

Principles of Specific Expertise Use in Investigation of Crimes Against Foundations of National Security of Ukraine

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During investigation of crimes against foundations of national security of Ukraine today, latest achievements of science and technology are quite actively used, therefore there is a need for a more rational organization of the procedure of proof and drawing the attention of scientists to the issues of specific expertise use at the stage of pre-trial investigation. The purpose of this article is to determine the general principles of specific expertise use at the stage of pre-trial investigation of crimes against foundations of national security of Ukraine. Methodological background: general scientific and special scientific methods of cognition. Principles of specific expertise use during investigation of criminal offenses are considered and characterized. In particular, it is determined that specific expertise is used during investigation of crimes against foundations of national security of Ukraine based on the following principles: independence of person who has special knowledge; legality; rule of law; research complexity; competitiveness; objectivity; comprehensiveness and completeness of specific expertise use; non-disclosure by a person who uses specific expertise while conducting investigative (search) actions, pre-trial investigation data and operational information; observance of constitutional rights and freedoms of citizens involved in pre-trial investigation procedure; compliance by person with specific expertise, specific expertise use exclusively within the limits of his competence.

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Keywords: *specific expertise; principles of specific expertise use; crimes against foundations of national security of Ukraine; person with specific expertise; forensic science; principles of criminal proceedings; pre-trial investigation.*

**Research
Problem Formulation**

With the beginning of armed aggression of Russian Federation against Ukraine, the number of criminal offenses provided for in Section 1 of the Special Part of the Criminal Code of Ukraine ¹ (hereinafter referred to as the *Criminal Code of Ukraine*), crimes against foundations of national security of Ukraine, increased. In the context of a large-scale invasion, criminal offenses that encroach on the foundations of

national security of Ukraine (in particular, treason, collaborative activities, etc.) have become quite common and especially dangerous.

According to analysis of statistical reports published on the official website of the Prosecutor General's Office of Ukraine ², over the past five years, the number of criminal proceedings opened on the grounds of committing criminal offenses under Articles 109–114² of Criminal Code of Ukraine has increased significantly, most of all in 2022 (q.v.).

Statistics on criminal offenses registered under the first section of the Special Part of Criminal Code of Ukraine and the results of their pre-trial investigation

Indexes	2019	2020	2021	2022	2023
Criminal offenses recorded in the reporting period	379	414	520	17422	6270
Criminal offenses for which persons have received a notice of suspicion	127	122	157	2158	2274
Criminal offenses in proceedings, the pre-trial investigation of which has been stopped in accordance with Art. 280 of Criminal Procedural Code of Ukraine	7	20	24	691	396
Criminal offenses for which proceedings are sent to the court	106	97	124	1,196	1673
Criminal offenses for which proceedings are closed	39	41	58	477	153
Criminal offenses for which no decision on termination or suspension was made at the end of the reporting period	263	297	372	15511	4194

1 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 13.04.2024).
2 Про зареєстровані кримінальні правопорушення та результати їх досудового розслідування / Офіс Генерального прокурора України : офіц. сайт. URL: <https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2> (date accessed: 13.04.2024).

Investigation of criminal offenses against the foundations of national security of Ukraine is a complex process for representatives of pre-trial investigation bodies/court. Taking into account practical experience, it should be noted that a significant part of the circumstances of criminal proceedings can be objectively determined only by conducting forensic examinations. Forensic experts have specific expertise and are able to make a significant contribution to investigative /judicial activities in order to clarify the circumstances important for criminal proceedings.

When the latest achievements of science and technology are actively used in the process of investigating criminal offenses, there is a need for a more rational organization of the proof process and drawing the attention of scientists to the issues of specific expertise use at the stage of pre-trial investigation. The issue of legal support for the use of special knowledge at the stage of pre-trial investigation is inexhaustible and requires further improvement and development.

Article Purpose

The research purpose is to determine general principles of the specific expertise use at the stage of pre-trial investigation of crimes against foundations of national security of Ukraine.

Research Methods

In order to achieve this goal, general scientific (in particular, dialectical, analysis, synthesis, induction, deduction) and special scientific methods (formal logical, logical-legal, system-structural ones) were used that contributed to the content and validity of scientific conclusions.

Analysis of Essential Researches and Publications

General specifics of specific expertise use in criminal proceedings were studied by L. Arotsker ³, V. Honcharenko and I. Hora ⁴, N. Klymenko ⁵, E. Simakova-Yefremian ⁶, K. Chaplynskyi ⁷, V. Shepitko ⁸, M. Shcherbakovskiy ⁹, V. Yusupov, ¹⁰ etc.

