Визначено суб'єктів протидії, до яких віднесено такі категорії осіб: посадові особи установ, підприємств, організацій, що стали місцем вчинення злочину, корумпованих представників владних структур і правоохоронних органів, представників партій, профспілкових та інших громадських організацій, трудових колективів, окремих груп населення, родичів, друзів і близьких злочинця.

На основі думок науковців, визначено протидію розслідування кримінальних правопорушень як умисне або не умисне протиправне та інше поводження (дія або бездіяльність) злочинця та пов'язаних з ним осіб, спрямоване на перешкоджання розслідуванню і в кінцевому рахунку – встановленню істини у кримінальному провадженні. Відмічено, що ми не погоджуємося з визначеннями авторів з приводу умисності дій. Вказано, що протидію розслідуванню можна здійснювати й без умислу.

Ключові слова: *кримінальні правопорушення, громадський порядок, криміналістична характеристика, протидія розслідуванню, слідчі (розшукові) дії.*

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SCIENTIFIC APPROACHES TO EVALUATION OF SOCIAL EFFICIENCY OF FORENSIC EXAMINATION

Abstract. Scientific approaches to evaluating social efficiency of forensic examination through the prism of determining and analyzing its criteria and indicators (primarily, it should be choosing criteria for evaluating such efficiency, then – to determine its indicators). It is established that the social efficiency of forensic examination is multifaceted and complex, and the most appropriate form of its indicators are the social consequences of the functioning of the institute of forensic science. The content and nature of the criteria and indicators of social efficiency of forensic examination directly affect the sequence of their applying.

Keywords: *forensic examination, social efficiency, criteria, indicators, evaluation.*

Relevance of the study. The study of assessing the quality and social efficiency of

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forensic examinations involves the development of theoretical issues that are important for determining the level of development of the institute of forensic science, evaluating the activities of forensic institutions (hereinafter – FI) for expert research, as well as law enforcement use of expert opinion. In practice, to determine the social efficiency of forensic examinations, it is necessary to establish several criteria and indicators. Criteria are used to select goals, determine the optimal combination of tools needed for the best achievement of such goals, and indicators for evaluation of results. However, to date, the question of criteria and indicators for determining the social efficiency of forensic examinations remains open. The article purpose is to outline scientific approaches to evaluating the social efficiency of forensic science through the prism of defining and analyzing its criteria and indicators. The literature considers the issue of determining social efficiency in various fields of activity, however, the criteria and indicators for evaluating this category of efficiency of the institution of forensic science has not yet been developed. Scholars understand the efficiency of forensic examination as the achievement of its useful goals without the optimization procedure, i.e. the reduction of material and other costs necessary to achieve the goals [1]. Problems of quality and efficiency of forensic examinations are studied in detail in theoretical and special works [2, 3], however, to date the issue of defining the concept of quality and criteria of social efficiency of forensic examinations has not been finally resolved. That is why the scientific papers noted the need to develop scientifically sound criteria for evaluating the efficiency of forensic science and activities of FI [4] in general and social efficiency in particular.

Resent publications review. Given that in terms of the problem we study, we can talk about the cost and value, as well as the efficiency of forensic examination can be not only figurative (in terms of the value of expert opinions to achieve the goals of justice), but also directly – when it comes to recovering funds for court decision on the basis of an expert opinion. We should agree with I. Kononenko, who considers belonging to the category of "quality of forensic examination" the correctness of the expert conclusions on the merits, objectivity, scientific validity, logic, persuasiveness, clarity, etc. [5], as well as S. Lapta, according to whom the quality of forensic examination can be defined as its suitability for its intended use, i.e. to achieve the objectives of criminal proceedings [1]. The results of the analysis of literature sources show that the only criterion for the efficiency (in particular, social) of forensic examinations cannot be identified. B. Matiychenko notes that there are basic and additional criteria for the efficiency of forensic examination. The main criteria, in his opinion, include the validity of expert conclusions; their motivation; completeness of solving the tasks set by the expert; completeness of expert research; examination in due time. Additional criteria are: clarity of conclusions, identification of expert initiative, accuracy of conclusions, the accessibility of the content outlined in them for an uninformed person [2]. The above emphasizes the relevance and feasibility of developing a question for determining the criteria and indicators of social efficiency of forensic examinations.

The article's objective is to develop the Scientific approaches to evaluation of social efficiency of forensic examination.

