

Specific Aspects of Interrogation in Videoconferencing Mode

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Abstract: This article discusses the specific features of conducting interrogation as an investigative action via videoconferencing. Additionally, it examines the legislative gaps in this area and provides proposals and recommendations for addressing these gaps and ensuring the effective use of videoconferencing in the future.

Keywords: videoconferencing, interrogation, investigative action, witness, victim.

Introduction

As we all know, today information technologies are deeply penetrating all aspects of our lives. Currently, the use of information technologies is gaining importance all over the world. The use of modern information technologies allows people to simplify their problems, spend less time, money, effort and resources, and achieve more results. However, at the same time, the scale of crimes committed in this area is increasing day by day, leading to the emergence of new types of crimes unknown to humanity, and the emergence of new methods of committing crimes. Therefore, drawing timely conclusions from the above, today it would be appropriate for us to establish a wider use of modern information technologies in the fight against crimes and in the investigation of crimes.

For example, the Law of the Republic of Uzbekistan No. LRU-542¹ dated May 23, 2019 “On Amendments and Addenda to Certain Legislative Acts of the Republic of Uzbekistan Related to Ensuring the Protection of the Rights of Participants in Criminal Proceedings” added new Articles 91¹-91⁴ to the Criminal Procedure Code on the Conduct of Investigations in the Mode of Videoconferencing, which made it possible to prove the case using modern information technologies.

The Decree of the President of the Republic of Uzbekistan No. PD-6041² dated August 10, 2020 “On Measures to Further Strengthen Guarantees for the Protection of the Rights and Freedoms of the Individual in Judicial and Investigative Activities” also identified the widespread introduction of modern information and communication technologies into the investigation of criminal cases as one of the main directions for further improving judicial and investigative activities, which would not be an exaggeration to say that this brought the implementation of criminal procedural activities using modern information technologies to a new level.

¹ <https://lex.uz/docs/4349703> (Accessed on: 10.03.2025)

² <https://lex.uz/docs/4939467> (Accessed on: 10.03.2025)

Methodology

Videoconferencing is an interactive interaction of several remote subscribers using information and communication technologies with the possibility of exchanging audio and video information in real time³.

According to the law, investigative actions, such as interrogations of witnesses, victims, suspects and accused, identification of persons and things, and confrontation, are carried out in the videoconferencing mode in the following cases:

- 1) when a person is unable to come directly to the body investigating the criminal case or to the place where the investigative action is being carried out due to his health condition or other valid reasons;
- 2) when there is a need to ensure the safety of participants in the criminal process;
- 3) when urgent investigative actions are being carried out;
- 4) when there are reasonable grounds to believe that conducting the investigative action may complicate or entail excessive costs⁴.

The inclusion of a provision in our criminal procedural legislation allowing for the interrogation of suspects via videoconferencing helps prevent unnecessary expenditure of effort, time, and energy by investigators. However, an analysis of judicial and investigative practices, as well as certain normative-legal documents, reveals the existence of several conflicting provisions and gaps in our legislation regarding this matter. These errors and shortcomings necessitate a deeper analysis of existing laws, the identification of contradictions and inconsistencies, and the development of well-founded proposals and recommendations to address them.

As the leader of our country, Shavkat Mirziyoyev, has emphasized: “At present, we fully understand that we still have great tasks ahead of us to fully implement the requirements of our Constitution. That is, we must continue to work hard to further improve the living standards and quality of life of our people, as well as to ensure the real protection of human rights and interests. Most importantly, our people should feel the benefits of reforms not in the distant future but today, in their daily lives.”⁵

It is well known that investigative authorities play an invaluable role in ensuring the rule of law in society. That is why a significant part of the ongoing reforms is aimed at improving this sector. As B.B. Murodov stated, “The systematic and consistent reforms carried out in the judicial and legal sphere during the years of independence are primarily significant because they aim to strengthen the principles of humanism in criminal and criminal-procedural legislation.”⁶

However, despite the adoption of numerous laws, subordinate acts, and other normative-legal documents aimed at fundamentally improving judicial and investigative activities, and despite the ongoing systematic reforms, there are still areas in the field of criminal investigation and related legislation that require improvement. There are still gaps, errors, and shortcomings that need to be addressed. The same applies to the interrogation process via videoconferencing.

Based on the above considerations, let us now proceed to analyze the existing gaps, errors, and shortcomings in our legislation regarding interrogations conducted via videoconferencing.

³ Ўзбекистон Республикасининг “Жисмоний ва юридик шахсларнинг мурожаатлари тўғрисида”ги 2017 йил 12 сентябрдаги ЎРҚ-445-сон қонуни // URL: <https://lex.uz/docs/3336169>. (Accessed on: 10.03.2023)

⁴ Ўзбекистон Республикасининг Жиноят-процессуал кодекси // <https://lex.uz/docs/111460> (Accessed on: 14.03.2023)

⁵ Ўзбекистон Республикаси Президенти Ш.М.Мирзиёевнинг Ўзбекистон Республикаси Конституцияси қабул қилинганининг 25 йиллигига бағ’ишланган тантанали маросимдаги «Конституция – эркин ва фаровон ҳаётимиз, мамлакатимизни янада тараққий эттиришнинг мустаҳкам пойдеворидир» мавзусида сўзлаган маърузаси // Халқ сўзи. – 2017. – 7 дек.

