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SOME PROCEDURAL ASPECTS OF THE CONFRONTATION WITHIN THE FRAMEWORK OF COOPERATION BETWEEN STATES IN THE FIGHT AGAINST CRIME

Abstract

The article examines the procedural aspects of confrontation within the framework of international cooperation between states in the fight against crime. Confrontation, as a specific form of interrogation, is conducted if there are contradictions in the testimony of previously interrogated persons. The authors analyze international agreements such as the Chisinau and Minsk Conventions, as well as the national legislation of Azerbaijan, Russia, Kazakhstan and Moldova, noting that confrontation is not always provided for within the framework of legal assistance. However, the legislation allows for other procedural actions, including confrontation, with the mutual consent of the parties. Special attention is paid to the use of modern technical means, such as videoconferencing, for remote face-to-face. This is relevant in cases where the personal presence of participants is impossible due to distance, security threat or other circumstances. The authors emphasize the need to legislate the procedure of remote confrontation and propose specific changes to the criminal procedure legislation of Azerbaijan. The introduction of videoconferencing will improve the efficiency and effectiveness of international legal assistance in the investigation of criminal cases, while maintaining the principles of admissibility and reliability of evidence.

Key words: confrontation, legal assistance, international cooperation, criminal proceedings, procedural actions, contradictions in testimony.

Introduction

The Republic of Azerbaijan, as a full member of the international community, continues to cooperate with other States on the basis of generally accepted principles of international law, bilateral treaties on mutual legal assistance in criminal matters and international treaties.

An analysis of bilateral treaties on legal assistance in criminal matters and international documents on legal assistance to which the Republic of Azerbaijan (AR) has joined, such as the Chisinau Convention, the Minsk Convention, etc., shows that confrontation is not included in the scope of legal assistance for all these documents. But all these documents indicate that the Contracting Parties provide mutual legal assistance by performing procedural and other actions provided for by the legislation of the requested Contracting Party, and procedural and other actions are listed as in particular. Art. 2.3. of the Law of the Republic of Armenia "On Legal Assistance in criminal matters" to actions carried out in accordance with the procedure, established by the legislation of the Republic

of Armenia, does not include the conduct of a confrontation, but Article 2.3.11 of the law provides for the implementation of other actions in accordance with the legislation of the Republic of Armenia.

Based on the analysis of the above-mentioned documents and Azerbaijani legislation, it can be concluded that conducting a confrontation within the framework of legal assistance in criminal cases is not included in the scope of legal assistance, but its conduct as other procedural actions is not excluded.

The procedural and forensic aspects of combating transnational crime, particularly within the framework of international cooperation, have been extensively examined in legal scholarship. Confrontation, as a specific investigative and procedural tool, is highlighted as a critical measure for resolving contradictions in the testimonies of previously interrogated individuals. Askerova and Suleymanov (2023) have identified the limitations in existing legal frameworks, noting that international agreements, including the Chisinau and Minsk Conventions, do not consistently provide for confrontations as part of legal assistance. However, legislative provisions in many jurisdictions allow for procedural flexibility, permitting confrontations under mutual consent between states.

The literature highlights the significant role of modern technologies in overcoming traditional procedural barriers in international legal cooperation. Volevodz (2002) underscores the potential of videoconferencing in facilitating remote confrontations, particularly in cases where the physical presence of participants is hindered by geographical or security constraints. Similarly, Smirnov (2001) emphasizes that remote interrogation through videoconferencing can enhance procedural efficiency while maintaining evidentiary admissibility.

The integration of videoconferencing into legal processes aligns with broader international practices, as seen in provisions such as Article 9 of the European Convention on Mutual Legal Assistance in Criminal Matters and Article 281 of the Criminal Procedure Code of Singapore. These frameworks recognize the utility of remote hearings for obtaining testimony, ensuring procedural continuity in cross-border investigations. However, as noted by Askerova and Suleymanov (2023), many national legal systems, including those of Azerbaijan, Kazakhstan, Russia, and Moldova, lack comprehensive procedural mechanisms for conducting remote confrontations, posing challenges to their admissibility and effectiveness.

