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The thirty-ninth 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.

The collection can be used by students and employees of higher education institutions, law enforcement agencies, legal experts, and researchers.

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Full-text online versions of the collection are available on Internet on the platforms of the V. I. Vernadskyi National Library of Ukraine, libraries of forensic science institutions of Ministry of Justice of Ukraine, higher education institutions of Ministry of Internal Affairs of Ukraine, etc.

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Forensic Institutions under Martial Law: Challenges and Prospects

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The primary concerns of this paper are to consider situations faced by Ukrainian forensic science institutes under martial law. Specifically, the author analyses how National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine responds to the war. It is highlighted that the efforts and resources of all forensic science institutes should be consolidated to fulfil common goals. The Center's staff participation in events organised by the International Commission on Missing Persons Working Group, according to priority areas, and in online training sessions under the Panacea Cooperative Research Group Programme by Spanish researchers, is emphasised. Traditionally, articles included in the current issue of the Research Paper Collection—both research papers and case notes—are analysed. A brief overview of the content is provided.

Keywords: *forensic examination; criminalistics; expert support of justice; DNA-identification; forensic anthropology; international cooperation; methods of crime investigation; counteracting investigation; subject under study.*

This article is translation of the original Ukrainian content, which source is available at the link: *https://khrife-journal.org/index.php/journal* (translated by Daryna Dukhnenko). The author acknowledges translation as corresponding to the original.

Russia's full-fledged military aggression against the sovereign territory of Ukraine poses an unprecedented challenge across all areas of Ukrainians' lives, including the system of justice and forensic expert activity. Under martial law, when all institutions of our country are exposed to serious threats, forensic experts' activities have turned out to be essential not only for documenting military crimes but also for ensuring justice in criminal, civil, economic, and administrative cases.

Just like other specialized scientific and expert institutions operating under the Ministry of Justice, the Ministry of Internal Affairs, the Security Service, and the Ministry of Defense of Ukraine, National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» (hereinafter – *NSC «Hon. Prof. M. S. Bokarius FSI»*) adjusts its activities in response to evolving circumstances. Despite all the problems and challenges of martial law, National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» staff conduct forensic examinations and expert research, develop novel methodologies and upgrade equipment.

The leadership of the National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» places special emphasis on cooperation with other research institutions of the Ministry of Justice of Ukraine, thus promoting the pooling of efforts and resources to achieve common goals within forensic expert activities. This cooperation also extends to international partnerships with foreign institutions.

National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» takes part in the Working Group activities of the International Commission on Missing Persons (hereinafter – the *ICMP*). The Commission's areas of research focus are supporting families affected by war and searching for missing persons as a result of war, as well as using DNA analysis for large-scale identifications (in the event that a significant number of people go missing). Within the framework of the Memorandum of Understanding signed between National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» and the ICMP, experts in forensic archaeology and anthropology from the ICMP provide advising and support to forensic experts working at National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» during relevant training sessions and advising held in both online and offline formats. Our forensic experts have repeatedly travelled to the Netherlands and Poland to participate in internships funded by the host organization. For a period of six months, an ICMP forensic expert taught future anthropologists from our institution, following a special schedule. Exchange of experience, conduct of joint educational measures, and provision of material and technical resources along with methodological assistance play a pivotal role in strengthening the potential of the Ukrainian expert system and in using resources rationally.

NSC «Hon. Prof. M. S. Bokarius FSI» staff are actively involved in online trainings organized by a group of Spanish researchers from *Panacea Cooperative Research*. In the course of such activities, forensic anthropologists assess the efficiency of using machine learning and artificial intelligence to determine the age of a person, etc. Such cooperation helps NSC «Hon. Prof. M. S. Bokarius FSI» staff adapt global best practices in this area to the needs of Ukrainian practice. This is of utmost importance for documenting and investigating crimes against humanity and other military crimes. The large-scale war in Ukraine has resulted in the deaths of thousands of people. Unfortunately, due to considerable damage, a lot of people cannot be identified by traditional methods (face recognition or DNA analysis). In Ukraine, introduction of a new forensic examination type—forensic anthropology—is of great social importance: this is another step towards restoration of justice and humanity in brutal wartime conditions.

Therefore, in the context of martial law, forensic experts and researchers from NSC «Hon. Prof. M. S. Bokarius FSI» not only retained their professional potential, but also improved it. They also maintain new domestic and international contacts in order to provide Ukraine's justice with an independent, qualified and objective forensic analysis focused on the maximum use of science and technology achievements. This stands as a cornerstone of upholding the rule of law in our country.

Currently, the *Theory and Practice of Forensic Science and Criminalistics* Research Paper Collection is indexed in *Google Scholar*, and in the following international online databases: *Academic Scientific Journals Indexing*, *Bielefeld Academic Search Engine (BASE)*, *ERIH PLUS*, *Europub*, *Index Copernicus International (ICV 2021: 100)*, *RefSeek*, *ResearchBib*, *WorldCat*, as well as in the Register of Scientific Publications of Ukraine and in *DOI* Foundation. The Research Paper Collection's electronic versions are posted on the Internet on the platforms of the National Library of Ukraine named after V. I. Vernadsky, libraries of forensic institutions of the Ministry of Justice of Ukraine, institutions of higher education of the Ministry of Internal Affairs of Ukraine, etc. This facilitates the exchange of scientific developments between the edition's authors and researchers worldwide.

Research papers in the *Theory and Practice of Forensic Science and Criminalistics* Research Paper Collection are traditionally categorized into two groups: *Research Papers* and *Case Notes*.

Let us briefly review the content of the current issue. The *Methods of Investigating Crimes in Ukrainian Lands in Middle Ages* research paper authored by ***Anatolii Starushkevych*** (Ukraine), Candidate of Sciences in Law, Docent, analyses methods of investigating crimes used in the Ukrainian lands during the Middle Ages on the basis of the norms of customary law of "Vast Edition of Pravda" and clarifies their role in the formation of the forensic doctrine of the methods of investigating criminal offenses (in particular, forensic methodology as acomponent of modern forensics). The researcher proves that the legal procedures of customary law ("corpus", "trace persecution") became the basis for the development of modern methods of investigating criminal offenses on hot leads and on information about the subjects and objects of a criminal attempt, forensic analysis of the trace picture, forensic profiling, forensic retrospection, etc. It is concluded that the transfer of experience in investigating crimes within the boundaries of one territorial community from older members of the community to younger ones not only contributed to the improvement of skills in applying investigative methods, but also had a certain preventive effect on the participants in these legal actions, deterring them from committing offenses and concealing illegal actions known to them committed by other members of the community.

A research paper by ***Vlada Husieva***, Doctor of Law, and ***Oleksandr Tarkan***, Candidate of Sciences in Law, both from Ukraine, determines prerequisites and regularities of the emergence and development of such phenomena as resistance to investigation and abuse of rights in law enforcement activities. The researchers summarized that resistance to investigation is a complex, dynamic and multifaceted phenomenon that is formed in the conditions of a criminal conflict and manifests itself in the purposeful behaviour of persons interested in concealing the actual circumstances of a criminal offense. Its activity side consists in committing both active and passive actions that affect the course and results of pre-trial investigation. At the same time, counteraction mechanism is variable and depends on the stage of criminal proceedings, chosen tactical methods and the presence of corrupt, organizational and social connections. The scientists identify stages and structural components of the forensic characteristic of counteraction to investigation and suggest viewing it as a complex, dynamic and multifaceted phenomenon.

The section continues with the *Circumstances to be Clarified During Investigation of Criminal Offenses Committed by Professional Participants in Legal Proceedings* research paper by ***Yevhen Sup*** (Ukraine), Candidate of Sciences in Law, which outlines proof topic specifics and circumstances that are subject to clarification during investigation of criminal offenses committed by professional participants in the legal proceedings. It was determined that topic proof in cases of this category has a multi-level structure, which includes both circumstances common to all criminal proceedings and specific specifics associated with the special status of the offender. It was confirmed that the leading factor in the effectiveness of evidence is the detailing of the methods of committing a criminal offense and specification of their trace picture. A list of circumstances that constitute a mandatory topic proof and that are subject to clarification during the investigation has been formed. The latter are specified in the context of individual groups that cover criminal offenses of the type under research.

The *Forensic classification of criminal offenses committed in the field of professional legal assistance* research paper by ***Kristina Romanauskas*** (Ukraine), Doctor of Philosophy in Law, outlines the author's forensic classification of this group of criminal offenses. The proposed approach involves identifying the following main criteria: object of the criminal offense and the specifics of encroachment subject, subject of the criminal offense, method and circumstances of its commission, consequences and the tools (means) used. The developed forensic classification not only fills the existing gap in science, but also has practical significance. It creates a basis for developing specific investigation methods, optimizing the planning of pre-trial investigation, forming tactical techniques and predicting the behaviour of criminals. In addition, its application will contribute to strengthening the guarantees of independence of the legal profession, increasing the effectiveness of the protection of individual rights and confidence in the justice system.

The *Formulation and Justification of Questions Posed in Document on Appointment of Forensic Veterinary Examination of Live Animals* research paper authored by ***Ivan Yatsenko*** (Ukraine), Doctor of Veterinary Medicine, Professor, discusses the range of questions that can be posed to a forensic veterinary expert when ordering an examination for offenses committed against the health and life of animals. All questions are conditionally combined into three groups: 1) identification of distinguishing features and physiological specifics of live animal; 2) determining the fact of injury (mechanism, prescription and independence (independence) of formation, consequences for the animal's health, severity, mutilation, type of traumatic instrument, etc.); 3) clarifying the cause-and-effect relationship between the bodily injuries inflicted on the animal and its health disorder; determining traces that indicate its torture, infliction of physical pain and suffering, period of the animal's loss of general economic or special use or full-fledged existence in the environment of a wild or homeless animal, as well as the impact on its health and life of actions related to prolonged deprivation of heat, food, drink and/or keeping it in harmful conditions.

The *Case Notes* Section begins with the *Technical and Forensic Support at the Initial Stage of Smuggling Investigation* research paper by ***Yurii Kovalov*** (Ukraine), Candidate of Legal Sciences. This article primarily considers the essence, content and peculiarities of technical and forensic support at the initial stage of investigating crimes involving smuggling. Having generalised theoretical approaches and practices in the investigation of criminal offences, the author points out that peculiarities of applying scientific and technical means are conditioned by investigative situations characteristic of smuggling, which in turn determine the algorithm of investigative (search) and covert investigative (search) actions. Prospects for enhancing technical and forensic support for smuggling investigations primarily lie in combining technological innovations, refining methodological approaches, upgrading the skills of pre-trial investigation agencies, expanding material and technical resources, and ensuring proper legal regulation of the use of scientific and technical means.

The *Role of Well-Versed Persons in Identifying Signs of and Documenting Economic Criminal Offences* research paper by ***Vitalii Usatii***, Candidate of Legal Sciences, clarifies the role, place and functions of well-versed persons in identifying and documenting (procedurally documenting) signs of economic criminal offences. The researcher provides a comprehensive overview of the legal regulation and emphasizes the practical importance of using specific expertise in criminal proceedings. The findings suggest that effectively and objectively investigating the above offences requires expertise that falls outside the scope of traditional legal expertise. The importance of specialists' participation in various procedural and non-procedural forms of activity is revealed: from consulting (advising) and preliminary research to participation in searches, inspections, interrogations and temporary access to documents. It is stated that the participation of a specialist provides a sufficient evidentiary basis, minimizes the risk of information loss and increases the efficiency of criminal proceedings.

The *Geographical indications as forensic science objects in the field of intellectual property: theoretical aspects and main tasks* research paper by ***Nataliia Kisil*** (Ukraine), Candidate of Sciences in Agriculture, aims to study the modern theoretical and legal foundations of forensic examinations related to various means of individualizing goods and services, in which one of the objects under study is geographical indications; to analyze the principles of legal protection of geographical indications in Ukraine and the peculiarities of regulating relations arising in connection with their registration, use, and protection; to form an indicative list of the main tasks of expertise related to geographical indications. The practice of resolving disputes over such designations has been analyzed, the definition of the subject of expertise related to geographical indications has been formulated, and a list of its main tasks has been outlined. The provisions proposed here form the basis for the formation of theoretical and methodological principles of expertise in the field of intellectual property and the improvement of methodological approaches to the performance of expert tasks.

The *Electronic Evidence in Criminal Procedure: Methods for Its Detection, Investigation and Legal Consolidation* research paper by ***Valeriia Shulha*** and ***Lina Kaliuzhna***, both from Ukraine, is devoted to the procedure for formalizing electronic evidence in compliance with the requirements of Ukraine's criminal procedural legislation. The authors analysed current rules governing the procedures for collection, storage and provision of such evidence in court. The main issues in law application practice include insufficient regulation of issues regarding the preservation of electronic evidence, the difficulty of establishing its authenticity, and the risk of falsification. The paper outlines proposals to optimize the collection and formalization of electronic evidence and to introduce modern technical means as well as software that comply with international standards.

The section ends with a research paper by ***Olena Savina***, ***Vilena Zdor***, and ***Dmytro Us*** – all authors from Ukraine. This study aims to substantiate a set of criteria for evaluating handwriting analysis expert findings so that they can be utilized in court, and to analyse existing approaches to understanding the probative value of expert findings in the context of judicial practice. Particular attention is drawn to judicial practice of applying handwriting analysis findings and to principal issues involving their evaluation. Emphasis is placed on the court's discretionary assessment of evidence and the boundaries of its application in cases involving the use of specific expertise. Relying on handwriting studies, the researchers identify criteria for assessing the quality of expert findings which will prove valuable for judges, lawyers, prosecutors and other participants in the process. The paper emphasises the need for judges to undergo advanced training in assessing specific expertise and developing uniform approaches to the use of expert findings as evidence in judicial practice.

The final pages of the *Theory and Practice of Forensic Science and Criminalistics* Research Paper Collection include the *Scientific News* Section. This part introduces readers to international and All-Ukrainian scientific events in forensic science that took place during the third quarter of this year.

The Board extends its warmest gratitude to all authors for their active cooperation and insightful manuscripts submitted to be published in the *Theory and Practice of Forensic Science and Criminalistics* Research Paper Collection: we highly appreciate scientific contributions made by each and every author and anticipate further successful cooperation.

We are pleased to collaborate with both known and new authors. All interested parties are cordially invited to participate in our future projects. Only your unique ideas, out-of-the-box thinking and prospective solutions can enrich criminalistics and forensic science and help resolve urgent challenges of the present!

Together to the victory!

Glory to Ukraine!

Судово-експертні установи в умовах воєнного стану: проблеми та перспективи

Елла Сімакова-Єфремян

Розглянуто ситуації, з якими стикаються судово-експертні установи України в умовах воєнного стану. Зокрема, проведено аналіз реагування Національного наукового центру «Інститут судових експертиз ім. Засл. проф. М. С. Бокаріуса» Міністерства юстиції України на виклики війни. Наголошено на необхідності об'єднати зусилля та ресурси всіх судово-експертних установ держави для досягнення спільних цілей. Увагу акцентовано на участі працівників Центру в заходах, організованих робочою групою Міжнародної комісії з питань зниклих безвісти за пріоритетними напрямами, і онлайн-тренінгах за програмою групи іспанських дослідників Panacea Cooperative Research. Традиційно здійснено аналіз статей, уміщених у цьому випуску збірника наукових праць,— як дослідницьких робіт, так і наукових нотаток, стисло схарактеризовано всі матеріали.

Ключові слова: *судова експертиза; криміналістика; експертне забезпечення правосуддя; ДНК-ідентифікація; судова антропологія; міжнародна співпраця; методи розслідування злочинів; протидія розслідуванню; предмет дослідження.*

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Research Papers

Methods of Investigating Crimes in Ukrainian Lands in Middle Ages

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This article purpose is to analyze methods of investigating crimes used in the Ukrainian lands during the Middle Ages on the basis of the norms of customary law of "Vast Edition of Pravda", to clarify their role in the formation of the forensic doctrine of the methods of investigating criminal offenses (in particular, forensic methodology as a component of modern forensics). To achieve the set goal, the author used general scientific methods: observation, comparison, abstraction, analysis, synthesis, modeling, etc. A scientific analysis of the methods of investigating crimes regulated by the norms of "Vast Edition of Pravda" of the times of Kyivan Rus was carried out. It is noted that the methods of investigating crimes "call", "corpus" and "trace persecution" as complex procedural actions were aimed at searching for and prosecuting criminals, finding the stolen item. It is noted that the "call", "corpus" and "trace persecution", which were formed in pre-state society, in the judicial practice of community courts, based on the interaction of community members, became so effective that after formation of the state, they were used and developed by the vervny courts of Kievan Rus the Galicia-Volyn state, and later adopted by the successors of these bodies :kopny courts. In the "Vast Edition of Pravda" and the Statutes of the Grand Duchy of Lithuania, these methods of investigation were already established at the national level. The institution of customary law "sinking", which was widespread at that time, made it possible to obtain forensically significant information about the criminal with the aim of pursuing him along ideal traces, appropriate in the event

This article is translation of the original Ukrainian content, which source is available at the link: *https://khrife-journal.org/index.php/journal* (translated by Andriy Bublikov). The author acknowledges translation as corresponding to the original.

of non-detection, destruction or low informativeness of material traces. It is proven that the legal procedures of customary law ("corpus", "trace persecution") became the basis for the development of modern methods of investigating criminal offenses on hot leads and on information about the subjects and objects of a criminal attempt, forensic analysis of the trace picture, forensic profiling, forensic retrospection. It is concluded that the transfer of experience in investigating crimes within the boundaries of one territorial community from older members of the community to younger ones not only contributed to the improvement of skills in applying investigative methods, but also had a certain preventive effect on the participants in these legal actions, deterring them from committing offenses and concealing illegal actions known to them committed by other members of the community.

Keywords: *investigation of crimes; trace persecution ; trace; corpus; call; turn; sinking; "Russkaya Pravda"; Supreme Court; kopny court; hot kopa; hot traces; fresh traces; investigation in Kyivan Rus.*

Research Problem Formulation

In Kievan Rus, the accusatory-competitive process has become widespread, which is characterized by the active participation of persons interested in resolving conflicts that have arisen. The Verkhovna Rada, and later the Constitutional Court, acted as a mediator in the trial. The spread of the accusatory-competitive process in the Kiev State (XI—XII centuries) is due, on the one hand, to minor contradictions between segments of the population, on the other hand, to insufficient development of the state mechanism and the actual lack of law enforcement agencies on the ground.

In adversarial proceedings of Kyivan Rus, the parties were traditionally called the plaintiff and the defendant. The plaintiff played a particularly active role in this process, at the request of which proceedings were usually initiated. Plaintiff showed considerable activity during the search for the criminal. The rules of customary law, and subsequently the prescriptions of written law, determined the procedure for such a search, which components of are cognitive procedures called all, *corpus* and *trace persecution* (in some publications : *trail*).

The first document that regulated the activities to detect, uncover and investigate crimes in the territory of Kievan Rus is called *Russkaya Pravda*. This collection of ancient Russian law, compiled on the basis of the customary law of the Kievan state of the XI—XII centuries, contains norms that enshrine the rules of searching for criminals for the traces left by them by conducting successive cognitive procedures: *call*, *corpus*, *trace persecution*.

In essence, these cognitive procedures are similar to modern methods of investigating criminal offenses, since they were aimed at finding stolen item, identifying the perpetrator and the circumstances of the incident. Procedural instructions made it possible to perform tactical tasks (identifying the individual characteristics of the stolen item, finding its location, clarifying the circumstances of the incident by searching for traces and interviewing witnesses, searching for the perpetrator among the residents of a certain territorial community, tracking the process of transferring the stolen item from one owner to another, etc.). Investigation methods were based on modern scientific cognitive procedures (observation, comparison, recognition, analysis and synthesis, identifying individual characteristics of things and people, mental reconstruction of the event from its traces, distinguishing ideal and material traces, etc.), *group method* and interaction with the community, pursuing the perpetrator on "hot" (fresh) traces, attempts to apply specific expertise, etc.

Ancient methods of investigating the crimes of *call*, *corpus* and *trace persecution* as complex procedural actions aimed at finding and prosecuting criminals and finding the stolen, formed in the judicial practice of the community courts of pre-state society, have not been forgotten over time, which indicates their significant effectiveness. After the formation of the state, they were used and developed by the faithful courts of Kyivan Rus and Galicia-Volyn state, and later they were adopted by the legal successors of these bodies the miners' courts. In the *Vast Edition of Pravda* and the Statutes of the Grand Duchy of Lithuania, the *call*, *corpus* and *trace persecution* were normatively enshrined at the national level, as well as specified with certain specifics at the local level [1].

The extraordinary effectiveness of the method of investigating the "pursuit of a trace" as the oldest means of identifying a criminal is also evidenced by the fact that it was used not only in the ancient Ukrainian community — the verva— in the IX—XII centuries, but also in the public proceedings of Poles and Lithuanians. For example, this method of investigation is mentioned in the Piotrków-Wiślica Statutes of 1347 [2]. This complex form of pre-trial investigation of Ukrainian customary law received state recognition in the Grand Duchy of Lithuania, which (with certain procedural adjustments) sanctioned it in Art. 6 sec. XIV Statute of the Grand Duchy of Lithuania (1566) [3].

Long-standing traditional methods of investigating crimes on Ukrainian lands (*call*, *corpus* and *trace persecution*) have not yet been investigated from the standpoint of modern achievements of forensic science. Their significance for the formation of the theory of modern methods of investigation of criminal offenses has been superficially elucidated, which indicates the relevance of the issues raised.

Analysis of Essential Researches and Publications

Traditional cognitive procedures of the court and court proceedings of Ukrainian lands were studied by: M. Bedrii [4], I. Boi-

1 Бедрій М. М. Здійснення гоніння сліду в українському копному судочинстві (XIV—XVIII ст.). *Науковий вісник Міжнародного гуманітарного університету. Серія: Юриспруденція.* 2013. № 6-2. Т. 1. С. 7—10. URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc6-2-1/02.pdf (date accessed: 05.07.2025).

2 Патяка О. О. Гродський суд у системі владних структур Київського, Брацлавського та Волинського воєводств (друга половина XVI — перша половина XVII ст.) : дис. … канд. іст. наук. Київ, 2006. 214 с. URL: https://surl.li/dzbumo (date accessed: 05.07.2025).

3 Бедрій М. М. Здійснення гоніння сліду … . С. 8. URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc6-2-1/02.pdf (date accessed: 05.07.2025).

4 Його ж. Копні суди на українських землях у XIV—XVIII ст.: історико-правове дослідження : монографія. Львів, 2014. 264 с. URL: https://library.nlu.edu.ua/POLN_TEXT/MONOGRAFII_2018/876.pdf (date accessed: 05.07.2025).

ko [5], D. Vashchuk [6], A. Hurbyk [7], H. Demchenko [8], Yu. Krykun [9], L. Kushynska [10], O. Makarenko [11], Ya. Padokh [12], I. Cherkaskyi [13], V. Chysnikov [14], A. Iakovliv [15] et al. From the standpoint of criminology, in particular the methods of investigation of criminal offenses, "call", "compile" and "pursuit of the trail" became the subject of research by O. O. Kotiuk [16], V. Shevchuk [17] and V. Yusupov [18], however, these authors considered the mentioned methods of investigation in the context of the history of criminology, almost without analyzing their "procedural" and "technological" features, efficiency and advantages, and significance for the formation of the scientific foundations of modern methods of investigation of criminal offenses and its component: investigation methods.

Article Purpose

In order to analyze the methods of investigation of crimes used in the Ukrainian

5 Бойко І. Й. Формування та функціонування державно-правових і самоврядних інститутів у Галичині в складі Польського королівства (1387—1569 рр.) : дис. … д-ра юрид. наук. Львів, 2010. 499 с.

6 Ващук Д. П. Обласні привілеї Волині та Київщини: генеза і функціонування в другій половині XV — першій третині XVI ст. : дис. … канд. іст. наук. Київ, 2005. 238 с.

7 Гурбик А. Правовий інститут «гоніння сліду» в копному судочинстві українських земель Великого князівства Литовського. *Ukraina Lithuanica.* 2013. Т. 2. С. 96—111. URL: http://resource.history.org.ua/publ/UkrL_2013_2_9 (date accessed: 05.07.2025).

8 Демченко Г. В. Наказаніе по Литовскому статуту в его трехъ редакціяхъ (1529, 1566, 1588 гг.). Ч. 1. Кіевъ, 1894. 273 с. URL: https://surl.li/kjpskj (date accessed: 05.07.2025).

9 Крикун Ю. С. Звичаєве право українців у наукових дослідженнях 1920-х — на початку 1930-х років : дис. … канд. іст. наук. Київ, 2009. 213 с. URL: https://uacademic.info/ua/document/0409U000855 (date accessed: 05.07.2025).

10 Кушинська Л. А. Звичаєве право та його еволюція у східнослов'янському суспільстві VI—XI ст. : монографія. Київ, 2008. 142 с. URL: https://surl.li/uoddcu (date accessed: 05.07.2025).

11 Макаренко О. В. Злочини і покарання в праві Української Гетьманської держави 1648—1657 рр. : автореф. дис. … канд. юрид. наук. Київ, 2011. 22 с.

12 Падох Я. Суди і судовий процес старої України. Нарис історії. Нью-Йорк ; Париж ; Сідней ; Торонто ; Львів, 1990. 128 с. URL: https://diasporiana.org.ua/wp-content/uploads/books/9247/file.pdf (date accessed: 05.07.2025).

13 Черкаський І. Ю. Громадський (копний) суд на Україні-Русі XVI—XVIII вв. *Праці комісії для виучування історії західно-руського та вкраїнського права.* 1928. IX. Вип. 4—5. 714 с. URL: https://irbis-nbuv.gov.ua/ulib/item/UKR0005665 (date accessed: 05.07.2025).

14 Чисніков В. М. Сискна поліція в Україні за часів Російської імперії (1880—1917 рр.): історико-правове дослідження : дис. … д-ра юрид. наук. Київ, 2017. 535 с. URI: https://elar.navs.edu.ua/jspui/handle/123456789/2821 (date accessed: 05.07.2025).

15 Яковлів А. Українське право / Українська культура : лекц. за ред. Дмитра Антоновича // упорядник С. В. Ульяновська; вст. ст. І. М. Дзюби; перед. слово М. Антоновича; додатки С. В. Ульяновської, В. І. Ульяновського. Київ, 1993. С. 222—236. URL: http://litopys.org.ua/cultur/cult15.htm (date accessed: 05.07.2025).

16 Котюк О. І. Правомірність слідчих дій: умови визначення та засоби забезпечення : дис. … канд. юрид. наук. Київ, 2013. 235 с.

17 Шевчук В. М. Теоретичні основи формування та реалізації тактичних операцій у криміналістиці : автореф. дис. … д-ра юрид. наук. Харків, 2013. 48 с. URI: https://dspace.nlu.edu.ua/handle/123456789/17279 (date accessed: 05.07.2025).

18 Юсупов В. В. Криміналістика в Україні у ХХ — на початку ХХІ ст. (історико-теоретичне дослідження) : дис. … д-ра юрид. наук. Київ, 2018. 564 с.

lands of the Middle Ages on the basis of the norms of customary law of the *Vast Edition of Pravda,* to find out their role in the formation of the forensic doctrine on the methods of investigation of criminal offenses (in particular, forensic methodology as a component of modern forensic science).

Research Methods

General scientific methods are used: observation, comparison, abstraction, analysis, synthesis, modeling, etc.

Main Content Presentation

In the case of a crime, the victim began the initiative search with the procedure of "summoning", the essence of which is outlined in Articles 32 and 34 of *Vast Edition of Pravda* [19]. The victim publicly announced the possible crime committed against him (for example, in the event of the disappearance of a man (slave), cattle, weapons, clothing, etc.) in crowded places (usually on a market day): this legal action (statement) was mandatory, since only after it there were certain legal consequences for the offender.

During the *call*, the victim had to announce the signs of stolen or lost things. If items, such as money, goods of mass consumption, did not have individual characteristics, then the *call* was not carried out.

If within three days after the announcement it turned out that the wanted person was in the possession of a certain person, then he was considered a defendant. The latter had to return the item and pay the fine. Thus, *call*" was one of the possible methods of finding a criminal or a person who hid the kidnapped.

The essence of the *call* is proposed to be considered in a broad sense, because the components of this method are not only a statement about the fact of the disappearance (theft) of a thing and informing the community about its signs, but also finding out witnesses (witnesses), the circumstances of the event (crime), the signs of criminals, the location of the disappeared (stolen) property, etc. Thus, the "call" is not only a passive announcement of the fact of disappearance (theft) of property and its signs, but also an active form of search, which is proposed to be compared with the modern method of search by publication in the media [20].

Showing detective activity during the *call* or immediately after it, the victim independently interviewed local and nearby residents about what they knew about the event (crime) and the likely perpetrator. Sometimes such a survey had an effect and even helped to quickly identify the offender and the location of the missing property.

It is similar to the "call" in the criminal proceedings — the "call" (an announcement of a crime, during which all residents of the criminal district were called upon to collect factual data — "evidence" in the case), the legal procedure of which is described in Art. 34 of the Vast Edition of Pravda [21]. Usually, this action was carried out in case of murder. After the "fall" or at

19 Гавриленко О. А., Логвиненко І. А., Новікова Л. В. Історія держави і права України. Хрестоматія-практикум : навч. посіб. Харків, 2015. С. 29. URL: https://surl.lu/rdhvmv (date accessed: 05.07.2025).

20 Чисніков В. М. Зазнач. твір. URI: https://elar.navs.edu.ua/jspui/handle/123456789/2821 (date accessed: 05.07.2025).

21 Гавриленко О. А., Логвиненко І. А., Новікова Л. В. Зазнач. твір. URL: https://surl.lu/rdhvmv (date accessed: 05.07.2025).

the same time with him, the relatives of the murdered asked everyone who knew anything about this crime. If the survey did not give the desired results, the police court resorted to *calling*, with the help of which the victim hoped to obtain at least some information that would contribute to the search for the killer.

Peasants used "call" not only to report crimes, but as a public protest against any illegal actions. The victim "cried out," that is, publicly reported the commission of an offense [22].

The forensically significant information obtained from witnesses and with the help of personal observation about the event and traces at the crime scene (footprints, scattered rye, etc.) made it possible to proceed to the next legal procedure with the participation of community representatives : *trace persecution* [23].

Trace persecution as a complex procedural action originated in the judicial practice of community courts in pre-state society. After the formation of the state, it was used and developed by the faithful courts of Kyivan Rus and Galicia-Volyn state, and later adopted by the legal successors of these bodies: kopny courts.

At the national level, the "pursuit of the trail" was normatively enshrined in the *Vast Edition of Pravda* [24]: the researchers note that Article 77 [25], which regulated the procedure for "pursuing the trail", had no analogues in the *Short Edition of Pravda*, apparently, it was enshrined in the legislation around the twelfth century [26].

Legal procedure and method of investigation of *trace persecution* was used in cases where it was impossible to detain the criminal at the scene of the crime. In the absence of special state investigative bodies at that time, "pursuit of the trail" was carried out by the victims, their relatives, members of the territorial community and all those who wanted to.

At first, it was believed that where the "face" (the stolen item, other material evidence of guilt) lies, the criminal is located or hiding there. So, if a "head" (the body of a murdered person) was found on a certain plot of land, then the "verv" (territorial community) that lived there was obliged to find the culprit and hand him over to the pursuers or pay a "wild faith" (fine). If the stolen item was found in a private building, then its owner was responsible for the "tatba" (theft) as an alleged thief. Later, the concept of "face" (material evidence of guilt) was extended to the very traces left by the criminal or property (for example, a horse, ox, or other domestic animal). If the victim lost the "trace" during the search, then the place where the "trace" was lost was considered the location of the criminal. If the *trace* was lost on a paved road, in the steppe, at the state border, then the search (and lawsuit) was incomplete from a factual and legal standpoint.

22 Шандра Р. С. Волоське право та особливості його застосування на українських землях (XIII—XVIII ст.) : дис. ... канд. юрид. наук. Львів, 2010. С. 147. URL: https://surl.lu/wxcbou (date accessed: 05.07.2025).

23 Шапірко П. М. Правове регулювання оперативно-розшукової діяльності в Україні: загальнотеоретичне дослідження : дис. ... канд. юрид. наук. Одеса, 2012. 213 с.

24 Бедрій М. М. Здійснення гоніння сліду ... . URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc6-2-1/02.pdf (date accessed: 05.07.2025).

25 Гавриленко О. А., Логвиненко І. А., Новікова Л. В. Зазнач. твір. URL: https://surl.lu/rdhvmv (date accessed: 05.07.2025).

26 Гурбик А. Зазнач. твір. С. 102. URL: http://resource.history.org.ua/publ/UkrL_2013_2_9 (date accessed: 05.07.2025).

Researcher A. Yakovlev described this process as follows: for the committed murder, theft or other crime, the victim had to look for traces left by the offender, to invite witnesses, usually close neighbors and strangers — "other good (probable) people" — and with this, sometimes numerous, "hot cop" to hurry to where he led the "trail" [27]. The probable traces of the crime were: 1) traces left directly by the offender; 2) traces left by an animal (for example, a horse) on which the offender moved; 3) traces (things) left at the crime scene [28]. There was a distinction between the "old trace" and the "fresh trace" of the crime (*hot trace*) which significantly increased investigation success.

It was assumed that *trace persecution* should be carried out with "strangers" and witnesses, usually eyewitnesses. M. Iasynskyi, Researcher described the procedure of *trace persecution* as follows: the kopny court 'tracked' the criminal, searching for him from "village to village." A village that "led the trail" beyond its territory was considered "cleared" of any suspicion (for example, of hiding a criminal or stolen property), so it bore no responsibility. Collective responsibility of members of the territorial community did not arise even if the village to which the trail led voluntarily handed over the criminal or pointed him out. If the trail did not "lead" beyond the village, the "trail was pursued" from "land to land" or from "yard to yard." An individual villager who "led the trail" beyond the boundaries of his immovable property was considered "cleansed" and was not held liable. However, if individual members of the territorial community did not want or could not "follow the trace," did not want to find and hand over the criminal, destroyed his traces, etc., then the village or individuals who owned the real estate to which the "trace led" were held responsible [29].

Such prompt actions of the victim and his assistants contributed to the disclosure of the crime, clarification of the circumstances of the offense and the person who committed it, accelerated compensation to the victim for the damage caused.

We agree that Art. 77 of the *Vast Edition of Pravda* [30] reflects the common at that time custom of mutual guarantee of community members and their mutual responsibility: if the villagers refused to participate in the search for the alleged offender, they were automatically subject to collective responsibility for the crime committed (reimbursed the value of the missing (stolen) property and paid a fine to the treasury). Therefore, if the offender was on the territory of the community, then with a high probability he or information about him was transferred to persecutors [31].

Even when *trace persecution* did not yield positive results, the *trace* was lost or led to a "beaten" way ("fairing") and

27 Яковлів А. Зазнач. твір. URL: http://litopys.org.ua/cultur/cult15.htm (date accessed: 05.07.2025).

28 Черкаський І. Зазнач. твір. С. 297—299. URL: https://irbis-nbuv.gov.ua/ulib/item/UKR0005665 (date accessed: 05.07.2025).

29 Ясинский М. «Село» и «верв» Русской Правды / Антологія української юридичної думки. В 6 т. // редкол.: Ю. С. Шемшученко (голова) та ін. Т. 2 : Історія держави і права України: Руська Правда ; упорядники: І. Б. Усенко, Т. І. Бондарук, І. В. Музика, І. К. Омельченко; відп. ред. І. Б. Усенко. Київ, 2002. С. 272.

30 Гавриленко О. А., Логвиненко І. А., Новікова Л. В. Зазнач. твір. URL: https://surl.lu/rdhvmv (date accessed: 05.07.2025).

31 Кушинська Л. А. Звичаєве право … . URL: https://surl.li/uoddcu (date accessed: 05.07.2025).

disappeared, the victim could resort to other means: "call for justice," that is, publicly announce the damage done in a crowded place; additionally ask people about the circumstances of the incident known to them; appeal to the "kopa" (community) for help in finding the stolen property; hire a "sok" — a person who could provide useful information and help in the further search. If this did not help — the item was not found, the "sok" did not come forward, the people in the community did not provide any information — then the victim did not find his offender, even though he used all means to restore his rights [32].

"Juice" in customary law was called someone who knew the likely offender, could provide the victim with information about the offender, trace him or her, or was kidnapped. For his service, "sok" received a reward: "prosok". The search for "juice" was assigned to the victim himself. After the completion of the preliminary investigation, "Sok" had the right to act as a witness in the trial. Researchers believe that not every witness during the investigation of the crime acquired the status of "juice": it was received only by persons who directly collected forensically significant information on a semi-professional basis and provided services such as modern private detectives [33].

The victim carried out search actions with the participation of representatives of the community only in the presence of individual signs (specifics) of property, a separate thing, livestock, which the offender appropriated, or a description of the signs of a person (in the case of a search for a person). Researchers believe that in order to increase the effectiveness of such a search, they used knowledge of mathematics, natural science, medicine, and anatomy [34].

The procedures for conducting *trace persecution* were similar in both ecclesiastical and criminal courts, but later their order underwent some minor changes. Researchers consider the investigation of crimes by criminal courts to be a well-organized process. *Bailiff* often participated in the *trace persecution* procedure and subsequently reported to the city (criminal) court on the results of this investigative action by the kopny court [35].

Thus, *trace persecution* and *corpus* are investigative methods by which the victim searched for the offender and the "face" (stolen or missing property). However, the powers of the victim did not end with these search actions. Having apprehended the offender, having found the stolen property, having found out the witnesses, the victim had to provide the community court with all this "factual data", on the basis of which evidence was already being formed in court. The victim, independently or with the participation of witnesses, had to bring his offender to the court session, and for this purpose they could even use physical force against the latter. Researchers do not consider such a significant amount of power of the victim to be an extraordinary phenomenon: it corresponded to the legal standards of Europe at that time, a similar approach is provi-

32 Яковлів А. Зазнач. твір. URL: http://litopys.org.ua/cultur/cult15.htm (date accessed: 05.07.2025).

33 Бедрій М. М. Здійснення гоніння сліду ... . С. 8—9. URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc6-2-1/02.pdf (date accessed: 05.07.2025).

34 Юсупов В. В. Зазнач. твір.

35 Бедрій М. М. Здійснення гоніння сліду ... . С. 8. URL: https://www.vestnik-pravo.mgu.od.ua/archive/juspradenc6-2-1/02.pdf (date accessed: 05.07.2025).

ded for in the ancient Roman legal act: *The Laws of the Twelve Tables* [36].

The norms of customary law of *Russkaya Pravda* prohibited lynching by the victim, the seizure of stolen things by force and determined to resolve this conflict situation a certain legal order called: *corpus*. The legal order of the "summary" is regulated by Art. 35—39 of *Vast Edition of Pravda* [37]. This legal procedure was applied if the lost item was found before the *call* or in another locality, and the person who saw this missing item denied the illegality of its acquisition [38]. *Corpus* was carried out either before the call, or within three days after.

The sequence of "*corpus*" procedure was as follows: the victim, in the presence of witnesses, appealed to the person who held the stolen item and demanded to prove the legality of its possession, confirming his words by pointing to the person who handed over the item to the accused person. The *corpus* procedure is similar to *trace persecution* method. The main difference was that during the *corpus* they followed not the trail, but the *corpuses* (*breeders*), to which the stolen thing successively passed. The "*corpus*" procedure was terminated on the third "corpus", that is, the third person who had this stolen thing had to give it to the victim without objection, along with compensation. In addition, such a third party itself acquired the right to look for its offender under the following *corpuses* [39].

In several cases, the suspect could not name the person who sold the property to him, since he was its primary owner. Such property could be grown by suspected horses, oxen, other animals or plants, as well as items made by him, such as cloth. In this case, the suspect had to declare this to the police court and name the witnesses of this fact [40].

Researchers believe that the procedure of *trace persecution*, like other judicial actions during the kopa, was primarily aimed at identifying the guilty party, the one who was obliged to compensate for the damage, although the latter did not always turn out to be the real criminal. Historical sources show that participants in kopny courts found individual peasants or entire communities ("village corners") guilty in the following cases: if they did not follow the trail or did not lead the trail of the crime beyond the boundaries of the courtyard or village; those who did not appear at the kopa without valid reasons; those who were found with stolen goods (during a trace persecution or search and seizure); those who refused to "clear themselves with a ritual church oath"; those caught at the scene of the crime or those who were caught by the kopa pursuit; those who concealed that they had received strangers during the period of the crime, etc. This definition of guilt prompted residents of the surrounding areas to actively participate in courts, study customary

36 Бедрій М. М. Особливості формування ... . С. 71—72. URL: https://library.nlu.edu.ua/POLN_TEXT/MONOGRAFII_2018/876.pdf (date accessed: 05.07.2025).

37 Гавриленко О. А., Логвиненко І. А., Новікова Л. В. Зазнач. твір. С. 32—33. URL: https://surl.lu/rdhvmv (date accessed: 05.07.2025).

38 Кушинська Л. Елементи звичаєвого права в «Руській Правді». *Історія України*. 1999. Т. 38. С. 5—6.

39 Яковлів А. Зазнач. твір. URL: http://litopys.org.ua/cultur/cult15.htm (date accessed: 05.07.2025).

40 Бедрій М. М. Розслідування злочинів в українському копному судочинстві (XVI—XVIII ст.). *Проблеми законності*. 2010. Вип. 111. С. 250—258. URL: http://nbuv.gov.ua/UJRN/Pz_2010_111_36 (date accessed: 05.07.2025).

law, and avoid being accused and required to compensate for damages, which indicates a high level of legal culture among Ukrainian peasants, townspeople, and nobility during the period under research [41].

The means of searching for persons suspected of committing a crime that were widespread during the time of *Vast Edition of Pravda* (*call*, *corpus* and *trace persecution*) are considered by some researchers to be the first sprouts of complex tactical means of investigating crimes, "prototypes" of modern forensic complexes of an organizational and tactical direction. In particular, "pursuit of the trail" is assessed as a complex application of criminal prosecution means, which is somewhat similar to modern tactical operations (for example: hot pursuit of a criminal; identification of the person who committed the crime; search and detention of a suspect, etc.) [42]. This can be agreed with only a certain reservation, since the basis of a tactical operation is precisely the methods of investigating crimes, and operations are only a complex form of implementing such methods [43].

Neither the *corpus* nor the *trace persecution* was considered judicial evidence: they only gave grounds for bringing the perpetrator to justice, that is, they were more important as a means of collecting factual material, which then formed the basis of the evidence base in court.

We can argue that such common law procedures as *corpus* and *trace persecution* are the basis of modern effective methods of investigating criminal offenses. Thus, on the basis of *trace persecution* procedure, modern criminology has developed recommendations for the prosecution of criminals and methods of investigating criminal offenses on hot (fresh) traces [44], as well as certain methods of investigating criminal offenses (in particular, forensic profiling [45], forensic retrospection [46], and forensic analysis of trace picture [47]). The provisions of the "tracking" procedure are the foundation of the modern method of searching for crimes using information about the subjects and objects of a criminal attempt [48].

Specific expertise was used in criminal proceedings: for example, barbers were

41 Гурбик А. Зазнач. твір. С. 108—109. URL: http://resource.history.org.ua/publ/UkrL_2013_2_9 (date accessed: 05.07.2025).

42 Шевчук В. М. Зазнач. твір. URI: https://dspace.nlu.edu.ua/handle/123456789/17279 (date accessed: 05.07.2025).

43 Богачук В. С. Тактичні операції при розслідуванні підроблення грошей : дис. … канд. юрид. наук. Київ, 2010. С. 32.

44 Салтевский М. В. Раскрытие преступлений «по горячим следам»: понятия и принципы. *Проблемы государства и права Украины* : темат. сб. науч. тр. Киев, 1992. С. 116—123 ; Тіщенко В. В. Теоретичні і практичні основи методики розслідування злочинів : монографія. Одеса, 2007. С. 185—187.

45 Старушкевич А. В. Криміналістичне профілювання: наукове обґрунтування та проблеми використання у розслідуванні злочинів. *Право України.* 2004. № 8. С. 64—68.

46 Його ж. Можливості використання методу криміналістичної ретроспекції при розслідуванні злочинів. *Верховенство права у процесі державотворення* : мат-ли міжнар. наук.-практ. інтернет-конф. (Тернопіль, 06.10.2010). Тернопіль, 2010. С. 72—74. URL: https://www.lex-line.com.ua/?go=full_article&id=882 (date accessed: 05.07.2025).

47 Його ж. Криміналістичний аналіз слідової картини сексуальних вбивств. *Вісник Київського національного університету імені Тараса Шевченка. Юридичні науки.* 2004. Вип. 60—62. С. 92—98.

48 Його ж. Метод пошуку злочинців з використанням відомостей про предмети і об'єкти злочинного замаху. *Українська наука XXI століття* : мат-ли п'ятої всеукр. наук.-практ. інтернет-конф. (Київ, 17—19.06.2009). Київ, 2009. Ч. 5. С. 38—39.

invited to examine wounds and bruises, which can be considered the first steps towards the formation of the future institution of specialist participation in investigative activities [49].

An important factor that contributed to the considerable authority of the kopny court, especially during the investigation of complicated cases and the identification of unknown criminals, was its efficiency: as was customary, people immediately responded to the victim's *call* ; neighbors from the surrounding area quickly provided the necessary criminally relevant information about strangers, the movements of people or livestock, and recounted their testimony in the kopny court and, if necessary, the community organized close and distant pursuits, searches of the area and farms of suspects, following the traces of criminals [50].

