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PSYCHOLOGICAL ASPECTS OF THE INTERROGATION TACTICS OF AN ACCUSED

Introduction

Interrogation of accused for law enforcement authorities (hereinafter “interrogating authority”) is the most common and most important activities. Criminal proceedings, except in cases where the offender is unknown, are not possible without questioning people in such a procedural position. And even in the case of the interrogation of the accused it is a very complex process conditioned by legislation and forensic – tactical and psychological aspects. The legal rules and principles of criminal tactics are also accepted by interrogating authorities. However, this is not entirely applied when using psychological aspects of interrogations. One of the reasons for such a situation may be the ignorance or lack of knowledge of this area of carrying out interrogations, or their underestimation.

General principles of psychological aspects of interrogation tactics

The approach of the interrogating authority of an accused should always be the result of an individual assessment based on several indicators of a particular case, and in accordance with the current requirements of criminalistic tactics. The interrogating authority should be able to establish a psychological contact with various categories of persons being questioned, especially suspects and accused, as well as witnesses¹. The diligence of the officer carrying out an interrogation should catch the fine details and shades in behaviour of the accused, because this will enable the most appropriate tactical action in the interrogation to be selected. The interrogating authority should also observe and analyse man-

¹ V. Porada *et al.*, *Criminology*, Bratislava 2007, p. 273.

nerisms of the person being questioned. Interrogation is a specific social interaction with mutual influence and perception between its participants. Social interaction in an interrogation from the psychological point of view has a significantly asymmetrical nature. It is undoubted that in terms of psychological assessment of characteristics of the accused, the interrogating authority has limited time, so cannot ascertain character comprehensively and in depth (as in the case of a psychologist or psychiatrist) but only informatively, focusing on those personal characteristics of the accused the recognition of which will enable psychological influence to be deployed to achieve voluntary confession. In this respect, however, various tactical approaches exist that every interrogating authority should apply to learn more about the personality of the accused, namely in relation to the best tactics to obtain a confession. Hence the provisions of Section 121 Sub-section 1 of the Criminal Procedure Code (Act No. 301/2005 Coll.) expressly stipulate that it is necessary to respect the personality of the accused, pursuant to which it can be concluded that this can only happen if the authority carrying out an interrogation can apply an individual approach towards every accused.

This fact is also important in relation to the right of the accused to be informed before questioning (Section 121 Sub-section 2 of the Criminal Code). The interrogating authority must take into account, when providing the statutory instruction to the accused, their age, gender, mental capability, and specific personal characteristics. It is important that the accused understands their rights and obligations during criminal proceedings, not only from the person conducting the questioning without adequate explanations and interpretations. One such tactical method that can be applied by the interrogating authority is a role of an assisting advisor. In such case, the interrogating authority starts from a tactical basis that the accused wants from the beginning to cooperate and plead guilty; consequently it is necessary to treat them in a friendly spirit of understanding and not to further increase their mental tension, because such would work counterproductively. In this case, it is necessary to achieve that the accused testifies before the interrogating authority spontaneously and voluntarily. On the other hand, the interrogating authority should gladly provide the accused with legal information about their procedural status, which may have a positive impact on any subsequent re-evaluation of degree of culpability and the offender's consequential criminal responsibility.

Another tactic is helping, sympathetic brother or soul mate. This approach is based on honesty and the assertive communication of the interrogating authority that openly explains to the accused that they should plead guilty for their family, loved ones, and themselves. A possible lie would only make their situation worse because they would cause a higher degree of estrangement of loved ones, who

would stop communicating with them. The interrogating authority would then respectfully indicate to the accused that it understands their struggle and need to relieve their remorse guilt, and would appreciate such approach of the accused. The interrogating authority can then speak to the accused: "...well, you've got your whole life ahead of you and a life with remorse is not pleasant at all." An approach of the interrogating authority in this situation is primarily focused on the support of emphasizing that the accused gives them the last chance. And it can be achieved only if the accused is honest and seriously thinks about responsibility for the act committed, and the feelings of associated guilt.

