

SPECIFIC FEATURES OF THE PARTICIPATION OF NON-GOVERNMENTAL FORENSIC EXPERTS IN CRIMINAL PROCEEDINGS.

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The modern stage of societal development is characterized by the evolutionary progress of science and technology, which inevitably affects all spheres of society and state life, including the sphere of criminal justice.

Scientific and technical achievements, by their nature, are special knowledge, requiring the presence of special carriers with a special status in criminal proceedings. Criminal procedure legislation recognizes an expert as a person possessing special knowledge.

The results of forensic examinations are important for the guaranteed protection of the rights and freedoms of citizens, the prevention and detection of crimes in all countries. It is also impossible to imagine the opening and investigation of any criminal case without the application of special knowledge in various fields. Expert examination is an important source of evidence in a criminal case, allowing to establish the circumstances of the case with a high degree of reliability.

Despite the relevance and importance of the institution of applying special knowledge in modern criminal proceedings, some issues related to the participation of non-state experts in criminal proceedings remain insufficiently studied.

In practice, various approaches are observed in the bodies or individuals appointing forensic

examinations in assessing the conclusions of non-state forensic experts and other issues related to their activities. This situation is also related to the insufficient regulation of the legal status of a non-state forensic expert. This situation indicates the need to revise the approaches to determining the legal status of non-state experts.

Today, in the Republic of Uzbekistan, along with state forensic institutions, non-state forensic organizations have also been established.

Among the legal foundations for organizing the activities of non-state forensic organizations are the Resolution of the President of the Republic of Uzbekistan dated January 17, 2019 No. PP-4125 "On Measures for Further Improvement of Forensic Activities" and the Resolution of the Cabinet of Ministers dated March 24, 2020 No. 180 "On Approving the Regulations on the Organization of the Activities of Non-State Forensic Organizations" by which a new institute of forensic expert activity, which was previously not provided for by law, was created and put into practice.

Non-state forensic organizations are specialists specializing in conducting forensic examinations in civil, economic, criminal, and administrative cases and holding a forensic expert certificate on staff.

Non-state forensic organizations perform the same functions, have the same rights, fulfill the same obligations, and bear the same responsibility

as state forensic institutions when conducting forensic examinations.

In accordance with the legislation, non-state forensic organizations have the right to conduct research on 44 types of forensic examinations. Such as, there are 5 non-governmental forensic organizations and more than 30 non-governmental forensic experts in the republic.

Despite the fact that, along with state forensic institutions, non-state forensic organizations operate in the republic, their legal status, rights, obligations, and responsibilities are not clearly defined in the current Law “On Forensic Examination” and criminal procedure legislation. They are provided for only by subordinate normative acts. This situation leads to the fact that the requirements and needs of pre-investigation verification, inquiry and investigation bodies for the appointment of expert examinations, including in criminal cases, are not met.

According to the analysis of statistical data, during 2023-2024, existing non-governmental forensic organizations in the republic conducted a total of 3,319 forensic examination studies on civil, economic, and administrative cases, and expert opinions were given based on expert opinions and appeals from individuals and legal entities. However, due to the fact that the current legislation does not define the legal status of non-state forensic experts, examinations in criminal cases are practically not appointed.

For information, the Republican Center for Forensic Expertise named after Kh. Suleymanova under the Ministry of Justice issued a total of 77,991 expert opinions and expert opinions during 2023-2024, of which 59,884 were submitted in criminal cases.

Analysis of these statistical data shows that today there is a great need for forensic expert opinions in criminal cases.

Based on the existing problems in the above-mentioned area, it is necessary to clearly define the legal status and category of non-state forensic experts as experts within the framework of legislation by making appropriate additions and amendments to the Law “On Forensic Examination” and the Criminal Procedure Code,

including parts one and two of Article 174, as well as Articles 182 of the Code.

For example, when studying the experience of the CIS countries, according to the Republic of Belarus (Article 227 of the Criminal Procedure Code), the Republic of Kazakhstan (Article 273 of the Criminal Procedure Code), and the Kyrgyz Republic (Article 227 of the Criminal Procedure Code), it is established that pre-investigation checks, inquiries, and investigative bodies appoint forensic examinations in state forensic institutions or non-state forensic organizations that have a special license.

According to paragraphs 9 and 10 of the Regulation “On the Procedure for Organizing the Activities of Non-State Forensic Examination Organizations”, approved by the Resolution of the Cabinet of Ministers dated March 24, 2020,

No. 180, it is envisaged that forensic examination in a non-state forensic examination organization is carried out on a paid basis in accordance with the contract, and the cost of the forensic examination is determined independently.

However, due to the fact that investigative bodies are financed from budget funds, the procedure for making payments when appointing examinations to a non-state forensic organization does not exist within the framework of the legislation.

In my opinion, in order to fully meet the existing needs for forensic examination conclusions and further develop the industry, it is necessary to establish the practice of covering payments for research conducted by non-state forensic organizations in criminal cases from the funds allocated from the budget of authorized bodies appointing examinations, with the condition of subsequent recovery from convicts (offenders). Accordingly, relevant amendments and additions to the existing legislation in this area will be introduced, creating a foundation for strengthening the material and technical base of non-governmental forensic organizations and implementing advanced modern technical means in their activities.

In addition, according to Article 174 of the Criminal Procedure Code, forensic medical,

forensic psychiatric, forensic psychological, forensic autotechnical, forensic economic, and forensic examinations are conducted only by specialists of state forensic institutions, and in exceptional cases, by specialists of other enterprises, institutions, and organizations.

For information, the President of the Republic of Uzbekistan signed appendix

No. 1 to the Resolution of the President of the Republic of Uzbekistan dated January 17, 2017 No. PP-4125 "On Measures for Further Improvement of Forensic Activities" also allows forensic psychological, forensic automotive, forensic economic, and other types of forensic examinations to be conducted by non-state forensic organizations.

In my opinion, it is incorrect to limit certain types of forensic examination to conducting only by experts of state forensic institutions. This is due to the fact that a number of non-governmental forensic organizations have been established in our country, which have certified qualified non-governmental forensic experts for conducting forensic automotive, forensic economic, and other forensic examinations, as well as a sufficient material and technical base for conducting research.

At the same time, in recent years, state forensic institutions have introduced and implemented in practice many new types of examinations and research. Based on the proposals and needs of the judicial, pre-investigation, inquiry, and preliminary investigation bodies, lawyers, as well

as non-state forensic organizations operating in the republic, it is necessary to grant non-state forensic organizations the right to conduct other types of forensic examinations newly introduced into practice.

In particular, it is necessary to expand the "List of types of forensic examinations permitted to be conducted by non-state forensic organizations", approved by the Decree of the President of the Republic of Uzbekistan dated January 17, 2019 No. PP-4125. Including:

- "Expert evaluation of food products";
- "Forensic Tax Expertise";
- "Forensic Economic Expertise in the Field of Intellectual Property";
- "Determination of the technical condition of vehicles";
- "Forensic Fire-Technical Expert";
- "Expertise of the Technical Condition of Buildings and Structures."

In my opinion, it should be noted that the status of a non-state forensic expert as a subject of expert activity should be defined by law. This will allow strengthening not only the legal status of a non-state forensic expert, but also the boundaries of their activities, as well as their responsibility.

In addition, the development of the institution of non-state forensic experts in criminal cases will contribute to the further development of the adversarial principle of the parties to criminal cases and healthy competition in the process.

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