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ON PROOF AND EVIDENCE IN CRIMINAL PROCEEDINGS - EXPERIENCE OF UZBEKISTAN

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A B S T R A C T

The article discusses the question of what is the essence of evidence in criminal cases. The relationship between the concepts "any information" and "factual data" is analyzed in order to define the concept of evidence in criminal cases. The purpose of using evidence in criminal cases is based. It follows from this that it is necessary to justify all procedural decisions with reasonable and admissible evidence.

K E Y W O R D S

Evidence in criminal cases; proving crimes and offenses; items of evidence in the field of criminal cases; the subject of refutation of evidence, various methods of evidence; court decisions on the use of various methods of resolving legal proceedings.

Introduction

Current problems of evidence in criminal cases are currently, perhaps, the most pressing topic not only in science, but also in law enforcement practice. Being essentially an intersectoral institute, about procedural institution of evidence in criminal proceedings process is characterized by increased requirements and detailed regulation of the entire process of evidence in criminal cases, which is due to the essence of criminal procedural law as a branch of law characterized by the possibility of applying strict coercive measures.

At the same time, despite the importance of this institution in the branch of law under consideration, which is fundamental in its structure, problems, related to evidentiary activities law enforcement officer in criminal cases, with each the year is not getting smaller.

According to the Ministry of Internal Affairs of the Republic of Uzbekistan, for January-September 2022, 71,969 crimes were registered in Uzbekistan, of which 50,904 were solved.[1] At the same time, during the same period, the General Prosecutor's Office of the Republic of Uzbekistan, when exercising supervisory powers in the pre-trial stages of criminal proceedings, identified 1,505,385

[1] Analysis of consequences by species registered in Uzbekistan, STATISTICS AGENCY UNDER THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN website: hisobot.stat.uz

violations of the law, 52,281 of which are violations of the criminal procedural law during the inquiry and preliminary investigation, which is 6.9% more than in the same period in 2019. At the same time, during this period, prosecutors canceled 1,946 decisions to initiate criminal cases, as well as 67,151 decisions of investigators and interrogators to refuse to initiate a criminal case, 4,866 decisions to terminate a criminal case and criminal prosecution, 84,500 decisions to suspend criminal proceedings.[2]
Decisions to cancel the above decisions are made in the overwhelming majority cases due to the lack of evidence in the materials of criminal cases indicating the need and grounds for making revocable procedural decisions, which reveals the main problems of evidentiary activity at the present time. Moreover, taking into account the staged nature of the criminal process, as well as the peculiarities of the process evidence before initiating a criminal case, the purpose of which is to substantiate with evidence the grounds for initiating or refusing in initiating a criminal case, the above statistics on the number of overturned decisions to refuse to initiate criminal case makes you think not only on the quality of evidentiary work in the first stage of the criminal process, but also about such categories such as the effectiveness of legislative regulation of means of proof in the first stages of the criminal process and the need existence of this stage in such conditions basically.
Substantiation of critical data comments are based solely on the fact that 67,151 illegal and unfounded final procedural decisions based on the results of an inspection of crime reports exceed number of crimes solved (50,904) and slightly less than the total number of registered (40,226).
Analyzing these figures, a simple and a logical question about the understanding of the law enforcement officer, who commits such significant quantitative violations, of the very essence and goals of proof in criminal cases, understanding of the purpose of the criminal process as a whole, answer which is obviously possible, only by recognizing systemic problems in the implementation of criminal procedural norms regulating the institution of evidence. No less significant problems associated with evidence in criminal cases can be observed at other stages of the criminal process.
In such rather difficult conditions, law enforcement agencies are faced with the task of strict observance of human rights and freedoms when carrying out activities related to the reception, registration and resolution of reports of crimes at the stage of initiating a criminal case, and increasing the efficiency of evidentiary activities at the stage of preliminary investigation during production preliminary investigation and inquiry.
At the same time, the analysis of law enforcement practice allows us to talk about the presence of negative trends in the process of proof in criminal cases associated with the devaluation of high standards of proof of circumstances to be proven, trends that characterize simplified approaches to understanding the proof of factual circumstances of cases.
It is the institution of defense in criminal proceedings that has been created and is capable of ensuring compliance with the standards of evidence in criminal cases, preventing cases of a simplified approach to proof, and ensuring adversarial beginnings of criminal proceedings.
Analysis of scientific literature shows that definition of the concept of evidence in criminal the process has always been given quite a lot of attention at from procedural scientists. A fairly wide pluralism of opinions regarding this concept does not lead to the present time to qualitatively improve the process of evidence in criminal cases.[3]