The literature also points to the evolving role of technical safeguards in remote legal proceedings. For instance, the procedural rules in Moldova and Kazakhstan allow for audio-visual recordings to ensure the reliability and validity of evidence obtained through remote interrogations. Yet, as emphasized by Rakhimov (2002), the absence of harmonized standards across jurisdictions necessitates the adoption of legislative amendments to address procedural inconsistencies and enhance the legal foundation for using modern technologies in criminal proceedings.

This study builds upon these insights, addressing gaps in the procedural and legislative frameworks that hinder the effective use of confrontations in international legal cooperation. By exploring the integration of videoconferencing into confrontation procedures, it seeks to contribute to the development of unified legal standards that balance procedural fairness, evidentiary integrity, and operational efficiency.

Materials and methods

The study employs a qualitative methodology, combining doctrinal analysis with a comparative evaluation of national and international legal frameworks governing confrontation and remote interrogation. Primary sources, including the criminal procedure codes of Azerbaijan, Russia, Kazakhstan, and Moldova, form the basis for analyzing procedural gaps and inconsistencies. These are supplemented by international treaties, such as the Chisinau Convention, the Minsk Convention, and the European Convention on Mutual Legal Assistance in Criminal Matters, to contextualize the role of confrontation within the broader framework of international cooperation.

A case-study approach is used to assess the practical application of confrontations and videoconferencing in cross-border criminal investigations. This involves examining documented instances of remote interrogations and confrontations conducted under existing legal provisions, with particular attention to their procedural and evidentiary implications. Secondary sources, including academic literature and policy reports, are reviewed to identify best practices and propose legislative amendments.

The study also integrates expert interviews with legal practitioners, forensic specialists, and law enforcement officials to gather insights into the practical challenges of implementing remote confrontations. These perspectives inform the development of recommendations for enhancing procedural frameworks and integrating technological solutions.

Finally, the research adopts a forward-looking perspective, evaluating the potential of videoconferencing to address emerging challenges in international legal cooperation. By proposing specific legislative amendments and procedural guidelines, the study seeks to establish a robust legal foundation for conducting remote confrontations in a manner that upholds the principles of procedural fairness and evidentiary reliability.

Confrontation is a special kind of procedural interrogation. This investigative action consists in the simultaneous and alternate interrogation of two or more previously interrogated persons in the presence of each other. The confrontation is conducted in the presence of significant contradictions, mutually exclusive information about the same circumstances in the testimony of two previously interrogated persons.

Confrontation is an investigative action, which is reflected in the criminal procedure legislation of almost all States. The concepts of confrontation in the criminal procedure legislation of various states of different legal families do not differ from each other and consists in the fact that if there are significant contradictions in the testimony of previously interrogated persons, then the investigator has the right to conduct a confrontation (Article 235 of the Code of Criminal Procedure (CPC) of the AR, Article 192 of the CPC of the Russian Federation (RF), Article 113 of the Code of Criminal Procedure of the Republic of Moldova (RM), Article 220 of the Code of Criminal Procedure of the Republic of Kazakhstan (RK)).

Main provisions

A confrontation can be held between a witness, a victim, a suspect and an accused, both among themselves and in any combination of them. Despite the fact that a confrontation with previously interrogated experts or specialists is theoretically possible, but in practice they are interrogated to clarify their conclusions on special issues of science, technology, art or craft. It is clear that contradictions between the testimony of an expert, a specialist and other participants in the process cannot be eliminated by conducting a confrontation, i.e. a confrontation is not applicable to eliminate these contradictions.

Conducting a confrontation within the framework of legal assistance in criminal cases is a very promising direction and can be used mainly in cases of transfer of a criminal case from one State to another for criminal prosecution against a citizen who committed a crime in the territory of the requesting State and left the country before the initiation of criminal proceedings and is not subject to extradition. But there may also be other cases of confrontation between different participants in the criminal process located on the territory of different states, with an immediate threat of serious damage to the welfare of the participant in the criminal process and the inability to prevent otherwise, illness, infirmity, a long distance between the places of residence of the parties to the confrontation, etc. From the point of view of the prompt provision of legal assistance in the process of investigation, disclosure of crimes, as well as in the administration of justice and execution of punishment within the framework of legal assistance, the conduct of a confrontation is relevant.

