

Foreign experience of interaction of forensic science institutions with law enforcement agencies and possibility of its use in Ukraine

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^a Methodology, Conceptualization, Writing – original draft.

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DOI: 10.32353/khrife.2.2021.03 UDC 343.98

Submitted: 11 Aug 2021 / Reviewed: 26 Aug 2021 / Approved for Print: 7 Sept 2021 /

Avialable online: 10 Dec 2021



The law enforcement sector of our state is a separate mechanism which each element performs a clearly defined functional role that ensures social justice, protection and security of population, territorial integrity of Ukraine. These factors are an incomplete list of features that explain the importance of state activity in law enforcement or human rights. The latter brings together a large array of different actors each of which is entrusted with part of power or socially significant tasks. However, when carrying out law enforcement activities, authorized entities cannot always be able to address certain complex issues that require specific professional knowledge, skills and abilities. Therefore, for their resolving, law enforcement agencies cooperate with specially authorized entities that powers include conducting forensic examinations, in particular, forensic science institutions. In this context, it should be emphasized that ensuring effective cooperation between forensic institutions and law enforcement agencies is virtually impossible without creating appropriate administrative and legal framework for implementation of legal relations in this direction.

It should be noted that in recent years, the legislator scientific circles pays more and more attention to activities of forensic science

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

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institutions and law enforcement agencies. However, this does not preclude existence of a number of organizational and legal issues in implementation of these entities of their joint activities.

Thereby in the framework of the presented research we aimed to find out essence, content and features of administrative and legal bases of interaction of forensic science institutions with law enforcement agencies, make maximum use of foreign experience, and develop proposals and recommendations to improve legislation in this area.

Keywords: *interaction, association, coordination, integration, forensic institutions, law enforcement agencies, ENFSI.*

Research Problem Formulation

In general, interaction phenomenon is quite complex and diverse. This aspect in many moments determines peculiarities of interaction between law enforcement agencies and forensic science institutions. In a general sense, the “interaction” word is a mutual connection of phenomena, mutual support; be in interaction; the process of mutual influence of objects on each other, the most general, universal form of change of their state, etc.¹. The meaning and content of interaction have been repeatedly considered in philosophical science. Peculiarities of this category were once considered by outstanding philosopher of the past Hegel. In his reflections on essence of this category, the scientist came to the conclusion: “interaction is a mutual causality of predictions that determine each other’s substances, each is relative to the other both active and passive. In general, representatives of classical German idealist philosophy advocated the

need to develop a systematic understanding of the determinants of development. In their concepts, the German idealists, first of all Hegel, reflected the idea of internal activity, conditionality of external causes by internal organization, defended the relationship of parts and the primacy of the whole over parts, hierarchy in the structure of causation”². The next stage of understanding the *interaction* concept of is associated with dialectical materialism, where the phenomenon under research acted as a universal dialectical law, property of matter, inherent in all its forms. According to F. Engels: “Interaction is the first thing that comes before us when we consider moving matter, interaction is the truth of the “causa finalis” (ultimate cause) of things. We cannot go further to know this interaction precisely because there is nothing more to know behind. Instead, in the encyclopedic literature of 1975–2001, category of interaction begins to act as an integrative element. Thus, in 1975, the philosophical dictionary

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- 1 Трофімова Л. В. Організаційно-правове забезпечення діяльності юридичних підрозділів органів державної податкової служби України : дис. ... канд. юрид. наук. Ірпінь, 2005. С. 97 ; Юхно О. О. Діяльність транспортної міліції щодо попередження крадіжок приватного майна громадян на пасажирському залізничному транспорті : дис. ... канд. юрид. наук. Харків, 2005. С. 123 ; Ковальська В. В. Міліція в системі правоохоронних органів держави (адміністративно-правові аспекти) : дис. ... д-ра юрид. наук. Київ, 2009. С. 15.
 - 2 Кваша О. О. Зміст і значення поняття «взаємодія» та «система» у філософських і правових дослідженнях. *Держава і право*. 2012. Вип. 56. С. 34.

interpreted interaction as a process of mutual influence of objects on each other, any connection and relationship between material objects and phenomena it was emphasized that in any holistic system, “interaction acts as such a relationship, in which cause and effect are constantly changing places”. The 1998 dictionary defined this phenomenon as the process of direct and indirect influence of objects (subjects) on each other, which creates mutual conditionality and interconnection. According to the text of this source: “Interaction is an integrating factor that contributes to the formation of structures. Its feature is causal conditionality. Each of the interacting parties acts as a cause for the other and as a consequence of the simultaneous reverse influence of the opposite party, due to the development of objects and their structures”. In the 2002 philosophical dictionary, interaction appears as a universal form of development of the objective world, which determines the existence and structural organization of any material system. Interaction as a material process is accompanied by the transfer of information but is likely to be realized at a certain speed in a certain space and time. As a result the interaction is carried out by constitutional social relations³.

The issue of the content of interaction occupies an important place in

psychological science. In the most general and simple sense, *interaction* is primarily a process of direct and/or indirect influence of subjects on each other which creates their mutual conditionality and connection. In their study, A. A. Bodalev and N. S. Dezhnikov define the category of interaction “as a process of human perception and understanding of man and distinguishing between the concepts of activity and interpersonal interaction, A. A. Bodalev substantiates the specifics of each of them in contact and the concept of *communication* and *interaction* is considered synonymous”⁴.

It is also worth paying attention to sociological research. J. Homans argued convincingly that “social interaction is a complex system of exchanges conditioned by ways of balancing rewards and costs”⁵. Domestic scientists, in particular E. V. Korotayev and L. V. Kalchenko, believe that social interaction is an “interaction” a process when individuals and groups in the course of communication by their behavior affect other individuals and other groups, causing feedback. Reactivity (i.e. direct and feedback) certainly contributes to the effectiveness of social interaction and allows you to consistently adjust the process of obtaining the end result⁶.

V. P. Andrushchenko believes that from the point of view of sociology, interaction should be interpreted as “systematic

- 3 Кожушко С. Взаємодія як філософське й психологічне поняття. *Освіта регіону*. 2013. № 4. URL: <https://social-science.uu.edu.ua/article/1221> (date accessed: 10.08.2021).
- 4 Шаршов И. А., Старцев М. В. Педагогическое взаимодействие и общение: категориальный анализ и соотношение. *Научно-методическое обеспечение профессионального воспитания будущего специалиста* : мат-лы Всерос. науч.-практ. Internet-конф. (Тамбов, 25—31.05.2004). Тамбов, 2004. С. 64—67 ; Ярмак О. М. Поняття, сутність взаємодії та її роль у розвитку соціальної системи. *Право і безпека*. 2006. № 5. С. 47.
- 5 Хоманс Дж. Социальное поведение как обмен // Современная зарубежная социальная психология. Москва, 1984. С. 134 ; Заброда Д. Г. Взаємодія суб'єктів боротьби з корупцією (адміністративно-правовий аспект) : дис. ... канд. юрид. наук. Київ, 2005. С. 47.
- 6 Коротаева Е. В. Психологические основы педагогического взаимодействия. Москва, 2007. С. 11; Кальченко Л. В. Педагогічні умови соціального захисту бездоглядних дітей у придуках для неповнолітніх : дис. ... канд. пед. наук. Луганськ, 2009. С. 125—126.

sufficiently regular social actions of the subject aimed at each other that aim to cause a certain appropriate reaction and corresponding reaction generates a new reaction of the influencer. All social actions, all social processes are coordinated by interaction. Sociologists also distinguish the structure of social interaction: first, it is the subjects of interaction (individuals, social communities, etc.) and secondly, the subject of interaction (what is the interaction) and the mechanism of conscious regulation of relations between subjects (rules of the game)”⁷.

