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FEATURES OF PREPARATION AND ASSIGNMENT OF FORENSIC EXAMINATION OF VEHICLES AND REGISTRATION THE DOCUMENTS

The article analyzes the features of the preparation and appointment of forensic examination of vehicles, procedural and tactical requirements for this examination. The vehicle is a special object of forensics, which imposes certain restrictions on its preparation for examination.

Specific requirements for the tactics of investigative actions with this object are intended to ensure the legality and admissibility of evidence for criminal proceedings. The vehicle is also an object for conducting expert studies of various types. The issue of changing the identification numbers (body, engine), determining the year of manufacture, replacing the data carriers about the car (number and code plates, etc.) are resolved by means of traceability. To solve the issue of replacing the body number by replacing the panel with a number plate, a complex forensic chemical (paintwork research) and trace evidence examination are appointed.

The issue of re-equipment of the vehicle is solved by complex trace evidence and commodity expertise, etc. The complexity of the study of the vehicle and the accompanying documents requires the appointment of directly comprehensive examinations of various types.

In the investigation of unlawful acts related to the illegal movement of vehicles across the customs border of Ukraine, auto-merchandising and transport-merchandising examinations can also be carried out to solve the problems associated with determining the market value of wheeled vehicles, their components, as well as the amount of the cost of material losses caused to the owner or to the owner of wheeled vehicles, their components due to damage to the latter. The indicated examinations are quite often appointed in conjunction with the trace evidence examination.

The fulfillment of certain procedural requirements is designed to ensure the legality and admissibility of evidence obtained in the course of investigative actions and the results of forensic examinations conducted by them.

Keywords: criminal proceedings, vehicle, comprehensive examination, forensic examination, identification number.

Formulation of Research Problem. Criminal proceedings provide for the use of specialized knowledge in two forms: procedural and non-procedural. Forensic examination is one of the most common forms of obtaining evidence that is based on the scientific knowledge and skills of specially authorized persons and consists of conducting appropriate investigations using the necessary methods and means.

The Law of Ukraine: *On Judicial Examination* defines forensic expertise as research based on specific knowledge in the field of science, technology, art, craft, etc. of objects, phenomena and processes in order to reach a conclusion on issues that are or will be the subject of litigation¹.

This method of retrieving information allows you to establish factual data that cannot be otherwise established.

Analysis of Recent Researches and Publications. P. D. Bilenchuk², A. P. Gel, V. H. Goncharenko³, I. V. Gora, S. I. Kobzar, I. V. Piryh, H. S. Semakov, M. A. Fedoseev, M. G. Shcherbakovskyi and others devoted their researches to this problem at different times.

The **Article Purpose** is to determine that the peculiarities of the process of preparation and assignment of judicial expertise of vehicles are a combination of procedural and organizational actions aimed at collecting, preparing and processing materials for judicial examination in order to make the most effective use of specialized knowledge in criminal proceedings.

Main content presentation. Appointment of forensics is a complex process that results from the exercise of both the powers of the court and the initiative of the persons involved in the case. Therefore, in

¹ Pro sudovu ekspertyzu [On forensic examination] : Zakon Ukrainy vid 25 liutoho 1994 roku № 4038–Xii. URL:<http://zakon3.rada.gov.ua/laws/show/4038-12> (data zvernennia 14.01.2019) [in Ukrainian].

