

## Court Examination Conclusions Legal Nature of Assessment

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**Annotation:** In the article, based on the opinions of experts in the field of the existing practical activity on the assessment of the expert opinion, analyzes of its legal nature and the improvement of the activity of formalizing the expert opinion as evidence, the issues that should always be checked in the process of evaluating the expert opinion, by the court, prosecutor, investigator or investigator in the evaluation of the expert opinion scientific recommendations are given on the aspects that should be paid attention to and the stages of evaluation of the expert's opinion. Proposals for improvement of the processes of formalization of expertise results and expert opinion have been developed.

**Key words:** expert opinion, evaluation of evidence, structure of expert opinion, evaluation of expert opinion, objectivity of expert opinion, completeness of expert opinion, comprehensiveness of expert opinion, reliability of expert opinion.

The conclusion of the forensic examination has a certain legal (procedural-legal) nature. D.Bazarova and I.R.Astanov "Expert conclusion - as a result of the expert research, the expert's answer to the questions reflected in the decision on the appointment of an expert sent by the inquiry, investigator, court, using his special knowledge in the fields of science, technology, art, and profession They write that the procedural document is considered as the source of the reflected evidence" [1, B.29].

It can be seen that, on the one hand, the conclusion of a forensic examination is a method of forming judicial evidence, which is the result of the activity of a person with knowledge in a certain field of knowledge, and on the other hand, it is one of the methods of forensic examination by a forensic expert. As a result, the conclusions of the forensic expert act as a procedural act regulated by the norms of law.

Expert opinion is one of the most important evidences in the case. Because the conclusion of the forensic examination serves as evidence in the case that the investigator (court) is convinced of its relevance, acceptability and reliability, compliance with the expert assignment, completeness and scientific character. It is evaluated by the court, the prosecutor, the investigator and the person conducting the inquiry like any other evidence.

No evidence, including the opinion of an expert, shall be deemed binding for the court, prosecutor, investigator, or investigator. However, disagreement with it should be justified in the decision, in the indictment. Evaluation of evidence is a logical process of determining the relevance of the identified evidence to the crime under investigation, the existence and nature of interrelationships between them, and the ways of using the evidence to determine the truth.

In our opinion, it is precisely in this respect that the assessment of the expert's opinion is important. Because, according to experts in the field, the improvement of the activity of formalizing examination results and expert opinion as evidence in the case can be carried out in the following two ways:

- 1) assessment of expert opinions; 2) conducting expertise studies and supervising the activity of formalizing the results [2, S.104].

However, currently there are no methodical recommendations for evaluation of expert opinion [3, P.103]. Russian scientists E.R. Rossinskaya and E.I. Galyashina [4, S.141-150] proposed to evaluate the expert's opinion according to the following stages: "Checking the compliance of the expert's appointment with the requirements of the law; checking the validity and adequacy of researched physical evidence and samples; assessment of the scientific basis of expert methods and the legality of its application in this case; checking and evaluating the completeness and comprehensiveness of the conclusion; evaluation of the rationality of expert research processes and research results; verification of the relevance of expert research results to the pending case (criminal, civil case or administrative offense case); checking the consistency of expert opinions with the evidence available in the case".

The question of evaluating the expert opinion is clearly defined in Article 187 of the Criminal Procedure Code of the Republic of Uzbekistan, i.e.: "The expert opinion, together with other evidence collected by the official of the body conducting the pre-investigation investigation, the investigator, the investigator or the court on the criminal case or the investigation materials before the investigation it is evaluated from the point of view of its scientific basis and compliance with all the procedural rules established for carrying out expertise" [5]. Also A.Kh. Rakhmankulov and D.M. The Mirazovs also state that "The expert's opinion is evaluated by the investigator, together with other evidence collected in the case,

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from the point of view of its scientific validity and compliance with all the procedural rules established for the examination" [6, B.305].

