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Review article

EXPERT WITNESSES IN UKRAINIAN LEGAL PROCEEDINGS

The concept of Expert Witness is not covered by the procedural legislation of Ukraine, although it has become widespread in research papers of processional scientists. In scientific publications, scholars are fragmentarily considering certain categories of versed persons, formulate the notion of special knowledge that they possess, but the types of specialists, their functions and competence still remain controversial and ambiguously interpreted by lawyers.

The purpose of this article is to define the general concept and functional purpose of expert witnesses in any type of legal process, their classification, to clarify expertise structure.

This article proves that expert witnesses can have special (non-legal) expertise and expertise in the field of law. The purpose of involving expert witnesses is to assist the authorized participants of the process in the performance of their functions. Expert witnesses include: forensic expert; legal expert; specialist; translator, sign language interpreter, persons testifying on the basis of their expertise; medical examiner, teacher, psychologist, doctor, psychiatrist, auditor; inspectors; experts of the Scientific Advisory Board of the Supreme Court; consultants pre-investigate facilities, screening and forensic facilities and persons according to criminal records. There are two grounds for the classification of expert witnesses in legal proceedings: the first is the direct or indirect way of participation in the proceedings; the second is the degree of legal regulation of the process and results of the activities of expert witnesses.

Expert witness in legal proceedings is subject owning expertise (non-legal) in a particular field of human activity or legal knowledge, skills in their application is not a professional participant in the process, is involved directly or indirectly in a procedurally regulated or non-regulated form or at the discretion of an authorized person (body) to assist in the resolution of the tasks of the judiciary and the information and documents provided by him are used as sources of evidence or background information serving grounds for procedural, tactical and organizational decisions.

Keywords: legal proceedings, expert witnesses, specific expertise, forms and purpose specialist involvement, classification of expert witnesses.

Formulation of Research Problem. Proceedings in administrative, economic, criminal and civil proceedings require the use not only of professional legal knowledge possessed by a court, prosecutor, investigator, lawyer, but also of specialized knowledge. The timely use of specialized knowledge largely depends on the effectiveness of the proceedings. Improving the procedure for the use of specialized knowledge is an important component of judicial reform in Ukraine, since in the context of increasing requirements for the process of evidence in the judiciary, they are called upon to provide objective reliable evidence, as well as the information needed to make procedural decisions by authorized persons (bodies). It is quite obvious that the effective use in the judiciary of specialized knowledge depends directly on their content and carriers, that is, the persons who possess them and are called *Expert witnesses*. As V. V. Sedniev correctly emphasizes, the concept of special knowledge is inseparable from the concept of the expert witness, because the concept of *specific* describes the areas of human activity in their differentiation, and *expert* characterizes the subject who possesses such information¹.

The *expert witness* term first appeared in Articles 112, 325-328 of the Criminal Procedure Statute of 1864. However, the concept of *expert witness* is not covered by any procedural legislation of Ukraine, although it has become widespread in the scientific works of professional scientists, criminologists, and forensic experts. Persons possessing specialized knowledge and are involved in the process are recognized as aware. In numerous scientific publications, scientists formulate the notion of special knowledge, fragmentarily consider certain categories of expert witnesses, but so far the essence of special knowledge, types of specialists, their functions remain debatable and ambiguously interpreted by lawyers.

Analysis of recent research and publications. The increasing possibilities of incorporating the achievements of science and technology into the process of proof, the need to more rationally organize the involvement of expert witnesses causes the continued attention of scientists and practitioners to the problems of the use of special knowledge of knowledgeable persons in various forms. For many years, domestic and foreign scientists have been paying attention to this problem².

¹ Sedniev V. V. Ontolohiia obiznanoi osoby. Visnyk Luhanskoho derzh [Ontology of the knowledgeable person]. un-tu vnutr. sprav imeni E. O. Didorenka. Luhansk, 2014. Spets. vypusk № 1. S. 38 [in Ukrainian].

² Averjanova T. V. Subekty jekspertnoj dejatel'nosti [Subjects of expert activity]. Vestnik kriminalistiki. Moskva : Spark, 2001. Vyp. 2. S. 29–37; Arsen'ev V. D. Zablockij V. G. Ispol'zovanie special'nyh znaniy pri ustanovlenii fakticheskikh obstojatel'stv ugovnogo dela [Use of special knowledge in

Over the past four years, a number of dissertations have been conducted in Ukraine, which examined the general and specific problems of the use of specialized knowledge of knowledgeable persons in criminal proceedings: P. Yu. Kravchuk (2015)¹, A. M. Lazebnyi (2016)¹,