² Bilenchuk P. D., Gel A. P., Semakov H. S. Kryminalistychna taktyka i metodyka rozsliduvannia okremykh vydiv zlochyniv [Forensic tactics and methods of investigation of certain types of crimes]: navch. posib. Kyiv : MAUP, 2007. 512 s.; Ekspertyza u sudovii praktytsi [Judicial expertise] : nauk.-prakt. posib. / za zah. red. V. H. Honcharenka. 2-he vyd., pererob. i dopovn. Kyiv : Yurinkom inter, 2010. 400 s.; Ekspertyzy u sudochynstvi Ukrainy [Expertise in the Judiciary of Ukraine] : nauk.-prakt. posib. / za zah. red. V. H. Honcharenka, i. V. Hory. Kyiv : Yurinkom inter, 2015. 504 s. [in Ukrainian]; Kobzar S. I. Organizaciya naznacheniya kriminalisticheskikh jekspertiz i ispol'zovaniya ih rezul'tatov v rassledovanii prestuplenij [Organization of the appointment of forensic examinations and the use of their results in the investigation of crimes]: ucheb. posob. Lugansk: RiO LGUVD, 2007. 256 s. [in Russian]; Piryh I. V. Teoretyko-prykladni problemy ekspertnoho zabezpechennia dosudovoho rozsliduvannia [Theoretical and applied problems of expert support of pre-trial investigation]: monohrafiia. Dnipropetrovsk : Dniprop. derzh. un-t vnutr. sprav ; Lira LTD, 2015. 432 s.; Bilenchuk P. D., Gel A. P., Semakov H. S. Kryminalistychna taktyka i metodyka rozsliduvannia okremykh vydiv zlochyniv : navch. posib. Kyiv : MAUP, 2007. 512 s.; Fedosieiev M. A. Provedennia kompleksnoho doslidzhennia transportnykh zasobiv i dokumentiv, shcho yikh suprovodzhuiut, pid chas rozsliduvannia zlochyniv, poviazanykh z nezakonnym peremishchenniam avtotransportu cherez mytnyi kordon Ukrainy [Carrying out a comprehensive investigation of vehicles and their accompanying documents during the investigation of crimes related to the illegal movement of vehicles across the customs border of Ukraine]. Kryminalistychnyi visnyk. 2013. № 1 (19). S. 133–138; Shcherbakovskyi M. H. Pryznachennia ta provadzhennia sudovykh ekspertyz. Harkiv : Faktor, 2011. 400 s. [in Ukrainian].

³ Shcherbakovskyi M. H. Pryznachennia ta provadzhennia sudovykh ekspertyz. Xarkiv : Faktor, 2011. 400 s. [in Ukrainian].

determining whether or not there are grounds for ordering a forensic examination, the courts should not ignore the position of the persons involved in the process.

The forensic literature identifies the factual and legal grounds for the appointment of forensic expertise in criminal proceedings. Thus, Mykhailo Grigorovych Shcherbakovskiy notes that the factual basis for the appointment of the examination is the need for special knowledge to establish the circumstances of the crime under investigation. In each case, these circumstances are determined by the investigator who appoints the examination. The legal basis for the examination is the relevant decision of the investigator. Procedural relations are formed between the investigator and the expert in conducting the forensic examination¹.

However, at present, due to changes in certain norms of the Criminal Procedural Code of Ukraine; the procedural decision of the investigating judge is a legal basis for the appointment of forensic examination. Thus, the Part 1 of Art. 242 of the Criminal Procedural Code of Ukraine states that the examination is conducted by expert institution, expert or experts on the instructions of the investigating judge or court provided at the request of the party of criminal proceedings or if special knowledge is needed to clarify the circumstances relevant for criminal proceedings.

Thus, the legal basis for the appointment of forensic expertise in criminal proceedings is the decision of the investigating judge, made at the request of the investigator, prosecutor, victim, his legal representative, suspect, his defense lawyer or legal representative. It should be noted that although the legal bases have changed, however, the factual ones, in fact, have remained the same, that is, when identifying objects whose research requires special knowledge, the investigator decides on the need for a judicial examination, prepares materials and performs other preparatory actions.

It should be supported by the opinion of those scientists who believe that the preparation of materials for examination is a system of procedural, organizational, tactical and technical actions for the collection, preparation and execution of the objects of expert research necessary for the examination.

