

## THE PROCEDURAL SIGNIFICANCE OF PROOF IN THE PRE-TRIAL STAGE OF CRIMINAL PROCEEDINGS

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**Abstract:** This article is dedicated to the analysis of the system of evidence in criminal procedure legislation and the processes of its formation (collection, verification, and evaluation). The main objective is to disclose the legal nature and significance of evidence in the criminal process, as well as the legal requirements imposed on it (relevance, admissibility, and reliability). The article reviews the classification of procedural sources of evidence (witness testimony, victim testimony, expert conclusion, material evidence, etc.). It analyzes the mechanisms of evidence formation – the procedural procedures for its collection, consolidation, and verification during the stages of inquiry, preliminary investigation, and judicial review. The goal also includes clarifying the concept of inadmissible evidence, its consequences for the criminal case, and its role in protecting human rights.

**Key words:** criminal process, evidence, procedural evidence, formation of evidence, collection of evidence, verification of evidence, evaluation of evidence, inadmissible evidence, proof, law enforcement practice, sources of evidence.

State bodies responsible for conducting criminal cases must, first and foremost, take measures for the effective protection of an individual's rights and freedoms when evaluating evidence. As the President of the Republic of Uzbekistan, Sh.M. Mirziyoyev, stated in this regard, "the people should not serve state bodies, but state bodies should serve our people".

The subject evaluating the evidence in criminal proceedings carries out their activity based on the evidence. Evidence serves to reveal the truth about the case, find a correct and legal solution for proving the criminal case, and make a just decision for every procedural action taken.

In literature concerning the criminal process, various definitions have been given to the concept of evidence. Procedural scholar G.Z. Tulaganova defined it as: "evidence is information related to facts, while facts that do not fall within the subject and scope of proof are not recognized as evidence, and furthermore, what exists in the human mind (conception) is not objects or things, but their images, concepts (essence), and information about them". E.F. Kutsova believes that "the system of evidence is an action by the legislator regarding the recognition of evidence, which allows for the determination of the circumstances (events, occurrences) to be proven and their correspondence to the truth"[1]. According to P.S. Abdullayev, "evidence can be any information, and the existence or non-existence of circumstances important for the case must be determined by the subjects evaluating the evidence". N.V. Savelyeva, in this regard, expressed the opinion that "all facts, arguments, and information should be considered evidence in the theory of criminal procedural legislation"[2].

From the analysis of the opinions of these procedural scholars, we can understand that in disclosing the concept of evidence, they relied on specific facts, information collected within the scope of proof, facts corresponding to the truth, and any information.

In our view, it is appropriate to pay attention to certain aspects. That is, information about the source it was obtained from, information that may serve to solve new crimes in the future is also considered evidence, and the information from persons involved in the proof process also occupies a significant place in resolving the criminal case. V.Ya. Dorokhov explained his view on evidence as follows: "evidence is information related to facts, while facts entering the subject of proof are not considered evidence, and reliable information is evidence collected based on the

sources indicated in the law," he states in his scientific views[3]. In this regard, in our opinion, only information connected with facts and based on the principles of material life is recognized as evidence, while information related to psychological factors is not fully substantiated.

After studying and analyzing all the opinions, we define the concept of evidence as follows: "Evidence is the totality of information that arises from external influence, is formed in the human mind, is determined by the subject evaluating the evidence, and reflects the principles of truth of other participants." [4]

Information and objects can only be used as evidence after they have been recorded in the protocol of the investigative action or the protocol of the court session. Responsibility for keeping protocols is entrusted to the inquiry officer and investigator during the stages of inquiry and preliminary investigation, and to the presiding judge and the court session secretary in court.

As stipulated in the Criminal Procedure Code, protocols include:

- Information about the participants in the investigation or court action, and that their rights and obligations were explained to these persons;
- The place, time, conditions, process, and results of the investigative or court action, including a description of the material objects found and their characteristics relevant to the case;
- Facts that participants in the investigative actions or court review requested to confirm; their testimonies, explanations, and opinions regarding the causes of the event that occurred;
- Motions, complaints, and challenges submitted by them;
- Instances of disorder during the conduct of the investigative action or the court review, as well as measures taken to eliminate and prevent these disorders.

In addition to drawing up a protocol for recording evidence, audio recording, video recording, filming, photographing, preparing casts, taking copies, preparing plans, schemes, and other methods of reflecting information may be used. The inquiry officer, investigator, or court may engage specialists to assist in applying these methods of consolidating evidence. The methods of recording evidence used by the inquiry officer, investigator, or court, along with the technical characteristics of the apparatuses, instruments, equipment, and materials utilized, are reflected accordingly in the protocol of the investigative action or the protocol of the court session[5].

