Collection of evidence in white-collar crime cases

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INTRODUCTION

- The collection of evidence -> core element of every criminal procedure.
- Article 104 Criminal procedural code (CPC): Only lawfully obtained data = evidence, otherwise - just data.
- Function – to reconstruct the criminal event.
- Categories: subject of proof, burden of proof, evidence, the means of evidence, methods of obtaining evidence.





THE NOTION OF EVIDENCE

- Article 104 of CPC:

"Evidence in the penal procedure may be the factual data, which is connected with the circumstances of the case, contribute to their clarification and are instituted under the order as provided by this Code."

1. *Factual data (facts) – individualized, either material or subjective;*
2. *Connected to the circumstances of the case;*
3. *Relevant = Contribute to the clarification of the case;*
4. *Gathered as provided by the CPC – lawfully gathered.*





SOURCES OF EVIDENCE

- Article 105 of CPC:

"The evidence means may serve for reproduction in the penal procedure of evidence or of other evidence means."

- Function – reproducing evidence or other sources of evidence.
- Strictly regulated and exhaustive.
- Unlawfully obtained -> inadmissible.





SOURCES OF EVIDENCE - TYPES

1. Oral - including the subcategories (1) statements of the accused and (2) testimony of a witness
2. Written - *de facto* all types of documents produced during the criminal proceedings. A document is a material or electronic carrier on which a human statement is fixed in written form.
3. Material (real) - photographs, video and audio recordings, imprints, evidentiary materials produced using special investigative techniques.





EVIDENCE VS SOURCES

- Unlike the evidence, the sources of evidence are exhaustively regulated in the CPC.
- Inseparable from the criminal process, while evidence – part of the objective reality irrespective of procedure.
- Evidence = factual data / Sources = procedural carriers
- A source of evidence can exist in the absence of evidence it is supposed to reproduce. Example – record of the witness's examination reflecting distorted information. (false testimony)





METHODS OF COLLECTING EVIDENCE

1. Interrogation;
2. Expert examination;
3. Inspection – can be of places, object and people with the aim of collecting evidence;
4. Search and seizure - the investigative authority searches premises or persons to locate items relevant to the case and seizes them as evidence;
5. Investigative experiment – recreating relevant circumstances in order to verify certain relevant facts





METHODS OF COLLECTING EVIDENCE

6. Recognition of persons and objects – A procedural measure whereby a person is asked to recognize and identify individuals or object relevant to the case.
7. Special investigative techniques (Special means of surveillance) - Covert measures, such as surveillance or interception, employed to obtain evidence in criminal proceedings.

- *"Witnesses to procedural acts"* – neutral observers that guarantee the legality of actions. May testify in court.





KEY CHALLENGES IN THE COURSE OF COLLECTING EVIDENCE IN WCC

- Dependence on expert witnesses: Expert replaces the court; lack of qualified experts.

- Volume and accessibility of evidence: Massive documentation; Courts may rely on indirect evidence; Cross-border complexity.





KEY CHALLENGES IN THE COURSE OF COLLECTING EVIDENCE IN WCC

- Increasing reliance on digital evidence: High technical complexity; Encryption; Limited procedural regulation.

- The use of Special investigative techniques: Serous risk of fundamental human rights violations.





CONCLUSION

- White-collar crime increasingly challenges traditional evidentiary frameworks due to economic and technological complexity.
- Reliance on experts, large volumes of data, and digital evidence creates significant procedural tensions.
- The key challenge is to find balance between the efficiency of the investigation and the protection of fundamental rights and fair trial guarantees.





THANK YOU FOR YOUR ATTENTION!

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