Some scholars even talk about the need to develop tactics for the appointment of forensics, because the process is often quite difficult and time-consuming. Under this tactic I. F. Krylov understands the system of methods and techniques of science and practice that must be applied on the basis of procedural law in the preparation, appointment and conduct of expertise for the most effective use of specialized knowledge in resolving issues that are relevant for establishing the truth in the case under investigation. I. V. Pyrih considers the process of involving an expert as a separate investigative (search) action.

¹ Ibidem. P. 189.

It defines its content, dividing it into stages: preparatory, working and final.

To the preparatory stage, the scientist attributes the following actions:

- 1) the decision of the investigator to conduct experts;
- 2) the choice of an expert institution or a private expert;
- 3) determination of the type of examination and subject of research;
- 4) determining the order of appointment of examinations in relation to the same objects;
- 5) choice of appointment time of the examination.

In the working phase of engaging an expert, he believes that the following should be considered:

- 1) selection of objects for examination, including samples and samples;

- 2) decision making on the appointment of the examination.

The final stage, in turn, consists of the following stages:

- 1) determination of the number of persons who may be present during the examination;
- 2) sending the resolution and necessary materials to the expert institution¹.

Considering the views of researchers and the norms of the Criminal Procedural Code of Ukraine, it can be argued that the process of preparation and appointment of judicial expertise is a set of procedural and organizational actions aimed at collecting, preparing and processing the materials for judicial examination in order to most effectively use specialized knowledge in criminal proceedings.

In general, the process of assigning forensic expertise to vehicles involves the following set of procedural and organizational measures:

- removal of objects and deciding on the need to involve a forensic expert;
- determination of the type of forensic examination and its tasks;
- preparation of materials for forensic examination;
- correct and timely choice of the moment of appointment of the forensic examination;
- formulating expert questions;
- choice of expert institution or expert;
- request for the appointment of a forensic examination.

The decision of the investigator on the need to involve a forensic expert and to conduct a forensic examination occurs when identifying specific objects, the research of which requires the use of specialized knowledge. Therefore, such a decision is made during investigative

¹ *Pyrih I. V. Teoretyko-prykladni problemy ekspertnoho zabezpechennia dosudovoho rozsliduvannia [Theoretical and applied problems of expert support of pre-trial investigation]: monohrafiia. Dnipropetrovsk : Dniprop. derzh. un-t vnutr. sprav ; Lira LTD, 2015. S. 233–248 [in Ukrainian].*

(investigative) actions, such as inspection of the scene, inspection of the object (vehicles, documents that accompany them), search, investigative experiment, etc. Having identified specific objects, the investigator analyzes them either individually or, if necessary, with the help of a specialist and determines the circumstances that need to be clarified, and provides the kind of special knowledge that can be applied to these objects.

As mentioned above, in the investigation of certain types of crimes against the safety of traffic and operation of transport, crimes related to the illegal movement of transport across the customs border of Ukraine, crimes in the field of circulation of excisable goods, as well as many other types of crimes in the mechanism of which they appear vehicles, there is a need to study such objects. However, the production, use and operation of vehicles are inextricably linked to the relevant documents that must accompany them. Therefore, the research of such objects should be carried out in a complex, which will greatly simplify and shorten the time of preparation and conducting of judicial examinations. At present, in the process of investigating such criminal proceedings, the investigator must assign several separate types of expertise on the specified objects, or even several examinations on the same object. Therefore, when deciding on the need for an examination, the investigator must clearly represent its subject as a system that includes: objects of study; the purpose (purpose) of research; methods and techniques used to solve the tasks¹.

