Research Article

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Theoretical and methodological foundations of forensic economics

In modern conditions, the need to increase efficiency of forensic expert activity in economic field depends on development of theoretical and methodological base of forensic economics, interpretation of this economic and legal category in legislative field and determination of the system-forming factor of totality of forensic examinations.

While systematizing scientific content, the main key issues related to theoretical development foundations of this type of forensic science are considered. The key informative informational blocks of forensic economics are highlighted: the first block is procedural nature of forensic examination assignment and conducting; second block is the use of specific expertise in the field of economics; third block is the topic of forensic economic examination; fourth block is the purpose of the results of economic research. An attempt has been made to improve interpretation of forensic economics as an economic and legal category, as well as to substantiate its classification on the basis of dividing social production into material and non-material fields that are studied by corresponding economic sciences.

Thanks to the use of dialectical method, it is substantiated that solution to this methodological issue lies in the field of material production. Consideration of the relations between the economy and other fields of social activity demonstrated that economy is primary that allowed, as a result of the division of social production into the field of material production (material goods and material services; object of economic relations has a materialized form) and intangible production (intangible goods and intangible services; object economic relations has a non-material form) to determine the system-forming factor of various types of forensic economic examinations.

Keywords: *forensic economics, methodology, economic relations, public production, material production, intangible production, classification criterion.*

Formulation of Research Problem. The development of economic phenomena and processes shows that contradictions within the economic system influence the efficiency of its functioning serving as foundation for taking economic relations to a whole new level of development. Market economy provides greater opportunities for execution of different economic projects for

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both legitimate profit-making and spread of economic offenses to make an illegal financial benefit. Unfortunately, domestic economy is characterized by such features.

The effectiveness of investigation carried out by law enforcement agencies of economic offenses involves collecting sufficient and uncontested evidence depending on many factors. Among them, a significant place is taken by forensic economics as one of efficient methods of judiciary which is appointed during investigation of such offenses, as well as during consideration of economic disputes in court. It helps to study in detail circumstances of economic offense, using special knowledge in the field of economics. The complexity and contradictory of legal and regulatory legislation, existence of various types of production and financial activities and complexity of the analysis of their numerous processes for judicial inquiry bodies necessitate the use of special knowledge of this segment of economic sciences.

At the same time, the level of these knowledge use depends on the development of theoretical and methodological principles of forensic economics (conceptual apparatus, classification, purpose, objectives, object, subject, research methods) as an organic unity of economic sciences and legal provisions. Transformation of economic conditions under the influence of endogenous and exogenous factors resulting in a corresponding amendment of legal and regulatory legislation in the field of economics, as well as its inconsistency should adapt forensic economics to these conditions. The relevance of our research topic is due to the above.

Analysis of Essential Researches and Publications. At different times, theoretical and methodological foundations of forensic economics were studied by domestic and foreign scientists, among whom: M. F. Bazas, I. A. Volkova, L. V. Hutsalenko, L. V. Dikan, S. V. Yevdokimenko, N. I. Klymenko, T. O. Krivtsova, V. D. Ponikarov, O. R. Rossynska, V. V. Fedchyshyna and others [1]. Not diminishing the contribution of these researchers in the development

[1] E. g., Базась М. Ф. Теоретико-методологічні засади судово-бухгалтерської експертизи : навч. посіб. для студ. вищ. навч. закл. Київ, 2007. P. 246—256 ; Волкова І. А. Судово-бухгалтерська експертиза : навч. посіб. Київ, 2009. P. 17—23 ; Гуцаленко Л. В., Михальчишина Л. Г., Сидорук В. М. та ін. Судово-бухгалтерська експертиза : навч. посіб. Київ, 2011. P. 49—56 ; Дікань Л. В., Понікаров В. Д., Кожушко О. В. Судово-економічна експертиза : навч. посіб. Харків, 2014. P. 242—265 ; Євдокіменко С. В. Перспективи розвитку судово-економічних експертиз. *Наше право*. 2016. № 2. P. 42—46 ; Клименко Н. І., Федчишина В. В. Судово-економічна експертиза: сучасний стан і актуальні питання. *Криміналістичний вісник*. 2016. № 1 (25). P. 56—61 ; Крівцова Т. О. Удосконалення правового забезпечення судово-економічної експертизи як форми економічного контролю. *Бізнес Інформ*. 2015. № 2. P. 49 ; Поникаров В. Д. Теоретические основы становления и развития судебно-экономической экспертизы в Украине. *Бізнес Інформ*. 2011. № 2 (2). P. 158—160 ; Россинская Е. Р. Судебная экспертиза в гражданском, арбитражном, административном и уголовном процессе : науч.-практ. пособ. 3-е изд., доп. Москва, 2011. P. 143—144.

