



Challenges in the Judicial Expertise of Cultural Objects in the Digital Age

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The authors, in this paper, present the aspect of the transformations of judicial truth and forensics, as a support in obtaining it through the perspective of the digitalization of justice in the modern era. These transformations are characteristic also in the case of forensic research of cultural objects. Such objects, lately, are increasingly encountered as corpus delicti, which require forensic studies on them, in order to provide the judicial body with a specialized opinion. In the context presented, both the judiciary and judicial experts face challenges related to the natural transformations that justice is undergoing in the digital age. However, the mission of establishing scientific truth in cases, in fact, remains exclusively the responsibility of forensics. Now, legal truth is recognized as a process of establishing the circumstances of a case based on evidence duly verified and evaluated within the framework of the law, while forensics is the science and practice that uses scientific methods and technical means to collect and examine evidence, which is subsequently used to establish this legal truth. Forensic science serves as a tool for achieving legal truth, collecting and analyzing factual data, and legal truth is the result of the work of both forensics and other legal procedures. In the context of global digitization, the implementation of information systems in judicial practice in recent years has been considerable, making the transformation of judicial truth in all its dimensions inevitable, and evidence obtained through criminalistics has taken on new characteristics and requires profound changes to the entire system of investigating it.

Keywords: judicial truth; criminalistics; digitization of justice; transformation; investigation of digital evidence; theory of reflection; specific form of existence of matter.

Проблемні питання судової експертизи культурних об'єктів у цифрову добу

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Проаналізовано, як трансформуються поняття судової істини й судової експертизи, а також методи з'ясування такої істини в контексті цифровізації правосуддя в сучасну добу. Зазначено, що подібні зміни також невід'ємно пов'язані із судовою експертизою культурних об'єктів. Останнім часом такі об'єкти все частіше зустрічаються у складі злочинів і потребують проведення судово-експертних досліджень з метою надання судовому органу висновку експерта. У такому контексті як судова влада, так і судові експерти стикаються з викликами, що виникають у зв'язку з природними трансформаціями, яких зазнає правосуддя в цифрову добу. Однак місію зі з'ясування наукової істини у справах фактично цілком покладено на судову експертизу.



Станом на сьогодні юридичну істину визнано процесом визначення обставин справи на підставі доказів, належно верифікованих та оцінених у межах законодавства, тоді як судова експертиза — це наука і практика, яка застосовує наукові методи й технічні засоби збирання та дослідження доказів для того, щоб з'ясувати таку юридичну істину. Судова експертиза є інструментом для віднайдення юридичної істини, збирання та аналізування фактичних даних. Водночас юридична істина є результатом, здобутим за допомогою судової експертизи й інших юридичних процедур. В умовах глобальної цифровізації останніх років упровадження інформаційних систем у судову практику значно посилюється, що робить трансформацію судової істини в усіх її виявах неминучою, а докази, отримані завдяки застосуванню криміналістичних методів, набули нових характеристик і потребують глибоких змін в усій сукупності процедур розслідування.

Ключові слова: *судова істина; криміналістика; цифровізація правосуддя; трансформація; дослідження цифрових доказів; теорія відображення; специфічна форма існування матерії.*

Regarding cultural heritage, we find a lot of expositions. We will present the one closest to our soul, written down by the famous Ioan Piso: "A society that does not respect its past has no future. We inherited from our ancestors a beautiful language of Latin origin, we remembered the stories of our grandparents, we were penetrated by their prayers, we look with delight at the churches erected with faith, the sumptuous buildings, the architectural complexes in the cities, the wonderful architecture of the Romanian village, we learn from history the memorable events that this country has gone through, we know from books or museums the artifacts used in other times, the works of art created by our artists or others, we feel good in nature adapted to the needs of our society. All of these constitute a *forma mentis*, without which we remain nobody's" [1].

Although it is known that the most powerful means of defending our heritage and therefore our history lies in education, reality shows that this means is becoming insufficient. It is obvious that

in this sense, at the policy level, states, including their communities, are making efforts to regulate the cultural sector. The concept of "patrimonialization" is increasingly used in the specialized literature, together with "safeguarding", "conservation" and "protection of cultural heritage" to describe the reality related to the state of heritage objects at the global level and in private cases — at the level of nation states.

The respective measures were initiated sporadically, since the beginning of the last century, taking shape in systems based on solid scientific concepts, which encompass all the variety of cultural objects in the modern world. The modern era is characterized in its development by the digitalization of all spheres of life.

Representatives of the legal and judicial sector are not left behind either, who are challenged by the application of information possibilities, including to "substitute" human reasoning and formulate decisions that are much more "objective" and "impartial". However, until now, humans are considered the



only universally intelligent beings. The software systems that we call “intelligent” today do not come close to describing an intelligence with a universal capacity for explanation, but are “intelligent” only in a narrow sense. However, people are making efforts to bring these two “systems” as close as possible: the human being and the software [2].

The cyber transformations to which legal sciences are currently subjected require essential changes, including in the approach to the expert research of cultural objects. It is important to understand that a broad conceptualization of the basic notions used by judicial experts is necessary through the prism of the virtual world, taking into account a new form of existence of matter and, respectively, of the traces that are created in the fields of computer crime.

The process of digitization has penetrated the cultural field. Digital technologies offer new opportunities for preserving cultural content and facilitating access to cultural heritage for all categories of public. Museums and cultural organizations that adopt these technologies can offer innovative experiences to visitors, allow remote public access to various exhibitions and visualization of cultural material that is not on display. Accordingly, forensic science must meet the challenges of the times, in order to provide the necessary assistance in discovering crimes where cultural heritage is targeted, including in cyberspace.

It should be noted that at European level, in this sense, the European Commission fuels the policy debate and brings stakeholders together to improve the framework conditions for

digitisation and digital preservation. It does so through its Recommendation on a common European data space for cultural heritage.

The European Commission's Expert Group on a common European Data Space for Cultural Heritage (CEDCHE) monitors progress towards the implementation of the Commission's Recommendation. The CEDCHE reviews and discusses policies for digital cultural heritage and the upcoming initiative for a common European data space. It also facilitates the exchange of information and good practices working closely with cultural institutions.

Thus, judicial experts, with the support given, as well as new forensic examination methodologies in the virtual world, will be able to find solutions to the most controversial objectives addressed by judicial bodies, in the case of crimes related to cultural heritage.

Conclusions

1. The forensic examination of cultural objects, along with other areas of legal activity, is in a continuous process of transformation, through the prism of digital ones, characteristic of the modern era, in order to face the challenges.
2. In order to respond to the challenges of the time, when conducting the forensic examination of cultural objects, it is necessary to approach the technologies and methodologies of forensic examination through the prism of the modern notions of: “cybercrime field” and “digital trace”, developed by information forensics.



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