



ASSESSMENT CRITERIA OF EVIDENCE IN PROVING A PERSON'S GUILT UNDER THE PRESUMPTION OF INNOCENCE

Yulchiev Bakhodirjon Sobirovich

Senior Inspector of the Main Department of Migration and Citizenship
of the Ministry of Internal Affairs,
<https://doi.org/10.5281/zenodo.17142799>

Annatation: in this article, the main criteria for evaluating evidence in the process of proving identity, the procedure for evaluating them, the analysis of national legislation and the legislation of foreign countries, some problems that arise in the practice of law enforcement today, and suggestions and recommendations aimed at their elimination have been developed in this article.

Key words: presumption of innocence, proving a person's guilt, sufficiency of evidence, admissibility of evidence, reliable evidence, evaluation of evidence.

A person accused of committing a crime is presumed innocent until his guilt is proven in a public trial in accordance with the procedure established by law and determined by a court verdict that has entered into legal force. In this context, it is appropriate to clarify the meaning of the phrase "until proven in accordance with the procedure established by law."

According to Article 85 of the current Criminal Procedure Code, proof consists of the collection, examination and evaluation of evidence in order to establish the truth about the circumstances that are important for a lawful, justified and fair resolution of the case¹. It follows that proving a person's guilt in accordance with the procedure established by law is a very broad concept.

In pre-trial proceedings, the proof of a person's guilt in accordance with the procedure established by law is carried out through the collection, examination and evaluation of evidence, in which two aspects of the issue are of great importance, namely the admissibility and sufficiency of evidence.

As is known, according to paragraph 1 of the Resolution of the Plenum of the Supreme Court No. 24 "On Certain Issues of the Application of the Norms of Criminal Procedure Law on the Admissibility of Evidence", it is established that attention should be paid to the need to observe the presumption of innocence enshrined in the Constitution of the Republic of Uzbekistan, according to which a person is considered innocent until his guilt in committing a crime is proven in accordance with the procedure established by law and determined by a court verdict that has entered into legal force².

According to this resolution, the following conditions are established for the admissibility of evidence:

- *the evidence must have been obtained by the relevant entity, that is, the person authorized to conduct the procedural action related to the receipt of the evidence;*

¹ Criminal Procedure Code of the Republic of Uzbekistan Vol., – 2025. <https://lex.uz/docs/111460> (Accessed on: 06.04.2025).

² Resolution No. 24 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated August 24, 2018 "On certain issues of the application of the norms of criminal procedural law on the admissibility of evidence."

- the factual information must have been obtained only from the sources specified in Part 2 of Article 81 of the CPC;

- the evidence must have been obtained in compliance with the rules and procedure for conducting the procedural action related to its receipt;

- all requirements of the law on recording the process and results of the investigation and judicial action must have been observed when obtaining the evidence.

According to paragraph 6 of the Resolution No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On Court Judgments" dated May 23, 2014, "all evidence obtained in violation of the law shall not have legal force and shall not be reflected in the judgment, nor shall it be taken as a basis for the judgment. Evidence obtained in violation of the law shall include evidence obtained using illegal (use of mental and physical force) methods of investigation or evidence obtained as a result of violation of other norms of criminal procedural law (for example, violation of the right to defense). If evidence is recognized as obtained in violation of the law, the court must justify its decision to exclude it from the body of evidence in the case, indicating what the violation of the law consists of. When assessing evidence as obtained in violation of the law, the court, based on the principle of the presumption of innocence provided for in Article 23 of the Code of Criminal Procedure, shall remove any doubt about the admissibility and impartiality of the evidence, if it is possible to eliminate it. otherwise, it must be decided in favor of the defendant³.

Although Resolution No. 24 of the Plenum of the Supreme Court established that failure to comply with any of the conditions for the admissibility of evidence is grounds for declaring the evidence inadmissible, today in the practice of law enforcement we can witness several cases of non-compliance with these rules.

1. Inquiry officers and investigators shall obtain information from persons immediately upon arrival at their office, without explaining to them their rights and obligations specified in the law, and shall conduct a conversation on the circumstances of the case.

However, according to Article 88, Part 1, Clause 6 of the CPC, it is prohibited to obtain any written or oral testimony from a person until his procedural rights have been explained to him⁴. However, many practitioners do not pay attention to this fact and, saying that they will "explain their rights during the interrogation," involuntarily begin to take statements from the participants in the process on the circumstances of the case from the moment they are brought to the office.

