

Using Specific Expertise During the Investigation of Criminal Offences Committed by Professional Participants in Court Proceedings

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The Article Purpose is to clarify particularities of using specific expertise during the investigation of criminal offenses committed by professional participants in court proceedings. This study applied a set of general scientific, special legal and empirical methods, which enabled us to comprehensively and thoroughly research the problem. The appointment of forensic experts, the involvement of specialists, the provision of professional advice, and the use of digital technologies helped to reveal procedural forms of utilizing specific expertise in pre-trial investigation. Typical types of forensic examinations appointed in cases of this category were analysed: handwriting, forensic, psychiatric, technical, video and sound recording. The potential of using non-typical forms of research (such as semantic-textual or psycholinguistic) is discussed. The author reveals tendencies toward the growing role of specific expertise in ensuring the objectivity of evidence, exposing falsifications, verifying findings of investigative (search) actions and establishing boundaries within which evidence is admissible. Emphasis is placed on the inadmissibility of delegating legal assessment to forensic experts, which is contrary to the procedural model of criminal proceedings. Findings of the study will contribute to improving forensic methodologies and to normatively establishing the use of specific expertise forms in investigating crimes against justice involving professional participants in court proceedings.

Keywords: court proceedings; justice; specific expertise; forensic examination; specialist; advising.

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Research Problem Formulation

Supporting lawfulness, professional integrity and ethical standards among subjects that administer justice or ensure its functioning is the main prerequisite for public trust in the judicial system and the efficiency of the criminal justice system. Professional members in court proceedings possess special authority, and therefore play a decisive role in upholding the principles of the rule of law, adversarial nature and justice.

At the same time, analytical materials, statistics, and results of law enforcement activities demonstrate that representatives of this specific group of subjects commit certain criminal offenses that constitute a heightened threat to the public. Particularities of such crimes derive from the interplay between the official status, the access to procedural information, the availability of specific expertise and the ability to influence the course of criminal proceedings. Such offenses are often disguised as legitimate activities and implemented through complex mechanisms of abuse. Therefore, they require a thorough and professional assessment.

That is why investigating crimes committed by professional members in court proceedings requires specific expertise, including criminalistics, technical, software and hardware, etc. This expertise is necessary to identify hidden traces of unlawful activities, accurately interpret actions and decisions of officials, and ensure the objectivity and impartiality of the proving procedure.

Despite the well-recognized importance of this field, in the scientific doctrine the issue of utilizing specific expertise to investigate criminal offences committed by professional participants in court proceedings has only been examined in part

to date. The issues of determining the limits and forms of applying specific expertise, their alignment with procedural guarantees, as well as the evaluation of obtained findings in the course of proving procedure, remain problematic.

In view of the above, the present study explored the need for a careful analysis of the role, content and tactics of applying specific expertise during documentation, detection and proof of criminal offenses committed by professional participants in court proceedings. It is these aspects that constitute a scientific problem that requires comprehensive research.

Article Purpose

Define particularities of utilizing specific expertise during the investigation of criminal offenses committed by professional participants in court proceedings.

Research Methods

Methodological framework of the study has been developed taking into account the purpose and tasks of the research activities and is presented through a suite of mutually related general scientific, special legal and empirical methods, providing an integrated and systematic analysis of the issue of applying specific expertise during the investigation of criminal offenses committed by professional participants in court proceedings.

Analysing and synthesising played a central role in the methodological structure, enabling the characterization of the multidimensional phenomenon of using specific expertise in criminal proceedings and the integration of these elements into a coherent conceptual model. Employing the analysis method, particularities of utilizing specific expertise forms were identified, the specifics of typical expert

studies, as well as the nature of abuses and schemes for concealing criminal activity by professional participants in court proceedings, were outlined. Synthesis ensured the generalisation of identified patterns and the development of a logically consistent system of conclusions.

Induction helped to formulate general trends in the use of specific expertise in cases of this category based on a review of materials from investigative and judicial casework. Deduction was applied concurrently, allowing general theoretical provisions to be tested by comparing them with specific criminal proceedings.

System-structural method was employed to trace the functional relationship between the legal status of a professional participant in court proceedings, his/her powers and the nature of unlawful actions, which helped to define the role of a special subject as a component of a complex system of criminal and unlawful activities. These activities are implemented using official resources and formally legitimate procedural means.

