
PROBLEMS OF EVALUATING VIDEO AND AUDIO RECORDINGS IN CIVIL AND ECONOMIC COURT PROCEEDINGS

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In Uzbekistan, within the framework of the "smart city" project, video surveillance is currently being implemented in the intersections, public places, residential and commercial areas of our country's cities. Video surveillance is not only aimed at preventing and fighting crime, but these video recordings can serve as an important source of evidence in economic and civil disputes. The Civil Procedural Code of the Republic of Uzbekistan, adopted in a new version, is also significant in that it includes modern information technologies in the Economic Procedural Codes of the Republic of Uzbekistan. In particular, in the chapter of the Civil Procedure Code of the Republic of Uzbekistan on court proceedings, norms are defined for replaying audio or video recordings and their verification. According to this norm, the provisions of this article are applied during the reproduction of audio or video recordings of a private nature, as well as during their examination, reproduction of audio or video recordings in the courtroom or in another room specially equipped for this purpose, reproduction of evidence in the minutes of the court session. will be done with the indication of the source symbols and the time of the replay. After that, it is determined that the court may listen to the explanations of the persons participating in the case and their representatives, if necessary, the replay of the audio or video recording may be repeated in whole or in part, and in order to determine the available information in the audio or video recording, the court may involve an expert, as well as appoint an expert.

In the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On some issues of the application of the legal norms of evidence by the courts in the consideration of civil cases" presented by the persons participating in the case, which are important for the case and testifying to their civil-legal attitude to the dispute, the video and It is noted that the audio recordings have to be evaluated along with the other evidence as a basis for the claims and objections. Audio and video



recordings are fundamentally different from written and oral evidence as defined in our procedural law.

Today, the practice of examining audio and video recordings in family and copyright disputes is increasing. The author can record his work (song, poem, clip, film, screenplay, etc.) as a video or audio recording as a result of hearing or watching it on radio, Internet, television. Video and audio recordings are more important than written and physical evidence in civil and economic court cases related to copyright. Audio and video recordings are not defined in our legislation, according to Russian jurist M. Treushnikova, an audio recording is any material object that contains audio messages. A video recording is any material that contains video and audio information¹.

Currently, there are many devices that store video and audio recordings, they can be disks, cassettes, flash drives, computers and other technical devices. That's why M. Treushnikova says any device that stores video and audio recordings.

Most jurists believe that there are no grounds for evaluating video and audio recordings as an independent type of evidence, according to the content of videos, audio recordings, photographs, and motion pictures, they are written evidence, their storage in material objects is of no importance, the main thing is the marked information stored in them (sound, images)².

In fact, it is not the equipment that stores audio and video recordings (cassette, disk, flash drive, computer, etc.), but the information inside is important. But this is not a reason to include them in the series of written evidence. Examination and evaluation of written evidence by audio and video recordings are fundamentally different from each other.

The Evidence Act of the Kingdom of Malaysia states that the expression "document" as evidence reflects the following concepts:

- letters, numbers, logos, drawings, symbols, signatures and any pictorial means;
- virtual records;
- audio records, mechanical, electronic records;
- remotely transmitted images, records;

This law also states that this list can be expanded³. Audio and video recordings are admissible as evidence in all court cases of the Crown of Malaysia.

¹ <http://www.femida-science.ru/index.php/home/>

² С.П.Воробжит. Электронные средства доказывания в гражданском и арбитражном процессе. Дисс.кан.наук. Санкт-Петербург. 2011. Ст 154.

³ Laws of Malaysia reprint published by the commissioner of law revision, Malaysia under the authority of the revision of laws act 1968 IN COLLABORATION WITH MALAYAN LAW JOURNAL SDN BHD AND PERCETAKAN



It is also reflected in several states of the Commonwealth of Australia. In particular, the Evidence Acts of New South Wales, Victoria, Tasmania, the Capital District, and the Northern States reflect that Information may be disclosed in the following forms:

- correspondence;
- signs, logos, brands and other objects that can be interpreted by humans;
- sounds, images and records that cannot be created without technical means;
- map, plan, drawings and pictures;

According to the Evidence Act of the Commonwealth of Australia, sounds and images created with the help of technical means, i.e. audio and video recordings, are evidence⁴.

