

UDC 336.153.11+347.97
DOI: 10.56215/04221203.53

Ways to increase competitiveness in the field of forensic examination of Azerbaijan and countries of the world

Nail Ibad Abbasov*

PhD in Law. ORCID: <https://orcid.org/0000-0002-2713-8697>.
Forensic Science Centre of the Ministry of Justice of the Azerbaijan,
AZ1000, 24 Khagany Str., Baku, Azerbaijan

Abstract

Application of special knowledge in the process of detection and investigation of crimes, ensuring the right to defense or in the process of representation of victims' rights has a special importance in building a legal and democratic society in Azerbaijan. Crime has acquired new, qualitative characteristics, has become professional, armed and organized. Therefore, forensic activities have become indispensable tools in the process of legal proceedings, in which criminal justice has a special place. The scientific study of the problems of increasing the competitiveness of forensic expertise of Azerbaijan and the countries of the world, is the topical task of the article. The purpose of the scientific study is to identify objective and subjective reasons for the lack of competitiveness of forensic expertise in the Azerbaijan, in comparison with other world leaders. To achieve the goal of scientific research a system of philosophical, general scientific and special scientific methods (comparison, description, analysis and synthesis, induction, deduction and analogy, abstraction, generalization, systematic approach and others) was used. The article examines the theoretical, regulatory and practical problems of ensuring the competitiveness of forensic activities in Azerbaijan. It was found out that the competitiveness of forensic activities was not properly ensured due to the imperfections of the current legislation in Azerbaijan. As a result of the study, it was proposed to introduce amendments to the current legislation, which would allow not only state, but also non-state (private) enterprises and independent experts to carry out forensic examinations

Keywords:

forensic expert; expertise; legislation; alternative expertise

Article's History:

Received: 06.07.2022
Revised: 26.08.2022
Accepted: 13.09.2022

Suggest Citation:

Abbasov, N.I. (2022). Ways to increase competitiveness in the field of forensic examination of Azerbaijan and countries of the world. *Law Journal of the National Academy of Internal Affairs*, 12(3), 53-61. <https://doi.org/10.56215/04221203.53>.

*Corresponding author

Introduction

In the modern world, under the conditions of rapid changes taking place on a global scale, solving the tasks related to protecting the competitiveness of any enterprise that provides products, goods and services is not a simple matter, so it requires great effort, strong energy, durable determination, including a rigorous scientific approach. Competition is essentially conflict, although the producer and the consumer have equal opportunities, it means their desire to win by using these opportunities more effectively and stimulation of the improvement of the production result by this process. In this context, competition is inherent to the nature of the market and one of the most active elements of economic development. Competition, firstly, reflects the struggle between producers, secondly, between producers and consumers, and thirdly between consumers for the understanding of their interests. As each of them tries to achieve favorable conditions in production, sale and purchase, this struggle always prompts them to improve and develop production. So, failure to tolerate the competitive struggle means the danger of bankruptcy.

Thus, although the word "competition" in the public mind is mostly associated with the struggle between economic or market entities, in fact, this phenomenon exists to some extent in all spheres of social life. However, it should be noted that the aspects of the competition phenomenon vary depending on the field of activity. For example, in terms of economic relations, competition is mainly considered in 4 aspects:

- as a set of rules for all participants;
- as the degree of competition in the market;
- as a self-regulating element of the market mechanism;
- as a criterion determining the type of industrial market [1].

Clearly, competition is a special liaison expressed between participants who have relations in a certain field of activity and stimulates the corresponding activity performed. Competition, in general, is a race for advantage, a struggle to go further, to be more efficient, to be better, and to achieve higher results. The famous English economist A. Smith [2] believed that a decrease in supply leads to immediate competition between customers and an increase in prices, while an increase in supply leads to the opposite process. In this context, the essence of competition is being characterized as a series of interconnected efforts of sellers to control the market in the long term, calling it the "hidden hand" that moves the market.

The most practical definition of competition was given by G. Stigler (1911-1991) [3], the American economist, 1982 Nobel laureate. According to him, competition is the struggle of rivals for relative superiority as a process of responding to new power and a way to reach a new equilibrium [3].

Competition is the need to use all important ways and methods for increasing the efficiency of the

enterprise, ensuring customer satisfaction, and increasing the number of customers. In this respect, competition should not be seen as a negative process, but rather as a factor that promotes development and efficiency. The negative is unsound, in other words, unfair competition, which is expressed in the form of injustice and illegal acts. Unfair competition in legislation aims to gain an advantage in the entrepreneurial activity of a market entity by being unjust and contrary to the current legislation, thus, it is defined as actions that may harm other market subjects (competitors) or damage their commercial reputation. Summarizing the above, it can be determined that reasonable competition is not only permissible, but also commendable, as it promotes development and unfair competition (for example, discrediting the competitor's economic activity, monopolistic activity, interference with the competitor's economic activity, etc.) is illegal and causes liability, as it uses unlawful acts, unfair approaches, and unsound methods to gain an advantage over the competitors.

