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The thirty-sixth collection issue presents content on criminalistics, theory and methodology of forensic science, as well as information about scientific-practical conferences and educational projects and participation of the NSC staff in them.

Our authors are representatives of forensic science institutions, higher education institutions, law enforcement agencies from Ukraine and foreign countries.

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Theory and Practice of Forensic Science and Criminalistics

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Implementation of international experience in forensic expert activity of Ukraine

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In modern world, where globalization and information technologies are an integral part and condition of daily existence, the issue of improving criminal procedural legislation and forensic expert activity is of particular importance. On the way to joining the European Union, our state should, in particular, introduce European standards of justice into the work of Ukrainian criminal justice, adapt international experience to domestic realities (especially in the area of criminal procedural legislation and expert forensic activities).

Investigation effectiveness of criminal cases and the provision of justice directly depend on the objectivity of the expert examinations, efficiency of their conducting and scientific level of forensic expert conclusions. In Ukraine, there is a need to improve the mechanisms that regulate this activity, taking into account the best practices of other states. Experience of international organizations and countries with a developed criminal justice system is an important source for reforming national legislation and improving professionalism of forensic experts.

Since borrowing of international experience can significantly increase the efficiency and transparency of judicial procedures, as well as contribute to strengthening public confidence in justice in Ukraine, Research Paper Collection: *Theory and Practice of Forensic Science and Criminalistics* contains articles that consider key aspects of the implementation of

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international standards in the criminal procedural legislation of Ukraine, analyze the advantages and disadvantages of existing approaches to forensic science, special attention is paid to forensic examinations, which play an important role in the pre-trial investigation and trial of crimes and other offenses.

Currently, the Research Paper Collection: *Theory and Practice of Forensic Science and Criminalistics* is indexed in the following online databases: Google Scholar and international online databases: *Google Scholar* and international online databases: *Academic Scientific Journals Indexing*, *Bielefeld Academic Search Engine (BASE)*, *CORE*, *Crossref*, *Directory of Open Access Journals (DOAJ)*, *Directory of Open Access Scholarly Resources (ROAD)*, *Central and Eastern European online library (CEEOL)*, *ERIH PLUS*, *Eurasian Scientific Journal Index (ESJI)*, *Europub*, *Index Copernicus International*, *MIAR*, *RefSeek*, *ResearchBib*, *Ulrich's*, *WorldCat*, as well as in the Register of Scientific Publications of Ukraine and in DOI Foundation. Electronic versions of the collection are posted on the Internet on the platforms of Vernadsky National Library of Ukraine, libraries of forensic institutions of the Ministry of Justice of Ukraine, institutions of higher education of the Ministry of Internal Affairs of Ukraine, etc., which facilitates the exchange of scientific developments between the publication authors and scientists from around the world.

Like previous issues, research papers of this collection *Theory and Practice of Forensic Science and Criminalistics* are combined into two groups: *Research Papers* and *Case Notes*.

Let us briefly review the materials of the current issue. In the article *Collection and research on electronic documents using specific expertise* by Ukrainian authors **Mykhaylo Shcherbakovskyi**, Doctor of Law,

Professor, and **Viktor Sezonov**, PhD in Law, Docent, essence, form of electronic documents and their media, peculiarities of involvement of specialists and experts in their recording and research are considered and it is proved that the essence of the concepts of *electronic (digital) information*, *electronic data*, *electronic document* in criminal procedural aspect should be considered as the same thing. For ensuring admissibility of electronic documents as evidence in criminal proceedings, during investigative actions aimed at searching, detecting and recording electronic documents with the participation of an information technology specialist, it is recommended that all operations of the specialist with the carrier of electronic documents should be recorded (in writing in the protocol or by means of video recording) or an electronic communications or computer forensic science should be appointed at the inspection (search and seizure).

Mykhaylo Shepitko, Doctor of Law, Professor, **Kateryna Latysh** (PhD in Law, Docent, Doctoral Student of the MS-CA4Ukraine Program of Vilnius University (Republic of Lithuania) in the *Use of artificial intelligence in forensic science* research paper scientific work explored the unique importance of artificial intelligence for certain areas of forensic expert activities, in particular: identification of a person based on appearance, fingerprints and DNA; document research; analysis of digital information, etc.

Section containing research papers continues with the article: *Specific expertise use during investigation of misappropriation of enterprise, institution, organization property* by **Vlada Huseva**, Doctor of Law, Professor and **Serhii Stetsenko** PhD student (both Ukraine) that examines the forms specific expertise application of special knowledge, the grounds for their applica-

tion and tasks; an approximate list of specialists whose involvement may be needed during the investigation of the facts of illegal appropriation of the property of an enterprise, institution, or organization is outlined; it is noted that the criminal offenses provided for in Art.206-2 *Illegal acquisition of property of an enterprise, institution, organization* of the Criminal Code of Ukraine, differ in the method of execution, the identity of the criminal, consequences and other forensic features; certain aspects of specific expertise use during investigations under this article, etc. are considered.

Research paper by **Serhii Tiulieniev**, PhD in Economics (Ukraine) is devoted to clarifying the specifics inherent in victims of criminal offenses related to illegal takeover and seizure of assets and corporate rights thereto and to determining tactical specifics of conducting procedural actions involving victims. The author considers the needs and typical problematic issues of investigative practice: author characterizes the victim personality of criminal offenses related to corporate raid, indicates their victimization; identifies typical forms of participation of victims and their representatives in relevant criminal proceedings; identifies those investigative (search) actions which victims most often participate in; outlines the prosecution algorithm. Prospects for further research are outlined.

Volodymyr Popov, PhD in Law (Ukraine) in the manuscript: *Scientific support of pre-trial investigation of interference in activities of public authorities* focused on the problems of bringing a person to criminal responsibility for committing criminal offenses of this category, the peculiarities of their criminological characteristics, the development of methods for preventing them and scientifically based

recommendations for their pre-trial investigation, and also proposed to use the term *interference in the activities* to denote illegal activities related to any interfering with the activities of representatives of public authorities. The author paid special attention to the prospects for further research within the framework of the issues raised.

In the following research paper *Price lists for amber products as a tool of expert evaluation: gemological and legal principles* by **Petro Baranov** Doctor of Geological Sciences, Professor, **Roman Kirin** Doctor of Law, Docent and **Olena Slyvna** PhD in Geology (all from Ukraine) developed an algorithm for determining the value of amber products based on dependence of commercial value of the product on gemological and physical quantitative and qualitative indicators (as well as the estimated value of raw materials) and which allows (using the example of calculations of the value of beads and bead necklaces) to offer reasonable price lists for amber products and compile improved price lists for amber raw materials. It is proposed to consider the percentage ratio of the indicator of the cost of raw materials to the cost of the product as the limit, below which the production of amber balls is devoid of profitability. Objectivity and reliability of the obtained results is guaranteed by the software created according to the real indicators of quality of raw materials (color, weight, size, transparency) and the technological process of the production of commercial products.

The research section concludes with the article: *Praxeological principles of forensic veterinary examination: issues and optimization of ways to their solving* by **Ivan Yatsenko**, Doctor of Veterinary Medicine. The author elucidates the influence of praxeological assets on stimulating the development of special veterinary knowledge in

the context of formation of the concept of effective forensic veterinary activity, argues peculiarities of the praxeological approach in the forensic veterinary field, and also focuses on the developing and improved theories, methodologies and praxeology of forensic veterinary expertise, which is the basis for improving the efficiency of the judiciary. The scientist proposes the newest praxeological construction of the domestic forensic veterinary examination, an addition to the Criminal Procedural Code of Ukraine (regarding mandatory appointment of a forensic veterinary examination to clarify the nature and degree of severity of damage caused to the animal health, as well as to establish the cause of its death) and Scientific and methodological recommendations on issues of preparation and appointment of forensic examinations and expert studies (expansion of the range of questions that are asked to the forensic veterinary expert during appointment of the relevant examination).

The Case notes section opens the content: *The International Experience in Preventing Service Offences by Forensic Science Authorities' Personnel: Advancing the Legal Framework* by **Oleksii Korniev**, PhD in Law (Ukraine) and **Sertan Alibekiroğlu** Doç. Dr., Lecturer, Gaziantep University, Şehitkamil - Gaziantep, (Turkey). The authors analyzed application of approaches to the prevention of official offenses in the activities of forensic institutions in Germany, France, Poland, and the Baltic countries; investigated how this experience can be adapted to Ukrainian realities, and proposed specific measures that will contribute to increasing the effectiveness of preventive activities.

The article *Experience of European States in Development of Institutions of Legal Aid and Protection in Criminal Proceedings* by Миколи Коломойцева Doctoral

Student PhD in Law (Ukraine): describes typical mistakes in activities of law enforcement agencies and defenders at the stage of pre-trial investigation, which significantly affect the international principles of protecting a person from criminal prosecution.

Inessa Ovsianynykova, PhD in Law, **Olena Stepanova**, and **Iryna Shevchenko** (all from Ukraine) devoted their manuscript to the problematic issues of forming research competence of forensic experts, determining the ways to overcome them and outlining the system elements of the research competence of a forensic expert. Scientists emphasize importance of integration with European educational standards and the implementation of international experience of the best world practices in the use of educational technologies and programs that will contribute to increasing the level of professional training of Ukrainian forensic experts. The researchers note that experts who are well versed in forensic science and law, who analyze incoming information quickly and efficiently, are able to apply the most effective methods to perform their expert tasks, and conclude that a high level of education and training of forensic experts is important to ensure effectiveness of forensic science activity in Ukraine.

The final article of this issue: *Formation and Essence of Representation Institution in Criminal Procedure of Ukraine* by **Ivan Iemets** (Ukraine) PhD in Law, Doctoral Student of NSC «Hon. Prof. M. S. Bokarius FSI» by reveals the issue of improving and expanding practical mechanisms for guaranteeing the rights of victims whose individual rights and legitimate interests have been violated by a committed criminal offense. The scientist proposes to understand the representation of the interests of the victim in criminal proceedings as a form of advoca-

cy, which consists in providing the victim of a criminal offense with professional legal assistance to ensure his rights and legitimate interests during the pre-trial investigation, court proceedings and procedural actions that can be carried out before the start of the pre-trial investigation. The researcher is sure that the focus of the victim's representative's activities in a broad sense is determined by the tasks of criminal proceedings, and in a narrow sense by protecting the interests of the victim and restoring his violated rights, compensation for the caused damage.

The last pages of the 36th issue of Research Paper Collection: Theory and Practice of Forensic Science and Criminalistics contain a section reflecting the current events of scientific life. This time the Editorial Board of the collection could not ignore international and all-Ukrainian events, in which, despite military aggression of the Russian Federation against Ukraine, employees of Research Paper Collection: *Theory and Practice of Forensic Science and Criminalistics*. Conducted

at a high scientific level, such events demonstrate the invincibility of Ukrainian scientists and practitioners to adverse conditions of martial law.

Editorial Board of the edition expresses its sincere gratitude to the authors who provided materials for publication, as well as to the employees who participated in the preparation for printing. Your interesting achievements enrich our publication. We also invite foreign and Ukrainian scientists and practitioners, employees of expert institutions, higher education institutions, law enforcement agencies, courts, etc., submit their scientific developments for publication on the pages of our collection. The fruitful cooperation of the editorial board with the authors is the key to successful work on new issues of *Research Paper Collection: Theory and Practice of Forensic Science and Criminalistics* and contributes to continuous scientific development even in difficult conditions of war!

Together to the victory!
Glory to Ukraine!

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Collection and research on electronic documents using specific expertise

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This research paper purpose is to use modern general and special methods of scientific knowledge to investigate the essence, form of electronic documents and their carriers, the specifics of the involvement of specialists and experts in their search, recording and research. It has been proven that the essence of the concepts “electronic (digital) information”, “electronic data”, “electronic document” in the criminal procedural aspect should be considered identical. It is shown that in the broadest sense an electronic document is any information presented in electronic form, in a narrow sense it is a document with mandatory electronic details. It is argued that electronic documents are placed on physical or electronic media in the form of files. Physical media are digital devices on which electronic documents are stored, and electronic media (electronic environment) are global or local networks, cloud storage, various electronic registers. It is substantiated that in criminal proceedings physical media are physical evidence (Article 98 of Criminal Procedural Code of Ukraine) or appendices to the protocols of investigative actions in the form of carriers of copies of electronic documents (Article 105 of this Code), and documents removed from electronic media are evidence documents (Article 99 of

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this Code). For admissibility of electronic documents as evidence in criminal proceedings during investigative actions for the search, detection and recording of electronic documents with the participation of an information technology specialist, it is recommended to necessarily record (in writing in the protocol or with the help of a video recording) all operations of the specialist with the carrier of electronic documents or appoint an electronic communications examination or a computer examination at the place of inspection (search).

Keywords: *electronic documents; electronic (digital) information; information carriers; electronic data; digital evidence; specific expertise; specialist; forensic expert; forensic science.*

Research Problem Formulation

Currently, the latest information technologies are actively used in everyday activities: they have become an integral part of modern society. At the same time, information technologies are used in illegal activities for creation of malicious programs, forged documents, interference in computers and computer networks, committing fraudulent actions, embezzlement and other offenses as a component of the method of committing crimes. Modern criminals are especially active in using the resources and capabilities of the Internet, social networks, e-mail and instant messaging services, means of anonymization and remote access, technologies for creating and disseminating unconfirmed facts, etc. Consequently, many evidences in criminal proceedings today have a digital (electronic) form requiring their collection, storage, processing and analysis during criminal proceedings. Information in electronic (digital) form includes virtual assets, websites, web pages, text and graphic images, plans, photographs, video and audio recordings, multimedia and voice messages, databases and other components that can be considered electronic documents.

There is no need to prove the need for innovations in the criminal procedural field, in methods and instrumental methods of searching, reviewing, extracting and researching electronic documents. Despite the presence of separate legislative acts, numerous scientific publications and methodological recommendations, in the criminal process there remain a number of problems related to the interpretation of the concepts of *digital information, electronic documents, electronic data, digital evidence*, which negatively affects investigative and judicial practice. Taking into account peculiarities of electronic documents, issues of turning them into evidence, developing rules for collecting, preserving, researching and using digital information in evidence based on specific expertise are urgent.

The issues of collecting and researching on electronic documents, created directly in computer tools and their systems, on information carriers, in a virtual environment are due primarily to the need to apply specific expertise. During investigation of criminal offenses, difficulties in working with electronic documents are caused by gaps in the legislation, insufficient knowledge of law enforcement officers in the field of computer technologies, the need to use complex licensed

equipment, and mandatory involvement of specialists of various profiles in conducting investigative (search) actions. In recent years, electronic documents have become objects of research in many types of forensic examinations which has caused a number of theoretical, legal and organizational problems, significantly influenced the methodology and methodology of forensic expert research, competence of forensic experts.

Article Purpose

Determine the essence, form of electronic documents and their carriers, specifics of involving specialists and experts in their search, recording and research..

Research Methods

During research, general and special methods of scientific knowledge were applied. Theoretical analysis and synthesis (induction, deduction, comparison, analogy, abstraction, classification) came in handy for summarizing content from literary sources, positions of authors on certain issues related to the research subject; examination and substantiation of the concept electronic documents, their importance while proof procedure was carried out by the system-structural method; the formal-legal method helped reveal the specifics and criteria for involving a specialist in investigative actions. The mentioned methods were used as interconnected and complementary, which contributed to research completeness and validity of formulated scientific conclusions and proposals.

Analysis of Essential Researches and Publications

The concepts, types, methods of collecting and researching electronic documents and digital evidence in the criminal process were analyzed by domestic scientists H. Avdieieva, D. Alieksieieva-Protsiuk, N. Akhtyrskaya, O. Bryskovska, O. Harysymiv, S. Honhalo, M. Hutsaliuk, I. H. Kallancha, A. Kovalenko, I. Krytska, S. Marko, Yu. Orlov, L. Ostapchuk, A. Ratnova, O. Riashko, O. Samoilenko, A. Skrypnyk, I. Smal, A. Stolitnii, I. Kharaberiush, V. Khakhanovskiy, A. Khytra, D. Tsekhan, S. Cherniavskiy, H. Chyhryna et al. A number of research papers by these and other authors were devoted, in particular, to the issues of involving expert witness in collection and research on electronic documents. However, certain aspects of the essence of electronic documents, specific expertise use regarding their detection, recording, extraction and research have not been fully analyzed that necessitates a more thorough analysis of outlined issues.

Main Content Presentation

Given the lack in the doctrine of criminal procedural law of Ukraine of a definition of the concept of *electronic documents* in the context of disclosing the purpose of our research, it is important to find out essence, specifics of these objects, relationship with other related categories of information technology.

In modern legislation, the concept of *document* is interpreted as “material object that contains information, the main functions of which are preserved and transferred to the world”¹ or “material form of

1 Про інформацію : Закон України від 02.10.1992 р. № 2657-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2657-12#Text> (date accessed: 02.06.2024).

possession, saving, editing and expanding information recorded on the paper, magnetic, film, photo film, optical disk or other media”². Another important concept of *document* in place of DSTU 2732:2004 (that has foregone DSTU 2732:2023) is “information recorded on a material basis, the main function of any “Save and transmit it in time and space”³. However, at different times, legislators gave different meanings: on the one hand, the document was perceived as material information, on the other hand, as the information itself. However, these concepts are not the same.

Information is defined as “any information and/or data that can be stored on tangible media or displayed electronically”⁴. Electronic (digital) information (digital content) is “any information or data in electronic (digital) form containing objects of copyright and/or related rights and can be stored and/or distributed in the form of one or more files (parts of files), records in a database on the storage device

es of computers, servers, etc. on the Internet”⁵.

The Criminal Procedural Code of Ukraine does not have the concept of *electronic digital information*, but mentions *electronic data*, the which review is carried out by the investigator, prosecutor in accordance with Art. 237⁶. The concept of *electronic data* in the regulatory documents is defined as “any representation of facts, information or concepts in a form that is suitable for processing in a computer system, including a program that is suitable for causing the execution of certain function by a computer system, *data* is defined as information presented”⁷, in a form suitable for processing by electronic means”⁸, and *electronic data* is defined as any information *in electronic form*⁹. It is worth noting that, by its very nature, electronic (digital) information is a binary code written with zeros and ones and designed to be read, processed and transmitted by information technology. In its original form, it

- 2 Про обов’язковий примірник документів : Закон України від 09.04.1999 р. № 595-XIV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/595-14#Text> (date accessed: 02.06.2024).
- 3 ДСТУ 2732:2004 Діловодство й архівна справа Терміни та визначення понять [Не чинний від 29.02.2024]. Київ, 2005. С. 2. URL: http://old.loga.gov.ua/netcat_files/4895/4106/h_7d-602cb292dd3a86478915757d0425f9 (date accessed: 20.08.2024).
- 4 Про інформацію ... URL: <https://zakon.rada.gov.ua/laws/show/2657-12#Text> (date accessed: 20.08.2024).
- 5 Про авторське право і суміжні права : Закон України від 01.12.2022 р. № 2811-IX (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2811-20#Text> (date accessed: 02.06.2024).
- 6 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: 20.05.2024).
- 7 Конвенція про кіберзлочинність : прийнята Ком. міністр. Ради Європи 08.11.2001 р. ; ратифік. Законом України від 07.09.2005 р. № 2824-IV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/994_575#Text (date accessed: 02.06.2024).
- 8 Про електронні документи та електронний документообіг : Закон України від 22.05.2003 р. № 851-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/851-15#Text> (date accessed: 02.06.2024).
- 9 Про електронну ідентифікацію та електронні довірчі послуги : Закон України від 05.10.2017 р. № 2155-VIII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2155-19#Text> (date accessed: 02.06.2024).

is not suitable for human perception: only computer tools make it understandable for people.

Important characteristic of electronic documents is the way they are stored in a file format, which scientists propose to consider as a criminal procedural form of digital information¹⁰. There are various file formats used for preparing, processing, and storing electronic documents. File formats are usually divided into text ones (.txt, .rtf, .pdf, .doc (.docx), etc.), graphic (vector ones: .dxf, .tps, .cgm, etc.; raster ones: bmp, .tiff, .gif, .jpeg, etc.), spreadsheets, databases, video and audio, archival storage (.pdf, etc.) and so-called markup languages that allow displaying information about the document (.sgml, .html, .xml).

Legislators define an electronic document as “document where information is recorded in the form of electronic data, including mandatory document details¹¹.” Scientists call an electronic document information in electronic (digital) form that can be used “as evidence of a fact or circumstance established during criminal proceedings”¹². The analysis of the given wording gives reason to believe that in the criminal procedural aspect, the concepts: *electronic (digital) information*, *electronic data*, *electronic document* can be used as synonyms. However, from a practical and

procedural point of view, it is advisable to distinguish the concept of electronic documents in a broad and narrow sense. In the first sense, an electronic document should be considered any information presented in electronic form, which formation and existence occurs thanks to special software and technical means¹³. It is worth noting that the concept of electronic document in a broad sense covers many different categories, namely: accounting and tax reporting documents, Internet pages, websites, audio and video recordings that are created, transmitted, received in electronic form, messenger pages, correspondence through e-mail, etc. In the narrow sense, an electronic document is a document that has electronic details: mandatory data (for example, an electronic signature or an electronic seal), without which it cannot be the basis for its accounting and will not have legal force. The visual form of presentation of an electronic document is a display of the data it contains by electronic means or on paper in a form suitable for human perception of its content¹⁴.

Concept of electronic document is inseparable from its carrier, material object or environment capable of storing the entered information in its structure. A medium for storing electronic (digital) data is defined as “material medium used

- 10 Метелев О. П. Цифрові докази у кримінальному процесі: видова характеристика. Вісник кримінального судочинства. 2023. № 1—2. С. 50. DOI: [10.17721/2413-5372.2023.1-2/42-53](https://doi.org/10.17721/2413-5372.2023.1-2/42-53) (date accessed: 02.06.2024).
- 11 Про електронні документи ... URL: <https://zakon.rada.gov.ua/laws/show/851-15#Text> (date accessed: 02.06.2024).
- 12 Остапчук Л. Г., Смаль І. А. До питання правової природи електронного документу та його місця у системі доказів кримінального процесу. Прикарпатський юридичний вісник. 2022. Вип. 2 (43). С. 124. DOI: [10.32837/pyuv.v0i2.1028](https://doi.org/10.32837/pyuv.v0i2.1028) (date accessed: 02.06.2024).
- 13 Хижняк Є. С. Особливості огляду електронних документів під час розслідування кримінальних правопорушень. Держава та регіони. Серія: Право. 2017. № 4 (58). С. 81. URL: http://www.law.stateandregions.zp.ua/archive/4_2017/15.pdf (date accessed: 02.06.2024).
- 14 Про електронні документи ... URL: <https://zakon.rada.gov.ua/laws/show/851-15#Text> (date accessed: 02.06.2024).

for recording, storing and reproducing information processed by computer equipment”¹⁵. With the aim of more effective application of specific expertise for collecting and researching electronic document carriers and taking into account their nature, it is advisable to combine such carriers into two groups: material and electronic. Physical media during investigation are important as objects that directly contain forensically significant information in the form of electronic document files. Electronic documents in this case have evidentiary value when they are combined with a specific material medium seized in a specified place from a specific person under certain circumstances as evidence of a fact or circumstances that are being investigated during criminal proceedings. Tangible media can be: an object for storing digital data used in standard computers (hard, flexible, optical, magneto-optical disks; digital devices with similar functions); mobile phones, personal digital assistants (PDAs), personal electronic devices (PEDs), memory cards; mobile navigation systems; digital photo and video cameras (in particular, CCTV); a standard computer with network connections; networks based on TCP/IP and other digital protocols, as well as devices with functions similar to the above¹⁶.

Electronic carriers of documents are the electronic environment: global and lo-

cal networks, cloud storage, various electronic registers (weapons, property rights to real estate, ownership rights to real estate, mortgages, prohibitions on alienation of real estate objects, reimbursement of value added tax, etc.). Due only to information they contain, electronic documents have an independent evidentiary value regardless of the physical medium. The proposed division of electronic document carriers correlates with the decisions of the Supreme Court of Ukraine, according to which the main feature of an electronic document is the lack of a rigid attachment to a specific material carrier that is only a way of preserving information and is relevant only when the electronic document is physical evidence. The same electronic document can exist on different media. All “copies of an electronic document that are identical in their content can be considered as originals and differ from each other only by the time and date of creation”¹⁷.

Summarizing the above, we come to the conclusion that a certain material or electronic medium can contain an electronic document (digital information) in the form of corresponding file.

Electronic document acquires the status of evidentiary information only when it is found, and its content, special features and characteristics, etc. are documented and transformed into a written

15 ДСТУ 7448:2013 Інформація та документація. Бібліотечно-інформаційна діяльність. Терміни та визначення понять [Чинний від 01.07.2014]. Київ, 2014. 42 с. URL: <https://lib.nure.ua/storage/app/media/nmbk/doc/dstu.pdf> (date accessed: 02.06.2024).

16 ДСТУ ISO/IEC 27037:2017 Інформаційні технології. Методи захисту. Настанови для ідентифікації, збирання, здобуття та збереження цифрових доказів (ISO/IEC 27037:2012, IDT) [Чинний від 01.01.2019]. Київ, 2018. 31 с. URL: http://online.budstandart.com/ua/catalog/doc-page?id_doc=74978 (date accessed: 02.06.2024).

17 Постанова Верховн. Суду України від 10.09.2020 р., справа № 751/6069/19, провадж. № 51-1704км20 / ЄДПСУ : офіц. сайт. URL: <https://reyestr.court.gov.ua/Review/91722819> (date accessed: 02.06.2024) ; Постанова Верховн. Суду України від 26.01.2021 р., справа № 236/4268/18, провадж. № 51-3124км20 / Там само. URL: <https://reyestr.court.gov.ua/Review/94905297> (date accessed: 02.06.2024).

and visual document available for unambiguous perception by all participants in the criminal proceedings. In order to use electronic documents as evidence during criminal proceedings, they should be obtained in accordance with the procedure provided by the law¹⁸. The need to use electronic documents (computer data, electronic (digital) information) in evidence has led to a lively discussion among scholars regarding identification of a new type of source: *digital evidence*¹⁹. It is necessary to support the proposal to legally enshrine the definition of *electronic (digital) evidence* in the Criminal Procedural Code of Ukraine, as formulated in Art.100 of the Civil Procedure Code of Ukraine²⁰ or the International Standard

ISO/IEC 27037:2017²¹. However, within the limits of current criminal procedural law, scholars and practitioners suggest considering electronic documents as evidentiary documents²², as physical evidence²³, or as both of these categories²⁴. Our approach is based on the proposed division of electronic document carriers, according to which documents extracted from electronic carriers should be considered evidence documents (Article 99 of Criminal Procedural Code of Ukraine), and physical carriers should be considered material evidence (Article 98 of Criminal Procedural Code of Ukraine) or appendices to the protocols of investigators and secret investigative (search) actions in the form of disks, flash drives

- 18 Авдеева Г. К. Проблеми визначення достовірності цифрових доказів у кримінальному провадженні. *Вісник Луганського навчально-наукового інституту імені Е. О. Дідоренка*. 2024. Вип. 1 (105). С. 33—48. DOI:10.33766/2786-9156.105.33-48 (date accessed: 02.06.2024).
- 19 Гутник А. В., Хитра А. Я. Кримінальні процесуальні та криміналістичні основи використання електронних документів у доказуванні : кол. моногр. Львів, 2022. С. 34. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/4725/1/%d0%93%d1%83%d1%82%d0%bd%d0%b8%d0%ba%2c%20%d0%a5%d0%b8%d1%82%d1%80%d0%b0_%d0%bc%d0%be%d0%bd%d0%be%d0%b3%d1%80%d0%b0%d1%84%d1%96%d1%8f_21_06_2022.pdf (date accessed: 02.06.2024) ; Ковальчук С. О. Вчення про речові докази у кримінальному процесі: теоретико-правові та практичні основи : дис. ... д-ра юрид. наук. Одеса, 2018. С. 154. URL: <https://dspace.onua.edu.ua/bitstreams/94e3af63-a41b-4f31-8a68-07c2b8bc430b/download> (date accessed: 02.06.2024) ; Скрипник А. В. Використання інформації з електронних носіїв у кримінальному процесуальному доказуванні : дис. ... д-ра філос. у галузі права. Харків, 2021. С. 102.
- 20 Цивільний процесуальний кодекс України від 18.03.2004 р. № 1618-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.06.2024).
- 21 ДСТУ ISO/IEC 27037:2017. URL: http://online.budstandart.com/ua/catalog/doc-page?id_doc=74978 (date accessed: 02.06.2024).
- 22 Бідняк Г. С. Використання спеціальних знань при розслідуванні шахрайств : дис. ... канд. юрид. наук. Дніпро, 2018. С. 142 ; Гонгало С. Й. Судова техніко-криміналістична експертиза документів: сучасні можливості дослідження та перспективи розвитку : дис. ... канд. юрид. наук. Київ, 2013. С. 121.
- 23 Крицька І. О. Речові докази у кримінальному провадженні : монографія. Харків, 2018. С. 67 ; Гутник А. В., Хитра А. Я. Зазнач. твір. С. 25. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/4725/1/%d0%93%d1%83%d1%82%d0%bd%d0%b8%d0%ba%2c%20%d0%a5%d0%b8%d1%82%d1%80%d0%b0_%d0%bc%d0%be%d0%bd%d0%be%d0%b3%d1%80%d0%b0%d1%84%d1%96%d1%8f_21_06_2022.pdf (date accessed: 02.06.2024).
- 24 Остапчук Л. Г., Смаль І. А. Зазнач. твір. DOI: 10.32837/pyuv.v0i2.1028 (date accessed: 02.06.2024).

with copies of documents (Article 105 of the Criminal Procedural Code of Ukraine of Ukraine)²⁵. We emphasize that, according to our concept, physical evidence is the physical medium itself and not the electronic document that is a peculiar sign, a characteristic of the medium and has no independent evidentiary value.

Despite the existing legal conflict, legislators provided for a certain list of investigative actions aimed at forming sources of evidence, which content are electronic documents, taking into account the characteristics of media and methods of working with them. Thus, electronic documents in the form of electronic data can be detected in case of temporary access to electronic information systems, computer systems or their parts, mobile terminals of communication systems (Article 160 of Criminal Procedural Code of Ukraine), search (Article 236 of the Criminal Procedural Code of Ukraine), inspection (Article 237 of the Criminal Procedural Code of Ukraine), removal of information from electronic communication networks (Article 263 of Criminal Procedural Code of Ukraine) or electronic information systems (Article 264 of Criminal Procedural Code of Ukraine)²⁶. During procedural actions, complete copy-

ing of information from objects of inspection, search, access is allowed; if necessary, to reveal criminally relevant information, an examination is appointed under Art.242 of Criminal Procedural Code of Ukraine²⁷ (in our case, a computer-technical examination of seized physical evidence or carriers of copied information).

Impossibility of direct perception of an electronic document and the need to use software and hardware for this is one of the most important features of this object, which distinguishes it from analog documents (documents on paper) and requires specific expertise use to provide such an electronic document with a form accessible to the participants in criminal proceedings. Peculiarities of searching, recording and copying computer data during investigative actions are widely covered in the forensic literature²⁸. At the same time, a number of problems regarding the application of specific expertise for collection and research on electronic documents during criminal proceedings remain unresolved.

One of leading participants in investigative actions related to detection and seizure of electronic documents is a specialist (Article 71 of Criminal Procedural Code of Ukraine)²⁹, which is due to the need to

25 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 20.05.2024).

26 Там само.

27 Там само

28 Коваленко А. В. Організація і тактика проведення огляду комп'ютерних даних. *Науковий вісник Херсонського державного університету. Серія: юридичні науки*. 2023. Вип. 4. С. 53—58. DOI: 10.32999/ksu2307-8049/2023-4-9 (date accessed: 02.06.2024) ; Лісниченко Д. В. Особливості вилучення за допомогою технічних засобів інформації з мобільних терміналів зв'язку (смартфонів) під час кримінального провадження. *Південноукраїнський правничий часопис*. 2022. Вип. 1—2. С. 120—125. DOI: 10.32850/sulj.2022.1-2.22 (date accessed: 02.06.2024) ; Чигрина Г. Електронні документи: залучення спеціаліста до збирання та використання під час кримінального провадження. *Jurnalul juridic național: teorie și practică*. 2017. № 3. С. 134—137. URL: <http://www.jurnaluljuridic.in.ua/archive/2017/3/30.pdf> (date accessed: 02.06.2024).

29 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 20.05.2024).

provide electronic documents with a form visually accessible to procedure participants, apply specific methods and technical means to detect and store the necessary information for the purpose of its further expert research. Like any participant in an investigative action, a specialist is endowed with special rights and obligations regarding specific expertise application. Information technology specialist is involved in the search, fixation and seizure of electronic documents.

The first thing to pay attention to is the situational nature of the involvement of specialist affecting the need to apply specific expertise, specialist choice, tools, techniques for searching, recording and saving electronic documents. The general algorithm for the inspection of a separate physical carrier includes the following stages: 1) external inspection and identification; 2) checking availability of cable or wireless connections (cell adapters, contactless communication, etc.), disconnecting cables and external devices; 3) overview of computer information (installed and used applications, file system, running processes) on the medium; 4) saving (copying) information from the RAM; 5) regular shutdown of the device and copying of permanent memory (hard media or hard magnetic disk); 6) compilation of the protocol and packaging of the removed, taking into account the type of media and the possibility of wireless control of it. Not all investigative situations require the involvement of an information technology specialist. In simple situations where the physical medium is in a disabled state and should be removed as physical evidence; when the medium is unlocked, the investigator knows exactly the name of the document (file, web page, etc.) and there is no need to search for it, it is possible to dispense with the involvement of a specialist.

Viewing and capturing an image of a document is quite accessible to an investigator with basic computer skills. For stages 1, 2 and 6, a camera, portable work computer (laptop) of the investigator with a typical set of programs and a printed device (printer), forceps and a protective wrapper with packaging are sufficient. A difficult, problematic situation arises due to the lack of a password for access to work on a computer device; the unknown presence and name of a document relevant to the investigation; need to completely copy the information content of the tangible medium if it is impossible to remove the information medium itself or stop (turn off) automated systems. Implementation of stages 3, 4 and 5 requires the use of additional specific expertise and tools. In this situation, involvement of information technology specialist is mandatory.

The need for mandatory involvement of specialist is due to difficulties associated with the search and identification of electronic documents on media that are important for the investigation, which are especially relevant during the inspection (search) of large computer networks, which operation cannot be suspended due to their critical importance for production processes that cannot be interrupted. In addition, it is often technically impossible to remove them completely from the crime scene, and even if it were possible, large amount of information to be studied would make it impractical. In such a situation, specific devices with necessary information should be identified in the network, located and investigated separately. Computer system of even the simplest corporate network includes employee workstations, servers, including mail and proxy servers, domain controllers, routers, switches, and cabling. Elements of the network (cable and wireless, cor-

porate or local network and its whole segments) can be located not only in different premises of the building, but also in different geographical regions (for example, if the technology of virtual (logical) channels, cross-border, cloud system is used to organize the network, then processing of information, which is the most difficult during organization and conducting review, requires mandatory use of tools and methods). Similar situation can arise at the site of inspection (search) in case of detection of digital devices connected to a remote information storage, in particular a cloud one, or during an inspection of the premises of a hosting service provider that rents out computing power, servers that are physically located in different regions of the country or encrypted. In the relevant methodological recommendations, specialist was asked, for example, search for documents in a remote computer network resource, overcome computer blocking and to perform other manipulations³⁰. Under such circumstances, role of a specialist, who no longer has to perform routine actions, increases many times over: now a long creative research work awaits him. In such a situation, the participation of a specialist in the field of information technologies during investigative actions consists in carrying out manipulations with computer means that are inaccessible and mostly incomprehensible to the participants of the investigative action: the investigator, witnesses, owners of the means.

In the protocol of investigative action (in accordance with Article 103 of Criminal Procedural Code of Ukraine) it is necessary to describe all operations and transitions carried out during examination (search) of the computer tool³¹. At the same time, as stated above, these actions are not obvious to the rest of the participants, and can last longer than a reasonable period of time for the investigative action, in addition, specialist makes changes in digital environment with his actions that are not related to a criminal offense.

Two methods can be recommended to ensure admissibility of electronic documents as evidence obtained during investigative activities involving an information technology specialist. The first is the recording of each specialist's action (video recording, printing, screenshots of web pages, etc.) so that, in case of doubts about the correctness of receiving electronic documents, each specialist's operation with physical or electronic media can be reviewed and checked. The second way (when the search for electronic documents both in physical media and in cyberspace requires complex manipulations with the use of software and technical means) is the appointment of a forensic examination at the place of inspection (search)³². In this case, the entire procedure of searching and fixing electronic documents is described in the research part of the expert's conclusion.

Another issue that has not received sufficient attention is the determination of

30 Гуцалюк М. В., Гавловський В. Д., Хахановський В. Г. та ін. Використання електронних (цифрових) доказів у кримінальних провадженнях : метод. рек. / за заг. ред. О. В. Корнейка. Київ, 2020. Вид. 2-ге., допов. С. 23, 29. URL: <https://elar.naiu.kiev.ua/server/api/core/bitstreams/8e9e5637-7b62-475c-8c41-9850e317bfc4/content> (date accessed: 02.06.2024).

31 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 20.05.2024).

32 Щербаківський М. Г., Пашнев Д. В. Розслідування комп'ютерних злочинів : навч. посіб. Харків, 2010. 116 с. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/2b0c8656-bc78-4c21-8ff0-3808403f00ca/content> (date accessed: 02.06.2024).

the competence of the specialist involved in investigative actions. In the field of knowledge “Information technologies” (in accordance with the decree of the Cabinet of Ministers of Ukraine), various specializations are acquired: *Software engineering, Computer science, Computer engineering, System analysis* ³³, *Cyber security and information protection, Information Systems and Technology*, each of which has a specific subject related to software; software and technical means; information technologies; telecommunication systems, collection, presentation, processing, storage, transmission and access to information in computer systems, etc. Thereby, at preparatory stage of conducting investigative actions, the investigator should outline the purpose of the inspection (search), specifics of the carrier of electronic documents, their type and appearance, and determine the specialist's competence.

Forensic research on electronic documents is the main procedural form of application of specific expertise. Material evidence, which consists of electronic documents, as well as copies of these documents, which are appendices to the protocols of investigative actions, are procedural objects of research in such examinations: video and sound recording, linguistic, photo-technical, portrait, economic, technical documents. According to the provisions of forensic expertology, direct research objects of these examina-

tions are, respectively, images, physical parameters of sound, oral speech, human appearance, accounting and other documents, etc. Electronic documents subject to expert examination in the said examinations are known in advance to the investigator, they are indicated in the questions to expert. Another situation concerns the forensic computer-technical examination, the typical task of which is to search and identify electronic documents (information, software) unknown to the investigator, contained in physical evidence, computer tools or media-applications for investigative actions ³⁴. We believe that such tasks can be set within the limits of examination of electronic communications to search for specific documents in an electronic medium, cyberspace ³⁵. Direct expert objects of these examinations are the content and parameters (metadata) of documents. Electronic documents discovered in this way can become the objects of further expert research on uniform or multidisciplinary examinations.

Conclusions

The concepts of *electronic (digital) information, electronic data, electronic document* are identical in their essence in the criminal procedural aspect. In a broad sense, an electronic document is any information submitted in electronic form, in a narrow sense; this is a document that has mandatory electronic details.

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- 33 Перелік галузей знань і спеціальностей, за якими здійснюється підготовка здобувачів вищої освіти : затв. постанов. КМУ від 29.04.2015 р. № 266 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/266-2015-%D0%BF#n11> (date accessed: 02.06.2024).
- 34 Науково-методичні рекомендації з питань підготовки та призначення судових експертів та експертних досліджень : затв. наказ. Мін'юсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 15.08.2024).
- 35 Щербаковський М. Відкриті джерела кіберпростору як об'єкти судово-експертного дослідження. *Теорія та практика судової експертизи і криміналістики*. 2024. Вип. 2 (35). С. 10—27. DOI: [10.32353/khrife.2.2024.02](https://doi.org/10.32353/khrife.2.2024.02) (date accessed: 02.07.2024).

Physical or electronic media contain electronic documents in the form of files. Physical media are digital devices which electronic documents are stored on. Electronic media is an electronic environment: global or local networks, cloud storage, a variety of electronic registers. In criminal proceedings, material carriers are material evidence (Article 98 of Criminal Procedural Code of Ukraine) or annexes to protocols of investigative actions in the form of carriers of copies of electronic documents (Article 105 of Criminal Procedural Code of Ukraine), and documents withdrawn from electronic carriers are evidence documents (Article 99 Criminal Procedural Code of Ukraine).

At the stage of preparation for the procedural action, depending on characteristics of the carrier of electronic documents, the investigator must determine the specialist competence in accordance with the specializations belonging to the field of knowledge: *Information Technology*.

For admissibility of electronic documents as evidence in criminal proceedings during investigative actions to search, detect and record electronic documents with the participation of information technology specialist, it is recommended to necessarily record (in writing in the protocol or by video recording) all operations of the specialist with the carrier of electronic documents or to appoint an examination of electronic communications or digital forensics examination at the place of inspection (search).

**Збирання та дослідження
електронних документів
із застосуванням спеціальних знань**

**Михайло Щербаковський,
Віктор Сезонов**

Мета роботи — за допомогою сучасних загальних і спеціальних методів на-

укового пізнання дослідити сутність, форму електронних документів та їхніх носіїв, особливості залучення спеціалістів і експертів до їхнього пошуку, фіксування та дослідження. Доведено, що сутність понять «електронна (цифрова) інформація», «комп'ютерні дані», «електронний документ» у кримінальному процесуальному аспекті слід розглядати як тотожні. Показано, що у широкому значенні електронним документом є будь-яка інформація, представлена в електронній формі, у вузькому розумінні — це документ, що має обов'язкові електронні реквізити. Аргументовано, що електронні документи вміщено на речових або електронних носіях у формі файлів. Речовими носіями є цифрові пристрої, на яких зберігають електронні документи, а електронними носіями (електронним середовищем) — глобальні або локальні мережі, хмарні сховища, різноманітні електронні реєстри. Обґрунтовано, що у кримінальному провадженні речові носії є речовими доказами (ст. 98 Кримінального процесуального кодексу України) або додатками до протоколів слідчих дій у вигляді носіїв копій електронних документів (ст. 105 цього Кодексу), а вилучені з електронних носіїв документи — документами-доказами (ст. 99 цього Кодексу). Для допустимості електронних документів як доказів у кримінальному провадженні під час проведення слідчих дій з пошуку, виявлення та фіксування електронних документів за участі спеціаліста з інформаційних технологій рекомендовано обов'язково фіксувати (письмово у протоколі або за допомогою відеозапису) усі операції спеціаліста з носієм електронних документів або призначати на місці огляду (обшуку) експертизу електронних комунікацій чи комп'ютерно-технічну експертизу.

Ключові слова: електронні документи; електронна (цифрова) інформація; носії інформації; комп'ютерні дані; циф-

рові докази; спеціальні знання; спеціаліст; експерт; судова експертиза.

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The authors have contributed solely to intellectual discussion underlying this document, case law research, writing and editing, and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

The authors state that there is no conflict of interest relating to this topic; although Mykhailo Shcherbakovskyi is a member of the advisory board of the collection, he did not participate in the decision to publish, and this article has been subjected to a full peer review and editing process.

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Use of artificial intelligence in forensic science

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Recently, artificial intelligence has become an ordinary phenomenon in various spheres of human life, one of which is forensic expertise. Certain areas of forensic activity have even become more sensitive to the use of artificial intelligence elements, in particular: identification of a person based on appearance, fingerprints and DNA; document research; analysis of digital information, etc. Due to the extremely rapid development of artificial intelligence systems, the legal framework for its application is not sufficiently developed, unfortunately, not only in Ukraine: legislators of even very advanced countries clearly cannot keep up with its rapid evolution, although they are trying very hard. For example, the legal basis for regulating the use of artificial intelligence in the EU is the Artificial Intelligence Act, and on the domestic territory, the Concept of the Development of Artificial Intelligence in Ukraine. The authors of this research aimed to outline possibilities, prospects and limits of artificial intelligence use in forensic expert activity in Ukraine and other countries and to develop a flexible legal framework for its application with mandatory professional human control (forensic expert). In order to achieve the goal, the authors used a complex of general scientific and special

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methods (comparative (comparative), historical and legal, system analysis, generalization, forecasting). It is proposed to develop control algorithms and standardize the process of introducing artificial intelligence before its practical application. Elements of artificial intelligence today can already be actively and unconditionally used in the didactic (educational) sphere and scientific activity, while in the forensic expert field it is first important to formulate high ethical, legal and security standards for its use.

Keywords: digital technologies; artificial intelligence; forensic science activities; standardization; ethical, legal and security standards.

Research Problem Formulation

Use of artificial intelligence (hereinafter referred to as AI) makes it possible to automate certain production and research processes in human activity. Sometimes the result of this gradually becomes a partial replacement of human participation in these processes. Similar automation and implementation of AI are taking place today in forensic science, resulting in, in particular, assistance in identifying a person by appearance and fingerprints, researching documents, analyzing digital information, etc.

Ukraine has not yet formed a sufficient legal framework that would regulate the scope of AI and its limits. The Concept for the Development of Artificial Intelligence in Ukraine¹ (hereinafter referred to as the *Concept for the Development of AI*), approved in 2020, remains to this day the only strategic regulatory legal act that at least somehow regulates this area. At the same time, the prospects for the Europeanization of the current legislation, in particular in

the forensic examination, need to outline the possibilities and limits of the use of AI in Ukraine. An example of such a regulation is the *Artificial Intelligence Act (AI Act)*² adopted in the European Union regarding AI. Therefore, today it is necessary to identify not only the opportunities, but also the limits of the use of AI and develop a new legal framework for such use.

Digitization and automation of forensic activity requires use of AI elements. At the same time, these processes must be under mandatory human control to prevent the occurrence of errors and the formation of false (wrong) forensic expert conclusions. That is why the AI implementation process must be standardized and controlled at all stages of forensic activity. Existing self-evolving algorithms need to define usage boundaries based on high ethical, legal, and security standards. Instead, already today, elements of AI can be unconditionally applied in the didactic (educational) sphere (during the training and retraining of forensic experts), scientific (research) activities, and also for obtaining

1 Концепція розвитку штучного інтелекту в Україні : схвал. розпорядж. КМУ від 02.12.2020 р. № 1556-р (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1556-2020-%D1%80#Text> (date accessed: 15.07.2024).

2 The EU Artificial Intelligence Act (Regulation (EU) 2024/1689). 2024. URL: <https://artificialintelligenceact.eu> (date accessed: 15.07.2024).

orientational information. In addition, the use of AI must be distinguished from automation processes without the participation of AI. Nowadays, such systems are actively used in forensic expert activities based on proven algorithms.

Analysis of Essential Researches and Publications

The use of AI in forensic science was investigated by: B. Mbalanya ³, K. Mohsin ⁴, L. Tournois et al ⁵, R. Verma ⁶, T. D. Wankhade et al. ⁷ All these studies relate to certain areas of forensic science or are based on individual examples from the forensic field, DNA, computer engineering, digital research, etc. At the same time, the goal stated by the authors of this work involves AI research with an emphasis on forensic examination and determining the possibilities and limits of its application.

Article Purpose

In order to outline opportunities, prospects and limits of the use of AI in forensic science in Ukraine and other countries.

Research Methods

For achieving this goal, the authors used a set of general scientific and special methods, in particular:

- comparative (comparative; made it possible to adapt the experience of using AI to forensic activity, and experience of legal regulation showed the need to form the boundaries of AI application in Ukraine);
- historical and legal ones (became useful for studying the problems of using and legal definition of AI from the middle of the twentieth century);
- system analysis (contributed to the analysis of primary sources);
- generalization (helped to collect and unify information on the issues under research);
- forecasting (identified prospects for the use of AI in forensic activity both in the short term and in the remote).

Main Content Presentation

Some scientists predict the inevitable dominance of AI in all fields as the next industrial revolution ⁸. Of course, the revolu-

- 3 Mbalanya B. Is Artificial Intelligence a threat to the Forensic Science Community? / LinkedIn. 09.02.2024. URL: <https://www.linkedin.com/pulse/artificial-intelligence-threat-forensic-science-brendah-mbalanya-5ebof/> (date accessed: 15.07.2024).
- 4 Mohsin K. Artificial Intelligence in Forensic Science. *International Journal of Forensic Research*. 2023. Vol. 4. Is. 1. Pp. 172–173. DOI: [10.2139/ssrn.3910244](https://doi.org/10.2139/ssrn.3910244) (date accessed: 15.07.2024).
- 5 Tournois L., Troussel V., Hatsch D., Delabarde T., Ludes B. & Lefèvre Th. Artificial intelligence in the practice of forensic medicine: a scoping review. *International Journal of Legal Medicine*. 2024. Vol. 138. Pp. 1023–1037. DOI: [10.1007/s00414-023-03140-9](https://doi.org/10.1007/s00414-023-03140-9) (date accessed: 15.07.2024).
- 6 Verma R., Gard S., Kumar K., Gupta G., et al. New Approach of Artificial Intelligence in Digital Forensic Investigation: A Literature Review / Iwendi C., Boulouard Z., Kryvinska N. (eds). Proceedings of ICACTCE'23 – The International Conference on Advances in Communication Technology and Computer Engineering. Springer, 2023. Pp. 399–409. DOI: [10.1007/978-3-031-37164-6_30](https://doi.org/10.1007/978-3-031-37164-6_30) (date accessed: 15.07.2024).
- 7 Wankhade T. D., Ingale S. W., Mohite P. M., Bankar N. J. Artificial Intelligence in Forensic Medicine and Toxicology: The Future of Forensic Medicine. *Cureus*. 2022. 14(8):e28376. DOI: [10.7759/cureus.28376](https://doi.org/10.7759/cureus.28376) (date accessed: 15.07.2024).
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tionary development of advanced technologies and the introduction of AI systems have significantly affected various spheres of human activity, in particular forensic and law enforcement. One of the urgent issues that needs to be resolved in the way of using AI during forensic examinations (forensic examinations) is the legal regulation of the possibility of such use. Analysis of the current legislation regulating forensic examinations and forensic examinations indicates the absence of an exhaustive list of AI tools that a forensic expert can use during forensic examinations.