The "separation of suspects" is relatively well-known – accused are interrogated independently in two acoustically and spatially isolated interrogation rooms. Subsequently, the accused are independently confronted by the interrogating authority with the fact that each has provided a statement, whereby the accused are not exactly informed in detail of that statement in order to create mental tension in both the accused, who subsequently begin to consider testifying against each other, and speculate whether their statements are consistent or different. Subsequently, the interrogating authority tactically indicates to the first accused that the second accused in the room next door sought in the questioning to put all the blame on them. Subsequently, the first accused starts to spontaneously testify about their involvement in the committed criminal offense, while emphasizing what the second accused did with the aim to at least partially vindicate themselves from criminal responsibility. In this way the accused gradually voluntarily reveals to the interrogating authority the extent of the other accused's involvement in responsibility for the criminal offense.

In connection with the above-mentioned tactical procedures, it is necessary to take into account the specific type of legal culture applied and its particularities in terms of the legal regulation of individual rights conferred to and duties placed on persons in the procedural position of suspect or accused. In the Anglo-American legal environment, the law allows the suspected person to receive "accusatory questioning" in which the interrogating authority verbalises its assumptions of guilt of the accused in an expressively confrontational way and pushes them to be themselves by trying to challenge the suspicion through mitigating reasons. The interrogating authority pushes the accused to the active defence and the defence of their innocence by the provision of relevant arguments. In the continental legal environment, however, such method of interrogation is inadmissible. Neither the suspect nor the accused can be misled or directly accused on the basis of trumped-up allegations, which the interrogating authority continuously creates. Likewise, the accused cannot be induced to any statement in such a manner that they are confronted with false or non-existent evidence.

Characteristics of particular styles of conducting interrogation of the accused

Within police work are procedures for interrogation such as the directive approach, non-directive approach, friendly approach, emotional approach, logical approach, aggressive approach, restrained approach and rationalising approach. These interrogation styles are used by the authority carrying out interrogation depending on the personal characteristics of the accused, the overall situation, and the interrogation. When using a style of conducting interrogation, the interrogating authority must appear extremely convincing in order to achieve the aim – the confession of the accused. To choose a particular style of interrogation is conditioned by the level of social intelligence and technical expertise of the interrogator, particularly in view of their ability to interpret social situations before and during the questioning. The interrogating authority must be extremely creative with the ability to improvise and play roles, because interrogation situations are so diverse that they can be predicted only with difficulty; that is why it is impossible to prepare for them reliably in advance. Some of these styles of interrogation are characterised in more detail in the following sections.

Directive style of interrogation

This style of interrogation is appropriate if incontrovertible material evidence relating to the guilt of the accused already exists, such as dactyloscopic traces, biological traces, etc. In such case, it is recommended that the interrogating authority appears all-confident and all-dominant, but not omnipotent². The interrogating authority should, at its own discretion, forward to the accused gradually and in a strategic way the incriminating evidence. However, it must not threaten the accused with any unlawful threats³. The core of this approach is to achieve that the accused understands that there is incontrovertible evidence against them, and thus has no other way than to testify about all the circumstances surrounding their involvement in the criminal offense. The directive approach

² Omnipotent investigator acts almighty or all-powerfully and the situation in which the suspect is explained in the extreme, even exorbitant manner as it would depend solely from them what will be the whole further fate of the suspect. Every responsive suspect, however, can in such a case realise that policeman is not as omnipotent as they try to make it clear, and later begins to perceive such inappropriate behavior of policeman as weakness and inability to use the relevant arguments based on the legal boundaries of their own competence – author's comment.

³ The law refers to the use of direct *physical violence* (lat. *vis absoluta*) as well as *unlawful threat* (lat. *vis compulsiva*) as to the use of force. Legal action to which is acting person compelled by physical force or unlawful threat is invalid or not capable of producing legal effects – author's comment.

is straightforward and systematically leading towards the relevant accused's confession achieved by gradual confrontation with the consensual aspect of the evidence to their detriment.

Non-directive style of interrogation

This style can be used if the guilt of the accused is unlikely; nevertheless, it is necessary to question them on the matter, as it is not excluded that they may provide relevant information for the case about the offender. When using this approach, the authority carrying out interrogation is mainly a receptive listener that paraphrases what the accused has testified in connection with the confession. The interrogating authority allows the accused to speak most of the time with open-ended questions. In the event of attempts by the accused to lie, any individual contradictions and illogicality in their statement arise as a direct result of emotional disturbances. The interrogating authority should constantly remind the accused of the fact that any intentional presentation of false circumstances with the aim to protect the real perpetrator can aggravate their situation, and thus increase the severity of criminal prosecution.