Literature review

When considering forensic activities in the context of these provisions, a different point of view has been shaped. In most cases, national legislation only provides a basis for the existence of the state forensic examination system. However, in addition to the development of the scientific and legal foundations of forensic expertise, scientific research continues to improve the determination and execution of forensic expertise. The necessity of these studies is conditioned by the improvement of the state legal system and the development of the democratic basis of the criminal procedure. The acceptance of normative documents on the activity of forensic expertise, and the implementation of deep reforms in the areal legislation, give a certain impetus to the implementation of the important principle of legal proceedings, such as litigation. However, it should be admitted that in developed and advanced foreign countries, the experience of conducting expertise by not only state, but also non-state (private) enterprises and independent experts are widely applied, which is directly related to the topic of alternative expertise. Providing the guarantee for the existence and operation of alternative expertise is also a manifestation of creating competitive conditions in the field of forensic expertise.

Although the sufficient number of works is dedicated to alternative expertise and its necessity in modern legal theory, issues of the procedural form of such expertise (whether or not the defense attorney has the authority to appoint direct expertise, or if he does it through an intermediary, i.e. through a body that carries out criminal proceedings, submission of expert opinion to the body conducting criminal proceedings, etc.) are disregarded, one of the main reasons for this is that in the legal mind, expert proceedings on criminal cases are

still considered criminal prosecution or the prerogative of judicial authorities. In some cases, the absolute necessity of providing the initiative of the parties, especially the defense side, on expertise is revealed and it is noted that this should be done through the agency performing the criminal process. In general, in the literature, mediated expertise determination method is defended by the participants of the criminal process [4].

According to the Azerbaijani authors, models generally have the right to exist in independent investigations, where the lawyer should sue before an investigator or court to obtain an expert opinion, but it will always be more ineffective than the ability to independently form an opinion on contract with an expert. Because the outcome of such a request will always be at the discretion of the body performing the criminal process [5]. It is also shown that in terms of the principles of litigation, obtaining legal assistance and ensuring the right to defense, the means of proof of the parties in the criminal process should have equal epistemological bases, the possibility of the subjects of the criminal process to turn to persons with special knowledge for defending their position should not be limited for formal reasons, and expert opinion obtained as a result of alternative expertise should be evaluated as evidence on the general grounds established for such evidence [6].

The article by V. Mamedov, A. Mustafayeva and J. Suleymanov [7], rightly stated that alternative expertise was of great importance for ensuring human rights in the criminal process and realizing the principles of conflict, and shown that the declarative nature of applicable norms precluded the use of alternative expertise in practice.

Simultaneously, the issue of competitiveness in forensic expertise requires attention to the issue of "Experts' strife". An expert is a procedural figure with legal status, regardless of whether working in a state or non-state institution, and whether performing this activity on a permanent basis or by accident (for example, the involvement of a high school teacher who is a specialist in the relevant field as an expert). The law doesn't provide for any differences between experts, it only determines the need to determine their appropriate competence. "Experts' strife" actually begins with the preparation of a decision on the appointment of an expert by the court. The judge determines the expert assigned to carry out the research and makes sure of his competence. After the research is conducted, the parties have the opportunity to request additional or repeated expertise during the review process.

Such an opportunity may be presented to the parties before the court appoints an expert. Simultaneously, it should be recognized that it is a more convenient way for the parties to submit expert opinions, because the court may have the opportunity to entrust the determination of the expert research of the same object to another expert during the process of studying the evidence presented by the parties. By giving

the opportunity to present the expert opinion to the court, the party has the opportunity to hope for its evaluation. For example, a lawyer may attend a court review and convincingly prove that the expert's opinion is unfounded [8]. Thus, the "conflict" of experts' opinions helps to form reasonable internal confidence in the court. Perspectively, it is correctly stated in the literature that regardless of the court decision on the appointment of the expert and the court's considerations, providing the parties with the opportunity to present the opinions of experts (including specialists) has a positive effect on the realization of the principle of conflict between the parties in judicial proceedings [9].

Materials and Methods

The object of scientific research was the problem of formation and expression of competition in forensic activities as a special type of social activity in Azerbaijan. The main method of research of problems of alternative expertise on the example of Azerbaijan, Great Britain, the United States of America, Canada and the European Union, is a dialectical method of cognition.