Thus, paragraph 1 of clause 1.4 of section I of the Instruction on the appointment and conduct of forensic examinations and expert studies⁹ provides for the use of relevant research methods, methods of conducting forensic examinations, as well as regulations and normative documents (international, national and sectoral standards, technical conditions, rules, norms, regulations, instructions, recommendations, lists, guidelines of the State Consumer Standard of Ukraine), current republican standards of the former USSR and state classifiers, industry standards and technical conditions of the former USSR, scientific, technical and reference literature, software products, etc. So, the question arises whether AI can be considered a software product.

Even in the middle of the 20th century. at the Dartmouth Conference (1956), *J. McCarthy* first proposed the definition of AI: “Artificial intelligence is the science and technique of creating intelligent machines, especially intelligent computer programs”.¹⁰ Conceptually, AI is ability of a machine to independently perceive and respond to its environment and perform tasks that would normally require human intelligence and decision-making processes, but without direct human intervention. However, it was not until 2024 that the European Union adopted the world’s first document to regulate the use of AI, which defines AI as a machine system designed to operate with varying degrees of autonomy and capable of demonstrating adaptability after deployment, which (with explicit or implicit intent) draws conclusions based on of acquired input data, generates output data (forecasts, content, recommendations or decisions, etc.) capable of influencing the physical or virtual environment¹¹.

In the Concept of AI Development, AI is understood as an organized set of “information technologies, with the use of which it is possible to perform complex tasks by using a system of scientific research methods and algorithms for processing information obtained or independently created during work, as well as to create and use their own knowledge bases, decision-mak-

9 Інструкція про призначення та проведення судових експертиз та експертних досліджень : затв. наказ. Мініюсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 15.07.2024).

10 Rigano Ch. Using Artificial Intelligence to Address Criminal Justice Needs / National Institute of Justice. Oct 8, 2018. URL: <https://www.nij.gov/journals/280/Pages/using-artificial-intelligence-to-address-criminal-justice-needs.aspx> (date accessed: 15.07.2024) ; Pratik R. Artificial Intelligence: A Rising Star of Mobile Technology / INTUZ. Publ 12 Nov 2021. Update 23 Aug 2023. URL: <https://www.intuz.com/blog/artificial-intelligence-a-rising-star-of-mobile-technology> (date accessed: 15.07.2024) ; Баранов О. А. Визначення терміну «штучний інтелект». *Інформація і право*. 2023. № 1 (44). С. 40. URL: https://ippi.org.ua/sites/default/files/5_28.pdf (date accessed: 15.07.2024).

11 Article 3: Definitions / EU Artificial Intelligence Act (Regulation (EU) 2024/1689). 2024. URL: <https://artificialintelligenceact.eu/article/3/> (date accessed: 15.07.2024).

ing models, algorithms for working with information and determine ways to achieve the tasks set”¹². This is the only definition of AI proposed in Ukraine at the state level (by the Cabinet of Ministers). The remaining definitions are doctrinal ones.

Thus, software products can be considered a component of various AI systems as a certain digital technology trained to perform specific intellectual tasks, simulating cognitive analytical functions to a certain extent. For example, in National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» for the identification of a person, the *Artec Leo 3D* scanner and the *Skeleton-ID* program are used in a complex manner. AI software can search missing person databases or compare unidentified human remains in mass graves¹³. A single successful example of the implementation of AI systems in forensic expert activity is the identification of the person of the fallen Hero of Ukraine Oleksandr Matsievskyi from the still images of the low-quality video posted on the Internet on March 6, 2023 in the case of the shooting of a Ukrainian serviceman by the Russians, during which experts compared the recorded on video recordings of persons with photographs provided by law enforcement officers¹⁴.

An additional argument in favor of the use of AI in forensic science is the discretionary power of a forensic expert to determine the method of examination (select certain research methods).

AI capabilities can improve the efficiency and accuracy of forensic research

(of course, subject to the integrity of the methods and techniques used). At the same time, AI cannot and should not replace a forensic expert as such, since the accumulated experience and creativity of professional thinking are incorrectly compared with artificially generated algorithms, even exemplarily trained and trained on a significant amount of information and examples. Personal expert judgment and professional intuition are unique properties of a person, especially in the case of multidimensional research, which AI algorithms are not yet able to solve.

It is known that even the most leading technological solutions and programs cannot completely replace people in any of the professions (for example, Google Translate has not become a full-fledged replacement for live translators, and accounting programs still require the participation of human accountants), especially in Ukrainian realities, but able to significantly facilitate professional activity by automating certain routine processes. As for the specifics of the work of forensic experts, the development of technical solutions and the introduction of AI into forensic expert activity requires primary interaction between AI developers and forensic experts. AI can be trained to detect patterns in large volumes of data that are not obvious to a forensic expert using traditional research methods, but the bias of the materials on which the AI is trained can cause subjective, unrepresentative results. For example, if the train-

12 Концепція розвитку ... URL: <https://zakon.rada.gov.ua/laws/show/1556-2020-%D1%80#Text> (date accessed: 15.07.2024).

13 Ключев О. Сучасні досягнення судово-експертної галузі в Україні. *Теорія та практика судової експертизи і криміналістики*. 2023. Вип. 1 (30). С. 6. DOI: [10.32353/khrife.1.2023.01](https://doi.org/10.32353/khrife.1.2023.01) (date accessed: 15.07.2024).

14 Shepitko V., Shepitko M., Latysh K., Kapustin, M., & Demidova E. Artificial intelligence in crime counteraction: From legal regulation to implementation. *Social and Legal Studies*. 2024. Vol. 7. No. 1. Pp. 135–144. DOI: [10.32518/sals1.2024.135](https://doi.org/10.32518/sals1.2024.135) (date accessed: 15.07.2024).

ing data for facial recognition algorithms contains images of people predominantly of one race, the algorithm may not identify people of another race¹⁵. At the same time, such nuances should be discussed with AI developers at the stage of ordering specific algorithms.

Consequences of wartime realities, shelling and bombing are dangerous for the health and life of people and the integrity of the material and technical base of enterprises, institutions and organizations, in particular for employees, equipment and equipment of forensic institutions and objects of forensic research. In addition, since the beginning of the full-scale invasion of the Russian Federation, forced migration processes have provoked a personnel shortage of forensic experts. At the same time, the need for operational forensic investigations of war and other crimes committed by the Russian invaders on the territory of Ukraine has increased many times over. Automation of the work of forensic experts and the introduction of smart technologies for remote work can help solve the mentioned problems, which was done at the Odesa Research Institute of Forensic Expertise of the Ministry of Justice of Ukraine: for electronic

document circulation and archiving, they developed and implemented the “Platform” web application, which contains 90% of conclusions made after the start of the war. The “Platform” enables experts to work remotely, sign conclusions electronically, and guarantees reliable data storage even when the expert is physically absent from the institution¹⁶. This expands the possibilities for various types of forensic examinations, including linguistic and economic, protecting experts from shelling and/or other emergency situations¹⁷.

Significant increase in the burden on forensic experts with the onset of full-scale aggression of the Russian Federation is confirmed by statistical data, for example: in 2022, forensic institutions of the Security Service of Ukraine performed 11% more forensic examinations than in 2021. In the first half of 2023, the number of forensic examinations increased by 63% compared to the same period in 2022. Since the beginning of the war, the following types and subspecies of forensic examinations have become the most popular: linguistic, explosive, ballistic, computer-technical, portrait, video and sound recording, economic and commodity examinations¹⁸.

15 Mbalanya B. Op. cit. URL: <https://www.linkedin.com/pulse/artificial-intelligence-threat-forensic-science-brendah-mbalanya-5ebof/> (date accessed: 15.07.2024).

16 Кішко Д. Цифровізація судово-експертної діяльності в умовах війни як шлях забезпечення безперервної роботи експертних установ. *Досвід і проблеми судово-експертної діяльності в умовах воєнного стану в Україні* : мат-ли всеукр. наук.-практ. конф. (Львів — Київ — Одеса; 28.09.2023). Львів, 2023. С. 15. URL: <http://ndekc.lviv.ua/pdf/a05122023.pdf> (date accessed: 15.07.2024).

17 Латиш К. В. Вплив технологій штучного інтелекту на судово-експертну діяльність: можливості та загрози. *Судово-експертна діяльність: збереження наукового та кадрового потенціалу в умовах воєнного стану* : мат-ли IV Всеукр. форуму судов. експерт. (Львів, 07.06.2024). Одеса, 2024. С. 216. URL: <http://ndekc.lviv.ua/pdf/law.pdf> (date accessed: 15.07.2024).

18 Чечіль Ю. Досвід діяльності експертних служб в умовах воєнного стану. *Досвід і проблеми судово-експертної діяльності в умовах воєнного стану в Україні* : мат-ли всеукр. наук.-практ. конф. (Львів — Київ — Одеса; 28.09.2023). Львів, 2023. С. 13. URL: <http://ndekc.lviv.ua/pdf/a05122023.pdf> (date accessed: 15.07.2024).

In view of the above, another advantage of AI can be a decrease in the burden on the forensic expert in quantitative indicators with a simultaneous increase in qualitative ones, because thanks to the automation of routine tasks, time is freed up to perform more complex tasks and interpret the research conducted. Thus, at one time, the automation and digitalization of fingerprint research during fingerprint examination around the world greatly simplified the identification process, which contributed to the effectiveness of law enforcement agencies and reduced the burden on forensic experts (specialists) ¹⁹.

Due to the speed of data processing, AI technologies make it possible to minimize the time and maximize the results of forensic research, which is critical for pre-trial investigation ²⁰.

AI algorithms are able to identify and analyze complex patterns, for example, identify genetic markers in a significant number of DNA samples at the same time or isolate carriers in mixed samples ²¹.

It is proposed to use AI to compare data obtained in an automated way and as a result of direct expert research ²².

Instead, according to the analysis of foreign literature, forensic experts do not use AI programs systematically because of:

- 1) inconsistent results of AI models, not reliable in real conditions. For example, the model can work properly in laboratory conditions, but demonstrate low accuracy in situations that differ from the conditions of its training;
- 2) lack of representative datasets, as training AI models requires a significant amount of diverse data that accurately reflects the different scenarios that forensic experts may encounter. However, such data is often difficult to obtain because of their confidentiality or because they have not been collected in sufficient quantities. Without adequate and diverse datasets, AI models may not take into account important variations or exceptions, which significantly limits their effectiveness;
- 3) training of the AI model on non-representative data or on incorrectly selected parameters. For example, trained on data that contains systematic errors, the model will repeat these errors, which will cause distorted results of forensic studies and, as a result, incorrect conclusions, and this is unacceptable for criminal proceedings, where objectivity and accuracy are extremely important ²³;

19 Moses K. R. Automated Fingerprint Identification System (AFIS). Ch. 6 / Office of Justice Programs. U. S. Department of Justice. 2021. P. 20. URL: <https://www.ojp.gov/pdffiles1/nij/225326.pdf> (date accessed: 15.07.2024).

20 Verma R., Gard S., Kumar K., Gupta G., et al. Op. cit. DOI: 10.1007/978-3-031-37164-6_30 (date accessed: 15.07.2024).

21 Mbalanya B. Op. cit. URL: <https://www.linkedin.com/pulse/artificial-intelligence-threat-forensic-science-brendah-mbalanya-5ebof/> (date accessed: 15.07.2024).

22 Wankhade T. D., Ingale S. W., Mohite P. M., Bankar N. J. Op. cit. DOI: 10.7759/cureus.28376 (date accessed: 15.07.2024) ; O'Sullivan Sh., Holzinger A., Zatloukal K., Saldiva P., Sajid M. I., Wichmann D. Machine learning enhanced virtual autopsy. *Autopsy Case Reports*. 2017. Vol. 7. No. 4. Pp. 3—7. DOI: 10.4322/acr.2017.037 (date accessed: 15.07.2024)

23 Tournois L., Troussset V., Hatsch D., Delabarde T., Ludes B. & Lefèvre Th. Op. cit. DOI: 10.1007/s00414-023-03140-9 (date accessed: 15.07.2024).

- 4) incomprehensibility of ethical rules and legal access to the data embedded in the AI model, since they are still at the stage of research and refinement.

It is advisable to use AI, for example, to recognize human faces in video and photo images of low quality, taken at a non-ideal angle or darkened. One technique for identifying low-quality images is to degrade sharp images of numbers and letters to simulate lower-quality images, with further use of degraded mathematical representations for identification²⁴. In addition, AI will be useful for detecting data recorded in photos in a latent (implicit) form (in particular, determining the size of objects in the photo, the location of objects relative to each other, the shooting point or the reproduction of the material situation of the scene from the photo images). In forensic expert work, it is often necessary to detect signs of editing, to find out the identity and natural dimensions of objects and the content of information marks on photo images²⁵. Thus, *Unet* AI models with the *EfficientNetB4* feature classifier have shown high performance for detecting features of photo editing²⁶.

In forensic science, AI is most often used to process and generalize large amounts of digital information and data sets (for example, video and audio mate-

rials with testimonies of victims and witnesses of criminal offenses), extract textual data from video and audio materials, and also search by keywords. As we noted earlier, AI algorithms are capable of analyzing large volumes of data and using linguistic (speech) models to “identify patterns characteristic of propaganda messages”²⁷. This is especially useful when the volume of video and audio recordings of interviews (interrogations) is so large that it is impossible to physically review them. AI will effectively process and categorize large amounts of information according to specified criteria, for example, based on interviews with prisoners, it will create an interactive map (matrix) of the placement (concentration) of prisoners by specific dates with the ability to track their movement directions and conditions of detention.

It is also recommended to use AI to study documents, analyze evidence and determine the possible level of complexity of the case, that is, to speed up the preparation of the necessary base for the second stage of work (verification and drawing up a conclusion)²⁸. Foreign scientists propose to use AI to create an online repository of all digital investigations, data and results²⁹. We do not consider this proposal to be correct, since the mechanisms for en-

24 Artificial Intelligence in Criminal Justice / Master's in AI. March 20th 2024. URL: <https://www.mastersinai.org/industries/criminal-justice/> (date accessed: 15.07.2024).

25 Чорний С., Брендель О., Гратіашвілі Д. Автентифікація зображень на основі їх семантичної сегментації у нейронних мережах глибокого навчання з їх попереднім обробленням за методами фільтрації. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 1 (26). С. 128. DOI: 10.32353/khrife.1.2022.08 (date accessed: 15.07.2024).

26 Там само. С. 134.

27 Шепітько М., Латиш К. Кримінальна політика у сфері цифрової протидії пропаганді під час війни. *Теорія та практика судової експертизи і криміналістики*. 2023. Вип. 4 (33). С. 87–98. DOI: 10.32353/khrife.4.2023.06 (date accessed: 15.07.2024).

28 Тимчишин А. М. Судова експертиза як процесуальна форма використання спеціальних знань у кримінальному провадженні. *Південноукраїнський правничий часопис*. 2023. № 1. С. 228. DOI: 10.32850/sulj.2023.1.40 (date accessed: 15.07.2024).

29 Mohsin K. Op. cit. DOI: 10.2139/ssrn.3910244 (date accessed: 15.07.2024).

surings the confidentiality of personal and other data entering the AI system have not yet been clearly defined: it is not known who will have access to this data and what are the limits of the use of this information by third parties. The lack of proper regulation of the mentioned aspects causes serious concerns regarding the security and privacy of this data. Therefore, regulations must clearly and precisely stipulate the rules of data collection, processing, storage and use in AI systems, thereby protecting the rights of users and preventing possible abuse. Another use of AI in these circumstances is to upload non-personalized data.

It is also necessary to remember the reverse side of using AI to create false content or develop scripts for hacking or other unauthorized access to personal data (when AI-generated elements are added to the original content or, conversely, existing ones are removed). Therefore, AI will be successful in creating high-quality fakes and deepfakes that are difficult to distinguish with the naked eye (ear), and as long as relevant forensics continue, the ultimate goal of developing these fakes and deepfakes will be achieved, because such digital products are imprinted in the human memory and able to significantly influence the opinion of the general public. Quite often, this AI technology is used with the goal of promoting the desired narrative to the masses. For example, when the communication of the mayor of Kyiv created with the help of digital technologies with the leaders

of five European capitals cast doubt on his authenticity only after he asked questions in Russian, while the successfully generated appearance, facial expressions and gestures, etc., did not cause such doubts ³⁰. Such cases discredit AI and other advanced digital technologies, so an important aspect of forensic work is the investigation and identification of modified digital content generated by AI, especially in deepfake cases. Such digital content (for example, with a synthesized human image) is generated in such a high quality that traditional methods and tools are no longer able to detect them, so there is an increasing need for the progressive application of special knowledge for research and use of AI technologies. The aforementioned deepfake is created by combining and overlaying existing media (images or videos) onto the source media using a *Generative Adversarial Network* (GAN). In the scientific literature, there are many examples of training AI models to determine the authenticity of media content, one of the algorithms of which has the following structure: selection of a set of data; dividing video into frames and cropping faces; model development using *Convolutional Neural Network* (CNN) and *Long Short-term Memory* (LSTM); training the model on a selected data set and further testing it on a test data set; prediction on any specific video; calculating the accuracy of the model and displaying the video classification results and the accuracy of its results ³¹. As noted above, quality and quantity of materials

30 Красномоовець П. Бути Віталієм Кличком. Як зловмисники створили фейкового мера Києва і провели розмови з керівниками п'яти європейських столиць / Forbes. 29.06.2022. URL: <https://forbes.ua/innovations/buti-vitaliem-klichkom-yak-zlovmisniki-stvorili-feykovogomera-kieva-i-proveli-rozmovi-z-kerivnikami-chotirokh-evropeyskikh-stolits-29062022-6887> (date accessed: 15.07.2024).

31 Vamsi V. V. N. S., Shet S. S., Reddy S. S. M., Rose Sh. S., Shetty S. R., Sathvika S., Supriya M. S., Shankar S. P. Deepfake detection in digital media forensics. *Global Transitions Proceedings*.

on which the model is trained are important. Thus, the accuracy of the proposed model decreases for low-quality images, and for medium-quality videos, the accuracy needs to be further improved by using combined models to train on temporal parameters. So, a better data set with better quality leads to better learning ³².

Conclusions

AI can be used in forensic expert activities with the purpose of providing information, analytical and reference support for the activities of forensic experts, but with mandatory compliance with ethical and security standards. The creation of specialized information and intellectual educational systems will contribute to the rapid exchange of experience between experts. Automation and standardization of certain processes of forensic expert activity can significantly increase its efficiency, reduce the burden on experts, allowing you to focus on qualitative analysis and interpretation of results. In order to ensure objectivity and accuracy of results, AI should be applied in accordance with ethical and security standards. Effective implementation of AI requires close collaboration between technology developers and forensic experts. This will help create technical solutions that meet the real needs and challenges of forensic activity. The use of AI is associated with risks of bias in results and data privacy concerns. Clear regulations need to be developed to protect users' rights and prevent possible abuses. Digitization of forensic activity makes it possible to en-

sure continuity of work even in emergency situations, such as military conflicts. The use of web applications and remote work today are important elements of increasing the efficiency of the work of expert institutions of Ukraine in the conditions of martial law.

Introduction of AI into forensic science has significant potential, but requires careful regulation and control to ensure ethics and efficiency.

Використання штучного інтелекту в судово-експертній діяльності

**Михайло Шепітько,
Катерина Латиш**

Останнім часом штучний інтелект став ординарним явищем у різних сферах людської життєдіяльності, однією з яких є судово-експертна. Окремі напрями судово-експертної діяльності навіть стали більш чутливими до використання елементів штучного інтелекту, зокрема: ідентифікація особи за ознаками зовнішності, відбитками пальців і ДНК; дослідження документів; аналізування цифрової інформації тощо. Через надзвичайно стрімкий розвиток систем штучного інтелекту нормативно-правову базу із питань його застосування недостатньо розроблено, на жаль, не тільки в Україні: за його бурхливою еволюцією явно не встигають законодавці навіть дуже просунутих держав, хоча й дуже намагаються. Наприклад, правовим підґрунтям для регулювання застосування штучного інтелекту в ЄС є *Artificial Intelligence Act*, а на вітчизняних теренах — Концепція розвитку штучного інтелекту в Україні. Автори

2022. Vol. 3, Is. 1. Pp. 74–79. DOI: 10.1016/j.gltp.2022.04.017 (date accessed: 15.07.2024).

32 Karandikar A., Deshpande V., Singh S., Nagbhidkar S., Agrawal S. Deepfake Video Detection Using Convolutional Neural Network. *International Journal of Advanced Trends in Computer Science and Engineering*. 2020. March — Apr. Vol. 9. No. 2. Pp. 1311–1315. DOI: 10.30534/ijatcse/2020/62922020 (date accessed: 15.07.2024).

цього дослідження мали на меті окреслити можливості, перспективи й межі використання штучного інтелекту в судово-експертній діяльності в Україні й інших державах і розробити гнучку правову базу його застосування з обов'язковим професійним контролем людини (судового експерта). Для досягнення поставленої мети автори послуговувалися комплексом загальнонаукових і спеціальних методів (порівняльним (компаративним), історико-правовим, системного аналізу, узагальнення, прогнозування). Запропоновано розробити алгоритми контролю та стандартизувати процес впровадження штучного інтелекту до його практичного застосування. Елементи штучного інтелекту сьогодні вже можна активно й беззастережно застосовувати в дидактичній (освітній) сфері й науковій діяльності, тоді як у судово-експертній галузі спершу важливо сформулювати високі етичні, правові й безпекові стандарти його використання.

Ключові слова: цифрові технології; штучний інтелект; судово-експертна діяльність; стандартизація; етичні, правові та безпекові стандарти.

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Declaration of Competing Interest

Authors declare no conflict of interest.

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

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

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

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

Research Problem Formulation

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

Analysis of Essential Researches and Publications

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

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

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

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

solve the issue of finding out the facts and ways of making changes to the researched document (cleaning up, corrections, additions, pasting photos, letters, etc.) and restoring their original content. According to the opinion of the court expert on the facts and methods of making changes to the documents (together with other determined factual data and circumstances of the case), prosecutor, investigator or judge establishes the fact of official falsification of documents².

O. Shevchenko investigated application of special commodity knowledge during pre-trial investigation³.

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

Article Purpose

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

Research Methods

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

Main Content Presentation

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

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

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

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

justice, which occupies a leading place among the main categories of criminalistics⁴.

V. Shepitko considers *specific expertise* to be a system of scientific data (information) or skills of an objective nature acquired during professional training, scientific activity, practical work that correspond to the current level⁵.

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

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

According to the definition of E. Demidova, a recognized person is a person who has specific expertise in a certain field of science, technology, art or craft, is not interested in the results of the resolution of the case (criminal proceedings) and is involved by the authorized person or body in accordance with the sectoral procedural legislation at various stages of the proceedings in order to assist in clarifying the truth and resolving the case (criminal proceedings) by applying specific expertise⁶.

Traditionally, an expert witness in criminal justice is considered to be a forensic expert authorized to conduct forensic research. Forensic examination is

the most qualified form of application of special knowledge during pre-trial investigation and, certainly, the most developed in the literature from the procedural and forensic standpoints, activity type of expert witness.

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

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

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

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

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

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

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

Forensic expert can be involved in criminal proceedings at the stage of both pre-trial investigation and trial. It is worth noting that in the current Criminal Procedural Code there is no such investigative action as the appointment of a forensic examination: it was replaced by the involvement of an expert. According to the Criminal Procedure Code, the legal basis for the involvement of a forensic expert at the stages of pre-trial investigation and trial should be a resolution on the appointment of an expert and a resolution on the commission of an expert, respectively¹⁰. Unfortunately, due to unclear reasons, in practice, there are cases of involving experts in violation of the procedure provided for by law. For example, according to criminal proceedings from the Unified Register of Pretrial Investigations under No. 12017170140000497 dated August 6, 2017 and No. 12018250000000233 dated October 18, 2018, accusing a person of

committing criminal offenses, in particular, under Art.206-2 of the Criminal Code of Ukraine¹¹, forensic examinations were performed on the basis of the contract concluded between the victim's lawyer and the court expert, therefore, they were not obtained in accordance with the procedure stipulated by the Criminal Procedural Code. Such evidence is inadmissible and cannot be used to make procedural decisions, it cannot be referred to by the court¹². In our opinion, such incompetent actions of a court expert (conducting an examination in violation of the order of its appointment) prolong the terms of the pre-trial investigation, the trial of the criminal proceeding, and also overload the materials of the criminal proceeding with inadmissible evidence, which both the investigator and the judge must work with.

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

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

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

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

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

of a criminal proceeding or during a trial contributes to the discovery of the truth, ensures the observance of the rights and freedoms of the participants in the process and the fulfillment of their duties. By performing their professional duties, such persons help other subjects of proceedings (investigator, prosecutor, court, etc.) to implement their functions¹³.

Procedural legislation of Ukraine provides for primary, additional, repeated, commission and comprehensive examinations¹⁴.

Among scientists, the most common position is to distinguish two forms of specific expertise use in criminal procedure: procedural and non-procedural one¹⁵. In particular, I. Kohutych suggests the use of special knowledge in the practice of investigation in both procedural and non-procedural forms. The author singles out the following main procedural forms of using special knowledge and technical means: their direct use by a criminologist, investigator, prosecutor, and court during the performance of their procedural tasks of collecting, researching, and evaluating evidence; the participation of specialists in conducting investigative (search) actions; appointing and conducting forensic examinations. According to the scientist, the

form of implementation of special knowledge depends primarily on the subject, the type of activity and the purpose of their application. The author justifiably considers consulting and reference activities of persons who have specific expertise (oral or in the form of references) to be non-procedural forms of specific expertise application; audit or audit activities; the participation of persons with special knowledge in operative and investigative measures; preliminary studies of material objects by specialists and experts in oral or written form; results of forensic records checks (in the form of references), etc.¹⁶

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

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

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

14 Про затвердження Інструкції про призначення та проведення судових експертиз та експертних досліджень та Науково-методичних рекомендацій з питань підготовки та призначення судових експертиз та експертних досліджень : наказ Мініюсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 16.07.2024).

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

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

cialist, application of his knowledge and skills) are carried out with the purpose determined by the criminal procedural law and are actively used for the purpose of a full, comprehensive, objective investigation of criminal offenses¹⁷. A. Vuyma rightly notes that the use of non-procedural forms of special knowledge is aimed at obtaining information that can be used for the purpose of searching and establishing the identity of the criminal, his whereabouts, the location of tools or means of committing the crime, the formation of subjective and psychological portraits of the criminal etc.¹⁸ Therefore, taking into account the above, we propose to divide specific expertise into “procedural one” and “organizational one” according to the form of use.

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

- tactical ones: preparation and participation together with the investigator in the scene inspection, interrogation, search, etc.;
- scientific and technical ones: providing direct technical assistance (photographing, drawing up diagrams, plans, drawings, etc.) (Part 2 of Art. 71 of the Criminal Procedural

Code of Ukraine¹⁹), identifying and removing traces, in particular documentation, obtaining appropriate samples for examination;

- advisory ones: providing advice, references, recommendations during the preparation, organization, conduct of investigative (search) actions²⁰.

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

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

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

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

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

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

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

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

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

Specific expertise use during the investigation of unlawful seizure of property of an enterprise, institution, or organization implies the need for a comprehensive understanding of the content of various types of such knowledge, primarily in the field of economic activity. There is a need to outline an indicative list of specialists whose involvement may be useful. To confirm the relevance of the above, we

believe that position is appropriate, according to which the investigator (depending on the category of the crime committed, its features, consequences and other factors) is obliged to involve specialists in the investigative and operational group in accordance with the volume and complexity of future work ²³.

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

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

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

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

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

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

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

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

- examination of documents on the economic activity of enterprises and organizations;

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

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

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

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

handwriting, technical documents, digital forensics²⁶.

In case when information contained in the document is expressed not only by signs, but by material features (for example, the document has traces of washing, cleaning, etc.), the document is also material evidence. The following types of forensic examination of documents are distinguished: forensic examination of handwriting (handwriting research); questioned document examination²⁷.

We analyzed trial decisions on criminal cases initiated under Art. 206-2 of the Criminal Code²⁸, and came to the conclusion that in practice the following forensic examinations are appointed:

- questioned document examination²⁹;
 - economic examination³⁰;
 - psychology and handwriting examination³¹;
 - handwriting research³².
- It is worth noting that there are materials of criminal proceedings for which no forensic examination is appointed³³.

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

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

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

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

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

29 Вирок Глобин. райсуду URL: <https://reyestr.court.gov.ua/Review/99207533> (date accessed: 16.07.2024) ; Вирок Жовтн. райсуду м. Дніпро за кримін. провадж. № 4201600000002133. Справа № 208/6312/16к. URL: <https://reyestr.court.gov.ua/Review/106476665> (date accessed: 17.07.2024).

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

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

32 Там само.

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

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

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

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

Regarding other forms of interaction with a specialist during the pre-trial investigation of illegal seizure of property of an enterprise, institution, organization, it should be noted: during covert investigative (search) actions, the specialist's knowledge can be applied in the form of consultations, technical assistance (photographing, drawing up schemes, plans, drawings, sampling for examination, etc.), participation in covert investigative (search) actions³⁴.

However, the most common form of participation of a specialist in investigation of a criminal offense under Art. 206-2 of the Criminal Code³⁵ is to involve him in investigative (search) actions. Specialist participation is important during:

- crime scene inspection, documents (a forensic expert (technician) takes measures to identify and record

evidence of a committed criminal offense, namely: conducts measurements, photographs, audio or video recording, makes plans and diagrams, produces graphic images of the inspected place or individual items, prints and molds, inspect and remove things and documents that are relevant to criminal proceedings; documents and/or terminology, ciphers, etc.; a computer and information technology specialist will facilitate correct identification and description of electronic means of processing and storing information, remove digital media and technical means without loss or damage of existing information, etc.);

- interrogation (specialist will help the investigator prepare for the interrogation (formulate questions, arrange visual materials for demonstration); explain unclear terminology, peculiarities of reporting, registration procedures, economic issues; the specialist can be directly involved in the interrogation and with the permission of the investigator to ask questions);
- crime scene reconstruction (specialist can be entrusted with measuring, photographing, sound or video recording, drawing up plans and diagrams, making graphic images, prints and casts that are added to the protocol, as well as providing explanations and consultations to other participants in the investigative (search) action, if necessary).

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

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

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

Conclusions

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

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

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

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

**Влада Гусева,
Сергій Стеценко**

Підвищення ефективності та якості розслідування протиправного заволодіння майном підприємства, установи, організації, безумовно, пов'язано з використан-

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

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

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Declaration of Competing Interest

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Corporate raid victim: forensically significant characteristics and specifics of participation in procedural actions

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Law enforcement activities to combat corporate raid need proper scientific support, in particular scientifically based recommendations of a practical orientation, formulated taking into account issues of investigative and judicial practice. Prerequisite for their development is a thorough study of the victim identity, because sometimes it is he who is connected by appropriate correlations with other components of the mechanism of criminally illegal activity. The purpose of this scientific investigation is to find out characteristics of persons who are victims of criminal offenses related to illegal absorption and seizure of assets of economic entities, enterprises, institutions, organizations, corporate rights to, determine tactical specifics of conducting procedural actions under with the participation of victims. Implementation of defined goal necessitated the use of a number of general scientific and special methods. Based on a review of the needs and typical problematic issues of investigative practice: 1) victim identity of criminal offenses related to raiding is characterized, their victimhood is indicated; 2) typical forms of participation of victims and their representatives in criminal proceedings of specified category are singled out; 3) those investigative (search) actions in which the victims most often participate have been clarified; 4) algorithm of activities of the prosecution party is outlined that is expedient to implement in those investigative sit-

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uations when the victim or his representative reported that he has things and documents that relate to the circumstances of the committed criminal offense and therefore it is expedient to include them in the case file. Prospects for further research within the studied issues are indicated.

Keywords: *pre-trial investigation; criminal offense; corporate raid; business entity; manager; land plot owner; victim; interrogation; inspection; temporary access to documents; expert involvement for forensic examination.*

Research Problem Formulation

Priority of protecting the rights, freedoms and legitimate interests of a person and citizen has been declared and established by a number of international and national legislative acts. The main ones are the Universal Declaration of Human Rights (guarantees everyone the right to private property and effective renewal of violated forms through the implementation of jurisdictional forms of protection, free development in the economic field, etc.)¹, International Covenant on Civil and Political Rights (among other things, declares the right to free use of economic rights, ensuring economic development)² and European Convention on Human Rights (provides possibility of applying for an effective remedy to national authorities,

even if such a violation committed by persons exercising their official powers)³.

At constitutional level, in order to implement such a legal basis as the protection and protection of each participant in public relations, obligation of the state to “establish and ensure human rights and freedoms”⁴ is enshrined. In view of this, the protection of a person from criminal offenses, i.e., those unlawful encroachments that are marked by the highest level of public danger, is defined by the legislator as one of the strategic objectives of criminal proceedings⁵.

Currently, Ukraine has a whole security and defense sector, security forces, personified by law enforcement agencies, implement the tasks of creating a security environment in the state, guaranteeing the protection of constitutional rights, freedoms and legitimate interests of a person,

- 1 Загальна декларація прав людини : прийн. і проголош. резолюц. 217 А (III) Ген. Асамбл. ООН від 10.12.1948 р. URL: https://zakon.rada.gov.ua/laws/show/995_015#Text (date accessed: 06.06.2024).
- 2 Міжнародний пакт про громадянські і політичні права : ратифік. Указ. Презид. ВР УРСР від 19.10.1973 р. № 2148-VII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/995_043#Text (date accessed: 13.08.2024).
- 3 Конвенція про захист прав людини і основоположних свобод (Європейська конвенція з прав людини) : від 04.11.1950 р. ; ратифік. Законом України від 17.07.1997 р. № 475/97-ВР ; чинна для України з 11.09.1997 р. (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/995_004#Text (date accessed: 13.08.2024).
- 4 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр> (date accessed: 01.06.2024).
- 5 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: 08.07.2024).

the state and society as a whole, preserving the sovereignty and territorial integrity of the state, creating appropriate conditions for the speedy restoration of violated rights and freedoms⁶.

Economic sector plays an important role in ensuring harmonious development of legal and social state, as its activities are aimed not only at meeting the needs of the population, but are also an important component of the state's overall functioning. In view of this, the state guarantees protection of the rights of all business entities and individuals engaged in entrepreneurship, and proclaims the social orientation of the economy (Art. 13 of the Constitution of Ukraine), protection of competition in business activities (Art. 42 of the Constitution of Ukraine), etc.⁷ In order to protect public relations in the field of economic activity, the legislator has provided for criminal liability for committing a large group of criminal offenses and crimes, which cause material damage in significant amounts or have other socially dangerous consequences (in particular, for the State).

Law enforcement agencies play an important role in shaping the security environment, guaranteeing the protection of constitutional rights, freedoms and legitimate interests of individuals and society as a whole, preserving sovereignty and territorial integrity of the State and creating right conditions for speedy restoration of violated rights and freedoms. They are responsible for ensuring national security, one of the essential components of which is economic security. Significant negative

consequences for the economic security of the state, the exercise of the constitutional rights of individuals to conduct economic activity, entrepreneurship, protection of private property, development of market relations and maintenance of fair competition are caused by illegal activities of individuals related to the illegal takeover of business entities of various organizational and legal forms, encroachment on their assets, commercial and banking secrets, etc. Law enforcement activities to combat raiding require proper scientific support, in particular, scientifically based recommendations for practical use, formulated with due regard to the problems of investigative and judicial practice. A prerequisite for their development is a thorough study of the victim's identity, since sometimes this component of criminalistic characterization of criminal offenses is starting point that is connected by appropriate correlations with other components of the mechanism of criminal activity.

For a long time, scientists have focused on various aspects of law enforcement activities related to bringing a person to criminal responsibility. Countering criminal offenses related to illegal encroachment on any assets of business entities, i.e., implementation of raider-oriented actions, is extremely relevant. Our attention is drawn to the question of researching identity of the victim of these criminal offenses, determining whether they are characterized by certain signs of victimhood, as well as the peculiarities of their participation in criminal proceedings, in particular, tactics of conducting investiga-

6 Россоха С. В. Правоохоронні органи держави в механізмі захисту прав і свобод людини і громадянина : автореф. дис. ... канд. юрид. наук. Харків, 2016. 17 с. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/9cd2ff8e-6b43-4602-8428-4d0017fb144f/content> (date accessed: 15.08.2024).

7 Конституція України URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (date accessed: 15.08.2024).

tive (search) and other procedural actions with the participation of corporate raid victims, etc.

Article Purpose

The article aims at identifying the characteristics inherent in persons who are victims of criminal offenses related to unlawful takeover and seizure of assets of business entities, enterprises, institutions, organizations and corporate rights thereto and at determining tactical specifics of conducting procedural actions involving victims.

Research Methods

Realization of this goal necessitated the use of a number of general scientific and special cognition methods.

The methods of analysis, synthesis, system analysis, and system-structural analysis were useful in analyzing the system of legal provisions of international legal acts and national legislative acts that are the legal basis for combating criminal offenses related to raiding. The research made possible to determine the legal basis for protecting the rights of business entities, as well as certain participation of victims in criminal proceedings in this category.

Methods of system analysis and system-structural analysis were the main ones used to summarize theoretical work within the chosen research topic and related issues. Along with statistical methods, they were used to process case files of investigative and judicial practice that contributed to identification of typical participation forms of victims in criminal proceedings, procedural actions conduct-

ed with their participation, typical characteristics of victims, etc.

The analysis method of quantitative indicators was used to process investigative and judicial practice (in particular, sentences from the Unified State Register of Court Decisions).

The forecasting method contributed to formation of recommendations on participation of victims in procedural actions carried out at the stage of pre-trial investigation of criminal offenses related to corporate raid.

Analysis of Essential Researches and Publications

Victim's personality has long been an object of forensic cognition, and therefore a subject of forensic research. In the specialized literature, it is paid attention to mainly in the context of the study of an element of the forensic characterization of a particular type or group of crimes. In this context, best practices of V. Bakhin, A. Volobuiev, V. Husieva, V. Zhuravel, V. Konovalova, O. Pchelina, M. Salteveskyi, V. Tishchenko, V. Topchii, S. Cherniavskyi, Y. Chornous, V. Shykanov, N. Shynkevych, V. Shevchuk, V. Shepitko and many others are known.

Yu. Baulina and V. Borysov made a significant contribution to development of the system of criminal law, criminological and forensically significant signs of research on victim⁸.

Recently, criminalistics has begun to gravitate toward cognition of the victim's identity in the victimization aspect. A significant contribution to development of this topic was made by O. Reznikova. The author thoroughly approached the

8 Потерпілий від злочину (міждисциплінарне правове дослідження) / за заг. ред. Ю. В. Бауліна, В. І. Борисова. Харків, 2008. 364 с.

development of scientific foundations of victimization cognition and the use of its results in forensics: she formed scientific and practical forensic recommendations for the development and determination of tactics for conducting investigative (search) and judicial actions⁹. The problem raised by O. Reznikova was actively studied by V. Davydenko¹⁰, V. Maliarova¹¹, I. Tkachenko¹² and some other scholars. Although victimology has offered a certain terminological alternative, using in paral-

lel with the concepts of *victim* and *victim's person* the concept of *victim of crime*¹³, for the sciences of criminal law cycle, in particular criminalistics, this has not yet satisfied the need to identify forensically significant specifics of corporate raid victim.

As for the characteristics of the corporate raid, scientists have already analyzed some of its aspects in their studies. V. Berezniak¹⁴, V. Kikinchuk and V. Husieva¹⁵, S. Stetsenko¹⁶, O. Dudorov with co-authors¹⁷, M. Tsutskiridze with co-au-

- 9 Резнікова О. І. Віктимологічне пізнання особи у криміналістиці : автореф. дис. ... канд. юрид. наук. Харків, 2015. 26 с. URL: https://library.nlu.edu.ua/POLN_TEXT/AFTOREF/Reznikova_O_I_2015.pdf (date accessed: 15.08.2024).
- 10 Давиденко В. Л. Міждисциплінарний характер учення про жертву злочину. *Науковий вісник Херсонського державного університету. Серія: Юридичні науки*. 2015. Вип. 5. Т. 3. С. 124—126. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/fb85941b-82b2-4920-b77a-0b6b74c57a8a/content> (date accessed: 15.08.2024).
- 11 Малярова В. О. Віктимологічний напрям криміналістичного аналізу особи потерпілого від втягнення в заняття проституцією. *Науковий вісник Херсонського державного університету. Серія: Юридичні науки*. 2015. Вип. 3. Ч. 2. Т. 2. С. 220—222. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/a83ea728-566f-4d70-987c-16371680baa4/content> (date accessed: 15.08.2024).
- 12 Ткаченко І. М. Співвідношення потерпілої особи і жертви кримінального правопорушення. *Науковий вісник Ужгородського Національного Університету. Серія: Право*. 2023. Вип. 78. Ч. 2. С. 234—241. DOI: [10.24144/2307-3322.2023.78.2.37](https://doi.org/10.24144/2307-3322.2023.78.2.37) (date accessed: 15.08.2024).
- 13 Потерпілий від злочину С. 205.
- 14 Березняк В. С. Криміналістична характеристика кримінальних правопорушень, пов'язаних із захопленням землі та об'єктів корпоративної власності. *Юридична наука*. 2020. № 9 (111). С. 128—134. DOI: [10.32844/2222-5374-2020-111-9.15](https://doi.org/10.32844/2222-5374-2020-111-9.15) (date accessed: 15.08.2024).
- 15 Кікінчук В. В., Гусева В. О. Особливості розслідування кримінальних правопорушень, пов'язаних протиправним поглинанням та захопленням підприємств, сільськогосподарських земель, порушенням прав їх законних власників (рейдерство) : наук.-метод. рек. Харків, 2020. 58 с. URL: <http://dspace.univd.edu.ua/xmlui/handle/123456789/9813> (date accessed: 15.08.2024).
- 16 Стеценко С. В. Обставини, що підлягають з'ясуванню під час досудового розслідування протиправного заволодіння майном підприємства, установи, організації. *Вісник Кримінологічної асоціації України*. 2024. № 1 (31). С. 288—296. DOI: [10.32631/vca.2024.1.23](https://doi.org/10.32631/vca.2024.1.23) (date accessed: 15.08.2024).
- 17 Дудоров О. О., Каменський Д. В., Титаренко С. С. Кримінально-правова оцінка зловживань державних реєстраторів у контексті протидії рейдерству. *Науковий вісник Національної академії внутрішніх справ*. 2021. Т. 26. №1 (118). С. 118—130. DOI: [10.33270/01211181.118](https://doi.org/10.33270/01211181.118) (date accessed: 15.08.2024).

thors¹⁸, N. Tataryn and Ye. Priakhin¹⁹ and others made a significant contribution to the development of the system of forensically significant signs of the identity of a raiding victim. other scientists. At the same time, the subject of research of the named scientists was somewhat broader, and these authors approached the study of the victim's personality somewhat indirectly, because they aimed to solve more strategic problems. Since our goal is also to develop forensic recommendations on conducting procedural actions in criminal proceedings involving victims, we believe that research on forensically significant specifics of the identity of the victim corporate raid is extremely relevant.

Main Content Presentation

The scientific category: *victim* has long been the subject of interdisciplinary research. Forensic knowledge about victims includes certain information about their forensically significant features, typical forms of behavior, connections and interaction with other participants of criminal procedural relations, and contributes to the development and improvement of technical means, tactics and methodological recommendations for the investigation of criminal offenses and their trial²⁰. In

view of this, we consider it necessary to dwell on the analysis of those forensically significant features of victims of raiding which require their mandatory consideration when developing the mandatory elements of forensic techniques, but this task must be performed taking into account the provisions of criminal and criminal procedure legislation.

As a general rule, the victim in criminal proceedings is *"an individual who has suffered moral, physical or property damage as a result of a criminal offense, a legal entity who has suffered property damage as a result of a criminal offense, as well as an administrator for the issue of bonds, who, in accordance with the provisions of the Law of Ukraine On Securities and Stock Market"*²¹. In addition, *"the victim is also a person who is not the applicant, but who has been harmed by a criminal offense and in this regard, after the initiation of criminal proceedings, he/she filed an application to be involved in the proceedings as a victim"*²².

The victim may participate in criminal proceedings independently or indirectly. To represent an individual who is a victim of a criminal offense, authorized solely by the entity that meets the requirements in criminal proceedings against the defense counsel. If the victim is a legal entity, its interests may be represented by its head on the basis of the relevant constituent

18 Цуцкірідзе М. С., Дударець Р. М., Довгунь С. З. та ін. Розслідування кримінальних правопорушень, пов'язаних з протиправним поглинанням та захопленням підприємств, сільськогосподарських земель, порушенням прав їх законних власників (рейдерство) : наук.-метод. рек. Дніпро, 2021. 72 с. URL: <https://er.dduvs.edu.ua/handle/123456789/9451> (date accessed 15.08.2024).

19 Татарин Н. М., Пряхін Є. В. Методика розслідування самовільного зайняття земельної ділянки та самовільного будівництва : монографія. Львів, 2019. 192 с. URL: <https://dSPACE.lvduvs.edu.ua/handle/1234567890/2545> (date accessed: 15.08.2024).

20 Давиденко В. Л. Зазнач. твір. С. 125. URL: <https://dSPACE.univd.edu.ua/server/api/core/bitstreams/fb85941b-82b2-4920-b77a-0b6b74c57a8a/content> (date accessed: 15.08.2024).

21 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 15.08.2024).

22 Там само.

documents or by another employee of the legal entity on the basis of a power of attorney or by another person or entity authorized by law or constituent documents who has the right to be a defender ²³.

Taking into account specifics of criminal procedural activity aimed at knowing the event of a criminal offense, the need to clarify a set of circumstances that are subject to mandatory proof and have significant tactical significance, we believe that the head of the organization and/or the constituent assembly of the business entity should choose as his representative (representative of the legal entity) the one who is most informed about the activities of the business entity, aware of the specifics of accounting and other reporting at the enterprise, document management, etc. This will increase the effectiveness of investigative (search) actions that will be carried out during the investigation, and in general will ensure efficiency of the tactical tasks of the investigation.

As for the illegal seizure of the property of enterprise, institution, organization, which is typical during the implementation of an intention related to corporate raid, the following should be taken into account: objective side of this composition of the criminal offense assumes that the culprit implements active behavior (action) that consists in seizing the property of an enterprise, institution, organization from the possession, disposal, use of the owner or the person to whom it is legally entrusted, for the benefit of the guilty party or other persons, and this causes

socially dangerous consequences, consisting in property reduction of the owner and enrichment for his account is guilty ²⁴. In view of this, the victim is recognized as the owner of the property to whom material damage was caused.

It is worth noting that not all criminal offenses related to raiding involve victims. Some corpus delicti of criminal offenses in the field of economic activity committed by raiders have a formal composition, and therefore do not necessarily involve socially dangerous consequences. For example, the victim's participation in categories of cases related to forgery of documents submitted for state registration of legal entities and individual entrepreneurs is atypical.

Along with atypical participation of the victim, some categories of criminal offenses of the studied group are characterized by another specific. Thus, according to the provisions of Clause 1 Part 1 of Art. 477 of the Criminal Procedural Code of Ukraine, pre-trial investigation in criminal offenses provided for by separate articles of the Criminal Code of Ukraine, in particular, Part 1 of Art. 206 (opposition to legal economic activity without aggravating circumstances), Art. 219 (bringing to bankruptcy in the context of actions that harm creditors), Art. 229 (illegal use of a mark for goods and services, brand name, qualified indication of the origin of goods), Art. 231 (illegal collection for the purpose of use or use of information that constitutes a commercial or banking secret), Art. 232 (disclosure of commercial

²³ Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 15.08.2024).

²⁴ 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: 15.08.2024) ; Грищенко Н. М. Кримінальна відповідальність за протиправне заволодіння майном підприємства, установи, організації : дис. ... канд. юрид. наук. Дніпро, 2019. 216 с. URL: <https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/d2/dissertations/4/1.pdf> (date accessed: 15.08.2024).

or banking secrets), Art. 232-1 (illegal use of insider information, exclusively in relation to actions that harm the rights, freedoms and interests of individual citizens or the interests of legal entities), Art. 232-2 (concealment of information about the activity of the issuer), are initiated exclusively on the basis of the victim's statement, and criminal proceedings are carried out in the form of a private indictment²⁵. Therefore, it is rightly stated in legal literature that in the case of damage exclusively to the interests of a legal entity, regardless of the organizational and legal form, criminal proceedings are opened at the request of the head or other authorized representative of this legal entity. In these categories of cases, with certain exceptions, it is allowed to conclude a reconciliation agreement between the victim and the defense party that after its conclusion is approved by the court with a verdict²⁶.