Management theory defines interaction as a coordinated time and place of joint activities aimed at achieving a common goal. Interaction as a management concept can be considered as a form of communication of system elements, through which they, complementing each other, create conditions for successful functioning of the system as a whole. Moreover, it should be borne in mind that interaction as a management category is manifested not only in the internal organizational activities of the system, but also in its external functions. Thus, as rightly noted by E. Barash: “interaction is manifested in the process of interaction and the use of each other’s opportunities to achieve their own goals. Thus, interaction occurs even when the relationship between the subjects is united by a common goal. Secondly, interaction is not only a continuous influence on each other, but also when the interacting parties use each other’s opportunities to achieve their own goals”⁸.

Analysis of general etymological definitions, as well as provisions of philosophical, sociological and

psychological science demonstrated that interaction is a multidimensional category that has different manifestations but it is characterized by a number of common features, including the interaction of law enforcement agencies with forensic institutions, namely:

- firstly, interaction is always a certain community of subjects, in other words, it in any case arises between two or more elements of a reality;
- secondly, interaction determines the joint activities of respective subjects, i.e. characterizes the common vector of movement for them aimed at achieving a certain predetermined goal;
- thirdly, interaction has an organizational basis, because commonality and coherence of the actions of the subjects requires work to ensure these actions and personal control of each subject in while their implementation;
- fourthly, interaction is always voluntary and is characterized by complete independence of the actors involved in the interaction; it is not coercion to cooperate that comes to the fore, but accumulation of capabilities of each subject for the effective and rapid solution of a goal.

At the same time, such aspects determine the overall format of interaction. In the context of the work of public authorities and, in particular, law enforcement agencies including law enforcement agencies and forensic science institution, its content and features are complicated and in some ways multiplied.

7 Социология. Наука об обществе : учеб. пособ. ; под общ. ред. проф. В. П. Андрущенко, проф. Н. И. Горлача. Харьков, 1996. С. 244, 246 ; Заброда Д. Г. Ор. cit. С. 47—48.

8 Бараш Є. Ю. Організаційно-правові засади діяльності установ виконання покарань : дис. ... канд. юрид. наук. Харків, 2006. С. 131—132.

There are several views of scientists on this issue. M. M. Birgeu found that interaction is an intersectoral relationship, general government principle. As a result of interaction a new quality, new unity, synthesis is formed that is expressed in complexity of the performance of state functions. Coordinated activities of different types of bodies in their common area are based on the principles of parity, equal partnership. Any guiding tone and style is not allowed here, none of the non-subordinate parties in the relationship of interaction is endowed with powers of a permanent organizer of coordinated activities. Cooperation is carried out with the leading role of one or another body which takes the initiative in raising issues that require joint efforts. That is, interaction is a universal method that allows you to maximize functionality and benefits of different actors, combine their efforts and seek to increase the effect in the performance of state functions⁹. I. M. Gutkina and M. A. Pogoretskyi point out that interaction is a cooperation based on the law and departmental acts of independent, non-subordinate (independent) bodies (subjects), in which they act in concert, effectively using and combining inherent their powers, forms and methods of activity¹⁰.

A number of scientists have devoted their research to the peculiarities of interaction in the context of law

enforcement. At the same time, in each case, scientists have given the *interaction* category different meanings. For example, V. Yu. Kikinichuk points out that interaction is a purely legal relationship of two types:

- legal relations in which the parties occupy an equal position (there are no ties such as “power-subordination”);
- legal relations in which one of the parties occupies a leading position and the other party – a subordinate position¹¹.

A similar point of view is shared by I. A. Malyuta, who believes that interaction is a mutual connection and coordination of actions of law enforcement officers aimed at fulfilling their powers. At the same time, the scientist notes that such interaction is a social relationship that arises in connection with the need to use specific expertise and assistance of specialists in various fields of knowledge in the process of performing the functions of the state¹².

Examining directly the issue of interaction between forensic institutions and law enforcement agencies, V. V. Kovalev concluded that it is based on the rules of law and regulations joint activities of non-subordinate organizational entities with excellent competence and specialization, agreed on time, place, means and methods of implementation, to solve specific tasks due to the nature of the investigative situation for which it is carried out, in order

- 9 Біргеу М. М. Організація діяльності поліції Республіки Молдова з профілактики злочинів : автореф. дис. ... д-ра юрид. наук. Харків, 2004. С. 23.
- 10 Белозеров Ю. Н., Гуткин И. М., Чувилев А. А., Чугунов В. Е. Органы дознания и предварительного следствия системы МВД и их взаимодействие. Москва, 1973. С. 128 ; Охріменко С. С. Гарантії правового захисту процесуальної самостійності та незалежності слідчого : дис. ... канд. юрид. наук. Київ, 2007. С. 101.
- 11 Кікінчук В. Ю. Форми взаємодії Національної поліції з іншими суб'єктами забезпечення публічної безпеки та порядку в державі. *Право.ua*. 2017. № 1. С. 82.
- 12 Введение в теорию государственно-правовой организации социальных систем ; под общ. ред. Е. Б. Кубко. Киев, 1997. С. 80—81 ; Малютин І. А. Зупинення досудового розслідування : навч.-метод. посіб. Київ, 2003. С. 70 ; Ковальов В. В. Взаємодія слідчого з працівниками експертної служби МВС України : дис. ... канд. юрид. наук. Київ, 2008. С. 101.

to detect, investigate and prevent crimes, establish objective truth and ensure the proper application of the law¹³.

Thus, within different scientific interpretations, interaction is given the meaning of “a set of social relations”, “forms of cooperation”, “forms of coordination” and so on. Some scholars see the interaction of law enforcement agencies and forensic institutions solely as a procedural institution that takes place in the work of law enforcement agencies related to combating criminal offenses. In our opinion, the interpretations of scientists, although in some cases have a rational core, often do not fully disclose the content and significance of the interaction of law enforcement agencies and forensic institutions. In order to deal with this problem more fully, let us pay attention to the provisions of the law.

In particular, in the Law of Ukraine № 4038-XII: *On Judicial Examination*, dated on 25.02.1994 the *interaction* term does not appear at all. Instead, the provisions of this legal act regulate the “grounds for forensic examinations”. Thus, according to Art. 7 of the above Law “the basis for the forensic examination is the relevant court decision or the decision of the pre-trial investigation body, or a contract with a forensic expert or forensic science institution if the examination is commissioned by others. The basis for obtaining the opinion of a specialist in clarifying the circumstances of a criminal offense is a request of an

official of the inquiry unit of the National Police, security body, the body that monitors compliance with tax legislation, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the authorized person of another unit these bodies, which are authorized to conduct pre-trial investigation of criminal offenses”¹⁴. Thus, the interaction between forensic agencies and law enforcement agencies has the form of a relationship related to forensic researches.

Analysis of basic research and publications

Accession to the European Community is defined as the main way of Ukrainian development. Hence, such interest of judicial, law enforcement, expert institutions of the state in mastering foreign experience of interaction of judicial expert institutions with law enforcement agencies and the possibility of its use in Ukraine. At different times, this problem has been taken care of by many researchers.

Among them are Wallace W., Avdeeva G., Birgeu M. M., Biryukov P. N., Bilas A. I., Guzela M., Kantsir V., Guslavskiy V. S., Dmitrieva K. S., Zavidnyak I. O., Klimenko N. I., Kuprievich O. A., Korotaev V. M., Linnik O. V., Omelchuk L. V., Lopata O. A., Naumenko S. M, S. O. Lyubchenko, Yu. Yu. Nizovtsev, O. A. Parfilo, Skrypnyk M., Topolya R., Khaziev Sh. N., Shepitko V., Juodkaitė-Granskienė G. and others.¹⁵

13 Ковальов В. В. Ор. cit. 227 с.

14 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/conv#Text> (date accessed: 10.08.2021).

