

Scientific Criteria for Evaluating the Expert Opinion

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The necessity of developing effective criteria for evaluating the opinion of a forensic expert is substantiated. Adherence to scientifically grounded evaluation criteria will eliminate the parties' doubts regarding the violation of the principles of expert activity.

Keywords: expert opinion, evaluation of expert opinion, criteria for evaluating expert opinion, principles of evaluating expert opinion.

Наукові критерії оцінки висновку судового експерта

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Викладено доцільність вироблення дієвих критеріїв оцінювання висновку судового експерта. Дотримання науково обґрунтованих критеріїв оцінювання зумовить виключення сумнівів сторін процесу про порушення принципів здійснення експертної діяльності.

Ключові слова: висновок експерта; оцінювання висновку експерта; критерії оцінювання висновку експерта; принципи оцінювання висновку експерта.

An expert opinion prepared on the basis of specialized knowledge constitutes one of the sources of evidence and cannot be replaced by any other form of evidence. The assessment of the objectivity and validity of an expert opinion, as a form of evidence, remains one of the most controversial and debated aspects of judicial proceedings.

Over the years, the issue of evaluating expert opinions has been addressed in the scholarly works of A. Angeliuk, L. Holovchenko, N. Klymenko, A. Kofanov, Ch. Kolecki, V. Lysychenko, H. Nadhorniy, B. Romaniuk, E. Simakova-Yefremian, M. Tagaiev, Ye. Tyshchenko, I. Fridman, M. Shcherbakovskyi, and others. However, the evolution of procedural legislation, the development of the theoretical foundations of forensic expertise, and the emergence of new types of expert examinations due to sci-

entific progress generate new challenges in the evaluation of expert opinions, which necessitate urgent solutions in both legal practice and scholarship.

The specificity of assessing such evidence lies in the fact that the content of the expert's conclusion is evaluated by the court, which does not possess specialized knowledge and thus assesses the expert opinion primarily in terms of compliance with the principles of logical reasoning and general knowledge [1].

When appointing an expert examination, the court cannot determine the methods or techniques to be used in the research process, as this choice lies exclusively with the expert, who possesses the relevant specialized knowledge.

Nevertheless, it is the court that, based on its inner conviction and comprehensive assessment of all case materials, must correctly evaluate each piece

of evidence. At the same time, the court lacks specialized knowledge in particular fields to resolve disputes between professionals within those fields.

Among the “pitfalls” of expert evidence, the Supreme Court of Canada, in *White v. Burgess Langille Inman v. Abbott and Haliburton Co.*, noted that “an expert’s opinion, as evidence, may serve as a key element in the pursuit of truth, but it may also pose certain dangers” [2, p. 56].

The establishment of precise and consistent criteria would ensure the protection of the judicial system from pseudoscientific evidence and guarantee a reliable and high-quality standard of expert opinion [3, p. 47].

In Ukraine, the competencies of authorized law enforcement bodies, the judiciary, and forensic experts are clearly delineated.

According to Article 32 of the Law of Ukraine “On the Judiciary and the Status of Judges” [4], the higher specialized court of Ukraine exercises judicial authority as a court of first and appellate instance in cases and procedures determined by procedural law; it analyzes judicial statistics, studies and generalizes judicial practice, and informs the Supreme Court of the results of such generalizations. In addition, the Supreme Court provides appellate and local courts with methodological information on legal application issues (Article 36, para. 7 of the same Law).

An open and adversarial judicial process creates favorable conditions for the evaluation of evidence, revealing circumstances that were previously unknown or unexamined, or were

reflected in procedural documents with significant violations of the law. The verification of criminal information from multiple perspectives allows for identifying inconsistencies and promotes logical analysis and synthesis of the entire body of evidence [5, p. 143].

Ukraine lacks a hierarchical structure of expert institutions comparable to that of the judiciary. There is no single authority responsible for monitoring, analyzing, or summarizing expert practice within a particular field of expertise, to which concerns regarding the accuracy or completeness of the use of specialized knowledge can be addressed.

A comprehensive analysis of judicial practice and statistics that takes into account the evaluation of expert opinions as a form of evidence is currently not being carried out.

Enhancing confidence in the assessment of forensic experts’ qualifications and developing practical tools for such assessment requires an appropriate level of oversight. However, Ukrainian legislation does not provide for mechanisms to control or verify the competence of expert conclusions.

Ukrainian legislation does not establish clear requirements for assessing the reliability of the research algorithm or the formation of expert conclusions. The court must verify the validity of each expert conclusion. It is the court that can evaluate the expert’s opinion in terms of professionalism, reliability, or logical coherence. Having logically and clearly followed the reasoning leading to specific conclusions, the court must indicate any apparent errors or miscal-

culations and, based on all materials of the criminal proceedings or the case, assess each piece of evidence.

However, “the court’s evaluation cannot enter the domain of specialized knowledge and cannot assess the expert opinion in terms of its conformity to the presented material” [3, p. 23]; that is, the court may not evaluate the level of specialized knowledge used by the expert.

There are no clearly defined criteria to assist the court in properly evaluating an expert opinion.

Therefore, the court requires scientific criteria for assessing the facts stated in one of the key types of evi-

dence — the expert opinion within the relevant specialization.

This creates the need for transparent approaches to providing methodological assistance and advisory guidance to both courts and experts.

Scholarly perspectives, both on the national and European levels, indicate the appropriateness of continuous improvement of the expert opinion assessment system, with strict adherence to the principles of forensic activity — legality, independence, objectivity, and comprehensiveness of research, as set out in Article 3 of the Law of Ukraine “On Forensic Examination” [6].

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