of forensic economics and without claiming to exhaustion and thoroughness of research, we believe that topical issues of theoretical and methodological principles of forensic economics under variability of economic and legal management conditions require further scientific exploration.

The **Article Purpose** is to research on fundamental theoretical and methodological principles of forensic economics; firstly, it is an attempt to scientifically substantiate its essence and systematize its types under a single criterion for classification.

Main Content Presentation. Forensic economics (as an essential functional element of the judicial and legal system) provides significant information evidence to law enforcement agencies and thus indirectly ensures economic security of the state and its citizens: return of funds to the State budget, increase in the efficiency of economic offenses investigation, etc. For this purpose, forensic economics should be ensured with a scientifically substantiated theoretical and methodological base, which is an embodiment of organically interrelated, interdependent and interconnected processes taking place at the intersection of two epistemological areas: economic and legal.

To fulfill the set goal, let's determine the essence of forensic economics, which is a point of departure for our research. There is no interpretation for this term in the domestic regulatory legal framework: this issue has been considered by individual scientists [1]. This applies to the definition of classification, subject, object and tasks of this type of forensic examination indicating the incompleteness of its theoretical principles (received its name recently, in 2001) formation under new socio-economic conditions. In such circumstances there is an objective need to develop regulatory legal support of experts specialized in economics: standardized both for state and non-state forensic institutions.

In modern scientific literature, various interpretations of *forensic economics* concept can be found. Here are just a few examples:

- procedural research carried out by application of special knowledge, skills and abilities of a forensic expert and allows to solve tasks addressed to him by inquiry bodies, pre-trial investigation or court to resolve criminal, civil, administrative cases or commercial disputes [2];
- procedural form of research is based on special knowledge in various areas of economics, economic analysis, audit and control of journal vouchers, account and tax ledgers and financial statements of entities of various forms of ownership to address a wide range of issues arising while investigation of economic offenses and litigation of economic disputes [3];

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[1] E.g., Крівцова Т. О. Op. cit. ; Романів С. Р., Будник Л. А., Саченко С. І. Судово-економічна експертиза в Україні: її економічна суть та кадрове забезпечення. *Інфраструктура ринку.* 2018. № 23. P. 344.

[2] Крівцова Т. О. Op. cit. P. 49.

[3] Дікань Л. В., Понікаров В. Д., Кожушко О. В. Op. cit. P. 250.

- procedural study of economic entities, phenomena and processes which contain information about the facts and circumstances of a particular case pending in court, by applying specific expertise and skills of a forensic economist [1].

The definition of this term specifies main substantive blocks reflecting the essence of forensic economics: the first block: the procedural nature of appointment and conduct; the second block: the use of special knowledge in the field of economics; the third block: the subject of forensic economics; the fourth block: the purpose of economic research results.

Describing these main meaningful information blocks, let's emphasize that study of production and financial activities of economic entities involves the study of research objects. These include all case files (accounting records, especially: journal vouchers, registers of synthetic and analytical accounting; tax, financial, reports; organizational and administrative documents; various types of contracts; tax audit reports; inventory files; conclusions drawn by forensic experts of other specializations, etc.), which are provided in paper or electronic form for forensic examination by forensic examination initiators.

A forensic examination is performed by a qualified person who applies special knowledge in the field of economics while research, the latter corresponds to regulatory requirements of procedural law (criminal, commercial, administrative, civil, etc.), which is a completely objective phenomenon.