In those criminal proceedings where a land plot has been the object of raiding, the legal owners of the land plot or land users, who may be individuals and legal entities, a certain territorial community or the state, are recognized as victims, especially when it comes to reserve lands. According to the scientific literature, the legal owners of land plots include: 1) persons who have the right of permanent use of a land plot; 2) land plot lessees; 3) persons who use other people's land plots for agricultural purposes (emphyteusis); 4) concessionaires²⁷.

Thus, the actual grounds for involvement in criminal proceedings as a victim are the infliction of physical, property and/or moral damage to a person, in the context of a legal entity exclusively property damage. If the victim is represented (and in the context of a legal entity, representation occurs in all situations without exception), it is necessary to check the legal grounds for this, certified by the relevant documents that determine the status of the person. It should be noted that criminal offenses related to raiding can also cause damage to the state. The victim's representative in such criminal offenses is most often either the head of a state-owned enterprise or another employee, who in 86% of the criminal proceedings we analyzed had a law degree and held the position of a lawyer or legal advisor.

For criminal offenses related to raiding, fundamental issue in some categories of cases is the infliction of material (property) damage to the victim, and when it is inflicted on a significant scale or other grave consequences, it affects the legal qualification of the act committed, because it aggravates criminal liability. Such a qualifying circumstance is provided for by the criminal offenses defined in Art. 206, 206-2, 219 and 233 of Criminal Code of Ukraine²⁸.

It should be noted that when investigating the identity of victims of criminal offenses related to raiding, it is often

25 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 15.08.2024) ; Кримінальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 15.08.2024).

26 Ришелюк А. М. Коментар до ст. 219 КК України / Науково-практичний коментар Кримінального кодексу України ; за заг. ред. М. І. Мельника, М. І. Хавронюка. 10-те вид., перероб. та допов. Київ, 2018. С. 735—736.

27 Науково-практичний коментар Кримінального кодексу України ; за заг. ред. М. І. Мельника, М. І. Хавронюка. 7-ме вид., перероб. та допов. Київ, 2010. С. 535.

28 Кримінальний кодекс ... URL: <https://zak.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 05.07.2024).

noted that they are characterized by victim behavior²⁹. We consider this to be one of the most important characteristics of victims in this category of cases. We agree with such arguments, because investigative and judicial practice is aware of cases where the victim “voluntarily” transferred ownership of his or her assets to the raiders due to psychological pressure. An example is the case considered by the Zhovtnevyi District Court of Dnipropetrovsk on charges of a group of individuals of committing a crime under Part 3 of Art. 206-2 of the Criminal Code of Ukraine: unlawful seizure, by prior conspiracy, of the property of Interlizinvest LLC, including a share of its founder, Interlizinvest Ukraine B.V. LLC, by means of transactions using forged company documents, which caused damage totaling UAH 920,908,900. In addition, one of the members of this group was charged with committing a crime under Part 2 of Art. 189 of the Criminal Code of Ukraine for extortion, threatening to restrict the rights and freedoms of the victim, transferring corporate rights to Pectoral PE, Pectoral Agro LLC and Wings of Tavria LLC³⁰.

We also agree with the position of O. Sukmanova, who singles out rare “latent raider takeovers”, when the victims (due to a lack of strength and resources

to fight and oppose illegal takeover) agree to make a compromise decision with the raiders³¹. Based on generalization of theoretical provisions, as well as the content of court practice, we can state that model of behavior of a criminal who took advantage of the victim characteristics of the owner of an enterprise, institution, organization, most often consists in the implementation of two lines of behavior: 1) pushing the person to the role of the victim, in particular by intimidation; 2) using a person's trust for their own benefit (abuse of trust), in particular by concluding transactions through intermediaries, entrusting them with the right to dispose of their property and enter into agreements regarding real estate, etc.³²

It is also worth paying attention to the fact that under Criminal Procedural Code of Ukraine, a person who is a close relative or family member of a person who has suffered moral, physical, or property damage due to a criminal offense can be recognized as a victim in criminal proceedings³³. Such facts, as noted in the legal literature, occur when: 1) the death of the victim occurred due to the commission of a criminal offense; 2) person is in a state that makes it impossible for him to submit the corresponding application³⁴. In general, we agree with this position, but given

29 Павлова Н. В. Особливості розслідування шахрайства, пов'язаного із відчуженням приватного житла : дис. ... канд. юрид. наук. Харків, 2007. С. 67.

30 Вирок Жовтнев. райсуду м. Дніпропетр. від 28.09.2022 р. за провадж. № 1кп/201/145/2022. Справа № 208/6312/16-к / ЄДПР. URL: <https://reyestr.court.gov.ua/Review/106476665> (date accessed: 01.08.2024) ; Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 15.08.2024).

31 Сукманова О. Кінець епохи рейдерства, який не відбувся / Sayenko. Kharenko. 03.12.2020. URL: <https://sk.ua/uk/publications-uk/reiderstvo/> (date accessed: 01.08.2024).

32 Березняк В. С. Знач. твір. С. 128. DOI: 10.32844/2222-5374-2020-111-9.15 (date accessed: 15.08.2024).

33 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 15.08.2024).

34 Абламський С. Є. Захист прав і законних інтересів потерпілого у кримінальному провадженні : монографія / за заг. ред. О. О. Юхна. Харків, 2015. 240 с. (Серія «Бібліотечка

the specifics of the criminal offenses we are investigating, the long period of their pre-trial investigation and the many-year court delay, there are situations when the natural death of the victim occurs, not related to the raiding event. In such situations, close relatives or family members of the owner of the enterprise, institution, organization, whose assets have been raided or whose assets have been raided by other raiders, will further participate in the criminal proceedings.

It is important to consider the issue of participation of the victim or the victim's representative in procedural actions conducted at the pre-trial investigation stage. The participation of victims in interrogations is typical: according to our analysis of investigative and judicial practice materials, we can state that it was conducted in 100% of the criminal proceedings we investigated. We agree that although interrogation is the most common way of collecting evidence in criminal proceedings, it is at the same time one of the most difficult investigative (search) actions, because it requires the investigator to have a high general and professional culture, deep knowledge of people and their psychology, masterful operation of tactical and forensic techniques³⁵. In the context of the criminal offenses investigated by us, it should be noted that in some places the presence of an investigator, detective, and economic education becomes fundamental in matters of prompt and effective resolution of the tasks of criminal proceedings. In other cases, representatives

of the prosecution quite often have to seek advice from knowledgeable persons who are specialists in the relevant fields of scientific knowledge (enterprise economics, economic activity, etc.).

The general subject of the victim's interrogation concerns the following circumstances: the specifics of the establishment and activities of the business entity; information about all founders and managers, as well as the chief accountant, lawyers, security managers, other materially responsible persons and even ordinary employees; information about all assets of the business entity; the presence of personal conflict or hostile relations of the managers of the business entity with other persons; the presence of competitors; type and amount of damage caused; traces of criminal illegal activity identified by the victim. We should mention the "sectoral subject of interrogation", due to the specifics and characteristic features of a particular criminal offense.

In addition to the subject matter, it is important to be guided by other important circumstances when choosing the interrogation tactics. Thus, the testimony of the victim is his right to protect his legitimate interests and they are always important for the investigation of a criminal offense, otherwise there are grounds to assume that the requirements of the law regarding the completeness, comprehensiveness and objectivity of the study have been violated. Finally, the testimony of victim is characterized by a special procedural nature, because this participant in criminal

слідчого і детектива: учасники кримінального провадження»). URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/d6517337-299a-499c-9aa4-1e97f947e72f/content> (date accessed: 15.08.2024).

35 Гусева В. О. Теоретичні основи методики розслідування злочинів проти авторитету органів державної влади у сфері правоохоронної діяльності : дис. ... д-ра юрид. наук. Харків, 2021. С. 257. URL: <http://dspace.univd.edu.ua/xmlui/handle/123456789/10570> (date accessed: 03.08.2024).

proceedings has been harmed, therefore, his testimony can be both a source of evidence and a means of protecting his interests ³⁶.

Victims in cases of the category we are investigating often become participants in reviews, most often those conducted in the office or production premises of a business entity. The objects of inspections are also often land plots and documents.

As for the documents, it should be noted that in many cases they, as well as their copies, are voluntarily provided to the prosecution by the victim or his or her representative during the pre-trial investigation. However, sometimes the defense denies the possibility of recognizing them as evidence, citing violations of the procedural procedure for obtaining them. In view of this, we consider it necessary to refer to the case law. The Grand Chamber of the Supreme Court noted that documents can acquire the status of a procedural source of evidence, provided that the prosecution, referring to such materials, has complied with the requirements provided for by the Criminal Procedural Code of Ukraine regarding admissibility of evidence. In addition, according to the decision of the Constitutional Court of Ukraine No. 12-rp/2011 dated October 20, 2011, in the case on the constitutional petition of the Security Service of Ukraine regarding the official interpretation of part 3 of Art. 62 of the Constitution of Ukraine, factual data proving the commission of a crime or preparation for it may be obtained as a re-

sult of operational and investigative activities of persons authorized by law, accidentally recorded by persons who made their own (private) photo, film, video, sound recordings, or surveillance cameras located both indoors and outdoors ³⁷. Guided by this approach, we can determine the algorithm of actions of the prosecution in situations where the victim or his representative provides documents or other things. We believe that this algorithm should include the following sequential actions:

- 1) having received from the victim or the victim's representative information about things and documents that may be of investigative interest, the prosecution should find out their whereabouts, as well as persons to whom they belong on the right of private property or are at their disposal;
- 2) prosecution should explain to the victim and his representative that if there are materials, their copies that are relevant to prove the existence of circumstances that are subject to proof, they have the right to apply with a corresponding petition for their inclusion in the materials of criminal proceedings in accordance with Art. 220 of Criminal Procedural Code of Ukraine ³⁸, and then attach them to the materials by the relevant procedural decision in the form of a resolution;
- 3) if it turns out that content relevant to the criminal proceedings are avail-

36 Федорчук М. А. Особливості проведення допиту під час розслідування кримінальних правопорушень, пов'язаних із рейдерським захопленням. *Актуальні проблеми держави і права*. 2020. № 86. С. 229—234. DOI: [10.32837/apdp.v0i86.2449](https://doi.org/10.32837/apdp.v0i86.2449) (date accessed: 13.08.2024).

37 Рішення Конституційного Суду України у справі за конституційним поданням Служби безпеки України щодо офіційного тлумачення положення частини третьої статті 62 Конституції України від 20.10.2011 р. № 12-рп/2011. Справа № 1-31/2011. URL: <https://zakon.rada.gov.ua/laws/show/v012p710-11#Text> (date accessed: 13.08.2024).

38 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 15.08.2024).

lable to the victim (his/her representative) during the interrogation, it is necessary to indicate identification characteristics of these documents and things in the text of the protocol and then to examine them and attach to the criminal proceedings as evidence, formalizing this by relevant decision.

Conclusions

During the investigation of most criminal offenses related to raiding, the victim becomes the starting point in clarifying the circumstances that are relevant to solving the tasks of criminal proceedings. It is he or she who files a statement about the commission of a criminal offense, and in the cases provided for in Clause 1, Part 1, Art. 477 of Criminal Procedural Code of Ukraine, such a statement is the only mandatory reason for initiating criminal proceedings. Based on the generalization of the materials of investigative and judicial practice, the author clarifies who can be recognized as a victim and under what circumstances, and what legal procedures should be followed to involve a victim's representative in criminal proceedings if a legal entity has become a victim of criminal activity.

Based on generalization of best practices published in special literature and taking into account the needs and typical problematic issues of investigative practice in the investigation of criminal offenses related to raiding, we have formulated the following conclusions.

Victimization of the victim of criminal offenses related to raiding, caused by a feeling of fear against the background of applied psychological or physical violence, pressure, threats, as well as distrust of law enforcement agencies or other in-

dividual psychological characteristics of a specific person is indicated.

Typical forms of participation of victims and their representatives in criminal proceedings of the investigated group of crimes are outlined. It was found out that the actual grounds for involvement in criminal proceedings as a victim are the infliction of physical, property and/or moral damage to a person, in the context of a legal entity, exclusively property (material) damage. If there is a representation of the victim (and in the context of a legal entity, representation occurs in all cases without exception), then there is a need to check the legal grounds for this, certified by the relevant documents that stipulate the status of the person.

It was found that typical investigative (search) actions involving victims include interrogation and examination. It was found out that the subject of the victim's interrogation is information about the following circumstances: the specifics of the creation and activities of the business entity; information about all founders and managers, as well as the chief accountant, lawyers, security managers, financially responsible persons and other employees; information about all assets of the business entity; the presence of personal conflict or hostile relations of the managers of the business entity with other persons; the presence of competitors; type and amount of damage caused; traces of criminal illegal activities of raiders found by the injured party, etc.

Algorithm for the activities of the prosecution is proposed, which is advisable to implement in situations where the victim or his representative reported that he has things and documents relating to the circumstances of the committed criminal offense, and therefore it is advisable to include them in the materials of the criminal proceedings.

We believe that prospects for further research should be to find out the correlation between the victim and other elements of the forensic characteristics of corporate raid, tactical specifics of conducting simultaneous interrogations with participation of victims and witnesses or suspects who provide conflicting testimony, and other tactical features of the participation of victims in procedural actions. Fulfillment of these tasks is a priority, since it is the victim who can provide the most significant information about the business entity itself and the events of the criminal offense.

**Потерпілий від рейдерства:
криміналістично значущі
характеристики й особливості
участі у процесуальних діях**

Сергій Тюленев

Правозастосовна діяльність щодо протидії рейдерству потребує належного наукового забезпечення, зокрема науково обґрунтованих рекомендацій практичної спрямованості, сформульованих з урахуванням проблем слідчої та судової практики. Обов'язковою умовою їх розроблення є ґрунтовне вивчення особи потерпілого, адже інколи саме він пов'язаний відповідними кореляційними зв'язками з іншими складовими механізму кримінально протиправної діяльності. Мета цієї наукової розвідки — з'ясувати ознаки, притаманні особам, потерпілим від кримінальних правопорушень, пов'язаних із протиправним поглинанням і захопленням активів суб'єктів господарювання, підприємств, установ, організацій, корпоративних прав на них, визначити тактичні особливості проведення процесуальних дій за участю потерпілих. Реалізація окресленої мети зумовила застосування низки загальнонаукових і спеціальних методів. З огляду

на потреби та типові проблемні питання слідчої практики: 1) схарактеризовано особу потерпілого від кримінальних правопорушень, пов'язаних із рейдерством, зазначено їхню віктимність; 2) виокремлено типові форми участі потерпілих і їхніх представників у кримінальних провадженнях означеної категорії; 3) з'ясовано ті слідчі (розшукові) дії, у яких найчастіше беруть участь потерпілі; 4) окреслено алгоритм діяльності сторони обвинувачення, який доцільно реалізовувати в тих слідчих ситуаціях, коли потерпілий або його представник повідомив, що він має речі й документи, які стосуються обставин учиненого кримінального правопорушення, а тому їх доцільно долучити до матеріалів справи. Зазначено також перспективи подальших досліджень у межах досліджуваної проблематики.

Ключові слова: досудове розслідування; кримінальне правопорушення; рейдерство; суб'єкт господарювання; керівник; власник земельної ділянки; потерпілий; допит; огляд; тимчасовий доступ до документів; залучення експерта для проведення судової експертизи.

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The authors state that there is no conflict of interest relating to this topic; although Serhii Tiulieniev is a member of the collection Advisory Board, he did not participate in the decision to publish and this article has been subjected to a full peer review and editing procedure.

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Scientific support of pre-trial investigation of interference in activities of public authorities

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The purpose of this paper is to determine the state of modern scientific support for problems of criminal liability and pre-trial investigation of criminal offenses related to interference in the activities of representatives of State authorities. The set goal was realized thanks to the complex application of general scientific (analysis, synthesis and generalization), dialectical, comparative-legal, systemic-structural and prognostic methods. The problems of the scientific development of criminal responsibility and investigation of interference in the activities of representatives of state authorities are analyzed. Attention is focused on the issues of bringing a person to criminal responsibility for committing criminal offenses of this category, peculiarities of their criminal characteristics, development of methods for their prevention and scientifically based recommendations for their pre-trial investigation. It was established that the following terminological constructions are typical for the designation of illegal activities related to any interference in the activities of representatives of state authorities: "interference in activities" (less often: "interference in the exercise of powers"); "influence" (or "unlawful influence"); "obstructing activity". Taking into account the approaches established in the legal literature, it is proposed to use the term "interference in activity". It was found that, currently only the specifics of bringing a person to criminal responsibility for committing such offenses have been sufficiently developed and the issues of forensic characteristics and tactical and organizational principles

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of their pre-trial investigation do not meet the appropriate level, especially considering the current issues of law enforcement practice. Prospects for further research within the framework of the raised issues are outlined.

Keywords: criminal proceedings; criminal liability; pre-trial investigation; interference in activities; public authority; law enforcement officer; influence; hindering.

Research Problem Formulation

In order to fulfill the functions assigned to, the State grants its representatives (state employees) certain powers and stipulates the guarantees of their professional activity, at the same time it sets high demands on them. The state applies liability (in particular, criminal one) for illegal actions against its representatives, as well as subjects entrusted with the performance of its functions.

Professional activity guarantees of representatives of State authorities include enhanced protection of their independence, which provides for the ability to perform their functions unhindered, without any external influence and remain independent in making legal decisions within the limits of the powers granted to.

Modern doctrine of criminal law provides for liability for interference in the activities of law enforcement officers, government officials, judicial bodies, defense attorneys, representatives of individuals, etc. At the same time, judicial statistics show that, in practice, there are isolated cases of conviction of those guilty of this type of criminal offense. This makes it possible to assume that the articles of the Criminal Code of Ukraine, in which title of the phrase “interference in activity” is used, do not have wide practical application. The reasons for this are both im-

perfection of the articles of the Criminal Code determining responsibility for such acts, and deficiencies in the work of law enforcement agencies. Undoubtedly, composition of crimes involving responsibility for interference in the activities of certain persons is analyzed in all scientific and practical commentaries of the Criminal Code of Ukraine and textbooks on the Special Part of the Criminal Law of Ukraine. Unfortunately, in scientific literature, this issue, as well as the problem of pre-trial investigation of criminal offenses related to interference in the activities of public authorities has not been comprehensively investigated.

In order to effectively combat criminal offenses related to interference in the activities of representatives of State authorities, it is necessary to develop the theoretical and practical foundations of the forensic methodology of their investigation. First of all, it is necessary to find out the current state of scientific development of the problems of criminal responsibility for the commission of criminal offenses of this group and the problems of their pre-trial investigation.

Article Purpose

Determine the current state of scientific support for the problems of criminal liability and pre-trial investigation of criminal offenses related to the involvement in the activities of representatives of public

authorities that requires: 1) identify criminal offenses belonging to this group (according to the textual analysis of the articles of the current Criminal Code, which criminalized such acts); 2) find out the state of scientific research of mentioned problems; 3) determine the status of scientific development of issues of pre-trial investigation of such criminal offenses; 4) outline the prospects for further scientific research in this direction.

Research Methods

The set goal was realized thanks to the complex application of a rationally chosen methodological apparatus, namely: general scientific (analysis, synthesis and generalization was applied to the textual analysis of the provisions of the current Criminal Code of Ukraine and the project of the new one, as well as scientific works on the issue under consideration), dialectical (contributed to the analysis of the definitions of the concepts of *obstruction*, *interference in activity*, *influence*, on which basis the author's vision of their relationship and the correctness of use was formulated), comparative legal (it became useful for clarifying the specifics of criminalization in the current legislation of actions that hinder the activities of representatives of state authorities and comparing them with the project of the new Criminal Code of Ukraine), system-structural (it made it possible to consider the raised problem in a broad and narrow sense, as well as justify the expediency of considering those in which the legislators used the terminological construction of "interference in activity") and prognostic (it helped to determine the prospects of further scientific intelligence in the context of the research problem) methods.

Analysis of Essential Researches and Publications

The following prominent representatives of criminal law sciences made a significant contribution to the study of the issue of criminal liability for committing criminal offenses: P. Andrushko, M. Bazhanov, O. Bandurka, Yu. Baulin, P. Berzin, V. Hryshchuk, M. Melnyk, S. Lykhova, P. Matyshevskiy, O. Lytvynov, V. Navrotskyi, V. Stashys, V. Tatsii, M. Khavroniuk, P. Fris and many others.

In the special literature, the development of forensic techniques and some aspects of the pre-trial investigation of criminal offenses are disclosed in research papers by H. Avdeeva, L. Arkusha, V. Bakhin, R. Blahuta, V. Vapniarchuk, A. Volobuyev, I. Hloviuk, V. Husieva, M. Danshina, V. Drozd, O. Dufeniuk, V. Zhuravlya, O. Kaplina, N. Klymenko, A. Kovalenko, V. Kovalenko, I. Kohutych, O. Kolesnichenko, V. Kolmakov, V. Konovalova, V. Kuzmichov, V. Lukashevych, Ye. Lukyanchikova, B. Lukyanchikova, O. Motlyakha, V. Nora, O. Oderia, I. Piroga, O. Pchelina, V. Pcholkin, O. Sainchina, M. Selivanov, E. Simakova-Yefremian, Z. Sokolovskyi, R. Stepanyuk, V. Stratonov, G. Teteryatnik, V. Tishchenko, T. Fomina, A. Khitry, D. Tsekhan, K. Chaplynskyi, S. Cherniavskyi, Yu. Chornous, V. Shep-itko, V. Shevchuk, M. Shcherbakovskyi, B. Shchura, V. Yusupov, et al.

As for research on various aspects of the pre-trial investigation of criminal offenses related to interference with the activities of representatives of public authorities, they have also been repeatedly covered in the legal literature. Thus, V. Husieva analyzed circumstances to be established during the investigation of interference in the activities of a law enforcement officer (as an independent

structural element of the forensic methodology for investigating a crime)¹.

Recently, scientific research has intensified on issues related to the investigated by us, namely: the pre-trial investigation of interference with the activities of a lawyer (some elements of the mechanism of such criminal activity are similar to those used to interfere with the activities of representatives of public authorities). Various aspects of criminal liability and investigation of interference in the activities of the lawyer were carried out by A. Moroz², T. Tychyna³, I. Fedoronchuk⁴, Ya. Oliynyk⁵, D. Rusanivska⁶. Thus, the main aspects of the problems related to the study are sufficiently developed in the theory of domestic legal science.

Attention of scientists is also drawn to the issues of criminal liability and investigation of interference in the activities of the judiciary: this topic is devoted to research papers by L. Paliukh⁷, I. Medytskyi⁸, M. Udoda⁹ et al.

At the same time, the issue of investigating interference in activities of representatives of state authorities has not yet been subjected to a comprehensive study, so we believe that it requires research intensification.

Main Content Presentation

In the current Criminal Code of Ukraine, construction of *interference in activity* has been used several times, namely:

- 1 Гусева 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: 20.06.2024).
- 2 Мороз А. О. Кримінально-правове дослідження злочину втручання в діяльність захисника чи представника особи (ст. 397 КК України) : автореф. дис. ... канд. юрид. наук. Київ, 2018. 20 с.
- 3 Тичина Т. Є. Кримінальна відповідальність за втручання в діяльність захисника : дис. ... д-ра філос. у галузі права. Харків, 2021. 257 с. URL: <https://old.karazin.ua/docs/work/dyser-tatsii/tychyna-dysertatsia.pdf> (date accessed: 20.06.2024).
- 4 Федорончук І. В. Кримінологічна характеристика та запобігання втручанням у діяльність захисника чи представника особи : автореф. дис. ... д-ра філос. у галузі права. Одеса, 2024. 289 с.
- 5 Олійник Я. С. Методика розслідування погрози або насильства щодо захисника чи представника особи : дис. ... д-ра філос. у галузі права. Львів, 2021. 239 с.
- 6 Русанівська Д. Д. Розслідування втручання в діяльність захисника чи представника особи : дис. ... д-ра філос. у галузі права. Київ, 2023. 260 с. URL: <https://elar.naiu.kiev.ua/server/api/core/bitstreams/87c654d4-47e0-4e7b-ae7c-8ecfdc784aaf/content> (date accessed: 20.06.2024).
- 7 Палюх Л. М. Кримінальна відповідальність за кримінальні правопорушення проти правосуддя : автореф. дис. ... д-ра юрид. наук. Харків, 2021. 39 с.
- 8 Медицький І. Б. Втручання в діяльність судових органів (ст. 376 КК України): актуальні питання кримінально-правової кваліфікації. Актуальні проблеми вдосконалення чинного законодавства України. 2023. Вип. 62. DOI: 10.15330/apiclu.62.1.144-1.155 (date accessed: 20.06.2024).
- 9 Удод М. В. Особливості розгляду повідомлень про втручання у здійснення правосуддя суддів під час воєнного стану. Проблеми інформаційно-правового забезпечення децентралізації державної влади та цифрової трансформації в Україні : зб. мат-лів наук.-практ. конф. до 30-річ. НАПрН України (Вінниця, 15.06.2023). Вінниця, 2023. Т. 1. С. 68–72. URL: https://ippi.org.ua/sites/default/files/zbirnik_1_3.pdf (date accessed: 20.06.2024).

- 1) in Section V “Criminal offenses against electoral, labor and other personal rights and freedoms of man and citizen in Part 4 of Article 157 that provides for liability for: “unlawful interference of an official in the activities of an election commission, a referendum commission or a member of an election commission, a referendum commission using official position to influence their actions or decisions”;
- 2) Section XV: *Criminal offenses against the authority of public authorities, local self-government bodies, associations of citizens and criminal offenses against journalists*, in particular:
 - Art. 343: *Interference in activities of employee of a law enforcement agency, a forensic expert, an employee of the State executive service, private executor;*
 - Art. 344: *Interference in the activities of a public figure;*
- 3) in Section XVIII: *Criminal offenses against justice*:
 - Art. 376: *Interference in the activities of judicial bodies;*
 - Art. 397: *Interference in the activities of a defender or representative of a person*¹⁰.

Despite the fact that the outlined criminal offenses are aimed at and encroach on heterogeneous social relations, and in fact the object of the composition of these criminal offenses is different, we note that they attract our attention due to the fact that they criminalize actions in the form of interference in activities, before not simple par-

ticipants in social relations, but endowed in society with a certain status that distinguishes them from others. At the same time, almost all of these criminal offenses are related to interference in the activities of representatives of state authorities. An exception, in our opinion, is only a criminal offense provided for in Art. 397 of the Criminal Code, because the provision of this article criminalizes the protection and representation of a person in relation to the provision of legal assistance by¹¹.

It should be noted that all these actions, in accordance with the provisions of the current regulations, are aimed at a lawyer, that is, an individual who performs advocacy on the grounds and in the manner prescribed by the Law of Ukraine: *On the Bar and Legal Practice*¹². At the same time, advocacy in this Law is defined as an independent and professional activity of an advocate related to the implementation of defense, representation, and provision of other types of legal assistance to clients¹³. Thereby, while examining groups of criminal offenses related to interference in the activities of representatives of state authorities, we see no reason to add there also interference in the activities of a defender and a representative of a person, because the latter carry out their activities on their own initiative and on the basis of relevant contracts on the provision of legal aid, therefore, their activity is aimed at meeting the needs of the clients they represent and is not related to the implementation of state functions.

10 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: 12.03.2024).

11 Там само.

12 Про адвокатуру та адвокатську діяльність : Закон України від 05.07.2012 р. № 5076-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/5076-17#Text> (date accessed: 12.03.2024).

13 Там само.

As for the scientific development of issues of bringing to criminal responsibility and counteracting criminal offenses related to interference with the activities of representatives of state authorities, these problems have already become the subject of scientific research. At the same time, it is worth noting that scientists call these criminal delicts differently: “interference in activities”, “obstruction of activities”, “illegal influence”, etc. Therefore, we consider it necessary to refer to developments that consider the appropriateness of using specific terminological constructions to denote illegal activities aimed at representatives of public authorities and related to interfering in their professional activities, pressure or other illegal influence on them.

Particular attention in the legal literature is paid to criminal offenses committed against law enforcement officers, as the most common in the recorded number of such torts against representatives of public authorities. One of the first (2007) problems of criminal liability for interference in the activities of law enforcement officers tried to solve I. Zalyalov¹⁴, emphasizing a certain inconsistency between the title of Article 343 of the Criminal Code and the text of Part 1 of this article¹⁵. The researcher substantiated her approach by the fact that it is possible to influence the law enforcement officer not only by

active actions, but also by inaction, while to engage in activity exclusively by active actions, and also substantiated a number of other provisions of the appropriate level of scientific novelty¹⁶.

A comprehensive approach to solving the problem of criminal liability for interference in the activities of various participants in legal relations was implemented by E. Blazhivskiy: in his dissertation research, he outlined separate issues of prosecution for the commission of crimes provided for in Part 4 of Art. 157 and Art. 343, 344, 376 and 397 of the Criminal Code¹⁷. In our opinion, his significant contribution is the proposal to use the phrase “interference in the exercise of powers” instead of “interference in activity” due to the lack of a definition of the concept of “activity” in criminal legislation. The scientist also noted that in the current Criminal Code, the phrase “interference in activity” is used to denote: illegal encroachments on the normal activity of persons acting on behalf and/or in the interests of the state; only active and intentional behavior of the subject¹⁸.

Criminal offenses investigated by Ye. Blazhivskiy have repeatedly become the subject of study by Ukrainian researchers. Thus, A. Tskhovrebov devoted his thesis to the criminal law nature, essence, content, grounds and conditions of the offensive, as well as the forms of criminal lia-

14 Залялова І. М. Кримінальна відповідальність за втручання в діяльність працівника правоохоронного органу : автореф. дис. ... канд. юрид. наук. Київ, 2007. С. 5.

15 Кримінальний кодекс ... (станом на 10.01.2007 р.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14/ed20070110#Text> (date accessed: 12.03.2024).

16 Залялова І. М. Зазнач. твір.

17 Блажівський Є. М. Кримінальна відповідальність за втручання в діяльність за кримінальним правом України : автореф. дис. ... канд. юрид. наук. Львів, 2010. С. 5. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/85/1/blazivckui.pdf> (date accessed: 20.06.2024) ; Кримінальний кодекс ... (станом на 10.01.2007 р.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 12.03.2024).

18 Блажівський Є. М. Зазнач. твір. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/85/1/blazivckui.pdf> (date accessed: 20.06.2024).

bility for interference in the activities of law enforcement officers¹⁹. S. Husarov²⁰, A. Borovyk²¹, Yu. Stepanova²² and other scientists also analyzed the mentioned problems in their research papers.

Obstruction of activity in criminal law was considered in detail by Ye. Pylypenko. In his opinion, crimes of obstruction of activity should be considered in a broad sense (those that directly encroach on the right to carry out legal activity: criminal offenses provided for in Articles 114-1, 157, 170, 171, 174, 206, 279, 340, 341, 343, 344, 350, 351, 351-1, 351-2, 375, 376, 382, 386, 391, 397 of the Criminal Code²³), and in the narrow sense (which objective side is exhausted by actions in the form of obstruction : Articles 114-1, 170, 171, 180, 340 of Criminal Code of Ukraine²⁴)²⁵. E. Pylypenko proposed to understand the obstruction of activity (as a feature that unites the relevant components of crimes)

as actions to create obstacles in the exercise of the right of another person to a certain activity not prohibited by law, i.e., an action or inaction (physical, intellectual) aimed at preventing, termination or complication of such activities. At the same time, the scientist did not pay attention to the norms containing responsibility for actions, which are formulated in the legislation using other terms, as well as articles in the text of which (despite the indication in the title) the term: “*obstruction* is missing (in other words, author actually examines the composition of criminal offenses, provided for in Articles 114-1, 170, 171, 180, 340 of the Criminal Code²⁶, and does not consider interference in the activities of state authorities)²⁷.

S. Yermolaieva-Zadorozhnia grouped crimes related to obstruction of official activities as follows: illegal interference, abuse of influence, threat or violence

- 19 Цховребов А. О. Кримінальна відповідальність за втручання в діяльність працівника правоохоронного органу : дис. ... канд. юрид. наук. Дніпро, 2017. 226 с. URL: <https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/k2/dissertations/5/3.pdf> (date accessed: 20.06.2024)
- 20 Гусаров С. М. Кримінально-правовий захист працівників правоохоронних органів: сучасний стан та перспективи вдосконалення. *Вісник Кримінологічної Асоціації України*. 2015. № 3 (11). С. 34—43. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/55db19f9-f14c-4c27-b032-42b57423be64/content> (date accessed: 20.06.2024).
- 21 Боровик А. В. Мета та мотиви посягань на представників влади. *Вчені записки ТНУ імені В. І. Вернадського. Серія: Юридичні науки*. 2023. Т. 34 (73). № 1. С. 124—130. DOI: [10.32782/TNU-2707-0581/2023.2/20](https://doi.org/10.32782/TNU-2707-0581/2023.2/20) (date accessed: 20.06.2024).
- 22 Степанова Ю. П. Кримінально-правовий захист військовослужбовців та працівників ДПСУ від протиправних посягань, вчинених у зв'язку з їх службовою діяльністю. *Вісник Асоціації кримінального права України*. 2023. Т. 1. № 19. С. 182—206. DOI: [10.21564/2311-9640.2023.19.281121](https://doi.org/10.21564/2311-9640.2023.19.281121) (date accessed: 20.06.2024).
- 23 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 12.03.2024).
- 24 Там само.
- 25 Пилипенко Є. В. Перешкоджання діяльності у кримінальному праві України : дис. ... канд. юрид. наук. Северодонецьк, 2018. С. 39—40. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/3529/1/pilipenko_d.pdf (date accessed: 20.06.2024).
- 26 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 12.03.2024).
- 27 Пилипенко Є. В. Знач. твір. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/3529/1/pilipenko_d.pdf (date accessed: 20.06.2024).

against a law enforcement officer and his close relatives; resistance to a law enforcement officer; malicious disobedience to the requirements of the administration of the penal institution, understanding the criminological concept of “obstructing official activity” as the illegal creation of any obstacles or restrictions with the aim of hindering the performance of official duties or achieving the adoption of an illegal decision²⁸.

Kyrbiatiev developed the theoretical principles of criminal legal protection of the professional activity of law enforcement officers (on the basis of generalization of various concepts of foreign and Ukrainian scientists, provisions of legislation, analysis of law enforcement practice of Ukraine and other countries)²⁹.

V. Husieva investigated the methodological and organizational and tactical foundations of methodology for investigating crimes against the authority of public authorities in the field of law enforce-

ment (in particular, criminal offenses under Parts 2 and 3 of Article 342; Articles 343, 345, 347–350, 352, 353 of Criminal Code³⁰)³¹.

The most common criminal offenses we investigate are those directed against police officers. O. Bilichak and A. Makarova proposed a forensic classification of criminal offenses committed against police officers: they differentiated criminal offenses with a high level of practical orientation, dividing them into groups, the composition of which is due to the relevant features of the situation of committing a criminal offense³².

Up to date, there are no developments in the theory of criminal law devoted to the topic of criminal liability for interference in the activities of a statesman. Some issues of social conditioning and criminal regulation of such interference were considered by A. Maltsev³³ and V. Kuznetsov³⁴. At the same time, domestic scientists have not yet paid attention to the investigation

28 Ермолаєва-Задорожня С. В. Кримінологічна характеристика перешкоджання службовій діяльності працівників правоохоронних органів та його запобігання : автореф. дис. ... канд. юрид. наук. Харків, 2019. С. 4. URL: http://criminology.nlu.edu.ua/wp-content/uploads/2020/09/ermolaeva-zadorozhnyia_s.v._avtoreferat_2019.pdf (date accessed: 20.06.2024).

29 Кирбят'єв О. О. Кримінально-правова охорона професійної діяльності працівників правоохоронних органів : дис. ... д-ра юрид. наук. Київ, 2021. 446 с. URL: <https://library.megu.edu.ua:9443/jspui/handle/123456789/2453> (date accessed: 20.06.2024).

30 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 12.03.2024).

31 Гусєва В. О. Зазнач. твір. DOI: 10.32631/pb.2021.2.12 (date accessed: 20.06.2024).

32 Білічак О. А., Макаров А. І. Криміналістична класифікація злочинів, вчинених щодо працівників поліції у зв'язку із виконанням службових обов'язків як складова методики розслідування. *Держава та регіони. Серія: Право*. 2020. № 2 (68). С. 239–241. DOI: 10.32840/1813-338X-2020.2.40 (дата звернення: 20.06.2024).

33 Мальцева А. В. Соціальна обумовленість встановлення кримінальної відповідальності за втручання у діяльність державного діяча. *Вісник Асоціації кримінального права України*. 2023. Т. 1. № 19. С. 207–225. DOI: 10.21564/2311-9640.2023.19.279276 (date accessed: 20.06.2024).

34 Кузнецов В. В. Удосконалення кримінально-правового регулювання відповідальності за злочини проти державного діяча. *Питання боротьби зі злочинністю*. 2017. Вип. 33. С. 23–31. URL: https://ivpz.kh.ua/wp-content/uploads/2019/02/zbirnik_33.pdf (date accessed: 20.06.2024).

of this type of criminal offenses: perhaps due to the lack of prevalence of such facts in practice.

Special attention in the legal literature is paid to interference in the activities of the judiciary, which is due to the following: *firstly*, international and national standards enshrine the independence of the judiciary from other authorities; *secondly*, such interference is one of the most common criminal offenses against justice and at the same time a rather latent encroachment on the independence of judges and judicial activity that is aggravated from year to year³⁵.

A. Martirosyan, one of the first researchers of theoretical foundations of criminal liability for interference in the activities of persons administering justice defined the specifics of criminal liability not only under Art. 376 of the Criminal Code of Ukraine, but under Art. 377-379 of the Criminal Code of Ukraine, and separately noted that the concepts of *entrustment* and *interference* are correlated as general and partial (genus and species), besides, in case of interference, there are necessarily consequences in the form of preventing the proper administration of justice, and interference does not require such a mandatory feature as the occurrence of consequences³⁶.

Some criminological problems and appropriate mechanisms for preventing interference in the activities of judges and court employees are covered in the works of G. Bershov, E. Blazhivskiy, Ye. Bunin, V. Horodovenko, S. Didyk, R. Karkhut, O. Kvashi, N. Otchak, V. Plukar, M. Shepitko, etc. V. Yakovleva made a significant contribution to the development of criminological characteristics and the development of effective mechanisms to prevent interference in the activities of the judiciary³⁷. D. Teslyuk considered certain issues of counteraction to criminal offenses, in particular regarding the establishment of responsibility for the commission of infringements on the activities of judges³⁸, who studied the experience not only of Ukraine, but also of the EU member states (Austria, Denmark, Estonia, the Netherlands, Germany, Luxembourg, Finland, Sweden)³⁹.

R. Karkhut compared the regulation of criminal liability for interference in the activities of judicial bodies in the legislation of Ukraine and Poland. The researcher noted that the beginning of responsibility for interference in the activities of judicial bodies in Ukraine was established in 1990, adding three articles to the Criminal Code of the Ukrainian SSR: 176-1 *Interference in the resolution of court cases*, 176-2 *Threat against a judge*, 176-3 *Insulting a judge*⁴⁰

35 Яковлева В. С. Втручання у діяльність судових органів в Україні: оцінка сучасного стану. Там само. 2020. Вип. 40. С. 130. DOI: 10.31359/2079-6242-2020-40-126 (date accessed: 20.06.2024).

36 Мартіросян А. Г. Кримінальна відповідальність за втручання в діяльність осіб, які здійснюють правосуддя : автореф. дис. ... канд. юрид. наук. Київ, 2011. С. 6.

37 Яковлева В. С. Кримінологічна характеристика та запобігання втручанням у діяльність судових органів : дис. ... д-ра філос. у галузі права. Харків, 2023. 260 с.

38 Теслюк Д. Ю. Відповідальність за посягання на діяльність суддів за законодавством окремих держав Європейського Союзу. *Актуальні проблеми вдосконалення чинного законодавства України*. 2023. Вип. 63. С. 4.75—4.88. DOI: 10.15330/apiclu.63.4.75-4.88 (date accessed: 20.06.2024).

39 Там само. С. 4.76—4.84.

40 Про внесення змін і доповнень до деяких законодавчих актів Української РСР : Указ Президії ВР УРСР від 04.05.1990 р. № 9166-XI. URL: <https://zakon.rada.gov.ua/laws/show/9166-11/ed19960807#Text> (date accessed: 12.03.2024).

(while in Polish legislation, similar acts were criminalized as early as 1932)⁴¹. The scientist focused on inconsistency of domestic legislator, which consists in the multiplicity of articles that stipulate criminal liability for interference in the activities of certain bodies or persons (Articles 343, 344, 376, 397 of the Criminal Code⁴²), while Polish legislation operates in all articles relating to similar crimes, with the same thesis: “One who, by means of violence or illegal threat, influences <...>”⁴³

Yu. Khrystova noted one of the leading special international principles for ensuring justice: prohibition of undue influence on judges, pressure, threats or interference in the activities of the judiciary during the consideration of cases entrusted to them⁴⁴.

S. Knizhenko investigated the structural elements of the forensic characteristics as mandatory components of the forensic methodology for investigating interference with the activities of the judiciary, in particular: the identity of the offender; the motives that guide the perpetrator; the identity of the victim; the method of unlawful interference; the situation, place and time of the commission of a criminal offense; peculiarities of the traces of the commission of a criminal offense under Article 376 of Criminal Code of Ukraine⁴⁵.

Based on generalization of provisions of criminal legislation and best practices of Ukrainian scientists, we can state some obvious trends. *First*, despite the presence of parallel terminological constructions: *interference in activity* and *obstruction of activity* in the theory of criminal law, only the first of them is analyzed in criminology. *Secondly*, the modern doctrine of criminal law still does not clearly distinguish between interference, illegal influence and obstruction of activity. *Thirdly*, to this day, the theory of criminology still lacks scientifically based recommendations for the investigation of criminal offenses related to interference in the activities of law enforcement officers, statesmen, judicial bodies, as well as election commissions and referendum commissions. It is worth noting that when formulating recommendations for investigating interference in the activities of individual subjects, scientists use a differentiated approach, not considering it appropriate to combine these subjects into one group. We believe that such an approach may have a negative impact on the development of appropriate recommendations for the investigation of criminal offenses of this group, since the draft of the new Criminal Code provides for criminalization of the following acts:

1) unlawful influence on the prosecutor, investigator, detective, inquirer,

41 Кархут Р. В. Кримінальна відповідальність за втручання у діяльність судових органів за законодавством України та Республіки Польща : дис. ... канд. юрид. наук. Київ, 2018. С. 198–199.

42 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 12.03.2024).

43 Кархут Р. В. Зазнач. твір.

44 Христова Ю. Міжнародні стандарти забезпечення безпеки правосуддя. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2023. № 2 (123). С. 239. DOI: 10.31733/2078-3566-2023-2-234-24 (date accessed: 20.06.2024).

45 Книженко С. О. Криміналістична характеристика злочинів, що вчиняються шляхом незаконного втручання в діяльність судових органів або протиправного впливу на учасників судочинства. *Право і суспільство*. 2016. № 2. С. 196–199. URL: <https://univd.edu.ua/science-issue/issue/1199> (date accessed: 20.06.2024).

defender, representative of the person, forensic expert and their relatives, due to the professional activities of these subjects, that is, performance of their official powers or professional duties (Article 8.2.3: criminal offense against the promotion of justice);

- 2) unlawful influence on the judge and his loved one in connection with the administration of justice (Article 8.1.5: crimes against the foundations of justice);
- 3) influence on a person who performs his official powers or professional duties in the public interest, in order to interfere with the performance of these powers or duties (except in cases of unlawful influence and interference provided for in other articles of this Code; Article 9.7.8: crimes against the order of public administration. It should be noted that both the term *influence* and the term: *interference* are used in the text of this article);
- 4) unlawful influence on a member of the election commission, referendum commission in order to prevent him from committing an action, making decisions or changing his actions or decisions (Article 4.10.5: crimes against electoral rights and referendum law) ⁴⁶.

Textual analysis of the draft Criminal Code of Ukraine allows us to note that the concept of “interference” is used only twice in it: in Art. 4.10.6 “Submission of false information to the State Voter Register or interference with its work” and in Art. 8.1.6 *Interference in the system of automatic distribution of cases between judges*, that is, in a different context than the one

we are studying. Instead, in the rest of the text, category of “*influence*” is chosen, by which legislators propose to understand the inducement of another person to take (not to take) a certain action ⁴⁷. We believe that this approach was applied with the intention of eliminating the contradiction between the title of Art. 343 and the text of Part 1 of Art. 343 of the current Criminal Code. At the same time, despite the fact that the term: *obstruction* is used, its definition is not further provided by the authors, and is used only in certain articles, in particular in 9.7.8.

Therefore, current criminal legislation provides for responsibility specifically for interference in activity, which takes place, for example, in the form of illegal influence aimed at preventing the performance of individual official powers and professional activity in general by subjects defined by the legislator. Considering the multiplicity of forms of interference in activity, we believe that this concept should continue to be used in parallel with the term: *influence*. Criminal offenses related to interference in an activity can be considered both in a narrow and a broad sense: for example, motivated or with the intention of revenge for such activity (when a person made a legal decision in a case that negatively affected the status of the relevant subject), or to prevent the performance of professional duties (in particular, the adoption of a relevant decision); i.e., resistance to a representative of the authorities, and violence against him, and various threats to him, and encroachment on his property, etc., can be considered criminal offenses related to interference in the activity, if the perpetrators aim

⁴⁶ Проєкт Кримінального кодексу України (станом на 14.10.2023 р.). URL: <https://new-criminalcode.org.ua/upload/media/2023/10/15/kontrolnyj-tekst-proyektu-kk-14-10-2023.pdf> (date accessed: 20.06.2024).

⁴⁷ Там само.

to prevent the performance of the legal activities of the relevant participant in the legal relations, endowed with powerful powers.

By representatives of public authorities, we mean entities that either hold positions in the civil service, or who are involved in the implementation of the functions of the state. We have chosen this approach, since all these entities are united by belonging to the public sector, although they are representatives of different branches of government.

Conclusions

Criminal offenses related to interference in the activities of representatives of public authorities are the subject of study of various sciences of the criminal legal cycle. In the legal literature, close attention is paid to the problems of bringing persons to criminal responsibility for committing such offenses, studying the features of their criminological characteristics, determining methods of preventing them, as well as effective methods of their pre-trial investigation.

On the basis of the textual analysis of current criminal legislation, the generalization of best practices of Ukrainian scientists, we found out that following terminological constructions are typical for the designation of illegal activity associated with any interference in the activities of representatives of state authorities: *interference in the activity* (less often: *interference in exercise of powers*), *influence (illegal influence)*, *obstruction of activity*. Taking into account approaches highlighted in the legal literature, we suggest using the term *interference in activity* because, firstly, it fully corresponds to the modern doctrine of criminal law, and secondly, we tend to understand interference as a complex of actions, among which influence is

one from forms caused by the intention to prevent a person from performing his professional activity.

The group of criminal offenses related to interference can be interpreted both in a broad sense (i.e., including all crimes and criminal misdemeanors aimed at preventing representatives of state authorities from performing their official duties) and in a narrow sense (in particular those for which the legislator directly used terminological construction: *interference in activity*).

The issue of criminal offenses related to interference in the activities of representatives of state authorities is currently sufficiently developed only in terms of criminal liability for their commission. Issues of criminological characteristics, pre-trial investigation and scientifically based tactical and organizational principles of their investigation also do not correspond to the proper level of their theoretical support, especially considering the problems of law enforcement practice. In view of this, we believe that these issues require an urgent solution and should become the subject of future research, in particular complex ones. In addition, the application of such an approach and the selection of the appropriate direction of scientific research are also actualized by the potential reformation of criminal legislation.

**Наукове забезпечення
досудового розслідування
втручань у діяльність органів
державної влади**

Володимир Попов

Мета роботи — визначити стан сучасного наукового забезпечення проблем кримінальної відповідальності й досудового розслідування кримінальних правопорушень, пов'язаних зі втручанням у діяльність представників органів державної влади. Поставлену мету реалізовано

завдяки комплексному застосуванню загальнонаукових (аналізу, синтезу й узагальнення), діалектичного, порівняльно-правового, системно-структурного та прогностичного методів. Проаналізовано проблематику наукової розробленості кримінальної відповідальності й розслідування втручання в діяльність представників органів державної влади. Увагу акцентовано на проблемах притягнення особи до кримінальної відповідальності за вчинення кримінальних правопорушень цієї категорії, особливостях їх кримінологічної характеристики, розробленні методів запобігання їм і науково обґрунтованих рекомендацій щодо їх досудового розслідування. Констатовано, що типовим для позначення протиправної діяльності, пов'язаної із будь-яким утручанням у діяльність представників органів державної влади, є такі термінологічні конструкції: «втручання в діяльність» (рідше — «втручання у здійснення повноважень»); «вплив» (або «незаконний вплив»); «перешкоджання діяльності». Зважаючи на усталені у правничій літературі підходи запропоновано застосовувати саме термін «втручання в діяльність». З'ясовано, що станом на сьогодні достатньо розроблено лише специфіку притягнення особи до кримінальної відповідальності за вчинення таких правопорушень, а питання криміналістичної характеристики й тактико-організаційних засад їх досудового розслідування не відповідають належному рівню, особливо зважаючи на актуальні проблеми правозастосовної практики. Окреслено перспективи подальших досліджень у межах порушеної проблематики.

Ключові слова: кримінальне провадження; кримінальна відповідальність; досудове розслідування; втручання в діяльність; орган державної влади; працівник правоохоронного органу; вплив; перешкоджання.

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Declaration of Competing Interest

Author declare no conflict of interest.

