

On Improvement of Scientific and Methodological Basis for Conducting Forensic Economic Examinations Considering Other Types of Forensic Examinations (review article)

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Multidisciplinary forensic examinations reflect current tendency to integrate knowledge from various fields in order to objectively and impartially solve tasks of court proceedings, as integration of knowledge of specialists with different competences opens up new prospects for development of forensic examinations. Forensic economists who currently participate in multidisciplinary forensic examinations involving various kinds of interaction, sequence and degree of participation of each specialist in solving a common task have not been left behind. Article Purpose: to study into the need to develop scientific and methodological guidelines on the issues of carrying out forensic economic examinations while considering other types of forensic examinations. Leading methods of analysis and synthesis have been applied. The research paper substantiates the relevance of issues associated with conduct of forensic economic examinations taking account other types of forensic examinations. It is stressed that forensic economic examinations, during conduct

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of which results of other types of forensic examinations are used, do not fall under the concept of multidisciplinary forensic examination, since conclusions of other types of forensic examinations are not the research object of forensic economic examination. The paper emphasizes the need to develop an algorithm for conducting forensic economic examinations taking into account other types of forensic examinations. This will help forensic economists to use conclusions of other types of forensic examinations in multidisciplinary research without their evaluation, which in turn will enable to reduce the time for conducting forensic examinations and contribute to obtaining objective and unbiased expert conclusions.

Keywords: *classification; forensic economic examination; set of forensic examinations; multidisciplinary forensic examination; research objects.*

Research Problem Formulation

The key component for enhancing the quality of expert support for justice is improvement of the scientific and methodological basis of forensic expert activity, particularly forensic economic examination.

According to the content of the indicative list of questions that can be posed for resolution in the course of forensic economic examination (they are determined by the requirements of the Scientific and Methodological Recommendations on the Preparation and Appointment of Forensic Examinations and Expert Research ¹), forensic economists address the issue of the documentary evidence of reasonableness in relation to the presentation of various types of economic operations in accounting by the economic entity, particularly taking into account conclusions of other types of forensic examinations. As of today, there is no certified expert methodology

for conducting forensic economic examinations considering other types of forensic examinations.

Analysis of Essential Researches and Publications

The issue of scientific and methodological support for activities of Ukrainian forensic science institutions is especially important for researchers. It has been widely covered in research papers by leading Ukrainian and foreign specialists in the field of forensic expertology, including T. V. Averianova, L. Yu. Arotsker, V. D. Arseniev, V. D. Basai, V. V. Biriukov, A. I. Vinberh, O. O. Eisman, O. M. Zinin, A. V. Ishchenko, N. I. Klymenko, M. V. Kostytskyi, V. K. Lysychenko, O. M. Lytvynov, H. M. Nadhornyi, I. V. Pyrih, M. Ya. Sehai, E. B. Simakova-Yefremian, I. Ya. Fridman, M. H. Shcherbakovskiy, and others.

An important role of forensic economic examination during investigation of

1 Про затвердження Інструкції про призначення та проведення судових експертиз та експертних досліджень та Науково-методичних рекомендацій з питань підготовки та призначення судових експертиз та експертних досліджень : наказ Міністерства України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 29.11.2022).

crimes in the field of construction and peculiarities of its appointment have been stressed in research papers by A. Zapototskyi ² and A. Lysenko ³.

R. V. Rudzevych believes that discovery of the truth in investigation of economic crimes while appointment of multidisciplinary forensic construction-technical and economic examination is only possible with a systematic approach by the investigator to the process of formulating questions that are posed for resolution by forensic experts in both areas of expertise, and in the availability of all research objects required for performing forensic examination ⁴. I. L. Shebalkov and co-authors note that questions being solved by forensic experts after appointment of multidisciplinary expert research require the investigator to provide a detailed and complete presentation of all circumstances of investigated event during collection and preparation of materials. This will further contribute to a complete and high-quality expert research ⁵.

Therefore, we assume that the issue of carrying out forensic economic examinations taking into account other types of forensic examinations is not sufficiently disclosed in modern scientific and methodological developments.

Article Purpose

To study into the need of developing scientific and methodological guidelines for the issues of conducting forensic economic examinations considering other types of forensic examinations.

Research methods

The methods of analysis and synthesis have been applied while research. The analysis method consists in the mental dissection of holistic research subject into components for their in-depth study on the basis of certain signs, characteristics and relations. The synthesis method lies in combining previously identified elements into a single whole, which takes place according to certain signs, properties, and nature of relations.