Conclusions

Thus, the methods of investigating crimes called: *call*, *corpus* and *trace persecution* have archaic origins, they determined the customary nature of the kopny justice. Procedures for implementing these methods of investigating crimes arose in the pre-state period, they were most actively used by the communal courts of the Eastern Slavs, and later by the vervny and kopny courts of Kyivan Rus. *Call*, *corpus* and *trace persecution* are an integral part of Ukrainian kopny justice, dynamic and effective means of investigation that helped to quickly identify the criminal, the circumstances of the incident and find stolen property or ensure its compensation by the offender. These methods of investigating crimes, developed on the basis of the experience of the Ukrainian people, have adequately supplemented the legislation of the states in which the Ukrainian lands were for almost five centuries.

Person detention during *trace persecution* did not clearly indicate his guilt, which allowed the suspect to justify himself, explain the presence of a certain thing in his possession, and prove his non-involvement in the crime. Application results of *trace persecution* method did not constitute judicial evidence, but were factual grounds for the formation of such evidence in the process of further judicial actions (examination, interrogation, search, etc.). This excluded both lynching, that is, the use of physical force against the detainee, and arbitrary actions aimed at taking things from him. Only in the process of judicial actions, in public, with the participation of members of the vervny, copa court was the guilt ("incrimination") of the detainee in committing a crime determined.

Methods of searching for the offender, in particular: *trace persecution* and *call*, provided for the collective search for the offender by the assistants of the victim, usually members of the same territorial community, which led to joint training and the dissemination of the experience of such search in a certain community. In addition, the search for criminals by members of one territorial community led to the transfer of experience in the use of investigative methods from the older generation to the younger generation. Participation of a member of the territorial community in collective measures using investigation methods contributed not only to improving the skills of applying such methods, but also had

49 Черкаський І. Зазнач. твір. С. 58—59. URL: http://irbis-nbuv.gov.ua/ulib/item/UKR0005665 (date accessed: 05.07.2025).

50 Гурбик А. Зазнач. твір. С. 109. URL: http://resource.history.org.ua/publ/UkrL_2013_2_9 (date accessed: 05.07.2025).

a certain preventive effect on the participants of these legal actions, keeping them from committing offenses and concealing known illegal actions committed by other community members.

The basis of the methods of *call*, *corpus* and trace persecution was the principle of interaction of community members (modern *group method* of investigation, interaction of the investigator with the public). This principle is still the basis of domestic and international cooperation aimed at effective investigation of criminal offenses.

It is noted above that the procedures of customary law *corpus* and *trace persecution* formed the basis of modern effective methods of investigating criminal offenses, in particular for hot (fresh) traces, as well as forensic profiling, forensic retrospection, forensic analysis of the trace picture.

The formal rule: "where the trace will lead, there is a criminal" of the investigation of crimes on Ukrainian lands in the Middle Ages indicates a clear understanding by ancient Ukrainians: only by traces (both material and ideal) can one understand what happened in the past, find out in what direction the criminal disappeared, where to look for him. This is possible only if certain elements of modern general scientific methods and techniques of cognition are applied (in particular, observation, comparison, recognition, comparison, analysis and synthesis, analogy, hypothesis making, mental reconstruction, etc.), which our ancestors skillfully used more than ten centuries ago.

**Методи розслідування злочинів
на українських землях
у добу Середньовіччя**

Анатолій Старушкевич

Мета статті — проаналізувати методи розслідування злочинів, застосовувані на українських землях у добу Середньовіччя на основі норм звичаєвого права Широкої «Руської правди», з'ясувати їхню роль у формуванні криміналістичного вчення про методи розслідування кримінальних правопорушень (зокрема, криміналістичної методики як складової сучасної криміналістики). Для досягнення поставленої мети автор послуговувався загальнонауковими методами: спостереження, порівняння, абстрагування, аналізу, синтезу, моделювання тощо. Здійснено науковий аналіз методів розслідування злочинів, регламентованих нормами Широкої «Руської правди» часів Київської Русі. Зазначено, що методи розслідування злочинів «заклич», «звід» і «гоніння сліду» як комплексні процесуальні дії спрямовували на розшук і переслідування злочинців, знайдення викраденого. Зауважено, що сформовані ще в додержавному суспільстві, у судовій практиці общинних судів «заклич», «звід» і «гоніння сліду», засновані на взаємодії членів громади, набули такої ефективності, що після формування держави їх застосовували й розвивали вервні суди Київської Русі та Галицько-Волинської держави, а згодом перейняли правонаступники цих органів — копні суди. У Широкій «Руській правді» та Статутах Великого князівства Литовського ці методи розслідування закріпили вже на загальнодержавному рівні. Поширений у той час інститут звичаєвого права «сочення» давав змогу отримувати криміналістично значущу інформацію про злочинця з метою його переслідування за ідеальними слідами, доречними в разі невиявлення, знищення або низької інформативності матеріальних слідів. Доведено, що правові процедури звичаєвого права («звід», «гоніння сліду») стали підґрунтям для розроблення сучасних методів розслідування кримінальних правопорушень за гарячими слідами та за інформацією про предмети й об'єкти злочинного замаху, криміналістичного аналізу слідової картини, криміналістичного профілювання, *криміналістичної ретроспекції. Зроблено висновок, що передавання досвіду із розслідування злочинів у межах однієї територіальної громади від старших членів общини молодшим не лише сприяло вдосконаленню навичок застосування методів розслідування, а й мало певний профілактичний вплив на учасників цих правових дій, утримуючи їх від скоєння правопорушень і приховування відомих їм протиправних дій, учинених іншими членами громади.*

Ключові слова: *розслідування злочинів; гоніння сліду; слідогон; звід; заклич; поволання; сочення; «Руська правда»; верв-ний суд; копний суд; гаряча копа; гарячі сліди; свіжі сліди; розслідування в Київській Русі.*

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Determination of Counteraction to Investigation and Abuse of Procedural Rights

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This article purpose is to determine prerequisites and regularities of the emergence and development of such phenomena as resistance to investigation and abuse of rights in law enforcement activities, as well as their signs. Implementation of the set goal is ensured through the use of a complex of general scientific, special and philosophical research methods (in particular, modeling, dialectical, system-structural and comparative analysis). It is summarized that resistance to investigation is a complex, dynamic and multifaceted phenomenon that is formed in the conditions of a criminal conflict and manifests itself in the purposeful behavior of persons interested in concealing the actual circumstances of a criminal offense. Its activity side consists in committing both active and passive actions that affect the course and results of pre-trial investigation. It was found that counteraction is not chaotic in nature, it is carried out within the limits of a certain mechanism, including three stages: 1) preparation, 2) active implementation of influence on sources of evidentiary information and 3) concealment of traces of committed actions. At the same time, counteraction mechanism is variable and depends on the stage of criminal proceedings, chosen tactical methods and the presence of corrupt,

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organizational and social connections. It is substantiated that the structural components of the forensic characteristic of counteraction to investigation are: 1) subjects of counteraction, their motives and objects of influence; 2) typical forms and methods of counteraction and their influence on sources of evidentiary information; 3) signs of application of specific methods, reflected in the objective environment and behavior of subjects. It is proved that it is appropriate to study the external manifestations of counteraction (material, digital and ideal traces), since they are the main source for modeling the mechanisms of criminal counteraction and developing effective tactical solutions. It is found that counteraction to investigation has a conflict nature manifested in the clash of opposing goals of the participants in criminal proceedings. This is not only a conflict between the investigator and the suspect, but interaction with the prosecutor, witnesses, witnesses, experts and other participants in the process. Such an environment creates a tense investigative situation that requires a high level of professional adaptability from the investigator. Counteraction is especially dangerous in the context of organized criminal activity characterized by availability of an internal structure, financial resources, technical support and personnel support. It is proved that the forensic characteristic of counteraction to the investigation should be integrated as a separate component into the structure of investigation methodology for those types of criminal offenses for which active counteraction is characteristic. This approach should be based on: 1) analyzing typical methods and mechanisms of counteraction; 2) studying the subject-role structure of counteraction; 3) studying changes in the trace complex caused by targeted influence on evidence.

Keywords: *pre-trial investigation; counteraction to investigation; investigative activities; overcoming counteraction to investigation; components of counteracting investigation.*

Research Problem Formulation

Modern development of criminal procedural law of Ukraine and law enforcement takes place in the context of the actualization of the issue of ensuring a balance between implementation by the participants of proceedings of the rights granted to them and the prevention of the use of these rights in a way that impedes achievement of the tasks of criminal proceedings. One of the most controversial manifestations of such a disproportion is the opposition to investigation and abuse of procedural rights, which appear as complex multiple phenomena that cause a violation of the principles of the rule of law, competitiveness, reasonableness of the terms of proceedings, etc.

Particular difficulty is delimitation of the legitimate exercise of procedural rights from abuse, the determination of the limits of the permissible use of tactics by the defense or prosecution, etc. In this context, determination is a key methodological tool that makes possible to find out the factors that generate these phenomena, contribute to their existence, scaling and evolution: from gaps and contradictions of legislation to psychological and organizational factors of behavior of participants in criminal proceedings.

Thus, scientific issue is the need to find out the patterns of occurrence and development of counteraction to the investigation and abuse of procedural rights, to identify their objective and subjective prerequisites and signs.

Article Purpose

For determining prerequisites and patterns of occurrence and development of such phenomena as counteraction to investigation and abuse of rights in law enforcement activities, as well as their signs.

Research Methods

In order to achieve this goal, a set of general scientific, special and philosophical methods was used, which provided a comprehensive disclosure of the essence, signs and determinants of counteraction to investigation and abuse of procedural rights.

Dialectical method created a theoretical basis for considering these phenomena as dynamic and contradictory processes developing in interaction with the rest of the elements of criminal justice. Thanks to this approach, internal logic of their evolution is traced within the conflict between the interests of the state and the desire of participants in proceedings to avoid criminal liability.

System-structural analysis helped to identify the main elements of counteraction and abuse, determine their functional role, correlations and impact on the results of criminal proceedings. This made possible to substantiate the structure of forensic characterization of the phenomena under research that covers subjects, motives, methods, objects of influence and effective consequences.

Functional-activity approach contributed to the interpretation of counteraction and abuse as a conscious activity that has its own logic, purpose and phasing. This helped to characterize active nature of phenomena aimed at preventing the fulfillment of the tasks of criminal proceedings as a system of actions or inaction.

A significant role in the research was played by the modeling method, reproduced imaginary constructions of mechanisms for counteraction and abuse, typical situations of their implementation and scenarios of interaction of participants in the process. This made possible to model changes in the evidence base and the tactical consequences of impact of these phenomena, as well as to predict possible directions for their overcoming.

At the stage of theoretical understanding, the content analysis of scientific literature was actively used that helped to identify the lack of unity among specialists in defining the concepts of *counteraction to investigation* and *abuse of procedural rights*, to highlight differences in the approaches of scientists, as well as to outline current directions of scientific discussion.

Comparative legal method contributed to the analysis of various forms of detection of counteraction phenomena in various groups of criminal offenses, clarification of dependence of these forms on the procedural status of participants, level of organization of criminal activity and peculiarities of regulatory regulation.

The research relied on an empirical method that in this case consisted in analyzing content s of criminal proceedings, court decisions, protocols of investigative actions, as well as the results of surveys and questionnaires of practicing investigators, prosecutors and lawyers. This made possible to single out the most common forms of counteraction and abuse and to fill theoretical conclusions with specific content.

Combination of methods of logical analysis and synthesis contributed to integration of the obtained results into a single system of scientific provisions, due to which the forensic characterization of counteraction to investigation and abuse of procedural rights is logically substantiated, their place in the structure of investigation methodology is determined, as well as the forms, methods, signs and subjects of these phenomena as an integral object of research are generalized.

In general, the use of these methods made possible not only to reveal essence and content of the phenomena under research, but to formulate practically oriented recommendations for improving criminal procedural legislation and increasing efficiency of the activities of pre-trial investigation bodies and the court.

Analysis of Essential Researches and Publications

In the scientific literature, the phenomena of counteraction to investigation and abuse of rights are considered mainly in fragments: either counteraction to the pre-trial investigation is separately analyzed, or the attention is focused on the procedural abuses of the parties.

Scientists emphasize that in the practice of law enforcement today there are many forms of counteraction that are not covered by the current system of legal means of influence (restraining orders) and therefore actually remain outside the regulatory field and are not grounds for bringing to legal responsibility.

In the second half of the twentieth century, a significant contribution to the study of this problem was made by V. Bakhin, V. Bernaz, V. Honcharenko, A. Ishchenko, N. Karpov, V. Konovalova, V. Korzh, V. Kuzmichov, V. Lysychenko, F. Sokyran, V. Tertyshnik, M. Shumylo, et al. It was their developments that created the basis for a deeper knowledge of the phenomenon of countering investigation of crimes, made it possible to systematize its most common manifestations and develop benchmarks for finding effective mechanisms to overcome.

Since the early 2000s, scientific community has begun to actively study the issue of countering investigations as a holistic phenomenon: conceptual approaches to revealing its essence have been formed, characteristic forms of manifestation have been outlined, and a number of specific features have been identified, determined by the peculiarities of individual types or groups of criminal offenses. The following authors have made a significant contribution to the study of these topics: O. Aleksandrenko [1], V. Vartsaba [2], I. Hrytsiuk [3],

1 Александренко О. В. Криміналістичні проблеми подолання протидії розслідуванню : автореф. дис. ... канд. юрид. наук. Київ, 2004. 20 с. URL: https://dspace.nlu.edu.ua/jspui/handle/123456789/13980 (date accessed: 10.08.2025).

2 Варцаба В. М. Розслідування злочинів організованих злочинних груп (тактико-психологічні основи) : дис. ... канд. юрид. наук. Харків, 2003. 181 с. URL: https://uacademic.info/ua/document/0404U000656 (date accessed: 10.08.2025).

3 Грицюк І. В. Протидія розслідуванню злочинів у сфері оподаткування : дис. ... канд. юрид. наук. Ірпінь, 2012. 259 с. URL: https://uacademic.info/ua/document/0412U004215 (date accessed: 10.08.2025).

K. Hutnik [4], R. Mudretskyi [5], V. Piddubnyi [6], V. Pletenets [7], O. Romtsiv [8], V. Trepak [9], M. Chesakova [10], R. Shekhavtsov [11], B. Shchur [12] and others. At the same time, despite the significance of the results obtained, there is still no comprehensive approach that would make it possible to identify the determinants of these phenomena, determine their interrelationship and impact on the effectiveness of criminal proceedings. It is precisely the combination of the issues of counteracting investigations and dishonest procedural activity of the parties within a single study that can reveal the internal logic of their emergence and existence, as well as help to develop adequate means to their overcoming .

Main Content Presentation

In current context of combating crime, particular attention should be paid to countering attempts by interested parties to influence the course of pre-trial investigations and court proceedings. Neutralizing such attempts guarantees compliance with the principles of justice and legality. This requires a comprehensive rethinking

4 Гутнік К. В. Розслідування злочинів в умовах протидії, яка чиниться з використанням соціальної напруженості : автореф. дис. ... канд. юрид. наук. Харків, 2010. 20 с. URL: https://dspace.univd.edu.ua/server/api/core/bitstreams/98663966-1f6e-42ae-89a9-4e7a4f3f8ccc/content (date accessed: 10.08.2025).

5 Мудрецький Р. В. Подолання протидії судовому розгляду у кримінальних провадженнях : дис. ... канд. юрид. наук. Кривий Ріг, 2019. 263 с. URL: https://uacademic.info/ua/document/0420U100095 (date accessed: 10.08.2025).

6 Піддубний В. В. Подолання протидії розслідуванню злочинів економічної спрямованості : дис. ... канд. юрид. наук. Харків, 2020. 260 с. URL: https://uacademic.info/ua/document/0420U100568 (date accessed: 10.08.2025).

7 Плетенець В. М. Теоретичні та праксеологічні засади подолання протидії досудовому розслідуванню : монографія. Одеса, 2020. 424 с. URL: https://er.dduvs.edu.ua/handle/123456789/6404 (date accessed: 10.08.2025).

8 Ромців О. І. Особливості подолання протидії під час розслідування злочинів у сфері службової діяльності : дис. ... канд. юрид. наук. Львів, 2016. 226 с. URL: https://lpnu.ua/sites/default/files/2020/dissertation/1817/disromtsivoi.pdf (date accessed: 10.08.2025).

9 Трепак В. М. Розкриття та розслідування хабарництва, вчинюваного суддями, та подолання протидії засобами оперативно-розшукової діяльності : автореф. дис. ... канд. юрид. наук. Київ, 2011. 19 с.

10 Чесакова М. С. Протидія розслідуванню злочинів та шляхи її подолання на стадії досудового розслідування : автореф. дис. ... канд. юрид. наук. Харків, 2019. 23 с. URL: https://uacademic.info/ua/document/0419U005608 (date accessed: 10.08.2025).

11 Шехавцов Р. М. Форми та способи протидії розслідуванню злочинів та засоби їх подолання (за матеріалами кримінальних справ про вимагання, вчинені організованими групами, злочинними організаціями) : дис. ... канд. юрид. наук. Київ, 2003. 238 с. URL: https://uacademic.info/ua/document/0404U000411 (date accessed: 10.08.2025) ; Лисиченко В. К., Шехавцов Р. М. Проблеми теорії та практики подолання протидії розслідуванню окремих різновидів злочинів, вчинених організованими групами, злочинними організаціями : монографія. Вид. 2-ге, переоб. та допов. Луганськ, 2012. 342 с. URL: https://dspace.lvduvs.edu.ua/bitstream/1234567890/246/1/Shekhavtsov_monograf.pdf (date accessed: 10.08.2025).

12 Щур Б. В. Тактика усунення протидії розслідуванню злочинів, що вчиняються організованими злочинними групами : дис. ... канд. юрид. наук. Харків, 2005. 195 с. URL: https://uacademic.info/ua/document/0405U000648 (date accessed: 10.08.2025).

of established methods, their generalization, and critical evaluation. Such a methodological approach opens up opportunities for the formation of new areas of scientific research and the creation of effective practical recommendations aimed at improving the effectiveness of law enforcement agencies. In this process, legal science performs its fundamental function, it develops mechanisms for the protection and restoration of human and civil rights, which directly corresponds to the requirements of Constitution of Ukraine and international legal standards.

Counteraction to investigation in modern criminal procedure is considered as a complex, dynamic and multifaceted phenomenon that arises in the context of a criminal conflict and consists in the purposeful behavior of persons interested in concealing the actual circumstances of a criminal offense. Counteraction to investigation is understood as the conscious activity of participants in criminal proceedings or unauthorized persons aimed at creating artificial obstacles to clarifying the truth in the case, neutralizing or distorting evidentiary information and, ultimately, avoiding criminal liability. Counteraction is embodied both in active actions and in inaction complicating the work of law enforcement agencies and reduces the effectiveness of criminal prosecution.

Essence of counteraction is to oppose different interests: on the one hand, a state that seeks to fully implement the tasks of criminal proceedings and on the other hand, persons who are trying to avoid exposure, prosecution or punishment. Counteraction is implemented in preventing the collection, verification and evaluation of evidence; in influencing witnesses, experts or other participants in the procedure; in falsifying information and creating a false trace picture.

Mechanism of counteraction usually contains a triune sequence: 1) preparation for counteraction, 2) active implementation of influence on the sources of evidence and 3) concealment of traces of the actions committed. Such activities are sometimes carried out alone, but counteraction by organized criminal groups that have significant resources, in particular financial, as well as technical capabilities and corruption ties, is especially dangerous.

Counteraction to investigation of crimes naturally arises from the desire of offenders to avoid criminal liability, to influence the course of the pre-trial investigation and to make it impossible to fulfill the tasks of criminal proceedings. As mentioned above, this phenomenon is interpreted as a conscious and purposeful activity of participants in criminal procedure or unauthorized persons aimed at creating artificial obstacles to the collection, verification and evaluation of evidence, as well as at neutralizing or distorting information of evidentiary value.

Forms of counteraction can be both active (falsification of evidence, pressure on witnesses or experts, bribery, creation of conspiracy structures) and passive (delay in investigative actions, refusal to cooperate, non-fulfillment of procedural obligations); can be both episodic and systemic (most often characteristic of the activities of organized criminal groups with significant financial, technical and corruption resources).

Analysis of scientific sources [13] and judicial practice makes it possible to iden-

13 Александренко О. В. Зазнач. твір. URL: https://dspace.nlu.edu.ua/jspui/handle/123456789/13980 (date accessed: 10.08.2025) ; Ромців О. І. Зазнач. твір. URL: https://lpnu.ua/sites/default/files/2020/dissertation/1817/disromtsivoi.pdf (date accessed: 10.08.2025) ;

tify a number of main determinants of counteraction to the investigation determining its prevalence and complexity of overcoming.

The main determinants of counteraction to investigation

1. *Individual-motivational ones*, related to the personal desire of the suspect or accused to avoid criminal liability, to preserve their own freedom, reputation or material resources; motive is fear of punishment or social stigmatization.
2. *Socio-psychological ones*: support from the immediate environment, solidarity of the criminal environment, distrust of law enforcement agencies and the court that encourages resort to illegal practices; conflicting nature of the criminal process also provokes the parties to search for "weaknesses" in the procedure to hinder the clarification of the truth.
3. *Organizational and institutional ones*: corruption ties in law enforcement and judicial bodies, weak mechanisms of procedural control, insufficient effectiveness of the activities of the prosecutor's office or the bar in the field of combating abuse create a favorable environment for countering investigation.
4. *Criminogenic ones*. Organized nature of crime is of particular danger. Criminal groups create their own "intelligence" and "counterintelligence" structures, form financial funds for bribing officials, and use international channels to avoid responsibility, which gives the counteraction systematicity and sophistication.
5. *Procedural and legal ones*: Gaps and contradictions in the criminal procedural legislation are a significant source of counteraction. The lack of clear legal boundaries between the right to defend and the right to oppose an investigation, the vagueness of terms (e.g. "procrastination"), and the excessive length of the investigation create space for manipulation.
6. *Technological ones*. Development of digital technologies opens up new opportunities for concealing or falsifying evidence, manipulating electronic information, using cryptocurrencies, anonymous means of communication and specialized programs in countering investigation.

Consequently, counteraction to investigation is not a random phenomenon, but a natural element of the criminal process that has a multifaceted nature. Its emergence and development are due to a combination of individual, social, institutional, criminogenic, legal and technological factors. Awareness of the determinants of counteraction makes it possible to form a holistic picture of the mechanism of this phenomenon and develop effective tactical algorithms to overcome it, which is a necessary condition for improving methodology for investigating criminal offenses and strengthening the justice system as a whole.

Thus, determinants of resistance to the investigation are multi-level and in-

Мудрецький Р. В. Зазнач. твір. URL: https://uacademic.info/ua/document/0420U100095 (date accessed: 10.08.2025) ; Чесакова М. С. Зазнач. твір. URL: https://uacademic.info/ua/document/0419U005608 (date accessed: 10.08.2025) ; Плетенець В. М. Зазнач. твір. URL: https://er.dduvs.edu.ua/handle/123456789/6404 (date accessed: 10.08.2025).

terrelated. At the individual level, they are determined by the desire of the suspect or accused to avoid criminal liability, preserve property or social resources. At the social level, resistance is reinforced by the support of the immediate environment, corrupt connections in law enforcement and judicial bodies. Organized nature of crime gives resistance a systematic nature, which is embodied in the creation of special structures of internal conspiracy, mechanisms of "intelligence" and "counterintelligence", formation of financial funds for bribery and the use of international channels to evade criminal liability. Procedural factors play a significant role, since the delay in the pre-trial investigation, existence of procedural conflicts between the investigator, prosecutor, witnesses and experts create a favorable environment for active resistance. Technological development promotes the use of new means of hiding information, digital manipulations and other innovative techniques.

Consequently, counteraction to the investigation is not a chaotic or random phenomenon, but a natural element of criminal activity that requires a comprehensive forensic study. Its characteristics should include the definition of the subject composition, motives and objects of influence, forms and methods of implementation, signs of their application and consequences. Taking these elements into account will make it possible to build effective models of the counteraction mechanism and develop effective tactical algorithms for its overcoming that is a necessary condition for improving the methodology for investigating criminal offenses.

Outlining essence of abuse of procedural rights in criminal proceedings, it is advisable to note that it is a conscious and purposeful use by the participants of the process of the rights granted to them by law in a way that contradicts the purpose of these rights. Formally based on the norms of criminal procedural legislation, such servicing actually acquires an illegal character, since it is aimed at creating artificial obstacles to implementation of the tasks of criminal proceedings, delaying its terms, distorting the evidence base or imitating legitimate behavior. Thus, abuse of procedural rights distorts the content of the very idea of ensuring the right to defense, turning legal opportunities into an instrument of counteraction to investigation or court.

The study of scientific sources makes it possible to identify a number of leading determinants of abuse of procedural rights. First of all, they are of legal nature: the imperfection of legislation, availability of gaps and contradictions in the norms, the lack of clearly defined boundaries between the permissible and illegal application of procedural rights. Organizational and institutional factors also play a significant role (in particular, the low level of procedural discipline of individual participants in the proceedings, formal nature of judicial control, the insufficient effectiveness of the activities of the Bar and the Prosecutor's Office in the field of combating abuse).

Socio-psychological factors include desire of participants in the procedure, primarily the defense, to avoid criminal liability in any way, the use of abuse as a tactical tool to counter the prosecution, as well as widespread distrust of the objectivity and impartiality of pre-trial investigation bodies and the court. An important determinant is the criminogenic situation, characterized by a high level of organization of criminal groups, their desire to systematically use procedural abuses as an element of the strategy of avoidance of responsibility, as well as corruption ties in law enforcement and judicial bodies, which actually legitimize or conceal such practices [14].

Within the framework of this research, we propose to refer to the classification of abuse of procedural rights and powers that takes into account the peculiarities of modern judicial practice, national and international experience, as well as the results of empirical analysis.

Classification of abuse of procedural rights and powers

According to *abuse subject*, they are divided into committed:

1) by defense, namely: numerous similar complaints, repeated disqualifications, regular change of defenders, delaying familiarization with the content (q.v. decision of the High Anti-Corruption Court dated November 20, 2024 in case No. 991/9167/24 [15]);
2) by prosecution: failure to provide timely access to the investigation materials;
3) other participants in the procedure (victim, civil plaintiff, witnesses);
4) by court: systemic postponement of consideration of the case, excessive formalism.

For abuse *purpose* , they are related to the following:

1) delaying consideration of the case;
2) manipulation of evidence or procedural mechanisms (*see* the decision of the Criminal Cassation Court (hereinafter referred to as the *CCC*) of the Supreme Court dated on 11.05.2021 in case No. 554/726/17 [16]);
3) discrediting or biasing composition of the court or the investigating body;
4) repeated appeal of the issues already resolved (*see* the decision of the CCC of the Supreme Court dated on 14.12.2023 in case No. 296/3509/23 [17]).

Abuse consequences negatively affect the following:

1) terms of consideration of the case (for example, an abuse is the filing of a petition to change the seventh defender) [18];
2) compliance with the principle of equality of arms;

14 Удалова Л. Д., Хабло О. Ю. Зловживання у сфері кримінального процесу : монографія. Київ, 2010. 176 с. URL: https://elar.navs.edu.ua/server/api/core/bitstreams/5274299e-57fe-4eaf-a820-a2b1ff8e900c/content (date accessed: 10.08.2025) ; Луспеник Д. Д. Зловживання процесуальними правами: законодавча регламентація, способи виявлення та шляхи протидії. *Часопис цивільного і кримінального судочинства*. 2015. № 6 (27). С. 150—156. URL: http://nbuv.gov.ua/UJRN/Chcks_2015_6_12 (date accessed: 10.08.2025).

15 Ухвала ВАКС від 20.11.2024 р. Справа № 991/9167/24. Провадж. № 1-кп/991/103/24 / ЄДРСР : вебсайт. URL: https://reyestr.court.gov.ua/Review/123224642 (date accessed: 10.08.2025).

16 Постанова ККС Верховн. Суду від 11.05.2021 р. Справа № 554/726/17. Провадж. № 51-5038км20 / Там само. URL: https://reyestr.court.gov.ua/Review/96978260 (date accessed: 10.08.2025).

17 Те саме від 14.12.2023 р. Справа № 296/3509/23. Провадж. № 51-3497ск23 / Там само. URL: https://reyestr.court.gov.ua/Review/115654586 (date accessed: 10.08.2025).

18 Ухвала Льв. апеляц. суду від 03.12.2021 р. Справа № 305/188/17. Провадж. № 11-кп/811/540/21 / Там само. URL: https://reyestr.court.gov.ua/Review/101708382 (date accessed: 10.08.2025).

3) tangible and intangible expenses of the participants (for experts, etc.);
4) observance of the right to a fair trial (abuse of the right to appeal in order to bypass the principle of legal certainty);
5) reputation of participants or the court (discrediting honor and dignity, insulting statements, public pressure, media campaigns).

The following abuses are determined *by subject matter*:

1) that are detrimental to entire proceedings;
2) institutional ones, aimed at separate mechanisms.

By *nature of actions*, abuse is divided into:

1) Active ones: submission of numerous petitions, complaints, applications;
2) passive ones: inaction, failure to appear, intentional failure to eliminate the shortcomings of appeals.

According to *normative consolidation*, abuse affects:

1) rights or powers expressly provided for by the norm (for example, right to challenge);
2) rights, which exercise is not expressly enshrined, but not prohibited (for example, a long interval between court hearings).

According to *impact degree*, abuses are as follows:

1) that actually impede the proceedings;
2) which only partially affect the consideration;
3) have no significant impact, but entail a risk of destabilization of the procedure.

According to the *stages of criminal proceedings*, abuses include:

1) stage of entering information into the Unified Register of Pre-Trial Investigations;
2) pre-trial investigation time;
3) stage of court proceedings[19].

The proposed classification makes it possible to systematize various manifestations of abuse of rights and powers according to the main criteria: subject, purpose, consequences, subject matter, nature of actions, regulatory basis, degree of influence and stage of the process. This approach not only illustrates the multidimensionality of this phenomenon, but creates the basis for the development of effective mechanisms to prevent abuse in criminal proceedings, respond to them and their legal settlement.

Based on analysis (in particular, forms of abuse), it is possible to identify the determinants of abuse of procedural rights in criminal proceedings, which determine its prevalence and difficulties in counteracting this phenomenon.

Determinants of abuse of procedural rights in criminal proceedings

1. Regulatory ones

1.1. Gaps in criminal procedural legislation (missing in Criminal Procedural Code of Ukraine [20] general basis for prohibiting abuse of rights, al-

19 Match Вознюк О. Л. Зловживання процесуальними правами у кримінальному провадженні : дис. … д-ра філос. в галузі права. Київ, 2025. 240 с. URL: https://elar.navs.edu.ua/server/api/core/bitstreams/def0bfc2-5814-4c68-8077-6249c1134010/content (date accessed: 10.08.2025).

20 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та доп.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

though it is enshrined in other areas of the procedure).

1.2. Unclearness of certain legal constructions (for example, the term "procrastination" in Art. 290 of Criminal Procedural Code of Ukraine[21]) that creates conditions for manipulation.

1.3. Formal legality of actions (law does not always provide for legal consequences of unfair behavior of the parties).

2. Subjective-behavioral ones

2.1. Intentional nature of actions: abuse is always the result of a conscious choice of the party in order to create obstacles.

2.2. Discretion of the subject: availability of wide discretion in the application of the granted rights makes it possible to apply them for other purposes.

2.3. Tactical and strategic motivation is the desire of a party to gain an advantage in the procedure by delaying the proceedings, creating artificial obstacles or putting pressure on the other party.

3. Institutional and organizational ones

3.1. Insufficient effectiveness of judicial control (courts do not always use procedural safeguards to balance the rights of the parties).

3.2. Corruption risks: possibility of using abuses as a tool for manipulating the results of proceedings.

3.3. Lack of disciplinary consequences for lawyers or other participants who systematically resort to abuse.

4. Socio-psychological ones

4.1. Behavioral deviations (for example, barratry (from Latin, *querulus*: one who complains), which manifests itself in the pathological need to go to court and participate in the procedure).

4.2. Low level of legal culture of participants in the procedure: use of procedural rights as an instrument of pressure or manipulation instead of implementing their purpose.

4.3. Conflict of the criminal procedure is opposition of the defense and the prosecution, which stimulates the search for tactical "weaknesses" in the procedure.

5. Practical and applied ones

5.1. Availability of a wide range of procedural opportunities (right to familiarize oneself with the materials, to replace a defender, repeated challenges, petitions, etc.) that can be used as countermeasures.

5.2. Imperfection of prevention mechanisms: lack of clear procedures for recognizing actions as abuses and immediate response to.

5.3. International influence is the practice of the European Court of Human Rights (hereinafter referred to as the *ECHR*), according to which a balance should be struck between the right to protection and the inadmissibility of procedural sabotage, but that at the same time complicates law enforcement.

Thus, determinants of abuse of rights combine regulatory gaps, deliberate tactical actions of the parties, organizational weaknesses of judicial control, socio-psychological factors and practical opportunities for manipulation. Their interaction forms the prerequisites for the spread of procedural sabotage and the delay of criminal proceedings.

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

For summarizing the above: essence of abuse of procedural rights in criminal proceedings is the deliberate and unfair use by participants of the procedure of the rights granted to them by law in a way that contradicts the intended purpose of these rights and causes artificial obstacles to the effective and fair consideration of the case. Such abuse is often embodied in delaying the procedure, complicating the access of other participants to the exercise of their rights, overloading the court or misleading the prosecution and the court. In the scientific literature, this phenomenon is sometimes defined by the term "procedural sabotage", which emphasizes its destructive, rather than human rights character.

At the same time, the problem raised is multidimensional: on the one hand, the lack of a clear normative consolidation of the prohibition of abuse of procedural rights in the Criminal Procedural Code of Ukraine creates opportunities for the widespread application of such practices; on the other hand, the practice of the ECHR and the positions of the CCC of the Supreme Court actually extrapolate the general legal principle of the prohibition of abuse of law in the field of criminal proceedings [22].

The determinants of abuse of procedural rights can be conditionally grouped into several groups:

1) *Legal ones:* imperfection of legislation, the presence of gaps and contradictions in the Criminal Procedural Code of Ukraine, lack of a clear definition of the concept of: *abuse of procedural rights* and the corresponding legal consequences;
2) *organizational and institutional* ones: formal nature of judicial control, insufficient effectiveness of the response of the prosecutor and the court to cases of procedural sabotage, low level of procedural discipline;
3) *socio-psychological* ones: the desire of the defense to avoid criminal liability in any way, the use of tactical maneuvers to delay the procedure, distrust of objectivity of the investigative and judicial bodies;
4) *criminogenic* ones: active participation of organized criminal groups that use procedural mechanisms to protect their members from liability; corruption ties that actually legitimize abuse.

Thereby the abuse of procedural rights in criminal proceedings is a special form of illegal behavior, which, while remaining within formal limits of the law, undermines the principles of fair trial and contradicts the principle of the rule of law. Identification of its determinants indicates that counteraction to any manifestations of abuse is possible only through a comprehensive approach: improving criminal procedural legislation, increasing the level of judicial control and developing a sustainable practice of responding to procedural sabotage, taking into account the ECHR standards.

Thus, abuse of procedural rights in criminal proceedings should be considered as a complex multi-pronged phenomenon, the essence of which is to use legal opportunities for illegal purposes, and the determinants cover both intra-system shortcomings of criminal procedural legislation and the organization of proceedings, as well as broader socio-psychological and criminogenic factors that form the conditions for the spread of such negative practices.

22 Розумовський О. Зловживання процесуальними правами за чинним кримінальним процесуальним законодавством України. *Підприємництво, господарство і право*. 2021. № 4. С. 250. DOI: 10.32849/2663-5313/2021.4.38 (date accessed: 10.08.2025).

Conclusions

The performed research suggests that counteraction to the investigation and abuse of procedural rights are interrelated by multiple phenomena that significantly affect the effectiveness of criminal proceedings. Their common feature is the use of procedural opportunities not to achieve a legitimate goal, but to create artificial obstacles in finding out the truth, which undermines the principles of the rule of law, competitiveness and reasonableness of the terms of consideration of the case.

It has been determined that these phenomena are complex in nature and are caused by the following determinants:

- *regulatory and legal ones:* gaps and contradictions in the legislation, lack of a clear prohibition of abuse of procedural rights;
- *organizational and institutional ones*: low level of procedural discipline, formal nature of judicial control, corruption risks;
- *Socio-psychological ones:* the desire to avoid criminal liability in any way, the use of tactical maneuvers to delay the process, distrust of objectivity of the investigative and judicial bodies;
- *criminogenic ones*: the participation of organized criminal groups, their resources and connections that systematize and strengthen counteraction;
- *Technological ones*: digital tools for concealing or distorting evidence, manipulating data and communications.

Important scientific result is finding that counteraction to the investigation and abuse of procedural rights are not chaotic or random phenomena. They have their own internal logic, formed under influence of a complex of determinants and implemented in various forms from episodic actions to the systemic activities of organized criminal structures.

Consideration of identified factors is essential for improving methodology for investigating criminal offenses, developing algorithms for neutralizing counteraction to investigation and procedural abuses, as well as for the formation of effective legal mechanisms for preventing these phenomena. Solving the problem raised requires a comprehensive approach, which should be based on improving the criminal procedural legislation, increasing the effectiveness of judicial control, as well as developing sustainable judicial practice that will ensure a balance between the right to protection and inadmissibility of application of procedural rights as an instrument of counteraction to justice.

Детермінація протидії розслідуванню та зловживання процесуальними правами

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Мета статті — визначити передумови й закономірності виникнення та розвитку таких явищ, як протидія розслідуванню і зловживання правами у правозастосовній діяльності, а також їхні ознаки. Реалізацію поставленої мети забезпечено завдяки застосуванню комплексу загальнонаукових, спеціальних і філософських методів дослідження (зокрема, моделювання, діалектичного, системно-структурного й порівняльного аналізу). Узагальнено, що протидія розслідуванню є складним, динамічним і багатоаспектним явищем, яке формується в умовах кримінального конфлікту та виявляється у цілеспрямованій поведінці *осіб, зацікавлених у приховуванні фактичних обставин кримінального правопорушення. Її діяльнісний бік полягає у вчиненні як активних, так і пасивних дій, що впливають на перебіг та результати досудового розслідування. З'ясовано, що протидія не має хаотичного характеру, її здійснюють у межах певного механізму, який містить три етапи: 1) підготовка, 2) активна реалізація впливу на джерела доказової інформації та 3) приховування слідів учинених дій. Водночас механізм протидії є варіативним і залежить від стадії кримінального провадження, обраних тактичних прийомів та наявності корупційних, організаційних і соціальних зв'язків. Обґрунтовано, що структурними компонентами криміналістичної характеристики протидії розслідуванню є: 1) суб'єкти протидії, їхні мотиви й об'єкти впливу; 2) типові форми та способи протидії і їхній вплив на джерела доказової інформації; 3) ознаки застосування конкретних способів, відображені у предметному середовищі й поведінці суб'єктів. Доведено доцільність вивчення саме зовнішніх виявів протидії (матеріальних, цифрових та ідеальних слідів), оскільки вони є головним джерелом для моделювання механізмів злочинної протидії і вироблення ефективних тактичних рішень. З'ясовано, що протидія розслідуванню має конфліктну природу, яка виявляється у зіткненні протилежних цілей учасників кримінального провадження. Це не лише конфлікт між слідчим і підозрюваним, а й взаємодія з прокурором, свідками, понятими, експертами та іншими учасниками процесу. Таке середовище формує напружену слідчу ситуацію, яка потребує від слідчого високого рівня професійної адаптивності. Особливо небезпечною є протидія в умовах організованої злочинної діяльності, яка характеризується наявністю внутрішньої структури, фінансових ресурсів, технічного забезпечення та кадрової підтримки. Доведено, що криміналістична характеристика протидії розслідуванню має бути інтегрована як окремий компонент у структуру методики розслідування тих видів кримінальних правопорушень, для яких є характерною активна протидія. Такий підхід має ґрунтуватися на: 1) аналізуванні типових способів і механізмів протидії; 2) дослідженні суб'єктно-рольової структури протидії; 3) вивченні змін у слідовому комплексі, зумовлених цілеспрямованим впливом на докази.*

Ключові слова: *досудове розслідування; протидія розслідуванню; слідча діяльність; подолання протидії розслідуванню; зловживання правами; детермінанти.*

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Declaration of Competing Interest

Authors declare no competing interests

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

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

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

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

Research Problem Formulation

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

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

Article Purpose

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

Research Methods

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

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

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

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

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

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

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

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

Analysis of Essential Researches and Publications

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

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

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

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

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

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

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

Main Content Presentation

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

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

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

7 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та доп.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

relevant documents, his/her functional duties and other components of the legal status due to the position;

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

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

Let us detail the above list and outline the circumstances that may be important for the investigation that should become part of investigation methods:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusions

Performed research allows to make a number of important generalizations.

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

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

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

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

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

Євген Суп

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

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

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Declaration of Competing Interest

Author declares no conflict of interest.

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Forensic classification of criminal offenses committed in the field of professional legal assistance

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This article purpose is to develop a classification of criminal offenses committed in the field of professional legal assistance based on criminal law and forensic criteria. For achieving this goal, a complex of general scientific (analysis and synthesis, induction and deduction) and special (dialectical, system-structural, comparative law, generalization) methods of scientific knowledge was used. It is proven that forensic classification of criminal offenses is one of leading tools of scientific knowledge and practical organization of investigations. It not only classifies criminal offenses by essential specifics, but creates the basis for development of individual forensic investigation methods of various levels of generalization. Generalization of scientific approaches demonstrates diversity of criteria for classifying criminal offenses against justice: from determining offense object and identity of the offender to taking into account the methods of commission and consequences. At the same time, none of the presented approaches fully covered criminal offenses that encroach on the scope of professional legal assistance and therefore their classification. It was this gap that became the basis for developing the author's forensic classification of this group of criminal offenses. The proposed approach involves identifying the following main criteria:

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object of the criminal offense and the specifics of encroachment subject, subject of the criminal offense, method and circumstances of its commission, consequences and the tools (means) used. This made possible to identify offenses against the life and health of lawyers, crimes that encroach on the safety and freedom of their activities, property encroachments, as well as actions aimed at violating the guarantees of independence of legal profession and the confidentiality of professional activities. The developed forensic classification not only fills the existing gap in science, but also has practical significance. It creates a basis for developing specific investigation methods, optimizing the planning of pre-trial investigation, forming tactical techniques and predicting the behavior of criminals. In addition, its application will contribute to strengthening the guarantees of independence of the legal profession, increasing the effectiveness of the protection of individual rights and confidence in the justice system.

Keywords: *criminal offense; forensic classification; justice; legal assistance; crime mechanism.*

Research Problem Formulation

Institution of professional legal aid is one of the leading principles of the functioning of a democratic state based on the rule of law, since it contributes to the implementation of basic human rights to protection and a fair trial. Effectiveness of the activities of lawyers, prosecutors and other specialists directly determines the reality of access to justice. However, current trends indicate an increase in the number of abuses in this area, when legal instruments are used not for their intended purpose, but for illegal purpose. The danger lies both in the criminal actions of the entities themselves that provide legal aid and in manipulations or attempts to discredit this institution by other persons. Such offenses have particularly destructive consequences, since they undermine public trust in the legal community, which is traditionally the guarantor of justice. The negative result is not only the loss of authority of individual lawyers, but also in the creation of a threat to legal system legitimacy as a whole.

Investigation of such criminal offenses is extremely complex. It requires a combination of two contradictory tasks: ensuring procedural guarantees, respect for legal secrecy, the rights and freedoms of participants in the proceedings and at the same time the effectiveness of criminal prosecution. In addition to practical difficulties, many conceptual legal problems arise. The contradictions between the provisions of the Criminal Code, Criminal Procedural Code and special legislation (in particular, Law of Ukraine: On the Bar and Legal Practice) complicate the qualification of acts, the procedure for collecting evidence and determining the procedural status of participants.

An additional factor complicating the situation is the imperfection of the mechanisms of disciplinary responsibility, the weak effectiveness of internal control in lawyers' associations and the formalism in responding to ethical violations. This creates a favorable basis for the spread of corrupt practices and the depreciation of protective function of legal profession.

In the context of Ukraine European integration course, implementation of European standards that combine guarantees of the independence of the legal profession with clear mechanisms for controlling the quality of legal aid is of particular importance. In this context, the development of a comprehensive concept for the detection, investigation, and prevention of crimes in the field of professional legal practice is not only an urgent scientific task but also a necessary prerequisite for strengthening trust in justice, ensuring the rule of law, and stabilizing the democratic institutions of the State.

In scientific literature, sufficient attention has not yet been paid to criminal offenses in the field of professional legal assistance that actualizes the need for their study. Our attention is drawn to of their classification issues, since it is the classification method that is one of the basic in forensic science: it makes possible to organize variety of criminal offenses and create a systematic basis for the construction of forensic investigation techniques. Its application provides ability to identify typical features of crimes, identify their common and distinctive features which in turn contributes to development of differentiated practical recommendations.

Application of the classification method in forensic science has a double meaning: 1) theoretical one (it helps to structure scientific knowledge about the laws of criminal activity and ensures consistency of forensic research); 2) practical one (thanks to such classification, it is possible to outline prospects for development of certain forensic techniques). This once again confirms relevance of the chosen issue.

Article Purpose

Develop a classification of criminal offenses committed in the field of professional legal assistance based on criminal law and forensic criteria.