The dialectical method of cognition made it possible to formulate recommendations to ensure the competitiveness of the forensic activities on the basis of the laws of forensic activities. The following philosophical categories were used as an instrument of cognition: quantity and quality, content and form, necessary and accidental, cause and effect, general, special and singular, cause and effect, essence and phenomenon. In considering the topic of the publication, a system of specially scientific methods of legal knowledge were used, namely: analysis, synthesis, formal-logical, system-structural and comparative-legal methods.

In the process of applying the formal-logical method of research of problems of formation of competition in forensic-expert work, the need for expertise not only by state, but also by non-state (private) enterprises and independent experts was revealed, which is directly related to the topic of alternative expertise. In the process of studying the problems of legislative support for alternative expertise, a systematic method was applied. The systematic method involves considering the subject of scientific research as a system, which has a certain structure containing interrelated elements. The comparative-legal method and method of analysis made it possible to consider the legislative and law enforcement experience of creating and using alternative expertise on the example of Great Britain, the United States, Canada, the European Union and Azerbaijan. The method of synthesis allowed to summarize, highlight the characteristics and systematically identify common and different trends of normative and legal regulation of alternative expertise in the United Kingdom, the United States, Canada, the European Union and Azerbaijan. In the process of reasoning and substantiation of the relationship between the concepts, the formal-logical method was applied in

the studying of the concepts of “independent expertise”, “parallel expertise”, “non-state expertise”, “extrajudicial expertise”, “expertise”. The formal-logical method was applied in the process of describing the economic factor as a specific aspect of the formation of competition in the field of forensic expertise. The system-structural method allowed to identify a number of normative-legal measures for the optimal implementation of alternative (private) expert studies in the criminal process.

Results

Experience shows that the appointment, execution and use of non-state expert opinions, the choice of an expert institution or a specific expert cause problems such as their level of preparation and qualification. The mechanism of determining the forensic examination at the request of people such as the victim, civil plaintiff, civil defendant, and their representatives, who have an independent legal interest in the resolution of the case isn't fully developed [10]. The rights of the mentioned people should be determined at a comprehensive level during the appointment and execution of expertise. Failure to resolve these issues leads to differences in the results of “state” and “non-state” expert opinions, causes complications in the evaluation of competing expert opinions, and also leads to violation of procedural rights of people with an independent legal interest in the case. The mentioned fact objectively requires a deeper and systematic study of the theoretical and practical aspects of the determination, implementation and use of non-state (private) expertise in criminal proceedings.

One of the debatable issues with alternative expertise is terminology. Therefore, sometimes instead of this term, the expressions “independent expertise”, “parallel expertise”, “non-state expertise”, “non-judicial expertise”, “expert's expertise” are used. As a rule, at the request to carry out parallel expertise, the party having doubt on the knowledge or impartiality of the expert of the state forensic examination performing the examination by order of the court or investigative body and whose petition was rejected in this regard performs. Non-state expertise is expertise performed outside of state expertise offices. F.Y. Khalilov [5] shows that not only the expert opinions appointed by the lawyer outside the state expertise offices, but also the expertise appointed outside the state expert offices of the bodies implementing the criminal process are considered non-state expertise.

In the legislation of some states, specific approaches are formed in solving the problem of ensuring procedural principles of litigation and equality of parties. Based on the study of the law enforcement experience of Great Britain, the United States of America, Canada, and the European Union, processualists suggested adopting a number of measures for the optimal implementation of the mentioned principle at different stages of the criminal process. For example, the following additions and changes to the Criminal Procedure Law are

recommended: providing the defense attorney the right to send materials to state and non-state institutions for conducting forensic examinations; detailed regulation of the procedure of collecting information important for the defense attorney's criminal case; repealing the provision regarding the necessity of obtaining the consent of the investigator for the defense counsel to participate in the investigation proceedings; adding a provision on the initiative to appoint a forensic expert to the defense [11]. Surely, the importance of these provisions should not be devaluated, but it should be admitted, however, that they are quite debatable.

Political changes in Ukraine in the last decade of independence also gave impetus to practical changes at all levels of government. The active activity of law enforcement agencies encourages the reorganization of the judicial system, and forensic examination occupies not the last place in this process. To increase the competitiveness of this industry in Ukraine, it is possible to apply the following steps: a thorough check of the presence of a direct connection between the level of knowledge of the involved experts and their certificates for conducting examinations; providing the suspect with the opportunity to challenge the appointed decision of the officially engaged expert by proposing the opinion of another expert; involvement of independent experts to review the indictments and court conclusions; reduce the time of conducting court cases in order to prevent distortion of testimony and expert assessments; prevent cases of corruption during the judicial assessment [12].

