The author of this paper would like to highlight the importance of requirements for an interview room and technical equipment as essential preconditions for succesful interview of a child suffering from sexual violence, and the same time as a preventive measure against the revictimization of a child. It also leads to sum up that principles on interview of a child who suffered sexual violence must prevail under technical requirements for premises, and technical equipment.

References

1. The Constitution of the Republic of Lithuania. URL: https://www.constituteproject.org/constitution/Lithuania_2006 (date accessed: 04.09.2023).
2. A criminal procedure code of the Republic of Lithuania. URL: https://www.infolex.lt/ta/10708:str186 (date accessed: 04.09.2023).
3. Guide on Article 6 of the European Convention on Human Rights. Right to a fair trial (criminal limb). Updated on 31 August 2022. URL: https://www.echr.coe.int/documents/d/echr/guide_art_6_criminal_eng (date accessed: 04.09.2023).
4. The European Court on Human Rights judgment in case Al-Khawaja and Tahery v. the United Kingdom 2011. URL: https://hudoc.echr.coe.int/#{%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22]} (date accessed: 04.09.2023).
5. The European Court on Human Rights judgment in case Hümmer v. Germany, 2012. URL: https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/CASE%20OF%20HUMMER%20v.%20GERMANY.PDF (date accessed: 04.09.2023).
6. The European Court on Human Rights judgment in case Lucà v. Italy, 2001. URL: https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22002-5791%22]} (date accessed: 04.09.2023).
7. The European Court on Human Rights judgment in case Solakov v. the former Yugoslav Republic of Macedonia, 2001. URL: https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/CASE%20OF%20SOLAKOV%20v.%20_THE%20FORMER%20YUGOSLAV%20REPUBLIC%20OF%20MACEDONIA_.pdf (date accessed: 04.09.2023).
8. The United Nations Convention on the rights of the child. https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child (date accessed: 04.09.2023).
9. What's the best microphone for your video? URL: https://www.linkedin.com/advice/3/whats-best-microphone-your-video-skills-videography (date accessed: 04.09.2023).
10. 15 Great Quotes About Questioning. URL: https://www.linkedin.com/pulse/15-great-quotes-questioning-joe-iarocci (date accessed: 04.09.2023).

Observations on the Principles of Activity in the Field of Judicial Expertise in the Republic of Moldova

Olga Cataraga,
Doctor of Legal Sciences, National Centre for Judicial Expertise Ministry of Justice, Mun. Chisinau, Republic of Moldova, e-mail: olga.cataraga@justice.gov.md
Victoria Prisacaru,
National Anticorruption Center, mun. Chisinau, Republic of Moldova, e-mail: victoria.prisacaru@cna.md
Peter Petkovich,
National Centre for Judicial Expertise Ministry of Justice, Mun. Chisinau, Republic of Moldova, e-mail: piotr.petcovici@justice.md

This article aims to explain the activity of judicial expertise in the Republic of Moldova. The central problem of the paper is the principles that guide the judicial expert in his professional work and how to approach them. The activity of judicial expertise in the Republic of Moldova is a licensed one, however, in some circumstances, the legislator provides for the possibility of training persons with recognized competence as ad hoc experts. The benefits of this provision are obvious, but it is necessary to discuss the risks generated, starting from the approach of judicial practice in the sense presented. In this sense, in this article the authors present reasoning on how to approach the principles of activity in the field of judicial expertise, their impact

on the evidence obtained scientifically and the entire judicial process. As a result of the analyses carried out by the authors of the paper, a clear vision is put forward in the approach by the judicial body and the judicial expert of the principles governing the activity of judicial expertise in the Republic of Moldova, so as to fully serve the expected purpose – providing solid scientific support in solving judicial cases.