From a forensic point of view, it is important to establish psychological contact with the interrogated person before starting the interrogation. However, this should not be confused with the rule mentioned above. Otherwise, all the statements given by the person during the interrogation can automatically become inadmissible evidence.

2. One of the main problems in practice is the interrogation of a participant in the process in a case being conducted by another investigator. In some cases, the investigator, the investigator, the participant in the process being questioned in the criminal case under his control, because he himself is absent from the prosecutor's office or the court, and therefore

³ Resolution No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 23, 2014 "On the Court's Judgment".

⁴ Criminal Procedure Code of the Republic of Uzbekistan Vol., "Legal Literature Publication" – 2025. <https://lex.uz/docs/111460> (Accessed: 06.04.2025).

does not have the opportunity to question him, asks the investigator, who works in the same department, to interrogate him in order not to keep the citizen waiting.

Because the first rule of the Plenum of the Supreme Court on the conditions of admissibility of evidence, namely, the rule that the evidence must be obtained by the relevant subject, that is, by the person authorized to conduct the procedural action related to the receipt of evidence, contradicts the rule.

When law enforcement officers were asked, "Have you ever asked another investigator or inquiry officer to interrogate a participant in a criminal case under your jurisdiction?" 85 percent of them answered, "I sometimes do so to avoid keeping citizens waiting."⁵ However, all investigation offices are equipped with surveillance cameras, which means that the statements obtained from the suspect, accused or his defense attorney may become inadmissible evidence as a result of a petition to the court.

3. It is impossible not to dwell on one of the most common violations of the law on the admissibility of evidence today - the conduct of search and seizure measures in violation of current legislation or the failure to comply with procedural rules in formalizing their results.

Based on the above considerations and considerations, in order to ensure that search and seizure measures carried out in connection with possible crimes are carried out effectively and in full compliance with the requirements of procedural legislation, it is recommended to ensure the participation of an employee of the investigative body in them.

The second important condition for proving a person's guilt in a criminal case in accordance with the procedure established by law is the sufficiency of this evidence.

According to the third paragraph of paragraph 6 of the Resolution No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the Court Verdict" dated May 23, 2014, it is noted that the reasoned conclusion of the court that the evidence collected in the case is insufficient, that the evidence is not considered evidence due to its being obtained contrary to the law, or that it is impossible to eliminate doubt about the defendant's full guilt in the charges brought against him shall be the basis for issuing an acquittal⁶.

By studying the acquittals issued in law enforcement practice today, it has become clear that there are different approaches to directly analyzing the evidence and assessing whether this evidence is sufficient or insufficient to convict a person of a socially dangerous act committed by inquiry officers and investigators without observing the principle of the presumption of innocence⁷.

According to B.A. Rajabov, although it is firmly established that all doubts about guilt, if all possibilities for their elimination have been exhausted, should be resolved in favor of the suspect, accused or defendant, in judicial and investigative practice, the problem of how to resolve the fate of a criminal case, even if all possibilities for their elimination have been exhausted, is a problem, which leads to the entities responsible for conducting it making different decisions⁸.

According to B.A. Saidov, the presumption of innocence in criminal cases operates as follows: first, the general burden of proof, that is, the blame placed on the accused and the defendant, remains with the prosecution throughout the entire process; second, if there is doubt about the

⁵ Analytical results of the interview method conducted among practitioners during the study.

⁶ Resolution No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 23, 2014 "On the Court's Judgment",

⁷ That source.

⁸ B.A. Rajabov, doctoral dissertation "Ensuring compliance with the general conditions of proof in pre-trial proceedings." T-2019. 418 p..

sufficiency or admissibility of the evidence of the guilt of both the accused and the defendant, the accusation is recognized as not proven⁹.

In some foreign countries, including Germany, great attention is paid to the rights of the suspect during the investigation process. Also, in Germany, based on the principle of "equality before the law", investigators and prosecutors are obliged to find not only incriminating but also exculpatory evidence¹⁰.

Article 14 of the International Covenant on Civil and Political Rights (ICCPR) establishes the rights of the suspect to a fair trial and the conditions for ensuring the legality and reliability of the evidence of his guilt.¹¹

The investigator, inquiry officer, does not conduct certain investigative actions (interrogating the victim, suspect, witnesses, ordering examinations, confronting, presenting them for identification, etc.) and transfer the criminal case to court or collect evidence confirming the accusation so that the criminal case "passes smoothly in court", but rather, by carrying out all the necessary investigative and procedural actions based on the circumstances of the case, he provides a complete, objective and truthful assessment of the situation - creating the basis for proving the guilt of a person in the manner established by law.

