



Some Aspects Related To The Procedural Order Of Fixing Evidence-Based Information In Digital Media

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ABSTRACT

The article analyzes some issues related to the procedural order of collecting, fixing, and consolidating evidence information obtained using digital photography, video recordings and audio recordings.

KEYWORDS

Digital photo, video and audio recording; procedural order, collection of evidence, fixing evidence, consolidating evidence.

INTRODUCTION

The importance of digital photography, video and audio recording has grown immeasurably in the age of accelerated development of information technologies. At the same time, these tools provide great opportunities for collecting evidence in criminal proceedings and establishing the truth within the case. It should be taken into account that in the process of conducting a case, certain problems arise when

they are included in a criminal case, the order for registration and effective use in the process of proving events and facts recorded with the help of digital technical means.

RESULTS AND ITS DISCUSSION

In particular, cases of voluntary provision of photographs and video recordings by participants in criminal proceedings in pre-trials are increasing. Using modern multimedia tools and mobile phones, including photo and video equipment, you can shoot various events and incidents, using sound recording devices, record conversations. In most cases, individuals and representatives of legal entities who are not participants in the criminal process, using various technical means (video recordings, sound recordings, etc.), record various criminal acts (for example, extortion, bribery, bodily harm, insult, road transport incident, etc.). At the same time, only a small part of the materials obtained with the help of technical means meets the requirements specified in the Article 203 of the Criminal Procedure Code of the Republic of Uzbekistan and can be considered as material evidence.

According to the Article 203 of the Criminal Procedure Code of the Republic of Uzbekistan, materials received by e-mail and using other means of communication, as well as video and audio recordings, can be considered as material evidence only in cases where they were used as an instrument of crime or under certain circumstances. For example, in the event of a threat to life or extortion, if traces of a crime are preserved in them or the criminal actions of the accused are recorded [1, p. 76].

The practice shows that often materials obtained by citizens and officials using technical means outside the criminal process create certain difficulties in their registration in order to obtain the status of material evidence during the investigation of a criminal case.

Analysis of the system of methods for collecting evidence shows that the most optimal method for including in the process of proving materials obtained by individuals and

representatives of legal entities using technical means outside the criminal process is to present them at all stages of the criminal process in accordance with the procedure established by Articles 87, 198 and 200 of the Criminal Procedure Code of the Republic of Uzbekistan. At the same time, the law actually enshrines the ability of participants in criminal proceedings and other persons to directly present objects and materials, which can subsequently be used as material evidence and documents.

Of course, the provision of the above materials includes several interrelated processes. For example, the provision of recorded materials using technical means to the authorized person in charge of the case, or the provision by the directly authorized person of such audio, video recordings and photographs containing information of interest to the process. At the same time, the authorized person, in the presence of attesting witnesses, must draw up a protocol on the receipt of the object and documents in accordance with the Article 202 of the Criminal Procedure Code of the Republic of Uzbekistan.

The authorized person must carefully, fully and objectively study the provided technical means with the recorded information and all the circumstances contained in it. In accordance with the law, evaluate the submitted materials in terms of their involvement in the case, legality, acceptability and reliability. The authorized persons use all convincing evidence in the case as a basis for an appropriate decision on it.

In this case, special attention should be paid to the quality of the recording and sound. At the same time, it is imperative to involve appropriate specialists for an expert check of the quality and reliability of the provided audio and video recordings, photographs.

Due to the specifics of audio, video recordings and photographs recorded outside the criminal process by individuals and representatives of legal entities by technical means, the procedure and method for their study and assessment must be determined.

As confirmation, the following are the opinions of the procedural workers A. Davletov and V. Sementsov that “video and audio recordings are similar to material evidence from the point of view of the source, since information is stored on various electronic and mechanical media” [2, p. 53].

However, the display of information stored on magnetic tapes requires the use of specific methods that differ from those used when considering material and documentary evidence. That is, while physical evidence is usually verifiable visually, modern media (tape, disk, or other media) cannot be verified using inspection, observation and interpretation techniques.

CONCLUSIONS

The following conclusions can be drawn based on the above mentioned:

- Materials executed with the help or on the basis of technical means provided to the interrogating officer, investigator and prosecutor, receive the procedural status of evidence only after the pre-investigation inspection authorities draw up them in the protocol in accordance with the requirements of the criminal procedure legislation and they will be checked in the presence of a relevant specialist;
- Registration of acceptance of the provided object must be carried out in a documentary manner in the form of a protocol;
- The audio, video recordings and photographs provided as material

evidence, obtained with the help of technical means, must be checked in accordance with the current legislation in an expert manner.

Taking into account that the participants in the criminal process, defined in Articles 43, 44, 46, 48, 53, 55, 57, 59, 481, 532, 570 of the Criminal Procedure Code of the Republic of Uzbekistan, have the right to “provide evidence”, as well as that the provision of evidence consists in voluntary provision by a person of things or documents involved in the case, it would be advisable to supplement the Article 87 of the Criminal Procedure Code of the Republic of Uzbekistan with the following clause: “The suspect, the accused, the victim, the civil plaintiff, the civil defendant and their representatives, as well as other individuals and representatives of legal entities have the right to collect and provide materials and documents for inclusion in a criminal case as evidence”.

A similar practice of using an expanded evidence base in the pre-trial process and access to its provision by a more expanded category of persons is contained in the current Criminal Procedure Code of the Russian Federation and the Republic of Kazakhstan [3].

In addition, such a procedural action as “providing evidence”, provided for in the above articles, is not part of the investigative and judicial actions, but is the right of the participants in the process, that is, it is considered part of the procedural actions.

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