

ADMISSIBILITY OF EVIDENCE AS A FEATURE OF EVIDENCE IN CRIMINAL PROCEEDINGS

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Article Info	ABSTRACT
Article history: Received July 05, 2024 Revised July 25, 2024 Accepted Aug 05, 2024 Keywords: evidence, admissibility of evidence, criminal process, rights of the accused, inadmissibility of evidence, exclusion of evidence, procedural guarantees, criteria for admissibility of evidence	The institution of admissibility of evidence as a fundamental category of the criminal process has been discussed in the article. The author discussed issues such as the nature of evidence, its properties and conditions of admissibility in criminal proceedings. The author emphasizes that the admissibility of evidence not only protects the rights of participants in the process, but also affects the final court decision. Foreign experience and legislation were also studied and discussed. This is an open-access article under the CC-BY 4.0 license. 

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INTRODUCTION

Admissibility of evidence is a fundamental category in criminal proceedings, playing a decisive role in ensuring the fairness and legality of the trial. Understanding the nature of evidence, as well as its properties and the conditions under which it can be accepted as evidence in legal proceedings, represents a key problem for legal science and judicial practice. Within the framework of this scientific article, the property of admissibility of evidence will be considered as one of the most important characteristics of evidentiary material, ensuring respect for the rights and freedoms of participants in criminal proceedings.

Evidence in a criminal trial is the basis for forming the court's conviction regarding the guilt or innocence of the accused. According to Article 81 of the Criminal Procedure Code of the Republic of Uzbekistan, evidence in a criminal case is any factual data on the basis of which, in accordance with the procedure established by law, the

bodies of inquiry, the investigator and the court establish the presence or absence of a socially dangerous act, the guilt of the person who committed this act, and other circumstances that are important for the correct resolution of the case. Consequently, evidence is any information on the basis of which the court can establish the presence or absence of circumstances to be proven in a particular criminal case. This data can be presented in various forms, including witness statements, physical evidence, expert reports, documents, and other materials relevant to the case.

The issue of admissibility of evidence is becoming increasingly relevant in light of new technologies that are used to collect information. Legislation must be constantly updated to take account of these changes and provide procedural guarantees for participants in criminal proceedings.

The admissibility of evidence is a central category of the criminal process, ensuring compliance with the constitutional rights of participants in criminal proceedings. Compliance with established procedural rules when collecting, recording and presenting evidence is of utmost importance, since any deviation from these rules may result in the inadmissibility of evidence.

A striking example of the importance of the institution of evidence is the case of *Miranda v. Arizona*. The *Miranda v. Arizona* case became one of the most significant in the history of American justice and had a huge impact on the criminal process in the United States. The case led to the formation of the so-called *Miranda Rules*, which require police to warn detainees of their rights before interrogation. In 1963, Ernesto Miranda was arrested in Phoenix, Arizona on suspicion of kidnapping and rape. During police interrogation, Miranda made a confession, after which he was found guilty and sentenced to a long prison term. However, Miranda appealed to the Supreme Court, arguing that his testimony was obtained without notice of the right to silence and the right to counsel. In 1966, the US Supreme Court decided *Miranda v. Arizona*. The court found that all defendants must be informed of their rights before interrogation begins. These rights include: the right to remain silent; any testimony given without being informed of rights cannot be used against the detainee in court; the right to have a lawyer present during interrogation; the right to have a lawyer provided at state expense if the suspect cannot pay for one. The *Miranda v. Arizona* decision was fundamental to human rights in criminal proceedings in the United States. It ensured that interrogations were conducted within the bounds of the law and that the rights of suspects were protected, preventing the possibility of coercion and improperly obtained confessions.

Evidence in criminal proceedings has a dual nature. On the one hand, they are information that objectively exists outside the framework of the trial. On the other hand, evidence is a procedural category, since it is included in a criminal case and considered by the court within the established procedural form. This dual nature of evidence necessitates its careful legal assessment, which includes an analysis of its admissibility, relevance and reliability.

