

LEGAL AND PSYCHOLOGICAL CONCEPTS OF RELIABILITY (SUSPICIOUSNESS) OF TESTIMONY OF PARTICIPANTS IN CRIMINAL PROCESS

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Abstract. *This article discusses the modern type of forensic psychological expertise to determine the reliability (suspiciousness) of the information provided by the participants in the criminal proceedings (in terms of investigative actions and quick-search activities, video recordings), which is becoming necessary in investigative practice. In this, the psychological and legal essence of the concept of "reliability" is revealed. Competence of an expert psychologist is highlighted.*

Keywords: *"legal reliability", "psychological reliability", video recording, expertise, evidence.*

It is known that in the field of psychology of lying, scientific researches aimed at determining the factors and criteria of lying, evaluating the completeness and quality of the information obtained from the participants of the criminal process in the process of communicative interaction are being conducted [1].

Nevertheless, scientific debates related to the general possibility of forensic psychological examination in order to determine the signs of reliability / suspiciousness of the information reported by the participants of the criminal proceedings (on the video recordings of investigative actions and rapid-search activities), the question of the right to exist psychological examination of the video recording remains controversial. The scope of authority of an expert-psychologist in assessing the reliability (doubtfulness) of the testimony of the participants in the criminal proceedings occupies a central place in the debates.

First of all, this is related to the ambiguous (ambiguous) interpretation of the concept of "reliability". For example, according to those who oppose solving the issue that the reliability of given statements can be assessed with the help of forensic psychological expertise, from the point of view of jurisprudence (legal science), the assessment of the reliability (truth) of the statements of the participants in the criminal proceedings is within the competence of only the investigation and the court [2].

According to those who believe that it is possible to conduct FPE in order to determine the signs of reliability / suspiciousness of the information provided by the participants of the criminal trial (on the video recordings of investigative actions and operational search activities), "psychological reliability" in this case is an expert concept and has an epistemological nature that differs from the concept of "legal reliability", therefore, these concepts, although closely related, are not synonymous and do not exactly correspond to each other in terms of content in the context in which they are used.

In order to separate (limit) these two concepts, it should be taken into account that the current methodology of criminological research is based on a dialectical approach. For the theory and practice of criminological research, the philosophy category of "perception" is of fundamental importance. This category, as R. S. Belkin said, "forms the philosophical, theoretical and practical foundation of forensic science and covers almost all areas of forensic science" [3].

Therefore, in order to understand the different substantive directions of the concepts of "psychological reliability" and "legal reliability", it is necessary to analyze the term "reliability" and for this, first of all, it is necessary to refer to the scientific methodology.

E.G. Yudin, considering methodological problems, distinguished the following levels of methodological knowledge:

- philosophical methodology;
- general scientific principles and forms of research;
- exact scientific methodology;
- research methodology and technique (philosophical methodology is the highest level).

Its content is made up of the general principles of knowledge and the categories (structure) of science in general. The philosophical level is the substantive basis of any methodological knowledge [4].

According to the *universal scientific (philosophical) approach*, reliability is the validity, provability, indisputability of one or other elements of scientific and everyday knowledge. Reliability is one of the ways of the existence of truth, in which the correspondence between knowledge and the object and the correspondence of knowledge of this correspondence at a certain stage of historical development are completely determined for the social subject. A reliable judgment (opinion) is a judgment based on well-founded knowledge. *Assertive* judgments are divided into two types, that is, assertoric judgments, which record the real situation, and *apodictic* judgments, which indicate the necessary connection of events. Reliability of judgments is provided by empirical confirmation, experimental data, social practice. According to the forms of knowledge, direct reliability and indirect reliability are distinguished. Implicit credibility is achieved by reporting (telling) or theoretical proof [5].

There are different views on the concept of "reliability" in philosophy. For example, "reliability" is used in philosophy and logical-methodological research as grounded, proven, indisputable knowledge and as a synonym of "truth". In natural sciences, the term "reliable" often refers to phenomena expressed in judgments empirically confirmed by experiments [6].

Also, "reliability is divided into subjective (faith), objective (science), direct (emotional perception), based on one's own perception, experience - intuitive reliability or indirect, historical or logical (obtained by reporting or thinking) types. Reliability is a belief based on knowledge and excluding any doubt (faith)" [7]. Thus, in the general scientific (philosophical) approach, reliability is understood as "a form of existence of truth based on a certain method (for example, through experiment, logical proof)" [8].

