

## Evidence Classification in Procedural Law (Economic And Civil)

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**Abstract:** In economic and civil litigation, the parties, based on the principles of adversarial and equality, try to resolve the civil or economic case in their favor by presenting evidence substantiating their claims and objections. In economic and civil litigation, the court's decision is inextricably linked to the evidence presented by the parties and their efforts to prove it.

According to the legal scholar E. Egamberidiyev, a person who has certain rights cannot exercise his rights without proving and substantiating the circumstances that serve as the basis for determining and exercising his rights in the manner prescribed by law, relying on relevant evidence. The facts that determine the real belonging of certain rights to individuals must, of course, be verified and proven on the basis of evidence that serves to prove the circumstances that are important for the case<sup>2</sup>.

There is no doubt that proof and evidence are an institution of civil, criminal, administrative, and economic procedural law.

According to M. Treushnikov, the examination and evaluation of evidence in economic (arbitration) litigation is one of the most important stages of making a legitimate and justified decision. The relevance, admissibility and reliability of evidence affect the assessment of evidence. The information considered in the assessment of evidence plays an important role in determining the value of evidence. Most importantly, the evaluation of evidence leads to the fair adoption of decisions and rulings of economic (arbitration) courts<sup>3</sup>.

According to Sh. Shorahmetov, proof is an activity aimed at determining the existence of facts necessary for the parties, the court and other persons who are subjects of civil proceedings to resolve a civil case.

In the FPC, each party is obliged to prove the circumstances that are the basis for its claims and objections<sup>4</sup>.

The court determines what circumstances are important for the case, which of the parties should prove them, and even if the parties have not presented these circumstances as evidence, they will be put to trial.

Evidence is presented by the parties and other persons participating in the case. It is established that the court may offer them to provide additional evidence.

Legal scholar M. Mamasiddikov classifies evidence as follows: according to their source: personal and material; according to their origin: primary and derivative; according to the organic connection between the evidence and the fact being proven: direct and indirect;

Sometimes, depending on the source of the evidence, it is not only possible to divide it into two types, but also into

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<sup>2</sup> Эгамберидиев Э. Фуқаролик жараёни ҳуқуқида даъво муаммолари: диссер. ю.ф.д. Тошкент. 2007. 235 б.

<sup>3</sup> Треушников М.К. Судебные доказательства. - М.: Городец, 2004. -С.140.

<sup>4</sup> Шорахметов Ш. Ўзбекистон Республикасининг Фуқаролик процессуал кодексига шарҳлар. Тошкент. 2010. –Б.96.



3 types (widespread) - personal, written and material. Another method of such classification is to divide it into personal, material (objects and documents) and mixed (expert opinion) types. The basis of the mixed classification is that they have their own independent nature and the court distinguishes two sources of evidence (personal and material). The source of information is the expert who examines it, on the one hand, and the objects themselves, on the other<sup>5</sup>.

According to the legal scientist F. Otakhanov, there are two generally recognized classifications of evidence in the consideration and resolution of bankruptcy cases, as well as in the procedural theory:

- from the first, the beginning and the derivative;
- Secondly, are straight and crooked arguments<sup>6</sup>.

D. Khabibullaev also classifies evidence according to its form, structure, and the organic connection between the evidence and the fact being proven. In his opinion, evidence is divided into: oral, written, and physical evidence depending on the form.

Oral evidence includes explanations of the parties, third parties, and their representatives, witness statements, and the like.

Written evidence is divided into: official and ordinary written evidence according to its form; separate and private according to its subject; and original and copy according to its origin.

Evidence is divided into: primary and derivative evidence according to its structure (origin). Primary evidence is evidence obtained directly from the primary source. For example, the original of a document, the testimony of a witness who saw the event with his own eyes, is such evidence. Derivative evidence reflects the content of the primary evidence. For example, a copy of a document is a witness's testimony that cites information about a fact from the words of other people.

Depending on the connection between the evidence and the fact being proven, it is divided into direct and indirect evidence.

If the court can draw a conclusion on the case based on only one piece of evidence, it is considered direct evidence. For example, a loan receipt is considered the only direct evidence that proves that a loan was given and received<sup>7</sup>.

In economic and civil proceedings, material evidence is characterized by the following specific features.

Firstly, a material object serves as a source of information about the facts. It can be various things of inorganic and organic origin: damaged furniture, torn clothing, a vehicle, food, etc.

Secondly, the information in the material evidence contains clearly visible signs of the material object. The court and other participants in the proceedings learn this information through visual methods.

Thirdly, material evidence must be evaluated by the court in the procedural order established by law.

Fourthly, an object indicated as material evidence in economic and civil proceedings can be both evidence and a subject of dispute at the same time.

Material evidence can be in the form of any material objects. They must only be submitted to the court by the persons participating in the case or requested by the court itself.

They can be organic and inorganic depending on the type of origin: inorganic objects include damaged furniture, clothing, while organic objects include food, fruits and vegetables, etc.

<sup>5</sup> Мамасиддиқов М. Фуқаролик процесси. Фуқаролик ишлари бўйича судьяликка захирага олинган номзодлар учун кўлланма. Тошкент. Baktria press. 2014. –Б.138.

<sup>6</sup> Отахонов Ф., Ибратова Ф. Хўжалик судларида банкротлик ишларини кўришнинг ўзига хос хусусиятлари. Монография. Тошкент. 2013. –Б.196.

<sup>7</sup> Хабибуллаев. Д. Фуқаролик процессуал ҳуқуқи (Саволлар ва жавоблар). -Тошкент. ТДЮУ.2018. –Б.49.



Material evidence differs from written evidence. In material evidence, information is in the form of specific signs (for example, damage, loss). In a document, written evidence is information that is recorded using conventional signs (numbers, letters, etc.).

According to procedural law, material evidence also does not have a pre-established legal force for the court. Material evidence is also examined and evaluated by the courts as a result of a court hearing or court orders.

Material evidence is returned to the persons from whom it was taken or to their owners after the court decision enters into legal force.

According to Article 77 of the Code of Civil Procedure, objects that, by their appearance, internal properties and content, location or other characteristics, can serve as a means of determining circumstances that are important for the case are material evidence.

Expanding the scope of evidence using new technical means would, firstly, expand the possibilities of introducing modern technologies in the judiciary, and secondly, create a basis for protecting the procedural rights and interests of the parties.

Articles on the use of modern information technologies in conducting economic and civil judicial proceedings have been included in the Code of Civil Procedure and the Code of Civil Procedure. In our opinion, it would be appropriate to reclassify the scope of evidence based on the needs of the time. In particular, it would be appropriate to introduce concepts related to electronic evidence into the theory of economic procedural and civil procedural law, together with economic procedural and civil procedural legislation.

Electronic evidence is fundamentally different in its structure from other evidence, in particular from physical and written evidence.

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