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Price lists for amber products as a tool for expert evaluation: gemological and legal principles

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The purpose of this research paper is to develop an algorithm for compiling price lists for amber products based on real market data for necklaces and beads. For achieving the goal (with the help of general scientific and special methods of scientific cognition), consumer properties of products (color, weight, size, presence of inclusions and cracks, transparency, processing quality, price) were analyzed and a database was created that will contribute to solving theoretical and applied issues. In order to meet the needs of the modern market, price lists for amber products have been developed based on economically determined and understandable calculations and which are one of the sources of objective and reliable results in expert and evaluation activities, and are also relevant in economic geology (for clarifying feasibility of industrial development of mineral deposits). Objectivity and reliability of the obtained results is guaranteed by the software created according to real quality indicators of raw ma-

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terials (color, weight, size, transparency) and the technological production procedure of commercial products. The cost indicator of raw materials of 30% of the product cost is proposed to be considered as the limit below which the production of amber balls is unprofitable.

Keywords: *amber; forensic examination; evaluation; cost; algorithm; price list; market.*

Research Problem Formulation

Determining the cost of amber products is one of the urgent issues in modern forensic expert practice. The lack of State prices for amber products causes significant fluctuations in the prices of amber products that does not allow to correctly calculate their value and reduces the quality of forensic expert evaluation in general.

The results of our research modern amber market in Ukraine indicate that available market prices for raw amber and products from it are obviously not stable (most often due to the fact that the modern world amber business is not structured) and prices depend on the availability of raw materials on the market. In other words, the price lists are based on comparative prices, and they vary significantly. In addition, on the territory of Ukraine, unfortunately, illegal amber mining is widespread and there is practically no public procurement of raw materials that leads to complete confusion in pricing policy and complicates the work of forensic gemologist.

Currently, all trade agreements and expert evaluation of this stone in Ukraine are carried out according to the price lists for raw materials and amber products from the reference publication: *Handbook of Prices of Precious and Decorative Stones* bul-

letin ¹, which is published 4 times a year by the State Gemological Center of Ukraine of the Ministry of Finance of Ukraine (hereinafter referred to as SGCU) and the basis of information for which is price analysis (usually in European market).

Price lists for raw amber are of special importance for geological and economic evaluation of its deposits which purpose is to analyze all factors of the object's industrial value, calculate technical and economic indicators and prepare a conclusion about the economic efficiency of further work. Therefore, geological and economic evaluation of deposit of this mineral consists in justifying feasibility of its industrial development.

Legislative changes adopted at the end of 2019 regarding provision of amber-bearing subsoils for use contributed to legalization and growth of amber mining volumes. In 2023, 39.2 tons of amber were mined in Ukraine, that is, 15 times more than in 2019. In addition, in 2023, 35.4 million hryvnias were paid in rent for the use of amber-bearing subsoil, 30% of which was directed to budgets territorial communities ².

Typically, the cost of such objects is determined according to the price lists approved by the Ministry of Finance of Ukraine. However, modern business (investor) needs to evaluate deposits of stone

1 Див., напр.: Довідник цін коштовного та декоративного каміння. 2024. № 2(61). 44 с.

2 Електронні торги. Результати 2019–2023 / Державна служба геології та надр України : офіц. сайт. URL: <https://www.geo.gov.ua/wp-content/uploads/presentations/ukr/statistika-elektronnix-torgiv.pdf> (date accessed: 22.06.2024).

processing raw materials, taking into account the cost of final marketable products (specific products) based on technical and economic calculations³.

Currently, the market for amber products is not controlled by the State, it develops chaotically, mostly by fluctuating prices several times, and sometimes several orders of magnitude. The absence of state prices for amber products forces the market to formulate its pricing policy, which causes certain difficulties in calculating the cost of amber products in modern expert practice.

In this regard, we propose an algorithm developed by us for compiling price lists for amber products (on the example of balls and beads from balls).

Article Purpose

Since currently there is an urgent need for alternative price lists based on the real amber market data, the authors of this study set out to develop an algorithm for compiling price lists for amber products based on the real market of amber beads and balls, for which they analyzed the consumer properties of amber beads and balls (color, weight, size, existence of inclusions and cracks, transparency, quality of processing, price) and created a database for these products based on the results of processing commercial websites, trading platforms, foreign and domestic exhibitions.

Research Methods

Methodological basis of the research is general scientific and special methods of scientific cognition. The method of system-structural analysis contributed to the analysis of norms of domestic legislation regulating the extraction, production and use of precious and semi-precious stones, control over operations with them and the rules of their attestation, the formulation of critical comments regarding price lists for amber as a precious stone of organogenesis. Statistical, mathematical, physical and other special research methods made it possible to evaluate amber products within the limits of gemological examination with the aim of general geological and economic evaluation of amber deposits in Ukraine.

In order to increase objectivity and reliability of expert evaluation of amber, we have developed a computer program that makes it possible to form price lists for amber products in a calculated way while using real indicators of color, mass, size, yield suitable during the production of amber products for jewelry.

Analysis of Essential Researches and Publications

Analysis of research papers of domestic⁴ and foreign authors⁵ who directly or indirectly investigated the pricing of amber⁶

- 3 Рудько Г. І., Литвинюк С. Ф. Родовища бурштину України та їх геолого-економічна оцінка / за ред. проф. Г. І. Рудька. Київ — Чернівці, 2017. 240 с.
- 4 Беліченко О. П., Ладжун Ю. І., Татарінцев К. В., Гаєвський Ю. Д., Максютя О. В., Кравченко М. О. Сучасний стан та динаміка розвитку ринку бурштину. *Коштовне та декоративне каміння*. 2021. № 1 (103). С. 20—26. URL: [https://www.gems.org.ua/jurnal/archive/2021/N1\(103\)/image/stat4.pdf](https://www.gems.org.ua/jurnal/archive/2021/N1(103)/image/stat4.pdf) (date accessed: 22.06.2024).
- 5 Rippa A., Yang Y. The Amber Road: Cross-Border Trade and the Regulation of the Burmite Market in Tengchong, Yunnan. *TRaNS: Trans-Regional and National Studies of Southeast Asia*. 2017. Vol. 5. Is. 2. Pp. 243—267. DOI: [10.1017/trn.2017.7](https://doi.org/10.1017/trn.2017.7) (date accessed: 22.06.2024).
- 6 Bilham N. T. Responsible mining and responsible sourcing of minerals: opportunities and challenges for cooperation across value chains. *Geological Society, London, Special Publications*. 2021. Vol. 508. Pp. 161—186. DOI: [10.1144/SP508-2020-130](https://doi.org/10.1144/SP508-2020-130) (date accessed: 22.06.2024).

products showed that almost no research was carried out in Ukraine directly related to the declared topic. In recent years, the authors of this article have paid attention to this problem⁷, but there is a lack of thorough work, so the analysis of literary sources confirms the lack of information on the creation of price lists for amber products⁸.

At the same time, it is clear that other factors influence the pricing of amber, such as costs (overhead, marketing, material, labor, etc.) and the ratio of supply and demand, ultimately depending on behavior strategy in the market of leading companies in the extraction and processing of amber. Today, the domestic amber market, unfortunately, is aimed at selling only raw materials⁹, but we hope that over time Ukraine will export ready-made amber products.

All of the above confirms that the assessment of amber is one of urgent¹⁰ and pressing issues of evaluation and expert activity¹¹ in Ukraine.

The lack of recognized approaches to determining prices necessitates the development of alternative price lists for amber products based on the data of the modern amber market.

Main Content Presentation

Currently, there is a fairly rich range of amber products on world market, besides, each of its varieties is characterized by certain price indicators, which directly depend on the quality of raw materials, the quality of the product and the demand for it. Analysis of the modern amber market shows that the most interesting objects of study are the product and its prices. Since the current amber market in Ukraine is unstable and controversial, a number of issues on the pricing of goods from it have not been resolved to this day affecting primarily a significant range of prices: for example, between amber in raw materials and products from it, between equivalent products of different quality, etc.

In order to identify the main features that affect the pricing of beads and amber balls, the authors made an attempt to identify the main ways to solve the raised issues.

One of the most urgent issues for domestic manufacturers of amber products is the lack of clear and transparent mechanisms for product pricing and sales.

Currently, expert evaluation and quality control of raw materials and products

7 Baranov P., Korotaiev V., Slyvna O. Features of pricing of amber products in modern conditions. *Forensic Herald*. 2023. № 2 (40). Pp. 68–76. DOI: 10.37025/1992-4437/2023-40-2-68 (date accessed: 22.06.2024).

8 Kirin R. S., Baranov P. M., Korotaiev V. M., Shevchenko S. V. Algorithm for the formation of price lists for raw amber taking into account individual consumer characteristics. *Naukovyi Visnyk Natsionalnoho Hirnychoho Universytetu*. 2023. № 1. Pp. 20–25. DOI: 10.33271/nvngu/2023-1/020 (date accessed: 22.06.2024).

9 Ільчишен І. Бурштин може приносити в Україну додатковий капітал. *Nadra info*. 15.02.2024. URL: <https://nadra.info/2024/02/ihor-ilchishen-amber-can-bring-additional-capital-to-ukraine/> (date accessed: 22.06.2024).

10 Беліченко О. П., Ладжун В. І., Татарінцева К. В. Атестація та експертна оцінка дорогоцінного каміння органогенного походження (бурштин) : навч. посіб. Київ, 2017. 20 с.

11 Беліченко О. П., Татарінцева К. В., Ладжун Ю. І., Гаєвський Ю. Д., Максюта О. В., Кравченко М. О. Наукове обґрунтування розроблення та оновлення технічних умов і методичних документів ДГЦУ з атестації та експертної оцінки дорогоцінного каміння, дорогоцінного каміння органогенного утворення. *Коштовне та декоративне каміння*. 2022. № 4. С. 15–18.

made of precious stones, precious stones of organogenesis origin (in particular, amber ¹²) and semiprecious stones (hereinafter referred to as GS) is carried out by the SGCU (Part 4 of Art. 15 of the Law of Ukraine: On State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Transactions with Them ¹³, hereinafter referred to as the *Gemological Law*). As mentioned above, summarizing the information on the dynamics of price indicators for precious stones in raw materials and products in the markets for the sale of goods, the SGCU publishes information and reference publication on a quarterly basis, namely: *Price Guide for Precious and Decorative Stones* the bulletin ¹⁴, the information of which is based on price analysis (usually the European market).

The main criteria for assessing the quality of amber (according to the current price lists): mass, texture, shape, surface of the sample, cracking, presence of inclusions. At the same time, the current price lists contain ambiguous concepts, which causes problems in the work of the expert and the appraiser, affects the objectivity of determining the quality of amber (therefore, its value) and does not at all correspond to the basic principles of forensic examination — objectivity and completeness of research. In addition, these price lists do not reflect the real prices for Ukrainian amber and

amber products, since they are formed at European prices.

In accordance with Art. 9 of the Gemological Law, the ¹⁵ payment of GS, which is purchased to the State Fund of Precious Metals and Precious Stones of Ukraine (hereinafter referred to as *State Fund*) and which is stored in the State Repository of Precious Metals and Precious Stones of Ukraine (hereinafter referred to as the *State Repository*), as well as the sale of valuables from the State Repository are carried out at market prices effective on the day of sale.

At the same time, the concept of *market price* for amber can be described as follows:

- this is the price at which amber is transferred to another owner, provided that the seller wishes to transfer it and the buyer wishes to receive it on a voluntary basis;
- seller of amber and its buyer: a) are mutually independent legally and in fact; b) have sufficient information about amber, as well as about prices that have developed in its market (in their default homogeneous GS) in comparable economic (commercial) conditions (subclause 14.1.219 of the Tax Code of Ukraine ¹⁶, hereinafter referred to as *Tax Code of Ukraine*).

In addition to the pricing policy for GS, the gemological legislation of Ukraine, re-

12 Kirin R. S. Legal support for the evaluation and sale of objects of gemological relations. *Forum of Rights*. 2024. No. 78 (1). P. 65-76. DOI: [10.5281/zenodo.10869348](https://doi.org/10.5281/zenodo.10869348) (date accessed: 22.06.2024).

13 Про державне регулювання видобутку, виробництва і використання дорогоцінних металів і дорогоцінного каміння та контроль за операціями з ними : Закон України від 18.11.1997 р. № 637/97-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/637/97-%D0%B2%D1%80#Text> (date accessed: 22.06.2024).

14 Довідник цін

15 Про державне регулювання URL: <https://zakon.rada.gov.ua/laws/show/637/97-%D0%B2%D1%80#Text> (date accessed: 22.06.2024).

16 Податковий кодекс України від 02.12.2010 р. № 2755-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2755-17#Text> (date accessed: 22.06.2024).

ferred to above ¹⁷, regulates the following: amber extracted from the subsoil under a forward contract is purchased from the State Fund from the entities that extract and produce it in a sorted form, and the quality control of sorting and expert evaluation of amber is carried out by the SGCU according to the relevant directories ¹⁸.

Specifics of forward contract:

- 1) this is a civil law agreement, under which the seller undertakes in the future to transfer the asset to the buyer's ownership within a specified period of time under certain conditions, and the buyer undertakes to accept the asset within a specified period of time and pay the price specified in such agreement for;
- 2) forward contract is executed by supplying the asset and paying for it with funds or conducting cash settlements between the parties to the contract without supplying the asset;
- 3) all conditions are determined by the parties at the time of conclusion of the contract;
- 4) conclusion of forwards and their circulation is carried out outside the organizer of trade in standardized fixed-term contracts (subclause 14.1.45.3 of Tax Code of Ukraine ¹⁹).

Therefore, in order to determine the cost of an amber product, it is necessary to know the prices for amber in raw ma-

terials, as well as to estimate the costs of manufacturing product.

In accordance with the legislation, SGCU conducts independent examination and controls the quality of raw materials and products from GS, as well as products with them, expert evaluation of GS enrolled in the State Fund, conducts gemological studies of raw materials, and performs other work related to independent forensic examination of GS ²⁰.

Therefore, the GS assessment should take into account its cost according to the expert opinion, determined on the basis of the GS gemological examination according to the price lists published in the Periodic Price Guide for Precious and Decorative Stones ²¹ and which are valid on the date of assessment.

In order to fulfill this task, the price lists of the SHCU were used excluding value added tax (hereinafter referred to as VAT), which defined such parameters as variety, fraction size, cost in US dollars per 1 kg (\$/kg; see Table 1 on page 74).

The estimated cost of amber of the 1st quality group (1st grade) is calculated based on the results of a detailed examination in SGCU.

In addition to the price lists for raw materials, SGCU forms prices for amber products, which in many respects do not structure prices in the market but, on contrary, create certain problems.

17 Kirin R., Baranov P., Koziakov I. Gemological Law of Ukraine: formation Problems and development Prospects. *Вісник Київського національного університету імені Тараса Шевченка. Геологія*. 2021. Т. 2. № 93. С. 6—14. DOI: 10.17721/1728-2713.93.01 (date accessed: 22.06.2024).

18 Про видання довідників оптових цін на діаманти, дорогоцінне, напівдорогоцінне та декоративне каміння : постанова КМУ від 31.05.1995 р. № 369. URL: <https://zakon.rada.gov.ua/laws/show/369-95-%D0%BF#Text> (date accessed: 22.06.2024).

19 Податковий кодекс URL: <https://zakon.rada.gov.ua/laws/show/2755-17#Text> (date accessed: 22.06.2024).

20 Про державне регулювання URL: <https://zakon.rada.gov.ua/laws/show/637/97-%D0%B2%D1%80#Text> (date accessed: 22.06.2024).

21 Довідник цін

Table 1

**Prices for amber in raw materials
that correspond to the price level
of small wholesale trade lots (excluding VAT), \$/kg ²²**

Mass fraction of amber, g	Quality group				Layered amber	Dirty, foamy amber
	1-st	2-nd	3-rd	4- th		
Up to 2	80	40	20	20	20,00	20,00
2—5	182	130	104	65	20,00	20,00
5—10	350	250	200	125	85.00	50.00
10—20	784	560	448	280		
20—50	1659	1185	948	593		
50—100	2191	1565	1252	783	400.00	
100—200	2702.	1930	1544	965		
200—300	3346	2390	1912	1195		
300—500	3486	2490	1992	1245		
500—1000						Collectively
Over 1000						Collectively

The very name of the price list “Amber and amber pressed in decorative elements” (see Table 2) does not meet the requirements of the Law of Ukraine “On Forensic Examination” ²³, since the origin of amber, like other precious stones, is an important argument and the main indicator in court proceedings as the main criterion of monetary value. For the consumer or amateur, the natural origin of amber is a magical indicator, so it is incorrect to evaluate amber according to Table 2 (both from legal and consumer positions).

Table 2

**Prices for amber and amber pressed
in decorative elements, excluding VAT, \$/year ²⁴**

<i>Balls</i>							
Size, mm	Up to 6	6—10	10—15	15—20	20—25	25—30	Over 30
Estimated value, \$/g	0.6—1.8	2.3	3.6	9.0	11.5	14.5	16.4
<i>Caboshons, rotation bodies, plates, etc.</i>							
Weight, g	Up to 2	2—5	5—10	10—20	20—30	Over 30	
Estimated value, \$/g	0.7—1.8	2.8	3.9	4.4	6.8	8.4—27.0	
<i>Tumbled elements in jewelry items (necklaces, bracelets, etc.)</i>							
Size, mm	4—10		10—30			30—60	
Estimated value, \$/g	0.26		0.52			0.62	

Note: Defect group A, defects are invisible to the naked eye. The estimated cost of non-drilled tapped elements is reduced by 30%.

²² Довідник цін

²³ Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 22.06.2024).

²⁴ Довідник цін

It is worth noting the following: the cost of drilling, which is 30% of the cost of the bullet, does not meet the standards of the modern technological process, since drilling is a maximum of 5-10% of the bullet cost.

The structure of Table 2 itself causes certain inconveniences for the appraiser: the size of the bullet is given in mm, and the price is given in \$/g, that is, to calculate the cost of the bullet, its volume and then weight should be determined first. For example, we give the calculation of the cost of bullets according to the price lists of SGCU (see Table 1).

The costs for manufacture of bullets and their implementation are determined on the basis of the processing of experimental data obtained during multifactor experiments, other parameters of the technological process are also obtained

(yield of suitable). All this indicates that the cost of raw materials for the manufacture of balls on average is 30% of the cost of the product, and the yield is 30% (this is the lower limit, below which the manufacture of balls is unprofitable).

Thus, the cost of products is determined by the following formula:

$$C_{\text{вир.}} = (C_{\text{сир.}} \times M_{\text{зраз.}}) \div (C_{\text{сир. \%}} \div C_{\text{вир. \%}}),$$

where:

$C_{\text{вир.}}$ is the product cost, \$;

$C_{\text{сир.}}$ is the cost of raw materials, \$/g;

$M_{\text{зраз.}}$ is sample weight, g;

$C_{\text{сир. \%}}$ — the cost of raw materials in the ball is 30%;

$C_{\text{вир. \%}}$ — cost of the product is equal to 100%.

The results of calculations (see Table 3), as evidenced by practice and marketing research, are far from reality and contradict existing amber market.

Table 3

Results of calculations of the cost of amber balls

Seq. No.	Bullet size, mm	Bullet weight, g	Cost of amber in a bullet, \$/h	Bullet cost, \$	Estimated cost of raw materials, \$/year
1	6	0.12	0.6—1.8	0.07—0.22	0.05
2	6—10	0.12—0.56	2.3	0.276—1.29	0.21—0.21
3	10—15	0.56—1.70	3.6	2.01—6.12	0.32—0.32
4	15—20	1.70—4.47	9.0	15.3—40.23	0.81—0.81
5	20—25	4.47—8.73	11.5	51.41—100.36	1.04—1.02
6	25—30	8.73—15.08	14.5	126.86—218.66	1.29—1.31
7	> 30	15.08	16.4	247.31	1.48

The above calculations are somewhat surprising: a discrepancy between the prices of the price list is clearly visible.

For example:

- in line 1, a 6 mm ball costs \$0.07 (2.8 UAH). It is not clear how a ball with a size of up to 6 mm can cost \$0.6-1.8 (a difference of 3 times) and by what criteria it is necessary for its evaluation;

- in line 2, a 10 mm ball costs \$1.29, and in line 3, a ball of the same size costs \$2.01.

This situation is typical for bullets of 15, 20, 25 and 30 mm in size.

Further calculation of the cost of the products was carried out with the help of AMBER-3 software. As a result of analytical data processing, we received a table (price list) with the following parameters:

mass of the sample (fractions), mass of the ball in g; ball size (diameter) in cm and the results of calculating the cost of balls for three grades of amber (q.v. Table 4), since the 4th grade of amber is not used for making balls.

Table 4

**Price list on an amber ball
according to the calculations of AMBER-3 software**

Sample weight (g)	Bullet weight, g	Bullet diameter, cm	Cost of balls, \$		
			1st grade	2nd grade	2nd grade
1	0.3	0.83	0.27	0.13	0.07
2	0.6	1.05	0.53	0.27	0.13
2	0.6	1.05	1.21	0,87	0.69
5	1.5	1.42	3.03	2.17	1.73
5	1.5	1.42	5.83	4.17	3.33
10	3	1,79	11.67	8.33	6.67
10	3	1,79	26.13	18.67	14.93
20	6.01	2.26	52.27	37.33	29.87
20	6.01	2.26	110.60	79.00	63.20
50	15.02	3.06	276.50	197.50	158.00
50	15.02	3.06	365.17	260.83	208.67
100	30.03	3.86	730.33	521.67	417.33
100	30.03	3.86	900.67	643.33	514.67
200	60.06	4.86	1801.33	1286.67	1029.33
200	60.06	4.86	2230.67	1593.33	1274.67
300	90.09	5.56	3346.00	2390.00	1912.00
300	90.09	5.56	3486.00	2490.00	1912.00
500	150.15	6.6	5810.00	4150.00	3186.67

These results demonstrate the direct dependence of the cost of the bullet on its parameters (see Fig. 1). In addition, the cost of lightweight bullets is very low, and starting from a weight of more than 200 g., the cost increases dramatically. In any case, the results obtained provide the key to understanding the formation of prices for amber balls.

As we can see from the table.1, the cost of an amber sample of the same weight, but of different fractions, varies significant-

ly. For example, the weight of a 2 g sample from the 2-5 g fraction exceeds the value of the same sample from the up to 2 g fraction three times (!). This is clearly visible in the graph (q.v. Fig. 1), where the curve of price lists forms a kind of staircase during the transition from one fraction to another. A reasonable question arises: how much will a ball with a weight of 3 or 4 g, that is, a ball whose weight is between the extreme values of the fraction, cost?

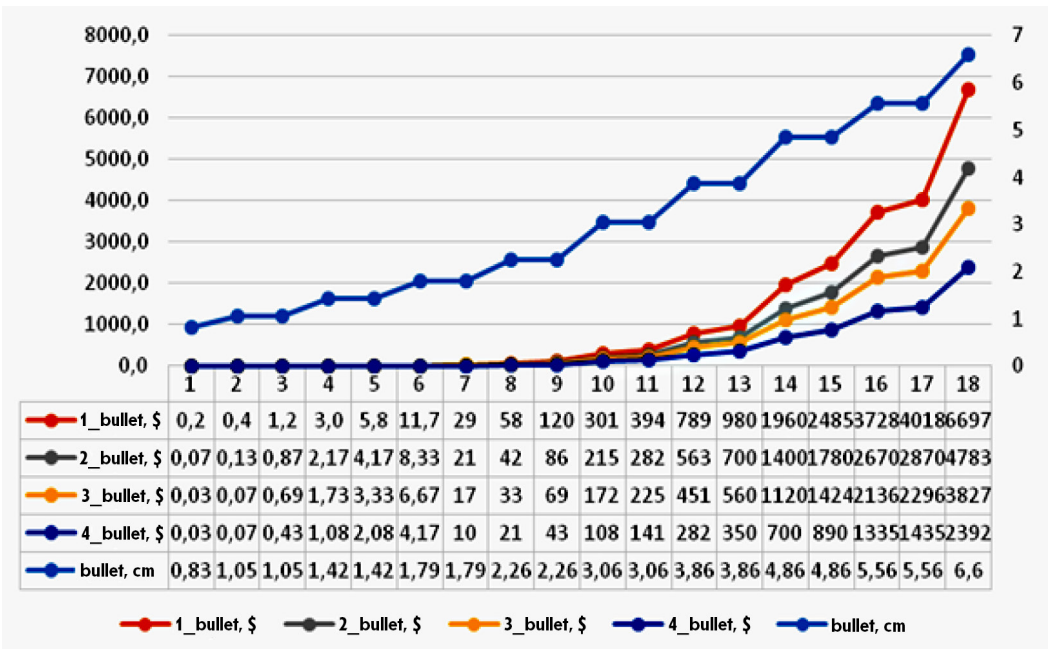


Fig. 1 Graph of the cost distribution of balls of different varieties of amber

The stair graph of bullet size looks illogical. For example, balls of the same size of 1.05 cm (serial numbers 2 and 3) have different values: one is worth \$0.07 and the other is \$0.43). In order to eliminate this shortcoming, let's make a table.5 with an interval of 1 g, and the cost of the fraction will be divided equally. For example, the

cost of the 2-5g fraction starts at \$60/kg (\$0.060/g) and ends at \$182/kg (\$0.182/g). Subtract the first value from the last value and divide it into three intervals, as a result we will get the value by which each interval will increase:

$$(182 - 60) \div 3 = \$40.6/\text{kg}$$
(in this way we will extend to 500 g).

Table 5

Price list on an amber ball according to the calculations of AMBER-3 software

Sample weight (g)	Bullet diameter, cm	Bullet price by quality group, \$		
		1st grade	2nd grade	3rd grade
1.00	0.85	0.20	0.07	0.03
2.00	1.07	0.40	0.13	0.07
3.00	1.23	1.00	0.56	0.41
4.00	1.35	1.88	1.24	0.96
5.00	1.46	3.03	2.17	1.73
6.00	1.55	4.44	3.08	2.46
7.00	1,63	6.07	4.15	3.31

Continuation of Table 5

Sample weight (g)	Bullet diameter, cm	Bullet price by quality group, \$		
		1st grade	2nd grade	3rd grade
8.00	1.71	8.00	5.39	4.29
9.00	1.77	10.20	6.78	5.40
10,00	1.84	11.67	8.33	6.67
11.00	1.90	16.06	10.52	8.43
12.00	1.95	19.48	13.00	10.40
13.00	2.00	23.18	15.69	12.57
14.00	2.05	27.25	18.62	14.93
15.00	2.10	31.60	21.85	17.50
16.00	2.15	36.32	25.28	20.27
17,00	2.19	41.31	29.01	23.23
18.00	2.23	46.68	32.94	26,40
19.00	2.28	52.38	37.18	29.77
20,00	2.31	58.33	41.67	33.33
22,00	2.39	68.71	49.06	39.23
24,00	2.46	79.92	57.04	45.60
26.00	2.53	91.95	65.69	52.43
28.00	2.59	104.81	74.85	59.73
30.00	2,65	118.50	84.60	67.50
32.00	2.71	133.01	94.93	75.73
34.00	2.76	148.35	105.97	84.43
36.00	2.82	164.52	117.48	93.72
38,00	2.87	181.51	129.58	103.36
40.00	2.92	199.33	142.27	113.47
42.00	2.96	217.98	155.54	124.04
44.00	3.01	237.45	169.40	135.08
46.00	3,05	257.75	183.85	146.59
48.00	3.10	278.88	198.88	159.20
50.00	3.14	301.00	215.00	172.00

As a result of processing the calculated data, we obtain a smooth curve of the size and cost of the bullets (*see Fig. 2*). Such a graph is logical and understandable, and the question of how much a bullet weighing 3 g or 4 g costs does not arise.

Thus, if you know the cost of one ball, you can calculate the cost of a necklace,

that is, multiply the number of beads in a string by the cost of the balls, taking into account the cost of work on assembling the necklace. In the table6 shows the results of calculating the cost for ball necklaces of different grades. The Pearson correlation coefficient is 0.78, indicating a strong relationship between bead size and bead value.

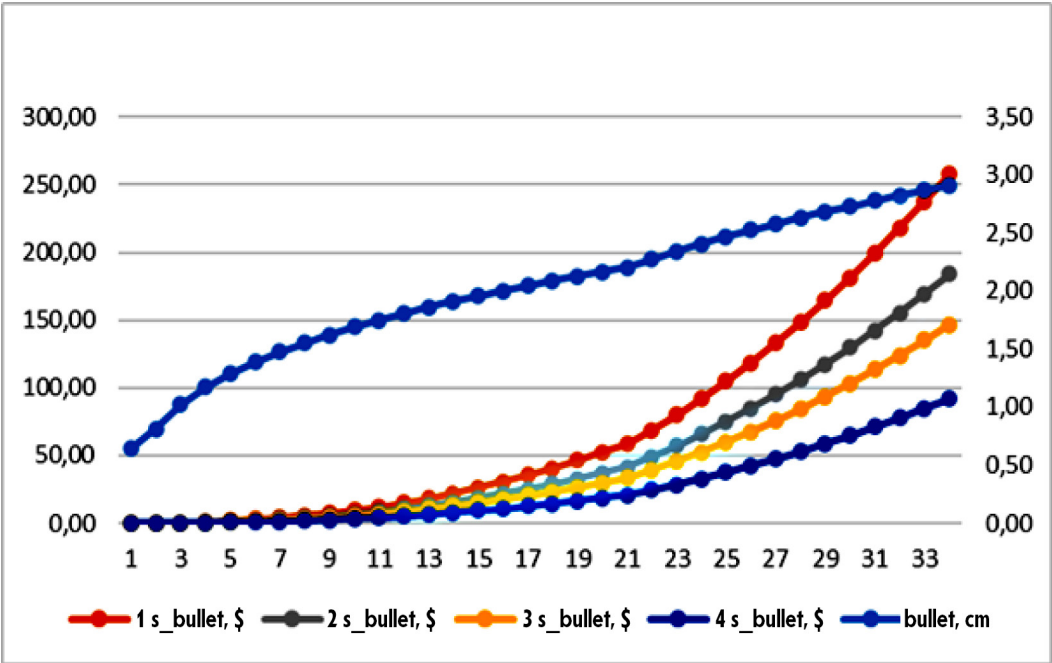


Fig. 2. Dependence of the cost of balls on their size

Table 6

The cost of a necklace-ball from different varieties of amber

Thread length, cm	Bullet diameter, cm	Number of beads	The price of a necklace-ball by quality groups, \$		
			1st grade	2nd grade	3rd grade
48	0.85	56	12.42	4.35	1.86
48	1.07	45	19.74	6.41	3.45
48	1.23	39	42.93	24.04	17.60
48	1.35	36	73.53	48.50	37.55
48	1.46	33	109.58	78.48	62.56
50	1.55	32	157.55	109.29	87.29
50	1,63	31	204.82	140.03	111.69
50	1.71	29	257.31	173.36	137.98
52	1.77	29	329.63	219.11	174.51
52	1.84	28	362.78	258.95	207.35
52	1.90	27	483.49	316.71	253.79
52	1.95	27	571.41	381.33	305.07
52	2.00	26	662.95	448.73	359.50
52	2.05	25	760.34	519.54	416.58

Continuation of Table 6

Thread length, cm	Bullet diameter, cm	Number of beads	The price of a necklace-ball by quality groups, \$		
			1st grade	2nd grade	3rd grade
52	2.10	25	860.72	595.15	476.67
52	2.15	24	966.28	672.57	539.28
52	2.19	24	1078.96	757.70	606.74
52	2.23	23	1197.35	844.92	677.17
52	2.28	23	1314.09	932.76	746.86
52	2.31	23	1444.36	1031.83	825.31
52	2.39	22	1644.44	1174.16	938.89
52	2.46	21	1858.30	1326.30	1060.29
52	2.53	21	2078.87	1485.17	1185.37
52	2.59	20	2314.72	1653.06	1319.13
52	2,65	20	2557.81	1826.08	1456.98
52	2.71	19	2807.44	2003.69	1598.43
52	2.76	19	3074.50	2196.19	1749.78
52	2.82	18	3337.07	2382.93	1900.99

Let us sum up the subtotals. If we compare the estimated prices for necklaces with their market prices, it becomes clear that the cost of the former is much lower than the latter. For example, the average estimated cost of a bead-ball (the size of beads is from 0.63 to 2.63 cm) is \$937, and in the «Янтар Полісся» company (the size of beads is from 0.7 to 2.5 cm) – \$2255 (excluding the color of amber according to the price lists), that is, we observe a difference of 2.4 times ²⁵.

Instead, the estimated cost of beads from small beads is very low, which cannot be said about their market prices. Publication 2022 ²⁶ states that the estimated cost of raw materials does not coincide with the

price lists of the SGCU, as a result of which the cost of a necklace with a small diameter of beads is overestimated.

At the same time, the market and estimated prices for beads with large beads are very close. Currently, a necklace with a bead diameter of more than 2 cm is extremely rare on the market, while necklaces with a small bead diameter are in excess.

Thus, the simulation results obtained using the Amber-3 software are aimed at standardizing calculations and increasing objectivity of research. With this approach, you can set any weight of the sample (fraction), any size interval between samples and get forecast prices for new amber products, that is, form a price list for the goods.

25 Baranov P., Slyvna O., Korotaiev V. Price lists for amber and their significance in market and planned regulation of the economy. *Forensic Herald*. 2024. № 1 (41). Pp. 19–31. DOI: [10.37025/1992-4437/2024-41-1-19](https://doi.org/10.37025/1992-4437/2024-41-1-19) (date accessed: 22.06.2024).

26 Kirin R., Baranov P., Shevchenko S., Korotayev V. Method of price formation of amber samples on the basis of gemmological-consumer indicators. *Journal of Geology, Geography and Geoecology*. 2022. Vol. 31. № 2. Pp. 321–332. DOI: [10.15421/112230](https://doi.org/10.15421/112230) (date accessed: 22.06.2024).

Conclusions

Gemological and legal principles of an accessible level of objectivity in determining the value of amber spheres and necklaces based on state price lists for amber and experimentally determined technological parameters for the manufacture of amber products are substantiated. Most often, the estimated value of amber in Ukraine is determined by a monopoly based on the results of State gemological examination.

The cost of amber raw materials for the manufacture of balls, the cost of manufacturing balls, their implementation and other parameters of the technological process (yield of suitable) are determined on the basis of the processing of experimental data obtained during multifactorial experiments. The results of the latter confirmed that the cost of raw materials for the manufacture of bullets on average is 30% of the cost of the product, and the yield of suitable products is 30%. We propose to consider this indicator as the lower limit at which manufacture of bullets is unprofitable.

Algorithm for determining the value of amber products has been developed, which is based on the dependence of the commercial value of the product on gemological and physical quantitative and qualitative indicators (as well as the estimated value of raw materials) and which allows (using the example of calculating the value of balls and beads from balls) to offer reasonable price lists for amber products and compile improved price lists for amber raw materials.

It is argued that the results of the application of the Amber-3 software provide an integrated approach to calculating the cost of the *raw material* — *product* metonymic model and increase the objectivity

of the relevant studies due to the ability to vary the weight of the sample (fraction), the interval between samples, geometric and qualitative parameters of the individual product components.

Прайс-листи на вироби з бурштину як інструмент експертного оцінювання: гемолого-правові засади

**Петро Баранов,
Роман Кірін,
Олена Сливна**

Мета цієї праці — розробити алгоритм складання прейскурантів на вироби з бурштину за даними реального ринку намиста й кульок. Для досягнення мети (за допомогою загальнонаукових і спеціальних методів наукового пізнання) проаналізовано споживчі властивості виробів (колір, вагу, розмір, наявність включень і тріщин, прозорість, якість оброблення, ціну) та створено базу даних, яка сприятиме розв'язанню теоретичних і прикладних питань. На задоволення потреб сучасного ринку розроблено прайс-листи на вироби із бурштину, які ґрунтуються на економічно обумовлених і зрозумілих розрахунках і які є одним із джерел об'єктивних і надійних результатів в експертній та оцінній діяльності, а також актуальні в економічній геології (для з'ясування доцільності промислового розроблення родовищ корисних копалин). Об'єктивність і надійність здобутих результатів гарантовано програмним забезпеченням, створеним за реальними показниками якості сировини (кольором, масою, розміром, прозорістю) і технологічного процесу виробництва товарної продукції. Показник вартості сировини у 30 % від вартості виробу запропоновано вважати межею, нижче за яку виготовлення бурштинових куль позбавлене рентабельності.

Ключові слова: бурштин; експертиза; оцінювання; вартість; алгоритм; прейскурант; ринок.

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Participants

The author has contributed solely to intellectual discussion underlying this document, case law research, writing and editing, and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

Authors declare no conflict of interest.

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Praxeological principles of forensic veterinary examination: issues and optimization of ways to their solving

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This article purpose is a scientific survey of current state and ways to improve effectiveness of forensic veterinary activity through the use of a praxeological approach. Complex of methods (dialectical, system-structural, system-functional, formal logic (analysis, synthesis, deduction, induction, analogy), axiological, modeling) was used to achieve the goal. Praxeology concept is interpreted in forensic and veterinary aspect. Influence of praxeological properties on stimulating development of specific veterinary knowledge in the context of the formation of the concept of effective forensic veterinary activity has been clarified. Forensic expert praxeology was analyzed from a review of its efficiency and effectiveness of functioning of forensic veterinary mechanisms. Peculiarities of praxeological approach in the forensic and veterinary field are argued. Forensic veterinary practice is considered as one of the means of expert provision of legal proceedings. Attention is focused on the fact that the development and improvement of theory, methodology and praxeology of forensic veterinary examination is the basis for increasing judiciary efficiency. The newest praxeological construction of domestic forensic veterinary examination, an addition to Criminal Procedural Code of Ukraine (regarding obligation to appoint forensic veterinary examination to find out the nature and degree of severity of damage caused to the animal's health, as well

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as to establish the cause of its death) is proposed and Scientific and methodological recommendations on issues of preparation and assignment of forensic examinations and expert researches (expansion of the range of questions that are asked to the forensic veterinary expert during appointment of the relevant examination).

Keywords: forensic veterinary medicine; forensic veterinary examination; forensic veterinarian; forensic expert conclusion; forensic science institutions; effective activities; practical significance; praxeology; animals; injuries.

Research Problem Formulation

Forensic examination is a scientifically sound and reliable form of specific expertise application in legal proceedings. Forensic expert conclusion based on the analysis of factual data clarified by forensic expert, increases the evidence level ¹ and allows law enforcement agencies and

the court to substantiate and make objective procedural decisions ².

Forensic veterinary examination (hereinafter referred to as FVM) ³ is appointed during the pre-trial investigation and trial of cases of offenses against the life and health of animals (ill-treatment ⁴, illegal hunting ⁵ and/or aquatic mining ⁶, violation of veterinary rules ⁷ etc.).

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- 2 Попович Є. М. Єдність науки та практики в судово-експертній діяльності. *Теорія та практика судової експертизи і криміналістики*. 2019. Вип. 19. С. 158–172. DOI: 10.32353/khrife.1.2019.012 (date accessed: 08.07.2024).
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Unfortunately, nowadays the meaning of praxeological approach to FVM as a basic concept has not been formulated, its significance in the methodology of this science has not been determined, which indicates relevance of the proposed research for practical forensic and law enforcement activities.

Analysis of Essential Researches and Publications

Praxeological aspects of jurisprudence in general and criminalistics and forensic science in particular were studied by the following domestic and foreign scientists: E. Simakova-Yefremian ⁸ (considered the interdependence of European integration procedures and specific expertise integra-

tion in Ukraine); B. Hamaliuk, V. Lampel and R. Tsymbalista ⁹ (outlined the institutional foundations of the formation of the system of forensic expert activity (hereinafter referred to as FEA) in Ukraine); A. Kovalenko ¹⁰ (revealed methodological significance of praxeological approach in criminalistics); T. Loza ¹¹ (suggested ways to solve the problems of FEA in Ukraine); E. Popovich ¹² (argued the unity of science and practice in FEA); G. Spitsyna and S. Belevtsova ¹³ (justified the newest paradigm of the theory and practice of forensic examination in Ukraine); I. Shynkarenko ¹⁴ and H. Spitsyna (analyzed the historical origins and prospects for the development of forensic examination); V. Shepitko and M. Shepitko ¹⁵ (examined the doctrine of criminology and forensic examination in Ukraine); O. Kliuiev and E. Simakova-

- 8 Сімакова-Єфремян Е. Б. До питання взаємозалежності європейських інтеграційних процесів і тенденцій інтеграції спеціальних знань в Україні. *Теорія та практика судової експертизи і криміналістики*. 2017. Вип. 17. С. 152–158. URL: http://nbuv.gov.ua/UJRN/Tpsek_2017_17_22 (date accessed: 15.07.2024).
- 9 Гамалюк Б. М., Лямпель В. І., Цимбаліста Р. Г. Інституційні засади формування системи судово-експертної діяльності в Україні. *Дніпровський науковий часопис публічного управління, психології, права*. 2023. № 2. С. 61–66. DOI: [10.51547/ppp.dp.ua/2023.2.9](https://doi.org/10.51547/ppp.dp.ua/2023.2.9) (date accessed: 15.07.2024).
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- 14 Шинкаренко І. Р., Спіцина Г. О. Історичні витоки та перспективи розвитку теорії та практики судової експертизи. *Актуальні питання судової експертизи та криміналістики* : зб. мат-лів міжнар. наук.-практ. конф., присвяч. 95-річ. створ. ХНДІСЕ ім. Засл. проф. М. С. Бокаріуса (Харків, 10–11.10.2018). Харків, 2018. С. 20–22.
- 15 Шепітько В., Шепітько М. Доктрина криміналістики та судової експертизи: формування, сучасний стан і розвиток в Україні. *Право України*. 2021. № 8. С. 12–27. DOI: [10.33498/louu-2021-08-012](https://doi.org/10.33498/louu-2021-08-012) (date accessed: 15.07.2024).

Yefremian¹⁶ (outlined doctrinal approaches to forensic examination in Ukraine); V. Bryzhko¹⁷ (characterized praxeology in the field of information law); U. Tsmots¹⁸ (argued legal praxeology as a factor in the effectiveness of legal practice); M. Shcherbakovskiy¹⁹ (explained the peculiarities of conducting and using forensic examinations in criminal proceedings).

Article Purpose

Investigate the current state of the FVM to ensure the effectiveness of justice, reveal the essence of the praxeological approach and outline its capabilities to promote the development of the theory, methodology and practice of FVM.

Research Methods

Theoretical and methodological basis of our scientific research is a set of interdependent methods: dialectical, system-structural, system-functional, axiological, formal logic (analysis, synthesis, deduction, induction, analogy, modeling, etc.).

Main Content Presentation

Praxeology (from Greek: πράξις — action and from Greek: λογία — teaching) studies ways to increase efficiency and usefulness of human activity in various fields. Therefore, the ***purpose of forensic praxeology*** (as

a general component) should be to *study the principles, regularities, conditions, rationality, efficiency, features of implementation, use and application of means, techniques and methods of forensic examination, and one of its directions is forensic veterinary practice, for which praxeology produces the most effective algorithm of actions*. In its turn, forensic veterinary practice forms the basis for developing new and improving existing research methods (methodological function) and criteria for evaluating classic and new research objects (evaluative function), and also applies them in practice (applicable function) and familiarizes uninformed with possibilities forensic examination to determine factual data and circumstances of commission of offenses (educational function).

Forensic veterinary practice can be characterized as a meaningful and consistent activity aimed at obtaining a certain result, which is :

- mechanism of self-realization of forensic experts, in particular, due to creative process (development of heuristic research methods);
- driver of FVM progress, as it identifies problems of expert practice and outlines ways to solve them and optimize already applied solutions;
- factor in formation of new directions and scientific schools in the FVM;
- educational center.

16 Ключев О., Сімакова-Єфремян Е. Доктринальні підходи до судової експертизи в Україні. *Право України*. 2021. № 8. С. 28—43. DOI: 10.33498/louu-2021-08-028 (date accessed: 15.07.2024).

17 Брижко В. М. Філософія права: праксеологія в сфері інформаційного права (ст. 28—34). *Інформація і право*. 2019. № 3(30). DOI: 10.37750/2616-6798.2019.3(30).194777 (date accessed: 08.07.2024).

18 Цмоць У. О. Правова праксеологія як чинник ефективності юридичної практики. *Науковий вісник Львівського державного університету внутрішніх справ. Серія юридична*. 2023. № 4. С. 155—164. DOI: 10.32782/2311-8040/2023-4-18 (date accessed: 08.07.2024).

19 Щербаківський М. Г. Проведення та використання судових експертиз у кримінальному провадженні : монографія. Харків, 2015. 560 с. URI: <http://dspace.univd.edu.ua/xmlui/handle/123456789/6020> (date accessed: 08.07.2024).

Forensic veterinary praxeology summarizes special veterinary knowledge, analyzes the means, forms and methods of their application in the practice of FVM (taking into account the state of research objects, methodological support, etc.). Effectiveness of forensic veterinary activities (hereinafter referred to as FVA) depends on the use of appropriate praxeological tools, such as:

- typology and formation of a system of principles and categories;
- development of theory and methodology of forensic veterinary research (hereinafter referred to as FVR);
- generalization of FVM practice with the outline of its strategic prospects.

In accordance with the above, forensic veterinary praxeology can be defined as a special branch of philosophical and expert research aimed at practical activities, in which the theoretical developments and practical experience of the FVM are used for the rational analysis of forensic phenomena, exploration and substantiation of expert conclusions and ways to solve problems in the field of FVM.

In fact, the FVA is activity of expert witnesses who have specific veterinary expertise and implement them in order to provide expert justice. In view of this, forensic experience influences the development of forensic science and necessitates the regulation of the FVA. Thus, experimental nature is an immanent property of the FVA providing practical and pragmatic function of forensic expertology, and forensic veterinary practice, together with forensic expert doctrines, are components of forensic expertology.

Forensic veterinary praxeology is based on expert ontology (essential conditionality), legal epistemology (cognitive

activity), expert axiology (value guidelines) and forms an integral system and forms productive mechanisms for the functioning of expert practice to influence the latter on the quality of FVR with the aim of improving the effectiveness of the judiciary in general. Improvement and implementation of new data on the theory and methodology of research into the practice of FVM are means of increasing the effectiveness of FVR.

Application issue of forensic veterinary praxeology to this day is quite problematic, so it needs to be resolved. FVM does not participate in the investigation and detection of offenses, but only contributes to the optimization of law enforcement activities by specific methods and means. The focus of FVM on the optimization of activities makes it possible to distinguish within the limits of its methodology a **praxeological approach**, under which we understand a system of theoretical foundations from a purposeful study of the regularities of planning, forecasting and projecting of professional forensic veterinary activity that consists in considering actions and expected effects, comprehensive self-analysis and self-evaluation, modeling conditions, directions and means of improvement based on a complex of special veterinary knowledge and empirical experience, as well as in carrying out certain actions taking into account the peculiarities of the expert situation to obtain effective results.

A special place in the formation and development of forensic veterinary medicine and FVM is occupied by scientists of the Kharkiv Forensic Veterinary School (hereinafter referred to as KFVS): defended 1 doctoral dissertation (*Structural parameters of the skeleton of mammals as objects of forensic veterinary examination when determining the species belonging of biological material*, by I. Yatsenko, 2009) and 3 PhD

dissertation (*Morphological parameters of the bones of the wrist and fingers when determining the age of cattle*, by V. Kamianskyi, 2011; *Morphological specifics of the bones of metatarsal and fingers of the pelvic limb as criteria for determining age of dairy cattle of productivity*, by M. Bondarevsky, 2012; *Forensic veterinary criteria for determining the age and gender of dairy cattle by morphological features of the nasocerebral skull*, by R. S. Abuznaid Karem, 2016), ongoing 4 dissertations research (*Forensic-veterinary determination of the degree of severity of damage caused to the health of an animal* by O. Parylovskyi; *Forensic veterinary examination of animal corpses in their different states and depending on the category, genus and type of death*, by R. Kazantsev; *Forensic-veterinary diagnosis and evaluation of bodily injuries of dogs and cats caused by sharp objects*, V. Kozachok; *Forensic examination of food products of animal origin as a means of detecting their non-compliance with regulatory requirements in criminal proceedings*, N. Kozakova). In 2010, the Department of Veterinary-Sanitary Examination and Forensic Veterinary Medicine was established at the Kharkiv State Zoo-Veterinary Academy (currently: State Biotechnological University) ²⁰.

Currently, 3 international conferences have been held on FVM issues: *Problems, latest achievements, and prospects for the development of veterinary-sanitary expertise and forensic veterinary medicine* (dedicated to the 90th anniversary of the birth of the scientist-veterinary expert V. P. Obratsov; 14-15.05. 2014), *Actual issues, latest achieve-*

ments and prospects for the development of hygiene and expertise of food products and forensic veterinary medicine (dedicated to the 140th anniversary of the birth of veterinary expert, Professor O.M. Petrov; 14–15.09.2017) and *Current issues of forensic veterinary examination: realities and prospects* (May 23-24, 2024).

2019 at the initiative of National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» (hereinafter referred to as NSC «Hon. Prof. M. S. Bokarius FSI») in the system of forensic institutions of the Ministry of Justice of Ukraine launched a new expert specialty 18.1 “Veterinary research”, the basis for which was the latest scientific research on FVM animals affected by ill-treatment, where, in particular, prospects for development of FVM in Ukraine are substantiated ²¹. Since many issues of the FVM are still in the process of development, testing and implementation, it can be argued that the developments of the scientists of the KFVS created the conditions for expanding, deepening and significantly supplementing previous scientific achievements in this area, which had a positive impact on the development of the FVM praxeology in Ukraine.