***Keywords**: judicial expertise; principles of activity; activity of judicial expertise; judicial body; ad hoc judicial expert.*

Деякі спостереження щодо принципів діяльності у сфері судової експертизи в Республіці Молдова

Ольга Катарага, Вікторія Прісакару, Петр Петкович

Ця стаття має на меті пояснити особливості судово-експертної діяльності в Республіці Молдова. Центральною проблемою є принципи, якими судовий експерт керується у своїй професійній роботі, та те, як їх застосовувати. Судово-експертна діяльність в Республіці Молдова є ліцензованою, однак за деяких обставин законодавець передбачає можливість навчання осіб із визнаним рівнем компетентності як ad hoc експертів. Перевага цього положення є очевидною, але необхідно обговорити ризики, які воно породжує, зважаючи на підхід до судової практики, який тут висвітлено. Автори пропонують своє бачення принципів діяльності у сфері судової експертизи, висвітлюють їхній вплив на науково отримані докази та весь судовий процес. У результаті проаналізованого авторами матеріалу запропоновано чітке бачення підходу судового органу та судового експерта до принципів, що регулюють діяльність судової експертизи в Республіці Молдова, для того щоб повною мірою виконати поставлену мету — надати потужну наукову підтримку для розв'язання судових справ.

***Ключові слова**: судова експертиза; принципи діяльності; діяльність судової експертизи; судовий орган; судовий експерт ad hoc.*

In the Republic of Moldova, the principles of activity in the field of judicial expertise are provided by the legislation dedicated to the field [1, Articles 4—10]. According to these principles, judicial expertise is carried out within a legal framework, respecting the rights and freedoms of the president, the independence of the expert, objectivity and completeness of research, confidentiality, impartiality and fairness [1, art. 4]. The activity of judicial exercise is guided by these principles in both civil and criminal proceedings.

It is important that the court expert, in the exercise of his professional activity, strictly observe and be guided by these principles, since in case-law, the opinions of court experts have a role of «scientific judgment,» and, respectively, given their scientific basis, expert opinions nevertheless constitute evidence of particular value [2, p. 20].

Next, we will focus on some practical aspects related to this topic, given the need for the correct approach of principles in the activity of judicial expertise by both judicial experts and judicial bodies.

At present, the legislative regulations in the Republic of Moldova on the discussed issue are quite discreet, but there is a practical misunderstanding of the meaning of principles on the part of the subjects of expertise and much more on the part of the judicial body. Among practicing legal experts, although they are the first to know them in order to apply them in their daily work, we meet many who approach in a somewhat «strange» way the principles of activity in the field of forensic expertise and act as they think, based on individual reasons, based on their own experience or that of colleagues, etc.

In this regard, we note that in the judicial practice of the Republic of Moldova there are situations when the judicial expert is invited to a court session or before the criminal investigation body in the phase prior to conducting the judicial expertise to provide help in formulating questions, preparing the necessary objects for expertise, collecting samples for comparison and other activities, at the discretion of the judicial body. If, in the case, when the court expert had appeared to formulate the questions, we can find that there is a basis for recusing him, given that the judicial expert has a different status from that of other participants in the proceedings. He is neutral towards the parties to the trial, he does

not have the role of presenting someone's interests by conducting expertise [3, p.17]. Thus, the given circumstances indicate the violation of the principle of non-bias in the activity of judicial expertise [1, art.10].

In the practice of our institution, whenever it happens that experts are invited to the judicial body or to court at the stage of actions prior to carrying out the judicial expertise, the respective body is informed of the justified reasons regarding the impossibility of delegating/appointing the judicial expert under the conditions set out above, some judges unjustifiably qualify the «impossibility» as refusal to perform the procedural act, imposing judicial fines on the management in this regard. Furthermore, guided by the principle that the application of the sanction does not exempt from the obligation to perform the procedural act, it continues to insist on the presence of the judicial expert at the stage prior to carrying out the expertise.

The same is observed with regard to court decisions requiring the appointment of the judicial expert prior to ordering the expertise, even though the procedural legislation expressly provides for the cases and manner of appointing the expert, namely: 1. By the court: The expert chosen by mutual agreement of the parties or ex officio, in the absence of agreement of the parties; 2. By the head of the institution: If only the institution that is to carry out the expertise is indicated in the conclusion on carrying out the judicial expertise [4, 5 Art. 149, para (2) — (3)].