Civil Procedure Code of the Republic of Uzbekistan

In Article 61, "An adult person who has special knowledge and skills in the field of science, technology, art or craft, and who is not interested in the end of the case, in order to assist in the collection, examination and evaluation of evidence by giving advice (explanations) and to help in the use of scientific and technical means" may be involved by the court as an expert to participate in the meeting or procedural actions" [7].

The court, the prosecutor, the investigator and the interrogator rely on the law in evaluating the evidence, thoroughly and objectively studying the details of the case, based on their inner conviction. Examination and assessment of expert opinion in court is carried out based on the general rules of examination and assessment of evidence. In this regard, D. Bazarova and I. Astanovlar "Like any evidence, the expert report is analyzed based on the general principle of evidence evaluation and evaluated based on the internal confidence of the investigator, prosecutor, and judge. Internal confidence is the totality of confidence of persons who can make a decision regarding the acceptability, sufficiency, and reliability of the evidence in the fairness of their actions" [1, B.73].

It should be noted that evaluation of an expert's opinion based on internal confidence does not mean evaluation without taking into account objective circumstances. Therefore, summarizing the opinions expressed above by legal scholars on the stages of evaluation of an expert's opinion, we came to the conclusion that the following should always be checked during the evaluation of an expert's opinion:

- ✓ compliance with the requirements of criminal procedure and civil procedure laws when the expertise is appointed and conducted;
- ✓ that the expert's opinion is substantiated from the point of view of modern science;
- ✓ that the materials examined during the examination meet the requirements, that the methods and techniques were correctly used during the examination;
- ✓ correspondence of the facts determined by the expert to the evidence collected in the case.

Let's look at these steps in detail. According to experts in the field, "After receiving the expert's opinion, the investigator should check whether the requirements of the procedural law were not violated in the process of issuing it. The expert's opinion should be issued on the basis of the evidence that is available in the case and does not create opportunities for denial, and these evidences should be legally correctly determined and taken away, recorded" [7, B.307]. D. Bazarova and I. Astanov said, "When assessing the correctness of the expert's conclusion, it is known that its compliance with the form and the requirements of the Criminal Procedure Code are checked. Such an inspection is related to determining the procedural status of the research objects, appointing an expert on the case, conducting it, observing the procedural order of formalizing the results" [1, B.75] they wrote.

It follows from the above that in the assessment of compliance with the procedural legislation in the appointment and conduct of the expertise, the facts determined in the expert's opinion can be used as evidence only if they were appointed and conducted in compliance with the Law "On Forensic Expertise".

Therefore, we believe that when evaluating an expert's opinion, a court, prosecutor, investigator or investigator should pay attention to the following:

first, it is necessary to check whether the conclusion was issued by an authorized person. The current procedural legislation allows the conduct of expertise by persons with special knowledge of the issues being resolved (Article 67 of the Code of Criminal Procedure and Article 54 of the Code of Civil Procedure).

secondly, it is necessary to make sure that there are no circumstances preventing the expert from participating in the process.

thirdly, on the side of the head of the expertise institution, it should be checked whether the expert has been warned of criminal responsibility for knowingly giving a false opinion, refusing to give an opinion. The expert's note about this is described in the introduction of the conclusion.

fourthly, it is determined that the expert has been given the opportunity to familiarize himself with the work materials necessary for the examination, and that the expert's application for providing additional material has been completed in full and in good quality.

In order to correctly assess the expert's conclusion, it is necessary to carefully consider the introductory, research and final parts that make up its content. "In this case, special attention is paid to the following cases: the completeness and reliability of the materials provided to the expert for examination; completeness, objectivity and reliability of expert examination; reasonableness and logicity of the conclusions arising from the investigation" [1, B.75].

The questions put to the expert to be solved, presented in the conclusion, are given serious importance, because their analysis can be used to judge whether the tasks set before the expert are correctly interpreted.