15 Wellace H., Wallace W. Policy-Making in the European Union. 4 ed. Oxford: Oxford University Press, 2005. 272 p. ; Биргеу М. М. Ор. cit. С. 23 ; Бирюков П. Н. Полиция Федеративной Республики Германия. *Евразийский юридический журнал*. 2009. № 11. URL: http://www.eurasialaw.ru/index.php?option=com_content&view=article&id=911:2010-07-27-07-00-37&catid=122:2010-07-27-06-55-50 (date accessed: 10.08.2021) ; Білас А. І. Правоохоронна діяльність країн ЄС: порівняльно-правове дослідження : дис. ... канд. юрид. наук. Львів, 2016. 227 с. ; Божьев В. П. Правоохранительные органы Российской Федерации. Москва, 1996. 286 с. ; Гуславський В. С. Управління співробітництвом ОВС України з правоохоронними органами країн СНД: організаційно-правові засади :

Article Purpose

The article purpose is to highlight important, in our opinion, to take into account and implement in the Ukrainian legal space aspects of foreign experience in order to improve the interaction of forensic institutions and law enforcement agencies.

Research Methodology

Research methodology consists of the use of empirical research methods (observation, comparison); methods of theoretical research (ascent from the abstract to the concrete, formalization, axiomatic method or deductive-axiomatic); general methods used at both the empirical and theoretical research levels (abstraction and concretization, analysis, synthesis, induction, deduction, abduction, modeling, analogy, historical and logical methods).

Main (Research) Content Presentation

A separate and important area of interaction of forensic science institutions

with law enforcement agencies is the study of relevant foreign experience and determining the possibility of its use in Ukraine. The necessity and expediency of taking a number of steps in this direction is evidenced by both the foreign policy course of our state, in particular integration into the EU, and numerous research positions. Thus, it should be noted that current Law of Ukraine: № 4038-XII *On Judicial Examination* of 25.02.1994 where a separate section is devoted to issues of international cooperation in the field of forensic science. It will be recalled that according to this normative legal act, this cooperation is expressed as follows: “in the case of a forensic examination on behalf of the relevant body or person of another state with which Ukraine has an agreement on mutual legal assistance and cooperation, Ukrainian law applies provided by the specified agreement; heads of state specialized institutions conducting forensic examinations, if necessary, have the right, with the consent of the body or person who appointed the forensic

дис. ... д-ра юрид. наук. Харків, 2006. 444 с. ; Раевский П. А., Пархоменко С. А. Доклад Комитета гражданских инициатив и Фонда ИНДЕМ «Организация правоохранительной системы в некоторых федеративных странах мира». URL: <https://komitetgi.ru/upload/iblock/538/538b9dcf40eca849375fa5f15da10d26.pdf> (date accessed: 10.08.2021) ; Дуфенюк О. М. Досвід Польщі стосовно участі судового експерта у кримінальному провадженні. *Науковий вісник Львівського державного університету внутрішніх справ. Серія юридична*. 2018. Вип. 1. С. 247–248 ; Клименко Н. І. Правовий статус експертів в США, Великобританії та деяких країнах Північної Європи. *Криміналістика і судова експертиза*. 2016. Вип. 61. С. 584. URL: http://nbuv.gov.ua/UJRN/krise_2016_61_64 (date accessed: 10.08.2021) ; Линник О. В., Омельчук Л. В. Актуальність вступу України до міжнародних судово-експертних мереж. *Міжнародний юридичний вісник: актуальні проблеми сучасності (теорія та практика)*. 2017. Вип. 2–3 (6–7). С. 238 ; Ліховіцький Я. О. Сутність та значення координації дій правоохоронних органів. *Форум права*. 2011. № 1. С. 595–598. URL: http://nbuv.gov.ua/UJRN/FP_index.htm_2011_1_96 (date accessed: 10.08.2021) ; Науменко С. М. Організаційні засади взаємодії експертних установ з правоохоронними органами. *Прикарпатський юридичний вісник*. 2018. Вип. 1 (22). Т. 2. С. 275–279 ; Любченко С. О., Нізовцев Ю. Ю., Парфіло О. А. Система забезпечення судово-експертної діяльності в державах-членах НАТО : наук.-практ. огляд ; за заг. ред. О. А. Парфіло. Київ, 2015. С. 9 ; Шепітько В. Ю. Правове регулювання експертної діяльності та тенденції формування єдиного європейського простору в галузі судової експертизи. URL: https://www.hniise.gov.ua/uploads/files/public-folder/2020_tezu_konferencija%20in%20print5.pdf (date accessed: 10.08.2021) ; Юодкайте-Гранскіене Г. Коротка презентація судово-експертної наукової системи Литви. *Ароцкерівські читання : зб. мат-лів міжнар. наук.-практ. конф., присвяч. 90-річ. від дня народж. видат. вчен.-криміналіста, д-ра юрид. наук, проф. Л. Ю. Ароцкера* (Полтава, 25.05.2017). Харків, 2017. С. 31 та ін.

examination, to include in the expert commissions of leading specialists of other states. Such joint expert commissions carry out forensic examinations according to the norms of the procedural legislation of Ukraine; State specialized institutions performing forensic examinations have the right to establish international scientific relations with institutions of forensic science, criminology, etc. of other states, to hold joint scientific conferences, symposia, seminars, to exchange trainees, scientific information and printed publications and to conduct joint publications in the field. forensic examination and criminalistics”¹⁶. It is also appropriate to note *Regulations on the Expert Service of the Ministry of Internal Affairs of Ukraine, approved by order of the Ministry of Internal Affairs № 1343* dated on 03.11.2015 that states that “Expert Service of the Ministry of Internal Affairs to organize its activities: provided for the implementation of projects, implementation of programs, including international; to establish relations with law enforcement bodies, institutions of forensic science and criminology, etc. of other states and their international associations and organizations, including in the form of membership in these associations and organizations; for participation in international organizations to pay membership fees provided by their constituent documents, in the presence of relevant contracts, bilateral or multilateral agreements, etc., provided by law; interacts

with domestic and foreign enterprises, institutions and organizations in order to exchange experience on issues within its competence”¹⁷. According to the Resolution of the Cabinet of Ministers of Ukraine № 778, *On approval of the Regulations on the Coordinating Council for Forensic Science at the Ministry of Justice of Ukraine* dated on 16.11.1994 Coordinating Council for Forensic Science at the Ministry of Justice of Ukraine: analyzes international and domestic experience in forensic science ; participates in the organization and preparation of *round tables*, workshops, scientific and practical conferences on topical issues of forensic science, organizes experience exchange¹⁸. The still current Strategy for the development of the system of the Ministry of Internal Affairs for the period up to 2020, approved by the order № 1023-r of the Cabinet of Ministers dated on 15.11.2017 states that the implementation of the Strategy should be carried out consistently on the basis of optimal decisions. positive experience and best practices of leading states. Thus it is necessary to provide steady functioning, controllability and efficiency of work of bodies of system of the Ministry of Internal Affairs. Provides for the use of modern methods of public administration, namely: the implementation of innovative solutions and tools of public policy; use of successful international experience and assistance in the implementation of pilot projects¹⁹. “In the *Strategy for the Development of the Expert*

16 Про судову експертизу ... URL: <https://zakon.rada.gov.ua/laws/show/4038-12/conv#Text> (date accessed: 10.08.2021).

17 Про затвердження Положення про Експертну службу Міністерства внутрішніх справ України : наказ МВС України від 03.11.2015 р. № 1343 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z1390-15#Text> (date accessed: 10.08.2021).

18 Про затвердження Положення про Координаційну раду з проблем судової експертизи при Міністерстві юстиції України : Постанова КМУ від 16.11.1994 р. № 778 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/778-94-%D0%BF#Text> (date accessed: 10.08.2021).