In the course of the research, analyses of literature, scientific publications, previous scientific developments, data of judicial practice from open resources was carried out. The main general scientific methods of the theoretical level of research were also used, namely analysis and synthesis, induction and deduction, idealization and formalization, axiomatic method, system approach, etc.

Discussion. Philosophical and sociological thought by efficiency suggests to understand the "measure of the target opportunity" [6]. Based on this, the issue of assessing the social efficiency of forensic science should be addressed, starting with the goal as a key concept of efficiency. A separate feature of the social efficiency of forensic examination is the completeness of the realization of human rights and the impact of this realization on the state of social relations with which it is associated. In view of the above, it can be noted that the absolute evaluative goal of law is the full realization of human rights, which is the entity of social relations, and other varieties of this goal only derive from the main and are the basis for achieving it. In addition, the absolute goal determines the social meaning of any concept related to the social efficiency of forensic examination and its evaluation. This goal setting, as well as the ability to determine the completeness of the absolute goal is the basis for assessing the nature of the social efficiency of forensic examination. In practice (when it comes to the efficiency of specific expert conclusions and expert researches), often confuse concepts such as social efficiency and direct effect, despite the fact that the goal category is a methodological

prerequisite for their distinction. In the ordinary perception, social efficiency is considered to be to some extent achieved if there is a positive effect. Scientists note that the immediate positive effect does not always indicate the ultimate social efficiency, namely the efficiency comparable to the ultimate goal of any system (in particular, the system of forensic institutions) functioning. In addition, there may be a contradiction between these concepts. This is due to the fact that "the evaluation of the effect is most often based on those criteria established by the legal system itself, and therefore always somewhat limited from a social point of view, as they try to evaluate current activity of one institution (of this system) rather than its impact on the state of social relations in all its diversity" [7].

The problem from which the scientific approach to the analysis and evaluation of the social efficiency of forensic science begins is the problem of determining the criteria of efficiency. The criteria of social efficiency of forensic examination should be understood as such features of legal actions, based on which it is possible to conclude on the state and changes in social relations, which are aimed at the impact of these actions. Among the general sources of such evaluation criteria of social efficiency, we should also single out the forms allowing the social efficiency of forensic examination to manifest itself as a social phenomenon.

It is necessary to agree with scientists who suggest to consider the following forms:

– practical consequences of a separate expert opinion or several examinations, namely their usefulness given the possibility of full realization of human rights and freedoms in the process of modern justice in Ukraine;

– influence on the legal socialization of individual members of society and even entire social strata to which such legal actions are directed (for example, when it comes to the value motives of human behavior during legal communication or the social motives of the compulsory need for legal communication);

– the level of social wholeness of legal principles or legal actions from the standpoint of realization of human rights and freedoms;

– cost-effectiveness considered as the ability to ensure social efficiency with the minimum necessary resources (human, informational, material, financial, etc.);

– social expediency which is understood as the ability of a specific expert opinion or expert research in ensuring social harmony, helping to reduce social tensions, the discovery of new areas for further development of social relations [8].

After selecting the criteria according to which the approach to assessing the social efficiency of forensic examination should be implemented, a separate step of the evaluation approach is to determine the indicators of efficiency.

Indicators of social efficiency of forensic examination are understood as such relations between social phenomena and processes, which are a tool for assessing the state of specific social relations, formed under the influence of certain legal actions.

While substantiating and characterizing the indicators of social efficiency of forensic examination, it is necessary to take into account the following circumstances:

– the indicator of social efficiency of forensic examination should be perceived as a means of disclosing its condition in relation to a specific criterion, as it is the criterion that can give meaning to the indicator. Ignoring this requirement can lead to concepts confusion.

– there are no indicators that would immediately by simply substituting them into a specific formula make it possible to assess the social efficiency of a particular legal action. This is due to the fact that social efficiency is not only a complex concept, but also superimposed on the huge variety of circumstances that accompany each legal action and are essential during the assessment.

All this means that it is necessary to have such indicators that:

– firstly, make it possible to fill them with relevant content by considering specific circumstances;

– secondly, the set of which is able to give an answer about the social, and not some other efficiency of legal action [9].

The complexity of the concept of "social efficiency of forensic examination" involves the complexity of the system of its indicators. This, in turn, makes the procedure for using social efficiency indicators complicated, however, there is simply no other way.

With a practical approach to the indicators of social efficiency of forensic examination, the problem immediately arises to determine exactly the specific phenomenon to which these

indicators relate. Given the diverse and complex nature of identifying the social efficiency of forensic examination, the most appropriate form of indicators should be considered the social consequences of the functioning of the institution of forensic science.

