



LEGAL ISSUES AND CRITERIA FOR THE INSTITUTE OF THE ADMISSIBILITY OF EVIDENCE IN CRIMINAL PROCEEDINGS

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Article history:	Abstract:
Received: December 14 th 2023 Accepted: January 10 th 2024 Published: February 14 th 2024	This article is devoted to the analysis of key problems associated with the recognition of evidence as admissible or inadmissible in criminal proceedings. The author explores the essential criteria and legal nature of the property of admissibility of evidence. The author analyzed legislation and scientific material on the issue of admissibility and inadmissibility of evidence in the national and foreign aspects of the study.
Keywords: evidence, properties of evidence, admissibility of evidence, inadmissibility of evidence, subject of proof, respect for honor, source of evidence, criminal proceedings	

In the context of criminal proceedings at the national level, the issue of admissibility of evidence occupies a key position in ensuring the legitimacy of the process and the protection of the fundamental rights of the individual. The duty to ensure a fair trial includes not only the adequate application of the law, but also the obligation to present reliable and authentic evidence that serves as the basis for sound judicial decisions. At the same time, the emergence of new technologies affecting the methods of data collection and analysis, together with the evolving nature of crimes and their transnational aspects, creates additional obstacles in the area of admissibility of evidence. This work aims to explore existing problems and challenges related to the admissibility of evidence in the context of national criminal proceedings, and to develop proposals for improving the legal instruments regulating this area.

The topic of updating and improving the criteria for admissibility of evidence is justified in the provisions of the updated Constitution of the Republic of Uzbekistan [1]. In particular, Article 29 of the main legislative act establishes the principle that in the legal process the use of evidence obtained by violating the law is inadmissible. This provision at the constitutional level emphasizes the unacceptability of using evidence collected in disregard of legal requirements, protecting the principle of legality and fairness in the judicial process.

Within the framework of the theory of criminal procedure, there is a variety of approaches to determining the admissibility of evidence, which indicates the absence of a unified view on this issue. Mainly, the scientific community establishes a connection between the admissibility of evidence and its compliance with the criteria set out in criminal procedural legislation, which implies the legality of the procedures for collecting and recording factual data. At

the same time, there is an alternative view that focuses on reliability as the primary criterion for the admissibility of evidence. Thus, for information to be recognized as evidence, it must comply with certain legal requirements that ensure its reliability and quality. Consequently, not every fact related to a criminal case can be recognized as evidence, but only that information that has undergone a legally established registration procedure that guarantees its suitability for use in the process.

The Criminal Procedure Code of the Republic of Uzbekistan defines the criteria for the admissibility of evidence as follows: "Evidence is considered admissible if it is collected in the prescribed manner and meets the conditions set out in Articles 88, 90, 92-94 of the Code of Criminal Procedure." Consequently, all evidence that is collected in accordance with the established requirements of criminal procedure legislation is admissible. In cases of any violation of the requirements of criminal procedure legislation, the question of the admissibility of such evidence is called into question and proper verification and assessment of this property of evidence is necessary.

In support of the analyzed aspect regarding the admissibility of evidence, one can refer to a fragment of the corresponding Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan [2], which emphasizes the need to unconditionally follow the rules established by the Criminal Procedure Code of the Republic of Uzbekistan. Article 11 of this code is fundamental in the obligatory conduct of procedural actions in strict accordance with criminal procedural legislation, with regard to the collection, verification and evaluation of evidence. Deviation of any of the subjects - the inquiry officer, the investigator, the prosecutor, the court - from strict compliance with the legal norms governing the process of evidence, regardless of the



motives, leads to the recognition of evidence obtained in this way as inadmissible. Evidence declared inadmissible is deprived of legal force, cannot serve as a basis for confirming the circumstances specified in Articles 82 - 84 of the Code of Criminal Procedure, and cannot be used as a basis for forming charges.

