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## **THEORETICAL AND LEGAL BASIS OF FORENSIC EXPERT ACTIVITY MANAGEMENT**

## **ТЕОРЕТИКО-ПРАВОВІ ОСНОВИ УПРАВЛІННЯ СУДОВО-ЕКСПЕРТНОЮ ДІЯЛЬНІСТЮ**

*The article analyzes the theoretical and legal foundations of managing forensic expert activity as a component of the mechanism of public administration and the system of ensuring national security. The content of forensic expert activity is revealed as a specialized type of state function aimed at obtaining reliable, scientifically substantiated evidentiary data for the needs of justice. The key elements of public administration in this field are defined: regulatory and legal framework, institutional structure, organizational mechanisms, standardization, and quality control of expert research.*

*Special attention is paid to the role of forensic expert institutions in strengthening the rule of law and countering threats to state security, particularly in the context of criminal justice, counterterrorism, cybercrime, and corruption. It is shown that the effectiveness of managing forensic expert activity depends on the coherence of state policy, professional training of experts, the implementation of modern scientific and technical methods, and integration into international standards.*

*Forensic expertise in Ukraine is not only an auxiliary element of judicial proceedings, but a full-fledged institution of state administration, which is of strategic importance for the legal system and state security.*

*It is concluded that improving management mechanisms in the field of forensic expertise is a necessary condition for enhancing the quality of justice and strengthening the security potential of the state.*

**Keywords:** *public administration, expertise, expert, forensic expert activity, state security.*

*У статті проаналізовано теоретико правові засади управління судово експертною діяльністю як складовою механізму державного управління та системи забезпечення національної безпеки. Розкрито зміст судово експертної діяльності як спеціалізованого виду державної функції, спрямованої на отримання достовірних, науково обґрунтованих доказових даних для потреб правосуддя. Визначено ключові елементи державного управління у цій сфері: нормативно правове регулювання, інституційна структура, організаційні механізми, стандартизація та контроль якості експертних досліджень.*

*Особливу увагу приділено ролі судово експертних установ у зміцненні правопорядку та протидії загрозам державній безпеці, зокрема у контексті кримінального судочинства, протидії тероризму, кіберзлочинності та корупції. Показано, що ефективність управління судово експертною діяльністю залежить від узгодженості державної політики, професійної підготовки експертів, впровадження сучасних науково технічних методів та інтеграції у міжнародні стандарти.*

*Судово-експертна діяльність в Україні не лише як допоміжний елемент судочинства, а повноцінний інститут державного управління, що має стратегічне значення для правової системи та безпеки держави.*

*Зроблено висновок, що удосконалення управлінських механізмів у сфері судової експертизи є необхідною умовою підвищення якості правосуддя та зміцнення безпекового потенціалу держави.*

**Ключові слова:** державне управління, експертиза, експерт, судово-експертна діяльність, безпека держави.

Problem statement. One of the main international legal documents aimed at establishing and developing international cooperation between Ukraine and the European Union is the Association Agreement between Ukraine and the European Union, Euratom and Member States of European Union. The preamble to this agreement states that political association and economic integration will depend on Ukraine's achievements in ensuring respect for common values and progress in reconciliation with the EU in the political, economic and legal spheres, in particular in the field of justice. [1].

In accordance with the requirements of the National Program for the Adaptation of Ukrainian Legislation to the Legislation of the European Union, the adaptation of Ukrainian legislation to EU legislation is a priority component of the process of Ukraine's integration into the European Union, which, in turn, is a priority direction of Ukrainian foreign policy [2].

Not only the activities of forensic experts, but also any branch of law in a particular country has a national character, despite the fact that in the EU countries the laws are maximally harmonized. Over the past decades, Europe has been experiencing a trend towards convergence of legal systems. This convergence is based on universal legal values - the ideas of human rights, social justice, the rule of law etc., which are becoming increasingly widespread in the modern world [3, p. 157].

Modern threats - terrorism, cybercrime, corruption, transnational crime - require high-tech expert research. Forensic examinations play a key role in:

- investigation of serious and especially serious crimes;
- identification of persons and objects;
- analysis of digital evidence;
- combating financial crimes;
- providing an evidentiary base in cases related to national security.

Thus, forensic expertise is an important element of the state's security potential.

Forensic expertise is not only a technical process of conducting examinations, but also an institutional mechanism that is integrated into the state administration system. It performs functions that are of strategic importance for law and order and state security and requires research and improvement.

Analysis of recent researches and publications. Issues of forensic activity in Ukraine were dealt with by both individual scientists and entire research

institutes of the Ministry of Justice and the Ministry of Internal Affairs. Among the famous scientists are M. Segai, O. Ruvn, I. Pyrig, I. Yatsenko and others who studied the legal, organizational and theoretical aspects of forensic activity.

Research objectives. The purpose of the article is to analyze the theoretical and legal foundations of the management of forensic activity, determine its significance for state security and outline the directions for improving management mechanisms.

