Specific expertise use during investigation of misappropriation of enterprise, institution, organization property

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Increasing effectiveness and quality of investigation of illegal seizure of property of enterprise, institution, organization is certainly connected with the use of special knowledge and the active implementation of modern scientific and technical achievements in the activities of law enforcement agencies. Specialist helps the investigator to find answers to extremely important questions regarding obtaining and involving in the proceedings judicial evidence, which are important for the investigation and determine the directions of the investigator's further work. The purpose of this article is to analyze individual areas of specific expertise application during investigation of illegal seizure of property of an enterprise, institution, or organization. For this, general scientific (generalization, analysis and synthesis, system-structural) and special methods of scientific knowledge are used. It is noted that the criminal offenses provided for in Art.206-2 "Illegal acquisition of property of an enterprise, institution, organization" of Criminal Code of Ukraine, differ in the method of execution, the identity of the criminal, consequences and other forensic specifics. Some aspects of the specific expertise use during the investigation under Art.206-2 of this Code. The definitions of terms

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"specific expertise", "expert witness", "specialist", "expert" are indicated. Forms of application of specific expertise, grounds for their application, and tasks were studied. An approximate list of specialists whose involvement may be needed during the investigation of the investigated criminal offenses is outlined. It has been found that the main object of research in criminal proceedings on the facts of illegal appropriation of the property of an enterprise, institution, or organization is a document.

Keywords: *criminal procedure; procedural activity; prosecution; pre-trial investigation; evidence; collection of evidence; business entity; specialist; forensic examination; forensic expert conclusion.*

Research Problem Formulation

Criminal offenses related to encroachments on economic and economic relations have their own specifics of pre-trial investigation. Primarily, difficulties may arise at the stage of obtaining information about a criminal offense, then during the inspection of the scene and the appointment of forensic examinations. In order to perform current tasks and coordinate the actions of the investigator, it is necessary to involve persons with specific expertise in the field of criminalistics, as well as to find out the list of issues, the solution of which is due to specific expertise use.

Analysis of Essential Researches and Publications

The issue of specific use of in investigation of certain types of criminal offenses at the dissertation level was investigated by: V. Bidnyak, H. Bidnyak, V. Bondar, A. Vuyma, O. Gaidar, V. Guseva, P. Kravchuk, I. Pyrih, E. Simakova-Yefremian, R. Stepanyuk, G. Spitsyna, Serhii Tiulieniev, M. Shcherbakovskyi et al.

Possibilities and significance of forensic examinations in criminal proceedings were described in detail by M. Shcherbakovskyi in his doctoral dissertation: *Theoretical, methodological and praxeological principles of forensic examinations in criminal proceedings* and other scientific works and formulated a scientific definition of forensic expertology, competence and competencies of the expert; criteria for the classification of forensic examinations; proposed a number of recommendations aimed at improving the procedure for involving an expert in adversarial criminal proceedings and increasing the reliability of the expert's conclusion [1].

E. Simakova-Yefremian in her doctoral dissertation "Theoretical, legal and methodological foundations of complex forensic expert research" investigated forensic examinations and their possibilities, as well as the limits of the expert's special technical knowledge. With regard to our research, we should note: solving the issue of establishing the fact of forgery of a certain document does not belong to competence of forensic expert. Within the limits of specific expertise, forensic experts

1 Щербаковський М. Г. Теоретико-методологічні та праксеологічні засади судових експертиз у кримінальному процесі : автореф. дис. … д-ра юрид. наук. Харків, 2016. 40 с. URL: http://dspace.univd.edu.ua/xmlui/handle/123456789/2582 (date accessed: 17.07.2024).

solve the issue of finding out the facts and ways of making changes to the researched document (cleaning up, corrections, additions, pasting photos, letters, etc.) and restoring their original content. According to the opinion of the court expert on the facts and methods of making changes to the documents (together with other determined factual data and circumstances of the case), prosecutor, investigator or judge establishes the fact of official falsification of documents [2].