Research Methods

For achieving this goal, a set of general scientific and special methods of scientific knowledge was used. General scientific research includes analysis and synthesis, induction and deduction that provided an in-depth study of the specifics of criminal offenses against justice and the formation of holistic scientific conclusions. The dialectical, system-structural, comparative-legal and generalization methods became special methods.

Dialectical method made possible to reveal the essence of criminal offenses committed by professional participants in the proceedings, to reveal their objective and subjective conditionality, to trace correlation between the legal, forensic and social aspects of these crimes.

The system-structural method is used to identify forensically significant criteria (commission method, situation, identity of the offender and the victim, consequences), to determine their place in the general system of crimes against justice, as well as to structure classification approaches in science.

Formal logical methods are analysis, synthesis, induction and deduction that became useful for studying the composition and characteristics of criminal offenses of investigated group, identifying their common and distinctive features. The analysis helped to determine the individual characteristics of each type of offense, synthesis — to integrate the acquired knowledge into a single system, induction — to form general provisions based on the study of individual examples, deduction — to test them in practice.

Comparative legal method was used to compare domestic approaches to the classification of crimes against justice, to determine the location of offenses committed by professional participants in the proceedings in general system of criminal law and forensic research.

Generalization method made possible to formulate conclusions on the scientific novelty and practical significance of the proposed forensic classification of offenses, to develop recommendations for improving methodology of their investigation and further development of forensic theory in the field of justice protection.

Analysis of Essential Researches and Publications

Recently, scientists have been paying close attention to the forensic classification of criminal offenses of certain groups and types. This is a classification of war crimes [1], criminal offenses in the field of economic activity [2] and in the cyber field [3], against justice [4], etc.

In the development of doctrinal provisions in the aspect of forensic classification of crimes, the developments of O. Kolesnichenko [5], V. Zhuravel [6], V. Tish-

1 Пчеліна О. В., Пчелін В. Б. Криміналістична класифікація воєнних злочинів. *Сучасні тенденції розвитку криміналістики та кримінального процесу в умовах воєнного стану* : тези доп. Міжнар. наук.-практ. конф. (Харків, 25.11.2022). Харків, 2022. С. 334—338. URL: https://files.znu.edu.ua/files/Bibliobooks/Inshi71/0052090.pdf (date accessed: 30.07.2025).

2 Степанюк Р. Л. Криміналістична класифікація злочинів, що вчиняються в бюджетній сфері України. *Вісник Харківського національного університету внутрішніх справ.* 2010. № 4 (51). Ч. 1. С. 175—180. URL: http://nbuv.gov.ua/UJRN/VKhnuvs_2010_4%281%29__24 (date accessed: 30.07.2025) ; Тюлєнєв С. А. Криміналістична класифікація злочинів і кримінальних проступків, пов'язаних із протиправними посяганнями на активи суб'єктів господарювання. *Там само*. 2024. № 3 (106). С. 235—246. DOI: 10.32631/v.2024.3.20 (date accessed: 30.07.2025) ; Усатий В. О. Криміналістична класифікація кримінальних правопорушень у сфері господарської діяльності. *Там само*. № 4 (107). С. 220—230. DOI: 10.32631/v.2024.4.20 (date accessed: 30.07.2025).

3 Самойленко О. А. Криміналістична класифікація злочинів, вчинених із використанням обстановки кіберпростіру. *Науковий вісник Ужгородського національного університету. Серія: Право.* 2018. Вип. 49. Т. 2. С. 162—166. URL: https://surl.li/itbotk (date accessed: 29.07.2025).

4 Книженко С. О. Криміналістична класифікація злочинів проти правосуддя. *Право і Безпека*. 2013. № 1 (48). С. 113—118. URL: https://surl.li/mblrhk (date accessed: 29.07.2025) ; Романаускас К. А. Основи методики розслідування надання завідомо неправдивих показань свідком і потерпілим : монографія / за заг. ред. д-ра юрид. наук, проф. В. О. Гусєвої. Харків, 2024. 203 с. ; Гриценко В. В. Криміналістична класифікація кримінальних правопорушень проти правосуддя. *Вісник Кримінологічної асоціації України.* 2024. № 3 (33). С. 256—266. DOI: 10.32631/vca.2024.3.22 (date accessed: 30.07.2025).

5 Колесниченко А. Н. Общие положения методики расследования отдельных видов преступлений : текст лекц. Харьков, 1976. 28 с.

6 Журавель В. А. Криміналістичні методики: сучасні наукові концепції : монографія. Харків, 2012. 302 с.

chenko [7], V. Shevchuk [8], V. Shepitko [9], B. Shchur, [10] and others should be noted.

Authors emphasize important conceptual approaches in the context of the problem of criminalistic classification of criminal offenses. According to the positions of scientists, classification is a fundamental tool of scientific knowledge, since it makes it possible to organize objects, phenomena or processes according to their common properties, distinguishing essential specifics and grouping them into a class system. In criminalistics, the classification method is of particular importance, since it is thanks to it that an integral system of concepts and categories describing crime as an object of research is built. It creates the basis for the development of practical recommendations, the formation of investigative techniques and provides a single terminological basis for science and practice [11].

Since criminal offenses are the subject of study for a number of sciences of the criminal legal cycle, each of them forms its own classification (taking into account the specifics of its tasks). For forensic science, it is important to apply data from related sciences, but forensic classification does not compete with criminal law or criminology, but complements them, providing a deeper study of the object, taking into account the patterns of detection, investigation and evidence [12].

In practice, forensic classification is crucial to the development of investigative techniques. Each corpus delicti is characterized by a number of its own characteristics, which causes differences in forensic characteristics, circumstances to be established, and tactics at the initial and subsequent stages of the investigation.

Given importance of forensic classification of criminal offenses in both theoretical and practical aspects, we consider it necessary to develop a classification of criminal offenses committed in the field of professional legal assistance.

7 Тіщенко В. В. Теоретичні і практичні основи методики розслідування злочинів : монографія. Одеса, 2007. 260 с.

8 Шевчук В. Криміналістична характеристика злочинів: «криміналістичний пережиток» чи реально діюча категорія криміналістики. *Правничий часопис Донецького університету.* 2003. № 1 (9). С. 59—66. URL: https://dspace.nlu.edu.ua/bitstream/123456789/17704/1/Shevchuk_62-66.pdf (date accessed: 29.07.2025).

9 Шепітько В. Ю., Коновалова В. О., Журавель В. А. та ін. Криміналістика : підручник / за ред. проф. В. Ю. Шепітька. 4-те вид., перероб. і допов. Харків, 2008. 464 с. URL: https://law.sspu.edu.ua/files/documents/books/library/17/shepitko.pdf (date accessed: 30.07.2025).

10 Щур Б. В. Теоретичні основи формування та застосування криміналістичних методик : дис. ... д-ра юрид. наук. Харків, 2011. 319 с. URL: https://uacademic.info/ua/document/0511U000327 (date accessed: 29.07.2025).

11 Гусєва В. О. Криміналістична класифікація злочинів: наукове та qпрактичне значення. *Правові горизонти.* 2019. № 16. С. 69—75. DOI: 10.21272/legalhorizons.2019.i16.p:69 (date accessed: 29.07.2025) ; Пчеліна О. В. Криміналістична класифікація злочинів. *Право і суспільство.* 2014. № 6-1. Ч. 2. С. 304—309. URL: https://dspace.univd.edu.ua/entities/publication/39e0d8c2-439f-4153-b777-e2b942279b29 (date accessed: 29.07.2025) ; Тіщенко В. В. Зазнач. твір. С. 44.

12 Кривоченко Л. М. Класифікація злочинів за ступенем тяжкості у Кримінальному кодексі України : монографія. Київ, 2010. 120 с. ; Щур Б. В. Криміналістична класифікація злочинів: співвідношення із суміжними поняттями. *Науковий вісник Львівського державного університету внутрішніх справ. Серія юридична.* 2010. № 2. С. 337—345.

Main Content Presentation

Modern science recognizes several approaches to the construction of forensic classifications of criminal offenses: 1) focusing exclusively on criminal law grounds, 2) distinguishing purely forensic criteria, or 3) combining both approaches. The most productive is the combined approach taking into account both the normative characteristics of the crime and forensic factors (the method and mechanism of commission, the identity of the offender, the situation, the trace picture, etc.). However, this does not mean that while developing a forensic classification, criminal law criteria can be neglected.

In the science of criminal law, the problem of systematization of crimes against justice has repeatedly become the subject of attention of researchers who have proposed various options for their classification. Thus, S. Kuzmin, analyzing the corpus delicti provided for in Sec. XVIII: *Criminal offenses against justice* of Criminal Code of Ukraine, proposed to unite these offenses into two rather independent groups. The first will cover crimes committed by officials? namely: representatives of public authorities. The second will contain acts committed by other entities that do not have power status [13].

A more detailed approach was proposed by M. Khavronyuk, who, taking into account the peculiarities of the subject of the crime, identified four subgroups of offenses:

1) crimes committed by officials who directly carry out or ensure the functioning of justice (Articles 371-374, 376-1, 380-381-1, Part 2 of Article 387 of the Criminal Code of Ukraine [14]);
2) crimes committed by convicts or persons in custody (Articles: 389, 389-1, 390-395 of Criminal Code of Ukraine);
3) crimes committed by other participants in criminal proceedings (Articles: 383-385, Part 1 of Article 387 of Criminal Code of Ukraine);
4) crimes committed by unauthorized persons who do not participate in the criminal process (Articles 376-379, 382, 386, 388, 396-400 of Criminal Code of Ukraine) [15].

This approach of M. Khavroniuk was supported by scientists, since its logic and complexity contributed to its wide application in further research and scientific literature.

M. Bazhanov proposed his own classification, based on the criteria of unity of direct objects of criminal law protection and relevant legal relations. The scientist identified three blocks:

1) crimes that impede the proper work of the bodies of inquiry, investigation and prosecution in the field of criminal proceedings;
2) crimes that complicate the implementation of justice by the courts;
3) crimes that encroach on the activities of the bodies responsible for the execution of sentences, decisions and punishments [16].

13 Кузьмін С. А. Іноземець як спеціальний суб’єкт злочинів проти правосуддя. *Вісник прокуратури*. 2009. № 5. С. 61.

14 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: 29.07.2025).

15 Дудоров О. О., Хавронюк М. І. Кримінальне право : навч. посіб. / за заг. ред. М. І. Хавронюка. Київ, 2014. 944 с. URL: https://surli.cc/hejgvw (date accessed: 29.07.2025).

16 Бажанов М. І. Злочини проти правосуддя : консп. лекц. Харків, 1996. 28 с.

In further research papers, the scientist expanded this approach, emphasizing the need to take into account not only the object itself, but the provisions of the Constitution of Ukraine. In the final version, its systematization covered crimes that encroach on legal relations:

- guaranteeing compliance with the constitutional principles in the activities of pre-trial investigation bodies, the prosecutor's office and the court;
- ensuring life protection, honor and dignity of judges and people's assessors;
- aimed at ensuring the receipt of reliable evidence and truthful conclusions in criminal proceedings;
- ensuring the timely detection and cessation of crimes;
- which guarantying the actual execution of sentences, court decisions and sentences [17].

V. Tiutiuhin, creating his own forensic classification of crimes against justice, took into account what social relations in the field of justice are aimed at illegal encroachments and in addition, at peculiarities of the objective side of these acts and characteristics of the subjects who commit them. Based on the following criteria, the scientist identified the following subgroups of crimes:

- undermining implementation of constitutional principles of functioning of justice (Articles: 371, 372, 374, 376, 376-1, 397 of Criminal Code of Ukraine);
- encroaching on the life, health, property and personal inviolability of judges, people's assessors, jurors and other participants in the trial (Articles: 377-379, 398-400 of the Criminal Code of Ukraine);
- impeding the receipt of reliable evidence and the formation of truthful conclusions during court proceedings (Articles: 373, 383-386 of Criminal Code of Ukraine);
- aimed at creating obstacles to the timely detection and termination of criminal offenses (Articles: 380, 381, 387, 395, 396 of Criminal Code of Ukraine);
- relating to non-enforcement of court decisions or evasion of measures of influence provided for by the court (Articles: 382, 388-394 of Criminal Code of Ukraine) [18].

In turn, M. Shepitko, summarizing the work of his predecessors, substantiated the expediency of distinguishing several groups of crimes against justice. In his opinion, these include the following crimes:

- encroaching on public relations that ensure the implementation of constitutional principles in the activities of the pre-trial investigation, the prosecutor's office and the court (Articles: 371, 372, 374, 376, 376-1, 397 of Criminal Code of Ukraine);
- undermining relations that guarantee a full, objective and impartial investigation of the circumstances of the case (Articles: 373, 383-386 of Criminal Code of Ukraine);
- aimed at: 1) obtaining reliable information about the crime and proper evidence by the investigating authorities in order to clarify the truth in the criminal case; 2) ensuring

17 Бажанов М. І. Зазнач. твір. С. 7—8.

18 Тютюгін В. І. Злочини проти правосуддя. *Вісник Асоціації кримінального права України*. 2017. Т. 1. № 8. С. 258—262. DOI: 10.21564/2311-9640.2017.8.166691 (date accessed: 29.07.2025).

compliance with procedural procedure for collecting evidence, as well as timely detection and cessation of criminal activity in the field of criminal justice;

- related to non-enforcement of court decisions (Articles: 382, 388-389-1 of Criminal Code of Ukraine) that encroach on public relations, designed to guarantee proper execution of court decisions;
- encroaching on the normal activities of correctional institutions and violate the procedure for enforcing sentences (Articles 390-393 of Criminal Code of Ukraine) [19].

Consequently, for most scientists, the object of a criminal offense, the peculiarities of the subject of encroachment are decisive for classification.

Forensic scientists went further. In particular, S. Knizhenko, who systematically studies the problems of combating crime in the field of justice, in her classification proceeded from a set of such criteria: offender characteristics and the characteristics of the victims, method of crime committing, its motives and consequences. Based on this, the author identified six groups of crimes against justice:

1) related to violence or damage (destruction) of property of persons whose activities are directly related to justice administration. Characteristic specifics of this group are the use of physical influence or causing material damage, regardless of the age, gender or social status of the offender; consequences causing damage to health or material damage to victims;
2) committed by judges, law enforcement officers or other authorized entities by violating the agreed procedure for the implementation or provision of justice. Victims here are participants in the criminal process or persons who contribute to its implementation and consequences are illegal restriction of freedom, harm to health or even deprivation of life;
3) committed by convicted persons or persons in custody due to violation of conditions of serving a sentence or the rules of detention. Such acts make it impossible to effectively execute a sentence or compulsory treatment measures;
4) related to illegal interference in the activities of the judiciary or influence on the participants in the proceedings. The peculiarity of these offenses is that their subjects are not professional participants in justice, but their activities complicate the achievement of the purpose of criminal proceedings. For the most part, the way they are committed is not associated with violence or property encroachments, and the motives are limited to obstructing clarification of the truth;
5) committed by witnesses, victims or other persons who are supposed to contribute to justice, but on the contrary, impede the establishment of the factual circumstances in the case. Such crimes are grouped primarily by the person of the offender and the method of encroachment, and their motives and consequences may be different from the desire to avoid responsibility to concealment of criminal activity;

19 Шепітько М. В. Теоретико-методологічні засади формування системи протидії злочинам у сфері правосуддя : дис. ... д-ра юрид. наук. Харків, 2018. С. 297—298. URL: https://uacademic.info/ua/document/0518U000802 (date accessed: 29.07.2025).

6) related to non-enforcement of court decisions. The criteria are the object of encroachment (authority of justice, binding nature of court decisions) and the method of committing evasion from the execution of legal acts. The subjects of such acts may be both officials and private individuals, who are obliged to comply with the court decision [20].

In view of the above, it can be concluded that the proposed classification (although it covers the main types of crimes against justice) does not always reflect the systematicity of the criteria and leaves room for improvement. That is why we consider it appropriate to develop an author's classification of criminal offenses against justice, which would combine the doctrinal developments of criminal law with the practical needs of criminalistics.

Another author who has studied the issue of forensic classification of criminal offenses against justice is V. Hrytsenko. He emphasizes that determining criterion for forensic classification of criminal offenses against justice cannot be considered only the method of their commission, since such acts are implemented both through active actions and through inaction (typical example is non-execution of a court decision). Given this and based on the concept of an axiological approach, the scientist proposes to base the systematization of such crimes on three main criteria: 1) social benefits and interests that are harmed by the commission of these crimes; 2) specificity of victims of these criminal offenses; 3) characteristics of the criminal's personality that determine socially dangerous content of his behavior. Therefore, in his classification, V. Hrytsenko proposes to distinguish the following groups of criminal offenses against justice:

- encroachment on the legitimate activities of entities that carry out or ensure the functioning of justice, in particular, on their lives, health and property rights (Articles: 376-379, 397-400 of Criminal Code of Ukraine);
- acts committed by officials who are directly involved in the administration of justice, ensure its implementation or are obliged to facilitate its implementation. These are crimes under Articles: 371-374, 380, 381, 384, 385, 387 of Criminal Code of Ukraine;
- criminal offenses of non-enforcement of court decisions by persons who must implement them or in respect of whom they are adopted (Articles: 382, 388-391, 393-395 of Criminal Code of Ukraine);
- crimes characteristic of persons with manifestations of legal nihilism, who, aware of the content of legislative requirements, deliberately resort to illegal actions aimed at obstructing justice (Articles: 383, 386, 392, 396, 400-1 of the Criminal Code of Ukraine). In addition, the researcher emphasizes that other forensically significant factors can be used as auxiliary classification criteria: the situation of the act, the specific way of its implementation, the tools and technical means used, etc. [21]

Another author, Ye. Sup, based on a combination of criminal law characteristics and forensic features, proposed his own system of classification of criminal offenses against justice. He distinguished

20 Книженко С. О. Зазнач. твір.

21 Гриценко В. В. Зазнач. твір. DOI: 10.32631/vca.2024.3.22 (date accessed: 30.07.2025).

three large categories of such acts: basic, related and concomitant. We consider his approach to be quite balanced and appropriate for systematizing crimes depending on the gravity of illegal actions in a specific area of public life. According to his approach, basic criminal offenses are the main core of the mechanism of illegal activity. This category covers the most common acts that determine the main direction of criminal behavior of individuals or groups and ensure the achievement of the main criminal goal. These include, first of all, criminal misdemeanors and non-serious crimes, in particular: failure to execute court decisions (Article 382 of Criminal Code of Ukraine); knowingly false reporting of a crime (Article 383 of Criminal Code of Ukraine); misleading a court or other authorized body (Article 384 of the Criminal Code of Ukraine); evading punishment not related to deprivation of liberty (Article 389 of Criminal Code of Ukraine); failure to comply with orders or programs for offenders (Article 390-1 of Criminal Code of Ukraine); violation of the rules of administrative supervision (Article 395 of the Criminal Code of Ukraine) [22]. Common feature of these acts is their mass presence in the criminal mechanism, which undermines the achievement of the main tasks of justice - establishing the truth and the proper execution of court decisions. Commonality of subjects, individual elements of the method and characteristic consequences makes it possible to consider them comprehensively, creating universal methodological approaches, for example, algorithms of actions for investigators during the conduct of individual investigative (detective) measures [23].

Related criminal offenses have a different level of prevalence, but are also aimed at obstructing justice. In the mechanism of illegal activity, they mostly perform an auxiliary function as a means of ensuring the main criminal goal. This category includes: refusal of a witness, expert or translator to perform procedural duties (Article 385 of the Criminal Code of Ukraine); unlawful influence on witnesses, victims or experts (Article 386 of the Criminal Code of Ukraine); illegal actions with arrested or pledged property (Article 388 of the Criminal Code of Ukraine); intentional failure to fulfill an agreement on reconciliation or on admission of guilt (Article 389-1 of the Criminal Code of Ukraine); evasion of administrative penalty in the form of community service (Article 389-2 of the Criminal Code of Ukraine); evasion of punishment in the form of restriction or deprivation of liberty (Article 390 of the Criminal Code of Ukraine); disobedience to the requirements of the administration of a penal institution (Article 391 of the Criminal Code of Ukraine); disorganization of the work of such institutions (Article 392 of the Criminal Code of Ukraine); escape from custody or a place of deprivation of liberty (Article 393 of Criminal Code of Ukraine); escape from a specialized medical institution (Article 94 of Criminal Code of Ukraine); concealment of a crime (Article 396 of Criminal Code of Ukraine) [24]. Despite their lower prevalence, these crimes also pose a threat to the proper administration of justice, as

22 Кримінальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 29.07.2025).

23 Суп Є. Ю. Підходи до криміналістичної класифікації кримінальних правопорушень проти правосуддя. *Архів кримінології та судових наук*. 2024. № 2 (10). С. 138—145. DOI: 10.32353/acfs.10.2024.11 (date accessed: 29.07.2025).

24 Там само.

they complicate the establishment of the truth and the execution of court decisions.

Related criminal offenses are characterized by greater diversity and at the same time a certain similarity to the basic ones, although they have specific criminal-legal and forensic features. This group includes interference in the work of judicial bodies and pressure on participants in the process. These include, in particular, illegal interference in the activities of the court (Article 376 of Criminal Code of Ukraine); threats or violence against judges, jurors or people's assessors (Article 377 of Criminal Code of Ukraine); intentional damage to their property (Article 378 of Criminal Code of Ukraine); encroachment on the life of a judge or assessor (Article 379 of Criminal Code of Ukraine); interference in the work of defense lawyers or representatives of individuals (Article 397 of Criminal Code of Ukraine); violence or threats against them (Article 398 of the Criminal Code of Ukraine); intentional destruction of their property (Article 399 of Criminal Code of Ukraine); encroachment on the life of a lawyer or a representative of a person (Article 400 of Criminal Code of Ukraine); representation in court without proper authority (Article 400-1 of Criminal Code of Ukraine) [25].

As Ye. Sup notes, a special block in the group of criminal offenses, that he studies is formed by those committed by professional participants in the judicial process. These include, in particular, illegal detention or detention (Article 371 of Criminal Code of Ukraine); bringing a knowingly innocent person to justice (Article 372 of Criminal Code of Ukraine); forcing him to give testimony (Article 373 of Criminal Code of Ukraine); violation of the right to defense (Article 374 of Criminal Code of Ukraine); illegal interference in the work of automated systems of judicial bodies (Article 376-1 of Criminal Code of Ukraine); failure to take security measures for persons under protection (Article 380 of the Criminal Code of Ukraine); disclosure of information about security measures for a person under protection or data from a pre-trial investigation (Articles 381, 387 of the Criminal Code of Ukraine). Their specificity lies in the subject: they are mostly investigators, prosecutors, judges, operational officers, that is, specialists who have professional knowledge in the field of criminal procedure. It is this factor that complicates the investigation of such offenses, as it requires high skills from investigators in their detection and recording [26].

It should be noted that, despite best practices of scholars, none of the above approaches focuses on criminal offenses in the field of providing professional legal assistance, although their isolation is also a result of forensic classification. The isolation of this group is due to the need to take into account the holistic system of actions by which the offender realizes his intention, applying or violating legal mechanisms related to the provision of legal services. Criminal offenses primarily include actions aimed at obstructing the lawful professional activities of a lawyer: unlawful interference with the activities of a defense attorney or representative of a person; making threats or using violence against them; intentional damage or destruction of property belonging to a lawyer or representative; encroachment on the lives of such persons. The criminalization of these acts indicates that in the criminal

25 Кримінальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 29.07.2025).

26 Суп Є. Ю. Зазнач. твір. DOI: 10.32353/acfs.10.2024.11 (date accessed: 29.07.2025).

law sphere, a lawyer is recognized as a subject of special legal protection, similar to judges and law enforcement officers.

We consider it is possible to classify criminal offenses in the field of professional legal assistance on the basis of such a characteristic as the object of the crime and the specifics of the subject of the criminal offense. Within the limits of this classification group, one can distinguish offenses against the life and health of a lawyer or a representative of a person; crimes that encroach on the freedom and safety of their professional activities; unlawful actions directed at property; violations of the guarantees of attorney-at-law secrecy and confidentiality. A separate subgroup includes encroachments on the institutional guarantees of the independence of the legal profession manifested in the simulation of legal activity, representation without proper authority, or in collusion with other participants in proceedings.

The subject of the crime is important for the forensic classification of criminal offenses. Offenses can be committed by direct participants in criminal proceedings (suspects, accused, witnesses, victims) who put pressure on the lawyer because of his procedural position; and officials of law enforcement agencies or other state institutions who abuse their official position; and third parties not related to the trial, but interested in obstructing the lawyer activities.

We recognize methods of criminal offense committing as a differentiation criterion. They can manifest themselves both in the form of physical influence (inflicting bodily harm, attempts, use of weapons, etc.) and in the form of psychological pressure (threats, harassment, blackmail, etc.). Property encroachments are also common, implemented through arson of a car, damage to office premises, equipment, etc. A separate group is made up of formal and procedural abuses: simulating advocacy, using forged powers of attorney, creating artificial obstacles to access to a client. Covert methods of influence include surveillance, use of technical means to collect information (in particular, that constitutes attorney-client privilege), and the distribution of compromising materials that reduce the image of a lawyer, humiliate his honor and dignity.

It is important to take into account the situation and place of commission of a criminal offense (both official institutions (courtrooms, prosecutor's offices or office premises of investigative units) and the working (office) premises of the lawyer). They are often performed in domestic conditions: at the place of residence, in transport, in public places. In modern conditions, the number of criminal encroachments in the virtual environment is growing: in social networks, via e-mail, using mobile communications, etc.

An equally important criterion for classification is the consequences of criminal illegal activity: for example, physical harm (causing bodily harm, causing death), material damage (destruction or damage to property, loss of documents), procedural consequences (disruption of court hearings, distortion of evidence, discrediting a lawyer) and socio-psychological effects (undermining authority of the bar, reducing confidence in the justice system, human rights institutions, etc.).

Tools and means of committing criminal offenses also form a separate criterion for systematization. This includes both the use of weapons and improvised items to damage property, as well as technical means of covert surveillance (*GPS*-trackers, voice recorders, cameras), information resources (social networks, media), as well as forged documents.

The proposed grounds for forensic classification make it possible not only to streamline the types of criminal encroachments on lawyers (who act as defenders and representatives) and other participants in the proceedings, but create the basis for the formation of certain specific investigative techniques. This approach ensures the effectiveness of pre-trial investigation planning, helps to predict the behavior of offenders, determine the optimal tactics and develop methodological recommendations for the organization of investigative (search) actions.

Conclusions

Forensic classification of criminal offenses is one of the leading tools of scientific knowledge and practical organization of investigations, since it not only classifies criminal offenses on essential grounds, but creates the basis for the development of separate forensic methods of investigation of different levels of generalization.

Scientists are guided by different criteria for classifying criminal offenses against justice: from determining infringement object and the person of the offender to taking into account the ways of committing and consequences. At the same time, none of the reflected approaches fully covered criminal offenses that encroach on the provision of professional legal assistance and therefore their classification. It was this gap that became the basis for the development of the author's forensic classification of this group of criminal offenses.

We consider it is appropriate to build a criminal classification of criminal offenses in the field of professional legal assistance based on the following criteria: object of the criminal offense and specifics of the of offense subject; specifics of the perpetrator of criminal offense; manner and circumstances of the commission of the criminal offense; the consequences and the instruments (means) used. This makes possible to distinguish criminal offenses against the life and health of lawyers, crimes that infringe on the security and freedom of their activities, property infringements, as well as acts aimed at violating the guarantees of independence of the bar and the confidentiality of professional activities. The developed criminal classification not only fills a gap in science, but has practical significance. It creates a basis for the development of specific investigation methods, optimization of pre-trial investigation planning, formation of tactical techniques, and prediction of criminal behavior. In addition, its application will contribute to strengthening the guarantees of the independence of legal profession, increasing the effectiveness of the protection of individual rights, and generally enhancing confidence in the justice system. Thus, criminal classification is not only a means of systematizing crimes, but practical tool for understanding their patterns, which ensures the effectiveness of methodological recommendations for investigating criminal offenses based on such classification.

Криміналістична класифікація кримінальних правопорушень, учинених у сфері надання професійної правничої допомоги

Крістіна Романаускас

Мета статті — розробити класифікацію кримінальних правопорушень, учинених у сфері надання професійної правничої допомоги на підставі врахування кримінально-правових і криміналістичних критеріїв. Для досягнення поставленої мети застосовано комплекс загальнонаукових (аналіз і синтез, індукція і дедукція) та *спеціальних (діалектичний, системно-структурний, порівняльно-правовий, узагальнення) методів наукового пізнання. Доведено, що криміналістична класифікація кримінальних правопорушень є одним із провідних інструментів наукового пізнання та практичної організації розслідувань. Вона не лише класифікує кримінальні правопорушення за суттєвими ознаками, а й створює підґрунтя для розроблення окремих криміналістичних методик розслідування різного рівня узагальнення. Проведене узагальнення наукових підходів демонструє різноманітність критеріїв класифікації кримінальних правопорушень проти правосуддя: від визначення об'єкта посягання та особи правопорушника до врахування способів учинення та наслідків. Водночас жоден із відображених підходів не охоплював цілком кримінальні правопорушення, що зазіхають на сферу надання професійної правничої допомоги, а отже — і їхню класифікацію. Саме ця прогалина стала підставою для розроблення авторської криміналістичної класифікації цієї групи кримінальних правопорушень. Запропонований нами підхід передбачає виокремлення таких основних критеріїв: об'єкт кримінального правопорушення й особливості предмета посягання, суб'єкт учинення кримінального правопорушення, спосіб та обстановка його вчинення, наслідки та застосовані знаряддя (засоби). Це дало змогу виокремити правопорушення проти життя та здоров'я адвокатів, злочини, що зазіхають на безпеку і свободу їхньої діяльності, майнові зазіхання, а також діяння, спрямовані на порушення гарантій незалежності адвокатури й конфіденційності професійної діяльності. Розроблена криміналістична класифікація не лише заповнює наявну прогалину в науці, а й має практичне значення. Вона створює підґрунтя для розроблення видових методик розслідування, оптимізації планування досудового розслідування, формування тактичних прийомів і прогнозування поведінки злочинців. Окрім того, її застосування сприятиме зміцненню гарантій незалежності адвокатури, підвищенню ефективності захисту прав осіб і довіри до системи правосуддя.*

Ключові слова: *кримінальне правопорушення; криміналістична класифікація; правосуддя; правнича допомога; механізм злочину.*

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Declaration of Competing Interest

Author declares no conflict of interest.

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Formulation and Justification of Questions Posed in Document on Appointment of Forensic Veterinary Examination of Live Animals

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This article purpose is to identify, systematize and substantiate questions raised in the resolution on appointment of forensic veterinary examination of a live animal, and to demonstrate their significance for forensic expert's and court conclusion. For achieving this goal, general scientific and special scientific methods were used, in particular analysis, synthesis, analogy, formal-logical one, logical-grammatical one, logical-legal, system-structural one, abstraction, modeling, and forecasting. The range of questions that can be posed to a forensic veterinary expert when ordering an examination for offenses committed against the health and life of animals is outlined. All questions are conditionally combined into three groups: 1) identification of distinguishing features and physiological specifics of live animal; 2) determining the fact of injury (mechanism, prescription and independence (independence) of formation, consequences for the animal's health, severity, mutilation, type of traumatic instrument, etc.); 3) clarifying the cause-and-effect relationship between the bodily injuries inflicted on the animal and its health disorder; determining traces that indicate its torture, infliction of physical pain and suffering, period of the animal's loss of general economic or special use or full-fledged existence in the environment of a wild or homeless animal, as well as the impact on its health and life of actions related to prolonged deprivation of heat, food, drink and/or keeping it in harmful conditions. Praxeological significance of the research results lies in the fact that a system of

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scientifically based and logically systematized questions has been proposed that can be asked to forensic expert and to which the most complete and well-reasoned answers can be obtained in the optimal time frame.

Keywords: *forensic veterinary examination; investigator resolution; decision of examining magistrate; court decision; question; live animal; pre-trial investigation.*

Research Problem Formulation

The need to establish factual data, circumstances of committing offenses against health and life of animals requires specific expertise involvement, which procedural form is a forensic veterinary examination (hereinafter referred to as FVE) [1], with the help of which identification, diagnostic, situational tasks are solved, and the results are reflected in the expert opinion, which is evidence in court [2]. FVE results can help determine the composition of the offense, its object, time, place and mechanism of the event, as well as instrument and person of the offender.

Totality of circumstances and factual data of criminal proceeding (case) related to bodily injuries inflicted on animal is FVE [3] subject. The author of this article has already outlined a range of questions that can be asked to forensic expert in the case of examining animal corpses [4] or poisoned animals [5], however, up today, the questions that can be asked to a forensic expert in the case of appointing FVE of live animals remain unorganized and unfounded. Thereby development, systematization and substantiation of such questions is relevant, has both theoretical and practical significance in law enforcement activities and FVE.

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Analysis of Essential Researches and Publications

Bodily injuries of animals were studied by [6] Ukrainian and foreign scientists [7].

Currently, research papers lack substantiated questions that can be asked to forensic expert in a procedural document on FVE appointment for live animals that argues for relevance and novelty of our scientific research.

Article Purpose

Identify and justify the questions that can be posed to forensic veterinary expert in a resolution of an authorized person or a court ruling on the appointment of a veterinary expert for live animals and to show their praxeological significance when drawing up expert conclusion.

Research Methods

General scientific and special scientific methods were applied, namely: analysis, synthesis, analogy; formal-logical, logical-grammatical, logical-legal, system-structural, abstraction, modeling, forecasting. The empirical basis of the study was the analysis of expert conclusions based on FVE results of on animal cruelty (70), defects in the provision of veterinary care (3), carried out during 2010-2025.

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7 Peña J. A., Martínez M. A., Peña E. Failure damage mechanical properties of thoracic and abdominal porcine aorta layers and related constitutive modeling: phenomenological and microstructural approach. *Biomechanics and Modeling in Mechanobiology.* 2019. Vol. 18. Pp. 1709—1730. DOI: 10.1007/s10237-019-01170-0 (date accessed: 20.05.2025) ; Johnson K. A. Risks and Outcomes of Equine Flat Bone Fractures. *Veterinary and Comparative Orthopaedics and Traumatology.* 2019. Vol. 32 (4). DOI: 10.1055/s-0039-1693467 (date accessed: 20.05.2025) ; Butterworth S. J. Humeral unicondylar fractures in immature dogs treated using a bone screw and Kirschner wire. *Veterinary Record.* 2022. Vol. 191. Is. 9. Pp. 355—394. DOI: 10.1002/vetr.2176 (date accessed: 20.05.2025) ; Garcia-Pertierra S., Ryan J., Richardson J., Koterwas B., Keeble E., Eatwell K., Clements D. N. Presentation, treatment and outcome of long-bone fractures in pet rabbits (Oryctolagus cuniculus). *The Journal of Small Animal Practice.* 2020. Vol. 61. Is. 1. Pp. 46—50. DOI: 10.1111/jsap.13087 (date accessed: 20.05.2025).

Main Content Presentation

The questions that can be asked in the document on FVE appointment can be conditionally divided into three groups: 1) identifying the distinguishing features and physiological characteristics of a living animal; 2) determining the fact of injury (in particular, the mechanism, prescription and independence (independence) of formation, consequences for the animal's health, severity degree, mutilation, type of traumatic instrument); 3) clarifying the cause-and-effect relationship between the harm caused to the animal's health and its health disorder.

We consider it appropriate to supplement clause 9.3 of section IX *Forensic veterinary examination* of scientific and methodological recommendations on the preparation and appointment of forensic examinations and forensic researches [8] by the following issues.

1. To which species and class does the animal submitted for research belong? Is the animal vertebrate? What are its physiological specifics?

According to the Law of Ukraine: On the Protection of Animals from Brutal Treatment *"animals are biological objects related to fauna: agricultural, domestic, wild, including domestic and wild poultry, fur, laboratory, zoo, circus"* [9]. At the same time, Law of Ukraine: On Veterinary Medicine stipulates that *"animals are all vertebrate and invertebrate animals, that is, living beings that are different from humans, but endowed with sensitivity"* [10]. Criminal and administrative liability for offenses committed against the health and life of animals is provided for in Article 299 of the Criminal Code of Ukraine [11] and Article 89 of the Code of Ukraine on Administrative Offenses (hereinafter referred to as the Code of *Administrative Offenses*) [12], however, exclusively with regard to vertebrates, which include fish, amphibians, reptiles, birds, and mammals.

Thus, forensic expert in his conclusion should note that a live examinee animal is a vertebrate.

Physiological specifics of animals are their special condition, in particular: pregnancy; mutilation; inability to exist independently (inability to fly for young birds); genetic changes, severe organic defects, diseases, signs of alimentary cachexia, etc.

2. What is nature and localization of the injuries found in the animal, as well as the sequence (order) of their tasks?

According to FVE provisions, bodily injury (trauma) is damage caused to the health

8 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: 20.05.2025).

9 Про захист тварин від жорстокого поводження : Закон України від 21.02.2006 р. № 3447-IV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/3447-15#Text (date accessed: 20.05.2025).

10 Про ветеринарну медицину : Закон України від 04.02.2021 р. № 1206-IX (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1206-20#Text (date accessed: 20.05.2025).

11 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: 20.05.2025).

12 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: 20.05.2025).

of an animal in the form of temporary or permanent disorder, mutilation or death, which is caused by the action of traumatic factors of the external environment and manifests itself in a violation of the anatomical integrity and functions of tissues, organs or parts of the animal's body (Rules for Forensic Veterinary Determination of the Severity of Damage Caused to the Health of an Animal; hereinafter referred to as the Rules) [13].

According to nature, injuries are divided into anatomical (abrasions, bruises, wounds, dislocations and sprains of skeletal ligaments, fractures and fissures of bones, ruptures and tears of internal organs, dismemberment of the body, kneading (crushing) of organs) and functional (shock from blows to the reflexogenic zones of the body, physical pain, respiratory disorders (mechanical asphyxia), concussion of the brain and other organs, paresis and paralysis, etc.). The description of bodily injuries should be made qualitatively and fully [14].

Forensic expert should indicate the location of injuries (localization) in certain areas of the body, their grouping or scattering.

The need to determine damage sequence to the animal arises if during the forensic veterinary examination of animal several injuries are detected on its body.

3. What is the mechanism for formation of bodily injuries found in the animal?

The mechanism of injury is the way in which the animal was injured. It depends on the type of injury and the cause of its occurrence. Therefore, depending on type of action that caused the injury, the mechanism of injury can be direct (at the site of direct action of the traumatic force: bruise, tear, etc.) and indirect (remote injuries from the site of action of the traumatic factor).

Types of mechanisms of damage formation at the moment of contact of the surface of the traumatic weapon with the animal's body are: impact, compression, stretching, friction and/or their combination.

A blow with a blunt object is characterized by bruised wounds, hemorrhages, and compressed comminuted fractures; a stretch is characterized by skin detachment, lacerations, and detachment of body parts; a compression is characterized by flattening of body parts, bone fractures; a friction is characterized by abrasions (sometimes wounds); a combination of mechanisms: a blow and a compression cause hemorrhages; a blow and a friction cause abrasions; a blow, compression, and a stretch cause ruptures of the viscera. Injuries caused by sharp objects cause: tissue displacement (from sharp objects that have no edges or from those with 6 or more edges), tissue dissection (from cutting and chopping objects), a combination of displacement and dissection (from sharp objects with 3-5 edges or sharp-cutting objects), a combination of displacement and dissection with reciprocating action (from sawing objects).

Correctly determined by forensic expert, the damage mechanism will allow law enforcement agencies to focus on

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

14 Яценко І., Козачок В. Порядок опису ушкоджень, заподіяних гострими предметами, під час проведення судово-ветеринарної експертизи / K. Antipova, H. Horban, O. Sieliukov, C. Licong, et al. Directions for the development of science in the context of global transformations : Scientific monograph. Riga, 2025. Pp. 74—97. DOI: 10.30525/978-9934-26-562-4-5 (date accessed: 20.05.2025).

finding the weapon that has been damaged under certain conditions and which will become material evidence in criminal proceedings.

4. What are consequences for the health of the animal caused by each of the injuries caused and what are the cumulative consequences?

General consequence of a health disorder directly related to the injury is: violation of the functioning of the body and/or the regime of the natural existence of the animal, the loss of the general economic or special ability of the domestic animal to use it for useful purposes, the loss of a full-fledged existence in environment of wild or stray animal, the development of painful process in the body, a decrease in the level of productivity.

The consequences of bodily injuries are divided into fatal and non-fatal. The latter, in turn, can lead to full recovery, a painful condition, and disability, and by duration in time, they can be stable (permanent) and temporary (*q.v. Fig. 1*).

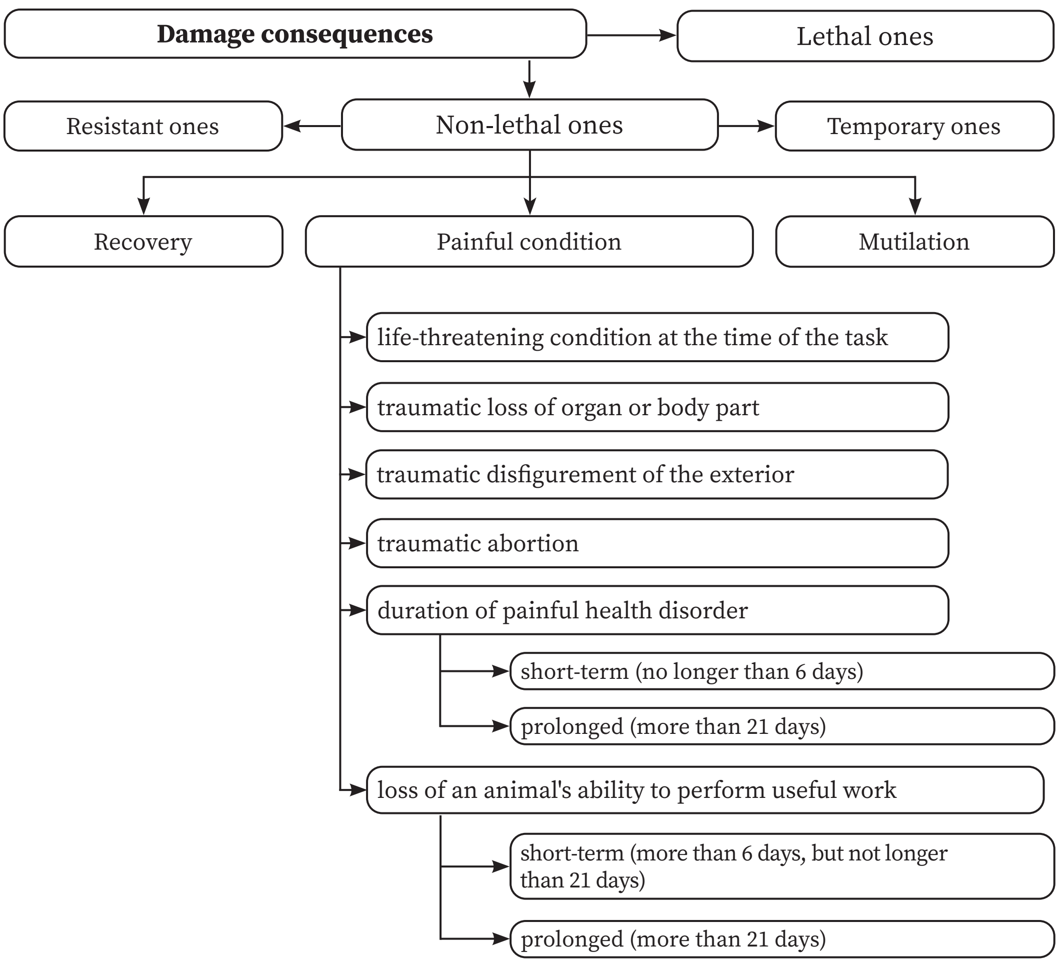

Fig. 1. Consequences of animal bodily injury

In order to answer the question, it is necessary use the Rules [15] and Methods of Forensic Veterinary Examination of Animals in order to establish their mutilation (hereinafter referred to as the *Methods*) [16].

Reliable FVE statement of consequences of an animal injury affects the determination of the causal relationship between the injury and the consequence, as well as the nature, location, mechanism, prescription and severity of the injury, etc. Correctly defined consequences of damage allow the pre-trial investigation body or the court to correctly qualify the offense and find out its signs.

5. What is severity of each injury?

The severity degree of bodily injuries (hereinafter referred to as *SDBI*) is a comparative value that characterizes the size (measure) of damage caused to the health of the animal (the degree of violation of the anatomical integrity or function of organs, areas of the body formed as a result of injury) [17]. Significance of injuries in the FVE aspect is that the animal is temporarily or persistently impaired in the functions of organs, systems of the body and/or parts of the body, which limits its ability to provide the main manifestations of vital functions or disfigures its appearance due to deformation, asymmetry of the body, etc.

What is a SDBI – severe, moderate or mild – is determined exclusively by the forensic expert in accordance with the Rules [18]. Severe injuries are injuries that are life-threatening at the time of their occurrence; anatomical and/or physiological loss of any organ or part of the body; disfigurement of appearance; traumatic abortion. Moderate injuries are characterized by the absence of signs of severe injury and at the same time a long-term health disorder and loss of the ability to perform useful work for 21 days or longer. Mild injuries have transient consequences without health disorders lasting no longer than 6 days, short-term health disorders and short-term loss of ability to perform useful work for 6-21 days.

In addition, clause 5.38 of the Rules provides for conditions under which SDBI is not determined (in particular, in the absence of clinical signs or insufficiency of clinical, instrumental and laboratory examination of the animal under examination; failure to submit the animal for forensic veterinary research) [19].

