

Actual problems of criminal law, criminal procedure and criminalistics

Materials of scientific conference

«East West» Association for Advanced Studies and Higher Education GmbH

**Vienna
2016**

Actual problems of criminal law, criminal procedure and criminalistics

Materials of scientific conference

ISSN _____

Editor-in-chief
Consulting editors

International editorial board

Proofreading
Cover design
Additional design
Editorial office

Email:
Homepage:

Samuel Cuenca, Spain
Kamila Orzechowska, Poland
Anton Mackevitch, Russia
Oana Olteanu, Romania
Nora Szekeresne, Hungary
Rima Dzhansarayeva, Kazakhstan
Květoslava Vitkova, Czech Republic
Matthias Kuster, Austria
Valery Gurchin, Ukraine
Herve Thomas, France
Tatiana Yashkova, Russia
Lidija Jovanović, Croatia
Kristin Theissen
Andreas Vogel
Stephan Friedman
European Science Review
“East West” Association for Advanced
Studies and Higher Education GmbH,
Am Gestade 1
1010 Vienna, Austria
info@ew-a.org
www.ew-a.org

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.

Instructions for authors

Full instructions for manuscript preparation and submission can be found through the “East West” Association GmbH homepage at: <http://www.ew-a.org>.

Material disclaimer

The opinions expressed in the conference proceedings do not necessarily reflect those of the «East West» Association for Advanced Studies and Higher Education GmbH, the editor, the editorial board, or the organization to which the authors are affiliated.

© «East West» Association for Advanced Studies and Higher Education GmbH

All rights reserved; no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Publisher.

Typeset in Berling by Ziegler Buchdruckerei, Linz, Austria.
control in pre-judicial production".

Tabyldiyev K.
4th-year Student
Faculty of Law

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 Odn 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.

Contents

Section 1. Actual problems of criminal law	3
<i>Abbasov A., Shopabayev B.A.</i>	
Psychological portrait of the terrorist.....	3

<i>Abdulkaum Z., Aratuly K.</i> Murder for hire: the theory and practice.....	7
<i>Abzhabpar A., Daubassova S.Sh.</i> Classification of ecological offenses.....	9
<i>Aizharykova A., Satybaldinov D.D.</i> Scientific validity criminal legal norm as condition of their efficiency (theoretical and practical questions of classification of forms of participation).....	12
<i>Ainakulova D., Malikova Sh.B.</i> Murder committed in aggravating circumstances.....	14
<i>Amangeldy A., Shopabayev B.A.</i> Criminal and legal characteristic of the separate types of corruption crimes.....	18
<i>Baymurat M., Umirbaeva Z.A.</i> Determination of the objective and subjective elements of bribetaking.....	19
<i>Bekbolatuly M., Dzhansarayeva R.Ye.</i> Model Law "On the treatment of animals" in the Republic of Kazakhstan – a step towards solving a number of social problems.....	24
<i>Bekbolatuly M., Dzhansarayeva R.Ye.</i> Research the experience of foreign countries in the fight against prostitution and the possibility of its implementation in the Republic of Kazakhstan.....	26
<i>Bissenova M.K.</i> Features and innovations of the new Criminal Code of the Republic of Kazakhstan.....	28
<i>Boribai M., Bissenova M.K.</i> Manifestation of crimes against property in the new Criminal code accepted on July 3, 2014.....	32
<i>Daubassov S., Razakov A.</i> The problem of illegal migration, and possible ways to solve it.....	34
<i>Dauletbai D., Dzhansarayeva R.Ye., Mukhamadiyeva G.N.</i> Measures to combat juvenile offense.....	36
<i>Yergali A.M., Nurbekova K.</i> The legal framework to combat corruption in the Republic of Kazakhstan.....	38
<i>Yergali A.M., Alimkulov G.</i> Criminological and Victimological characteristics of fraud.....	41
<i>Zhamankenova A., Duzbayeva S.B.</i> Foreign experience of fight against crime of minors.....	44
<i>Kaketayeva Zh., Malikova Sh.B.</i> Juvenile delinquency in the Republic of Kazakhstan.....	46
<i>Karataeva A.M., Daubassova S.Sh., Serikbayev A.M.</i> The subject of legal relations, and their features.....	48
<i>Karataeva A.M., Serikbayev A.M.</i> The concept of legal relations, content and their basic concepts.....	50
<i>Makhmutova A., Mukhamadiyeva G.N.</i> Actual problems of the application of compulsory educational measures to minors.....	52
<i>Muratova A., Taubayev B.R.</i> Positive experience of functioning of penal institutions of Norway and possibility of its use in the Republic of Kazakhstan.....	54
<i>Musagali A., Shopabayev B.A.</i> Psychological and personal features subjects of computer crime.....	57
<i>Nurgaziyeva M., Duzbayeva S.B.</i> Features of juvenile crime.....	59
<i>Ordabek K., Aratuly K.</i> Problems of corruption and possible solutions.....	61