Friendly style of interrogation

The friendly style of interrogation is applicable when questioning an emotionally, sensitive and cooperative accused. During the questioning of such accused the interrogating authority lowers its voice intensity, acts friendly, and uses empathy. The interrogating authority seeks to express in communication with the accused its understanding of the situation. The interrogating authority must avoid any threatening or intimidating of the accused. In terms of proxemic parameters⁴ within the interrogation, the interrogating authority may sit closer to the accused, while deliberately trying to disrupt their personal zone⁵, which can trigger feelings of confusion, nervousness and uncertainty. It should be, however, pointed out that the interrogating authority should not violate the personal zone of the accused for too long, but shall vary the proxemic parameters of social interaction tactically, depending on whether the accused behaves or wants to plead guilty. A suitable strategy of changing proxemic parameters during the questioning creates a desirable mental tension in the accused. In some cases, the interrogating authority may also use physical contact, such as placing a friend-

⁴ Proxemics is a form of nonverbal communication, the essence of which is formed by the impact of spatial distance between the subjects of social interaction – author's comment

⁵ In connection with the characteristics of territorial non-verbal communication – for more detail see T. Kollárik

ly hand on the shoulder of the suspect⁶. A reasonable physical contact of the interrogating authority, as well as its empathetic approach, can have a decisive influence on the willingness of the accused to confess, because the accused reposes all their trust in it.

Emotional style of interrogation

This style is based on the psychological tactics of “touching a chord” in order to trigger feelings of guilt and responsibility in the accused. It is important in this situation that the interrogating authority finds a psychologically weakest point in the accused, which they protect the most. For example, it may appeal to the accused in respect of their family by saying: “Did you think what your loved ones think about you now?” “Did you think how your children regard you as a father now?”

The accused can reasonably show signs of nervousness and begin to think seriously about what the officer just said, because they alone are then very well aware of the fact that what was just said was true, so they feel emotionally exposed. It is necessary to warn in this connection that the interrogating authority should respect certain “healthy boundaries” of emotional (psychological) influence on the accused, and should not provoke in them later by their inappropriate behaviour any disproportionate psychological reaction that could be demonstrated in the form of unexpected physical attack against those present at the questioning. In contrast, the proper and adequate use of this tactical approach of questioning can cause the accused, under the pressure of remorse, to later voluntarily confess to everything and cooperate. It must also be noted that the interrogating authority should always listen carefully even to seemingly marginal (peripheral) circumstances in the accused’s confession, for example, that they confess because of the future of their children, family or because they want to be finally free of all feelings of guilt and unbearable remorse.

Logical style of interrogation

This is the flip side of the emotional approach. It is appropriate to use it if there is reliable evidence against the accused and it concerns the accused that is based rationally, which is reflected, for example, in a constant need to justify

⁶ If the investigator (male) carries out interrogation of the suspect women, it is not appropriate if he then physically touches her, not even by a cursory placing his hand on her shoulder, because the suspect woman may (wrongly) interpret such behavior of the investigator as his attempt to flirt – author’s comment

something, explain something and theorise about something. The interrogating authority must be able to gain insight to the core of the logic of the accused's action, as well as to the nature of their purposive defensive strategies. This approach therefore requires on the part of the interrogating authority a thorough familiarisation with the actual evidentiary situation. The interrogating authority should sit during the communication with the accused upright and behave with reasonable confidence, while it should strictly adhere to the focus of the questioning. It is not appropriate if the interrogating authority deviates from the logical approach and gradually turns to the emotional approach, because the accused could begin to understand it as a defensive response, i.e. that they outclassed the person carrying out questioning through their logical and well-considered arguments.

