

APPLICATION OF SPECIAL KNOWLEDGE WHEN PROVING IN CRIMINAL PROCEEDINGS

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Annotation. *This article describes the author of «expertise» and «specialized knowledge» in the criminal process. The author writes that not all knowledge in the process of proof can be used as special as the only proven and scientifically sound.*

Key words: *special knowledge, expert, specialist, law, criminal procedure.*

The concept of 'special knowledge' is used in Articles 67 and 70 of the Criminal Procedure Code of the Republic of Uzbekistan when characterizing an expert and specialist. Despite its usage, the legislator has not clearly defined what is meant by 'special knowledge.'

The general definition of specialized knowledge, as knowledge in the field of science, technology, art, or craft, is borrowed from pre-revolutionary Russian criminal procedure. The Code of Criminal Laws of 1832, in Art. 943, secured a provision according to which 'if accurate recognition of the circumstances encountered in the case requires special knowledge or experience in any science, art, or craft, then it is necessary to request evidence of that and the opinion of knowledgeable people, taking into account the rules set out in the chapter on incident investigation and inspection.

Subsequently, a similar formulation appeared in Soviet criminal proceedings. In the Code of Criminal Procedure of the RSFSR of 1922, and then in the Code of Criminal Procedure of the RSFSR of 1923, the terms 'expert' and 'expertise' were established for the first time. The basis for ordering the examination was the need for 'special knowledge in science, art, or craft' (Article 63).

Scientific views and research on engaging knowledgeable persons in criminal proceedings, both in theory and in the very concept of 'special knowledge,' began to take shape at the end of the 19th and the beginning of the 20th centuries. In particular, the works of L.E. Vladimirova, V.D. Spasovich, and I.Ya. Foinitsky are noteworthy. However, despite the fact that the term 'special knowledge' itself had already begun to appear in the works of scientists of that time, researchers were mainly concerned with the legal nature of the institution of knowledgeable persons and the essence of examination as a source of evidence. But indirect attempts to determine the nature and content of the knowledge of knowledgeable persons (experts) were already being made at that time.

Moreover, already at that time, the question was raised about the limits of using special knowledge in criminal proceedings and the differentiation between special knowledge and common knowledge. For instance, I.Ya. Foinitsky,

addressing the issue of factual grounds for ordering an examination, noted that 'the examination is appropriate and necessary only if the relevant knowledge is technical and beyond the experience that the court lacks. If this information and experience are common and the court possesses them, then it is unnecessary.'

L.E. Vladimirov, analyzing views on examination and defining the legal nature of the expert opinion, expressed a viewpoint about the division of knowledgeable persons into two categories: 'scientific and non-scientific experts.' From this, we can conclude that he recognized the existence of different levels of specialized knowledge among knowledgeable persons, depending on the purpose of their involvement in criminal proceedings. As practice has shown, the monopolization of forensic examinations leads to a decrease in the pace of the development of forensic work, reducing the number of conclusions, and diminishing the depth and quality of the examination.

In the Soviet period, with the development of the theory of forensic examination, the category 'special knowledge' underwent more detailed analysis.

This concept never received legislative support, although indirect attempts to determine the content side of special knowledge in Russian criminal procedure were undertaken. In particular, the Code of Criminal Procedure of the RSFSR, when determining the grounds for appointing an examination, cited the need for 'special knowledge in science, technology, art, or craft,' thereby giving an indirect definition of the concept 'special knowledge' through defining the types of knowledge that can be special in the criminal procedural sense.

However, it should be noted that the Code of Criminal Procedure of the RSFSR sometimes used the term 'special knowledge' – 'special knowledge of an expert' (Article 82), 'special knowledge and skills of a specialist' (Article 133.1), while in other instances 'special knowledge' was referred to as 'special knowledge in science, technology, art, or craft' (Article 78).

In addition to the above, the following should also be noted. Since the term 'cognition' defines any process of understanding the essence of objects and phenomena, in our opinion, such activity is also realized in the course of applying in practice the knowledge already received by the subject of cognition. As a result of the process of using and processing this knowledge by the subject of knowledge in their practical activity (that is, the process of cognition, again), new knowledge is formed, already modified in accordance with the performed activities.

This knowledge is used by experts and specialists when they are involved in the criminal process. Therefore, it is, in our opinion, deeply mistaken to assert that the term 'knowledge' covers only theoretical information contained in external sources without reference to the specific subject of cognition.

Thus, on this issue, we should agree with those authors who consider it more preferable to use the term 'knowledge', at least in the context in which it is currently used. 'Special knowledge' is that which is used in a procedural form established by law during the proof in criminal cases, reliable information from

any field of knowledge, acquired as a result of special theoretical training or practical activities, and possessed by a person attracted by the court and parties to assist them in achieving the goals of the criminal legal proceedings.

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