



ISSUES OF IMPROVING THE PROCEDURE FOR PREPARING A CRIMINAL CASE FOR TRIAL

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Article history:	Abstract:
<p>Received: June 6th 2023 Accepted: July 4th 2023 Published: August 4th 2023</p>	<p>This article is devoted to the theoretical problems of the stage of improving the meaning and procedure for using the expert opinion and expert testimony, which are one of the types of evidence when passing a lawful, reasonable and fair sentence in a criminal case. The significant influence of the expert's opinion on the author's judgment is noted, as well as the circumstances of the influence of the expert's opinion on the judgment are shown by practical examples and their analysis. For the court, including for the investigator, the inquirer and the prosecutor, due to the fact that no evidence has a pre-established force, the circumstances that must be revealed during the expert opinion through the evidentiary process are given. The expert's conclusion eliminates gaps and contradictions existing in the case, serves as confirmation of the arguments of individuals and (or) some testifying and refutation of others. Therefore, at the evidentiary stage, the courts not only evaluate the expert's opinion on the merits, which is the basis for sentencing, but also check the correctness of the assessments made by the investigative authorities on these evidences. Based on the provisions of the Criminal Procedure Code of the Republic of Uzbekistan, the range of main tasks of this stage, its specifics and the most important issues of the participants' procedural activities, as well as proposals for improving this stage are outlined.</p>

Keywords: Criminal case, forensic expertise, expert opinion, higher court, expert, proof, sentence.

According to the Code of Criminal Procedure of the Republic of Uzbekistan, the court decision must be legal, justified and fair. The Legislature establishes the conditions under which the judgment is recognized as legitimate, justified and fair. These conditions are provided in Article 455 of the Code of criminal procedure, according to which the sentence is recognized as legal if all the requirements of the law are followed and issued on the basis of the law, if the actual circumstances of the case are determined in a truly monand way as they should, if the sentence or other measure of influence on the, is recognized as fair.

The decision of a legal, reasonable and fair sentence largely depends on the evidence collected in the criminal case.

The main element of Criminal Procedure is the process of proving – cases involving a criminal case as a process of establishing information that determines the presence or absence of signs of a crime in the manner provided for by the Criminal Procedure Code of the court, prosecutor, investigator, Inquirer.

The list of these cases is determined by Article 85 of the Code of Criminal Procedure. In turn, proofing consists of collecting, examining and evaluating evidence with the aim of determining the truth about cases that are relevant to the legal, justified and fair resolution of a case.

In these norms, the expert defines his conclusion and testimony as one of the types of evidence.

Persons who are initiating a criminal case should pay special attention to the opinion of the expert.

The evidential significance of the expert opinion for the consideration of a criminal case is very great, since it is the statement of facts determined by the application of scientific achievements in various fields of knowledge (special knowledge).

According to a number of researchers, special knowledge is any knowledge and skills of an objective nature, obtained as a result of high professional training, scientific activity, practical work experience, corresponding to a modern scientific and practical level, which gives its owners the opportunity



to competently solve any issues related to their specialty.

This allows us to say that the expert opinion is an objective character, and not a subjective assessment and with the peculiarities of the perception and presentation of events by personal characteristics, witnesses, victims and defendants.

The importance of expert opinion in criminal proceedings is invaluable. Modern methods and recent advances in science and technology make it possible to carry out research in various fields, including the use of various research methods that allow the elimination of emerging contradictions.

Often the expert opinion eliminates the gaps and contradictions that exist in the interrogated cases, serving as a confirmation of the evidence of individuals and (or) some of the broadcasters and a refutation of others.

This conclusion is confirmed by the data of the court and investigative practice that we studied. In particular, we can cite the criminal case in the sheep considered as an example, i.e. T., who was charged with Part 1 of Article 298 of the Criminal Code of the Republic of Uzbekistan. a road accident occurred during the process of driving a special vehicle. When the court considered a criminal case, it was the expert opinion that helped to issue a legal, reasonable and fair verdict, which made it possible to criminalize the criminal, and in favor of the victim to impose a duty to compensate for the material damage caused by the criminal to his health.

T. by the preliminary investigation body. in the criminal case of the accused, the traffic officer said that as a result, the Sh. the body was moderately severely injured. The investigative body sent the case to the court, taking into account also the conclusions of the examination assigned at the time of the preliminary investigation. At the hearing, according to the defense's arguments, the vehicle was driven by a person who was considered the victim in exactly the same case and received injuries. As a confirmation of their arguments, the court submits a petition to interrogate other passengers who have seen this case directly at the hearing. However, according to the conclusion of various (complex examination) autotechnics and forensic examinations appointed by the court, depending on the circumstances of bodily injuries received by the defendant and the defendant, as well as vehicle damage, the arguments of the defense are rejected and confirm the condition that the defendant was in control at the time of the traffic accident.