According to the *psychological approach*, reliability is a criterion of the truth of knowledge obtained as a result of research. The reliability of this or that knowledge, judgment or system of judgments, data, etc., is achieved through experimental research of objects of knowledge and logical processing of data obtained in this way, as well as logical conclusions from existing knowledge [9].

Comparing general scientific (philosophical) and psychological approaches to the concept of "reliability" allows us to note that philosophers and psychologists see in "reliability" a form of reality that can be determined through experiment, theoretical, logical proof and practice.

At the same time, it should be noted that not all knowledge can be considered absolutely reliable, because it is a property of human knowledge according to its form. Any knowledge "can be changed, clarified, rejected during the further development of science and with what remains irrefutable. In the process of the further development of knowledge and practice, a person's perception of nature deepens, defines and improves. Therefore, scientific truths are relative because they do not provide complete and complete knowledge about the field of study, and because they have elements that change, clarify, and replace with new ones in the process of knowledge development" [10].

In the *legal approach*, "reliability" is the quality of proof, and reflects the accuracy and correctness of the presentation of the circumstances that are the subject of proof. The credibility of an argument is tested by comparing it with other arguments. The finding of conflicting, mutually exclusive data suggests that some of the evidence is unreliable.

According to Article 95 of the Criminal Code of the Republic of Uzbekistan, the evidence is recognized as relevant to the case only if it reflects information about facts or things that confirm, refute or question the conclusions about the existing circumstances that are relevant for the criminal case.

Reliability of evidence means that the information determined by the evidence can be assessed as being consistent with the objective truth, that is, the thing-phenomenon that exists in practice. Reliability criteria can be applied both to individual pieces of evidence and to their collection. Evaluation of evidence is understood as the examination of real information obtained by the persons conducting the investigation (preliminary investigation, judicial investigation) in terms of their relevance to the case, their admissibility as evidence, as well as their reliability, quality, and sufficiency to base conclusions on the case as a whole or on some of its episodes or cases. The credibility of an argument is tested by comparing it with other arguments. Finding conflicting, mutually exclusive data shows the unreliability of some evidence.

Based on this, one of the main aspects of legal reliability is its *non-contradiction* with other evidence collected in the case.

Therefore, in order for the investigator (court) to recognize the testimony as acceptable and reliable evidence in the case (legal component), first of all, it is necessary to determine the signs of reliability of the testimony of a psychological nature (psychological component), which requires the use of psychological knowledge. This is confirmed by the fact that the Law stipulates the conduct of expertise in all cases where the solution of this or that issue requires the use of special knowledge. And an expert-psychologist can give a conclusion on issues related to mental processes and events within his jurisdiction, that is, on the psychological aspects of the reliability (suspiciousness) of the given testimony.

The analysis of the literature showed a paradoxical (surprising) picture: as a result of attempts to "psychologize" the professional mentality of colleagues, on the one hand, there is an overabundance of expert questions with psychological content (for example, "psychological motives"), on the other hand, purely the psychological context in legal concepts remains unnoticed [11]. Here, the analogy with the victim's weak state (understanding the significance of actions against him and determining the ability to resist), identifying psychological symptoms through

expertise, identifying affect (but not strong emotional excitement) and others is noticeable. In these cases, the assessment category of this weak state, strong mental excitement, falls under the authority of law enforcement agencies, and the psychologist determines the psychological component in them [12].

The psychological comparative-comparative analysis of the broadcasts, based on the change in the psycho-emotional state of the person giving the broadcast, taking into account his individual psychological characteristics, allows the expert-psychologist to present claims that are "for" and "against" their (the broadcasts) psychological reliability. These expert opinions, like any other expert opinions, can be recognized as admissible reliable evidence in a criminal case *after being evaluated by an investigator* or a court and compared with other evidence from the point of view of non-contradiction. Therefore, it is not about replacing the activity of the court in assessing the credibility of the testimony.

Thus, the presented analysis of the spiritual and epistemological content of the concept of "legal reliability" and "psychological reliability" indicates that these concepts are not compatible with each other and have different meanings.

The specificity of the object and subject, goals and tasks of the forensic psychological examination in relation to determining the signs of reliability / suspiciousness of the information reported by the participants of the criminal trial (on the video recordings of investigative actions and rapid-search activities) also implies a unique approach to the objects of research. Within this type of forensic psychological expertise (it can also be considered as an integrated expertise), the general *object* of research is video recordings (recorded using video recording: interrogation of participants in the criminal process; examination of evidence at the scene of the incident; conducting other procedural actions with his participation) and criminal case materials is enough. Video recordings are considered in this case from the point of view of the following positions.