Formal-legal method is viewed as an essential component of methodological support, which contributed to analysing the rules of the Criminal and Criminal Procedure Codes of Ukraine, the Law of Ukraine: *On Judicial Examination*, as well as other legal regulations governing the use of specific expertise. This allowed us to delineate the limits of expert research admissibility, the powers of forensic experts and specialists, and the relationship between the procedural form and the actual needs of proving.

Logical-legal method came in handy for developing a coherent legal argument and forming an internally consistent system of conclusions for organizing a scientific argument regarding the importance of specific expertise in supporting prov-

ing, for identifying hidden forms of abuse and establishing circumstances essential for proceedings.

Comparative-legal method had a distinct significance. It helped to analyse the differences in the forms of applying specific expertise across various categories of criminal offenses, specifically across general criminal offenses and those committed by professional participants in court proceedings. This contributed to the identification of unique features characteristic of offenses committed by professional participants in court proceedings, such as concealment of an act, crimes disguised as lawful behaviour, etc.

Empirical methods were also of use in the study, particularly the analysis of materials of criminal proceedings and court decisions, which served as a practical foundation for formulating conclusions about trends in expert support for investigative activities.

Only by integrating applied methods in this comprehensive study could we reach theoretically grounded and practically relevant conclusions regarding the role, patterns and prospects of using specific expertise during the investigation of criminal offenses committed by professional participants in court proceedings.

Analysis of Essential Researches and Publications

Incorporating specific expertise into pre-trial investigation is not just an optional element, but rather a determining factor in ensuring efficiency thereof. Making use of forensic examination findings, obtaining professional advice from specialists of various profiles, as well as utilizing modern technical means, can substantially enhance the procedure for improving the quality of evidentiary information, its

collection and evaluation, for minimizing investigative errors and aligning operational tasks with the principles of legal procedure and guarantees of the rights of participants in criminal proceedings.

In contemporary scholarly discourse there is growing interest in issues involving digital evidence and methods of its expert analysis as well as in the potential of specific expertise to establish guilt and determine moral harm¹. These issues are notably relevant in the context of investigating war crimes as one of the leading categories of criminal offences requiring forensic expertise². Similar attention is paid to economic crimes³, violations of information security, etc.⁴

There is a scarcity of research devoted to the issue of using specific expertise during the investigation of criminal of-

fenses committed by professional participants in court proceedings. Specific aspects of this problem were covered in a monograph by V. Hrytsenko, which elaborated on the historical aspects of establishing criminal liability for interference in judicial activities, identified current challenges in the organization of evidence, developed a forensic classification of criminal offenses against justice and outlined typical forms of utilizing specific expertise, as well as proposed methodological approaches to the effective use of expert capacity in this area⁵.

Having analysed the case law, typical types of forensic examinations (handwriting, forensic psychiatry, technical, video and sound recordings) were determined. Errors were identified during their appointment. The role of specialists in con-

- 1 Довгань О. Д., Ткачук Т. Ю., Тарасюк А. В. Counter forensics як загроза інформаційній безпеці України: проблематика судової експертизи цифрових доказів у реаліях війни. *Науковий вісник Ужгородського національного університету. Серія: Право*. 2025. Вип. 89. Ч. 2. С. 402—409. DOI: 10.24144/2307-3322.2025.89.2.61 (date accessed: 25.10.2025).
- 2 Черемнова А. І., Чернов О. В., Мурашко А. С. Комплексне використання результатів судово-медичної експертизи при виявленні, документуванні та розкритті кримінальних правопорушень, вчинених під час збройного конфлікту. *Вісник Одеського науково-дослідного інституту судових експертиз Міністерства юстиції України*. 2025. Вип. 17. С. 105—119. DOI: 10.32782/2522-9656/2025-17-11 (date accessed: 25.10.2025).
- 3 Кривун С. І. Використання спеціальних знань під час розслідування нецільового використання бюджетних коштів : дис. ... д-ра філос. в галузі права. Київ, 2025. 193 с. URL: <https://elar.navs.edu.ua/server/api/core/bitstreams/f5f0ece1-d195-49a1-b3b3-25e4e16232f5/content> (date accessed: 25.10.2025) ; Орел А. М., Чумаков Д. Д., Веріженко О. С. Теоретико-правові засади та практичне застосування спеціальних знань у протидії економічній злочинності. *Наукові інновації та передові технології. Серія «Право»*. 2025. № 4 (44). С. 1732—1743. DOI: 10.52058/2786-5274-2025-4(44)-1732-1743 (date accessed: 25.10.2025).
- 4 Колонюк В. В. Сучасні можливості використання судових експертиз при досудовому розслідуванні злочинів проти інформаційної безпеки України. *Науковий вісник Міжнародного гуманітарного університету. Серія: Юриспруденція*. 2025. Вип. 74. С. 68—72. DOI: 10.32782/2307-1745.2025.74.13 (date accessed: 25.10.2025) ; Братішко Н. До питання судової експертизи об'єктів інтелектуальної власності: предмет, завдання та межі компетенції. *Науковий вісник Дніпровського державного університету внутрішніх справ*. 2025. № 1 (134). С. 111—117. DOI: 10.32782/2078-3566-2025-1-16 (date accessed: 25.10.2025).
- 5 Гриценко В. В. Використання спеціальних знань під час розслідування кримінальних правопорушень проти правосуддя : дис. ... д-ра філос. в галузі права. Харків, 2025. 250 с. URL: https://uacademic.info/ua/document/0825U000642#google_vignette (date accessed: 25.10.2025).