Main Content Presentation

Forensic examination is focused on the use of achievements from various fields of scientific knowledge in court proceedings, therefore its nature is integrative. In this regard, taking into account conclusions of other research types while conducting forensic economic examinations is a form of specific expertise integration.

- 2 Запотоцький А. Особливості призначення судових експертиз під час установаження обставин, які мають значення в процесі розслідування злочинів у сфері будівництва. *Підприємство, господарство і право*. 2017. Вип. 6. С. 173–177. URL: http://nbuv.gov.ua/UJRN/Pgip_2017_6_40 (date accessed: 29.11.2022).
- 3 Лисенко А. М. Економічні дослідження операцій, пов'язаних з виконанням будівельних робіт із залученням бюджетних коштів. *Теорія та практика судової експертизи і криміналістики*. Харків, 2008. Вип. 8. С. 515–519. URL: https://www.hniise.gov.ua/user_files/File/files/2008.pdf (date accessed: 29.11.2022).
- 4 Рудзевич Р. В. Особливості призначення комплексних будівельно-технічних та економічних експертиз. *Теорія та практика судової експертизи і криміналістики*. Харків, 2020. Вип. 22. С. 393–405. DOI: [10.32353/khrife.2.2020.32](https://doi.org/10.32353/khrife.2.2020.32) (date accessed: 29.11.2022).
- 5 Шебалков І. Л., Панчук Ю. В., Гусейнов Р. Н., Супрун В. С. Актуальні проблеми комплексних судово-експертних досліджень під час визначення порядку дій пожежних підрозділів ДСНС України. *Теорія та практика судової експертизи і криміналістики*. Харків, 2020. Вип. 22. С. 416–425. DOI: [10.32353/khrife.2.2020.34](https://doi.org/10.32353/khrife.2.2020.34) (date accessed: 29.11.2022).

Multidisciplinary forensic examination reflects current tendency of science and practice: integration of knowledge to solve urgent tasks of court proceedings. The development of multidisciplinary research is one of the results of the influence of scientific and technical progress in the field of forensic science and acceleration of the processes of integration and differentiation of knowledge in forensic expert activity. Integration of knowledge of specialists in different fields opens up new prospects for the development of forensic examination; the needs of judicial and investigative practice increasingly require resolution of issues that are at the intersection of different sciences. An integrated approach helps to build up a more complete and adequate picture of the research object in contrast to separate subject-specific approaches. This is a key indicator of scientific research efficiency. Furthermore, practice shows that application of a set of methods and technical means can be fruitful in solving tasks, leading to the development of new fields of scientific knowledge. This, in turn, introduces interdisciplinary scientific disciplines determining patterns of their practical application. Researchers and practitioners have come to a conclusion that only through multidisciplinary research can a comprehensive study of the same object be achieved⁶. The development of forms of interaction between forensic experts is closely linked to procedures for solving integration tasks, and their reasonable construction is impossible without the development of the basic principles of

such cooperation. It is difficult to imagine an adequate level of cooperation between forensic experts without organized professional communication of forensic examination subjects⁷.

According to Clause 1.2.14 of *the Scientific and Methodological Recommendations on the Preparation and Appointment of Forensic Examinations and Expert Research*⁸, “multidisciplinary is forensic examination carried out with application of specific expertise from various fields of science, technology or other specific expertise (of different branches within the same field of expertise) to solve one joint (integration) task (issue). Forensic experts from forensic science institutions along with forensic experts from institutions and services (subdivisions) of other central executive bodies or other specialists who do not work in state specialized forensic science institutions may be involved in forensic examinations if necessary.

Forensic economic examinations, in the course of which results from other types of forensic examinations are used do not fall under the above concept. This is because specific expertise in the field of economics is applied during their conduct; and conclusions of forensic experts in other areas of expertise are used as source data without their analysis and evaluation.

Forensic expert practice demonstrates that it is hard (and sometimes even impossible) for forensic experts specialized in different types of researches to solve posed task within the framework of multidisciplinary forensic examination. It can be due to various circumstances (for

6 Майлис Н. П. Об актуальности использования комплекса знаний в различных направлениях судебной экспертизы. *Эксперт-криминалист*. 2008. № 4. С. 5–7.

7 Сімакова-Єфремян Е. Б. Сутність суб'єкта інтеграції знань при проведенні комплексних судово-експертних досліджень. *Теорія та практика судової експертизи і криміналістики*. Харків, 2006. Вип. 6. С. 108–117.

