

The International Experience in Preventing Service Offences by Forensic Science Authorities' Personnel: Advancing the Legal Framework

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The article aims to develop specific recommendations and proposals for improving the mechanisms of general and individual prevention of misconduct by employees of forensic institutions. To achieve this objective, general scientific and specialized research methods were employed. The study analyzed the application of approaches to the prevention of misconduct in forensic institutions in Germany, France, Poland, and the Baltic states. The research explored how this experience can be adapted to the Ukrainian context. The study emphasizes the importance of legal education and training, standardization and certification of forensic examinations, adequate material support for employees, and quality control of their work. The article examines directions for improving national legislation that regulates the prevention of misconduct in Ukraine. It underscores the need to develop and implement new legislative acts

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that take into account international experience and meet modern requirements. Specific measures that can contribute to increasing the effectiveness of preventive work are proposed.

Keywords: *preventive activities misconduct; discipline; management; education; foreign experience; forensic practice; national legislation.*

Research Problem Formulation

Improving the administrative and legal framework for preventing misconduct among employees of forensic institutions in Ukraine is a complex process that involves reviewing many of the foundations and aspects of this prevention and engaging a range of tools and sources that can be useful for the proper implementation of this process. One such important and useful source of information about the general and specific features of the problem under study is experience. However, since Ukraine has little such experience, it is advisable to study similar foreign experience to identify its positive and applicable samples for Ukrainian realities. In addition, the relevance of studying this foreign experience is due to our state's foreign policy course towards European and Euro-Atlantic integration, enshrined in the Constitution of Ukraine. The Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand (hereinafter "Agreement")¹, states that the parties strengthen cooperation by exchanging experience and information on their best

practices and regulatory framework. The parties agreed to further develop judicial cooperation in civil and criminal matters, making full use of the relevant international and bilateral documents and based on the principles of legal certainty and the right to a fair trial. The Agreement also states that within the framework of cooperation in the field of justice, freedom and security, the parties attach particular importance to the establishment of the rule of law and the strengthening of institutions at all levels of governance in general and law enforcement and judicial bodies in particular. Cooperation will be aimed at strengthening the judiciary, increasing its efficiency, guaranteeing its independence and impartiality, combating corruption and preventing misconduct. Cooperation in the field of justice, freedom and security will be based on the principle of respect for human rights and fundamental freedoms.

Analysis of Essential Research and Publication

The problem of preventing misconduct by forensic science authorities' personnel has attracted the attention of domestic and

1 Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони : Agreement; 121 on June 27, 2014 // Database «Legislation of Ukraine» : Verkhovna Rada of Ukraine. URL: https://zakon.rada.gov.ua/go/984_011 (date accessed: 23.09.2024).

foreign scientists: M. Guzela and V. Kantzir²; H. Spitsyna and I. Petrova³; O. Oliynyk⁴; S. Koropetska and V. Savchenko⁵; R. Filonenko⁶; I. Pasichna⁷; O. Padalka⁸; O. Novikov⁹; A. Winburn, C. Clemmons, T. Delgado, S. Hartley, K. Latham, M. Pilloud, S. Tallman¹⁰; J. Rothschild, T. Miethel¹¹. Scientists M. Guzela and V. Kantzir¹² rightly point out that the effectiveness of forensic science directly depends on the level of its organization and compliance with the modern needs of the fight

against crime and scientific and technological achievements. The scientists emphasize that it is worth considering some aspects of forensic activities during criminal proceedings in foreign countries. Such international experience can be useful not only for organizing forensic activities in Ukraine but also for improving the entire process of obtaining evidence in criminal proceedings. It is important to consider that the system of organizing forensic activities and the forensic examiner's status