ducting investigative (search) actions was clarified. Emphasis is made on the insufficient use of such forms as preliminary criminalistics research, forensic semantic and textual examinations, specialists' advice and capabilities of information technologies. A clear systematisation of specific expertise forms is proposed, outlining their significance for performing tactical and procedural tasks, etc.⁶

The use of specific expertise and modern scientific and technical achievements plays a crucial role in ensuring the efficiency of investigating criminal offenses against justice in general and committed by professional participants in court proceedings in particular. S. Knyzhenko criticized the definition that reveals leading aspects of specific expertise use during the investigation of crimes against justice. She noted that specialist assistance is required from the outset of criminal proceedings, particularly during the inspection of a crime scene, where field forensics methods and technical means of detecting traces are employed. Simultaneously, in the context of today's pre-trial investigations into crimes against justice, the investigator extensively involves specialists not only at the inspection stage, but also during other investigative (search) actions. From the scientist's perspective, appointment of forensic examinations becomes especially relevant, since it is they that make it possible to ascertain factual circumstances that require the application of specific expertise. As the researcher emphasizes, there is a need to review traditional approach-

es to the assessment of handprints given the rapid development of technology and the emergence of new falsification forms (e.g., fake dactyloscopic research objects). This also requires asking forensic experts new questions, in particular regarding the authenticity of prints, and enhancing the methodological framework for such studies⁷.

Developments already available in the field of specific expertise application during the investigation of crimes against justice fail to fully encompass complex and specific cases of offenses committed by professional participants in court proceedings. This category of cases is marked by a high level of complexity, procedural guarantees for the participants involved, and often a carefully disguised mechanism of committing a crime, which makes it much more difficult to uncover the truth exclusively with the use of traditional investigative tools.

In contrast to common criminal offenses, where the limits of permissible and impermissible are clearly defined, abuse of power by justice authorities is often of a latent, concealed nature and occurs within the limits of formally lawful behaviour. Under such circumstances, the need for an interdisciplinary approach—the engagement of specialists in linguistics, psychology, forensics, and information technologies—is not only justified, but also critically essential.

As of today, there are no coherent theoretical models or methodological approaches capable of effectively structuring

6 Гриценко В. В. Знач. твір. URL: https://uacademic.info/ua/document/0825U000642#google_vignette (date accessed: 25.10.2025).

7 Книженко С. О. Окремі аспекти використання спеціальних знань при розслідуванні злочинів проти правосуддя. *Процесуальне та техніко-криміналістичне забезпечення досудового розслідування* : тези доп. всеукр. наук.-практ. конф. (Харків, 28.11.2019). Харків, 2019. С. 82–84. URL: https://univd.edu.ua/general/publishing/konf/28_11_2019/pdf/27.pdf (date accessed: 25.10.2025).

the mechanism of using specific expertise in such criminal proceedings. This indicates the necessity for further scientific investigations.

Main Content Presentation

Efficiency of crime investigation primarily depends on the use of specific expertise and state-of-the-art scientific and technical achievements. What is more, when the prosecuting party has limited professional competence, it is important to fulfil the tasks of criminal proceedings through other means and in the manner prescribed by law. In these scenarios the task of introducing procedural forms of using specific expertise is brought to the forefront, laying the groundwork for obtaining procedural sources of evidence in criminal proceedings.