Presentation of the main material. Today, the concept of expert activity and its content has not been clearly formulated by scientists. Several definitions are used in the literature: "expert activity", "forensic expertise", "forensic activity", "activity of forensic units", which are interpreted differently by different scientists. Due to the lack of a theoretical basis, problems arise in the activities of law enforcement agencies conducting judicial proceedings regarding the types and forms of expert activity, tasks to be solved, and other relevant issues. At the scientific level, expert activity began to be considered with the development by some scientists of the concept of separating the science of forensic expertise from criminalistics. The history of its emerging and development will be discussed below. Let us note the fundamental scientific works in the field of forensic expertise that became the basis of our study. The beginning of the discussion among scientists on forensic expertise were indicated by the articles of O.R. Shlyakhov, published by him in the collections "Issues of Criminalistics and Forensic Expertise" [4, p. 17].

The legal phenomenon not only preserves, but also deepens the unique and unrepeatable characteristics of national legal systems, which are determined by the historical characteristics of each nation. The task of an expert in any country is the same - to conduct a certain check in accordance with his knowledge in order to help resolve legal disputes or conflict situations.

The activities of forensic experts are based on unified scientific principles and methods. An important part of this activity is the establishment of cooperation, the exchange of acquired experience and technologies, the search for new ways and methods of interaction [3, p. 157].

Thus, expert activity is a specific type of human activity, which:

- is based on practical and theoretical scientific knowledge;
- has a cognitive, research character;
- can be carried out in various spheres of social activity;
- uses methods and techniques that do not contradict the laws and norms of morality and are based on modern achievements of science;

- has the goal of a comprehensive, complete, objective, complex study of objects, processes or phenomena;
- results in obtaining new information and forming conclusions.

Based on this, it can be noted that expert activity is a specific type of human activity based on scientific knowledge, the content of which is the study of certain objects, processes or phenomena using special methods in order to provide scientifically sound conclusions [4, p. 32].

Forensic expertise as one of the forms of activity in the field of justice is not limited only to conducting forensic expertise or expert research. Expertise is a kind of final product that is formed as a result of the integration of the organizational and actual research components of the expert's activity. The organizational component in each case determines who, how, and in what terms will resolve issues that need to be resolved in connection with the investigation of a criminal case. The research part of each examination is determined by the system of the subject, object, and research methods of the relevant field of knowledge. The research part also has an organizational aspect related to the creation of conditions for conducting research. The correct organization of research during the examination, as well as the correct organization of the activities of the expert institution or unit, affect the research part of the examination and determine its efficiency and effectiveness. We believe that the organization of forensic expertise has problems that need to be resolved [5, p. 109].

Strilets G. O. believes that forensic expertise is a legally regulated activity of forensic expertise institutions aimed at conducting independent forensic examinations through objective, comprehensive and complete research in compliance with modern achievements of science and technology, organizing the work of forensic expertise institutions as a whole and their structural divisions, their scientific and methodological and information support, selection and training of forensic expertise personnel. The author distinguishes the following types of forensic expertise activity: expert and practical (conducting examinations), scientific and methodological, organizational and training of expert personnel [6, p. 11].

The regulatory and legal principles of managing forensic expertise activities are based on the following elements:

- Constitutional provisions on ensuring justice and human rights guarantees.
- The Criminal Procedure Code, which determines the procedure for assigning examinations, the status of an expert, and requirements for the conclusion.

- Laws on forensic examination, which regulate the organization of expert institutions, their powers and standards of activity.
- By-laws: instructions, methods, standards that ensure the unity of expert practice.
- International standards (ISO, ENFSI, recommendations of the Council of Europe), which determine the requirements for the quality of expert research.

Legal support for management also includes licensing, accreditation of laboratories, and professional training of experts.

The subject of legal regulation of administrative law is defined as social relations of a managerial nature that have developed in the sphere of public administration in the process of practical implementation and functioning of the executive branch.

The judicial and expert activity of Ukraine, as a social institution today, is a system consisting of certain subjects and objects that constantly interact with each other, and which requires an effective social and administrative mechanism that would timely regulate public relations and norms of behavior of participants in these relations, maintain their organization, orderliness and stable development, contributing to proper regulatory order [3, p. 157].

In scientific literature, administrative and legal regulation is defined as a direct method of state influence, carried out by authorized state authorities, local self-government bodies and self-regulated institutions, whose powers are aimed at implementing in the relevant sphere of relations that are based on a mandatory or voluntary basis.

V. Petrova, A. Semenov in their works define administrative-legal regulation as the executive and administrative activity of state organizations endowed with state-authority powers, aimed at stabilizing social relations by adopting regulatory legal acts and ensuring their implementation [7 p.269].

I. Yatsenko suggests to understand the administrative-legal regulation of judicial examinations as a complex of state-legal influence on administrative-legal relations (in particular, the subject - a judicial expert) for the purpose of their proper implementation in relation to conducting judicial examinations (expert studies), which is carried out using administrative-legal means in a form clearly defined by law [8 p. 99].

