

## FEATURES OF THE SEIZURE OF ELECTRONIC EVIDENCE AND COPYING INFORMATION FROM THEM

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### Abstract

In addition, the article analyzes the differences in the interpretation and classification of electronic media, reflecting the breadth of possible definitions and their use in the criminal process. In this regard, the scientific community and practitioners are faced with the need to formulate a unified and comprehensive definition that could meet the requirements of modern criminal procedure Legislation.

The theory rightly notes that not only the physical carrier of information acquires evidentiary value, but also the electronic information contained in it, which can be obtained or created as a result of criminal actions. Electronic information resulting from a crime may contain key clues that are important for establishing the circumstances of the crime, including elements such as timestamps, location, and other data that can be recorded electronically. Therefore, the most important aspect of electronic evidence is information, while the medium itself is not decisive. The article emphasizes the importance of the concept of "electronic evidence" for ensuring the reliability of electronic evidence and offers directions for further research and improvement of the legislative framework.

**Keywords:** Electronic evidence, criminal procedure, preservation, digital data, legislation.

### Introduction

The gradual development of information and telecommunication technologies has significantly changed the life of modern society for the better. Collection, storage and dissemination of information is an integral process of using information technologies. However, along with all the advantages, electronic information is more and more often a way of preparing and committing crimes <sup>1</sup>.

The issue of seizure of electronic information carriers and extraction of information from them is the subject of active discussions in the field of criminal procedure<sup>2</sup>.

<sup>1</sup> See: Petrova O.A. Some Problems Arising in the Seizure of Electronic Media of Information in the Course of Investigative Actions // Modern Problems of Theory and Practice of Law through the Eyes of Young Researchers: Proceedings of the XV All-Russian Youth Scientific and Practical Conference, Ulan-Ude, March 25-26, 2021. Ulan-Ude: East Siberian State University of Technology and Management, 2021. Pp. 81-85; Petrova O.A., Petrova O.A. Problems of withdrawal of electronic media in the domestic criminal process / R.V. Kostenko, O.A. Petrova // Legal Bulletin of the Kuban State University. 2021. № 1. Pp. 62-71.

<sup>2</sup> See: Andreeva E.Yu., Polikarpova O.S. On the Issue of the Procedural Form of Consolidation of Information on Electronic Media as Evidence in a Criminal Case // Criminal Proceedings of Russia and Foreign States: Problems



The definition of the concept of "electronic media" in the context of criminal procedure is a significant difficulty in the light of the lack of a clear normative definition within the framework of the Criminal Procedure Code of the Russian Federation. Despite the repeated use of this term in legislation, as A.A. Balashova points out, the lack of clarity causes legal uncertainty and stimulates active scientific discussions. designed to store information in electronic digital form, which provides the possibility of its subsequent processing by means of computer technology<sup>3</sup>. On the other hand, Y.N. Sokolov expands this interpretation by characterizing an electronic data carrier as a technical and technological device adapted for repeated use. This device, in his opinion, is not only intended for recording, storing, transmitting and reproducing electronic data, but is also capable of providing protection, isolation and restriction of access to stored information<sup>4</sup>.

These approaches emphasize the differences in the interpretation and classification of electronic media, reflecting the breadth of possible definitions and their use in criminal proceedings. In this regard, the scientific community and practitioners are faced with the need to formulate a unified and comprehensive definition that could meet the requirements of modern criminal procedure legislation<sup>5</sup>.

V.N. Grigoriev and O.A. Maksimov characterize an electronic information carrier as an object containing information that is significant for a criminal case and was not created during the investigation (disclosure) of a criminal case, which can be perceived only with the help of electronic computing devices<sup>6</sup>.

In the context of the active development of digital technologies and in the context of the need to adapt criminal procedure legislation to modern realities, the proposal of Y.V. Gavrilin to supplement Article 5 of the Criminal Procedure Code of the Russian Federation seems to be quite relevant. He proposes to include in the legislation a definition of "electronic data carrier" as a device specialized for permanent or temporary storage of information in a format suitable for processing by electronic computers, as well as for its transmission through information and telecommunication networks or processing in information systems<sup>3</sup>. This definition broadens

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<sup>3</sup> See: Balashova A.N. Electronic Media of Information and Their Use in Criminal Procedure Evidence. ... Cand. jurid. Sci. 12.00.09 / Balashova Anna Aleksandrovna. Moscow, 2020. Pp. 23, 28.

<sup>4</sup> See: Sokolov Yu.N. Electronic Media of Information in the Criminal Process // Information Law. 2017. № 3. P. 23.

<sup>5</sup> Khimicheva O.V. Development of Criminal Procedure Evidence in the Conditions of Digital Transformation. st. according to mat. Int. Scientific and Practical Conf., Moscow, May 26, 2023 / Academy of Management of the Ministry of Internal Affairs of Russia. Volume Part 2. Moscow: Academy of Management of the Ministry of Internal Affairs of the Russian Federation, 2023. Pp. 187-194.

<sup>6</sup> Grigoriev V.N., Maksimov O.A. Ponyatie elektronnykh sobsii informatsii v ugolovnom sudoproizvodstvo [The concept of electronic media of information in criminal proceedings]. 2019. № 2 (84). P. 40.



the understanding of electronic media, including not only traditional storage devices but also other technological means that can be used for this purpose.