establishing the actual circumstances of a criminal case]. Krasnojarsk : Krasnojarskij gos. un-t, 1986. S. 45–75; *Goncharenko V. I.* Ispol'zovanieannyh estestvennyh i tehniceskikh nauk v ugolovnom sudoproizvodstve [Use of data from natural and technical sciences in criminal proceedings] Kiev : Vishha shkola, 1980. S. 105–145 [in Russian]; *Gora I. V.* Viktoristannya special'nyh znan advokatom [Use of specialist knowledge by a lawyer]. Kiiv : Precedent, 2013. S. 15–61 [in Ukrainian]; *Grishina E. P.* Svedushhie lica v ugolovnom sudoproizvodstve: teoreticheskie problemy dokazyvanija i pravoprimenitel'naja praktika [Knowledgeable Persons in Criminal Proceedings: Theoretical Problems of Evidence and Law Enforcement Practice]. Moskva : Juridicheskij in-t MiiTa, 2012. S. 130–147 [in Russian]; *Demydova Ye. Ye.* Taktika dopytu obiznanykh osob [Tactics of interrogation of knowledgeable persons]: avtoref. dys. ... kand. yuryd. nauk : 12.00.09 / Nats. un-t «Iurydychna akademiia Ukrainy imeni Yaroslava Mudroho». Kharkiv, 2013. S. 8–9 [in Ukrainian]; *Isaeva L. M.* Kriminalisticheskoe uchenie o special'nyh znanijah svedushhih lic [Forensic doctrine of the special knowledge of knowledgeable persons] : avtoref. dis. ... d-ra jurid. nauk: 12.00.09 / S.-Peterb. gos. un-t MVD Rossii. Sankt-Peterburg, 2009. S. 20–21 [in Russian]; *Kovalenko V. V.* Zastosuvannya naukovykh zasobiv spetsialisty pry provedenni slidchykh dii [Application of scientific and technical means by specialists in carrying out investigative actions]. Luhansk: Luhanskyi derzh. un-t vnutr. sprav, 2007. S. 49–78 [in Ukrainian]; *Lisichenko V. K., Cirkal' V. V.* Ispol'zovanie special'nyh znanij v sledstvennoj i sudebnoj praktike [Tsirkal' V.V. Use of special knowledge in investigative and judicial practice]. Kiev : Kievskij. gos. un-t, 1987. S. 34–56; *Mahov V. N.* Ispol'zovanie znanij svedushhih lic pri rassledovanii prestuplenij [The use of knowledge of knowledgeable persons in the investigation of crimes]: monografija. Moskva : Ros. un-t druzhby narodov, 2000. S. 50–62 [in Russian]; *Romaniuk B. V.* Suchasni teoretychni ta pravovi problemy vykorystannia spetsialnykh znan u dosudovomu slidstvi [Modern theoretical and legal problems of the use of special knowledge in pre-trial investigation] : dys. ... kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav. Kyiv, 2002. S. 24–68 [in Ukrainian]; *Selina E. V.* Primenenie special'nyh poznanij v ugolovnom processe [The use of special knowledge in criminal proceedings]. Moskva : Jurliginform, 2002. S. 79–115; *Telegina T. D.* Ispol'zovanie special'nyh znanij v sovremennoj praktike rassledovaniya prestuplenij [The use of special knowledge in the modern practice of crime investigation]. Moskva : Jurlitinform, 2011. S. 73 –101; *Shapiro L. G.* Processual'nye i kriminalisticheskie aspekty ispol'zovaniya special'nyh znanij pri rassledovanii prestuplenij v sfere jekonomicheskoy dejatel'nosti [Procedural and forensic aspects of the use of special knowledge in the investigation of crimes in the field of economic activity]. Moskva : Jurlitinform, 2007. S. 44–64; *Shherbakovskij M. G., Kravchenko A. A.* Primenenie special'nyh znanij pri raskrytii i rassledovanii prestuplenij [Application of special knowledge in the disclosure and investigation of crimes]. Har'kov : Un-t vnutr. del, 1999. S. 10–73 [in Russian].

¹ *Kravchuk P. Yu.* Vykorystannya spetsialnykh znan pid chas rozsliduvannya hrabehziv i rozboiv [Use of Special Knowledge in investigation of

K. A. Sadchykova (2017)², D. V. Kurylenko (2017)³, O. V. Shevchenko (2017)⁴, H. S. Bidniak (2018)⁵, Ye. V. Kovalevska (2018)⁶, Ye. O. Danich (2018)⁷, N. V. Tymofieieva (2018)⁸, A. V. Sidielnikov (2019)⁹.

In general, the authors adhere to the traditional approach to the structure and forms of use of specialized knowledge, but the list of knowledgeable persons is limited and does not correspond to the content of the Criminal Procedural Code of Ukraine, Code of Administrative Proceedings of Ukraine, Civil Procedural Code of Ukraine, Civil

Robberies and Robberies]: dys. ... kand. yuryd. nauk: 12.00.09 / Skhidnoievropeyskyi nats. un-t im. Lesi Ukrainky. Lutsk, 2015. 260 s. [in Ukrainian].

¹ *Lazebnyi A. M.* Vykorystannia spetsialnykh znan pry rozsliduvanni kryminalnykh pravoporushen proty hromadskoho poriadku [The use of special knowledge in the investigation of criminal offenses against public order]: dys. ... kand. yuryd. nauk: 12.00.09 / Un-t derzh. fiskalnoi sluzhby Ukrainy. irpin, 2016. 227 s. [in Ukrainian].

² *Sadchykova K. A.* Vykorystannia spetsialnykh znan na stadii dosudovoho rozsliduvannia (protsesualnyi aspekt) [Use of special knowledge at the stage of pre-trial investigation (procedural aspect)]: dys. ... kand. yuryd. nauk: 12.00.09 / Odeskyi derzh. un-t vnutr. sprav. Odesa, 2017. 233 s. [in Ukrainian].

³ *Kurylenko D. V.* Instytut obiznanykh osib u zmahalnomu kryminalnomu provadzhenni [Institute of Knowledgeable Persons in Competitive Criminal Proceedings]: dys. ... kand. yuryd. nauk: 12.00.09 / Kharkivskyi nats. un-t vnutr. sprav. Kharkiv, 2017. 258 s. [in Ukrainian].

⁴ *Shevchenko O. V.* Vykorystannia spetsialnykh tovaroznavchykh znan pid chas dosudovoho rozsliduvannia [Use of special commodity knowledge during pre-trial investigation]: dys. ... kand. yuryd. nauk: 12.00.09 / Natsionalna akad. vnutr. sprav. Kyiv, 2017. 317 s. [in Ukrainian].

⁵ *Bidnyak G. S.* Viktorystannia special'nykh znan' pri rozsliduvanni shahrajstv [The use of special knowledge in fraud investigations]: dis. ... kand. jurid. nauk: 12.00.09 / Dnipropetrovskij derzh. un-t vnutr. sprav. Dnipro, 2018. 250 s. [in Ukrainian].

⁶ *Kovalevska Ye. V.* Vykorystannia spetsialnykh medychnykh znan pid chas rozsliduvannia zlochyniv [The use of special medical knowledge in the investigation of crimes]: avtoref. dys.... kand. yuryd. nauk: 12.00.09 / Mizhrehionalna akad. upravlinnia personalom. Kyiv, 2018. 24 s. [in Ukrainian].

⁷ *Danich Ye. O.* Vykorystannia spetsialnykh znan pid chas provedennia slidchoho eksperymentu [The use of special knowledge during the investigative experiment]: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav. Kyiv, 2018. 238 s. [in Ukrainian].

⁸ *Tymofieieva N. V.* Vykorystannia spetsialnykh znan pry rozsliduvanni zlochyniv proty bezpeky vyrobnytstva [Use of Special Knowledge in investigating Crimes Against Production Security]: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav. Kyiv, 2018. 214 s. [in Ukrainian].

⁹ *Sidielnikov A. V.* Spetsialni znannia v diialnosti advokata-zakhysnyka [Special knowledge in the activity of defense lawyer]: dys. ... kand. yuryd. nauk: 12.00.09 / Akad. advokatury Ukrainy. Kyiv, 2019. 271 s. [in Ukrainian].