- 2 Гузела М., Канцір В. Зарубіжний досвід організації судово-експертної діяльності в процесі здійснення кримінального переслідування. *Вісник Національного університету «Львівська політехніка». Серія: Юридичні науки*. 2018. № 906. С. 129—135. URL: <http://science.lpnu.ua/sites/default/files/journal-paper/2019/sep/18385/21.pdf> (date accessed: 01.06.2024).
- 3 Петрова І. А., Спіцина Г. О. До питання формування кодексу поведінки судового експерта. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2019. № 2. С. 114—119. URL: http://nbuv.gov.ua/UJRN/Nvdduvs_2019_2_22 (date accessed: 01.06.2024).
- 4 Олійник О. О. Зарубіжний досвід адміністративно-правового регулювання судово-експертної діяльності. *Митна справа*. 2013. № 4 (2). С. 270—274. URL: http://nbuv.gov.ua/UJRN/Ms_2013_4%282%29__49 (date accessed: 01.06.2024).
- 5 Коропецька С. О., Савченко В. А. Перспективні напрями вдосконалення судово-експертної діяльності з урахуванням зарубіжного досвіду. *Аналітично-порівняльне правознавство*. 2022. № 4. С. 348—352. DOI: 10.24144/2788-6018.2022.04.63 (date accessed: 01.06.2024).
- 6 Філоненко Р. Демократизація українського суспільства — засадничча складова входження України до простору Європи. *Віче*. 2011. № 2. С. 9—12. URL: http://nbuv.gov.ua/UJRN/viche_2011_2_5 (date accessed: 01.06.2024).
- 7 Пасічна І. О. Навчальний посібник з дисципліни «Законотворчість, нормотворчість та правореалізація» для студентів спеціальності 281 Публічне управління та адміністрування. Полтава, 2019. 113 с. URL: <https://reposit.nupp.edu.ua/handle/PoltNTU/5902> (date accessed: 01.06.2024).
- 8 Падалка О. Становлення та розвиток діяльності органів поліції Польської Республіки. *Підприємництво, господарство і право*. 2018. № 6. С. 187—190. URL: <http://pgp-journal.kiev.ua/archive/2018/6/34.pdf> (date accessed: 01.06.2024).
- 9 Новіков О. В. Публічно-правове забезпечення протидії корупції в умовах регіонального розвитку : автореф. дис. ... канд. юрид. наук. Київ, 2020. 22 с. URL: <https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/auto/31/a4.pdf> (date accessed: 01.06.2024).
- 10 Winburn A. P., Clemmons C. M. J., Delgado T. A., Hartley S., Latham K. E., Pilloud M. A., Tallman S. D. Responding to the American Academy of Forensic Sciences vision, mission, and values statements: Comments, revisions, and proposed actions. *Forensic science international : Synergy*. 2021. Vol. 3. Pp. 1—4. DOI: 10.1016/j.fsisyn.2021.100197 (date accessed: 11.06.2024).
- 11 Rothschild J., Miethel T. D. Whistle-Blower Disclosures and Management Retaliation: The Battle to Control Information about Organization Corruption. *Work and Occupations*. 1999. Vol. 26. Is. 1 Pp. 107—128. DOI: 10.1177/0730888499026001006 (date accessed: 06.06.2024).
- 12 Гузела М., Канцір В. Зазнач. твір. URL: <http://science.lpnu.ua/sites/default/files/journal-paper/2019/sep/18385/21.pdf> (date accessed: 01.06.2024).

are regulated by the legislation and departmental regulations of a particular country. In most European countries, as in Ukraine, legal regulation is based on the current criminal procedure law, while departmental regulations determine the order of internal system activities.

The researchers rightly emphasize the need for special attention to the problems of the organizational structure of forensic units in European countries, as well as issues of their competence and organization of activities¹³. In our opinion, this aspect is important for Ukraine, as proper organization and clear regulation of the activities of such units will contribute to increasing the efficiency of their work¹⁴.

O. Oliynyk highlights in their research that Ukraine's legal system and the European Union's are increasingly aligning as the country pursues European values. This makes it crucial to examine foreign models of administrative and legal regulation in forensic activities. They rightly observe that adopting and adapting the best practices from abroad can significantly enhance our forensic system. We believe that this approach will not only improve forensic work but also strengthen the overall legal system, leading to fairer and more efficient justice¹⁵. Implementing

foreign experience tailored to Ukrainian realities is a key step towards modernizing our national forensic system and boosting its effectiveness.

