

**Actual problems of criminal law,  
criminal procedure and criminalistics**

**Materials of scientific conference**

**Volume II**

«East West» Association for Advanced Studies and Higher Education GmbH

**Vienna  
2017**

1

---

**Actual problems of criminal law,  
Criminal procedure and criminalistics**  
Materials of scientific conference

ISBN 978-3-903115-05-7

**Editor-in-chief**  
**Consulting editors**

Samuel Cuenca, Spain  
Kamila Orzechowska, Poland  
Anton Mackevitch, Russia

**International editorial board**

Oana Olteanu, Romania  
Nora Szekeresne, Hungary  
Rima Dzhanarayeva, Kazakhstan  
Květoslava Vitkova, Czech Republic  
Mathias Kuster, Austria  
Valery Gurchin, Ukraine  
Herve Thomas, France  
Tatiana Yashkova, Russia  
Lidija Jovanovic, Croatia

**Proofreading**  
**Cover design**  
**Additional design**  
**Editorial office**

Kristin Theissen  
Andreas Vogel  
Stephan Friedman  
European Science Review  
"East West" Association for Advanced  
Studies and Higher Education GmbH, Am  
Gestade 1  
1010 Vienna, Austria  
info@ew-a.org  
www.ew-a.org

**Email:**  
**Homepage:**

This collection contains materials of scientific conference "Actual problems of criminal law, criminal procedure and criminalistics". The works are aimed at addressing problems such as the modern criminal policy, combating transnational organized crime and corruption, the development of criminal procedure legislation, to ensure the effective investigation of crimes.

**Instructions for authors**

Full instructions for manuscript preparation and submission can be found through the "East West" Association GmbH homepage at: <http://www.ew-a.org>.

**Material disclaimer**

The opinions expressed in the conference proceedings do not necessarily reflect those of the «East West» Association for Advanced Studies and Higher Education GmbH, the editor, the editorial board, or the organization to which the authors are affiliated.

**© «East West» Association for Advanced Studies and Higher Education GmbH**

All rights reserved; no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Publisher.

Typeset in Berlin by Ziegler Buchdruckerei, Linz, Austria.

Printed by «East West» Association for Advanced Studies and Higher Education GmbH, Vienna, Austria on acid-free paper.

<i>Boysalov A.D.</i> Classification features of linguistic expertise and her tasks	231
<i>Boysalov A.D.</i> The fight against terrorist actions	235
<i>Berdybaeva A., Amantay A.</i> Types of tax legal relations	239
<i>Nabiyev A., Dzhansarayeva R.Y.</i> To problems of definition of illegal migration	242
<i>Adanbekova Z.N., Omarova A.B., Malikova Sh.B.</i> Contract of the state purchase	247
<i>Kerimbayeva Zh.M., Yergali A.M., Malikova Sh.B.</i> Criminal and legal problems of definition of illegal business	251
<i>Abdulkarimov A.I., Yergali A.M., Malikova Sh.B.</i> Criminal responsibility of minors by the foreign legislation	257
<i>Tynysbek A., Yergali A.M., Malikova Sh.B.</i> Criminal liability for preliminary criminal activity	260
<i>Senkibayev B., Isbasova A.B., Malikova Sh.B.</i> Some questions of qualification of depravity of juveniles	264
<i>Altanova A.S., Omarova A.B., Malikova Sh.B.</i> Problems of proofs in civil process	269
<i>Kerimbayeva Zh.M., Yergali A., Malikova Sh.B.</i> Some aspects of the identity of the criminal	273
<i>Saidahmetov A., Yergali A.M., Malikova Sh.B.</i> Some questions of prevention of criminal offenses	277
<i>Elubaeva G.</i> The concept of confiscation under the Criminal Code of the Republic of Kazakhstan	280
<i>Malikova Sh.B., Yergali A.M., Isbasova A.</i> Foreign experience of prevention of computer crime	283
<i>Daubasov S.Sh.</i> Problematic aspects in the mechanism of implementation of the extradition institute	288
<i>Daubasov S.Sh.</i> The concept of migratory crime	291
<i>Daubasov S.Sh.</i> Efforts to crack down on illegal migration	294

### **Problems of proofs in civil process**

Evidence and proof in civil proceedings. The article deals with theoretical and practical issues of proof and proof in the civil process. The concept of evidence in theory and its practical application in the civil process are disclosed. Emerging in the civil process in the process of proving questions.

**Key words:** civil process, proof, evidence.

Evidence may be direct or indirect. Direct evidence allows only one conclusion about the desired actual present. For example, a debtor's receipt of the receipt of the money loaned. Indirect evidence gives rise to a number of assumptions, multiple versions. Therefore, if the plaintiff is in the court of the postal receipt of money to the defendant, it is only indirect evidence of the loan agreement, as there may be other versions - that the plaintiff himself returned previously taken from the defendant borrowed money or that he transferred them to transfer to another person and so on. Therefore, the circumstantial evidence is necessary to analyze all the versions until a study of all the evidence and circumstances of the case taken together will allow the court to come to one definite conclusion.

The law allows the use of all types of evidence, establishing at the same time, that no evidence has to court a predetermined force.

The circumstances justifying the claims and objections of the parties are the subject of the so-called evidence. Law term "item of proof" is not used, but it is widely used in practice and procedure adopted in the theory of law. This range of legal facts, the establishment of which depends on the resolution of the merits. They are all subject to proof in the process, hence the name, the subject of proof. They are called the facts sought, since the court has to establish the facts in order to properly resolve the matter.

Evidence form the subject of the material facts - of a legal nature, i.e., the facts stated in the substantive law and rules entailing substantive consequences. The composition of the facts included in the item of evidence

for each case is different. It depends on the requirements and objections by parties. The facts that justify their claims and objections, just the subject of proof.

For other circumstances relevant to the proper consideration and resolution of the case, are the legal facts of procedural law and evidentiary facts [3].

In civil cases, there is a need to clarify the circumstances that are not only substantive, but also procedural importance.

For example, the circumstances causing the suspension or termination of the proceedings, or valid reasons of absence of any of the participants in the hearing process. Such circumstances are also installed with the help of evidence.

Evidentiary facts - facts that are not themselves sought legal facts, but help to establish their presence or absence. Evidentiary facts occupy an intermediate position - they first have to prove it, but after that, they are evidence of the required facts. Therefore, they are sometimes called intermediate facts. Most often, they are only indirect evidence in the case.

Questions related to the use of evidence and chapter 7 of the Civil Procedure Code of the Republic of Kazakhstan governs proof in civil proceedings. This chapter is specifically dedicated to procedural law of evidence and proof, it opens in Article 64, which contains a number of important provisions of the law of evidence. First, it defines the evidence. Then, given a list of procedural means of evidence that could be used in court. The article also contains provisions relating to such procedural categories, as a subject of evidence and other circumstances to be proven in civil cases [1].