Since the praxeological approach focuses on the development of effective and rational means, methods and techniques of expert research, it can be considered one of the principles of the formation of new methods of research. Therefore, we consider it expedient to trace significance of the praxeological approach as a guiding

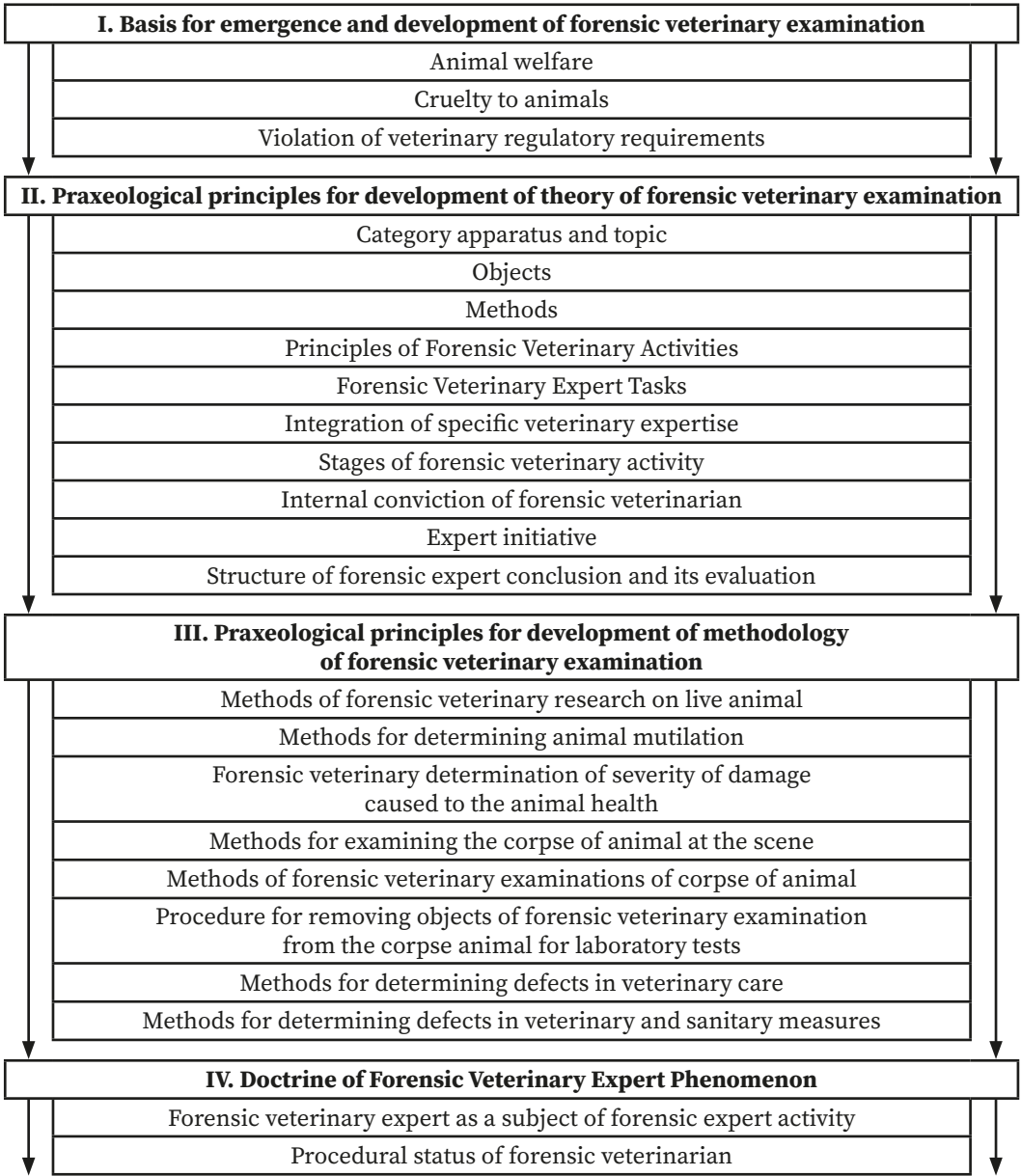
20 Яценко І. В., Дегтярьов М. О., Бондаревський М. М., Труш А. М. Харківська школа видатних діячів ветеринарно-санітарної та судово-ветеринарної експертизи. *Проблеми зооінженерії та ветеринарної медицини*. 2014. Вип. 28 (2). С. 20–28. URL: [http://nbuv.gov.ua/UJRN/pzvm_2014_28\(2\)_4](http://nbuv.gov.ua/UJRN/pzvm_2014_28(2)_4) (date accessed: 08.07.2024).

21 Yatsenko I. V., Zapara S. I., Zon G. A., Ivanovskaya L. B., Klochko A. M. Animal Rights and Protection against Cruelty in Ukraine. *Journal of Environmental Management and Tourism*. 2020. Vol. 11. Is. 1 (41). Pp. 91–103. DOI: [10.14505/jemt.11.1\(41\).11](https://doi.org/10.14505/jemt.11.1(41).11) (date accessed: 08.07.2024).

principle of the FVR, as well as to find out its place in the theory and methodology of the FVR.

Praxeological analysis of FVM is a complex process that covers different aspects of this activity. Within the framework of our study, we will highlight the fol-

lowing main aspects of it: the basis for the emergence and development of scientific FVM; praxeological issues of the theory and methodology of FVM; the doctrine of the phenomenon of forensic expert; improvement of national legislation on FVM (see Fig.).



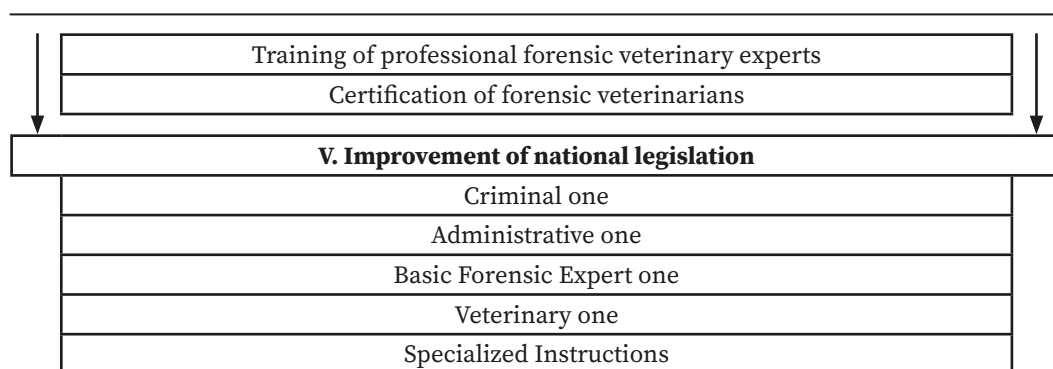


Fig. Praxeological design of forensic veterinary examination in Ukraine

Let us characterize selected praxeological FVM aspects in more detail.

I. Basis for FVM emergence and development

The basis for the initiation and development of FVME was a thorough study of animal welfare and cruelty both in Ukraine and ²² abroad by scientists from KFVS ²³, that contributed to:

- identification of areas for improving FVM: development, approval and implementation of regulations on the FVR of live animals and animal corpses, the use of latest information technologies in FVM;

- author's formulation of the definition of *cruelty to animals* under the criminal qualification of this offense;
- classification of consequences of cruelty to animals that are FVM topic;
- latest achievements in FVM, outlining the prospects for its development in Ukraine.

FVM is appointed and conducted in criminal proceedings, in administrative, civil or economic cases. Most often, the need for special veterinary knowledge in the form of forensic examination arises at the stage of pre-trial investigation or judicial investigation in connection with

22 Лозо О. В., Пілюшенко Д. О. Актуальні питання правового регулювання захисту тварин від жорстокого поводження. *Юридичний науковий електронний журнал*. 2020. № 7. С. 225—228. DOI: 10.32782/2524-0374/2020-7/57 (date accessed: 08.07.2024) ; Ющик О. І. Жорстоке поводження з тваринами: кримінально-правовий аспект. *Приватне та публічне право*. 2022. № 2. С. 46—51. DOI: 10.32845/2663-5666.2022.2.8 (date accessed: 08.07.2024).

23 Sandøe P., Hansen H. O., Bokkers E. A. M., Enemark P. S., Forkman B., Haskell M. J., Lundmark Hedman F., Houe H., Mandel R., Nielsen S. S., de Olde E. M., Palmer C., Vogeler C. S., Christensen T. Dairy cattle welfare — the relative effect of legislation, industry standards and labelled niche production in five European countries. *Animal*. 2023. Vol. 17. Is. 12. Art. 101009. DOI: 10.1016/j.animal.2023.101009 (date accessed: 08.07.2024) ; Araújo D., Lima C., Mesquita J. R., Amorim I., Ochôa C. Characterization of Suspected Crimes against Companion Animals in Portugal. *Animals*. 2021. Vol. 11. Is. 9. Art. 2744. DOI: 10.3390/ani11092744 (date accessed: 08.07.2024) ; Gomes L. B., Paiva M. T., de Oliveira Lisboa L., de Oliveira C. S. F., de Cassia Maria Garcia R., de Magalhães Soares D. F. Diagnosis of animal abuse: A Brazilian study. *Preventive Veterinary Medicine*. 2021. Vol. 194. Art. 105421. DOI: 10.1016/j.prevetmed.2021.105421 (date accessed: 08.07.2024).

offenses (crimes, administrative offenses or civil torts) against the life and health of animals, such as:

- cruelty to animals (Article 299 of the Criminal Code of Ukraine, hereinafter referred to as the *Criminal Code of Ukraine*; Article 89 of the Code of Ukraine on Administrative Offenses);
- illegal hunting (Art. 248 of Criminal Code);
- ecocide (Article 441 of Criminal Code);
- violation of rules for the use of wildlife (Article 85 of Code of Administrative Offenses);
- violation of veterinary rules (Article 251 of Criminal Code);
- violation of legislation on veterinary medicine and animal welfare (Article 107 of the Code of Administrative Offenses);
- violation of legislation on livestock breeding (Article 107-1 of the Code of Administrative Offenses);
- violation of the legislation requirements on identification and registration of animals (Article 107-2 of the Code of Administrative Offenses);
- violation of the rules for keeping dogs and cats (Article 154 of the Code of Administrative Offenses)²⁴.

Examples of factual data and circumstances that require an FVM to be resolved include injury and death of animals as a result of cruelty to them; controversial situations related to the state of health and productivity of animals during their sale and purchase, transportation, breeding and growing; plague of animal aquatic organisms (for example: during the destruc-

tion by Russian aggressors of the Kakhovka Reservoir in 2023); illegal hunting of game animals, mass plague of bees, injury and death of animals as the apotheosis of military actions of the Russian Federation against Ukraine.

II. Praxeological foundations for the development of the FVM theory

A lot of scientific research is devoted to development of FVM theory and ways to solve problems arising in the process of applying its provisions. The result of such explorations is systematic scientific developments in the following areas.

1. Category apparatus and FVM topic

Conceptual-categorical apparatus is one of the essential foundations of the formation of any scientific field, so we proposed the author's version of the cornerstone concept ("**forensic veterinary examination** is research on objects containing information about circumstances of the offense commission, performed by a doctor of veterinary medicine - a forensic by an expert on the basis of a document by which he is instructed to conduct a forensic veterinary examination or is involved in its conduct in accordance with the procedure established by law with the aim of establishing the circumstances and factual data on veterinary and certain biological issues that arose during a pre-trial investigation in criminal proceedings or a trial in any other type of legal proceedings, other than criminal, and which are reflected in an expert's opinion or a notice on the impossibility of its providing") and characterized 7 of its

24 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: 20.06.2024) ; Кодекс України про адміністративні правопорушення від 07.12.1984 р. № 8073-X (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text> (date accessed: 20.06.2024).

signs²⁵, formulated the definition of FVM topic and proved its importance for FVM theory and practice²⁶ that in praxeological aspect made possible:

- outline the range of factual data to be taken into account during FVR and the range of special veterinary knowledge directly related to FVM topic;
- formulate typical questions that are both expert tasks and which FVM customer puts to the forensic expert;
- carry out the FVR only those objects that are material carriers of information within the scope of FVM topic or comprehensive examination;
- develop methods of FVR objects with the goal of performing typical expert tasks;
- separate FVM from forensic examinations of related types (forensic biological ones, forensic molecular genetic ones, etc.);
- integrate specific veterinary expertise to conduct multidisciplinary forensic examinations;
- organize effective conducting FVM in a specialized expert institution, in particular in the NSC «Hon. Prof. M. S. Bokarius FSI».

2. FVM Objects

Since the concept of *object* “is one of fundamental in forensic science and is inte-

gral to the subject of research, outlines the possibilities of such research and affects the choice of methods, ways and means of expert knowledge, as well as the method of concluding the conclusion of a forensic expert, we have formulated a definition of the concept of “objects of forensic veterinary research” for the FVM²⁷, classified and characterized these objects and proved that they are the source of information by which a forensic expert finds out the facts and circumstances that make up the subject of the FVM.

Praxeological advantages of defining the *object* concept for FVM:

- essence of FVR object is embodied in expert tasks;
- will contribute to improvement of theoretical and methodological foundations of FVM, and therefore, to the solution of practical forensic issues;
- clearly differentiated concept is an indicator of the type of expertise, as well as the basis of knowledge about the facts and specific veterinary expertise.

3. FVM

Methods

Use of methods of forensic examination (dialectical, logic, other general-cognitive, individual ones (instrumental and auxiliary

25 Яценко І. В. Ознаки судово-ветеринарної експертизи в аспекті її теорії, методології та прaxeології. *European scientific congress*. Proceedings of the 6th International scientific and practical conference. Barca Academy Publishing. Madrid, Spain, 2023. Pp. 12–28. URL: <https://sci-conf.com.ua/wp-content/uploads/2023/07/EUROPEAN-SCIENTIFIC-CONGRESS-10-12.07.23.pdf> (date accessed: 10.07.2024).

26 Його ж. Предмет судово-ветеринарної експертизи та його значення в теорії і практиці судової експертизи. *Науковий вісник Ужгородського національного університету. Серія Право*. 2022. № 73. Т. 2. С. 154–173. DOI: 10.24144/2307-3322.2022.73.55 (date accessed: 08.07.2024).

27 Яценко І. В. Правовий статус і гносеологічна характеристика об'єктів судово-ветеринарної експертизи. *Теорія та практика судової експертизи і криміналістики*. 2023. Вип. 2 (31). С. 63–102. DOI: 10.32353/khrife.2.2023.05 (date accessed: 08.07.2024).

technical as well as specific ones)²⁸ in FVR is substantiated. The requirements for FVR methods are formulated, methods are systematized depending on the state of preservation of objects.

Praxeological significance of this issue lies in the fact that the FVR methods and techniques are a toolkit for performing expert tasks, depending on the specifics of the subject and object. The possibilities of methods for performing certain expert tasks during the FVR are outlined; it is proved that the functions of special FVM methods are performed by methods of forensic veterinary clinical diagnosis of animal diseases and methods of forensic veterinary pathomorphological diagnosis.

4. FVR Principles

Conceptual provisions of the implementation of the principles of the FEA in FVR are formulated and substantiated (taking into account the specifics of the subject and features of the object of research, in particular: the rule of law; legality; scientific character, consistency, comprehensiveness, completeness, impartiality of the FVR; competence of the forensic expert; independence and methodological independence of the forensic expert; admissibility of the use of methods, means and methods of conducting the FVR; maximum preservation of the objects of research; scientific validity, objectivity, reliability, correctness and truthfulness of the conclusion of the forensic expert; verification of the expert's conclusion; adher-

ence to professional ethics by the forensic expert; personal responsibility of the forensic expert), as well as the ways of their implementation are proposed²⁹.

Effectiveness of the impact of FVR principles is due to its objective basis and the definition of the most significant characteristics that will contribute to the identification of optimal ways of its implementation. Violation of the FVM principles violates the entire system of principles (general legal and special ones) and the forms of expert procedures provided for by law, recognition of the expert's conclusion as unreasonable, biased, false, as well as inadmissible as evidence in legal proceedings.

5. Forensic veterinary expert tasks

Essence of the identification, diagnostic and situational FVM tasks are specified³⁰. In view of this, the clear outline of the expert tasks of FVR in practice made possible to:

- single out the range of issues of FVR (that contributed to definition of the subject of FVM), outline the ways to solve them and reasonably assess the signs of research object, without violating the limits of forensic expert competence;
- formulate new typical questions of the FVM (that at the same time are expert tasks) and supplement them with scientific and methodological recommendations on the

28 Яценко І., Сімакова-Єфремян Е., Дереча Л. Методи судової експертизи та їх застосування у судово-ветеринарних дослідженнях. *Там само*. 2021. Вип. 2 (24). С. 52–76. DOI: [10.32353/khrife.2.2021.04](https://doi.org/10.32353/khrife.2.2021.04) (date accessed: 01.07.2024).

29 Yatsenko I. Principles of Forensic Expert Activities in Ukraine and their Implementation in Forensic Veterinary Research. *Archives of Criminology and Forensic Sciences*. 2022. Vol. 1. Is. 5. Pp. 115–142. DOI: [10.32353/acfs.5.2022.08](https://doi.org/10.32353/acfs.5.2022.08) (date accessed: 08.07.2024).

30 Яценко І. В. Завдання судово-ветеринарної експертизи: теоретичні й праксеологічні проблеми та шляхи їх вирішення. *Форум Права*. 2023. 74 (1). С. 68–89. DOI: [10.5281/zenodo.7319900](https://doi.org/10.5281/zenodo.7319900) (date accessed: 08.07.2024).

preparation and appointment of forensic examinations and expert studies ³¹ (hereinafter referred to as RG);

- outline the range of factual data and circumstances that should be clarified during the FVM or complex forensic examination by integrating special veterinary knowledge and specific expertise of other sciences (animal biology, molecular genetics, ballistics, etc.);
- work out the methods and techniques of FVR for the introduction of new opportunities for solving expert tasks;
- propose to supplement part 2 of Article 242 Criminal Procedural Code of Ukraine ³² with paragraph 7 of the following content: “7) clarification of the nature and severity of the damage caused to the health of the animal and/or the cause of death of the animal”;
- increase FVM efficiency in State specialized forensic science institutions (hereinafter referred to as the SSFSI);
- outline effective directions for expanding the range of FVR objects and questions that are put to the forensic scientist (for example, regarding defects in branch activity).

6. *Integration of special veterinary knowledge*

Doctrinal integration principles of special veterinary knowledge into complex forensic examinations are substantiated: veterinary biological one; medical veterinary one; veterinary DNA; veterinary ballistic one; veterinary transport trace evidence one; ecological veterinary one; veterinary electrotechnical one; veterinary fire one; art veterinary linguistic psychological one; veterinary commercial one; veterinary and research on potent and poisonous substances; veterinary substance and research on availability of harmful substances (pesticides) in the environment ³³.

Praxeological significance of this aspect lies in the fact that for the first time theoretical, methodological and organizational and legal provisions of complex forensic examinations, in which special veterinary knowledge is integrated, have been proposed for practice. This will make it possible to create new expert methods, which will significantly increase FVM efficiency.

7. *Stages of FVR*

We distinguish the stages of FVR of live animals and animal corpses (preparatory, analytical, comparative and synthetic) and outline the functions of these stages ³⁴ from praxeological positions contributes to:

31 Науково-методичні рекомендації з питань підготовки та призначення судових експертиз та експертних досліджень : затв. наказ. Мін'юсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 08.07.2024).

32 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: 08.07.2024).

33 Яценко І. В. Доктринальні засади інтеграції спеціальних ветеринарних знань у комплексні судово-експертні дослідження: проблеми та шляхи їх вирішення. *Аналітично-порівняльне правознавство*. 2023. № 6. С. 646—670. DOI: 10.24144/2788-6018.2023.06.114 (date accessed: 08.07.2024).

34 Його ж. Гносеологічна характеристика та процесуальне значення етапів і стадій призначення та проведення судово-ветеринарної експертизи. *Теорія та практика судової експертизи і криміналістики*. 2023. Вип. 1 (30). С. 70—111. DOI: 10.32353/khrife.1.2023.05 (date accessed: 08.07.2024).

- cognition monitoring of processes of research object forensic scientist (localization and nature of injuries, severity of bodily injuries of the animal, etc.);
- formulation of forensic veterinary diagnosis, generalization of research results, evaluation of expert results and conclusions;
- efficiency of solving intermediate expert tasks;
- effectiveness of assessing the reliability and informativeness of the obtained results of the FVR object;
- verification of expert conclusion during its examination and/or verification.

8. Internal conviction of forensic expert

Praxeological meaning of the author's concept definition of *internal conviction of forensic veterinarian* (as well as outline of its structure, details of epistemological, psychological, ethical and legal aspects, identification of specifics and subjective and objective factors of its formation):

- affects the belief in the results obtained (as a state of confidence in the correctness of researches);
- outlines directions of implementation of this phenomenon in FVR (cognitive, interpretive, evaluative-motivational, communicative, reflexive);
- reveals mechanism of formulation by the forensic scientist of the final conclusions;
- justifies categorical confidence in the willingness to act in accordance with its conclusions.

9. Expert initiative

Theoretical and praxeological substantiation of the forms and directions of implementation of the expert initiative during

FVM is proposed; for the first time, author's definition of the concept of *expert initiative* is formulated.

Praxeological significance of expert initiative phenomenon:

- it is implemented in the form of a request (for the provision of additional materials, the object of research, permission to completely or partially destroy the object during its research, the possibility of the participation of a forensic expert in a court session in the video conference mode, unhindered access to the object of research, etc.), *actions, proposals* (not only in criminal proceedings, but also in other types of legal proceedings and even beyond them) and *interpretation at one's own discretion* of additional facts discovered during FVR, which are necessary to find out the truth;
- exercise by forensic expert of the right to initiate expands the possibilities of FVR and strengthens the evidentiary strength of forensic expert's conclusion;
- contributes to development of new and improvement of existing research methods, the initiation of promising areas of research in the field of FVR.

10. Structure of forensic expert conclusion and its evaluation

Praxeological significance of structuring the conclusion of forensic expert:

- for the first time, *peculiarities* of the content of the introductory, research and final parts of the conclusion of the forensic expert based on FVM results taking into account the subject and research object and performed expert tasks are substantiated;

- for the first time, an algorithm for describing the results of research on animal was proposed according to systemic principle of the body's structure; indication in the research part of the expert's conclusion of research and analysis of individual veterinary documents contained in the materials of criminal proceedings (case) and related to the topic proof;
- optimization of forensic expert's work at the stage of drawing up a conclusion consists in applying the author's approach to the content of individual parts of the conclusion based on the results of conducted FVM taking into account the peculiarities of the subject, tasks, object and research methods;
- visualization and justification in the expert's conclusion of FVR results with illustrative content (forensic photograph; general appearance of the packaging; image of an animal corpse or live animal, animal feed, biological objects of animal origin; histotopograms, radiographs, ultrasonograms, spectrograms; images obtained according to the results computer or magnetic resonance imaging; compilation of photo tables with illustrative content as an appendix to the expert's conclusion);
- algorithm developed by the author of this research for checking and evaluating forensic expert conclusion by the investigator, prosecutor, defense counsel, investigating judge, court will facilitate the adoption of fair procedural decisions in the proceedings.

Foreign scientists focus on the following praxeological aspects of the SVE: the state of forensic veterinary pathology in Europe (R. Munro et al.³⁵), in particular in the UK (S. G. Newbery et al.³⁶); the procedural status of the forensic expert (J. E. Cooper et al.³⁷); the conclusion of the forensic expert as evidence in legal proceedings (R. Munro³⁸; S. P. McDonough et al.³⁹); the participation of veterinary specialists in legal proceedings (R. van Wessum⁴⁰); the testimony of the forensic expert in court (R. Frederickson⁴¹); general trends

- 35 Munro R., Ressel L., Gröne A., Hetzel U., Jensen H. E., Paciello O., Kipar A. European Forensic Veterinary Pathology Comes of Age. *Journal of Comparative Pathology*. 2020. Vol. 179. Pp. 83–88. DOI: [10.1016/j.jcpa.2020.08.003](https://doi.org/10.1016/j.jcpa.2020.08.003) (date accessed: 01.07.2024).
- 36 Newbery S. G., Cooke S. W., Martineau H. M. A Perspective on Veterinary Forensic Pathology and Medicine in the United Kingdom. *Veterinary Pathology*. 2016. Vol. 53. Is. 5. Pp. 894–897. DOI: [10.1177/0300985816654527](https://doi.org/10.1177/0300985816654527) (date accessed: 08.07.2024).
- 37 Cooper J. E., Cooper M. Veterinary involvement in forensic medicine. *The Veterinary Record*. 2021. Vol. 189. Is. 6. Pp. 249–250. DOI: [10.1002/vetr.1004](https://doi.org/10.1002/vetr.1004) (date accessed: 08.07.2024).
- 38 Munro R. Viewpoint: Integrity and Limitations of Forensic Veterinary Evidence. *Journal of Comparative Pathology*. 2022. Vol. 199. Pp. 86–87. DOI: [10.1016/j.jcpa.2022.10.003](https://doi.org/10.1016/j.jcpa.2022.10.003) (date accessed: 08.07.2024).
- 39 McDonough S. P., McEwen B. J. Veterinary Forensic Pathology: The Search for Truth. *Veterinary Pathology*. 2016. Vol. 53. Is. 5. Pp. 875–877. DOI: [10.1177/0300985816647450](https://doi.org/10.1177/0300985816647450) (date accessed: 08.07.2024).
- 40 Van Wessum R. The Animal Health and Welfare Law: the veterinary statement as evidence and the role of veterinarians in legal procedures. *Tijdschrift voor Diergeneeskunde*. 2001. Vol. 126. Is. 5. Pp. 130–132. URL: <https://pubmed.ncbi.nlm.nih.gov/11256323/> (date accessed: 08.07.2024).
- 41 Frederickson R. Demystifying the Courtroom: Everything the Veterinary Pathologist Needs to Know About Testifying in an Animal Cruelty Case. *Veterinary Pathology*. 2016. Vol. 53. Is. 5. Pp. 888–893. DOI: [10.1177/0300985816647439](https://doi.org/10.1177/0300985816647439) (date accessed: 08.07.2024).

in the development of forensic medical and veterinary examinations (M. S. Pollanen⁴²).

Undoubtedly, the achievements of foreign scientists in the field of FVM contributed to the solution of many theoretical issues, but there are no publications on the subject, object, methods, expert tasks of FVM in the columns of foreign scientific journals, unlike Ukrainian ones.

III. Praxeological foundations for development of FVM methodology

Connection of FVM with praxeology is revealed in the fact that the main task of FVM as an applied science is the FVM optimization.

Within the limits of the general theory of forensic science, the praxeological approach is one of the elements of the methodological apparatus and an illustration of the practical orientation of FVM, since, according to M. Shcherbakovskyi⁴³, “it orients the theory of forensic examinations to solving its tasks as a practical science”

Expert methods and recommendations based on the principles of praxeology (purposefulness, planning, preparedness, situational conditioning, technological feasibility, reasonableness, etc.) make possible to apply theoretically determined regularities for the development of algorithms for the performance of specific expert tasks in typical expert situations.

Praxeological principles of the FVM methodology were implemented by developing expert methods and methodological

recommendations in three directions: 1) regarding live animals; 2) regarding animal corpses; 3) regarding the determination of defects in veterinary aid and veterinary measures.

Let us characterize them in more detail.

Expert methods and method recommendations for live animals relate to: 1) the severity of the damage caused to the animal's health; 2) FVR of live animals; 3) forensic veterinary teaching on animal mutilation.

1. Severity of the damage caused to the animal's health

For the first time in world practice, scientists of the KFPS initiated the teaching of the theoretical and epistemological construction of the phenomenon of the degree of severity of damage caused to the health of an animal, and outlined the ways of its implementation in FVM practice, which in turn will make possible to differentiate severe, medium and light injuries; to improve national legislation on cruelty to animals by differentiating the punishment for this crime depending on the degree of bodily harm, which will contribute to realization of the principle of justice.

Based on results of scientific theoretical and practical research, the *Rules for forensic veterinary determination of the degree of severity of damage caused to the health of an animal (methodical recommendations)*⁴⁴ were prepared, which were added to the List of scientific, technical and reference

42 Pollanen M. S. The Rise of Forensic Pathology in Human Medicine: Lessons for Veterinary Forensic Pathology. *Ibid.* 2016. Vol. 53. Is. 5. Pp. 878–879. DOI: [10.1177/0300985816653171](https://doi.org/10.1177/0300985816653171) (date accessed: 08.07.2024).

43 Щербаковський М. Г. Методологія дослідження феномена судових експертиз. *Вісник Луганського державного університету внутрішніх справ ім. Е. О. Дідоренка*. 2016. № 3 (75). С. 133–142. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/5691274c-965d-4c87-820d-2d6beb62defc/content> (date accessed: 08.07.2024).

44 Яценко І. В., Парилівський О. І. Правила судово-ветеринарного визначення ступеня тяжкості шкоди, заподіяної здоров'ю тварини (методичні рекомендації). Харків, 2022. 47 с.

literature used in the conduct of forensic veterinary examination ⁴⁵.

2. FVR of live animals

Scientists of the KFVS have developed the *Methods of forensic veterinary research on live sub-expert animal*, the approbation and adaptation of which is ongoing, where the algorithms of the clinical FVR of mammals and birds are substantiated, and the issue of drawing up an expert's opinion based on the results of the conducted FVM of live animals is highlighted.

Praxeological significance of this methodological direction: the developed algorithms of FVR of live animals will help to optimize procedures of making a forensic veterinary diagnosis and determining the cause of animal health disorders.

3. Forensic veterinary teaching on animal mutilation

For the first time in world practice, the scientists of KFVS initiated forensic veterinary teaching on animal mutilation, within the limits of which:

- definition of *animal mutilation* was formulated;
- identified signs of mutilation, developed and substantiated its classification according to nine criteria;
- characteristics of certain types of mutilation are given, among which: animal mutilation due to loss of tongue, smell, sight, hearing, limb, reproductive ability, as well as damage to animal's appearance;

- anatomical defects are outlined and the degrees of restriction of the animal's vital activity are differentiated depending on its condition; third degree (moderately expressed restriction), the second degree (pronounced), the first degree (significantly expressed);
- identified, systematized and substantiated the stages of organizing and carrying out FVM of animals that suffered physical injuries, the result of which was their mutilation;
- FVM practice of live animals with signs of mutilation is summarized.

Methods of forensic veterinary examination of animals with the aim of establishing their mutilation ⁴⁶ has recently been introduced into forensic veterinary practice which will enable a forensic expert to reasonably, objectively and reliably determine animal mutilation, and law enforcement agencies or the court to correctly qualify the crime of *cruelty to animals*.

4. Examination of animal corpse at the scene

One of the objects of FVM is the carcasses of animals whose death occurred suddenly or as a result of violent actions, in particular due to cruel treatment. Determining the cause of animal death is a key task of the FVM.

A full-fledged pre-trial investigation of crimes against animal life is impossible without such an investigative action as an inspection of the scene of the incident and an examination of the animal's corpse

45 Перелік науково-технічної та довідкової літератури, що використовується при проведенні судової ветеринарної експертизи : дод. до наказу Мін'юсту України від 08.05.2018 р. № 1467/5 (зі змін. та допов.). URL: <https://ips.ligazakon.net/document/MUS30115> (date accessed: 08.07.2024).

46 Яценко І. В., Парилівський О. І., Казанцев Р. Г. Методика судово-ветеринарного дослідження тварин з метою встановлення їх каліцтва. Харків, 2021. 50 с. Реєстр. код 18.1.01 / Реєстр методик проведення судових експертиз : офіц. сайт. URL: <https://rmpse.minjust.gov.ua/search> (date accessed: 01.07.2024).

at the scene of the incident. To carry out this investigative action, law enforcement agencies involve specialists of various profiles, in particular, a specialist in veterinary medicine who has special veterinary knowledge.

Theoretical and applied value of the praxeological approach to the process of examining an animal corpse at the scene is as follows:

- main provisions of the application of special veterinary knowledge during the examination of the animal corpse at the scene with participation of a specialist in the field of veterinary medicine are formulated;
- list of the most frequent cases involving involvement of a veterinary medicine specialist in such an examination was compiled;
- task of a veterinary medicine specialist is substantiated and the algorithm of his actions during such an examination is given, which makes it possible to objectively determine the cause of death after a complete FVR of an animal corpse in the dissection hall;
- it is proposed to add to the Criminal Code of Ukraine ⁴⁷ Art.238-1: *Examination of an animal corpse*.

5. FVR on animal corpses

While classifying offenses against the life of animals, one should take into account the forensic expert's opinion on the nature and degree of severity of bodily injuries, the cause of death, as well as the cause-and-effect relationship between the de-

tected injuries and the death of the animal. In this area, there is already a selection of applied scientific achievements that have a positive effect on the effectiveness of the appointment and implementation of FVM:

- order of FVR of the corpses of mammals and birds in the dissection hall was formed;
- developed and tested cytomorphological methods for determining the age of death of cats and dogs in the early postmortem period;
- algorithms for appointing and carrying out FVM in case of animal poisoning are proposed;
- aspects of thanatogenesis of certain species and subspecies of violent death and different states of animal corpses are highlighted;
- thanato-specific signs and pathomorphogenesis of individual nosologies are formulated;
- thanato-specific features of forensic veterinary diagnosis in case of death of dogs and cats as a result of hypoxemia and hemodynamic disorders are detailed;
- sequence of drawing up veterinary documents on the death of an animal is given.

Methods of forensic veterinary examination of animal corpses has been introduced into forensic veterinary practice ⁴⁸. Another of our developments is at the stage of approbation and implementation: *Methods of forensic veterinary examination of animal corpses in their various states and type of death*.

Availability of these methods in FVM arsenal will enable forensic experts to

47 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 01.06.2024).

48 Яценко І. В., Казанцев Р. Г. Методика судово-ветеринарної експертизи трупів тварин. Харків, 2022. 336 с. Реєстр. код 18.1.02 / Реєстр методик проведення судових експертиз : офіц. сайт. URL: <https://rmpse.minjust.gov.ua/search> (date accessed: 01.07.2024).

more reasonably, objectively and reliably determine the cause of death of an animal and the cause-and-effect relationships between damage and the occurrence of an animal's death. In addition, the *Rules for forensic veterinary examination of animal corpses* ⁴⁹ and *Procedure for removing objects of forensic examination from an animal corpse for laboratory research* developed by us ⁵⁰ are regulatory elements of thanatological procedures.

6. Determining defects of veterinary care and veterinary measures

For the first time in world practice, an epistemological construction of defects in veterinary care and the organization of veterinary activities in the aspect of FVM was proposed, and an author's methodology was developed, which contains 5 stages: familiarization-preparatory, organizational-informational, research-analytical, generalizing-evaluative, final ones ⁵¹.

Praxeological significance of developed methods: it will enable forensic experts to detect signs of violation of veterinary regulations by veterinary medicine workers due to their improper performance of their professional duties that caused negative consequences for the life and health of animals, to determine the causes of their occurrence, and for law en-

forcement agencies and/or courts to find out the objective and subjective aspects of the offense.

In addition, it is proposed to add Section: IX *Forensic veterinary examination* of RG ⁵² with typical questions regarding the defects of veterinary activity, which the subject of the appointment of FVM can put to the solution of forensic experts during a pre-trial investigation or judicial investigation, which will have a positive effect on the effectiveness of the appointment and conduct of such FVM.

7. Possibilities of FVM as a new type of forensic examinations

Possibilities of FVM as a new type of forensic examination in criminal proceedings initiated due to illegal hunting (Article 248 of Criminal Code of Ukraine) ⁵³, cruelty to animals (Article 299 of Criminal Code of Ukraine) ⁵⁴, ecocide (Article 441 of Criminal Code of Ukraine) ⁵⁵, mass death of bees and plague of animal aquatic organisms have been demonstrated. Attention is focused on the features of the subject, object, subject, expert tasks, FVR algorithms in the above-mentioned expert situations.

It is important to visualize FVM importance to ensure compensation for the damage caused by the Russian Federation war of aggression against Ukraine.

49 Їх же. Правила судово-ветеринарної експертизи трупів тварин : метод. рек. Харків, 2022. 29 с.

50 Яценко І. В., Парилівський О. І., Казанцев Р. Г. Порядок вилучення об'єктів судово-ветеринарної експертизи з трупа тварини для лабораторних досліджень : метод. рек. Харків, 2021. 51 с.

51 Яценко І. Методика проведення судово-ветеринарної експертизи з метою визначення дефектів ветеринарної допомоги. *Теорія та практика судової експертизи і криміналістики*. 2023. Вип. 4 (33). С. 57—86. DOI: 10.32353/khrife.4.2023.05 (date accessed: 08.07.2024).

52 Науково-методичні рекомендації URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 08.07.2024).

53 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 05.07.2024).

54 Там само.

55 Там само.

8. Compilation of procedural documents

The specifics of drawing up separate procedural documents for the appointment of the FVM, in particular, the resolution of the investigator or the prosecutor, are highlighted, taking into account the specifics of the expert tasks that are put to the solution of the forensic expert. The author's selection of questions is offered to complement Section IX of RG for their practical use by law enforcement agencies.

Praxeological significance: it is proposed to add part 2 of Art. 242 of the Criminal Procedural Code of Ukraine⁵⁶, clauses 7 and 8 of the following content:

"7) *determination of the cause of animal death;*

8) *finding out severity of the damage and nature of the injuries caused of the animal health."*

Knowledge of entities that appoint forensic examination of possible questions for forensic expert (that are at the same time expert tasks) has an important educational value and contributes to the expert provision of justice.

In addition to the achievements of the scientists of the KFVS, FVR effectiveness was influenced by the scientific developments of scientists from other scientific schools of Ukraine. For example, scientists of the Kyiv Scientific Forensic Veterinary School (National University of Bioresources and Nature Management of Ukraine) investigate issues of forensic and veterinary thanatology, in particular asphyxiation (Professor B. Borysevych)⁵⁷ and determining the time of death (Ya. Serdiukov and D. Shkundia)⁵⁸.

Professor M. Skrypka (Odessa State Agrarian University, hereinafter referred to as OSAU) is actively developing a new direction in FVM: pathomorphogenetic substantiation of individual patterns of animal corpses with signs of violent death⁵⁹.

Field of interest of the scientists of the Lviv Forensic Veterinary School (Professors: M. Zhila and G. Kotsyumbas, Associate Professor V. Lemishevskiy) is the FVR of animal corpses in case of poisoning and the determination of species belonging to individual objects of animal origin, in particular hair and skin⁶⁰.

56 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 08.07.2024).

57 Борисевич Б. В., Кручиненко О. В., Передера О. О. Судово-ветеринарне дослідження трупів собак та котів у випадках задушення руками. *Scientific Progress & Innovations*. 2024. Т. 27. № 2. Рр. 90–94. DOI: [10.31210/spi2024.27.02.15](https://doi.org/10.31210/spi2024.27.02.15) (date accessed: 15.07.2024).

58 Shkundia S., Serdioucov Ja. Determination of the time of death of a domestic cat by measuring the area of a wet spot. *Ukrainian Journal of Veterinary Sciences*. 2024. Vol. 15. Is. 1. Рр. 122–138. DOI: [10.31548/veterinary1.2024.122](https://doi.org/10.31548/veterinary1.2024.122) (date accessed: 08.07.2024).

59 Скрипка М., Бойко Ю., Запека І., Головань К. Практика судово-ветеринарної експертизи щодо психоемоційного стресу в генезі [серцевої] недостатності та смерті тварин. *Agrarian Bulletin of the Black Sea Littoral*. 2023. Is. 106. Рр. 14–22. DOI: [10.37000/abbsl.2023.106.02](https://doi.org/10.37000/abbsl.2023.106.02) (date accessed: 08.07.2024).

60 Коцюмбас Г. І., Данкович Р. С., Врецьона Н. П. Патоморфологія та діагностика отруєння собак ізоніазидом. *Науковий вісник Львівського національного університету ветеринарної медицини та біотехнологій імені С. З. Гжицького. Серія: Ветеринарні науки*. 2018. Т. 20. № 83. С. 108–114. URL: http://nbuv.gov.ua/UJRN/nvlnuvmbvn_2018_20_83_23 (date accessed: 08.07.2024) ; Лемішевський В. М. Судово-ветеринарна експертиза трупа собаки із ознаками насильницької смерті: огляд випадку. *Сучасні методи діагностики, лікування та профілактика у ветеринарній медицині : тези доп. II Конф., присвяч. 140-річ. відкрит. навч. закл. «Цісар-королів. вет. шк. та шк. підковув. коней разом із*

The above-mentioned scientific achievements of Ukrainian scientists are actively used during the FVR objects, which has a positive effect on FVM effectiveness.

Undoubtedly, the formation and development of the modern FVM methodology was greatly contributed by foreign

scientific schools, especially in the areas of: thanatology⁶¹; definition of drowning⁶²; sudden death⁶³; FVR of exhumed⁶⁴ and skeletonized corpses⁶⁵; finding out the time of death⁶⁶; toxicology⁶⁷; traumatology, in particular in the case of gunshot wounds⁶⁸; fall from height (FFH)

клінік-стаціонар. для тварин у Львові» (Львів, 18–19.11.2021). Львів, 2021. С. 98–99. URL: <https://nvlvet.com.ua/index.php/conference/issue/view/215/2021-pdf> (date accessed: 08.07.2024).

- 61 Wolf C., Gerst K., Gerst S., Priemer G. Post-mortem clinical pathology in cattle – an additional tool for the veterinary pathologist. *Tierarztl Prax Ausg G Grosstiere Nutztiere*. 2021. Vol. 49. Is. 6. Pp. 403–412. DOI: [10.1055/a-1593-6948](https://doi.org/10.1055/a-1593-6948) (date accessed: 08.07.2024) ; Hioki A., Inaba R. Occupational Fatalities Due to Mammal-Related Accidents in Japan, 2000–2019. *Wilderness & Environmental Medicine*. 2021. Vol. 32. Is. 1. Pp. 19–26. DOI: [10.1016/j.wem.2020.09.010](https://doi.org/10.1016/j.wem.2020.09.010) (date accessed: 08.07.2024) ; Touroo R., Fitch A. Identification, Collection, and Preservation of Veterinary Forensic Evidence: On Scene and During the Postmortem Examination. *Veterinary Pathology*. 2016. Vol. 53. Is. 5. Pp. 880–887. DOI: [10.1177/0300985816641175](https://doi.org/10.1177/0300985816641175) (date accessed: 08.07.2024).
- 62 Allam F. A. F. A., Ali D. M., Ali S. F. E.-S. Drowning versus postmortem submersion: Biochemical and histopathological examination and estimation of postmortem intervals (an experimental study). *Legal Medicine (Tokyo)*. 2022. Vol. 59. Art. 102138. DOI: [10.1016/j.legalmed.2022.102138](https://doi.org/10.1016/j.legalmed.2022.102138) (date accessed: 08.07.2024) ; Mizukami H., Hathway B., Procopio N. Aquatic Decomposition of Mammalian Corpses: A Forensic Proteomic Approach. *Journal of Proteome Research*. 2020. Vol. 19. Is. 5. Pp. 2122–2135. DOI: [10.1021/acs.jproteome.0c00060](https://doi.org/10.1021/acs.jproteome.0c00060) (date accessed: 08.07.2024).
- 63 Huenerfauth E., Nessler J., Erath J., Tipold A. Probable Sudden Unexpected Death in Dogs With Epilepsy (pSUDED). *Frontiers in Veterinary Science*. 2021. Vol. 27. Is. 8. Art. 600307. DOI: [10.3389/fvets.2021.600307](https://doi.org/10.3389/fvets.2021.600307) (date accessed: 08.07.2024).
- 64 Takenaka C. S., de Souza C. N. A., Momo C. Case studies and technical aspects of the forensic necropsy of exhumed companion animals. *Forensic Science International*. 2023. Vol. 345. Art. 111624. DOI: [10.1016/j.forsciint.2023.111624](https://doi.org/10.1016/j.forsciint.2023.111624) (date accessed: 08.07.2024).
- 65 Nation P. N., St. Clair C. C. A Forensic Pathology Investigation of Dismembered Domestic Cats: Coyotes or Cults? *Veterinary Pathology*. 2019. Vol. 56. Is. 3. Pp. 444–451. DOI: [10.1177/0300985819827968](https://doi.org/10.1177/0300985819827968) (date accessed: 08.07.2024).
- 66 Panasiuk-Flak K., Grela M., Listos P. Determination of the time of death of dogs using atropine and pilocarpine in the early post-mortem period – an assessment of the usefulness of the method. *Medycyna Weterynaryjna*. 2021. Vol. 77. Is. 7. Pp. 349–352. DOI: [10.21521/mw.6546](https://doi.org/10.21521/mw.6546) (date accessed: 08.07.2024).
- 67 Bertero A., Fossati P., Caloni F. Indoor poisoning of companion animals by chemicals. *The Science of the Total Environment*. 2020. Vol. 1. Is. 733. Art. 139366. DOI: [10.1016/j.scitotenv.2020.139366](https://doi.org/10.1016/j.scitotenv.2020.139366) (date accessed: 08.07.2024) ; Gordon R. J., Hungerford N. L., Laycock B., Fletcher M. T. A review on *Pimelea* poisoning of livestock. *Toxicon*. 2020. Vol. 186. Pp. 46–57. DOI: [10.1016/j.toxicon.2020.07.023](https://doi.org/10.1016/j.toxicon.2020.07.023) (date accessed: 08.07.2024).
- 68 Grela M., Panasiuk-Flak K., Listos P., Gryzińska M., Buszewicz G., Chagowski W., Teresiński G. Post-mortem analysis of gunshot wounds to the head and thorax in dogs by computed tomography, radiography and forensic necropsy. *Medicine, Science and the Law*. 2021. Vol. 61. Is. 2. Pp. 105–113. DOI: [10.1177/0025802420971176](https://doi.org/10.1177/0025802420971176) (date accessed: 08.07.2024).

injuries⁶⁹; electrical injuries⁷⁰; hyperthermia⁷¹; damage by hard⁷² and sharp⁷³ objects; bite wounds⁷⁴; damage to the musculoskeletal system⁷⁵ and spinal cord⁷⁶; automobile injury⁷⁷; defects of veterinary care⁷⁸; feed safety and quality⁷⁹; collec-

- 69 Lefman S., Prittie J. E. High-rise syndrome in cats and dogs. *Journal of Veterinary Emergency and Critical Care (San Antonio)*. 2022. Vol. 32. Is. 5. Pp. 571–581. DOI: [10.1111/vec.13206](https://doi.org/10.1111/vec.13206) (date accessed: 08.07.2024).
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- 79 Wilson-Frank Ch. R., Hooser S. B. Investigative Diagnostic Toxicology and the Role of the Veterinarian in Pet Food-Related Outbreaks: An Update. *The Veterinary Clinics of North America. Small Animal Practice*. 2018. Vol. 48. Is. 6. Pp. 909–915. DOI: [10.1016/j.cvsm.2018.07.001](https://doi.org/10.1016/j.cvsm.2018.07.001) (date accessed: 08.07.2024).

tion, preservation and identification of evidence⁸⁰; establishment of disability⁸¹.

At the same time, there is no coherent FVM system as a science and a field of practical activity abroad: its development there is mostly limited to research institutions or institutions of higher education, and its methodology concerns only certain aspects.

Summing up the interim results, it is possible to state the following: an expert opinion, based on reliable special veterinary knowledge about factual data and circumstances of criminal proceedings (cases), obtained with the help of developed methods of FVR, is the basis of the subject of proof of committed offenses or their absence, i.e., is component of the definition of the objective side of the offense.

Praxeological significance of the application of FVR methods to find out the factual data and circumstances that led to the loss of life and/or animal health is justified by the need to identify the actions of the offender, which were reflected on the objects of FVM (live animals, animal corpses) in certain spatial and time limits.

Therefore, FVM in legal proceedings is used in order to:

- establishment of signs of an offense (injury, mutilation, death of animals);

- clarification of crime elements (object and subject, objective and subjective side);
- qualification of offenses (injury, murder, ill-treatment, violation of veterinary rules, etc.)⁸²;
- distinguishing crimes from administrative offenses (according to Criminal Code of Ukraine⁸³ or Code on Administrative Offenses⁸⁴).

IV. Doctrine of forensic veterinarian phenomenon

An equally important area of scientific research developed by KFVS is the doctrine of the forensic expert as a subject of the FEA in the context of the latest legislation of Ukraine. From a review of this for the first time:

- expanded author's definition of the concept of *forensic veterinarian* was proposed, special and procedural criteria of the legal status of a forensic expert were revealed, this status was generalized, in particular, by adding to the scope of his rights, duties, prohibitions and restrictions⁸⁵;
- all types of legal liability applied to the forensic expert for non-performance or improper performance of his duties (criminal, administrative, disciplinary and material) are investigated.

80 Touroo R., Fitch A. Op. cit. DOI: 10.1177/0300985816641175 (date accessed: 08.07.2024).

81 Aymen J., Fitzgerald G., Lair S., Vergneau-Grosset C. Outcomes of Birds of Prey with Surgical or Traumatic Wing Amputation: A Retrospective Study from 1995 to 2017. *Journal of Avian Medicine and Surgery*. 2022. Vol. 36. Is. 1. Pp. 14–20. DOI: 10.1647/20-00085 (date accessed: 08.07.2024).

82 Кримінальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 05.07.2024).

83 Там само.

84 Кодекс ... про адміністративні правопорушення ... URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text> (date accessed: 05.07.2024).