S. Koropetska and V. Savchenko highlight that as Ukraine moves towards European integration, it is imperative to adopt international standards in forensic science¹⁶.

S. Korniiiko asserts that the globalized world and Ukraine's pursuit of European integration necessitate a comprehensive analysis of how other countries regulate forensic practice in the field of computer technology through administrative and legal means¹⁷. By understanding these foreign models, Ukraine can identify ways to enhance its domestic legislation. This is a crucial step, as adopting best practices will contribute to more objective and unbiased forensic expertise.

V. Chumak argues that in modern, legal, democratic states, protecting human rights is a key principle. Respecting human rights indicates an effective state mechanism that focuses on social welfare. This reflects in forensic institutions, which should protect and fairly evaluate legal relations. Ukraine's forensic activities, despite detailed legal regulations, still aren't perfect. To improve efficiency,

13 Гузела М., Канцір В. Зазнач. твір. URL: <http://science.lpnu.ua/sites/default/files/journal-paper/2019/sep/18385/21.pdf> (date accessed: 01.06.2024) ; Експертизи у судовій практиці / за заг. ред. В. Г. Гончаренка. Київ, 2004. 388 с. URL: <http://librarium.freehostia.com/pravo/sud/sudexpert.html> (date accessed: 01.06.2024).

14 Гузела М., Канцір В. Зазнач. твір. URL: <http://science.lpnu.ua/sites/default/files/journal-paper/2019/sep/18385/21.pdf> (date accessed: 01.06.2024) ; Експертизи у судовій практиці / за заг. ред. В. Г. Гончаренка. Київ, 2004. 388 с. URL: <http://librarium.freehostia.com/pravo/sud/sudexpert.html> (date accessed: 01.06.2024).

15 Олійник О. О. Зазнач. твір. URL: http://nbuv.gov.ua/UJRN/Ms_2013_4%282%29__49 (date accessed: 01.06.2024).

16 Коропецька С. О., Савченко В. А. Зазнач. твір. DOI: 10.24144/2788-6018.2022.04.63 (date accessed: 23.06.2024).

17 Корнійко С. Адміністративно-правове регулювання судово-експертної діяльності у сфері комп'ютерних технологій у зарубіжних країнах. *Адміністративне право і процес*. 2020. № 3. С. 157. DOI: 10.32849/2663-5313/2020.3.26 (date accessed: 23.06.2024).

Ukraine should adopt and adapt global standards to national conditions. This improves forensic examinations quality, ensures independence and objectivity, and strengthens citizen trust in justice. Borrowing foreign forensic practices is complex. Simply copying foreign legislation isn't enough; Ukraine should consider its unique cultural and historical context ¹⁸.

Article Purpose

Developing recommendations and proposals for improving the mechanism of general and individual prevention of service offenses of forensic institution employees

Research Methods

This research employed both general scientific methods (induction, deduction, analysis, synthesis, modeling, systems analysis) and specialized methods (statistical comparative analysis, statistical method).

Main Content Presentation

The issue of organizing forensic activities in Ukraine is particularly relevant today. In our view, analyzing foreign experience in this field is extremely important, as it can provide valuable guidance for improving the forensic system.

Foreign countries implement principles such as ensuring the independence of experts, focusing not on departmental affiliation but on the presence of special knowledge necessary to resolve justice issues, ensuring the principle of competition

among experts, and other principles important for objective and qualified proceedings. A significant goal of the international expert community is to improve competence in the field of forensic activities in general and computer technologies in particular. To ensure the proper quality of expert activities, standardization of forensic examinations and research, certification of the competence of experts, certification of scientific and methodological support for examinations, and accreditation of forensic laboratories are used.

Today, there are many international organizations in the world whose activities are aimed at international cooperation in the field of forensic institutions and conducting various types of expert examinations. One of the most important is the European Network of Forensic Science Institutes (ENFSI). In addition to general work in the areas of quality and competence management, research and development, education and training, ENFSI has 17 expert working groups, which include 54 expert institutions, 41 of which are in EU member states. Thanks to this, the European Commission has recognized ENFSI as the monopoly organization in the field of forensic expertise. It is important to note that Ukrainian forensic institutions have been actively cooperating with ENFSI in recent years ¹⁹.