If the expert has changed the form of the question or divided the questions into groups, it should be checked whether the meaning of the questions put before the expert has changed or not. Today, the execution of most types of expertise requires the necessary knowledge of a particular expert's specialty, so the investigator (forensic) should determine whether the research was conducted by an employee of the expertise institution and whether this employee has the necessary expertise to solve the expertise issues.

By studying the introductory part of the summary, it is determined that the documents mentioned as samples were used in the decision on the appointment of expertise. In particular, it should be determined whether the expert did not use the samples of seal impressions provided to solve another issue, and whether he did not add signatures made by another person to the samples.

When evaluating the research part of the conclusion, first of all, it should be determined that the methods used by the expert are scientifically based. Because the decision (judgment) made by the investigation (court) on the case can be based only on the conclusion of an expert based on scientific methods.

When one or another scientific basis is presented to confirm the expert's conclusion, it is necessary to explain its advantage and make it possible for the persons who evaluated the conclusion to be convinced of it. But it is necessary for the expert to explain why he came to such a conclusion. Otherwise, the correctness of the conclusion may be doubted.

Assessing the scientific validity of an expert's opinion is closely related to the assessment of the methods used by the expert for research. "When evaluating the process of conducting this examination, the investigator must determine to what extent the actions of the expert were reflected in his conclusion and were carried out correctly from a scientific point of view, the correct methods and methods were used, and not approximate, but firm results were obtained. It is necessary to take into account that scientific and technical possibilities are fully used" [7, B.307]. Failure to follow the expert's methodology is the basis for rejecting the expert's conclusion and ordering a new expert's examination.

In the process of studying the research part of the conclusion, it is necessary to pay attention to the fact that all the objects to be researched have been examined, the results of the examination are correctly interpreted, and the identified characteristics, stability and significance of the signs have been determined. "The expert's opinion is evaluated according to its truthfulness and evidential importance. The accuracy of the expert's opinion is determined by comparing it with other evidence available in the case. When studying the content of the conclusion, it is necessary to pay attention to its accuracy, completeness and scientific basis" [7, B.307].

When evaluating the expert's final conclusions, first of all, it is checked whether the expert has answered all the questions, and then whether the conclusions correspond to the circumstances presented in the research part of the conclusion. Answers to the questions should be complete, clear and short. If the expert did not answer all the questions, an additional expertise can be appointed.

Some investigators focus only on the conclusion of the conclusion and ignore the introduction and research parts. It is wrong to do so, because in order to give an objective assessment of the conclusion, it is necessary to examine not only the facts revealed as a result of the investigation, but also the sufficiency of the comparative materials, the complete answers to the questions put before the expert, and the existence of a logical connection between the expert's opinions and the conclusion.

Contradictions in the expert's opinion reduce its importance and serve as a basis for rejecting the opinion or appointing a re-examination.

The opinion of the expert does not have priority over other evidence, and its comparison with the reliable evidence collected in the case serves as an important way to determine the correctness of the opinion. The fact that the expert's conclusion is consistent with other evidence collected in the case that does not raise doubts in the investigator is a factor of its greater reliability. If the expert's conclusion contradicts such evidence, it is necessary to determine the reason and take measures to eliminate the contradiction.

Expertise practice shows that investigators and courts do not always pay attention to a comprehensive critical evaluation of the expert's opinion together with other case materials.

In our opinion, evaluation of an expert's opinion should be a unique concept - an assessment of the actions of the expert during the evaluation of the expert's actions and the results obtained in this process, starting with the decision on the appointment of an expert until the sending of materials together with the expert's opinion to the initiator (the body or person who appointed the expert).

Actions in the conduct of expertise include the following:

receiving materials submitted for examination by a forensic examination institution (or expert) and registering them; if the examination materials are sent to the forensic examination institution, compliance with the procedure for receiving them; use of research methods and methodology aimed at answering the questions put before the expert; use of criminalistic and technical tools necessary for carrying out expert research; evaluation of research results and formation of conclusions (final answers); formalization of conducted studies - preparation of conclusions.