Social consequences are understood as any changes of a social nature that occur under the influence of the existence of the institution of forensic science in society. The approach from the standpoint of social consequences for evaluating the social efficiency of forensic examination can be considered the most appropriate[10].

Scientists have proven that this is due to a number of factors, including:

• "social result" is an objective phenomenon, and therefore it can be the basis of real evaluation and real analysis of social efficiency;

• in the social result there is always the possibility of comparison with reality, with its trends and opportunities, i.e. this concept is not only analytical but also evaluative;

• social results, as a reflection of the state of social relations and their changes under the influence of the results of forensic activities, can have many specific forms of such reflection. This means that the totality of such results is able to reflect the complexity of the manifestations of social efficiency in certain specific circumstances [11].

Thus, the objective, multifaceted and universal nature of the concept of "social results" makes its use in evaluating the social efficiency of forensic examination meaningful and appropriate. At first glance, it seems that handling the concept of “social outcome” is a too general approach, however, this is not the case.

The criteria of social efficiency of forensic examination outlined above, as well as their detailed interpretation in relation to a specific situation allows for a corresponding detailed interpretation and the very concept of consequences and their content. We also emphasize that the consequences are revealed according to certain criteria, which in relation to consequences appear to be neutral, multifaceted and specific facts.

Finally, we will focus on the fact that if we consider the consequences in terms of the efficiency of forensic examination, we can see a clear interdependence between them and quantification, which follows from this interdependence.

Given the above, the real efficiency of legal actions in the process of expert activity is a set of significant social consequences that arose under the influence of these actions, and which are considered through the prism of the criteria of social efficiency of forensic examination.

It should be noted that the use of such performance indicators is not only based on the presence of these consequences but must take them into account. Legal opinion has developed a fairly comprehensive and flexible system of indicators for evaluating the legal efficiency of legislative requirements and legal actions. Such indicators should be considered to determine the differences between social efficiency of the direct and the indirect [8].

In a modified form, these indicators can be used in the analysis of scientific papers, in which the social efficiency of forensic science is studied: it is from this angle that the social consequences must be considered.

Immediate social efficiency is manifested through such social consequences that relate to direct entities or objects of legal action, as well as the fulfillment of consequences that these actions foresaw. Such changes can also be considered in terms of compliance with the law. Under such conditions, the social efficiency of the outlined changes should be viewed from a different angle, namely: what contribution did the forensic examination make in achieving a specific ultimate social goal (for example, compliance with the law in the process of privatization).

Similarly, almost all social consequences of legal action can be considered, as almost always the achievement of any social changes under the influence of compliance with the law and the use of the institution of forensic examination is a necessary component in achieving a strategic goal [10]. It should be noted that the social changes that have arisen under such influence and are part of the achievement of a more distant social goal can be presented as an indirect social efficiency of forensic examination. Determining indirect efficiency is extremely important in a period of radical social change and transformation. In some cases, it may even compete with direct social efficiency [9]. All these aspects should be borne in mind when analyzing the social efficiency of forensic examination in social conditions prevailing in modern Ukraine.

Direct and indirect social efficiency can be evaluated using both primary and secondary social outcomes. Primary or target social consequences are considered to be such social consequences, the evaluation of which can be carried out based on the immediate goals for

which a legal act is adopted and implemented, or a certain legal action is implemented. Primary social consequences are divided into foreseen and unforeseen, with the content appropriate for the title which in turn can be positive and negative [10]. Criteria of positivity or negativity are the approval and perception of social change by individuals or the whole community. In some cases, the approval or rejection of social change by the authorities should be considered, however, this is not entirely correct, as society and government are not identical.

As a result of the influence of law on specific social processes or phenomena, sometimes there are consequences that society or the state condemns. At the same time, society is forced to accept such consequences, as the conditions for achieving the leading social goals contribute to their emergence. Such consequences should be considered as secondary social consequences in the system of social efficiency of forensic examination.

Researchers note that unforeseen negative social consequences and secondary consequences are common losses of efficiency [12].

Given the above, it can be argued that the difference between the primary efficiency and its total losses will be the final direct efficiency. If negative consequences can be predicted, but society does not intend to agree with them and will try to overcome them, then such consequences (unlike secondary ones) are primary foreseen negative consequences [13].

