Circumstances to be Clarified During Investigation of Criminal Offenses Committed by Professional Participants in Legal Proceedings

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This article purpose is to outline proof topic specifics o and circumstances that are subject to clarification during investigation of criminal offenses committed by professional participants in the legal proceedings. The goal was achieved through the use of a number of general and special methods of scientific knowledge, which ensured the comprehensive and interdisciplinary nature of the study. It was determined that topic proof in cases of this category has a multi-level structure, which includes both circumstances common to all criminal proceedings and specific specifics associated with the special status of the offender. It was found that the mandatory elements of the topic proof include clarification of the limits of the powers of a professional participant in the legal proceedings and methods of their application for unlawful purposes. It was confirmed that the leading factor in the effectiveness of evidence is the detailing of the methods of committing a criminal offense and specification of their trace picture. It is summarized that determining the circumstances in these cases requires the integration of provisions of criminal and criminal procedural law, as well as taking into account the specifics of judicial practice. It is stated that the results of the study will be useful for improving forensic methods of investigating crimes against justice and increasing the level of ensuring human rights and freedoms during legal proceedings. A list of circumstances that constitute a mandatory topic proof

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and that are subject to clarification during the investigation has been formed. The latter are specified in the context of individual groups that cover criminal offenses of the type under research.

Keywords: *legal proceedings; participant of justice; topic proof; criminal offense composition; pre-trial investigation.*

Research Problem Formulation

Ensuring independence, objectivity and impartiality of judiciary is a defining feature of the fundamental priorities of the rule of law, democratic and social state. Judges, in cooperation with other participants in the trial, are called upon to implement the principles of legality, justice and the rule of law. At the same time, modern legal validity indicates that the requirements of the law violate even those entities that, in accordance with Art. 19 of the Constitution of Ukraine [1], are obliged to act exclusively within the limits and in the manner determined by law. Given the increased social danger of such actions, the legislator recognized a certain part of them as criminally punishable. Despite seriousness of the crimes committed by professional participants in the proceedings, they remain insufficiently developed in scientific discourse up today.

In view of the above, we consider it necessary to focus on investigation of circumstances that need to be clarified and proven during the investigation of criminal offenses committed by professional participants in legal proceedings.

Article Purpose

Outline the topic proof specifics and circumstances that should be clarified and proven during the investigation of criminal offenses committed by professional participants in legal proceedings.

Research Methods

Methodological apparatus of the study was formed taking into account the goals and objectives of the scientific work and is represented by a complex of general scientific and special methods of cognition. Their combination helped not only to theoretically comprehend the issues, but to produce practically oriented conclusions and recommendations for increasing investigation efficiency of criminal offenses in the field of justice committed by professional participants in legal proceedings.

Methods of analysis and synthesis were of paramount importance, helping to break down the complex phenomenon of criminal offenses committed by professional participants in legal proceedings into separate structural components, such as: crime subject (investigator, prosecutor, judge, operative unit employee); specifics of their procedural powers; methods of committing crime; motives and goals; means used (procedural instruments, forged documents, pressure on participants in the process, etc.). Thanks to synthesis, these elements have been integrated into single system that reflects the list of circumstances that are subject to proof and clarification in criminal proceedings.

1 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80# Text (date accessed: 05.08.2025).

Induction and deduction played an important role. Based on analysis of specific content and provisions, generalized provisions are formulated regarding peculiarities of illegal behavior of special subjects, their motivational sphere and typical schemes for concealing criminal activity as content components of topic proof.

For a comprehensive analysis, systemic-structural method was used, that made possible to consider the offender as part of a broader mechanism of criminal activity. This helped to identify connection between the professional functions of the subject, method of committing crime, use of official resources, and the consequences for justice.

Special role in the research was played by the formal legal method, which analyzed the provisions of the Criminal and Criminal Procedural Codes of Ukraine. It made possible to determine the legal limits of liability of special entities.