19 Про схвалення Стратегії розвитку органів системи Міністерства внутрішніх справ на період до 2020 року : розпорядження КМУ від 15.11.2017 р. № 1023-р. URL: <https://zakon.rada.gov.ua/laws/show/1023-2017-%D1%80#Text> (date accessed: 10.08.2021).

Service of the Ministry of Internal Affairs of Ukraine until 2020 the main issues in the field of expertise, in particular, include: deepening cooperation with forensic institutions of other countries to introduce world experience in Ukraine; insufficient integration of specialists of the Expert Service of the Ministry of Internal Affairs into the world system of cooperation of forensic experts in conducting joint international research, especially on high-profile crimes; introduction of international experience in organizing the management of the infrastructure of the Expert Service of the Ministry of Internal Affairs”²⁰. The Strategy emphasizes that “ignoring these problems will lead to the loss of a systematic approach to the further development of the Expert Service of the Ministry of Internal Affairs and will lead to inconsistency of forensic support with growing socio-economic, political and legal needs of society and the state. The use of advanced international, in particular European, experience is a necessary condition for ensuring the development of the Expert Service of the Ministry of Internal Affairs, taking into account democratic values, socio-economic, political and legal levels”²¹.

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, ratified by the Declaration of the Law № 1678-VII dated

on 16.09.2014, cannot be avoided. Among other things, this agreement provides that²² “The parties agreed to cooperate at the bilateral, regional and international levels in order to prevent and combat terrorism in accordance with international law, international human rights law, as well as humanitarian law and the law governing refugee status”²³. In particular, the Agreement states, “The Parties shall implement these arrangements by: a) exchanging information on terrorist groups and organized groups supporting them, b) exchanging experience and information on terrorist trends and on means and methods of combating terrorism, including assistance in technical field and training, and c) exchange of experience in the prevention of terrorism. All information is exchanged in accordance with international and national law”²⁴. In the framework of cooperation in the field of justice, freedom and security, the Parties attach particular importance to the establishment of the rule of law and the strengthening of institutions at all levels in the field of governance in general and law enforcement and the judiciary in particular. Cooperation will focus, in particular, on strengthening the judiciary, increasing its efficiency, guaranteeing its independence and impartiality, and combating corruption. Cooperation in the field of justice, freedom and security will be based on the principle of respect for

20 Про затвердження Стратегії розвитку Експертної служби Міністерства внутрішніх справ України на період до 2020 року та Плану заходів щодо її реалізації : наказ МВС України від 15.03.2017 р. № 229. URL: <https://ips.ligazakon.net/document/MVS717> (date accessed: 10.08.2021).

21 Ibid.

22 Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони : ратифіковано із заявою Законом від 16.09.2014 р. № 1678-VII. URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (date accessed: 10.08.2021).

23 Ibid.

24 Ibid.

human rights and fundamental freedoms²⁵. The Parties also agreed to further develop judicial cooperation in civil and criminal matters, making full use of relevant international and bilateral instruments and based on the principles of legal certainty and the right to a fair trial. The parties agreed to develop further judicial cooperation between Ukraine and the EU in civil matters on the basis of relevant multilateral legal instruments, including the conventions of the Hague Conference on Private International Law in the fields of international legal cooperation, litigation and child protection. With regard to judicial cooperation in criminal matters, the Parties shall endeavor to strengthen cooperation on mutual legal assistance and extradition. This will include, if necessary, accession to the relevant international instruments of the United Nations and the Council of Europe, in particular the Rome Statute of the International Criminal Court of 1998, and their implementation, as stated in Art. 8 of this Agreement, as well as closer cooperation with Eurojust²⁶.

Thus, provisions of a number of regulations of national and international nature, although in a fairly general form, but clearly indicate that Ukraine, as a whole and in the person of its individual government agencies, institutions (including forensic) is an active participant in international cooperation in the field of justice, law enforcement, justice and forensic science. One of the priority areas of such cooperation is the exchange of experience, joint solution of problematic issues in these areas and identification of prospects for their further development.

No less convincing is the fact that international cooperation and active study of leading foreign experience are necessary conditions for the improvement and development of forensic and law enforcement activities in Ukraine, according to research positions. Thus, R. V. Topolia studying foreign experience of administrative and legal regulation of forensic examinations of vehicles, notes that issue of borrowing positive provisions from the legislation of other countries on administrative and legal regulation of forensic examinations of vehicles has always been relevant, and now, when methods of forgery of numbers of vehicles, bodies, documents on the car are constantly improved, it appeared before the modern Ukrainian society especially sharply. The lawyer emphasizes that we should not just copy the legislation of foreign countries, in particular the EU member states but we should take into account our mentality and the peculiarities of the national specifics of the Ukrainian people²⁷. According to the results of R. V. Topolia research, a number of conclusions were reached, in particular, he emphasizes that in the following European countries, as a rule, administrative and legal regulation of forensic examinations of vehicles is carried out in such a way that departmental expert institutions operate in cooperation with police organizations under the jurisdiction of the Ministry of Internal Affairs²⁸. N. I. Klimenko, O. A. Kuprievich note that the treaties and agreements (conventions) of the Council of Europe, ratified by the legislation of Ukraine, provide for international cooperation of

25 Ibid.

26 Ibid.

27 Тополя Р. Зарубіжний досвід адміністративно-правового регулювання експертно-криміналістичних досліджень транспортних засобів. *Підприємництво, господарство і право*. 2019. № 6. С. 183.

28 Op. cit. p. 188.

forensic institutions. Researchers note that the scientific potential of expert associations, educational institutes and research institutions in Europe that are engaged in applied research should be used. Their cooperation on a contractual basis has prospects for increasing the competitiveness of the EU and improving the investigation of various crimes through research and methodological development of forensic examinations. Implementation of the integration of forensic activities, forged by N. I. Klimenko, O. A. Kuprievich, will result in harmonization and improvement of expert national legislation and theoretical foundations of examination, development of common guidelines for different types of examinations, obtaining international recognition of expert opinions in general, improvement of expert activity, increase of professional skill of forensic experts²⁹.

M. Guzela, V. Kantsir, highlighting foreign experience in the organization of forensic activities in the process of criminal prosecution, note that effectiveness of forensic activities depends on the state of its organization, as well as compliance with the urgent needs of crime and modern scientific and technical achievements that are designed to best meet these needs. The issue of the state of forensic activity organizing is especially acute in Ukraine. Therefore, it is not superfluous in this case to analyze certain issues of forensic activity during criminal proceedings in some foreign countries. Such foreign experience can be useful, in particular, for the organization of forensic activities in Ukraine, and in

general, to improve the entire procedure for obtaining evidence in the course of criminal proceedings³⁰. Researchers note that in some European countries, as well as in Ukraine, there are problems of forensic activity, in particular in the interaction of the subjects of its implementation with law enforcement agencies, due to different departmental affiliation of forensic institutions and related complications. In most European countries, lawyers say, the forensic service is a type of civil service and is organizationally subordinated to state law enforcement agencies (Ministry of Internal Affairs, Ministry of Justice, Ministry of Defense). However, there are still some problematic and negative aspects of solving organizational and procedural issues of forensic examination through the creation of specialized forensic institutions, including strengthening the administrative factor in the field of forensic science, issues of departmental affiliation of these institutions and the nature of their centralization and decentralization³¹. In addition, M. Guzela and V. Kantsir note, in most European countries forensic experts are also police officers. However, the activities of forensic police experts are subject to restrictions³². In general, they conclude, the “departmental subordination” of forensic experts is not relevant in their appointment for forensic examination or research, as long as the agencies provide forensic experts with a real status of independence and impartiality and have no influence on their examinations and research. At present, it is the forensic police institutions of European countries

29 Клименко Н. І., Купрієвич О. А. Міжнародне співробітництво судово-експертних установ. *Вісник кримінального судочинства*. 2015. № 4. С. 130–134.