Considering main subject of investigation in the criminal category under consideration is vehicles, their units and units, which left traces at the scene or were the subject of a criminal attack and were subjected to criminal influence by destruction or alteration, there is a need to designate several trace evidence analyses. In particular, the examination of vehicle traces, the main tasks of which are the identification (identification) of a specific vehicle unit by parts and traces left behind by its parts; diagnostics (establishment of properties and condition of objects) and situational task (establishment of mechanism of trace formation, mechanism of interaction of the vehicle with other objects). It should be noted that, in addition to the aforementioned expertise, similar tasks are also solved by one of the types of engineering and transport expertise - transport and traceology. The latter also allows identification of the traces left by the vehicle, its specific specimen or its type, model; determine the relative position of vehicles at the time of contacting them; determine the places of collision of vehicles and the location of the oncoming obstacle (pedestrian), establishing the mechanism of formation of tracks; determines the location of vehicles

¹ Kobzar S. I. Organizacija naznachenija kriminalisticheskikh jekspertiz i ispol'zovanija ih rezul'tatov v rassledovanii prestuplenij [Organization of the appointment of forensic examinations and the use of their results in the investigation of crimes]; ucheb. posob. Lugansk: RiO LGUVD, 2007. S. 9-10. [in Russian].

relative to the roadway at the time of contact. Thus, it has been established that the transport-trasological examination is essentially more forensic than engineering. Therefore, the separation of these two types of expertise is done artificially, not caused by the need to involve different classes of specialist knowledge. This again confirms the feasibility of forming a forensic examination of vehicles as an independent subspecies of forensic examination.

In addition, in some cases, there is a need to design an examination of embossed signs, the object of which can be recovered sawn (hammered), visually impaired numbers and other embossed images on various products. The examination determines the fact and the way of changing the images. This forensic examination is intended in criminal proceedings for the unlawful taking of vehicles for which criminals interrupt the identification numbers of units and units.

Subsequently, such vehicles are either operated on the territory of Ukraine or exported abroad. In the investigation of unlawful acts related to the illegal movement of transport across the customs border of Ukraine, automotive and transport expertise can also be carried out, which solve problems related to determining the market value of wheeled vehicles, their components, and the value of material goods. damage to the owner or the owner of the wheeled vehicles, their components because of damage to the latter. It should be noted that these examinations are often assigned in combination with trace evidence examinations.

In addition to vehicles, compulsory expert examination is subject to the documents that accompany them. Depending on the type of document, its purpose, method of production, they may be the object of study of various types of technical examination of documents (examination of requisites of documents, examination of printing forms and examination of documents). Scientific and methodological recommendations on the preparation and assignment of forensics and expert studies determine the main tasks that can be solved by these types of forensic examinations. Of course, it would be more convenient for law enforcement and judicial authorities to assign not a few disparate examinations of the vehicles and the documents accompanying them, but one comprehensive examination of these objects.

After all, as M. A. Fedoseyev points out, such expertise would allow not only to establish the fact of changing the numbers of the vehicle and the falsification of the documents accompanying them, but also to determine the method of falsification or change of primary designations, the conformity of the numbering to the requirements of the manufacturer and printing methods. documents available samples, set standards and requirements, etc¹. However, at present, there is a need to assign several

¹ Fedosieiev M. A. Provedennia kompleksnoho doslidzhennia transportnykh zasobiv i dokumentiv, shcho yikh suprovodzhuiut, pid chas rozsliduvannia zlochyniv, poviazanykh z nezakonnym peremishchenniam

forensic examinations to these objects in investigative and judicial practice. In general, the vehicle is subject to a pathological examination, for example, when it is necessary to resolve the issue of change (or lack thereof) of identification numbers (body, engine), establishment of the year of issue, replacement of the vehicle data carriers (license plates and code plates, etc.).

However, to solve the question of replacement of the body number by replacing the panel with the number pad is assigned a complex forensic (study of paint and varnish coating) and trace evidence analysis. Questions about replacement of units and units and re-equipment of the vehicle are solved by a comprehensive tracing and vehicle forensic examinations.

Therefore, research complexity of the vehicle and the documents accompanying it is further compounded by the need to appoint directly comprehensive examinations of different types. This requires the investigator to carefully analyze the criminal proceedings to make the right decision.