The tactics and general procedure for conducting a confrontation in all states are defined by law and do not differ (Article 235.3 of the CPC of the Republic of Armenia, paragraph 2 of Article 192 of the CPC of the Russian Federation, part (4) of Article 113 of the CPC of the Republic of Moldova, part 3 of Article 220 of the CPC of the Republic of Kazakhstan). The presence of contradictions in the testimony during the confrontation creates a conflict atmosphere and is accompanied by emotional tension and naturally causes a preliminary more detailed acquaintance of the requested party about the testimony and the nature of the contradictions should be the main condition of the tactics of the confrontation.

Conducting a confrontation in the order of rendering legal assistance between states is not provided for by the CPC of the Republic of Armenia, the Russian Federation, the Republic of Moldova and the Republic of Kazakhstan.

Based on the legislatively established general procedure for conducting a confrontation, a confrontation is conducted by one investigator between two persons in the same room. Therefore, conducting a confrontation between two persons located on the territory of different states requires additional detail and legislative strengthening of the procedure for conducting and processing the results of the confrontation.

The possibility of a confrontation in the order of legal assistance between States is also related to the protection of participants in the process, the availability of national legislative frameworks and technical capabilities.

The use of technical means in criminal proceedings, i.e. photographing audio and (or) video recording, filming is allowed in paragraph 4 of Article 189, paragraph 4 of Article 192 of the CPC of the Russian Federation, Article 219 of the CPC of the Republic of Kazakhstan, part (1) of Article 110 of the CPC of the Republic of Moldova, Articles 227.6 and 235.10 of the CPC of the Republic of Armenia during interrogation and confrontation.

The possibility of consolidating the course and results of procedural actions in criminal prosecution using technical means is provided for in Articles 51.6, 227.6, 235.10 of the Code of Criminal Procedure of the Republic of Armenia, paragraph 6 of Article 164 of the Code of Criminal Procedure of the Russian Federation, Article 129 of the Code of Criminal Procedure of the Republic of Kazakhstan.

Recently, remote hearing and interrogation via videoconference in criminal proceedings have been widely discussed. Videoconferencing makes it possible to save time, material resources and expenses for arrival in the territory of the requested country, promptly obtain the necessary information, etc. But the technical means used for remote listening and videoconferencing differ from the classical technical means used in criminal proceedings and therefore the norms of the CPC regulating the use of technical means in criminal proceedings cannot be considered the basis for the use of remote listening or the use of videoconferencing. According to the current legislation, technical means are used mainly to consolidate the course and results of procedural actions. But remote listening and video conferencing itself are impossible without technical means.

Results and discussion

The criminal procedure laws of various states provide for the adoption of measures for state protection to the safety of the victim, witness and other persons involved in criminal proceedings (Articles 11, 317.9 of the Code of Criminal Procedure of the Russian Federation, Articles 123 of the Code of Criminal Procedure of the Republic of Armenia, Chapter 12, Articles 98-101 of the Code of Criminal Procedure of the Republic of Kazakhstan, Chapter II (Article 215) of the Code of Criminal Procedure of the Republic of Moldova). Paragraph 5 of Article 278 of the CPC of the Russian Federation and paragraph (5) of Article 110 of the CPC of the Republic of Moldova provides for the interrogation of a witness without visual observation by other participants in the trial. The Criminal Procedure Code of the Republic of Moldova, if appropriate technical means are available, allows the interrogation of a witness not at the location of the criminal prosecution body or in the courtroom, and by means of technical means. This possibility is not provided for by the CPC of the Republic of Armenia, the Republic of Kazakhstan and the Russian Federation.

Article 7 of the Law of the Republic of Armenia “On State Protection of persons Involved in Criminal Proceedings” dated December 11, 1998, No. 585-IQ and Article 6 of the relevant Federal Law of the Russian Federation dated August 20, 2004, No. 119-FZ, paragraphs 12 and 13 of Article 7 of the Law of the Republic of Kazakhstan, Article 18 of the Law of the Republic of Moldova changing appearance the protected person refers to the following security measures: changes in documents and appearance. Conducting remote hearings or television conferences is not provided for as security measures by the Criminal Procedure Code of the Republic of Armenia, the Republic of Kazakhstan, the Russian Federation, including when conducting a confrontation.