Procedure Code of Ukraine so Commercial and Procedural Code of Ukraine.

The **Article Purpose** is to define the general concept and functional purpose of knowledgeable persons in any type of legal process, their classification, to clarify the structure of special knowledge.

Main Research Content Presentation. Researchers have repeatedly considered a person who possesses special knowledge and its properties. Here are some definitions that accumulate the basic views of scientists about expert witnesses.

I. Ya. Fojnitsky considered *expert witnesses* as persons involved in the case for the purpose of observing and establishing circumstances, the knowledge of which required the use of special knowledge in science, art, craft or other field and giving opinion or expressing their opinion¹. From the point of view of V. M. Makhov, expert witnesses in the criminal procedure have specific expertise and skills of their application, are not interested in solving the case and are involved by the investigator and the court in order to assist in establishing the truth in the case in the cases and forms specified by law². According to A. F. Volobuyev, a expert witness is a person who is not interested in the results of the case possessing specialized knowledge in a particular field and is involved in the investigation and investigation of crimes to solve special issues³.

O. A. Bondarenko identifies expert witnesses as competent persons who are not interested in the case, who possess special knowledge in a particular field of science, technology, arts, crafts and experience of their use and involved investigator, prosecutor, court (judge) to participate in criminal matters for the purpose of assisting them in resolving issues requiring the use of specialized knowledge and practical skills⁴.

¹ *Fojnickij I. Ja.* Kurs ugolovnogo sudoproizvodstva [Course of criminal proceedings]: v 2 t. / pod red. A. V. Smirnova. Sankt-Peterburg : Al'fa, 1996. T. 2. S. 284 [in Russian].

² *Mahov V. N.* Ispol'zovanie znaniy svedushhih lic pri rassledovanii prestuplenij [Use of knowledge of knowledgeable persons in the investigation of crimes]: monografiia. Moskva : Rossijskij un-t družby narodov, 2000. S. 54 [in Russian].

³ *Volobuyev A. F.* Problemy metodyky rozsliduvannia rozkradan maina v sferi pidpriemnytstva [Problems of methodology of investigation of property theft in the field of business] : monohrafiia. Kharkiv : Un-t vnutr. sprav, 2000. S. 250 [in Ukrainian].

⁴ *Bondarenko O. O.* Protseusualnyi status obiznanykh osib ta yikh pravo-vidnosyny z diznavachem i slidchym u kryminalnomu sudochynstvi Ukrainy [Procedural status of informed persons and their legal relations with the investigator and investigator in the criminal proceedings of Ukraine]: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. un-t vnutr. sprav. Kharkiv, 2004. S. 31. [in Ukrainian].

K. A. Savchenko believes that expert witnesses are any non-interested competent persons who possess special knowledge in a particular field of science, technology, arts, crafts and experience of their use and are involved in criminal proceedings by a court (judge) to participate both before the start and during the criminal proceedings, in order to assist in the resolution of issues requiring the use of specialized knowledge and practical skills¹.

O. V. Selina formulates the concepts of expert witnesses in a broader sense as persons possessing the specialized knowledge of the required type and structure, called by the investigator, prosecutor, court, and in the cases specified in the law – involved by a lawyer to assist in the appropriate form of criminal justice assistance use of specialized knowledge².

L. M. Isaieva calls expert witnesses possessing special knowledge, skills and skills, disinterested in the case, involved in the operative-search activity and criminal process in accordance with the established law in order to facilitate the detection, disclosure, investigation of crimes in the execution of justice criminal cases³.

O. A. Kravchenko, by a knowledgeable person, means a person who possesses vital, publicly available or scientific knowledge acquired as a result of daily work activity, personal experience, or general or special education. Expert witness applies his knowledge in the manner prescribed by law⁴.

Despite some differences in the wording of the definition of *expert witnesses*, there is no significant controversy among the scientists in clarifying the meaning of this concept. We believe that the term

¹ *Sadchykova K. A.* Vykorystannia spetsialnykh znan na stadii dosudovoho rozsliduvannia (protsesualnyi aspekt) [Use of special knowledge at the stage of pre-trial investigation (procedural aspect)]: dys. ... kand. yuryd. nauk: 12.00.09 / Odeskyi derzh. un-t vnutr. sprav. Odesa, 2017. S. 31 [in Ukrainian].

² *Selina E. V.* Primenenie special'nykh poznanij v rossijskom ugolovnom processe [The use of special knowledge in the Russian criminal process] : avtoref. dis. ... d-ra jurid. nauk: 12.00.09 / Kubanskij gos. un-t. Krasnodar, 2003. S. 10–11 [in Russian].

³ *Isaeva L. M.* Kriminalisticheskoe uchenie o special'nykh znanijah svedushhij lic [Forensic doctrine of the special knowledge of knowledgeable persons] : avtoref. dis. ... d-ra jurid. nauk: 12.00.09 / Sankt-Peterb. gos. un-t MVD Rossii. Sankt-Peterburg, 2009. S. 38 [in Russian].

⁴ *Kravchenko O. A.* Zastosuvannia spetsialnykh znan pid chas zbyrannia, doslidzhennia ta vykorystannia rechovykh dokaziv [Application of Special Knowledge in Collecting, Researching and Using Physical Evidence] : dys. ... kand. yuryd. nauk: 12.00.09 / Kласychnij pryvatnij un-t. Zaporizhzhia, 2012. S. 41 [in Ukrainian].

«knowledgeable person» should be considered in two aspects: etymological, which reveals its meaning, and procedural – to establish a list of persons to whom the term applies. In the etymological sense, the *expert witness* term means a person who knows something, is well acquainted with something¹. In procedural aspect, persons whose expertise is opposed to legal (legal) expertise that should be possessed by professional participants of the process: judge, investigator, prosecutor, defense attorney², are considered to be aware. Summarizing the existing perspectives in the literature on the general concept of knowledgeable persons, we can distinguish the following essential features: the presence of special knowledge and skills of their application; disinterest in the results of the proceedings; involving the parties or the court in procedural or non-procedural forms; assisting in proving or assisting in resolving special issues. Each of these properties requires refinement.