Logical and legal method, thanks to which an internally consistent system of arguments on the appropriateness of identifying criminally significant signs characteristic of crimes against justice committed by its professional participants, has provided the theoretical position with logical integrity.

All these methods were applied in interaction that ensured complexity and interdisciplinarity of the approach to the study of the problem under research. Their integration contributed to obtaining reliable results that are not only of theoretical significance, but of practical value for improving methodology for investigating criminal offenses of this category, since it is the circumstances to be clarified in the current doctrine of forensic science that are its mandatory structural element.

Analysis of Essential Researches and Publications

Any forensic technique is based on a specific information base, that is an organized system of generalized information about the main elements of the mechanism of criminal activity. In forensic science, this generalized data is conceptually embodied in the form of a forensic characteristic. At the same time, while deciding on the advisability of singling it out as an independent element in the structure of a separate criminalistic investigation technique, scientists focused on the relationship between the criminalistic characteristics and the circumstances to be clarified during the investigation. These issues have been the subject of research by V. Husieva [2], V. Zhuravel [3], V. Kolesnikov [4],

2 Гусєва В. О. Обставини, що підлягають з’ясуванню під час розслідування втручання в діяльність працівника правоохоронного органу. *Право і безпека.* 2021. № 2 (81). С. 97—103. DOI: 10.32631/pb.2021.2.12 (date accessed: 05.08.2025).

3 Журавель В. А. Обставини, що підлягають з’ясуванню, у структурі криміналістичної методики. *Теорія та практика судової експертизи і криміналістики.* 2010. Вип. 10. С. 12—20. URL: https://surl.li/pdogbg (date accessed: 06.08.2025).

4 Колесніков В. В. Обставини, які підлягають доказуванню в кримінальному провадженні при розслідуванні злочинів, пов’язаних із пожежами. *Там само.* 2016. Вип. 16. С. 84—90. DOI: 10.32353/khrife.2016.10 (date accessed: 05.08.2025).

O. Pchelina [5], O. Fedosova [6], and many others.

Currently, scientists almost unanimously agree that both the forensic characteristics and the circumstances to be clarified should occupy an independent place in the structure of any species methodology or methodology of a higher level of generalization, therefore this problem requires careful research (in particular, taking into account the specifics of the group of criminal offenses under consideration).

Scientific literature focuses on the study of the subject of evidence, which is usually identified with the list of circumstances provided for in Article 91 of Criminal Procedural Code of Ukraine [7]. In the theory of criminal procedure, much attention was paid to this issue by V. Vapniarchuk[8], O. Starenkyi [9], S. Stakhivskyi [10], etc. Despite the thorough work, criminal offenses committed by professional participants in justice were ignored, which actualizes the need for their research.

Main Content Presentation

Current doctrine of criminal procedural law places the burden of proof on the prosecution. The task of proof in criminal proceedings is to find out the truth, which should be understood as reliable and consistent knowledge of circumstances of evidentiary significance or knowledge that has acquired the status of truth by mutual agreement of the parties formed in the procedure provided for by law. Given that perception of objective reality always has an individual character, as well as based on the cognitive concept, according to which a person not only reflects reality, but also actively constructs it, understanding truth by each participant in the process inevitably has a subjective connotation [11]. Thereby legislator has detailed the circumstances that are subject to proof in criminal proceedings, among which:

5 Пчеліна О. В. Обставини, що підлягають з'ясуванню під час розслідування кримінальних правопорушень, і їхнє місце у структурі окремої криміналістичної методики. *Прикарпатський юридичний вісник*. 2020. Вип. 2 (31). С. 187—190. DOI: 10.32837/pyuv.v0i2(31).590 (date accessed: 05.08.2025).

6 Федосова О. В. Обставини, які підлягають встановленню у ході розслідування корисливо-насильницьких злочинів, що вчиняються неповнолітніми. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2014. № 1. С. 305—313. URL: http://nbuv.gov.ua/UJRN/Nvdduvs_2014_1_42 (date accessed: 04.08.2025).

7 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: 12.08.2025).

