

THE TACTICS OF THE SEARCH

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Abstract: *Among the factors that directly contribute to the success of a search, a central place is occupied by psychological factors, factors whose knowledge, by the judicial body, is absolutely necessary. The exact outline of the issue of psychology implies, from the very beginning, emphasizing the distinction between the psychology of the person conducting the search and the psychology of the searched. This distinction is imposed by the fact that we are in front of a procedural act, somewhat similar (of course on psychological grounds) to listening to the accused or the defendant. In this "duel", we can see that not only the criminal investigation body seeks to notice the way of thinking and behaviour of the searched person, but also the searched person, especially if he is a well-versed person, will try to put himself in the position of the person coming to search, when he hides the objects.*

Key words: *tactics, search, procedural documents, psychology*

1. Introduction

The psychology of the judicial body, which conducts the search, must be defined by a well-developed sense of observation, a great power of concentration and stability of attention, a quick intuition, capacity for analysis and synthesis. At the same time, he must be persistent, orderly, show a lot of calmness and even a certain physical resistance, especially in the case of long-term searches.

In essence, conducting a search requires, among other things, a series of psychophysiological qualities, determined among others by the strength, mobility and dynamism of the nervous system, by the existing balance between the process of excitation and inhibition. Regarding the importance of the search to find out the truth, the need for the judicial body to follow a conduct governed by general rules, common to all these procedural acts, is obvious. Therefore:

- the thorough examination and permanent observation, in its psychological meaning, directing attention towards a better, complete perception, both of the behaviour of the searched person and of the particularities of the entire place where the search is carried out. Especially in the case of more difficult, long-lasting searches,

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it is indicated that a person is in charge of supervising the behaviour of the person searched and as a rule he is the one who leads the search. Maintaining the stability of attention, which requires avoiding monotony, through a certain variation in research, as well as by taking breaks for rest, but not in a common way.

- quick adaptation to concrete situations encountered on the spot, doubled by the mobility of thinking in the interpretation of the data obtained during the search. The criminal investigation body must be prepared, at any moment, to give up the initial versions, focusing in another direction that proves to correspond to reality.

- the search requires a lot of perseverance, calmness and patience, such an act being incompatible with superficiality, nervousness, haste or repulsion towards certain things or objects, elements that are often discounted by the one who hides something.

- sensing the typical reactions to the emotional tension of the person searched, depending on the particularities of the place searched at that time, the criminal investigation body will have the opportunity, based on inductive and deductive reasoning, to determine to what extent a certain object or space searched is related for the purpose of the search.

2. The Psychology of the Searched Person

The psychology of the searched person offers particularly significant elements for the orientation of the investigation, elements that the judicial body must always keep in mind, since, if they are used skilfully, they can directly contribute to the success of the search. At the time of the search, the person in question will go through a specific emotional state. The mental tension will be more pronounced, as more the of the objects or inscriptions sought are at the residence or on the searched person, reaching the upper limit as the criminal investigation body approaches the place where they are found.

The main somato-visceral manifestations determined by states of mental tension, manifestations that can be noticed directly by the person doing the search, are, as emphasized in the previous chapter, the following:

- dysregulation of breathing and vocal emission, hoarseness accompanied by decreased salivation and irregular movement of the "Adam's apple"

- change in cardiovascular activity, manifested, among others, by congestion or pallor, typical of emotion.

- twitching, changing the normal expression of the face, performing unnatural movements, gestures or actions,

- changing the latency time, the individual responding late, and sometimes hastily to questions that have an affectogenic charge.

An important argument in support of the need for permanent observation of the searched person is also the one according to which the behaviour of an individual represents, basically, a way of extra-verbal communication through mimicry, gestures, the sound background of speech, etc.

The searched person communicates, against his will, data that he would like the criminal investigation body not to find out. This explains why, in some cases, the wanted objects were discovered immediately after the start of the search, without the need for a systematic, thorough search of the entire residence.

There are also people who insist that various rooms or objects be checked, a situation that can be interpreted either as an attempt to distract attention, or as a determination by the criminal investigation body not to search exactly in those places. Of course, in such a circumstance, the sincerity of the searched person cannot be excluded either. Currently, criticisms frequently refer to the "violation of human rights", knowing the sensitivity of some investigators to such an argument.

There are also situations in which the searched objects cannot be discovered from the very beginning, in such a circumstance it is possible to notice a certain relaxation of the searched person, but after resuming the search, in the previously searched place, he suddenly becomes agitated, trying, sometimes, to resist.

