

Entstehungs- und Entwicklungsstadien der Notwendigkeit des Einsatzes von Informationstechnologie in der vorgerichtlichen Phase

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Abstrakt. Dieser Artikel soll die Entstehung der Notwendigkeit des Einsatzes der Informationstechnologie in Strafverfahren, ihre Entwicklung, die Verfahrensgrundlagen, das Verfahren der Nutzung digitaler Medien und die Entwicklungsstadien des rechtlichen Rahmens für die Registrierung behandeln. Der Prozess der Verbesserung des Einsatzes der Informationstechnologie und die Einzelheiten der Durchführung von Verfahrenshandlungen unter Verwendung dieser sind in den Strafprozessgesetzen der Republik Usbekistan geregelt. Der Artikel untersucht die internationale und nationale Gesetzgebung, analysiert die bestehenden Probleme im Land und bietet wissenschaftliche und rechtsdoktrinäre Lösungen.

Schlüsselwörter: Information, Technologie, Kriminalität, Ermittlung, Code, Video, Videokonferenz, Überprüfung, Verhör.

Emergence and development stages of the need for using information technology in the pre-trial stage

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Abstract. This article is prepared to cover up the emergence of the need for using information technology in criminal proceedings, its development, the procedural basis, the procedure of the use of digital media and the stages of development of the legal framework for registration. The process of improving the use of information technology, the specifics of the implementation of procedural actions using them are covered in the criminal procedure legislation of the Republic of Uzbekistan. The article examines international and national legislation, as well as analyzes the existing problems in the country and provides scientific and legal doctrinal solutions.

Keywords: information, technology, crime, investigation, code, video, videoconference, review, interrogation.

Various debates are being held in criminal proceedings to determine the scope, content and procedural order of information obtained using information technology in the collection, examination and evaluation of evidence, which is the basis of evidence

in the pre-trial proceedings. The criminal procedure law does not provide for the concepts of “information technology”, “information carrier” or “electronic evidence”, which are described in the scientific literature based on different approaches.

There is no denying that information technology, which is an “electronic carrier of information” in criminal proceedings, forms the basis of evidence. At the same time, the criminal procedure legislation itself contains several norms that provide for strengthening the evidence base in electronic form.

The concept of information related to the use and proof of information technology in pre-trial proceedings are also studied in the scientific research of V.T. Bolychev¹, A.G. Volevodz², N.A. Zigura³, V.A. Kamyshin³, M.S. Sergeyev⁴ and others.

In particular, M.S. Sergeyev points out that the history of the development of the use of electronic means in the formation of the evidence base dates back to the XVI century, when the observation camera was created. The author also points to the 1882 Circular of the Police Department, which mentions photography and photo-fixation, and argues that this is the basis for the development of the use of electronic means in conduction of criminal proceedings⁵.

In our opinion, it is inappropriate to present the data as the evolution or genesis of the use of electronic media in proving the opinion expressed by the author. Consequently, photography is one of the directions in engineering and art, which involves the technical stamping of information about a place, person, or event on light-sensitive materials using optical means⁶. Therefore, it is inappropriate to evaluate this process as a stage of improvement in the use of information technology in criminal proceedings.

In this regard, we believe that criminal procedure legislation should take into account the time when the use of audio media in conduction of procedural actions as a gradual use of information technology. By the Decree of the Presidium of the Supreme Soviet of the RSFSR of August 31, 1966 “On introducing amendments and addenda to the Criminal Procedure Code of the RSFSR” the CPC was supplemented by Article 141¹, entitled “Use of voice recording during the interrogation”⁷ and legally established the procedural order of the use of audio recording during the interrogation.

In addition, from the second half of the twentieth century, video and film began to be widely used to ensure the effective recording of the results of investigative actions. A search of the scene, interrogation, identification demonstrations and several other investigative actions began to be recorded using videotapes. It is noteworthy that in these times, voice recording was recorded as a result of the vibration of electronic impulses, which can be considered as the genesis of the use of information technology in criminal proceedings.

Since the 90s of the last century, the rapid development of electronic computers has led to the use of electronic computers in various spheres of society, including in criminal proceedings.