8 Вапнярчук В. В. Теоретичні основи кримінального процесуального доказування : дис. … д-ра юрид. наук. Харків, 2018. 509 с. URI: https://dspace.nlu.edu.ua/handle/123456789/15838 (date accessed: 04.08.2025).

9 Старенький О. С. Щодо визначення поняття меж доказування в кримінальному провадженні. *Часопис Національного університету «Острозька академія». Серія «Право»*. 2014. № 1 (9). 12 с. URL: http://lj.oa.edu.ua/articles/2014/n1/14sosvkp.pdf (date accessed: 04.08.2025).

10 Стахівський С. М. Теорія і практика кримінально-процесуального доказування : монографія. Київ, 2005. 272 с. URL: https://library.nlu.edu.ua/POLN_TEXT/UP/STAXIVSKIY_2005.pdf (date accessed: 06.08.2025).

11 Вапнярчук В. В. Зазнач. твір. С. 12. URI: https://dspace.nlu.edu.ua/handle/123456789/15838 (date accessed: 04.08.2025).

1) fact of committing a criminal offense (in particular, time, place, method and other conditions for its commission);
2) defendant's guilt in committing the offense, as well as the form of guilt, motives and purpose of his actions;
3) nature and amount of damage caused by a criminal offense, while determining the procedural costs;
4) factors that influence the severity of the crime, characterize the defendant, aggravate or mitigate punishment, exclude criminal liability, or create grounds for closing the proceedings;
5) conditions that justify possibility of releasing a person from criminal liability or from serving a sentence;
6) data confirming the origin of money, valuables and other property subject to special confiscation, in particular if they are obtained as a result of a criminal offense or they are the proceeds of such property; if they were intended or used to induce a crime, finance or provide material support for criminal activity, pay remuneration for its commission; if they are the subject of a criminal offense (in particular, related to illegal trafficking in property) or they were made, adapted or used as means or instruments of its commission, etc. [12]

According to the definition enshrined in Part 1 of Article 11 of the Criminal Code of Ukraine, "a criminal offense is a socially dangerous guilty act (*action or inaction*) provided for by this Code, committed by the subject of a criminal offense" [13]. Therefore, the object and objective side of the criminal offense, the subject and subjective side of the criminal offense should be clarified and proven. Circumstances of criminal offense commission, in accordance with Article 91 of Criminal Procedural Code of Ukraine are subject to proof, and their final clarification is carried out exclusively on the basis of a court verdict (Article 374 of the Criminal Procedural Code of Ukraine). The event of a criminal offense (as one of the main circumstances) also requires proof (Clause 1, Part 1, Article 91 of Criminal Procedural Code of Ukraine) and assessment by the court with subsequent confirmation in the verdict (Article 374 of Criminal Procedural Code of Ukraine) [14]. That is why the fact of committing a criminal offense should be considered proven only on the basis of a court verdict that has entered into legal force. As V. Popeliushko rightly notes, procedural legislation requires a detailed clarification of the event of the crime, including its criminal-legal features. This means that the determination of the time, place, manner of committing the act and other circumstances must be so specific that the event can be reliably distinguished from any others. Such detailing ensures the correct formulation of the accusation, determines the boundaries of the trial, creates conditions for verifying the arguments of the parties and, ultimately, guarantees the right of the accused to defense. The truth can only be established if substantive and procedural law are inextricably linked:

12 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

13 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 12.08.2025)

14 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

the factual circumstances are examined through the prism of procedural evidentiary requirements and criminal-legal qualification. Moreover, proving and qualification are different stages: first, the fact of the event itself must be determined and proven, and only then should it be legally assessed. Such regulation is a guarantee of achieving the objective truth in the case: the guilty are brought to justice, the innocent is acquitted, and the proceedings are legally closed [15].