Each evidence must have certain properties that ensure its value in criminal proceedings. The main properties of evidence are relevance, reliability, admissibility and sufficiency. Relevance determines whether the evidence is related to the subject of proof, reliability - the degree of its truthfulness and correspondence to reality. Admissibility is a legal characteristic of evidence that determines whether this evidence can be used by the court as a basis for making a decision.

The admissibility of evidence presupposes compliance with procedural rules that govern the procedure for obtaining, recording and presenting it to the court. If evidence was obtained in violation of the law, it is considered inadmissible and cannot be used in making a decision in the case. Thus, the admissibility of evidence serves as an important guarantor of individual rights and freedoms in criminal proceedings, preventing the possibility of the use of substandard or illegal evidence during legal proceedings.

The study of the admissibility of evidence as one of the properties of evidence in criminal proceedings is of great importance both for legal theory and for law enforcement practice. In the context of the constant development of criminal legislation, improvement of law enforcement practice and changes in public relations, the issue of the limits of admissibility of evidence becomes particularly relevant.

METHODS

The research method used in the statement above is the normative and comparative legal research method. Normative legal research is conducted by analyzing laws and regulations, legal doctrines, and court decisions related to the admissibility of evidence in criminal proceedings, both at the national and international levels. The comparative method is used by comparing provisions on the admissibility of evidence in the legal systems of various countries such as Uzbekistan, Russia, Ukraine, Canada, Germany, Australia, and Italy. This study examines the general principles and criteria for the admissibility of evidence in various jurisdictions, as well as their impact on the protection of human rights and justice in the criminal justice process.

RESULT AND DISCUSSION

On the one hand, changes in technologies and methods for obtaining evidence, including the use of digital technologies, biometric data, video surveillance and other modern means, require a review and adaptation of existing procedural rules. On the other hand, strengthening the protection of human rights, especially in the context of international standards, requires increased attention to procedural guarantees of the admissibility of evidence.

The admissibility of evidence is directly related to ensuring a fair trial, which is recognized as one of the basic principles of the rule of law. Violation of the principle of admissibility can lead to an unfounded court decision, which violates the rights of participants in the process and undermines public confidence in the judicial system as a whole.

The inadmissibility of evidence obtained in violation of the law is one of the fundamental principles of criminal proceedings based on the protection of human rights and compliance with international fair trial standards. This principle is intended to prevent the use of illegally obtained evidence, which significantly affects the final court decision.

In modern criminal proceedings, much attention is paid to protecting the rights of the accused, who, in accordance with the principle of the presumption of innocence, is not required to prove his innocence. In this regard, the requirement for the admissibility of evidence, which must be collected and provided in strict accordance with the law, acquires particular significance. The inadmissibility of using evidence obtained in violation of the law is one of the key aspects of the rule of law, ensuring the protection of individual rights and freedoms.

The main guarantee of protection of the constitutional rights of man and citizen during the investigation of a criminal case is the institution of admissibility of evidence at the stage of preliminary investigation. The very institution of admissibility of evidence sets itself the main task of preventing and avoiding adverse consequences that the preliminary investigation authorities could allow during the conduct of a criminal case. The main guarantee of protection of the constitutional rights of man and citizen during the investigation of a criminal case is the institution of admissibility of evidence at the stage of preliminary investigation. The very institution of admissibility of evidence sets itself the main task of preventing and avoiding adverse consequences that the preliminary investigation authorities could allow during the conduct of a criminal case. The main function of the institution is to exclude from a criminal case evidence that was obtained in violation of legislative acts and criminal procedural legislation, as well as to reduce to an absolute minimum the illegal actions of officials conducting the preliminary investigation.

The admissibility of evidence in criminal proceedings is primarily a matter of ensuring the fairness of the trial. Inadmissible evidence cannot be used as the basis for a conviction, which is an important mechanism for protecting the rights of the accused.