In the specialized literature, one of the problematic issues, whose solution defines the circle and competence of knowledgeable persons, is to determine the structure of special knowledge that they possess. The opinions of scholars have diametrically opposite directions and range from the inclusion in the specialty of all legal knowledge or particular branches of law to the complete exclusion of any legal knowledge from the scope of the special. We stick to the point of view of those scholars who do not view legal knowledge as specific one in the procedural sense. Another approach inevitably leads to the possibility of a judicial expert resolving legal issues, which is directly prohibited by law (Art. 242 of Criminal Procedural Code of Ukraine, Art. 102 of Civil Procedural Code of Ukraine, Art. 101 of Code of Administrative Proceedings of Ukraine, Art. 98 of Commercial and Procedural Code of Ukraine).

However, it is impossible to conclude conclusively that legal knowledge is not applied in the judiciary by knowledgeable persons. Thus, one of the tasks of a specialist involved in the first stages of litigation is to provide oral advice or written explanations to assist in the search for new evidence and to facilitate the investigation and evaluation of evidence already available (Articles 71, 360 of the CCP, Article 74 of the Code of Civil Procedure, Article 70 of the CAS; Article 71 of the Code of Civil Procedure. Unlike forensic expert, for legal clarification, it is not forbidden to ask a specialist of legal issues and provide appropriate

¹ Slovník ukraïnskoi movy: v 11 t. Kyiv : Naukova dumka, 1974. T. 5. S. 505 [in Ukrainian].

² Grazhdanskij process [Civil process]: uchebnik / pod red. M. K. Treushnikova. Moskva : «Spark», Juridicheskoe bjuro «Gorodec», 1998. S. 197 [in Russian].

consultations¹. These considerations also apply to the range of interests of the inspector, who, by the results of commodity, technical, economic, obstetric and gynecological, ecological, construction, fire-technical and other inspections, makes the relevant acts (Article 99 of the Criminal Procedural Code of Ukraine). The latest editions of the procedural codes of Ukraine have the same novelty about a new participant in the process: *forensic expert in law*» (Article 73 of the Civil Procedural Code of Ukraine, Article 69 of the Code of Administrative Proceedings of Ukraine, Article 71 of the Commercial and Procedural Code of Ukraine). It defines a recognized specialist in the field of law, and the purpose of its involvement – to provide advisory assistance in complex legal situations.

The current legislation provides for the possibility of providing legal assistance to the court in the cassation stage of the proceedings by specialists of the Scientific Advisory Board at the Supreme Court (Art. 434-2 of Criminal Procedural Code of Ukraine, Art. 404 of Civil Procedural Code of Ukraine, Art. 347 of Code of Administrative Proceedings of Ukraine, Art. 303 of Commercial and Procedural Code of Ukraine). According to the Regulations on the Scientific Advisory Board of the Supreme Court of Ukraine, it is formed from among highly qualified specialists in various fields of law. These informed persons include the preparation of scientific conclusions on the interpretation and application of the rules of law. The explanations prepared by experts help to make a legitimate and justified decision in difficult situations of law enforcement. We believe that the advisory functions of a specialist, an expert on the issues of law in the first stages of litigation, and the activities of specialists of the Scientific Advisory Board during the proceedings in the Supreme Court of Ukraine are essentially identical. Thus, in litigation, the term «knowledgeable person» is a general concept that brings together all persons who satisfy the needs of litigation in special (non-legal) and legal knowledge. Of course, these experts do not include professional participants in the process: judge, prosecutor, investigator, lawyer.

Another trait that knowledgeable individuals share is their lack of interest in the outcome of the proceedings. This requirement is due to the need to objectively establish the circumstances of the crime and a reasoned procedural decision. It should be noted that this characteristic is provided only for the expert, specialist and translator (Article 79 of the Criminal Procedural Code of Ukraine, Article 38 of the Civil Procedural Code of

¹ Shcherbakovskyi M. H. Sutnist, struktura ta tsili vykorystannia spetsialnykh znan v sudochynstvi [The essence, structure and purposes of the use of special knowledge in litigation]. Teoriia ta praktyka sudovoi ekspertyzy i kryminalistyky. Kharkiv : Pravo, 2018. Vyp. 18. S. 189 [in Ukrainian].

Ukraine, Article 38 of the Code of Administrative Proceedings of Ukraine, Article 37 of the Commercial and Procedural Code of Ukraine). Thus, a suspect, accused and the victim during interrogation may express conclusions and opinions based on specialized knowledge and recognized by the evidence in accordance with Art. 95 of the Commercial and Procedural Code of Ukraine. Meanwhile, the victim, the suspect, the accused are persons who defend their rights or represented interests in proceedings. The peculiarity of the testimony of the suspect, accused, victim as a means of proof provided on the basis of the use of specialized knowledge is that they come from a person directly interested in the results of criminal proceedings. Second example. According to Art. 212 of the Criminal Procedural Code of Ukraine, persons who provide detained medical care and record any bodily injury or deterioration of health upon request may be admitted to a specific person who is entitled to practice medical activities. Such a person may be relatives, subordinates or other dependent and non-detained health care professionals. Another interested knowledgeable person is the inspector performing audits of subordinate individuals or legal entities and drafts the relevant acts (Article 99 of the Criminal Procedural Code of Ukraine). The said examiner cannot be recognized as an impartial person. Thus, the claim of disinterest is not common and cannot be put forward to all expert witnesses. Researchers are looking at different forms of using specific expertise in legal proceedings, or, what is the same, the ways of engaging expert witnesses¹. Determining the forms of use of specific expertise in legal proceedings is of great theoretical and applied importance, since its correct elucidation determines the procedure for the use of specific expertise, establishing the special procedural status of subjects possessing such expertise and ultimately, probative value of the results specific expertise application². The essence of the differences is that some authors list the forms of use of specialized knowledge, without indicating any reasons, others propose to classify on different grounds, taking into account the subject, which uses special knowledge, the probative value of the results obtained, by type of activity,

¹ Revaka V. M. *Formy vykorystannia spetsialnykh piznan v dosudovomu provadzhenni* [Forms of using special knowledge in pre-trial proceedings]: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. yuryd. akad. Ukrainy imeni Yaroslava Mudroho. Kharkiv. 2006. S. 30–32. *Spitsyna H. O., Bidniak H. S.* *Formy vykorystannia spetsialnykh znan. Teoriia ta praktyka sudovoi ekspertyzy i kryminalistyky*. Kharkiv : Pravo, 2018. Vyp. 18. S. 240–248 [in Ukrainian].