8 Про затвердження Інструкції ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 29.11.2022).

example, complexity and short time frame for conducting each type of research, the influence of conclusions of already carried out forensic examinations on expediency of carrying out others or, on the contrary, involving forensic experts in other areas of expertise in order to fully ascertain case circumstances, which are the subject of court proceedings or pre-trial investigation).

That is why an alternate conduct of various types of forensic examinations while solving multidisciplinary tasks sometimes optimizes the process of expert support of justice. As an example, to calculate deviation of the purchase price of products from its market price in non-compliance with the tender procedure, merchandising research was conducted. It helped to determine that the purchase price is equal to or less than the average market price. In such a case, it would not make sense to appoint forensic economic examination after receiving a conclusion from a forensic merchandising expert (who was hired to determine the total paid deviation for the entire delivery batch), as this would save time for the investigator when making a procedural decision.

The concepts of *multidisciplinary forensic examination* and *set of forensic examinations* ⁹ are distinguished in the scientific literature. A distinctive feature of multidisciplinary forensic examination is solution of related issues of different types and classes of forensic examinations, which cannot be solved by applying expertise from one field. The procedure for conducting research, along with sequence

and terms of performing individual researches, are determined by a meeting of all co-executive forensic experts that must be organized by the Expert Committee Head, taking into account functions of each forensic expert participating in forensic examination. Obtained results are also evaluated collectively.

If solution of questions belonging to different types of forensic examinations is implemented by forensic experts in different specializations in relation to the same objects without a joint research and without a collaborative evaluation of obtained results, then this is viewed as a set of forensic examinations ¹⁰. In such cases, it is required to keep in mind possible options for conducting joint research and priorities of actions of forensic experts from diverse fields in research on a common object. It is also important to consider types and sequence of application of research methods while observing the rules of storage and handling of objects. Investigators or courts may use results of such a research while dealing with particular cases, although the current criminal procedure legislation does not explicitly indicate conduct of multidisciplinary forensic examination. In spite of this, multidisciplinary forensic examinations are used more and more frequently, which is evidenced by a high efficiency of such forensic examinations, ample possibilities of a combined, synthesized application of knowledge from various fields of science and technology.

Although forensic experts from various areas of expertise are not required to make a joint decision during conduct of a set of

9 Веретун Г. С. Особливості та відмінності понять «комплексна експертиза» та «комплекс експертиз». *Вісник ОНДІСЕ*. 2018. Вип. 3. С. 14-17. URL: <http://ondise.od.ua/DOC/vipusk3/os-oblivostitavidminostiponyatkomplecexpertiza.pdf> (date accessed: 29.11.2022).

10 Корухов Ю. Г. Теоретический, методический и процессуальный аспекты комплексных экспертиз и комплексных исследований. *Проблемы организации и проведения комплексных экспертиз и экспертных исследований* : мат-лы Всесоюз. науч.-практ. конф. Москва, 1985. С. 31.

forensic examinations (which does not make it possible to qualify their actions in procedural terms as multidisciplinary forensic examination), forensic economists might consider conclusions of other forensic examinations, synthesizing different areas of knowledge while using a conclusion of the forensic expert from another area of expertise. Therefore, in case of performing a set of forensic examinations, the moment of synthesizing various fields of expertise is deferred in time until completion of the last forensic examination.

For this reason, epistemologically, we believe that concepts of *multidisciplinary forensic examination* and *set of forensic examinations* are equivalent and permissible for all forms of integration while implementing forensic examinations. On the other hand, in court proceedings the concept of multidisciplinary forensic examination is exclusively procedural, i.e., the one that presupposes integrating different competencies in one expert research, although it does not specify in advance the option for their integration (it may not be known at the initial stage of forensic examination appointment). This does not imply that appointment of multidisciplinary forensic examination is reducible to combination of an arbitrary set of specialists in one research, which will potentially enable the integration of their specific expertise. Such a possibility is predetermined by the unity of research object, which is determined firstly by intersection of related knowledge, and secondly by specifics of the expert task.

In the general sense, the research subject is contained within an object. The object and subject of research relate to each other as general and separate. With application of specific expertise, a part of the research object is distinguished as the research subject, therefore the forensic

expert directs his/her main attention towards it.