O. Shevchenko investigated application of special commodity knowledge during pre-trial investigation[3].

At the same time, it is worth emphasizing that researchers did not study application peculiarities of specific expertise during the investigation of the illegal seizure of the property of an enterprise, institution, organization. Some aspects of the use of special knowledge need to be considered in more detail, because it is the above-mentioned scientists who laid the foundation for studying the principles of applying specific expertise during misappropriation investigation of property of an enterprise, institution, organization.

Article Purpose

Analyze certain areas of application of specific expertise during investigation of illegal seizure of property of an enterprise, institution, organization in order to increase the effectiveness of the investigation and counteract such criminal offenses.

Research Methods

Methodological basis of the work is both general scientific and special methods of scientific knowledge, in particular, generalization, analysis and synthesis (to provide reliable conclusions as a result of processing a set of scientific and empirical sources on the chosen topic), system-structural (to develop a system of specific expertise that is used during investigation of the illegal seizure of property of an enterprise, institution, organization, and to ensure comprehensive nature of the research).

Main Content Presentation

Specific expertise use in various forms, as well as the involvement of knowledgeable persons at the stage of pre-trial investigation of illegal seizure of property of an enterprise, institution, organization plays an important role, in particular, determines the course of the investigation, the ownership of evidence, involvement of certain persons in criminal activities, etc.

According to N. Kopcha, it is impossible to imagine the process of investigation without using the achievements of such basic sciences as philosophy, psychology, logic, medicine, chemistry, etc. In addition, it is impossible to imagine a modern process of investigation and detection of signs of a criminal offense without using modern achievements of scientific and technological progress by applying special knowledge. Thereby *specific expertise* term is associated with the theory of criminal

2 Сімакова-Єфремян Е. Б. Теоретико-правові та методологічні засади комплексних судово-експертних досліджень : автореф. дис. … д-ра юрид. наук. Харків, 2017. 40 с. URL: https://dspace.nlu.edu.ua//jspui/handle/123456789/13451 (date accessed: 17.07.2024).

3 Шевченко О. В. Використання спеціальних товарознавчих знань під час досудового розслідування : дис. … канд. юрид. наук. Київ, 2017. 317 с. URL: https://elar.naiau.kiev.ua/items/408074d3-b699-4e20-818b-84417372dc45 (date accessed: 17.07.2024).

justice, which occupies a leading place among the main categories of criminalistics [4].

V. Shepitko considers *specific expertise* to be a system of scientific data (information) or skills of an objective nature acquired during professional training, scientific activity, practical work that correspond to the current level [5].

Consequently, such knowledge at the professional level should be considered as specific expertise, that can be necessary in order to solve the tasks of pre-trial investigation and trial of criminal proceedings.

Specific expertise carriers in the scientific literature are called expert witnesses, specialists, experts.

According to the definition of E. Demidova, a recognized person is a person who has specific expertise in a certain field of science, technology, art or craft, is not interested in the results of the resolution of the case (criminal proceedings) and is involved by the authorized person or body in accordance with the sectoral procedural legislation at various stages of the proceedings in order to assist in clarifying the truth and resolving the case (criminal proceedings) by applying specific expertise [6].

Traditionally, an expert witness in criminal justice is considered to be a forensic expert authorized to conduct forensic research. Forensic examination is the most qualified form of application of special knowledge during pre-trial investigation and, certainly, the most developed in the literature from the procedural and forensic standpoints, activity type of expert witness.

According to Art. 1 of the Law of Ukraine: *On Judicial Examination* (hereinafter referred to as *Specialized Law*) *"forensic examination is a research based on specific expertise in the field of science, technology, art, crafts, etc., of objects, phenomena and processes with the aim of providing a conclusion on issues that are or will be the subject of legal proceedings"* [7]. At the same time, according to Part 1 of Art.69 of Criminal Procedural Code of Ukraine *"an expert in criminal proceedings is a person who possesses scientific, technical or other specific expertise, has the right in accordance with the Law of Ukraine: On Judicial Examination to conduct an expert examination and who is assigned to conduct a study of objects , phenomena and processes that contain information about the circumstances of the commission of a criminal offense, and give a conclusion on issues that arise during criminal proceedings and relate to the field of her knowledge"* [8]. In addition, in accordance with Part 1 of Art.71 of the Criminal Procedural Code of Ukraine *"specialist in criminal proceedings is a person who possesses specific expertise and skills and can provide consultations, ex-*