Continuing research, let's stress that economy (translated from Greek: *economic management*) is the most important area of public life, in which (based on the use of various resources) production, exchange, distribution and consumption of human activity products are implemented, the system of productive forces and economic relations governed by different types of economic laws[2] is forming and developing. That is, economy is a comprehensive, multifaceted representation of the sum of various economic relations (organizational, economic, socio-economic), which its entities enter for production, sale and consumption of tangible and intangible goods and services to meet their needs.

Given the above, the following definition of forensic economics may be suggested. ***Forensic economics*** is a study of the economic activity of economic entities based on application of special economic knowledge to provide an expert conclusion on issues raised by initiators of court proceedings.

An important issue, starting point that allows you to define tasks, develop methods and expert research methods and thus form fundamental theoretical and methodological basis, is a scientifically sound classification of forensic economics. As can be seen, formation of the methodological basis as the system of integrity requires adherence to a certain logical sequence. This issue is the subject

[1] Романів С. Р., Будник Л. А., Саченко С. І. Op. cit. P. 345.

[2] Економічна енциклопедія : у 3 т. Т. 1 : А (Абандон) — К (Концентрація виробництва) / ред.: Б. Д. Гаврилишин, С. В. Мочерний. Київ, 2000. P. 380.

of a rather long study of scientific expert opinion, however, there is still no classification by a single criterion.

First attempts to systematize forensic examinations (in particular, forensic economics) were made in 1970 by O. R. Shliakhov who proposed to single out classes, types, species and subspecies of forensic examinations by a common feature, and by a classification feature it's suggested to distinguish the three-component one: the subject, object and research method [1].

At the same time, according to H. A. Matusovskyi, such classification feature includes the subject and content of forensic examination, as well as peculiarities of economy and the type of economic activity in which area offenses were made. He believes that the effectiveness of data of forensic economics, which are used as evidence in criminal cases, help to go beyond the system of genera (species) of forensic economics [2].

In view of P. P. Cheberiak, in connection with the study of the range of forensic economic analyses of a common object — accounting and economic operations — they can be classified as follows: a forensic examination of the accounting process which study patterns of information presentation of economic activity in the system of accounting of economic activity facts at economic entities; forensic examination of economic operations performing research on patterns of information presentation of economic activity in the system of economic indicators and other accounting and economic information revealing the content of economic operations [3].

O. P. Rossynska suggests to use the nature of research objects with a set of solved tasks [4] as the basis for the division of forensic examinations into species and subspecies.

However, H. I. Klymenko believes that concepts of classification systems disregard all specifics of forensic examinations referred to, therefore, provoke certain problems that need to be addressed [5].

Also, the following statements of individual authors are not unreasonable: since the integration and interconnection of knowledge naturally leads to blurring of lines between forensic and non-forensic examinations, integration of various types of species and types of forensic science, then it is fully justified to make a conclusion as to a uniform nature of forensic examinations [6]; The lack

[1] E.g., Клименко Н. І., Федчишина В. В. Op. cit. P. 57 ; Юнацький О. В. Конспект лекцій з дисципліни «Експертологія». Дніпро, 2016. P. 50.

[2] Матусовский Г. А. Экономические преступления: криминалистический анализ. Харьков, 1999. P. 464—470.

[3] Чеберяк П. П. Завдання судових експертиз при розкритті й розслідуванні злочинів, вчинених в економічній сфері України. *Наукові записки Львівського університету бізнесу та права.* 2013. Вип. 10. P. 85.

[4] Россинская Е. Р. Op. cit. P. 143.

[5] Клименко Н. І., Федчишина В. В. Op. cit. P. 59.

[6] Россинская Е. Р. Op. cit. P. 143.

of unity in the characteristic of forensic science is due to the absence of a single scientifically substantiated approach to the classification of forensic examinations, differences in the formulation of the subject and object of forensic economics [1]; The synthetic nature of the general theory of forensic science allows viewing any kind of forensic examination simply as a forensic examination [2].