Despite the fact that in the theory of criminal proceedings and in law enforcement practice the admissibility of evidence has long been recognized as the most important property of evidence, there are a number of unresolved issues related to the practical application of this principle. One of these issues is the problem of determining the criteria for admissibility of evidence, which may vary depending on the specific circumstances of the case.

First of all, it should be noted that according to Article 29 of the Constitution of the Republic of Uzbekistan, as amended, in the administration of justice, the use of evidence obtained in violation of the law is not allowed. This provision underscores the country's legal system's commitment to the principles of justice and the rule of law.

The admissibility criteria themselves, as well as the grounds for declaring evidence inadmissible in criminal proceedings, are regulated in the criminal procedure law. Thus, Article 95 of the Criminal Procedure Code of the Republic of Uzbekistan

stipulates that 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 this Code, which include provisions on mandatory conditions of evidence, in particular: protecting the rights and freedoms of citizens, enterprises, institutions, securing evidence in protocols and other acts, as well as directly verifying evidence in a procedural manner.

Article 95-1 of the Criminal Procedure Code of the Republic of Uzbekistan establishes that evidence is considered inadmissible if it is obtained illegally or in violation of the rights of participants in the process. Evidence obtained through torture, falsification, violation of defense and translation rights, procedures performed by improper persons, or from unknown sources is considered inadmissible. The assessment of the admissibility of evidence is carried out by authorized officials who are obliged to reason the issue of violations and make an appropriate decision. Criminal procedural laws of foreign countries also establish a list of such criteria.

Article 75 of the Code of Criminal Procedure of the Russian Federation defines categories of inadmissible evidence that has no legal force and cannot be used in court to substantiate charges or prove the circumstances of the case. Inadmissible evidence includes: testimony of a suspect or accused, given without the presence of a defense attorney or not confirmed in court; testimony based on conjecture, hearsay, or without indicating the source of information; documents and information obtained from legal proceedings or during operational activities, with the exception of permitted cases; information from special declarations, with the exception of copies provided by the declarant for the criminal case; any other evidence obtained in violation of the law. This list is very similar to the norm of national legislation, but is described in detail according to specific criteria.

Also of particular interest are the norms of the Criminal Procedure Code of Ukraine. Thus, the criminal procedure law distinguishes issues of inadmissibility of evidence according to specific criteria: inadmissibility of evidence obtained as a result of a significant violation of human rights and freedoms (Article 87), inadmissibility of evidence and information relating to the identity of the suspect or accused (Article 88), inadmissibility of evidence obtained in cases of recognition of assets as unfounded and their recovery for the state, as well as in the order of a one-time (special) voluntary declaration (Article 89), which lists specific cases, if admitted, such evidence is recognized by the court as inadmissible. For example, evidence obtained during the execution of a decision on permission to search a person's home or other possession is considered inadmissible in connection with the prohibition of a lawyer from participating in this investigative (search) action; when executing a decision on permission to search a person's home or other possession, if such a decision was made by the investigating judge without conducting a full technical recording of the meeting, etc. Another provision of interest is the rule that "no evidence has predetermined value." The national criminal procedure law has a similar rule, but in terms of the expert's conclusion, "the expert's conclusion does not have pre-established evidentiary value for the inquirer, investigator

or court” (see Article 187 of the Code of Criminal Procedure of the Republic of Uzbekistan). However, we consider it advisable to include this norm in Part 4 of Article 81 of the Code of Criminal Procedure, which defines the concept and sources of evidence in criminal proceedings.

The Criminal Procedure Code of the Republic of Belarus does not contain a special rule on the criteria for the inadmissibility of evidence and fixes this issue as follows: “Evidence is considered inadmissible if it was obtained in violation of the constitutional rights and freedoms of a citizen or the requirements of this Code related to the deprivation or limitation of the rights of participants in criminal proceedings or violation of other rules of criminal procedure. Evidence obtained in violation of the law has no legal force and cannot be used as the basis for an accusation, or used to prove any circumstance specified in Article 89 of this Code.” (see art. 105). In turn, Article 89 of this code establishes a list of circumstances that are subject to proof in each criminal case (that is, the subject of proof). Consequently, the Code of Criminal Procedure of the Republic of Belarus is limited to establishing the rule that if there is a violation of the constitutional rights and freedoms of citizens, as well as the procedural order of evidence in criminal proceedings, such evidence is considered inadmissible.

