

## **WHEN IT COMES TO RESOLVING LEGAL ISSUES RELATED TO VOICE RECORDINGS, THE ROLE OF FORENSIC VOICE ANALYSIS IN COURT IS SIGNIFICANT**

**Key words:** Forensic voice analysis in legal contents, Organizing forensic voice analysis in compliance with quality system standards, Legal consequences of forensic voice analysis research

**Anahtar Kelimeler:** yasal içeriklerde adli ses analizi, adli ses analizinin kalite sistem standartlarına uygun düzenlenmesi, adli ses analizi araştırmasının hukuki sonuçları

The main purpose of the article titled “The Role of Court Phonoscopic Expertise in Resolving Legal Issues Related to Voice” is to describe the role and significance of voice expertise in the resolution of legal issues. It explains how this expertise impacts the legal process and how it assists in a clear manner. The article provides readers with information about legal issues related to voice and emphasizes how voice expertise is a crucial tool for legal analysts, judges, and defense attorneys. The goal of this article is to unequivocally confirm that voice expertise plays a significant role in the legal process.

Forensic phonoscopic expertise is one of the fundamental procedural tools in ensuring the implementation of civil rules in the judicial process, as well as in safeguarding and defending the rights and legal interests of the state and citizens.

The appointment and conduct of forensic phonoscopic expertise, according to the procedural nature, are regulated by Article 264 of the Criminal Procedure Code of the Republic of Azerbaijan. This procedural stage is carried out to determine facts related to the investigation and examination of criminal cases. Forensic phonoscopic expertise addresses matters that fall outside the scope of legal and political issues and instead focuses on the knowledge and experience of the judge or prosecutor. All legal matters of a specific nature are resolved by investigators, prosecutors, or the court (judge).

The procedure and conditions for conducting

court phonoscopic expertise are regulated by criminal procedural and civil procedural legislation. This expertise is a procedural activity whose main purpose is to ensure the organization and conduct of court phonoscopic expertise in accordance with the norms of criminal and civil procedural legislation, safeguarding the rights and legal interests of participants in the process. When procedural requirements for conducting court phonoscopic expertise are violated, the evidence obtained as a result of the investigation is considered invalid. Therefore, when the need for specialized knowledge arises in the investigation process of criminal cases, it is necessary to carry out court phonoscopic expertise while strictly adhering to the fundamental principles of this activity.

These principles are reflected in Article 4 of the “Law on State Court Expertise Activity.” They include:

- Protection of human and citizen rights and freedoms.
- Ensuring legality.
- Independence of the expert.
- Objectivity, impartiality and completeness of research conducted using modern science and technology in contemporary activities.

The subject of forensic phonoscopic expertise is the examination of audio-video materials and the analysis of factual evidence applied during the criminal justice process through the application of specialized scientific knowledge. Article 1 of the “Law on Forensic Expertise Activity” specifies that the subject of forensic

expertise is the scope of issues resolved by forensic expertise within the judicial system.

Ensuring the rights of the suspect and accused should be protected during the determination and conduct of the expert examination of audio-video materials. The protection of relevant rights derives from the requirements of Articles 85 and 268 of the Criminal Procedure Code (CPC). As examples, we can mention the following:

- Familiarizing oneself with the decision of the investigator to appoint the examination before it is conducted and receiving an explanation of the rights associated with it.

- Objecting to the expert.

- Providing consent for the expert to be appointed from among the individuals suggested by them.

- Conducting an alternative examination based on their own expertise and at their own expense and providing an opinion for inclusion in the criminal case.

- Asking additional questions to the expert appointed by the investigator for the purpose of obtaining an opinion.

- Participating in the conduct of the examination with the permission of the investigator, requesting an explanation of the nature of the applied research methods and the obtained results from the expert, and providing explanations to the expert.

- Meeting with the expert no later than 10 days from the time when their opinion was included in the case, or giving consent for re-examination, and participating in the termination of the expert examination based on their consent.

Court phonoscopic expertise is an important process for resolving legal issues related to sound. This expertise is necessary for the following reasons:

- Legal proceedings: Courts discuss various matters, from criminal cases to family disputes, and assign legal value to them. Phonoscopic expertise helps clarify the truth based on audio information in the legal process.

- Prosecution and defense: These expertise

assessments help shed light on the adverse effects of the parties on audio information, assisting in identifying violations by defense and prosecution. Phonoscopic expertise serves as a means to confirm that both the prosecution and defense have fair and objective information to express themselves accurately.

- Solving Crimes: Phonoscopic expertise assists in determining when, where, and by whom crimes were committed. This is crucial for the investigation of crimes and ensuring security. During the investigation of a crime, the voices expressed by suspects become important, and phonoscopic expertise confirms (or denies) these voices by comparing them with relevant voices related to the crime, playing a guiding role in resolving the identity of suspicious individuals. Speech and expressions recorded at the crime scene, phone calls, or other voices can contribute to solving the crime. Phonoscopic expertise examines these voices to elucidate how the crime occurred and its details, aiding in the reconstruction of the crime scene.