6. Did the injury cause injury to the animal? If yes, please indicate the type of injury and the degree of disability of the animal.

The main pathognomonic signs of mutilation of the animal: persistent loss of health due to bodily injury or its consequences, congenital malformations, disease, accident; persistent and complete or partial anatomical and/or physiological loss of

15 Яценко І. В., Париловський О. І. Правила судово-ветеринарного визначення … .

16 Яценко І. В., Париловський 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 : вебсайт. URL: https://rmpse.minjust.gov.ua/search (date accessed: 20.05.2025).

17 Яценко І. В. Теоретико-гносеологічна конструкція феномену ступеня тяжкості шкоди, заподіяної здоров'ю тварини, в судово-ветеринарній експертизі. *Форум права*. 2023. № 75 (2). С. 65—88. DOI: 10.5281/zenodo.7699531 (date accessed: 20.05.2025).

18 Яценко І. В., Париловський О. І. Правила судово-ветеринарного визначення … .

19 Там само.

any organ or area of the body; significant physiological limitations of life; disfigurement of appearance [20]. Forensic veterinary determination of animal mutilation is carried out in accordance with Methods [21].

Sometimes it is impossible to determine the animal's disability. In this case, the forensic veterinary expert should argue the reasons for this impossibility. In addition, he submits a petition to the entity appointing FVE, in which he indicates what additional examinations need to be conducted or what veterinary documents need to be attached to successfully answer this question, as well as the deadline for a repeated or additional examination of the animal.

In accordance with Methods [22], there are three degrees of restriction of the animal's life: the third is a moderate restriction (persistent, moderate severity of functional disorders in the body with a partial loss of the possibilities of full-fledged natural life, when the animal does not need constant external care and care); the second is a pronounced restriction (pronounced severity of functional disorders in the body that significantly limit the animal's life, as well as require periodic care and care); the first is a significantly pronounced restriction (persistent, significant severity of functional disorders in the body, when the animal needs constant external care and care, and its life depends entirely on the person who cares for).

Forensic expert characterizes the injury, taking into account its classification, and reflects this in the expert's conclusion. For example: from the materials of the criminal proceedings, it is known that the dog was thrown out of the fifth-floor window. The animal survived. Diagnosis during FVE: condition in the post-traumatic period; closed spinal injury with contusion damage to the spinal cord and lumbar and sacral spinal nerves; spinal shock; partial paresis of the pelvic limbs with preserved resistance; neurological deficit of II-III degrees with slow incomplete recovery; degenerative changes in the thoracolumbar spine; protrusions of intervertebral discs in the thoracic and lumbar spine; skin normotrophic scar in the area of the left knee joint; atony of the urinary bladder.

Description of signs of animal mutilation according to the Methods [23]

Sub-paragraph of the Methods	Description of injury
I.Б.4	Partial functional disorder of the pelvic limbs
I.Б.3	Partial bladder functional disorder
II.Б.1	Acquired as a result of bodily injury (trauma)
III.	Non-lethal ones
IV.Б.1	Partial paresis of the pelvic limbs with preserved resistance, neurological deficit of II-III degree with slow incomplete recovery; atony of the urinary bladder
V.1, 8.3.4	Moderate disability of III degree
VII.A.1	Caused by mechanical factors

20 Яценко І. В., Париловський О. І. Каліцтво тварин як предмет судово-ветеринарної експертизи. *Аграрний вісник Причорномор'я.* 2022. № 102—103. С. 71—86. DOI: 10.37000/abbsl.2022.102.13 (date accessed: 20.05.2025).

21 Яценко І. В., Париловський О. І., Казанцев Р. Г. Зазнач. твір. URL: https://rmpse.minjust.gov.ua/search (date accessed: 20.05.2025).

22 Там само.

23 Там само.

Table completion

Sub-paragraph of the Methods	Description of injury
VIII.A	Caused by combined trauma resulting from damage to the pelvic limbs and urinary bladder
IX.A	With partial restoration of the functions of the pelvic limbs and bladder

7. What is the prescription for formation of injuries caused to the animal?

Determination of formation age of injuries caused to the animal contributes to clarifying the composition of the offense, certain signs of the objective side of the offense (in particular, the fact of causing injuries in a certain period of time, the prescription of their cause, tools of injury, places and mechanism of commission), and is also the basis for the development by law enforcement officers of a version of the offender's identity.

Determination of formation age of injuries caused to the anima, due to the nature of the injury itself.

Age of injury formation is affected by their localization in the animal's body, the depth and size of the injury, the degree of branching of blood and lymphatic vessels in the injury area, the age and degree of immune reactivity of the injured animal.

In forensic expert practice, the time of damage is sometimes known from the materials of criminal proceedings (cases). In this case, the forensic expert, having examined the characteristics of the damage, confirms the fact of causing the damage specified in the procedural document on FVE For example: *"Bodily injuries found in the dog's body could have formed under the conditions and at the time specified in the investigator's ruling dated (date), e.g. (date)"*. If it is impossible to find out the prescription of the damage by macro- and microscopic signs of damage due to any reasons, the forensic expert notes this in his conclusion, explaining the reason for impossibility.

8. Could the animal have sustained bodily injury on its own, without outside interference?

Most bodily injuries to an animal are caused by humans or other animals. Occasionally, it is possible to detect injuries that occurred in animal without outside intervention.

Independent formation of injuries (self-harm) of the animal is possible during overcoming obstacles, getting into deep ditches, collision with vehicles, self-suffocation with a chain (rope) on the leash, special pathological conditions, damage by electric current, etc.

In such cases, the pre-trial investigation body or the court should find out whether this injury or self-injury was intentional, whether there was no self-injury due to the fault of the staff who served animal.

In the case of investigation of an animal self-injury, it is important to examine the scene as soon as possible with the direct participation of a veterinary medicine specialist and to conduct forensic veterinary examination in a timely manner.

Forensic veterinary expert should examine injured animal as soon as possible after the injury, preferably before providing veterinary care.

Forensic veterinary examination of live animals is carried out in accordance with the appropriate methods [24].

24 Яценко І. В., Париловський О. І. Методика судово-ветеринарного дослідження живої підекспертної тварини. Харків, 2022. 50 с. Реєстр. код 18.1.04 / Реєстр методик проведення судових експертиз : вебсайт. URL: https://rmpse.minjust.gov.ua/search (date accessed: 20.05.2025).

If the FVE is performed late after the injury to the animal, it is necessary to describe the skin scars (exact location, shape, dimensions, skin level, color and shades, existence of pigmentation, density, mobility, connections with subordinate tissues, possible impregnation by foreign particles, etc.) and carefully read the veterinary documentation displays data on initial state of the injuries.

Clarifying issue of intentional injury or self-harm of an animal is important in the aspect of legal liability: in case of self-harm, no one is liable.

9. Is it possible to determine by the nature of the injury to the animal what kind of weapon it was inflicted? [25]

Clarifying the issue of the object (weapon) with which the animal was injured is important for criminal proceedings. This can be determined by nature and morphological specifics of the injury.

Animal can be injured by blunt and/or sharp objects, high-speed kinetic projectiles, flames, cold, ionizing radiation, industrial or atmospheric electricity, etc. Damage from hard objects with limited surface can be seen completely or partially on the contact surface of body tissues, primarily on the skin and bones. This makes it possible to determine the features of the surface of the traumatic weapon by the characteristic specifics of the injury.

In forensic examination, *tools* are objects with a special purpose, used in everyday life, in production and in technology; *weapons are* objects and means intended for attack or protection; *objects* are objects without a special purpose, which can be used for protection or attack and potentially cause damage (stones, a stick, etc.).

Specifics of the traumatic object display depends on its area, nature and size of the surface (limited, large), nature of the material (biological and non-biological; metallic and non-metallic, artificial and natural ones), physical and mechanical properties (solid, brittle, elastic ones), dynamic properties (with weak kinetic energy, medium or large), mass (heavy, light ones), shape of the traumatic surface (triangular, square, rectangular, round, oval ones), angularity (two-, triangular, polygonal ones), relief of the traumatic surface (smooth, rough) and ribs.

For example, damage caused by vehicles always shows signs of blunt force. Thus, during a comprehensive forensic examination of an injured animal, the forensic scientist and the tracing expert compare the damage with the object, which is a possible traumatic weapon. In this case, the question of possibility or impossibility of causing damage with a similar or this particular item is resolved. If parts of animal or even human tissue (skin epithelium, blood, muscle tissue, etc.) are found on the subject, a forensic molecular genetic examination can be prescribed to identify the suspect.

10. Is there a cause-and-effect relationship between the bodily injury inflicted on animal under certain circumstances and its health disorder?

Animal cruelty (Article 299 of the Criminal Code of Ukraine [26] and Article 89 of the Code of Administrative Offenses [27])

25 The answer to this question is provided by a comprehensive forensic veterinary tracing or veterinary ballistic examination.

26 Кримінальний кодекс України … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 20.05.2025).

27 Кодекс України про адміністративні правопорушення … . URL: https://zakon.rada.gov.ua/laws/show/80731-10#Text (date accessed: 20.05.2025).

is an offense with a material composition, that is, an offense is considered committed when the negative, socially dangerous consequences of this offense occur.

During FVE, it is necessary to find out whether the action of the traumatic factor led to the injury of the animal.

If forensic expert discovers such a direct cause-and-effect relationship, he has every reason to provide a conclusion in categorical form and indicate whether the socially dangerous consequences were the result of an unlawful act.

Determination of the cause-and-effect relationship by forensic scientist is important, since it makes it possible to argue for harm to health and life of the animal.

11. Are there any traces on the animal's body that indicate its torture, causing it physical pain and suffering?

Any injuries suffered by the animal leave traces on its body (abrasions, hematomas, wounds, fractures, dislocations, sprains, tears, crushing, dismemberment, paresis, paralysis, burns, etc.) and, accordingly, cause it physical pain and suffering.

The concept of *physical pain of an animal* is not legally defined, although there are scientific studies on this issue. According to the author of this work, *physical pain is a complex multifaceted process, which consists in an unpleasant sensory (physical) and emotional reaction caused by a violation of the anatomical integrity of organs and tissues of the body or a violation of their functions, as well as in the suffering of the animal from the physical impact on its body.* Therefore, pain causes both physical and psycho-emotional suffering to animals.

Forensic expert defines physical pain as a forensic evaluation sign, taking into account the means of physical impact on the animal, the nature, localization and SDBI caused to animal, specifics of the damaged area of the body, etc.

Note that in conclusions, forensic expert formulates only a veterinary assessment of physical pain as a consequence of damage in the process of a criminal act. Based on the expert opinion, investigator may qualify the offense as animal cruelty, taking into account the nature of the violent influence, its duration and intensity, taking into account the physiological parameters of the animal and the objective offense circumstances.

12. Did the detected damage (if affected, how) affect the period of loss of a domestic animal of general or special use or a full-fledged existence in environment of a wild or stray animal?

During post-traumatic rehabilitation, the animal may lose the ability to perform useful economic work, productivity. In view of this, the owner of the injured animal may demand material compensation for the costs of diagnostic tests, medical and rehabilitation measures, etc., as well as compensation for moral damage. Only forensic expert can determine the period of loss of an animal of general economic or special use, taking into account the nature and severity of the injuries caused to.

In accordance with paragraph 1.19 of the Rules [28], the duration of the disease condition and the inability of the animal to perform useful work may be temporary, with minor transient consequences (not longer than 6 days); short-term (more than 6 days, but not longer than 21 days) and long-term (more than 21 days).

28 Яценко І. В., Париловський О. І. Правила судово-ветеринарного визначення … .

13. Did the actions related to the prolonged deprivation of the animal of heat, feeding, drinking, as well as keeping it in conditions harmful to health and life, affect the state of its health and life? If so, how exactly?

For determining impact of the above conditions on the health of animal, forensic expert conducts a clinical study using technical and instrumental and laboratory methods (in particular, finds out the live weight and fattening of the animal).

In case of detection of bodily injuries or signs of injury in an animal caused by prolonged deprivation of the animal of heat, feeding, drinking, as well as keeping it in conditions harmful to health, the law enforcement agency or the court will qualify the offense committed against the life of the animal as a crime under Article 299 of the Criminal Code of Ukraine [29].

Conclusions

Typical questions have been developed, systematized and substantiated, that pre-trial investigation body or the court can put to the forensic expert during the conduct of live animals.

The proposed system of questions is both an expert task and a test. The outlined range of factual data that can be ascertained using FVE of live animals covers the health and welfare of animals.

All questions are conventionally grouped into three groups: 1) identification of the distinguishing features and physiological characteristics of a living animal; 2) determination of the fact of injury (mechanism, prescription and independence (dependence) of the formation, consequences for the animal's health, severity, mutilation, type of traumatic instrument, etc.); 3) clarification of the causal relationship between the bodily injuries inflicted on the animal and its health disorder; identification of traces indicating its torture, infliction of physical pain and suffering, the period of loss of the animal's general economic or special use or full-fledged existence in the environment of a wild or homeless animal; as well as the impact on its health and life of actions related to the long-term deprivation of the animal of heat, food, drink and/or keeping it in harmful conditions.

This range of issues can be solved by a comprehensive forensic examination by integrating special knowledge from various sciences (in particular, veterinary medicine, animal biology, forensic ballistics, forensic trace evidence analysis, etc.).

It is advisable to supplement clause 9.3 of section IX "Forensic veterinary examination" of scientific and methodological recommendations on the preparation and appointment of forensic examinations and researches.

Формулювання та обґрунтування питань, що ставлять у документі про призначення судово-ветеринарної експертизи живих тварин

Іван Яценко

Мета статті — виокремити, систематизувати й обґрунтувати питання, які ставлять в постанові про призначення судово-ветеринарної експертизи живих тварин, і показати їх значення для висновку експерта й суду. Для досягнення мети застосовано загальнонаукові та спеціальні наукові методи, зокрема аналіз, синтез, аналогію, формально-логічний,

29 Кримінальний кодекс України … . URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (date accessed: 20.05.2025).

логіко-граматичний, логіко-юридичний, системно-структурний, абстрагування, моделювання, прогнозування. Окреслено коло питань, які можна поставити на розв'язання судветекспертові під час призначення експертизи за правопорушеннями, скоєними проти здоров'я та життя тварин. Усі питання умовно об'єднано в три групи: 1) виокремлення розпізнавальних ознак і фізіологічних особливостей живої тварини; 2) визначення факту ушкодження (механізму, давності й самостійності (несамостійності) утворення, наслідків для здоров'я тварини, ступеня тяжкості, каліцтва, виду травмувального знаряддя тощо); 3) з'ясування причиново-наслідкового зв'язку між завданими тварині тілесними ушкодженнями й розладом її здоров'я; визначення слідів, які свідчать про її катування, завдання їй фізичного болю і страждань, строку втрати твариною загальногосподарського або спеціального використання чи повноцінного існування в довкіллі дикої або безпритульної тварини, а також впливу на стан її здоров'я і життя дій, пов'язаних із тривалим позбавленням тепла, харчування, пиття і/або утриманням у шкідливих умовах. Праксеологічне значення результатів дослідження полягає в тому, що запропоновано систему науково обґрунтованих і логічно систематизованих питань, які можна поставити судовому експертові й на які можна отримати найбільш повні й аргументовані відповідей в оптимальний строк.

Ключові слова: *судово-ветеринарна експертиза; постанова слідчого; ухвала слідчого судді; ухвала суду; питання; жива тварина; досудове розслідування.*

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Declaration of Competing Interest

Author declares no conflict of interest.

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Yatsenko, I. V., Parylovskyi, O. I. (2022). *Pravyla sudovo-veterynarnoho vyznachennia stupenia tiazhkosti shkody, zapodiianoi zdoroviu tvaryny (metodychni rekomendatsii)* [Rules for forensic veterinary determination of the degree of severity of damage caused to the animal's health (methodological recommendations)]. Kharkiv [in Ukrainian].

Yatsenko, I. V., Parylovskyi, O. I., Kazantsev, R. H. (2021). *Metodyka sudovo-veterynarnoho doslidzhennia tvaryn z metoiu vstanovlennia yikh kalitstva* [Methods of forensic veterinary examination of animals for the purpose of establishing their mutilation]. Kharkiv. Reiestr. kod 18.1.01 / Reiestr metodyk provedennia sudovykh ekspertyz : vebsait. URL: https://rmpse.minjust.gov.ua/search [in Ukrainian].

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Case Notes

Technical and Forensic Support at the Initial Stage of Smuggling Investigation

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This paper primarily considers the essence, content and peculiarities of technical and forensic support at the initial stage of investigating crimes involving smuggling. To fulfil this goal, general scientific methods of analysis and synthesis, induction and deduction, as well as special methods: dialectical, system-structural, comparative-legal and method of generalization are implemented. It has been found that technical and forensic support is a set of organisational and technical measures encompassing efficient application of scientific and technical means and methods for the detection, recording, seizure and examination of evidentiary information. Having generalised theoretical approaches and practices in the investigation of criminal offences, the author points out that peculiarities of applying scientific and technical means are conditioned by investigative situations characteristic of smuggling, which in turn determine the algorithm of investigative (search) and covert investigative (search) actions. Prospects for enhancing technical and forensic support for smuggling investigations primarily lie in combining technological innovations, refining methodological approaches, upgrading the skills of pre-trial investigation agencies, expanding material and technical resources, and ensuring proper legal regulation of the use of scientific and technical means. Only the integration of these factors can ensure the accuracy, promptness and probative value of both results obtained from investigative and other procedural ac-

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tions and forensic examinations in this complex category of criminal offences.

Keywords: *forensic support; pre-trial investigation; initial stage; scientific and technical tool; forensic scientist specializing in criminalistics.*

Research Problem Formulation

The primary goal of criminalistics is to provide law enforcement agencies of any affiliation with theoretical and practical guidelines ensuring effective pre-trial investigations, and with scientific and technical resources facilitating tactical investigation tasks and procedural objectives. In the field of criminal procedural activity, the body of knowledge and skills associated with the use of technical means is traditionally referred to as *technical and forensic support.*

Developing and implementing scientific and technical means is the subject of a separate research section in forensic science: forensic technology. Since the late 19th century, the system of scientific provisions and practical guidelines on the use of technical means has been continuously evolving, merging the latest achievements of the scientific and technical field, forensic theory and related fields of knowledge.

The *technical and forensic support* concept is frequently employed in the context of certain stages or activities (specifically, pre-trial investigation). In turn, *forensic technology* refers to the scientific discipline underpinning the theoretical framework for a corresponding area.

Providing technical and forensic support for investigations makes it feasible to take a holistic approach to a range of tasks, from legal regulation to the organisational, technical, scientific and methodological support of investigative activities. It also involves the development and implementation of state-of-the-art tools, and improvement of existing tools and techniques, and utilization of modern techniques for detection, recoding, seizure and examination of evidentiary information. Technical, technical-forensic and scientific-technical tools encompass tangible devices, tools and equipment. Their design and functional characteristics enable us to perform tasks effectively during investigative (search) and other procedural actions.

Given the substantial relevance of technical and forensic support for fulfilling tasks of criminal proceedings, we deem it expedient to address problematic aspects of such activities within the framework of smuggling investigation (since criminal offenses related to smuggling are quite common and some of them remain latent).

In 2018, Ukraine's official foreign trade turnover reached $104.5 billion, accounting for around 80% of the country's gross domestic product (GDP). At the same time, it is estimated that shadow imports remained stable at around 10% of GDP. Of the total VAT revenue (UAH 374 billion), the largest share (UAH 295.4 billion, or 79%) came from import VAT. Along with import duties and excise taxes, these funds accounted for nearly half (40.2%) of the State Budget's revenues. Following the full-scale war in 2022, transit of heroin and cocaine in the territory of Ukraine decreased sharply due to both the shutdown of aviation and seaports and a fourfold increase in their value. Instead, synthetic drugs trafficking, especially catinones and methadone, has risen dramatically. Well-organised criminal groups control the synthetic drug market. These groups include the Khimprom group, which has expanded its activities into cybercrime.

With the onset of the Russian Federation's full-scale invasion, the volume of weapons has expanded, leading to a rise in violent crimes, including cases of domestic violence. Although no large-scale illegal arms exports have been recorded, forensic experts emphasise the importance of constant monitoring in this area due to the significant number of weapons in the country and the presence of groups with experience in trading them. Furthermore, customs fraud and tobacco smuggling cause hundreds of millions of dollars in losses to the State each year through customs duty evasion or document forgery [1].

Studying the mechanism of criminal offenses involving smuggling provides grounds to conclude that their investigation is unfeasible without the use of forensic technology and other scientific and technical means. Moreover, as scientists rightly point out, scientific and technical means used to obtain evidence result from multiple factors and must be applied sequentially [2]. Therefore, the issue of technical and forensic support for investigating criminal offences related to smuggling is a complex one that has not yet been the subject of an extensive study.

Article Purpose

Determine the essence, content and peculiarities of technical and forensic support at the initial stage of investigating crimes involving smuggling.

Research Methods

To fulfil this goal, general scientific methods of analysis and synthesis, induction and deduction, as well as special methods: dialectical, system-structural, comparative-legal and method of generalization were implemented.

The dialectical method ensured a holistic understanding of the essence of technical and forensic support for smuggling investigation, its place in the system of forensic support and facilitated the establishment of links between legal, organizational and technical aspects of this activity.

The system-structural method enabled us: 1) to single out key components of technical and forensic support at the initial stage of investigation (means, methods, conditions of application); 2) determine the role of technical and forensic support in the context of criminal proceedings; 3) structure the responsibilities of the investigator, specialist, forensic expert and other authorized subjects in the course of implementing technical measures.

1 Кукуруза Г., Ніколаєнко С., Лесик М. Аналіз обсягів контрабанди в Україні: масштаби, прямі / непрямі втрати бюджету та економіки / Ukraine Economic Outlook : вебсайт. 06.07.2019. URL: https://surl.li/abrqht (date accessed: 27.07.2025) ; Лазарев О., Емельдеш Б., Боярчук Б. Контрабанда та Національна стратегія доходів / Ціна держави : вебсайт. 26.03.2024. URL: https://cost.ua/kontrabanda-ta-natsionalna-strategiya-dohodiv/ (date accessed: 27.07.2025) ; Шапошнікова М. Війна трансформує організовану злочинність в Україні, що завдає економічної і соціальної шкоди / Організація Об'єднаних Націй. Україна : вебсайт. 18.07.2025. URL: https://surl.lu/bcfzmz (date accessed: 27.07.2025).

2 Сокуренко В. Техніко-криміналістичне забезпечення розслідування порушень законів і звичаїв війни. *Теорія та практика судової експертизи і криміналістики.* 2023. Вип. 2 (31). С. 12. DOI: 10.32353/khrife.2.2023.02 (date accessed: 27.07.2025).

Formal-logical methods (analysis, synthesis, induction, deduction) contributed to studying the components and characteristics of scientific and technical means, determining the order of their application, as well as to formulating conclusions on the efficiency of their use (depending on typical investigative situations). The analysis enabled us to identify the specifics of each type of technical means and their role in evidence collection, synthesis — to integrate obtained data into a coherent concept, induction — to formulate general provisions based on analysing individual examples, deduction — to test theoretical provisions in practice.

The comparative-legal method was employed to evaluate different approaches to technical and forensic support for investigating smuggling and other types of crimes. It was also used to differentiate between the concepts of *technical-forensic support* and *scientific-technical support*, and to study international standards and practices in this field.

The generalisation method proved invaluable in formulating conclusions on ways to enhance technical and forensic support for smuggling investigations. This included expanding the material and technical base, unifying methodologies, and upgrading the skills of investigators and specialists.

Analysis of Essential Researches and Publications

Various aspects of investigating criminal offenses related to smuggling are studied in monographs by A. Buha [3], O. Zaverkhovskyi [4], R. Maliuha [5], A. Poliakh [6], I. Rudnytskyi [7], Ya. Furman [8], V. Shevchuk [9], et al.

Issues of technical and forensic support for investigating crimes are comprehensively analysed in research papers by

3 Буга А. Ю. Методика розслідування злочинів, пов'язаних з незаконним обігом лікарських засобів : дис. ... д-ра філос. в галузі права. Одеса, 2020. 258 с. URL: https://uacademic.info/ua/document/0822U100024 (date accessed: 27.07.2025).

4 Заверховський О. В. Криміналістична характеристика контрабанди та її значення для правозастосовчої діяльності : дис. ... канд. юрид. наук. Київ, 2020. 230 с.

5 Малюга Р. В. Кримінальне процесуальне доказування контрабанди наркотичних засобів, психотропних речовин, їх аналогів чи прекурсорів або фальсифікованих лікарських засобів у досудовому розслідуванні : дис. ... канд. юрид. наук. Київ, 2015. 273 с. URL: https://uacademic.info/ua/document/0415U005439 (date accessed: 27.07.2025).

6 Полях А. М. Криміналістична характеристика та основи розслідування контрабанди наркотичних засобів, психотропних речовин, їх аналогів або прекурсорів : автореф. дис. ... канд. юрид. наук. Харків, 2009. 22 с. URL: https://uacademic.info/ua/document/0409U001634 (date accessed: 27.07.2025).

7 Рудницький І. Л. Особливості виявлення та розслідування контрабанди наркотичних засобів, що вчиняються організованими злочинними групами : дис. ... д-ра філос. в галузі права. Львів, 2019. 250 с. URL: https://lpnu.ua/sites/default/files/2020/radaphd/1857/dysertaciyarudnyckyy.pdf (date accessed: 27.07.2025).

8 Фурман Я. В. Основи методики розслідування контрабанди культурних цінностей : автореф. дис. ... канд. юрид. наук. Київ, 2009. 22 с. URL: https://uacademic.info/ua/document/0410U001200 (date accessed: 27.07.2025).

9 Шевчук В. М. Методика розслідування контрабанди: проблеми теорії та практики : монографія. Харків, 2003. 280 с.

V. Bondar [10], V. Husieva [11], N. Pavliuk [12], S. Perlin [13], V. Sokurenko [14], R. Stepaniuk [15], Yu. Chornous [16], and others. Simultaneously, no holistic studies have addressed technical and forensic support for investigating criminal offences related to smuggling, taking into account typical investigative situations that occur at the initial investigation stage.

Main Content Presentation

As reflected in forensic academic discourse, technical and forensic support is viewed as a set of scientific and technical means applied in the course of conducting overt investigative and covert investigative (search) actions, judicial procedures, expert research, as well as for the purpose of providing informational support during pre-trial investigations and court proceedings. It encompasses specially developed technical techniques, methods and methodologies designed to effectively organise and optimise activities of criminal justice agencies in the field of crime prevention, investigation and trial [17].

The concept of technical and forensic support for criminal investigations by units of the Security Service of Ukraine has been addressed as a distinct topic in scientific literature. This approach draws our attention since the investigators have jurisdiction over cases involving the smuggling of cultural property and weapons, in accordance with Art. 216 of the CPC of Ukraine [18]. I. Hora, in particular, defines technical and forensic support for detection and investigation of crimes by the Security Service of Ukraine from both

10 Бондар В. С. Особливості вирішення техніко-криміналістичних завдань досудового розслідування кримінальних правопорушень. *Криміналістика і судова експертиза.* 2021. Вип. 66. С. 284—296. DOI: 10.33994/kndise.2021.66.28 (date accessed: 27.07.2025).

11 Гусєва В. О., Коломойцев М. М. Техніко-криміналістичне забезпечення діяльності захисника у кримінальному провадженні. *Вісник Харківського національного університету внутрішніх справ.* 2025. № 1 (108). Ч. 1. С. 275—284. DOI: 10.32631/v.2025.1.22 (date accessed: 27.07.2025).

12 Павлюк Н. В. Поняття та інноваційні засади техніко-криміналістичного забезпечення розслідування злочинів. *Теорія та практика судової експертизи і криміналістики.* 2015. Вип. 15. С. 96—104. URL: http://nbuv.gov.ua/UJRN/Tpsek_2015_15_15 (date accessed: 27.07.2025).

13 Перлін С. Поняття і види техніко-криміналістичного забезпечення правозастосовної діяльності. *Підприємництво, господарство і право.* 2020. № 1. С. 221—226. DOI: 10.32849/2663-5313/2020.1.40 (date accessed: 27.07.2025).

14 Сокуренко В. В. Зазнач. твір. С. 11—24. DOI: 10.32353/khrife.2.2023.02 (date accessed: 27.07.2025).

15 Степанюк Р. Л. Деякі питання техніко-криміналістичного забезпечення розслідування воєнних злочинів. *Сучасні тенденції розвитку криміналістики та кримінального процесу в умовах воєнного стану* : тези доп. Міжнар. наук.-практ. конф. (Харків, 25.11.2022). Харків, 2022. С. 368—371. URL: https://dspace.univd.edu.ua/xmlui/handle/123456789/15094 (date accessed: 27.07.2025).

16 Бондар В. С. Особливості вирішення техніко-криміналістичних завдань досудового розслідування кримінальних правопорушень. *Криміналістика і судова експертиза.* 2021. Вип. 66. С. 284—296. DOI: 10.33994/kndise.2021.66.28 (date accessed: 27.07.2025).

17 Павлюк Н. В. Зазнач. твір. URL: http://nbuv.gov.ua/UJRN/Tpsek_2015_15_15 (date accessed: 27.07.2025).

18 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та доп.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 27.07.2025).

a general and specific perspective. Broadly speaking, the researcher calls it a system of interconnected research, organizational, informational, and material and technical measures carried out within the powers defined by law and aimed at preventing, detecting, stopping and solving crimes against the peace and security of mankind, terrorism, corruption, organized crime in the field of management and economics, and other illegal actions threatening vital interests of Ukraine. Narrowly speaking, from the scientist's perspective, technical and forensic support aims to create favourable conditions for improving the effectiveness of counterintelligence, operational search, and investigative activities through the development and application of technical tools and methods for collecting and analysing physical media of evidentiary information [19].

Other researchers also suggest examining technical and forensic support for investigations from two perspectives. For example, Yu. Chornous advocates both theoretical (scientific) and practical interpretations. She believes that, in a scientific sense, this involves a system of rules that govern the use of technical tools and the findings obtained, as well as the development of technical and forensic guidelines for investigators, specialists and forensic experts. Practically, it includes a set of devices, tools and equipment used during investigative, operational, and expert procedures [20].

Proposals were also made to define the concept of *technical and forensic support for the disclosure and investigation of drug smuggling*, which D. Stryhun views as the organizational and functional system designed to keep law enforcement agencies constantly prepared to fulfil technical and forensic tasks in a timely and effective manner. This also includes the practical implementation of these tasks in order to obtain, collect and analyse forensically relevant information, and grant it evidentiary status for subsequent use in uncovering and investigating such crimes [21].

Researchers further highlight the importance of unconditional consideration of the *support* concept viewed through the lens of two concepts, specifically: 1) as a reflection of the subject's legal activity aimed at maintaining certain social relations; 2) as set of measures defined by law that ensure the existence or functioning of a certain object or process [22]. K. Chaplynskyi clarifies that support can be explained from a static perspective: as a set of means, methods and tools intended for fulfilling specific tasks, as well as conditions contributing to this process. From a dynamic perspective, it is a process of creating and providing the specified means and conditions. From the researcher's perspective,

19 Гора І. В. Сучасні проблеми техніко-криміналістичного забезпечення розкриття й розслідування злочинів органами Служби безпеки України. *Криміналістика XXI століття* : мат-ли міжнар. наук.-практ. конф. (Харків, 25—26.11.2010). Харків, 2010. С. 121. URL: https://library.nlu.edu.ua/POLN_TEXT/SBORNIKI_2011/KonferKriminalistika_2010.pdf (date accessed: 27.07.2025).

20 Чорноус Ю. М. Техніко-криміналістичне забезпечення розслідування злочинів. *Право і суспільство*. 2011. № 6. С. 216. URL: http://nbuv.gov.ua/UJRN/Pis_2011_6_44 (date accessed: 27.07.2025).

21 Стригун Д. Ю. Техніко-криміналістичне забезпечення розкриття та розслідування контрабанди наркотичних засобів : автореф. дис. … канд. юрид. наук. Київ, 2011. 19 с.

22 Лук'янчиков Є. Д. Методологічні засади інформаційного забезпечення розслідування злочинів : монографія. Київ, 2005. С. 110.

the *support* concept encompasses both forensic support and its other varieties related to the use of forensic means and methods [23]. It is worth noting that the concept of *scientific and technical support* is widely applied today.

V. Shepitko, V. Shevchuk and N. Pavliuk emphasize that *"general significance of scientific and technical support for investigative activities is that it is capable of: optimizing law enforcement agencies' counteraction to modern challenges of crime; maintaining and guaranteeing a high level of pre-trial investigation effectiveness. If we delve deeper into the value of scientific and technical support for investigative activities, it can be argued that it lies in offering opportunities for: a) boosting the efficiency of investigative and covert investigative (search) actions; b) improving the quality of detection, recording, seizure, preservation and study of traces and physical evidence to disclose a criminal offense and identify a perpetrator; c) expanding cognitive capabilities of investigators and other authorized persons, as well as developing their professional skills; d) providing a better visualization of information for participants to criminal proceedings and courts; e) speeding up the pre-trial investigation procedure; f) identifying causes and conditions that have contributed to crime commission and obtaining information about offences that have been committed or are being planned"* [24].

Scientific and technical support for investigative activities can be defined as a component of forensic support. It is a system of measures aimed at implementing novel scientific developments in pre-trial investigation practice. The goal is to expand and modernise the scientific and technical arsenal, as well as improve organisational and legal mechanisms for authorised subjects to use it. In content, such support covers a set of interrelated scientific, organizational, legal and methodological issues that form a single system and are mutually dependent [25]. In our opinion, the above definition is quite broad in scope since it also encompasses scientific issues. We believe that the concepts of *scientific and technical support for investigative activities* and *technical and forensic support for investigation* stand in a whole-part relationship. The former is the practical implementation of the latter.

It should also be noted that technical and forensic support is proposed to be classified according to several levels:

1) depending on proceedings (criminal, administrative, civil, economic);
2) taking into account criminal procedure stages (pre-trial investigation, trial);
3) in the context of investigating certain types of crimes at the stage of pre-trial proceedings;
4) as technical support for conducting specific investigative and search actions with involvement of specialists [26].

23 Чаплинський К. О. Поняття та сутність тактичного забезпечення досудового розслідування. *Право і суспільство.* 2011. № 6. С. 210. URL: http://nbuv.gov.ua/UJRN/Pis_2011_6_43 (date accessed: 27.07.2025).

24 Шепітько В. Ю., Коновалова В. О., Шевчук В. М. та ін. Науково-технічне забезпечення слідчої діяльності в умовах змагального кримінального провадження : монографія / за заг. ред. В. Ю. Шепітька. Харків, 2021. С. 24. URL: https://surl.lu/govfmm (date accessed: 27.07.2025).

25 Шепітько В. Ю., Коновалова В. О., Шевчук В. М. та ін. Зазнач. твір. С. 28—29. URL: https://surl.lu/govfmm (date accessed: 27.07.2025).

26 Перлін С. І. Зазнач. твір. DOI: 10.32849/2663-5313/2020.1.40 (date accessed: 27.07.2025).

We are of the opinion that technical and forensic support varies significantly depending on the investigation stage. This is particularly true of smuggling, where the initial support significantly affects the efficiency of subsequent investigation stages.

When defining the essence and content of technical and forensic support for investigating crimes related to smuggling, the issue of a variety of scientific and technical means used throughout the investigation cannot be overlooked. In the scientific literature, scientific and technical means are interpreted as a set of various methodologies, universal technical equipment and purpose-built tools, devices, machines, materials, technological solutions, along with tactical and technical techniques intended for their effective use. Such means serve to detect, document, seize evidence, and examine traces of criminal activity to improve the performance of inquiry bodies, pre-trial investigation, judicial authorities, and to prevent the commission of criminal offenses [27].

Scientific and technical means are predominantly utilized during individual investigative (search) actions and criminalistics examinations. During smuggling investigation (specifically, at the initial stage), the most common investigative (search) action is the inspection of premises of state and non-state enterprises, institutions and organisations (customs territories, postal premises, etc.). Thus, principal tasks of inspecting places where smuggling takes place include detecting and recording traces of unlawful activity, as well as identifying the subject of smuggling itself.

In most cases, contraband is transported (smuggled) using hiding places or other methods of physical concealment that make it difficult to visually detect contraband items; by making contraband items look like other items; by presenting forged, illegally obtained, or falsified documents to customs authorities as legal justification for transporting other items [28]. This substantially hinders the process of identifying criminal offense signs. Therefore, the task of identifying and using technical and forensic means becomes a priority. I. Rudnytskyi rightly points out that *"the peculiarity of an investigative inspection in criminal proceedings on drug smuggling is that various technical and forensic means are used in the course of its conduct, in particular: X-ray and X-ray television equipment, echolocation devices, signalling devices, tools for opening the packaging of boxes and containers, as well as special sets of chemical reagents for rapid analysis of substances and materials, and search animals are used to search for and detect drug smuggling in hand luggage and baggage at the scene. If a person is suspected of carrying drugs in the abdominal cavity, he or she is subjected to an X-ray"* [29]. The same applies to the smuggling of firearms, explosive devices, ammunition, radioactive, toxic and potent substances.

27 Коваленко В. В. Актуальні проблеми застосування науково-технічних засобів спеціалістами при провадженні слідчих дій : автореф. дис. … канд. юрид. наук. Київ, 2004. С. 7. URI: https://rep.dnuvs.ukr.education/handle/123456789/545 (date accessed: 27.07.2025).

28 Шевчук В. М. Розділ VIII «Розслідування контрабанди» / В. Ю. Шепітько, В. О. Коновалова, В. А. Журавель та ін. Розслідування злочинів у сфері господарської діяльності: окремі криміналістичні методики : монографія ; за ред. В. Ю. Шепітька. Харків, 2006. С. 481—537. URL: https://library.nlu.edu.ua/POLN_TEXT/KNIGI/PRAVO/Shepitko_Rozslid_2006.pdf (date accessed: 27.07.2025).

29 Рудницький І. Л. Зазнач. твір. С. 164. URL: https://lpnu.ua/sites/default/files/2020/radaphd/1857/dysertaciyarudnyckyy.pdf (date accessed: 27.07.2025).

When detecting and recording traces of a criminal offense, various technical means are widely applied to detect contraband items: from inspecting metal detectors and endoscopes to probes for radiation monitoring equipment (such as dosimeters and other measuring devices). Moreover, special sets of chemical reagents are used, enabling the rapid analysis of substances and materials [30].

Currently, photography and video technology fulfil a crucial role among the scientific and technical tools used to detect explosive objects. This is because the characteristics of explosive substances change under the influence of oxygen, which can subsequently have a negative impact on their storage, transportation and further examination [31]. Simultaneously, detection of such objects and substances can also be carried out with the help of a dog handler with a search dog.

Stemming from the analysis of investigative and judicial practice, when identifying facts of smuggling, you should never limit yourself to using the capabilities of forensic olfactory examinations, even though you could use them as a substantial piece of evidence in such circumstances. To collect odour traces, it is important to ensure the presence of a full set of agents, including pieces of pure cotton cloth such as flannelette, flannel or gauze, measuring approximately 10 x 15 cm. Ideally, gauze should be arranged in three to four layers. Additionally use aluminium foil in a roll and paper envelopes (intended for packing objects wrapped in foil). To store traces of odor information, clean glass jars with metal lids will be of use (polymer bags or plastic lids are unacceptable: they can absorb odorous substances as well as allow them to pass through). A spray gun with tap water, two large anatomical tweezers and thick rubber gloves (e.g., gloves resistant to acids and alkalis) should also be added to this kit [32]. Accordingly, it is crucial to ensure that a number of items, which appear to be for household use but not all of them are traditional components of investigative kits, are available.

When detecting and further packaging cultural properties (in compliance with inspection results), the importance of packaging should be stressed. Packaging of cultural properties requires special attention and care to ensure their preservation and prevent damage during transportation or storage. This involves the use of appropriate materials, techniques and specific expertise about particular property types.

The above provisions apply to those investigative situations where signs of a criminal offense have been identified by border or customs employees or representatives of postal enterprises. At the same time, there are frequent instances in which such facts were documented based on the results of operational and search

30 Шевчук В. М. Розділ VIII … . URL: https://library.nlu.edu.ua/POLN_TEXT/KNIGI/PRAVO/Shepitko_Rozslid_2006.pdf (date accessed: 27.07.2025).

31 Приходько Ю. Особливості техніко-криміналістичного забезпечення розслідування злочинів, пов'язаних з кримінальними вибухами. *Visegrad Journal on Human Rights.* 2015. № 5/1. С. 106—113. URL: https://elar.navs.edu.ua/server/api/core/bitstreams/1050d76c-90cd-40a6-846f-083b438679cc/content (date accessed: 27.07.2025).

32 Юсупов В. В., Антощук А. О., Приходько Ю. П. та ін. Використання службових собак кінологічними підрозділами Національної поліції України для виявлення вибухових речовин в умовах воєнного стану : метод. рек. Київ, 2023. С. 39. URL: https://elar.navs.edu.ua/server/api/core/bitstreams/3723aed3-5084-47e5-baba-2f96a8d3c373/content (date accessed: 27.07.2025).

activities conducted during investigations of other criminal offenses, often initiated by statements from individuals or representatives of enterprises, institutions and organizations.

In situations where the conduct of verbal investigative (search) actions, such as interrogation, as well as covert investigative (search) actions, occurs before detecting the smuggling subject, the specifics of technical and forensic support are determined by the type and nature of these actions.

In the course of interrogating, technical tools of recording are primarily audio, video, as well as photography and other means that enable you to record the interrogation process and data obtained. These tools are used to ensure testimony reliability and objectivity of the investigative (search) action.

Forensic support components for conducting covert investigative (search) actions include:

1) scientific analysis of the essence and practical aspects of covert investigative (search) actions to identify strategies for enhancing their efficiency;
2) development of practical advice to improve the tactics and methods used in such actions, alongside the improvement of technical means and methods of application, based on the fundamental principles of criminalistics and operational (search) activities;
3) verification and implementation of these guidelines in the work of law enforcement agencies;
4) training and advanced training of investigators and operatives, aimed at cultivating the required professional skills for implementing covert investigative (search) actions in a qualitative way [33].

Analysis of the Instruction on the Organization of Covert Investigative (Search) Actions provisions and the use of their results in criminal proceedings indicates the possibility of using a wide range of technical and scientific-technical tools designed to record, intercept, process and save information, as well as to provide covert surveillance and control over facilities, individuals, etc. [34]

Thus, during audio and video surveillance, persons or places use miniature and spy cameras, hidden microphones, audio and video recorders capable of remote signal transmission, as well as night vision devices, thermal imagers and tools for sound stabilization. To retrieve information from transport telecommunication networks, specialized devices for intercepting telephone conversations, Internet traffic monitoring systems, and software and hardware systems for retrieving data from mobile networks are used.

Information extraction from electronic information systems is possible through the use of computer forensic hardware and software systems, devices for copying data from personal computers, servers

33 Грібов М. Л. Зміст та основні напрями криміналістичного забезпечення негласних слідчих (розшукових) дій. *Вісник кримінального судочинства.* 2017. № 1. С. 37. URL: https://vkslaw.knu.ua/images/verstka/1_2017_Gribov.pdf (date accessed: 27.07.2025).

34 Інструкція про організацію проведення негласних слідчих (розшукових) дій та використання їх результатів у кримінальному провадженні : затв. наказ. Генпрокуратури України, МВС України, СБ України, Адміністр. Держприкордонслужби України, Мінфіну України, Мін'юсту України від 16.11.2012 р. № 114/1042/516/1199/936/1687/5. URL: https://zakon.rada.gov.ua/laws/show/v0114900-12#Text (date accessed: 27.07.2025).

and mobile phones, programs for restoring deleted files and decoding protected datasets, and remote access tools. During inspection and retrieval of correspondence, devices for trace-free unpacking of postal items, X-ray scanners, chemical reagents for detecting prohibited substances, marking means such as microdots or invisible ink, as well as GPS beacons mounted in packaging, can be used.

Endoscopes and borescopes, thermal imaging cameras, metal detectors, electronics detectors, non-linear locators (Non-linear Junction Detectors), along with special tools for installing hidden recording devices are utilized to examine publicly inaccessible places, housing or other property of a person. When observing people, things or places in publicly accessible spaces, law enforcement agencies can use optical devices (binoculars, telephoto lenses), drones with cameras, hidden *GPS* trackers, vehicle dash cameras (vehicle DVRs), and radio monitoring systems.

While conducting surveillance during the commission of a crime, dummy valuables, packages with safe substitutes for narcotic drugs or explosives, controlled goods with hidden cameras, along with radio beacons for tracking movement are used in the course of special investigative experiments or crime scene simulation. During the performance of special tasks to uncover criminal activities of organised groups, means used to support a spy's cover story, communication devices, silent recording devices, and secure data transmission channels are utilized.

Therefore, technical and scientific tools used in covert investigative actions include specialised equipment for collecting and recording information, as well as supporting tools for ensuring the concealment and safety of actions. This allows the task of criminal proceedings to be carried out effectively without revealing their essence. The same types of technical and forensic tools can also be utilized in conducting overt investigative (search) actions.

In the context of outlining the prospects for enhancing technical and forensic support for smuggling investigation, we observe that the most important avenue is modernizing existing technical tools and introducing new technologies that can boost the efficiency of identifying, recording and studying traces of unlawful activity and evidence. These comprise portable mass spectrometers, next-generation X-ray scanners and 3D X-ray systems, as well as modern sensors and detectors that can locate items disguised as other objects. There is considerable potential in deploying artificial intelligence for automated analysis of video and photo recordings, telecommunication data, along with integration of unmanned aerial vehicles and robotic platforms to inspect hard-to-reach places. It is worth pointing out that digital forensics development encompasses the creation of mobile systems for the prompt retrieval, restoration and deciphering of data from electronic media, phones and cloud services.