The legislation of some post-Soviet and European states recognizes remote listening or videoconferencing. For example, remote interrogation or the possibility of conducting an interrogation with the remote presence of the interrogated is provided for in Article 281 of the Code of Criminal Procedure of Singapore, the Code of Criminal Procedure of Ukraine in part 4 of Article 303, Article 32(2)a, b and c of the Criminal Justice Act of 1988.

When conducting a remote hearing and video conferencing, some objections arise related to the admissibility and immediacy of evidence obtained as a result of remote interrogation and confrontation. According to Article 125.1 of the Criminal Procedure Code of the Republic of Armenia, information, documents and other things can be accepted as evidence in the absence of doubts about their validity, the source of education and the circumstances of receipt. According to the current legislation, from the point of view of the admissibility of evidence, information obtained by remote interrogation cannot be used as evidence in the case. Therefore, we believe that only after the legislative definition of the general conditions for the admissibility of remote interrogation in criminal proceedings, the procedural conditions for conducting an interrogation with the remote presence of the interrogated, the procedural status of persons participating in remote interrogation, it can be considered legitimate.

Another possible objection to remote interrogation or confrontation is that in these cases the immediacy of the court's perception of evidence is violated. The immediacy of the study of evidence means that all evidence is obtained without assistance from the original source, they are examined directly in court proceedings: the testimony of the defendant, the victim, witnesses, expert opinions are heard, physical evidence is examined, protocols and other documents are announced, other judicial actions are performed to examine evidence (240 CPC RF, Art.314 CPC RM, Article 311 of the CPC of the Republic of Kazakhstan). Judges and jurors resolve criminal cases or other materials related to criminal prosecution according to their inner conviction and legal awareness, which are based on the study of evidence presented by the parties to the criminal process at the court session (paragraph (2) of Article 26 of the Criminal Procedure Code of the Republic of Moldova, Article 25 of the CPC of the Republic of Kazakhstan, Article 25.3 of the CPC of the Republic of Armenia).

The legislation allows exceptions to the principle of direct investigation even if it is objectively impossible to directly examine some physical evidence. For example, according to Articles 327 and 329 of the CPC of the Republic of Armenia, respectively, the disclosure of the testimony of the accused and the witness is allowed (Article 276 of the CPC of the Russian Federation, Article 368 of the CPC of the Republic of Moldova, Article 349 of the CPC of the Republic of Kazakhstan - the announcement of the testimony of the defendant, Article 281 of the CPC of the Russian Federation, Article 353 of the CPC of the Republic of Kazakhstan - the announcement of the testimony of the victim and the witness, Article 371 of the CPC of the Republic of Moldova – the announcement of testimony) According to art. 126.3 The Code of Criminal Procedure of the Republic of Armenia only information obtained from the words of the deceased, as an exception, can be accepted as evidence by a court decision. According to the legislation, some physical evidence, such as perishable items, cannot be examined by the court directly, after inspection and description in the protocol by the investigator, they are transferred to the owners, sold or destroyed. Taking into account these, the court directly announces and directly hears the protocols of the relevant investigative actions by the parties, which in such and some other cases are independent evidence (Articles 131.1 of the Code of Criminal Procedure of the Republic of Armenia, Articles 82-83 of the Code of Criminal Procedure of the Russian Federation)

The relevant laws of the Republic of Armenia, the Russian Federation, the Republic of Kazakhstan, and the Republic of Moldova on state protection of persons involved in criminal proceedings, holding closed court sessions, changing documents and appearance of the protected person, i.e. recognize the possibility of interrogating witnesses and other participants without disclosing valid, but announcing new modified data about their identity.

In favor of the admissibility of remote interrogation or confrontation, there is also such an argument that the information obtained in this way does not relate to evidence obtained as a result of using methods that contradict modern scientific views (art. 125.2.10 of the Criminal Procedure Code of the Republic of Armenia, paragraph 7 of Article 94 of the Criminal Procedure Code of the Republic of Moldova, paragraph 7 of Part 1 of Article 116 of the Criminal Procedure Code of the Republic of Kazakhstan) and modern technical means ensure immediacy perception by the court and other participants in the interrogation process. But immediacy with the help of technical means is different from immediacy without technical means.