- Business and Patent Matters: In business and patent issues, phonoscopic expertise can be utilized as part of processes such as verifying intellectual property rights, patent matters, legal contracts, and authenticating factual information. It ensures the protection of the creator of the audio information by determining who created the audio information and confirming ownership rights. Phonoscopic analysis applied to audio information related to patents helps protect the rights of patent holders. This expertise assists in ensuring fair and objective agreements between parties when determining legal contracts related to intellectual property and patents.

- Admission and Tampering of Voice Recordings: Phonoscopic expertise identifies manipulation or preservation methods of voice recordings presented in court proceedings. Manipulation involves deceptive and misleading tactics with the aim of deceiving or misleading a person or group to achieve their own goals and lead them in the desired direction. Deception and manipulation involve using false information and misleading statements to manip-

ulate individuals' emotional states. Economic manipulation involves manipulating financial and material aspects for gain, while defamation and slander involve insulting others' personalities, defaming their reputation, and undermining their social influence through false accusations, among other tactics. These examples can directly harm individuals. Therefore, recognizing and countering manipulation examples is crucial.

The Administration of Court Expertise carries out its statutory functions in accordance with the relevant quality system standards to ensure the satisfaction of all clients and colleagues. In various fields, as in the analysis of audio and video information, forensic technical tools and corresponding software are being improved and developed. Expert experience shows that the advancement of information technology has led people to increasingly use modern high-quality audio-video recording devices for achieving their objectives. This necessitates the application of modern methods and techniques, adaptation of technical equipment, standardization of court phonoscopic expertise methods, and ensuring the recognition and acceptance of expert findings at an international level.

To provide high-quality court phonoscopic expertise services, the methods applied must meet the requirements of international standards. The State Register of Court Expertise Research Methods is conducted by the relevant executive authority. The rules for conducting the State Register of Court Expertise Research Methods and the inclusion of new methods in that register are determined by the relevant executive authority. Experts use research methods included in the State Register of Court Expertise Research Methods during the conduct of court expertise. An expert may use a method not included in the State Register only if it is based on the following conditions:

- it does not contradict the norms and principles established by law;
- it is based on scientific principles;
- it is safe for human life and health and the environment.

Phonoscopic expertise is conducted in two

forms: as mandated by law and when there is a specific need for the relevant expertise related to voice.

Phonoscopic expertise is essential for verifying legal evidence and clarifying the truth in court proceedings. This process assists in ensuring a just and fair resolution in legal matters. It involves examining the reliability of audio and video recordings used as material evidence in law enforcement agencies, i.e., determining whether these audio and video recordings accurately represent a specific event that occurred in a particular time, place, and under specific conditions, using specific methods and means. It necessitates a forensic examination in the court process to establish this accuracy.

One of the main issues in research is the identification of editing and other modifications in the audio and video recordings required for research. Audio and video recordings can be subject to changes either directly during recording or after the recording. Therefore, the initial visual and acoustic information in these materials must be examined to determine the authenticity of these materials, including the identification of all changes made during and after recording. The authenticity of the phonogram refers to the adequacy of the reflection of the sound event (its trace) in the physical carrier, taking into account natural distortions and interventions resulting from transmission and writing movements, as well as other situational factors. Thus, if there are no signs of deliberate manipulation of sound and speech or no changes were made either during the writing process or after, the phonogram can be recognized as authentic.

The total of the court examination is the expert opinion, which the law considers as independent court evidence (AR CEC, Article 76.2; AR CPC, Article 972). As R. Rossinsky mentioned, in practice, the expert opinion is accepted as specific evidence in some cases, taking into account the uniqueness of the expert's judgment and the possibility of obtaining new corroborating facts through special knowledge. The probative importance of expert findings is

greatly elevated, as they are considered to be based on scientific research, and there should be no doubt about the reliability of the expert opinion and the results produced there, according to this view.

The issue of assessing the credibility of an expert opinion is related to the possibility of evaluating the specialized methods and methodologies used by the expert. In order for the structure and content of an expert opinion to enable the assessment of the feasibility of the methods during logical analysis, principles with a formalized character must be carried. The possibility of special methods allows for the assessment of their reliability, and during the comprehensive examination of research, considering the general legal framework, the establishment of these methods plays a crucial role. When conducting a court phonoscopic expertise, the following principles are considered for evaluating the feasibility of the applied special methodologies:

- The necessity of thorough investigation for each separately committed act. When evaluating an expert opinion, the court must ensure that the application of a specific method is essential to the nature of the investigation. In this regard, attention should be paid to the expert's reference to the rationale for choosing this method and its approval. Additionally, the relevant opinion should include notes on recommendations for the application of the method for determining specific facts.