At the same time, there is a need to improve scientific and methodological support. This includes developing unified methods for detecting, recording and retrieving traces and evidence when investigating various types of smuggling; creating algorithms for the initial investigation stage, where efficiency and accuracy are crucial; and utilising olfaction as a promising, yet not widespread, means of documenting the mechanisms of criminal activity.

It is advisable to supplement the material and technical base with standard sets of crime scene investigation kits. These kits should be packed taking into account the specifics of various contraband types, mobile forensic laboratories for rapid analysis at the scene and specialized means for packing cultural property, explosive substances or perishable items.

Training and skill upgrading are both equally important for pre-trial investigation bodies and specialists. For this purpose, it is advisable to conduct regular training sessions on the use of modern technical tools, simulation-based trainings and hold joint interagency trainings for the Security Service, Customs and Border Services, the Ministry of Internal Affairs, the Bureau of Economic Security of Ukraine. This will help coordinate the tactics of action and ensure comprehensive application of technical resources.

Developing information and analytical support is steadily gaining significance. This involves the creation of unified databases containing information on smuggled goods and perpetrators, integration of video analytics systems and analytical data on behavioural patterns in places where crimes are likely to be committed, and introduction of automated risk analysis tools.

The final, yet no less important, aspect is to improve the legislative and regulatory framework. The rules governing the use of new technical methods for collecting evidence must be amended, and standards for storing, preserving and implementing findings obtained from technical and forensic examinations must be set out. It is also necessary to regulate interagency cooperation in countering smuggling.

Thus, the development of technical and forensic support for smuggling investigations depends on a comprehensive approach, which presupposes modernizing technical tools, unifying methodological approaches, upgrading professional skills of investigators and operatives, strengthening a financial base and modernizing the normative. When these factors are combined, accuracy and probative value are ensured in obtained results, and the speed of obtaining them is increased.

Conclusions

The conducted research makes it possible to define technical and forensic support for smuggling investigation as an organizational and functional system aimed at fostering and maintaining the readiness of law enforcement agencies to quickly and efficiently fulfil the tasks of criminal proceedings. In the structure of this system, particular importance is attributed to scientific and technical support, which involves using technical means and techniques to investigate crimes. This is the practical component.

Having generalised theoretical approaches and practices in the investigation of criminal offences, the author points out that peculiarities of applying scientific and technical means are conditioned by investigative situations characteristic of smuggling, which in turn determine the algorithm of investigative (search) and covert investigative (search) actions.

Prospects for enhancing technical and forensic support for smuggling investigations primarily lie in combining technological innovations, refining methodological approaches, upgrading the skills of pre-trial investigation agencies, expanding material and technical resources, and ensuring proper legal regulation of the use of scientific and technical means. Only the integration of these factors can ensure the accuracy, promptness and probative value of both results obtained from investigative and other procedural actions and forensic examinations in this complex category of criminal offences.

Техніко-криміналістичне забезпечення початкового етапу розслідування контрабанди

Юрій Ковальов

Мета статті — визначити сутність і зміст, а також особливості техніко-криміналістичного забезпечення початкового етапу розслідування кримінальних правопорушень, пов'язаних із контрабандою. Для реалізації поставленої мети застосовано загальнонаукові методи аналізу та синтезу, індукції та дедукції, а також спеціальні методи — діалектичний, системно-структурний, порівняльно-правовий і метод узагальнення. З'ясовано, що техніко-криміналістичне забезпечення є комплексом організаційних і технічних заходів, спрямованих на ефективне застосування науково-технічних засобів і методів для виявлення, фіксування, вилучення й дослідження доказової інформації. На підставі узагальнення теоретичних підходів і практики розслідування кримінальних правопорушень з'ясовано, що особливості застосування науково-технічних засобів зумовлені слідчими ситуаціями, характерними для контрабанди, які своєю чергою визначають алгоритм слідчих (розшукових) і негласних слідчих (розшукових) дій. Перспективи вдосконалення техніко-криміналістичного забезпечення розслідування контрабанди вбачаються у поєднанні технологічних інновацій, удосконаленні методичного підходу, підвищенні кваліфікації представників органів досудового розслідування, розширенні матеріально-технічної бази й забезпеченні належного правового регулювання застосування науково-технічних засобів. Саме поєднання цих чинників здатне забезпечити точність, доказову цінність і швидкість отримання результатів слідчих (розшукових) та інших процесуальних дій, а також судових експертиз у цій складній категорії кримінальних правопорушень.

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

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Case Notes

The Role of Well-Versed Persons in Identifying Signs of and Documenting Economic Criminal Offences

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The primary concerns of this paper are clarify the role, place and functions of well-versed persons in identifying and documenting (procedurally documenting) signs of economic criminal offences. General scientific and special legal methods, including dialectical, system-structural, functional, legal-dogmatic and interpretative provided the methodological foundation for the research. These methods enabled us to provide a comprehensive overview of the legal regulation and practical importance of using specific expertise in criminal proceedings. The findings suggest that effectively and objectively investigating the above offences requires expertise that falls outside the scope of traditional legal expertise. The complexity of business transactions, multi-level financial processes and their similarity with legal activities necessitate the involvement of economists, auditors, accountants and IT specialists. The importance of specialists' participation in various procedural and non-procedural forms of activity is revealed: from consulting (advising) and preliminary research to participation in searches, inspections, interrogations and temporary access to documents. The author highlights their role in detecting hidden tax evasion schemes, unlawful VAT refunds, fictitious bankruptcy and other methods of asset misappropriation. Emphasis is made on the analysis of audit and inspection materials as sources of evidence. The controversial issue concerning the legal status of auditors and

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inspectors in criminal proceedings is stressed. It is generalized that detection of signs of economic criminal offences is a complex stage in the forensic investigation methodology, requiring the integration of specific expertise and investigative (search) actions. It is stated that the participation of a specialist provides a sufficient evidentiary basis, minimizes the risk of information loss and increases the efficiency of criminal proceedings.

Keywords: *specific expertise; specialist; economic criminal offenses; documentation of crime signs; inspection; audit; proving.*

Research Problem Formulation

Fair and objective justice is unachievable without the use of specific expertise that falls outside the scope of professional competence of the judiciary representatives and parties to a case. The need to apply specific expertise arises in any category of cases (civil, economic, administrative, criminal, etc.). In this case, procedural rules of civil and economic law stipulate the possibility of integrating experts, specialists, translators, teachers or other persons with required specific expertise into the trial. As scientists rightly point out, the need to engage such specialists arises when the parties to the process do not have their own resources, competencies, technical means or methods to properly study the object, as well as when the practical application of specific expertise is either lacking or insufficient to identify, record, analyse and interpret information [1].

Involvement of well-versed persons allows you to effectively identify relevant facts, uncover hidden connections and specific characteristics within objects under study, and fulfil other tasks without which a complete and objective clarification of case circumstances is impossible. Individuals with specific expertise are crucial in identifying signs of criminal activity (which usually takes place during the trial of economic cases), conducting operational searches and investigating criminal offences, etc. In light of this, we deem it relevant and timely to study the role and functions of well-versed persons in identifying signs of criminal activity related to the commission of economic criminal offenses.

Article Purpose

Clarify the role, place and functions of well-versed persons in identifying signs of and documenting (procedurally documenting) economic criminal offenses.

Research Methods

The methodological basis of the study is general scientific, special-legal and philosophical methods of cognition. These methods provided a systemic and comprehensive coverage of this issue.

The dialectical method was used to identify how legal regulation of specific expertise has developed in criminal

1 Фесюнін В., Курдес Е., Свиридова Л. Поняття спеціальних знань і межі їх застосування у цивільному та господарському процесі. *Теорія та практика судової експертизи і криміналістики*. 2020. Вип. 21. С. 218—219. DOI: 10.32353/khrife.1.2020_14 (date accessed: 17.07.2025).

proceedings. It was also used to identify the relationship between improving procedural legislation and the needs of practice in combating economic crimes.

The system-structural approach contributed to analysing the role and functions of a specialist, revealing the relationship between capabilities and the role of the specialist in identifying signs of economic crimes.

The system-functional method helped clarify the practical importance of various forms of specific expertise application (consulting, inspection, etc.) in criminal proceedings aimed at documenting signs of criminal activity in the economic field.

The methods of formal logic (analysis, synthesis, induction, deduction, analogy and modelling) were useful for providing logical reasoning about the need to involve specialists, as well as for classifying forms and areas of their participation in investigative and other procedural activities.

The legal and dogmatic method helped to analyse provisions of Ukrainian criminal procedural law and other acts that determine the procedural status of well-versed persons, their powers and limitations.

The interpretative (explanatory) method made it possible to specify the content of legal rules on procedural and non-procedural forms of involving specialists and define their practical applicability.

Analysis of Essential Researches and Publications

Scientists have comprehensively analysed peculiarities of applying specific expertise in civil, economic, criminal proceedings. I. Hubanova [2], V. Didenko [3], N. Dondyk [4], I. Petrova [5], I. Pyrih [6], E. Simakova-Yefremian [7], O. Shevchenko [8], O. Shramko [9],

2 Губанова І. В. Теоретичні та загально-методичні положення судової економічної експертизи фінансово-господарської діяльності підприємств : дис. … д-ра філос. в галузі права. Харків, 2025. 358 с. URL: https://drive.google.com/file/d/1Y2WmdhFjRx-FGO1s1J68jdWM4smSSk-b/view (date accessed: 17.07.2025).

3 Діденко В. Л. Використання спеціальних знань при розслідуванні кримінальних правопорушень у бюджетній сфері : дис. … канд. юрид. наук. Дніпро, 2024. 238 с. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/science/rada/new_d0872702/2024/1/1/d.pdf (date accessed: 17.07.2025).

4 Дондик Н. Я. Використання спеціальних бухгалтерських знань при розслідуванні економічних злочинів : дис. … канд. юрид. наук. Харків, 2006. 208 с.

5 Петрова І. А. Теоретико-правові та організаційно-методологічні засади регулювання судово-товарознавчих експертиз споживчих товарів : дис. … д-ра юрид. наук. Харків, 2012. 541 с. URL: https://uacademic.info/ua/document/0512U000231 (date accessed: 17.07.2025).

6 Пиріг І. В. Теоретико-прикладні проблеми експертного забезпечення досудового розслідування : монографія. Дніпропетровськ, 2015. 368 с. URL: https://dduvs.edu.ua/wp-content/uploads/files/Structure/library/student/monogr.pdf (date accessed: 17.07.2025).

7 Сімакова-Єфремян Е. Б. Теоретико-правові та методологічні засади комплексних судово-експертних досліджень : дис. … д-ра юрид. наук. Харків, 2017. 392 с. URL: https://uacademic.info/ua/document/0517U000760 (date accessed: 17.07.2025).

8 Шевченко О. В. Використання спеціальних товарознавчих знань під час досудового розслідування : дис. … канд. юрид. наук. Київ, 2017. 317 с. URI: https://elar.navs.edu.ua/jspui/handle/123456789/1934 (date accessed: 17.07.2025)

9 Шрамко О. М. Використання спеціальних знань під час розслідування корупційних кримінальних правопорушень : дис. … д-ра філос. в галузі права. Київ, 2021. 269 с. URL: https://uacademic.info/ua/document/0821U102258 (date accessed: 17.07.2025).

M. Shcherbakovskyi [10] delved into the specifics of using specific expertise in criminal procedure, particularly during proving in cases involving economic crimes, in their monographs. Researchers focused predominantly on solving tasks pertaining to defining legal and organizational principles of involving a forensic expert in criminal proceedings, and identified peculiarities of implementing methodological principles of qualified forensic examinations in forensic activity.

Certain aspects of specialists' activities in criminal proceedings (in particular, on economic criminal offenses) are highlighted in research papers by V. Zhukova [11], S. Yevdokimenko [12], S. Kryvun [13], D. Kurylenko [14], I. Petrova [15], S. Tiulieniev [16], S. Trach [17], et al. Despite the fact that researchers have substantially contributed to this issue, the place, role, competence and functions of specialists and forensic experts in identifying and documenting signs of criminal unlawful activity in the economic field have not yet been adequately addressed. That is why this specific task requires appropriate scientific understanding.

Main Content Presentation

In criminal proceedings involving economic crimes, engagement of a specialist is paramount, given the complexity of these offences, the large volume of documentary sources and the need for an in-depth understanding of economic, financial and technical processes. Detecting signs of these types of criminal offence is often impossible without specific expertise. Detection of criminal offense signs of this type is often impossible without the use of specific

10 Щербаковський М. Г. Теоретико-методологічні та праксеологічні засади судових експертиз у кримінальному процесі : автореф. дис. ... д-ра юрид. наук. Харків, 2016. 42 с. URI: http://dspace.univd.edu.ua/xmlui/handle/123456789/2582 (date accessed: 17.07.2025).

11 Жукова В. І. Залучення обізнаних осіб для визначення розміру матеріальних збитків у кримінальному провадженні. *Право і суспільство.* 2022. № 6. С. 230—238. DOI: 10.32842/2078-3736/2022.6.35 (date accessed: 17.07.2025).

12 Євдокіменко С. В. Форми використання спеціальних економічних знань у кримінальному провадженні та судочинстві. *Вісник Чернівецького факультету Національного університету «Одеська юридична академія»*. 2016. Вип. 2. С. 372—384. URL: http://nbuv.gov.ua/UJRN/vchfo_2016_2_39 (date accessed: 17.07.2025).

13 Кривун С. І. Використання спеціальних знань під час розслідування нецільового використання бюджетних коштів : дис. ... канд. юрид. наук. Київ, 2025. 193 с. URL: https://surl.li/sbkbss (date accessed: 01.08.2025).

14 Куриленко Д. В. Інститут обізнаних осіб у змагальному кримінальному провадженні : автореф. дис. ... канд. юрид. наук. Харків, 2017. 16 с. URL: https://surl.li/gocgom (date accessed: 01.08.2025).

15 Петрова І. А. Зазнач. твір. URL: https://uacademic.info/ua/document/0512U000231 (date accessed: 17.07.2025).

16 Тюлєнєв С. А. Можливості почеркознавчої експертизи у розслідуванні рейдерства. *Вісник Одеського науково-дослідного інституту судових експертиз Міністерства юстиції України.* 2023. Вип. 14. С. 29—41. DOI: 10.32782/2522-9656/2024-14-3 (date accessed: 05.08.2025) ; Його ж. Призначення судових експертиз під час розслідування кримінальних правопорушень, пов'язаних із рейдерством. *Право і безпека.* 2024. № 1 (92). С. 112—122. DOI: 10.32631/pb.2024.1.10 (date accessed: 05.08.2025).

17 Трач С. С. Криміналістична методика розслідування кримінальних правопорушень у сфері господарської діяльності в Україні : монографія. Одеса, 2023. 450 с.

expertise that falls outside the scope of legal knowledge. The latent nature of criminal offenses in this field might be due to the lack of specific expertise in the field of economics, business transactions, etc.

Efficiency of investigating criminal offenses in the field of economic activity is primarily dependent on the timely onset of criminal proceedings and a complete and objective study of primary information. At the initial stage, the basis is established to clarify the circumstances of crime commission, identify persons involved in it and develop a proper evidentiary basis. It is this stage that significantly affects the accuracy of qualifying a criminal offense and the choice of the main pre-trial investigation avenues of activity.

One important stage in identifying signs of criminal offences is recognising them. This involves identifying persons, objects or phenomena of interest to the pre-trial investigation and determining their group affiliation or identity based on known properties and characteristics [18]. The complexity of identifying signs associated with economic criminal offenses is that violations that are the objective side of crime elements and criminal offences, are frequently masked as lawful business transactions, conclusion of economic agreements, financial transactions, etc. To identify them, it is crucial to combine legal, financial, economic and forensic assessments of facts, analyse financial statements, banking operations, contracts, and corporate decisions. This task is assigned to specialists involved.

Identifying signs of unlawful acts requires:

- utilizing operational-investigative and investigative (search) measures (receipt of documents, control over financial flows, interrogation of officials, etc.);
- involving specialists in the field of economy, audit, finance, an IT capable of identifying discrepancies in reporting, fictitious transactions or atypical financial schemes;
- deploying methods of documentary verification and economic analysis (arithmetic, normative, logical, cross-checking, analysis of cash flows and genuineness of business transactions).

Analysis of investigative and judicial practice shows that sources of information on economic criminal offences are often:

- statements and notifications from affected persons, counterparties, enterprise employees;
- materials from tax, customs and financial audits;
- banking and accounting documentation;
- media publications or journalistic investigations;
- results of operational control, inspections, audits or state registers monitoring.

Specialists are involved in studying and evaluating these sources.

The peculiarity of the initial stage is that it is difficult to distinguish signs of an offense from usual economic risks or from economic, administrative, and civil law breaches. It is important to clearly distinguish between civil disputes, economic torts and criminal acts. This requires investigators, detectives and prosecutors to consult specialists in order to reach well-founded conclusions at the stage of collecting initial information.

18 Шаповалов О. О. Виявлення ознак злочинів у процесі досудового розслідування. *Юридичний часопис Національної академії внутрішніх справ*. 2017. № 1 (13). С. 104. URI: https://elar.navs.edu.ua/jspui/handle/123456789/2685 (date accessed: 10.08.2025).

Before the onset of criminal proceedings, the involved specialist can participate in scene inspection, provide advising, and also conduct an audit or inspection. Such measures can be taken before entering information about a criminal offense into the Unified Register of Pre-Trial Investigations (*URPI*) without violating the Criminal Procedure Code of Ukraine (*CPC of Ukraine*) requirements [19].

Identifying signs of economic criminal offenses is a complex process that involves obtaining, analysing and documenting primary information about unlawful actions of business entities. Its content is to determine both general trends and schemes of criminal activity, and specific facts of concealing illegal operations. That is why the main focus of this stage is the integration of data from various information resources and registers into criminal proceedings. This process is greatly influenced by data on financial transactions, information from the customs authorities on export-import transactions, and data from the State Border Guard Service on the movement of people and transport across the State border. Other important sources of information include the Ministry of Internal Affairs and the National Police of Ukraine, which provide data on registered vehicles as well as on illegal production of seals and stamps. The Ministry of Justice of Ukraine supplies data on the registration and liquidation of legal entities, etc. This body of information enables one to gain an initial understanding of the nature and scale of criminal activity [20].

An essential task is to analyse the activities of business entities. For this purpose, we examine information on founders and business executives and their affiliates, and investigate the management of multiple business entities, the absence of reporting or declared losses, and the bankruptcy of enterprises. We also analyse data on tax returns, settlement accounts, and VAT registration certificates. Of particular importance is the record of sources of information about persons involved in criminal activity, and documentation of the facts of illegal VAT refunds, legalization of funds, etc. Recording information about cash flows, agreements and transactions involving assets can be used to identify both individual executors and organisers of economic criminal schemes.

Signs of economic crimes are also detected through organisational and tactical measures aimed at developing an adequate evidentiary basis: coordination of actions between the Security Service, the National Anti-Corruption Bureau, the Economic Security Bureau of Ukraine and other oversight and enforcement bodies. Joint activities enable the deployment of operational and tactical strategies and the identification of documents confirming illegal registration of enterprises, completed financial transactions, or cash withdrawals.

Prevention is viewed as a key field. This area involves improving the legislative and procedural mechanisms for state registration of business entities, eliminating corruption risks, and prohibiting the establishment

19 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 12.08.2025).

20 Петросян В. Г. Криміналістичне та оперативно-розшукове забезпечення виявлення злочинів, вчинених суб'єктами господарювання з ознаками фіктивності : дис. … канд. юрид. наук. Ірпінь, 2012. 221 с. URL: https://uacademic.info/ua/document/0412U000565#google_vignette (date accessed: 12.08.2025).

of enterprises by individuals previously involved in illegal schemes. The listed factors lay the groundwork for minimizing economic criminal offenses. This task can also be accomplished by involving professionals with specific expertise in a pre-trial investigation. The core of recognizing signs of economic criminal offenses entails combining collective-analytical, organizational-tactical, and preventive actions, which helps develop an evidentiary basis and paves the way for more effective investigations. Let us examine each aspect of this activity more closely.

Obtaining audit and inspection materials in criminal proceedings is of paramount importance for developing an evidentiary basis, and this can be done either before or after information is entered into the URPI. At the stage preceding the official commencement of an investigation, primary documents are submitted to enforcement agencies in several formats. Primarily, these are results of scheduled and unscheduled departmental inspections (control measures), which are carried out within the framework of administrative and economic activities. If violations indicating criminal or corrupt activity are identified during such inspections, relevant materials are immediately transferred to law enforcement agencies; these materials acquire the status of a signal before the start of criminal proceedings. Materials can also be transferred based on statements from legal entities whose interests have been harmed or reports from authorised persons in operational units who initiated audits to verify real-time information. In this case, the controlling and auditing bodies act as holders of specific expertise, and their findings become the primary source for verifying facts relevant to criminal proceedings.

Another situation occurs after the beginning of a pre-trial investigation. During this period, the court may order an audit upon motion of the prosecution or the defence. This is most frequently due to the need to clarify the circumstances surrounding the systematic theft of tangible assets or financial resources from enterprises with which the suspect is associated. Furthermore, an investigator or prosecutor may request previous audits based on Art. 93 of the CPC of Ukraine [21] if the results are not included in the case file. In turn, the defence counsel is also entitled to receive and provide such documents to the investigator or court.

The legal status of inspectors causes debate among legal scientists. Since the CPC of Ukraine does not recognize them as independent procedural participants, they do not possess defined rights and obligations in criminal proceedings. Simultaneously, the practice shows that their participation in conducting inspections is of procedural importance, since further procedural decisions depend on the completeness and objectivity of the documents they draw up. Inspectors are often summoned as witnesses for interrogation after materials have been transmitted, in order to evaluate their competence, impartiality, and the reliability of the information they provided. This is especially important in cases where inspection was carried out.

Regarding the inspection and audit ratio, unlike the inspector, the auditor is an independent specialist who operates in accordance with the Law of Ukraine:

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

On Audit of Financial Statements and Auditing [22] and standards of professional associations. His/her conclusions are of a commercial nature and are formed within the context of contractual relations with a client. Under the law, the auditor is not obliged to notify law enforcement agencies of identified signs of criminal offences; instead, he/she is required to maintain confidentiality regarding trade secrets. As D. Kurylenko rightly notes, such a legislative position actually grants auditors "immunity" in relation to the transfer of materials related to criminal offences, contradicting the principle of equality before the law and reducing the efficiency of countering economic crimes [23].

Therefore, inspections and checks are an important source of evidence both at the stage of initiating criminal proceedings and during their conduct. Their effective conduct depends not only on normative regulation, but also on the involvement of specialists who are able to provide competent conclusions that meet the requirements of lawfulness, objectivity and impartiality.

Having summarized the specialist's role, it should be noted that his/her role is to accurately identify violations in the field of economic transactions, analyse accounting and financial documents, bank transactions, tax reporting, contracts and primary accounting data. They assist investigators in establishing cause-and-effect relationships between economic activities and possible unlawful consequences, identifying typical schemes of tax evasion, misappropriation of business assets, bankruptcy, etc.

The role of a specialist in documenting detected violations is equally important. The use of modern technical tools—digital photography and videography, computer programmes for data processing, and electronic workflow management systems—provides a proper procedural framework for securing evidentiary information. This prevents distortion or loss of information and creates conditions for subsequent examination of these tools by the expert.

Furthermore, the specialist often facilitates interaction between the investigator and the forensic expert. He/she draws preliminary conclusions about the nature and importance of the crime-related signs identified, which enables the forensic examination task to be outlined and therefore boosts its effectiveness. His/her activity is intended to ensure systematicity and consistency in recording evidence, as well as to create the basis for further steps in the proving procedure in court.

At the initial stage of investigating economic crimes, the investigator faces the need to turn to specific expertise, without which it is impossible to assess the nature of economic processes and to understand the specifics of economic categories, financial mechanisms or accounting systems. It is at this very moment that the role of the advising specialist is especially significant and evident. He/she explains terminology, discloses the substance of economic transactions and helps with accounting and tax accounting procedures, reporting and inventory management. Thanks to this, the investigator can detect deviations in an enterprise's financial and economic activity

22 Про аудит фінансової звітності та аудиторську діяльність : Закон України від 21.12.2017 р. № 2258-VIII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2258-19#Text (date accessed: 12.08.2025).

23 Куриленко Д. В. Зазнач. твір. URL: https://surl.li/gocgom (date accessed: 01.08.2025).

in a timely manner and correctly evaluate their legal significance [24].

An economist's expertise helps the investigator navigate through a large number of financial and accounting materials, distinguish documents outlining both an enterprise's illegal activities and traces of criminal behaviour or attempts to hide it. In the banking sector, the subject of specialist advice may be the question of determining the belonging of documents to certain financial and credit transactions, singling out peculiarities of document flows in credit institutions, rules for their storage and access procedures, as well as possibilities of using technical means during the production or receipt of relevant materials.

Equally important is the help of a specialist in accounting. It involves explaining the mechanisms of cash flows and the procedure for their documentary representation, preparing financial statements, enforcing regulations in the field of accounting and taxation, and formulating issues for interrogating persons responsible for keeping financial documentation [25].

In the context of economic digitalization, specific expertise in the field of information technology is steadily gaining relevance. When inspecting and extracting information from computer equipment, a specialist helps define the status and purpose of storage media, identify signs of their modification or unauthorized intervention, and find and record electronic evidence. Incorrect actions by the investigator without the participation of a specialist can lead to loss or destruction of important information. This is why IT specialists must participate in such actions.

Therefore, the role of a specialist in investigating economic crimes extends beyond technical assistance. His/her participation contributes to the efficiency and integrity of proving: from identifying the first signs of economic breaches to documenting complex financial schemes. He acts as a mediator between the complex economic reality and the prosecution's requests, ensuring that the level of professionalism and the validity of the procedural decisions made are appropriate.

When determining the role of specialists in identifying and documenting signs of economic criminal offences, it should be emphasised that inspections in cases of economic criminal offences mainly involve analysing financial and accounting documents. The specialist is capable of identifying hidden signs of forgery, overestimation of costs for works or services, artificial creation of debt, etc. He/she uses specific expertise and technical means to identify erasures, potential forgeries, and discrepancies between primary and consolidated documents. Consequently, documents evolve from mere formal papers into valuable sources of information and evidence that can confirm or refute business transactions [26].

A search in proceedings concerning criminal offences in the field of economic

24 Дікань Л. В., Понікаров В. Д., Кожушко О. В. Судово-економічна експертиза: навч. посіб. Харків, 2014. 432 с. URL: https://surl.li/lwikik (date accessed: 10.08.2025).

25 Євдокіменко С. В. Зазнач. твір. URL: http://nbuv.gov.ua/UJRN/vchfo_2016_2_39 (date accessed: 17.07.2025).

26 Опанасенко Н. О. Криміналістична характеристика та основні положення розслідування шахрайства, вчиненого організованими злочинними групами у сфері житлового будівництва : дис. … канд. юрид. наук. Київ, 2018. 253 с. URL: https://uacademic.info/ua/document/0419U000090 (date accessed: 10.08.2025).

activity involves searching for documents, draft records, and electronic media that confirm facts of unlawful financial transactions, abuse, or forgery. An accounting specialist or economist helps to immediately distinguish documents that are essential for a case (fictitious contracts, invoices, work completion certificates, cash flow documents). In turn, the IT specialist ensures proper seizure of electronic databases, accounting programs and computer equipment without the risk of loss of or damage to information. Thanks to his/her participation, the search becomes a purposeful process of finding evidence that takes into account the specifics of business transactions [27].

The specialist plays an important role during the interrogation of suspects, witnesses or representatives of business entities. He/she helps investigators to accurately formulate issues in accounting or tax accounting and draw attention to terminological subtleties that can influence the course of investigative (search) action. Additionally, the specialist can determine which documents or schemes should be presented to the interviewee to clarify his/her testimony.

Therefore, the involvement of a specialist enables us to:

- quickly identify documents with probative value and single out secondary ones;
- evaluate whether the content of seized materials complies with financial or economic rules;
- identify any schemes of evasion or manipulation that might be overlooked without specific expertise;
- ensure proper documentation of evidence that is important for subsequent expert evaluation and trial.

For instance, in the case of illegal capital outflow or money laundering, an economist can draw the investigator's/detective's attention to atypical financial transactions, cash flow between related companies or fictitious contracts. In corporate disputes, he/she may determine which decisions made by the company's management bodies violated the law, consequently becoming the basis for criminal intent realization. In cases relating to accounting systems, the IT specialist helps obtain and record electronic evidence from cloud services or local servers.

Involvement of a specialist in temporary access procedures also has a preventive value: his/her presence enhances evidence collection and reduces the risk that the results of such access will be challenged in court because of procedural violations. He/she also promotes faster procedural decisions, as the investigator receives professional assistance at the initial stage, not just after a forensic examination. Therefore, a specialist is a mandatory participant in this process. His/her functions go beyond technical assistance and become strategic for the successful exposure of criminal schemes in the field of economic activity. His/her professional expertise ensures the effectiveness of temporary access as a tool for proving matters, thereby guaranteeing the completeness and objectivity of an investigation.

Conclusions

In law application practice, procedural and non-procedural forms of applying specific expertise are of paramount importance. This involves specialist advisory activities of a general and targeted nature, scientific-technical and audit-analytical assistance, as well as preliminary studies of

27 Кривун С. І. Зазнач. твір. URL: https://surl.li/sbkbss (date accessed: 01.08.2025).

individual objects, which help develop the correct tactics for investigative (search) actions. Thanks to such forms of interaction, specialists can assist in identifying signs of criminal offences, warn about potential schemes for committing crimes, and help determine which documents are essential for further use in the evidence-gathering process.

The role of a specialist in criminal proceedings against economic crimes extends beyond technical assistance. He/she contributes to both collecting and examining evidence and to developing investigative versions, optimizing pre-trial investigation tactics and enhancing its evidence-based effectiveness. A specialist's participation is a kind of bridge between complex economic processes and their legal assessment. His/her activity has proven to be leading in identifying and proving criminal offenses in the economic sector.

Involving specialists in the field of economics, accounting, audit, and IT is a prerequisite for effectively combating criminal offenses in the field of economic activity. Their participation promotes identification of signs related to criminal offenses and hidden in complex economic and financial transactions, guarantees accurate documentation of evidence and strengthens the evidentiary basis for further trial. A specialist's participation in searches, examinations and interrogations, as well as in temporary access to physical evidence (items) and documents allows him/her not only to improve the quality and reliability of the proving process, but also to minimize the risk of loss or distortion of meaningful information.

The core of recognizing signs of economic criminal offenses entails combining collective-analytical, organizational-tactical, and preventive actions, which helps develop an evidentiary basis and paves the way for more effective investigations. This is why identifying signs of economic criminal offences should be considered a separate stage in the forensic investigation methodology. It requires integrating investigative (search) actions and specific expertise, since it is the timely identification of signs of unlawful acts that ensures further successful documentation of criminal schemes and prosecution of perpetrators.

Роль обізнаних осіб у виявленні ознак і документуванні господарських кримінальних правопорушень

Віталій Усатий

Мета статті — з'ясувати роль, місце й функції обізнаних осіб у виявленні ознак господарських кримінальних правопорушень і їх документуванні (процесуальному фіксуванні). Методологічне підґрунтя дослідження — загальнонаукові та спеціальні юридичні методи, зокрема діалектичний, системно-структурний, функціональний, юридико-догматичний і інтерпретаційний. Ці методи дали змогу комплексно висвітлити правове регулювання та практичне значення застосування спеціальних знань у кримінальному провадженні. З'ясовано, що ефективне й об'єктивне розслідування зазначених вище правопорушень неможливе без застосування спеціальних знань, які виходять за межі традиційної правничої компетенції. Складність господарських операцій, багаторівневість фінансових процесів і їхня схожість з легальною діяльністю обумовлюють необхідність залучення економістів, аудиторів, бухгалтерів та IT-фахівців. Розкрито значення спеціалістів у різних процесуальних і непроцесуальних формах діяльності: від консультування та попередніх досліджень *до участі в обшуках, оглядах, допитах і тимчасовому доступі до документів. Висвітлено їхню роль у виявленні прихованих схем ухилення від сплати податків, незаконного відшкодування ПДВ, фіктивного банкрутства й інших способів заволодіння активами. Особливу увагу приділено аналізу матеріалів ревізій, перевірок та аудиту як джерел доказової інформації, а також дискусійним питанням правового статусу аудиторів і ревізорів у кримінальному провадженні. Узагальнено, що виявлення ознак господарських кримінальних правопорушень є комплексним етапом криміналістичної методики їх розслідування, який потребує інтегрування спеціальних знань і слідчих (розшукових) дій. Констатовано, що участь спеціаліста забезпечує належний рівень доказової бази, мінімізує ризик утрати інформації та підвищує ефективність кримінального провадження.*

Ключові слова: *спеціальні знання; спеціаліст; господарські кримінальні правопорушення; документування ознак злочину; ревізія; аудит; доказування.*

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Declaration of Competing Interest

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Geographical Indications as Forensic Science Objects in the Field of Intellectual Property: Theoretical Aspects and Main Tasks

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This article purpose is to study the modern theoretical and legal foundations of forensic examinations related to various means of individualizing goods and services, in which one of the objects under study is geographical indications; to analyze the principles of legal protection of geographical indications in Ukraine and the peculiarities of regulating relations arising in connection with their registration, use, and protection; to form an indicative list of the main tasks of expertise related to geographical indications. For achieving the set goal, general scientific (analysis, synthesis, generalization, description, systematization, etc.) and special methods were used. It has been determined that conflicts over geographical indications may arise in relation to the following objects: registered and well-known trademarks, domain names, as well as indications that have not acquired legal protection, etc. The practice of resolving disputes over such designations has been analyzed, the definition of the subject of expertise related to geographical indications has been formulated, and a list of its main tasks has been outlined. The provisions proposed here form the basis for the formation of theoretical and methodological principles of expertise in the field of intellectual property and the improvement of methodological approaches to the performance of expert tasks.

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Keywords: *intellectual property; forensic science; expert; specific expertise; objects of intellectual property; geographical indications; name of origin place of goods; trademarks; topic of forensic examination; tasks of forensic examination.*

Research Problem Formulation

Active development of any type of forensic examination is impossible without a theoretical and methodological basis for its implementation. As O. Kliuiev and E. Simakova-Yefremian rightly point out, "leading components of the doctrine of forensic examination are its theoretical and methodological foundations (since it is on their basis that the foundations of any forensic research are determined, which ensures solution of a number of problems: organizing thesaurus of forensic science; defining new types of objects and, accordingly, new types of expert researches; identifying patterns and principles of development of forensic examination; identifying insufficiently studied aspects of methodological support for forensic activities; determining the prospects for the development of specific areas of forensic science including the entire science of forensic expertise in general) and the core (key provisions, patterns, and principles that reveal peculiarities of the structure of forensic science doctrine and characterize its specificity)" [1].

Forensic examination in the field of intellectual property in Ukraine has been carried out for more than 20 years. During this time the practice of performing certain expert tasks has been accumulated, as well as theoretical and methodological approaches to conducting research on various intellectual property objects have been developed. Among the types of intellectual property objects to be studied are geographical indications, which (along with trademarks and commercial (brand) names) belong to the legal means of individualization of participants in civil circulation, their goods and services.

Conducting forensic examinations in the field of intellectual property requires knowledge of the specifics of providing legal protection to intellectual property objects, peculiarities of creating and using such objects, as well as knowledge of the methodology for establishing factual data and circumstances of the case. Quite often, within the same examination, the patterns of creation and use of various objects of intellectual property rights are investigated. This is especially true when a certain designation has dual protection: for example, it is registered both as a trademark and as a geographical indication.

In this aspect, one of the most important doctrinal components of forensic science in the field of intellectual property is the development of its theoretical and methodological foundations, which requires fulfillment of a number of specific tasks, in particular: conducting scientific research on theoretical and legal aspects and the practice of resolving disputes on the recognition or violation of rights to various objects of intellectual property; outlining insufficiently studied elements

1 Клюєв О., Сімакова-Єфремян Е. Доктринальні підходи до судової експертизи в Україні. *Право України*. 2021. № 8. С. 30—31. DOI: 10.33498/louu-2021-08-028 (date accessed: 12.08.2025).

of methodological support of forensic expert activity; identifying the main expert tasks and developing methodological approaches to their solution.

Analysis of Essential Researches and Publications

Currently, Ukraine has accumulated practical experience in applying special knowledge to consider cases of recognition and violation of rights to various means of individualization of participants in civil circulation, goods and services. Given the number of orders of examinations related to trademarks, it is quite clear that theoretical scientists and practical experts paid close attention to these objects, in particular, in order to develop the most advanced methodological approaches to the performance of expert tasks.

Methodological approaches to conducting forensic examinations related to various means of individualization of goods and services are covered in the following developments: "Methods of conducting expert studies related to means of individualization" [2]; "Methods of researching trademarks (marks for goods and services)" [3]. Lists of recommended scientific, technical and reference literature used during forensic examinations [4] contain methodological recommendations and reference literature that outline certain theoretical and methodological aspects of conducting examinations in the field of intellectual property, such as: "Methods of forensic expert research of indications of origin of goods" [5]; "Methodological recommendations for conducting expert studies in cases related to unfair competition" [6]; "Methods of forensic examination of marks for goods and services (trademarks)" [7], "Methodology of forensic examination of commercial (brand) names" [8].

2 Ковальова Н. М., Голікова О. В. та ін. Методика проведення експертних досліджень, пов'язаних із засобами індивідуалізації / за ред. В. Л. Федоренка. Київ, 2017. 56 с. Зареєстр. в Мін'юсті України 23.03.2018 р. Реєстр. код 13.6.01 / Реєстр методик проведення судових експертиз : вебсайт. URL: https://rmpse.minjust.gov.ua/page/24 (date accessed: 12.08.2025).

3 Методика дослідження торговельних марок (знаків для товарів та послуг) / В. Л. Федоренко (відповід. викон.) та ін. Київ, 2023. 179 с. Зареєстр. в Мін'юсті України 28.04.2023 р. Реєстр. код 13.6.02 / Там само.

4 Про затвердження переліків рекомендованої науково-технічної та довідкової літератури, що використовується під час проведення судових експертиз : наказ Мін'юсту України від 08.05.2018 р. № 1467/5 (зі змін. та допов.). URL: https://ips.ligazakon.net/document/MUS30115 (date accessed: 12.08.2025).

5 Методика судово-експертного дослідження зазначень походження товарів : звіт про НДР / кер. Г. В. Прохоров-Лукін ; викон.: А. В. Андреєва, Л. О. Величко, Н. Б. Климова та ін. № ДР 0111U000411. Київ, 2011. 114 с.

6 Методичні рекомендації проведення експертних досліджень у справах, пов'язаних із недобросовісною конкуренцією : звіт про НДР (заключ.) / кер. Ю. Г. Охромеєв. № 0111U000197. Київ, 2012. 84 с.

7 Методика судово-експертного дослідження знаків для товарів і послуг (торговельних марок) : звіт про НДР (заключ.) / кер. Г. В. Прохоров-Лукін ; викон.: А. В. Андреєва та ін. № 0108U005823. Київ, 2009. 400 с.

8 Методика судової експертизи комерційних (фірмових) найменувань : звіт про НДР (заключ.) / кер. Г. В. Прохоров-Лукін ; викон.: А. В. Андреєва та ін. № 0110U002834. Київ, 2011. 78 с.

The main concepts of expertise related to the study of commercial (brand) names, trademarks (marks for goods and services), geographical indications, and methodological approaches to solving certain expert tasks are covered in the works of P. Krainev [9], O. Doroshenko [10], H. Prokhorov-Lukin [11], V. Fedorenko [12], K. Sopova [13], N. Kovalova [14], T. Chabanets [15], etc. However, the formation of scientifically grounded theoretical and methodological foundations of expertise in the field of intellectual property related to geographical indications remains relevant to this day.

Article Purpose

In order to analyze the principles of legal protection of geographical indications in Ukraine; peculiarities of regulation of relations arising in connection with their registration, use and protection; to study the practice of appointing and conducting forensic examinations of these objects; to form an indicative list of the main tasks of the examination related to geographical indications, which will further become the basis for improving methodological approaches to the implementation of expert tasks.

Research Methods

For achieving this goal, general scientific (analysis, synthesis, generalization, description, systematization, etc.) and special methods were used.

Main Content Presentation

When considering litigation on the recognition or violation of rights to various means of individualization of goods and services, it may be necessary to apply

9 Крайнєв П. П., Ковальова Н. М., Мельников М. В. Судові експертизи у сфері інтелектуальної власності / за ред. П. П. Крайнєва. Вінниця, 2008. 376 с.

10 Дорошенко О. Ф. Судова експертиза як засіб доказування при розгляді цивільних справ щодо порушення прав на об'єкти інтелектуальної власності : автореф. дис. ... канд. юрид. наук. Київ, 2007. 23 с. URL: https://uacademic.info/en/document/0407U002274 (date accessed: 12.08.2025).

11 Методологічні основи судової експертизи об'єктів інтелектуальної власності : звіт про НДР (заключ.) / кер. Г. В. Прохоров-Лукін ; викон.: А. В. Андреєва та ін. № ДР 0104U003403. Київ, 2006. 290 с.

12 Федоренко В. Л., Коваленко В. В., Ковальова Н. М. Торговельні марки, як об'єкт судової експертизи з питань інтелектуальної власності: походження та методичне забезпечення. *Експерт: парадигми юридичних наук і державного управління*. 2022. № 1 (19). С. 15—29. DOI: 10.32689/2617-9660-2022-1(19)-15-29 (date accessed: 12.08.2025).

13 Сопова К. А. Предмет і засоби доказування у справах щодо прав на торговельну марку : дис. ... канд. юрид. наук. Київ, 2018. 235 с.

14 Адлер О. Г., Тимощик Л. П., Ковальова Н. М., Голікова О. В., Чабанець Т. М. та ін. Судова експертиза об'єктів права інтелектуальної власності в Україні : наук.-метод. вид. / за ред. проф. В. Л. Федоренка. Вид. 2-ге, розшир. і допов. Київ, 2022. 196 с. ; Федоренко В. Л., Скрипнюк О. В., Фоя О. А., Чабанець Т. М. Питання ідентифікації позначень, що використовуються для індивідуалізації товарів, послуг та учасників цивільного обороту, та які є об'єктами порівняння при проведенні експертного дослідження торговельних марок. *Експерт: парадигми юридичних наук і державного управління*. 2021. № 5 (17). С. 67—95. DOI: 10.32689/2617-9660-2021-5(17)-67-95 (date accessed: 12.08.2025).

15 Федоренко В. Л., Скрипнюк О. В., Фоя О. А., Чабанець Т. М. Зазнач. твір. DOI: 10.32689/2617-9660-2021-5(17)-67-95 (date accessed: 12.08.2025).

special knowledge to clarify the facts related to direct or indirect use of registered geographical indications or their imitation. The establishment of such facts belongs to the tasks of examination in the field of intellectual property in the specialty 13.6 "Research related to commercial (brand) names, trademarks (marks for goods and services), geographical indications".

Until 01.01.2020, in the Law of Ukraine: *On Legal Protection of Geographical Indications* (Art. 1) [16] the *indication of origin of goods term* was interpreted as covering (combining) the following terms:

- simple indication of origin of the goods;
- qualified indication of origin of the goods [17].

A simple indication of the origin of goods is any verbal or pictorial (graphic) designation that directly or indirectly indicates the geographical place of origin of the goods. For example, the name of a geographical location used to indicate the origin of goods (*Made in China, Made in Kyiv*, e.g.) is a simple indication of the origin of goods. Some graphic images also evoke associations with a specific geographical location (indicating the place of origin of the goods): the image of the Golden Gate is associated with Kyiv, the Eiffel Tower with Paris, the pyramids with Egypt, etc. Simple indications of the origin of goods are not subject to state registration and are not protected by intellectual property rights, although they may be included in trademarks as separate elements. The main requirement for their use is that they must not mislead consumers as to actual origin of the goods.

Intellectual property rights are protected by qualified indications of origin of goods (hereinafter referred to as the QIOG), among which the geographical indication and the name of the place of origin of the goods are distinguished.

According to the current version of Art. 1 of Law of Ukraine: On Legal Protection of Geographical Indications, the above terms should be used today in the following meaning:

*"3) **geographical indication** is the name of a place that identifies a product that originates from a certain geographical place and has a special quality, reputation or other characteristics due mainly to this geographical place of origin, and at least one of the stages of production of which (production (extraction) and/or processing, and/or preparation) is carried out in a certain geographical territory";*

*"9) **name of the place of origin of goods** is a type of geographical indication, which means a name that identifies a product that originates from a certain geographical place and which has special qualities or properties solely or mainly due to a specific geographical environment with its inherent natural and human factors, and all stages of production (production (extraction) and/or processing, and/or preparation) are carried out in a certain geographical territory"* [18].

According to Part 1 of Article 6 of this Law: *"legal protection of a geographical indication is granted on the basis of their registration in accordance with the procedure*

16 Про правову охорону географічних зазначень : Закон України від 16.06.1999 р. № 752-XIV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

17 Там само : станом на 31.12.2019 р. URL: https://zakon.rada.gov.ua/laws/show/752-14/ed20121205#Text (date accessed: 12.08.2025).

18 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

established by this Law or in accordance with international treaties of Ukraine" [19].