Within the framework of investigating criminal offenses committed by professional participants in court proceedings, effective application of specific expertise gains special significance due to the complexity of such cases, the degree of legal preparedness of the subjects and the specifics of unlawful acts, often manifested as formally legitimate procedural actions. In this respect, the following forms of using specific expertise are expedient and effective: involvement of a specialist in conducting individual investigative

(search) actions; initiating expert research through the appointment of forensic examinations; obtaining professional advice as well as analytical assistance in the processing, verification and interpretation of information, especially when working with large arrays of procedural data or digital evidence.

In light of this, the activity of a forensic expert as the most qualified subject tasked with utilizing specific expertise in criminal proceedings deserves special attention. As set forth in Ukrainian legislation, a forensic expert is a person who has the corresponding education, training and qualifications, who is certified in a specific area of expertise and has been authorised to conduct a forensic examination (research)⁸. Such a status implies not only a high level of professional expertise, but also observing the standards of professional ethics, objectivity and scientific validity in the course of research, as clearly established in Arts. 3 and 10 of the Law of Ukraine: *On Judicial Examination*⁹.

Independence of a forensic expert, enshrined in Art. 4 of this Law¹⁰, serves as a safeguard against external pressure or influence on research results. This is of paramount importance in cases where the parties are judges, prosecutors or investigators: persons empowered to exert procedural influence. Therefore, it is forensic examination that is the most credible form

8 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-ХІІ (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 25.10.2025) ; Інструкція з організації проведення судових експертиз та експертних досліджень в Експертній службі Служби безпеки України : затв. наказ. Центр. управл. СБУ від 30.05.2025 р. № 209 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0913-25/ed20250718#Text> (date accessed: 25.10.2025) ; Положення про Експертно-кваліфікаційну комісію при Службі безпеки України та атестацію судових експертів : затв. наказ. Центр. управл. СБУ від 02.06.2025 р. № 210. URL: <https://zakon.rada.gov.ua/laws/show/z1106-25/ed20250602#n32> (date accessed: 25.10.2025).

9 Про судову експертизу URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 25.10.2025).

10 Там само.

of using specific expertise, since its results stem from legislatively defined requirements for a forensic expert, procedural transparency, as well as scientific verification of the expert's opinion. Accordingly, the opinion is of great evidentiary value in proceedings.

Regarding the forms of specific expertise application. Here, a certain level of controversy becomes apparent. Some scientists assume the possibility of singling out exclusively the procedural forms of specific expertise use¹¹, others supplement them with non-procedural ones¹², and some note the existence of forms of a hybrid nature¹³.

When defining procedural forms and reviewing law application practice, V. Hrytsenko concluded that it is typical to engage a forensic expert to conduct forensic examinations and obtain advice from specialists during the investigation of criminal offences against justice. Predominantly, in such proceedings the following types of forensic examinations are ordered: handwriting, forensic psychiatric, psychological, forensic medical, questioned document, as well as video and sound recordings, etc. However, the capabilities of forensic semantic and textual examination remain underutilized. This is despite the substantial potential for fulfilling tactical tasks in pre-trial investiga-

tions. The researcher also underscores the extremely low usage of specific expertise in psychology¹⁴.

S. Knyzhenko highlights that in cases associated with threats or violence against persons involved in justice administration, there is a need for a forensic psycholinguistic examination. It involves determining whether threats exist, their content, and interpreting speech acts in the context of a specific communicative situation. The researcher rightly emphasizes that discussions regarding the improvement of expert support in this area continue and require a systematic methodological approach as well as adapting recent advances in related humanities disciplines¹⁵. Therefore, researchers primarily focus on the importance and possibilities of procedural forms of applying specific expertise. At the same time, they outline the prospects for expanding the use of specific expertise in criminal justice.

Traditional practical approaches to implementing particular forms of specific expertise during the investigation of criminal offences committed by professional participants in court proceedings must not be overlooked. According to the analysis of law application practice, forensic examinations are more often ordered by the prosecution representatives in this category of cases.

11 Спіцина Г. О., Бідняк Г. С. Форми використання спеціальних знань. *Теорія та практика судової експертизи і криміналістики*. 2018. Вип. 18. С. 240—248. DOI: 10.32353/khrife.2018.26 (date accessed: 25.10.2025).