4 Копча Н. В. Використання спеціальних знань під час розслідування службового підроблення: теорія та практика : монографія. Одеса, 2023. 244 с. URL: https://dspace.uzhnu.edu.ua/jspui/handle/lib/49281 (date accessed: 17.07.2024).

5 Шепітько В. Ю. Проблеми використання спеціальних знань крізь призму сучасного кримінального судочинства в Україні. *Судова експертиза*. 2014. № 1. С. 11—18.

6 Ульянова Г. О., Аленін Ю. П., Тіщенко В. В. та ін. Кримінальний процесуальний кодекс 2012 року: ідеологія та практика правозастосування : кол. моногр. / за заг. ред. Ю. П. Аленіна. Одеса, 2018. 1148 с. URL: https://dspace.onua.edu.ua/server/api/core/bitstreams/4c8ceba8-d41f-4da5-9d73-764ee4a7f7c2/content (date accessed: 17.07.2024).

7 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4038-12#Text (date accessed: 11.07.2024).

8 Кримінальний процесуальний кодекс України від 11.09.2020 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 15.07.2024).

planations, references and conclusions during pre-trial investigation and court proceedings on issues requiring relevant specific expertise and skills" [9]. During the pre-trial investigation, specialist provides scientific and technical support for investigative (search) actions. It is typical to involve a specialist in providing direct technical assistance (in particular, photography, drawing up diagrams, plans and drawings, sampling for examination, etc.

Forensic expert can be involved in criminal proceedings at the stage of both pre-trial investigation and trial. It is worth noting that in the current Criminal Procedural Code there is no such investigative action as the appointment of a forensic examination: it was replaced by the involvement of an expert. According to the Criminal Procedure Code, the legal basis for the involvement of a forensic expert at the stages of pre-trial investigation and trial should be a resolution on the appointment of an expert and a resolution on the commission of an expert, respectively [10]. Unfortunately, due to unclear reasons, in practice, there are cases of involving experts in violation of the procedure provided for by law. For example, according to criminal proceedings from the Unified Register of Pretrial Investigations under No. 12017170140000497 dated August 6, 2017 and No. 12018250000000233 dated October 18, 2018, accusing a person of committing criminal offenses, in particular, under Art.206-2 of the Criminal Code of Ukraine [11], forensic examinations were performed on the basis of the contract concluded between the victim's lawyer and the court expert, therefore, they were not obtained in accordance with the procedure stipulated by the Criminal Procedural Code. Such evidence is inadmissible and cannot be used to make procedural decisions, it cannot be referred to by the court [12]. In our opinion, such incompetent actions of a court expert (conducting an examination in violation of the order of its appointment) prolong the terms of the pre-trial investigation, the trial of the criminal proceeding, and also overload the materials of the criminal proceeding with inadmissible evidence, which both the investigator and the judge must work with.

E. Demydova rightly points out that a forensic expert in criminal proceedings is an expert witness who is involved in criminal proceedings by issuing a relevant decision of an authorized person (body) with the purpose of conducting a forensic examination and providing a conclusion on the investigated issues in accordance with current legislation. Expert witness in the judiciary do not independently perform procedural functions, they are not subjects of evidence. However, specific expertise application during the investigation

9 Кримінальний процесуальний кодекс України від 11.09.2020 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 15.07.2024).

10 Бандурка О. М., Блажівський Є. М., Бурдоль Є. П. та ін. Кримінальний процесуальний кодекс України. Науково-практичний коментар : у 2 т. / за заг. ред. В. Я. Тація, В. П. Пшонки, А. В. Портнова. Харків, 2012. Т. 1. С. 620—621.

11 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/card/2341-14 (date accessed: 10.07.2024).