In some cases, however, it may not serve to make a legal, reasonable and fair judgment, even if the expert opinion has every reason to find it an acceptable argument . In particular, according to some

scientists, the variety of forms and methods of research has posed a problem for courts, often the same conclusions are characterized by different phrases, conclusions are not given in full, insufficient disclosure of the essence of the question posed and does not answer. On the other hand, there are cases of forensic investigation that the presiding judge in the case needs to use the knowledge and practical skills of specialists to solve a specific forensic investigation. Including S.ga in a relatively criminal case, the examination concluded that the vehicle could move backwards with the wheels turned even on the slope, depending on the condition of the mechanical gearbox and tires, when the transport was placed on the first gear, but the investigative expert, carried out based on the protection arguments, confirmed the opposite of the conclusion on the gearbox.

No evidence has predetermined power for the court, including for the investigator, Inquirer, and prosecutor. The probable nature of the expert opinion and the totality of the evidence provided by the defense, as well as the evidence contained in the materials of the criminal case, did not allow the court to use the expert opinion as evidence of the conviction in a criminal case.

Comparison of these examples of the use of such a type of evidence as an expert opinion in the process of proving indicates that not only the expert conclusions themselves, but also their presentation in the conclusion play an important role.

Subjects of proof should not overestimate whether the expert has found it possible to formulate his conclusion in a strict form, or ignore the expert conclusion with a probable conclusion. It can be seen that persons conducting criminal proceedings in each case should carefully approach the assessment of the expert opinion in each specific case.

In the two examples we have cited, formally, the expert's conclusion in a criminal case meets all the requirements of the Code of criminal procedure, but in fact served to commit cases of violation of the law when sending a criminal case to court.

The expert's conclusion can be used as judicial evidence only if it meets the requirements of job involvement, acceptability and reliability. To determine these circumstances, the court evaluates this information.

The courts evaluate each argument separately and in conjunction with other arguments in the case. The criteria for evaluating evidence are the same for the court of First Instance as for the courts of high instance.

The assessment criteria can be grouped and divided into: the organization of an examination, the validity of expert conclusions, the correctness of the assessment of the expert opinion by the court.



The first group includes: the choice of the expert in terms of objectivity, his specific scientific qualifications, completeness and quality of research-focused materials, compliance with procedural norms.

The second group should include compliance with the following, including the fact that the expert correctly uses his powers, the completeness of the use of materials provided by the investigator and the court, the use of scientific grounds, the absence of contradictions between the research process and the conclusions in the expert opinion.

The third group involves the compliance of expert conclusions with the materials of the case, and if there are contradictions between them, then they are eliminated during a judicial investigation.

When making a decision to appoint a forensic expert and select an expert, the investigator must take into account the following: the expert should not be interested in the outcome of the case and be sufficiently competent in the relevant field of knowledge.

The first requirement is common to all types of expertise. As for the latter, it should be noted that for forensic examination, there is a specificity in solving this issue, which the employees of the judicial and investigative bodies do not always have a clear idea of the limits of research and the possibilities among the individuals to whom the examination is entrusted, and they cannot always adequately imagine the need for a depth of This leads to the fact that forensic examination is sometimes entrusted to specialists who do not have scientific qualifications. As for the requirement to resolve issues within the competence of the expert, the higher courts show the expert that it is necessary to resolve issues that do not extend beyond his competence alone.

An important role is played by the collection and selection of materials necessary for conducting an examination. No matter how qualified the specialist is, no matter how he uses the latest achievements of Science and technology – if the objects of research are insufficient or they are not suitable for research, the expert opinion cannot be reliable evidence in the work.

When evaluating an expert opinion, the courts derive not only from the fact established by the expert, but also from the reliability of this fact, that is, the conclusions must be considered in terms of their validity.

Doubt about the reliability of these objects, which led the expert to certain conclusions, raises doubts about the reliability of the conclusion, which in turn raises doubts about the legality and validity of the judgment based on such a conclusion.

Cases in which both expert and investigative and judicial practice raise doubts about the reliability of the objects sent for research, eliminate the result of

the work of investigators, courts and experts. Violation of procedural laws, ensuring the authenticity and safety of material evidence, as well as non-compliance with the appropriate instructions for the procedure for withdrawing and storing material evidence will lead to a loss of authenticity of what was sent to the examination-material evidence, and the conclusions of experts based on the study of such objects will lose their importance.

Expert opinion is a special source of evidence. The peculiarity of the expert's conclusion is that the expert informs the investigation and court about the facts identified by him based on the use of information in a particular field of science, technology, art. The specialist conducting the research is based on his special knowledge, which allows you to answer questions posed by the investigative or judicial authorities. Expert conclusions are of evidential importance, the conclusions of a witness, accused and defendant on one fact or another do not have the power of evidence.

Evaluating an expert opinion in terms of its scientific reliability is a rather complex process. This concept includes the correctness of scientific research methods selected by a specialist who meets the requirements of Science and technology, the logical sequence of research stages (separate, comparative, experimental) and the ability to answer questions posed at the current level of development of Science and technology. Ekspert xulosasi maxsus dalildir, shuning uchun unga ma'lum talablar qo'yilishi kerak, birinchi navbatda – ilmiy asoslilik, aniqlik, ekspert xulosalarining ravshanligi.