⁶ Мurodov Б.Б. Жиноят ишени тугатиш институтини такомиллаштириш. Юридик фанлар бўйича (DSc) диссертацияси. ИИВ Академияси. –Т., 2018. – 214 б.;

First of all, we all know that according to Part 2 of Article 81 of the Criminal Procedure Code of the Republic of Uzbekistan (hereinafter referred to as the CPC), the statements of a witness, victim, suspect, accused and defendant taken during interrogation are considered evidence in a criminal case. However, according to Article 95 of the CPC, these statements are recognized as admissible only if they are collected in the established manner and comply with the conditions provided for in Articles 88, 90, 92-94 of this Code.

In fact, the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 24 dated August 24, 2018 “On Certain Issues of the Application of the Norms of Criminal Procedure Law on the Admissibility of Evidence” states that one of the conditions for the admissibility of evidence is that the evidence must be obtained by the relevant entity, that is, by an official authorized to conduct procedural actions related to the receipt of evidence, and evidence obtained without a written order from an inquiry officer, investigator or prosecutor by a body carrying out pre-investigation or operational search activities, or by an investigator (investigator) who did not accept the case for his/her consideration in the established manner or was not included in the group of investigators (investigators), or by a person who should be rejected on the grounds provided for in Article 76 of the CPC is considered inadmissible⁷.

Article 347 of the Criminal Procedure Code states that each investigator has the right to personally carry out any investigative action on a criminal case under his/her control anywhere in the territory of the Republic of Uzbekistan or to delegate its conduct to another investigator or inquiry officer. Also, Article 354 of the Criminal Procedure Code states that if a criminal case is labor-intensive, very complex or extremely urgent, the prosecutor or the head of the investigation department may delegate the preliminary investigation of this case to a permanent or specially formed investigation group, while the second part of Article 356 states that the results of investigative actions carried out by investigators who are members of the group have the same significance as the results of the actions carried out by the investigator who accepted the criminal case. However, the first part of Article 91³ of the Criminal Procedure Code, entitled “Conditions and Procedure for Conducting Investigative Actions via Videoconferencing,” states that “in the event of a decision to conduct a specific investigative action via videoconferencing, the inquiry officer, investigator, prosecutor or court shall send an order to the relevant body in accordance with the requirements of this Code with a request to summon a specific participant in the criminal process and organize the conduct of the investigative action via videoconferencing.” However, this norm does not specify to whom the order will be sent. Also, the content of the norm provides that the “body” to which the order will be sent will only summon a specific participant in the criminal process and organize the conduct of the investigative action via videoconferencing. However, the second part of Article 91⁴ stipulates that a protocol on the course of an investigative action conducted via videoconference shall be drawn up by the inquiry officer, investigator, prosecutor or court and the official executing the assignment, and Part 5 stipulates that the protocol shall be signed by the inquiry officer, investigator, prosecutor or court, the “official” executing the assignment, and other participants in the investigative action, and that the protocol drawn up by the “official” executing the assignment shall be sent to the inquiry officer, investigator, prosecutor or court. In our opinion, the content of these norms contradicts the Code of Criminal Procedure and the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan “On Certain Issues of the Application of the Norms of the Criminal Procedure Code on the Admissibility of Evidence”. In turn, this leads to the assessment of the protocols of interrogations and other investigative actions conducted via videoconference as inadmissible evidence.

⁷ Ўзбекистон Республикаси Олий суди Пленумининг «Далиллар мақбуллигига оид жиноят-процессуал қонуни нормаларини қўллашнинг айрим масалалари тўғрисида»ги 2018 йил 24 августдаги 24-сонли қарори // <http://lex.uz>. (Ўзбекистон Республикаси Қонун ҳужжатлари маълумотлари миллий базаси). (Accessed on: 15.03.2025)

Results and discussion

In this regard, we fully support M.E. Muminov's opinion that the current state of practice related to the formalization of the process and results of investigative actions conducted via videoconference does not fully comply with the rules of admissibility of evidence⁸.

Secondly, although Article 99 of the Criminal Procedure Code (CPC) raises questions regarding whether the interrogated person understands the language of the proceedings and in which language they can testify, it is stated that this issue must be clarified. Furthermore, in cases provided for in Article 71 of the CPC, a translator must be summoned, and the interrogation must be suspended until their arrival. However, Article 913, Part 4 of the CPC only states that interrogation via videoconferencing must be conducted based on the general rules of interrogation outlined in Articles 96-108 and 112-131 of the CPC. It does not specify who is responsible for providing a translator or from which side the translator should participate in the investigative action.