12 Вирок Глобин. райсуду Полтав. обл. від 27.08.2021 р. за кримін. провадж. № 12017170140000497. Справа № 527/1096/19. URL: https://reyestr.court.gov.ua/Review/99207533 (date accessed: 16.07.2024) ; Вирок Черкас. райсуду Черкас. обл. від 12.06.2024 р. за кримін. провадж. № 12018250000000233. Справа №701/1339/19. URL: https://reyestr.court.gov.ua/Review/119701544 (date accessed: 17.07.2024).

of a criminal proceeding or during a trial contributes to the discovery of the truth, ensures the observance of the rights and freedoms of the participants in the process and the fulfillment of their duties. By performing their professional duties, such persons help other subjects of proceedings (investigator, prosecutor, court, etc.) to implement their functions [13].

Procedural legislation of Ukraine provides for primary, additional, repeated, commission and comprehensive examinations [14].

Among scientists, the most common position is to distinguish two forms of specific expertise use in criminal procedure: procedural and non-procedural one [15]. In particular, I. Kohutych suggests the use of special knowledge in the practice of investigation in both procedural and non-procedural forms. The author singles out the following main procedural forms of using special knowledge and technical means: their direct use by a criminologist, investigator, prosecutor, and court during the performance of their procedural tasks of collecting, researching, and evaluating evidence; the participation of specialists in conducting investigative (search) actions; appointing and conducting forensic examinations. According to the scientist, the form of implementation of special knowledge depends primarily on the subject, the type of activity and the purpose of their application. The author justifiably considers consulting and reference activities of persons who have specific expertise (oral or in the form of references) to be non-procedural forms of specific expertise application; audit or audit activities; the participation of persons with special knowledge in operative and investigative measures; preliminary studies of material objects by specialists and experts in oral or written form; results of forensic records checks (in the form of references), etc. [16]

The procedural form of interaction includes involvement of specialists regulated by criminal procedural legislation (involvement in investigative (search) actions, forensic examinations).

Non-procedural, in turn, includes the provision of consultations, explanations, conducting audits, audits, etc. We share O. Prokopenko's opinion that definition of *non-procedural forms of interaction* is quite incorrect, because there is no place for non-procedural forms of interaction within the limits of the performance of investigative tasks. This is explained by the fact that all the actions of the investigator (his interaction with a certain spe-

13 Демідова Є. Є. Судовий експерт у кримінальному судочинстві: сучасні виклики та нові завдання / Г. О. Ульянова, Ю. П. Аленін, В. В. Тіщенко sта ін. Зазнач. твір. С. 346—368. URL: https://dspace.onua.edu.ua/server/api/core/bitstreams/4c8ceba8-d41f-4da5-9d73-764ee-4a7f7c2/content (date accessed: 16.07.2024).

14 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 Мін'юсту 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: 16.07.2024).

15 Щербаковский М. Г., Кравченко А. А. Применение специальных знаний при раскрытии и расследовании преступлений. Харьков, 1999. 76 с. ; Кузьмічов В. С., Прокопенко Г. І. Криміналістика : навч. посіб. Київ, 2001. 368 с.

16 Когутич І. І. Окремі питання сутності та форм використання спеціальних знань у кримінальному провадженні. *Вісник Академії адвокатури України*. 2015. Т. 12. № 2 (33). С. 112—123. URL: http://nbuv.gov.ua/UJRN/vaau_2015_12_2_16 (date accessed: 16.07.2024).

cialist, application of his knowledge and skills) are carried out with the purpose determined by the criminal procedural law and are actively used for the purpose of a full, comprehensive, objective investigation of criminal offenses [17]. A. Vuyma rightly notes that the use of non-procedural forms of special knowledge is aimed at obtaining information that can be used for the purpose of searching and establishing the identity of the criminal, his whereabouts, the location of tools or means of committing the crime, the formation of subjective and psychological portraits of the criminal etc. [18] Therefore, taking into account the above, we propose to divide specific expertise into "procedural one" and "organizational one" according to the form of use.