When studying conclusions of other types of forensic examinations, the forensic economist does not apply her/his specific expertise, which is one of the key features of the research object of forensic economic examination. For this reason, conclusions of forensic economic examination and conclusions of remaining forensic examinations taken into account during its compilation are components necessary for the court (investigation) to adopt an objective decision on the merits of a case. One component determines certain factual data for clarification of which there is a need to apply specific expertise (not in the field of economics). The second component, based on economic expertise, uses the data from the first component to establish factual circumstances.

From our perspective, taking into account conclusions of other types of forensic examinations by forensic experts is a way of expanding basic information concerning research objects or case circumstances, data about are partially or completely lacking in objects submitted for research; or the use of such information in the course of forensic economic examination is possible only after it has been processed by forensic experts specialized in other research types based on their areas of competence, which is determined by tasks for this type of forensic examination.

In order to develop an approximate range of questions that can be addressed for solution by forensic economists, you must first determine which forensic examination conclusions can be useful during conduct of forensic economic examinations. This involves creation of a classification of sets of forensic examinations with application of a set of classification features, groups and their interconnections.

Vagueness and incompleteness of the current classification of forensic examinations sometimes may lead to limitation of the range of issues addressed by forensic experts, or to their inaccurate interpretation.

New classes, kinds and types of forensic examinations are developed differently: they can arise within existing ones; in the event of emergence of new research objects and new tasks; the development of a type of forensic examination can lead to formation of a new class. The emergence of new kinds and types of forensic examinations is also related to emergence of new forms and manifestations of crime. In such cases, the need for efficient and quick adaptation of judicial and investigative practice to new criminal-legal realities determines the emergence of new ways and methods of applying specific expertise in the process of proof. All of this results in transformation of classifications of forensic examinations, which, in turn, prompts a theoretical rethinking of the grounds and principles of their development.

Classification of forensic examinations has theoretical, applied and procedural significance. As it is known, classification is a system of dividing any homogeneous objects or concepts into classes relying on certain common features or criteria (in our case: forensic economic examinations). A result of forensic economic examination classification is a systematic unit: class, type, kind and subkind, enabling to study and understand the classification object in a greater depth.

Traditionally, the issue of selecting criteria for classification of forensic economic examinations is a complicated one since various factors can be taken as their basis. Thus, it is possible to combine forensic examinations by complexity, scope of the original document, execution period, research subject and by other common external and internal features.

Within the scope of our research, the only possible classification feature of the sets of forensic economic examinations is types of forensic examinations conducted in combination with forensic economic examinations. A distinctive feature of such sets of forensic examinations is that forensic economic examination is carried out last and it takes into account conclusions of those already performed.

When carrying out forensic economic examinations, conclusions of the following types of forensic examinations are most often considered: merchandising research; auto-merchandising experts; construction and technical; environmental.

However, in our view, classification should not be limited only to the most common cases or even exclusively to sets of forensic examinations that took place in forensic expert practice. Considering that forensic economic examination may take into account conclusions of other kinds of forensic examinations, cases of sets of forensic examinations taking place in forensic expert practice can only be described based on it, while the rest of cases can be predicted since there is currently no information about the impossibility of the existence of certain types of sets.

Sets of forensic economic examinations can be classified according to the following kinds (subkinds):

- *economic-forensic* set (subkinds are a combination of forensic economic examination with forensic handwriting one; forensic linguistic examination of speech; forensic document examination; examination of weapons and traces and circumstances of their use; trace evidence analysis (except for studies of traces of damage to clothing associated with simultaneous infliction of physical injuries, which are carried out in the bureau of forensic medicine);

phototechnical, forensic portrait examination; forensic hologram examination; forensic audio and video examination; blast; anthropogenic explosions; materials, substances and products (paint and varnish materials and coatings; polymeric materials; fibrous materials; petroleum products and fuels and lubricants; glass, ceramic; narcotic drugs, psychotropic substances, their analogues or precursors; alcohol-containing mixtures; soils; metals and alloys and products from them; availability of harmful substances (pesticides) in the environment; substances of chemical industry and specialty chemicals; foods; highly toxic substances); forensic biological examinations);

- *economic-engineering-technical* set (subkinds are a combination of economic with engineering-transport (automotive, transport trace evidence, railway-transport); road-technical; construction-technical; appraisal-construction; land-technical; appraisal-land; forensic examination on land management; fire-technical; life safety; mining-technical; engineering-environmental; electrical engineering; computer; telecommunications; electric transport; forensic examination of elevators' technical condition; engineering-mechanical; water-technical; forensic aviation-technical examinations);
- *economic* set (subkinds are a combination of economic with forensic accounting and tax accounting examinations, financial-economic activities and financial and credit operations. In forensic expert practice, there have been cases regarding appointment of forensic

economic examinations taking into account conclusions of other forensic economic examinations. The need for such sets is due to the necessity to expand already conducted research in the absence of objects that have already been studied, or in the impossibility of spending additional time on their re-processing without analysis, that is, as initial data);