From a tactical point of view, in order to thwart the "maneuvers" undertaken by the person searched (protests, invitation to check certain places, distraction, etc.), it is advisable for the judicial body to adopt a sober, restrained attitude, not to react immediately, demonstrating that he is sure of himself and determined to see the search through (Alamoreanu S., 2009, p.237)

A useful tactical procedure for more clearly reporting the reactions of the searched person is that of asking questions about the destination of some objects, the layout of the rooms of the house, etc., as well as inviting him to open or move various furniture items.

3. Place of the Search

Travel to the place of the search must be prepared with great care to ensure the unexpected nature of the action, so that the person searched is approached by surprise, without being given time to remove the objects or documents targeted by the judicial body, or to disappear from the home. In larger cities, the car used by the team members will not be stopped at the entrance to the building where the search will be made, but at a greater distance. In smaller towns, in villages, the car will be stopped in front of the offices of the state administration, some businesses, companies, shops, etc., depending on the distance to the place of the search.

When searches are carried out in multi-storey buildings, the elevator will be stopped one floor above or below the landing where the apartment is located, it being preferable for some of the team members to come up the stairs, of course as far as possible and without forming a compact group.

In the event of the existence of guard dogs, in the yards of the houses that will be searched or in the apartments, a suitable way of calming them must be found, even by inviting a neighbour who knows them, or by calling a person from the house, under some pretext, situation in which only one person or at most two from the team prepared for the search must appear at the gate (Stancu E., 2010, p.324).

It goes without saying that, before entry, the necessary measures will be taken to guard the entrances, to remove any possibility of leaving the place of the search.

Entry to the place of search is made according to the particularities of each individual case. As a rule, they ring or knock on the door, the team members sit down so that only one person can be seen through the visor or window. If several families live in the house or apartment, it is advisable to call the family that is not being searched. In the circumstances in which the door will not be opened, due to the refusal of the person or the fact that there is no one in the house, the procedure is varied. If the judicial body does not notice any movement in the house, it will have to ask the neighbours whether or not the wanted persons are in the house and what they know about them.

Such situations can be avoided by obtaining well-verified data on the activity schedule of those searched on their way of life.

In the event that there is no one in the house, the door is opened in the presence of a representative of the searched person, a neighbour with legal capacity, the person in charge of the tenants' committee or a delegate of the town hall. In special situations, not to mention flagrant crimes, when from the data in the file or from the informative material obtained in order to prepare the search, it results that we are in front of dangerous individuals, recidivists, etc., forced entry will be carried out, without delay, at the place of search (Stancu E, 2010, p.118).

The entire operation of entering the place of the search is done in the presence of witnesses, assistants invited to participate in the search and, possibly, of the chosen defender.

For the searches carried out at the person's workplace, the support of managers or employers who have the right to allow entry into the enterprise or institution will be called upon, people who will be asked to proceed in such a way that the true purpose of the judicial body is not immediately known.

The first measures taken at the site of the search - After entering the site of the search, the person leading the team will present his or her magistrate or policeman's ID and, if applicable, the mandate issued by the judge in order to carry out this act (art. 101 of the Romanian Criminal Procedure Code).

Before starting the actual search, it is necessary to take some preliminary measures, such as:

- quick inspection of the entire searched place, especially the toilets, stoves, cooking machines, garbage disposal tubes and, in general, any installation that could be used in order to destroy the objects or inscriptions sought. Preventing attempts to signal outside, through manoeuvres such as throwing or moving flower pots from the window or balcony, or pulling the blinds up to a certain height, arranging the curtains in a pre-established position, etc. Nowadays, it is also possible to communicate with various accomplices through mobile phone equipment.
- taking measures to counteract any violent action - from the moment the search begins and throughout the entire duration of the search, the criminal investigation body must be prepared to counter any violent action of the searched person, especially if there are data that this could be armed or that he will try to defend himself. Through such measures, possible suicide attempts must be prevented, possible in case of the discovery of objects that categorically prove the person's participation in a crime with a high degree of social danger.