Aggressive style of interrogation

It is a style in which the interrogating authority acts towards the accused aggressively and dominantly. It should be emphasised that the aggressive approach should be applied only by lawful means of manipulation with the accused, i.e. any violation of fundamental human rights and freedoms of the suspect must not occur⁷. The interrogating authority may, for example, raise its voice to the accused or invade the suspect's personal zone, et cetera. As aggressive should appear the overall external appearance of interrogator, as well as their behaviour and demeanour. This approach is appropriate in cases of the emotionally based and strongly resistant accused. It is best from a tactical point of view if an amiable interrogating authority talks with the accused first, and only after some time the interrogation continues with an aggressive investigator. The above-mentioned tactics causes in the accused the induction of a psychologically contrastive interrogation situation, resulting in goal-directed unpleasant states of psychological tension in them. It may eventually lead to a situation that the accused voluntarily confesses to everything. It is a psychological tactic similar to the tactics of good cop/ bad cop, a detailed characteristic of which is presented in the next section of this contribution.

Style of interrogation by tactic of good cop/bad cop

The style of conducting interrogation by the tactic good cop/bad cop is well-known from several film interpretations. The core of this police tactic is the fact

⁷ Compare: V. Strážnická *et al.*, *International and European human rights protection*, Bratislava 2013, p. 281–282.

that during the questioning of the accused or suspect, always two police officers are present, whereby each plays a different role. While one acts good, friendly, helpful, understanding and helping, the other acts bad, aggressive, impatient, arrogant, and haughtily. The police officer acting bad, aggressive, arrogant, raising their voice to the suspect, behaving impatiently and dominantly should talk to the suspect first. The above-mentioned behaviour of the bad cop causes an increased feeling of tension and stress in the suspect, and even anxiety is not ruled out. Subsequently the good, sympathetic and friendly policeman comes to the interrogation room. They can apologise for the behaviour of the police officer acting previously in an aggressive way, and assure the suspect that if they cooperate nothing the bad cop just said will happen. The condition of which, however, is their maximum cooperation. The said apology for the bad cop's action from the good cop may induce in the suspect or accused a need to avoid any repetition of the unpleasant confrontation with the bad cop, through their own initiation of cooperation with the good cop. They usually later voluntarily confess to this police officer, because they fear possible consequences mentioned before by the police officer acting bad.

This approach always requires cooperation between two police officers that from a professional point of view are familiar with each other and so can readily and spontaneously supplement each other and build on each other when playing the roles. The behaviour of the two officers should be contrasting enough in terms of playing the defined roles. If this approach is to fulfil its purpose, both policemen should be harmonised and able to quickly react to minor changes in the behaviour of the suspect or accused, which could indicate that they want to voluntarily confess, or they want to deny and not cooperate. Both policemen during the questioning must mindfully observe the behaviour of the suspect or accused, and accordingly assume at the given moment the role of good cop/bad cop.

Restrained style of interrogation

Restrained style of interrogation represents the style in which the interrogating authority makes it clear by its behaviour to the accused that it does not need to hear any confession, because the whole case is already "basically" known and will probably proceed against them. It is, however, necessary to warn here that the interrogating authority shall create such impression by their behaviour indirectly and shall not feed the suspect directly with any facts not based on reality. The point is that the accused thinks that the interrogating authority probably knows more than they previously believed. This approach is useful in the cases of the accused that resist for a long time and refuse to confess from the very be-

ginning of the interrogation. Under stress, the accused begins to react in such a way that they begin to persuade the interrogating authority about their own version of the act, because they are afraid that the interrogating authority will dispose of any incorrect evidentiary information that may mistakenly prove them guilty of something that they actually did not commit. The distant and condescending approach of the interrogating authority can lead in the accused to uncomfortable feelings of helplessness caused by them being ignored. The accused then has a tendency to eliminate this helplessness by trying to voluntarily communicate with the interrogating authority with the aim to persuade them (until it's time) that it is necessary to also hear their version of the criminal act. In this connection, it is important to emphasise that only a person carrying out questioning that can play their role convincingly can carry out the restrained style of questioning. Therefore it is recommended that only a person whose real behaviour is as close as possible to this style should carry out the restrained style of interrogation.