12 Ревака В. М. Форми використання спеціальних пізнань в досудовому провадженні : автореф. дис. ... канд. юрид. наук. Харків, 2006. 14 с.

13 Черноус Ю. М., Лісцький А. В. Спеціальні знання у кримінальному провадженні: поняття, зміст, форми реалізації під час розслідування кримінальних правопорушень. *Юридичний науковий електронний журнал*. 2023. № 1. С. 477—480. DOI: 10.32782/2524-0374/2023-1/112 (date accessed: 25.10.2025).

14 Гриценко В. В. Зазнач. твір. URL: https://uacademic.info/ua/document/0825U000642#google_vignette (date accessed: 25.10.2025).

15 Книженко С. О. Зазнач. твір. URL: https://univd.edu.ua/general/publishing/konf/28_11_2019/pdf/27.pdf (date accessed: 25.10.2025).

For instance, in one criminal proceeding, a police officer was charged with abuse of authority or official power, accompanied by violence, as well as with illegal apprehension. As stated in the case file, the events took place in the police office, where two victims were injured during their detention. The charge was for an official of a law enforcement agency exceeding the legally granted powers, which resulted in physical violence against detainees¹⁶.

For the purpose of objectively establishing factual circumstances of a case and confirming the presence of physical injuries, their nature, mechanism of formation and degree of severity, forensic medical examinations were appointed to verify the authenticity of victims' statements as well as to qualify the act properly during the pre-trial investigation. A forensic medical report dated 15 December 2020 and prepared in respect of one of the victims, confirmed the presence of minor bodily injuries manifested as bruises, abrasions and contusions. Another report, dated 30 November 2020, confirmed that the victim had suffered a closed traumatic brain injury with a concussion, which was also classified as a minor bodily injury¹⁷.

Accordingly, appointing forensic medical examinations in this case was of paramount importance for detecting the signs of violence and assessing its legal consequences. The experts' opinions provided a sound evidentiary basis and helped ensure that the criminal proceedings were

conducted objectively and comprehensively. The use of the results of such forensic examinations within the framework of investigative and judicial activities is one of the main mechanisms for compliance with the standards of proof in cases of abuse of power by law enforcement agencies¹⁸. Simultaneously, an official's explanation of the reasons for using physical violence (suppressing detainees' physical resistance, inducing them to confess to committing a crime) may become grounds for her/his accusation. That is why it is essential to record the fact of violence, which can constitute a component of the method of criminal unlawful activity in such investigative situations.

In another criminal proceeding (involving actions committed by a law enforcement officer against life and health) that took place on 30 June 2021, it was established that the accused deliberately abused his official position and drew up knowingly false official documents (protocols for presenting an individual for photo identification), intending to artificially create evidence of guilt against a person who was not guilty. Furthermore, he failed to include the facts and circumstances that disproved the person's guilt in the documents, did not carry out the necessary investigative (search) actions and used inadmissible evidence to serve the person with a notice of suspicion¹⁹.

When investigating this case, a forensic examination, specifically a forensic handwriting examination, was ordered to

16 Вирок Кобеляц. райсуду Полтав. обл. від 11.08.2022 р. Справа № 532/96/21. Провадж. № 1-кп/532/14/2022 / ЄДРСР : вебсайт. URL: <https://reyestr.court.gov.ua/Review/105678859#> (date accessed: 25.10.2025).

17 Там само.

18 Там само.

19 Вирок Славут. міськрайсуду Хмельниц. обл. від 06.10.2025 р. Справа № 682/1696/23. Провадж. № 1-кп/682/9/2025 / ЄДРСР : вебсайт. URL: <https://reyestr.court.gov.ua/Review/130763613> (date accessed: 25.10.2025).

assess the adequacy and admissibility of investigative documents from the legal perspective, since the official's actions showed signs of deliberate tampering with these documents and abuse of official power.

To verify the authenticity of the signature origin in the protocols for presenting an individual for photo identification, a forensic handwriting examination was appointed as part of the criminal proceedings concerning the prosecution of a knowingly innocent person. The resolution on its conduct was issued on 22 February 2023. The protocols for obtaining samples of handwriting and signatures are dated 20 February 2023. Obtained samples were documented and attached to the proceedings in conformity with the provisions of the Criminal Procedure Code of Ukraine²⁰ (hereinafter referred to as the *CPC of Ukraine*)²¹.