The courts must base their conclusions in the judgment only on facts that are credible, which do not raise any doubt.

Examples from judicial and investigative practice, which we have analyzed, reliably show that the professional skills of the expert, his knowledge and skills are used by the court much more effectively in the consideration of criminal cases. With the development of scientific knowledge, the role of an expert in criminal proceedings in various fields of Science and technology increases. His knowledge is necessary in the opening, investigation and review of criminal cases, as well as in the issuance of a legal, reasonable and fair verdict in a criminal case.

At the moment, as can be seen from the cited cases, when considering a criminal case, there remain expert conclusions that do not allow them to be used as evidence. There are objective and subjective reasons for this. In this regard, we believe that the quality of the judicial investigation sometimes depends on the critical attitude to the conclusions of experts. Ignoring the fact that there is a mistake that experts can eliminate, blind reliance on their



conclusions raises doubts about whether the judicial judgment is legal and justified.

Therefore, in order to solve many complex situations that arise during a judicial investigation in a criminal case, it is recommended to invite a specialist if the interrogation is related to the identification and study of the circumstances of the case regarding special knowledge. The relevance of this recommendation is that when considering criminal cases, cases often arise in which it is not possible to continue reviewing a criminal case without the use of special knowledge. And the expert's interrogation allows the participants in the criminal proceedings to ask them the right questions. This, in turn, makes it possible to make a legal assessment of the expert's conclusion and whether or not to recognize it as evidence in a future judicial judgment.

REFERENCES:

1. Комаров О.Н. Использование знаний специалистов, экспертов в уголовном процессе // Право и государство: приоритеты XXI века: материалы Всероссийской научно-практической конференции / отв. ред. В.Я. Музюкин, Е.С. Аничкин. – Барнаул: Алт. Ун-т, 2007. – С. 545.
2. Аверьянова Т. В., Белкин Р. С., Корухов Ю. Г., Россинская Е. Р. Экспертиза в гражданском, административном, уголовном процессе : учебник для вузов. М. : Норма, 2003.
3. Аверьянова Т. В., Белкин Р. С., Корухов Ю. Г., Россинская Е. Р. Криминалистика : учебник для вузов. Под ред. Заслуженного деятеля науки Российской Федерации, профессора Р. С. Белкина. М. : Норма.
4. Tuxtasheva U.A., Pulatov B., Bazarova D.B., Saxadinov S., Tulaganova G.Z., Mirazov D.B., Mirzayev A., Mavlonov K., Kenjaboyev D., Salomov N. Jinoyat-protsessual huquqi: Darslik. – T.: TDYU nashriyoti, 2021.248 bet.
5. O'zbekiston Respublikasining Konstitutsiyasi. Qonun hujjatlari ma'lumotlari milliy bazasi, 09.02.2021 y., 03/21/671/0093-son. <https://www.lex.uz/acts/20596>.
6. O'zbekiston Respublikasining Jinoyat-protsessual Kodeksi, 2021 yil 21 apreldagi O'RQ-683-sonli Qonuni tahririda — Qonunchilik ma'lumotlari milliy bazasi, 21.04.2021 y., 03/21/683/0375-son, <https://lex.uz/docs/111460>.
7. O'zbekiston Respublikasi Prezidentining 2020 yil 24 iyuldagi "Sudlar faoliyatini yanada takomillashtirish va odil sudlov samaradorligini oshirishga doir qo'shimcha chora-tadbirlar to'g'risida"gi PF-6034-son Farmon, <https://lex.uz/docs/4910826>.
8. O'zbekiston Respublikasining Jinoyat-protsessual, Xo'jalik protsessual va Fuqarolik protsessual kodekslariga o'zgartishlar va qo'shimchalar kiritish to'g'risida"gi O'zbekiston Respublikasining 2000 y. 14 dekabrda, 163-II-son Qonuni // O'zbekiston Respublikasi Oliy Majlisining Axborotnomasi. 2001. 1-2-son, 11-modda.
9. O'zbekiston Respublikasining Oliy sudi Plenumining "Sud hukmi to'g'risida"gi 23.05.2014 yildagi 07-sonli qarori. <https://lex.uz/uz/docs/2413562>.
10. Alishaev S.T. SUDEBNOE RESHENIE: ZAKONNOST, SPRAVEDLIVOST I BESPRISTRASNOST //Herald pedagogiki. Nauka i Praktika. – 2022. – T. 2. – №. 2.
11. Алишаев С.Т. СУД НУКМИНИ ТУЗИШ ВА РАСМИЙЛАШТИРИШ МУАММОЛАРИ //E Conference Zone. – 2022. – С. 176-179.
12. Алишаев С. Т. ОДИЛ СУДЛОВНИНГ ЯКУНИ НУЖЖАТИ СИФАТИДА НУКМ //E Conference Zone. – 2022. – С. 171-175.