30 Гузела М., Канцір В. Зарубіжний досвід організації судово-експертної діяльності в процесі здійснення кримінального переслідування. *Вісник Національного університету «Львівська політехніка»*. Серія: *Юридичні науки*. 2018. № 906 (20). С. 129.

31 Wellace H., Wallace W. *Ibid*. С. 129–135.

32 Гузела М., Канцір В. *Op. cit*.

that form the real and effective basis for the organization of forensic examination. Therefore, it is important to improve the legal regulation of expert activity, further development of its organizational forms during criminal proceedings³³. According to K. S. Dmitrieva, “one of the main directions of work of all public authorities in Ukraine on its integration into the European and world community is the preparation of proposals on international legal relations and Ukraine’s accession to international treaties and conventions, signing agreements on legal cooperation with relevant bodies of foreign states and international organizations, interaction with them within their powers, etc. That is why the current trend is to expand the participation of forensic institutions in such international cooperation, increasing their role in the development of theory and practice of forensics and forensic science. The effective integration development of forensic institutions in the field of forensic science of countries in different regions of the world is facilitated not only by the accumulated experience of legal regulation of forensic expertise, but also the implementation of promising approaches to new types of forensic examinations”³⁴. K. S. Dmitrieva emphasizes that despite the presence of a number of studies on international activities in the field of forensic science, as well as the establishment and operation of international forensic institutions, the

need to cover this issue is still relevant, taking into account the legal realities and features of a number of solutions. tasks on forensic science activities³⁵. The researcher also argues that in order to accelerate the practical implementation of these proposals and innovations, it is advisable at the legislative level to make a number of additions and changes to the Law of Ukraine: *On Judicial Examination* concerning international cooperation of forensic institutions, as well as to make appropriate changes to procedural legislation³⁶.

G. Avdeeva claims that currently, in accordance with the *Law of Ukraine: On the Principles of Domestic and Foreign Policy*, one of the main principles of Ukrainian foreign policy is integration into the European Union (EU). According to paragraph 1 of Art. 51 of the Partnership and Cooperation Agreement between Ukraine and the European Union (PCA), an “important condition for strengthening economic ties between Ukraine and the Community is the approximation of existing and future legislation of Ukraine with Community law. Ukraine shall take steps to ensure that its legislation is gradually brought into line with Community law.” Therefore, the study and analysis of the rules of law of the EU, which regulate forensic activities, are important for legislative activity in our country³⁷. These norms, the researcher emphasizes, reveal the basic approaches to the organization of forensic activities in the

33 Гузела М., Канцір В. *Op. cit.*

34 Дмитрієва К. С. Актуальні напрями розвитку міжнародного судово-експертного співробітництва. *Юридичний науковий електронний журнал*. 2020. № 1. С. 288. DOI: 10.32782/2524-0374/2020-1/71 (date accessed: 10.08.2021).

35 *Ibid.*

36 *Ibid.*

37 Авдеева Г. Проблеми гармонізації законодавства України у галузі судової експертизи із законодавством країн Європейського Союзу. *Правова доктрина – основа формування правової системи держави* : мат-ли Міжнар. наук.-практ. конф. / Нац. акад. прав. наук України. Харків, 2013. С. 634–637. URL: https://dspace.nlu.edu.ua/bitstream/123456789/7223/1/Avdeeva_634.pdf (date accessed: 10.08.2021).

EU and can serve as guidelines in building a system of legal support for forensic science in Ukraine. The legislation of the European Union (EU) establishes norms and procedures of procedural legislation aimed at establishing the institution of modern adversarial criminal proceedings. In most EU countries, the professional training of an expert, the availability of the necessary knowledge and experience are crucial in assessing his qualifications. In most European countries, the question of the possibility of obtaining the status of a forensic expert by a certain person belongs to the jurisdiction of the court. "Departmental subordination" of forensic experts in EU member states is not crucial in their selection for forensic examination ³⁸.

From the standpoint of I. I. Yatsenko in modern conditions of bringing domestic legislation in line with the legislation of the European Union, the issues of establishing international cooperation in certain areas are becoming very relevant, as evidenced by a number of scientific studies. This is due to the fact that the purpose of public authorities is to protect the rights and fundamental freedoms of man and citizen, protect the interests of the state, etc., and therefore the establishment of international cooperation of public authorities of Ukraine and appropriate regulation of domestic administrative law governing their activities, is one of the priority tasks at the present stage of state building and protection of private interests of citizens. In this context, special attention is paid to international cooperation in forensic science, as today the use of specialized knowledge in forensic research plays a crucial role in the mechanism of

respect for human rights and fundamental freedoms ³⁹. The researcher emphasizes that active international activity in the field of forensic science requires a review of current legislation on international cooperation of forensic institutions and the definition of forensic science as an object of administrative and legal regulation in Ukraine. Given the above, it should be noted that the definition of forensic science as an object of administrative and legal regulation of international cooperation is the key to further effective and stable functioning of the forensic system and the gradual implementation of international law in the field of forensic science in Ukraine ⁴⁰. I. I. Yatsenko is convinced that promising areas of further research can determine the forms and levels of international cooperation in the field of forensic science, types of forensic examinations in international cooperation and their administrative and legal regulation ⁴¹.

The above scientific opinions undoubtedly prove the importance and necessity and special role of international cooperation and international experience in the field of forensic science and law enforcement. However, at the same time, most researchers focus in their work mainly on cooperation between Ukrainian and foreign forensic science institutions and law enforcement agencies and do not pay much attention to the interaction of forensic institutions and law enforcement agencies within individual foreign countries.

In view of the above, as well as taking into account Ukrainian policy towards integration into the European Union, we are

38 Ibid.

39 Яценко І. І. Судова експертиза як об'єкт адміністративно-правового регулювання міжнародного співробітництва. *Право і безпека*. 2020. № 3 (78). С. 96.

40 Ibid.

41 Op. cit. p. 101.

particularly interested in the experience of European countries in regulating and ensuring the studied interaction. First of all, it should be noted that each country has its own characteristics in the organization and functioning of forensic science. Although in general in European countries there are two main organizational forms of forensic science:

- specialized (forensic science) institutions;
 - specific professionals: forensic experts (for example, there is a practice of the institute of sworn experts, i.e. Professionals who took the oath were involved in conducting examinations; experts who received a license for the right to conduct forensic examinations).
- R. Topolia and G. Avdeeva analyzing the legislation of the EU, in this regard note that “in European countries consistently implemented the principles of ensuring the independence of the expert, focusing not on the departmental affiliation of the expert, but on his special knowledge needed to solve justice, ensuring the adversarial principle of experts involved in various aspects of the process, and other principles that are crucial to ensure that the judiciary is truly independent, objective and qualified. At the same time, presence of the institution of private forensic examination in the

EU is not only one of the guarantees of legal rights and freedoms of citizens and public interests, but also allows to significantly reduce budget expenditures for the maintenance of state specialized expert institutions. One of the important elements of Ukrainian successful integration into the EU is to achieve a certain level of harmonization of the legislation of our country with the EU legal norms on the use of special knowledge in the judiciary”⁴².

M. Skrypnyk notes that “main organizational and procedural issues of forensic examination in the creation of specialized (forensic science) institutions: issue of departmental affiliation of institutions; strengthening control in the field of forensic activities; the nature of centralization (unification of all expert institutions into a single institute of forensic examinations under a single management in one of the departments) and decentralization (dispersion of institutions in the relevant departments). In many European countries, expert institutions work together with police organizations under the jurisdiction of the Ministry of Internal Affairs of Ukraine”⁴³.

For example in France historically, two separate police forces have been involved in forensic science: the National Gendarmerie and the National Police report to the Ministry of Defense⁴⁴. The National Police is responsible for maintaining public order

42 Авдеєва Г. Зазнач. твір ; Тополя Р. Ор. cit. С. 184.