Rationalising style of interrogation

The rationalising style of interrogation is based on psychological tactics, in which the interrogating authority rationalises during the interrogation, instead of the accused, the reasons that led them to plead guilty of the crime. The interrogating authority may not, however, suggest to the accused the content of their statement, but only indicate some possible reflections, which they can depend on when confessing. The interrogating authority should avoid any divulgence of the key information from the investigation, thus not to directly help the accused with the formation of a purposive statement. This style is appropriate for rationally based accused that does not express any insurmountable resistant behaviour. It should be the accused that wants to confess, but only needs to name correctly the reasons that led them to the criminal offense.

Psychologising (therapeutising) style of interrogation

The psychologising style of interrogation is based on the psychological “technique of uncovering” known from the theory of PCA – “person-centred approach” (hereinafter referred to as PCA), whose author is one of the most important representatives of humanistic psychology, C.R. Rogers, who introduced to applied psychological and psychotherapeutic practice various functional concepts such as congruence, authenticity, empathic understanding, etc. The conduct of interrogation requires from the interrogating authority empathy, as well as

deeper knowledge of the psychology of personality and psychotherapy, and also certain practical communication skills. “Uncovering” is a psychological technique in which the interrogating authority endeavours to actively listen to the accused and subsequently to characterise right before them their mental condition by paraphrasing words that the suspect used previously: “I know how you feel right now, it is hard for you and you are confused, this is definitely very uncomfortable for you. It all now somehow falls on you and you try to find the way out”. The interrogating authority tries to identify the feelings that the accused verbalises right now, for example: “Now you probably feel scared because you are afraid of the possible criminal consequences. I see that you are in cold sweat because you feel very uncomfortable. What will you tell me now about it? Hmm?” When using the technique of uncovering, it is important to care that the interrogating authority does not appear ironic or aggressive. Its behaviour when using this technique must be consistent and authentic.

This approach aims to systematically uncover the feelings of the accused. On the other hand, this approach should signal to the accused that the interrogating authority actively listens to and understands what they are going through when confessing⁸. It is recommended that the interrogating authority observes the principle of vigilance and monitors at all times all behaviour of the accused, because the uncovering of their emotional experience may lead them to an unexpected attack on the person carrying out the questioning. Such attack may happen because the accused understood the uncovering of their emotions as threatening.

Conclusion

It is a well-known fact that the interrogation of accused is a challenge for the all-round training of the interrogating authorities for criminal proceedings. It is clear from the contents of the contribution that using psychological aspects of interrogation is a very important prerequisite for the efficient conduct of the interrogation of accused persons. In addition to the general principles of the psy-

⁸ The interrogating authority should be readily able to clearly *paraphrase* the suspect’s words. If the interrogating authority freely aloud repeats and summarises the words of the accused, it enables it to continually check if it correctly understood the content of the statement of the accused and at the same time signalises to the accused that it personally cares about understanding what they say, explain, illustrate and describe. Inability of the interrogating authority to paraphrase statements of the accused may be caused, for example, by the fact that it does not concentrate sufficiently to their statement due to extraneous factors, which can lead to the fact that the accused ceases to cooperate with it – author’s comment.

chological approach in the conduct of interrogation, it is important to recognise and creatively use the particular theoretically analysed styles of conducting interrogation. A prerequisite of such approach is to thoroughly know and control the essence of the particular styles of conducting an interrogation. The aim of the contribution is to bring the necessary information about this issue and thus contribute to creating conditions for the successful use of the above-mentioned approaches in the interrogation of accused.

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Summary

The contribution's core content consists of an analysis of the general principles of the psychological approach to the interrogation of criminal accused, as well as an explanation of possible styles of conducting such interrogations.

Keywords: psychological aspects of the interrogation of an accused, psychological principles of conducting an interrogation, style of conducting an interrogation

PSYCHOLOGICZNE ASPEKTY TAKTYKI PRZESŁUCHAŃ OSKARŻONEGO

Streszczenie

Podstawową treścią merytoryczną artykułu jest analiza ogólnych zasad psychologicznego podejścia do przesłuchiwanie oskarżonego, a także wyjaśnienia możliwych stylów prowadzenia takich przesłuchań.

Słowa kluczowe: psychologiczne aspekty przesłuchania oskarżonego, psychologiczne zasady prowadzenia przesłuchania, styl przeprowadzania przesłuchania