Outlined circumstances (provided for by the Criminal Procedural Code and the Criminal Code of Ukraine) are subject to mandatory proof, and therefore they are called: *topic proof*. The topic proof is the basic category of criminal procedural evidence and covers the range of circumstances that need to be determined in criminal proceedings for its correct resolution. It contains not only circumstances expressly provided for in Part 1 of Art. 91 of the Criminal Procedure Code of Ukraine [16], but other facts important for a particular case, which clarify depending on the nature of the criminal offense, taking into account the provisions of Criminal Code of Ukraine [17].

Despite the fact that topic proof is a category of purely procedural, sometimes it happens in forensic research. At the same time, criminalistics traditionally uses *the category of circumstances to be clarified*.

Circumstances that need to be clarified in criminal proceedings are of paramount importance for the formation of a forensic investigation methodology, since they determine the sequence and content of the activities of authorized persons aimed at obtaining evidence that meets the requirements of reliability, sufficiency, admissibility and belonging [18]. We believe that this category is broader than topic proof.

In the group of criminal offenses committed by professional participants in justice, three main groups of criminal offenses can be distinguished: basic, related and concomitant.

Basic criminal offenses are the basis of illegal activity, since they determine the main direction of criminal behavior of an individual or group. Although most of them belong to the category of misdemeanors or minor crimes, they significantly affect the stability of the legal system. Among the following acts: non-enforcement of court decisions, knowingly false reporting of a crime, misleading the court, evasion of punishment, violation of the rules of administrative supervision, etc. They are united by prevalence and focus on obstructing the realization of the goal of justice, in particular, finding out the objective truth and enforcing court decisions.

15 Попелюшко В. О. Предмет захисту та його доказування в кримінальній справі : монографія. Київ, 2005. 232 с. URL: https://library.nlu.edu.ua/POLN_TEXT/UP/POPELUSHKO_2005.pdf (date accessed: 05.08.2025).

16 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

17 Коломієць К. Доктринальні підходи до визначення поняття «предмет доказування» у кримінальному провадженні. *Вісник кримінального судочинства*. 2022. № 3—4. С. 193—201. DOI: 10.17721/2413-5372.2022.3-4/192-200 (date accessed: 05.08.2025).

18 Попов В. Особливості обставин, що підлягають установленню під час розслідування кримінальних правопорушень, пов’язаних із утручанням у діяльність представників органів державної влади. *Теорія та практика судової експертизи і криміналістики*. 2025. Вип. 1 (38). С. 50—65. DOI: 10.32353/khrife.1.2025.04 (date accessed: 05.08.2025).

Related offenses are not as crucial as basic offenses, but they significantly complicate the functioning of justice. This refers to the refusal of a witness or expert to perform procedural duties, obstruction of their appearance, illegal actions with seized or confiscated property, evasion of punishment or administrative penalties, escape from places of imprisonment or special institutions, concealment of a crime, etc. Despite their lower prevalence, they are also aimed at hindering the achievement of the truth in the case, create additional obstacles to the implementation of court decisions and should be taken into account in forensic methods.

Connected offenses are characterized by a greater degree of aggressive influence on the main participants of justice. Among them: interference in the activities of judges, defense attorneys or representatives, threats or violence against them, intentional destruction of their property, encroachment on life in connection with professional activities. Such acts undermine the independence of the judiciary and the right to defense, and therefore pose a significant public danger. A special group includes offenses committed by professional participants in the legal proceedings themselves: illegal detention, involvement of knowingly innocent persons, violation of the right to defense, coercion to testify, making unjust decisions, illegal interference in automated systems, disclosure of the secret of pre-trial investigation, etc. They are the most dangerous, since they are committed by special subjects who have a high level of legal training and are able to hide their own illegal actions [19]. What all groups have in common is their focus on undermining principles of justice, violating guarantees of truth-finding, and reducing trust in the judicial system.

Given the scale of studied types of criminal offenses, we have identified the circumstances to be proved and clarified (taking into account the above groups).