43 Скрипник М. Світовий досвід у судово-експертній діяльності / Експертно-дослідна служба України : сайт. URL: <https://ua-expert.com/ua/news/svitoviy-dosvid-u-sudovo-ekspertniy-diyalnosti> (date accessed: 10.08.2021).

44 Гузела М., Канцір В. Ор. cit. С. 129–135 ; Коротчаєв В. М. Порівняльний аналіз адміністративно-правового регулювання експертно-криміналістичного дослідження в зарубіжних країнах. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2018. № 1. С. 115–119. URL: http://nbuv.gov.ua/UJRN/Nvdduvs_2018_1_24 (date accessed: 10.08.2021).

in cities with a population of more than 20,000, while the National Gendarmerie is responsible for public order in the remaining country. Both police forces have the right to investigate crimes. The National Gendarmerie includes a unique forensic institute (IRCGN) that works closely with police investigators, prosecutors and judges. Officers involved in criminal investigations belong to specialized units. These units are located throughout the country to ensure the effectiveness of the investigation and detection of crimes. There are two levels of specialization: 20 units investigating dangerous crimes at the regional level and the remaining 90 units at the local level. Specialists with regard to the scene are in each unit (both regional and local) ⁴⁵. I. O. Zavydnyak notes that “in France there is a practice of creating expert associations, chambers and unions. Each association, chamber or union of experts must have an appropriate code of rights, responsibilities and rules of the organization. Thus, forensic expert who is a member of a professional association or chamber is obliged to follow the rules specified in the code, to have rights and to bear certain responsibilities” ⁴⁶.

Next we will pay attention to Germany that is one of the leaders of the EU. The country key law enforcement agency is the German Federal Ministry of the Interior (Bundesministerium des Innern) that is responsible for ensuring internal security and protecting constitutional order, protecting civilians from disaster and terrorism, administrative matters and sport. It is also responsible for the

work of public services and disaster relief. In addition, the ministry regulates protocol issues during state visits and official celebrations. The Federal Police of Germany (Bundespolizei or BPOL) reports to the Ministry of the Interior and performs complex tasks in accordance with the Federal Police Act and a number of other pieces of legislation. In 1998, police reform was carried out in Germany. The Federal Police works closely with an organized network of various types of federal and land security services and in partnership with fellow police officers of the federal states and the border services of foreign countries. The main functions of the Federal Police, according to the report of P. A. Raevskiy are the following: “ensuring the security of the border, including the protection of the sea coast; protection of federal buildings and diplomatic missions located in Berlin and the former capital of Bonn, as well as the two highest courts of Germany, namely: the Federal Constitutional Court and the Supreme Federal Court in Karlsruhe (Karlsruhe); organization of a mobile response force of the Federal Government in order to protect officials during events within the country; security at international airports and railways; organization of counter-terrorism forces (GSG9 unit); airspace protection” ⁴⁷.

Police are given a number of powers to carry out their tasks, including the collection of personal data. According to the Law on the Federal Police, the police carry out: collection of personal information, interrogation, identification and examination of certificates, forensic

45 Гузела М., Канцір В. Оп. cit.

46 Завидняк І. О. Позитивний досвід розвинених країн європейського союзу у використанні спеціальних знань під час розслідування злочинів у сфері господарської діяльності. *Теорія та практика судово-експертної діяльності* : мат-ли VIII Міжвідом. конф. (Київ, 27.11.2019). Київ, 2019. С. 161.

47 Доклад Комитета гражданских инициатив ... URL: <https://komitetgi.ru/upload/iblock/538/538b9dcf40eca849375fa5f15da10d26.pdf> (date accessed: 10.08.2021).

measures, collection of information on public events and gatherings⁴⁸. A special place in the German police system is occupied by forensic units⁴⁹ forensic units of the Federal Office for Criminal Cases, which conduct a full range of forensic examinations for law enforcement agencies⁵⁰. Special mention should be made of the Institute for Forensic Research that is a leading research institution of the German criminal police. It supports the efforts of the federal police and land police in the fight against crime, providing services in the following areas: forensic and criminological research; development of police methods; training and advanced training of employees of the Federal Office for Criminal Cases. The institute provides comprehensive scientific and practical research and implementation of modern policing technologies. Its function is to identify the most vulnerable areas in the fight against crime and the development and implementation, together with experienced practices, of measures and innovative programs aimed at improving the activities of law enforcement agencies. In addition, in Germany, the institute of private expertise⁵¹ successfully operates and competes with state expert institutions⁵².

Experience of Great Britain is interesting, where structure of the Ministry of Internal Affairs has an forensic expert service (Forensic Science Service

hereinafter referred to as FSS). The FSS is an important body in the work of the British police to investigate, detect and prevent crime. FSS officers are involved in investigations, investigative activities, examinations and investigations for 43 regional police units in England and Wales, as well as for the Crown Prosecution Service (CPS), the Customs and Excise Service and a number of other law enforcement agencies. The service provides services to private companies both in the country and abroad; actively cooperates with law enforcement agencies of more than 35 foreign countries⁵³. In addition, to perform specific types of examinations (for example, forensic examination of documents) involves the involvement of specialists from private forensic laboratories. It should be noted that in the UK, an expert is usually invited by one of the parties to the proceedings (prosecution or defense) to conduct an examination or research. The United Kingdom is a country that has gone the way of abolishing the “monopoly” on forensic examinations by state forensic organizations⁵⁴. It should be noted that in the United Kingdom of Great Britain and Northern Ireland (Scotland), the status of experts differs from England and Wales by greater access to expert reports, as well as to the documentation of expert opinions and related information. This difference increased after the adoption of the English Rules of Civil Procedure Civil

48 Бирюков П. Н. Полиция Федеративной Республики Германия ... URL: http://www.eurasialaw.ru/index.php?option=com_content&view=article&id=911:2010-07-27-07-00-37&catid=122:2010-07-27-06-55-50 (date accessed: 10.08.2021).

49 Скрипник М. Ор. cit.

50 Коротаяев В. М. Ор. cit.

51 Любченко С. О., Нізовцев Ю. Ю., Парфіло О. А. Ор. cit. С. 9 ; Коротаяев В. М. Ор. cit. С. 115–119.

52 Скрипник М. Ор. cit.

53 Скрипник М. Знач. твір ; Гузела М., Кацїр В. Знач. твір ; Олійник О. О., Галунько В. В., Єщук О. М. Адміністративно-правове регулювання судово-експертної діяльності : монографія. Херсон, 2015. С. 171.

54 Скрипник М. Знач. твір ; Авдеева Г. Знач. твір ; Тополя Р. Ор. cit. С. 184.

Primole Rules (YBR ENY). In Scotland, expert evidence may be provided only verbally (orally) during the examination of an expert. Written examination report is a notice that the expert will later confirm orally. In England, a written notice is addressed to the court. All documents on which the parties base their views must be submitted to the court⁵⁵.