Every country has its own legal system and legal traditions, but forensic activities are based on common scientific principles and methods. Establishing cooperation, exchanging experience and technologies, and searching for new ways and approaches to interaction are important aspects of this activity.

18 Чумак В. В. Зарубіжний досвід організації діяльності судово-експертних установ. *Вісник Харківського національного університету внутрішніх справ*. 2020. № 4 (91). С. 235—244. DOI: 10.32631/v.2020.4.22 (date accessed: 25.06.2024).

19 Коропецька С. О., Савченко В. А. Зазнач. твір. DOI: 10.24144/2788-6018.2022.04.63 (date accessed: 23.06.2024).

We believe it is necessary to focus on the experience of European countries in preventing service offenses in the activities of forensic institutions. Let us begin by analyzing the experience of Germany and France as recognized leaders in this field.

In Germany, particular attention is paid to combating corruption and official misconduct. The Federal Criminal Police Office plays a key role here, developing strategies and methods for combating organized crime and corruption. Responsibility for detecting and preventing corruption among police officers is also placed on experienced managers who conduct service checks of information received from various sources, including anonymous ones.

I. Grigorenko notes that while Germany provides for strict liability for corruption and official misconduct, prevention is the primary method of counteracting these offenses. This allows to counter offenses and prevent other types of violations by police officers. An important element of prevention is the development of rules and recommendations for public servants and other employees on how to act in various situations to avoid committing offenses²⁰. Forensic practice in Germany are subject to licensing. Forensic authorities certification is carried out by the National Accreditation Body (German: Deutsche Akkreditierungsstelle), which has created a system for confirming the quality of forensic examinations, which is mandatory throughout the country. There are also separate services that issue certificates for specific examinations with the permission of the National Accreditation

Body. Expert institutions are mainly created at universities (state or private).

Each German federal state has an independent forensic laboratory that is part of the State Criminal Police Office (German: das Landeskriminalamt), and federal police formations (German: das Bundeskriminalamt) with their own forensic departments. Such a structure is due to the federal structure of the state and is aimed at accelerating law enforcement processes and responding to important expert issues. To ensure the rule of law and a high level of discipline in forensic institutions in Germany, significant attention is paid to the prevention of service offenses. The main tools of this prevention are legal education and training, aimed at increasing the level of legal awareness and legal culture of employees. Preventive influence is exerted at several levels: national, sectoral, local, and individual.

At the national level, the preventive influence is directed not only at employees of forensic institutions but also at the entire field of official and labor activities and their relations. This is achieved through extensive informational and explanatory work among the population and the promotion of appropriate behavioral models. The media play a key role in this work, disseminating preventive information that forms the legal culture of citizens.

At the sectoral level, prevention is carried out within individual government bodies and subordinate research institutes. Preventive work involves the adoption of departmental regulatory legal acts, the development of programs and methodological recommendations. An important aspect is the professional education of

20 Григоренко І. А. Зарубіжний досвід протидії службовим зловживанням та корупції в діяльності поліції. *Юридичний часопис Національної академії внутрішніх справ*. 2014. № 1. С. 146—155. URL: http://nbuv.gov.ua/UJRN/aymvs_2014_1_16 (date accessed: 26.06.2024).

employees of forensic institutions, particularly the improvement of their qualifications. The Institute of Forensic Research, the leading research institution of the German criminal police, actively supports the efforts of federal police agencies and state police in combating crime. The institute conducts forensic and other types of forensic examinations, develops police methods, and provides training and advanced training for employees²¹.

At the local level, forensic institutions' leaders play a key role in preventing service offenses. They should develop internal regulations for preventive work and conduct appropriate measures with staff. This multi-level prevention system is highly effective, covering all aspects of forensic institutions' activities and promoting legal awareness and discipline. Focusing on legal education and continuous skill improvement fosters a highly professional and ethical workforce.