- the gathering of all persons found at the site of the search in a single room or in a limited space, including those who are sleeping, except for small children, the sick, a space that they will not leave until the end of the search, except with the approval to the criminal investigation body tasked with supervising them. The persons encountered at the place subject to the home search will be identified and asked in what capacity or purpose they are in that place. In a similar way, the persons who come after the start of the search are handled. Exempted from this measure are persons who come in the interest of work (employees of utilities, etc.), who will not be allowed to have direct contact with the searched persons. Depending on the nature of the deed, especially in the case of flagrant crimes, as well as the particularities of the objects sought, a physical search of the persons found at the scene of the search may be resorted to.
- careful study and familiarization with the place that will be searched, in order to know the exact topography and its characteristics, on the occasion of which the initial data held by the criminal investigation body is also checked. The person being searched will be asked to give explanations regarding the purpose of each room, about those who live in or use them, as well as about the furniture, appliances or installations existing in the respective place. The explanations will be all the more detailed, as there are rooms and outbuildings used by several families. After recognizing the searched place, until their actual verification, the rooms will be locked, as well as the furniture equipped with locks. For this purpose, all the keys will be taken from the person whose house is being searched, determining if he does not also have other keys from possible hiding places.
- organizing the search itself - after taking the preliminary measures, according to the plan established for the search, as well as based on the data obtained following the recognition of the place to be searched, the methods of action will be indicated, each member of the team receiving exact tasks from the search leader. The measures aimed at blocking entrances and exits will be completed and other possibilities of communication with the outside will be put under control, such as, for example, the telephone, doorbells, intercoms.

4. Tactical Rules

Tactical rules applied to the actual search - the search is related to the nature and particularities of the place searched. However, regardless of these particularities, searches have a few tactical rules in common. Among these, we will refer, first of all, to the basic rules of the home search, seen in their broadest sense, rules that, in a specific way, can also be adapted to the body search:

- the search is carried out meticulously, the extent and depth of the research being dependent on the nature of the objects to be discovered: in a way, it is carried out on the assumption of searching for stolen objects, such as cars, motorcycles, luxury goods, etc. and, otherwise, in the case of searching for small valuables (jewelry, currency) or documents. In this sense, the possibility of dismantling or fragmenting the stolen objects will also be taken into account.

- the search is carried out methodically, systematically, which involves a detailed search of each room, each piece of furniture, sanitary installations or household object that could serve as a hiding place, according to the particularities of the bodies sought.
- the direction in which the research is done is determined, starting from the right or left of the entrance. If several people participate in the search, the search is carried out "randomly", starting from the entrance, to the right and to the left, along the walls and then towards the center of the room. The search can also be carried out in parallel, starting with the simultaneous search of several rooms, if the search team has enough personnel.
- the behaviour of the searched person will be constantly observed, an aspect emphasized at the beginning of this paragraph. The observation will be made, as a rule, by the criminal prosecution body leading the search or by someone with experience in the matter. If there is an increase in emotional tension when examining a room, a certain object or disconnection after passing through a certain space, it will be insisted on the respective places, asking the searched person for as many details as possible regarding them, in order to see how they react
- the search must be carried out in strict accordance with the provisions of the law. Thus, for the entire duration of the search, starting with the entry to the site and ending with the removal of the objects, with the determination of the results of the search, the criminal prosecution body, under whose direction this act is carried out, will ensure the unwavering respect of the law, in particular of the criminal procedure.

The magistrate or the policeman will impose an atmosphere of calm, objectivity, competently directing the activity of the team members, in order to avoid abusive attitudes or operations, such as intimidation of searched persons, destruction and degradation of objects, unnecessary destruction of the room.

In order to discover the hidings, those who carry out the search must refer to the particularities of the investigated place. Practically, they are presented in an infinity of variants. For example, in French literature, among the most common hiding places are listed containers of any kind, food that can be cut or pierced with a knife, bed linen, furniture and paintings that can be turned, parquet, tiles, faience, drawers with bottoms double, tapestry, floorboards, pantries, closets and cellars where all kinds of objects are stored, etc.:

- establishing, by measurement, the concordance between the external and internal dimensions, which allows the discovery of double walls or vessels with a double bottom.
- determining the normal weight of some things, the contents of some vessels, tanks, jars (with pickles, jam, lard, etc.) into which the objects of the crime are frequently inserted.
- detecting some "negative circumstances", such as the difference in shade or freshness of the colors with which the walls or furniture are painted, the lack of specific dust deposits between the floor boards, the change in the frequency of the sound

emitted when knocking on a body or wall, the arrangement of some objects or mobile in places where they do not justify their presence, etc.

