

# **Actual problems of criminal law, criminal procedure and criminalistics**

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# **Actual problems of criminal law, criminal procedure and criminalistics**

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This collection contains materials of scientific conference "Actual problems of criminal law, criminal procedure and criminalistics". The works are aimed at addressing problems such as the modern criminal policy, combating transnational organized crime and corruption, the development of criminal procedure legislation, to ensure the effective investigation of crimes.

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control in pre-judicial production".

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### **The value of specialized knowledge in the consideration of environmental offenses in civil proceedings**

**Abstract.** In the article the forms of application of the special knowledge are analysed at consideration of ecological offences on civil cases. Such forms, as judicial examination, consultations, revisions, audit of and other, are shown, their distinction is investigational.

**Keywords:** special scientific knowledge, expertise, consulting, expert, specialist

Environmental problems in the Republic of Kazakhstan, as in most countries of the world, are currently being considered in conjunction with the economic and social problems. In order to establish the damage caused to the health and life of the population; costs to eliminate the impact of pollution and other necessary evidence it is advisable to involve experts of different specialties.

Contribution to the study of the problems of use of special knowledge at investigation of the crimes made known criminologists -A.N.Ahpanov, A.F.Aubakirov, GA Abdirova, S.F.Bychkova, E.G.Dzhakishiev, Zh.R.Dilbarhanova, S.E.Erkenov, A.S.Zhienbaev, A.Kalimova, G.A.Mushatova, B.M.Nurgaliev, K. N.Shakirov and other scientists. Detailed studies of the forms of use of special knowledge in criminal proceedings conducted AA Isaev, SP Varenikovoy [1, 2].

In our research we focus on the procedural forms of use of special knowledge in civil proceedings. Forensic examination in civil proceedings, as well as criminal, is Odno form of use of special knowledge to solve encountered in the civil proceedings, questions. the terms "special knowledge" used in the legislation and the scientific literature, "special scientific knowledge" and "special knowledge". The Code of Criminal Procedure Art. 7 claim 5 concept of expertise is given such an explanation - is not well-known in the criminal trial of the knowledge acquired in the course of face training or practices used to

address the criminal justice problems; special scientific knowledge in the Code of Criminal Procedure Art. 7 p. 6 interpreted as an area of expertise, the content of which consists of scientific knowledge realized in methods of forensic investigations. With this interpretation of these two concepts is difficult to accept. The civil procedural law do not have any explanation on the concept of "specialized knowledge", but it can be assumed that the legislator involves similar content. The term "special knowledge" in procedural and

criminological literature indicate the process of cognition, the process of cognitive activity of the expert, the specialist. The concepts of

"expertise" and "special knowledge" are inextricably linked and this relationship can be shown in the interpretation Sakhnova TV She writes: "... the expert operates specialized knowledge, learning

(Installing) new circumstances, the relationship between them and evaluating them. Conclusion expert - the result of the knowledge of how specific activities they carried out "[5, c.14].

Special knowledge within a particular criminal or civil case solves the problem of communication of physical evidence with the other circumstances of the case, ie, It solved the problem of proof, and the expert is based on the previously developed methods and techniques, but it is not excluded in the framework of a specific examination of previously unknown objects to develop a new

research method to solve the problem to the expert.

In civil proceedings used several forms of expertise. Existing legislation allows in addition to the forensic specialist to attract to participate in proceedings, consultation (explanation) specialist. There are such forms of application expertise as a translator involved in various legal proceedings, teacher participation in the interrogation of a minor. Legislator implies the use of such forms of expertise, audit, audit. So, in flocks of CPC RK states that the grounds for removal expert or specialist is its participation in the production of the audit, the materials of which have served to go to court or are used in consideration of the civil case. Although the jurisprudence of the audit (audit) are widely used, for example, in cases of bankruptcy, failure to return credits, in cases of non-payment, etc., but the use of these forms of expertise is not legally regulated. A similar situation is observed in the criminal procedure legislation.

Thus, part 2 of article 122 Code of Criminal Procedure provides for the right of law enforcement agencies to require the production of audit and other checks, and in flocks of CPC RK noted that the reason for the withdrawal of the expert or specialist is its participation in the production of the audit, the materials of which have served for the court or

appeal used in the consideration of the civil case.

Engaging experts to participate in the proceedings possible in the study of documents, investigation of physical evidence in conducting on-site inspection, playing sound recordings, video demonstrations, film materials and their study. All of the proceedings conducted by the judge or by the court and, where necessary, appropriate experts skill can be brought to support on the use of technical means in the course of the following, or a proper evaluation of the results obtained by the judge or the court's discretion. For example, a judge can to involve accountants or experts specializing in technical and forensic study documents that in the minutes of the court session appears as a specialist or when the vehicle study may be brought engineer STO employee, an expert in the study of accounting documents, specializing in autotechnical conducting the examination, but in this case, acting as a specialist, etc. Another form of use of special knowledge as consultation (explanation) includes a number of specialist assignments by either party of a civil case, and if that is necessary to fulfill the judge orders (the court). Consulting an expert can be given orally and in writing. After the announcement of the explanation the expert may be questioned.

### References:

1. Isaev AA Application of special knowledge for the qualification of crimes. - Almaty Mektep, 1997. - 234 p.
2. SP Varenikova Application expertise in criminal proceedings the Republic of Kazakhstan: Almaty posobie.- Study: NAS, 2004. P.48.
3. The Code of Civil Procedure of the Republic of Kazakhstan of 31.10.2016 № 377-V (a placenta. Rev. And ext.).
4. The Code of Criminal Procedure of the Republic of Kazakhstan 4.07. 2014. Number 206-I (a placenta. Rev. And ext.).
5. Sahnova TV Forensic examination. - M., 1999 - 262 c.

*Umbetalin N.*

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