ASPECTS OF PROOF IN CRIMINAL INVESTIGATION IN THE REPUBLIC OF UZBEKISTAN SPECIFIC TO FOREIGN EXPERIENCE

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https://doi.org/10.5281/zenodo.15852192

Abstract: This article examines the types of operational investigative activities, the implementation of operational investigative activities and the main tasks of operational investigative activities and measures to ensure the legality of the results of activities, the legality of evidence collected during operational investigative activities, and provides scientific, theoretical and practical recommendations on the basics of using this evidence as the main means in the investigation of crimes, as well as in proving guilt at a court hearing. At the same time, the opinions and reasoning of theoretical scientists and experienced employees were analyzed.

Key words: operational investigative activity, type of event, operational experiment, prosecutorial supervision.

Introduction.

The search activity has been cooperating with the judicial and investigative activities for two centuries. It is precisely its tasks to expose, solve crimes, and identify and find the perpetrators who should subsequently be transferred to the judicial and investigative bodies. Attitudes and approaches to investigative activities may vary. However, since its necessity cannot be denied on any grounds, this activity has always been and even now continues to be at the stage of development, and exists in all countries as the main tool for combating crime, and this activity will never lose its relevance at all times.

Conducting investigative activities is the process of implementing a set of operational and other measures against persons who are reasonably suspected of committing or committing crimes, in order to prevent or solve their crimes, as well as to identify and detain hidden criminals, if it is impossible to achieve the goal in other ways or if this is extremely difficult.

It is necessary to have reasons and grounds for making a decision to conduct an operational search based on the tasks of combating crime. The use of existing information in criminal cases as evidence contradicts the essence of judicial and investigative proceedings, its procedural form, and the rule on the use of only procedural means of proof provided for by law, since the German Criminal Procedure Code states that it is unacceptable to use operational information that has already been received in criminal proceedings as evidence, to convert this information into judicial evidence by questioning officials (operational officers) conducting operational search activities, and persons involved in the case. [1]

According to the experience of many foreign countries, other non-traditional methods that are not covered by the activities of judicial investigation bodies are also used to uncover, expose and prove crimes, such as interrogation under various mental pressures, using a polygraph - lie detector, extrasensory perception, and biorhythmology. Such methods cannot serve as a scientific and moral basis for evidence in a criminal case during the period of judicial investigation.

Because only the real and clear source of information within the framework of the criminal case should be relevant to the subject of proof, the relevance of the evidence to the criminal case and the compliance with the requirements of the evaluation of the evidence should be considered important for the legal resolution of the case. [2]

When analyzing foreign experience, the Swiss legislation lists the ten most important features of the main means of proof of evidence collected on the basis of the results of investigative activities, namely: - the rules on proof are part of the subject of criminal legislation; - only authorized state bodies are recognized as the subject of proof; - the burden of proof is imposed only on the party supporting the accusation; - the amount of evidence is not limited; - free assessment of evidence without any exceptions; - if acceptable evidence is obtained in an unacceptable way, it is also considered unacceptable; - the theory of asymmetry is not recognized, i.e. equal requirements are imposed on the evidence of the defense and the prosecution; -examination of evidence is not considered an independent element of independent proof; -the requirement of admissibility of evidence; -the distinction between two elements of proof, namely the collection and evaluation of evidence. [3]

These cited cases show that in the essence of the nature of evidence, such important factors as the reliability, admissibility or inadmissibility of evidence, the indisputability of related evidence, and the requirements imposed on them play a special role.

At the same time, the legislation of many foreign countries includes the assessment of evidence obtained or collected as a basic principle in the detection, disclosure and proof of crimes, for example, in the Criminal Procedure Law of the State of Germany, there is a principle of assessing and proving evidence according to the internal conviction of the court itself, which is manifested in the following, namely: - in assessing evidence and proving the criminality of the act, the judge's personal conviction of the criminal's guilt is of decisive importance and is considered necessary and sufficient for sentencing; - when assessing evidence, the judge's reasonable doubt that the defendant committed an act deserving criminal punishment negates the issuance of a guilty verdict (in dubio pro reo); - there is a limit to the assessment of evidence based on the judge's internal confidence (formal limit - logic, the judge's arguments must be clear, coherent, and free from contradictions, the judge must act in accordance with generally recognized and natural-scientific rules formed on the basis of accumulated experience); - when assessing evidence, the court is required to comprehensively and completely examine the evidence; - evidence prohibited from use by the court when assessing evidence is not taken into account and this evidence cannot be taken into account in making a verdict and proving it. In the Criminal Procedure Law of the Russian Federation, the subject of proof also evaluates the evidence collected as a result of operational-search activities based on his internal confidence, the law, and his conscience. [4]