As a result, in the pre-trial stage of the case began to be used mainly in activities that involve the use of electronic computers in two directions, which in turn determine the genesis of these areas:

1) the use of electronic computers in the process of direct proof (inspection of the scene or other investigation – video, audio, or photography during the proceedings);

2) the transition from manual or automatic registration of the process to the registration of electronic computers (electronic machines, the first computers, etc.)

As a result of this gradual development, by the end of the 1990s, digital technologies were gradually entering the sphere.

As a result, at the stage of criminal proceedings, there is an opportunity to record information in electronic and digital form, use it as a digital file, transfer, receive and carry it to other digital information technologies.

A study of the level of use of information technology in criminal investigations shows that in 95% of cases, pre-trial investigation, inquiry and evidence processing by officials responsible for pre-trial proceedings are carried out directly using information technology.

19 of the Code of Criminal Procedure of the Republic of Uzbekistan⁸ adopted after independence (Public hearing of criminal cases in court), 69 (Specialist), 81 (Types of evidence), 91 (Auxiliary methods of recording evidence. Appendices to the Protocol, Article 106 (recording of the interrogation process and results), 136 (general rules of the examination procedure), 151 (protocol of exhumation of the corpse), 155 (procedure of experimenting), 426 (protocol of the court session) the legal basis for recording on video or film has been established.

In addition, the Law of the Republic of Uzbekistan of April 18, 2018 “On introducing amendments and addenda to some legislative acts of the Republic of Uzbekistan” No. LRU-476⁹ introduced the procedure for the use of audio recordings in criminal proceedings.

The real use of information technology in criminal proceedings, the Law of the Republic of Uzbekistan “On introducing amendments and addenda to certain legislative acts of the Republic of Uzbekistan” No. LRU-476¹⁰ of April 18, 2018, Articles 19 (public hearing of criminal cases in court), 114 (procedure for interrogation of witnesses and victims), 318 (procedural costs), 418 (postponement of criminal proceedings), 426 (minutes of the court session) of the Criminal Procedure Code was reflected in the introduction of the concept, procedure and grounds for the use of video-conference during the trial.

In the next stage of the widespread use of information technology in criminal proceedings, the Law of the Republic of Uzbekistan No. LRU-542 of May 23, 2019 “On introducing amendments and addenda to certain legislative acts of the Republic of Uzbekistan concerning the protection of the rights of participants in criminal proceedings” was supplemented by Articles 91¹-91⁴ of the Criminal Procedure Code. It describes the concept, grounds, conditions and procedure for conducting investigative actions by videoconferencing, as well as recording the results.

Thus, the legal basis for the use of information technology in criminal proceedings in national legislation, their scope, application process and the procedure has been expanded.

In particular, the Law of the Republic of Uzbekistan No. LRU-617¹¹ of May 14, 2020 “On introducing amendments and addenda to the Criminal Procedure Code of the Republic of Uzbekistan aimed at strengthening the protection of the rights and freedoms of citizens participating in criminal proceedings” amendments were introduced to the procedure for carrying out procedural actions that must be recorded on video during the criminal proceedings.

For example, a new version of Article 91 of the Code of Criminal Procedure stipulates that in the case of a serious crime, a search of the scene of a crime, search, examination of evidence at the scene, investigative experiment, arrest of a person, renunciation of a lawyer, all search and seizure proceedings are compulsorily recorded on video.

The use of information technology in the pre-trial phase has reached such a level that even procedural actions taken and recorded without their use have lost their relevance.

In addition, information technology has come to be seen not only as a pre-trial procedure, but also as a guarantee of a person’s rights, freedoms and legitimate interests in criminal proceedings in general.

Taking into account the rapid development of time and the fact that information technology has become an indispensable tool, it is not difficult to predict that with a pragmatic approach to the future of criminal proceedings, in the future will be fully covered by information technology, if necessary, some procedural actions will be performed using artificial intelligence. Of course, this also requires the development of criminal procedural law in synchronization with time and space.

The widespread introduction of information technology in criminal proceedings of inquiry and investigation bodies will undoubtedly serve as a factor to ensure further protection of the rights, freedoms and legitimate interests of the participants in the process, a thorough investigation of the facts of the criminal case, to conduct the work comprehensively, completely and objectively, as well as a fair assessment of the person’s guilt.

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