<i>Omerbayev E.S., Bissenova M.K.</i>	
Criminal law characteristics of economic crimes.....	63
<i>Rakhmetova A., Mukhamadiyeva G.N.</i>	
Psychological portrait of the criminal.....	67
<i>Sartayev S.A., Daubassova S.Sh., Abdykadyrova Zh.</i>	
Theoretical and legal issues to ensure lawful behavior in the Republic of Kazakhstan.....	69
<i>Satybaldinov D.D.</i>	
Cruelty to animals in the foreign and domestic criminal law and criminalistics field.....	72
<i>Satybaldinov D.D.</i>	
Preventive aspects of animal cruelty in the world today.....	74
<i>Sukhanova A., Shopabayev B.A.</i>	
Problems of fight against crime against public safety in the light of legal education.....	77
<i>Taukenbai A., Tlepbergenov O.N.</i>	
The role of criminal politics in the national system of the Republic of Kazakhstan.....	79
<i>Tlepbergenov O.N.</i>	
Techniques for teaching law in the Republic of Kazakhstan.....	82
<i>Tomayeva N., Shopabayev A.B.</i>	
Experience of foreign countries in fight against corruption.....	85
<i>Tokhtakhunova D., Shopabayev A.B.</i>	
Internet as means of influence on consumption drugs and their analogs.....	90
<i>Shopabayev B.A.</i>	
Criminological characteristics of criminality of migrants.....	92
Section 2. Actual problems of criminal procedure	102
<i>Abilkhair B., Sharipova A.B.</i>	
The subject of the Truth in a Criminal Proceeding.....	102
<i>Askarbek M., Sharipova A.B.</i>	
The role of the court to protect the rights of man and citizen.....	106
<i>Bekentaeva A., Duzbayeva S.B.</i>	
Professional ethics of the lawyer.....	109
<i>Daubassov S., Abdrazak A.</i>	
Urgent problems of appeals procedure of juveniles.....	112
<i>Zhaksybekov B., Bersugurova L.Sh.</i>	
The role of the Prosecutor's supervision on stages of the criminal process.....	114
<i>Kadyrbayeva G., Zhanibekov A.K.</i>	
The role and legal status of the court in modern Kazakh criminal proceedings.....	117
<i>Kurmankulov A., Alimkulov E.T.</i>	
Some problems of mediation in criminal proceedings the Republic of Kazakhstan.....	121
<i>Kurmankulov A., Bayandina M.O.</i>	
The moral essence of service to society and the state of law enforcement officers.....	125
<i>Kurmankulov A., Bayandina M.O.</i>	
Some problems of acquittal in criminal proceedings.....	127
<i>Mustafa Zh., Duzbayeva S.B.</i>	
Supervision of the legality of executive production.....	128
<i>Myrzakhan Zh., Mukhamadiyeva G.N.</i>	
The legal basis of criminal procedure protection of individual rights.....	131
<i>Okhmetov E., Duzbayeva S.B.</i>	
Lawyer mystery.....	134
<i>Paizova A., Duzbayeva S.B.</i>	
Need of institute of mediation in criminal proceedings of Republic of Kazakhstan.....	135
<i>Senkibayev B., Mukhamadiyeva G.N.</i>	
Features of the preliminary investigation of the juvenile.....	138