In Azerbaijan, the cases of organizing and conducting expertise in the relevant fields of criminal cases are carried out by the Department of Criminal Investigations of the Ministry of Internal Affairs of Azerbaijan, Forensic Expertise Center of the Ministry of Justice, Forensic Psychiatric Expertise Center of the Ministry of Health and Forensic Medical Expertise and Pathological Anatomy Association and its departments based on the order (decision) of criminal prosecution and judicial authorities. Except for the Criminal Investigation Department of the Ministry of Internal Affairs of Azerbaijan, no other institution is authorized to carry out the expertise included in the research subject of other expertise institutions on criminal cases. Each of them engages in expertise activities that can only be carried out by them on a nationwide scale. The competition between them is therefore impossible. In such case, it seems possible to form competition by organizing alternateness in separate fields of expertise.

The principles of the expertise that can be implemented by private forensic experts were determined by the Decree of the President of Azerbaijan “On Deepening the Reforms in the Judicial-Legal System” as of April 3rd, 2019¹. It provides the possibility of carrying out other expertise related to forensic calligraphy, author studies, art studies, forensic-technical of documents, forensic-veterinary, forensic-accounting, forensic-commodity, and economic activity by the state forensic

¹Decree of the President of the Azerbaijan “On Deepening the Reforms in the Judicial-Legal System”. (2019, April). Retrieved from <https://president.az/ru/articles/view/32587>.

expertise institution and by private forensic experts. This means that before the mentioned change, there was a literal monopoly in the field of forensic expertise in the country, in other words, there was no competition. Competitiveness in the field of forensic expertise is also related to the problem of training highly qualified expert personnel in the relevant field for conducting expertise. The character and nature of the judicial expert profession require the special attention to be paid to the subject of training and improving the qualifications of expert personnel. This is conditioned by the characteristic features of the forensic expert profession.

In Azerbaijan, the training of forensic experts in almost all areas of forensic expertise is carried out directly in forensic expertise departments (expert training method at workplaces). Although such factors as the lack of a standardized educational process, difficulties in objectively evaluating the level of knowledge obtained during the preparatory process act as shortcomings of this method, in several countries, including the United States, it is used as the main and traditional means for training experts. Clearly, it is impossible to prepare experts in all fields within the framework of higher expert education. The essence of additional special training of experts as a method of professional education is that a person with a basic profile education in the most diverse fields such as science, technology, art or art masters the methodology of different types of forensic expertise, the general theory of forensic expertise, and procedural law norms. After that, this person is certified as an expert with the right to conduct a certain type of forensic examination.

One of the processes observed in the modern world is the inability of the current education system to provide extensive and comprehensive forensic expert training. As if the "aging of education" and the lack of experienced experts are felt in every field. Of course, this is the result of many factors, including the rapid increase in the volume of information in all fields of activity. However, the important role of higher education institutions in the field of highly qualified personnel training is undeniable. The availability of modern, highly technical laboratories, rich library funds, and opportunities to discover and support promising students in higher schools can help attract young and educated scientists to this field.

However, it is possible to observe some shortcomings in this field in most of the CIS countries:

- non-fulfillment of the actual requirements and needs of law enforcement agencies for special knowledge on modern science and technology and specialists who are carriers of this knowledge, both quantitatively and qualitatively;
- inability to use the latest achievements of science and technology;
- the system being oriented not on the prevention of crime, but on the elimination of the consequences of committed criminal acts;

- the system being conservative, non-autonomous and inactive, etc. [13].

The experience of developed countries shows that forensic institutions are aware of the realities of crime actively using the achievements of scientific and technical progress and operate in close relations with scientific and educational institutions in relevant fields [14-16]. For example, in Switzerland, there is an institute of police sciences and criminalistics organized under the Faculty of Chemistry of the University of Lausanne. At the criminal police institute in China, students attend classes such as forensic chemistry, forensic art studies, and forensic photography, and the training of forensic doctors is carried out at the Faculty of Forensic Medicine of the Criminal Police Institute [17-18].

In the process of mandatory training with applicants for the position of a forensic expert at the Academy of Justice of the Ministry of Justice of Azerbaijan, lectures and seminars are held on topics such as the Constitution of Azerbaijan and the basics of the law, normative acts ensuring the development of judicial bodies, human rights and the European Court. The curriculum also includes lectures and exercises on criminal law, criminal procedural law, civil law, labor law, family law, administrative proceedings and administrative-procedural law, basics of ecological law [19-21]. In addition, it is necessary to develop programs for training experts in traditional and new expertise. A forensic expert should have the deep legal knowledge, besides knowing the basic science and forensic theory and master modern expert technologies, as well as the approved expert research methodologies [22-24].