It is advisable to pay attention to Polish experience neighboring Ukraine. In Poland, forensic laboratories are subordinated to the Ministry of Justice in addition to forensic laboratories subordinated to the Ministry of the Interior⁵⁶. O. M. Dufenyuk, analyzing the peculiarities of the status and activities of forensic experts in Poland, emphasizes the similarity of the Polish and Ukrainian approaches to the regulation and provision of forensic activities. In particular, she sees some differences in the process of involving an expert in Ukrainian and Polish criminal proceedings, namely: first, in Ukraine there is a national Register of Judicial Experts, and the basis for inclusion in this Register is the decision of the Expert Qualification Commission (issuance of a certificate); and not a personal decision of the Chairman of the District Court; secondly, both the prosecution and the defense, the victim, may involve experts in Ukrainian criminal proceedings; thirdly, the decision of the procedural body under the Ukrainian procedural legislation is called “decision on the appointment of the examination”, in contrast to the “decision on the admission of evidence from the

expert’s opinion”; fourth, according to our legislation, it is not possible to orally instruct an expert (by phone or fax) to conduct an examination and provide an opinion; Fifth, if Criminal Procedural Code of Ukraine of both countries has similar regulations regarding the grounds for removing an expert, remuneration certainly has significant differences in the hourly rates of forensic experts. The researcher claims that currently the legal regulation of the institute of forensic examinations and involvement of an expert during criminal proceedings in Ukraine is quite effective, but also by other parties, ensure the unification of the requirements for forensic expert, adversarial nature of the process and certify to some extent progressiveness of the Ukrainian criminal procedural legislation⁵⁷.

Well-developed institutional forensic system operates in Lithuania. Most forensic examinations in this country are conducted by four state forensic institutions: the Lithuanian Forensic Science Research Center of the Ministry of Justice, the Lithuanian Police Forensic Science Research Center, the State Forensic Medical Service and the State Forensic Psychiatric Health Service. Republic⁵⁸. In the practice of Lithuania, as in other European countries, the traditional recognition of the equivalence of forensic law enforcement activities is positive in order to avoid duplication of effort due to non-recognition of evidence due to technical and qualitative differences and to significantly reduce time

55 Клименко Н. І. *Op. cit.*

56 Коротаяев В. М. *Op. cit.*

57 Дуфенюк О. М. Досвід Польщі стосовно участі судового експерта у кримінальному провадженні. *Науковий вісник Львівського державного університету внутрішніх справ. Серія юридична*. 2018. Вип. 1. С. 247–248.

58 Лопата О. А. Запровадження європейського досвіду до судово-експертної діяльності експертної служби МВС України. *Теорія і практика судової експертизи і криміналістики* : мат-ли Всеукр. наук.-практ. конф. з нагоди 85-річ. д-ра юрид. наук, проф. Н. І. Клименко (Київ, 27.02.2018). Київ ; Маріуполь, 2018. С. 193 ; Коротаяев В. М. *Op. cit.*

spent in investigating crimes. cross-border component. In addition, in Lithuania these provisions are implemented at several levels. For example, forensic experts from EU Member States are free to provide such services in Lithuania, only these persons must be recognized as forensic experts in accordance with the rules of that Member State⁵⁹. The legal basis of forensic activity in this state are procedural laws and laws on forensic examination. The formation of policy and strategy of forensic activity is under the jurisdiction of the Ministry of Justice. Procedural laws and the law on forensic examination also provide for the Coordinating Council of Forensic Science⁶⁰.

Along with the experience of some foreign countries, attention should be paid to the role of international forensic organizations in improving the development of forensic science and the organization of proper interaction between forensic experts and law enforcement agencies. O. V. Linnyk, L. V. Omelchuk draw attention to the fact that in recent years international cooperation in the field of forensic science has intensified. One of such areas is the creation of international forensic networks. Today, there are five such networks, which unite the scientific reserves of forensic institutions of different countries: 1. European network of forensic institutions, which has existed since 1995. This is the most developed and strong network. 2. South Africa Regional Network of Forensic Science since 2008, covering the entire African region. 3. Asian network of forensic sciences, which has existed since 2008. 4. An international forensic

environmental expert network has also been in place since 2008 to assist forensic environmental experts and environmental offenders. 5. Trace evidence conservation network, which has existed since 2006 and is a non-governmental organization to assist in the conduct of forensic examinations in cases of crimes against wildlife and to preserve the biological diversity of flora and fauna⁶¹.

A special place here is occupied by the European Network of Forensic Institutions (ENFSI), established in 1995. It consists of 54 expert institutions, 41 of which are located in the Member States of the European Union (EU). It is the world largest international organization of forensic experts with international recognition⁶². Currently, ENFSI includes a forensic organization of Ukraine: SSRFC of the Ministry of Internal Affairs of Ukraine, which in 2002 received and annually confirms the international certificate of quality of forensic examinations. The expert service of the Ministry of Internal Affairs of Ukraine has been carrying out international activities for 15 years within the framework of cooperation in the European Network of Forensic Institutions (ENFSI). Under the auspices of this authoritative international organization, measures are being taken to accredit expert service laboratories according to the international standard ISO/IEC17025 and to implement a quality management system. In May 2018, ENFSI included Hon. Prof. M. S. Bokarius Kharkiv Research Institute of Forensic Examinations (KhRIFE). With accession to ENFSI, KhRIFE professionals became participants in a number of

59 Юодкайте-Гранскиене Г. *Op. cit.* С. 31 ; Лопата О. А. *Op. cit.*

60 Лопата О. А. Міжнародне співробітництво експертної служби МВС України : дис. ... канд. юрид. наук. Київ, 2017. С. 134 ; Коротчаєв В. М. *Op. cit.*

61 Клименко Н. І., Купрієвич О. А. *Op. cit.* С. 131 ; Линник О. В., Омельчук Л. В. *Op. cit.*

62 Хазиев Ш. Н. О Европейской сети судебно-экспертных учреждений. *Адвокат*. 2005. № 8. С. 14—19 ; Дмитриева К. С. *Op. cit.* С. 290.

international conferences and meetings of working groups on various types of forensic research. Membership in the European Network of Forensic Experts opens up new opportunities for international cooperation and communication between forensic experts⁶³.

Thus, summarizing the above, we can state that in most European countries forensic institutions are in the system of law enforcement agencies, mainly the Ministry of Internal Affairs, although in some countries they operate in the system of the Ministry of Justice or even the Ministry of Defense (e.g. France). However, multi-agency subordination of forensic institutions is usually avoided by European states. Although in some post-Soviet European countries (for example, in Lithuania) there is a system of organizational subordination of forensic institutions similar to the Ukrainian one. In view of the above, we can identify the following important, in our opinion, to take into account and implement in the Ukrainian legal space aspects of foreign experience in order to improve the interaction of forensic institutions and law enforcement agencies⁶⁴.

- concentrate all forensic institutions under the authority of two agencies, namely the Ministry of Internal Affairs of Ukraine, or the Ministry of Justice of Ukraine and the Ministry of Healthcare. This approach will reduce the number of centers that will take care of this interaction, provide and coordinate it, which should increase its consistency and content, efficiency

and effectiveness. In most European countries, interaction of forensic institutions with other law enforcement agencies, both national and foreign, as well as with courts and international organizations takes place under the auspices of the Ministries of Interior. However, in Ukraine, in our opinion, it is more expedient to transfer these institutions to the organizational subordination of the Ministry of Justice of Ukraine, which performs tasks and functions to ensure forensic activity in the country, in particular: organizes in accordance with the law expert support of justice and research in the field of forensic science; ensures the organization of the work of the Central Expert Qualification Commission at the Ministry of Justice and the Scientific Advisory and Scientific Advisory and Methodological Council on Forensic Science Issues at the Ministry of Justice⁶⁵;

- actively promote the development of non-state forensic activities. This step should ensure the necessary level of competition between the public and private sectors of forensic science, which, we believe, will be a positive incentive for forensic agencies and law enforcement agencies to strengthen and improve the quality of their interaction with each other. S. O. Lyubchenko, Yu. Yu. Nizovtsev, O. A. Parfilo,

63 Дмитрієва К. С. *Op. cit.* С. 290.

64 Полянський А. О. Зарубіжний досвід взаємодії судово-експертних установ з правоохоронними органами. *Європейські перспективи*. 2019. № 3. С. 230–234.

65 Про затвердження Положення про Міністерство юстиції України : Постанова КМУ від 02.07.2014 р. № 228 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/228-2014-%D0%BF#Text> (date accessed: 10.08.2021).