In foreign countries, including the USA, Great Britain, Poland, and Germany, lawyers in criminal cases where the results of search and seizure activities have been revealed or opened, also conduct independent investigative work in order to collect evidence aimed at protecting the rights and interests of the accused within the framework of this criminal case, and even in Germany, a lawyer, along with the persons responsible for conducting the criminal case, has the right to independently investigate the circumstances of the case and conduct a parallel investigation. [5]

In addition, according to the legislation of the USA and Slovenia, upon the application "Affidavit" submitted to the court for conducting a search and seizure and investigation, the judge must first consider the circumstances and suspicions that require a search and seizure, and also take into account the following, namely: - taking into account the work of the operative or investigator conducting the search and seizure or investigation activity, and the experience in solving crimes; - the circumstances that are the basis for conducting a search operation or the reasonableness of the suspicion must be taken into account; - before granting consent to conduct a search operation, the judge must take the oath of the operative officer or investigator responsible for conducting this operation, stating that he has been warned about giving false testimony; - it is sufficient for the judge to approve the request for permission to conduct a search operation with his signature, without drawing up a separate judicial document on the consent to conduct this operation; - the investigative judge who authorized the conduct of this operation may also directly participate in the procedural processes related to the conduct of a search operation or investigative operation; - In urgent cases, bodies carrying out search and investigation activities may call a judge to conduct searches and other investigative actions requiring sanctions, fully explain the situation, and obtain a sanction over the phone. This decision may be formalized in the form of a decision within twenty-four hours after the event and submitted to the court for sanction. [6]

In our opinion, since the rule in Article 67 of the Criminal Procedure Code of Ukraine that "The subject of proof is a set of circumstances that must be proven in each criminal case" and the sentences in Part 1 of Article 81 of the Criminal Procedure Code of the Republic of Uzbekistan that "whether a socially dangerous act has occurred, whether the person who committed this act is guilty or innocent" do not fully cover the circumstances that must be proven in each criminal case, it is advisable to amend Part 1 of Article 81 of the current Criminal Procedure Code with a new rule that "Any information that serves as a basis for the inquiry officer, investigator, prosecutor and court to determine, in accordance with the procedure established by this Code, the presence or absence of circumstances that are subject to proof in a criminal case, as well as other circumstances that are important for the correct resolution of the case, shall be considered evidence in a criminal case."

In addition, electronic (digital) devices in the conduct of criminal cases In order to establish an effective mechanism for exposing crimes committed through electronic means, it is of great importance to develop instructions for collecting, procedurally recording and using digital (electronic) evidence, as well as instructions for obtaining and examining digital (electronic) evidence with the participation of a specialist, in order to further increase the efficiency of the activities of the evidence assessment entity. Because, if we look at the experiences of developed countries such as Japan, South Korea and Singapore, in these countries, the procedural processes related to conducting an online search or investigative action have been implemented for several years and have yielded positive results in judicial and investigative activities, and therefore show their significant features in collecting evidence. [7]

As we have seen above, in the course of the operational measures carried out in accordance with the operational search activities and legislation of foreign countries, in the course of the operational measures carried out in accordance with the legislation of foreign countries, in the assessment of the objects

(objects) and documents obtained, found and collected as a result of the measures as evidence and in proving the criminality of the committed act or its exclusion, there are specific experimental bases in judicial and investigative practice, which requires the improvement of the activities aimed at implementing operational activities in the detection of various types of hidden or overt crimes in judicial and investigative activities, learning from world experience.

One of the most important factors in proving a crime detected during the judicial investigation is the identification and verification of initial information about the signs of the crime during the conducted operational-search measures, the collection of samples for comparative examination, the verification and registration of information about persons engaged in criminal activity and participating in the commission of the crime, ensuring the completeness of the body of evidence in the criminal case and gaining full confidence in issuing a verdict of guilty for the defendant's commission of the crime using such methods of proof as:

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