary to prevent the arrival of animals and insects (flies) at the scene, especially on the corpse itself.

3.4.8. Examination of the Suspect

A person suspected of a serious criminal offense (eg murder) should be examined as soon as the circumstances permit, or at least prevented from removing traces of blood until the examination is completed. Special attention should be paid to the so-called pure cases where, for example, murder committed in the presence of witnesses, where the executor admits the commission of the act and is ready to cooperate (shows the traces himself).

However, a light and superficial approach to such acts (this often happens in practice) can have unforeseeable consequences, especially if the perpetrator starts to change his statement, and the witnesses are more. they don't remember exactly what happened. Therefore, the principle of systematization should apply in all situations. Already during the interview, which is conducted with the suspect or the perpetrator by an authorized official (since he is usually the first to arrive at the scene), it is necessary (inconspicuously) to observe the hands, face and clothes in order to possibly find traces of blood. During the procedure, you should keep in mind the way the act was carried out and focus your attention on those areas where logically, they can expect not only blood stains, but also other traces. If it is not possible to start fixing and collecting the traces observed in this way at that time, it is necessary to immediately take measures so that a certain person does not remove these traces (until a complete inspection). If the authorized official person, who will be the first to come into contact with the person suspected of e.g. murder notices traces of blood on her, he must not (with words or behavior) show it or make it known indirectly, because otherwise the suspect will try to remove the traces of blood. In such cases, the suspect should be kept under immediate control until the traces are definitively stored for subsequent investigations. Traces of blood on clothes and shoes will be best protected if we remove the clothes and shoes in their entirety and store them. Practice has shown that the clothing of an injured person, which was sent to a medical facility for medical assistance, almost regularly escapes acceptance by criminal officers, and therefore criminal examination. In the rush to help the injured, the medical staff will not pay attention to the clothes and the marks on them. In most of these cases, the clothes are removed by tearing or cutting them (for what reason). less unnecessary actions for the injured person), but if this procedure is understandable, it cannot be allowed that clothes are needlessly torn, cut, lost or replaced, or in some cases given to relatives. Similar problems arise when the injured person dies before being undressed by the medical staff and when he arrives at the doctor's office dressed. There are countless cases when, even during the autopsy, the coroner paid no attention to traces of blood or clothing. In all cases when the injured person is sent to a health facility, it is necessary to remove all clothing and store it in a safe place. In certain cases, marks on clothing are, to put it mildly, of equal value to the entire autopsy findings.

3.4.9. Overview of Uncovered Parts

Regardless of the fact that the suspect's hands have been washed, it is possible for traces of blood (and other traces) to be found on the edges and under the nails. It is not necessary to be satisfied only with the examination of the hands (hands), but it is necessary to examine its part up to the elbow. This is followed by an examination of the face and neck, especially the parts that the suspect does not notice (the ears and the area behind them). This moment is considered important because the executor will wash his hands, face and neck, but he usually forgets about the hair (due to the color of the hair, traces of blood are difficult to see) special attention should be paid to the suspect. Genital examination is regularly neglected in cases of rape (sexual organs) of the suspect and if traces of blood can be found there, the probative value of which can be decisive.

3.4.10. Review of Clothing and Footwear

All clothes (including the clothes of the suspect) are examined in a well-lit place (table) which we covered with clean paper. Each individual item is inspected unfastened, first from the outside. It is

necessary to approach this kind of review systematically. One possible inspection scheme for a jacket (jacket, etc.) would look like this: front right side (includes the area between the shoulder seam, the seam between the front right side and the right sleeve, the seam between the front and back right side, the bottom hem and the front hem to the collar) with a special inspection of each individual button, the thread with which it is sewn, the edge of the pocket and the turned pocket, the front left side with a special inspection of the buttonholes (when the male fastening method is used), the collar (on the outer and inside), back right side, back left side, right sleeve, left sleeve. After that, the same inspection is carried out on the inside of the examined item. The examination must be performed using a magnifying glass (a magnifying glass with a circular light is recommended), because only in this way will the examination be performed properly and with high quality.