An exception to the principle of immediacy of evidence research is also allowed when intercepting negotiations conducted by telephone and other devices, messages transmitted by means of communication and other technical means, or other information, listening to negotiations containing data of evidentiary value for criminal prosecution, which is allowed by Article 259 of the Criminal

Procedure Code of the Republic of Azerbaijan, Article 186 of the Criminal Procedure Code of the Russian Federation, Article 135. The Code of Criminal Procedure of the Republic of Moldova and Article 237 of the Code of Criminal Procedure of the Republic of Kazakhstan. Intercepted conversations or messages are recorded on paper or magnetic media, certified by the signature of the person who intercepted them and transferred to the investigator. A brief protocol is drawn up on the interception of negotiations or messages related to the case, which is attached to the materials of the criminal case and the protocol is examined in court or a phonogram is listened to.

The legislation of some countries allows sentencing without a trial, i.e. without examining evidence. For example, Section X of the CPC of the Russian Federation regulates a special procedure for judicial proceedings with the consent of the accused with the charge and, according to Article 314 of the CPC of the Russian Federation, he has the right to declare agreement with the charge against him and apply for a verdict without a trial in criminal cases of crimes for which the punishment provided for by the Criminal Code of the Russian Federation does not exceed 10 years in prison. The court agrees with this and decides the verdict without directly examining the evidence.

We believe that video conferencing is a method of direct examination of evidence using technical means and can be treated as an exceptional circumstance that allows mediocre examination of evidence. And the exclusivity lies in the fact that videoconferencing is used in cases where it is impossible to obtain and examine evidence directly.

Persons participating in the interrogation and confrontation include a specialist, if necessary (Article 96 of the Code of Criminal Procedure of the Republic of Armenia, Article 168 of the Code of Criminal Procedure of the Russian Federation, Article 77 of the Code of Criminal Procedure of the Republic of Moldova, Article 84 of the Code of Criminal Procedure of the Republic of Kazakhstan). During remote interrogation and face-to-face, the participation of specialists providing technical conditions for communication should be mandatory.

Another problem of the admissibility of remote interrogation is the verifiability of the reliability of the results obtained by conference communication. According to Article 144 of the Code of Criminal Procedure of the Republic of Armenia, Article 87 of the Code of Criminal Procedure of the Russian Federation, paragraph (4) of Article 100 of the Code of Criminal Procedure of the Republic of Moldova, paragraph 5 of Article 128 of the Code of Criminal Procedure of the Republic of Kazakhstan, evidence collected in criminal prosecution must be fully, comprehensively and objectively verified. During the verification, these proofs are analyzed and compared with each other, new evidence is collected, and the reliability of the source of the evidence obtained is established. Modern technical conditions make it possible to verify this evidence, the technical conditions are so perfect and protected from interference that the results can be verified. Here, another issue is the design of the results, which require additional detailed legislative consolidation.

Article 303 of the Code of Criminal Procedure of Ukraine allows remote interrogation with audio and video interference, completely excluding the identification of the interrogated, which excludes the possibility of identifying witnesses and victims, the interrogated becomes anonymous for participants in the trial. Of course, the court, considering and resolving a criminal case on the merits, not only can, but is also obliged to identify such a person. But for the rest of the participants in the trial, the person being interrogated remains anonymous [17, p. 3].

The CPC of Ukraine regarding the admission of “anonymous witnesses” contradicts the criminal procedure legislation of the Republic of Armenia, the Republic of Kazakhstan, the Russian Federation, the Republic of Moldova and the decisions of the European Court of Human Rights. The inadmissibility of “anonymous witnesses” when considering and resolving a case in court is indicated in the decisions of the European Court [11, p. 23].

The prospects of using videoconferencing in conducting other investigative actions, including face-to-face in international cooperation in the field of criminal procedure were noted by A.G. Volevodz “... this will entail the use of videoconferencing not only for interrogations and face-to-face, which occurs in most cases of its use and is permissible by the criminal procedure legislation of various countries the world.” [3, pp. 424–425].

The interrogation of a witness by videoconference, as an exception to the principle of holding open hearings, is also provided for by the Rome Statute of the International Criminal Court, which is signed by the Republic of Armenia, not signed by the Russian Federation, the Republic of Kazakhstan

and the Republic of Moldova and Articles 68, 69 of the Rules of Procedure and Evidence in the International Criminal Court.