According to A.T.Bonner, modern procedural means of information storage: video recordings, photographs, films, etc., are important and should be reflected in both material and procedural laws⁵.

A special feature of audio and video recordings is that they are stored using some technical means, i.e. disks, flash drives, tape recorders, computers, televisions. In our opinion, audio and video recordings should be evaluated as a special type of evidence in civil and economic court cases. After all, video and audio recordings are fundamentally different from physical and written evidence specified in the Code of Civil Procedure and the Code of Economic Procedure of the Republic of Uzbekistan:

- in civil procedural and economic procedural law, any material related to a civil and economic dispute can be material evidence;
- video and audio recordings are stored on special devices (flash drives, disks, computer memory, Internet, e-mail, etc.), are checked using video and audio recorders, DVD players, computers and special equipment;
- in written and physical evidence, the means of its storage becomes important for the court, in video and audio recordings, not the means of its storage, but the information in it is the source of evidence;
- written evidence may be documents and personal correspondence with employees, where information about cases relevant to the case is stated;
- audio and video recordings are information, their storage on a disk, flash drive, computer does not indicate physical evidence;

NASIONAL MALAYSIA BHD 2006.

⁴ Allison Rebecca STANFIELD. Submitted in fulfilment of the requirements for the degree of Doctor of Philosophy. Faculty of Law Queensland University of Technology. APENDX A / 2016. P.274.

⁵ Боннер А.Т. Правило допустимости доказательств в гражданском процессе: необходимость или анахронизм? // www.law.msu.ru/node/15188



- audio and video recordings may contain images, sound sequences or recordings;
- inadmissibility of secretly recorded video and audio recordings as evidence.

Based on the above, we can define video and audio evidence as follows:

Audio and video documents stored in special technical means that justify the demands and objections of the parties in a certain civil and economic court case are video evidence.

Audio evidence is audio evidence stored on special technical means, which substantiates the demands and objections of the parties in a certain civil and economic court case.

In some cases, our citizens do not comply with the written form of the agreement established by law when entering into a civil relationship. Especially when the loan agreement is concluded between these parties, the loan agreement O'z.Res. We can give an example of non-compliance with the written form specified in FC. In the event of a civil dispute over a debt agreement and the written form of this debt agreement is not observed in the FC, the parties must submit to the court video and audio recordings relevant to the case, and the court must evaluate the video and audio recordings in terms of their relevance, acceptability and reliability. . If there is a civil and economic dispute related to the contract, when the parties present the video and audio recordings with the contract signed by the parties to the court, and when the contract and the video and audio recordings conflict with each other, the court will resolve the dispute and the contract concluded in the manner established by the law shall be the basis for the resolution of the dispute. must According to the Plenum of the Supreme Court of the Republic of Uzbekistan "On some issues of the application of legal norms of evidence by courts in civil cases", the person who submitted video and audio recordings must indicate when, by whom and under what conditions such recording was made. Citizens and legal entities not participating in the case must submit video and audio recordings to the court if the court requires them. If citizens and legal entities do not have the opportunity to submit video and audio recordings to the court (when the recording on the video camera automatically turns off after a certain period of time and in other cases), they should inform the court about this.

The following problems exist in the judicial evaluation of audio and video recordings:

- the quality of audio and video recordings depends on subjective and objective reasons (lack of skills, lack of quality equipment);
- the possibility of intentionally or accidentally disrupting the events shown during the production of audio and video recordings (wide possibilities associated with



modern technical means for changing the audio and video order, installing images and sound):

- easy download of audio and video recordings, as well as high possibility of their complete falsification;
- the ability to record hidden video and audio recordings;
- the possibility of imitating famous people, the possibility of recording audio and video recordings by impersonators;
- such as the lack of judicial practice.

References

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5. Боннер А.Т. Правило допустимости доказательств в гражданском процессе: необходимость или анахронизм? // www.law.msu.ru/node/15188