- 3 Ароцкер Л. Е. Проблемы теории судебной экспертизы. *Проблемы социалистической законности на современном этапе коммунистического строительства* : кр. тез. докл. и науч. сообщ. республ. конф. (Харьков, 21—23.11.1978). Харьков, 1978. С. 250—253.
- 4 Спеціальні знання та форми їх використання в судочинстві / за заг. ред. проф. В. Г. Гончаренка та І. В. Гори. *Бюлетень законодавства і юридичної практики України. Експертизи в судочинстві України. Роз'яснення. Законодавство. Судова практика*. 2015. № 5—6. С. 6—17.
- 5 Клименко Н. І. Загальна теорія судової експертології: поняття і місце в системі наукового пізнання. *Збірник наукових праць Ірпінської фінансово-юридичної академії (економіка, право)*. 2013. Вип. 2. С. 101—106.
- 6 Столітній шлях судової експертизи в Україні (1918—2018 рр.) : монографія / авт.-укл.: О. М. Ключев, О. П. Угровецький, Е. Б. Сімакова-Єфремян та ін. / за ред. О. М. Ключева. Харків, 2018. 336 с.
- 7 Чаплинский К. О. Спеціальні знання як об'єкт криміналістичного дослідження. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2011. № 2. С. 323—329.
- 8 Шепітько В. Ю. Проблеми використання спеціальних знань крізь призму сучасного кримінального судочинства в Україні. *Судова експертиза*. 2014. № 1. С. 11—18.
- 9 Щербаковський М. Г. Проведення та використання судових експертиз у кримінальному провадженні : монографія. Харків, 2015. 560 с.
- 10 Юсупов В. В. Криміналістика в Україні у XX — на початку XXI ст. (Історико-теоретичне дослідження) : дис. ... д-ра юрид. наук. Київ, 2018. 564 с.

General theoretical issues of the use of special knowledge at the stage of pre-trial investigation of criminal offenses provided for in Section One of the Criminal Code of Ukraine were considered by T. Budko¹¹, I. Hora and V. Kolesnyk¹², A. Ishchenko¹³ et al. However, the issue of theoretical analysis of principles (foundations) of the specific expertise application in criminal proceedings requires further study and improvement.

Main Content Presentation

Modern development of criminalistics and forensic science theory, especially their applied aspects, occurs in parallel with interpenetration of knowledge and the use of advanced methods of other sciences in implementing the tasks faced by persons who detect, investigate and disclose criminal offenses. It is worth noting that the investigation of criminal offenses that encroach on foundations of national security of Ukraine cannot be imagined without the use of scientific and technical achievements and modern scientific and technical means developed on their basis.

The current legislation of Ukraine uses the *specific expertise* term, but there

is no legal act that would standardize this concept.

In science, there are different definitions of the concept of *specific expertise*. According to V. Shepitko: “*specific expertise is a set of modern knowledge in a particular field of science, technology, art or craft*”¹⁴.

A. Tymchyshyn¹⁵ draws attention to the opinion of M. Shcherbakovskiy that “*specific expertise is professional knowledge obtained as a result of training, as well as skills acquired by a knowledgeable person in the process of practical activity in various fields of science, technology and other socially useful fields of human activity, used together with scientific and technical means in the examination*”¹⁶. However, this definition limits the scope of specific expertise to examination only.

Ye. Kovalenko emphasizes that “*concept of specific expertise does not include legal knowledge, since in its content for the bodies of inquiry, investigation and court they, although they are special, form the basis of their professional activity in the correct resolution of legal issues during the pre-trial investigation and trial in criminal cases*”¹⁷.

Opinion of B. Romaniuk is reasonable, who believes that “*specific expertise is a set of scientifically based information of*