V. M. Korotayev in this regard refer to the experience of Great Britain and note that the waiver of the state monopoly on certain types of expertise may have such positive aspects of the emergence of competitors in FSS (UK Forensic Science Service), in particular: saving on police maintenance costs, including reducing operating costs and reducing costs by improving pricing; significant acceleration of the pace of investigations due to the reduction of time for the processing of appeals (from several weeks to several days) and emergence of the possibility of standardization of the system for assessing the speed of processing appeals; systematization of types of work, promoting the coherence of services and the ability to compare quality of services of different providers⁶⁶;

- identify a single center that will outline the priorities of cooperation between forensic institutions and law enforcement agencies, coordinate this interaction and monitor its quality, provide appropriate support to its parties. An example of such an entity is the Institute for Forensic Science in Germany. In Ukraine, this function can be performed by the Coordination Council for Forensic Science at the Ministry of Justice, subject to a certain increase in its powers in terms of coordinating the process of interaction and monitoring its effectiveness;
- actively use the experience and capabilities of relevant international organizations to improve the studied interaction.

Conclusions

Provisions of a number of normative-legal acts of national and international character, though in rather general kind, nevertheless unequivocally testify that Ukraine, both as a whole, and in the person of its separate state bodies, establishments (including forensic science institutions) are active participant in international cooperation in the field of justice, law enforcement, justice and forensic science. One of the priority areas of such cooperation is the exchange of experience, joint solution of problematic issues in these areas and identification of prospects for their further development.

Most European countries have forensic agencies in the law enforcement system, mainly the Ministry of the Interior, although in some countries they operate within the system of the Ministry of Justice or even the Ministry of Defense (e. g. France). However, multi-agency subordination of forensic institutions is usually avoided by European states. Although in some post-Soviet European countries (for example, in Lithuania) there is a system of organizational subordination of forensic institutions similar to the Ukrainian one:

- take into account and implement in the Ukrainian legal space aspects of foreign experience, in order to improve the interaction of forensic institutions and law enforcement agencies, it is necessary:
- concentrate all forensic institutions under the authority of two agencies, namely the Ministry of Internal Affairs of Ukraine, or the Ministry of Justice of Ukraine and the Ministry of Healthcare. This approach will reduce the number of centers that will take care of this interaction,

⁶⁶ Любченко С. О., Нізовцев Ю. Ю., Парфіло О. А. *Op. cit.* С. 18 ; Коротаєв В. М. *Op. cit.*

provide and coordinate it, which should increase its consistency and content, efficiency and effectiveness. In most European countries, interaction of forensic institutions with other law enforcement agencies, both national and foreign, as well as with courts and international organizations takes place under the auspices of the Ministries of Interior. However, in Ukraine, in our opinion, it is more expedient to transfer these institutions to the organizational subordination of the Ministry of Justice of Ukraine;

- actively promote the development of non-state forensic activities. This step should ensure the necessary level of competition between the public and private sector of forensic science, that in our opinion, will be a positive incentive for forensic agencies and law enforcement agencies to strengthen and improve the quality of their interaction;
- identify a single center that will outline the priorities of cooperation between forensic institutions and law enforcement agencies, coordinate this interaction and monitor its quality, provide appropriate support to its parties. An example of such an entity is the Institute for Forensic Science in Germany. In Ukraine, this function can be performed by the Coordination Council for Forensic Science at the Ministry of Justice, subject to a certain increase in its powers in terms of coordinating the process of interaction and monitoring its effectiveness;
- actively use the experience and capabilities of relevant

international organizations to improve the studied interaction.

**Зарубіжний досвід взаємодії
судово-експертних установ між собою
та з правоохоронними органами
й можливості його використання
в Україні**

*Антон Полянський,
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Правоохоронний сектор будь-якої держави є окремим механізмом, кожний елемент якого виконує чітко визначену функційну роль, забезпечуючи соціальну справедливість, захист і безпеку населення, територіальну цілісність держави. Ці чинники пояснюють значення державної діяльності за правоохоронним або ж правозахисним напрямом. Останній об'єднує значний масив різноманітних суб'єктів, на кожного з яких покладено частину владних повноважень або суспільно-значущих завдань.

Водночас, здійснюючи правоохоронну діяльність, уповноважені суб'єкти не завжди мають змогу вирішувати складні питання, які потребують специфічних професійних знань, умінь і навичок: задля їх вирішення правоохоронні органи взаємодіють зі спеціальними суб'єктами, до повноважень яких належить проведення судових експертиз (зокрема, ідеться про судово-експертні установи). У цьому контексті варто підкреслити, що забезпечення ефективної взаємодії судово-експертних установ і правоохоронних органів є фактично неможливим без створення належних адміністративно-правових засад реалізації прововідносин у цьому напрямі.

Останнім часом законодавці й науковці приділяють дедалі більше уваги діяльності судово-експертних установ і правоохоронних органів. Однак зазначене не виключає наявності низки проблем

організаційного та правового характеру під час здійснення цими суб'єктами їх спільної діяльності.

Саме тому ми мали на меті з'ясувати сутність, зміст та особливості адміністративно-правових засад взаємодії судово-експертних установ із правоохоронними органами, максимально використати досвід зарубіжних країн, а також розробити пропозиції та рекомендації, спрямовані на вдосконалення законодавства у цій сфері.

Ключові слова: взаємодія; асоціація; координація; інтеграція; судово-експертні установи; правоохоронні органи; ENFSI.

Зарубежный опыт взаимодействия судебно-экспертных учреждений между собой и с правоохранительными органами и возможности его использования в Украине

**Антон Полянский,
Габриэле Юодкайте-Гранскиене**

Правоохранительный сектор любого государства является отдельным механизмом, каждый элемент которого выполняет чётко определённую функциональную роль, обеспечивая социальную справедливость, защиту и безопасность населения, территориальную целостность государства. Эти факторы объясняют значение государственной деятельности по правоохранительным или правозащитным направлениям. Последнее объединяет значительный массив различных субъектов, на каждого из которых возложена часть властных полномочий или общественно-значимых задач.

Вместе с тем, осуществляя правоохранительную деятельность, уполномоченные субъекты не всегда могут решать сложные вопросы, требующие специфических профессиональных знаний, умений и навыков: для их решения правоохранительные органы взаимодействуют со

специальными субъектами, в полномочия которых входит проведение судебных экспертиз (в частности, речь идёт о судебно-экспертных учреждениях). В этом контексте следует подчеркнуть, что обеспечение эффективного взаимодействия судебно-экспертных учреждений и правоохранительных органов фактически невозможно без создания надлежащих административно-правовых принципов реализации правоотношений в этом направлении.

В последнее время законодатели и учёные уделяют всё больше внимания деятельности судебно-экспертных учреждений и правоохранительных органов. Однако сказанное не исключает наличия ряда проблем организационного и правового характера при осуществлении этими субъектами их совместной деятельности.

Именно поэтому мы преследовали цель выяснить суть, содержание и особенности административно-правовых принципов взаимодействия судебно-экспертных учреждений с правоохранительными органами, максимально использовать опыт зарубежных стран, а также разработать предложения и рекомендации, направленные на совершенствование законодательства в этой сфере.

Ключевые слова: взаимодействие; асоціація; координація; інтеграція; судебно-експертні установи; правоохоронні органи; ENFSI.

Funding

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Disclaimer

The funders had no role in the study design, data collection and analysis, decision to publish, or preparation of the manuscript.

Contributors

The authors contributed solely to the intellectual discussion underlying this paper, case-law exploration, writing and editing, and accept responsibility for the content and interpretation.

Declaration of Competing Interest

The authors state that there is no conflict of interest on this topic, although Gabriele Juodkaite-Granskiene is a member of the journal Editorial Board; she did not take part in decision regarding publication and this article is subject to a full peer review process.

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