Preparation of materials for investigation is that during investigative actions (inspection, search, seizure, investigative experiment) the investigator receives information about the circumstances of the event, as well as objects, things, documents, other objects that are important for the correct the resolution of a criminal case. Analyzing the material obtained, the investigator determines which issues related to the case under investigation are to be identified through expert research and whether the material available in the case is sufficient to address these issues¹.

In addition, during the preparation of the materials, the investigator may consult with the expert involved in the investigative actions, the future expert, if he or she has already been identified, or another competent person. Specify the type and sequence of examinations, formulate questions, determine the range of material evidence that should be sent to the study, the number of sample comparisons, the content of the source data, the expert institution in which the examination will be conducted, or a private forensic expert².

During the investigation, there is a need for specific expertise in the vehicles and the documents accompanying them to identify and investigate

avtotransportu cherez mytnyi kordon Ukrainy [Carrying out a comprehensive investigation of vehicles and their accompanying documents during the investigation of crimes related to the illegal movement of vehicles across the customs border of Ukraine]. Kryminalistychnyi visnyk. 2013. № 1 (19). 1'36 s. [in Ukrainian].

¹ Bilenchuk P. D., Hel A. P., Semakov H. S. Kryminalistychna taktyka i metodyka rozsliduvannia okremykh vydiv zlochyniv [Forensic tactics and methods of investigation of certain types of crimes]: navch. posib. Kyiv : MAUP, 2007. S. 111 [in Ukrainian].

² Priakhin Ye. V. Slidcha taktyka [investigative Tactics]: navch. posib. Lviv : LvDUVS, 2011. S. 109 [in Ukrainian].

other traces. For example, it may not always be possible or appropriate to remove traces such as micro-traces, traces of hands, traces of biological origin, certain materials and substances from the scene.

Therefore, the investigator must correctly determine the order of appointment and conduct of different types of forensic examinations. It is advisable, first, to appoint those examining the traces that can be easily destroyed, or the option of a comprehensive examination may be considered.

It should be emphasized that the success of the examination is largely due to the completeness of the materials collected, which are sent to the expert:

- correct removal, procedural fixation of objects of study – physical evidence;
- quality, quantity and comparability of samples needed for comparative study;
- availability of case files containing information relevant to the subject matter of the examination.¹

As noted above, the identification of objects that are sent for examination is preceded by a decision to conduct a forensic examination.

Such objects, in addition to the vehicles, may have traces of them, vehicle registration documents as well as documents confirming the ownership of the vehicle.

However, in addition to direct objects of study, additional materials may need to be sent to the expert in some cases.

a) procedural documents: inspection reports and annexes (photographic tables and diagrams), interrogation protocols, conclusions of preliminary examinations, if repeated or comprehensive examination is appointed, etc.;

b) information documents: certificates or acts of repair work, installation of additional equipment on the vehicle, its processing, etc.;

c) experimental samples: traces of tires, tools and tools, printing and reproduction equipment, stamps and stamps, etc.;

d) additional objects (depending on the type of expertise, for example, when assigning complex trace evidence and forensic vehicle examination).

Of course, the type and volume of such materials depend on the type of expertise and the type of expertise (diagnostic, identification, or situational). For example, when designing a transport and trace examination, the expert must be provided with the trace-forming objects themselves (tires, protruding parts, etc.) or the experimental molds of these objects (experimental prints of tires on paper); objects that have traces of

¹ Kobzar S. I. Organizacija naznachenija kriminalisticheskikh jekspertiz i ispol'zovanija ih rezul'tatov v rassledovanii prestuplenij [Organization of the appointment of forensic examinations and the use of their results in the investigation of crimes]: ucheb. posob. Lugansk: RiO LGUVD, 2007. S. 10. [in Russian].

these objects, or casts (large-scale photographs) of those traces, as well as the site inspection protocols with all the annexes thereto. Whenever vehicles are subjected to road-freight and trucking expertise, expert vehicles are provided with wheeled vehicles and documentation related to their registration, materials of investigation of the event that led to the material damage, as well as documents that record other initial data necessary to resolve the question. Originals shall be provided for conducting a study to establish the fact of making changes to the original content of documents, to identify seals, stamps (including facsimiles) and to establish the time of printing of stamps, stamps, date of production of the document.