Along with the system of direct and indirect consequences, one should also pay attention to another aspect of the social efficiency of the functioning of the institute of forensic examination. This is an additional influence on society and social relations, which begins to be carried out independently by a person who under the influence of the institution of law has acquired new social or socio-psychological features. This effect is called the effect of socialization. From this point of view, the most dangerous for the social efficiency of law are unfair court decisions. This is due not only to the fact that specific people suffer from them, and the institution of forensic science does not realize its social purpose, but also to the fact that the person in respect of whom such a decision is made, in the process of communicating with other people, spreads his negative experience which destroys not only the legal values and guidelines of others, but also contributes to the deformation of the entire system of social and legal relations [14].

To illustrate a specific approach to indicators of social efficiency of forensic examination, consider the following example. Under the pressure of circumstances and public opinion, the courts of Ukraine quite often accept lawsuits from citizens in connection with delays in the payment of wages on the basis of conducted forensic examinations. Thus, in the Kharkiv region for only half of the year more than 5 thousand decisions were made to repay such debts of which up to 20% were executed. On the basis of what indicators can we assess the social efficiency of these decisions? The primary expected positive effect is that part of the debt (approximately 20%) has been repaid. The primary predicted negative consequence is non-payment of wages, despite the availability of court decisions. An unforeseen primary negative consequence was an extremely high level of non-payment (over 4 out of 5,000) [13]. According to the judiciary, the secondary consequences here should be considered a significant overload of courts and the tendency to shift the responsibility for the payment of wages from organizations and institutions that have to deal with it (namely, trade unions) to the courts or law enforcement agencies [13].

Nor can we ignore the fact that ignoring court decisions creates a feeling of social insecurity in the employees of any institution, and in the heads of such institutions – a belief in impunity and permissiveness. Such a situation increases the social tension in the relationship between managers and subordinates in the organization. This consequence should also be considered a secondary social consequence. This situation has dealt a serious blow to the status of the entire legal system of Ukraine and forensic science in it.

However, in terms of increasing the social efficiency of forensic examination on this issue, it has a positive aspect. If the judiciary had not intervened in the regulation of social relations, this aspect would not have been so pronounced. It is thanks to such intervention that the need for radical changes in wage policy as well as the increase in the authority and social efficiency of the judiciary have become obvious [14]. This reinforces the need to involve the institution of forensic science in the justification of such decisions in court.

Unforeseen primary negative consequences (as an example, a high level of non-execution of court decisions) and secondary consequences (for example, the growth of social tension in the relationship between employees and managers of individual institutions) determine areas in which the social efficiency of the court should be improved:

– maximum use by courts of all opportunities for legal influence they have;

– support by the authorities, application by courts not only of administrative, but also of organizational or other sanctions aimed at execution of court decisions [15].

With regard to non-compliance with court decisions on the payment of salaries by the heads of institutions, it is necessary for them to make decisions on professional unfitness and ethical incapacity, which is proved by the appointment of the appropriate type of forensic examination.

The social influence of the institution of forensic examination (namely the achievement of social efficiency) is carried out, first, through the judicial system as an independent branch of government. It should be borne in mind that each performance indicator for certain aspects of social efficiency should be deciphered using the methods of specific social researches.

The conclusion on integrated efficiency can be reached on the basis of a comprehensive assessment of the general state of realization of human rights and freedoms in the case of applying the results of expert researches. According to this algorithm, sequence of actions to determine the social efficiency of forensic examinations can be represented as follows. Determine the direct social efficiency (DSE_i) of a particular aspect by the formula:

DSE_i = TFC+UPC-UNC+FIPC+UIPC-UINC, where:

TFC — target foreseen consequences;

UPC — unforeseen positive consequences;

UNC — unforeseen negative consequences;

FIPC — foreseen indirect positive consequences;

UIPC — unforeseen indirect positive consequences;

UINC — unforeseen indirect negative consequences.

Also define integrated social efficiency, which is a combined assessment of all aspects of efficiency.

Considering the outlined dependencies, the following should be taken into account:

– • the proposed system of dependencies is not a calculation formula, but an algorithm that determines the set of evaluative actions necessary to determine whether changes in specific social relations took place under the influence of the institution of forensic examination;

– • each of the links in the analysis of the social efficiency of forensic examination must belong to the system of ultimate efficiency, and therefore the absence of any of them makes it impossible to create a holistic view of the social efficiency of forensic examination;

– • depending on the specific circumstances, the links of the integrated concept of social efficiency of forensic examination may be more detailed, however, it is expedient to make such detailing within the proposed general structural units of efficiency.