According to article 105 of the Chisinau Convention, the competent judicial institutions of the Contracting Parties, when providing legal assistance, have the right, by mutual agreement, to use video communication facilities in accordance with domestic legislation.

The use of videoconferencing and measures to ensure the safety of the person to be heard are also provided for in Article 9 of the second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 of November 08, 2001 (II DP EC). The Republic of Armenia and the Russian Federation are parties to the European Convention on Mutual Legal Assistance in Criminal Matters (1959), which is signed by the Republic of Armenia and the Russian Federation. II DP provides for holding a hearing via videoconference and telephone conference.

II The DP determines that if a person is located on the territory of a Party and must be heard as a witness or expert by the judicial authorities of the other Party, the latter may, if the personal appearance of this person on its territory is undesirable or impossible, request a hearing via videoconference and telephone conference.

Article 9 II of the EC DP on Mutual legal assistance in criminal matters is devoted to holding a hearing via videoconference and defines the conditions for application: 1. The use of a videoconference must not contradict the fundamental principles of the legislation of the requested country and 2. it must have the technical means to conduct a videoconference. If the requested Party does not have access to technical means for conducting a videoconference, such means may be provided to it by the requesting Party by mutual agreement. According to art. 9 II The DP defines the general rules for conducting a hearing via videoconference.

II The DP regulates the hearing of a witness or expert by videoconference, but the parties, at their discretion, with the consent of their competent judicial authorities, may hold a hearing of the accused or suspect by videoconference. Hearings involving the accused or suspect are conducted only with their consent.

Despite the fact that the confrontation is a kind of interrogation, it differs from the interrogation in terms of tactics. Before the start of the confrontation, in accordance with Part 1 of Article 192 of the Code of Criminal Procedure of the Russian Federation, 253.3 of the Code of Criminal Procedure of the Republic of Armenia, paragraph (4) of Article 113 of the Code of Criminal Procedure of the Republic of Moldova, paragraph 3 of Article 220 of the Code of Criminal Procedure of the Republic of Kazakhstan, the investigator finds out from the persons between whom the confrontation is conducted whether they know each other and in what relationship they are with each other. Then the participants are alternately invited to give evidence on the circumstances for which the confrontation is being conducted. After giving evidence to each of the interrogated, the investigator may ask questions. The persons between whom the confrontation is held may, with the permission of the investigator, ask questions to each other. When conducting a confrontation, the investigator has the right to present material evidence and documents. The announcement of the testimony of the participants in the confrontation contained in the protocols of previous interrogations, as well as the reproduction of audio and video recordings of these statements, is allowed only after they give or refuse to give evidence at the confrontation.

An analysis of international documents and national legislations allowing remote hearings and videoconferences indicates that although videoconferencing is allowed in these documents, certain organizational and tactical issues have not been reflected and which may create a problem in the provision of legal assistance. Some documents refer to the remote interrogation of witnesses and experts and allow the interrogation of the accused or suspect, others refer to the conduct of a confrontation. A confrontation is held between two previously interrogated witnesses, victims, and accused in various combinations. Therefore, if it is recognized that a confrontation is conducted in order to provide legal assistance, we believe that remote interrogation should cover all participants in the criminal process who can be questioned.

In order to conduct a confrontation in the order of legal assistance between States, an appropriate amendment or addition to the national criminal procedure legislation must be made. We believe that the concept of videoconferencing is not problematic, based on the modern capabilities of computer technology or remote communication using computer technology, which are available to all Internet

users. Through video conferencing, images and sounds are transmitted and received, which form the essence of video conferencing.

The basic principles of conducting a hearing by videoconferencing are set out in more detail in Article 10 of the European Union Convention on Mutual Legal Assistance in Criminal Matters:

Article 10 of the Convention, regulation of procedural issues of fulfilling a request or requests for videoconferencing are attributed to the authority of national criminal procedure legislation.

Despite the fact that the legislation of the Russian Federation has not fixed the use of videoconferencing, but there is experience in conducting videoconferences when considering a cassation complaint. The legal basis for the use of video conferencing hearings is the resolution of the Constitutional Court of the Russian Federation dated December 10, 1998 No. 27-P in the case of checking the constitutionality of Part 2 of art. 335 of the Code of Criminal Procedure of the RSFSR in connection with the complaint of citizen M.A. Baronin, according to which the issue of participation of the convicted person in a court hearing considering the case in cassation is resolved by this court, this provision of the law is recognized as inconsistent with the Constitution of the Russian Federation. The Constitutional Court recognized that the convicted person has the right to demand his participation in the court session when considering the cassation appeal. In this regard, the courts must ensure the participation in the cassation sessions of all convicts who have filed a petition.