- 11 Будко Т. В. Проблемні питання судово-лінгвістичної семантико-текстуальної експертизи мовлення та рекомендації щодо їх вирішення (на матеріалах кримінальних проваджень) : монографія. Київ, 2017. 92 с.
- 12 Гора І. В., Колесник В. А. Криміналістичні експертизи та дослідження, що проводяться у системі правоохоронних органів України : наук.-практ. посіб. Київ, 1999. 80 с.
- 13 Іщенко А. В., Марчук Р. П. Використання спеціальних знань у правоохоронній практиці: старі та нові проблеми. *Науковий вісник Національної академії внутрішніх справ*. 2001. Вип. 3. С. 204–211.
- 14 Шепітько В. Ю. Криміналістика / Енциклопедичний словник (українсько-російський і російсько-український) ; за ред. акад. НАН України В. Я. Тація. Харків, 2001. 560 с.
- 15 Тимчишин А. М. Спеціальні знання: поняття, зміст та суб'єкти використання. *Юридичний науковий електронний журнал*. 2018. № 2. С. 299–302. URL: http://lsej.org.ua/2_2018/79.pdf (date accessed: 13.04.2024).
- 16 Щербаковський М. Г. Тактика проведення судових експертиз : лекція. Харків, 2004. 32 с.
- 17 Коваленко Е. Г. Использование экспертных знаний в деятельности органов внутренних дел по предупреждению хищений социалистического имущества : учеб. пособ. Киев, 1990. 86 с.

a separate (special) type possessed by persons (specialists) within any profession in various fields of science, technology, art and craft”¹⁸. At the same time, expediency of using the craft term in defining the concept of specific expertise is questionable, since specific expertise “in the field of craft” during forensic examination is rarely needed.

We consider it reasonable to characterize the special knowledge of O. Bondarenko as a set of “knowledge in any field of human activity: science, technology, art, craft (except for the legal knowledge of the inquirer, investigator, prosecutor and judge) acquired as a result of special training or professional experience, which are used to obtain evidence or other information necessary for the disclosure and investigation of crimes”¹⁹.

Translated from Latin, the : principle (principium) lexeme means: basis, primary source. According to the Great Explanatory Dictionary of the Modern Ukrainian Language, the principle is:

“1. The main starting point of any scientific system, theory, ideological direction, etc. <...> 2. A feature underlying the creation or accomplishment of something, a way of creating or accomplishing something. // The rule used as the basis for the activities of any organization, society, etc. <...> 3. A belief, a norm, a rule that guides someone in life, behavior”²⁰.

From a philosophical standpoint, the principle category is considered in two meanings:

“as a basis from which to proceed and which must be guided in scientific knowledge or practical activity;

as an internal belief of a person, which determines his attitude to reality, norms of behavior and activity”²¹.

In legal literature: “principles of law are formed in the process of the development of legal awareness and natural law, enshrined in laws, international legal acts and legal positions of the European Court of Human Rights, fundamental moral and legal fundamental ideas, which, due to their content and values, are the foundation of a legal strategy, determine the doctrinal value of the legal system, harmonize the entire system of legal norms, are the primary source of individual institutions and norms of law, provide deep unity to the regulatory mechanisms of law, determine the peculiarities and doctrinal qualities of the field of law, provide a legal basis for the interpretation of specific norms and the resolution of controversial issues, contribute to the correct knowledge and application of legal norms, are the basis and starting point for the further development of legal doctrine and legislative acts”²².

We agree with the opinion of A. Marushev that “principles of the use of special

18 Романюк Б. В. Сучасні теоретичні та правові проблеми використання спеціальних знань у досудовому слідстві : дис. ... канд. юрид. наук. Київ, 2002. 222 с.

19 Бондаренко О. О. Процесуальний статус обізнаних осіб та їх правовідносини з дізнавачем і слідчим у кримінальному судочинстві : дис. ... канд. юрид. наук. Харків, 2004. 260 с.

20 Принцип / Великий тлумачний словник сучасної української мови / уклад. і голов. ред. В. Т. Бусел. Київ ; Ірпінь, 2005. С. 1125. URL: http://irbis-nbuv.gov.ua/cgi-bin/ua/elib.exe?Z21ID=&I21DBN=UKRLIB&P21DBN=UKRLIB&S21STN=1&S21REF=10&S21FMT=online_book&C21COM=S&S21CNR=20&S21P01=0&S21P02=0&S21P03=FF=&S21STR=ukr0000728%5F10 (date accessed: 13.04.2024).

21 Сучасний словник із суспільних наук / за ред. О. Г. Данильяна, М. І. Панова. Харків, 2006. 432 с.

22 Тертишник В. М., Сачко О. В., Кошовий О. Г. Принципи права в інтегративній доктрині вдосконалення кримінального законодавства. Актуальні проблеми вітчизняної юриспруденції. 2018. № 3. С. 66–70.

knowledge by certain subjects of criminal proceedings coincide primarily with the norms and principles of criminal procedural legislation, they represent the most important and defining legal provisions on which the criminal process is based”²³.

It should be noted that the forensic literature considers in some detail the principles on which the interaction of pre-trial investigation bodies with forensic science institutions is based.