– The final evaluation of the social efficiency of forensic examination should be made by taking into account the way in which each of the key problems of social efficiency is solved. At the same time, it should be noted that the positive indicators of one link of social efficiency do not overshadow the negative consequences of any other. This is due to the fact that the negative in any link distorts not part but the whole system of social efficiency and leads to qualitative changes in it. Scientists emphasize that "if due to the positive influence of another link in this system there are positive changes, it is a shift of a completely different quality. In other words, only it can neutralize the negative impact of a particular part of the system. Attempting to replace this influence with another action does not solve the case, but only confuses it and “drives” encountered difficulties into a corner, which makes them even more dangerous" [16].

The systemic nature of evaluating the social efficiency of forensic examination is based on the fact that each of the parts of the system helps to reveal the social efficiency of forensic science focusing on certain criteria, such as usefulness, economy, sufficiency, optimality, wholeness, etc. Since such criteria reflect different aspects of the real state of social efficiency of forensic examination (and none of them can be neglected), the analysis of the social efficiency of forensic examination will inevitably be systemic. It is this requirement that considers the proposed algorithm for determining the direct social efficiency of forensic examination.

In addition to the direct social efficiency of forensic examination, there is, as we have noted, the indirect efficiency. Its value is often underestimated or not considered at all, because a particular performer is always interested in the end result and immediate efficiency.

Indirect social efficiency of forensic examination, when certain consequences of the practical actions of forensic institutions are part of achieving a more distant goal, is a

component in the process of legislative support for the transition to a market economy. This situation is due to the fact that most legislative acts, addressing certain issues of development (for example, small business), were at the same time a necessary part of a more distant objective goal: the transformation of state property in general [11]. And this contribution to the strategic fundamental goal, from the standpoint of the social efficiency of the institution of forensic science, was no less significant than the solution of individual problems.

To determine indirect efficiency, use the same indicators as for the direct (primary consequences are foreseen: positive and negative; primary consequences are unforeseen: positive and negative; secondary social consequences). The only difference in such a definition is that a wider and more distant goal is taken as the evaluation goal [17].

Summarizing the above, the direct social efficiency of forensic science can be determined by two features:

– • firstly, social efficiency is compared and evaluated, focusing on the purpose and desired social consequences, which involved the use of only evaluative expert researches;

– • secondly, direct efficiency is the social efficiency of a conducted and completed expert research.

Indirect social efficiency of forensic examination can be characterized as a state of affairs that arises and can have significant social consequences provided that the implementation of forensic activities continues. Indirect consequences should be considered as a contribution to the achievement of those goals that are not directly related to the action under study, but without this contribution the achievement of socially significant subsequent goals is impossible. There is only one conclusion to be drawn from this: a study of the social efficiency of forensic examination will be truly full only if both direct and indirect social efficiencies are examined (in other words, efficiency problems can be combined into current and strategic ones).

Conclusions. The originality and complexity of the concept of social efficiency of forensic examination have left their mark not only on the system of criteria and indicators of this efficiency, on the originality of its content, but also on the nature of their application. The content and nature of the criteria and indicators of social efficiency of forensic examination should inevitably affect the sequence of their use, as well as the procedure and methods of analysis and formulation of conclusions. The direct social efficiency of forensic examination can be determined by two criteria. Firstly, social efficiency is compared and evaluated, focusing on the goal and desired social consequences, which involved the use of only evaluative expert research. Secondly, direct efficiency is the social efficiency of a completed and finished expert research.

Indirect social efficiency of forensic examination can be characterized as a state of affairs that arises and can result in significant social consequences provided that the implementation of forensic activities continues.

Thus, the study of the social efficiency of forensic examination will be truly full only when examining both direct and indirect social efficiency, i.e. the problems of efficiency can be combined into current and strategic.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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НАУКОВІ ПІДХОДИ ДО ОЦІНКИ СОЦІАЛЬНОЇ ЕФЕКТИВНОСТІ СУДОВОЇ ЕКСПЕРТИЗИ

Анотація. Наукові підходи до оцінки соціальної ефективності судово-медичної експертизи через призму визначення та аналізу її критеріїв та показників (в першу чергу має бути вибір критеріїв оцінки такої ефективності, а потім – визначення її показників). Встановлено, що соціальна ефективність судової експертизи є багатогранною та комплексною, а найбільш доцільною формою її показників є соціальні наслідки функціонування інституту судової експертизи. Зміст і характер критеріїв і показників соціальної ефективності судової експертизи безпосередньо впливають на послідовність їх застосування.

Ключові слова: *судова експертиза, соціальна ефективність, критерії, показники, оцінка.*