V. Zherdev singled out the following tasks for a specialist in criminal proceedings for crimes committed in the field of economic activity:

- tactical ones: preparation and participation together with the investigator in the scene inspection, interrogation, search, etc.;
- scientific and technical ones: providing direct technical assistance (photographing, drawing up diagrams, plans, drawings, etc.) (Part 2 of Art. 71 of the Criminal Procedural Code of Ukraine [19]), identifying and removing traces, in particular documentation, obtaining appropriate samples for examination;
- advisory ones: providing advice, references, recommendations during the preparation, organization, conduct of investigative (search) actions [20].

The above tasks, that are aimed at applying specific expertise during the investigation of unlawful seizure of property of a business entity, have two forms of interaction: procedural and non-procedural (organizational) one.

We share the opinion that such a classification of forms of use of specific expertise is logical, but their practical implementation in specific criminal proceedings is important. Therefore, the information obtained on the basis of any of the forms of interaction should acquire the status of evidence. In this context, as A. Lazebnyi rightly notes, the investigator's possession of the necessary information (for example, in the field of medicine, psychiatry, accounting and other specific expertise) is useful when putting forward versions, searching for evidence and evaluating them. At the same time, information from non-procedural sources containing information of a special nature

17 Прокопенко О. Ю. Особливості використання спеціальних знань при розслідуванні захоплення представника влади або працівника правоохоронного органу як заручника. *Право і безпека*. 2023. Т. 91. № 4. С. 139—149. DOI: 10.32631/pb.2023.4.12 (date accessed: 16.07.2024).

18 Вуйма А. Г. Використання спеціальних знань під час розслідування вбивств : дис. ... д-ра філос. у галузі права. Харків, 2023. С. 84. URL: https://dspace.univd.edu.ua/items/2cf9ecc6-e46c-4c86-b0a0-92ed30327b96 (date accessed: 19.07.2024).

19 Кримінальний процесуальний кодекс ... . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 15.07.2024).

20 Жердєв В. К. Криміналістична характеристика та особливості розслідування кримінальних правопорушень, вчинених у сфері господарської діяльності з використанням підроблених документів : дис. ... д-ра філос. у галузі права. Харків, 2024. С. 169—188. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/7761c543-4bca-40eb-b1c2-3b3cf097dcc7/content (date accessed: 17.07.2024).

is the reason for the investigator to make a decision to use knowledge of specialists in the forms stipulated by law [21].

The grounds for involving a specialist during investigation of criminal proceedings can be different cases, for example:

- lack of specific expertise and skills of the investigator necessary for qualified training and conducting an investigative (search) action;
- insufficient operation of investigative techniques and means of quick and high-quality performance of certain work that requires specific expertise and skills;
- need to entrust the performance of certain actions to a specialist for ethical or tactical reasons;
- simultaneous use of several forensic equipment;
- need to perform a significant amount of work that requires specific expertise and skills [22].

Specific expertise use during the investigation of unlawful seizure of property of an enterprise, institution, or organization implies the need for a comprehensive understanding of the content of various types of such knowledge, primarily in the field of economic activity. There is a need to outline an indicative list of specialists whose involvement may be useful. To confirm the relevance of the above, we believe that position is appropriate, according to which the investigator (depending on the category of the crime committed, its features, consequences and other factors) is obliged to involve specialists in the investigative and operational group in accordance with the volume and complexity of future work [23].

We will cite the opinion of R. Stepanyuk, who, researching the issue of the participation of a specialist in criminal proceedings regarding crimes in the budgetary sphere, emphasizes the need to involve: a specialist for the use of technical means of recording the course and results of investigative (search) actions and covert investigative (search) actions; a specialist in the relevant field of knowledge (accountant, civil engineer, economist, financier) to participate in the suspect questioning and sometimes as a witness and expert; a specialist accountant, economist, financier or specialist in the field of computer technology to search or seize documents; a specialist in the field of construction engineering to inspect the place of work, during which theft or other abuses were committed; a specialist for the selection of construction materials, equipment, raw materials, and other samples for examination; a commodity expert to participate in investigative (search) actions related to the temporary seizure of property; a specialist in the field of forensic

21 Лазебний А. М. Використання спеціальних знань при розслідуванні кримінальних правопорушень проти громадського порядку : дис. … канд. юрид. наук. Ірпінь, 2016. С. 97. URL: https://dspace.nlu.edu.ua//jspui/handle/123456789/13402 (date accessed: 17.07.2024).