It should also be noted that only evidence that has been obtained, analyzed and evaluated in accordance with the procedures defined in the Code of Criminal Procedure can be used to identify the truth in a case. Any evidence obtained in excess or disregard of the procedural norms of the law is excluded from the possibility of being used as a basis for the formation of charges. [3]

In the process of collecting, analyzing and evaluating evidence, it is necessary to strictly observe the protection of the rights and legitimate interests of both individual citizens and various enterprises, institutions and organizations. It is prohibited to carry out actions that can cause damage to the life or health of people, as well as actions that humiliate the honor and dignity of an individual; the use of violence, threats, deception and other unlawful means to obtain evidence, conclusions, documents or objects; carrying out investigative activities at night unless absolutely necessary; coercion to illegal actions or accusations as a result of such coercion; interrogation as a witness of a person who may be suspected, without prior clarification of his rights; calling and interrogating close relatives of the detainee without sufficient grounds.

There are also strict requirements to ensure the confidentiality of personal information discovered during the investigation and trial. The responsibility to protect this information lies with the inquiry officer, investigator, prosecutor and judge. Information about the personal lives of the participants in the process must remain confidential, and the circle of persons allowed to disclose the information is limited.

When carrying out investigative and judicial actions, including the seizure of objects and documents, a detailed description of all actions and objects in the protocols is required, as well as ensuring the return of irrelevant objects to their rightful owners. Items whose storage is prohibited by law must either be destroyed or transferred to the appropriate organizations.

The admissibility of evidence is determined by its suitability for use to establish facts significant to the case in accordance with the requirements of the law regarding their origin, methods of detection, recording and analysis. This means that admissible evidence must be verifiable, come from reliable sources and be recorded in a form prescribed by law, thereby ensuring compliance with procedural rules. [4]

Based on the above-mentioned legal norms on this issue, we note that the legislation defines the criteria for the admissibility of evidence, including:

Obtaining evidence by a competent entity authorized to conduct the relevant procedural action;

Using only factual data produced from legitimate sources;

Compliance with procedures during the procedural action during which evidence was obtained;

Recording the progress and results of procedural actions in accordance with the requirements of the law and processing evidence in the prescribed procedural forms.

It should be noted that rumors, guesses and operational-search information cannot be accepted as evidence before their procedural confirmation and verification, serving only as preliminary data for further investigation.

It is also important to consider the asymmetry in the application of the rules of admissibility of evidence between the prosecution and the defense. In accordance with the principle of the presumption of innocence, all doubts regarding guilt must be interpreted in favor of the accused. This means that evidence obtained with violations, but capable of exonerating the accused, may be considered admissible at the request of the defense, despite the fact that its reliability must also be assessed taking into account possible violations of the procedural order.

It should be noted that the issue of admissibility in the legal acts of foreign countries is regulated as everything that is collected and recorded in accordance with established requirements is admissible. The legislation of foreign countries regulates the standards of inadmissibility of evidence. Below are some of them.

For example, the Code of Criminal Procedure of the Republic of Kazakhstan enshrines in Art. 125 "evidence is considered admissible if it is received in the manner established by this Code." In turn, the specification of the conditions for the inadmissibility of evidence in criminal proceedings is regulated in detail in Article 112 of the Code of Criminal Procedure of Kazakhstan. [5]

Factual data may be considered inadmissible for use as evidence in criminal proceedings if they were obtained in violation of the requirements of criminal procedural legislation, entailing a restriction or violation of the legal rights of participants in the process, or in case of other violations of the procedures of pre-trial investigation or trial, which could affect the reliability of the data. Such violations include: the use of torture, violence, threats, deception, other unlawful acts and ill-treatment; using a misunderstanding of a participant in criminal proceedings regarding his rights and obligations due to the absence, insufficiency or incorrectness of the explanations provided; performance of a procedural action by a person who does not have the right to do so; participation in the procedural action of the person subject to challenge;



significant violations of the procedural order; use of data from an unknown or unidentified source in the court hearing; the use of methods of proof that contradict modern scientific knowledge. Inquiry bodies, interrogators, investigators, prosecutors or courts have the right, independently or at the request of an interested party, to consider the issue of inadmissibility of evidence, are obliged to clarify in detail the nature of violations and make a reasoned decision.