In our opinion, if it is established during the investigative action that the participants in the proceedings do not understand the language of the criminal case, a translator should be involved in accordance with Article 71 of the CPC of the Republic of Uzbekistan. Additionally, the translator must be informed of their rights and obligations in accordance with Article 72 of the CPC, and a written undertaking regarding the confidentiality of the investigation must be obtained. This ensures the participant's right to communicate in their native language. It is advisable for the translator to be present on the side where the participant in the proceedings is located. From this perspective, the authority conducting the investigation must take measures to provide the participant with a translator.

It is known that Article 19 of the Criminal Procedure Code (CPC) states that all criminal cases must be heard publicly in courts, except in cases where doing so would contradict the interests of protecting state secrets or when cases involving sexual offenses are being considered. At first glance, these two norms may seem contradictory. However, the judicial process also serves the function of protecting the rights of other citizens and the interests of the state and society.

To fulfill this function, the law establishes that cases involving state secrets, sexual offenses, crimes committed by individuals under eighteen, personal information concerning citizens, or information that may defame or degrade their honor and dignity must be considered in closed court sessions. Additionally, if ensuring the safety of victims, witnesses, other participants in the proceedings, or their family members and close relatives is required, such cases may also be heard in closed sessions by court order. The law allows criminal cases to be heard publicly in court, either on the court's initiative or at the request of the participants in the criminal proceedings, using audio and video recording, as well as videoconferencing. However, the use of videoconferencing is prohibited in cases considered in closed court sessions, and such sessions cannot be recorded via audio or video. Based on these provisions, despite the fact that videoconferencing ensures information security through VPN-protected communication channels, it would be appropriate to introduce a legal provision stating that investigative actions related to criminal cases involving state or official secrets, as well as personal data, should not be conducted via videoconferencing due to the risk of disclosure. Instead, such investigative actions should be carried out in person with the direct participation of the involved parties.

Fourthly, the legislation does not specify who is responsible for ensuring the participation of the defense attorney during an interrogation conducted via videoconferencing, nor does it clarify on which side the defense attorney should be present.

⁸ Муминов М.Э. Ишни судга кадар юрителишда далилларни процессуал расмийлаштиришни такомиллаштириш. Юридик фанлар бўйича фалсафа доктори (PhD) диссертацияси. ИИВ Академияси. –Т., 2021. – 140 б.;

In our opinion, the defense attorney may participate from the side of the interrogating party and protect the rights of the person under their defense in this manner. In such a case, the consent of the interrogated person is required. This procedure applies not only to attorneys but also to other defenders involved in the proceedings.

Moreover, there is no legal provision limiting the number of defenders representing participants in the proceedings. This means that the presence of defense attorneys on both sides during the investigative action cannot be ruled out. However, if only one defense attorney is present during an interrogation conducted via videoconferencing, it is preferable for them to participate from the side of the process participant. This is because, before the investigative action takes place, the process participant has the right to meet privately with their defense attorney.

Based on the issues discussed and analyzed above, we propose that Article 913 of the Criminal Procedure Code (CPC) be amended as follows:

*"If a decision is made to conduct a specific investigative action via videoconferencing, the inquiry officer, investigator, prosecutor, or court shall send an order to another investigator or inquiry officer in accordance with the requirements of this Code, requesting them to summon the relevant participant in the criminal process, organize the investigative action via videoconferencing, and assist in conducting the investigative action.

The investigator or inquiry officer executing the order of the inquiry officer, investigator, prosecutor, or court must verify the identity documents of the summoned participant in the criminal process, ensure that their rights provided under this Code are upheld, and remain present until the investigative action is completed.

The investigator or inquiry officer executing the order of the inquiry officer, investigator, prosecutor, or court may engage an interpreter and other specialists for conducting the investigative action via videoconferencing.

Interrogation, identification of persons or objects, or confrontations conducted via videoconferencing shall comply with the requirements set forth in Articles 96-108, 112-131, and Chapter 60 of this Code. Participants in the investigative action must be provided with the opportunity to ask questions and receive answers from individuals participating via videoconferencing, as well as to exercise their procedural rights and obligations stipulated in this Code."*

Conclusion

Additionally, we propose that Article 347, Part 1 of the CPC be amended as follows:

"Each investigator has the right to personally carry out any investigative action in any location within the territory of the Republic of Uzbekistan in relation to a criminal case under their jurisdiction, or to assign the investigative action to another investigator or inquiry officer, or to issue an order requesting the summoning of a specific participant in the criminal process, organizing the investigative action via videoconferencing, and assisting in conducting the investigative action."

We believe that these proposals and recommendations will further improve the existing provisions of the CPC and contribute to the proper organization of investigative actions conducted via videoconferencing in judicial and investigative practice. In particular, they will help ensure that interrogations conducted via videoconferencing are carried out correctly, thereby enhancing the completeness and reliability of crime investigations.

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