22 Шевчишен А. В. Доказування стороною обвинувачення у досудовому розслідуванні корупційних злочинів у сфері службової діяльності та професійної діяльності, пов'язаної з наданням публічних послуг : дис. … д-ра юрид. наук. Київ, 2019. С. 424.

23 Гусєва В. О., Безсонна Т. Ф. Деякі аспекти використання спеціальних знань під час проведення слідчих (розшукових) дій в реаліях реформування правоохоронних органів України. *Юридична практика в країнах ЄС та в Україні на сучасному етапі* : мат-ли міжнар. наук.-практ. конф. (Арад, Румунія; 25—26.01.2019). Арад, 2019. С. 500. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/e1a31fc7-d513-4413-8bc4-78c6257905f8/content (date accessed: 20.07.2024).

technology to participate in the review of technical means that contain recorded information regarding the circumstances of a committed criminal offense; a specialist in the field of handwriting studies, document studies to participate in the review of documents: physical evidence, etc. [24]

Thus, taking into account theoretical developments of Ukrainian scientists and our own experience, we suggest adding the following to the indicative list of specialists whose knowledge may be needed during the investigation of the investigated criminal offenses: forensic inspector (forensic technician); economist, in particular in accounting, tax accounting, financial reporting; information and computer technology specialist; handwriting specialist, etc.

Taking into account the above, we consider it necessary to consider the most common type of interaction with a specialist, namely: appointment of forensic examinations.

Regarding the definition of an indicative list of typical forensic examinations, it should be noted the positions of V. Husieva and V. Kikinchuk, in their opinion, the most typical examinations that should be appointed during investigation of illegal absorption and seizure of enterprises, agricultural land (raiding) include:

- examination of documents on the economic activity of enterprises and organizations;
- questioned document examination, research on document details (the main tasks of the technical examination of document details are to clarify the facts and ways of making changes to documents (cleaning, etching, posting, gluing photos, etc.) and identifying their primary content);
- handwriting examination (objects of handwriting examination are the signature and handwriting in the form of handwritten records, both alphabetic and digital);
- economic examination (within the framework of forensic economic examination, the following documents are examined: accounting, tax accounting and reporting; on the economic activities of enterprises and organizations; financial and credit operations);
- appraisal and land examination, appraisal and construction examination, expertise on land management, land and technical examination, etc. [25]

V. Zherdev in the dissertation research on peculiarities of the investigation of criminal offenses committed in the field of economic activity with the use of forged documents, identified the following types of forensic examinations: economic, accounting, financial and economic activities and financial and credit operations,

24 Степанюк Р. Л. Криміналістичне забезпечення розслідування злочинів, вчинених у бюджетній сфері України : монографія. Харків, 2012. С. 231—232. URL: https://scholar.google.com.ua/citations?view_op=view_citation&hl=ru&user=O__AtYUAAAAJ&citation_for_view=O__AtYUAAAAJ:u5HHmVD_uO8C (date accessed: 20.07.2024).

25 Кікінчук В. В., Гусєва В. О. Особливості розслідування кримінальних правопорушень, пов'язаних з протиправним поглинанням та захопленням підприємств, сільськогосподарських земель, порушенням прав їх законних власників (рейдерство) : наук.-метод. рек. Харків, 2020. С. 46—48. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/5f246ac8-784f-46b3-a205-36f18bdc478e/content (date accessed: 17.07.2024).

handwriting, technical documents, digital forensics [26].

In case when information contained in the document is expressed not only by signs, but by material features (for example, the document has traces of washing, cleaning, etc.), the document is also material evidence. The following types of forensic examination of documents are distinguished: forensic examination of handwriting (handwriting research); questioned document examination [27].