Conclusions. To sum up, it should be noted that the process of preparation and assignment of judicial expertise is a set of procedural and organizational actions aimed at collecting, preparing and processing materials for judicial examination to make the most effective use of specialized knowledge in criminal proceedings. The process of assigning forensic expertise to vehicles includes the following procedural and organizational measures:

Removal of objects and deciding whether to involve a forensic expert;

- determination of the type of forensic examination and its tasks;
- preparation of materials for forensic examination;
- the correct and timely choice of the moment of appointment of the forensic examination;
- formulating expert questions;
- choice of expert institution or expert;
- request for the appointment of a forensic examination.

The objects for which the examination will be assigned should comply with the procedural and tactical requirements. Procedural requirements include the following:

1) observance of the general requirements for conducting investigative actions, during which the objects of examination are obtained: the legality of the grounds for conducting the investigative action; adherence to the procedure of investigation; complete and correct fixation of the process of investigation; communication to all participants of their rights and responsibilities; respect for human rights and citizens, etc.;

2) observance of the procedural rules of work with objects and traces revealed in the course of investigative actions: use of legitimate methods for detection of the specified objects; adherence to the rules of fixation of the specified objects in the protocols of investigative actions by additional means; adherence to the rules for removal of detected objects; adherence to the rules for packaging and storage of identified objects (which do not call into question the accuracy of these objects).

Fulfillment of such procedural requirements is intended to ensure the legality and admissibility of the evidence obtained during the

investigative (investigative) actions and the results of the forensic examinations conducted thereunder.

Tactical requirements also provide complete and high-quality information when researching such objects.

1) application of methods and means in the detection of objects and traces that do not damage the objects and traces;

2) number of objects removed is enough to solve the expert tasks;

3) proper packing and storage of these objects, which enables them to be investigated for solving expert tasks.

In some situations, it is impossible to deliver several forensic objects to a state expert institution for the following reasons:

– the object is too bulky;

– the object of study cannot be removed;

– there are too many objects.

In these cases, the investigator must not only provide the expert with unhindered access to the facility, but also provide the opportunity for research and create appropriate working conditions. In the first place, this means ensuring the safety of the object of study. If the objects of study are outside the open air, the most important condition for the success of the forensic examination is the promptness of its appointment. Considering the specificity of the objects of the examination of vehicles, the above provisions are extremely relevant. If they cannot be delivered to an expert institution, such facilities must be stored in the territory of the law enforcement agency or other protected area.

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В. С. Сезонов

**ОСОБЛИВОСТІ ПІДГОТОВКИ ТА ПРИЗНАЧЕННЯ
КРИМІНАЛІСТИЧНОЇ ЕКСПЕРТИЗИ ТРАНСПОРТНИХ ЗАСОБІВ
ТА РЕЄСТРАЦІЙНИХ ДОКУМЕНТІВ**

У статті проаналізовано особливості підготовки та призначення криміналістичної експертизи транспортних засобів, процесуальні та тактичні вимоги щодо зазначеної експертизи.

Транспортний засіб є одночасно об'єктом для проведення різного виду експертних досліджень. Питання про зміну ідентифікаційних номерів, встановлення року випуску, заміну носіїв даних про автомобіль вирішуються трасологічною експертизою. Питання про переобладнання транспортного засобу вирішуються комплексною трасологічною й автотоварознавчою експертизою та ін. Комплексність дослідження транспортного засобу вимагає призначення безпосередньо комплексних експертиз різних видів.

Ключові слова: кримінальне провадження, транспортний засіб, комплексна експертиза, судова експертиза, ідентифікаційний номер.

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