

# THE CONCEPTS OF IDENTIFICATION AND IDENTITY IN CRIMINALISTICS

Ioan ARON<sup>1</sup>

**Abstract:** *The term "identity" expressed in a more simplistic form can be reduced to the fact that a being, an object or phenomenon is identical only to itself with the specification that this manifestation is rendered objectively only at a given moment, in a certain form, because over time and under the action of external factors they can change, but they retain their unique fundamental characteristics that define them.*

**Key words:** *identity, phenomenon, external factors, fundamental characteristics, identification*

## 1. Introduction

Establishing the identity of persons or objects, in a broad sense, is the defining element of the forensic investigation process. This process has a well-defined place, of high importance in all forensic investigations. It is considered that forensic identification represents "the central problem of forensic investigations" (Kirk P., 1966, p.12), being at the same time "the cornerstone of this science" (Stancu E., 1986, p.26). Referring to the practical needs, in the literature it is seen that this type of activity is "inextricably linked to the act of justice" (Ionescu L., 1990, p.5).

The identification of a person is possible not only through technical methods, but also based on the statements of an eyewitness or the victim, within procedural activities, such as, for example, group recognition carried out in accordance with forensic tactical rules.

This process is possible due to the perception of objective reality and awareness of the properties, characteristic features of a person or an object that is individualized within the broader category of similar beings or things. We are in the presence of the recognition of persons or objects, resulting from a thought process through which the characteristics of several objects or persons were compared to establish their identity or non-identity (Suciu C., 1972, p.16).

Unlike identification in other fields, forensic identification involves the recognition of a concrete object, which may have elements or characteristics that bring it closer to other

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<sup>1</sup> *Transilvania* University of Braşov, aron.ioan@unitbv.ro,

similar objects, of the same genus or species, but which differs from all of them by features that make it make it identical only to itself.

By identity, we mean the appropriation of a person, object or phenomenon to manifest its individuality in time and space, through the fundamental, permanent characteristics that distinguish them from all others and determine them to remain themselves for the entire duration of their existence. It should be noted that, by identical, we must see a concept applicable to what is unique, a person, an object or even a phenomenon (Stancu E., 1986, p.38).

## **2. Forensic identification**

Regarding the conditions that the fundamental individualizing characteristics of the person or object must meet, some clarifications are necessary:

a) to establish the identity, it is not necessary to refer to all the features of the object of identification, since the essential characteristics by which it is individualized and distanced from the other objects are sufficient.

b) although identity involves the duration of particular features, doubled by their relative stability, in forensic practice there are cases of identification based on temporary characteristics.

c) the identification should not be interpreted in a fixed way, since any thing, any characteristic element of it is in permanent movement and transformation, being subject to the action and influence of external or internal factors.

The process is specific to both beings and objects, including their traces (Stancu E., 1986, p.39).

So forensic identification is distinguished, compared to the identification processes found in other fields of science, by certain elements of specificity.

Thus, in one opinion, forensic identification "means the establishment of the object that is causally related to the investigated deed, in order to obtain judicial evidence" (Dan N., 1979, p.10).

According to another opinion, forensic identification is seen as "a process of establishing, with the help of the means and methods of forensic science, the creative factor of the trace, based on its characteristics, constituted in a unitary and individualized system, contained, transmitted or reflected in the trace".

To this, we add the opinion according to which forensic identification is a method of scientific recognition of objects, relevant from the point of view of probation and of creating the possibilities of discovering the relationships that connect the objects to each other (Dumitrescu C., 1992, p.2).

Forensic identification is an activity, a process of establishing the concrete, material person or object that is causally related to the illegal act. At the basis of identification, there is a system of peculiarities or characteristic features. The identification ultimately serves the purpose of the criminal process, to reveal the truth.

Therefore, we define forensic identification as a process of ascertaining the identity of some persons, objects or phenomena, in a causal relationship with the illicit act, through

forensic scientific methods, in order to establish the truth in the judicial process (Stancu E., 1986, p.40).

The role of identity and forensic identification, in establishing certain circumstances related to the investigated deed, was and is controversial in the literature.

According to some authors, identification operates not only in cases where the object of the investigation consists in establishing certain factual situations, but in any other situation, even in that of the correct legal classification of a criminal act.

The followers of this thesis argue that, in essence, achieving a correct legal framework, in the last instance, means establishing the identity between the constitutive elements of the investigated crime and those of an act provided for by the criminal law.

There is no doubt that elements of logical identification can be found in any activity that aims to highlight the factual circumstances of the investigated criminal case, but it is no less true that forensic identification has its specificity, determined by the content of the problems included in the object of science forensics, in general, and in the proper object of identification in particular.

In forensics, objects possessing a system of characteristics, which are causally related to the researched deed, are subject to identification. To demonstrate, for example, the causal connection between a person's action or inaction and the result of his deed, the connections between different objects must first be determined.

### **3. The object of identification. Definition and classification.**

In forensics, objects, persons, phenomena that have certain characteristics, particularities and that are in a causal relationship with the researched deed are subjected to the process of identification.

That is why, in order to demonstrate the existence of a causal link between a certain deed and its consequences, it is first necessary to establish, as precisely as possible, the relationships between the various objects in the verified factual ensemble.

From here, it can be concluded that forensic identification has a decisive role in the research of factual data, contributing to the discovery, fixing, lifting, preservation and verification of material elements that can explain and prove a certain state of facts.