In Ukraine, legal protection extends to geographical indications registered under the national procedure; geographical indications of the European Union, which Ukraine protects in accordance with 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 referred to as the *Association Agreement*) [20]; and geographical indications, which Ukraine protects in accordance with the Agreement between Ukraine and Georgia [21].

Provisions of Chapter 9 "Intellectual Property" of Sect. IV "Trade and Trade Related Matters" of the Association Agreement [22] in Ukraine shall apply from 01.01.2016. Ukraine has undertaken to protect geographical indications for wines, flavored wines and spirits of the EU specified in Annex XXII-D to this Agreement, in accordance with the level of protection stipulated in Subsection 3 "Geographical Indications" of this Agreement. For example, the EU agricultural products and food products that Ukraine should protect include French *Roquefort* cheese, Italian *Prosciutto di Carpegna* ham, *Gorgonzola* cheeses, *Parmigiano Reggiano*, Spanish *Jamón de Teruel* ham, etc.

According to the Ukrainian National Office of Intellectual Property and Innovation, the Register of Geographical Indications has 3133 registered objects [23]. According to the national procedure, only 38 objects were registered, among which 29 are exclusively Ukrainian (for example, «Миргородська», «Поляна Квасова», «Трускавецька», «Таврія», «Кролевецькі Рушники», «Гуцульська овеча бриндзя», «Петриківський розпис», «Херсонський кавун», «Мелітопольська черешня» etc.).

During the examination, it is taken into account that legal protection is provided to a qualified indication of the origin of the goods, which indicates a specific geographical place from which this product originates, meets the conditions for granting legal protection under Art. 7 of the Law: On Legal Protection of Geographical Indications and which is not subject to the grounds for refusal to provide legal protection stipulated by Art. 8 of this Law [24].

19 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

20 Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони : ратифік. із заяв. Закон. України від 16.09.2014 р. № 1678-VII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (date accessed: 12.08.2025).

21 Угода між Україною та Грузією про взаємну правову охорону географічних зазначень для вин, спиртних напоїв та мінеральних вод : затв. Указ. Президента України від 13.09.2007 р. № 866/2007 [Чинна для України від 07.11.2007]. URL: https://zakon.rada.gov.ua/laws/show/268_078#Text (date accessed: 12.08.2025).

22 Угода про асоціацію … . URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (date accessed: 12.08.2025).

23 Реєстр географічних зазначень / IP Office. Український національний офіс інтелектуальної власності та інновацій (УКРНОІВІ) : вебсайт. URL: https://nipo.gov.ua/reiestr-heohrafichnykh-zaznachen/ (date accessed: 12.08.2025).

24 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

Here are some examples of geographical indications that have acquired legal protection on the territory of Ukraine: «Кролевецькі Рушники», «Петриківський розпис», «Поляна Квасова», *«Cha-cha»*. As a registered name of the product origin are «Гуцульська овеча бриндзя», «Херсонський кавун», «Таврія», «Миргородська», «Трускавецька», *«Borjomi»*, *«Prosecco»*, *«Φέτα»*, «Мелітопольська черешня», etc.

When forming the theoretical foundations of examinations related to various means of individualization of goods and services, and developing methodological approaches to the performance of expert tasks, it is necessary to take into account the main provisions of the legal protection of geographical indications in Ukraine and the peculiarities of regulating relations arising in connection with their registration, use and protection. Let us consider the provisions of Law of Ukraine: On Legal Protection of Geographical Indications.

According to Part 2 of Article 6, *"the scope of legal protection of a geographical indication is determined by the characteristics of the goods and the boundaries of the geographical place of origin specified in the Register"* [25].

Part 2 of Article 17 provides:

"Registration of a geographical indication entitles the persons specified in Article 9 of this Law to:

- *a) use a geographical indication;*
- *b) take measures to prohibit the use of a geographical indication by persons who are not entitled to do so;*
- *c) carry out activities to ensure the conformity of the goods for which the geographical indication is registered, the specification of the goods agreed by the specially authorized body, or the document specified in part six of Article 10 of this Law;*
- *d) disseminate information and carry out other activities aimed at informing consumers about the special qualities of the product for which the geographical indication is registered;*
- *e) other rights defined by the legislation on the legal protection of geographical indications"* [26].

The use of a registered geographical indication (under Part 3 of Article 17 of the Law) is recognized as: applying it to the goods or on the label; applying it to the packaging of the goods, use in advertising; recording on forms, invoices and other documents accompanying the goods [27].

Part 4 of Article 17 states, in particular:

"A registered geographical indication shall be protected from such actions, unless otherwise provided by this Law:

- *a) any direct or indirect commercial use of a registered geographical indication for a product that is not covered by the registration of a geographical indication and is similar to the product for which the geographical indication is registered, or if such use leads to abuse of the reputation of a geographical indication, including if such product is used as part of another product;*
- *b) any misuse or imitation or other embodiment of a registered geographical indication, even if the true place of origin of the goods is indicated or if the registered indication is translated, transcribed or transliterated or accompanied by the words:* ***style, type,***

25 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

26 Там само.

27 Там само.

method, produced in, imitation, taste, similar*, etc., including if such goods are used as part of another product;*

c) *any other false or misleading information regarding the source of origin, essence or essential qualities of the goods, the use of a geographical indication on the inner or outer packaging, promotional materials or documents relating to the relevant goods, as well as packaging of the goods in containers, which may cause misconception about its origin;*
d) *any other use which may mislead the consumer as to the true origin of the goods"* [28].

According to Art. 25, the courts resolve disputes, in particular, on the legality of the registration of a geographical indication; establishing the fact of use of a geographical indication; violation of rights arising from the registration of a geographical indication; compensation [29].

When forming an evidence base on the presence of direct or indirect use of a registered geographical indication, imitation or other embodiment of a registered geographical indication, the possibility of misleading the consumer about the real origin of the goods, etc., it may be necessary for experts to use specific expertise to clarify certain facts and circumstances.

In order to highlight and systematize the main theoretical principles of expertise related to geographical indications as objects of intellectual property, an analysis of court practice in civil and commercial cases was carried out with the involvement of experts who have specific expertise to establish facts and circumstances regarding the means of individualization of goods and services (trademarks; geographical indications; designations that have not acquired legal protection, etc., since disputes concerning them are quite common). In particular, forensic expert can be tasked with determining whether trademarks or designations that have not acquired legal protection are so similar to geographical indications that they could be confused with them, or whether they mislead consumers as to the source, nature, or essential qualities of the goods.

Let us consider the practice of resolving disputes concerning violations of rights to geographical indications and invalidating protection documents for trademarks (trademarks).

During the consideration of civil case No. 757/57422/20-ц, the plaintiffs (in substantiation of the existence of grounds for invalidation of the certificate of Ukraine No. 263030 dated on August 12, 2019 for the mark for goods and services *Vina Saint Million*) submitted an expert opinion drawn up at their request based on the results of the commission examination of intellectual property objects [30]. The basis for invalidation of the above certificate, according to the plaintiffs, was, in particular, the similarity of the registered mark with the qualified indication of the origin of *Saint-Emilion* goods, entered in the State Register of Ukraine of Names of Places of Origin of Goods and Rights to Use Registered QIOG (registration number: 1505 dated on 01.01.2016, country of registration: France).

28 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

29 Там само.

30 Рішення Печер. райсуду м. Києва від 02.11.2021 р. Справа № 757/57422/20-ц / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/102153554 (date accessed: 12.08.2025).

According to the results of the research, the experts found that the mark for goods and services *Vina Saint Million*:

- is so similar that it can be confused with a qualified indication of the origin of goods (geographical indication) *Saint-Emilion* (in terms of goods of the 33rd class of the International Classification of *Goods* and Services (hereinafter referred to as the NCL) — in particular: wines; alcoholic beverages, except beer; alcoholic beverages containing fruits, etc.);
- is misleading about certain goods of the 33rd class of the NCL (in particular, anise tincture (liqueur); anise liqueur; brandy; vermouth, whiskey, vodka; cherry vodka; gin; rum; sake; sambuca; sangria; cider, etc.);
- is such that it can mislead the consumer about the product or the person who produces the product, due to the fact that it generates associations in the consumer's mind related to a certain quality, geographical origin of the goods — the geographical indication of *Saint-Emilion*, which is actually not true for certain goods of the 33rd class of the ICGs (in particular, wines; alcoholic beverages, except beer; alcoholic beverages containing fruits, etc.).

The court assessed the conclusion submitted by the plaintiffs in conjunction with the rest of the evidence in the case and did not find any circumstances that would give grounds to argue that the conclusion was unfounded, incorrect or inconsistent with other materials of the case. In such circumstances, the court found the conclusion to be appropriate and admissible evidence in the case, and the certificate for the mark for goods and services *Vina Saint Million* invalid in its entirety.

In civil case No. 757/44025/21-ц[31] on invalidation of the certificate of Ukraine for the mark for goods and services, *Montelly* needed to resolve the issue of the use of a designation presumably similar to the *Monthelie* geographical indication, or one that could generate associations in the minds of the consumer related to a certain quality, geographical origin of goods, which is actually untrue, as a result of which it could mislead the consumer about the product or the person producing the goods.

The claims are motivated by the fact that the Montelly mark under certificate No. 288452, registered for goods of the 33rd class of the ICGs (alcoholic beverages, except beer; alcoholic beverages containing fruits; wines, etc.), is so similar that it can be confused with the qualified indication of the origin of goods (geographical indication) of Monthelie, which is entered in the State Register of Names of Places of Origin of Goods and Rights to Use Registered Qualified Indications of Origin of Goods (registration number of QIOG: 1444 dated on 01.01.2016). The Monthelie *designation* is registered in the EU as a protected indication of the origin of the goods (country of registration: France).

In support of the claims before the commencement of the consideration of the case on the merits, the plaintiff's representative provided an expert opinion based on the results of the commission examination of intellectual property objects, drawn up at the request of the case party.

The experts found out, in particular, that the Montelly *mark*:

- is so similar that it can be confused with the Monthelie geographical indication in the goods of the 33rd

31 Рішення Печер. райсуду м. Києва від 08.08.2022 р. Справа № 757/44025/21-ц / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/106563899 (date accessed: 12.08.2025).

class of the ICGs (wines; sparkling wines; pickets (wine from grape squeezes); alcoholic beverages, except beer; alcoholic beverages containing fruits);

- can mislead the consumer about the product or the person who produces the product, due to the fact that it generates associations in the consumer's mind related to a certain quality, geographical origin of the goods, the *Monthelie* geographical indication, which is actually untrue and can mislead consumers about the true origin of the goods under the *Montelly* designation for goods of the 33rd class of the ICGs (wines; sparkling wines; pickets (wine from grape squeezes); alcoholic beverages, except beer; alcoholic beverages containing fruits").

Court found no circumstances that would give grounds to assert the groundlessness, incorrectness of the conclusion or its contradiction with other materials of the case, and recognized the conclusion as appropriate and admissible evidence in the case. The claim was satisfied, the *Montelly* certificate was declared invalid in its entirety [32].

The foregoing indicates that during the consideration of disputes on the invalidation of trademark certificates, the courts see grounds for the appointment of forensic examinations or the involvement of experts by the parties to the case to determine the following facts:

- similarity of certain designations so that they can be confused with geographical indications (name of the place of origin of the goods);
- misleading the consumer about the goods or the person who produces the goods, due to the fact that such a designation generates associations in the consumer's mind related to a certain quality, geographical origin of goods: geographical indication.

An analysis of judicial practice has shown that disputable situations can arise in the case of granting double legal protection to various means of individualization. In particular, this applies when a certain designation is registered as a geographical indication, as well as when it is used in a trademark or in a designation that has not acquired legal protection. Labels of certain goods can also be protected both as trademarks and as industrial designs. Thereby in order to clarify the facts and circumstances of the case, it may be necessary to conduct comprehensive examinations.

Consider the peculiarities of consideration of the dispute on the claim of «Аква-Еко» LLC and «Фірма Т. С. Б.». LLC against «Водолій С. П.» LLC on the recognition of the «Трускавецька» trademark as well-known and the prohibition of the use of the «Трускавецька» trademark [33].

The claim is motivated by the fact that for the first time the designation «Трускавецька» of «Фірма Т. С. Б.» was registered in 1997 for goods of the 32nd class of the ICGs, which is confirmed by the certificate of Ukraine for the mark for goods and services. Since 1999, «Фірма Т. С. Б.» CJSC and «Аква-Еко» LLC have jointly owned the rights to the «Трускавецька» trademark under the certificate of Ukraine No. 8872. According

32 Рішення Печер. райсуду м. Києва від 08.08.2022 р. … . URL: https://reyestr.court.gov.ua/Review/106563899 (date accessed: 12.08.2025).

33 Рішення господ. суду м. Києва від 28.09.2023 р. Справа № 910/4085/23 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/114113615 (дата звернення: 12.08.2025).

to the plaintiffs, due to the active promotion and expansion of the sales network, «Трускавецька» trademark became well known (for goods of the 32nd class of the NCL: waters [drinks]; mineral waters [drinks]; table waters; carbonated waters). In 2021, in the retail chain "«Велмарт», the plaintiffs found a drink labeled as «Трускавецька класична» produced by «Водолій С. П.» LLC [34].

The case files include information that the plaintiffs, in addition to the above trademark, own a series of trademarks according to several certificates of Ukraine (No. 34367, 34366, 56547, 59642, 56503, 23291, 23354), in which the dominant and recognizable element is the verbal element «Трускавецька». The designation «Трускавецька» is registered as a qualified indication of the origin of goods (name of the place of origin of the goods) for mineral natural water in relation to «Аква-Еко» LLC (certificate dated 11.05.2010 No. 11/01) and «Фірма Т. С. Б.». CJSC (certificate dated on 11.06.2018 No. 11/02) [35].

During consideration of this case, the plaintiffs and defendants provided the court with several expert opinions drawn up at their request (some of them the court did not take into account, motivating its decisions).

Let us consider some of the questions that the respondent asked the experts to resolve:

- *"Is the designation «Трускавецька» that is part of the trademark under the certificate of Ukraine No. 8872, and which is recognized as well known in Ukraine as of 01.01.2008 for goods of class 32 of the NCL "waters [drinks]; mineral waters [drinks]; table waters; carbonated waters", such that it is descriptive when used in relation to these goods 32 or in connection with them, in particular, indicates the geographical origin, place of manufacture of goods?"*;
- *"Is the designation «Трускавецька класична» used on the labels of drinking water produced by «Водолій С. П.» LLC so similar that it can be confused with the trademark «Трускавецька» under Ukrainian certificate No. 8872, which is recognized as well known in Ukraine as of January 1, 2008, for goods in class 32 of the International Classification of Goods and Services (NCL) "waters [beverages]; mineral waters [beverages]; table waters; carbonated waters"?"* [36].

In his objections, the defendant noted that the designation «Трускавецька» has a weak distinctive ability today, since it does not perform the main distinctive function, that is, it does not distinguish the goods of one manufacturer from the goods of another. The court found the above statement to be an unfounded assumption refuted by the evidence submitted by the plaintiffs (in particular, the expert's conclusion based on the results of the examination of intellectual property objects) and noted that the designation «Трускавецька» has a distinctive ability in relation to the plaintiffs, which it acquired as of 01.01.2008 that is confirmed by the evidence available in the case.

The defendant also referred to the fact that the name «Трускавецька» is a commonly used designation used for certain goods (mineral and drinking water). The court found this statement unfounded,

34 Рішення господ. суду м. Києва … . URL: https://reyestr.court.gov.ua/Review/114113615 (date accessed: 12.08.2025).

35 Там само.

36 Там само.

since *"legal protection of a geographical indication is granted on the basis of their registration in accordance with the procedure established by this Law or in accordance with international treaties of Ukraine"* (paragraph 1 of Part 1 of Article 6 of the Law of Ukraine: On Legal Protection of Geographical Indications) [37].

Based on the provisions of the Law: On the Legal Protection of Geographical Indications, the [38] court noted that any geographical indication should be registered by the proper person, that is, entered in the Register of Geographical Indications [39]. According to this Register, «Трускавецька» is a registered qualified indication of the origin of goods (name of the place of origin of goods) for mineral natural water [40].

According to the decision of the court of first instance, the «Трускавецька» trademark was recognized as well known in Ukraine as of 01.01.2008 for the relevant goods of the 32nd class of the NCL in relation to «Аква-Еко» LLC and «Фірма Т. С. Б.» LLC, and «Водолій С. П.». LLC is prohibited from using the «Трускавецька» trademark in any way (in particular, by using the «Трускавецька класична» designation and other designations similar to the «Трускавецька» trademark so that they can be confused with mineral waters, table waters, drinking water and other goods related to goods for which the «Трускавецька» trademark is recognized as well known) [41].

The defendant appealed to the Northern Commercial Court of Appeal, in which he asked to cancel the decision of the court of first instance [42] and adopt a new one, which refused to satisfy the plaintiffs' claims.

The panel of judges of the Northern Commercial Court of Appeal disagreed with the decision of the court of first instance and ruled that the local commercial court had incorrectly applied the substantive law and erroneously decided to satisfy the claim in part regarding the recognition of the «Трускавецька» trademark «Трускавецька» as well known in Ukraine as of January 1, 2008, for goods in class 32 of the International Classification of Goods and Services. The court ruling states that since "the protection of rights by prohibiting the Company from using the trademark «Трускавецька»," the obligation to cease production, storage for the purpose of offering for sale, including on the Internet, and the sale of drinking water processed with a mark similar to the «Трускавецька» trademark" is possible only as a consequence of and after the satisfaction of the claim for recognition of the trademark as well-known, it is necessary, accordingly, to refuse to satisfy the claim in this part" [43].

The panel of judges referred, in particular, to paragraph 12 of Article 16(6) of

37 Про правову охорону … . URL: https://zakon.rada.gov.ua/laws/show/752-14#Text (date accessed: 12.08.2025).

38 Там само.

39 Реєстр географічних зазначень … . URL: https://nipo.gov.ua/reiestr-heohrafichnykh-zaznachen/ (date accessed: 12.08.2025).

40 Там само ; Рішення господ. суду м. Києва … . URL: https://reyestr.court.gov.ua/Review/114113615 (date accessed: 12.08.2025).

41 Рішення господ. суду м. Києва … . URL: https://reyestr.court.gov.ua/Review/114113615 (дата зверне: 12.08.2025).

42 Там само.

43 Постанова Півн. апеляц. господ. суду від 16.01.2024 р. Справа № 910/4085/23 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/117171013 (date accessed: 12.08.2025).

the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services," according to which "the exclusive right of the owner of a trademark certificate containing a geographical indication to prohibit others from using the registered trademark without his consent does not apply to the bona fide use of the relevant geographical name by other persons"[44]. The case files showed that the disputed designation «Трускавецька класична» contains a geographical indication, while the trademark designation «Трускавецька» contains one element that is a geographical indication. Therefore, the plaintiffs do not have the right to prohibit the defendant from using this trademark without their consent, since the case materials do not contain any evidence of unfair use of such a designation (geographical name), given the location of the production facilities of «Водолій С. П.» LLC in the city of Truskavets, Lviv region, and the labeling of goods belonging to class 32 of the International Classification of Goods and Services (water (beverages); mineral waters (beverages); table waters; carbonated waters) [45].

Under these circumstances, the panel of judges concluded that there were no grounds for satisfying the claims and overturned the decision of the court of first instance [46] and refused to satisfy the claim [47].

Ultimately, the Supreme Court, composed of a panel of judges of the Cassation Economic Court, declared invalid the decisions and resolutions of the courts of first and second instance in relation to the claim to recognize the «Трускавецька» trademark as well-known in Ukraine as of 01.01.2008 in the name of the enterprise with foreign investments, «Аква-Еко» LLC and «Фірма Т. С. Б.» LLC «Фірма Т. С. Б.» and referred the case in this regard to the Economic Court of Kyiv for a new hearing [48].

Before the case was heard on its merits, the plaintiffs filed a motion to dismiss the claim on the basis of paragraph 5 of Part 1 of Article 226 of Commercial and Procedural Code of Ukraine [49], which the court granted, and the claims of «Аква-Еко» LLC and T. S. B. «Фірма Т. С. Б.» [50].

Therefore, analysis of literary sources and judicial practice has shown that the consideration of disputes related to the violation of rights to geographical indications, the invalidation and termination of legal protection of geographical indications, the invalidation of trademarks due to

44 Про охорону прав на знаки для товарів і послуг : Закон України від 15.12.1993 р. № 3689-XII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/3689-12#Text (date accessed: 12.08.2025) ; Постанова Півн. апеляц. господ. суду … . URL: https://reyestr.court.gov.ua/Review/117171013 (date accessed: 12.08.2025).

45 Постанова Півн. апеляц. господ. суду … . URL: https://reyestr.court.gov.ua/Review/117171013 (date accessed: 12.08.2025).

46 Рішення господ. суду м. Києва … . URL: https://reyestr.court.gov.ua/Review/114113615 (date accessed: 12.08.2025).

47 Постанова Півн. апеляц. господ. суду … . URL: https://reyestr.court.gov.ua/Review/117171013 (date accessed: 12.08.2025).

48 Постанова Верхов. Суду від 16.07.2024 р. Справа № 910/4085/23 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/120485335 (date accessed: 12.08.2025).

49 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: 12.08.2025).

50 Ухвала господ. суду м. Києва від 20.11.2024 р. Справа № 910/4085/23 / Там само. URL: https://reyestr.court.gov.ua/Review/123155147 (date accessed: 12.08.2025).

misleading information about the special quality, characteristics, and true origin of goods, as well as the use of the reputation of a geographical indication, may require specific expertise application, namely: appointment of forensic examinations.

During examinations related to geographical indications, various objects of intellectual property may be subject to investigation, between which conflicts arise (for example, between a qualified indication of the origin of goods (geographical indication or name of the place of origin of goods) and a registered trademark; a well-known trademark; a commercial (brand) name; designation that has not acquired legal protection; a domain name).

In order to establish the theoretical foundations of intellectual property expertise, we believe that it is essential to formulate a fundamental concept, the definition of the subject matter of the relevant type of forensic examination.

The formulation of the subject of forensic examination in the field of intellectual property (in particular, related to various means of individualization of goods and services) has been repeatedly proposed in scientific and educational and methodological papers.

In particular, at one time we noted that *"the subject of forensic examination in the field of intellectual property is the factual data and circumstances of the case on the properties, features, patterns of creation and use of intellectual property objects, their value, damages caused and economic transactions with respect to these objects, which are important for pre-trial investigation or judicial proceedings and are established by applying specialized knowledge in the manner prescribed by law"* [51].

In the textbook: *Forensic Science Fundamentals* (2016), the subject of forensic expertise in the expert specialty 13.6 "Research related to commercial (brand) names, trademarks (signs for goods and services), geographical indications" is formulated as follows: *"Subject of this type of forensic expertise is the factual data and circumstances of the case on the properties, features, patterns of creation, functioning and use of marks for goods and services, commercial (brand) names, geographical indications and other designations that have not acquired legal protection, which are established by applying specific expertise in the manner prescribed by law"* [52].

In the educational and methodological publication: *Forensic Examination of Intellectual Property Rights in Ukraine* (2019), which was published after the adoption of the Law "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Code of Administrative Proceedings of Ukraine and Other Legislative Acts" [53], the subject of this type of forensic expertise is set out in the following wording: *"The subject of this type of forensic expertise is the factual data and circumstances of the case on the properties, features, regularities*

51 Кісіль Н. В. Сутність і зміст судово-експертної діяльності у сфері інтелектуальної власності. *Теорія та практика судової експертизи і криміналістики*. 2015. Вип. 15. С. 347. URL: http://nbuv.gov.ua/UJRN/Tpsek_2015_15_47 (date accessed: 12.08.2025).

52 Головченко Л. М., Лозовий А. І., Сімакова-Єфремян Е. Б. та ін. Основи судової експертизи: навчальний посібник для фахівців, які мають намір отримати або підтвердити кваліфікацію судового експерта. Харків, 2016. С. 430—431.

53 Про внесення змін до Господарського процесуального кодексу України, Цивільного процесуального кодексу України, Кодексу адміністративного судочинства України та інших законодавчих актів : Закон України від 03.10.2017 р. № 2147-VIII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2147%D0%B0-19#n2 (date accessed: 12.08.2025).

of the creation, functioning and use of marks for goods and services, commercial (brand) names, geographical indications and other designations that have not acquired legal protection, which are established by applying special knowledge, with the aim of providing an opinion on issues that are or will be the subject of judicial consideration” [54].

Meanwhile, if we consider the topic of forensic specifically of qualified indications of origin of goods, we consider it appropriate to generalize the above definitions and propose the following interpretation: *“The topic of forensic examination related to geographical indications is the factual data and circumstances of the case on the features of the direct or indirect use of registered geographical indications or their other embodiment; special properties, certain qualities, characteristics and geographical origin of the goods on which this qualified indication of origin of goods is used, which are clarified through the application of special knowledge, in order to provide an opinion on the issues that are or will be the subject of judicial consideration”*.

The performed research provided the basis for identifying *main tasks of expertise in the field of intellectual property, one of the objects of which is a geographical indication,* as the establishment of:

- similarity of certain designations so that they can be confused with geographical indications (name of the place of origin of the goods);
- similarity of studied designations with a geographical indication, which may lead to confusion with the activities of the producer who is granted the right to use a qualified indication of origin of the goods;
- possibility of misleading the consumer as to the source of origin, nature or essential qualities of the product;
- possibility of misleading consumers about a product or the person who produces it, because a certain designation creates associations in the consumer’s mind that are related to a certain quality or geographical origin of the goods: certain geographical indication that does not actually correspond to reality;
- whether a particular label affixed to goods is misleading with regard to certain goods;
- whether a particular indication affixed to a product imitates or embodies a geographical indication.

Conclusions

The research highlights the main principles of legal protection of geographical indications in Ukraine and the theoretical foundations of expertise in the field of intellectual property, where geographical indications are one of the objects under study. It has been determined that geographical indications may give rise to certain conflicts with the following objects: registered and well-known trademarks, domain names, as well as designations that have not acquired legal protection, etc.

It has been proven that in order to form the theoretical basis for expertise related to various means of individualization of goods and services, and to further develop methodological approaches to performing expert tasks, it is necessary to take into account the principles of legal protection of geographical indications in Ukraine and the peculiarities of regulating relations arising in connection with their registration, use and protection.

54 Адлер О. Г., Тимощик Л. П., Ковальова Н. М., Голікова О. В., Чабанець Т. М. та ін. Зазнач. твір.

It has been established that the main tasks of the examination related to geographical indications may include determining: the similarity of certain designations to such an extent that they can be confused with geographical indications; the similarity of the designations under examination to a geographical indication, which may lead to confusion with the activities of the producer who has been granted the right to use the qualified indication of origin of the goods; the possibility of misleading consumers about the product or the person who produces the product, because a certain designation creates associations in the consumer's mind related to a certain quality, geographical origin of goods, certain geographical indication, which in fact does not correspond to reality; whether a certain designation applied to goods is misleading with regard to certain goods, whether a certain designation applied to goods imitates or embodies a geographical indication.

The provisions highlighted in this article can form the basis for developing theoretical and methodological principles for expertise in the field of intellectual property related to geographical indications and for improving methodological approaches to performing expert tasks.

Географічні зазначення як об'єкти судової експертизи у сфері інтелектуальної власності: теоретичні аспекти й основні завдання

Наталія Кісіль

Метою статті є дослідження сучасних теоретико-правових засад проведення судових експертиз, пов'язаних із різними засобами індивідуалізації товарів і послуг, у яких одним із досліджуваних об'єктів є географічне зазначення; аналізування принципів правової охорони географічних зазначень в Україні й особливостей регулювання відносин, що виникають у зв'язку з їх реєстрацією, використанням і захистом; формування орієнтовного переліку основних завдань експертизи, пов'язаної із географічними зазначеннями. Для досягнення поставленої мети застосовано загальнонаукові (аналіз, синтез, узагальнення, опис, систематизацію тощо) і спеціальні методи. Визначено, що конфлікти через географічні зазначення можуть виникати щодо таких об'єктів: зареєстрованих і добре відомих торговельних марок, доменних імен, а також позначень, що не набули правової охорони, тощо. Проаналізовано практику розв'язання спорів щодо таких позначень, сформульовано дефініцію предмета експертизи, пов'язаної із географічними зазначеннями, окреслено перелік її основних завдань. Запропоновані тут положення є підґрунтям для формування теоретико-методологічних засад експертизи у сфері інтелектуальної власності й удосконалення методичних підходів із виконання експертних завдань.

Ключові слова: *інтелектуальна власність; судова експертиза; експерт; спеціальні знання; об'єкти інтелектуальної власності; географічні зазначення; назва місця походження товару; торговельні марки; предмет судової експертизи; завдання експертизи.*

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Metodychni rekomendatsii provedennia ekspertnykh doslidzhen u spravakh, pov'iazanykh iz nedobrosovisnoiu konkurentsiieiu [Methodological recommendations for conducting expert research in cases related to unfair competitio] (2012) : zvit pro NDR (zakliuch.) / ker. Yu. H. Okhromieiev. № 0111U000197. Kyiv [in Ukrainian].

Metodyka doslidzhennia torhovelnykh marok (znakiv dlia tovariv ta posluh) [Methods of research of trademarks (marks for goods and services)] (2023) / V. L. Fedorenko (vidpovid. vykon.) ta in. Kyiv. Zareiestr. v Min'iusti Ukrainy 28.04.2023 r. Reiestr. kod 13.6.02 / Reiestr metodyk provedennia sudovykh ekspertyz : vebsait. URL: https://rmpse.minjust.gov.ua/page/24 [in Ukrainian].

Metodyka sudovo-ekspertnoho doslidzhennia zaznachen pokhodzhennia tovariv [Methodology of forensic examination of indications of origin of goods] (2011) : zvit pro NDR / ker. H. V. Prokhorov-Lukin ; vykon.: A. V. Andrieieva, L. O. Velychko, N. B. Klymova ta in. № DR 0111U000411. Kyiv [in Ukrainian].

Metodyka sudovo-ekspertnoho doslidzhennia znakiv dlia tovariv i posluh (torhovelnykh marok) [Methodology of forensic examination of marks for goods and services (trademarks)] (2009) : zvit pro NDR (zakliuch.) / ker. H. V. Prokhorov-Lukin ; vykon.: A. V. Andrieieva ta in. № 0108U005823. Kyiv [in Ukrainian].

Metodyka sudovoi ekspertyzy komertsiinykh (firmovykh) naimenuvan [Methodology of forensic examination of commercial (brand) names] (2011) : zvit pro NDR (zakliuch.) / ker. H. V. Prokhorov-Lukin ; vykon.: A. V. Andrieieva ta in. № 0110U002834. Kyiv [in Ukrainian].

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Electronic Evidence in Criminal Procedure: Methods for Its Detection, Investigation and Legal Consolidation

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The paper presents a comprehensive analysis of electronic evidence in the context of criminal procedure. Its place and significance within the evidence system were determined. The authors explore the essence of electronic evidence, its nature and peculiarities of storage, recording and further investigation. Emphasis is placed on the fact that development of digital technologies opens up new possibilities for collecting evidence. Conversely, it also leads to problems related to the admissibility and authenticity of such data. The article outlines the main sources of electronic evidence, including computer systems, mobile devices, servers, cloud services, video surveillance cameras, e-correspondence and other objects that contain digital information. Current forensic methods of collecting electronic evidence, including methods of identification, recording and extraction of information from physical media, were studied. Stages and procedures that must be followed to ensure information remains unaltered—crucial for its admissibility in a trial—were outlined. The authors stress the need to conform to the principles of integrity, confidentiality and credibility when working with digital evidence. The procedural aspect was

This article is translation of the original Ukrainian content, which source is available at the link: *https://khrife-journal.org/index.php/journal* (translated by Daryna Dukhnenko). The author acknowledges translation as corresponding to the original.

given particular attention: the procedure for formalizing electronic evidence in compliance with the requirements of Ukraine's criminal procedural legislation. Current rules governing the procedures for collection, storage and provision of such evidence in court were analysed. The main issues in law application practice include insufficient regulation of issues regarding the preservation of electronic evidence, the difficulty of establishing its authenticity, and the risk of falsification. The study underscores the importance of improving legislative framework and introducing uniform standards for working with electronic evidence. The paper outlines proposals to optimize the collection and processing of electronic evidence, and to introduce modern technical means and software that comply with international standards.

Keywords: *electronic evidence; criminal procedure; criminalistics; digital technologies; evidence collection; procedural formalization; information security; authenticity; forensic digital examination.*

Research Problem Formulation

In light of society's digitalization and the increasing introduction of electronic technologies into everyday life, electronic evidence is becoming an essential component of criminal proceedings. Its features—specifically its intangible form, reliance on storage media and instability—necessitate the introduction of new methods for detecting, documenting and analysing such information.

The above features both increase the complexity of the procedure for the procedural formalization of electronic evidence and cast doubt on the authenticity and admissibility of corresponding materials in court. This is particularly the case if the rules for recording digital data are violated. A large share of evidence obtained from electronic sources demands specialized technical support during its collection. For this purpose, it is important to involve specialists in information technology (IT) and digital forensics.

Currently, Ukraine lacks systematic regulatory oversight in the criminal field. This oversight would cover all stages of working with electronic evidence: from initial extraction to procedural formalization. The Criminal Procedure Code of Ukraine [1] (CPC of Ukraine) contains neither any mention of digital objects nor an interpretation of the *electronic evidence* concept. Although, in Ukraine's national legal framework, the *electronic evidence* category was first legally enshrined in 2017 when the relevant provisions were incorporated into three main procedural codes: the Civil Procedure Code of Ukraine, the Economic Procedure Code of Ukraine and the Code of Administrative Proceedings of Ukraine (CAP of Ukraine). This has emerged as a pivotal point in the development of procedural law amid the digitalization of society and legal practice. All previously stated considerably complicates the work

1 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 25.06.2025).

of forensic experts, specialists, investigators and prosecutors, as well as raises questions about the admissibility of evidence obtained during a trial.

Article Purpose

Comprehensively analyse theoretical and practical aspects of applying electronic evidence in criminal procedure (within the scope of this objective, the following is planned: define the essence of electronic evidence; reveal the specifics of its identification, collection, recording, storage and analysis for criminalistics-related purposes; examine the procedural order for formalizing and using electronic evidence in court proceedings, taking into account the requirements of national legislation and international standards), identify challenging issues associated with the legal regulation, technical support and admissibility of electronic evidence in criminal proceedings, as well as put forward scientifically sound recommendations for improving the theory and practice of working with electronic evidence in the context of information technology development.

Research Methods

General scientific (analysis, synthesis, comparison and modelling) and special methods (formal-logical, comparative-legal, structural-functional and forensic) were utilized.

Analysis of Essential Researches and Publications

Electronic evidence as a subject of research has been extensively studied by M. Hutsaliuk et al. [2], O. Metelev [3], V. Muradov [4], M. Pashkovskyi [5], V. Romaniuk and T. Fomina [6], A. Skrypnyk [7], A. Stolitnii and I. Kalancha [8], and others. Researchers

2 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. Вид. 2-ге, допов. Київ, 2020. 104 с. URL: https://surli.cc/klrpaf (date accessed: 25.06.2025).

3 Метелев О. П. Цифрові докази у кримінальному процесі: видова характеристика. *Вісник кримінального судочинства.* 2023. № 1—2. С. 42—53. DOI: 10.17721/2413-5372.2023.1-2/42-53 (date accessed: 25.06.2025).

4 Мурадов В. В. Електронні докази: криміналістичний аспект використання. *Порівняльно-аналітичне право*. 2013. № 3-2. С. 316—318. URL: https://pap-journal.in.ua/wp-content/uploads/2020/09/3-2_2013.pdf (date accessed: 25.06.2025).

5 Пашковський М. І. Використання електронних (цифрових) доказів у кримінальних провадженнях про колабораційну діяльність: практика судів Одеської області. *Протидія проявам тероризму та колабораціонізму в умовах війни: стан та перспективи :* мат-ли Всеукр. кругл. столу (Кропивницький, 24.11.2023). Кропивницький, 2023. С. 42—48. URL: https://surl.lt/wpqxyo (date accessed: 25.06.2025).

6 Романюк В. В., Фоміна Т. Г. Порядок збирання електронних (цифрових) доказів у кримінальних провадженнях про колабораційну діяльність. *Вісник Кримінологічної асоціації України*. 2024. Т. 32. № 2. С. 344—353. DOI: 10.32631/vca.2024.2.25 (date accessed: 25.06.2025).

7 Скрипник А. В. Використання цифрової інформації в кримінальному процесуальному доказуванні : монографія. Харків, 2022. 408 с.

8 Столітній А. В., Каланча І. Г. Формування інституту електронних доказів у кримінальному процесі України. *Проблеми законності*. 2019. Вип. 146. С. 179—191. DOI: 10.21564/2414-990x.146.171218 (date accessed: 25.06.2025).

stress that there is no unified approach to the nature of electronic evidence. Most interpret it as a separate category, while others interpret it as a form of recording data that are to be classified in conformity with widely recognized sources (documents, physical evidence, testimony, expert opinions). They also note the lack of regulatory clarity regarding procedures for the extraction and recording of digital data. Analysis of judicial practice reveals an inconsistent approach to admitting electronic evidence. This is often due to errors during extraction, non-compliance with recording requirements, ambiguity of the source, etc.

Particularly challenging in this context is determining who had access to information, in which digital environment this information was created or modified, and how exactly it reached investigating authorities. Identifying the subject of access to digital data and its source remains one of the most complex tasks in working with electronic evidence. Electronic evidence should be considered in aggregate with technical conditions for its creation, authenticity, and procedural support: primarily through investigative actions (search, inspection and temporary access). It cannot be viewed as an abstract legal category.

Main Content Presentation

In modern criminal procedure, electronic evidence is becoming crucial as a tool for recording and supporting circumstances of an offense. Its specific nature requires the use of technical means to collect and analyse information. Furthermore, its procedural status should be legally consolidated as an independent type of evidence within the framework of criminal procedural legislation. From the perspective of criminal proceedings, evidence is recognised as factual data obtained in a well-defined procedural manner. Such data can be used by the authorised subjects in criminal proceedings—investigators, prosecutors, investigating judges or courts—to establish the presence or absence of facts and circumstances relevant to criminal proceedings and crucial for ascertaining truth in a case. Art. 84 of the CPC of Ukraine sets out this definition. It further enshrines an exhaustive list of sources of procedural evidence [9]. According to the law, sources shall be testimonies, physical evidence, documents and expert findings [10].

As set forth in Art. 98 of the CPC of Ukraine, physical evidence shall mean tangible objects that have been used as a tool for committing criminal offence, retain traces of such or contain other information, which may be used as evidence of the fact or circumstance to be established during criminal proceedings, including the items that were an object of criminally unlawful actions, money, valuables or other articles obtained in a criminally unlawful manner. In this sense, physical evidence plays a pivotal role as a material foundation for verifying and evaluating other sources of evidentiary information [11].

Documents occupy a special place in the evidentiary information structure, which, according to Art. 99 of the Criminal Procedure Code of Ukraine, may be

9 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 16.07.2025).

10 Там само.

11 Там само.

recognized as physical evidence provided that they contain information pertaining to identifying legally relevant facts. This rule emphasises that the legislator recognises both traditional physical media and modern electronic recording devices as documents, including photographs, video and audio recordings, as well as other media created and/or stored using computer technology. Furthermore, individual documents characterised by the immutability of their form and content may have a dual status: they can be considered both documentary and physical evidence [12].

Pursuant to the foregoing, electronic evidence in criminal proceedings should be viewed as a specific form of evidentiary information that is available in digital (intangible) format and is subject to recording, storage, processing and evaluation, taking into account both technical and legal aspects [13].

With this in mind, such evidence can be obtained using computer devices, servers, digital media or network sources, specifically the Internet. However, for further use in proving, such information requires special software or technical processing in order to convert it into a perceivable format.

In the context of current law application practice, the *digital evidence* term is often used alongside the *electronic evidence* term. Due to the lack of regulatory consolidation and clear distinction between these concepts, they are often used interchangeably, although some researchers suggest differentiating them as appropriate to the context: e.g., *electronic evidence* should be considered a formal procedural category, whereas *digital evidence* is a technical characteristic of a medium [14].

As set forth in the Law of Ukraine: *On Electronic Documents and Electronic Documents Circulation*, any information provided in a form suitable for its processing by electronic means is considered data. Such data may be of legal value and, provided the proper record, authentication and integrity, they serve as evidence in criminal proceedings [15].

From a technical perspective, such evidence can be stored on various digital media, such as external devices (specifically, memory cards, hard drives, mobile phones), internal or external servers, cloud storage, or backup systems, and in the virtual environment of the Internet. All this forms a new evidentiary reality in which a large portion of legally relevant information exists solely in digital format [16].

As we have previously mentioned (despite the lack of a clear definition in the CPC of Ukraine), digital evidence has grown to be an inherent part of trials. Its application expands the potential to prove a case; however, digital evidence requires special attention to issues of authenticity and admissibility. To ensure a balance between the interests of justice and the protection of human rights, detailed rules for proving

12 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 16.07.2025).

13 Гуцалюк М. В., Гавловський В. Д., Хахановський В. Г. та ін. Зазнач. твір. URL: https://surli.cc/klrpaf (date accessed: 25.06.2025).

14 Там само.

15 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: 22.07.2025).

16 Гуцалюк М. В., Гавловський В. Д., Хахановський В. Г. та ін. Зазнач. твір. URL: https://surli.cc/klrpaf (date accessed: 25.06.2025).

cases based on digital data are to be developed [17].

In addition, A. Nazarko considers improving the legislative basis for electronic evidence to be the main task, since the current legal framework lags far behind the challenges posed by digitalisation, complicating the effective use of such evidence in criminal proceedings [18].

By Law No. 3604 IX dated 23 February 2024, the Verkhovna Rada of Ukraine amended the CPC of Ukraine regarding the phased implementation of the Unified Judicial Information and Telecommunication System. The law stipulates the use of automated workflow system, recording criminal proceedings by technical means and submitting procedural documents electronically. While it does not provide a direct definition of the *electronic evidence* term, it lays the groundwork for formalising its use in criminal proceedings, in particular through the use of e-court modules and videoconferences [19].

Consequently, the provided approaches strongly emphasize that electronic data is a distinct type of evidence in criminal proceedings. Hence, its procedural status must be regulated through legislation.

The above agrees with of A.-M. Anheleniuk's findings regarding the need for regulatory consolidation and a clear conceptual framework for electronic evidence in criminal proceedings. This is because the lack of legislative definition and standardized procedure for digital data circulation results in conflicts within law application practice, which in turn lead to the risks of violation of admissibility and reliability principles. The researcher also underlines that there are blurred boundaries between the concepts of electronic medium and evidence source, requiring clear doctrinal and procedural specification [20].

Thus, a number of court decisions that we have analysed in this research paper define admissibility criteria for certain types of electronic data viewed as evidence in criminal proceedings. For instance, an automated audio recording of a conversation (using a continuously running program on the user's device) is recognized as admissible evidence; whereas the court assesses the audio recording made with the intention of capturing a conversation as inadmissible evidence due to a violation of procedural legislation requirements [21].

17 Шульга В. Правові аспекти застосування цифрових доказів у кримінальному процесі. *Діджиталізація судово-експертної науки в умовах воєнного стану* : зб. мат-лів Міжнар. наук.-практ. конф. (Харків, 08.11.2024). Харків, 2024. С. 408—410. URL: https://surl.li/czlrua (date accessed: 25.06.2025).

18 Nazarko A. E-Evidence in Ukrainian Criminal Justice: Exploring the Legal Realities and Theoretical Perspectives. *Науковий вісник Ужгородського національного університету. Серія: Право*. 2023. Вип. 80. Ч. 2. С. 183—188. DOI: 10.24144/2307-3322.2023.80.2.28 (date accessed: 26.06.2025).

19 Про внесення змін до Кримінального процесуального кодексу України щодо забезпечення поетапного впровадження Єдиної судової інформаційно-комунікаційної системи : Закон України від 23.02.2024 р. № 3604-IX. URL: https://zakon.rada.gov.ua/laws/show/3604-20#Text (date accessed: 26.06.2025).

20 Ангеленюк А.-М. Використання електронних доказів у кримінальному процесуальному праві України (проблемні питання). *Науковий вісник Ужгородського національного університету. Серія: Право*. 2023. Вип. 79. Ч. 2. С. 214—218. DOI: 10.24144/2307-3322.2023.79.2.32 (date accessed: 25.06.2025).

21 Там само.

Based on the findings, it seems that inconsistent interpretation of electronic evidence by courts is caused by a lack of clear legal regulation, uncertainty in terminology and a failure to distinguish between the medium and source of electronic information. Admissibility of audio recordings often depends not on their technical characteristics, but on whether they were acquired in accordance with relevant procedural rules. This indicates that legal formalisation is no less important than technical credibility. Similarly, a comparable situation exists with video recordings, where the method of obtaining them plays a leading role. To ensure uniformity in law application and compliance with the principles of a fair trial, it is crucial to legally regulate the procedure for the circulation, admissibility and relevance of electronic evidence in criminal proceedings.

Peculiarities of forensic collection of electronic evidence stem from the specifics of its origin, storage and methods of transmission. Most frequently, such evidence takes the form of digital traces: *IP* addresses, *log* files, electronic correspondence, media files, or metadata relevant to criminal proceedings. They are of value to the investigation since they can ascertain facts relating to the offender, location, time and manner of a crime [22].

In European countries, particularly France, Germany, Portugal and Sweden, electronic evidence is formally equated to traditional written evidence. Simultaneously, most national laws do not contain a separate regulatory definition of the *electronic evidence* concept. Instead, they make use of scientific definitions or general procedural provisions. Despite the lack of a unified approach, EU countries are showing an intention to unify the practice of collecting, storing and exchanging digital evidence [23].