² *Mahov V. N.* *ispol'zovanie znanij svedushhih lic pri rassledovanii prestuplenij* [Use of knowledge of knowledgeable persons in the investigation of crimes]: monografiia. Moskva : Ros. un-t druzhby narodov, 2000. S. 72 [in Russian].

purpose use, etc. Various classifications of forms specific expertise using are given in the literature, while in the opinions of legal practitioners a rather wide «dispersion» of such forms can be traced. However, most scholars share ways of engaging expert witnesses into two main forms: procedural and non-procedural¹. In criminal proceedings, the procedural form is the legal regime of criminal procedural activity including compliance with legal procedures, the fulfillment of certain procedural conditions and provision of guarantees in criminal proceedings².

According to O. V. Selina, the criminal-procedural form of the use of specific expertise is a system of rules of application in the preliminary investigation and judicial consideration of criminal cases of specific expertise of expert witnesses, enshrined in the criminal procedure law³. It should be noted that not all the methods of attracting knowledgeable persons specified in the procedural laws fully meet the requirements of the procedural form and are equally regulated. With regard to the expert, specialist, translator, the person giving the testimony on the basis of specialized knowledge, the order of their involvement, rights, duties, responsibilities, are clearly defined. In other cases, well-known persons only mention or indicate the results of their activities, and legal personality is not regulated.

The analysis of the criminal, civil, administrative, economic judiciary of Ukraine leads to the conclusion that directly or indirectly in the procedural laws it is possible to distinguish knowledgeable persons who are involved directly, their participation in the proceedings is regulated with different degree of completeness, and such professionals who are indirectly involved, then indirectly proceedings use the results of their activities, which are not regulated by procedural law. Therefore, we believe that there are two main reasons for differentiating forms of involvement of knowledgeable persons in the process: the first is a way of participating in the proceedings – direct or indirect, that is, the use of finished results of their work; the second is the degree of legal regulation

¹ Prokopanych H. K. Vykorystannia spetsialnykh znan v kryminalnomu, tsyvilnomu ta hospodarskomu protsesi Ukrainy [Use of special knowledge in criminal, civil and economic process of Ukraine]. *Uchenye zapysky Tavrycheskoho nats. un-ta ym. V. Y. Vernadskoho. Seryia «iurydycheskye nauky»*. Tom 26 (65). 2013. № 1. S. 267 [in Ukrainian].

² Kryminalnyi protses [Criminal proceedings]: pidruchnyk / za red. V. Ya. Tatsiia, Yu. M. Hroshevoho, O. V. Kaplinoi, O. H. Shylo. Kharkiv : Pravo, 2013. S. 14 [in Ukrainian].

³ Selina E. V. Primenenie special'nykh poznanij v ugovnom processe [The use of special knowledge in criminal proceedings]. Moskva : Jurlitinform, 2002. S. 79 [in Russian].

of the process and results of the activities of knowledgeable persons. It should be noted that the law provides for cases of mandatory involvement of certain specialists (mandatory examination, involvement of a translator, etc.).

In addition to the above expert, specialist, translator, testifying person, the knowledgeable persons directly involved in the proceedings include:

- forensic expert, in addition to conducting forensic examination, which is involved in examination, examination, forensic examination (Articles 206, 238, 238, 239, 241 of Criminal Procedural Code of Ukraine, Article 342 of Civil Procedural Code of Ukraine);

- pedagogue, psychologist, in addition to conducting psychological examination, participating in investigative (search) actions involving minors or minors (Articles 226, 227, 228, 354, 491 of the Criminal Procedural Code of Ukraine);

- doctor who can replace a forensic expert and participate in the interrogation of a suspect or accused minor (Articles 226, 227, 238, 241, 354, 491 of the Criminal Procedural Code of Ukraine);

- psychiatrist, in addition to conducting psychiatric examination, to which he participates in a court hearing regarding the compulsory referral of an individual to forensic psychiatric examination and the provision of psychiatric assistance under compulsory procedure (Articles 298, 341 Civil Procedural Code of Ukraine).

Based on the rules of procedural laws, you can indicate knowledgeable persons who do not have legal status, indirectly involved in the proceedings, and the results of their activities are reflected in documents (certificates, acts, conclusions, protocols) or oral information.

The indicated persons are:

- the auditor and the examiner, drawing respectively conclusions and acts (Article 99 of the Criminal Procedural Code of Ukraine);

- a medical professional, a doctor, who provide medical assistance to a detainee and fix any personal injury to him; provide medical documents concerning the morbidity of the suspect, the participant in the case, the presence of a person with a mental activity disorder or mental illness, the need for compulsory hospitalization to the anti-tuberculosis institution or the extension of the duration of the compulsory hospitalization, the health status of the applicant, the child's health physical and mental development; participate in a court hearing regarding the application to the convicted compulsory treatment or its termination (Articles 212, 280, 509, 539 of Criminal Procedural Code of Ukraine, Articles 252, 311, 312, 344 CCP, 236 of Code of Administrative Proceedings of Ukraine);

– psychiatrists, in addition to conducting psychiatric examination, who make a written statement or conclusion justifying the need to continue, change or discontinue compulsory medical measures; the continuation of compulsory outpatient psychiatric care, the compulsory hospitalization, its continuation (Articles 514, 515 of Criminal Procedural Code of Ukraine, Articles 339, 340 of Civil Procedural Code of Ukraine);

– specialists of the Scientific Advisory Board of the Supreme Court, who provide a scientific opinion on the application of the rule of law (Art. 434-2 of Criminal Procedural Code of Ukraine, Art. 404 of Civil Procedural Code of Ukraine, Art. 347 of Code of Administrative Proceedings of Ukraine, Art. 303 of Commercial and Procedural Code of Ukraine).

