



Journal Website:  
<https://theamericanjournals.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

## CLASSIFICATION OF FORENSIC EXAMINATIONS ON THE FEATURES OF THE PROCEDURAL FORM OF THEIR PRODUCTION

**Ulzana Rakhimova**

Lecturer of the Department of Criminal procedure, Law of Tashkent state university of law, Uzbekistan

**Alisher Muhitdinov**

Associate Professor of the Department of Judicial Law and Prosecutor's Supervision, Tajik State University of Law, Business and Politics, Uzbekistan

### ABSTRACT

The article examines and analyzes procedural aspects and issues related to the following types of forensic examination: primary, repeated, additional, commission and complex forensic examination. The differences in the norms of procedural legislation encourages us to unify legal regulations on the institution of forensic examination, which by its very nature is not complete.

### KEYWORDS

Classification, forensic examination, primary examination, additional examination, re-examination, commission examination, complex examination.

### INTRODUCTION

Within the framework of a judicial process, a forensic examination is an independent procedural action aimed at obtaining information about facts (evidence), on the basis of which the court establishes the presence or absence of circumstances that are important for the correct consideration and

resolution of the case. Moreover, one of the types of evidence in criminal proceedings is an expert's opinion (Article 87 of the Criminal Procedure Code of the Republic of Uzbekistan).

Although the law determines that “no evidence has a predetermined force for the court” (Article 187 of the Criminal Procedure Code of the Republic of Uzbekistan), the expert's opinion may be decisive in the outcome of the case. Thus, the role of forensic expertise in the exercise of the right to judicial protection is very high. Because the fate of a person ultimately depends on the result of the examination.

In this article, we will consider the legislatively enshrined organizational and procedural classification of forensic examinations on various grounds.

First of all, it should be noted that the expert's opinion must be substantiated and exhaustive, i.e. the expert is obliged to give answers to all questions posed by the inquiry officer, the investigator or the court, and if it is impossible to give an answer to any question, reasonably indicate this in the conclusion. Based on whether the expert's opinion meets the listed requirements, depending on the sequence of the examination, they are divided into primary and secondary.

The primary examination is appointed for a specific court case and is carried out for the first time. Secondary examinations can be carried out in case of detection of any shortcomings (incompleteness, unfoundedness, ambiguity of conclusions) of the initial expert opinion, and are subdivided, in turn, into additional and repeated ones.

Thus, in forensic practice sometimes there is a need for additional and repeated expert examination.

Additional expertise is assigned in case of insufficient clarity and completeness of the

initial expert opinion, and is often entrusted to the same expert as the initial one. The basis for the appointment of an additional expert examination is the presence of “removable” deficiencies in the initial report, i.e. inaccuracies and gaps that do not require re-examination in full.

Based on the above, we have proposed to replace the first paragraph of Article 18 of the Law "On Forensic Expertise", in terms of additional expertise:

Additional forensic examination is appointed in case of insufficient clarity or completeness of the expert's conclusion, as well as when new questions arise regarding the previously investigated circumstances of the case.

The basis for additional and repeated examinations, the production of which is provided for by Art. 176, Code of Criminal Procedure of the Republic of Uzbekistan, serves as a decision of an investigator, an inquiry officer, or a court ruling on the appointment of an examination [1].

In turn, when doubts arise about the validity of the expert's conclusion or there are contradictions in the conclusions of the expert or experts on the same issues, a repeated examination may be ordered. Thus, the grounds for the appointment of a repeated examination are significant shortcomings of the initial conclusion, which raise doubts about the competence of the expert, in connection with which, the repeated examination is always entrusted to another expert or other experts, and when it is carried out, the study on the questions posed is completely repeated.

From this it follows that the appointment of repeated examinations occurs:

- In case of unfounded expert opinion;
- In case of doubt about the correctness of the expert's conclusion;
- In case of contradictory conclusions of different experts;
- When the rules for the examination were violated;
- Provision of materials recognized as unreliable to the expert during the initial examination.

According to Article 19 of the Law of the Republic of Uzbekistan "On forensic examination", forensic examination can be carried out by several forensic experts of the same (commission forensic examination) or different forensic specialties (complex forensic examination) [2].

We have proposed the following version of the article on the commission forensic examination, since we consider it necessary to legislatively fix the number of experts performed by the commission examination:

Commission forensic examination is carried out by two or more experts. Commission examination is carried out using special knowledge related to one genus (type, subspecies) of examination or to different kinds (types, subspecies) of examination.

The organization and production of the commission forensic examination shall be assigned to the head of the forensic expert institution.

The expert commission will agree on the goals, sequence and scope of the upcoming studies, based on the need to resolve the issues posed to it.

As part of a commission of experts entrusted with the production of a forensic examination, each expert independently and independently conducts research, evaluates the results obtained by him personally and other experts, and formulates conclusions on the questions posed within the limits of his special knowledge.

It is not allowed to conduct research in whole or in part by persons who are not included in the commission of forensic experts.

When conducting a commission forensic examination, each of the forensic experts conducts research in full, and they jointly analyze the results obtained. Having come to a common opinion, forensic experts draw up and sign a joint opinion or an act on the impossibility of giving an opinion.

In the event of a disagreement between forensic experts, each of them gives a separate opinion on all or some of the issues that caused the disagreement [3].

Depending on the specific knowledge used:

- Homogeneous (in one branch of knowledge);
- Comprehensive (special knowledge from different industries and experts simultaneously or partially simultaneously carry out a single examination), a single expert opinion is drawn up, in which the expert signs the part that he conducted personally.

