



Centralized Model of Forensics Service in Belarus

Model centralizovanej forenznej služby v Bielorusku

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Abstract:

Improving the organizational and legal support of forensic activities constitutes important part of the state policy in the area of national security. This article discusses the outcomes of the reform which was accomplished in Belarus in 2013 and which led to the creation of a new state body in charge of forensic activities in the country (the State Forensic Examination Committee of the Republic of Belarus). The authors start with the description of the structure of expert bodies that existed in the Republic of Belarus at the time when it gained independence (1991). This structure though was traditional for the expert services at that time, placed expert on secondary roles, as they were considered to perform merely auxiliary tasks of the institution they were part of. As a result, the distribution of financing, equipment and other resources was not adequate. Formal subordination of forensic experts to police, healthcare and other state bodies created doubts as to their impartiality. All this was clearly creating adverse effect not only on the expert's activities, but also on the situation in the republic in general, as lack of trust to forensic experts lowers public trust in justice. The authors contemplate on these and other reasons that led to the creation in 2013 of the State Forensic Examination Committee of the Republic of Belarus as a new body which united all experts that had previously worked in forensic units of various government bodies. In our view the analysis of this reform is valuable for a wide range of scholars, practitioners and policy-makers, as it clearly shows the points that need to be taken into consideration in the process of re-structuring the forensic service. The major results of the merger of expert units of various departments in a single Committee are shown (reduction of time for conducting expert examinations, better allocation of resources, etc.). In conclusion, some areas that require further attention with a view to enhance the centralized model of the organization of forensic activities in Belarus are described.

Keywords: forensics; forensic expertise, Belarus, State Forensic Examination Committee, centralization



Abstrakt:

Zlepšenie organizačnej a právnej podpory forenzných činností predstavuje dôležitú súčasť štátnej politiky v oblasti národnej bezpečnosti. Tento článok pojednáva o výsledkoch reformy, ktorá sa uskutočnila v Bielorusku v roku 2013 a ktorá viedla k vytvoreniu nového štátneho orgánu zodpovedného za forenzné činnosti v krajine (Štátny súdny vyšetrovací výbor Bieloruskej republiky). Autori začínajú opisom štruktúry odborných orgánov, ktoré v Bieloruskej republike existovali v čase získania nezávislosti (1991). Táto štruktúra bola v tom čase pre odborné služby tradičná, ale umiestňovala experta na sekundárne úlohy, pretože sa považovalo za výkon iba pomocnej úlohy inštitúcie, ktorej boli súčasťou. V dôsledku toho nebolo rozdelenie financovania, vybavenia a iných zdrojov primerané. Formálne podriadenie forenzných expertov polícii, zdravotnej starostlivosti a iným štátnym orgánom vyvolalo pochybnosti o ich nestrannosti. To všetko jednoznačne vytváralo nepriaznivý vplyv nielen na činnosti odborníka, ale aj na situáciu v republike všeobecne, pretože nedostatok dôvery súdnych expertov znižuje dôveru verejnosti v súdnictvo. Autori uvažujú o týchto a ďalších dôvodoch, ktoré viedli v roku 2013 k vytvoreniu Štátneho súdneho vyšetrovacieho výboru Bieloruskej republiky ako nového orgánu, ktorý zjednotil všetkých odborníkov, ktorí predtým pôsobili vo forenzných jednotkách rôznych vládnych orgánov. Podľa nášho názoru je analýza tejto reformy hodnotná pre celý rad vedcov, odborníkov z praxe a tvorcov politiky, pretože jasne ukazuje body, ktoré je potrebné zohľadniť v procese reštrukturalizácie forenznej služby. Sú uvedené hlavné výsledky zlúčenia odborných útvarov rôznych oddelení do jedného výboru (skrátene času na vykonanie odborných skúšok, lepšie rozdelenie zdrojov atď.). Na záver sú opísané niektoré oblasti, ktoré si vyžadujú ďalšiu pozornosť s cieľom posilniť centralizovaný model organizácie forenzných činností v Bielorusku.