Special attention should be paid to the content and structure of the programs for the training of forensic experts, the modern realities, requirements of forensic investigation and expert experience should be taken into account when determining the issues to be taught in these programs. Undoubtedly, the training of expert criminologists requires essential spendings, expensive equipment, specially designed auditoriums, laboratories, and playgrounds, and this factor should not be overlooked.

Discussion

The number of scientific works dedicated to the alternative expertise and the special importance of the latter in modern legal theory is quite sufficient. The works in the field of criminal justice are of particular interest for the purposes of this article. M.Kh. Bitokova [4] argues about the need to ensure the initiative of the parties, especially the defense, to conduct an expertise. The scientist notes that the appointment of expertise should take place through the body that carries out the criminal process. This way of consistent appointment of the expertise by the participants of criminal proceedings is defended by the scientist. It is difficult to agree with this position because of the following.

The right to appoint a forensic examination with respect to the principle of confidentiality is a necessary condition for ensuring the right to defense, the principle of adversarial criminal procedure. Appointment of a forensic examination through the body conducting the criminal proceedings, submission of the expert opinion to the body conducting the criminal proceedings does not allow to fully carry out independent and effective defense of the accused person and violates the adversarial principle in the process of collecting evidence in criminal proceedings. Thus, the body of pre-trial investigation has significantly more tools to collect evidence (investigative and procedural actions) than the defense. In addition, the body of pre-trial investigation in the implementation of investigative actions may use the legal regime of secrecy of pre-trial investigation. This puts the defense and the prosecution in substantially unequal conditions.

F.Y. Khalilov [5] writes that this position has the right to exist only in independent investigations. In such investigations, the lawyer may apply to the investigator or the court to obtain an expert opinion.

The scholar argues that this will always be ineffective than a lawyer acting independently and obtaining an expert opinion under an independent contract with an expert. It is due to the the outcome of the attorney's application will always depend on the body conducting the criminal proceedings, which certainly puts the prosecution and the defense in unequal conditions.

The author agrees with F.Y. Khalilov, who argues that from the point of view of the principles of legal proceedings, obtaining legal aid and ensuring the right to a defense, the means of proof of parties in criminal proceedings should have equal procedural opportunities of subjects of criminal proceedings, especially in matters of application of special knowledge for their own defense [6].

Expert conclusion obtained as a result of an alternative expertise should be evaluated as evidence on general grounds established for such evidence [6]. Undoubtedly, this approach to ensuring the rights of the defense, victims in criminal proceedings is intended to promote the principles of adversarial and equality in criminal proceedings. This is a necessary basis for a fair trial and establishment of the rule of law in Azerbaijan.

V. Mamedov, A. Mustafayeva & J. Suleymanov [7] pay due attention to the role of alternative expertise in criminal proceedings. The importance of ensuring the principle of adversarial proceedings, as well as the legality of the evidence in criminal proceedings directly depends on the possibility of the defender to apply for an alternative forensic examination. The procedure for the appointment and conduct of forensic examinations gives many reasons to reproach investigators and courts in violation of these principles. In these circumstances, there is an inequality of arms, the consequence of which is a violation of the right to a fair trial, because there is an inequality of prosecution and defense in the

process of appointment of forensic examinations. The investigator and the court often familiarize the accused (suspect) and their defender, as well as the victim and their representative with the order on appointment of a forensic examination not before its start, as follows from the logic of the law, but much later after the beginning of the study (usually after receiving an expert report). This widespread violation, unfortunately, does not always meet the adequate reaction of the court.

By failing to familiarize other participants in criminal proceedings with the ruling on the appointment of a forensic examination before it begins, and by failing to respond to it, the court deprives them of the opportunity to timely challenge the experts or suggest other expert candidates, as well as to put their own questions for the examination. In essence, in this case, the decision to conduct an expert examination appointed without the participation of the accused (suspect), defense counsel, the victim and his representative predetermines the conclusions of the experts, which is inadmissible, based on the presumption of innocence and the principles of equality and adversarial proceedings.

By providing the opportunity to present an expert opinion to the court, a party has the opportunity to hope for its evaluation. One can't agree with the statement of E.A. Zaitsev about the possibility of presence of a lawyer in the process of expert examination and prove the unreasonableness of the conclusion [8]. The lawyer performs the function of a defender of the accused or representative of the victim has purely legal knowledge in the field of criminal procedure. At the same time, the lawyer does not have special knowledge, methods of implementation of forensic activities. This is what will prevent the lawyer from giving a qualified assessment of the expert opinion. That is why the possibility of independent, alternative expertise is of particular importance.