Ukraine should consider Germany's experience in this area and adapt it to national conditions. Implementing a similar system can improve forensic institutions' efficien-

cy, foster a legal culture, and strengthen public trust in justice. It's crucial to consider national characteristics and create a regulatory framework for preventive activities at all levels, from national to individual.

France is another European leader in forensic science. Its forensic service is part of the armed police and reports to the Defense Ministry. The National Gendarmerie has a unique forensic institute that collaborates with police, investigators, prosecutors, and judges. France also has forensic associations with their own codes of conduct. Forensic examiners in these associations must follow these codes, have corresponding rights, and fulfill their duties²².

As in Germany, France prioritizes preventing corruption and misconduct in public service. When training employees, they focus on enhancing professionalism through specialized skills, community engagement, general and legal knowledge, personal responsibility, and initiative²³. To foster and maintain a high level of legal awareness, as well as a legal and professional culture among employees of forensic

21 Коротаєв В. М. Порівняльний аналіз адміністративно-правового регулювання експертно-криміналістичного дослідження в зарубіжних країнах. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2018. № 1. С. 116–117. URL: http://nbuv.gov.ua/UJRN/Nvdduvs_2018_1_24 (date accessed: 25.06.2024) ; Любченко С. О., Нізовцев Ю. Ю., Парфіло О. А. Система забезпечення судово-експертної діяльності в державах — членах НАТО : наук.-практ. огляд / за заг. ред. О. А. Парфіла. Київ, 2015. 56 с.

22 Полянський А., Юодкайте-Гранскієне Г. Зарубіжний досвід взаємодії судово-експертних установ між собою та з правоохоронними органами й можливості його використання в Україні. *Теорія та практика судової експертизи і криміналістики*. 2021. № 24 (2). С. 26–51. DOI: 10.32353/khrife.2.2021.03 (date accessed: 17.06.2024) ; Завидняк І. О. Позитивний досвід розвинених країн Європейського Союзу у використанні спеціальних знань під час розслідування злочинів у сфері господарської діяльності. *Теорія та практика судово-експертної діяльності* : мат.-ли VIII Міжвідом. конф. (Київ, 27.11.2019). Київ, 2019. С. 159–162. URL: <https://elar.naiaiu.kiev.ua/server/api/core/bitstreams/355c4ce4-61cf-496d-a167-2fbb4234c19f/content> (date accessed: 17.06.2024).

23 Бугайчук К. Л., Гончаренко І. Б., Михайлова Ю. О., Святокум І. О., Федосова О. В., Швець Д. В. Закордонний досвід підготовки кадрів для сил сектору безпеки та можливості його використання в Україні : наук.-метод. рек. Харків, 2016. 120 с. URL: <https://dspace.univd.edu.ua/items/fd1f0c9f-4ad5-4463-9b31-f246de87c733> (date accessed: 20.06.2024).

institutions, French authorities pay close attention to their material well-being. Emphasis is placed on controlling the quality of documentation and methodological support for employees, including documents defining their official duties and rights, as well as recommendations for proper conduct.

Researchers emphasize the importance of ethics in the public sector to strengthen the legitimacy of state institutions through impartial professional judgment. Individuals acting on behalf of state structures must be accountable to society and be open to dialogue with it. In this context, methodological instructions on ethics play a key role in changing the mentality and professional behavior of those involved in making state decisions.

Poland's experience, which has much in common with our country in the organization and functioning of forensic institutions, is no less interesting for Ukraine. In Poland, forensic laboratories are subordinate to both the Ministry of Justice and the Ministry of Internal Affairs. O. Dufeniuk, A. Polyanskyi, and G. Juodkaite-Granskiene note that status and practice requirements of forensic experts in Poland are like those in Ukraine, and there are also similar approaches to ensuring forensic activities²⁴.

Legal professionals note differences in forensic examination systems between Ukraine and other countries. *First*, Ukraine has a centralized register of forensic examiners, while other countries may have de-

centralized systems. *Second*, both the prosecution and defense can involve forensic examiners in Ukrainian criminal proceedings. *Third*, Ukraine uses a different term for the document initiating a forensic examination. *Fourth*, Ukrainian law prohibits oral assignments of forensic examinations. *Fifth*, while forensic examiner's recusal grounds are similar, hourly rates differ significantly between countries²⁵.