First, it is - *material source of information about the fact*. Therefore, when identifying it as a source of information that should be psychologically examined, the technical and qualitative characteristics of the video recording are considered:

- specific carrier of information (videocassette, optical disc or other information source);
- video recording format (digital or analog);
- duration of video recording;
- perspective (distance to the object of video recording, static-dynamics of video recording, direction of the optical axis of the camera);
- space (place of video recording) and time (date and time of video recording) indicators;
- video recording conditions (illumination);
- sound and video quality.

Secondly, it is - *source of factual information*, that is, audio-visual information, which consists of information about the circumstances of a legally significant event recorded in a video recording.

Thirdly, it is - *source of information about the private object of the research*, that is, an audiovisual representation of the questioned person or his activity in a legally significant situation.

Due to the specificity and indirect nature of the object and subject of the forensic psychological examination, as well as its indirect nature, it is necessary to classify the objects and subjects of the forensic psychological examination as follows:

- *general subject* of this type of FPE: communicative situation (investigative action or operational search event), communicative activity of the participants of operational or investigative action, and nature of interaction between the subjects recorded in the video;

- *a specific subject* of this type of FPE: the object of the video recording (a person undergoing expert examination - a video image of the person being examined), which he restores in oral or written speech forms (the substantive nature of the broadcasts) and which has a crime-relevant value, as well as a specific part of his investigative action or operational search activity information that shows the characteristics of a moral, emotional and speech response in a situation of legal significance.

The purpose of the forensic psychological examination in relation to the determination of signs of reliability / suspiciousness of the information reported by the participants of the criminal trial (on video recordings of investigative actions and rapid-search activities) is the special verbal and non-verbal manifestations of the interrogated person, who shows whether there are psychological signs of reliability (suspiciousness) in his testimony. determination using psychological research procedures.

The tasks of the expert correspond to the problem of the issues defined in the decision on the appointment of a forensic psychological examination and determine whether there are psychological signs of reliability (suspicion) in the testimony of the person being interrogated (questioned) recorded in the video recording. In addition, taking into account the characteristics of forensic psychological examination in order to determine the signs of reliability / suspiciousness of the information reported by the participants of the criminal trial (on video recordings of investigative actions and rapid-search activities), expert psychologists not only examine diagnostic issues in relation to the specific subject of the research, but also the general research. and has to solve diagnostic issues in relation to private objects (in this context, video recording is an expression of the communicative situation and communicative relations of the participants of the investigation). Since a video recording is not a single frozen image, but a sequence of images taken at certain recorded moments of time, the analysis of video recording allows to solve another issue, i.e., to implement the relative and absolute chronology of legally significant events.

Thus, factual information determined by expert psychologists does not include information of a legal nature that determines the composition of the crime and its qualification. In the framework of FPE, the opinion of an expert psychologist can provide the investigation (court) with objective information about the level of psychological reliability (psychological "qualification"), help to reject lies and persuade a person to give correct testimony, help to expose those involved in crime and the rehabilitation of innocent people, as well as It can serve as a basis for advancing the tactical method in solving other types of investigative issues and investigative examples on the elements of the subjective side of the crime. The conclusion of an expert psychologist becomes the basis on which both the proof of the offense and its legal qualification are based, and the expert cannot and does not give legal qualification to the acts [13]. The law enforcer, taking into account the psychological signs of reliability (suspiciousness) of the testimony of the participants in the criminal proceedings, determines the qualifying signs of the punishable act and gives a full legal assessment of the act and qualifies the offense based on all the evidence collected in the case. It should be considered that the testimony of the investigator (court) that meets the criteria of psychological reliability in some cases may also be false due to sincere mistakes.

The most typical questions (problems) that expert psychologists may be asked to solve may include:

1) Are there any psychological signs of credibility / suspiciousness in the testimony given by (Full name of the participant in the criminal trial) during the investigative action or the search operation (indicate which one) and recorded in the video recording?

2) based on the analysis of the video recording of the investigation action, the rapid-search event (indicate which one), are there any signs of concealment of information about circumstances important for the case (indicate exactly which one) in the testimony of (Full name of the participant in the criminal trial)?;

3) if (full name of the participant in the criminal trial) shows evidence of concealment of information about cases important for the case (specify which case), is it possible to determine whether changes in his psycho-emotional state are observed when discussing which facts or cases?

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