Nevertheless, an important aspect in providing alternative (private) expert examinations requires the provision of qualified expert personnel, control over the activities of private experts and development of a mechanism for the appointment of forensic expertise on petitions of the defense, victims and other participants in the criminal process.

The need to provide the right to appoint and conduct alternative forensic examinations not only to preliminary investigation agencies, the court, but also to other participants in criminal proceedings is long overdue. Based on the principles of equality and adversarial proceedings, the right to appoint expert examinations should be given not only to the defense (the suspect (defendant) and defense counsel), but also to the victim and their representative, related to the prosecution.

Conclusions

Summarizing the above, it can be stated that serious reforms shall be implemented in the field of training of forensic experts. A new system based on a modern

and complex approach should be created in principle, without destroying the existing traditional teaching-training system in this field. Therefore, by organizing a unified curriculum at the international level, it is possible to create an educational institution similar to the Center for forensic examination institutions that provide training, retraining, advanced training and coordination of highly qualified specialists. In this center, specialists involved as experts and working in various fields of activity can get the opportunity to receive the necessary level of training. Along with the need organizational, technical and financial resources, the creation of departments of the general theory of forensic examination (forensic examination), information technology in forensic examination, forensic chemical and physical research methods, traditional forensic examination, forensic biological examination, forensic economic examination, forensic engineering expertise, forensic engineering expertise and transport expertise should be provided.

Thus, summing up the results obtained in the course of the study, the author proposes the following:

- provide equal conditions for participants in legislation for the functional operating of private and alternative expertise institutions;
- determine the criteria for measuring whether the competitive environment in the field of expertise

is sound or not. For this purpose, it is considered appropriate to make the results of the activities of expertise institutions public, regardless of their organizational and legal status (comparison of received work and performed work, analysis of negative indicators, etc.);

- make implicit information that is part of the activity for subjects operating in that field available, taking into account the specificity of the field (preparation of special methods, instructions, etc.);

- summarize the requirements and expectations of the customers in accordance with the law, carry out regular surveys, and focus the activity on this direction (analyzing complaints and inquiries, publicizing opinions and suggestions received from the court and law enforcement agencies);

- organize work towards increasing the training process and professionalism of expert personnel, establishing an educational institution that coordinates activities in this field;

- accept the State Programs to support the provision of quality technical equipment and their application to all subjects of relevant activity;

- provide customers with the opportunity to evaluate the services ensured by subjects operating in the field of expertise according to the same criteria.

References

- [1] Competition Economics Kaizen. (2011). Retrieved from <https://kayzen.az/blog/ekonomiks/8127/r%C9%99qab%C9%99t.html>.
- [2] Smith, A.A. (1997). *Study on the nature and causes of the wealth of nations*. Oxford: Oxford University Press.
- [3] Stigler, J. (2000). *Perfect competition: A historical perspective. Milestones of economic thought: The theory of the firm*. St. Petersburg: Economichna shkola.
- [4] Bitokova, M.Kh. (2008). *The right to collect evidence by the defense counsel and its implementation in criminal proceedings*. Moscow: Lomonosov Moscow State University.
- [5] Khalilov, F.Y. (2005). The problem of alternative expertise in the criminal process. In *XXI century: Considerations, thoughts* (pp. 295-296). Baku: Baku State University.
- [6] Khalilov, F.Y. (2005). The problem of alternative expertise in the criminal process. In *XXI century: Considerations, thoughts* (pp. 182-183). Baku: Baku State University.
- [7] Mamedov, V.K., Mustafayeva, A.I., & Suleymanov, D.I. (2013). Alternative expertise: Illusions and reality. *Legal Sciences and Education*, 39, 86-100.
- [8] Zaitsev, E.A. (2010). *The concept of development of the institute of forensic examination in the conditions of adversarial criminal proceedings*. Moscow: Yurlitinform.
- [9] Dyakonov, O.G. (2012). To the question of the competitiveness of expert opinions. *Judicial Examination*, 2(30), 26-27.
- [10] Dzansolov, Z.S. (2009). *The content and forms of implementation of the principles of competitiveness and discretion in the forensic examination as a source of evidence*. Stavropol: North Caucasian Federal University.
- [11] Smirnov, V.P. (2001). Problems of competitiveness in the science of russian criminal procedure law. *State and Law*, 8, 51-59.
- [12] Avdyeyeva, H.K., & Konovalova, V.O. (2021). Problems of assessing the reliability of the expert's conclusion in criminal proceedings in Ukraine and in other countries. In *Current issues of forensic expertise and criminalistics: Collection of materials of the international scientific-practical polylogue conference* (pp. 5-6). Kharkiv: Pravo.
- [13] Lall, A.E. (2007). *Problems of the development of forensic institutions in the Republic of Estonia (genesis, state and prospects)*. Saint Petersburg: St Petersburg University.
- [14] Thompson, W.C. (2009). Beyond bad apples: Analyzing the role of forensic science in wrongful convictions. *Southwestern University Law Review*, 37, 971-994.