We analyzed trial decisions on criminal cases initiated under Art. 206-2 of the Criminal Code [28], and came to the conclusion that in practice the following forensic examinations are appointed:

- questioned document examination[29];
- economic examination [30];
- psychology and handwriting examination [31];
- handwriting research [32].
- It is worth noting that there are materials of criminal proceedings for which no forensic examination is appointed [33].

Let us pay attention to the practical results of conclusions of forensic examinations. We analyzed the materials of court proceedings of criminal proceedings with an indictment under Art. 206-2 of the Criminal Code, and came to the conclusion that during the appointment and conduct of forensic examinations, the investigator and the expert (specialist) have to work with a significant number of documents, including applications, registration cards, charters, various decisions of owners, contracts (sale and purchase, lease), powers of attorney, minutes of the general meeting of participants of business entity, etc.

Typical result of the forensic handwriting examination is the expert's answer whether the signatures belonged to the person concerned, as well as a conclusion on the presence or absence of any diagnostic signs that would indicate the execution of these signatures in unusual conditions (under the influence of distractions of a natural or artificial nature) in the samples provided for examination. As a result of a forensic technical exami-

26 Жердєв В. К. Зазнач. твір. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/7761c543-4bca-40eb-b1c2-3b3cf097dcc7/content (date accessed: 17.07.2024).

27 Кобилянський О. Л., Корнеєва В. А. Криміналістичне дослідження документів. *Dictum factum.* 2022. № 1 (11). С. 42. URL: https://df.duit.in.ua/index.php/dictum/article/view/217 (date accessed: 09.07.2024).

28 Кримінальний кодекс України … . URL: https://zakon.rada.gov.ua/laws/card/2341-14 (date accessed: 10.07.2024).

29 Вирок Глобин. райсуду … . URL: https://reyestr.court.gov.ua/Review/99207533 (date accessed: 16.07.2024) ; Вирок Жовтн. райсуду м. Дніпро за кримін. провадж. № 42016000000002133. Справа № 208/6312/16к. URL: https://reyestr.court.gov.ua/Review/106476665 (date accessed: 17.07.2024).

30 Там само ; Вирок Черкас. райсуду … . URL: https://reyestr.court.gov.ua/Review/119701544 (date accessed: 17.07.2024).

31 Вирок Жовтн. райсуду … . URL: https://reyestr.court.gov.ua/Review/106476665 (date accessed: 17.07.2024).

32 Там само.

33 Вирок Золотоніс. міськрайсуду Черкас. обл. за кримін. провадж. № 12023250370000823 від 21.06.2023 р. Справа № 695/2259/23. URL: https://reyestr.court.gov.ua/Review/112215924 (date accessed: 17.07.2024).

nation of documents of a business entity, the sequence of execution of the text of the document, its signing and imprinting of the seal is usually determined.

Forensic psychological and handwriting examination is prescribed to find out the psycho-traumatic circumstances that affected the subject, as well as the circumstances under which the agreements were concluded, the registration documents of the company were signed and their personal significance for the person.

Based on the results of forensic economic examination, the size of the authorized capital, its balances, the shares of its participants, amount of damage caused, balance of the enterprise, etc. are determined.

Regarding other forms of interaction with a specialist during the pre-trial investigation of illegal seizure of property of an enterprise, institution, organization, it should be noted: during covert investigative (search) actions, the specialist's knowledge can be applied in the form of consultations, technical assistance (photographing, drawing up schemes, plans, drawings, sampling for examination, etc.), participation in covert investigative (search) actions [34].