In forensic science, there are different approaches to the classification of circumstances to be clarified. Some researchers propose to group them according to the composition of the crime (event, subject, object, guilt, motive, consequences), others, according to the meaning for the procedural decision (circumstances characterizing the event, the offender's personality, and factors influencing decision-making). Taking into account the peculiarities of criminal offenses committed by professional participants in the proceedings, a synergistic approach is advisable: combining the structure of the crime with the procedural requirements of the subject of evidence (Article 91 of Criminal Procedural Code of Ukraine) [20].

The circumstances to be proved during the investigation of any criminal offense committed by a professional participant in the proceedings include:

1) person of the victim (citizen, litigant, other person whose rights have been violated by illegal actions of a professional litigant);
2) legal status of the perpetrator (judge, prosecutor, investigator, inquirer, lawyer), confirmed by the

19 Суп Є. Підходи до криміналістичної класифікації кримінальних правопорушень проти правосуддя. *Архів кримінології та судових наук.* 2024. № 2 (10). С. 138—145. DOI: 10.32353/acfs.10.2024.11 (date accessed: 05.08.2025).

20 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

relevant documents, his/her functional duties and other components of the legal status due to the position;
3) event of a criminal offense (time, place, situation and other conditions of commission, method and means of implementation of the illegal intent);
4) method of committing a criminal offense, which may consist in making a knowingly unjust decision, coercion to provide false testimony, unlawful detention or arrest, violation of the right to defense, disclosure of the secrets of the pre-trial investigation, etc.;
5) form of guilt, motive and purpose (usually direct intent related to the desire to achieve personal gain, avoid responsibility, protect the interests of others or influence the outcome of the trial);
6) type and form of occurrence of socially dangerous consequences (violation of the right to a fair trial, causing damage to the victim, undermining the authority of justice, material or moral damage, etc.);
7) accomplices and their roles, if the offense is committed in collusion of several persons;
8) circumstances mitigating or aggravating the guilt, grounds for exemption from liability or closure of proceedings. We consider it necessary to define them as mandatory topic proof.

Peculiarity of this group of criminal offenses is that its subjects have professional powers. They are able to use their official position and knowledge of criminal and criminal procedural law to forge or falsify evidence, manipulate procedural deadlines, impede the exercise of the right to defense, etc.

Let us detail the above list and outline the circumstances that may be important for the investigation that should become part of investigation methods:
1) legal status of the subject: confirmation of the powers of a person as a judge, prosecutor, investigator, inquirer or lawyer, as well as determination of their procedural role in specific criminal proceedings;
2) form and method of illegal actions:
   - in case of illegal detention, the procedural form of its conduct and specific violations of the requirements of Criminal Procedural Code of Ukraine;
   - during coercion to testify, nature of psychological or physical influence, the content of unlawful claims, the form of coercion (threats, blackmail, violence);
   - involvement of a knowingly innocent person, actions of an official aimed at drawing up or serving a notice of suspicion; making a decision on charges; other documents certifying unlawfulness of actions;
   - violation of the right to defense, prevention of a lawyer, delaying the case with his participation, creating obstacles in communication with the client, the use of forged documents, etc.;
3) nature of the means of influence used, the use of falsified documents, threats, blackmail, methods of psychological pressure, misleading, etc.;
4) motives and purpose, personal or professional interests, selfish motives, desire for revenge, execution

of criminal orders as an attempt to justify the trust of management;