Although V. K. Lisichenko and V. V. Tsirkal, B. V. Romanyuk¹ strongly oppose the non-procedural form of the use of specific expertise in criminal proceedings, the practice is convincing that establishment of investigated criminal event circumstances is secured not only in the course of proving as a separate type of cognition, which has a well-defined procedural mode but also by conducting a wide range of expert witnesses of various actions which results are not of probative value. The analysis of literary sources, investigative and judicial practice allows to identify knowledgeable persons whose activities and results are not regulated by law: consultants carry out preliminary research of objects, check objects and persons on criminal records. Scientists view the purpose of attracting expert witnesses with varying degrees of detail, and are mainly associated with the use of scientific, technical and forensic tools, to obtain results that are of probative value². However, it is known that the results of the use of specific expertise is to obtain not only evidential but also orienting (organizational-tactical) information³. The evidentiary information includes information about the circumstances to be proved in the proceedings and is obtained only in a regulated manner. Guidance information can be obtained in both regulated and unregulated ways. It is

¹ *Lisichenko V. K., Cirkal' V. V. Ispol'zovanie special'nyh znaniy v sledstvennoj i sudebnoj praktike [Use of special knowledge in investigative and judicial practice]: posobie. Kiev : Kievsk. gos. un-t, 1987. S. 48. Romanjuk B. V. Suchasni teoretichni ta pravovi problemi vikoristannja special'nih znan' u dosudovomu slidstvi : dis. ... kand. jurid. nauk: 12.00.09 / Nac. akad. vnutr. sprav. Kiev, 2002. S. 70 [in Russian].*

² *Lazareva L. V. Special'nye znaniya i ih primenenie v dokazyvanii po ugovnomu delu [Special knowledge and their application in evidence in a criminal case]. Moskva : Jurlitinform, 2009. S. 70 [in Russian].*

³ *Belkin R. S., Vinberg A. I. Kriminalistika i dokazyvanie [Forensics and Proof]. Moskva : Jurid. literatura, 1969. S. 66–67 [in Russian].*

used for organizational and tactical purposes in the proceedings (drafting versions, determining directions for investigation or case consideration, planning of procedural actions, predicting possible course of behavior of participants in the process, etc.), as well as for examining evidence¹. Taking into account the general tasks of any kind of judiciary (Article 2 of the Civil Procedural Code of Ukraine. Article 2 of the Code of Administrative Proceedings of Ukraine, Article 2 of the Commercial and Procedural Code of Ukraine of Article 2 of the Commercial and Procedural Code of Ukraine), based on the provisions of the Constitution of Ukraine, it can be argued that in the process of solving these problems the purpose of attracting knowledgeable persons is to assist authorized participants in the performance of their functions. These include not only obtaining evidence but also forming an internal conviction of authorized participants to make a well-founded procedural decision. Therefore, any person with special and legal knowledge and skills involved in the proceedings, regardless of their rights and responsibilities, is aware.

Based on the above, we can formulate the following general definition.

In legal proceedings *expert witness* is subject owning expertise (non-legal) in a particular field of human activity or legal knowledge, skills in their application is not a professional participant in the process, is involved directly or indirectly in a procedurally regulated or non-regulated form or at the discretion of an authorized person (body) to assist in the resolution of the tasks of the judiciary and the information and documents provided by him are used as sources of evidence or background information serving grounds for procedural, tactical and organizational decisions. An important cognitive value for understanding the range of knowledgeable persons involved in litigation is their classification. In view of the above considerations, it is possible to propose the following classification of specialists.

1. Expert witnesses directly involved in the proceedings:

a) activity is fully procedurally regulated: expert (Article 69 of the Criminal Procedural Code of Ukraine, etc.); Law expert (Art. of 73 Civil Procedural Code of Ukraine. Art. 69 Code of Administrative Proceedings of Ukraine, Art. 71 Commercial and Procedural Code of Ukraine), Specialist (Art. 71 of 360 Criminal Procedural Code of Ukraine. Art. 74 of Civil Procedural Code of Ukraine. Art. 70 of CAS; Art. 71 Commercial

¹ *Shcherbakovskyi M. H.* Provedennia ta vykorystannia sudovykh ekspertyz u kryminalnomu provadzhenni [Conducting and using forensics in criminal proceedings]: monohrafiia. Kharkiv : V dele, 2015. S. 81–83 [in Ukrainian].

and Procedural Code of Ukraine); translator (Art. 68 Code of Administrative Proceedings of Ukraine. Art. 75 of Civil Procedural Code of Ukraine. Art. 71 Code of Administrative Proceedings of Ukraine. Art. 72 of Commercial and Procedural Code of Ukraine); suspect, accused, witness, victim, possessing special knowledge (Article 95 of the Criminal Procedural Code of Ukraine);

b) activity is partially procedurally settled: forensic medical examiner except for performing forensic medical examination (art. 206, 238, 239, 241 of Criminal Procedural Code of Ukraine art 342 Civil Procedural Code of Ukraine), teacher, psychologist, except for performing psychological examination (art. 226, 227, 228, 354, 491 of Criminal Procedural Code of Ukraine), doctor (art. 226, 227, 238, 241, 354, 491 of Criminal Procedural Code of Ukraine), Psychiatrist except for performing mental state examination (MSE) (art. 298, 341 of Civil Procedural Code of Ukraine).

2. Expert witnesses indirectly participating in proceedings:

a) results of the activities are partially procedurally regulated: the auditor and the examiner (Article 99 of the Criminal Procedural Code of Ukraine), medical officer, doctor (Articles 212, 280, 509, 539 of Criminal Procedural Code of Ukraine, Articles 252, 311, 312, 344 of the Civil Procedural Code of Ukraine, 236 of Code of Administrative Proceedings of Ukraine), psychiatrist, in addition to conducting a psychiatric examination (Articles 514, 515 Criminal Procedural Code of Ukraine, Art. 339, 340 of Civil Procedural Code of Ukraine), specialists of the Scientific Advisory Council at the Supreme Court (Art. 434-2 Criminal Procedural Code of Ukraine, Art. 404 Civil Procedural Code of Ukraine, Art. 347 Code of Administrative Proceedings of Ukraine, Article 303 of Commercial and Procedural Code of Ukraine).

b) Activity and its results are not regulated in a procedural way: the consultants carry out preliminary object investigations, check the objects and persons on forensic records.

Conclusions. In any type of litigation, problematic situations arise that involve knowledgeable persons. Expert witnesses are any professionals other than professional participants in the process who possess special (non-legal) and legal knowledge. The purpose of involving knowledgeable persons is to assist the court, the prosecutor, the investigator, the lawyer in the collection, investigation and evaluation of evidence, and the formation of grounds for making sound procedural, organizational and tactical decisions. Regardless of the type of litigation for the classification of knowledgeable persons, it is advisable to distinguish two grounds. The first is a way for experts to participate in the proceedings: direct or indirect, when using ready-made

results of their work. The second is the degree of procedural regulation of the process and results of the activities of expert witnesses: fully regulated, partially regulated, not regulated.