- [15] Houck, M.M. (2019). Open, transparent science helps promote justice. *Forensic Science International: Synergy*, 1, A275-A276. <https://doi.org/10.1016/j.fsisyn.2018.12.00>.
- [16] The forensic science regulator, annual report 17th November 2017 – 16th November 2018. (2019). Retrieved from <https://www.gov.uk/government/publications/forensic-science-regulator-annual-report-2018>.
- [17] Morgan, R.M. (2019). From crisis to the future of forensic science. The importance of identity. *Forensic Science International: Synergy*, 1, 239-242.
- [18] Bitzer, S., Margot, P., & Delémont, O. (2019). Is forensic science worth it? *Policing: A Journal of Policy and Practice*, 13(1), 12-22. <https://doi.org/10.1093/police/pax058>.
- [19] Millington, J. (2019). Forensic Science Strategy GSOH, seeks joined up thinking for TLR. *Expert Witness Journal*, 1(26), 36-38.
- [20] Casey, E., & Souvignet, T.R. (2020). Digital transformation risk management in forensic science laboratories. *Forensic Science International*, 316(2), article number 110486. <https://doi.org/10.1016/j.forsciint.2020.110486>.
- [21] Baechler, S. (2020). Breaking the barriers between intelligence, investigation and evaluation: a continuous approach to define the contribution and scope of forensic science. *Forensic Science International*, 309, article number 110213. <https://doi.org/10.1016/j.forsciint.2020.110213>.
- [22] Pietro, D.S., & Kammrath, B.W. (2019). Is forensic science in danger of extinction? *Science & Justice*, 59(2), 199-202. <https://doi.org/10.1016/j.scijus.2018.11.003>
- [23] Tarran, B. (2019). Forensic science in “crisis”, needs funding for research. *Significance*, 16(3), 4-5. <https://doi.org/10.1111/j.1740-9713.2019.01268.x>
- [24] Illes, M., & Wilson, P. (2020). Forensic epistemology: A need for research and pedagogy. *Forensic Science International: Synergy*, 2, 51-59. <https://doi.org/10.1016/j.fsisyn.2019.11.004>.

Список використаних джерел

- [1] Competition Economics Kaizen. (2011). Retrieved from <https://kayzen.az/blog/ekonomiks/8127/r%C9%99qab%C9%99t.html>.
- [2] Smith A. A. An inquiry into the nature and causes of the wealth of nations. Oxford: Oxford University Press, 1976.
- [3] Стиглер Д. Совершенная конкуренция: исторический ракурс. Вехи экономической мысли. Теория фирмы / под ред. В. М. Гальперина. СПб : Экономическая школа, 2000. Разд. 3. С. 299–308.
- [4] Битокова М. Х. Право собирания доказательств защитником и его осуществление в уголовном судопроизводстве : автореф. дис. ... канд. юрид. наук : 12.0.09 / Московский государственный университет им. М. В. Ломоносова. М, 2008. 22 с.
- [5] Khalilov F. Y. The problem of alternative expertise in the criminal process. In *XXI century: Considerations, thoughts*. Baku : Baku State University, 2005. P. 295–296.
- [6] Khalilov F. Y. The problem of alternative expertise in the criminal process. In *XXI century: Considerations, thoughts*. Baku : Baku State University, 2005. P. 182–183.
- [7] Мамедов В. К., Мустафаева А. И., Сулейманов Д. И. Альтернативная экспертиза: иллюзии и реальность. *Юридические науки и образование*. 2013. № 39. С. 86–100.
- [8] Зайцева Е. А. Концепция развития института судебной экспертизы в условиях состязательного уголовного судопроизводства : монография. М. : Юрлитинформ, 2010. 255 с.
- [9] Dyakonov O. G. To the question of the competitiveness of expert opinions. *Judicial Examination*. 2012. No. 2 (30). P. 26–27.
- [10] Dzansolov Z. S. The content and forms of implementation of the principles of competitiveness and discretion in the forensic examination as a source of evidence. Stavropol : North Caucasian Federal University, 2009.
- [11] Смирнов В. П. Проблемы конкурентоспособности в науке российского уголовно-процессуального права. *Государство и право*. 2001. № 8. С. 51–59.
- [12] Авдеева Г. К., Коновалова В. О. Проблеми оцінки достовірності висновку експерта у кримінальному провадженні в Україні та в інших країнах. *Актуальні питання судової експертизи та криміналістики: зб. матеріалів Міжнар. наук.-практ. конф. (Харків, 15–16 квіт. 2021 р.)*. Харків : Право, 2021. С. 5–6.
- [13] Лаль А. Е. Проблемы развития экспертно-криминалистических учреждений в Эстонской Республике: генезис, состояние и перспективы : дис. ... канд. юрид. наук : 12.00.09 / Санкт-Петербургский государственный университет. СПб, 2007.
- [14] Thompson W. C. Beyond bad apples: Analyzing the role of forensic science in wrongful convictions. *Southwestern University Law Review*. 2009. No. 37. P. 971–994.
- [15] Houck M. M. Open, transparent science helps promote justice. *Forensic Science International: Synergy*. 2019. No. 1. P. 275–276. <https://doi.org/10.1016/j.fsisyn.2018.12.001>.