5) subject of a criminal infringement is official procedural documents, records in the court document circulation system, information about the parties to the case, movement of procedural documents, information about the judge who is considering the case, as well as the software of the automated system;
6) ways to intervene in automated justice systems:
   - entering false or falsified information;
   - untimely entry of information with intentional violation of deadlines;
   - unauthorized actions with information (correction, destruction, blocking of access);
   - other forms of unauthorized access or influence on the functioning of the system;
7) consequences of a criminal offense, violation of the rights of the parties to the process, causing damage to the victim (material or moral), undermining the authority of the judiciary, blocking the work of the court or distorting statistical data;
8) circumstances contributed to the commission of a criminal offense, imperfection of mechanisms for monitoring the actions of professional participants in legal proceedings, lack of adequate protection of automated systems, corporate solidarity between justice workers;
9) accomplices, other officials or technical employees of the judicial authorities who could contribute to illegal interference (for example, providing access to the system or notifying the password to it);
10) form of guilt, mainly direct intent aimed at achieving a specific illegal goal (making an unjust decision, falsifying evidence, blocking the operation of the system);
11) accomplices and their roles, if the offense is committed by conspiracy of several persons;
12) circumstances mitigating or aggravating the guilt, grounds for exemption from liability or closure of proceedings.
13) causes and conditions that contributed to the commission of a criminal offense (weak control, corruption or low level of legal culture of individual representatives of law enforcement agencies or justice officials, etc.).

The above list of circumstances can be considered to correspond to the *category of circumstances to be clarified during investigation*.

Circumstances to be clarified in cases of related offenses against justice include:

1) event of offense:
   - non-fulfillment or improper fulfillment of a procedural obligation (refusal of a witness from testimony, an expert from a conclusion, an interpreter from translation, etc.);
   - obstructing appearance of witness, victim or expert (time, place, method, forms of pressure);
   - illegal actions with property that was under arrest, pledge, confiscation or description;
   - escape from a place of deprivation of liberty, arrest or a special medical institution;
   - actions aimed at concealing the crime or its traces;
2) method of committing:

- refusal nature (oral, written, demonstrative behavior in court or during investigative action);
- methods of preventing attendance (physical blocking, threats, bribery, misrepresentation, kidnapping);
- illegal actions with property (alienation, destruction, concealment, illegal use or transfer to other persons);
- escape conditions (preparation, seeking outside help, forging documents, violence or deception);
- means of concealing a crime (elimination of material evidence, concealment of information, failure to report a known crime);

3) offense subject:
- witness, expert, victim, suspect, accused or convicted;
- persons who contributed to the commission (for example, in case of escape, accomplices who provided transport or documents);
- officials responsible for the storage of seized property;

4) motives and purpose:
- avoidance of criminal or administrative liability;
- mercenary interests (illegal use of seized property);
- desire to help another person to avoid liability;
- desire to hide other, more serious crimes;

5) socially dangerous consequences:
- obstructing clarification of truth in criminal proceedings;
- complications or disruption of the trial.
- material damage (loss of or damage to the seized property);
- public danger in the form of undermining the authority of justice;

6) circumstances contributed to the commission of:
- gaps in legislation;
- insufficient supervision in places of deprivation of liberty or special institutions;
- inadequate preservation of seized or confiscated property;
- corporate relations or collusion between the parties to the proceedings.

During the investigation of related criminal offenses, in addition to the above circumstances, those that are the subject of evidence in crimes against the life and health of a person (time, place, method and means of encroachment, motives, consequences, subject and accomplices) are subject to clarification. Particular attention should be paid to establishing a professional connection between the victim and his/her official activity, since it is this feature that determines qualification specifics of such a crime as infringement of justice.

In case of encroachment on the property of representatives of justice bodies, the circumstances defined for unqualified damage or destruction of property, criminal offense under Art. 194 of the Criminal Code of Ukraine (method of destruction or damage, type and value of property, consequences for the victim, as well as motives for the act, if they are directly related to his professional activity) are subject to clarification [21].

During investigation of criminal offenses related to the assignment to the activities of judges, defenders or representatives of a person, it is necessary to find

21 Кримінальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 12.08.2025).

out additional circumstances that characterize not only the fact of influence, but its orientation, forms and consequences. In particular, the following are subject to clarification:

- form of interference (persuasion, threats, blackmail, public pressure, use of media or social networks to discredit);
- content of illegal requirements (for example, the adoption of a certain decision, refusal to perform professional duties, a change in the procedural position in the case);
- nature of violent acts or threats, their intensity, orientation and perception by the victim;
- connection between the act and professional activities of the victim (whether the demands or threats are directly related to the victim's duties as a judge, defense attorney, or person representative).