<i>Suleimenova A.</i> The role of the investigating judge in the new Code of Criminal Procedure of the Republic of Kazakhstan.....	141
<i>Suleimenova A.</i> Issues of admissibility of evidence in light of the new criminal procedure legislation of the Republic of Kazakhstan.....	143
<i>Sukhanova A., Duzbayeva S.B.</i> Prosecutor's supervision over execution of the legislation on juveniles in the Republic of Kazakhstan.....	146
<i>Tanatar A., Mukhamadiyeva G.N.</i> The necessity of introducing in the criminal proceedings of the Institute of the investigating judge.....	149
<i>Tasova M., Mukhamadiyeva G.N.</i> Equality of the parties as a principle of criminal proceedings.....	152
<i>Tasova M., Mukhamadiyeva G.N.</i> Legal regulation of publicity in criminal proceedings.....	156
<i>Tasova M., Mukhamadiyeva G.N.</i> The legal nature of the principle of openness in criminal proceedings.....	159
<i>Tolegenova A., Zhanibekov A.K.</i> The concept and essence of prosecutorial supervision.....	162
<i>Toleuova A., Alimkulov E.T.</i> The investigative judge - as the factor of the system controls and counterbalances.....	163
<i>Tynysbek A., Duzbayeva S.B.</i> Legal basics of mediation development in Kazakhstan.....	168
<i>Sharipova A.B.</i> The activity of the court and adversarial of parties in criminal proceedings.....	170
<i>Aldabergen A., Duzbayeva S.B.</i> Mediation - the art of resolving conflicts.....	173
Section 3. Actual problems of criminalistics	175
<i>Adanbekova Z., Daubassova S.Sh.</i> Some aspects of the forensic classification of environmental crimes.....	175
<i>Aizharykova A., Satybaldinov D.D.</i> Method of investigation of a crime related to drugs.....	177
<i>Aitzhanova B., Daubassova S.Sh.</i> Problems of pre-investigation and interrogation in legal enquiry arrangement.....	180
<i>Amanov R., Shopabayev B.A.</i> Problems of the theory of judicial examination: methodological aspects.....	183
<i>Appazov E., Shopabayev B.A.</i> Features of survey of material evidences research of traces of breaking.....	184
<i>Daligul S., Shopabayev B.A.</i> Judicial ballistics and judicial and ballistic examination.....	185
<i>Daubassova S.Sh., Abdizhappar I.</i> Forensic recommendations of interrogation.....	188
<i>Daubassova S., Ibraimov M.A.</i> About categories of forensic tactics.....	192
<i>Yeleuov M., Daubassova S.Sh.</i> Judicial examination in the Republic of Kazakhstan.....	196
<i>Esen U., Shopabayev B.A.</i> Object and subject of judicial examination in the theory and practice of a judicial expertology.....	198
<i>Zhalkpbekov N., Daubassova S.Sh.</i>	

Detection and research of microobjects.....	200
<i>Zhumabayev A., Shopabayev B.A.</i>	
Forensic medical examination of living persons.....	202
<i>Ibraimi M., Shopabayev B.A.</i>	
Role of natural, exact and legal sciences in judicial handwriting examination.....	204
<i>Imashev A., Shopabayev B.A.</i>	
Features of judicial and accounting examination within a judicial expertology	208
<i>Marat A., Shopabayev B.A.</i>	
Some problems of judicial examination at the present stage.....	210
<i>Mashkenov M., Shopabayev B.A.</i>	
Stages of carrying out expert research.....	212
<i>Rakhmetova A., Aryn A.A.</i>	
Legal, organizational and methodological problems of criminal techniques.....	213
<i>Stybayeva A., Duzbayeva S.B.</i>	
Tactics of minors interrogation.....	215
<i>Sultan D., Shopabayev B.A.</i>	
Some questions of trasological examination.....	218
<i>Tabyldiyev K., Tapalova R.B.</i>	
The value of specialized knowledge in the consideration of environmental offenses in civil proceedings.....	220
<i>Umbetalin N., Shopabayev B.A.</i>	
Basic concepts of the theory criminalistic identifications, diagnostics and situalogiya.....	222
<i>Hamzina Z., Shopabayev B.A.</i>	
Production of examination in court.....	224
<i>Hasenova A., Shopabayev B.A.</i>	
Separate problems of use of the polygraph.....	225
<i>Shopabayev B.A.</i>	
Trends in the development of judicial expertise in the Republic of Kazakhstan.....	227