Alongside national legislation, international legal acts play a pivotal part in regulating the collection of electronic evidence. These include the European Convention on Mutual Assistance in Criminal Matters of 1959 [24], which laid down fundamental principles of international cooperation in the field of criminal justice, particularly with regard to obtaining evidence beyond national jurisdiction. The 2001 Budapest Convention on Cybercrime [25] is of particular importance in the context of investigating electronic evidence. This document was the first and remains the main international treaty intended to address issues concerning countering cybercrime (in particular, by unifying procedures for recording, collecting, storing and transmitting digital traces).

The Budapest Convention provides mechanisms for cooperation between states to ensure effective investigation of IT crimes. It also stipulates procedural tools for immediate data retention, access to and search of computer systems,

22 Гутник А. В., Хитра А. Я. Кримінальні процесуальні та криміналістичні основи використання електронних документів у доказуванні : монографія. Львів, 2022. 204 с. URL: https://surl.li/kdsnwm (date accessed: 20.07.2025).

23 Там само.

24 Європейська конвенція про взаємну допомогу у кримінальних справах : Конвенція Ради Європи від 20.04.1959 р. ; ратифік. із заяв. і застереж. Закон. України від 16.01.1998 р. № 44/98-ВР (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/995_036#Text (date accessed: 22.07.2025).

25 Конвенція про кіберзлочинність : Конвенція Ради Європи від 23.11.2001 р. ; ратифік. із заяв. і застереж. Закон. 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: 22.07.2025).

extraction of information, real-time data capture, etc. This approach aims to overcome the challenges posed by the global nature of digital evidence, its vulnerability to alteration or destruction, and the complexity of transnational cooperation between law enforcement agencies in various countries. The international regulatory framework therefore introduces all the necessary conditions for the effective and lawful collection of electronic evidence during criminal proceedings, helping to overcome legal barriers associated with international cooperation.

Principal peculiarities of forensic collection of electronic evidence encompass technical complexity of its detection, the need to involve IT specialists, and the necessity to observe procedural guarantees during its recording and processing. Promptness, integrity and authenticity of electronic evidence remain the leading criteria for its admissibility in a trial.

V. Romaniuk and T. Fomina accurately note that after the full-scale invasion of Ukraine by the Russian Federation, effective fixation and legal support of evidence against collaborators, most of whom operate in the digital space, have become of paramount importance. The authors point out that the number of criminal proceedings involving collaborative activities holds a steady high level. Therefore, there is an urgent need to improve evidence-collecting methodologies. In this case, it is important to note that a substantial body of evidence is in digital form, as collaborators' activities have been recorded on social networks, messaging apps, information platforms of the occupying authorities, etc. [26]

The researchers underscored terminological ambiguity in scientific and law enforcement practice: *electronic evidence*, *digital evidence*, *electronic (digital) evidence*, *electronic display*, using the general *electronic (digital) evidence* term to refer to information that can be obtained from various electronic sources, both open (the Internet, media, social networks) and closed (messaging apps, computers, flash drives) [27]. Simultaneously, as we have already mentioned, the CPC of Ukraine does not provide for a separate concept.

The examples from practice cited by the researchers illustrate that electronic evidence is often obtained by viewing pages on social networks (Facebook, Telegram, Tik-Tok, YouTube, Viber, etc.) and suspects' mobile devices. Evidence is recorded using screenshots, screen recordings, and data copying. This allows the court to recognise such records as reliable and admissible evidence [28].

As correctly observed in this study, digital information is particularly vulnerable with regard to its evidentiary status. This is because it can be easily forged, modified or destroyed. It is precisely this characteristic that necessitates a meticulous, standardised and professional approach to its recording and storage. From M. Pashkovskyi's perspective, which is supported by other researchers in digital forensics, observing internationally recognised protocols, specifically *the Berkeley Protocol,* is crucial in ensuring

26 Романюк В. В., Фоміна Т. Г. Зазнач. твір. DOI: 10.32631/vca.2024.2.25 (date accessed: 29.06.2025).

27 Там само.

28 Там само.

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relevance, admissibility and authenticity of such evidence [29].

Unfortunately, the researcher found that the Ukrainian pre-trial investigation authorities were not complying with the fundamental technical procedures set forth in this protocol. They predominantly create screenshots, which are the main form of visualising digital content. Concurrently, they fail to acknowledge the necessity of preserving the original *HTML* code of web pages, multimedia attachments, hidden or embedded files, metadata and *Hash* values. The above collectively enable the identification and verification of the authenticity of a digital object. As stated in the *Berkeley Protocol*, the lack of this information is a significant shortcoming in the procedure for documenting digital traces. This may cast doubt on the credibility of evidence collected during a trial [30].

Moreover, the analysed judgments often do not contain the web archiving of sources from which digital evidence was obtained. Meanwhile, utilizing special web archiving tools (e.g., means of creating captured snapshots, web resources and their development over time) is an important guarantee that the page presented did indeed look a certain way at the time of viewing and has not been altered after extracting (retrieving) data. The clear uncertainty surrounding this procedure diminishes the probative value of obtained information and poses a risk to the implementation of the adversarial principle in a court.

Thus, the considerations outlined in M. Pashkovskyi's work, logically stemming from V. Romaniuk and T. Fomin's analysis, highlight the urgent need for a regulatory and methodological rethinking of how electronic evidence is processed in modern warfare. Despite certain positive shifts in Ukrainian criminal procedural legislation (notably the recognition of computer data as documents under Art. 99 of the CPC of Ukraine [31]), detailed procedural guarantees regarding ways of collecting, recording and storing digital information are to be provided.

In this regard, incorporating international standards (in particular, *the Berkeley Protocol*) into domestic law application practice seems not only desirable but also absolutely essential. Implementing this will ensure the authenticity and reliability of electronic evidence, preventing pre-trial investigation findings from being challenged in court due to procedural violations when obtaining evidence.

Given that legislative regulation of electronic evidence in Ukraine is still in its infancy, and current criminal procedural legislation does not contain clearly formulated rules that would comprehensively define the procedure for submitting, collecting, storing and evaluating digital evidence, the pre-trial investigation stage becomes especially important in the absence of a systematic regulatory approach. The initial documentation of digital information takes place at this stage, and can be initiated by either the

29 Пашковський М. І. Зазнач. твір. С. 46. URL: https://surl.lt/wpqxyo (date accessed: 25.06.2025) ; Berkeley Protocol on Digital Open Source Investigations / Human Rights Center, Un. Nat. Human Rights Office of the High Commissioner. New York and Geneva, 2022. 102 p. URL: https://www.ohchr.org/sites/default/files/2024-01/OHCHR_BerkeleyProtocol.pdf (date accessed: 25.06.2025).

30 Berkeley Protocol … . URL: https://www.ohchr.org/sites/default/files/2024-01/OHCHR_BerkeleyProtocol.pdf (date accessed: 25.06.2025).

31 Кримінальний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/4651-17#Text (date accessed: 16.07.2025).

prosecution or the defence. This determines further admissibility of such evidence in court.

R. Maliuha's studies analyse various scientific approaches to understanding the essence of the evidence collection process. Specifically, he underscores that certain researcher view it as an activity aimed at identifying, recording, seizing and preserving evidentiary data. Others focus on a broader interpretation, believing that evidence collection also encompasses examining and analysing received evidence. Some scholars argue that individual stages—discovery, search and recording—are independent stages in the overall system of evidence collection. Furthermore, there are those who believe that creating an evidentiary base covers all actions from the moment of discovering potentially valuable information to its corresponding documentation [32].

Discovering evidence is the initial stage of its collection and consists of a meticulous search for or attention to events, circumstances or physical objects that may contain information relevant to criminal proceedings. Oftentimes, such identification takes place within the framework of investigative (search) actions. R. Maliuha, based on the provisions of reflection theory, explains that evidence is in the nature of traces that remain after a criminal offence has been committed and are preserved in the material environment [33].

Collecting electronic document evidence involves identifying and properly documenting the physical medium on which it is stored, if applicable; it may also entail ensuring access to the digital environment in which relevant information is stored. This may be a server, cloud storage or an Internet resource, and accessing such resources is considered to be the process of obtaining electronic evidence. Accordingly, in the context of criminal proceedings, an investigator, inquiry officer or prosecutor may collect electronic documents through various procedural means, specifically: voluntary disclosure of such information by a participant in the proceedings, requesting required materials, temporarily accessing relevant data as a security measure, or through investigative (search) actions (e.g., inspection or search) or within the framework of covert investigative (search) activities [34].

An investigator or inquiry officer may obtain an electronic document during a search, inspection, or based on a statement or motion from a participant in the proceedings. The person must be informed of their right to voluntarily surrender documents. Even if documents are voluntarily handed over during a search, it is advisable to continue the search, as other important items may be hidden [35].

However, the CPC of Ukraine and other regulations fail to provide clear rules on the procedure for including electronic evidence, or information on the forms and content of documents confirming such procedure. Evidence may be deemed inadmissible because the way

32 Малюга Р. В. Доказування в кримінальному процесі: проблеми визначення структурних елементів. *Наукові записки Львівського університету бізнесу та права*. 2013. Вип. 11. С. 280—283. URL: http://nbuv.gov.ua/UJRN/Nzlubp_2013_11_71 (date accessed: 16.07.2025).

33 Там само.

34 Там само.

35 Чаплинський К. О. Тактика проведення окремих слідчих дій : монографія. Дніпропетровськ, 2006. 416 с. URL: https://surl.li/wwpdti (date accessed: 20.06.2025).

it was obtained or included was not specified. For instance, if case files do not include information about how the investigator obtained the photos, the court may choose to disregard the inspection record of objects (i.e., images) as a form of evidence [36].

Therefore, the process of identifying and collecting electronic evidence is characterized by a multi-level structure encompassing both technical and procedural components. The success of recording and subsequently using such evidence primarily stems from compliance with the form, method of obtaining and documentation. Simultaneously, the lack of clear procedural guidelines for attaching digital materials could result in their being declared inadmissible, which directly impedes the pre-trial investigation.

In light of this statement, one can proceed with a more comprehensive analysis regarding the peculiarities of procedural formalization of evidence, specifically documentary confirmation of its authenticity and source of origin.

Therefore, if voluntary transfer of documents is recorded exclusively in the inspection or search records, it may pose a risk of the relevant evidence being recognised as inadmissible. As for electronic documents, they should be properly included in the case file on the basis of a statement or motion submitted by a party to the proceedings, requesting the inclusion of a document stored on a physical medium. At the same time, it is advisable to record the transfer of an electronic document using video technology, especially if it is provided as part of investigative actions that require mandatory video recording (e.g., during a search or inspection).

In the context of a pre-trial investigation, a participant in criminal proceedings has the right to voluntarily provide evidence, including electronic documents, exclusively to an investigator, inquiry officer or prosecutor, and only within the framework of current criminal proceedings. This position has been upheld in judicial practice: the court of cassation supported the conclusions of the appellate court that the disc with video recordings from the store's surveillance cameras, which served as the basis for the conviction by the court of first instance, was obtained by an unauthorised official: an operative. This continued until the entry of information into the Unified Register of Pre-Trial Investigations and in breach of procedural requirements. Declaring such evidence permissible is not something that is possible in this case. Consequently, the prosecution's arguments on the legality of obtaining this evidence are groundless [37].

As V. Vapniarchuk notes, evidence may be demanded or obtained from several categories of subjects in criminal proceedings [38].

36 Вирок Ленін. райсуду м. Харкова від 01.12.2015 р. Справа № 642/6283/15-к. Провадж. № 1-кп/642/531/15 / ЄДРСР : вебсайт. URL: http://reyestr.court.gov.ua/Review/53911255 (date accessed: 20.07.2025).

37 Постанова Верховного Суду від 07.09.2019 р. Справа № 607/14707/17. Провадж. № 51-2604км19 / ЄДРСР : вебсайт. URL: http://reyestr.court.gov.ua/Review/83589933 (date accessed: 20.07.2025).

38 Вапнярчук В. В. Витребування та отримання, проведення інших процесуальних дій як способи збирання доказів у кримінальному провадженні. *Науковий вісник Херсонського державного університету. Серія: Юридичні науки*. 2015. Вип. 3. Т. 3. С. 85—89. URL: https://surl.lu/slaknh (date accessed: 20.07.2025).

Categories of subjects collecting electronic evidence (according to V. Vapniarchuk)

I category	II category	III category
The parties and other participants in proceedings who submit relevant information in order to exercise their procedural rights and obligations. This allows them to shape the course and outcome of the proceedings so that they align with their own interests.	State authorities, institutions, organisations, and enterprises, including those engaged in investigative and operational actions. Legislative rules de-fining their legal status state that they are obliged to provide evidence in the course of criminal proceedings	Other persons, specifically those who are not participants in criminal proceedings. They may voluntarily provide evidence; however, the current legislation does not oblige them to do so: this action is more of a moral obligation

Within pre-trial investigative practice, there are cases when investigators actually draw up resolutions and forward them to relevant authorities in order to obtain needed documents. However, in practice, these resolutions are often disregarded or met with a refusal to provide the requested materials [39].

A. Kovalenko highlights certain peculiarities regarding the procedural formalization of electronic documents posted on the Internet:

1. Be sure to record technical parameters of a device used to access web resources, specifically the serial number of the service computer, name and version of the operating system, and software (browser) used by an authorised subject during an inspection.
2. Ensure that the web page is scaled to 100% to display its full content, and that all browser add-ons and plugins that could distort web page appearance are disabled.
3. Inspection record should include all multimedia materials attached to the web post and indicate the hyperlink for each one. Elements that are not related to the publication's content (e.g., web banners) do not need to be described.
4. The viewed web page must be printed using a service printer, making sure to note its serial number, brand and model in a record. This printed material is added to the record as the first appendix. All relevant multimedia files must be saved on a digital medium: a disc (the second appendix to the procedural document). As an alternative way of recording web content, the author suggests saving the page in **.html* format using a browser (and then transferring this file to the disc) [40].

39 Ухвала Київ. райсуду м. Полтави від 01.04.2024 р. Справа № 552/1823/24. Провадж. № 1-кс/552/707/24 / ЄДРСР : вебсайт. URL: https://reyestr.court.gov.ua/Review/118037105 (date accessed: 20.07.2025) ; Ухвала Яворів. райсуду Львів. обл. від 24.02.2023 р. Справа 944/1269/22. Провадж. № 1-кс/944/155/23 / Там само. URL: https://reyestr.court.gov.ua/Review/109184568 (date accessed: 20.07.2025).

40 Коваленко А. В. Особливості тактики огляду електронних документів під час досудового розслідування посягань на життя та здоров'я журналіста. *Вісник Національної академії правових наук України.* 2017. № 1 (88). С. 182—191. URL: https://surl.li/qulfww (date accessed: 20.07.2025).

From Ye. Khyzhniak's perspective, the main identifier of an electronic document posted on the Internet is its domain name, as well as a unique link to a specific web page containing materials applicable to criminal proceedings. The record of the web resource inspection must comprise standard document details:

- title,
- author,
- date of creation (if available),
- purpose,
- summary.

One way to secure such electronic evidence is to seize servers where it is stored. Specifically, *log* files containing information about data transfers can be obtained from Internet service providers and other owners of the relevant technical equipment [41].

Accordingly, in present-day academic writing, electronic evidence is increasingly viewed as a separate phenomenon in criminal procedure. However, Ukrainian scholars stress the need for a clear distinction between the form of recording evidence and the source of evidence.

Notably, A. Stolitnii and I. Kalancha reasonably underscore that the *electronic evidence* term should be applied exclusively as a theoretical category. This is because current legislation does not recognise electronic form as an independent source of evidence. The authors pinpoint that evidence sources—testimony, physical evidence, documents and expert findings—remain unchanged, while the electronic form merely serves as a means of documenting them within the criminal procedure [42].

Additionally, researchers focus on the dualistic nature of electronic information: its intangible nature requires mandatory recording on a physical medium to guarantee storage, transmission and corresponding procedural formalisation. Within this framework, they justifiably challenge attempts to categorise electronic evidence as a distinct group, as this would contradict the logic of criminal procedure and is an artificial phenomenon not recognised by either Ukrainian law or European practice [43].

Therefore, electronic evidence is not a distinct category of evidence. Rather, it is information recorded on an electronic medium that corresponds to one of the four legally defined sources of evidence. It ought to be viewed within the framework of procedural formalization, not in terms of substantive content.

Conclusions

Drawing upon the research conducted, the authors conclude that electronic evidence is becoming an increasingly important tool for identifying and recording circumstances of legal relevance in modern criminal proceedings. Its digital nature, dependence on technical environment, dynamism and vulnerability to change require participants in criminal proceedings not only to be technologically savvy, but also to handle such evidence in conformity with clearly stipulated procedural mechanisms.

Discovery, seizure, examination and proper formalisation of electronic evidence should be conducted taking into account forensic features of its nature, as well as evi-

41 Хижняк Є. С. Особливості огляду електронних документів під час розслідування кримінальних правопорушень. *Держава та регіони. Серія: Право.* 2017. № 4 (58). С. 80—85. URL: https://surl.li/xdtcgp (date accessed: 25.06.2025).

42 Столітній А. В., Каланча І. Г. Зазнач. твір. DOI: 10.21564/2414-990x.146.171218 (date accessed: 25.06.2025).

43 Там само.

dence law requirements. Experience shows that failing to comply with these requirements can result in the probative value of digital information being lost, even if it is valuable to the investigation. This, in turn, puts at risk the foundational principles of adversarial proceedings and a fair trial.

Based on the analysis of scientific approaches and court decisions, it can be inferred that criminal law lacks sufficient clarity regarding the legal nature of electronic evidence. However, it is clear that such objects cannot be considered in isolation from their medium or outside of their technical context. That is why the main challenge in criminal procedure is ensuring that electronic evidence meets both proper procedural standards and technical reliability.

The study has demonstrated that electronic evidence is both a relevant and a critically important tool in criminal proceedings today. Its emergence has transformed traditional notions of evidence sources and highlighted the need to adapt procedural rules to the digital age.

It has been noted that domestic criminal procedural legislation does not yet provide comprehensive regulation for all stages of electronic evidence processing: from its discovery and recording to its evaluation and admissibility in court. The lack of a clear definition of the concept, legal status and proper procedure for including digital evidence substantially impedes law application and increases the likelihood of procedural errors.

Concurrently, global practice demonstrates well-founded approaches to resolving these issues through unifying technical standards, formalising mandatory recording procedures (specifically, web archiving, metadata preservation, hashing) and involving IT specialists in collection and analysis of digital traces.

Stemming from the above, it is proposed to consider electronic evidence not as a distinct classification group, but as a special form of recording factual data, necessitating regulatory specification. Principal conditions for efficient use of electronic evidence in criminal proceedings should be: formalisation of its legal status, development of standardized terminology, establishment of a clear procedure for obtaining, storing and including evidence, and introduction of international technical standards (in particular, *the Berkeley Protocol*).

Therefore, successful integration of electronic evidence into the national criminal justice system depends on the simultaneous improvement of legislation, methodology and technical support. This will ensure that the principles of adversarial proceedings and admissibility and relevance of evidence are upheld, thereby guaranteeing a fair trial.

Електронні докази у кримінальному процесі: методи їх виявлення, дослідження та правове закріплення

Валерія Шульга, Ліна Калюжна

Проведено комплексний аналіз електронних доказів у кримінальному процесі, визначено їх місце та значення в системі доказів. Розглянуто сутність електронних доказів, їхню природу й особливості зберігання, фіксування й подальшого дослідження. Акцентовано на тому, що розвиток цифрових технологій створює нові можливості для збирання доказової інформації, але водночас спричиняє низку проблем, пов'язаних із допустимістю та автентичністю таких даних. Окреслено коло основних джерел електронних доказів, до яких належать комп'ютерні системи, мобільні пристрої, сервери, хмарні сервіси, цифрові камери відеоспостереження, електронні листування та інші об'єкти, що містять цифрову інформацію. Досліджено сучасні криміналістичні методи збирання електронних *доказів, зокрема методи ідентифікації, фіксування та вилучення інформації з носіїв цифрових даних. Окреслено етапи та процедури, яких слід дотримувати для забезпечення збереження інформації у незміненому вигляді, що є критично важливим для подальшої її допустимості в судовому процесі. Зауважено необхідність дотримання принципів цілісності, конфіденційності й достовірності під час роботи з цифровими доказами. Окрему увагу приділено процесуальному аспекту — порядку оформлення електронних доказів відповідно до вимог кримінального процесуального законодавства України. Проаналізовано чинні норми, що регулюють процедури збирання, зберігання та надання таких доказів до суду. Виявлено основні проблеми правозастосовної практики, поміж яких — недостатнє врегулювання питань щодо збереження електронних доказів, складність підтвердження їх автентичності й ризики фальсифікації. Зазначено необхідність вдосконалення законодавчої бази та запровадження єдиних стандартів роботи з електронними доказами. Сформульовано пропозиції щодо оптимізації механізмів збирання та процесуального оформлення електронних доказів, а також упровадження сучасних технічних засобів і програмного забезпечення, яке відповідає міжнародним стандартам.*

Ключові слова: *електронні докази; кримінальний процес; криміналістика; цифрові технології; збирання доказів; процесуальне оформлення; інформаційна безпека; автентичність; цифрова експертиза.*

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Declaration of Competing Interest

The authors declare no conflict of interest.

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Evaluating Handwriting Analysis Findings in Judicial Practice: Criteria, Sample-Related Challenges and Ways of Improvement

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[b] Editing, validation, visualization.
[c] Resources, software.

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The primary concerns of this paper are to substantiate a set of criteria for evaluating handwriting analysis expert findings so that they can be utilized in court, and to analyse existing approaches to understanding the probative value of expert findings in the context of judicial practice. To fulfil this goal, a combination of general scientific and special methods was used. The authors analyse current legislation governing the procedure for appointing, conducting and evaluating forensic examinations (specifically the procedural codes of Ukraine and special regulatory acts governing forensic activities). Particular attention is drawn to judicial practice of applying handwriting analysis findings and to principal issues involving their evaluation: disputed expert research results, insufficiently reasoned conclusions and the formal approach of the courts to their perception. Emphasis is placed on the court's discretionary assessment of evidence and the boundaries of its application in cases involving the use of specific expertise. The article proposes systematic criteria

This article is translation of the original Ukrainian content, which source is available at the link: *https://khrife-journal.org/index.php/journal* (translated by Daryna Dukhnenko). The author acknowledges translation as corresponding to the original.

(notably, compliance of applicable methodologies with current scientific requirements, thoroughness in the description of research objects, logical sequence in presenting the expert's reasoning, clarity in formulating findings, existence of alternative hypotheses, as well as consistency of findings with other evidence in a case), which will prove valuable for judges, lawyers, prosecutors and other participants in the process when assessing the quality of findings based on handwriting analyses. Lawyers who need to critically analyse expert findings when proving a case may find the findings outlined in this paper useful, as they could serve as a methodological guideline. The paper emphasises the need for judges to undergo advanced training in assessing specific expertise and developing uniform approaches to the use of expert findings as evidence in judicial practice.

Keywords: *forensic examination; handwriting analysis; forensic expert; expert findings; evaluation of evidence; judicial practice; probative value; scientific criteria.*

Research Problem Formulation

Within the framework of reforming forensic expert activity and strengthening the significance of evidence obtained through specific expertise, reliability, completeness and validity of experts' findings are of paramount importance. Handwriting analysis, which is of an applied nature and is one of the key tools for clarifying the authenticity of written documents in criminal, civil, administrative and commercial proceedings, requires clear guidelines on the criteria for evaluating its results. However, as V. Husieva pinpoints, typical mistakes made by the prosecution when appointing such a forensic examination can profoundly influence its results and, accordingly, the validity of court decisions [1].

Research by V. Shkabaro, A. Bila and V. Voronin shows that courts often accept handwriting analysis findings as valid evidence. However, usually they fail to take into account possible shortcomings, such as providing a forensic expert with inaccurate source data or questionable objects [2].

Therefore, there is a scientific issue of developing clear and scientifically sound criteria for evaluating handwriting analysis findings, which would take into account both traditional methods of analysis and state-of-the-art technological achievements, in order to ensure the objectivity and reliability of court decisions.

Article Purpose

Substantiate a system of criteria for evaluating handwriting analysis findings that

1 Гусєва В. О. Призначення почеркознавчої експертизи: типові помилки сторони обвинувачення. *Судово-експертна діяльність: збереження наукового та кадрового потенціалу в умовах воєнного стану* : мат-ли IV Всеукр. форуму суд. експерт. (Львів, 07.06.2024). Одеса, 2024. С. 82—85. URL: https://ndekc.lviv.ua/pdf/law.pdf (date accessed: 05.08.2025).

2 Шкабаро В. М., Біла А. В., Воронін В. В. Правові аспекти проведення почеркознавчого дослідження. *Вісник Університету імені Альфреда Нобеля. Серія «Право»*. 2022. № 1 (4). С. 50—56. DOI: 10.32342/2709-6408-2022-1-4-5 (date accessed: 05.08.2025).

can be applicable in court; analyse existing approaches to understanding the probative value of experts' findings in the context of judicial practice.

Research Methods

The following general scientific and special methods were applied:

- dialectical — to recognize the links between legal rules, forensic practice and court decisions;
- formal-legal — to analyse provisions of procedural legislation regarding expert findings;
- systemic-structural — to formulate a summary list of criteria for evaluating expert findings;
- analysis — to identify common problems in the way courts perceive handwriting analyses.

Analysis of Essential Researches and Publications

V. Bazhaniuk [3], N. Klymenko [4], M. Klymchuk and S. Marko [5], V. Korzh [6], T. Kravchuk [7], M. Saltevskyi [8], A. Cherniak [9], V. Shepitko [10], M. Shcherbakovskyi [11], O. Yunatskyi [12],

3 Бажанюк В. В. Оцінка висновку експерта у кримінальному провадженні. *Науковий вісник Міжнародного гуманітарного університету. Сер.: Юриспруденція.* 2021. № 54. Т. 2. С. 110—113. DOI: 10.32841/2307-1745.2021.54.2.24 (date accessed: 05.08.2025).

4 Клименко Н. І. Судова експертологія: курс лекцій : навч. посіб. для студ. юрид. спец. внз. Київ, 2007. 528 с. ; Її ж. Висновок експерта як джерело доказу в судочинстві. *Експертне забезпечення розслідування окремих видів злочинів* : мат-ли наук.-практ. конф. (Київ, 31.03.2011). Київ, 2011. С. 73—76.

5 Климчук М. П., Марко С. І. Інформаційна цінність висновку експерта як джерела доказів у кримінальній справі. *Правова інформатика.* 2011. № 3—4 (31). С. 81—88. URL: http://nbuv.gov.ua/UJRN/Pinform_2011_3-4_13 (date accessed: 05.08.2025).

6 Корж В. Оцінка висновку експерта: процесуальні підстави, криміналістичні рекомендації. *Сучасні тенденції розвитку криміналістики та кримінального процесу в умовах воєнного стану* : тези доп. Міжнар. наук.-практ. конф. (Харків, 25.11.2022). Харків, 2022. С. 229—232. URL: https://files.znu.edu.ua/files/Bibliobooks/Inshi71/0052090.pdf (date accessed: 05.08.2025).

7 Кравчук Т. О. Оцінка висновку експерта та його доказове значення в адміністративному судочинстві України. *Innovative solutions in modern science.* 2016. № 6 (6). 13 с. URL: http://naukajournal.org/index.php/ISMSD/article/viewFile/923/1063 (date accessed: 05.08.2025).

8 Салтевський М. В. Криміналістика (у сучасному викладі) : підручник. Київ, 2005. 588 с. URL: https://surli.cc/xyracd (date accessed: 05.08.2025).

9 Черняк А. М. Використання спеціальних знань при дослідженні текстів із закликами до підриву конституційного ладу, порушення територіальної цілісності і недоторканості України. *Вісник кримінального судочинства.* 2022. № 3—4. С. 101—111. DOI: 10.17721/2413-5372.2022.3-4/101-111 (date accessed: 05.08.2025).

10 Шепітько В. Ю. Оцінка висновку експерта / Велика українська юридична енциклопедія. У 20 т. Т. 20 : Криміналістика, судова експертиза, юридична психологія ; редкол.: В. Ю. Шепітько (голова) та ін. Харків, 2018. С. 577—578.

11 Щербаковський М. Стандарт достовірності висновку експерта у кримінальному процесі. *Теорія та практика судової експертизи і криміналістики.* 2021. Вип. 3 (25). С. 21—39. DOI: 10.32353/khrife.3.2021.03 (date accessed: 05.08.2025).

12 Юнацький О. В. Оцінка висновку експерта як доказу у суді. *Теорія і практика судово-експертної діяльності* : мат-ли VIII Міжвідом. наук.-практ. конф. (Київ, 27.11.2019). Київ, 2019. С. 468—471. URL: https://surli.cc/fkjihp (date accessed: 05.08.2025).

Yu. Yaroslav [13], and others analysed how expert findings are evaluated. Of particular note is that scientists emphasized common approaches to evaluating expert findings as a source of evidence, the role of the court in verifying the scientific validity of expert findings, and the issues of the forensic expert's procedural status. Nevertheless, the issue of specifying criteria for evaluating handwriting analysis findings remains understudied. There is a need for an in-depth analysis of this aspect, given current judicial practice, updated procedural legislation and advances in forensic expertology.

Main Content Presentation

Expert findings are a special type of written evidence obtained through the use of specific expertise in the course of investigating circumstances of a case. As set forth in the Civil Procedure Code of Ukraine (*Civ. PC*), a forensic expert provides written findings in which he or she substantiates answers in respect of questions asked by the court. It may also encompass a definition covering both the form (written) and content (research findings), as well as requirements for the subject (specific expertise) of providing these findings [14].

Similar provisions are contained in the Criminal Procedure Code, the Code of Commercial Procedure of Ukraine and the Code of Administrative Proceedings of Ukraine, demonstrating a legislator's unified approach to the *expert findings* concept across various jurisdictions. Simultaneously, in civil proceedings, expert findings take on special significance, requiring careful evaluation as evidence.

The principles of evaluating evidence (and therefore expert findings) are admissibility, relevance, reliability and sufficiency.

Art. 89 of the Civ. PC of Ukraine enshrines the following common principles for evaluating evidence [15] that shall apply to expert findings:

- Admissibility: strict compliance with all procedural requirements is essential (proper appointment of a forensic expert by the court, participation of parties, procedures of notification and materials submission) to obtain expert findings. Failure to observe these requirements may result in evidence being deemed inadmissible.
- Relevance: is rooted in the connection between findings and the subject matter of evidence (a conclusion must logically follow from circumstances that are relevant to a case and provide answers to the questions posed).
- Reliability: the extent to which internal consistency, completeness, applied methodology and scientific level of reasoning are maintained. Discrepancies, incompleteness, or methodological errors should be scrutinized carefully (e.g., the Supreme Court resolution dated 14 August 2024 (case No. 757/58333/16-ц) sets out that the court must assess the validity, logic, and consistency

13 Ярослав Ю. Ю. Оцінка висновку експерта за допомогою спеціальних знань. *Судово-психологічна експертиза. Застосування поліграфа і спеціальних знань в юридичній практиці.* 2019. № 3 (19). URL: https://surl.li/okshkh (date accessed: 05.08.2025).

14 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: 05.08.2025).

15 Там само.

of expert findings rather than relying on them formally [16]).

- Sufficiency means that findings must be capable of clarifying case circumstances or, along with other evidence, of helping to shape the judge's inner conviction.

These criteria should be evaluated based on a thorough, complete and objective consideration of the judge's inner conviction.

The court's role in verifying expert findings involves an informal approach and independent evaluation.

Art. 110 of the Civ. PC states that the court is not obliged to view expert findings as indisputable evidence: instead, it must independently assess the probative value of these findings [17].

Handwriting analysis is one of the most common types of forensic examination. It is conducted to determine the authenticity of written documents in civil proceedings. It is particularly applicable in cases involving invalidation of transactions, disputes over the authenticity of signatures, investigation of circumstances indicating evidence tampering, etc. The distinctiveness of handwriting analysis is due to the nature of the research objects and the methodological features of the handwriting identification process. It is necessary to distinguish between different types of handwriting analysis and to determine how conclusions can be formulated. It is also important to identify typical problems that occur during expert research.

There are two main forms of findings in handwriting analysis: categorical and probabilistic. The choice of wording for the expert findings depends on the degree of coincidence of identifying signs, availability of sufficient high-quality samples and information about conditions under which the inscription in question was made.

Categorical findings mean a forensic expert confirms or contests the authenticity of a particular research object with absolute certainty. Such findings can be formulated only provided that a sufficient number of stable, distinctive features of a person's handwriting are identified that unambiguously indicate a specific person.

In contrast, probabilistic wording is used when there are objective factors obstructing the formation of an unambiguous conclusion. For instance, insufficient evidence, poor document quality, atypical conditions for signing, etc. Under such circumstances, a forensic expert may use various evaluative phrases: *"It cannot be excluded that execution is possible…", "There is a high probability…", "Obtained data allow us to make the following assumptions…"*, etc.

These wordings are acceptable in judicial practice; however, they should be evaluated alongside the rest of the evidence [18].

The availability of expert findings does not constitute grounds for recognizing a fact as proven if findings are not sufficiently substantiated or contradict other pieces of evidence.

The court must evaluate both the content of expert findings, a forensic expert's personality, compliance with the procedure, and the methodology applied. In case the expert findings fail to meet the

16 Постанова ВС від 14.08.2024 р. Справа № 757/58333/16-ц. Провадж. № 61-7535св24 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/121075202 (date accessed: 05.08.2025).

17 Цивільний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/1618-15#Text (date accessed: 05.08.2025).

18 Постанова ВС від 11.11.2019 р. Справа № 523/393/15-ц. Провадж. № 61-42408св18 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/85614393 (date accessed: 05.08.2025).

requirements of completeness or are contradictory, the court has the right to:

- appoint a re-examination or an additional forensic examination;
- summon a forensic expert to provide explanations;
- reject the conclusion as having no probative value [19].

Some scholars note that *"the court does not possess appropriate specific expertise to evaluate expert's findings"* [20]. Simultaneously, at least minimal specific expertise is required to effectively evaluate expert findings.

Typical problems encountered during handwriting analysis

The accuracy and persuasiveness of expert findings can be affected by multiple factors that influence handwriting analysis:

Insufficient or inadequate quality of samples provided for comparison. Successful handwriting analysis requires a sufficient number of free and experimental samples of the person's handwriting being examined. If samples are not executed under similar conditions or during a similar period, forensic examination results may be limited or expressed probabilistically.

Atypical conditions for signing. Analysing signatures that have been executed in conditions of physiological or psychological stress, in poor lighting, in an unusual posture or while the signatory is unwell, presents a substantial obstacle. In similar scenarios, natural characteristics of handwriting can be substantially altered, reducing identification reliability.

Signs of handwriting imitation or forgery. In practice, there are cases of executing signatures using the method of free or semi-free imitation, tracing, or mechanical copying. These methods of deliberate forgery greatly hinder the process of identification, require technical expert analysis, and sometimes prevent drawing clear findings.

In line with Supreme Court practice, circumstances that prevent categorical findings from being drawn cannot automatically result in the rejection of such evidence; however, they do require critical evaluation in conjunction with the rest of evidence in a case [21].

In the civil procedure system of proving, expert findings (especially those on handwriting analysis) are particularly important. This is because they are seen as a form of specific expertise that falls outside the court's competence. At the same time, the availability of expert findings does not mean that they possess probative value, as the court must critically evaluate them, considering multiple indicators of reliability and validity. In this respect, the issue of defining clear and practical criteria for evaluating findings of handwriting analyses is relevant in both theoretical and applied aspects of judicial practice.

Although there are no official statistics on the number of rejected expert findings, judicial practice indicates that courts meticulously evaluate expert findings for completeness and validity. In cases where expert findings are incomplete, unfounded or contradict other evidence in a case, courts may reject them or appoint

19 Постанова ВС від 23.10.2019 р. Справа № 295/5727/15-ц. Провадж. № 61-14546св19 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/85238612 (date accessed: 05.08.2025).

20 Ткаченко Є. А. Рецензування висновків судових експертів як неформальні практики — їх процесуальний статус та оцінка в кримінальному провадженні. *Часопис Київського університету права*. 2018. № 4. С. 293. URL: https://surl.li/ptdrzl (date accessed: 05.08.2025).

21 Постанова ВС від 07.12.2023 р. Справа № 357/9972/19. Провадж. № 61-10226св23 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/115508542 (date accessed: 05.08.2025).

a re-examination or an additional examination.

That said, it is worth noting that completeness and validity of findings depend primarily on the relevance, reliability and sufficiency of information provided to a forensic expert for the purposes of conducting a forensic examination: i.e., when appointing a forensic examination, the requirements of the Scientific and Methodological Guidelines on the Preparation and Appointment of Forensic Examinations and Expert Studies [22] (*Scientific and Methodological Guidelines*) must be strictly followed. Firstly, this will save the expert time that would otherwise be spent drafting a motion to request additional materials and waiting for them. Secondly, it will prevent delays in meeting procedural deadlines during consideration of the court case.

We would like to highlight that a forensic expert often submits a motion to provide additional materials or specify questions when the Scientific and Methodological Guidelines are not met, or when their content is not understood.

Questions submitted for forensic examination must be clearly and logically formulated in line with the research subject. Vaguely worded questions or those that go beyond the expert's competence could seriously hinder or rule out the possibility of obtaining an objective and scientifically sound conclusion.

Equally important prerequisite for effective expert research is the full volume of comparative materials that should contain reliable, complete and sufficient information for identifying, comparing or determining facts. It is the quality and relevance of these materials that significantly affect the accuracy and completeness of expert findings.

Bearing this in mind, thorough preparation of case materials (specifically, preliminary review of documents by the judge before submitting them for forensic examination) is of paramount importance. The aim of such a review is to identify the key features and characteristics of the object under study. The list of mandatory components encompasses: document title, details and exact location of the examination object in the document's structure, information about the individual on whose behalf the signature was executed, and presence of related handwritten notes (e.g., surname, initials, sum written out in words, date, etc.). Emphasis should be made on clarifying the fact of amending the text (amendments), as well as on identifying the writing instrument used to make the signature or other inscriptions [23].

All of these aspects are crucial for ensuring the reliability and validity of expert examinations in criminal, civil and commercial proceedings.

Let us consider the following example.

In a civil proceeding, the court ordered a forensic handwriting examination and asked a forensic expert the following question: *"Can the signature be examined forensically to identify who signed the compulsory insurance policy?"* The document under examination contained two signatures. In a motion to the court, and guided by the requirements of the Instruction on the Appointment and Conduct of

22 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: 05.08.2025).

23 Там само.

Forensic Examinations and Expert Studies (*Instruction*) [24] and the Scientific and Methodological Guidelines [25], a forensic expert requested that the question be specified, since the question of the suitability of the signature for forensic examination is general and requires clarification (e.g., what type of forensic examination is conducted: identification or, possibly, questioned document). Such clarification would enable the forensic expert to provide a professional and reasonable answer within his/her competence. If the question falls within the scope of questioned document examination, then the type of forensic examination must be reconsidered. Given the nature of the issues under study, it is advisable to appoint a multidisciplinary forensic handwriting and questioned document examination, which will contribute to the completeness and objectivity of expert findings. Therefore, case materials are returned to the court and the time allocated for a forensic examination and further consideration of the case is extended. This delays the process.

Similar cases are becoming increasingly common in forensic practice, proving the relevance of the issues we have raised.

The court's procedural decision to appoint a forensic handwriting analysis involves more than just the fact of its initiation; it also presupposes the proper definition of the subject of expert research. Formulating a task for a forensic expert in the form of clear and reasonable questions that require a scientific resolution through specific expertise is deemed to be the central element in this process.

Each of these questions should be worded taking into account a number of mandatory information components. In the absence of these components, it is impossible to develop an appropriate research methodology. Specifically, in questions, it is feasible to indicate the full or abbreviated titles of a document (or its segments: the first and last words of text), date of its compilation, and initials of a person who is likely to be the author of the disputed inscription or signature. Should it be required, depending on the specifics of the task at hand, the last name and initials of a person on whose behalf the signature has been executed, as well as his/her legal status (well-known or unknown person; fictitious or real name; presence or absence of writing skills) are to be mentioned [26].

The court's resolution on appointing a forensic examination should comprise well-defined questions that conform to the provisions of current Scientific and Methodological Guidelines. Adhering to such methodological approaches increases the importance and probative value of expert analysis in court proceedings.

Researchers have repeatedly emphasised the importance of appointing and conducting forensic examinations within civil proceedings. Notably, challenges in this field have been extensively analysed by Zh. Vasylieva-Shalamova [27] and Z. Me-

24 Інструкція про призначення та проведення 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: 05.08.2025).

25 Науково-методичні рекомендації … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

26 Там само.

27 Васильєва-Шаламова Ж. В. Процесуальний порядок призначення судової експертизи в цивільному процесі. *Судоустрій і судочинство в Україні*. 2007. № 4. С. 43—50 ; Її ж. Судова експертиза в цивільному процесі : автореф. дис. … канд. юрид. наук. Київ, 2009. 15 с.

lenevska et al. [28], while V. Halahan and O. Kozak [29] considered the procedural mechanism of obtaining samples for subsequent handwriting analyses.

Despite the existing scientific interest in individual components of the forensic examination process, the issue of appointing a forensic handwriting analysis specifically within civil proceedings continues to be inadequately addressed and requires the development of practical guidelines.

Let us consider several examples from forensic practice.

Example 1. A forensic expert was asked to address the following question: *"Was the signature in the 'Guarantor: V. V. Kozak' column of the suretyship contract No. 04, dated 14 January 2008, made by V. V. Kozak himself or by someone else?"* In response to the forensic expert's motion for experimental and free handwriting samples (at least 10–15), the court provided three documents containing samples of V. V. Kozak's signature.

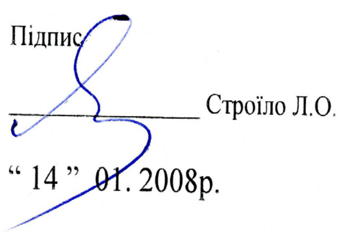

Fig. 1. Signature under examination

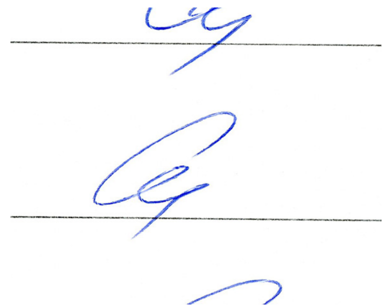

Fig. 2. Sample of V. V. Kozak's signature

Example 2. The following question was posed to the forensic handwriting expert: "Was the signature on behalf of I. I. Hrusha in the 'Attending physician' column of the inpatient's medical record excerpt made by I. I. Hrusha or by someone else?" Free, semi-free and experimental samples of I. I. Hrusha's signature were provided for the forensic examination.

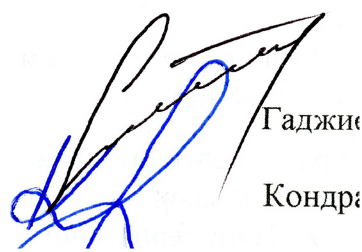

Fig. 3. Signature under examination

28 Меленевська З. С., Свобода Є. Ю., Антонюк П. Є. Причини експертних помилок під час вирішення ідентифікаційних завдань у межах судово-почеркознавчих досліджень. *Криміналістичний вісник*. 2016. № 1 (25). С. 115—121. URL: https://surl.li/jzjewr (date accessed: 05.08.2025).

29 Галаган В. І., Козак О. В. Процесуальний порядок і тактика одержання зразків для експертного дослідження у кримінальному судочинстві України : монографія. Донецьк, 2012. 238 с. ; Козак О. В. Процесуальний порядок отримання зразків для експертизи за КПК України. *Дні науки Національного університету «Києво-Могилянська академія» на факультеті правничих наук, 2014* : тези наук. доп. та повідом. (на кругл. стол. 23 та 27 січня 2014 р.). Київ, 2014. С. 76—78. URL: https://ekmair.ukma.edu.ua/handle/123456789/32549 (date accessed: 05.08.2025).

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Figs. 4–5. I. I. Hrusha's signature samples

However, in both cases, a forensic expert provided neither categorical nor probabilistic findings. This resulted from the following reasons.

As set forth in the general provisions of the handwriting analysis methodology, samples must be such that they can be compared and contrasted with research objects, i.e., they must be written in the same language and in the same alphabet as the signature under examination. To assess the quality of comparative material, it is essential to determine the compatibility of submitted samples and signatures under examination. Therefore, if possible, free and experimental signature samples should match the signatures under examination in terms of document type, time and conditions of execution. A sufficient amount of comparative material can only be guaranteed in a case when provided signature samples enable us to determine consistency in their features.

Sample *comparability* refers to the ability to compare (match) significant, highly informative individual handwriting (signature) features executed at different times: this applies to documents of different nature in terms of their intended purpose (appropriate samples in terms of time) and to the signature under examination. That is, in the samples and in the signature under examination, corresponding letters and their elements, types of connections between corresponding letters and their elements, sequence of movements and their direction, their vertical or horizontal arrangement, etc., should be compared sequentially.

By comparing the signature on behalf of V. V. Kozak with samples of V. V. Kozak's signature, it has been found that that they differ significantly in composition and cannot be compared, i.e., they do not contain similar graphic images (the signature under examination consists of non-letter elements, while the transcription in the samples consists of letters: *see Figs. 1–2*). This obstructs the conduct of comparative study. It also hinders further identification of the executor. The same applies to the comparison of signatures by I. I. Hrusha (*see Figs. 3–5*).