The forensic examination findings, outlined in the expert's opinion, proved to be a key source of unbiased information on the fact of signature forgery in the protocols dated 30 June 2021, drawn up by the investigator and based on the results of identification by witnesses. The handwriting expert determined that some of the signatures in these documents did not belong to persons who, according to the protocols, were apparently present as at-testing witnesses during the investigation. This fact both substantiated the violation of the identification procedure, and directly testified to the deliberate tampering with evidence²².

Feasibility of conducting a forensic handwriting analysis in these proceedings is supported by verifying the authenticity and veracity of signatures in procedural documents in order to establish the circumstances that were decisive for developing the evidentiary basis. Under such circumstances, the expert's opinion became not only evidence of document forgery, but also a crucial component in uncovering the mechanism of tampering, which resulted in the bringing of charges under Pt. 1 of Art. 366 and Pt. 2 of Art. 372 of the Criminal Code of Ukraine²³ (hereinafter referred to as the *CC of Ukraine*)²⁴.

Therefore, the accused was charged with official forgery and bringing a knowingly innocent person to criminal liability by tampering with evidence (protocols for presenting an individual/witness for photo identification), particularly by preparing protocols with the participation of witnesses without observing procedural guarantees (without the presence of at-testing witnesses, with the imposition of identification and the introduction of unreliable information) and by subsequently using these documents as evidence for the prosecution. Hence, in the context of these criminal proceedings, the forensic handwriting examination functioned as the key mechanism in ensuring the objectivity and lawfulness thereof: it contributed to uncovering the truth, protecting individuals' rights, observing procedural guarantees, and creating a solid basis for

20 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: 25.10.2025).

21 Вирок Славут. міськрайсуду URL: <https://reyestr.court.gov.ua/Review/130763613> (date accessed: 25.10.2025).

22 Там само.

23 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 25.10.2025).

24 Вирок Славут. міськрайсуду URL: <https://reyestr.court.gov.ua/Review/130763613> (date accessed: 25.10.2025).

evaluating the actions of an official and formulating a court decision²⁵.

Criminal proceedings have been opened following the judge's notoriously unjust decisions against participants in the peaceful protest action held in Dnipropetrovsk on 26–28 January 2014. The study of motives and circumstances, and the procedural justification for adopting resolutions on the application of preventive measures, were of particular importance for qualifying the actions of the accused judge. Emphasis is placed on identifying the extent to which the judge's actions adhere to the provisions of the Criminal Procedure Law, in particular, regarding the existence of reasonable suspicion, assessment of risks, based on which the application of preventive measures is allowed, as well as concerning the adequacy of evidence²⁶.

In this respect, within the framework of the court proceedings, the prosecution submitted a conclusion from the Department of Criminal Law of Yaroslav Mudryi National Law University, which aimed to provide a legal assessment of the judge's actions on the grounds of a crime element stipulated in Pt. 3 of Art. 371 of the CC of Ukraine²⁷, as well as to clarify whether the investigator could be considered the subject of a crime. Although the court critically reviewed this conclusion and did not recognize it as evidence under criminal procedural law, its presentation and analysis had a supporting role in addressing the

issues related to the qualification of legal relations and assessing the lawfulness of the judge's actions in the context of international standards governing the administration of justice and constitutional guarantees of personal liberty²⁸.

Though it may have advisory value, we believe that a forensic expert's opinion based on legal examination is not a source of evidence in a criminal trial. Pursuant to established practice and the position of the Supreme Court, the legal qualification of an act, the definition of the subject of a crime, the interpretation of procedural rules and their application fall within the exclusive competence of the court. Assigning this task to a forensic expert contradicts the principle of optionality, adversarial nature of parties and functional separation of roles in criminal proceedings. When talking about the legal qualification of a criminal offence, the forensic expert cannot replace the court.

Moreover, legal examinations by their nature are not aimed at revealing factual circumstances of a case; therefore, they cannot confirm or refute the circumstances to be proven. The above-mentioned case was not about technical or specific expertise in the traditional sense of forensic analysis (such as trace evidence analysis, handwriting or biological examination), but rather about legal analysis of legal regulations and the qualification of a judge's behaviour: that is, about what falls within the duties of the court as a justice authority.

25 Вирок Славут. міськрайсуду URL: <https://reyestr.court.gov.ua/Review/130763613> (date accessed: 25.10.2025).