Thus, V. Shepitko draws attention to the fact that “interaction of the investigator with other participants in criminal proceedings should be specific, based on the law and the correct combination of forms and methods of work and carried out in compliance with the following principles:

- procedural independence of investigators and inquiry bodies, non-interference in their procedural activities;
- compliance with the requirements of legality;
- independence of employees of operational and investigative units, investigators and specialists in the choice of means in the implementation of agreed measures;
- division of competence between the participants in the interaction;
- non-disclosure by the participants of interaction of data of procedural, operational-search and other activities;
- consistency of planning and execution of actions by the participants of interaction, availability of information exchange, etc.”²⁴.

It is reasonable to think that investigator’s interaction with other units is carried out on a general and special basis. At the same time, we emphasize that special principles of interaction are distinguished depending on its subjects, but the general principles include:

“responsibility of the investigator for a prompt, complete and impartial investigation of criminal offenses, his independence in procedural activities, interference in which by persons who do not have the legal authority to do so is prohibited;

observance of the principles of criminal proceedings;

active use of methods, scientific and technical achievements in the prevention, detection and investigation of criminal offenses;

optimal use of forces and means;

ensuring non-disclosure of pre-trial investigation information;

expediency is interaction should be only in those criminal proceedings and in those investigative situations that require this interaction;

cost-effectiveness provides for the relative simplicity and profitability of interaction, which will best achieve the tasks;

duration: interaction should be continuous, in other words, continuous, if it concerns bodies and units;

secrecy”²⁵.

Thus, analysis of scientific literature on criminal procedural law and criminalistics makes it possible to distinguish the following principles of specific expertise use at the stage of pre-trial investigation of

23 Марушев А. Д. Принципи застосування спеціальних знань у кримінальному провадженні. *Актуальні проблеми держави і права*. 2020. Вип. 86. С. 139–144. DOI: 10.32837/apdp.v0i86.2424 (date accessed: 13.04.2024).

24 Панов М. І., Шепітько В. Ю., Коновалова В. О. та ін. *Настільна книга слідчого : науко.-практ. вид. для слідч. і дізнавач.* Київ, 2003. С. 194–195.

25 Абламський С. Є., Юхно О. О., Фоміна Т. Г. та ін. *Взаємодія слідчого з іншими органами і підрозділами при розкритті та розслідуванні кримінальних правопорушень : навч. посіб.* Вид. 2-ге, допов. і перероб. Харків, 2019. 209 с.

crimes against the foundations of national security of Ukraine.

Principle of independence of person with specific expertise

Independence principle of forensic expert is enshrined in Part 2 of Art. 69 of Criminal Procedural Code of Ukraine: “Persons who are in official or other dependence on the parties to the criminal proceedings or the victim cannot be experts”²⁶ This principle should be understood as the absence of influence of any other persons on a person who has specific expertise, as well as the ability of this person to independently choose means, methods and methods of research. Therefore, forensic experts should be protected by law from the interference of the relevant services or ministries in the conduct of the examination, under the supervision of which are state specialized institutions (scientific and research institutions of forensic examinations of the Ministry of Justice of Ukraine, expert services of the Ministry of Internal Affairs of Ukraine, SBU, etc.), from interference by prosecution, defense, court and other persons interested in the results of criminal proceedings. It is worth noting that, according to the Scientific and Practical Commentary to the Law of Ukraine: *On Judicial Examination*, “performance by the head of a State specialized institution of organizational and managerial functions regarding the quality control of ex-

pert research, provided for by departmental regulations, does not constitute interference in conducting forensic examination”²⁷. We agree with the opinion of V. Shepitko that “principle of independence of forensic expert activity cannot be implemented without observing such principles as legality, objectivity and completeness of the research”²⁸.

Principle of legality

Legality is generally understood as the accurate and strict observance and implementation of the provisions of the Constitution of Ukraine, laws and other relevant legal acts by all state and non-state institutions and organizations, officials, citizens. The principle of legality stipulates that all actions of persons with special knowledge should comply with the requirements of the current legislation. Thus, in his work, the expert must comply with the procedural rules and methodological requirements for the examination (expert research). Specific expertise uses in investigation of criminal offenses that encroach on the foundations of national security of Ukraine in violation of criminal procedural legislation is unacceptable and leads to liability under the law.

Principle of rule of law

Principle of the rule of law is enshrined in Art. 8 of Constitution of Ukraine²⁹. In Art. 8 of the Criminal Procedural Code of

26 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 18.04.2024).