Scholars emphasize Ukraine's effective forensic expertise regulation. The national forensic examiners register, unified qualification verification standards, shorter examination timelines, and both-side forensic examiner involvement ensure standardized requirements, a competitive process, and progressive criminal procedural law.

Poland, like Ukraine, focuses on educational activities for preventing misconduct in forensic institutions. They conduct special courses and practical training to provide knowledge of current legislation and develop practical skills for preventing and mitigating offenses. Polish government agencies actively collaborate with municipal authorities and civil society institutions in preventive work.

The Baltic countries' experience is also valuable. Lithuania has an extensive forensic institution system under various departments. Four main state institutions conduct forensic examinations: the Ministry of Justice's Center for Forensic Expertise, the Lithuanian Police's Forensic Scientific Center, the State Forensic Medical

24 Полянський А., Юodkaйте-Гранськієнє Г. Зазнач. твір. DOI: [10.32353/khrife.2.2021.03](https://doi.org/10.32353/khrife.2.2021.03) (date accessed: 25.06.2024) ; Дуфенюк О. М. Досвід Польщі стосовно участі судового експерта у кримінальному провадженні. *Науковий вісник Львівського державного університету внутрішніх справ. Серія: Юридична*. 2018. Вип. 1. С. 240–249. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/1229/1/30.pdf> (date accessed: 25.06.2024).

25 Дуфенюк О. М. Зазнач. твір. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/1229/1/30.pdf> (date accessed: 25.06.2024) ; Полянський А. Юodkaйте-Гранськієнє Г. Зазнач. твір. DOI: [10.32353/khrife.2.2021.03](https://doi.org/10.32353/khrife.2.2021.03) (date accessed: 25.06.2024).

Service, and the State Forensic Psychiatric Service of the Ministry of Health. Recognizing equivalent forensic activities across countries avoids duplication of efforts and reduces cross-border crime investigation time. Lithuanian forensic experts from EU countries can freely provide services if their competence is confirmed locally.

Baltic countries' forensic institutions prevent misconduct through several key aspects: creating specialized units within relevant agencies to address professional and service ethics, monitoring employees' socioeconomic status, providing psychological support, and ensuring service discipline. These preventive measures focus on moral-ethical and socioeconomic employee support.

Approaches to preventing misconduct in forensic institutions in Ukraine are similar to those used in leading European countries. However, there are several important aspects of the Baltic experience that should be considered:

Levels of prevention: Prevention should be multi-level: the general level applies to all citizens or all public servants; the sectoral level is aimed at employees of forensic institutions, regardless of their subordination; the local level is focused on employees of individual institutions; the individual level is aimed at a specific person.

Professional ethics: It is important to formulate and consolidate clear rules of professional ethics for employees of forensic institutions. Ethical codes should be part of organizational policy, and their implementation should be accompanied by continuous awareness-raising and training. Involving employees in the development of these codes promotes their better acceptance and understanding.

Educational and upbringing work: Systematic educational and upbringing

work with employees should be conducted, ensuring the correct perception and application of information in professional activities. For this purpose, training materials, recommendations, and instructions on actions in non-standard situations should be prepared to avoid violations. Practical exercises in ethical behavior are also an important element.

Social and psychological support: Attention should be paid to the psychological, social, and material and financial well-being of employees. Monitoring these factors and providing appropriate support are significant motivating factors for proper official activities.

Qualified personnel: Preventive measures should be carried out by experienced managers with an impeccable reputation who enjoy respect in the team and have acquired the necessary knowledge and skills.