As shown, current development of forensic economics is marked by unresolved methodological problems: the absence of interpretation of the essence of forensic economics in the regulatory and legal framework, a universal criterion for well ordering of the range of forensic sciences. In this regard, researches by T. A. Svietlichna, A. A. Stankevych and H. O. Shumak deserve special attention, who divided all economic sciences according to research subject into two groups (the first: general theoretical, basic sciences (political economy, economic theory, etc.), the second: specific economic, applied), next specific economic, applied sciences by the criteria of the main function of management (main or specific) were divided into managerial, functional (planning, accounting, statistics, economic analysis and others) and non-functional (special sciences: labor economics, finance, credit, pricing, etc. territorial sciences; sectoral sciences and allied sciences with economy).

In the field of economic activity management, a general object of studying all specific economic, applied sciences (production relations and workforce) is a system that includes two subsystems: a subsystem undergoing management (it is studied by non-functional sciences) and subsystem that exercise control (it is studied by managerial functional sciences) [3].

Later, scientists note that since the subject of economic sciences study is two sides of social production: material (productive forces) and public (economic, production relations, in which people enter at all stages of social production), then specific economic non-functional sciences study: the material aspect: labor economics, pricing, etc. the public aspect: finance, money in circulation, credit, etc. As a result, given the common object of studying all economic sciences, the classification of the latter under the research subject of their common object, forensic science may be divided into two species [4]:

- forensic production and economic (commercial and economic forensics) examination which includes such types of forensics as

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[1] Вітер Д. В. Судово-економічна експертиза у доведенні обставин, що підлягають обов'язковому доказуванню при розслідуванні злочинів у сфері фінансування соціальних цільових програм. *Теорія та практика судової експертизи і криміналістики*. 2019. № 20. P. 407.

[2] Аверьянова Т. В. Судебная экспертиза. Курс общей теории. Москва, 2009. P. 318.

[3] Светличная Т. А., Станкевич А. А., Шумак Г. А. Методологические основы судебных экономических экспертиз. *Право и демократия* : сб. науч. тр. 2012. Вып. 23. P. 2—3. URL: https://elib.bsu.by/handle/123456789/28756 (date accessed: 20.03.2021).

[4] Ibidem. P. 4—5.

forensic examination of terms of pay, forensic examination of prices and pricing, etc., and each of them: such subspecies as planning, accounting, analysis of or control over production or economic activities accordingly;

- forensic production and economic (commercial and economic forensics) examination which include such types of forensics as forensic examination of terms of pay, forensic examination of prices and pricing, etc., and each of them: such subspecies as planning, accounting, analysis of or control over production or economic activities accordingly;

For example, we adhere to the classification of forensic economics proposed by T. A. Svietlichna, A. A. Stankevych and H. O. Shumak, under current conditions of the development of economic relations and productive forces. At the same time, let's somewhat expand researches of these authors in the economic area.

The starting point in solving this methodological problem (by dialectical method of knowledge) is to determine a cause-effect relation between the development of material production and the rest of social activity areas. From these perspectives, economy is primary, and other areas of human activity are subordinate which are derivatives of it (public administration, finance, science, education, health care, etc.). In view of the above, the primary is the economy as a set of fields that differ in the nature of production, the secondary: economic sciences which aim to substantiate economic relations for a particular type of economic system in their inextricable connection with the development of productive forces (means of production: means of labor, subject of labor, workforce) and peculiarities of their implementation in different areas of economy (for production, distribution, exchange and consumption of material and non-material goods and services).

By its nature, social production is represented by two areas:

1) area of material production (industry; agriculture; construction; freight transport; services of production; public catering; logistical support, etc.) [1]. It is characterized by production and implementation of material goods and services. It is a production cycle, which is constantly reproduced, and the object of economic relations is tangible;
2) field of non-material production (insurance; lending; taxation; social security; housing and community services; passenger transport and communication; education; health care and others) [2]. It is characterized by production of intangible goods and intangible services. Economic relations

[1] Мацелюх Н. П., Максименко І. А. Історія економіки та економічної думки. Політична економія. Мікроекономіка. Макроекономіка : навч. посіб. 2-ге вид., перероб. та доп. Київ, 2014. P. 72.

