

Admissibility as a Property of Evidence in Modern Conditions

Authors : Iryna Teslenko

Abstract : According to the provisions of the current criminal procedural legislation of Ukraine, the issue of admissibility of evidence is closely related to both the right to a fair trial and the presumption of innocence. The general rule is that evidence obtained improperly or illegally cannot be taken into account in a court case. Therefore, the evidence base of the prosecution, collected at the stage of the pre-trial investigation, compliance with the requirements of the law during the collection of evidence, is of crucial importance for the criminal process, the violation of which entails the recognition of the relevant evidence as inadmissible, which can nullify all the efforts of the pre-trial investigation body and the prosecution. Therefore, the issue of admissibility of evidence in criminal proceedings is fundamentally important and decisive for the entire process. Research on this issue began in December 2021. At that time, there was still no clear understanding of what needed to be conveyed to the scientific community. In February 2022, the lives of all citizens of Ukraine have totally changed. A war broke out in the country. At a time when the entire world community is on the path of humanizing society, respecting the rights and freedoms of man and citizen, a military conflict has arisen in the middle of Europe - one country attacked another, war crimes are being committed. The world still cannot believe it, but it is happening here and now, people are dying, infrastructure is being destroyed, war crimes are being committed, contrary to the signed and ratified international conventions, and contrary to all the acquisitions and development of world law. At this time, the life of the world has divided into before and after February 24, 2022, the world cannot be the same as it was before, and the approach to solving legal issues in the criminal process, in particular, issues of proving the commission of crimes and the involvement of certain persons in their commission. An international criminal has appeared in the humane European world, who disregards all norms of law and morality, and does not adhere to any principles. Until now, the practice of the European Court of Human Rights and domestic courts of Ukraine treated with certain formalism, such a property of evidence in criminal proceedings as the admissibility of evidence. Currently, we have information that the Office of the Prosecutor of the International Criminal Court in The Hague has started an investigation into war crimes in Ukraine and is documenting them. In our opinion, the world cannot allow formalism in bringing a war criminal to justice. There is a war going on in Ukraine, the cities are under round-the-clock missile fire from the aggressor country, which makes it impossible to carry out certain investigative actions. If due to formal deficiencies, the collected evidence is declared inadmissible, it may lead to the fact that the guilty people will not be punished. And this, in turn, sends a message to other terrorists in the world about the impunity of their actions, the system of deterring criminals from committing criminal offenses (crimes) will collapse due to the understanding of the inevitability of punishment, and this will affect the entire world security and European security in particular. Therefore, we believe that the world cannot allow chaos in the issue of general security, there should be a transformation of the approach in general to such a property of evidence in the criminal process as admissibility in order to ensure the inevitability of the punishment of criminals. We believe that the scientific and legal community should not allow criminals to avoid responsibility. The evil that is destroying Ukraine should be punished. We must all together prove that legal norms are not just words written on paper but rules of behavior of all members of society, their non-observance leads to mandatory responsibility. Everybody who commits crimes will be punished, which is inevitable, and this principle is the guarantor of world security in the future.

Keywords : admissibility of evidence, criminal process, war, Ukraine

Conference Title : ICCLP 2022 : International Conference on Criminology, Criminal Law and Policing

Conference Location : Amsterdam, Netherlands

Conference Dates : August 08-09, 2022