In the United States, the Federal Rules of Evidence establish a number of criteria for the inadmissibility of evidence. Specifically, Rule 403 states: “The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” (“The court may exclude relevant evidence if its probative value is substantially outweighed by the dangers of one or more of the following factors: unfair prejudice, confusion of issues, misleading the jury, unnecessary delay, waste of time, or over-presentation of similar evidence.”). In addition, this act regulates admissibility issues of both a general nature (Rule 402 General admissibility of relevant evidence) and specific types of evidence (Rule 1003 Admissibility of duplicates, Rule 1004 Admissibility of other evidence of content).

In Canada, the Criminal Code of Canada and the Canadian Charter of Rights and Freedoms define the inadmissibility of evidence obtained in violation of rights. Section 24(2) of the Criminal Code of Canada states: «Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by the Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.».

In Germany, the German Code of Criminal Procedure (Strafprozessordnung) sets out strict rules on the inadmissibility of evidence. Paragraph 136a states: “Prohibited methods of interrogation shall render evidence so obtained inadmissible.”.

In Australia, the Evidence Act 1995 sets out the criteria for the inadmissibility of evidence. Section 138 states: “Evidence that was obtained improperly or in contravention of an Australian law is not to be admitted unless the desirability of admitting the evidence

outweighs the undesirability of admitting evidence that has been obtained in the way in which the evidence was obtained.” » (“Evidence obtained improperly or contrary to Australian law should not be admitted unless the desire to admit the evidence outweighs the undesirability of its admission, having regard to the manner in which it was obtained.”).

In Italy, the Italian Code of Criminal Procedure (Codice di procedura penale) clearly establishes the inadmissibility of evidence obtained in violation of the law. Article 191 states: “Le prove acquisite in violazione dei divieti stabiliti dalla legge sono inutilizzabili.” (“Evidence obtained in violation of legal prohibitions is inadmissible.”).

An analysis of the norms of criminal procedural legislation from various criminal procedural codes of the world shows universal recognition of the principle of excluding evidence obtained in violation of the law or human rights. The main categories of inadmissible evidence can be classified as follows:

- obtained in violation of fundamental rights and freedoms: Evidence obtained through torture, violation of procedural rights, improper conduct of the investigation.

- obtained without following due process: Lack of legal counsel, unauthorized use of information, improper interrogation.

- expediency exclusion: In some systems, such as the United States and Australia, courts may exclude evidence based on a balance between its probative value and potential prejudice to the fairness of the trial. This approach underscores the global desire for fair trials, with the protection of the rights of every litigant at the forefront.

The second important issue is the question of the consequences of declaring evidence inadmissible. In practice, situations arise when evidence collected in violation of the law turns out to be the only evidence capable of confirming the guilt of the accused. Another issue that requires attention is the admissibility of new types of evidence that appear in connection with the development of science and technology. Modern realities require the development of new approaches to assessing the admissibility of such evidence, which becomes possible only through careful scientific research and subsequent regulatory consolidation of new procedural rules.

Thus, the study of the admissibility of evidence in criminal proceedings is a relevant and significant task of modern legal science. Solving existing problems and developing new approaches to assessing the admissibility of evidence require not only in-depth theoretical analysis, but also extensive empirical research into judicial practice. Only an integrated approach to this problem will ensure compliance of law enforcement practice with modern requirements of the rule of law and international standards for the protection of human rights.

CONCLUSION

In conclusion, it should be noted that the admissibility of evidence is an integral property of evidence in criminal proceedings, ensuring respect for the rights and freedoms of participants in the trial. The study of this property is of great importance both for the

theoretical development of issues in the criminal process and for the practical application of criminal law.

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