The following characteristics of evidence exist:

- True information relevant to the criminal case;
- Obtained from sources consolidated in the norms of criminal procedural legislation;
- Based on information about all circumstances significant for the correct and legal resolution of the criminal case;
- Information collected based on the reliability of verification results within the subject of proof;
- Admissibility based on conformity to the truth.

Article 81 of the Criminal Procedure Code stipulates that any factual information that serves as a basis for the inquiry officer, investigator, and court to determine, in the manner prescribed by law, whether or not a socially dangerous act occurred, the guilt or innocence of the person who committed that act, and other circumstances relevant to the correct resolution of the case, shall be considered evidence in a criminal case. This information is determined by the testimonies of the witness, victim, suspect, accused, defendant, expert conclusions, material, written, and digital evidence, audio recordings, video recordings, materials consisting of filming and photographs, protocols of investigative and court actions, and other documents[6].

If the results of operational-search activities were obtained strictly in compliance with the requirements of the law, and after being verified and evaluated in accordance with the norms of the Criminal Procedure Code, they indicate that the person had formed an intent to commit a crime independently of the actions of law enforcement officers or other persons who participated in the operational-search activity, these results may be recognized as evidence.

In accordance with Resolution No. 17 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On certain issues of applying legislation related to material evidence in criminal

cases" dated 13.12.2012, any object that can serve to determine circumstances relevant to ascertaining the truth in a criminal case and possesses physical signs or characteristics is recognized as material evidence.

The types of objects recognized as material evidence are classified:

- Things specially intended, prepared, or adapted for the preparation or commission of a crime, which have been recognized as evidence (e.g., murder weapons, means used to embezzle or seize valuables, firearms, poaching tools — traps, nets, forged documents, etc.), as well as property directly used in the commission of a crime to achieve a criminal purpose (e.g., vehicles);
- Things that retain traces of a crime (e.g., clothing or objects with blood traces or damaged during the commission of a crime, including objects damaged by shooting or explosion, traces of fingers, hands, feet, shoes, transport, breaking tools, etc.);
- Things that were the object of criminal actions (e.g., a stolen car, embezzled money, securities, weapons, narcotic drugs, other material valuables, items, etc.);
- Property, money, and other valuables acquired after the commission of criminal acts with funds obtained through criminal means (e.g., valuable items purchased with stolen money, cash, raw materials and items made of rare metals and stones, and other valuables obtained as a result of criminal activity, including illegal entrepreneurship).

In Resolution No. 24 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On certain issues of applying the norms of criminal procedural law on the admissibility of evidence" dated 24.08.2018, it is established that any deviation by the inquiry officer, investigator, prosecutor, or court from the precise execution and observance of the norms of law, regardless of the cause, leads to the evidence obtained in that manner being deemed inadmissible (invalid). Inadmissible evidence does not have legal force, and it cannot be used to prove the circumstances stipulated in Articles 82–84 of the Criminal Procedure Code, nor can it be placed as the basis for the accusation.

Based on the source of acquisition, evidence is divided into primary and derivative evidence:

- Primary evidence - evidence where the information about the circumstance to be established is obtained from the primary source. For example, a witness's testimony based on their personal observations and the protocol of their interrogation are considered primary evidence. The expert's conclusion is also recognized as primary evidence;
- Derivative evidence - evidence where the information about the circumstance to be proven is obtained not from the primary source, but from another source, or in simple terms, from a "secondary source".

Based on the function of accusation and acquittal, evidence is divided into accusatory and exculpatory evidence:

- Accusatory evidence - evidence confirming the guilt of the person in committing the crime or the existence of circumstances aggravating the sentence;
- Exculpatory evidence - evidence regarding the innocence of the person or circumstances mitigating the sentence.

Based on the purpose of proof, i.e., regarding the guilt or innocence of the person, evidence is divided into direct and circumstantial evidence:

- Direct evidence - evidence directly confirming the commission of the crime;
- Circumstantial evidence - evidence indirectly confirming the commission of the crime.

In conclusion, in the process of proof in a criminal trial, the classification of evidence utilizes primary and derivative evidence, accusatory and exculpatory evidence, direct and circumstantial evidence, personal and material evidence, and verifying evidence. The correct classification of every piece of evidence also serves the main task of the criminal process: the swift and full disclosure of crimes, ensuring that an innocent person is not held responsible, and exposing the guilty.

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