85 Яценко І. Судово-ветеринарний експерт як суб'єкт процесуальних правовідносин і судово-експертної діяльності. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 3 (28). С. 64–97. DOI: 10.32353/khrife.3.2022.05 (date accessed: 08.07.2024).

For the effective application of the legal status of a forensic expert in practice, it is proposed:

- Art.11-14 of the Law of Ukraine: *On Judicial Examination* ⁸⁶ (hereinafter referred to as the relevant Law) to be set out in the wording proposed by us ⁸⁷;
- to replace parts 2–7 of Art. 69 of Criminal Procedural Code of Ukraine ⁸⁸ with part 2, and parts 3–8 of Art. 72 of Commercial and Procedural Code of Ukraine ⁸⁹, parts 3–8 of Art. 69 of Code of Administrative Proceedings of Ukraine ⁹⁰ and parts 3–8 of Art. 68 of the Code of Administrative Proceedings of Ukraine with ⁹¹ part 3 of the following content: “*In the course of professional activity, a forensic expert has procedural rights, performs duties, observes prohibitions and restrictions, and bears legal responsibility provided for by the Law of Ukraine Law of Ukraine: On Judicial Examination*”.

The results of the study by the specialists of the KFVS of the problems of providing the FVR by highly qualified specialists for SSFSI of Ukraine:

- educational component content: *Forensic Veterinary Medicine* (in the aspect of professional formation of veterinary doctors) is substantiated, as well as its importance for training of professional forensic experts is revealed ⁹²;
- cornerstones of professional training of forensic experts are formulated;
- professional training programs for forensic experts majoring in 18.1 *Veterinary researches* were developed;
- issue of certification of forensic veterinary experts was considered;
- it is proposed to add Section IV of Regulations on the Central Expert Qualification Commission under the Ministry of Justice of Ukraine and the certification of forensic experts ⁹³ with new clauses, in par-

86 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 08.07.2024).

87 Див.: Яценко І. Правовий статус судово-ветеринарного експерта як суб'єкта судово-експертної діяльності у контексті новітнього законодавства України. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 4 (29). С. 68–109. DOI: 10.32353/khrife.4.2022.04 (date accessed: 08.07.2024).

88 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 08.07.2024).

89 Цивільний процесуальний кодекс України від 18.03.2004 р. № 1618-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 08.07.2024).

90 Господарський процесуальний кодекс України від 06.11.1991 р. № 1798-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 08.07.2024).

91 Кодекс адміністративного судочинства України від 06.07.2005 р. № 2747-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 08.07.2024).

92 Яценко І. В. Концептуальні засади професійної підготовки судово-ветеринарних експертів у державних спеціалізованих експертних установах України. *Криміналістика і судова експертиза*. 2023. Вип. 68. С. 731–766. DOI: 10.33994/kndise.2023.68.71 (date accessed: 08.07.2024).

93 Положення про Центральну експертно-кваліфікаційну комісію при Міністерстві юстиції України та атестацію судових експертів : затв. наказ. Мін'юсту України від 03.03.2015 р. № 301/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0249-15#Text> (date accessed: 08.07.2024).

ticular regarding the rights and obligations of the candidate for the qualification of a forensic expert during certification;

- technology of conducting the qualification exam in oral and written (test) forms is recommended.

Nowadays, all of the above-mentioned best practices are actively applied at NSC «Hon. Prof. M. S. Bokarius FSI», the only expert institution in Ukraine that trains forensic experts.

In addition, scientists of KFVS registered 55 patents for a useful model and 12 copyright certificates for a work, published 6 monographs and 7 educational manuals (*Fundamentals of Forensic Veterinary Medicine* (co-authored with scientists of OSAU), *Practice of Forensic Veterinary Examination, Organizational and procedural foundations of forensic veterinary examination in Ukraine, Forensic veterinary examination of injuries caused by the action of pathogenic physical factors on the body of animals, Forensic veterinary examination in cases of asphyxiation, Forensic veterinary thanatology, Fundamentals of forensic veterinary examination of corpses and live animals*).

The issue of methodology of creation and use of computer technologies during the FVM has been further developed, in particular, the following computer programs have been developed:

- *Osteo i Discriminant* (to find out species belonging to the bones of the skeleton of domestic and industrial small mammals);
- *Manus Vacca* (for determining the age of cattle based on the anatomical characteristics of the bones of the lower links of the thoracic limbs);
- *Pes vacce* (for automation of operations while determining the age of

cattle based on the anatomical characteristics of the bones of the lower links of the pelvic limbs).

- *Skull Cattle* (to determine the age and sex of dairy cattle of the direction of productivity by the skull);
- *SVS: "Forensic veterinary section"* (for automating the registration of the results of forensic-veterinary autopsies of animal corpses).

It is worth adding that scientific and applied achievements in the field of FVM are embodied in the activities of the Bureau of Forensic Veterinary Research, established at State Biotechnological University in 2014, which is conducted by FVR at the request of law enforcement agencies and courts.

Summing up, we note: the methods developed by the scientists of the KFVS have unique praxeological significance, as they contribute to a systematic and stereotyped expert approach to conducting research, therefore, minimize the tendency of expert evaluation, and are able to predictably influence the effectiveness of the appointment and conduct of FVR; increase the range of expert tasks for solving FVM; is a scientific basis for providing a well-founded and objective opinion of an expert; expand the epistemological capabilities of the pre-trial investigation bodies and the court; is a basis for improving the legislation of Ukraine regarding legal responsibility for offenses against the health and life of animals.

The number of FVMs, during which experts test and implement the scientific, theoretical and methodological achievements of the KFVS in practice is growing every year.

V. Improvement of national legislation

Applied methodological developments of KFVS contributed to the improvement

of the legislation of Ukraine regarding offenses against the health and life of animals, in particular Art.238-1 *Examination of animal corpse* and Art.242 *Grounds for examination* of Criminal Procedural Code of Ukraine ⁹⁴.

The author of this publication proposed to single out in Art.299 of the Criminal Code of Ukraine ⁹⁵ ten parts (instead of the current four) with the following content:

- *Part 1*: public calls to commit acts that have signs of cruelty to animals belonging to vertebrates, in particular the homeless, or public demonstration of cruelty to animals, in particular in the media or information and telecommunication networks, including the Internet, or dissemination of materials that promote cruelty to animals, in particular in the media, or information and telecommunication networks, including the Internet, with calls to commit such acts;
- *Part 2*: placing animals belonging to vertebrates, including homeless animals, on each other or on other animals;
- cruel treatment of animals belonging to vertebrates, in particular homeless animals, which was committed intentionally and caused damage to health of light (*part 3*), medium (*part 4*), severe degree (*part 5*);
- *Part 6*: cruelty to animals, manifested in violent acts against animals aimed at satisfying sexual passion;

- *Part 7*: cruelty to animals resulting in mutilation of animals;
- *Part 8*: cruelty to animals resulting in the death of animals;
- *Part 9*: cruelty to animals in the presence of a minor;
- *Part 10*: animal cruelty committed by a group of persons, or by a group of persons by prior conspiracy, or by an organized group, or against two or more animals, or repeatedly, or committed in a particularly cruel manner.

It is also proposed to distinguish in Art.89 of the Code of Administrative Offenses ⁹⁶ five parts (instead of the current four) with the following content:

- *Part 1*: violation of the rules that exclude cruelty to vertebrate animals: leaving them to fend for themselves or in danger of life, violation of hygienic conditions of keeping, feeding, transportation, but did not cause bodily harm, mutilation or death;
- *Part 2*: Violation of rules excluding cruelty to vertebrate animals: abuse of animals that caused them suffering, physical pain and suffering, but did not cause health disorders, bodily harm, mutilation or death;
- *Part 3*: actions specified in parts 1 and 2 are committed with respect to two or more vertebrate animals, or by a group of persons or an organized group;
- *Part 4*: Violation of animal transportation rules;

94 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 08.07.2024).

95 Кримінальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 05.07.2024).

96 Кодекс ... про адміністративні правопорушення ... URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text> (date accessed: 05.07.2024).

- *Part 5*: actions provided for in part 4 of this article are committed by a person who has been subject to an administrative penalty for the same violations within a year.

Praxeological significance: changes and additions proposed to the legislation of Ukraine in the aspect of legal responsibility for offenses against the health and life of animals, in particular in the case of cruelty to animals will contribute to the observance of the principle of legal responsibility, namely: justice, when punishment or another measure of legal influence is applied to the offender, must correspond to the degree of public danger (damage) caused by the offense, as well as the existence of a relapse in the offender's actions.

According to the results of research on the procedural status of forensic expert, the following changes are proposed to the codes of Ukraine, specialized Law ⁹⁷ and the Instructions on the appointment and conduct of forensic examinations and expert researches ⁹⁸: systematize and concentrate the list of rights, duties and limitations of the forensic expert in the relevant Law, while at the same time providing the relevant articles of the codes with a blanket of a nature referring to the norms of the relevant Law. Such a legal construction will facilitate the ease of perception and enforcement of these norms.

VI. Prospective directions for formation of theoretical and methodological doctrine of FVM

Promising directions for the formation of the theoretical and methodological

doctrine of FVM are the development of expert methods for:

- improvement of FVR topic and expansion of the range of FVM objects;
- injuries to animals by blunt and sharp objects, fall from height (FFH) injury, automobile and railway trauma, gunshot and debris injuries, acute asphyxia, exposure to extreme temperatures, baro- and electrical injury;
- violation of conditions for feeding, keeping and exploitation of animals;
- individual animal poisoning;
- determination of the prescription of the damage caused and/or the prescription of the death of animals;
- physical evidence of animal origin;
- FVM use opportunities to resolve disputes in livestock as a means of proof in legal proceedings;
- importance of sow for proving the damage caused by aggressive war of the Russian Federation against Ukraine.

Consequently, development of FVM contributes to solving many problems that arise in law enforcement agencies during the pre-trial investigation of offenses against the life and health of animals and the appointment of FVM within criminal or administrative proceedings; enriches the theory and practice of FVM with new opportunities; positively affects the effectiveness of its conduct, as well as the effectiveness of the use of forensic expert conclusion in legal proceedings; focuses on current scientific prospects in the field of FVM.

97 Про судову експертизу : Закон URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 08.07.2024).

98 Інструкція про призначення та проведення судових експертиз та експертних досліджень : затв. наказ. Мініюсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 20.07.2024).

Conclusions

Forensic expert praxeology is the field of FEA that studies the principles, patterns, conditions of expediency, rationality and efficiency, as well as the means of implementing quality activities in the field of forensic examination, peculiarities of introduction, use and application of forensic veterinary innovations.

Forensic veterinary praxeology is a concept based on expert *ontology* (existential conditioning), legal *epistemology* (cognitive activity) and expert *axiology* (value orientations) forms *an integral system* and forms productive mechanisms for the functioning of expert practice to influence the latter on quality of forensic science conducted in order to increase the efficiency of expert support of legal proceedings.

From a praxeological point of view, the main goal of the FVM is to provide expert practice with optimal methods, ways and means of conducting FEA to establish the actual data and circumstances of criminal proceedings (cases).

Forensic veterinary praxeology is a methodological and practical basis for mastering experience of conducting forensic examinations and improving expert practice, since the praxeological approach makes it possible to develop optimized algorithms for standard expert procedures.

Under praxeological approach, we understand the system of theoretical foundations for a systematic study of the patterns of planning, forecasting and designing of professional FVR that consists in thinking about actions and expected effects, comprehensive self-analysis and self-assessment, modeling of conditions, directions and means of improvement based on a complex of special veterinary knowledge and empirical experience, as well as in the implementation of certain actions (taking

into account peculiarities of the expert situation) to obtain effective results.

Praxeological significance of the application of FVR methods for establishing factual data and circumstances is justified by the need to identify the offender's actions that are reflected in the objects of the FVM within certain spatial and temporal limits.

The praxeology of the FVR makes it possible to predict and model trends and prospects for the development of forensic science in dynamics, which is an important theoretical basis for solving practical FVR tasks.

The pragmatism and impartiality of the FVR will contribute to meeting the demands of society for a fair trial and increasing the efficiency of FVM as a whole. Therefore, further scientific research in order to increase the effectiveness of FVR, taking into account the praxeological principles of the FVM is certainly relevant and promising.

Праксеологічні засади судово-ветеринарної експертизи: проблеми й оптимізація шляхів їх розв'язання Іван Яценко

Мета статті — наукова розвідка сучасного стану та шляхів підвищення результативності судово-ветеринарної діяльності завдяки застосуванню праксеологічного підходу. Для досягнення поставленої мети застосовано комплекс методів (діалектичний, системно-структурний, системно-функціональний, формальної логіки (аналіз, синтез, дедукція, індукція, аналогія), аксіологічний, моделювання). Поняття праксеології трактовано в судово-ветеринарному аспекті. З'ясовано вплив праксеологічних надбань на стимулювання розвитку спеціальних ветеринарних знань у контексті формування концепції ефективної судово-ветеринарної діяльності. Судово-експертну праксеологію проаналізовано з огляду на її ефективність та результативність функціонування судово-ветеринарних механізмів. Аргументовано

особливості праксеологічного підходу в судово-ветеринарній галузі. Судово-ветеринарну практику розглянуто як один із засобів експертного забезпечення судочинства. Увагу акцентовано на тому, що розвиток і вдосконалення теорії, методології та праксеології судово-ветеринарної експертизи є підґрунтям для підвищення ефективності судочинства. Запропоновано новітню праксеологічну конструкцію вітчизняної судово-ветеринарної експертизи, доповнення до Кримінального процесуального кодексу України (щодо обов'язковості призначення судово-ветеринарної експертизи для з'ясування характеру та ступеня тяжкості шкоди, заподіяної здоров'ю тварини, а також для встановлення причини її смерті) і Науково-методичних рекомендацій з питань підготовки та призначення судових експертиз та експертних досліджень (розширення кола питань, які ставлять судово-ветеринарному експертові під час призначення відповідної експертизи).

Ключові слова: судова ветеринарна медицина; судово-ветеринарна експертиза; судово-ветеринарний експерт; висновок експерта; судово-експертні установи; ефективна діяльність; практичне значення; праксеологія; тварини; ушкодження.

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Declaration of Competing Interest

Author declare no conflict of interest.

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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. Kantsir²; 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. Kantsir¹² 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 — засаднича 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.naiau.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., Юодкайте-Гранськієнė 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. Юодкайте-Гранськієнė 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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editing, and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

Authors declare no conflict of interest.

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Experience of European Countries in Developing Institutions of Legal Aid and Defense in Criminal Proceedings

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The Article Purpose is to clarify peculiarities of shaping the European Countries' experience in developing such criminal procedure institutions as defense and provision of legal aid within criminal proceedings. The author applies general scientific methods (analysis and synthesis, generalization, logical and structural, etc.), methods of comparative legal research and system analysis. It has been established that in most European countries the system of criminal procedure legislation is more generally accepted, in contrast to the criminal procedure legislation of Ukraine. Bar as a non-governmental institution in France, Germany, Poland, Estonia, etc. also functions in compliance with generally accepted traditions that arose as early as the 17th-18th centuries. However, such situation does not guarantee conformity of human rights activities with established international standards in the field of personal protection from criminal prosecution. It has been observed that activities related to protecting a person in the criminal justice field do not differ fundamentally in various countries. What is more, requirements for defense counsels provided by the current legislation of Ukraine are, in certain aspects, more stringent than, for example, in France and Germany. At present it is important to identify typical mistakes that occur in the activities of law enforcement agencies and defense counsels at

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the pre-trial investigation stage and significantly impact the violation of international principles regarding protection from criminal prosecution.

Keywords: *criminal proceedings; defense; legal aid; lawyer; defense counsel; international standards; experience of European states.*

Research Problem Formulation

One of the criminal procedure functions is criminal prosecution, which is understood as a purposeful activity aimed at exposing those guilty of committing a socially dangerous act ¹. This function is multi-component, as it also comprises the following individual tasks: 1) filing an accusation and proving it during a criminal trial; 2) construction of versions; 3) identification of a person who has committed a criminal offense; 4) searching for the suspect if his/her whereabouts are unknown; 5) conducting investigative (search) actions and covert investigative (search) actions, etc. ².

Protection of a person who has become a participant in criminal proceedings is one of the strategic tasks not only of criminal proceedings and its leading participants, but also of the entire state mechanism entrusted with the performance of law enforcement and human rights protection functions in general, as well as with fulfilment of other tasks involving affirmation and provision of rights and freedoms of a person.

For a long time, our country has been making efforts towards European integration. It develops following the chosen European course. This means that activities of all governmental and non-governmental institutions should be aligned with European values, and their protection and compliance with European standards should be ensured. In the context of the political and socio-economic transformation that has recently taken place in Ukraine, the need for further reform of the criminal justice system, criminal procedure legislation, etc. has become more urgent. In this regard, the experience of European countries in the development and reform of institutions of legal aid and defense in criminal proceedings is emphasized.

Moreover, we hold the view that one of the demands of Ukraine on its path to integration into the European Union is the reform of bar and legislation forming the legal basis of its activity. It should reproduce the model of the democratic legal bar institution ³. These tasks are relevant because the proper functioning of the bar system ensures the rule of law in a demo-

- 1 Корж В. П. Кримінальне переслідування особи, яка вчинила злочин. *Вісник прокуратури*. 2009. № 8. С. 85—90 ; Кожевніков Г. К. Державне обвинувачення як елемент кримінального переслідування. *Вісник Академії прокуратури України*. 2006. № 1. С. 46—48.
- 2 Горбачевський В. Я. Кримінальне переслідування як функція кримінального процесу. *Науковий вісник Національної академії внутрішніх справ*. 2014. № 4. С. 46—59. URL: <https://elar.naiu.kiev.ua/server/api/core/bitstreams/906d1c52-b1b6-4737-81e0-559c39eb1cb1/content> (date accessed: 28.06.2024).
- 3 Inshyn M., Shchokin R., Semenets-Orlova I., Kravchenko O., Barsuk M. The Role of Attorney's Request as a Communication Instrument in Advocacy. *Journal of Forensic Science and Medicine*. 2024. № 10 (1). Pp. 34—41. DOI: 10.4103/jfsm.jfsm_114_22 (date accessed: 28.06.2024).

cratic state ⁴, therefore there is a need to improve the functioning of the bar institution, in particular such areas of its activity as defense, representation and provision of other types of legal aid on a professional basis ⁵.

We believe that integrating European experience in legal regulation of legal aid for participants in criminal proceedings and protection of individuals from criminal prosecution will ensure the protection of rights and interests of criminal proceedings' participants, enhance the performance of criminal justice agencies, improve the legal framework for national law enforcement, and embed European values both in the practical activities of governmental and non-governmental organizations as well as in people's self-awareness.

Article Purpose

To clarify peculiarities involving development of national experience of European countries during the development of such institutions of criminal procedure as defense and legal aid in criminal proceedings.

Research Methods

A set of general scientific methods (analysis and synthesis, generalization, logical and structural, etc.) had been applied. This enabled to conceptually analyze the current state of the Bar in European countries and in Ukraine, identify the regulations governing the Bar and define boundaries of the defense counsel's legal status, and the basic principles of defense counsel's activities in protecting a person from criminal prosecution. At the same time, the author applied the methods of comparative legal research and systematic analysis, delving into the experience of criminal proceedings in foreign countries and specifying its definition, and used them for interpretation of international legal acts in the judgments of the European Court of Human Rights (hereinafter — the ECtHR).

Analysis of Essential Research and Publications

Monographs by O. Skriabin ⁶, R. Yemelianova ⁷, K. Stoianov ⁸ at el. analyzed the international legal framework outlining

- 4 Oliinyk O., Bilan Y., Mishchuk H., Akimov O., Vasa L. The impact of migration of highly skilled workers on the country's competitiveness and economic growth. *Montenegrin Journal of Economics*. 2021. № 17 (3). Pp. 7–19. URL: <https://ep3.nuwm.edu.ua/20736/> (date accessed: 28.06.2024).
- 5 Про адвокатуру та адвокатську діяльність : Закон України від 05.07.2012 р. № 5076-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/5076-17#Text> (date accessed: 28.06.2024).
- 6 Скрябін О. М. Захисник в кримінальному процесі: нормативно-правове дослідження : автореф. дис. ... д-ра юрид. наук. Запоріжжя, 2017. 39 с. URL: http://virtuni.edu.ua/info_cpu/sites/default/files/AREF_skryabin_0.pdf (date accessed: 05.06.2024).
- 7 Ємельянов Р. О. Адвокат-представник потерпілого у кримінальному процесі : дис. ... д-ра філос. в галузі права. Кропивницький, 2023. 233 с. URL: https://dnuvs.ukr.education/wp-content/uploads/2023/05/yemelyanov-r._dys_1.pdf (date accessed: 05.06.2024).
- 8 Стоянов К. С. Захисник та представник як учасники кримінального провадження у судовому розслідуванні : дис. ... д-ра філос. в галузі права. Одеса, 2024. 337 с. URL: <https://dspace.oduvs.edu.ua/items/188f95e3-ef3f-415d-85c4-e974f0187d41> (date accessed: 05.06.2024).

the participation of a defense counsel in criminal proceedings, as well as foreign experience of his/her activities in various countries.

I. Odyntsova considerably aided in clarifying efficiency of the defense institution in criminal proceedings, taking into account the national experience of criminal justice reform with a focus on European standards. The researcher supported a number of legal positions on improving the provisions of criminal procedure legislation. Specifically, relying on the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems adopted on July 26, 2012 by UN Resolution 2012/15, the researcher suggested that participants in criminal proceedings should include pre-trial attorneys and trial attorneys, etc.⁹.

I. Dubivka¹⁰, I. Lisna¹¹, T. Babchynska¹², and others studied foreign experience with regard to normative regulation of the defense counsel's participation. It is important to note research papers by A. Shovkun¹³, K. Pudkaliuk and O. Habrys, et al.¹⁴ outlining specific features of providing free legal aid and covering related issues, in particular from the experience of foreign countries.

O. Korovaiko¹⁵, M. Motoryhina¹⁶ et al. devoted their research to a comprehensive analysis of international legal standards for providing efficient defense.

Scholars made particular emphasis on the issues of defense and provision of legal aid in criminal proceedings demonstrating the relevance of these issues and even a certain controversy of certain provisions. In our view, they will remain at the

- 9 Одинцова І. М. Ефективність інституту захисту в кримінальному процесі (вітчизняний досвід реформ та європейські стандарти) : дис. ... канд. юрид. наук. Дніпро, 2017. 227 с.
- 10 Дубівка І. В. Правова регламентація участі захисника в кримінальному процесі за законодавством зарубіжних країн. *Юридичний часопис Національної академії внутрішніх справ*. 2017. № 1. С. 350—359. URL: <https://elar.naiu.kiev.ua/server/api/core/bitstreams/4d8ccdb9-cb89-4e9f-8e84-d11040ffe754/content> (date accessed: 01.06.2024).
- 11 Лісна І. С. Зарубіжний досвід правового регулювання участі адвоката у судовому процесі. *Актуальні проблеми права: теорія і практика*. 2021. № 42. С. 120—129. DOI: [10.33216/2218-5461-2021-42-2-120-129](https://doi.org/10.33216/2218-5461-2021-42-2-120-129) (date accessed: 01.06.2024).
- 12 Бабчинська Т. В. Розвиток та етапи становлення інституту захисту у кримінальному судочинстві. *Нове українське право*. 2021. № 3. С. 204—213. DOI: [10.51989/NUL.2021.3.30](https://doi.org/10.51989/NUL.2021.3.30) (date accessed: 01.06.2024).
- 13 Шовкун А. А. Зарубіжний досвід управління системою надання безоплатної правничої допомоги. *Аналітично-порівняльне правознавство*. 2023. № 5. С. 443—448. DOI: [10.24144/2788-6018.2023.05.79](https://doi.org/10.24144/2788-6018.2023.05.79) (date accessed: 01.06.2024).
- 14 Пудкалюк К. О., Габрись О. М. Недоліки системи надання безоплатної вторинної допомоги та аналіз зарубіжного досвіду при усуненні визначених помилок. *Правове регулювання економіки*. 2018. № 17. С. 268—278. URI: <https://ir.kneu.edu.ua:443/handle/2010/27583> (date accessed: 01.06.2024).
- 15 Коровайко О. І. Реалізація міжнародних стандартів кримінального судочинства в судовому провадженні України : автореф. дис. ... д-ра юрид. наук. Харків, 2017. 42 с. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/19d992ae-5ceb-4995-8471-f016a0ee2204/content> (date accessed: 01.06.2024).
- 16 Моторигіна М. Г. Сторона захисту в судовому провадженні у першій інстанції : монографія / за наук. ред. д-ра юрид. наук, проф. О. В. Капліної. Харків, 2018. 306 с. URL: https://dspace.nlu.edu.ua/bitstream/123456789/14750/1/Motorugina_2018_mon.pdf (date accessed: 01.06.2024).

forefront in scientific research, given the development of international standards in the field of human rights protection and their implementation in the national practice of law enforcement agencies, as well as socio-political changes taking place in society and its continuous development, etc.

Main Content Presentation

Constitutional provisions guarantee the right of every person to defend himself/herself personally and, if needed, to seek legal assistance from a defense counsel¹⁷. Such provisions are correlated with the modern national doctrine of criminal procedure (according to which a person suspected of committing a crime may acquire the status of suspect, accused, acquitted or convicted, depending on the stage of criminal proceedings).

Throughout all stages of criminal procedural activity, a person who has acquired any of the above-mentioned statuses has the right to defense, which should be understood as the opportunity to provide oral or written explanations regarding the served suspicion or accusation, collect and submit evidence, participate in criminal proceedings, use the legal assistance of the defense counsel, defend one's legal position during pre-trial investigation, court proceedings and oral arguments, exercise other procedural rights stipulated by law.

A person may be defended independently or by a defense counsel of his/her choice or appointment. In Ukraine, a defense counsel is a lawyer whose information is contained in the Unified Register of Lawyers of Ukraine and whose activity has not been suspended or terminated by the Bar Council in his/her region.

In line with the current doctrine of criminal procedure, a lawyer may participate in criminal proceedings as a defense counsel, a person's representative and as a legal assistant to a witness (Article 66 of the Criminal Procedure Code of Ukraine)¹⁸.

A defense counsel in criminal proceedings has a derivative status, which means he/she possesses the rights of the person he/she defends, except for those that the person can exercise personally. The current Criminal Procedure Code of Ukraine does not define the rights of a defense counsel, which poses a major challenge in law enforcement and human rights activities. However, given that this participant in criminal proceedings is outlined in the Law of Ukraine *On the Bar and Legal Practice*¹⁹, it is noteworthy that all the rights can be exercised in the context of legal protection of a person against criminal prosecution.

The bar as an independent non-state actor of legal relations in Ukraine has been functioning for more than two centuries, but the conditions under which it has carried out its activities have varied considerably at different times. From our

17 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (date accessed: 02.06.2024).

18 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: 01.06.2024) ; Тертишник В., Одинцова І. Правнича допомога та захист в кримінальному процесі: концепти та колізії правових реформ. *Наше право*. 2017. № 4. С. 164–171. URL: <http://nashe-pravo.unesco-socio.in.ua/wp-content/uploads/archive/NP-2017-4/NP-2017-4.pdf> (date accessed: 15.06.2024).

19 Про адвокатуру та адвокатську діяльність URL: <https://zakon.rada.gov.ua/laws/card/5076-17> (date accessed: 01.06.2024).

point of view, this is due to the fact that the legal status and guarantees of lawyers' activity have been repeatedly reviewed by the legislature.

It is also important to mention that the system of free legal aid, as a form of state guarantee for obtaining legal services aimed at ensuring the realization of human and civil rights and freedoms, as well as their protection and restoration in case of violation, has been recently introduced. Thus, with the adoption of the 2011 Law of Ukraine *On Free Legal Aid* (in the current version: *On Free Legal Aid*)²⁰, a two-level system of providing free legal aid has been introduced in our country. Accordingly, primary legal aid involves provision by specialists of information on legal issues (procedure for restoration of violated rights, appeals against decisions; actions or inaction of state authorities, local self-government bodies, civil servants and officials, etc.). Secondary legal aid is a type of state guarantee intended to create equal opportunities for people to access justice²¹.

During criminal proceedings, the issue of secondary legal aid for suspects, defendants, and victims, gains greater relevance.

The European experience has demonstrated a more generally accepted and progressive approach of states to the development of the legal services and protection system of a person from criminal prosecution. In support of the above, the following facts are provided on the specifics of the functioning of the Bar and its activities

in the context of criminal proceedings in certain foreign countries.

In Germany, the bar legal status is defined by the Federal Provision on the Bar adopted in 1959. In conformity with it, a lawyer must defend or act as an assistant if he/ she is appointed as a defense counsel or assistant under the provisions of the Criminal Procedure Code and laws on administrative offenses, international legal aid in criminal matters, or cooperation with the International Criminal Court²².

German Code of Criminal Procedure (hereinafter referred to as *the German CCP*) came into force in 1987. It governed the procedure for proving, conducting pre-trial investigation and defense. The system of evidence law in criminal proceedings in Germany is positively characterized in the legal literature for the adequate level of harmonizing private and public interests, embodying fundamental modern doctrines of evidence law, information and other expert technologies that are equally used by both the prosecution and the defense²³.

The peculiarities of the defense institution envisaged by the German CCP are that the legal representative involved in a case, similarly to the suspect and the accused, may appoint a defense counsel. The status of a defense counsel may be acquired by a lawyer who is admitted to bar activities, as well as by professors and law lecturers of higher education institutions (universities), who, according to the Framework Law on Higher Education

20 Про безоплатну правничу допомогу : Закон України від 02.06.2011 р. № 3460-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/3460-17#Text> (date accessed: 15.06.2024).

21 Там само.

22 Federal Code for Lawyers (Bundesrechtsanwaltsordnung — BRAO) of 15 July 2022. URL: https://www.gesetze-im-internet.de/englisch_brao/ (date accessed: 08.06.2024).

23 Strafprozeßordnung in der Fassung der Bekanntmachung vom 7. April 1987. URL: https://www.gesetze-im-internet.de/stpo/inhalts_bersicht.html (date accessed: 08.06.2024).

Institutions ²⁴ shall have the right and appropriate qualification to hold the position of a judge. Other parties may be admitted to protecting a person only with the court's permission. If this is a type of case where the presence of a defense counsel is required, and the defense counsel chosen by the accused is not authorized to perform such functions, he/she may also participate in a case, but only together with a person who is recognized as a defense counsel ²⁵, i.e., in addition to a professional defense counsel, the accused may appoint his/her trustee to participate in a case. Thus, the wife, husband or other person who share common household with the accused is admitted to trial as an assistant in the defense of the defendant.

As for the motion for recusal directed at the defense counsel, according to German law, he/she shall be excluded from participation in proceedings if there are substantial grounds to believe that he/she has directly participated in actions that may be investigation subject, abused his/her rights, which poses a serious threat to the safety of the accused in custody, or if the defense counsel has committed an act that, should the accused be convicted, will show signs of concealing or acquiring assets obtained by criminal means.

Moreover, the German CCP guarantees the right to appoint a lawyer to a witness in criminal cases. Thus, witnesses who have not utilized the legal aid of a lawyer may be assigned a lawyer at the time of interrogation with the consent of the public prosecutor's office if it is obvious that they

are unable to exercise their powers independently during interrogation and their defense interests cannot be ensured in any other way.

In line with the legislation of the Republic of Bulgaria, anyone who carries out the practice of law may act as a defense counsel. Individual provisions define grounds for recusing the defense counsel. These include the following:

- any individual who has also been or is defence counsel to another accused party, where the defence of the one is contradictory to the defence of the other;
- any individual who has represented or has given advice to another accused party, where the defence which is to be assigned to him/her stands in contradiction to the defence of the other accused party;
- any individual who has represented or has given advice to the adverse party;
- any individual who has participated in the proceedings in another procedural capacity;
- any individual who is the spouse, relative of direct descent, without limitation in degree, or of collateral descent up to the fourth degree or by marriage - up to the third degree, of a judge, court assessor, prosecutor or an investigative body involved in the case ²⁶.

In the Republic of Bulgaria, the issue of defense in criminal proceedings is governed by the Criminal Procedure Code of Bulgaria, the *Laws On Legal Aid* and *On*

24 Hochschulrahmengesetz in der Fassung der Bekanntmachung vom 19. Januar 1999. URL: <https://www.gesetze-im-internet.de/hrg/> (date accessed: 08.06.2024).

25 Strafprozeßordnung URL: https://www.gesetze-im-internet.de/stpo/inhalts_bersicht.html (date accessed: 08.06.2024).

26 Criminal Procedure Code of the Republic of Bulgaria. Act No. 502-01-11/10.08.2005. URL: <https://justice.government.bg/home/normdoc/2135512224> (date accessed: 05.06.2024).

Advocacy ²⁷. The organization of legal aid is the prerogative of the National Bureau of Legal Aid ²⁸, which was created as a result of European integration and the consideration of ECtHR case law.

Despite the use of European Union practices and the adoption of measures and improvement of Bulgarian legislation, certain issues still arise in providing citizens of this state with access to quality legal aid and legal representation. Violations most often concern the guarantee of access to a lawyer within 24 hours of arrest. A substantial drawback is that detainees are not informed of their right to free legal aid. During the first day detainees have the right to communicate privately with lawyers only in 4% of cases.

Moreover, it is not uncommon for a suspect to be interrogated as a witness first, without being allowed to exercise the right to access a lawyer. There are also challenges with funding for centers that provide free legal aid, engaging lawyers for its provision, and controlling the quality of services provided. Research shows that remuneration that does not correspond to the amount of work actually performed is a significant drawback in the provision of legal aid. Researchers also note that the system for selecting lawyers

to provide free legal aid is not working properly. It needs to be revised ²⁹.

In France, there is a National Bar Association and 164 bar associations. The conditions for accessing legal profession, stipulated by the Decree of 1972 ³⁰, are quite harsh. Apart from the requirements, rights and responsibilities of defense councils, French law stipulates both requirements for maintaining an appropriate level of professional qualification and criminal liability for failure to comply with the indicated requirements and responsibilities.

The status of defense counsel in criminal proceedings in France was substantially altered in 1993; the reforms continue to this day. In particular, the status of the suspect (accused) during the pre-trial investigation phase has been improved, his rights have been considerably extended, and the institution of the defense counsel has been given a more significant status, in particular through the legal status of the bar. It is worth noting that under French law, should a person file a statement about a criminal offense, he/she may immediately acquire the status of accused (Article 80 of the French Code of Criminal Procedure) ³¹. Let's stress that

27 Ibid ; On legal aid : Law of the Republic of Bulgaria dated January 1, 2006 (Law on legal aid). URL: <https://lex.bg/laws/ldoc/2135511185> (date accessed: 05.06.2024) ; Advocacy Law : Law of the Republic of Bulgaria dated June 25, 2004. URL: <https://lex.bg/bg/laws/ldoc/2135486731> (date accessed: 05.06.2024).

28 On legal aid URL: <https://lex.bg/laws/ldoc/2135511185> (date accessed: 05.06.2024).

29 Кейп Е., Наморадзе З. Ефективний захист у кримінальному процесі в країнах Східної Європи. Київ, 2012. С. 155—156. URL: <https://ulaf.org.ua/wp-content/uploads/2019/08/effective-criminal-defence.pdf> (date accessed: 07.06.2024).

30 Code Penal : Numero 1867060850 (1867). URL: <https://www.ejustice.just.fgov.be/eli/loi/1867/06/08/1867060850/justel> (date accessed: 07.06.2024) ; Décret n°72-669 du 13 juillet 1972 pris pour l'application à la profession d'avocat de la loi n°66-879 du 29 novembre 1966 relative aux sociétés civiles professionnelles. URL: <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000005618469/> (date accessed: 07.06.2024).

31 Law of the France Code of Criminal Procedure. 1958. 278 p. URL: https://sherloc.unodc.org/cld/uploads/res/document/fra/1958/code_de_procedure_penale_html/Code_de_procedure_penale_incorporant_les_amendements_jusqua_2005_ENGLISH-OLDER_VERSION.pdf (date accessed: 10.06.2024).

in compliance with the practice of the ECtHR, the right to legal aid arises at the moment when a person is in a vulnerable position, even if he/she is not officially detained as a suspect (Case of *Shabelnyk v. Ukraine* ³²).

Regarding peculiarities of the defense counsel's participation in criminal proceedings in France, it is necessary to emphasize, first of all, substantial involvement of the investigating judge at the stage of pre-trial investigation. This is the only first instance investigative authority that the lawyer is obliged to cooperate with.

The French Code of Criminal Procedure also enshrines that the lawyer is authorized to take part in all the investigative acts carried out with participation of his/her client, in particular during the first interrogation. In the course of court session, the defense counsel is a participant with equal rights in proceedings, therefore, he/she possesses the right to ask questions of the person being interrogated. After the trial is over, the defense counsel participates in oral arguments ³³.

Polish law thoroughly regulates the activities of defense counsel and lawyers. The Criminal Procedure Code of the Republic of Poland has a separate section

devoted to it ³⁴. What is more, the Law *On the Advocates' Profession* operates there ³⁵. In Poland, in conformity with the provisions of the above-mentioned legislative acts, there are two independent legal professions whose activities are related to the provision of legal aid: lawyers and legal advisors. A lawyer who performs his/her work at a professional level is subject to mandatory civil liability insurance for damage that could have resulted from his/her activities. In addition, he/she is granted extensive powers.

Another peculiarity of the legal system of modern Poland is the absence of the institution of free legal aid by a lawyer as a type of state guarantee. More than 1.5 thousand legal aid offices maintained by the state and local governments provide only primary legal aid, i.e., legal consultations and explanations. As for secondary legal aid, it is provided by unrelated governmental and non-governmental institutions and organizations ³⁶.

The issue of the defense counsel's status in criminal proceedings in the Czech Republic is governed by the Law on the Bar and the Criminal Procedure Code of the state. In compliance with current provisions, a defense counsel in a criminal

32 Справа «Шабельник проти України» (заява № 16404/03) : рішення ЄСПЛ. Страсбург, 19.02.2009 р. URL: http://zakon2.rada.gov.ua/laws/show/974_457 (date accessed: 10.06.2024).

33 Law of the France Code URL: https://sherloc.unodc.org/cld/uploads/res/document/1958/code_de_procedure_penale_html/Code_de_procedure_penale_incorporant_les_amendements_jusqua_2005_ENGLISH-OLDER_VERSION.pdf (date accessed: 10.06.2024).

34 Kodeks postępowania karnego : Ustawa z 06.06.1997 r. Dziennik Ustaw. 2017. Poz. 1904 I 2405 oraz z 2018 r. Poz. 5. URL: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970890555/U/D19970555Lj.pdf> (date accessed: 05.06.2024).

35 Prawo o adwokaturze : Ustawa z 26.05.1982 r. Ibid. Poz. 2368 I 2400. URL: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19820160124> (date accessed: 05.06.2024).

36 Оніщик Ю. Правові засади діяльності адвокатури: досвід Польщі та перспективи України / Multidimensionality of Ukrainian-Polish cooperation: genesis, particularities and prospects : Scientific monograph ; science eds. T. Astramovich-Leik, Ya. Turchyn, O. Horbach. Riga, Latvia, 2022. С. 267—278. DOI: [10.30525/978-9934-26-232-6-20](https://doi.org/10.30525/978-9934-26-232-6-20) (date accessed: 05.06.2024).

case is a person who has the right to protect the interests of a person on the basis of the Law On the Bar and the Law On Legal Advisors³⁷.

In Estonia, a defense counsel in criminal proceedings is an advocate whose competence in the criminal proceeding is based on an appointment by the Estonian Bar Association at the request of an investigative body, Prosecutor's Office or court (appointed counsel), or, with the permission of the body conducting the proceedings, any other person who meets the educational requirements established for contractual representatives by this Act and whose competence in the criminal proceeding is based on an agreement with the person being defended (contractual counsel)³⁸.

The practice in Great Britain differs markedly from that of the above countries. Here, human rights practitioners have historically been split into two groups: 1) solicitors and 2) barristers. They are empowered to defend during criminal proceedings, but the scope of their powers to do so varies substantially. Thus, the right to make public appearances in courts is limited for solicitors; they mainly meet with clients, suspects or accused persons, act on behalf of their clients, and assist in collecting evidence in their favor. While barristers are lawyers who are entitled to

appear in courts of various instances, and their work is under the control of the General Council of the Bar. As for the powers of barristers, they have extensive authority, in particular: drawing up procedural documents (detailed claims or withdrawal of a claim); consulting on legal issues; representation of a person's interests in court, etc. The law enshrines that lawyers are not authorized to receive instructions from clients; disclose confidential information; communicate with witnesses; conduct an independent investigation and manage it; engage in pre-trial (out-of-court) dispute resolution, etc.³⁹.

As to the protection of a person's interests in international judicial institutions, we should stress: there are a number of additional requirements that can be additionally put forward to a lawyer. The rules of the International Criminal Court can be cited as an example of such a requirement. The constituent documents of the latter stipulate that the defence shall have established competence in international or criminal law and procedure, as well as the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings. A counsel for the defence shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court. Counsel for the defence may be

37 Law of the Czech Republic. Act No. 85/1996 of 13.03.1996 on the Legal Profession. URL: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_Czech-Rep_ACT-No-851996-Sb-of-13th-March-1996-on-the-Legal-Profession.pdf (date accessed: 05.06.2024) ; Criminal Procedure Act (Criminal Procedure Code) Act No. 141/1961. Coll. Version 01.07—31.12.2024. URL: <https://www.zakonyprolidi.cz/translation/cs/1961-141?langid=1033> (date accessed: 05.06.2024).

38 Code of Criminal Procedure of 12.02.2003. URL: <https://www.riigiteataja.ee/en/eli/530102013093/consolide> (date accessed: 05.06.2024).

39 Лісна І. С. Зазнач. твір. DOI: 10.33216/2218-5461-2021-42-2-120-129 (date accessed: 05.06.2024) ; Шкарупа К. В. Особливості зарубіжного досвіду становлення та функціонування адвокатури (на прикладі Франції та Великобританії). *Юридична наука*. 2020. № 2 (104). С. 589—595. DOI: 10.32844/2222-5374-2020-104-2.66 (date accessed: 05.06.2024).

assisted by other persons, including professors of law with relevant expertise ⁴⁰.

Let's also look at the experience of one of the leading states in West Asia Israel. In 1995, the Israeli Ministry of Justice established the Public Defender's Office and the Public Defender's Council. Israel has a mixed model of providing free legal aid, combining elements of the model of public defenders, who are full-time civil servants, and elements of the model of private lawyers who are contracted by the Public Defender's Office to provide defense to indigent defendants. The Israeli legal aid system has two important components: 1) provision of legal services in civil cases; 2) provision of legal assistance in criminal cases by the Office of Civil Lawyers. Legal advice is also available at university legal clinics, which are staffed primarily by students who can earn academic credit for participating in practical legal aid courses ⁴¹.

Additionally, it should be highlighted that despite the existence of a number of positive aspects regarding the functioning of the bar and the protection of a person from criminal prosecution, the ECtHR has repeatedly criticized both the German, English, and Ukrainian criminal procedural systems in general and procedural legislation in particular. As an example, the court has persistently pointed out that the UK justice system violates the confidentiality of a meeting with a defense counsel, the appointment of a lawyer in the interests of justice, etc. Ger-

many undermines the presumption of innocence principle, the right to a fair trial, and the right to a hearing by an impartial tribunal.

In Ukraine, typical violations are: non-compliance with reasonable time limits for case hearing, failure to ensure access to fair justice, and encroachment on the right to defense. For Ukraine, since the ECHR has a tradition of adhering to its case law, the case law of the ECHR is essential not only in cases of Ukrainian citizens against Ukraine, but also in the case law of the ECHR on the claims of citizens of any European country. The experience of European countries in reforming their procedural legislation, especially in aspects influenced by the legal positions of the ECHR, is an invaluable source of reformist concepts today ⁴².

Conclusions

The system of criminal procedure is more sustainable in European countries. In contrast to Ukraine, it has remained largely unchanged in the last 50–60 years. The bar, as an independent non-governmental institution, also functions according to long-standing traditions that date back to the 17th and 18th centuries. Still, this situation does not mean that human rights activities in these states fully comply with international standards in the field of personal protection from criminal prosecution. This, specifically, is demonstrated by the practice of the ECHR, the

40 Rules of Procedure and Evidence. Are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court. First session. (New York, 03–10.09.2002). New York, 2002. 99 p. URL: <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf> (date accessed: 05.06.2024).

41 Бригінець О. О. Правове забезпечення діяльності адвокатури в договірних відносинах (вітчизняний і зарубіжний досвід). *Часопис Київського університету права*. 2023. № 1. С. 169–172. DOI: [10.36695/2219-5521.1.2023.35](https://doi.org/10.36695/2219-5521.1.2023.35) (date accessed: 05.07.2024).

42 Одинцова І. М. Зазнач. твір. С. 53.

decisions of national judges who repeatedly emphasized the inadmissibility of violating the principles of criminal procedural legislation, primarily in the context of such fundamental principles as the right of a person to defense and access to fair justice.

Stemming from the analysis of the criminal procedure legislation provisions in such European countries as France, Germany, Poland, the Czech Republic, Bulgaria, and Estonia, we have found that activities of defense counsels during the defense of a person in criminal proceedings in these countries are fundamentally similar. Additionally, the requirements for a defense counsel under the current legislation of Ukraine are in some aspects, in particular, those that determine their professional competence, stricter than, for example, in France and Germany, where there is no lawyer's monopoly on representation and defense of a person's interests in criminal proceedings. At the same time, we are of the opinion that this requirement arises from the necessity to ensure professionalism of the person providing protection, contributing to the improvement of the quality of legal services, since lawyers are obliged to possess practical experience, and take relevant qualification exams, and undergo internships, and continuously enhance their professional skills, as well as bear disciplinary responsibility. Their activities are subject to criminal law protection.

From our perspective, prospects for subsequent research into the issues raised should consist in clarifying typical mistakes that law enforcement agencies and defense counsels make at the stage of pre-trial investigation and which subsequently negatively affect the international principles of personal protection, including the violation of these principles.

Досвід держав Європи в розбудові інститутів правничої допомоги та захисту в кримінальному судочинстві

Микола Коломойцев

Мета статті — з'ясувати особливості формування досвіду європейських держав у розбудові таких інститутів кримінального процесу, як захист і надання правничої допомоги в межах кримінального провадження. Застосовано загальнонаукові методи (аналіз і синтез, узагальнення, логіко-структурний тощо), методи порівняльно-правового дослідження та системного аналізу. З'ясовано, що в більшості країн Європи система кримінального процесуального законодавства більш усталена, на відміну від системи кримінального процесуального законодавства України. Адвокатура як неурядовий інститут у Франції, Німеччині, Польщі, Естонії тощо також функціонує згідно з усталеними традиціями, які виникли ще в XVII—XVIII ст., проте така ситуація не гарантує відповідності правозахисної діяльності сформованим міжнародним стандартам у сфері захисту особи від кримінального переслідування. Зроблено висновок, що діяльність у межах здійснення захисту особи у сфері кримінального судочинства в різних країнах принципово не відрізняється. Навіть більше, вимоги до захисників, передбачені чинним законодавством України, у певних аспектах є більш суворими, аніж, наприклад, у Франції та Німеччині. Нині важливо з'ясувати, які типові помилки мають місце в діяльності правоохоронних органів і захисників на стадії досудового розслідування, що суттєво позначаються на порушенні міжнародних засад захисту особи від кримінального переслідування.

Ключові слова: кримінальне судочинство; захист; правнича допомога;

адвокат; захисник; міжнародні стандарти; досвід європейських держав.

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Declaration of Competing Interest

Authors declare no conflict of interest.

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Regarding research competence of forensic expert

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Large-scale Russian invasion threatens quality of the education of forensic experts and the involvement of the most competent and dedicated personnel in expert work, who must have not only a high level of knowledge, but the skills and abilities of a forensic expert, be able to work professionally, constantly looking for new ways of self-development. The purpose of this article is to analyze the concept meaning “research competence”, identify problematic issues regarding formation of the research competence of forensic experts, determine ways to overcome them, to outline the system elements of the research competence of forensic expert. General scientific and special scientific methods were used to achieve the goal. Importance of integration with European educational standards and the implementation of international experience of the best world practices in the use of educational technologies and programs that will contribute to increasing the level of professional training of Ukrainian forensic experts is emphasized. It is noted that experts well versed in forensics and law, who quickly and qualitatively analyze incoming information, are able to apply the most effective methods to perform the expert tasks assigned to them. Therefore, high level of education

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and training of forensic experts is important for ensuring effectiveness of forensic expert activity in Ukraine.

Keywords: *forensic expert; efficiency; qualification; competence; research competence; education; educational project; forensic expert activity.*

Research Problem Formulation

Competitiveness of the state is a prerequisite for its successful integration into the world economy and ensuring sustainable development. The path of European and world integration chosen by Ukraine necessitates intensive changes in the political, economic and social life of our state. Thereby, competence, responsibility, ability to work confidently in one's field, psychological stability and readiness to achieve results under any conditions are the main requirements for a modern forensic expert, and especially in conditions of war. Despite availability of research papers on the chosen topic, problem of competence as a system of certain knowledge, skills and abilities necessary for effective implementation of expert activity is very relevant. The issue of research competence of forensic experts has been little studied.

Article Purpose

Analyze the content of the concept of "research competence", to identify the problematic issues of the formation of research competence of forensic experts, determine the ways of their solution and

to outline the components of the research competence of a forensic expert, considering it as a system.