It is advisable for the investigator, inquiry officer to analyze all the evidence collected since the initiation of each criminal case under his jurisdiction and, relying on his inner confidence and legal awareness, to provide an objective legal assessment, separating it into evidence confirming, refuting and casting doubt on the accusation.

By the way, according to the second part of **Article 379** of the Criminal Procedure Code, the descriptive and substantiating part of the indictment must set out the circumstances established during the preliminary investigation, as well as the evidence confirming the guilt of the accused, as well as the reasons given by the accused in his defense and the results of their investigation¹². However, in practice, it can be seen that this is not reflected in almost all criminal cases being investigated.

It has also become known that, according to the practice of law enforcement in some places, before the initiation of each criminal case, a decision to initiate the case and a reference document indicating the specific evidence of the person's guilt are submitted to the relevant supervising prosecutor. Naturally, as a result of this practice, the inquiry officer and investigators collect only evidence confirming the person's guilt in a criminal case that has not yet been initiated, and lead to cases where the investigation is conducted unilaterally and the principle of the presumption of innocence is not observed.

Based on the above and the analysis of law enforcement practice, it is recommended to adhere to the following aspects when making a final decision in a criminal case, adhering to the principle of the presumption of innocence:

⁹ Doctoral dissertation for the degree of Doctor of Law Sciences B.A. Saidov "Constitutional rights and freedoms of the individual in pre-trial proceedings". T-2020. 318 p..

¹⁰ <https://gemini.google.com/app/4c6f987ee5b8c9b2?hl=ru> (Date of application: 20.01.2024).

¹¹ https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/presumption-innocence?utm_source=chatgpt.com (Date of application: 20.01.2024).

¹² Ўзбекистон Республикаси Жиноят-процессуал кодекси Т., 2024 <https://lex.uz/docs/111460> (Мурожаат қилинган сана: 22.01.2024-й.).

1. To objectively examine the arguments presented by the defense attorneys in the motions submitted during the evidentiary process, as well as those presented by the suspect or accused;

2. To evaluate all evidence collected before the indictment against a person, dividing it into "confirming the accusation", "refuting the accusation" and "putting it into doubt", relying on internal confidence and legal awareness;

3. To involve specialists with advanced knowledge and extensive practical experience in the evaluation of evidence and to introduce mechanisms for taking their opinions into account

4. To establish a system for monitoring the implementation of the presumption of innocence in investigations and courts;

5. In the indictment or indictment of a criminal case, along with the evidence confirming the guilt of the accused, the evidence denying his guilt should be reflected, as well as the results of the study of the arguments presented by the person and the materials submitted by the defense attorney.

By fully implementing this practice, the following positive results can be achieved:

- all investigative actions by the inquiry officer and investigator should be conducted in due procedural order, correctly and impartially;

- to prevent the supervising prosecutor and judge from imagining the person as the culprit in their minds during the process of familiarizing themselves with the criminal case and to ensure transparency in the case;

- to collect both exculpatory and incriminating evidence in the case;

- to fully consider the petition submitted by the defense attorney;

- can serve to ensure a full investigation of the motives of the suspect and the accused and achieve other positive results related to ensuring compliance with the principle of the presumption of innocence at the pre-trial stage of such a case.

List of used literature:

1. Criminal Procedure Code of the Republic of Uzbekistan Vol., – 2025. <https://lex.uz/docs/111460> (Date of access: 06.04.2025).

2. Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On certain issues of application of the norms of criminal procedure law on the admissibility of evidence" No. 24 dated August 24, 2018.

3. Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the court verdict" No. 7 dated May 23, 2014.

4. Criminalistics: textbook for applied bachelor's degree / A.G. Filippov [and others]; edited by A.G. Filippova. – 3rd ed., revised and supplemented – M.: Yurayt, 2019. – 466 p.

5. Analytical results of the interview method conducted among practitioners during the study.

6. B.A.Rajabov, doctoral dissertation "Ensuring compliance with the general conditions of proof in pre-trial proceedings". T-2019. 418 p.

7. B.A.Saidov, doctoral dissertation for the degree of Doctor of Law "Constitutional rights and freedoms of the individual in pre-trial proceedings".

T-2020. 318 p.

8. <https://gemini.google.com/app/4c6f987ee5b8c9b2?hl=ru> (Date of access: 20.01.2024).

9. https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/presumption-innocence?utm_source=chatgpt.com (Accessed: 20.01.2024).