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Research Article

GENERAL CHARACTERISTICS OF PROVING IN CRIMINAL PROCEEDINGS

Submission Date: August 20, 2023, Accepted Date: August 25, 2023,

Published Date: August 30, 2023 |

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

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ABSTRACT

Some issues of proof in criminal proceedings, the specifics of the process of proving are discussed in the article. The author gives judgments on the optimization of the process of proof in criminal proceedings.

KEYWORDS

Criminal process, evidence, proof, features of evidence, inner conviction.

INTRODUCTION

One of the main issues in criminal proceedings is the issue of proving. It is the evidence that is the basis for bringing a person to justice or his release. The whole essence of proving is aimed at collecting, verifying and evaluating evidence, which ultimately serves to establish the truth about the circumstances that are important for the legal, reasonable and fair resolution of a criminal case.

Proving is an activity. This activity is of an intellectual, research nature. Evidence is carried out by authorized officials, namely the inquirer, investigator, prosecutor, court. Each of these persons at a certain stage of the

criminal proceedings carries out their functional duties to establish the truth about the circumstances that are important for the legal, reasonable and fair resolution of the criminal case. So, the inquirer at the stage of inquiry in a criminal case, carrying out the inquiry, collects the basis of evidence, conducts his own verification and evaluation of the evidence. The investigator, having checked the obtained evidence, passes it on to the next participant. Proving can be described as a consistent activity of the relevant officials to establish the truth about the circumstances that are important for the legal, reasonable and fair resolution of a criminal case.

Evidence is the core of the entire process of legal proceedings. The subject of proof is the same at all stages of the investigation and trial of a criminal case, but the procedural forms in which proof is carried out are different. These forms are determined by the specifics of the tasks that are solved at each stage of the process [4].

Proving consists in obtaining, verifying and evaluating evidence in order to establish circumstances that are important for the lawful, thorough and fair resolution of the prosecution. [8, art.138]

Proving is used in criminal cases, that is, specific life cases in respect of which law enforcement actions are carried out in connection with the resolution of the issue of criminal liability. It is used to establish not any, but, as a rule, only such circumstances, on the basis of which it is possible to make a decision on the case (subject of proof), giving an answer to the question of the criminal liability of a particular person. [5, p. 116].

The circle of participants in proving is not limited to officials. The suspect, the accused, the defendant, the defender, the public prosecutor, the public defender, as well as the victim, the civil plaintiff, the civil defendant and their representatives may also participate in this process. In this aspect, their function is aimed at protecting against suspicion, accusation (for example, the suspect, the accused, the defendant thus perform their defense function), or can be aimed at supporting the accusation (for example, by the victims). In addition, in the process of proving, representatives from the public can also perform a function - this is a public prosecutor and a public defender.

Sorkin V.S. highlights the following specific features of the implementation of evidence in criminal proceedings: [2, p.47]

- has a retrospective character (cognition is turned to the past and does not occur simultaneously with the event under study, but after some time);
- the study is carried out only by specially authorized participants by law;
- limited terms of knowledge established by law;
- the subject of knowledge is predetermined and limited by the circle of circumstances included in the subject of proof;
- knowledge occurs only with the help of the means provided for by the Code of Criminal Procedure and called evidence;
- the study (sensory and rational knowledge) of the circumstances is carried out in the procedural order established by law. Evidence is always accompanied by certification activities (fixing the course and results of each action), which allows persons who were not present during the ongoing actions to get an idea about them and check the compliance of the procedure for their production with the rules established by law;
- cyclicity and renewability of the process of proving (at each next stage of the criminal process, which involves full knowledge (proof), it is required to clarify the circumstances of the case again as if they had not yet been established at all in the previous stage); [3, p.418]
- the complexity of cognition by opposition to the investigation by persons wishing to avoid responsibility;
- the obligation to make a decision (in any case, the goal of knowledge must be achieved).

Summarizing the above, proving can be defined as a legally regulated, complex intellectual activity of collecting, verifying and evaluating evidence in order to establish the truth about the circumstances that are important for the legal, reasonable and fair resolution of a criminal case.

So, before revealing in detail each of the elements of proof, let us dwell on the circumstances that are subject to proof. Thus, according to Article 82 of the Code of Criminal Procedure of the Republic of Uzbekistan [1], in order to send a case to court with an indictment or indictment and to issue a guilty verdict, the following must be proven:

- 1) the object of the crime; the nature and extent of the harm caused by the crime; circumstances characterizing the identity of the victim;
- 2) the time, place, method, as well as other circumstances of the commission of the crime specified in the Criminal Code; causal relationship between the act and socially dangerous consequences;
- 3) commission of a crime by this person;
- 4) committing a crime with direct or indirect intent or through negligence or arrogance; motives and goals of the crime;
- 5) circumstances characterizing the personality of the accused, defendant.