Taking into account the provisions of the procedural legislation [5, Art. 148—150], the meeting, regarding the actions prior to the judicial expertise, is organized only with the participation of the parties and only after ordering the expertise, appointing the expert, asking questions before the expert, etc., not vice versa, in the absence of conclusion, regarding the carrying out of the expertise, the head of the expertise institution being unable to designate the expert who will carry out the respective expertise / «in order to carrying out the expertise requested".

We have brought up these situations by way of example, in order to show how, in practice, the application of procedural rules actually takes place. We note that in the circumstances described, apart from the fact that the procedural provisions are not correctly applied, the principles of activity in the field of judicial expertise are also not taken into account, taking an unprofessional approach to the activities related to the performance of judicial expertise. However, such treatment of the discussed subject has negative consequences on the process of investigating judicial cases, as it creates deficiencies in providing them with scientific evidence, considerably extending the terms of settlement, etc.

In the context of the principle of expert independence, we observe situations in which the independence of the expert from the authorising officer is misunderstood as an organizational one, this, in the case of the expert, being a much more complex one. From a scientific point of view, the independence of the expert must be regarded as one of the forms of his conviction, namely the inner form, called «intimate conviction». The expert's intimate conviction is based on his procedural independence, being free from any interference in his activity of the authorising officer and those interested. This means that the expert's conclusions must reflect not only the objectivity of the research, but also be based on his conviction [3, p. 52].

Respectively, the principle of independence of the judicial expert, including in itself a complex, multilateral formation, with a number of interspersed aspects: gnoseological and psychological related to his knowledge activity, is not related to the organization of the activity in the sense of departmental membership (belonging to the same organizational structure as the authorizing officer).

Thus, we believe that the principle of expert independence must be understood in accordance with the statement in the law, namely: «... to the authorising officer of the judicial expertise, to the parties to the judicial process, as well as to other persons interested in the outcome of the judicial expertise.' [1 Art.7, para. (1)]. Respectively, it is necessary to avoid the involvement of the judicial expert in activities that may prejudice this principle, including

in activities involving knowledge of the parties to the process, the object of expertise, the formulation of objectives (for himself), the preparation of material for expertise, etc., which is insisted upon, as it would not be sad, namely by those who are invested by law to «watch» over compliance with all legal rigors throughout the investigation of judicial cases.

According to the logic of things, if we proceed according to the systemic principle of applying legal norms, on the subject covered in the article, there should be no problems in ordering and carrying out judicial experience. However, as daily practice shows, the actors of the justice process give different interpretations to the principles of activity in the field of judicial expertise, stipulated in the legislation.

Next, we will present some reasoning about issues in judicial practice related to the application and other principles that guide the activity of judicial expertise.

In this context, we often observe a erroneous understanding of the principle of objectivity and fullness of research, because the authorizing officers, in their acts of ordering judicial expertise, indicates the methods to be applied by the judicial expert in order to solve the objectives submitted. Also, in the ordering acts we find, lately, limits placed on the expert, indicating the way to go in order to reach his conclusions. It is very ridiculous when we meet such provisions in prosecutors' orders or in court settlements. How then to look at the principle of objectivity and fullness of the research that the judicial expert is obliged to respect when performing the expertise or what we do with his independence from the authorizing officer in the gnoseological and procedural sense to which we have warned above in our work?

As we see, the situation with the attitude towards the obligation to carry out the activity of judicial expertise in accordance with the principles stipulated in the legislation, which begins with the stage of arrangement of the expertise — governed by the judicial body (coordinator) [6, p. 28], currently in R. Moldova is one that leaves much to be desired.