Example 3. The forensic expert was asked the following question: *"Was the signature on behalf of M. M. Mamai, in the 'Signatures of the parties — Landlord' column in the land lease contract No. 007 dated 7 July 2017, executed by M. M. Mamai herself or by someone else?".*

During the preliminary examination of materials provided for research, the forensic expert determined that the free samples of M. M. Mamai's handwriting did not have any features that would confirm the documents' official nature (there were no relevant marks: seal or stamp impressions, approval inscriptions made by persons to whom statements are addressed, incoming and outgoing reference numbers, etc.).

Furthermore, the experimental samples of M. M. Mamai's signature were not submitted during the court hearing (the decision to appoint a forensic examination was made on 5 May 2024, and the samples were collected by the court clerk on 28 June 2024). The samples were not dully certified by the judge's signature.

As stipulated in para. 2 of cl. 1.3 of Sec. I of the Scientific and Methodological Guidelines, *"free samples are handwritten texts, handwritten notes (letters and numbers), signatures, accurately executed by a specific person prior to the opening of criminal proceedings, proceedings in cases of administrative offences, civil, administrative or economic cases and not related to their circumstances; semi-free samples are samples of handwriting and/or signatures executed by a specific person before the opening of proceedings in a case, but related to the circumstances of that case, or the ones that may be made either before or after the opening of proceedings in a case, and may or may not be related to its circumstances"* [30].

According to para. 1.7 of Sec. I of the Scientific and Methodological Guidelines, *"experimental samples are certified by the body (person) who appointed a forensic examination/ engaged a forensic expert. Certification inscription indicates the executor's last name, first name and patronymic, as well as the sample's features (e.g., left-handedness, special font, etc.)"* [31].

As outlined in paras. 2 and 3 of Sec. 1.10 of the Scientific and Methodological Guidelines:

"When choosing samples of a person's signature for subsequent examination, the author of the examined signature should be asked to sign using all variations of his/her signature that he/she commonly uses.

If, for certain reasons, it was not possible to comply with any requirements relating to the collection and provision of samples, this should be indicated in a forensic examination appointment (forensic expert involvement) document" [32].

Para. 3.3 of Sec. III of the Instruction specifies that *"a forensic examination appointment (forensic expert involvement) document must comprise the following data: <…> questions that are to be answered by a forensic expert, a list of objects to be examined (including comparative samples and other materials that have been forwarded to the forensic expert or references to such lists in the case file), and other data relevant to the conduct of a forensic examination"* [33].

A forensic examination appointment (forensic expert involvement) document must indicate the exact names of all objects submitted for a forensic examination, their quantity, weight, series and serial numbers (for money of any origin), and other distinctive individual features [34].

Under Sec. 1.8 of the Scientific and Methodological Guidelines, *"it is advisable to provide both free and experimental samples of letter or digital writing on at least 15 sheets. The shorter the examined text (note), the greater the need for free samples. If possible, free signature samples should be provided on all 15 documents"* [35].

Para. 1 of cl. 1.10 of Sec. I of the Scientific and Methodological Guidelines provides that *"when free signature samples are being collected from someone on whose behalf the studied signature was executed, documents with*

30 Науково-методичні рекомендації … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

31 Там само.

32 Там само.

33 Інструкція … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

34 Там само.

35 Науково-методичні рекомендації … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

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a signature that is most similar to the examined signature should be found. Such signatures are commonly found in documents of a similar nature to those studied in this paper" [36].

Taking into account the above provisions, the forensic expert submitted a motion to provide additional experimental and free samples of M. M. Mamai's signature certified by a judge.

However, pursuant to the motion, the forensic expert was supplied with the same materials. Furthermore, the court failed to explain why the motion of the forensic expert had not been granted, nor did it clarify that a forensic examination should be conducted using the available evidence. Consequently, the forensic expert had to submit a second motion to the court.

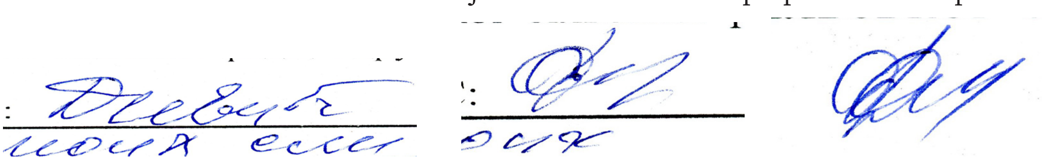
Accordingly, the main requirements for free handwriting samples are: reliability of origin (undisputed origin); compliance with the document under examination (similar in time of execution, form and content, performed by similar writing instruments, etc.), a reasonable number of samples.

Examining evidence directly is an integral part of proving, as it is the main way the court perceives factual data relevant to a case. Such studies are strongly associated with the requirements for evidence relevance and admissibility, since only those that meet these criteria can be the subject of analysis in court. The principle of immediacy stipulates that the court should get a real opportunity to familiarize itself with all the evidence available in the case file, directly perceiving and evaluating it. This approach ensures the completeness and objectivity of the trial, which is confirmed by the Resolution of the Supreme Court dated 27 July 2021 (Case No. 357/4897/20) [37].

Nevertheless, the court actually withdrew from identifying proper samples before providing them to a forensic expert, delegated this responsibility to the forensic expert and provided him with unverified and improperly prepared materials. This approach contradicts the principles of evidence admissibility and relevance (Art. 89 of the Civ. PC of Ukraine [38]) and creates the risk of expert findings being recognised as inadmissible in a case.

Example 4. The expert was addressed with the following: *"Was the signature in the 'Signatures of the parties' column of the will made by S. D. Sidorov himself or by someone else on his behalf?"*.

During the preliminary study of the research materials, the forensic expert found that there had not been enough samples and that they had been executed in a variety of ways. This suggests either variability in the signature or that different individuals prepared the samples.



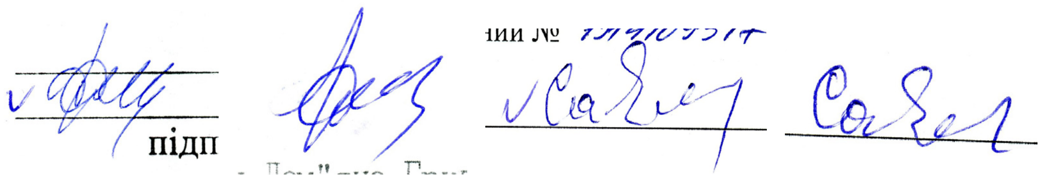
6 7 8

Figs. 6–8. Signatures under examination

36 Науково-методичні рекомендації … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

37 Постанова ВС від 27.07.2021 р. Справа № 357/4897/20. Провадж. № 61-3751св21 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/98671700 (date accessed: 05.08.2025).

38 Цивільний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/1618-15#Text (date accessed: 05.08.2025).



9 10 11 12

Figs. 9–12. Samples of S. D. Sidorov's signature

After comparing all the examined signatures, the forensic expert identified individual matching and diverging features in the handwriting, but neither coincidence nor discrepancy is the basis for reaching positive or negative findings. This is due to the high variability and relative simplicity of the element structure, which prevents the identification of handwriting characteristics that could be used for identification purposes. Moreover, the examined signatures were executed over an extended period (1994–2006), thereby hindering the evaluation of divergent features (whether they are caused by changes to handwriting or by the passage of time, or whether they indicate that the examined signatures were executed by different people).

Consequently, the forensic expert did not answer the question of whether the studied signatures had been executed by one person or different people.

Therefore, the conducted handwriting analysis has demonstrated the impossibility of formulating categorical findings regarding the executor of the signatures due to high variability, a significant time interval between the execution of samples and the signatures under examination, and a lack of structural comparability. It has been proven that proper selection of free handwriting samples—reliable in origin, executed within the closest possible time frame, similar in form, content, and written with the same writing instrument, as well as sufficient in quantity—is the main condition for proving scientific validity and probative value of expert findings.

Evaluation of expert findings by courts and the lack of definitive results

In civil proceedings, expert findings are deemed to be one of the types of written evidence that the court must evaluate in conjunction with other materials in a case [39]. Simultaneously, courts prioritize categorical and clearly worded findings that enable us to unambiguously prove or refute a certain fact. The lack of a definitive result (in particular, the inability to identify the signature executor) considerably obstructs the process of proving. This is because such findings do not possess independent probative value and the courts often define them as unconvincing.

The problem with probabilistic findings is that the party that initiates a forensic examination does not necessarily get the expected result. This is because the court does not receive a clear answer to the question asked. Consequently, there is a need to either conduct a re-examination, an additional examination, or turn to indirect evidence, thereby prolonging the process and resulting in higher costs for both parties. To minimize the risk of obtaining a non-categorical conclusion,

39 Цивільний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/1618-15#Text (date accessed: 05.08.2025).

which would have limited probative value in a trial, it is essential to properly collect samples and ensure their comparability at the stage of sample preparation, prior to forensic examination.

This trend is supported by Supreme Court practice. In a resolution 7 September 2023 (case No. 686/24376/20), it was recognised that expert findings compiled without studying free samples of the accused's signature were inadmissible due to their incomplete nature and violation of methodological guidelines [40].

Another resolution of the Supreme Court (case No. 569/8833/20) states that non-categorical formulations are the grounds for appointing an additional forensic examination [41].

Therefore, the absence of categorical expert findings is both a methodological shortfall and a judicial issue. Such cases delay consideration, result in higher costs for both parties and require re-examination. For findings to be recognized as evidence by the court, one should adhere to methodological standards, ensure structural comparability and clearly formulate research tasks.

It is worth noting that it is impossible to present categorical findings on the identity or difference of the executor's signatures when: graphic material is limited in both volume and informational value, presence of only one repeating written symbol, relative simplicity of handwriting elements, significant time gap between the execution of signatures under examination, insufficient structural comparability between handwriting samples and examined signatures. Reliability of expert findings can only be ensured through an appropriate collection of free handwriting samples. These samples must have a reliable origin, be as close as possible to the studied document in terms of time of execution, form, content and type of writing instrument, and also be sufficient in quantity. Failure to comply with these requirements decreases the expert's ability to identify the executor and reduces the probative value of expert findings in a trial.

A lack of expert findings in a case results in serious procedural obstacles for a court, as it prevents the court from investigating and assessing actual circumstances that are essential for resolving the dispute on the merits.

As set forth in Art. 110 of the Civ. PC, expert findings constitute a standalone type of evidence that must be evaluated and examined by the court alongside other evidence [42]. At the same time, the court cannot replace a forensic expert's specific expertise at its discretion. Therefore, if there are no findings, or if the findings are irrelevant due to improper drafting, insufficient validity or inconsistency, the court risks making a decision without a proper evidentiary basis. This may result in its termination under appellate or cassation procedure.

From the perspective of I. Homeniuk and S. Honhal, completeness and scientific validity of handwriting analysis findings predominantly depend on the quality and sufficiency of provided experimental, free and semi-free samples of handwriting and signatures of the alleged executor. Com-

40 Постанова ВС від 07.09.2023 р. Справа № 686/24376/20. Провадж. № 51-2179км23 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/113396794 (дата звернення: 05.08.2025).

41 Те саме від 06.01.2025 р. Справа № 569/8833/20. Провадж. № 61-8416св23 / там само. URL: https://reyestr.court.gov.ua/Review/124331337 (date accessed: 05.08.2025).

42 Цивільний процесуальний кодекс … . URL: https://zakon.rada.gov.ua/laws/show/1618-15#Text (date accessed: 05.08.2025).

parative material should comply with the standards for a comprehensive analysis of all individually consistent handwriting features that are subject to identification. Samples that are nearly identical to the examined objects in terms of the time of execution, type of document, language, content, writing instruments and conditions of execution are the most informative. Simultaneously, in practice, we often come across situations where these requirements are grossly violated, or where the provided samples lack necessary characteristics [43].

Court practice demonstrates that if a party does not provide sufficient samples for forensic examination, or evades doing so, the forensic expert has the right to report on the impossibility of preparing findings [44]. In this case, the court may recognise the fact of failure to prove the circumstances by the party that was supposed to prove them through forensic examination [45].

Inconsistency in the courts' approaches to evaluating expert findings can also pose challenges. Courts are limited to formally assessing findings' compliance with procedural requirements, without delving into a meaningful analysis of their validity and internal logic. Instead, the Supreme Court has repeatedly emphasized that expert findings should be evaluated from the standpoint of completeness, objectivity, scientific validity and compliance with questions addressed by a court [46].

Accordingly, the fundamental adversarial principle and the right to a fair trial could be seriously jeopardised if inaccurate expert findings are provided, or if they are not provided at all. This requires greater responsibility from the participants in the process when providing materials for a forensic examination, as well as an active role from the court in monitoring the relevance and sufficiency of samples provided.

Proposals to address the lack of adequate expert findings at trial

Addressing the lack of adequate expert findings requires a systematic approach that combines legislative, organizational and methodological improvement of the institution of forensic science.

Firstly, it is important to amend the procedural legislation: present strict legal consequences for the absence or improper formulation of expert findings. This corresponds to the fundamental adversarial principle and the right to a fair trial guaranteed by Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms [47] and Pts. 1 and 3 of Art. 2 Civ. PC of Ukraine. For example, according to Supreme Court

43 Гоменюк І. М., Гонгало С. Й. Зразки для судової почеркознавчої експертизи: проблемні питання одержання та можливі шляхи їх вирішення. *Криміналістичний вісник*. 2016. № 1 (25). С. 122—125. URL: https://surl.li/jzjewr (date accessed: 05.08.2025).

44 Інструкція про призначення та проведення … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (дата звернення: 05.08.2025).

45 Постанова ВС від 22.04.2022 р. Справа № 558/54/18. Провадж. № 61-5619св21 / ЄРДР : веб-сайт. URL: https://reyestr.court.gov.ua/Review/104076062 (date accessed: 05.08.2025).

46 Те саме від 23.12.2020 р. Справа № 757/28231/13-ц. Провадж. № 61-2616св19 / Там само. URL: https://reyestr.court.gov.ua/Review/93794003 (date accessed: 05.08.2025).

47 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: 05.08.2025).

ruling No. 205/7739/13-ц dated 17 July 2023, inadequate expert findings mean the court lacks specific expertise required for well-reasoned case resolution, which may result in the decision being overturned [48].

Secondly, there is a pressing need to introduce standardized procedural mechanisms that would govern the procedure for preparing and providing materials for forensic analysis. Specifically, this applies to the mandatory requirements for providing handwriting and signature samples, time required for their execution, their origin, and conditions of receipt. Approaches aimed at minimizing the return rate of forensic examinations due to technical shortcomings have long been employed in foreign practice to ensure the comparability of materials. For example, *General requirements for the competence of testing and calibration laboratories* (EN ISO/IEC 17025:2019) have been in active use in Ukraine since 1 January 2021 [49]. The international standard ISO/IEC 17025 sets general requirements for the competence, impartiality, and consistent operation of testing and calibration laboratories to ensure their results are reliable, accurate, and valid. A fundamental aspect of this Standard is the stringent regulation of sample identification, documentation, and preparation processes provided for forensic analysis. This ensures the traceability and authenticity of materials throughout the testing process, as well as the correspondence of comparative handwriting samples (free or semi-free signatures) to research objects in terms of their origin, time of execution, and writing methods used. As demonstrated by the experience of European countries like Germany, the Netherlands and the United Kingdom, forensic examination results prove to be more reliable when they are backed by Laboratory accreditation under EN ISO/IEC 17025:2019.

Taking into account the requirements of Art. 14 of the Law of Ukraine: *On Judicial Examination*, which state that forensic experts cannot independently collect materials or choose source samples (violation of this rule may result in disciplinary action) [50], the introduction of these international rules requires amendments to national legislation. This can be implemented either through the publication of a special instruction for courts (which would govern the procedure for providing them with forensic examination materials) or through amendments to current procedural legislation.

Thirdly, one of the promising areas for enhancing procedural practice in cases requiring handwriting analysis is the introduction of a sustainable practice of involving forensic experts at the stage of collecting handwriting samples or immediately prior to the appointment of a forensic examination. Para. 3 of cl. 1.11 of Sec. I of the Scientific and Methodological Guidelines highlights that the court has the right to engage a forensic expert (spe-

48 Постанова ВС від 15.06.2023 р. Справа № 205/7739/13-ц. Провадж. № 61-8462св22 / ЄРДР : вебсайт. URL: https://reyestr.court.gov.ua/Review/111677122 (date accessed: 05.08.2025).

49 Див., напр.: ДСТУ EN ISO/IEC 17025:2019 Загальні вимоги до компетентності випробувальних та калібрувальних лабораторій (EN ISO/IEC 17025:2017, IDT; ISO/IEC 17025:2017, IDT) : затв. наказ. ДП «УкрНДНЦ» від 23.12.2019 р. № 483 [Чинний від 01.01.2021]. URL: https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=88724 (date accessed: 05.08.2025) ; Published Standards / SWGDOC : web. 28 May 2021. URL: https://www.swgdoc.org/index.php/standards/published-standards (date accessed: 05.08.2025).

50 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: 05.08.2025).

cialist) when it faces challenges associated with appointing a multi-object forensic examination of signatures [51].

The analysis of judicial practice shows that such a mechanism is used sporadically. The lack of professional advice at the initial stage has repeatedly resulted in the re-appointment of a forensic examination due to inadequate wording of questions or insufficient and unsuitable comparative samples. This has consequently led to delays in the consideration of cases.

Engaging a forensic expert at the stage of reviewing a motion for a forensic examination or during the preparatory meeting not only optimizes the selection of samples and determination of the type of research but also ensures that questions align with the Scientific and Methodological Guidelines. Furthermore, a forensic expert's participation helps identify which documents can serve as comparative materials and assess the feasibility of conducting a forensic examination under specific circumstances.

Implementing this practice systematically will enhance the quality of expert findings, decrease procedural errors and the time required, and help uphold the principle of reasonable trial duration as outlined in Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms [52] and as enshrined in national procedural legislation.

Active procedural oversight by the court of rulings on the appointment of forensic examinations is necessary. Specifically, setting deadlines for the submission of materials and expert findings, alongside relevant sanctions for missing these deadlines, will improve discipline, as recent court decisions suggest [53].

Undertaking these measures will enhance the quality of forensic examinations and ensure the timely receipt of appropriate findings. This will improve the objectivity and efficiency of court proceedings.

Conclusions

Analysing legal provisions and practical aspects of handwriting analyses, the critical role of the quantity and quality of submitted samples in formulating comprehensive expert findings is emphasized. Ensuring the reliability and completeness of research is vital, and this is best achieved by adhering to the requirements concerning the origin of samples, their compliance in terms of execution time and conditions under which they were executed. Providing insufficient or inaccurate information, however, significantly complicates handwriting identification and reduces the probative value of a forensic examination.

The lack of systematic oversight of this process poses a risk of either false findings being drawn or no findings being drawn at all.

Therefore, to enhance handwriting analysis efficiency, both the sampling process (with obligatory engagement of specialists) and requirements regarding

51 Науково-методичні рекомендації … . URL: https://zakon.rada.gov.ua/laws/show/z0705-98#Text (date accessed: 05.08.2025).

52 Конвенція про захист прав людини … . URL: https://zakon.rada.gov.ua/laws/show/995_004#Text (date accessed: 05.08.2025).

53 Огляд судової практики Касаційного цивільного суду у складі Верховного Суду щодо окремих питань застосування положень Цивільного процесуального кодексу України. Рішення, внесені до ЄДРСР, із січня 2024 року по березень 2025 року. Київ, 2025. 114 с. / Судова влада України : вебсайт. URL: https://surl.li/koczoq (date accessed: 05.08.2025).

quantity and quality of samples should be improved. This will contribute to the exhaustiveness of expert findings and ensure objective trial.

In the course of this study, the criteria for evaluating handwriting analysis findings in the trial, which are an important step for harmonizing methodological approaches in this area, have been systematized. The analysis of regulatory rules and judicial practice proves that the probative value of expert findings is closely tied to adherence to methodological requirements during the preparation and conduct of research. There are principal factors influencing the validity and categorical nature of expert findings. Firstly, relevance of samples provided. Secondly, reliability and sufficiency of these samples. And thirdly, the accuracy of questions addressed to a forensic expert.

The absence of categorical findings or their improper formalization entails significant procedural risks: delays in case consideration terms, the need to appoint a re-examination or an additional examination, higher costs for both parties, and impairment of the defence's effectiveness. Judicial practice demonstrates that failure to adhere to methodological standards during selection and evaluation of comparative samples often constitutes grounds for recognizing expert findings as inadmissible evidence.

Handwriting analysis efficiency can be significantly enhanced through:

1) procedural settlement of consequences associated with insufficient expert findings or their inadequate formalization;
2) implementing standardized requirements for selection and preparation of handwriting samples;
3) introducing the practice of engaging forensic experts at the preparatory stage of appointing a forensic examination;
4) active procedural oversight by the court of the timely and quality enforcement of rulings on forensic examinations.

Implementing the proposed measures will be pivotal in improving the quality and reliability of expert findings and ensuring that the circumstances of a case are clarified promptly and thoroughly, thereby guaranteeing a fair trial.

Оцінка висновків почеркознавчих експертиз у судовій практиці: критерії, проблематика зразків і шляхи вдосконалення

Олена Савіна, Вілена Здор, Дмитро Ус

Мета статті — обґрунтувати систему критеріїв оцінювання висновків почеркознавчих експертиз для застосування її в суді; проаналізувати наявні підходи до розуміння доказового значення висновків експертів у контексті судової практики. Для досягнення поставленої мети застосовано сукупність загальнонаукових і спеціальних методів. Проаналізовано чинне законодавство, яким урегульовано порядок призначення, проведення й оцінювання судових експертиз (зокрема, процесуальні кодекси України та спеціальні нормативні акти, що регламентують судово-експертну діяльність). Увагу акцентовано на судовій практиці застосування висновків почеркознавчих експертиз і основних проблемах, пов'язаних з їх оцінюванням: суперечливості результатів експертних досліджень, недостатньому аргументуванні висновків, формальному підході до їх сприйняття судами. Особливий акцент зроблено на вільному оцінюванні доказів судом і межах його реалізації в разі потреби у застосуванні спеціальних знань. Запропоновано систематизовані критерії (зокрема, відпо-

відність застосованих методик сучасним науковим вимогам, повнота опису об'єктів дослідження, логічна послідовність викладення міркувань експерта, чіткість формулювання висновків, наявність альтернативних гіпотез, а також узгодженість висновку з іншими доказами у справі), які стануть у нагоді суддям, адвокатам, прокурорам та іншим учасникам процесу для оцінювання якості висновків за почеркознавчими дослідженнями. Правники, які стикаються з необхідністю критичного аналізу висновків експертів у процесі доказування, можуть скористатися викладеними тут напрацюваннями як методичним орієнтиром. Порушено питання нагальної потреби в підвищенні кваліфікації суддів у частині оцінювання спеціальних знань і у виробленні єдиних підходів у судовій практиці до застосування висновків експертів як доказів.

Ключові слова: *судова експертиза; почеркознавство; експерт; висновок експерта; оцінка*[54] *доказів; судова практика; доказове значення; критерії науковості.*

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Declaration of Competing Interest

The authors declare no conflict of interest.

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54 За правилами української мови іменник «оцінка» доцільно застосовувати тільки на означення результату процесу, позначення якості знань і поведінки учнів або думки, міркування про якість, характер когось (чогось), а прикметник «оціночний» є калькою з російської. В українській мові слід послуговуватися дієсловом «оцінювати» («оцінити») і прикметником «оцінний» відповідно. Натомість чинні нормативно-правові акти, на жаль, до сьогодні оперують помилковими словоформами (наприклад, «оцінка висновку експерта»).— *Ред.*

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All-Ukrainian Congress of Forensic Experts: *EXPERT'2025*

On 11 July 2025, All-Ukrainian Public Organization "Union of Experts of Ukraine" organized and conducted All-Ukrainian Congress of Forensic Experts: *EXPERT'2025* (hereinafter – the *Congress*) in Kyiv in hybrid format (in person and via remote participation).

The Congress became a professional platform for a vivid dialogue between forensic experts, scientists, and representatives of authorities.

Ihor Starodubov, Candidate of Legal Sciences, Forensic Expert, Patent Attorney, Appraiser, Director at State Enterprise "Center for Forensic Examination and Expert Research", President of the Union of Experts of Ukraine, opened the event with a welcoming speech.

Participants of the event were also greeted (personally and in video addresses) by: ***Maksym Pampura***, Doctor of Science of Law, Acting Head of the State Judicial Administration of Ukraine; ***Oleksii Movchan***, Deputy Chairman of the Committee on Economic Development of the Verkhovna Rada of Ukraine, People's Deputy of Ukraine; ***Nataliia Tkachenko***, Candidate of Legal Sciences, Honored Lawyer of Ukraine, Director at Forensic Science Support to Justice Department of the Ministry of Justice of Ukraine; ***Lydia Izovitova***, Honored Lawyer of Ukraine, Head of Ukrainian Bar Association and Bar Council of Ukraine; ***Natalia Panova***, Candidate of Legal Sciences, Deputy Chair of State Property Fund of Ukraine; ***Iryna Zharonkina***, Property Rights and Enforcement Component Lead of the EU Project *Pravo-Justice*; Heads and representatives of the Ministry of Justice's forensic institutions as well as other institutions and organizations.

National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter – NSC «Hon. Prof. M. S. Bokarius FSI») was represented ***Mykhailo Mozhaiev***, Doctor of Technology, Acting Director, who personally participated in the event and, on behalf of the Institution staff, greeted organizers and participants, indicating the importance of the event for the professional forensic expert community, especially in times when our nation stands in defence of its sovereignty and territorial integrity.

Following the official opening, attendees took part in the panel discussions on the following topics:

- *Game Rules: New Approaches to Accessing the Forensic Expert Profession*.
- *Professional Self-Governance of Forensic Experts: Challenges and Prospects*.
- *Emerging Challenges in Forensic Activity under Conditions of Transforming Professional Activities*.

Participants discussed self-governing institutions and their formation, European models, their legitimacy and accountability, along with methodology-related challenges and limits of responsibility at the intersection of forensic examination and evaluation. Attendees also elaborated on professional indemnity (PI) insurance and other relevant issues.

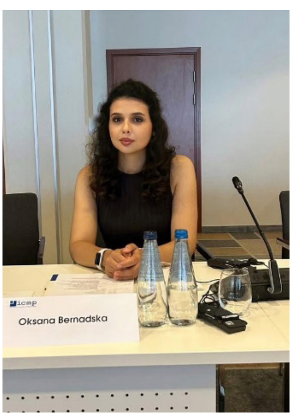
As part of the panel discussion on the training and internships of forensic experts, ***Viktoriia Alieksieichuk***, Docent, Candidate of Legal Sciences, Deputy Head of the Department of Scientific and Methodological Work and Postgraduate Education at the Kyiv Branch of National Scientific Center «Honored Professor M. S. Bokarius Forensic Science Institute», delivered a report on the following topic: *Disciplinary responsibility of a forensic expert as a tool in ensuring the expert conlusion quality: problematic issues*.

The scientific event was conducted to a high professional standard. The gathered professionals focused on the prospects for forensic science development in Ukraine, issues relating to the effective interaction between forensic institutions and law enforcement agencies, courts and the public in order to enhance justice efficiency. They also exchanged some ideas and experiences. According to the findings presented during the discussion, the most relevant achievements in the field of forensic activity were noted, as was the importance of consolidating the efforts of all research institutions within Ukraine's forensic science system.

*Information was prepared by **Nataliia Zhyla**,*
Researcher at NSC «Hon. Prof. M. S. Bokarius FSI»

2nd International DNA Identification Working Group Meeting by International Commission on Missing Persons

Viktoriia Bulavina, Head at the Sector of Biological, Veterinary and Molecular Genetic Examinations of National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter – *NSC «Hon. Prof. M. S. Bokarius FSI»*), and ***Oksana Bernadska***, Researcher at the Kyiv Branch of National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine, participated in the 2nd International DNA Identification Working Group Meeting organized by the International Commission on Missing Persons (hereinafter – the *ICMP*) in Warsaw, Poland, on 22–24 July 2025.



The ICMP is an intergovernmental organization, headquartered in The Hague, whose mandate is to encourage governments and stakeholders to work together to find people who have gone missing due to war, human rights violations, and other circumstances. The ICMP aims to support families who have been affected by the war and have missing family members, utilizing comprehensive approaches and implementing effective actions for missing persons identification.

The event program has covered key topics involving DNA analysis in the context of large-scale identification (in the event that a significant number of people go missing): work process management and reporting, preventing risks of contamination, methodology of reporting on *Y-STR* analysis, use of preliminary probability estimates and *SNP* typing on Ukrainian samples.

The event was attended by speakers who are DNA analysis experts from all around the globe, in particular: ***Thore Egeland***, Professor of Statistics at the Norwegian University of Life Sciences; ***Lourdes Prieto***, DNA Expert affiliated with the Spanish Interior Ministry's Comisaría General Policía Científica; ***Kieran Gill***, DNA Laboratory Head at the ICMP; ***Zlatan Bajunović***, Senior Forensic DNA Analyst at the ICMP; ***Arwin Ralf***, Postdoctoral Researcher at the Department of Pathology and Clinical Bioinformatics, Erasmus University Medical Center, Rotterdam; ***Sabina Taslaman***, Quality Assurance Quality Control Manager at the ICMP; ***Ingo Bastisch***, ICMP's Director of Science and Technology; and ***Bethany Forsythe***, who joined the discussion online as a scientist specializing in next-generation sequencing (NGS).

Participants of the Working Group also discussed cooperation in joint projects and training programs.

Interaction between «Hon. Prof. M. S. Bokarius FSI» and the ICMP contributes to the efficiency of expert research as well as helps to optimize the use of available resources.

Information was prepared by ***Victoria Bulavina****,*
Sector Head at NSC «Hon. Prof. M. S. Bokarius FSI»

All-Ukrainian Scientific and Practical Conference: *The Digital Era of Forensic Science Development – Innovative Technologies & Artificial Intelligence*

Employees of National Scientific Center «Honored Professor M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter – *NSC «Hon. Prof. M. S. Bokarius FSI»*) took part in All-Ukrainian Scientific and Practical Conference: *The Digital Era of Forensic Science Development – Innovative Technologies & Artificial Intelligence*, organised and held by Odessa Scientific Research Institute of Forensic Sciences of the Ministry of Justice of Ukraine on 29 August 2025. NSC «Hon. Prof. M. S. Bokarius FSI» was represented by: ***Anastasiia Kupriianova***, Head of the Center (participated offline); ***Anna Tkachenko***, Head of R&D and Publishing, International Cooperation Laboratory; ***Ihor Krainov***, Pricipal Researcher at the Laboratory of Engineering and Technical Examinations — all participated offline; ***Yevheniia Kovkina***, Head at the Laboratory of Handwriting, Linguistic, Psychological, and Art Studies (participated online); ***Serhii Chornyi***, Prinicipal Researcher at the Laboratory of Engineering and Technical Examinations — they participated online; and others.

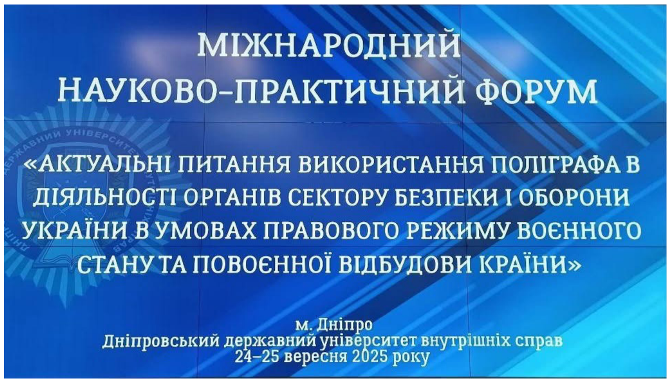
German Galushchenko, Minister of Justice of Ukraine, and ***Andrii Haichenko***, Deputy Minister of Justice of Ukraine for the Enforcement Service, offered a warm welcome to the participants.

Ihor Krainov, Doctor of Technology, presented a report on digital transformation peculiarities of individual subtypes of forensic engineering and technical examination (including assessment of digital maturity in institutions and forensic experts and development of a digital strategy). The researcher focused on the regulatory-legal and regulatory-technical support for the digitalisation of forensic examination procedures.

NSC «Hon. Prof. M. S. Bokarius FSI» extends its heartfelt thanks to the conference organizers for the high level of conduct and for the opportunity to maintain professional scientific dialogue.

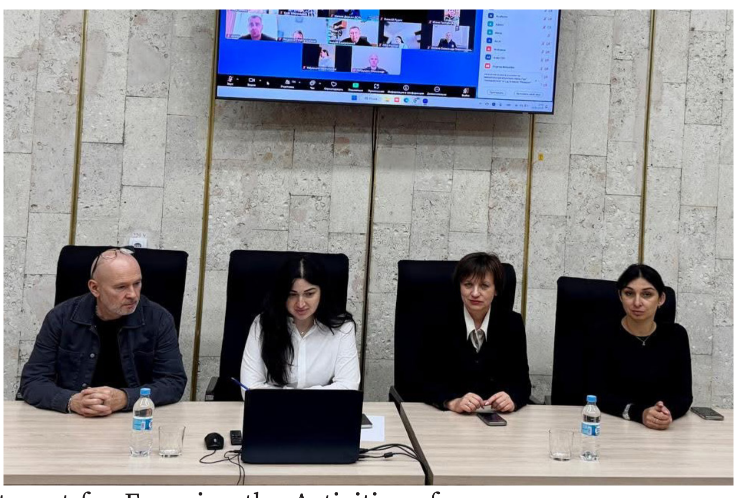
Information was prepared
*by **Oksana Chala**,*
Researcher at NSC
«Hon. Prof. M. S. Bokarius FSI»

International Scientific and Practical Forum: *Current Issues of Using Polygraph in the Activities of Security and Defense Sector Bodies of Ukraine under the Legal Regime of Martial Law and Post-War Reconstruction of the Country*



On 24 and 25 September 2025, Dnipro State University of Internal Affairs (hereinafter – *DSUIA*), with the support of the Department for Ensuring the Activities of the Head of the National Police of Ukraine, hosted the International Scientific and Practical Forum: *Current Issues of Using Polygraph in the Activities of Security and Defense Sector Bodies of Ukraine under the Legal Regime of Martial Law and Post-War Reconstruction of the Country* (hereinafter – the *Forum*).

Conducted in hybrid format, the Forum brought together polygraph examiners, researchers, representatives of the Ministry of Internal Affairs, National Police, Armed Forces, National Guard, Security Service, DBR, Prosecutor's Office, forensic science institutes of Ukraine, along with international partners from the US and Canada.



The Forum was officially opened by: ***Oleksandr Tarasenko***, Candidate of Legal Sciences, Director of the Department of Education, Science and Sports at the Ministry of Internal Affairs of Ukraine; ***Ihor Mahdalina***, Docent, Candidate of Engineering Sciences, Acting Rector at DSUIA; and ***Valerii Koba***, Police Colonel, Candidate of Legal Sciences, Head of the Department for Ensuring the Activities of the Head of the National Police of Ukraine.

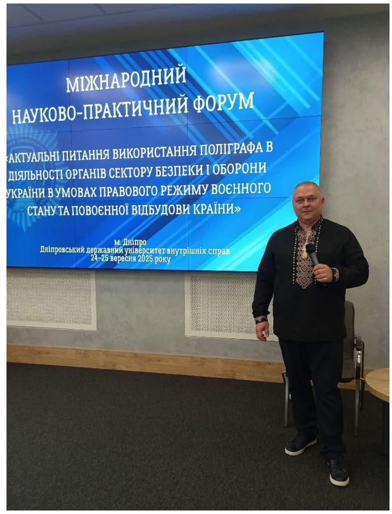
National Scientific Center «Honored Professor M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter – *NSC «Hon. Prof. M. S. Bokarius FSI»*) was represented by its Head, ***Anastasiia Kupriianova***, Candidate of Legal Sciences. She emphasised the challenging path of shaping and advancing Ukrainian polygraphology throughout the past three decades. ***Anastasiia Kupriianova*** emphasized the importance of close professional and scientific cooperation between polygraph examiners and representatives of Ukraine's security and defence sector for achieving victory and noted that only through proper cooperation among all specialists can measures for the methodological support of specific expertise application, used in the field of expert support for justice, be successfully implemented.

Participants considered key points related to advancing the legal framework for polygraph use in law enforcement and to analysing modern practices for polygraph use in criminal proceedings.

During the two-day Forum, the following discussion panels became thematic areas of work:

- *Polygraph in the System of Supporting National Security and Defence of Ukraine under Martial Law* (current capabilities of polygraph use in ensuring the reliability of human resources policy in the security and defence sector during wartime; organizational support of polygraph activity [structure, training, interdepartmental interaction], as well as international experience and standards of using the polygraph during hostilities, etc.);
- *Peculiarities of Polygraph Use in Detection and Investigation of Certain Crime Types* (peculiarities of conducting interrogations with the use of a polygraph during the investigation of criminal offenses against the fundamentals of Ukraine's national security [high treason, collaboration activities, sabotage, espionage, etc.] and against peace, security of mankind and international law and order [war crimes, use of mass destruction weapons, crimes against humanity, etc.]; the impact of stress, combat experience and PTSD on the outcomes of polygraph tests, alongside the ethical considerations involved in conducting polygraph interrogations with victims of criminal offences);
- *Legal, Organizational and Methodological Aspects of Using Polygraph in the System of National Security and Defence of Ukraine During Martial Law*. During this discussion panel, ***Oleksandr Yevsyukov***, Docent, Candidate of Pedagogical

Sciences, Leading Researcher at NSC «Hon. Prof. M. S. Bokarius FSI», delivered a report: *The Use of Polygraph Testing in the Selection of Personnel for Enterprises Within the Defence Industry*, prepared jointly with ***Anastasiia Kupriianova***, Head of NSC «Hon. Prof. M. S. Bokarius FSI». The speaker provided a detailed analysis related to the effectiveness of using a polygraph during staff selection. He also stressed that the machine is capable of detecting information that contains perfect traces of past circumstances and events that remain in a person's memory.



Participants discussed the issue of torture as unjustifiable wrongdoing, psychological features of a polygraph examiner's communication, exchanged practical experience in using a polygraph in activities of the security and defence sectors, outlined promising areas of this activity and raised many issues related to the topic of the event, and also got acquainted with the material and technical base of Dnipro State University of Internal Affairs and Dnipro Lyceum of Security Orientation and National-Patriotic Education named after Oleksandr Hostishchev under Dnipro State University of Internal Affairs.

*Information was prepared by **Viktoriia Hrokhovska**,*
Researcher at NSC «Hon. Prof. M. S. Bokarius FSI»

International Scientific and Practical Conference on Child-Friendly Justice for Children Affected by Violence: Current Issues in Forensic Psychological Examination

The International Scientific and Practical Conference on Child-Friendly Justice for Children Affected by Violence: Current Issues in Forensic Psychological Examination (hereinafter – the *Conference*) was held at the Kyiv Branch of National Scientific Center «Honored Professor M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter – *NSC «Hon. Prof. M. S. Bokarius FSI»*) on 26 September 2025. The event took place in both online and offline formats.

The Event was moderated by ***Olha Herasymenko***, PhD in Psychology, Head of the Sector of Psychological Examinations at NSC «Hon. Prof. M. S. Bokarius FSI», and ***Vadym Khosha***, Candidate of Legal Sciences, Senior Researcher, Head at the Department of Advanced Training of Forensic Experts.

Opening remarks were delivered by ***Anastasiia Kupriianova***, Candidate of Legal Sciences, Head of NSC «Hon. Prof. M. S. Bokarius FSI», who congratulated participants and thanked them for supporting the Conference dedicated to enhancing psychological analysis efficiency, in general, and to refining current approaches to resolving problems of work with children affected by violence, in particular.

«Upholding the rights and safeguarding the well-being of children through the creation of a secure and supportive environment is one of the main tasks of the Ministry of Justice of Ukraine and, accordingly, of NSC «Hon. Prof. M. S. Bokarius FSI». We are steadily expanding our potential to provide social, psychological, and legal assistance to children. A psychological assistance office for vulnerable children who have been victims of or witnesses to crimes has recently been established at the premises of the Kyiv Branch of the NSC «Hon. Prof. M. S. Bokarius FSI». This office is known as the «Green Room». In previous years, «Green Rooms» were opened in Kharkiv and Sumy. We

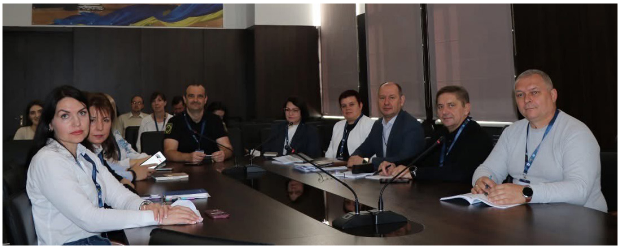
have established a mutually beneficial relationship with «Barnahus» centres, where children who are victims or witnesses of violence are provided with legal, medical, psychological, and social support. The Center also expands international cooperation in the field of child rights protection in wartime», noted Ms. Anastasia.

Participants of the event were personally greeted by distinguished guests: ***Andrii Haichenko***, PhD in Law, Deputy Minister of Justice of Ukraine for the Enforcement Service; ***Maria Vdovichenko***, Deputy Prosecutor General; ***Dmytro Shumeiko***, Head of the Main Directorate of the National Police in Kyiv, Third Rank Police General; ***Yurii Chechil***, Candidate of Legal Sciences, Honored Lawyer of Ukraine, Director at the Ukrainian Research Institute of Special Equipment and Forensic Science of the Security Service of Ukraine; ***Yevgeniy Kolesnik***, Director of the State Scientific Research Forensic Center of the Ministry of Internal Affairs of Ukraine**.**

Via video conference, ***Oksana Cherviakova***, Docent, Candidate of Legal Sciences, Representative of the Commissioner for Children's Rights of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights, and ***Nataliia Tkachenko***, Candidate of Legal Sciences, Honored Lawyer of Ukraine, Director at Forensic Science Support to Justice Department of the Ministry of Justice of Ukraine, extended a warm welcome to attendees.

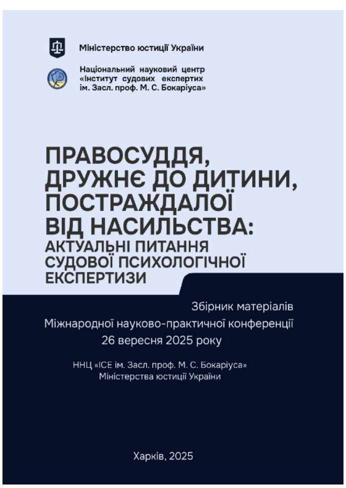
The Conference was attended by more than 120 participants-representatives of the Ministry of Justice of Ukraine, the Office of the Prosecutor General, representatives of the UNICEF Children's Aid Fund in Ukraine, the First All-Ukrainian UNESCO Club, the EU Project *Pravo-Justice*, state specialised forensic institutions of Ukraine, higher education institutions, law enforcement agencies, courts, as well as by forensic experts from foreign countries, and others.

Following the Conference opening, the participants proceeded to discuss current challenges and methods involving forensic psychological examination of children affected by violence, specifically: issues relating to the forensic psychological examination of children who have been forcibly displaced



or deported to the territory of the Russian Federation; relevance of multidisciplinary forensic psychological-linguistic and art examination in criminal proceedings concerning sexual abuse of children; covert forms of domestic violence, etc.

Malgorzata Wojciechowska, MSc, Expert Psychologist in the Field of Forensic Sciences, Prof. Dr. Jan Sehn Institute of Forensic Research (Poland), presented a report co-authored with ***Ewa Wach***, MSc, Expert Psychologist in the Field of Forensic Sciences at Prof. Dr. Jan Sehn Institute of Forensic Research, on the Polish approach to the rights of the child as an embodiment of child-friendly justice standards. Scientific reports were also delivered by the staff of NSC «Hon. Prof. M. S. Bokarius FSI»: ***Tetiana Yehorova***, Leading Forensic Expert at the Poltava Branch; ***Yurii Irkhin***, Candidate of Psychology Sciences, Associate Professor, Leading Researcher at the Kyiv Branch, ***Yevheniia Kovkina***, Candidate of Philology Sciences, Head at the Laboratory of Handwriting, Linguistic, Psychological, and Art Studies; and others; as well as by employees of other Ministry of Justice research institutions (Ukraine), the Ministry of Internal Affairs, the Security Service, the Prosecutor's Office of Ukraine and private forensic science institutes (in particular, by ***Olena Slipets***, Sector Head at Donetsk Scientific Research Forensic Center of the Ministry of Internal Affairs of Ukraine, and ***Kateryna Volik***, Candidate in Art Studies Sciences, Forensic Expert at LLC "Agency of Forensic Examinations"). The participants addressed the challenges of integrating forensic psychological and criminalistics expertise in cases of safeguarding child rights and interests, overall forensic science development in Ukraine, and other relevant issues.



The conference proceedings contain 39 scientific papers by almost 70 authors from Ukraine, Moldova, Poland, Montenegro, and Slovakia.

The event fostered dialogue on key topics such as the introduction of modern scientific thinking and the integration of international approaches in psychological analyses. Furthermore, it has been stressed that joint efforts and the exchange of practical experience are paramount, as only through collective action can we hold the key to navigating the uncertainties of the present.

*Information was prepared by **Anatolii Tyapkin**,*
Sector Head at NSC «Hon. Prof. M. S. Bokarius FSI»

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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- 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.

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