In practice, the participation of convicts in the consideration of a cassation appeal at cassation instances creates a number of problems related to ensuring the participation of the complainant. In some countries, the way out is to hold a hearing via videoconference. In Russia, some regional courts have experience in conducting such hearings. The above-mentioned resolution of the Constitutional Court of the Russian Federation is considered the legal basis for holding such a hearing. In the regulations of the courts, which regulate the organization of the court's activities. For example, the Regulations of the Sverdlovsk Regional Court, approved by Order of the Chairman of the Sverdlovsk Regional Court No. 8/OD dated March 25, 2010, provides for a system of consideration of cassation and other complaints in courts using videoconferencing technology.

The literature has developed general conditions for the production of procedural actions in the videoconference mode. Volevodz A.G. refers to the following: in many countries, the study of evidence in videoconference mode is, in principle, possible only in court, this technology is more often and more effectively used during the trial, less often - at the preliminary investigation; the production of procedural actions in videoconference mode is permissible only in exceptional circumstances – when, for good reasons, it is impossible to appear at the place of production of the person to be interrogated, or his appearance is fraught with danger to life or with the need to take special security measures; in other cases, the use of videoconferencing is possible only with the consent of the parties to the case or at the insistence of the accused and his defense; when conducting procedural actions during a videoconference, the broadcast should be organized in such a way that not only the interrogated person is visible, but also the entire room where the interrogation takes place, as well as all persons present during the interrogation - to monitor their reaction to specific testimony and questions. Otherwise, the evidence obtained may be considered inadmissible due to the possible influence on the interrogated person by those present during the interrogation (the so-called “behind-the-scenes” influence. Volevodz A.G. He proposed to make appropriate additions to the CPC of the Russian Federation in connection with the use of videoconferencing [2, p. 35].

Conclusion

Analyzing the results of the conducted research, it can be concluded that international acts and national legislation of some States allow the use of videoconference hearings only for interrogations and mainly for obtaining testimony. Some thoughts have been expressed in the literature about the possibility of using videoconferencing for face-to-face meetings. We believe that conducting a confrontation between a witness, a victim, a suspect and an accused, both among themselves and in any combination of them in videoconference mode is a promising area of legal assistance between States between all possible and requires its own legislative solution at the level of national legislations.

In order to conduct a face-to-face video conference in the framework of legal assistance between states, we propose making specific additions to the national legislation of countries bound by international and bilateral treaties on legal assistance and the following legislative decision in the Republic of Azerbaijan.

Add Article 51.6 of the Criminal Procedure Code of the Republic of Armenia with a new part with the following content:

If necessary and if there are technical possibilities, investigative actions are carried out with a person who is located on the territory of a foreign state or at a great distance and for the protection of a participant in criminal proceedings and other valid reasons, remote hearing and video conferencing are used with the involvement of a specialist operator, who is invited by each party separately. Remote hearing and video conferencing are used on the basis of a reasoned decision of the court, prosecutor, investigator.

Article 2 of the Law of the Republic of Armenia "On Legal Assistance in Criminal matters" should be supplemented with a new part 2.6 with the following content:

Interrogation, confrontation and identification in the order of legal assistance between States using videoconferencing is applied on the basis of a reasoned decision of the body of criminal procedure and are agreed between the competent authorities of the requesting and the requested Party, if this is provided for by an international treaty, international agreement or on the basis of reciprocity and technical capabilities are available. If the requested Party does not have access to technical means for conducting a videoconference, such means may be provided to it by the requesting Party by mutual agreement.

The hearings are conducted directly or under the direction of the judicial authority of the requesting Party in accordance with its own legislation. Officials of the competent authorities of the requested party, during the hearing, follow the instructions of the person under whose supervision the hearing is being held.

Interrogation or face-to-face with the use of video conferencing is conducted with the consent of the accused or suspect.