- *economic-merchandising* set (subkinds are a combination of economic with forensic examinations of machines, equipment, raw materials and consumer goods; military property, military equipment and weapons; forensic transport and merchandising examination);
- a set of *forensic economic examinations and forensic examination in the intellectual property field* (subkinds are a combination of forensic economic examination with forensic examinations of literary and artistic works; phonograms, video grams, programs (broadcasts) of broadcasting organizations; inventions and utility models; industrial samples; plant varieties and animal breeds; commercial (brand) names, trademarks (marks for goods and services), geographical indications; integrated circuit topographies; trade secrets (know-how) and rationalization proposals; forensic economic examination in the intellectual property field);
- *economic and psychological*;
- *economic and art*;
- *economic and environmental*;
- *economic and military*;
- *economic and veterinary*;
- *economic and gemmological*;
- *economic-historical-archaeological*.

It is obvious that provided classification of sets of forensic economic examinations is inexhaustible. Its update is due primarily to the need to solve new tasks as to objects that were not previously forensic examination subjects. In view of the above, the suggested basic scheme for classification of economic sets of forensic examinations may be transformed in the future, considering new expert tasks and expertise.

Conclusions

The lack of a separate methodology for conducting expert research of accounting, tax accounting, and reporting documents, documents about economic activity, as well as documents of financial and credit operations, which would take into account conclusions of forensic experts specialized in other areas (for example, construction and technical, merchandising, environmental, handwriting examination, questioned document examination, etc.), necessitates its development. In this regard, it is vital to adopt a unified approach to conducting sets of forensic economic examinations related to the confirmation of the validity of documentation by enterprises, institutions, and organizations engaged in various types of economic activities. This should include examining their quantitative and value indicators while taking into account remaining factual circumstances of a case that support conclusions drawn from other types of forensic examinations.

Such a methodology will practically help forensic economists to use conclusions of other types of forensic examinations without evaluating them, thereby optimizing the terms of conducting forensic examinations and contributing to obtaining objective and unbiased conclusions. It will ensure transparency in the course of expert research, making it impossible to raise questions about completeness and validity of research, as well as compliance with the limits of its competence.

Щодо вдосконалення науково-методичної бази проведення судово-економічних експертиз із урахуванням інших видів експертиз (оглядова стаття)

**Костянтин Капустник,
Олексій Хомутенко, Павлос Кіпоурас**

Комплексні експертизи відображають сучасну тенденцію до інтеграції знань у різних сферах із метою об'єктивного та неупередженого розв'язання завдань судочинства, адже інтеграція знань фахівців різного профілю відкриває нові перспективи розвитку судових експертиз. Не залишилися осторонь експерти-економісти, які наразі беруть участь у комплексних експертизах, що передбачають різні форми взаємодії, послідовності та ступені участі кожного фахівця в розв'язанні спільного завдання. Мета статті: дослідити необхідність розроблення науково-методичних рекомендацій із питань проведення судово-економічних експертиз з урахуванням інших видів експертиз. Як провідні застосовано методи аналізу та синтезу. Обґрунтовано актуальність питань, пов'язаних із проведенням судово-економічних експертиз, які враховують інші види експертиз. Зазначено, що судові економічні експертизи, під час виконання яких використовують результати інших видів експертиз, не підпадають під поняття комплексної експертизи, оскільки висновки судових експертиз інших видів не є об'єктом дослідження судової економічної експертизи. Указано на необхідність розроблення алгоритму проведення судово-економічних експертиз із урахуванням інших видів експертиз. Це допоможе фахівцям судової економічної експертизи використовувати висновки інших видів експертиз у комплексному дослідженні без їх оцінювання, що дасть змогу скоротити строки проведення експертиз і сприятиме отриманню об'єктивних і неупереджених експертних висновків.

Ключові слова: класифікація; економічна експертиза; комплекс експертиз; комплексна експертиза; об'єкти дослідження.

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Participants

Authors contributed solely to the intellectual discussion underlying this document, case law research, writing and editing and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

Authors declare no conflict of interest.

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