27 Сегай М. Я., Форіс Ю. Б. Науково-практичний коментар до Закону України «Про судову експертизу» / Експертизи у судовій практиці : наук.-практ. посіб. 2-ге вид., перероб. і допов. Київ, 2010. С. 379.

28 Шепітько М. В. Дотримання принципу незалежності судово-експертної діяльності в Україні. *Актуальні питання судової експертизи та криміналістики* : зб. мат-лів міжнар. наук.-практ. конф., присвяч. 100-річ. від дня народж. д-ра юрид. наук, проф., засл. діяча науки і техніки України М. В. Салтевського (Харків, 07–08.11.2017). Харків, 2017. С. 80–81. URL: https://dspace.nlu.edu.ua/jspui/bitstream/123456789/13783/1/Shepitko_M_80-81.pdf (date accessed: 13.04.2024).

29 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (date accessed: 10.04.2024).

Ukraine³⁰, it is considered in the context of criminal proceedings as a process and provides for the recognition of a person, his rights and freedoms as the highest values that determine the content and direction of the state's activities. According to the decision of Constitutional Court of Ukraine dated on November 2, 2004, No. 15-пп/2004, *"rule of law is the rule of law in society. The rule of law requires the state to implement it in law-making and law-enforcement activities, in particular in laws, which in their content should be imbued primarily with ideas of social justice, freedom, equality, etc."*³¹ The essence of this principle is that everyone who uses special knowledge must comply not only with the requirements of the relevant regulatory act, but also take into account its compliance with legal norms that have a higher legal force.

Research multidisciplinaryity

Research multidisciplinaryity is characterized, first of all, by application of a set of various specific expertise of related sciences to solve an expert problem that cannot be solved with the help of knowledge of any one science; secondly, by parallel or sequential research of various properties of one or more objects in order to solve the tasks of independent examinations. As practice shows, during the investigation of crimes against the foundations of the national security of Ukraine, the principle of complexity is applied not so much to

research a single object, but to solve questions that can be answered only by using different, related fields of knowledge at the same time, conducting joint research (forensic multidisciplinary examination).

Adversarial Principle

In accordance with Part 1 of Art. 22 of Criminal Procedural Code of Ukraine, "criminal proceedings are conducted on the basis of adversarial proceedings, which provides for independent defense by the prosecution and the defense of their legal positions, rights, freedoms and legitimate interests by the means provided for by this Code"³². Given the fact that modern legislation is aimed at establishing procedural equality of the parties, a significant role is played by ensuring the balance of procedural capabilities of these parties (participants) in relation to the involvement of a person with special knowledge. Therefore, in order to implement the principle of competition, parties to criminal proceedings during the investigation of crimes against the foundations of national security of Ukraine need to appoint forensic experts to various state specialized institutions. We agree with N. Klymenko that, in practice, the principle of competitiveness is implemented by conducting examinations in non-state institutions by independent experts. Such examinations acquired the name and status of independent (alternative)

30 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 18.04.2024).

31 Рішення Конституційного Суду України у справі за конституційним поданням Верховного Суду України щодо відповідності Конституції України (конституційності) положень статті 69 Кримінального кодексу України (справа про призначення судом більш м'якого покарання) : ріш. КС України від 02.11.2004 р. № 15-рп/2004 за справою № 1-22/2004. URL: <https://zakon.rada.gov.ua/laws/show/v015p710-04#Text> (date accessed: 13.04.2024).

32 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 18.04.2024).

competitive examinations³³. However, during the investigation of the above-mentioned category of criminal offenses, the participation of a non-state (independent) expert is impossible, since most often during the investigation of crimes against the foundations of the national security of Ukraine, forensic examinations are appointed, and only state expert institutions are authorized to conduct forensic examinations (according to current legislation).

Principle of objectivity, comprehensiveness and completeness of specific expertise use

The principle of objectivity, comprehensiveness and completeness of specific expertise use is that the expert describes and examines the objects in the form in which they were received for research; in addition, forensic expert in his conclusion indicates all the properties of the objects under research. During the study, a person with special knowledge should carefully examine all objects, regardless of their number, as well as apply all possible methods and means of research. Therefore, this principle contributes to an impartial assessment of the properties of objects and phenomena on scientific and practical grounds that makes impossible to make mistakes or unreasonable judgments.