Research Methods

In recent years, there has been a tendency to narrow and generalize the scientific position on the terminological definition of methodology on the basis of a set of components identified using certain scientific approaches ¹. Methodology of science is associated with the development of methods of scientific knowledge. The method of scientific research is defined as a set of stipulated rules, techniques, methods and norms of cognition of a certain object or phenomenon ².

For achieving this goal, an integrative approach was applied, which made it possible to consider the research competence of a forensic expert as a system of certain qualities, which implies the readiness of the individual to carry out an effective research process. Applied general scientific (dialectical, comparison, analysis, synthesis, induction, deduction) and special scientific methods (formal logical, logical-legal, system-structural) contributed to logical and consistent presentation of the material, the content and validity of scientific conclusions and proposals.

- 1 Овсянникова І. М. Адміністративно-правове регулювання судово-експертної діяльності: проблеми підвищення ефективності : дис. ... д-ра філос. у галузі права. Харків, 2023. 243 с.
- 2 Смирний М. Ф. Основи наукових досліджень : консп. лекц. (для студент. усіх форм навч. за спец. 141 — Електроенерг., електротех. та електромех.). Харків, 2018. 111 с. URL: <https://core.ac.uk/download/pdf/162019668.pdf> (date accessed: 20.05.2024).

Analysis of Essential Researches and Publications

Very little scientific research is devoted to the topic of research competence in forensic science. The issues of competence and competency of forensic expert were analyzed by M. Shcherbakovskiy and L. Shcherbakovska ³, H. Pylypenko ⁴; the peculiarities of the formation of professional competencies of a forensic commodity expert were studied by I. Petrova and O. Dontsova ⁵, I. Sivchuk ⁶; issues of professional competence of forensic experts as specialists providing public services for expert support of justice were considered by O. Uhrovetskyi and I. Petrova ⁷; problematic issues of training qualified forensic experts were studied by S. Strilets and R. Kuznetsov ⁸; profession-

al and psychological qualities of persons engaged in forensic expert activity were studied by V. Sherstyuk ⁹, S. Hasparian ¹⁰, O. Kurdes ¹¹ et al.

The *research competence* term is complex and multidimensional, so scientists still do not have an unambiguous interpretation of this concept. The topic of research competence of forensic experts has not been sufficiently studied.

Main Content Presentation

Current stage of human civilization development is transition to a knowledge society, characterized by qualitatively new requirements for the development of education. Currently, the principle of *knowledge for knowledge's sake* is no longer fundamental in the field of education.

- 3 Щербаковський М. Г., Щербаковська Л. П. Компетенція и компетентність судового експерта. *Криміналістика и судебная экспертиза*. 2013. Вып. 58. Ч. 2. С. 95—104. URL: http://nbuv.gov.ua/UJRN/krise_2013_58%282%29__21 (date accessed: 20.05.2024).
- 4 Пилипенко Г. М. Оцінка компетентності експерта. *Правничий часопис Донецького університету*. 2013. № 2. С. 159—164. URL: http://nbuv.gov.ua/UJRN/Pchdu_2013_2_24 (date accessed: 20.05.2024).
- 5 Петрова І. А., Донцова О. С. Особливості формування професійних компетентностей судового експерта-товарознавця. *Теорія та практика судової експертизи і криміналістики*. 2020. Вип. 21. С. 165—178. DOI: [10.32353/khrife.1.2020_11](https://doi.org/10.32353/khrife.1.2020_11) (date accessed: 20.05.2024).
- 6 Сівчук І. П. Професійна компетентність під час формування та підготовки товарознавців-експертів. *Вісник Запорізького національного університету. Юридичні науки*. 2020. № 4. Т. 2. С. 200—206. DOI: [10.26661/2616-9444-2020-4.2-29](https://doi.org/10.26661/2616-9444-2020-4.2-29) (date accessed: 20.05.2024).
- 7 Угровецький О. П., Петрова І. А. Складові стратегії формування професійної компетентності судових експертів через теоретичні та методичні підходи. *Юридичний науковий електронний журнал*. 2023. № 9. С. 506—509. DOI: [10.32782/2524-0374/2023-9/124](https://doi.org/10.32782/2524-0374/2023-9/124) (date accessed: 20.05.2024).
- 8 Стрілець С. О., Кузнецов Р. В. Шляхи вдосконалення підготовки та підвищення кваліфікації судових експертів експертної служби МВС. *Молодий вчений*. 2020. № 8 (84). С. 236—241. DOI: [10.32839/2304-5809/2020-9-85-51](https://doi.org/10.32839/2304-5809/2020-9-85-51) (date accessed: 20.05.2024).
- 9 Шерстюк В. М. Організаційно-правові та морально-психологічні засади судово-експертної діяльності : автореф. дис. ... канд. юрид. наук. Харків, 2007. 19 с. URL: <https://dspace.nlu.edu.ua/jspui/handle/123456789/13906> (date accessed: 20.05.2024).
- 10 Гаспарян С. Г. Адміністративно-правові засади кадрового забезпечення судово-експертних установ України : дис. ... канд. юрид. наук. Харків, 2019. 217 с. URL: <https://uacademic.info/ua/document/0419U003333> (date accessed: 20.05.2024).
- 11 Курдес О. В. Особливості психологічної підготовки судових експертів як складової процесу адаптації до умов праці. *Теорія та практика судової експертизи і криміналістики*. 2021. Вип. 1 (23). С. 110—122. DOI: [10.32353/khrife.1.2021.08](https://doi.org/10.32353/khrife.1.2021.08) (date accessed: 20.05.2024).

Knowledge and skills as an educational result are no longer sufficient for development in modern information society. As noted by I. Petrova and O. Dontsova, forming the competencies of employees of forensic institutions turns into a leading factor in the business success of a specific institution, and its ability to train employees faster than the rest of the institutions of this system becomes a decisive competitive advantage¹². At the same time, one should agree with I. Georgia, in whose opinion, a high level of competence of employees is an important competitive advantage not only of individual organizations, but also of countries¹³. Thereby society now needs adjustments in the content of methodical and technological aspects of education (in particular, in the field of forensics and forensics). The modern world needs to reorient the paradigm of education from knowledge to competence-qualification, that is, to emphasize (in addition to the educational component) the abilities of forensic experts to independently acquire knowledge and optimally apply it at work, as well as independently make decisions and have psychological training.

At the same time, according to some scientists, a *modern specialist* is a person who has not only acquired certain knowledge, skills and abilities, but also confi-

dently and professionally applies them and his creative potential, is constantly looking for ways of self-development. Education is defined not only as a certain process of education and upbringing: the benchmarks of the educational process should be the interests of a person, society, and the state; this process should state the level of achievement by a citizen of the educational levels (qualifications) stipulated by the state. Educational knowledge is necessary for creative self-realization and self-determination¹⁴.

Taking into account the above scientific positions, it can be concluded that the traditional understanding of education is now being rethought. In modern society, the concept of *education* becomes relevant, which content includes not only traditional knowledge acquisition, skills and abilities, but systemic purpose, which purpose is formation of a person of a new format, acquisition of personal traits, individuality, spirituality and the possibility of revealing creative potential.

“Forensic expert (from Latin *expertus* — experienced) is a person who has special knowledge, a knowledgeable person who has the necessary knowledge to provide an opinion on the issues under study and whom the investigator (court, investigating judge, defense party, etc.),

12 Петрова І. А., Донцова О. С. Знач. твір. DOI: 10.32353/khrife.1.2020_11 (date accessed: 20.05.2024).

13 Грузіна І. А. Компетентнісний підхід до стратегічного управління організацією. *Сучасні проблеми управління підприємствами: теорія та практика* : мат-ли міжнар. наук.-практ. конф. (Харків — Торунь, 16.04.2021). Дніпро, 2021. С. 25—27. URL: <http://repository.hneu.edu.ua/bitstream/123456789/25945/1/%D0%93%D1%80%D1%83%D0%B7%D1%96%D0%BD%D0%B0.pdf> (date accessed: 20.05.2024)

14 Василюк В. М. Формування дослідницької компетентності майбутніх перекладачів засобами проектного навчання. *Вісник освіти і науки України*. 2023. № 12 (18). С. 304—314. DOI: 10.52058/2786-6165-2023-12(18)-304-314 (date accessed: 20.05.2024) ; Качмар О., Макаренко Я., Мірошніченко Т. Аналіз сучасних тенденцій організації навчального процесу у початковій школі. *Актуальні питання гуманітарних наук*. 2022. Вип. 1 (58). С. 329—324. DOI: 10.24919/2308-4863/58-1-51 (date accessed: 20.05.2024).

in accordance with the law, involved in forensic examination”¹⁵.

Forensic expert practitioners appropriately point out that quality of forensic examination depends on forensic expert qualification and his detailed and responsible research on objects while pre-trial investigation or trial¹⁶. For obtaining forensic expert qualification, comprehensive higher education is required, because the expert's professional thinking is formed during the acquisition of higher education and professional specialization¹⁷. Thus, the current legislation of Ukraine defines requirements for persons seeking to obtain or confirm the qualification of a forensic expert. Such a person must have a relevant higher education and an educational qualification level not lower than a specialist, know the legislation of Ukraine on forensic expertise, undergo appropriate training (training / internship at a state forensic expert institution in relevant specialization), after which he may

pass an exam and obtain the qualification of forensic expert specialization¹⁸.

At the same time, we consider the research competence of a forensic expert to be equally important, which, according to scientists, is leading in any professional activity and thanks to which ability for reflective analysis and critical thinking is practically embodied. Human adaptation in the social and professional environment is accelerating; developing abilities not only to investigate problems, but also to make judgments based on raw data; make effective decisions based on rational principles¹⁹. According to foreign authors: L. Udompong, D. Traiwicithkun, S. Wongwanich, research competence is an important attribute and it should be developed in all professionals. After all, professionals who have acquired knowledge, skills and have a positive attitude towards research understand how important systems thinking, analysis and synthesis are for them. This will make it possible to

- 15 Шепітько В. Ю., Авдеева Г. К. Експерт судовий / Велика українська юридична енциклопедія : у 20 т. Т. 20 : Криміналістика. Судова експертиза. Юридична психологія // редкол.: В. Ю. Шепітько (голова) та ін. Харків, 2018. С. 219—222.
- 16 Слюсаренко В., Хомутенко О., Тарасютина С. Проведення комплексних і комплексів судових експертиз із використанням спеціальних знань у галузі економіки. *Теорія та практика судової експертизи і криміналістики*. 2024. Вип. 1 (34). С. 209—222. DOI: [10.32353/khrife.1.2024.12](https://doi.org/10.32353/khrife.1.2024.12) (date accessed: 20.05.2024).
- 17 Алексейчук В. І., Стародубов І. В. Підготовка фахівців у сфері судової експертизи: організаційні питання та перспективи. *Юридичний вісник*. 2022. № 2 (63). С. 228—235. DOI: [10.18372/2307-9061.63.16734](https://doi.org/10.18372/2307-9061.63.16734) (date accessed: 20.05.2024) ; Петрова І. А., Гаспарян С. Г. Шляхи вирішення проблем судових експертів. *Актуальні проблеми кримінально-правового, кримінально-процесуального та криміналістичного забезпечення України* : мат-ли міжнар. наук.-практ. конф. (Дніпро, 30.11.2018). Дніпро, 2018. С. 144—145.
- 18 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 20.05.2024) ; Положення про Центральну експертно-кваліфікаційну комісію при Міністерстві юстиції України та атестацію судових експертів : затв. наказ. Мін'юсту України від 03.03.2015 р. № 301/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0249-15#Text> (date accessed: 20.05.2024).
- 19 Василюк В. М. Знач. твір. DOI: [10.52058/2786-6165-2023-12\(18\)-304-314](https://doi.org/10.52058/2786-6165-2023-12(18)-304-314) (date accessed: 20.05.2024) ; Карпова Л. Дослідницька компетентність вчителя нової української школи. *Молодь і ринок*. 2019. № 1 (168). С. 85—89. URL: http://nbuv.gov.ua/UJRN/Mir_2019_1_19 (date accessed: 20.05.2024).

solve problems on a systematic basis and will contribute to academic development of all professions, continuous acquisition of knowledge, new discoveries²⁰.

In general, there is currently no clear definition of the *research competency* term itself, so it is appropriate to first consider the concept of *competence* itself and the related terms *qualification* and *competence*. The *competence* term was first used in 1959 by R. W. White to describe the individual characteristics of a person that helped him perform the work assigned to him at the highest level²¹. This approach was developed by D. C. McClelland, who proposed predicting effectiveness of employees based on the assessment of competence rather than *competence*²². The concept of *competent education* arose in the 1960s in the United States of America, but it was defined only in the late 1980s. The main goal of such education is to focus not only on the acquisition and mastery of knowledge, but also on the search for information necessary to achieve the set goal, a high level of communication, resourcefulness, organizational and leadership skills. The English psychologist J. Raven in the *Com-*

*petence in modern society: identification, development and release*²³ book provided an extensive interpretation of competence as a phenomenon that contains many independent structural components. Some components are considered by the researcher to belong to the cognitive sphere, some to the emotional sphere. In addition, the author emphasizes that such components are interchangeable as components of effective behavior. The scientist claims that types of competence are intrinsically motivated abilities, and distinguishes 37 types of competence, fixing them in concepts such as *readiness, ability, ability, tendency, lack*²⁴.

According to dictionary, competence (from Latin. *competentia*: consistency; compliance) — “1. Good knowledge of something. <...> 2. The scope of powers of any organization, institution or person”²⁵. Competent (from Latin. *competens*: capable; appropriate) is one who “has sufficient knowledge in any field; who is well aware of something; intelligent”²⁶.

R195 – Human Resource Development Recommendations, 2004 (No. 195), adopted by the International Labor Organization,

20 Udompong, L., Traiwicithkun, D. & Wongwanich, S. Causal model of research competency via scientific literacy of teacher and student. *Procedia-Social and Behavioral Science*. 2014. Vol. 116. Pp. 1581–1586. DOI: 10.1016/j.sbspro.2014.01.438 (date accessed: 20.05.2024).

21 White R. W. Motivation reconsidered: The concept of competence. *Psychological Review*. 1959. Vol. 66. Is. 5. Pp. 297–333. DOI: 10.1037/h0040934 (date accessed: 20.05.2024).

22 McClelland D. C. Identifying competencies with behavioral-event interviews. *American Psychological Society*. 1998. Vol. 9. No. 5. Pp. 331–339. URL: [https://skillup.coreconsulting.it/home/pdfs/McClelland,%20D.%20C.%20\(1998\).%20Identifying%20competencies%20with%20behavioral-event%20interviews..pdf](https://skillup.coreconsulting.it/home/pdfs/McClelland,%20D.%20C.%20(1998).%20Identifying%20competencies%20with%20behavioral-event%20interviews..pdf) (date accessed: 20.05.2024).

23 Равен Дж. Компетентність у сучасному суспільстві: прояв, розвиток і реалізація. Київ, 1984. 284 с.

24 Там само.

25 Компетентія / Словник UA. Портал української мови та культури. URL: <https://slovnkyk.ua/index.php?swrd=%D0%BA%D0%BE%D0%BC%D0%BF%D0%B5%D1%82%D0%B5%D0%BD%D1%86%D1%96%D1%8F+> (date accessed 30.05.2024).

26 Компетентний / Там само. URL: <https://slovnkyk.ua/index.php?swrd=%D0%BA%D0%BE%D0%BC%D0%BF%D0%B5%D1%82%D0%B5%D0%BD%D1%82%D0%BD%D0%B8%D0%B9> (date accessed 30.05.2024).

defines the terms: *qualifications* (“formal expression of an employee’s technical or professional skills that are internationally, nationally or industry-recognized”) and *competence* (“encompasses knowledge, skills and experience that are applied and improved in specific contexts”) ²⁷.

N. Bibik considers competence as an alienated from the subject, a predetermined social norm of educational training of a specialist, which is necessary for his qualitative and productive activity in a certain area, as real requirements for mastering a set of knowledge, methods of activity, experience of attitude to a certain industry, personality traits that operate in a certain society. The scientist considers competence to be a holistic category that is the result of the acquisition of competencies and involves personal characteristics, attitude to the subject of activity. At the same time, the researcher notes that neither knowledge, nor skills, nor experience are competence in themselves ²⁸.

S. Makeev, on the contrary, emphasizes the need to distinguish between the concepts of *competence* and *expertise*, although they are close in content and are often identified. In his opinion, “competence should be considered as a set of qualities that a person must possess for effective activity in a certain field, and competence

as a personal quality or a set of qualities that have already been realized, i.e., possession of a certain competence” ²⁹.

I. Beh considers it inappropriate to identify learning abilities (knowledge and skills) with relevant competencies. The scientist is sure that educational achievements need to be transformed into life competencies and interprets the essence of the concept of *expertise* as the experience of the subject in a certain life sphere. He insists that it is the meaningful emphasis on experience, and not on awareness, awareness of the subject in a certain area, that should be taken on the conceptual “armament” ³⁰.

Thus, researchers distinguish two scientific approaches:

- 1) concept of *expertise* is broader than the concept of *competence*, it characterizes and determines the level of professionalism that a person has. In addition, achievement of this level occurs through the prism of competencies, the acquisition of which is the goal of professional training ³¹;
- 2) clear distinction between the two terms. Representatives of such a scientific school argue that the concept of *expertise* is related to the content of the field of activity, while *competence* refers to a person, characterizes him

27 R195 — Рекомендація щодо розвитку людських ресурсів, 2004 (№ 195) : прийн. Міжнар. орг. праці від 17.06.2004 р № 195. URL: https://zakon.rada.gov.ua/laws/show/993_532#Text (date accessed: 30.05.2024).

28 Бібік Н. Переваги і ризики запровадження компетентнісного підходу в шкільній освіті. *Гірська школа Українських Карпат*. 2013. № 8—9. С. 26—30. URL: http://nbuv.gov.ua/UJRN/gsuc_2013_8-9_12 (date accessed: 30.05.2024).

29 Makeev С. Ю. Генезис понятийного аппарата компетентнісного підходу у дослідженнях зарубіжних та вітчизняних науковців. *Актуальні питання гуманітарних наук*. 2021. Вип. 43. Т. 2. С. 230—237. DOI: 10.24919/2308-4863/43-2-38 (date accessed: 30.05.2024).

30 Бех І. Д. Компетентнісний підхід як освітня стратегія / Digital Library NAES of Ukraine. 03.04.2015. URL: <https://lib.iitta.gov.ua/id/eprint/8772/1/534%20%D0%91%D0%B5%D1%85.pdf> (date accessed 30.05.2024).

31 Калінін В. О. Формування професійної компетентності майбутнього вчителя іноземної мови засобами діалогу культур : автореф. дис. ... канд. пед. наук. Житомир, 2005. 20 с.

as a person and his ability to perform the work entrusted to him qualitatively and effectively³².

H. Pylypenko considers the competence of the expert to be limited only by the limits of his special knowledge³³. At the same time, M. Shcherbakovskyi also adds the range of powers of forensic expert to specific expertise. He interprets the competence of the expert as an objective category and distinguishes its two types:

- 1) Procedural one: the range of powers granted to forensic expert by the procedural law;
- 2) scientific (special) one: the amount of special knowledge and skills that each expert who conducts examinations of a certain kind, type, subspecies has.

M. Shcherbakovskyi defines competence of forensic expert as a subjective characteristic that reflects the ability of a particular expert to solve the tasks set, the degree of his knowledge of the theory, methods, techniques of expert research of objects within a certain kind, type of expertise and which is due to the expert's experience, his basic education, level of special training, awareness of new research methods, individual abilities and other factors³⁴.

N. Klymenko's position on determining the competence of an expert as a sub-

jective characteristic of the abilities of a particular expert to perform the tasks assigned to him/her and the degree of his/her knowledge of the theory, methods and techniques of expert research is similar. Expertise of forensic expert in a certain examination is reflected in research results confirmed by his conclusions³⁵.

M. Vynohradova does not limit competence of forensic expert only to his knowledge. She notes that competence can be characterized as the entire amount of knowledge that an expert has and that he applies within the limits of his powers granted to him by law and she defines the level of knowledge and ability to apply them in practice as competence³⁶.

In the dissertation, S. Gasparyan distinguishes three levels of competence of a forensic expert:

- Level I: basic competence of a forensic expert (expert's ability to independently solve expert problems, based on the set of knowledge acquired by him in the process of training, as well as knowledge and skills in forensic expert specialization acquired in preparation for his certification as forensic expert, as well as legal knowledge);
- Level II: personal competence of forensic expert (ability of the expert to perform complex and atypical

32 Головань М. С. Компетенція та компетентність: порівняльний аналіз понять. *Педагогічні науки: теорія, історія, інноваційні технології*. 2011. № 8 (18). С. 224–234. URL: <http://essuir.sumdu.edu.ua/handle/123456789/58463> (date accessed: 30.05.2024).

33 Пилипенко Г. М. Зазнач. твір. URL: http://nbuv.gov.ua/UJRN/Pchdu_2013_2_24 (date accessed: 20.05.2024).

34 Щербаківський М. Г. Судова експертологія : навч. посіб. Харків, 2008. С. 31. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/f68ffa51-4fe1-4991-bcee-7a5a8627e0d8/content> (date accessed: 10.06.2024).

35 Клименко Н. І. Судова експертологія : курс лекцій. Київ, 2007. 526 с.

36 Виноградова М. М. Спорные вопросы определения пределов компетенции судебных экспертов-экономистов. *Теорія та практика судової експертизи і криміналістики*. 2010. Вип. 10. С. 540–547. URL: http://nbuv.gov.ua/UJRN/Tpsek_2010_10_81 (date accessed: 10.06.2024).

tasks. This level directly depends on the time of forensic expert's professional forensic activity);

- Level III: professional competence, which determines the specifics of forensic expert activity in the areas of research ³⁷. This is a qualitative characteristic of mastering by a specialist of his profession, which involves awareness of his motives for this activity (professional needs, interests, aspirations, value orientations, motives of activity, awareness of his social role); a set of professional knowledge and skills and the presence of personal qualities as a specialist who is able to effectively perform his professional duties ³⁸.

At the same time, I. Sivchuk has the opposite opinion. The scientist believes that professional competence is not a separate level, but an integral value of the three-level system of competence criteria described by M. Babi:

- 1) basic competence, that is due to ability of a forensic expert to independently perform the tasks, based on the knowledge acquired at the stage of study in a higher education institution, as well as the skills and abilities in the expert specialty acquired in preparation for certification for obtaining the qualification of forensic expert;

- 2) individual competence: availability of methods of personal self-expression and self-development within the profession and specialization, self-confidence, ability to make decisions, readiness for advanced training, implementation in professional activities, career growth;

- 3) competence of forensic expert of a specific expert specialty, that is, the ability of a forensic expert to solve the tasks assigned to him during specific forensic examination ³⁹.

Sharing the scientific position of I. Sivchuk, we believe that the competence of a forensic expert is a systemic concept that integrates all the above criteria, the most important of which is the level of forensic expert education ⁴⁰.

In the scientific literature, the content of "research competence" is also considered through the prism of other definitions related to research in the educational process and aimed at explaining how research competencies can be mastered: *research activity, research training, research literacy*, etc. Thus, V. Xiaojing and I. Korsun in their research concludes that the formation of research competence is carried out while of research activities ⁴¹.

According to S. Budnik, *research activity* is aimed at solving a research issue, which is inherently cognitive and serves to achieve the goal of purposeful develop-

37 Блажівський Є. М. Знач. твір. URL: <https://dspace.lvduvs.edu.ua/bitstream/1234567890/85/1/blazivckui.pdf> (date accessed: 20.06.2024).

38 Федоренко О. І., Шевцов С. О. Зміст професійної компетентності працівників експертної служби МВС України. *Військова освіта*. 2017. № 1. С. 192–199. DOI: 10.33099/2617-1783/2017-1/192-199 (date accessed: 10.06.2024).

39 Бабій М. М. Поняття та рівні компетенції та компетентності судового експерта. Херсон, 2020. С. 163–165.

40 Сівчук І. П. Знач. твір. DOI: 10.26661/2616-9444-2020-4.2-29 (date accessed: 20.05.2024).

41 Сяоцзін В., Корсун І. В. Дослідницька компетентність у системі підготовки майбутніх учителів. *Науковий часопис НПУ ім. М. П. Драгоманова. Серія 5: Педагогічні науки : реалії та перспективи*. 2022. Вип. 90. С. 29–32. DOI: 10.31392/NPU-nc.series5.2022.90.06 (date accessed: 10.06.2024).

ment of personality, acquisition of knowledge and research skills⁴².

I. Tyahai, T. Mahometa, T. Godovaniuk define *research training* as an educational technology that uses educational research as the main means of achieving results⁴³.

Thus, *research activity* and *research training* are interrelated concepts, the purpose of which is to achieve a certain result. Thus, O. Hrybyuk notes that the ultimate goal of research activities in teaching is the acquisition of research skills (as a way of mastering reality), the development of intelligence and abilities for the research way of thinking. By *research training*, a scientist understands the educational process associated with the solution of a creative, research problem with a known answer, a problem that involves the presence of the main stages characteristic of research in the scientific environment, namely:

Problem formulation

- Stage II: acquaintance with the theory related to the chosen topic;
- Stage III: selection of appropriate research methods and their further application;

- Stage IV: accumulation of own educational material, its analysis and generalization;
- Stage V: providing own conclusions⁴⁴.

I. Kryvoruchko emphasizes: “If most scientists consider research activity and research training as a process, then “research competence” is a personality quality that is formed in the process of research activity and research training”⁴⁵.

The opinion of M. Holovan is similar, who defines research competence from a qualitative standpoint, emphasizing that this term should be understood precisely as the quality of the individual as a system of certain knowledge, skills, abilities, practical experience of the researcher, as well as his high-value attitude and individual qualities, manifested in the desire and ability of the researcher to carry out research activities. In addition, the purpose of the final result of such activities, the scientist claims to acquire new knowledge by applying the methods of scientific knowledge and creative approach to the processes of goal-setting, planning, analysis, decision-making and evaluation of results⁴⁶.

42 Буднік С. Сутнісний аналіз поняття «дослідницька діяльність». *Науковий вісник Східноєвропейського національного університету імені Лесі Українки*. 2013. № 8. С. 105–108. URL: <https://evnuir.vnu.edu.ua/bitstream/123456789/6240/1/Activity.pdf> (date accessed: 30.05.2024).

43 Годованюк Т. Л., Махомета Т. М., Тягай І. М. Інноваційні навчальні технології — основа модернізації методичної підготовки майбутнього вчителя математики. *Відкрите освітнє е-середовище сучасного університету. Спецвип.* 2019. С. 107–115. URL: http://nbuv.gov.ua/UJRN/oeemu_2019_spetsvip._11 (date accessed: 30.05.2024).

44 Гриб'юк О. О. Система динамічної математики GeoGebra як засіб підтримки загальних і спеціальних здібностей учнів в процесі дослідницького навчання предметів математичного циклу: з досвіду роботи. *Фізико-математична освіта*. 2020. Вип. 2 (24). С. 37–51. URL: https://fmo-journal.fizmatsspu.sumy.ua/journals/2020-v2-24/2020_2-24-Hrybiuk_FMO.pdf (date accessed: 01.06.2024).

45 Криворучко І. Зміст поняття «дослідницька компетентність» у вітчизняній та зарубіжній літературі. *Наукові інновації та передові технології*. 2022. № 6 (8). С. 174–183. DOI: 10.52058/2786-5274-2022-6(8)-174-183 (date accessed: 01.06.2024).

46 Головань М. С. Модель формування дослідницької компетентності майбутніх фахівців у процесі професійної підготовки. *Педагогічні науки: теорія, історія, інноваційні технології*. 2012. № 5 (23). С. 196–205. URL: <https://repository.sspu.edu.ua/handle/123456789/3819> (date accessed: 01.06.2024).

In our opinion, the most appropriate for forensic science is the scientific views of A. A. Luhova, who emphasizes that *“the basis of research competence is the ability to identify a problem in time, form a hypothesis, select and analyze the necessary information for research, select the necessary methods of research and data processing, focus not only on the final, but also on the intermediate results of the study, discuss the possibility of interpreting the results of the study, and use the results of the study in practice”*⁴⁷.

In some scientific works, one can come across the phrase *research literacy*, that according to logic, should be a component of research competence, at the same time, there is no clear interpretation of this term. In our opinion, this expression should be interpreted as scientific literacy. O. Kovaleva proposes to understand it as the ability to critically interact and make informed decisions on issues related to science, since it goes beyond the mere knowledge of scientific content. The researcher proposes to define *scientific literacy* as a basic ability to have modern competencies and technologies, the basis of which is the scientific way of knowing the world, and it is enough to make effective decisions not only in personal and social life, but in applied issues related to understanding nature of things.

In addition, research literacy can be considered as research skills, which scien-

tists identify with a system of intellectual and practical skills necessary for an individual to conduct research independently⁴⁸.

Intellectual skills traditionally mean the ability to analyze and distinguish the main thing, the ability to compare, concretize, prove, classify, systematize and summarize information. Thus, intellectual skills consist in the ability to effectively implement mental operations in situations that need to be resolved. Practical skills, for their part, include the ability to process literary sources, organize observations of phenomena and processes, as well as the ability to process and apply the results obtained, etc.⁴⁹

Intellectual skills are classified by types as follows:

- 1) analytical and synthetic (contain elementary (basic) mental operations and high-level mental operations);
- 2) the ability and skills of effective perception of information (contain the ability to process information and the ability to rationally acquire knowledge, that is, the ability to self-education);
- 3) assessed and regulated;
- 4) ability to conduct reflexive analysis⁵⁰.

Thus, the basis of research actions is intellectual skills, while practical skills are a mechanism that allows you to master certain methods of search activity, which

47 Лугова А. Дослідницька компетентність та сутність її впливу на майбутніх учителів іноземних мов у процесі професійної підготовки. *Вісник Національного університету «Чернігівський колегіум» ім. Т. Г. Шевченка*. 2019. Вип. 4 (160). С. 170–175. URL: <http://surl.li/iabiwf> (date accessed: 30.05.2024).

48 Головань М. С., Яценко В. В. Сутність та зміст поняття «дослідницька компетентність». *Теорія та методика навчання фундаментальних дисциплін у вищій школі*. 2012. Вип. VII. С. 55–62. URL: https://essuir.sumdu.edu.ua/bitstream/123456789/57953/13/Holovan_Sutnis_zmist_poniattia.pdf (date accessed: 01.06.2024).

49 Там само.

50 Морквян І. В. Суть та види інтелектуальних умінь. *Науковий вісник Мукачівського державного університету. Серія: Педагогіка та психологія*. 2015. Вип. 2 (2). С. 70–74. URL: http://nbuv.gov.ua/UJRN/nvmdupp_2015_2_18 (date accessed: 07.06.2024).

gives new knowledge, facts, patterns as a practical result.

After analyzing the above, it can be concluded that by research skills, scientists mean a set of intellectual, practical skills aimed at performing research activities, which also involve organizational skills (effective planning and organization of their own work, independent search for normative and methodological information to solve the set expert tasks).

Investigating the peculiarities of the formation of professional competencies, I. Petrova and O. Dontsova note that the necessary forensic commodity expert skills can be combined into three main groups:

- “1. *Separate methodological ones: ability to plan work; select and apply methods and techniques of expert research; analyze and evaluate the identified signs.*
2. *Research ones: the ability to identify the problem, determine the object, form, purpose, tasks, research methods; the ability to apply elements of modern technologies for searching and processing information in their specialty; the ability to organize and conduct an experiment; the ability to describe, summarize and formalize research results.*
3. *Communicative and organizational ones.*
- 3.1. *Ability to determine, within the limits of the current legislation, expedient to conduct a full, comprehensive and objective expert study of interaction with participants in court proceedings and other persons who are not forensic experts;*
- 3.2. *Ability to create and maintain a favorable psychological microclimate while working in the commission of experts. Ability to organize the work of fellow experts while performing the duties of the chairman of the expert commission.*

3.3. *Forensic and territorial ones: ability to explain in writing or orally (if necessary and publicly) clearly, reasonably and understandably to all those involved in the process and without special knowledge, the process of expert research and expert opinions during interrogation by pre-trial investigation bodies and in court”⁵¹.*

We consider the groups of skills identified by scientists to be universal and mandatory for all forensic experts.

Outlined approaches to the definition of research literacy are best suited to the concept of this scientific study on the research competence of forensic experts. This term can also be implemented and defined as a set of intellectual knowledge and practical skills of a forensic expert aimed at performing research that is sufficient to make effective decisions in matters requiring competent resolution.

Instead, research abilities as individual psychological characteristics of a person involve a creative approach to research, which is inappropriate to use when drawing up an expert opinion, when it is necessary to be guided by the norms of the relevant laws and registered methodological recommendations. At the same time, research abilities can be useful for a forensic expert, for example, for writing scientific articles for professional publications.

Analysis of legislative sources and research papers makes possible to conclude that the research competence of a forensic expert is a certain system based on his practical experience, knowledge, skills and abilities and aimed at effectively solving specific expert problem.

Considering the research expertise of forensic expert from the point of view of a systemic approach, it is worth noting

51 Петрова І. А., Донцова О. С. Зазнач. твір. DOI: 10.32353/khrife.1.2020_11 (date accessed: 20.05.2024).

that its component is not only his research literacy, but also his professional education. Methodological recommendations for the development of component industry standards of higher education (competency approach) define the expertise term as “integrated characteristic of personality qualities, the result of training a graduate of a higher educational institution to perform activities in certain professional and socio-personal subject areas (competencies), which is determined by the necessary volume and level of knowledge and experience in a certain type of activity”⁵². Since successful professional activity of forensic experts directly depends on the amount of time spent on their training, we consider it important to start developing the research competence of specialists in the field of forensic competence from institutions of higher education. Universal Declaration of Human Rights (Article 26) defines:

- “1. *Everyone has the right to education. Education should be free, at least initial and general. Primary education should be compulsory. Technical and vocational education should be made generally available, and higher education should be equally accessible to all on the basis of ability.*
2. *Education shall be directed towards the full development of the human person*

*and the enhancement of respect for human rights and fundamental freedoms. Education shall promote understanding, tolerance and friendship among all nations, racial or religious groups and shall further the peace-keeping activities of the United Nations ”*⁵³.

The main content of modern higher education is provided in the standards of higher education of the new generation, the foundation of which is the competency approach. Professions for which additional regulation has been introduced are legally defined, which makes it possible to increase attention to the quality of training of specialists in the relevant specializations⁵⁴. In the National Classifier of Ukraine *Classifier of Professions*” ДК 003:2010, profession *forensic expert* has code 2429, which is deciphered as follows: 2 – *Professionals*; “24” – *Other professionals*; “242” – *Professionals in the field of jurisprudence, prosecutorial supervision, justice and law enforcement*”; “2429” – *Other legal professionals*⁵⁵. It should be noted that the field of knowledge: 08 *Law* and specialization 081 *Law* are the first listed in the List of specialties for which obtaining an education degree is necessary for access to professions for which additional regulation has been introduced⁵⁶. In general, the above proves priority of the forensic

52 Гуло В. Л., Левківський К. М., Котоловець Л. О., Тимошенко Н. І., Погребняк В. П., Гончарова А. В., Присенко М. О., Симонова М. В., Крошко Н. В. Методичні рекомендації з розроблення складових галузевих стандартів вищої освіти (компетентнісний підхід). Київ, 2013. 92 с.

53 Загальна декларація прав людини : прийнята і проголошена резолюцією 217 А (III) Ген. Асамблеї ООН від 10.12.1948 р. URL: https://zakon.rada.gov.ua/laws/show/995_015#Text (date accessed: 06.06.2024).

54 Стратегія розвитку вищої освіти в Україні на 2022—2032 роки : схвалено розпорядженням КМУ від 23.02.2022 р. № 286-р. URL: <https://zakon.rada.gov.ua/laws/show/286-2022-%D1%80#Text> (date accessed: 06.06.2024).

55 Класифікатор професій ДК 003:2010 : затверджено наказом Держспоживстандарту України від 28.07.2010 р. № 327 (зі змінами та доповненнями). URL: <https://zakon.rada.gov.ua/rada/show/va327609-10#Text> (date accessed: 07.06.2024).

56 Перелік спеціальностей, здобуття ступеня освіти з яких необхідне для доступу до професій, для яких запроваджено додаткове регулювання : затверджено наказом МОН України від

expert profession and the importance of the formation of relevant research competencies in such specialists even at the stage of their higher education.

Modern scientists emphasize that the entry of Ukraine into the pan-European educational space and the radical changes taking place in the labor market require monitoring of the effectiveness of the measures implemented by the state, as well as a qualitative review of the traditional approaches that higher schools use today to train specialists⁵⁷. According to the authors of the National Institute of Justice's Forensic Science Education and Training, a manual for forensic laboratories, schools, and students, training is a formal, structured process by which a forensic scientist achieves a level of scientific knowledge and experience that necessary for conducting specific forensic examinations. Appropriate preparation is necessary before a person is assigned to conduct a forensic examination⁵⁸.

Therefore, the earlier the forensic expert's research competence is formed, the more efficient and productive his practical work will be within the limits of the ac-

quired expert specialty. We consider the conclusion of N. Uysimbaeva to be appropriate: "The institution of higher education should train a research specialist who tries to spread and research new methods of work, who should form new ideas and be able to implement them in practice. The future specialist must develop the skills of independent creative scientific work, form a circle of his scientific interests, master the norms and scientific-methodical principles of experimental and research activity"⁵⁹. In addition, according to the Indian scientist D. Nilendu, it is necessary to involve educators, practitioners, researchers and politicians in such work for cooperation and the implementation of an education system based on research and evidence (*Evidence based education system, EBES*) in forensic science⁶⁰. This hands-on approach illustrates how integrating the principles of evidence-based learning can effectively bridge the gap between theoretical knowledge and practical application in the field of criminalistics⁶¹ and encourage students to critically evaluate and analyze information, enabling them to develop a deeper understanding of forensic

22.05.2020 р. № 673 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0502-20#Text> (date accessed: 07.06.2024).

57 Щербань І., Савченко В. Сутність поняття «дослідницька компетентність» у вітчизняній та зарубіжній літературі. *Психолого-педагогічні проблеми сучасної школи*. 2021. Вип. 2 (6). С. 240—247. DOI: [10.31499/2706-6258.2\(6\).2021.250436](https://doi.org/10.31499/2706-6258.2(6).2021.250436) (date accessed: 06.06.2024).

58 Ashcroft J., Daniels D. J., Hart S. V. Education and Training in Forensic Science: A Guide for Forensic Science Laboratories, Educational Institutions, and Students. Washington, 2004. 64 p. URL: <https://www.ojp.gov/pdffiles1/nij/203099.pdf> (date accessed: 06.06.2024).

59 Уйсімбаєва Н. Науково-дослідна діяльність майбутнього фахівця. *Наукові записки. Серія: Педагогічні науки*. 2017. Вип. 88. С. 243—246. URL: <https://core.ac.uk/download/pdf/83099961.pdf> (date accessed: 01.06.2024).

60 Nilendu D. Enhancing forensic education: exploring the importance and implementation of evidence-based education system. *Egyptian Journal of Forensic Sciences*. 2024. Vol. 14. Is. 6. DOI: [10.1186/s41935-023-00375-w](https://doi.org/10.1186/s41935-023-00375-w) (date accessed: 01.06.2024).

61 Shumba R. Towards a Digital Forensics Competency-Based Program: Making Assessment Count. *Annual Conference on Digital Forensics, Security and Law* (Daytona Beach, Florida; 21.05.2015). Daytona Beach, 2015. URL: <https://commons.erau.edu/adfsl/2015/thursday/5> (date accessed: 01.06.2024).

concepts and principles⁶². Similar conclusion was reached by domestic scientists who analyzed the practical experience of implementing research work of students at the Department of Microbiology, Virology and Immunology: the participation of students of higher education in research work contributes to the formation and development in future specialists of the ability to rationally and effectively acquire and apply knowledge in research and in future professional and practical activities, readiness to improve professional qualifications and continuous self-education, organizational and leadership skills⁶³.

Currently, there are certain problems in the educational training of competent forensic experts in Ukraine. As noted by experts in the field of educational training of forensic experts, it is currently impossible to acquire basic knowledge in the field of forensic expert activity while studying at higher education institutions in Ukraine. Such knowledge is acquired exclusively as a result of an internship in a forensic expert institution and the completion of appropriate training, which stimulates the industry to develop and solve problems, especially

in the conditions of martial law and with a high need for the activity of a forensic expert as a subject of the justice system in Ukraine⁶⁴. Even experts-practitioners with many years of experience working in the forensic expert institutions of the Ministry of Justice of Ukraine note: “Forensic expert (even one who graduated with honors from a higher education institution and obtained a specialty in a specific field of knowledge in the study of goods and services has undergone additional training in a certain specialty and obtained a qualification certificate and the right to conduct examinations in the specialty “commodity science”) in a period of up to 5 years overcomes the stage of professional formation. At the same time, he acquires and polishes skills and skills, without which it is impossible to apply the existing knowledge in his practical activity, or, much worse, he applies it too boldly, self-confidently⁶⁵. Nowadays, under introduction conditions of various reforms, expertise of future forensic expert is first formed in the educational space of higher education institutions, and later on at the workplace during training and performance of official duties⁶⁶.

62 Ledbetter M. L. S. Vision and Change in Undergraduate Biology Education: A Call to Action. *The Journal of Undergraduate Neuroscience Education*. 2012. Vol. 11. Is. 1. Pp. A22–A26. URL: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3592749/> (date accessed: 01.06.2024).

63 Полянська В. П., Звягольська І. М., Дерев'янюк Т. В., Федорченко В. І. Досвід впровадження науково-дослідницької роботи студентів на кафедрі мікробіології, вірусології та імунології. *Методика навчання природничих дисциплін у середній та вищій школі (XXIX Каршинські читання), присвячена розробкам моделей підготовки майбутнього вчителя до педагогічної діяльності в Новій українській школі* : мат-ли міжнар. наук.-практ. конф. (Полтава, 26–27.05.2022). Полтава, 2022. С. 182–185. URL: <http://dspace.pnpu.edu.ua/handle/123456789/19759> (date accessed: 01.06.2024).

64 Давиденко Д., Костенко Ю. Напрями розвитку сучасної вищої освіти в галузі судово-експертної діяльності України. *Актуальні питання судової експертизи і криміналістики* : зб. мат-лів міжнар. наук.-практ. конф. з нагоди 100-річ. від дня народж. М. С. Романова (Харків, 17.05.2024). Харків, 2024. С. 80–81. URL: <https://nncise.org.ua/diyalnist/naukova> (date accessed: 05.06.2024).

65 Петрова І. А., Донцова О. С. Зазнач. твір. DOI: 10.32353/khrife.1.2020_11 (date accessed: 20.05.2024).

66 Угровецький О. П., Петрова І. А. Зазнач. твір. DOI: 10.32782/2524-0374/2023-9/124 (date accessed: 20.05.2024).

The most common problems while educational training of competent forensic experts are:

- lack of theoretical fundamental training and practice;
- exclusion of disciplines necessary for full-fledged training from the curriculum;
- educational overload with an excessive number of disciplines not related to expert activity;
- imperfection of the system of approaches to the selection of future specialists;
- insufficient development of the mechanism for supporting the activities of specialists;
- shortcomings in the system of control and self-control of the level of professional training⁶⁷.

To this list can now be added: limited access of forensic experts to the necessary databases and information resources, the latest technical equipment; lack of communication with foreign colleagues, which limits professional opportunities and prevents domestic experts from gaining new practical experience; work and training in difficult conditions of martial law in Ukraine, which, of course, negatively affects the psychological state of forensic expert (a person who intends to become a forensic expert).

Under such conditions, it becomes important to improve the level of education of a forensic expert, to seek comprehensive support from foreign partners and to establish new partnership ties for the purpose of international cooper-

ation. The creation of a greater number of interstate educational projects and programs aimed specifically at improving the research competence of a forensic expert is urgent. An example of such cooperation is implemented by National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine and Riga Stradin University large-scale project “Open Educational Resource: Forensic Expertise”, with the help of which a universal thorough base was created for the educational training of forensic experts with open remote access to it both from the side of higher education students education of various levels of education, as well as from the side of academic workers and forensic experts of forensic institutions of Ukraine and other countries. Scientists and practitioners note positive results of this project: “experience of the Ukrainian-Latvian partnership is a model of openness and accessibility of educational resources that demonstrate a voluminous information array, which enables the user to carry out self-education in the chosen study profile and receive the appropriate training necessary for the formation of professional competencies”⁶⁸.

Thus, analysis of scientific sources gives grounds to conclude that, from the standpoint of a systematic approach, the research expertise of forensic expert includes:

- research competence of forensic expert;
- research literacy (including scientific literacy and research skills);

67 Кофанов А. В. Деякі аспекти проблематики підготовки судових експертів, їх взаємодії з керівництвом та оцінки проведених ними досліджень. *Криміналістичний вісник*. 2013. № 2. С. 107–115. URL: http://nbuv.gov.ua/UJRN/kvvis_2013_2_17 (date accessed: 01.06.2024).

68 Давиденко Д., Палкова К., Шпак Ю. Значення відкритих освітніх ресурсів для підготовки судового експерта. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 4 (29). С. 124–133. DOI: 10.32353/khrife.4.2022.06 (date accessed: 01.06.2024).

- education of a forensic expert (general and professional);
- practical experience of a forensic expert (see Fig.).

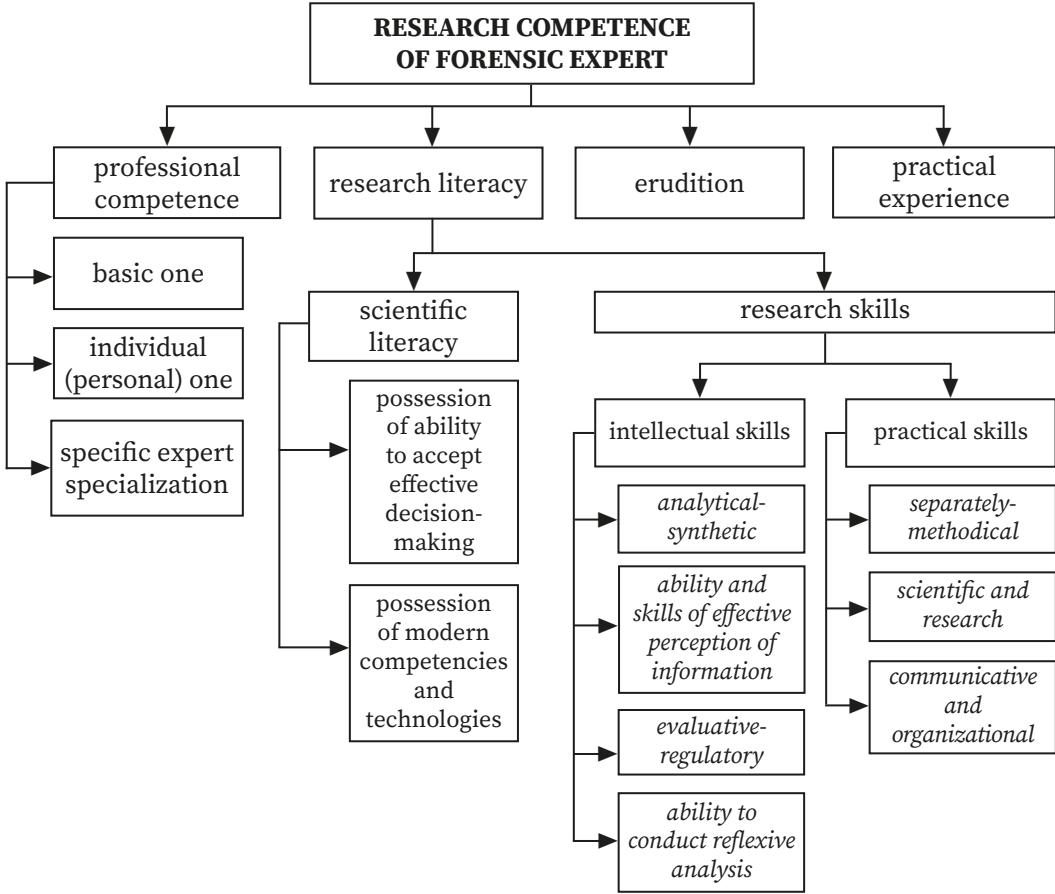


Fig. System of elements of research competence of a forensic expert

Conclusions

It is proved that the most urgent problem in the formation of research competence of forensic experts remains the need for high-quality educational training of specialists. To achieve a greater effect, we consider it necessary to choose a strategic direction for the training of professional specialists even at the stage of obtaining

professional education by potential forensic experts. In addition, the involvement of forensic experts-practitioners in such an educational process and the creation of specialized educational projects is extremely important for the accumulation of practical experience by a young specialist who intends to obtain the qualification of a forensic expert. The research competence of a forensic expert is generalized as a sys-

tem of interrelated elements in the form of a visual scheme.

Щодо дослідницької компетентності судового експерта

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Широкомасштабне російське вторгнення загрожує якості освіти судових експертів і залученню до експертної діяльності найбільш компетентних та відданих справі кадрів, які повинні мати не тільки високий рівень знань, а й навичок і вмінь судового експерта, уміти професійно працювати, постійно шукаючи нові шляхи саморозвитку. Мета статті — проаналізувати зміст поняття «дослідницька компетентність», виокремити проблемні питання щодо формування дослідницької компетентності судових експертів, визначити шляхи їх подолання, окреслити системні елементи дослідницької компетентності судового експерта. Для досягнення поставленої мети застосовано загальнонаукові та спеціальні наукові методи. Наголошено на важливості інтегрування з європейськими освітніми стандартами й імплементації міжнародного досвіду кращих світових практик застосування освітніх технологій і програм, які сприятимуть підвищенню рівня професійної підготовки українських судових експертів. Зауважено, що фахівці, добре обізнані у питаннях криміналістики та права, які швидко та якісно аналізують вхідну інформацію, здатні застосовувати найефективніші методи для виконання поставлених перед ними експертних завдань. Тож високий рівень освіти й підготовки судових експертів важливі для забезпечення ефективності судово-експертної діяльності в Україні.