In our opinion, the evaluation of the expert opinion should consist of the following three stages:

- 1) evaluation of the expert's opinion in terms of compliance with procedural legislation, departmental-regulatory documents (Instructions, Regulations) regulating the conduct of forensic examinations of the judicial expert institution;
- 2) evaluation of the expert opinion in terms of objectivity, completeness, comprehensiveness and reliability;
- 3) evaluation of the expert's opinion from the point of view of formalization in a procedural order that allows checking the validity and reliability of the final conclusions drawn on the basis of generally accepted scientific and practical data.

The basis for assessing the objectivity of expert conclusions is that they were given by persons who are not interested in this work, based on special knowledge and believe in the results of the examination. Violation of this requirement includes assessment and conclusion of the expert on the basis of unproven, rejected and incomplete evidence, within the scope of actions that are not within the expert's competence.

When evaluating expert opinions, special attention should be paid to the following:

- the heads of the forensic examination institutions, in cooperation with the heads of the investigation service, should analyze the use of physical evidence obtained with the participation of an expert during the examination of the scene of the incident and submitted for the appointment of an expert;
- investigative services should regularly analyze the extent to which expert opinions were used in the detection and investigation of crimes;
- development of performance indicators for each of the employees of the forensic examination institutions (for example, the quantity and quality of the conducted examination studies, the activity of formalizing the results of the examination, the quality of answering the questions, etc.);
- review and discuss issues of improving the activity of forensic examination institutions, examination results and formalization of expert opinions, evaluate their activities, identify existing deficiencies and develop proposals for eliminating these deficiencies.

The following activities should be carried out during the control of conducting expert studies and formalizing the results:

- ✓ controlling the duration and quality of the examination;
- ✓ organization of counseling by specialists of other ministries and bodies working in forensic institutions;
- ✓ conducting roundtable discussions, scientific-practical conferences and meetings with the participation of leading experts, practical and theoretical employees of law enforcement bodies and other bodies, on the issues of improving the results of expertise and formalizing expert opinions, identifying existing problems and their elimination;
- ✓ organization of regular review of the conclusions of the employees of forensic institutions by the leading specialists of the field [8, S.446].

Above, the importance of organizational work is great in improving the results of the examination and the formalization of the expert opinion, including, in controlling the duration and quality of the examination, the head of the forensic examination institution monitors the deadlines of the expert opinions, the completeness and comprehensiveness of the research, the validity of the final conclusions and their relevance to the questions posed, the quality of the exhibition materials, examined in terms of validity and effectiveness of research methods.

On the basis of the above, the following is proposed to improve the processes of formalizing the results of the expertise and the expert opinion:

- it is necessary to regularly analyze and generalize the practice of expertise. Because, as a result of the analysis, existing shortcomings in this activity are identified, and appropriate proposals and recommendations are developed to eliminate them. The use of these proposals and recommendations in the future activities of forensic institutions will lead to the improvement of the activity of formalizing examination results and expert opinion;
- proper regular inspection of work activities of forensic examination institutions, existing control documents, documentation and record keeping. As a result of this activity, it is determined that the process of keeping accounting and registration logs, formalizing examination results and expert conclusions is being carried out correctly, it is achieved that deficiencies are not allowed;
- it is necessary to identify cases of underutilization of expertise research opportunities in the inspection of research objects and to take appropriate measures in this regard. Because this situation causes irresponsibility in the work of the employees of the forensic examination institutions, and in the end the whole system works inefficiently.

Thus, the question of evaluation of the expert's opinion currently requires fundamental research in this direction. Legal documents should clearly indicate the actions of the participants in the evaluation of the expert's opinion. If necessary, not only the expert who conducted the research, but also a specialist in the field should be invited to the court session, because special knowledge is also needed to evaluate the expert's opinion.

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