- [16] The Forensic Science Regulator, Annual Report 17th November 2017 – 16th November 2018. 2019. URL: <https://www.gov.uk/government/publications/forensic-science-regulator-annual-report-2018>.
- [17] Morgan R. M. From crisis to the future of forensic science. The importance of identity. *Forensic Science International: Synergy*. 2019. No. 1. P. 239–242.
- [18] Bitzer S., Margot P., Delémont O. Is forensic science worth it? *Policing: A Journal of Policy and Practice*. 2019. No. 13 (1). P. 12–22. <https://doi.org/10.1093/police/pax058>.
- [19] Millington J. Forensic Science Strategy GSOH, seeks joined up thinking for TLR. *Expert Witness Journal*. 2019. No. 1 (26). P. 36–38.
- [20] Casey E., Souvignet T. R. Digital transformation risk management in forensic science laboratories. *Forensic Science International*. 2020. No. 316 (2). <https://doi.org/10.1016/j.forsciint.2020.110486>.
- [21] Baechler S. Breaking the barriers between intelligence, investigation and evaluation: a continuous approach to define the contribution and scope of forensic science. *Forensic Science International*. 2020. No. 309. <https://doi.org/10.1016/j.forsciint.2020.110213>.
- [22] Pietro D. S., Kammrath B. W. Is forensic science in danger of extinction? *Science & Justice*. 2019. No. 59 (2). P. 199–202. <https://doi.org/10.1016/j.scijus.2018.11.003>.
- [23] Tarran B. 2019. Forensic science in «crisis», needs funding for research. *Significance*. No. 16 (3). P. 4–5. <https://doi.org/10.1111/j.1740-9713.2019.01268.x>.
- [24] Illes M., Wilson P. Forensic epistemology: A need for research and pedagogy. *Forensic Science International: Synergy*. 2020. No. 2. P. 51–59. <https://doi.org/10.1016/j.fsisyn.2019.11.004>.

Шляхи підвищення конкурентоспроможності в галузі судової експертизи Азербайджану та країн світу

Аббасов Наїл Ібад

Кандидат юридичних наук. ORCID: <https://orcid.org/0000-0002-2713-8697>.

Науково-криміналістичний центр Міністерства юстиції Азербайджанської Республіки, AZ1000, 24 Khagany Str., Баку, Азербайджанська Республіка

Анотація

Застосування спеціальних знань у процесі розкриття та розслідування злочинів, забезпечення права на захист або в процесі представництва прав потерпілих має особливе значення для побудови правового та демократичного суспільства в Азербайджані. Злочинність набула нових, якісних ознак, стала професійною, збройною та організованою. Тому судово-експертна діяльність стала незамінним інструментом у процесі судочинства, у якому кримінальне судочинство посідає чільне місце. Актуальним завданням статті є наукове дослідження проблем підвищення конкурентоспроможності судової експертизи Азербайджану та країн світу. Метою наукового дослідження є виявлення об'єктивних і суб'єктивних причин недостатньої конкурентоспроможності судової експертизи в Азербайджані порівняно з іншими світовими лідерами. Для досягнення мети наукового дослідження використовувалася система філософських, загальнонаукових і спеціально-наукових методів (порівняння, опис, аналіз і синтез, індукція, дедукція та аналогія, абстрагування, узагальнення, системний підхід тощо). У статті досліджено теоретичні, нормативні та практичні проблеми забезпечення конкурентоспроможності судово-експертної діяльності в Азербайджані. З'ясовано, що конкурентоспроможність судово-експертної діяльності не була належним чином забезпечена через недосконалість чинного законодавства в Азербайджані. За результатами дослідження запропоновано внести зміни до чинного законодавства, які дозволять проводити судові експертизи не лише державним, а й недержавним (приватним) підприємствам та незалежним експертам

Ключові слова:

судово-медичний експерт; експертиза; законодавство; альтернативна експертиза