I.V. Kaznachey confirms this point of view, defining "electronic data carrier" as a technical means for recording, storing, reproducing and using data with the help of electronic computers. This underlines the versatility and versatility of such devices in the process of data processing and transmission.

I.S. Fedotov and P.G. Smagin expand this list to include modern devices that were not initially considered as traditional data carriers, such as tablets, phones and computers. They note that in modern practice, such devices are actively used to store and reproduce information, which makes them important elements in the criminal procedural context<sup>2</sup>.

N.V. Olinder notes that in modern conditions any evidence can be presented in digital form, which once again confirms the need to adapt legislation to the realities of the digital era, where information technology plays a central role. Thus, the introduction of a clear and comprehensive definition of "electronic media" in the Criminal Procedure Code of the Republic of Uzbekistan is a key element for clarifying and strengthening the legal norms governing the use of modern technologies in criminal proceedings.

The theory rightly notes that it is not only the physical medium of information that acquires evidentiary value, but also the electronic information contained therein, which can be obtained or created as a result of criminal acts. Electronic information resulting from a crime may contain key evidence that is important for establishing the circumstances of the crime, including such elements as timestamps, location, and other data which can be recorded in electronic form. Therefore, the most important aspect of electronic evidence is information, while the medium itself is not decisive<sup>7</sup>.

Usually, electronic evidence is withdrawn from material media in the process of conducting investigative actions, including the use of state coercion. In case of destruction of an electronic information carrier, the restoration of information associated exclusively with it becomes impossible.

As part of the discussion of terminology related to the types of information carriers in criminal procedure legislation, the opinions of scholars differ in understanding which definitions most effectively reflect the realities of the modern digital world.

For example, A.I. Zazulin criticizes the use of the term "electronic data carrier", stressing that such a formulation does not give a clear idea of the features of modern devices in comparison with other types of media and potentially limits the range of objects for investigative actions. The scientist proposes the term "digital storage medium", which, in his opinion, is more universal and able to adapt to future innovations in the field of data storage. This will allow the legislation to remain relevant in the face of technological progress and establish a uniform regime for the seizure and copying of information from different devices.

N.A. Ivanov expresses similar concern about the term "electronic data carrier", pointing out its insufficient "inclusiveness". He suggested reverting to the use of the term "computer media", which had been used in the past, and which, in his view, better covered all possible devices on



which digital information could be stored. The term may be more encompassing and not limited exclusively to modern or traditional electronic devices.

Other researchers also support the idea of using the term "computer data carriers", seeing in it a way to provide the greatest completeness of coverage of objects that can be seized as a result of investigative actions.

The above proposals are marked by the need to adapt criminal procedure legislation to the changing landscape of information technology in order to ensure effective investigation in the context of constant technological development. In the scientific literature, there are other points of view on electronic (digital) information carriers in the context of determining the essence of computer information. In the course of theoretical analysis of the nature and classification of electronic (digital) media, the scientific community offers a variety of and sometimes diametrically opposed approaches that reflect the breadth and depth of this topic in the modern legal and information technology context.

In particular, G.E. Senkevich focuses on the fact that computer information is all information encoded in a binary system, regardless of the type of carrier. This point of view reflects the technological side of the issue, emphasizing the universality of binary code as the basis for storing and processing information on various devices - from magnetic to optical and electronic media.

O.G. Grigoriev expands the concept of "computer information" to include not only factual data, but also software, the functioning of the computer and its devices.

V.B. Vekhov specifies that computer information is data in electronic digital form that can be transmitted or stored using electromagnetic interactions.

Some scientists are trying to abandon the use of the term "computer information". N.A. Ivanov advocates replacing the term "computer information" with "digital information" in order to reflect a wider range of means of recording and storing data and to avoid the limitations associated with outdated technologies.

Thus, in the specialized scientific literature there are various points of view on the definition of electronic (digital) information carriers and the essence of computer information. The importance of such discussions is that the clarification of terminology can influence legal practice and provide a more accurate and comprehensive understanding of the issues related to the use of digital technologies. At the same time, it is necessary to take into account the development of technologies and the emergence of new types of information carriers, which may require adjustments in legislation and scientific research.

"There is an urgent need for the prompt and high-quality formation of a unified doctrinal approach to electronic evidence in criminal procedural law, including the issues of their seizure. Many norms of criminal procedure legislation were adopted before the advent of new information technologies, so it is necessary to systematically improve the Criminal Procedure Code of the Russian Federation, taking into account the introduced modern digital technologies, including in the field of the use of electronic means of information carriers. The dynamics of the development of criminal procedure legislation should be in demand in a qualitative way in the course of law enforcement activities when seizing electronic media and copying information from them."



The legislator does not grant the status of independent investigative actions either to the seizure of electronic media or to copy information from them. However, "investigative actions related to the seizure of electronic media, copying information from them are the most important tools that help to establish the circumstances of the case under investigation, and therefore a more detailed study of the current criminal procedure legislation is necessary for their implementation." At the same time, the Criminal Procedure Code of the Russian Federation distinguishes, on the one hand, the seizure of electronic media, and on the other hand, copying from electronic media.

We believe that any actions carried out by the investigator in the process of copying data from electronic media should be carried out using special knowledge. Only a skilled person is able to determine whether the copying process will cause the loss or modification of information. In order to ensure the safety and inadmissibility of distortion of information that the investigator has the right to copy from electronic media without its withdrawal, it is necessary to involve a specialist in this action.

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