References

- Arsen'yev, V. D. Zablotskiy, V. G. (1986). *Ispol'zovaniye spetsial'nykh znaniv pri ustanovlenii fakticheskikh obstoyatel'stv ugovornogo dela*. Krasnoyarsk: Krasnoyarskiy gos. un-t [in Russian].
- Aver'yanova, T. V. (2001). Sub'yekty ekspertnoy deyatelnosti. *Vestnik kriminalistiki*. Moskva: Spark. Vyd. 2. 29–37 [in Russian].
- Belkin, R. S., Vinberg, A. I. (1969). *Kriminalistika i dokazyvaniye*. Moskva: Yurid. Literatura [in Russian].
- Bidnyak, H. S. (2018). *Vykorystannya spetsial'nykh znan' pry rozsliduvanni shakhraystv*: dys. ... kand. yuryd. nauk: 12.00.09 / Dnipropetrovskyy derzh. un-t vnutr. sprav. Dnipro [in Ukrainian].
- Bondarenko, O. O. (2004). *Protseual'nyy status obiznanykh osib ta vikh pravovidnosynv z diznavachem i slidchym u kryminal'nomu sudochynstvi Ukrayiny*: dys.... kand. yuryd. nauk: 12.00.09 / Nats. un-t vnutr. sprav. Kharkiv [in Ukrainian].
- Danich, Ye. O. (2018). *Vykorystannya spetsial'nykh znan' pid chas provedennya slidchoho eksperymentu*: dys....kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav. Kyiv [in Ukrainian].
- Demydova, Ye. Ye. (2013). *Taktyka dopytu obiznanykh osib* : avtoref. dys. ... kand. yuryd. nauk : 12.00.09 / Nats. un-t «Yurydychna akademiya Ukrayiny imeni Yaroslava Mudroho». Kharkiv [in Ukrainian].
- Foynitskiy, I. Ya. (1996). *Kurs ugovornogo sudoproizvodstva*: v 2 t. / pod red. A. V. Smirnova. Sankt-Peterburg: Alfa. T. 2 [in Russian].
- Goncharenko, V. I. (1980). *Ispol'zovaniye dannykh vestestvennykh i tekhnicheskikh Nauk v ugovornom sudoproizvodstve*. Kiev: Vishcha shkola [in Russian].
- Grazhdanskiy protsess: uchebnik / pod red. M. K. Treushnikova. Moskva: «Spark», Yuridicheskoye byuro «Gorodets» [in Russian].
- Grishina, Ye. P. (2012). *Svedushchive litsa v ugovornom sudoproizvodstve: teoreticheskiye problemy dokazyvaniya i pravoprimeritel'naya praktika*. Moskva: Yuridicheskii in-t MIITa [in Russian].
- Hora, I. V. (2013). *Vykorystannya spetsial'nykh znan' advokatom*. Kyiv: Pretsedent [in Ukrainian].
- Isayeva, L. M. (2009). *Kriminalisticheskoye ucheniye o spetsial'nykh znanivakh svedushchikh lits* : avtoref. diss. ... dokt. yuryd. nauk: 12.00.09 / S.-Peterb. gos. un-t MVD Rossii. Sankt-Peterburg [in Russian].
- Kovalenko, V. V. (2007). *Zastosuvannya Naukovo-tekhnichnykh zasobiv spetsialistamy pry provedenni slidchykh diy*. Luhansk: Luhanskyy derzh. un-t vnutr. Sprav [in Ukrainian].
- Kovalevs'ka, Ye. V. (2018). *Vykorystannya spetsial'nykh medvchnykh znan' pid chas rozsliduvannya zlochniv*: avtoref. dys.... kand. yuryd. nauk: 12.00.09 / Mizhrehional'na akad.. upravlinnya personalom. Kyiv [in Ukrainian].
- Kravchenko, O. A. (2012). *Zastosuvannya spetsial'nykh znan' pid chas zb'rannya, doslidzhennya ta vykorystannya rechovykh dokaziv*: dys. ... kand. yuryd. nauk: 12.00.09 / Klyasychnyy pryvatnyy un-t. Zaporizhzhya [in Ukrainian].