For example, in the case of a road traffic accident, a comprehensive transport-traceological and road-transport forensic examination was appointed, for the resolution of which the issue of the mechanism of the

road traffic accident was submitted. In the course of the study, it became necessary to analyze fuels and lubricants, traces of which were removed from the roadway at the scene of the incident. The conclusions of this study, carried out by an expert specializing in the examination of petroleum products, served as the basis for judging the location of vehicles after the accident and, together with other factual data, were the starting point for the reasoning of the experts who performed the comprehensive examination. The conclusion about the mechanism of the road traffic accident was made and signed by the trasologist and the auto technician, and the third expert put his signature only under the conclusion concerning the composition of fuels and lubricants [4].

As the analysis of investigative and expert practice shows, for a large number of criminal cases, a comprehensive examination is often assigned unjustifiably in cases where it is more logical and more correct to appoint several separate examinations.

According to the law "On forensic examination", as well as article 178 of the Criminal Procedure Code of the Republic of Uzbekistan, a comprehensive forensic examination is appointed in cases where the establishment of circumstances relevant to the case is possible only by conducting several studies using different branches of knowledge.

When conducting a comprehensive forensic examination, each of the forensic experts conducts research within the limits of their competence. The conclusion of the complex forensic examination indicates what research and to what extent each of the forensic experts conducted, what facts he personally

established and what conclusions he came to. Each of the forensic experts signs the part of the report containing these studies and is responsible for them.

The general conclusion or conclusions are drawn by forensic experts who are competent in assessing the results obtained and formulating this conclusion or conclusions. If the basis for the final conclusion of the commission of forensic experts or part of it is the facts established by one of the forensic experts (individual forensic experts), then this should be indicated in the conclusion.

In the event of a disagreement between forensic experts, each of them gives a separate opinion on all or some of the issues that caused the disagreement. If the production of a comprehensive forensic examination is entrusted to a state forensic expert institution, then the organization of this examination is entrusted to its head [5].

The most controversial issues concerning the procedural and legal regulation of the procedure for the production of forensic examinations are questions about the nature of a comprehensive examination and the permission of the sole conduct of such examinations. These issues also require determining the means and ways of their solution.

Today, the question of the possible performance of a comprehensive examination by one expert alone remains controversial, if he has special knowledge in various kinds and classes of forensic examinations. So far, the legislator gives a negative answer to this question, since by complex forensic examination he understands an examination

carried out by a commission of experts of different specialties.

The question of whether it is possible to consider a complex forensic examination carried out by one expert was actively discussed in the literature back in the 70s and 80s. XX century G.P. Arinushkin, raising the issue of the need for procedural regulation of a comprehensive examination, pointed out as one of the signs that it is always performed by at least two experts, i.e. is a commission.

Opposing him, N.A. Selivanov pointed out that the division of the examination into types should be carried out on an epistemological basis, and not according to the number of persons participating in the research; research of two or more types of expertise in a comprehensive manner, even if it is carried out by one person with knowledge in several related fields. This point of view was and is shared by many other criminologists [6].

It must be said that at this time an expert with a higher education has the knowledge and skills to conduct several types of examinations in the field. Based on this, we believe that a comprehensive forensic examination should not always be a commission, but can be performed by one expert who has special knowledge in the necessary types of forensic examination, which should be reflected in procedural legislation.

Is due diligence an independent type of forensic examination? This issue arose due to the fact that a comprehensive examination is defined as a kind of commission examination. The same point of view is shared by some legal scholars, for example, Professor Yu. K. Orlov writes that "... a comprehensive examination is

always carried out on a commission and therefore, in essence, is a kind of commission ..." [7].

The unification of legal regulation of the institution of forensic examinations, which is unified by its nature, has not yet been completed. This is expressed, in particular, in the fact that the norms on additional, repeated, commission and complex forensic examinations are placed both in the Law "On forensic examination" and in procedural legislation - the Civil Procedure Code of the Republic of Uzbekistan, the Criminal Procedure Code of the Republic of Uzbekistan, The Code of Administrative Responsibility of the Republic of Uzbekistan. This, in turn, leads to collisions in the legal regulation of forensic activities. It should be noted that in the text of the Code of Administrative Responsibility of the Republic of Uzbekistan, there is no separate consolidation of these types of forensic examinations at all.

All the above questions and problems of a comprehensive examination indicate that in modern conditions, those procedural documents and regulatory legal acts that regulate the essence, content and functional purpose of a comprehensive examination need legislative improvement and uniformity.

## REFERENCES

1. Criminal Procedure Code of the Republic of Uzbekistan. <https://lex.uz/docs/111463>
2. Law of the Republic of Uzbekistan "On forensic examination". <https://lex.uz/docs/1633100>
3. Forensic examination in civil law processes. Scientific and practical manual,

- ed. E.R. Rossinskaya Publishing house "Prospect", 2018.
4. Arinushkin G.P. Comprehensive examination requires regulation // Socialist legality. 1977. N 10. Rossinskaya E.R. Forensic examination in civil, arbitration, administrative and criminal proceedings. - M.: Norma, 2013. – S. 190.
  5. Orlov Yu. K. Modern problems of proving and using special knowledge in criminal proceedings: scientific textbook. allowance. M., 2016.S. 208.
  6. Rakhimova U. RELEVANT ISSUES OF DNA EXAMINATION IN THE REPUBLIC OF UZBEKISTAN //BRIDGE TO SCIENCE: RESEARCH WORKS. – 2019. – C. 19.