

PECULIARITIES OF THE FORENSIC EXAMINATIONS APPOINTMENT IN THE INVESTIGATION OF CRIMINAL OFFENSES ENCROACHING ON THE ECONOMIC SECURITY OF UKRAINE IN THE BUDGETARY SPHERE

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Annotation. *The article examines the peculiarities of forensic examinations in the course of investigation of criminal offenses, which encroach on the economic security of the state in the budgetary sphere. The article highlights various stages of forensic examination, such as collection of necessary materials; selection of the moment of examination; determination of the subject of forensic examination; formulation of questions to the expert; selection of an expert institution or expert, and so on.*

Based on the achievements of criminalists and the results of a survey of practitioners, an attempt is made to determine the list of forensic examinations which are mostly appointed in the investigation of criminal offenses, in particular, forensic economic examination, handwriting examination, technical examination of documents, computer and technical, telecommunications, commodity, video and sound recording, forensic medical, and so on. The author reveals the peculiarities of conducting some of them and outlines the typical issues which are important to resolve when investigating offenses in the budgetary sphere. While appointing and conducting an economic examination, the author emphasizes the importance of establishing not only the total losses, but also those caused by each accomplice; technical examination of documents – on the study of seal and stamp impressions, identification of printers; handwriting examination – identification of signatures and short notes is of particular importance; and so on.

In today's context, attention is focused on the study of computer hardware and software products, as well as the study of telecommunication systems (equipment) and means for establishing the facts and methods of transmitting or receiving information in telecommunication systems, establishing the facts and methods of access to systems, resources and information in the field of telecommunications, and so on. Attention is drawn to the consultative form of use in the appointment and conduct of forensic examinations in order to avoid mistakes that delay the pre-trial investigation.

All of these achievements are confirmed by the results of statistical data and interviews with practitioners, as well as by the analysis of criminal proceedings in the mentioned category of offenses.

Key words: *forensic examinations, criminal offenses, public sector, pre-trial investigation.*

1. Introduction.

In today's environment, when huge resources need to be found to defend against a full-scale russian military invasion, offenses related to the use of public funds are in the focus of attention. The state budget covers a wide variety of sectors, such as agriculture, housing and utilities, fuel and energy, transportation, healthcare, education, and so on, and offenses committed in these areas fall under the Criminal Code articles and cause great losses in the most difficult times of the existence of the state. It is clear that in order to detect and investigate criminal offenses that encroach on Ukraine's economic security in public

sector, law enforcement officers need specific and in-depth knowledge in various areas of science and technology. Therefore, special knowledge, in particular, the appointment of forensic examinations, plays an important role in the formation of the evidence base.

The Law of Ukraine «On Forensic Expertise» provides a clear definition of this term: «Forensic examination is a study, based on special knowledge in the field of science, technology, art, craft, and so on, of objects, phenomena and processes in order to provide an opinion on issues that are or will be the subject of court proceedings» [1]. The legislation defines the institutions that have the right to conduct various types and classes of forensic examinations, requirements for them, deadlines, and so on. This topic has also been repeatedly studied by scientists, and despite numerous discussions on certain issues, the scientific community emphasizes that forensic examinations have some peculiarities in the investigation of certain criminal offenses and significantly improve the quality of the pre-trial investigation.

2. Analysis of scientific publications.

The use of specialized knowledge and the investigation of economic crimes have been the subject of research by the following prominent criminalists: L.Yu. Arotsker, Y.P. Alenin, O.M. Bandurka, V.P. Bakhin, A.I. Vinberg, A.F. Volobuiev, V.G. Goncharenko, Y.M. Groshevy, V.A. Zhuravel, A.V. Ishchenko, N.I. Klymenko, I.I. Kohutysh, V.O. Konovalova, M.V. Kostytskiy, V.K. Lysychnenko, V.V. Lysenko, G.A. Matusowski, I.V. Pyrih, M.A. Pogoretskiy, M.V. Saltevskiy, M.Y. Sehai, E.B. Simakova-Yefremian, D.B. Serhieieva, R.L. Stepaniuk, I.Y. Friedman, P.V. Tsymbal, V.Y. Shepitko, V.I. Shykanov, O.R. Shlyakhov, M.H. Shcherbakovskiy, and others. However, scientific developments require timely updating to meet the needs of forensic practice, especially when the state finds itself in extremely difficult economic conditions during a full-scale military invasion that encroaches on Ukrainian sovereignty.

3. The aim of the work.

The aim of the article is to study the peculiarities of forensic examinations in the course of investigation of criminal offenses which encroach upon the economic security of the state in the budgetary sphere.

