

Legal problems of photogrammetric surveys

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The use of photogrammetry by the judicial police, especially for surveying of data relating to road accidents, almost ignored in our country, is not new in other states. The Swiss police are, for example, in possession of suitable equipment, easily employed by highly specialized personnel; the same applies to the Dutch, Swedish, Danish, German.

The advantages deriving from the use of photogrammetric techniques are remarkable. Regardless of the impossibility of incurring measurement errors, possible to occur, however, during measurements by means of the traditional metric strip, photogrammetry allows at any time to highlight data which, at a first summary examination of the place of the crime, were perhaps they escaped the detector and, consequently, would not have been indicated and measured using traditional methods.

Photogrammetry also allows you to acquire at the process, with a single survey, and photographic and planimetric documentation, which are normally operated separately, with the expenditure of time and personnel.

In terms of practical operations, it would not be difficult to equip the most qualified organs of the police (traffic police, CC mobile radio units, investigative units of the Carabinieri and the Guardia di Finanza) with mobile recovery units, consisting of cars equipped with stereometric chambers, all similar to vehicles used in other countries.

In our country, home of law, but also of quibbling and juridical Byzantinism, doubts and uncertainties immediately arose regarding the legitimacy of the use of these photogrammetric techniques and their compatibility with the legislation in force; We therefore asked ourselves whether the use of photogrammetry could find entry into the criminal and civil proceedings.

Below we will try to give an answer that cannot fail to be decidedly positive.

In the criminal trial, the first moment in which the use of photogrammetric techniques appears useful is that of the so-called "inspection" or "access" with which the judicial police officer, informed of a crime, goes to the place where he is been committed.

For the combined provisions of articles 223, 225 and 309 of the Criminal Code, the judicial police officers can carry out, both directly and by means

of auxiliaries, signaling, descriptive or photographic surveys, intended to document the traces detected directly.

It is therefore not clear why the judicial police should be banned, which undoubtedly has highly specialized personnel and therefore could possibly have P.G. officers. particularly skilled in the art, or who, in any case, can safely resort to auxiliary technicians, to perform photogrammetric surveys with which to acquire those objective data which have been the subject of the visual inspection.

The problem is more complex when it comes to interpreting or translating the photogrammetric surveys performed.

If this "translation" is exhausted by simply reading objective data, undoubtedly it would be an operation that could easily be carried out by the officers of P.G.

But, if it is believed that the investigations in question would still involve a judgment, an assessment, a technical capacity, it will be much more appropriate to reserve the operation to the magistrate or one of his *ex officio* experts.

The second moment in which photogrammetric techniques can appear useful in the criminal trial is at the time of education, be it summary or formal.

The magistrate may deem it useful to use these techniques either when personally carrying out the inspection, or when you wish to "translate the data acquired by the photogrammetric reproduction of the P.G. into measurements".

In the first case, the magistrate will be able to carry out the objective observations with the aid of qualified judicial police personnel or a technical consultant appointed *ex officio*.

In the second, precisely because reading implies a certain evaluation which needs the control of the defense of the accused, the same will be carried out in the form of an expert report or technical advice, by assisting, in the manner provided by law, the defender or a party expert appointed by him, who can follow the operations (the equipment, as far as I know, they allow simultaneous observation by two people), make his observations and make requests.

Ultimately photogrammetric techniques appear not only absolutely compatible with the criminal trial, but they certainly offer more guarantees to the defender. It is not those who do not see how the document data always remain in process and can be checked and rechecked at any time, whenever the need arises. Ordinary techniques, on the other hand, offer the risk, once they have been moved, of bodies, objects or places, that

certain data, which have proved useful only later, cannot be reconstructed and irreparably dispersed.

Even in civil proceedings, the judge can order the inspection of places in the course of everything the merit procedure, with the assistance of a technical consultant, if necessary when particular technical notions are needed. Article. 261 C.P.C., in exemplifying the means that the judge can use to make more that the result of the inspection is possible and the related documentation faithful, it lists the reliefs, the casts and the photographic reproductions. Since this is a non-exhaustive list, it is easy to deduce that the photogrammetric reproductions are also legitimate, naturally performed by one or more highly specialized consultants.

From a practical point of view, it is not who does not see what use photogrammetric reproductions can have in the civil trial. Regardless of what has already been said about the criminal trial, it should be added that the photogrammetric shots allow to reach inaccessible places and to detect measures that could hardly be taken.

Such filming appears useful especially in disputes concerning real estate, respect for distances, lights, easements, borders, etc.

It should be added that in the civil trial the photogrammetric test can easily be provided by one of the parties. It is known that the operative principle dominates the civil judgment, according to which the judge must essentially base the decision on the evidence provided by the parties (art. 115 C.P.C.).

The plaintiff or the defendant will be able to have photogrammetric shots taken at their initiative, which they will then make available to the judge who, if necessary, will be able to check the results using a technical consultant.

It is necessary to conclude in order not to bore the audience with thoughts unrelated to the essential theme of the conference.

What is interesting to reiterate is that photogrammetric techniques can find full and legitimate entry into the judicial world too, with legal and unconditional probative value.

It is the task of the experts in the field to raise awareness among the judicial bodies and the police so that we understand the importance of these new methods, to welcome them in fact, as well as in law. The initiatives that Prof. Daddabbo, who organized courses for magistrates and P.G. officers, should be followed and encouraged, opening them unknown horizons.

We hope that on a forthcoming occasion, the police and the judiciary will also be able to offer not only the contribution of a sterile report but also photogrammetric works for the exhibition.