We warn on the fact that, according to the legal provisions, the given prince must be understood as a development of the activity by the judicial expert "… correctly and conducts research on the objects of expertise on the basis of objective, complete and all aspects, applying modern achievements of science and technology and choosing, to the extent necessary, appropriate research methods for solving problems submitted". We see that there is no room for provisions from the judiciary on research issues and methods. In the gnoseological and procedural sense of the problem, we find voices from local and foreign scientific researchers who very clearly state that courts or other judicial bodies cannot dispose of the working methods to be used in carrying out expertise, their choice being the exclusive attribution of the expert [7, p. 62]. According to the legislation of R. Moldova, nor the head of laboratory, under whose subordination the expert is, is entitled to indicate them on the working methods and procedures to apply when performing the expertise. It can only return to the judicial expert the report to be completed [1, art. 17 lit. d)]. Moreover, this should not be done by the expert officer, who, unlike the head of the laboratory, does not have the necessary knowledge and skills in this regard.

Therefore, the ordering by the authorizing officer of the mode of operation, which must be followed by the judicial expert in carrying out the expertise or reasoning from which he must appear in formulating the conclusions, it is nothing more than an interference with his professional activity and a flagrant violation of the principle of objectivity and fullness of research. It is the duty of the judicial expert to decide on the methods of examination and the aspects under which the research will be carried out in order to formulate the conclusions, being the only one competent to present the specialized scientific opinion regarding the expert task and fully responsible for it.

At the same time, the reality shows that, on the independence of the expert's reasoning and the activity of judicial expertise, it influences a lot of factors and the existence only of procedural provisions in this respect, obviously not enough. Finding out state institutions of judicial expertise under the same bodies of executive power, as well as the judiciary, for example, within the Ministry of Internal Affairs. Those circumstances, of course, have

a negative influence on both the independence of the judicial expert and the institution of expertise, generally [3, p. 94].

On this subject, there is a lot of research, the authors of whom, in the end, are concerned about the need to take into account that the solution is not to ensure absolute independence, which, like any other abstraction, in the conditions of real society, it is untouchable, although to it, of course, it must be [3, p. 95].

We would like to present our opinion on the situations recorded in practice, when the judiciary erroneously addresses the principle of independence on its person, although there should be no such cases, based on the fact that the judicial expert should have understood him best. The independence of the judicial expert is seen by many of those who carry out the professional activity of expert, as a " permission " to act at will. Of course, the given attitude is not correct, the judicial expert having to perform a cognitive activity, which presents itself as a relationship between creativity and standardization, depends on the scientific level of the elaborated methods and the methods of solving the expert tasks of a certain kind, specialty [3, p. 94]. As we see, the judicial expert, in addition to having certain limitations in his activity, dictated by the procedural law, is obliged to respect the methods of performing the expertise. Independence, in this case, manifesting itself in selecting according to the principle of objectivity and fullness of research, that methodical and within the methods recommended by it "... choosing, to the extent necessary, appropriate research methods for solving problems". Every choice of judicial expert, in the sense of method, must be scientifically argued, as well as any deviation from the conditions of its application. The given things are required to be set out in the expert report, based on the fact that the judicial expert conducts examinations on objects with a status "unical" and will formulate scientific opinions, which will be recognized as such, only to the extent that the techniques (methods) used are generally accepted as appropriate by the scientific community in the field in which the expertise [7 is performed, p. 27].

Likewise, the independence of the judicial expert does not mean that he is free to examine what he wants. Unfortunately, there are situations in the practice of judicial expertise, where the scientific opinions of experts are not based on the results of examinations of material evidence submitted by the judicial body or obtained in accordance with the procedure for conducting the judicial experiment, or the examination procedure, etc., the data being taken from various dubious sources. Such an approach is unprofessional and has nothing in common with the activity of judicial epxertysis. However, the judicial expertise presupposes "... scientific-practical research activity, ... by performing methodical research with the application of special knowledge and technical-scientific procedures for formulating reasoned conclusions ..." [1, art. 2].

Therefore, the judicial expert does not have "permission„ to examine what he wants and wants, but has clear responsibilities given by law to conduct research on the objects of expertise, according to the methodology, using special knowledge, techniques (methods) and technical-scientific processes and to formulate, based on this research, conclusions argued on scientific criteria with reference to the problems submitted.