[2] Analysis of consequences by species registered in Uzbekistan, STATISTICS AGENCY UNDER THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN website: hisobot.stat.uz
[3] Kirillova E. A., Shergunova E. A., Ustinovich E. S., Nadezhin N. N., Sitdikova L. B. The principles of the consumer

This interest of the scientific community in this concept is due to its practical significance. It is the correct understanding of the essence of evidence that is the fundamental basis for achieving both the goals of proof in criminal proceedings and the purpose of criminal proceedings in general. In turn, insufficient awareness of the requirements for evidence in criminal cases inevitably leads to the adoption of illegal, unfounded procedural decisions, leads to a simplified understanding of the process of proof and to the inevitable devaluation of the high standard of proof of circumstances to be established necessary for establishing the truth in criminal cases.

Defining the criminal procedural meaning the use of evidence in criminal proceedings, it should be noted that this goal, of course, is to establish the presence or absence of circumstances included in the subject of proof.

All procedural decisions made in a criminal case are legal and justified if and only if their grounds are confirmed by the totality of evidence collected in the case. Making any procedural decisions regarding criminal cases without substantiating their grounds the collected evidence makes such decisions without motive, which entails a violation of the principle of the legality of criminal proceedings.

It should be taken into account that, unlike the process civil, in which the decision is considered as justified not only when the facts relevant to the case are confirmed by evidence, but also by circumstances that do not require proof in criminal proceedings, any decision must be based on the collected evidence, satisfying the requirements for their properties.

Considering procedural decisions made based on the results of the first stage of the criminal process, we talk about the legality and validity of the decision to initiate a criminal case only when, during the verification of a report of a crime, evidence has been collected indicating the presence of signs of a crime, that is, the basis for making a decision to initiation of a criminal case.

A striking example of the purpose of using evidence in a criminal case as a substantiation of the grounds for making procedural decisions is the main decision made at the stage of preliminary investigation in the form of a preliminary investigation, and in exceptional cases - and inquiry - a decision to charge a person as an accused. A decision is made to charge as an accused after a sufficient amount of evidence has been collected in the case to provide grounds for alleging that a specific person has committed a crime.

Similarly, a procedural decision to suspend criminal proceedings must be justified by a body of evidence indicating that the person to be brought as an accused has not been identified;

the suspect or accused has disappeared from the investigation or his whereabouts have not been established for other reasons;

the location of the suspect or accused is known, but the real possibility of his participation in no criminal case;

there is a temporary serious illness of the suspect or accused, certified by a medical certificate, which prevents his participation in investigative actions.

The decision to terminate a criminal case must be justified by a body of evidence indicating the basis for its termination (absence of an event, lack of evidence, reconciliation of the parties, active repentance, etc.).

right protection in electronic trade: a comparative law analysis. // International Journal of Economics and Financial Issues. 2016. T. 6, № S2. C. 117–122. URL: https://econjournals.com/index.php/ijefi/article/view/2540.

Analysis of scientific literature allows us to assert that the concept of evidence under study is one of the main ones in the law of evidence. V.D. Spasovich pointed out that the evidence we name the data that led us to beliefs, indicating that these data are based on the knowledge of known phenomena, when from the content, connections and relationships between objects we come to a known belief.[4]

P. A. Lupinskaya notes that evidence should be understood as specific factual data that is used to investigate the circumstances of the case, the sources of this data and methods for obtaining, verifying and using them.[5]

The use of any information as evidence for the defense still does not provide even an unquestioning possibility of admitting the information collected by the defense attorney as evidence in a criminal case, therefore, at present it is not only any procedural guarantee for the defense, but it also directly opens up broad opportunities for a simplified approach to the process of proof itself, for making unmotivated procedural decisions that are not justified by the factual circumstances of the case.

It should be taken into account that proof exists only if there is unity of information and its source.[6]

To summarize, we note that by evidence in a criminal case, it seems necessary to understand the factual data contained in the sources of evidence, based on which the court, prosecutor, investigator, inquirer, in the manner determined by the Code of Criminal Procedure of the Republic of Uzbekistan, establishes the presence or absence of circumstances that are subject to proof in criminal proceedings, as well as other circumstances that have significance for a criminal case.

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