[2] Ibidem.

arise in relation to redistribution of national income by directing financial resources for the maintenance of non-productive field (education, health care, science, etc.), as well as in favor of financial and credit institutions in the form of return and payment of interest by economic entities in accordance with prior loans and other financial payments. The object of economic relations is presented as cash (non-cash), monetary assets, securities and other monetary equivalents.

Public production taking place in the field of material and non-material production, in the process of its implementation involves planning, accounting, control and analysis of productive and non-productive activities respectively, which is obligatory for adoption of rational managerial decisions.

Considering the above, classification of forensic economics according to the suggested approach is considered scientifically grounded, which, undoubtedly, does not exclude its critical analysis for its further improvement.

Conclusions. Efficiency of forensic activity in the economic field, effectiveness of interaction with judicial inquiry bodies (which is its functional purpose), depend, in particular, from the development of the theoretical and methodological base of forensic economics. Firstly, it concerns research on its essence, what is impossible without study of production processes of social production, as well as systematization of the whole range of forensic economics based on a uniform criterion, which, for its part, is impossible without the use of a scientifically substantiated approach, since this forensic examination as well as the rest of forensic examinations, is implemented by special knowledge regarding the economic area of human activity.

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О. А. Горлачук

Теоретико-методологічні засади судової економічної експертизи

У сучасних умовах необхідність підвищення ефективності судово-експертної діяльності в економічній сфері залежить від розвитку теоретико-методологічної бази судової економічної експертизи, що й зумовило актуальність теми дослідження.

У процесі систематизації наукового матеріалу розглянуто основні питання, що стосуються теоретичних основ розвитку цього виду судової експертизи. Здійснено спробу вдосконалення інтерпретації судової економічної експертизи як економіко-правової категорії, а також обґрунтування її класифікації на основі поділу суспільного виробництва на матеріальну та нематеріальну сфери, котрі вивчаються відповідними економічними науками.

Ключові слова: *судова економічна експертиза, методологія, економічні відносини, суспільне виробництво, матеріальне виробництво, нематеріальне виробництво, критерій класифікації.*

А. А. Горлачук

Теоретико-методологические основы судебной экономической экспертизы

В современных условиях необходимость повышения эффективности судебно-экспертной деятельности в экономической сфере зависит от развития теоретико-методологической базы судебной экономической экспертизы, прежде всего интерпретации этой экономико-правовой категории в законодательном поле и определения системообразующего фактора совокупности экспертиз.

В процессе систематизации научного материала рассмотрены основные ключевые вопросы, касающиеся теоретических основ развития этого вида судебной экспертизы. Выделены узловые содержательные информационные блоки судебной экономической экспертизы: первый блок — процессуальный характер назначения и проведения; второй блок — использование специальных знаний в сфере экономики; третий блок — предмет исследования судебной экономической экспертизы; четвёртый блок — назначение результатов экономического исследования. Предпринята попытка усовершенствования интерпретации судебной экономической экспертизы как экономико-правовой категории, а также обоснования ее классификации на основе деления общественного производства на материальную и нематериальную сферы, которые изучаются соответственными экономическими науками.

Благодаря применению диалектического метода обосновано, что решение этой методологической проблемы находится в сфере материального производства. Рассмотрение взаимосвязи экономики и других сфер общественной деятельности показало, что экономика первична, что позволило в результате разделения общественного производства на сферу материального производства (материальные блага и материальные услуги; объект экономических отношений имеет овеществлённую форму) и нематериального производства (нематериальные блага и нематериальные услуги; объект экономических отношений имеет неовеществлённую *форму) определить системообразующий фактор различных видов судебных экономических экспертиз.*

Ключевые слова: *судебная экономическая экспертиза, методология, экономические отношения, общественное производство, материальное производство, нематериальное производство, критерий классификации.*

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