3.4.11. Motor Vehicle Inspection

The vehicle inspection itself is perhaps the most difficult object of the criminal-technical investigation. It is precisely because of this that the necessary inspection should be given maximum attention (practice has shown that in our long-term activity, a complete and proper inspection of the vehicle has not yet been done). The method of finding traces on the vehicle will depend on the circumstances of the event during the examination of the injured party and the scene of the event.

There is no need to look for traces of blood (but there are other e.g. hairs and fibers) on the vehicle, if the injured person has no open wounds that are bleeding. It is also unnecessary to look for traces of blood on the outside of a vehicle that ran over a man while he was lying on the road, but also vice versa.When a passenger vehicle hits a pedestrian, the marks most often originate from the primary contact and are usually fibers of fabric or cloth. Traces of blood are most often from the secondary phase of contact, most often due to a head injury, and are found at the point of impact of the head on a part of the vehicle, on the frame or on the remains of the windshield, the height to which the pedestrian's body reaches, or on the upper or side parts of the vehicle. Traces of blood are usually in the form of small splashes and in some cases they are mixed with traces (fragments) of hair and tissue. Recently, there have been more and more frequent requests (to experts) to determine the driver who was driving the vehicle at the time of the accident. There are many different (and there were in practice) situations when it will be necessary to determine who was driving the motor vehicle at the time of the traffic accident? There have been recorded cases when the passenger was killed and the driver remained alive, when the driver transferred the passenger to his seat, and he moved to his. Usually, these and similar situations can be overlooked and further complicated, so traces of varnish, fibers and fingerprints are not given enough attention. Searches of the lower parts of the vehicle, where traces of being run over, require special persistence and patience. Traces of blood on a greasy or muddy surface can sometimes be difficult to distinguish from stains of other origin. It is possible to find traces (spatters) of blood on the front and lower part of the vehicle, which originate from accidental (or previous) run-overs. small domestic animals (dog, cat, chicken...) or sometimes larger animals, wild game, etc. The mandatory recommendation would be that after the first inspection, the vehicle is not returned to the owner, but that it is kept in the garage for a while, in order to possibly check some circumstances that appeared during the processing or supplementary inspection.

3.4.12 Probative Value of Insight

Investigation is the most reliable way of establishing the facts in criminal proceedings, because the authority that conducts it determines the facts through its own observation. The old Latin sentence Nulla est maior probatio, quam evidentia rei (There is no better evidence than investigation) is still relevant today. The second way of establishing the facts (using evidence) is less reliable, because there the criminal procedure body does not learn the facts through direct observation (with its senses), but

indirectly, by someone else (the suspect, that is, the accused, a witness, an expert) communicating their observations of those facts. or by reading documents and using technical recordings of registered facts.

The evidentiary credibility of the investigation stems from its heuristic character, i.e. from the possibility of discovering facts on the spot, primarily material ones, which were caused by the execution of a criminal act. However, the results of the investigation can have flaws like any other indirect means of evidence. The greatest probative value is the investigation that the court conducts at the main trial, directly observing the relevant facts. It should be especially emphasized that the modern technique of optical registration of facts made it possible to register the facts established by the investigation technically (not only in minutes). In this way, the reproduction of the technical video in front of the trial court gives an almost faithful picture of the subject of the investigation, as it were that court itself conducted the investigation. In any case, the real evidentiary value of the investigation, regardless of whether it was conducted before or during the main trial, depends on the free assessment of the court.

Conclusion

Material evidence, in addition to personal evidence, in criminal proceedings is the core and basis of determining the factual situation. Items and traces are secured by various actions for securing evidence from the competent authority or the party in the proceedings who have an interest in it. If the court considers a specific case to be important for the procedure, it can issue a decision on the temporary confiscation of the case and issue a certificate of this action. However, material evidence can also be the subject of various evidentiary actions, most often expert testimony, where certain findings are reached based on various analyses. It is very characteristic of modern political systems that they give increasing importance to material evidence, and above all to objects and traces of criminal acts, which is, on the one hand, a consequence of the effort to objectify the evidentiary procedure as much as possible, and on the other hand, it is based on the great technical possibilities of material evidence analysis in modern countries.

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