- The principle of voluntariness and compulsion in relation to the subject of the process for conducting research is derived directly from the Constitution of the Republic of Azerbaijan. It not only emphasizes the consent of the potential examined person, i.e., the subject of the process, to the examination but also takes into account consent to the application of specific methodologies in the conduct of the examination. This should be reflected in the expert opinion. According to Article 29 of the Law of the Republic of Azerbaijan on "Judicial Expertise Activity," when judicial expertise is carried out on a voluntary basis, the consent of

the person undergoing the expertise must be provided in written form to the administration of judicial expertise. The Republic of Azerbaijan should regulate the consent of the subject of the process to undergo expertise, the appointment of experts, and the protection of the rights of participants in the process in the norms of the Azerbaijani Cabinet of Ministers.

In some specific cases, it should be noted that forensic expertise is conducted on a compulsory basis. Referring to Article 29 of the Law on "Forensic Expertise Activity," it states, "The circle of persons subject to compulsory forensic expertise is determined by the procedural legislation of the Republic of Azerbaijan. When there is no direct order for the compulsory referral of a person to forensic expertise in the procedural legislation of the Republic of Azerbaijan, the Forensic Expertise Department cannot conduct compulsory forensic expertise on that person.

- The principle of determining the boundaries of the investigation according to its necessity and specific purpose in each concrete case should also be mentioned. When evaluating the expert opinion, it should be ensured that the investigation boundaries determined by the court are followed, the methods applied are relevant to the forensic issues, and the necessity of these tasks for solving the issues is considered. Clearly, this allows the expert opinion's research section to draw conclusions about the necessity of using a particular method with the obtained results.

- An expert is limited to the boundaries set by the court in their investigation and can not go beyond what the court has authorized. This is encompassed by the earlier principles. However, explicitly stating it is necessary to prevent interference with personal life and to guarantee freedom and inviolability of personality. The realization of this principle conflicts to some extent with the provisions of Article 101 of the Criminal Procedure Code of the Republic of Azerbaijan. Specifically, alongside other provisions, it establishes the right of initiative for the expert. The legal definition of the expert's



right of initiative is far from being perfect. The very existence of this right is conditioned by the possibility of creating defects and gaps when formulating the expert assignment at the time of its formulation by the court.

- The right to demand nondisclosure of information obtained during the expert examination of a person's activities, the conduct of the examination by the expert, and the results of such examination that may constitute the person's rights and legal interests being violated is protected. The formulation of this principle complies with the requirements of international standards in the field of human rights as set forth in the Constitution of the Republic of Azerbaijan. The confidentiality of information obtained during the examination and its disclosure to third parties outside the legally prescribed procedure for conducting the examination and the results of it are prohibited according to Article 12 of the "State Judicial Expertise Activity" Law, which prohibits experts from disseminating information that constitutes state, service, professional, and trade secrets protected by law, as well as information known to him in connection with the conduct of judicial expertise.

When evaluating the possibility of using methods, the court should pay special attention to the responsibility for not disclosing personal information by the expert during the investigation and when obtaining information from specialists. This is especially relevant in cases where the expert is appointed by the expert authority and the specific expert is determined by

the head of this authority.

- Ensuring the secure conduct of a special investigation of the person under investigation is a guarantee. This pertains to the relationship between the expert and the person being investigated during the course of the investigation process, which does not have procedural regulation. When evaluating the security of the methods applied by the expert, the court should also ensure their compliance with international norms prohibiting the use of methods that may harm a person's health or violate their constitutional rights.

The evaluation of the expert's opinion by the court can serve as an important means of ensuring the protection of human rights in the mechanism of justice. The use of specialized knowledge in the pursuit of justice allows for the protection of human rights during the purposes of the justice trial.

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# SES KAYITLARIYLA İLGİLİ HUKUKİ SORUNLARIN ÇÖZÜMÜ SÖZ KONUSU OLDUĞUNDA ADLİ SES ANALİZİNİN MAHKEMEDEKİ ROLÜ

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## ÖZET

“Sesle İlgili Hukuki Sorunların Çözümünde Fonoskopik Uzmanlığın Rolü” başlıklı yazıda, ses uzmanlığının hukuki sorunların çözümünde ne kadar önemli bir rol oynadığı vurgulanıyor. Bu uzmanlık, hukuki süreçte ve ceza davalarının soruşturulmasında önemli bir faktör olarak kendini kanıtlamaktadır. Fonoskopik bilirkişilik suçların tespitinde, sese ilişkin uyuşmazlıklarda veya hukuki konuların tartışılmasında uygulanır. Bu uzmanlık, sunulan seslerin analizi ve tanımlanması yoluyla analiz edilir ve sunulan seslerin ayrıntılı analiz ve değerlendirmelerini sağlar. Bu, hukuk analistlerinin, hakimlerin ve davacıların cezai suçları veya hukuki anlaşmazlıkları doğru bir şekilde değerlendirmelerine yardımcı olur. Makale, ses uzmanlığının mahkeme sürecini nasıl etkilediğini ve adil hukuki mücadeleye nasıl yardımcı olduğunu açıklayarak, ses uzmanlığının hukuki sorunlara uygulanmasını açıklamaktadır. Sonuç olarak makale, okuyuculara geniş bir bakış açısı sunarak hukuki süreçte ses uzmanlığının önemini vurgulamaktadır.