Data used in the preliminary investigation of a suspect as a witness cannot be used against him or his relatives, and also cannot serve as the basis for charges if they are not included in the inventory of the case materials. All factual data obtained in violation of criminal procedural legislation are considered inadmissible for evidence and cannot form the basis of an accusation or be used to confirm any circumstances of the case specified in the relevant article of the Code of Criminal Procedure. However, factual data obtained with the violations specified in part one of this article can be used as evidence of the fact of the relevant violations and the guilt of the persons who committed them during the investigation of the criminal case.

The Criminal Procedure Code of Georgia [6] also regulates in detail the issue of inadmissibility of evidence, indicating exactly what is not allowed to identify evidence as inadmissible in a criminal case. Evidence obtained as a result of significant violations, as well as those that were legally obtained on their basis, but entail a deterioration in the legal status of the accused, are considered inadmissible and deprived of legal force. This rule also applies to evidence obtained in accordance with established procedures, but in relation to which there is a reasonable suspicion of possible substitution, significant change in characteristics or destruction of traces.

The onus is on the prosecution to prove the admissibility of its own evidence and to refute the admissibility of evidence presented by the opposing party. This requires the prosecutor to provide the court with reliable information about the origin of the evidence.

The decision to recognize evidence as inadmissible is made by the court and must be motivated, based on the law and the facts of the case. Evidence declared inadmissible cannot serve as a basis for a court decision. This ensures the fairness of the process and the protection of the rights of the accused, ensuring that a conviction can only occur on the basis of evidence obtained legally and fairly.

In the European Union, "Evidence lawfully collected by the authorities of one Member State must be admissible in the courts of other Member States, taking into account the standards that apply there." This norm is the key idea expressed in the Tampere Conclusions of 1991. [7]

In accordance with Article 125 of the Code of Criminal Procedure of Azerbaijan [9], information, documents and objects can be recognized as evidence in criminal proceedings only if there is no doubt about their authenticity, origin and conditions of their receipt. Consequently, it is strictly prohibited to accept as evidence information, documents and things obtained by: depriving or restricting participants in criminal proceedings in their legal rights, which contradicts the constitutional rights and freedoms of man and citizen, as well as other requirements of the current Code, and may affect the reliability evidence data; the use of violence, threats, deception, torture and other cruel, inhuman or humiliating methods; violations of the rights of suspects or accused persons to defense, including the right of persons who do not speak the language of the trial to understand procedures and communications; taking advantage of the participants' misunderstanding of their rights and obligations due to their insufficient, incorrect or missing explanation; carrying out criminal prosecution, investigative or other procedural actions by persons who do not have the right to do so; participation in the process of a person in respect of whom a challenge must be filed on the basis of known or should be known circumstances excluding his participation; gross violations during investigative or other procedural actions. Also of interest is the rule that evidence obtained from a person who is not able to identify a document or other thing, confirm its validity, source, circumstances of acquisition; from an unknown person at the court hearing or a source not identified in it; as a result of the use of methods that contradict modern scientific views are also grounds for declaring evidence in a criminal case inadmissible.

Thus, to ensure the fairness and legality of the criminal process, all evidence must comply with the strict requirements of the law, thereby guaranteeing the protection of the rights and freedoms of all participants in the process.

So, summing up the results of this study, it should be noted that the conditions for recognizing evidence as admissible are:

1) the evidence must be received by the proper subject, authorized in this case to carry out the procedural action during which the evidence was received;

2) factual data must be obtained only from sources specified in the law;

3) the evidence must be obtained in compliance with the rules of conduct of the procedural action during which the evidence was obtained;

4) upon receipt of evidence, all requirements of the law must be met when recording the progress and result of the investigative action; the evidence must be recorded in the procedural forms provided for by law.



Admissible evidence is that which is collected and recorded properly in accordance with the established requirements of criminal procedure legislation.

<https://doi.org/10.37547/tajpslc/Volume05Issue08-22>

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