Issues such as the guilt or innocence of a person suspected of committing a crime do not fall within the scope of forensic identification, instead it is possible for him to contribute to the examination and clarification of the circumstances in which the act was committed.

Thus, the forensic scientist cannot be asked to answer the question of whether a certain person committed the theft, instead he can be asked whether or not the handprints discovered at the scene were created by a certain person.

It is therefore noted that forensic identification does not solve legal problems but factual problems.

The object of forensic identification is a material object by its nature, concrete, whether it is a being or a thing, as well as the phenomenon that generated a certain state of affairs, which presents characteristics or properties, as well as particular attributes, through which it manifests itself in space and time, makes it susceptible to

create traces and implicitly, to be identified, thus establishing its causal relationship with the researched facts.

Forensic identification requires the mandatory existence of two categories of objects, which must be differentiated in relation to the purpose of this activity.

From this point of view, the first category is the objects to be identified, respectively those objects whose traces or material reflections were discovered at the crime scene. In forensics, these objects are also called target objects, considering, in fact, what is being sought through identification.

The second category of objects is represented by identifying objects or in other terminology middle objects, so those that bear the traces of a deed and the traces themselves, these serve to identify the objects that created them (Stancu E., 1986, p.48).

In the juridical literature, the goal-objects are also called sought-after objects, and the means-objects are called verified objects.

For example, if shoeprints were discovered at the crime scene, the shoes that created the footprints will be the goal objects (searched), and the shoes supposed to have created the examined footprints will be the means-objects (verified).

Also, the bullet or cartridge discovered at the crime scene, in the case of the discovery of a firearm during the commission of a crime, represents a means-object, while the suspected weapon, taken from the perpetrator, constitutes an object-purpose, for identification.

The very exact delimitation of these objects is not only of terminological importance, but also of practical importance, because the confusion between the two categories of objects mentioned can attract errors with negative consequences on the just finalization of the cases.

Establishing the identity, between the characteristics of the identifying objects and those of the object to be identified, is resolved in relation to the objects subject to research, and for this reason, they are no longer called objects to be identified.

In the identification process, in addition to the searched and checked objects, there are also their traces. It is precisely these traces that offer the criminalist the opportunity to examine and establish the properties, the individual characteristics of the investigated objects. So, on the one hand, there are objects to be identified, and on the other hand, their traces, called identifying objects.

Judicial practice attributes to forensic identification the meaning of individualizing an object by a distinctive sign, or modified, intentionally or accidentally. Examples, in this respect, are the revealing of the filed series on weapons or engines, the reconstruction of some documents destroyed by burning, washing, scraping, the highlighting of some covered writings and others.

In the activity of discovery and investigation of crimes, there are numerous situations in which the identification of the perpetrators of crimes, their victims, persons or corpses with unknown identity or objects, animals, etc., is based on data other than those provided by the traditional forensic investigation of the traces discovered on the spot. It is about identifying a person, an object or an animal by memory, based on their image, respectively some external features, or other characteristics, as they were seen,

perceived by another person: witness, victim, and in rarer cases even by the perpetrator (Dumitrescu C., 1993, p.11).

#### **4. The principles of identification**

##### **The principle of identity**

This principle involves the determination of a concrete person or object, but, as I mentioned, it is also important to establish non-identity, necessary to exclude from the circle of suspects persons not suspected of having committed a criminal act. The application of this principle must be respected in a rigorous way to avoid possible confusions, caused by the situation where the research is limited only to establishing the elements of similarity of persons, without deepening the knowledge and revealing the specific elements.

##### **The principle of delimitation of objects of forensic identification**

The purpose of the identification is causally related to the illegal act and takes place in different situations (the offender or the victim, the instruments used to commit the act, etc.).

The object-means of identification consists in the traces of the target object and in the comparison, models made experimentally in the laboratory.

The distinction between the two objects is necessary, no deviation from this principle being allowed.

##### **The principle of relative stability of identification characteristics**

The essential characteristics of a person are not enough to individualize him from other human beings, they must also present a certain stability. This stability is related to the time interval between the discovery of the traces and the time of comparative examinations.

The forensic expert will have to delimit the changing characteristics from the relatively stable ones and determine precisely if they could have been influenced by various internal or external factors, in form or content.

##### **The principle of dynamism of identification characteristics**

Through the prism of the change of characteristic features and properties, of the causal interaction with factors that can determine qualitative and quantitative changes, it is necessary to approach the research of people in motion.

#### **5. Conclusion**

The identification parameters are also used by the biometric systems that use automated recognition techniques ensuring the security of access to safety areas prior to the occurrence of an event.

Forensic investigative techniques normally occur after an event has occurred, or at the same time in the case of flagrant crimes, requiring a certain period to complete.

The entire probative forensic investigation is completed by an expert report or a technical-scientific report, drawing definite positive or negative conclusions, and in situations where the evidentiary material is insufficient or compromised, conclusions of impossibility can be formulated.

The areas in which judicial identification is applicable are: identification of persons by external signs, identification of persons by papillary, digital, palmar and plantar marks, genetic identification (which consists in determining the genetic code of each individual), identification of persons by biological marks, identification of persons by voice and speech, identification of persons by writing, identification of instruments and objects with which the crime was committed and identification by iris and retina.

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