The implementation of these measures will contribute to increasing the effectiveness of preventing misconduct and ensuring a proper level of ethical and professional behavior of employees of forensic institutions. Taking into account the foreign experience of preventing misconduct by employees of forensic institutions can significantly increase the effectiveness of this work in Ukraine. This, in turn, will contribute to strengthening the lawfulness and discipline in forensic institutions. When studying the administrative and legal foundations of preventing misconduct, we have repeatedly drawn attention to the problems that exist in the Ukrainian mechanism of prevention. One of the main problems is the shortcomings of the regulatory framework that governs the organization and functioning of this mechanism.

Finally, the United States experience is interesting to be studied. One of the most

effective means of preventing misconduct is whistleblowing. This is a logical “expansion” of anti-corruption practices, as initially such activities were aimed at countering promises, offers, and/or receiving undue benefits.

In the United States, whistleblowing is considered an important tool for ensuring transparency and accountability in organizations. According to the law, employees who expose illegal or unethical actions within an organization must be protected from retaliatory actions by management. One of the key documents in this area is the Whistleblower Protection Act, which provides legal protection and support for whistleblowers. Studies conducted in the United States show that disclosure of information by whistleblowers is often accompanied by the risk of retaliation. Exposing negative actions or violations in organizations can lead to negative consequences for whistleblowers (reduced career opportunities, deterioration of working conditions, or even dismissal). At the same time, the level of retaliation can vary depending on several factors: organizational culture, support from colleagues, and the presence of external oversight ²⁶.

A researcher's team from various US universities, considering the American Academy of Forensic Sciences as a model, believes it is necessary to prevent certain misconduct through adherence to the basic provisions of the Code of Ethics, which outlines four fundamental principles:

- 1) Refrain from unreliable behavior as a member of the Academy.
- 2) Do not falsify information regarding one's own education, skills, and work experience.
- 3) Do not distort the content of scientifically significant information.
- 4) Refrain from making statements on behalf of the entire Academy, as not all members have the same “moral weight” ²⁷.

The current national legislation defining the substantive and procedural aspects of prevention in this field has numerous gaps and shortcomings that need to be addressed. First and foremost, amendments should be made to the Law of Ukraine “On Forensic Examinations” (hereinafter “Profile Law”) ²⁸, since the current national legislation lacks provisions for the prevention of misconduct by forensic institutions employees, it is necessary to amend the Profile Law.

To form a high-quality regulatory framework that would effectively influence the prevention of offenses, the following provisions should be enshrined in the law:

Maintaining the rule of law. The state, through competent public authorities (both central and municipal), must contribute to maintaining the rule of law in the field of forensic expertise. This is achieved through the development and implementation of organizational and legal foundations for preventive activities.

26 J. Rothschild, T. D. Miethe. Whistle-Blower Disclosures and Management Retaliation: The Battle to Control Information about Organization Corruption. *Work and Occupations*. 1999. Vol. 26. Is. (1). Pp. 107–128. DOI: [10.1177/0730888499026001006](https://doi.org/10.1177/0730888499026001006) (date accessed: 06.06.2024).

27 Winburn A. P., Clemmons C. M. J., Delgado T. A., Hartley S., Latham K. E., Pilloud M. A., Tallman S. D. Responding to the American Academy of Forensic Sciences vision, mission, and values statements : Comments, revisions, and proposed actions. *Forensic science international: Synergy*. 2021. Vol. 9. Pp. 100–197. DOI: [10.1016/j.fsisyn.2021.100197](https://doi.org/10.1016/j.fsisyn.2021.100197) (date accessed: 11.06.2024).

28 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/card/4038-12> (date accessed: 17.06.2024).

The Ministry of Justice of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Health of Ukraine, the Ministry of Defense of Ukraine, the Security Service of Ukraine, and other state bodies, within whose system forensic institutions operate, play an important role. These institutions should develop sectoral and intersectoral prevention programs, determine strategic directions, forms, and methods of implementing preventive work, as well as criteria and mechanisms for evaluating its effectiveness.

Preventive efforts by managers.

Heads of forensic institutions in Ukraine should systematically conduct preventive work with their employees at both the general and individual levels.