4. Review and discussion.

During the investigation of a criminal offense, certain peculiarities arise regarding the appointment of forensic examinations. In our previous works, we have already emphasized that, according to the general rules, this investigative (detective) action is carried out at the initial and subsequent stages of the investigation, while in the investigation of criminal offenses related to the state budget, it is important to appoint forensic examinations as early as possible, the results of which are mostly decisive in qualifying the offense according to the articles of the Criminal Code of Ukraine. In the process of preparing for the appointment of a forensic examination, scientists include such basic elements as collecting the necessary materials; choosing the moment of appointment of the examination; determining the subject of forensic examination; formulating questions to the expert; choosing an expert institution or expert [2]. In our opinion, these elements are interrelated and can be implemented in parallel. Therefore, when detecting such offenses, authorized persons should think in advance what necessary materials should be provided to the expert. At the same time, attention is paid not only to the seizure of the objects of investigation, but also to the necessary materials that will be used as comparative material [3].

During the investigation of offenses, authorized persons turn to both experts who carry out forensic activities in state specialized institutions and forensic experts who are not employees of these institutions, but whose activities are regulated by law, in particular, the Law of Ukraine «On Forensic Expertise». The latter conduct research in a shorter timeframe, but have a limited range of services. Therefore, in most cases, the advantage is on the side of state specialized institutions. These include research institutions of forensic examinations of the Ministry of Justice of Ukraine; research institutions of forensic examinations, forensic medical and forensic psychiatric institutions of the Ministry of Health of Ukraine; expert services:

Ministry of Internal Affairs of Ukraine, Ministry of Defense of Ukraine, Security Service of Ukraine and State Border Guard Service of Ukraine [1].

Resolving the issue of the subject area of forensic examination as a field of practical expert activity is essential in terms of clarifying the essence of the expert tasks to be solved, the relationship with the objects of examination [4].

Understanding the subject matter of forensic examination makes it possible to correctly formulate the questions posed for examination. As practice and research of scientists show, at this stage, the greatest result can be achieved by using the advisory form of special knowledge, that is, by consulting with specialists in advance about the possibility of this type of research on seized objects, the completeness and correctness of the questions to the expert, and so on.

The objects of investigation can be a variety of things, trace objects, and so on. However, in relation to this area of investigation, scientists and practitioners unequivocally note that, first, these are documents – in 100% of cases, both paper and digital. Of course, we took this fact into account when highlighting the typical types (classes) of forensic examinations in the investigation of offenses that encroach on the security of the budgetary sphere of Ukraine.

Studying criminal proceedings on crimes related to the use of budgetary funds in the agro-industrial complex, V. Kikinchuk claims that the appointment and conduct of forensic examinations is an integral process of organizing the investigation of crimes that encroach on the state budget and play a crucial role in making a number of procedural decisions. Of particular importance are: a) forensic economic examination (73.4%), which is intended to establish the facts of violation by agricultural enterprises of the provisions of the legislation regulating financial and economic activities in the agricultural sector of the country's economy; b) handwriting examination (79 %), which is aimed at identifying the person who certified or personally entered false information in advance in the content of documents of financial and economic activities of institutions, agencies, organizations in the agricultural sector of the economy; c) construction and technical examination (18.5 %), which resolves issues related to the volume, cost and compliance with the design and estimate documentation of construction works financed from the budget [5].

Considering the types of forensic examinations in the investigation of crimes related to the illegal use of budgetary funds in the field of health care, V.A. Bidnyak provides the following results of the study of criminal proceedings: in 92 % – forensic economic examinations were appointed, 86 % – handwriting examinations, 46 % – commodity examinations, 21 % – technical examination of documents, 28 % – construction and technical, 10 % – medical, 9 % – other types [6].

Having thoroughly researched the work of our predecessors and studied the materials of criminal proceedings that encroach on the economic security of the state in the budgetary sphere, we tried to provide a list of forensic examinations that are mainly appointed in the investigation of criminal offenses related to public funding of the healthcare sector in a pandemic situation, in particular economic – 98%; handwriting – 87%; technical examination of documents – 67%; computer and technical – 41%; telecommunications – 44%; commodity research – 52%; video and sound recording – 21%; forensic medical – 12%; forensic biological – 11%; trace evidence (fingerprinting and other) – 18%; materials, substances and products – 14%; construction and technical – 35%; construction evaluation – 24%; other – 15%.

As we can see, forensic examinations account for a significant percentage, but the decisive role belongs to economic examinations, which are conducted in the following expert specialties: accounting and tax accounting, financial and economic activities, and financial and credit operations. It is important for us to establish the damages caused, which have certain differences in legal and economic aspects. Thus, O. V. Anishchenko and O. L. Danylchenko note that the essence of losses as an economic phenomenon is that a business entity suffers additional property losses and (or) does not receive income compared to the costs and income incurred and received in the optimal development of a business transaction. In this case, there may be losses in the form of additional expenses and in the form of unearned income [7]. In addition, when offenses are committed by a group of persons, it is necessary to establish not only the total losses, but also the separate losses caused by each accomplice. It is impossible to prove this without

the opinion of a forensic expert, so we give the decisive role, along with other forensic examinations, to economic expertise in the investigation of the mentioned crimes.