26 Вирок Ленін. райсуду м. Запоріжжя від 22.12.2023 р. Справа № 200/5046/15-к. Провадж. № 1-кп/334/41/23 / ЄДРСР : вебсайт. URL: <https://reyestr.court.gov.ua/Review/115854766> (date accessed: 25.10.2025).

27 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 25.10.2025).

28 Вирок Ленін. райсуду URL: <https://reyestr.court.gov.ua/Review/115854766> (date accessed: 25.10.2025).

Accordingly, the admission of a legal expert's opinion as expert evidence disrupts the balance between the parties, creates a risk of biased influence on the judicial assessment of evidence, and usurps the procedural functions normally performed by the court. That is why (taking into account criminal procedure tasks, the legal nature of the subject of proof and legislation requirements) the appointment and use of the results of the legal examination in this case were inappropriate and contradicted the principles of criminal proceedings.

Let us look at another example. The Dnipro District Court of Kyiv found an authorised operative of the department for combating illegal drug trafficking guilty of compiling a knowingly false report on the apprehension of a person and of committing a knowingly illegal detention (without a ruling by an investigating judge and without the grounds set forth in the Criminal Procedure Code of Ukraine, the person was forcibly taken to the police station and held there for more than seven hours)²⁹.

During the pre-trial investigation stage, the prosecution appointed a forensic handwriting examination to establish the authorship of signatures in procedural documents, particularly in protocols for presenting an individual for photo identification. The forensic examination was carried out pursuant to the investigator's ruling: experimental samples of the handwriting and signatures of the persons appearing in the relevant procedural documents, obtained in accordance with the procedure envisaged by law, were analysed. The expert's opinion became one of the pieces of evidence attached to the

case file (to clarify circumstances related to the authenticity of signatures in documents)³⁰.

Having analysed investigative and case law practice, the following general trends in the use of specific expertise during the investigation of criminal offenses committed by professional participants in court proceedings can be singled out:

- 1) Growing role of specific expertise in the investigation of complex crimes against justice. Criminal offenses committed by judges, prosecutors, investigators, police officers and other justice actors are characterized by a high level of formal soundness, which substantially complicates their detection and investigation. In such cases, classic procedural tools are insufficient, actualizing the application of specific expertise as a means of verifying evidence authenticity and exposing tampering.
- 2) Predominance of procedural forms in the use of specific expertise. In the practice of pre-trial investigation, it is common that procedural forms are utilized: appointment of forensic examinations, involvement of specialists, providing advice and obtaining analytical support. In particular, handwriting, forensic, questioned document examination, psychological and linguistic studies, etc., play a pivotal role. These forms are used both to establish the objective circumstances of a case and to verify the authenticity of actions of professional parties to the proceedings;

²⁹ Вирок Дніпр. райсуду м. Києва від 07.06.2013 р. Справа № 755/7224/13-к. Провадж. № 1-кп/755/193/13 / ЄДРСР : вебсайт. URL: <https://reyestr.court.gov.ua/Review/32273294> (date accessed: 25.10.2025).

³⁰ Там само.

- 3) Enhancing the importance of handwriting analyses in cases involving tampering with procedural documents. Practice testifies to the growing role of forensic handwriting examination in criminal proceedings related to the forgery of protocols of investigative (search) actions (e.g., presentation for identification). These forensic examinations help prove the fact of tampering and identify a person who has entered false data, which is critical for qualifying a crime and determining its subject;
 - 4) Insufficient use of expertise from related humanities. In spite of their potential effectiveness, semantic-textual, psycholinguistic, and psychological examinations remain rare. Psycholinguistic studies in cases involving psychological pressure on a person demand particular attention. Their application holds potential for revealing the hidden content of communicative acts and for evaluating context;
 - 5) Existence of a controversial practice related to the use of legal examinations. The analysis shows the practice of submitting legal opinions in cases against judges or prosecutors. At the same time, this practice has been criticised because legal qualification is the exclusive competence of the court. Lawyers' conclusions in such cases are recognized as supportive, but they do not have the status of evidence and cannot replace the court's procedural assessment. What is more, the current criminal procedural legislation prohibits the appointment of forensic examinations to resolve legal issues³¹.
 - 6) The role of a forensic expert in guaranteeing impartiality and objectivity. Given the specifics of the participants (professional participants in proceedings), it is fundamentally important for forensic experts to adhere to independence standards. Given these circumstances and the governed procedure, the special status of a forensic expert, and the obligation to observe scientific approaches, forensic examination is steadily gaining trust.
 - 7) Focus on obtaining evidence capable of proving the fact of abuse of power. In conditions where the actions of the accused have signs of formal legitimacy (for example, issuing a decision, drawing up a protocol), forensic examinations are often used to identify substantive breaches (forgery of signatures, absence of participants during the investigative procedure, fabrication of evidence, etc.), which makes it possible to prove abuse of official position or unlawfulness of actions.
- Consequently, one may observe a consistent trend towards the institutionalization of specific expertise as an essential tool in criminal proceedings for the investigation of crimes committed by professional participants in court proceedings. The practice of relying on emerging forensics fields and systematic training of specialists capable of performing interdisciplinary tasks at the intersection of law, psychology, linguistics, and information technologies should be further expanded.