The draft law on forensic practice (hereinafter “*draft law*”)²⁹ pays significant attention to ensuring organizational, managerial, scientific, methodological, and informational support for forensic activities, which is key to preventing misconduct. Control and planning, information and scientific-methodological support are important aspects of managerial work that involve control and supervisory, informational and explanatory, scientific-methodological, and educational measures. They are aimed at ensuring a high level of lawfulness and discipline, identifying violations, eliminating the conditions that contributed to their occurrence, and creating a high-quality professional environment.

The draft law also specifies the list of duties of the head of a forensic institution, which indirectly indicate his responsibility for preventive work: ensuring proper working conditions for forensic experts, monitoring compliance with the require-

ments for conducting examinations, timely preparation of research work, compliance with record-keeping rules and labor discipline, preventing the disclosure of confidential information, preventing corruption offenses and violations of the law. Importantly, the head is prohibited from interfering in the activities of a forensic expert during the conduct of an examination and the provision of conclusions, which ensures the forensic examiners' independence³⁰.

Improving Ukraine's national legislation on preventing forensic institution employee misconduct requires developing conceptual foundations for organizing and implementing preventive measures.

Conclusions

The study of preventing misconduct in Ukrainian forensic institutions' professional activities shows that international experience can significantly improve effectiveness. A multi-level approach is crucial: prevention measures should be taken at various levels (general, sectoral, local, and individual). This ensures a comprehensive approach to raising legal awareness and discipline among forensic institution employees.

Legal education and training aimed at increasing legal awareness and culture among employees is essential. Continuous training and professional development foster highly professional and ethically oriented personnel. Developing and implementing clear professional ethics rules, including ethical codes, is another important preventive element. Social and psychological support for employees is also vital. Monitoring employees' socioeconomic

29 Проект Закону про судово-експертну діяльність від 05.11.2021 р. № 6284. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=73154 (date accessed: 25.06.2024).

30 Там само.

status and providing psychological support helps reduce the risk of misconduct.

Material and financial support for forensic institution employees is a crucial motivating factor for adhering to official discipline. Ensuring proper material and financial support contributes to effective preventive work.

The regulatory framework needs improvement, particularly by amending the profile law to include provisions on preventing misconduct. Developing a conceptual framework for preventive activities that defines the strategy and main reform directions is necessary.

Developing and implementing methodological recommendations, instructions, and training materials for forensic institution employees will enhance preventive work's effectiveness. Creating mechanisms for regular monitoring and evaluation of preventive measures allows for timely adjustments and increased effectiveness.

Collaborating with international organizations like ENFSI to exchange experiences and implement best practices in forensic expertise is crucial. Applying international experience in preventing misconduct can significantly improve Ukraine's national forensic expertise system. Adapting successful practices from other countries, considering domestic specifics, can create an effective prevention system that enhances lawfulness and discipline in Ukrainian forensic institutions.

**Міжнародний досвід профілактики
службових правопорушень
працівників судово-експертних
установ для вдосконалення
законодавства України**

Олексій Корнев, Сертан Алібекіроглу

Мета статті — розробити конкретні рекомендації та пропозиції щодо вдосконалення механізму загальної та

індивідуальної профілактики службових правопорушень працівників судово-експертних установ. Для досягнення цієї мети використано загальнонаукові та спеціальні методи дослідження. Проаналізовано застосування підходів до профілактики службових правопорушень у діяльності судово-експертних установ Німеччини, Франції, Польщі, країн Балтії. Досліджено, як цей досвід можна адаптувати до українського контексту. Наголошено на важливості правового виховання та навчання, стандартизації та сертифікації судових експертиз, гідного матеріального забезпечення працівників, а також контролю за якістю їхньої діяльності. Розглянуто напрями вдосконалення національного законодавства, яке регламентує профілактику службових правопорушень в Україні. Зауважено необхідність розроблення й упровадження нових законодавчих актів, які б ураховували міжнародний досвід і відповідали сучасним вимогам. Запропоновано конкретні заходи, які можуть сприяти підвищенню ефективності профілактичної роботи.

Ключові слова: профілактична робота; службові правопорушення; дисципліна; управління; виховання; іноземний досвід; судово-експертна діяльність; національне законодавство.

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Authors declare no conflict of interest.

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