Consequently, when investigating criminal offenses against justice committed by professional participants in the proceedings, it is necessary to investigate not only the traditional elements of the subject of evidence, but the specific circumstances related to the methods of influence, the subject of the offense (official documents, information systems), nature of motives and the professional status of the subject. This allows you to build a comprehensive investigation program and ensures the practical effectiveness of investigation methodology.

Defining and systematizing the circumstances in cases of this category ensures not only the completeness and objectivity of the investigation, but also creates conditions for the development of methodological recommendations aimed at improving the effectiveness of countering crimes against justice committed by professional participants in the proceedings.

Conclusions

Performed research allows to make a number of important generalizations.

First, effectiveness of the investigation of criminal offenses against justice committed by professional participants in the proceedings directly depends on the clear definition and systematization of the circumstances to be proved.

Secondly, in the structure of the forensic methodology, an important place should be occupied not only by the traditional elements of the subject of evidence, enshrined in Art. 91 of Criminal Procedural Code of Ukraine and due to composition of a specific criminal offense, but also by specific features characteristic of criminal offenses of this category: the professional status of the subject, the nature of his official powers, the method and form of illegal actions, means of influence used, the motives and purpose, the consequences for the victims and justice system as a whole.

Thirdly, a systematic analysis of regulatory and scientific sources demonstrates that basic, related and concomitant criminal offenses have varying degrees of impact on the functioning of justice, but are united by a common goal, obstructing the implementation of the principles of legality and justice. At the same time, crimes committed by professional participants in the proceedings are the most dangerous, since they combine a high level of legal awareness with possibility of using official powers to hide the traces of the crime.

Fourthly, clarification of these circumstances ensures the completeness and objectivity of the pre-trial investigation, creates conditions for the correct criminal law qualification of the acts and guarantees the rights of all participants in the criminal proceedings. In addition, it forms the scientific basis for the development of modern forensic techniques that take into account the specifics of this group of crimes. This will contribute to increasing the efficiency of the activities of pre-trial investigation bodies and the court, as well as strengthening the authority of justice in general.

Обставини, що підлягають з'ясуванню під час розслідування кримінальних правопорушень, учинених професійними учасниками судочинства

Євген Суп

Проведено аналіз провідної ролі Міністерства юстиції України в управлінні судово-експертною діяльністю, акцентовано увагу на особливостях координування, субординації, механізмах планування та інформування, а також здатності реагувати на нагальні питання та виклики сьогодення. Визначено, що ця діяльність має науково-практичне орієнтування й залежить від відомчої належності судово-експертних установ України. Окреслено широкий спектр функційних можливостей Мін'юсту України, які варіюються за формою та змістом (зокрема, зауважено, що експертне забезпечення правосуддя є одним із його основних законодавчо закріплених завдань). Мета статті — дослідити роль Мін'юсту України як центрального координаційного органу у формуванні ефективної системи експертного забезпечення правосуддя. Окреслено основні виклики та перспективи вдосконалення експертного супроводу правосуддя в умовах реформування судової системи й забезпечення дотримання міжнародних стандартів у цій сфері. Для досягнення поставленої мети застосовано комплекс методів (логічного аналізу, порівняльно-правовий, системний, статистичний аналіз і контент-аналіз та ін.). Виокремлено основні напрями діяльності Мін'юсту України як управлінського й координаційного органу у сфері кримінологічної діяльності судово-експертних установ, зокрема: розроблення та впровадження ефективної державної політики у сфері управління судово-експертною діяльністю; оптимізація методів керівництва державними судово-експертними установами й недержавними експертними організаціями; підвищення вимог до судової діяльності та її організації; підвищення ефективності діяльності судових установ України тощо.

Ключові слова: *Міністерство юстиції України; судово-експертна діяльність; правосуддя; державна політика; міжнародний досвід; інтегрування експертних структур; законодавче регулювання; взаємодія.*

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Declaration of Competing Interest

Author declares no conflict of interest.

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