In order to establish these circumstances, collection, verification and evaluation of evidence is carried out. The collection of evidence is the initial stage of the process of proving, it is carried out mainly at the stages of inquiry and preliminary investigation. Evidence is also collected in court, but more often the parties act in order to confirm their positions or refute the arguments of the other party on the evidence already available.

According to Article 87 of the Code of Criminal Procedure [1], evidence is collected through investigative and judicial actions: interrogations of a suspect, accused, defendant, witness, victim, expert; confrontations; presentation for identification; verification of testimony at the scene; notches; searches; inspections; surveys; exhumation of a

corpse; experiments; obtaining samples for expert examination; appointment of examinations and audits; acceptance of the submitted items and documents; listening to conversations conducted from telephones and other telecommunication devices, removing information transmitted through them, as well as by carrying out operational-search activities. There are no ready-made proofs; a certain sequence of actions is necessary to secure one or another material thing, information, etc. as evidence in a criminal case. It is important at this stage of proving to detect and fix (audio, video, protocol, videoconferencing, draw up an act, etc.) evidence. In addition, evidence can be presented, which can be described as a way for a participant in the process to exercise his right to participate in the process of proof.

After collecting and fixing evidence, it is necessary to carefully, fully, comprehensively and objectively check the evidence that can be used as the basis for a decision in a criminal case. Verification is the second stage of the process of proving in a criminal case. Verification consists in collecting additional evidence that can confirm or disprove the evidence being verified. For example, the primary collection of evidence was carried out by interrogating participants in the criminal process, in particular, the accused and the witness, however, during the investigation, discrepancies were revealed in their testimony on a key issue. To eliminate these discrepancies and verify the available evidence, the investigator may conduct a confrontation between these participants in the process. In simple terms, verification consists in analyzing and comparing the collected evidence for their further use in a criminal case.

Having studied the codes of other countries, it was revealed that the second stage of proof “verification” is fixed differently. So, for example, the Criminal

Procedure Code of the Republic of Kazakhstan establishes that “Proof consists in collecting, researching, evaluating and using evidence in order to establish circumstances that are important for a legitimate, justified and fair resolution of the case” [6, art. 124, 127]. In turn, the study includes an analysis of the evidence received, its comparison with other evidence, the collection of additional evidence, and the verification of the sources of evidence. We believe that this wording also fully reflects the essence of the second stage of proof in criminal cases.

Collected and verified evidence is subject to evaluation by officials. So, the inquirer, the investigator, the prosecutor and the court evaluate the evidence according to their inner conviction, based on a thorough, comprehensive, complete and objective study of all the circumstances of the case, guided by the law and legal consciousness.

Internal conviction as a cognitive result is a conviction in the establishment (not establishment) of any factual circumstances. This conviction must be based on the totality of evidence collected in the case, examined impartially, objectively. The knowledge gained must be justified, reasoned. In the psychological aspect, inner conviction is a feeling of confidence in the validity of one's conclusions about the circumstances of the case. [2, p.58]

The wording of the evaluation of evidence in the Criminal Procedure Code of Georgia is very interesting. Thus, the evidence is to be assessed in terms of its relevance to the criminal case, admissibility and reliability. The proof has no predetermined force. In order for a person to be found guilty on a guilty verdict, a body of evidence consistent with each other that does not cause reasonable doubt is required. [7, article 82].

Evidence is assessed at every stage of the criminal process. Persuasion as a process involves the formation of one's own view of the circumstances of the material under study. At the same time, it is important to direct this intellectual activity towards ensuring the criteria of evidence, namely, relevance, admissibility and reliability. Also of interest is the wording in the Criminal Procedure Code of Azerbaijan: “Each evidence must be assessed according to its belonging, possibility, reliability. And all the evidence collected in the criminal prosecution in their totality must be assessed to resolve the charge on the basis of their sufficiency.” [8, art.145]

Evidence is recognized as relevant to a criminal case if it is information about facts or objects that confirm, refute or cast doubt on the conclusions about the existence of circumstances relevant to the case. Evidence is admissible if it is collected in the prescribed manner and complies with the conditions set forth in Articles 88, 90, 92-94 of the Code of Criminal Procedure [1]. Evidence is recognized as reliable if, as a result of verification, it turns out that it corresponds to reality. Each proof must include a complex of these properties. The absence of at least one of these criteria does not allow the use of evidence in a criminal case.

Summarizing the above, the following conclusions can be drawn:

1. Evidence is the consistent activity of the relevant officials to establish the truth about the circumstances that are important for the legal, reasonable and fair resolution of a criminal case. The proof is intellectual and exploratory in nature.
2. The process of proof includes the collection, verification and evaluation of evidence. Each of the stages is interconnected and mandatory.
3. When evaluating evidence, it is important to ensure and comply with the criteria of relevance,

reliability and admissibility of evidence in accordance with the law.

4. Inner conviction must be based on a thorough, comprehensive, complete and objective study of all the circumstances of the case, guided by the law and legal consciousness.

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