Principle of non-disclosure by a person who uses specific expertise while conducting investigative (search) actions, pre-trial investigation data and operational information

Secrecy is one of the general conditions of pre-trial investigation, because at this stage of criminal procedure, criminal

offenders and persons related to them should not know any information and limits of information of authorized person. That is why the principle of non-disclosure by a person who uses special knowledge in the process of conducting investigative (search) actions, pre-trial investigation data and operational information is important to ensure confidentiality and protection of information that may be important for the investigation of criminal offenses. This principle stipulates that a person with specific expertise, during the investigation, must maintain confidentiality and not disclose the information he received to third parties without the permission of the competent authorities, since the leakage of such information may adversely affect the course of investigation.

Principle of observance of constitutional rights and freedoms of citizens involved in pre-trial investigation procedure

In the process of specific expertise use, the representative of the pre-trial investigation body should guarantee protection of legal rights and freedoms of citizens, regardless of their procedural status (accused, defender, victim, civil plaintiff, civil defendant, their representatives, witness, specialist, expert, etc.).

Principle of compliance by person with specific expertise, use of this expertise exclusively within their competence

The competence of forensic expert is the scope of his powers granted to the expert by procedural law (procedural) and the scope of specific expertise and skills acquired by him (special). According to the current legislation, the expert is pro-

33 Клименко Н. І. Закріплення у КПК України принципу змагальності й незалежності судових експертів. *Юридичний часопис Національної академії внутрішніх справ*. 2013. № 1. С. 19–23. URL: <https://elar.naiu.kiev.ua/server/api/core/bitstreams/d0692005-4e9f-45c7-b85f-a36c97c37886/content> (date accessed: 13.04.2024).

hibited from going beyond the limits of his competence, as well as from providing a legal assessment of the research materials. In Ukraine, compliance with this principle is ensured by legal regulation of investigator and specialist activities by the heads of pre-trial investigation bodies, as well as supervision by prosecutors.

Conclusions

Analysis of the current domestic legislation (in particular, the Criminal Procedural Code of Ukraine, Law of Ukraine: *On Judicial Examination* and other normative legal acts) indicates the absence of an exhaustive list of principles (principles) for the use of special knowledge at the stage of pre-trial investigation of criminal offenses, in particular those that encroach on foundations of national security of Ukraine.

In view of the above, while investigating crimes against foundations of national security of Ukraine, it is necessary to adhere to the following basic principles of specific expertise use: independence of a person with special knowledge; legality; rule of law; complexity of the study; competitiveness; objectivity, comprehensiveness and completeness of the use of special knowledge; non-disclosure by a person who uses special knowledge in the process of conducting investigative (search) actions, data of pre-trial investigation and operational information; observance of the constitutional rights and freedoms of citizens involved in the pre-trial investigation process; use by a person with specific expertise of such specific expertise exclusively within his competence.

Correct understanding, interpretation and adherence to the isolated principles of the use of special knowledge by these entities is the key to a full, impartial and ef-

fective investigation of crimes against the foundations of national security of Ukraine.

Принципи використання спеціальних знань під час розслідування злочинів проти основ національної безпеки України

Інна Босак

Під час розслідування злочинів проти основ національної безпеки України сьогодні доволі активно використовують новітні досягнення науки й техніки, тому виникає потреба в більш раціональній організації процесу доказування та приверненні уваги науковців до проблем використання спеціальних знань на етапі досудового розслідування. Мета статті — визначити загальні принципи (засади) використання спеціальних знань на етапі досудового розслідування злочинів проти основ національної безпеки України. Методологічне підґрунтя: загальнонаукові та спеціальні наукові методи пізнання. Розглянуто і схарактеризовано засади використання спеціальних знань під час розслідування кримінальних правопорушень. Зокрема, визначено, що спеціальні знання під час розслідування злочинів проти основ національної безпеки України застосовують на підставі таких принципів: незалежності особи, яка має спеціальні знання; законності; верховенства права; комплексності дослідження; змагальності; об'єктивності; усебічності й повноти використання спеціальних знань; нерозголошення особою, яка застосовує спеціальні знання у процесі проведення слідчих (розшукових) дій, даних досудового розслідування й оперативних відомостей; дотримання конституційних прав і свобод громадян, залучених до процесу досудового розслідування; дотримання особою, що має спеціальні знання, використання спеціальних знань винятково в межах своєї компетенції.

Ключові слова: спеціальні знання; принципи (засади) використання спеціальних

знань; злочини проти основ національної безпеки України; особа, яка має спеціальні знання; судово експертиза; принципи кримінального провадження; досудове розслідування.

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