Incorrect approach to the principles of activity in the field of judicial expertise, both by the judicial bodies and by the judicial experts, leads to enormous difficulties faced by the judiciary in using the evidence with expertise in the causes it investigates.

Based on the above, with reference to the approach of the principles of activity in the field of judicial expertise in the process of conducting judicial expertise, we consider that the following aspects must be taken into account:

1. The independence of the judicial expert in the sense of freedom of knowledge presupposes his sovereignty (of the expert) regarding the choice of research methods, although he is obliged to argue logically and scientifically this choice.
2. The principle of objectivity and fullness and expert research is outlined only in connection with the free choice of research methods, in a unique algorithm of scientific activity of knowledge of the object of the exhibition, meaning a certain chained series of

methodical, consistent examinations, based on the scientific methods in the necessary field, appropriate for solving the objectives of the expertise.

References

1. On judicial expertise and expert status of judicial expert : Law R. Moldova no. 68 of Aprilie 14, 2016.
2. Cataraga O. Judicial expertise. Bucharest : Pro Universitaria publishing house, 2022.
3. Cataraga O., Prisacaru V., Petcovich P. Reasonings on the use of the expert's right of initiative in judicial expertise. *Scientific-Practical Journal Law and Life*. June 2023. Pp. 15—19.
4. Code of Criminal Procedure R. Moldova.
5. Code of Civil Procedure R. Moldova.
6. Cataraga O. et al. Guide to the authorizing officer of judicial expertise. Chisinău, 2022. Pp. 851.
7. Alămoreanu S. The issue of forensic expertise. Bucharest : Hamangiu, 2013.

Acceptance of Forensic Evidence — Are there Standards?

Aleksandar Ivanović,
PhD, full university professor, Police Administration of Montenegro, e-mail: ialeksandar@t-com.me
Nataliia Filipenko,
Doctor of Law, Professor, Law Department of National Aerospace University — «Kharkiv Aviation Institute» NAU «KhAI», Kharkiv, Ukraine, ORCID: https://orcid.org/0000-0001-9469-36,
e-mail: filipenko_natalia@ukr.net

This paper will present a proposal for the introduction of standards in order to apply forensic methods in the judiciary. A proposal for the application of forensic methods in the United States of America will be presented, as a good practice for its implementation in European countries. This mostly refers to the Fray standards from 1923 and finally the Dauber standard from 1993, which is still used in the United States of America, as a reliable method for verifying the application of forensic methods in the judiciary.

Keywords*: forensic methods; standardization in forensics; Fray's rule; Dauber's rule.*

Прийняття судових доказів — які стандарти існують?

Александар Іванович, Наталія Філіпенко

Висвітлено пропозицію щодо впровадження стандартів для застосування судово-експертних методів у судовій системі. Представлено пропозицію щодо імплементації судово-експертних методів, запозичених у Сполучених Штатах Америки, як приклад вдалої практики, гідної впровадження в європейських країнах. Здебільшого це стосується стандартів Фрая (1923) та Даубера (1993), які до сьогодні використовують у США як надійний метод для перевірки застосування судово-експертних методів у судовій системі.

Ключові слова*: судово-експертні методи; стандартизація у судовій експертизі; правило Фрая; правило Даубера.*

At the end of the twentieth century, the foundations were laid for the modern understanding of the acceptance of forensic sciences in the judiciary. Judicial proceedings are becoming more and more diverse and require specific and sophisticated knowledge, and scientists as forensic experts, protected by the authority of science, give statements that judges, prosecutors, lawyers and interested parties in the proceedings simply cannot understand. A legitimate question arises, who and how can determine the reliability of the method used by the forensic expert in a particular case?

In the legal systems of individual countries, there are certain restrictions on the application and use of forensic findings, that is, scientific evidence. Judges are relatively free to evaluate any evidence that is relevant to the resolution of real-factual issues in a particular case and procedure. The majority of courts in individual countries traditionally require that the proposer of scientific testimony (forensic expertise) must prove that this