- studying how to build and assemble furniture, objects and household installations, frequently used as hiding places (beds, table and chair legs, statuettes, furniture ornaments, electronic equipment, etc.)

For the discovery of hidden objects, the technical means found in the forensic kit are used, especially in the event of the need to check the interior of apparently compact objects, walls, etc., the current range of portable technical investigation installations allowing this. The collection of objects discovered during the search is done according to the provisions of art. 162 and 169 of the Criminal Procedure Code. According to the provisions of the law, objects or documents related to the investigated deed can be seized, as well as those whose possession is prohibited by law or which belong to other persons, from whom they were stolen and who do not want their contents to be known.

Other objects can also be included in this category (within certain limits). We have in mind, in particular, objects that can provide clues regarding the circumstances in which the crime was prepared and committed and the people who participated or know something about the act: phone books, photos, drawings, notes, correspondence, etc. According to the provisions of art. 1161, 162, 169 of the Romanian Criminal Procedure Code, a report is drawn up regarding the search, as well as the seizure of objects or documents. In addition to the minutes, as auxiliary technical means of recording the results of the search, photography, video recording, filming are also used and, when necessary, sketches or drawings of the search site are made.

The report is the main means of recording the results of a search. It will have to include, first of all, the mentions provided by art. 161 of the Romanian Criminal Procedure Code, such as the date and place of conclusion, the name and position of the person who concludes it, the identification data of the assisting witnesses and the persons to whom they refer the minutes, the description of the findings and the measures taken, etc. (Berchesan V., 2002, p.187)

Also, the minutes will have to include, in addition, mentions regarding the place, time and conditions in which the objects and documents were discovered and taken, their enumeration and detailed description, in order to be recognized. At the same time, mentions will be made about the objects that were not picked up, as well as about those that were left in storage (art. 162 Romanian Criminal Procedure Code).

With regard to the way of drafting the report, given its quality as a means of evidence, we draw attention to the need to record as accurately, clearly and precisely as possible what was found from the moment of entering the place of the search and until its completion.

The description of the discovered objects and writings, of the hiding places or the places where they were found must be done rigorously, without omitting any general or particular characteristics (size, shape, colour, brand, series, specific traces of use, etc.). The need for a detailed description of these characteristics is proven in practice, with some accused or defendants subsequently claiming that the objects were introduced to the place of the search without their knowledge.

Thus, during a search, an envelope with drugs was discovered, hidden in the letter box fixed to the door at the entrance to the apartment. In court, the defendant tried to argue that the envelope was introduced by a foreign person, in order to compromise him. From the report completed on the occasion of the search, signed by the defendant as well, it clearly emerged that the envelope was too thick to be inserted through the opening in the letterbox.

The search report is made in several copies, a copy of which is left to the person who was searched or to his representative, to a family member, to those with whom he lives or to a neighbour and, if applicable, to the custodian (art. 108 Romanian Criminal Procedure Code).

Fixation through photography and videography is a particularly valuable technical process, not so much for its illustrative character, but especially for the objectivity and precision with which the characteristics of the objects, as well as the hiding places where they were discovered, are reproduced.

As we mentioned in the first part of this paper, in the section dedicated to operative judicial photography, the search photo is very close to the photo taken during the on-site investigation, as it must meet the same technical and methodical requirements. Thus, in order to be as suggestive as possible, the search photo will fix, in order, the overall image of the place of the search, the sketch photos of the room or the space where the objects or documents were discovered, as well as their detailed photos, of the hiding places or of the way of camouflage, in order to highlight the identification characteristics.

In order to facilitate a more accurate understanding of the images, related to the mention in the minutes, in the event of the discovery of several objects in various places, it is advisable to photograph them and indicate them with existing numbers in the forensic kit. The photos that reproduce the image of the objects and the documents that are not attached to the file will be targeted, stamped and included in the file, in the form of plates.

The drawing-sketch - will include the place of the search, in its entirety, indicating the points where the objects or documents were discovered, in a manner similar to the sketch made during the on-site investigation.

Fixing by means of the sketch-drawing is useful both in the case of searching large areas of land, as well as closed places, with a complicated division of spaces, difficult to describe in the report or to fix by photographing. For example, it is necessary to execute the sketch of some rooms built by modifying the walls, in order to hide the persons who evade the criminal investigation or from the execution of the punishment, some warehouses of weapons, toxic, narcotic products, etc.

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