31 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 25.10.2025).

Conclusions

In light of the research performed, it can be concluded that an effective investigation of criminal offenses committed by professional participants in court proceedings is impossible without extensive and well-founded use of specific expertise. Given the particularities of such offenses, their latent nature, adherence to “formal procedural requirements”, and the exercise of official powers and the use of legal procedures by the parties involved, traditional procedural measures fail to fully and objectively clarify the circumstances of a committed criminal offense. That is why appointing forensic examinations, involving specialists, obtaining advice from well-versed persons, conducting preliminary studies and deploying digital technologies are necessary means that aid in fulfilling the tasks of criminal proceedings.

According to the case law, handwriting, forensic, psychiatric, psychological, technical, video and sound recording examinations are most frequently requested in such proceedings. Forensic examinations that enable the detection of tampering with procedural documents or the confirmation of the excess of official powers are gaining significance. At the same time, the potential of expert research in psycholinguistics and semantic-textual analysis, as well as the opportunity to obtain advice from specialists in the field of information technology, has not been unlocked. This is especially relevant in the digital age, when a number of traces linked to criminal illegal activity can be detected in the digital environment.

It is furthermore essential to note that the use of specific expertise must meet the criteria of expediency, proportionality and legal certainty. Within this framework, it is impermissible to mix competences,

specifically to entrust legal assessment functions to forensic experts and specialists. Legal experts' conclusions cannot be sources of evidence: they should be regarded solely as guidelines for the prosecution's or defence's analytical work.

Therefore, incorporating specific expertise into pre-trial investigation practice is not only a technical or supporting element, but also a structural component of efficient, legal and objective criminal proceedings. Simultaneously, this requires further development of methodological support, interdisciplinary training of specialists, improvement of the regulatory framework and formation of a recognized practice that would be appropriate for applying specific expertise in cases involving professional participants in court proceedings.

Використання спеціальних знань під час розслідування кримінальних правопорушень, учинених професійними учасниками судочинства

Євген Сун

Мета статті — визначити сутність і зміст, а також особливості техніко-криміналістичного забезпечення початкового етапу розслідування кримінальних правопорушень, пов'язаних із контрабандою. Для реалізації поставленої мети застосовано загальнонаукові методи аналізу та синтезу, індукції та дедукції, а також спеціальні методи — діалектичний, системно-структурний, порівняльно-правовий і метод узагальнення. З'ясовано, що техніко-криміналістичне забезпечення є комплексом організаційних і технічних заходів, спрямованих на ефективне застосування науково-технічних засобів і методів для виявлення, фіксування, вилучення й дослідження доказової інформації. На

підставі узагальнення теоретичних підходів і практики розслідування кримінальних правопорушень з'ясовано, що особливості застосування науково-технічних засобів зумовлені слідчими ситуаціями, характерними для контрабанди, які своєю чергою визначають алгоритм слідчих (розшукових) і негласних слідчих (розшукових) дій. Перспективи вдосконалення техніко-криміналістичного забезпечення розслідування контрабанди вбачаються у поєднанні технологічних інновацій, удосконаленні методичного підходу, підвищенні кваліфікації представників органів досудового розслідування, розширенні матеріально-технічної бази й забезпеченні належного правового регулювання застосування науково-технічних засобів. Саме поєднання цих чинників здатне забезпечити точність, доказову цінність і швидкість отримання результатів слідчих (розшукових) та інших процесуальних дій, а також судових експертиз у цій складній категорії кримінальних правопорушень.

Ключові слова: криміналістичне забезпечення; досудове розслідування; початковий етап; науково-технічний засіб; спеціаліст-криміналіст.

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The author declares no conflict of interest.

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