Ключові слова: експерт; ефективність; кваліфікація; компетенція; дослід-

ницька компетентність; освіта; освітній проєкт; судово-експертна діяльність.

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Formation and Essence of Representation Institution in Criminal Procedure of Ukraine

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This research is to define institution essence of victim representation in criminal proceedings, and to clarify peculiarities and historical stages of its formation in the territory of modern Ukraine. Based on research performed using historical and legal method, methods of analysis and synthesis, logical and structural, and dialectic, the author finds that institution establishment of victim representation, which was based on the principle of blood revenge, dates back to the times of Ukraine-Ruthenia. It is proved that principles of social justice contributed to the formation of foundations of detective activities which for a long time had the character of private activity. It is determined that professional bar in Ukraine emerged in the Polish-Lithuanian period under the influence of the Magdeburg Law and the Lithuanian Statutes; significant changes in the genesis of the bar and the institution of victim representation in Ukraine occurred in the XX century with the adoption of Criminal Procedural Code of Ukraine (1960) and Criminal Procedural Code of Ukraine(2012), the Laws of Ukraine “On the Bar” (1992) and “On the Bar and Legal Practice” (2012) and some other acts. The author proposes that representation of victim’s interests in criminal proceedings should be understood as a form of legal practice which consists in providing the victim of a criminal offense with professional legal assistance to ensure his/her rights and legitimate interests during pre-trial investigation, court proceedings and procedural actions which may be

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carried out prior to the pre-trial investigation. The author argues that the focus of the victim's representative's activities is broadly determined by the tasks of criminal proceedings, and narrowly, by satisfaction of the victim's interests in protection and restoration of his/her violated rights and compensation for damage.

Keywords: criminal proceedings; victim; victim's representative; lawyer; powers; trial; genesis; historical method; representation.

Research Problem Formulation

Human rights activities occupy a prominent place among the forms and areas of activity of each modern state, which positions itself as social as legal one. It is human rights activities that aim to create appropriate conditions for the effective implementation of human and civil rights and freedoms, as well as the confirmation or restoration of the disputed or violated human rights¹. Human rights activities are implemented in various forms, which are understood as the procedures provided for by normative legal acts, carried out on a professional basis by specially authorized entities and aimed at restoring violated human rights and freedoms². The main subject that carries out human rights activities at the professional level is a lawyer.

In accordance with the provisions of the current regulations, "advocacy is the independent professional activity of a lawyer in the implementation of defense, representation and provision of other types of legal assistance to a client"³. According to the Law of Law of Ukraine: On the Bar and

Legal Practice, representation is a kind of advocacy aimed at ensuring the implementation of the rights and obligations of the client in civil, economic, administrative and constitutional proceedings, as well as in other state bodies, before individuals and legal entities, the rights and obligations of the victim during the consideration of cases of administrative offenses, as well as the rights and obligations of the victim, civil plaintiff, civil defendant in criminal proceedings⁴.

Given the given definition, we conclude that within the limits of criminal proceedings, a lawyer can represent the interests of such participants in criminal procedural relations as the victim, civil plaintiff, civil defendant. This approach to protection and restoration of violated individual rights is well-considered and justified, because it is the professional representative who is able to fully contribute to the speedy and full performance of the tasks of criminal proceedings. We agree that establishment of guarantees of competition and procedural equality of parties in criminal proceedings is facilitated by

1 Вишковська В. І. Форми здійснення правозахисної діяльності в Україні. *Науковий часопис НПУ ім. М. П. Драгоманова. Серія 18: Економіка і право*. 2014. Вип. 25. С. 137. URL: http://nbuv.gov.ua/UJRN/Nchnpu_018_2014_25_20 (date accessed: 21.05.2024).

2 Там само. С. 140.

3 Про адвокатуру та адвокатську діяльність : Закон України від 05.07.2012 р. № 5076-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/5076-17#Text> (date accessed: 23.05.2024).

4 Там само.

the representation of the subjects of criminal proceedings ⁵.

In the modern world, there is a tendency to involve a lawyer not only in matters of protecting a person from criminal prosecution, but also in matters of representing the interests of victims of criminal offenses. However, this practice varies significantly in different States.

In Ukraine, there has long been an approach according to which the victim is the least protected by the State party to a criminal offense, and this is due to a certain imbalance between the procedural guarantees of the suspect and the rights of the victim ⁶. Given the need to improve the theoretical and pragmatic foundations of victim representation in criminal proceedings, the author makes an urgent attempt to thoroughly analyze compliance of the legal and organizational framework for victim representation with international standards. We believe that the solution to this task is impossible without a historical analysis of the process of institution formation of victim representation. This will make possible to identify the factors that negatively affected its formation and still have a negative impact on the implementation of the guarantees provided by law.

Article Purpose

Essence determining representation institution of the victim's interests in crim-

inal proceedings, finding out peculiarities of its genesis on the lands of modern Ukraine.

Research Methods

Given that this research is related to implementation of historical analysis, the main method that contributed to the realization of the purpose of the article was the historical and legal approach. Since any legal phenomenon develops consistently and is directed and marked by introduction of innovations, preservation of the results achieved, succession and denial, and the historical method guarantees the possibility of reproducing the peculiarities of the development of the legal phenomenon and reconstructing the explanations lost by science of certain stages of its development ⁷, it was the historical and legal method that made it possible to find out the peculiarities of the formation of the institution of representation of the interests of the victim in criminal procedure of Ukraine.

In addition, a complex of general scientific and special methods was applied for the purpose of textual analysis of normative legal provisions regulating activities of lawyers for the protection of crime victims. For formulating research conclusions, dogmatic, comparative legal, logical methods were used, as well as methods of generalization and legal analysis.

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- 5 Ємельянов Р. О. Адвокат-представник потерпілого у кримінальному процесі : дис. ... д-ра філос. у галузі права. Кропивницький, 2023. С. 25. URL: https://dnuvs.ukr.education/wp-content/uploads/2023/05/yemelyanov-r._dys_1.pdf (date accessed: 20.05.2024).
 - 6 Крапивін Є., Сотник О., Гузь О., Семків Т. Justtalk#15. У якій ти ролі... адвокат потерпілого? / *Justtalk*. 13.11.2020. URL: <https://justtalk.com.ua/post/justtalk15-u-yakij-ti-rol-i-advokat-poterpilogo-discussion-paper> (date accessed: 20.05.2024).
 - 7 Костицький М. В. Ключові підходи до методології пізнання української історико-правової дійсності. *Науково-інформаційний вісник Івано-Франківського університету права імені Короля Данила Галицького. Серія: Право*. 2015. № 12. С. 14. URL: http://nbuv.gov.ua/UJRN/Nivif_2015_12_3 (date accessed: 23.05.2024).

Analysis of Essential Researches and Publications

Some Ukrainian scholars have already studied the establishment and development of the institution of victim representation. However, certain aspects of the genesis of this institution and its essence are still controversial and have different interpretations in the literature. Some believe that in the history of legal life of mankind, the bar and legal representation are two different institutions designed to meet different needs, which developed separately from each other and even today exist independently in many European countries⁸. Some emphasize that advocacy (in the modern sense, human rights protection) and representation have their own histories of development, content and respective subjects for their implementation⁹. In other words, the subjects of activities related to representation of the interests of a victim are another feature of this institute of criminal procedure.

Legal literature notes the possibility of distinguishing two types of activities related to the exercise of the rights, obligations and legitimate interests of the victim in criminal proceedings by other persons. Among them, in particular, *representation*, which is understood as the legal and human rights activities of a law-

yer to provide qualified legal assistance to a victim on the initiative of the latter and *legal representation* that is not related to the provision of legal assistance¹⁰. This approach raises additional questions about the correlation of the activities of authorized entities and the definition of the specifics of the implementation of the legal status of these participants in criminal proceedings in the context of ensuring victim interests.

R. Iemelianov made a significant contribution to development of the issues under research. The author singled out the following periods in the historical development of the institution of representation of the victim: “I) *Customary one* (XI century — II half. XIV century.); II) *Cossack one* (1529 — II half. XVIII century); III) *imperial one* (1864—1917)); IV) *Soviet one* (1917-1960)); V) *classical one* (1960-1992); VI) *independent one* (1992—2012); VII) *modern one* (2012— our time)”¹¹. However, we consider it appropriate to note that the scientist singled out these periods on the basis of a generalization of regulatory sources that mostly regulated procedure for the defense activities and not specifically the victim representative.

In addition to historical analysis, scientists are also actively exploring the praxeological foundations of the activities of a lawyer representing the interests of the victim (for example O. Kuchynska

8 Ємельянов Р. О. Зазнач. твір. С. 26—27. URL: https://dnuvs.ukr.education/wp-content/uploads/2023/05/yemelyanov-r_dys_1.pdf (date accessed: 20.05.2024).

9 Кирилюк Л. В. Адвокат — представник потерпілого, цивільного позивача та цивільного відповідача у кримінальному судочинстві України. *Форум права*. 2009. № 1. С. 252. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/1f245714-45cf-4d29-92c8-b10c86a673b6/content> (date accessed: 21.06.2024).

10 Червінський В. В. Зміст представництва інтересів потерпілого від дорожньо-транспортної пригоди у кримінальному провадженні. *Юридичний науковий електронний журнал*. 2022. № 11. С. 705. DOI: 10.32782/2524-0374/2022-11/169 (date accessed: 21.06.2024).

11 Ємельянов Р. О. Зазнач. твір. С. 2, 22, 44—45, 189—190. URL: https://dnuvs.ukr.education/wp-content/uploads/2023/05/yemelyanov-r_dys_1.pdf (date accessed: 20.05.2024).

and Iu. Tsyhaniuk¹², N. Rohatynska¹³, V. Kaniuka and R. Oliinychuk¹⁴ et al.). However, the close attention of scientists to formation and functioning of this institute has not yet fully resolved the existing problematic issues of a theoretical nature that arise in law enforcement activities that actualizes the need for their further study.

Main Content Presentation

Specialized literature indicates that first mentions of investigative activities, such as the search and the pursuit of a trail, contained in "Ruska Pravda" (XI century)¹⁵. The plot consisted in conducting a proactive search by the victim for the alleged criminal and the stolen property: through a public statement about the crime in public places — *summons* and *gatherings* of different people — face-to-face bet to find out the origin of the property claimed by the victim. *Trail chasing* is a form of investigative activity that consists in establishing the identity and whereabouts of a suspect-

ed criminal by following the tracks left by him¹⁶. These forms of search activity were implemented by the victims themselves, i.e., one should pay attention not only to the form of activity, but to the entity authorized to carry it out, the ultimate goal. In fact, the norms mentioned above stipulated that the victim had to independently find out the essence of the circumstances of the case, search for the culprit in order to find out the location of the stolen property or receive compensation for it. Thus, the prototypes of modern tasks of criminal proceedings were laid already in the period of the princely era, but it was the injured person whose interests were encroached on who had to perform them.

Novgorod and Pskov charters contained provisions of civil and criminal substantive and procedural law and provided for the right of the plaintiff to involve his representative in the case: monks, women, children, deaf and elderly people were granted this right¹⁷. The prototype of legal representation was that women's interests could be represented by sons or husbands.

- 12 Кучинська О. П., Циганюк Ю. В. Щодо окремих питань удосконалення правового регулювання участі захисника у кримінальному провадженні. *Юридичний науковий електронний журнал*. 2023. № 5. С. 344–347. DOI: [10.32782/2524-0374/2023-5/85](https://doi.org/10.32782/2524-0374/2023-5/85) (date accessed: 21.06.2024).
- 13 Рогатинська Н. Процесуальні особливості інституту представництва у кримінальному провадженні. *Актуальні проблеми правознавства*. 2022. № 4 (32). С. 174–179. DOI: [10.35774/app2022.04.174](https://doi.org/10.35774/app2022.04.174) (date accessed: 21.06.2024).
- 14 Канюка В. Є., Олійничук Р. П. Загальна характеристика представництва у кримінальному провадженні: поняття та види. *Наукові записки. Серія: Право*. 2023. № 14. С. 178–182. DOI: [10.36550/2522-9230-2023-14-178-182](https://doi.org/10.36550/2522-9230-2023-14-178-182) (date accessed: 21.06.2024).
- 15 Див.: Хрестоматія з історії держави і права України : навч. посіб. / упоряд.: А. С. Чайковський (кер.), О. Л. Копиленко, В. М. Кривоніс, В. В. Свистунов, Г. І. Трофанчук. Київ, 2003. С. 27–35. URL: https://law.sspu.edu.ua/files/documents/books/library/12/chaykovskiy_kopilenko_krivanis_hrestomatiya.pdf (date accessed: 21.06.2024).
- 16 Аброськін В. В., Албул С. В., Єгоров С. О., Поляков Є. В., Форнальчук І. Л., Щурат Т. Г. Основи оперативно-розшукової діяльності в Україні : посіб. / за заг. ред. В. В. Аброськіна. Одеса, 2020. С. 8. URL: <https://dspace.oduvs.edu.ua/server/api/core/bitstreams/0e849ed3-0995-4496-a500-5095ec0dabe2/content> (date accessed: 24.05.2024).
- 17 «Правда Руська» Ярослава Мудрого: початок вітчизняного законодавства : навч. посіб. 2-ге вид., змін. та допов. / уклад. Г. Г. Демиденко, В. М. Єрмолаєв ; вступ. сл. В. Я. Тація. Харків, 2017. С. 65.

The main rights of representatives included the right to file petitions, present exculpatory arguments, and seal protocols¹⁸.

The principles of the private nature of investigative activity have been in effect for quite a long time. Thus, according to the Lithuanian statutes of 1529, 1566, 1588, the duty to investigate the murder of a person is assigned to his close relatives¹⁹. Therefore, victims of murders began to be involved in the investigation process as subjects trying to find out the truth in criminal proceedings: they represented the interests of the injured party. It is important that until today according to Part 6 of Art.55 Criminal Procedural Code of Ukraine, if the death of a person has occurred due to a criminal offense or he is in a state that makes it impossible for him to submit a corresponding statement, then in criminal proceedings the status of the victim is extended to close relatives or family members of such a person²⁰. Thus, in particular, “one person from among close relatives or family members who submitted an application to be included in the proceedings as a victim is recognized as a victim, and several persons may be

recognized as victims upon a corresponding petition”²¹.

In addition, the adoption and extension of the Magdeburg Law and Lithuanian Statutes to certain lands of modern Ukraine led to the formation of the bar here. According to scientists, the professional advocacy on the territory of our state was founded in the Polish-Lithuanian era²².

The next fundamental act, which used the lawyer term was a draft Code of Ukrainian procedural law “Rights by which the Little Russian people are judged” (1743)²³, although it remained only a draft, contained certain norms that were applied in practice.

Statute of Criminal Procedure (1864) enshrined in law some fundamental principles, in particular: publicity, presumption of innocence, adversarial proceedings, guarantees of the accused’s right to defense, participation of defense counsel in the process, comprehensive objective examination and evaluation of evidence according to the judges’ internal conviction, cassation and appeal of sentences, as well as the procedure for their execution²⁴. In the context of our research, it is

18 Варфоломеева Т. В., Святоцький О. Д., Кульчицький В. С., Багринівський З. М., Кисельова Т. В. Історія адвокатури України. Київ, 2002. Ч. 1. С. 219—223.

19 Литовські статuti 1529, 1566, 1588. *Суспільно-політичні процеси*. 2016. Вип. 3. С. 206—221. URL: http://nbuv.gov.ua/UJRN/pubpolpr_2016_3_9 (date accessed: 24.05.2024) ; Вуйма А. Г. Використання спеціальних знань під час розслідування вбивств : дис. ... д-ра філос. у галузі права. Харків, 2023. С. 32. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/6461d379-53e1-41ea-961e-0d5081163b63/content> (date accessed: 24.05.2024).

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: 24.05.2024).

21 Там само.

22 Святоцький О. Д., Михеєнко М. М. Адвокатура України : навч. посіб. Київ, 1997. С. 15—16 ; Погорєцький М. Становлення та розвиток інституту гарантій адвокатської таємниці в Україні. *Юридична Україна*. 2015. № 4—5. С. 124—129. URL: http://nbuv.gov.ua/UJRN/urykr_2015_4-5_24 (date accessed: 24.05.2024).

23 Сокальська О. В. Генеза інстанційних відносин між судовими установами українських земель у XVI ст. *Південноукраїнський правничий часопис*. 2010. № 2. С. 251—253.

24 Малярєнко В. Т. Реформування кримінального процесу України в контексті європейських стандартів. Теорія, історія і практика : монографія. Київ, 2004. С. 75.

worth noting that the introduction of the institute of private attorneys in 1874²⁵, i.e., attorneys who could participate in cases on the basis of a power of attorney from one of the parties to the dispute and with court permission²⁶ was a decisive step for the establishment of the institute of representation in criminal proceedings. Importantly, status of a private attorney could be obtained exclusively by a male citizen who had reached the age of 18. In order to obtain a certificate to practice law, one had to pass an exam in a district court or a judicial chamber, where one received a certificate for the right to conduct court cases²⁷.

Since October 1924, the Fundamentals of the Judicial System of the USSR and Union Republics came into force, according to which the collegiums of human rights defenders (defenders) were established, designed to provide the population with legal assistance and judicial protection. From June 1925, collegiums of defenders began to operate at the district courts, and from October 1929 the Charter: *On collective forms of work of the collegium of defenders in connection with the abolition of private practice* came into force, which recognized the work of the collegium of defenders as a professional activity. Consequently, the activities of the victims' representatives acquired a professional character that necessitated their appropriate special training.

The requirements that lawyer had to meet were significantly detailed in the Regulation on the Bar of the USSR, ap-

proved by the Council of People's Commissars of the USSR dated on August 16, 1939. They, in particular, provided that members of the bar association should have higher legal education and practical experience in the relevant bodies (authorized to carry out law enforcement activities) for at least one year, and in the absence of legal education at least three years in such positions.

Activities of victim representatives underwent significant changes after the adoption of the Criminal Procedure Code of Ukraine in 1960, which stipulated that the prosecutor, defendant, defense counsel, victim, civil plaintiff and civil defendant, as well as their representatives in court proceedings, have equal rights to present evidence and motions, and participate in the examination of evidence. Thus, representatives were recognized as equal participants in criminal proceedings with the following procedural rights to submit evidence; to file motions; to familiarize themselves with the case file from the moment the preliminary investigation is completed and in cases where no preliminary investigation was conducted, after the accused is brought to court; to participate in the trial; to challenge; file complaints against the actions of the person conducting the inquiry, the investigator, the prosecutor and the court; to support the prosecution in certain cases, to defend a minor accused, to support or deny a civil action²⁸.

25 Майстро Д., Стойчев В. Нариси з історії адвокатури Запорізької області. Запоріжжя, 2024. С. 4. URL: <https://unba.org.ua/assets/uploads/files/Essays%20on%20the%20History%20of%20the%20Bar%20of%20Zaporizhzhia%20Region.pdf> (date accessed: 24.05.2024).

26 Майстро Д. Адвокати на захисті інтересів міста Олександрівська (Запоріжжя). Вісник Національної асоціації адвокатів України. 2022. № 12 (87). С. 60–64. URL: https://unba.org.ua/assets/uploads/news/visnyky/2022-12-28-v-snik-naau_63ac2470021c8.pdf (date accessed: 24.05.2024).

27 Майстро Д., Стойчев В. Зазнач. твір. С. 5.

28 Кримінально-процесуальний кодекс України від 28.12.1960 р. (утрат. чин.). URL: <https://zakon.rada.gov.ua/laws/show/1001-05#Text> (date accessed: 21.05.2024).

In addition to Art. 69 of Criminal Procedural Code of Ukraine of Ukraine, a new paragraph 2 (1984), subjects of attorney-client privilege about the circumstances that became known to him in connection with the performance of his duties as a representative of the victim, civil plaintiff and civil defendant, recognized a lawyer, a representative of a trade union and other public organization ²⁹.

According to the Law of Ukraine: *On the Bar* (1992), lawyers were authorized to provide advice and explanations on legal issues, oral and written information on legislation; to draw up applications, complaints and other documents of a legal nature; to certify copies of documents in cases they conduct; to represent in court, other state bodies, before citizens and legal entities; to provide legal assistance to enterprises, institutions, organizations; to provide legal support for entrepreneurial and foreign economic activities of citizens and legal entities, to perform their duties in accordance with criminal procedural legislation in the process of pre-trial investigation ³⁰.

The current Law of Ukraine *Law of Ukraine: On the Bar and Legal Practice* (2012) establishes the concept of representation of the client's interests and other aspects of the professional duties of a lawyer ³¹. It is noteworthy that it has been amended as many as 13 times, although the legislator and other stakeholders, in our opinion, still have something to improve ³².

It should be noted that the amendments of 2016 to the Constitution of Ukraine legalized a certain lawyer's monopoly, according to which the representation of another person in court and protection from criminal prosecution in court is carried out only by a lawyer, at the same time provided for exceptions to representation in some types of disputes (labor and minor, for the protection of social rights, elections and referendums) and the interests of minors or minors and persons whom the court recognized incapacitated or whose legal capacity is limited ³³. Thus, the Constitution of Ukraine guarantees the right of everyone to legal assistance, which professional lawyers have the right to provide. We believe that representation by a lawyer of the interests of the victim in criminal proceedings is the main means of protecting his rights and legitimate interests.

According to the modern doctrine of the criminal procedure, representative of the victim in criminal proceedings is granted a derivative status that guarantees him the right to use only those rights that are granted to the victim. At the same time, the representative is prohibited from exercising the rights that can only be directly exercised by the victim. Based on the analysis of legislative norms and theoretical developments, we come to the conclusion that the representative of the victim in criminal proceedings is authorized to: 1) provide legal advice to the victim;

29 Про внесення змін і доповнень до Кримінально-процесуального кодексу Української РСР : Указ Презид. ВР УРСР від 16.04.1984 р. № 6834-X (утрат. чин.). URL: <https://zakon.rada.gov.ua/laws/show/6834-10#Text> (date accessed: 01.06.2024).

30 Про адвокатуру : Закон України від 19.12.1992 р. № 2887-XII (утрат. чин.). URL: <https://zakon.rada.gov.ua/laws/show/2887-12#Text> (date accessed: 01.06.2024).

31 Про адвокатуру та адвокатську діяльність URL: <https://zakon.rada.gov.ua/laws/show/5076-17#Text> (date accessed: 23.05.2024).

32 Там само.

33 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вп> (date accessed: 01.06.2024).

2) ensure compliance with legality during the conduct of procedural actions (in the form of control over compliance with the legislation on the part of employees authorized for pre-trial investigation of criminal offenses and other participants in the case, appeal of inaction of the latter, etc.); 3) take measures to restore violated rights, submit a request for procedural actions, engage an expert on a contractual basis to conduct an examination; 4) collect and submit evidence in the case; 5) participate in court debates; 6) appeal court decisions in the manner prescribed by law; 7) sign conciliation agreements in criminal proceedings.

It should be noted that the Western European community did not ignore the issue of ensuring the rights and legal interests of crime victims. Back in the 19th century, in international practice, the issue of compensation for damage caused to a victim of a criminal offense has begun to be normatively regulated. Currently, this is stipulated by the provisions of Resolution (77) 27 of the Committee of Ministers of the Council of Europe: *On compensation to victims of crime*³⁴. In 1983, European Convention on Compensation for Victims of Violent Crime was adopted³⁵. Some principles for protection of the rights of crime victims and the features of the implementation of justice in relation to them were defined by the United Nations, in particular, in November 1985, it adopted the Declaration on the Basic Principles of Justice for Victims of Crime. The main ideas of this document are fair treatment of the

victim, guaranteeing the victim's right to access justice, ensuring compensation for the damage caused to him by a criminal offense³⁶.

At the same time, we should note that the mentioned international legal documents have not been ratified by our state, and therefore, to this day, there is no law in Ukraine that would regulate the state's provision of compensation to victims of criminal offenses for which the perpetrators have not been found guilty. In view of this, multi-volume criminal proceedings, in which the pre-trial investigation continues until statute expiration of limitations for bringing a person to criminal responsibility, actually do not give the victim any guarantees regarding the restoration of his violated rights. In addition, in many such cases, the relatives of the victims are involved as victims, because there are not only cases when the natural death of the victims occurs due to reasons unrelated to the event under investigation, that is, during the life of the victim, he did not get an actual opportunity to restore his rights, although he suffered mutilation or disability as a result of a criminal offense committed against him. Therefore, certain tasks of the criminal proceedings may not be fulfilled, and the legislative provisions on the protection of the interests of the victims remain declarative ones.

In the following years, the international community took significant measures to ensure the possibility of representation of the victim of a criminal offense: in particular, the Basic Provisions on the Role

34 Resolution (77) 27. On the compensation of victims of crime. Council of Europe. Committee of Ministers. 28 Sept 1977. 2 p. URL: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804f3e59> (date accessed: 01.06.2024).

35 European Convention on the Compensation of Victims of Violent Crimes. Strasbourg, 24.XI.1983. 5 p. / Council of Europe. URL: <https://rm.coe.int/1680079751> (date accessed: 01.06.2024).

36 Ibid.

of Lawyers adopted by the Eighth United Nations Congress on Crime Prevention (1990) enshrined such a requirement for representation of the victim as professionalism³⁷. Subsequently, the Council of the European Union adopted a binding Decision on the status of victims in criminal proceedings for all member states (2001) which enshrined the right of victims to access information, legal assistance, as well as the right to so-called mediation (representation)³⁸.

In addition, on 14.06.2006, the Committee of Ministers of the Council of Europe issued *Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims* providing for the development of standards for the selection and training of employees and volunteers who provide direct assistance to victims in order to provide assistance to victims of crime in accordance with professional standards, to ensure their protection from secondary victimization³⁹. Thus, realizing the importance of legal advice for citizens, the authorities consolidated the procedure for training specialists who could provide it at a professional level on a volunteer basis, which is not yet available in Ukraine.

The next decisive step towards regulating the legal status of victims was Directive 2012/29/EU, according to which all countries — members of the European Union — are obliged to standardize the list of rights of victims of crimes and provide them with diverse support and assistance⁴⁰.

The rules of representation of victims in the International Criminal Court (hereinafter referred to as the *ICC*) should be considered tested and promising for implementation in national judicial practice. According to them, the registrar of this court should assist victims in obtaining legal advice and organizing their legal representation, providing their legal representatives with appropriate support, assistance and information. The victim is free to choose a legal representative. If there are multiple victims, the Chamber may, with the help of the Registry, select a joint legal representative for all victims. This is done in order to ensure the effectiveness of the proceedings, the request of victims or certain groups of victims, as well as to promote the formation of a unified legal position of all victims in the case.

The ICC Secretariat may also assist the survivor (group of survivors) in selecting a representative (by providing a list of registered lawyers or by proposing one

37 Основні положення про роль адвокатів : прийняті VIII Конгрес. ООН із запобіг. злочин. 01.08.1990 р. URL: https://zakon.rada.gov.ua/laws/show/995_835#Text (date accessed: 01.06.2024).

38 Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA) / EUR-Lex. URL: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=cel-ex%3A32001F0220> (date accessed: 01.06.2024).

39 Recommendation Rec (2006) 8 of the Committee of Ministers to member states on assistance to crime victims : Council of Europe. Committee of Ministers. 2006. (This Recommendation is replaced by Recommendation CM/Rec(2023)2, adopted at the 1460th meeting of the Ministers' Deputies 15 March 2023). URL: <https://rm.coe.int/16805afa5c> (date accessed: 01.06.2024).

40 Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA : European Union: Council of the European Union, 14 Nov 2012 / Refworld. Global Law & Policy Database. URL: <https://www.refworld.org/legal/reglegislation/council/2012/en/96856> (date accessed: 01.06.2024).

or more joint legal representatives). If the victims cannot elect a joint representative (representatives) within the period specified by the Chamber, the court may entrust this to the Secretary of the ICC, and the victim (group of victims) who does not have (do not have) the necessary funds to pay for the services of a representative may receive legal assistance from the ICC Secretariat.

Regarding the peculiarities of the legal status of the victim's representative in the ICC, he is guaranteed the presence and participation in the hearing and hearing of the case, unless, in the circumstances of the case, the relevant chamber recognizes that the intervention of the representative should be limited to written comments or submissions. The representative of the victim is given the right to ask questions to the prosecutor and the defense, if necessary, to interrogate a witness, expert or accused ⁴¹.

Conclusions

Thus, institution establishment of victim representation in Ukraine dates back to the times of Ukraine-Ruthenia (the principle of blood revenge). The principle of social justice became the basis for the formation of the principles of detective activity, which for a long time was of a private nature, when the victims independently found out the identity of the offender and represented their interests. In the Polish-Lithuanian era, under the influence of the Magdeburg Law and the Lithuanian Statutes, a professional advocacy arose on the territory of Ukraine. The decisive steps towards regulating the legal status of the victim's representative in Ukraine were

the adoption of the Criminal Procedural Code of Ukraine (1960), Law: *On Advocacy* (1992), the Criminal Procedure Code of Ukraine (2012), Law of Ukraine: *On the Bar and Legal Practice* (2013).

In view of current normative provisions, we believe that representation of the victim interests in criminal proceedings is a form of advocacy consisting in providing the victim of a criminal offense with professional legal assistance to ensure his rights and legitimate interests at the stages of pre-trial investigation and court proceedings, as well as during procedural actions that can be carried out before the start of the pre-trial investigation. Activity direction of the victim representative in a broad sense is determined by the tasks of criminal proceedings, and in a narrow sense by the satisfaction of the interests of the victim in the protection and restoration of his violated rights, compensation for damage caused by a criminal offense. In order to perform the above-mentioned tasks, the representative of the victim is authorized to: 1) provide legal advice to the victim; 2) ensure compliance with legality during procedural actions (in the form of control over compliance with legislation by employees authorized to pre-trial investigation of criminal offenses and other participants in the case, appeal of inaction of the latter, etc.); 3) take measures to restore violated rights, submit a request for procedural actions, engage an expert on a contractual basis to conduct an examination; 4) collect and submit evidence in the case; 5) participate in court debates; 6) appeal court decisions in the manner prescribed by law; 7) sign conciliation agreements in criminal proceedings.

41 Rules of Procedure and Evidence. International Criminal Court, 2019. 99 p. URL: <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf> (date accessed: 01.06.2024).

Становлення та сутність інституту представництва у кримінальному процесі України

Іван Ємець

Мета дослідження — визначити сутність інституту представництва інтересів потерпілого у кримінальному провадженні, з'ясувати особливості й історичні етапи його становлення на землях сучасної України. На підставі наукових пошуків, проведених із застосуванням історико-правового методу, методів аналізу й синтезу, логіко-структурного й діалектизму, з'ясовано, що становлення інституту представництва потерпілого, підґрунтям якого став принцип кровної помсти, сягає часів України-Русі. Доведено, що принципи соціальної справедливості сприяли формуванню засад розшукової діяльності, яка тривалий час мала характер приватної. Визначено, що професійна адвокатура на теренах України виникла в польсько-литовську добу під впливом Магдебурзького права та Литовських статутів; суттєві зрушення в генезисі в Україні адвокатури й інституту представництва потерпілих припали на ХХ ст.— із прийняттям Кримінально-процесуального (1960) і Кримінального процесуального кодексу України (2012), законів «Про адвокатуру» (1992) і «Про адвокатуру та адвокатську діяльність» (2012) та деяких інших актів. Запропоновано підпредставництвом інтересів потерпілого у кримінальному провадженні розуміти форму адвокатської діяльності, яка полягає в наданні жертві кримінального правопорушення професійної правничої допомоги із забезпечення її прав і законних інтересів під час досудового розслідування, судового провадження та процесуальних дій, які можуть проводити до початку досудового розслідування. Аргументовано, що

спрямованість діяльності представника потерпілого у широкому сенсі обумовлено завданнями кримінального провадження, а у вузькому — задоволенням інтересів потерпілого із захисту та поновлення його порушених прав, відшкодування завданої шкоди.

Ключові слова: кримінальне провадження; потерпілий; представник потерпілого; адвокат; повноваження; судовий розгляд; генезис; історичний метод; представництво.

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Declaration of Competing Interest

Author declare no conflict of interest.

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Training: *Identification by Face: Discussion of Best Practices* organized in The Hague (Netherlands)

From September 2 to September 6, 2024, principal forensic experts of Criminalistics Laboratory of the National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» (hereinafter referred to as NSC «Hon. Prof. M. S. Bokarius FSI») **Nataliia Zubova** and **Halyna Loshmanova** participated in the training *Identification by face: discussion of best practices*, organized in The Hague (Netherlands) by the head of the department of forensic archeology and anthropology of International Commission on Missing Persons (ICMP) **Soren Blau**. The event was moderated by forensics and biometrics consultant Ruben Morton.



While training, experts discussed the following issues: facial identification: review and terminology; review of test cases; phased structure of facial examination; best current practices for facial identification; approaches (methods); processing of images and video materials; training requirements and levels of competence; quality management systems in portrait examination; recent advances in



biometrics and automatic face recognition; use of biometric systems in portrait examination.

Experts of NSC «Hon. Prof. M. S. Bokarius FSI» on behalf of the management of the institution handed over to the organizers commemorative jubilee stamps and coins issued for the 100th anniversary of NSC «Hon. Prof. M. S. Bokarius FSI», and copies of the Center's publishing products.

*Information prepared
by principal forensic expert
of Criminalistics Laboratory
of NSC «Hon. Prof. M. S. Bokarius FSI»
Halyna Loshmanova*

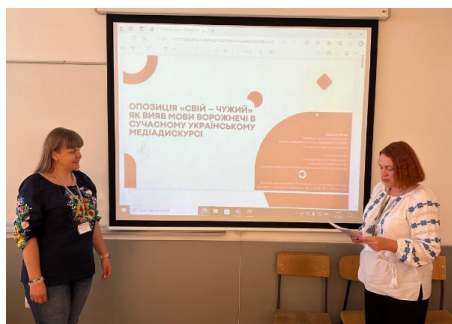
The first Ukrainian Studies International Scientific Conference in memoriam to Raisa Trostinska



On September 5-6, 2024, in the premises of the Department of Ukrainian Language and Literature, the Department of East Slavic Languages and Literature, Faculty of Philosophy of the University of Zagreb (Croatia), the first Ukrainian Studies International Scientific Conference in memoriam to Raisa Trostinska, one of the founders of the department, the luminary of Zagreb Ukrainian studies, who dedicated his multifaceted scientific activity to the problems of phraseology, lexicology, semantics, contextology, phonology, grammar, comparative study of Slavic languages, translation studies, cultural studies, theory and history of literature. It is impossible to overestimate Raisa Trostinska's contribution to the formation and development of Croatian Ukrainian studies: she founded the studio and department of Ukrainian language and literature, took care of their development. With her scientific and many years of pedagogical activity, she forever entered the hearts of many generations of students and scientists who had the honor of studying with her and collaborating with.

The conference was attended by scientists from Ukraine, Croatia, Slovakia, Austria, Bulgaria, Germany, Italy, Poland, Hungary, Turkey, Czech Republic, Serbia, Georgia, Slovenia, Norway.





From National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» (hereinafter referred to as NSC «Hon. Prof. M. S. Bokarius FSI»)

took part in the scientific event: Doctor of Philology, Professor, Principal researcher of the Laboratory of Art History, Linguistic and Psychological Research of NSC «Hon. Prof. M. S. Bokarius FSI» **Nataliia Pidubna**; PhD in Philology, Docent, Head of the forensic and psychological research sector of the Poltava branch of the NSC ISE **Iuliia Brailko**, PhD in Philology, **Nataliia Kysla**, Senior forensic expert of forensic and psychological research sector of the Poltava branch of the NSC «Hon. Prof. M. S. Bokarius FSI».

The participants worked out thematic blocks for research: topical issues of Ukrainian and Slavic linguistics and literary studies; Ukrainian-Slavic (linguistic and literary) parallels; cultural studies in the field of Ukrainian studies and Slavic studies; prominent scientists and writers of Ukrainian science and culture.

Scientists of NSC «Hon. Prof. M. S. Bokarius FSI» presented the reports *“Opposition: “friend – foreign” as a manifestation of hate speech in modern Ukrainian media discourse* (speakers: **Iuliia Brailko** and **Nataliia Kysla**) and *Biblicality of modern Ukrainian war poetry* (speaker: **Nataliia Pidubna**).

The participants of the conference raised many Ukrainian studies and Slavic issues (linguistics, literary studies, cultural studies, translation studies, folklore studies, Ukrainian identity, teaching methods, scientific studies of the language and literary process and culture during





the war, Croatian-Ukrainian and other Slavic relations, etc.).

The International Scientific Ukrainian Studies Conference has become a platform for the exchange of ideas, research and achievements in the field of Ukrainian studies, which contributes to the development of science; draws attention to Ukrainian culture, language and history, which is important for their preservation and development; helps to create international research networks by attracting scientists from different countries.

*Information prepared by **Natalia Piddubna**,
Doctor of Philology, Professor, Principal Researcher
of the Laboratory of Art History, Linguistic
and Psychological Research
of NSC « Hon. Prof. M. S. Bokarius FSI»*

All-Ukrainian Scientific and Practical Conference on the occasion of 110th anniversary of Odessa scientific research institute of forensic sciences of the Ministry of Justice of Ukraine

On September 5, 2024, on the occasion of the 110th anniversary of the Odessa Scientific Research Institute of Forensic Expertise of the Ministry of Justice of Ukraine, the All-Ukrainian Scientific and Practical Conference: *Modern Trends in the Development of Forensic Examination and Criminalistics* was held.

The Heads and forensic experts of forensic institutions, scientists, management and employees of judicial and law enforcement agencies took part in a mixed format scientific event (online on the ZOOM platform and offline in Odesa).

Dmytro Kishko, Director of Odessa scientific research institute of forensic sciences, opened the event with a welcoming speech.



The participants of the event were greeted by distinguished guests: Deputy Minister of Justice of Ukraine for Executive Service, Doctor of Philosophy **Andrii Haichenko**; Director of the Lviv Scientific Research Institute of Forensic Science, Honored Lawyer of Ukraine **Maria Zelinska**; Director of Kyiv Scientific Research Institute of Forensic Expertise, Doctor of Law **Oleksandr Ruvin**; Acting Director of the Dnipro Scientific Research Institute of Forensic Expertise, Candidate of Law **Anastasia Kupriyanova**; Director of Scientific research center for forensic science of information technologies and intellectual property (SRCFS of IT and intellectual property), Doctor of Technical Sciences **Mykhailo Mozhaiev**; Director of the Scientific Research Center for Independent Forensic Expertise,



Candidate of Law, Honored Lawyer of Ukraine **Andrii Svint-sytskyi**; Director of the Ukrainian Research Institute of Special Techniques and Forensic Examinations of the SBU, doctor of philosophy in the field of law **Yurii Chechil**; representatives of institutions and departments of the Ministry of Internal Affairs and the Ministry of Justice of Ukraine, as well as partners from Moldova.



The welcome speech at the opening of scientific event was made by the Director of National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» (hereinafter referred to as NSC « Hon. Prof. M. S. Bokarius FSI»), hereinafter referred to as **Serhii Tiulieniev**. Addressing his Odesa colleagues, Mr. Serhii noted the professionalism, knowledge and dedication of the Odessa scientific research institute of forensic sciences team, its invaluable contribution to the development of modern forensic science and the promotion of justice and legality through the latest scientific research and impartial forensic expert conclusions.

During panel discussion, the participants presented and discussed reports on the assessment of the current state and prospects for the development of forensics and criminology; impact of innovative technologies on methods and approaches of forensic expert activity; problematic issues of the theory and practice of forensic examination in the conditions of modern challenges, etc. Speakers from NSC « Hon. Prof. M. S. Bokarius FSI» presented interesting and thorough reports: *Problematic issues of attestation of highly qualified scientific personnel according to the forensic expert profile* (**Daria Davydenko**, PhD in Economics, Senior Researcher , Head of Graduate School), *Irregularities in drawing up an expert's opinion*



as grounds for bringing a forensic expert to disciplinary responsibility (practical issues) (PhD in Law, Docent, deputy head of the department for scientific and methodological work and postgraduate education of the Kyiv department, **Vik-toria Alexeychuk**); *Regarding some problematic issues when conducting forensic examinations on issues of social protection of military personnel and members of*

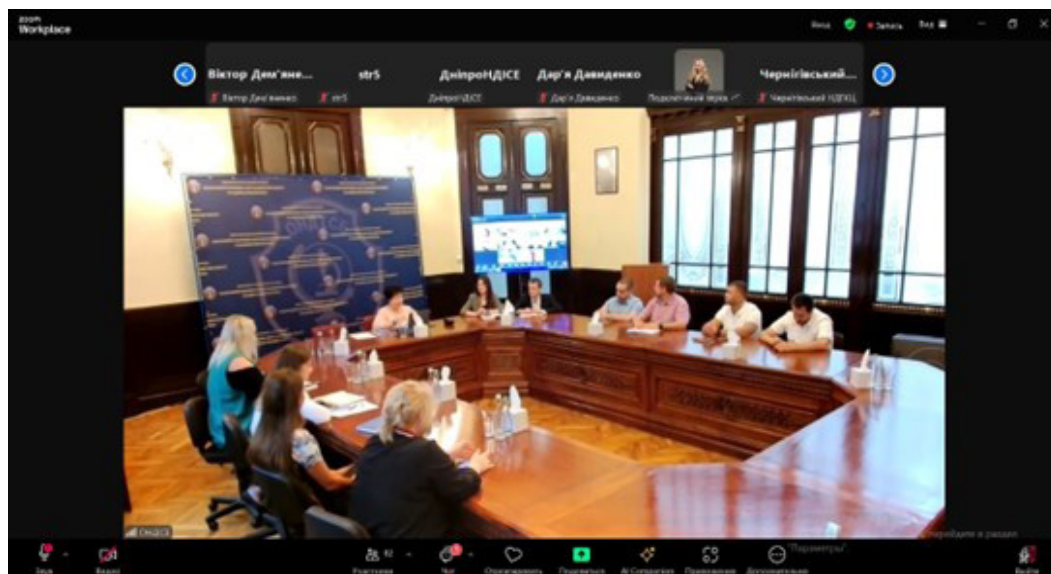


their families (PhD in Law, Leading Researcher of economic research sector of the laboratory of economic, commodity research and intellectual property research **Inessa Ovsiannykova**).

Employees of NSC « Hon. Prof. M. S. Bokarius FSI» and departments sent abstracts of reports for participation in the conference: *Place and significance of economic examinations in criminal proceedings regarding the investigation of raiding* (**Serhii Tiulieniev**,

PhD in Economics, Director), *Prospects for the development of software based on artificial intelligence for the identification of signatures and handwriting of the executor* (Leonid Barash, PhD in Law, forensic expert), *Current issues of conducting molecular genetic research of military personnel under martial law in Ukraine* (**Oksana Bernadska**, Researcher; **Ihor Sych**, Acting deputy director - head of the Kyiv branch of NSC « Hon. Prof. M. S. Bokarius FSI»), *Problems of educational and methodological support for the training/internship of forensic experts in the field of linguistics* (**Iuliia Brailko**, PhD in Philology, Docent, Head of the forensic and psychological research sector; **Nataliia Kysla**, PhD in Philology, Senior forensic expert of the sector of forensic and psychological research of the Poltava branch of the NSC « Hon. Prof. M. S. Bokarius FSI»), *Use of special psychological knowledge in the investigation of group crimes involving minors* (**Olga Herasimenko**, PhD. in psychology, head of the psychological research sector of the laboratory of artistic, linguistic and psychological research; **Anna Lymanska**, judicial expert of the psychological research sector of the laboratory of artistic, linguistic and psychological research), *High-conflict divorce and the phenomenon of domestic violence: the psychological aspect* (**Olena Slipets**, Senior research associate of the Poltava branch NSC « Hon. Prof. M. S. Bokarius FSI»), *“Analysis of legislative changes in the field of road safety movement of Ukraine regarding persons driving micro-mobile vehicles”* (**Pavlo Khorobrykh**, Senior researcher of NSC « Hon. Prof. M. S. Bokarius FSI»), *Specific principles of forensic psychological expert activity* (**Oleksandr Yevsiukov**, PhD in Pedagogy, Docent, Leading researcher of NSC « Hon. Prof. M. S. Bokarius FSI»), *Forensic science in the field of road infrastructure: problems of determining damage and losses as a*





result of the armed aggression of the Russian Federation (**Yevhen Pivnov**, Graduate student of the National Center of NSC «Hon. Prof. M. S. Bokarius FSI»).

On the occasion of the 110th anniversary of the Odesa Scientific Research Institute of Forensic Expertise, together Ukrposhta with, a series of postage stamps was issued, depicting a friendly team in a festive atmosphere, working moments and professional achievements, the first experience of Canis therapy in forensic activity.

Conducting such scientific events gives participants the opportunity to exchange experience and best achievements, contributes to the improvement of qualifications and professional development of forensic experts, the formation of new areas of scientific research and cooperation between scientific institutions of Ukraine and other countries.

*Information prepared by a Researcher
of NSC «Hon. Prof. M. S. Bokarius FSI»
Viktoriia Hrokhovska*

Week of Professionals: Use of digital tools in the police response is innovative approach to improving public safety

During September 23-27, 2024, the Week of Professionals *Use of Digital Tools in Police Response is Innovative Approach to Improving Public Security*” was held in Riga (Latvia), in which National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter referred to as NSC « Hon. Prof. M. S. Bokarius FSI») was attended by **Olga Herasimenko**, Head of the Psychological Research Sector of the Laboratory of Art History, Linguistic and Psychological Research. The event was organized by the State Police College (Latvian: *Valsts policijas koledža* hereinafter referred to as the *College*) in order to promote international cooperation, exchange of best practices, and deepening of knowledge.

Representatives of the Kharkiv National University of Internal Affairs and the National Academy of the National Guard of Ukraine also joined the event.

Within the framework of the Week of Professionals, a number of information and training events were held, including round tables on the exchange of experience in the functioning of the police and forensic systems during the Russian aggression against Ukraine.



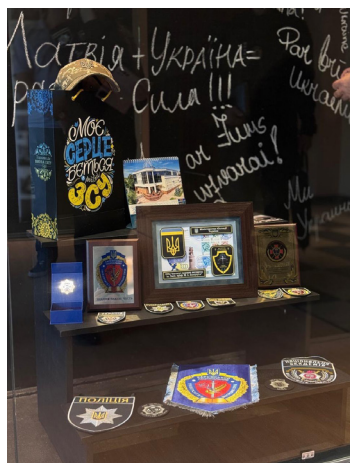
Olga Herasimenko gave a lecture to the 3rd year students of the College, in which she noted the subject types of forensic psychological examination and types of psychological examination that became relevant during the war: examination

of the calculation of moral damage, examination in cases of sexual violence and sexual assault, psycholinguistic research and research using a polygraph, etc.

The event participants visited the Forensic Examination Centre of Latvia of the Ministry of Justice of Latvia and the Police Department of Latvia.



On behalf of the leadership of the NSC «Hon. Prof. M. S. Bokarius FSI», Mrs. Olga presented the organizers with commemorative anniversary stamps issued for the 100th anniversary of the ISE NSC, chevrons and the emblem of the scientific research institutions of forensic examinations of the Ministry of Justice of Ukraine, approved by the order of the Ministry of Justice No. № 1844/5 dated on 06/21/2024: *On establishment of the emblem of forensic science institutions of the Ministry of Justice of Ukraine*, as well as samples of the Center publishing products and thanked for the highly professional organization of the event.



*Information prepared by PhD,
Head of the Psychological Research Sector
of NSC « Hon. Prof. M. S. Bokarius FSI»
Olga Herasimenko*

Requirements for Research Papers

Requirements for content

According to the Edition subject matter, content regarding coverage of criminalistic current issues, relevant issues of performing various types of forensic examinations and specific expertise application in legal proceedings is published on the pages of the Scientific Edition.

Based on research, presentational, evaluative and communicative functions of the Scientific Edition, **research papers** (where an author outlines main work outcomes); **research and methodological papers** (where an author analyses methods, processes, tools helping to achieve certain scientific results); **research and theoretical papers** (texts where an author presents results of theoretical ways for problem solution); **research and practical** (articles where an author describes his personal practical experience and performed scientific experiments), **review research papers** (dedicated to evaluation, conclusions, overview, analysis of earlier published information). The Editorial Board is also interested in **debatable articles, research ideas or short reports**: results of an experiment, personal experience, etc. Scientific style of the content presentation (accuracy, logic, conciseness, clarity, connectivity, integrity, completeness) and its high scientific level.

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- Formulation of research problem, its connection with scientific and practical interests (it is necessary to reveal essence and state of the scientific problem, theoretical and practical significance of a research, connection with scientific and

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- Conclusions (main research results in a clear, consistent, logically presented form in compliance with set goal);
- References (the list of used sources transliterated according to the Roman alphabet, for example, on the site of Vernadsky National Library of Ukraine: <http://nbuv.gov.ua/node/929>);
- Abstract in English, indicating the author(s) surname, article title and keywords.

Requirements for scope

Total scope of a scientific article (information about the author, article title, abstract, keywords, article text, bibliographic references, extended resume) should be not less than 36,000 characters.

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