Often, an integrated approach to the use of specialized knowledge in the form of forensic examinations provides the most significant results. Therefore, in parallel with the economic examination, technical examination of documents and handwriting examination are appointed. In this category of criminal proceedings, as a rule, the objects of handwriting examination are signatures and short notes. Scientists have paid sufficient attention to the recommendations for collecting the necessary comparative material. However, as cases from practice show, it is possible to appoint a handwriting examination on the first attempt only in 17% of cases, the rest of the materials first need to be finalized, as forensic experts reported in official letters with specific requirements for handwriting and signature samples, and 9% of which were returned to the person who had appointed the examination without being fulfilled.

Therefore, in addition to fulfilling the general requirements for selecting comparative handwriting and signature samples, in particular, preparing experimental, free and conditionally free samples, it is most effective to contact a forensic expert for advice the day before.

While appointing and conducting a technical examination of documents under this category of criminal offenses, the investigator is not so much interested in the method of printing documents as in the imprint of the seal or stamp that affixes the manuscripts to the form. In this case, the following typical questions come to the fore: how is the seal imprinted in the document? is the seal imprint in the investigated document a cliché of the provided seal? is the seal imprint in the provided document a seal, experimental and free samples of which are provided for comparative study? is the seal imprint in the provided documents the same seal cliché (in the absence of comparative material)? [8] Also, it is increasingly necessary not only to determine the method of printing a document, but also to identify printing devices, in particular, printers.

If the subject of the previous types of forensic examinations was a document as a material carrier of information, that is, paper containing information that needs to be verified. In today's realities, it is impossible to even imagine committing such an offense without electronic documents. For almost every offense, computer and technical examinations are appointed to examine both computer hardware and software products. The objects of investigation are often hard drives, phones, and so on.

Telecommunication expertise, that is, the study of telecommunication systems (equipment) and facilities, is also widely used. It is intended to establish the facts and methods of transmitting or receiving information in telecommunication systems; establishing the facts and methods of access to systems, resources and information in the field of telecommunications; determining the quality of telecommunication services at the level of their consumption; establishing the configuration and working condition of telecommunication systems and facilities; establishing the type, brand, model and other classification categories of telecommunication systems and facilities; studying algorithms for processing information and its protection in the field of telecommunications [9].

Also, among engineering and technical expertise, construction and technical expertise is important when it is necessary to examine real estate, building materials, structures and relevant documents. Construction appraisal – to determine the estimated value of construction objects and structures.

The important tasks of commodity expertise for investigation are: determination of the cost of commodity products; determination of the belonging of goods to classification categories adopted in the production and trade sphere; determination of the characteristics of the objects of study in accordance with the requirements of the Ukrainian Classification of Goods for Foreign Economic Activity; determination of changes in the quality indicators of commodity products; establishment of the method of production of commodity products: industrial or home-made, the manufacturer, the country of origin; determination of the [9].

Among the objects of commodity expertise carried out in expert institutions under this category of proceedings, in addition to medical goods and equipment, construction, furniture, stationery, clothing, footwear, computers, and so on may also be examined. If it is impossible to provide the objects to the expert institution, their examination is carried out at their location.



Practice shows that it is also possible to resolve the issue of the value of the missing property. In these cases, the person or agency that appointed the expert examination must indicate on the basis of which case materials containing information about the missing objects the expert examination should be conducted (invoices, consignment notes, descriptions in statements of claim, protocols of interrogation of victims, and so on) and provide the expert with these materials (copies thereof) or provide this information in the resolution (ruling) on the appointment of the expert examination [6]. It should be noted here that the person appointing the expert should indicate the time when the issue of the property value should be resolved.

Criminologists whose research is aimed at the security of the state budget rightly draw attention to forensic medicine. The objects are usually not persons, but documents, for example, the conclusions of a medical and social expert commission. As you know, a medical and social examination is carried out for persons applying for disability determination upon referral from a health care facility after diagnostic, treatment and rehabilitation measures have been taken, if there is information confirming a persistent impairment of body functions caused by diseases, consequences of injuries or congenital defects that cause limitation of life [10].

We share the scientific point of view of the scientists who emphasize that forensic examination is appointed regardless of whether the investigator, prosecutor, or judge has special knowledge when appointing the examination, since the factual data obtained through expert research cannot be reflected in any procedural document other than the expert's opinion. Even when the investigator himself makes a certain conclusion due to the available signs that are visible to the naked eye, without an expert's assessment, scientific interpretation based on special knowledge, they cannot be substantiated and serve as evidence [11].

5. Conclusions.

To summarize, it should be noted that forensic examinations in the investigation of criminal offenses that encroach on the economic security of the state in the budgetary sphere have a significant impact on the course of the investigation, qualification of the offense, determination of the procedural status of the defendants, and so on. Based on the scientific achievements of our predecessors and taking into account the analytical results of studying the practice of pre-trial and judicial investigation, we tried to provide a list of forensic examinations that are mainly appointed in the investigation of these criminal offenses, in particular economic, handwriting, technical examination of documents, computer and technical, telecommunications, video and sound recording, forensic medical, forensic biological, trace evidence, materials, substances and products, construction and technical, construction appraisal, commodity and other.

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