The course and results of the interrogation and confrontation in videoconference mode shall be formalized by protocol in accordance with the rules provided for by this Code and must be recorded by video recording and sent to the competent authorities or officials of the requesting party.

If necessary, participants should be provided with the services of an interpreter.

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МЕМЛЕКЕТТЕРДІҢ ҚЫЛМЫСҚА ҚАРСЫ КҮРЕСТЕГІ ЫНТЫМАҚТАСТЫҒЫ ШЕҢБЕРІНДЕ БЕТТЕСТІРУ ӨТКІЗУДІҢ КЕЙБІР ІС ЖҮРГІЗУ АСПЕКТІЛЕРІ

Андатпа

Мақалада қылмысқа қарсы күресте мемлекеттердің халықаралық ынтымақтастығы шеңберінде бетпестік ставканы жүргізудің іс жүргізу аспектілері қарастырылады. Авторлар Кишинев және Минск конвенциялары сияқты халықаралық келісімдерді, сондай-ақ Әзірбайжан, Ресей, Қазақстан және Молдованың ұлттық

заңнамаларын талдап, бетпе-бет ставканы өткізу әрдайым құқықтық көмек шеңберінде қарастырылмайтын атап өтті. Алайда, заңнама тараптардың өзара келісімі кезінде бетпе-бет мөлшерлемені қоса алғанда, өзге де іс жүргізу әрекеттерін жүргізуге мүмкіндік береді. Бетпе-бет ставканы қашықтықтан өткізу үшін бейнеконференция сияқты заманауи техникалық құралдарды қолдануға ерекше назар аударылады. Бұл қашықтыққа, қауіпсіздікке қауіп төндіруге немесе басқа жағдайларға байланысты қатысушылардың жеке қатысуы мүмкін болмаған жағдайларда дұрыс. Авторлар қашықтықтан бетпе-бет ставка рәсімін заңнамалық тұрғыдан бекіту қажеттілігін атап көрсетеді және Әзірбайжанның қылмыстық іс жүргізу заңнамасына нақты өзгерістер енгізуді ұсынады. Бейнеконференциябайланысты енгізу дәлелдемелердің жол берілуі мен дұрыстығы қағидаттарын сақтай отырып, қылмыстық істерді тергеу кезінде халықаралық құқықтық көмектің жеделдігі мен тиімділігін арттыруға мүмкіндік береді.

Тірек сөздер: беттестіру, құқықтық көмек, халықаралық ынтымақтастық, қылмыстық процесс, іс жүргізу әрекеттері, айғақтардағы қайшылықтар.

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НЕКОТОРЫЕ ПРОЦЕССУАЛЬНЫЕ АСПЕКТЫ ПРОВЕДЕНИЯ ОЧНОЙ СТАВКИ В РАМКАХ СОТРУДНИЧЕСТВА ГОСУДАРСТВ В БОРЬБЕ С ПРЕСТУПНОСТЬЮ

Аннотация

В статье рассматриваются процессуальные аспекты проведения очной ставки в рамках международного сотрудничества государств в борьбе с преступностью. Очная ставка как специфическая форма допроса проводится при наличии противоречий в показаниях ранее допрошенных лиц. Авторы анализируют международные соглашения, такие как Кишиневская и Минская конвенции, а также национальные законодательства Азербайджана, России, Казахстана и Молдовы, отмечая, что проведение очной ставки не всегда предусмотрено в рамках правовой помощи. Однако законодательство позволяет проводить иные процессуальные действия, включая очную ставку при взаимном согласии сторон. Особое внимание уделяется применению современных технических средств, таких как видеоконференцсвязь, для дистанционного проведения очной ставки. Это актуально в случаях невозможности личного присутствия участников по причине расстояния, угрозы безопасности или других обстоятельств. Авторы подчеркивают необходимость законодательного закрепления процедуры дистанционной очной ставки и предлагают конкретные изменения в уголовно-процессуальное законодательство Азербайджана. Внедрение видеоконференцсвязи позволит повысить оперативность и эффективность международной правовой помощи при расследовании уголовных дел, сохраняя при этом принципы допустимости и достоверности доказательств.

Ключевые слова: очная ставка, правовая помощь, международное сотрудничество, уголовный процесс, процессуальные действия, противоречия в показаниях.