However, the most common form of participation of a specialist in investigation of a criminal offense under Art. 206-2 of the Criminal Code [35] is to involve him in investigative (search) actions. Specialist participation is important during:

- crime scene inspection , documents (a forensic expert (technician) takes measures to identify and record evidence of a committed criminal offense, namely: conducts measurements, photographs, audio or video recording, makes plans and diagrams, produces graphic images of the inspected place or individual items, prints and molds, inspect and remove things and documents that are relevant to criminal proceedings; documents and/or terminology, ciphers, etc.; a computer and information technology specialist will facilitate correct identification and description of electronic means of processing and storing information, remove digital media and technical means without loss or damage of existing information, etc.);
- interrogation (specialist will help the investigator prepare for the interrogation (formulate questions, arrange visual materials for demonstration); explain unclear terminology, peculiarities of reporting, registration procedures, economic issues; the specialist can be directly involved in the interrogation and with the permission of the investigator to ask questions);
- crime scene reconstruction (specialist can be entrusted with measuring, photographing, sound or video recording, drawing up plans and diagrams, making graphic images, prints and casts that are added to the protocol, as well as providing explanations and consultations to other participants in the investigative (search) action, if necessary).

34 Теплицький Б. Б., Шрамко О. М., Юсупов В. В. Участь спеціаліста у проведенні слідчих (розшукових) дій під час розслідування корупційних злочинів : метод. рек. Київ, 2019. С. 30. URL: https://www.naiau.kiev.ua/files/zakon_ukr/metod_rek/metod_04122019.pdf (date accessed: 19.07.2024).

35 Кримінальний кодекс України … . URL: https://zakon.rada.gov.ua/laws/card/2341-14 (date accessed: 10.07.2024).

All information about the specialists involved in the conducting investigative action, its results, as well as information on the use of technical means of fixing, characteristics of technical means of fixing and information carriers shall be indicated in the protocol of specific investigative action.

Conclusions

Summing up the above, we note that specific expertise use in various forms is important for the investigation of illegal seizure of property of an enterprise, institution, organization.

Typical and most complex form of application of special knowledge is the appointment and conduct of forensic examinations, which is due to the seizure for further study of a significant number of documents of the business entity, the work with which requires specific expertise. During the analysis of empirical material, we found out the types of forensic examinations characteristic of the criminal offenses under study, namely: technical documents, economic and handwriting.

Specific expertise used during investigative (search) actions and the provision of clarifications or consultations is of great practical importance for the investigation of criminal offenses.

Використання спеціальних знань під час розслідування протиправного заволодіння майном підприємства, установи, організації

Влада Гусєва, Сергій Стеценко

Підвищення ефективності та якості розслідування протиправного заволодіння майном підприємства, установи, організації, безумовно, пов'язано з використанням спеціальних знань і активним упровадженням у діяльність правоохоронних органів сучасних досягнень науки й техніки. Спеціаліст допомагає слідчому віднайти відповіді на надзвичайно важливі питання щодо отримання та залучення до провадження судових доказів, які мають значення для розслідування й зумовлюють напрями подальшої роботи слідчого. Мета статті — проаналізувати окремі напрями застосування спеціальних знань під час розслідування протиправного заволодіння майном підприємства, установи, організації. Для цього задіяно загальнонаукові (узагальнення, аналіз і синтез, системно-структурний) і спеціальні методи наукового пізнання. Зауважено, що кримінальні правопорушення, передбачені ст. 206-2 «Протиправне заволодіння майном підприємства, установи, організації» Кримінального кодексу України, різняться способом учинення, особою злочинця, наслідками й іншими криміналістичними ознаками. Розглянуто окремі аспекти використання спеціальних знань під час проведення розслідування за ст. 206-2 цього Кодексу. Зазначено дефініції понять «спеціальні знання», «обізнана особа», «спеціаліст», «експерт». Досліджено форми застосування спеціальних знань, підстави їх застосування, завдання. Окреслено орієнтовний перелік спеціалістів, у залученні яких може виникнути потреба під час розслідування досліджуваних кримінальних правопорушень. З'ясовано, що головним об'єктом дослідження у кримінальних провадженнях за фактами протиправного заволодіння майном підприємства, установи, організації є документ.

Ключові слова: *кримінальний процес; процесуальна діяльність; сторона обвинувачення; досудове розслідування; доказування; збирання доказів; суб'єкт господарювання; спеціаліст; судова експертиза; висновок експерта.*

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