- Kravchuk, P. Yu. (2015). *Vykorystannya spetsial'nykh znan' pid chas rozsliduvannya hrabezhiv i rozboiv*: dys.... kand. yuryd. nauk: 12.00.09 / Skhidnovevropeys'ky nats. un-t im. Lesi Ukrayinky. Luts'k [in Ukrainian].
- Kryminalnyy protses: pidruchnyk / za red. V. Ya. Tatsiya, Yu. M. Hroshevoho, O. V. Kaplinovi, O. H. Shvlo. Kharkiv: Pravo [in Ukrainian].
- Kurylenko, D. V. (2017). *Instytut obiznanykh osib u zmahal'nomu kryminal'nomu provadzhenni*: dys.... kand. yuryd. nauk: 12.00.09 / Kharkivs'ky nats. un-t vnutr. sprav. Kharkiv [in Ukrainian].
- Lazareva, L. V. (2009). *Spetsialnyye znaniya i ikh primeneniye v dokazyvanii po uolovnomu delu*. Moskva: Yurlitinform [in Russian].
- Lazebnyy, A. M. (2016). *Vykorystannya spetsial'nykh znan' pry rozsliduvanni kryminal'nykh pravoporushen' proty hromads'koho porvyadku*: dys.... kand. yuryd. nauk: 12.00.09 / Un-t derzh. fiskal'noyi sluzhby Ukrayiny. Irpin' [in Ukrainian].
- Lisichenko, V. K., Tsirkal, V. V. (1987). *Ispolzovaniye spetsial'nykh znaniv v sledstvennoy i sudebnoy praktike*: posobiye. Kiyev: Kiyevsk. gos. un-t [in Russian].
- Makhov, V. N. (2000). *Ispolzovaniye znaniv svedushchikh lits pri rassledovanii prestupleniy*: monografiya. Moskva: Rossiyskiy un-t druzhby Narodov [in Russian].
- Polozhennya pro Naukovo-konsul'tativnu radu pry Verkhovnomu Sudi: postanova Plenumu Verkhovnoho Sudu vid 02.02.2018 № 1 [in Ukrainian].
- Prokopanych, H. K. (2013). *Vykorystannya spetsialnykh znan v kryminal'nomu, tsyvil'nomu ta hospodars'komu protsesi Ukrayiny. Uchenye zapysky Tavrycheskoho Nats. un-ta ym. V.Y. Vernadskoho. Seriya «Yurydycheskye Nauky»*. Tom 26 (65). 2013. № 1. 266–271 [in Ukrainian].
- Revaka, V. M. *Formy vykorystannya spetsial'nykh piznan' v dosudovomu provadzhenni*: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. yuryd. akad. Ukrayiny imeni Yaroslava Mudroho. Kharkiv [in Ukrainian].
- Romanyuk, B. V. (2002). *Suchasni teoretychni ta pravovi problemy vykorystannya spetsial'nykh znan' u dosudovomu slidstvi*: dys.... kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav. Kviv [in Ukrainian].
- Sadchykova, K. A. (2017). *Vykorystannya spetsialnykh znan Na stadiyi dosudovoho rozsliduvannya (protseusualnyy aspekt)*: dys. ... kand. yuryd. nauk: 12.00.09 / Odes'ky derzh. un-t vnutr. sprav. Odesa [in Ukrainian].
- Sednyev, V. V. (2014). *Ontolohiya obiznanovi osobv. Vismv Luhans'koho derzhavnoho universytetu vnutrishnikh sprav imeni E. O. Didorenka. Luhans'k, 2014. Spets. vypusk 1, 32–38* [in Ukrainian].
- Selina, Ye. V. (2003). *Primeneniye spetsial'nykh poznaniv v rossivskom uolovnom protsesse*: avtoref. diss. ... dokt. yurid. nauk: 12.00.09 / Kubanskiy gos. un-t. Krasnodar [in Russian].
- Selina, Ye. V. (2002). *Primeneniye spetsialnykh poznaniv v uolovnom protsesse*. Moskva: Yurlitinform [in Russian].
- Shapiro, L. G. (2007). *Protseusual'nyye i kriminalisticheskiye aspekty ispol'zovaniya spetsial'nykh znaniv pri rassledovanii prestupleniy v sfere ekonomicheskoy devatel'nosti*. Moskva: Yurlitinform [in Russian].
- Shcherbakovskiy, M. G., Kravchenko, A. A. (1999). *Primeneniye spetsial'nykh znaniv pri raskrytii i rassledovanii prestupleniy*. Khar'kov: Un-t vnutr. Del [in Russian].

- Shcherbakovskiy, M. H. (2017). Konsultatsiyna funktsiya spetsialista u kryminalnomu provadzhenni. *Kryminalistyka i sudova ekspertyza*. Kyiv. Vyd. 62. 43–51 [in Ukrainian].
- Shcherbakovskiy, M. H. (2015). *Provedennya ta vykorystannya sudovkh ekspertyz u kryminalnomu provadzhenni: monohrafiya*. Kharkiv: V dele [in Ukrainian].
- Shcherbakovskiy, M. H. (2018). Sutnist, struktura ta tsili vykorystannya spetsialnykh znan v sudochynstvi. *Teoriya ta praktyka sudovoi ekspertyz i kryminalistyky*. Kharkiv: Pravo Vyd. 18. 184–193 [in Ukrainian].
- Shevchenko, O. V. (2017). *Vykorystannya spetsial'nykh tovaroznavchyykh znan' pid chas dosudovoho rozsliduvannya: dys. ... kand., yuryd. nauk: 12.00.09 / Natsional'na akad. vnutr. sprav*. Kyiv [in Ukrainian].
- Sidyl'nikov, A. V. (2019). *Spetsial'ni znannya v diyal'nosti advokata-zakhysnyka: dys. ... kand. yuryd. nauk: 12.00.09 / Akad. advokatury Ukrainy*. Kyiv [in Ukrainian].
- Slovnnyk ukrayins'koyi movy*: v 11 t. Kyiv: Naukova dumka. T. 5 [in Ukrainian].
- Spitsyna, H. O., Bidnyak, H. S. (2018). Formy vykorystannya spetsialnykh znan. *Teoriya ta praktyka sudovoi ekspertyz i kryminalistyky*. Kharkiv: Pravo. Vyd. 18. 240–248 [in Ukrainian].
- Telegina, T. D. (2011). *Ispolzovanie spetsial'nykh znaniv v sovremennoy praktike rassledovaniya prestupleniy*. Moskva: Yurlitinform [in Russian].
- Tymofeyeva, N. V. (2018). *Vykorystannya spetsial'nykh znan' pry rozsliduvanni zlochyniv proty bezpeky vyrobnytstva: dys. ... kand. yuryd. nauk: 12.00.09 / Nats. akad. vnutr. sprav*. Kyiv [in Ukrainian].
- Ustav Uqolovnaqo Sudoproizvodstva s pozdnevshimi uzakonenyami, zakonodatelnymi motivami, razyasneshyami Prav. Senata i tsirkulyarami Ministra Yustitsii / pod red. M. Shramchenko i V. Shirokovym*. SPb.: Izdanie yuridicheskogo knizhnago magazina N. K. Martynova, 1899. 1038 s. URL: <http://jurytrial.ru/media/files/library/file631.pdf> (data obrashcheniya 20.06.2019) [in Russian].
- Volobuyev, A. F. (2000). *Problemy metodyky rozsliduvannya rozkradan mayna v sferi pidpryemnytstva: monohrafiya*. Kharkiv: Un-t vnutr. sprav [in Ukrainian].

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ОБІЗНАНІ ОСОБИ У СУДОЧИНСТВІ УКРАЇНИ

Оглядова стаття

У статті доведено, що обізнані особи можуть володіти спеціальними (неправовими) знаннями та знаннями в галузі права. Метою залучення обізнаних осіб до процесу є сприяння уповноваженим учасникам процесу у виконанні їх функцій. До обізнаних осіб віднесені: експерт; експерт з питань права; спеціаліст; перекладач, сурдоперекладач; особи, які дають показання на підставі спеціальних знань; судово-медичний експерт; педагог; психолог; лікар; психіатр; ревізор; перевіряючий; фахівці Науково-консультативної ради при Верховному Суді; особи, які надають консультації, попередньо досліджують об'єкти, перевірку об'єктів та осіб за криміналістичними обліками.

Ключові слова: судочинство, обізнані особи, спеціальні знання, форми та мета залучення фахівців, класифікація обізнаних осіб.

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