Also, the concept of "administrative-legal regulation" is considered in the scientific literature as a purposeful influence of administrative law norms on social relations in order to ensure, through administrative-legal measures, the rights, freedoms and public legitimate interests of individuals and legal entities, the normal functioning of civil society and the state.

Thus, the subject of administrative-legal regulation (including forensic-expert activity) is social relations of a managerial nature [63 p.270].

Forensic-expert activity is considered as an integral part of the administrative-legal system, the results of which become a source of evidence in court proceedings, this activity, on the one hand, acts as a formed and relatively autonomous type of socially necessary activity, and on the other hand, it closely interacts with law enforcement activities in general and criminal procedural activities in particular [3, p.157].

M. Segay defines forensic-expert activity as the activity of the state, legal entities and individuals, aimed at ensuring justice through independent, objective and qualified expertise, carried out by professional (certified) forensic experts [9].

Forensic expertise is one of the types of scientific research. It differs from other scientific research in that this activity takes place in a procedure specially regulated by procedural norms. The main features of the examination are the use of special knowledge, conducting the examination in the manner prescribed by procedural norms in order to conduct a scientific analysis to establish the circumstances that are important for resolving a specific individual legal case [3, p. 157].

Supporting the opinion of scientists about the need for effective improvements in the legislation regulating forensic activities in Ukraine, it should also be noted that today the state legislation is increasingly approaching international standards, which provides for the improvement of all areas of Ukrainian legislation, including legislative norms regulating forensic activities. Modern legislation of Ukraine within the framework of the ongoing legal reform is aimed at increasing the role and reassessing the importance of the institute of forensic examinations, without which effective investigation of criminal proceedings or trial is impossible [3, p. 157].

Along with other tasks, the purpose of forensic expert activity in proceedings is to ensure a comprehensive, complete, objective, impartial study of materials, as a result of which scientifically substantiated conclusions are formed and provided about certain properties of the objects of research obtained in the process of collecting evidence, the possibility of the existence of certain facts and phenomena, as well as other issues that can be resolved using the special knowledge of experts, research methods and technologies. Thus, along with other tasks of forensic expert activity on forensic expert support of the investigation, the main direction is the activity of a forensic expert associated with conducting expert research [3, p. 157].

Forensic expert activity can be one of the objects of administrative and legal regulation, the purpose of which is to ensure the principles of: the rule of law, respect for human rights and freedoms.

Improving legislation in the field of administrative and legal regulation of forensic activities can affect a number of aspects:

- improving the quality of justice provision,
- establishing procedures that will contribute to the quality of forensic examinations and ensure their independence, regulate relations between forensic experts, courts, lawyers and law enforcement agencies.

So, summarizing the opinion of modern Ukrainian scientists, we can conclude that forensic activities have administrative and legal characteristics and are aimed at protecting the rights and freedoms of humans and citizens by ensuring justice through independent, qualified and objective expertise, which is focused on the maximum use of special knowledge, achievements of science and technology. At the same time, forensic expertise as an object of administrative legal regulation requires the consolidation of clearer norms of administrative procedural regulation due to the fact that expert activity goes beyond its boundaries and applies procedural norms of other regulatory legal acts that are not within the competence of administrative procedural regulation and, accordingly, are of a reference nature. Therefore, in our opinion, it is necessary to unify all procedural legislation regarding forensic expertise.

Forensic expertise as an object of public administration is a specialized professional activity aimed at obtaining scientifically substantiated conclusions for the needs of justice. It covers a wide range of research: forensic, forensic medical, economic, psychological, technical, environmental, etc.

As an object of public administration, it is characterized by the following features:

- public legal nature, since the results of examinations affect the implementation of justice;
- high level of specialization, which requires scientific methodological support;
- the need for standardization, because expert opinions must be reproducible and reliable;
- institutional diversity, since the activity is carried out by both state and non-state institutions.

Institutional structure of management of forensic expert activities

Management is carried out at several levels:

- central level - formation of state policy, regulatory regulation, coordination of the activities of expert institutions;

- departmental level - organization of the work of expert units in the systems of the Ministry of Internal Affairs, Ministry of Justice, SBU, Ministry of Health;
- regional level - ensuring the availability of expert opinions, quality control, interaction with pre-trial investigation bodies;
- international level - participation in professional networks, exchange of methods, integration into world standards.

The effectiveness of management depends on the consistency between these levels and the absence of duplication of functions.

Conclusions. Forensic expert activities are one of the elements of the mechanism for ensuring legality, law and order and national security. In the context of increasing complexity of crime, development of digital technologies and strengthening of requirements for evidentiary base in judicial process, the role of expert institutions is growing significantly. Effective management of this sphere requires clear theoretical and legal principles that determine its place in the system of public administration, structure, functions and mechanisms of regulation. The theoretical and legal foundations of management of forensic expert activities form the foundation for effective functioning of expert institutions and ensuring high-quality justice. The ability of the state to counteract modern threats and guarantee the safety of citizens depends on the coherence of regulatory regulation, institutional structure and management mechanisms. Improving management in this sphere is a strategic task that requires a comprehensive approach, innovations and integration into the international legal space.

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