Kľúčové slová: *súdne znalecké posudky, Bielorusko, Štátny súdny vyšetrovací výbor, centralizácia*

Introduction

The results of forensic expertise are often essential for ensuring due process in the course of civil, economic, administrative and criminal trials, providing the court and other interested parties with the evidence necessary for a reasoned and fair resolution of the case. The institutional structure of expert bodies is one of the factors that contribute to the achievement of this goal.

Traditionally a significant amount of forensic services (especially for law-enforcement agencies) is performed by forensic units (institutions) of such state bodies. This traditional model is now challenged in various countries, which are searching for the optimal model of organisation of forensic activities. The main issues that are discussed in this regard are the following: which forensic units should remain within state bodies, and how these units should be institutionally organized and governed. Thorough consideration of these question is important, because proper management of forensic expertise is largely the key to ensuring public trust and security in the country in the broad sense of this notion.

In 2013 a major reform in the forensics field was carried out in the Republic of Belarus. As a result of the reform the State Forensic Examination Committee was created; this has led to further important changes in the country's forensics. In our view the analysis of this reform is valuable for a wide range of scholars, practitioners and policy-makers, as it clearly shows things that need to be taken into consideration in the process of re-structuring of the forensic service. So, this article describes the prerequisites for the merger of expert units of various agencies into a single Committee, the main results obtained, and some issues that require further attention.

This article follows the following structure. The first section examines the prerequisites for changing the traditional structure of expert institutions, which existed in the Republic of Belarus at the time when the country gained independence. The second part takes closer look at the activities of the new body - the State Forensic Examination Committee of the Republic of Belarus. In conclusion, the main results of the reform are summarized, some areas for further enhancement of the centralized model of organizing forensic service in Belarus are outlined.

1. The development of the institutional structure of expert services after the desintegration of the Soviet Union

The Republic of Belarus is a relatively young state that appeared on the world map after the collapse of the Soviet Union. As a result, the basis of the forensic institutions of the Republic was the system that remained in its "legacy". At that time it included Forensics Units of the internal affairs bodies, Forensic Service of the Ministry of Health, Scientific Research Institute of Criminology, Forensic Science and Forensics of the Ministry of Justice, Expert units of the State Security Committee, Ministry of Defense, State Customs Committee [2].

Various problems could be identified at that time, including:

- *the lack of coordination between forensic institutions (units) of various state bodies;*

- *excessive time limits of forensic examinations;*

- *insufficient quality of forensic examinations;*

- *poor technical equipment of expert units, etc. [17, p. 14].*

In the period of the 1990s - 2000s, certain measures were taken with a view to solve these issues and to strengthen the effectiveness of forensics in general. However, in our opinion, these measures were far from reaching the positive result, as all of the problems remained.

We would like to draw special attention to the issue of independence of experts, especially those working in the units subordinate to investigative bodies.

It should be noted that in accordance with the Istanbul Protocol of the Office of the United Nations High Commissioner for Human Rights "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" of 9 August 1999, "the investigators, who shall be independent of the suspected perpetrators and the agency they serve, must be competent and impartial. They must have access to or be empowered to commission investigations by impartial medical or other experts" [6; 7].

Nevertheless, at that time experts units in the internal affairs body were subordinate to the head of the internal affairs body (which at that time was also performing investigative functions) and his deputy (the head of the criminal police). All this raised significant doubts about their impartiality, possibilities of undue influence, etc.

Some other problems are also worth mentioning. Certain types of examinations, including developing ones (e.g. forensic DNA analysis), were carried out by several

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state forensic expert institutions. Lack of coordination between them led to the long queues, while others had significantly smaller workload. Moreover, each expert institution used its own methodological approach to forensic issues, which led to the conflicting expert practice. Joint expertises (i.e. performed by experts in various fields of science) were problematic due to absence of adequate cooperation procedures between expert departments of various state bodies. The system for education and training of expert staff was also outdated.

All this numerous problems called for action, so in 2003 an Interdepartmental Commission on Forensic Activities under the Security Council of the Republic of Belarus [14] was created. The main task of the Commission was to coordinate the activities of forensic institutions of the Republic of Belarus. In addition, it was in charge of the provision of scientific, methodological and information support for expert institutions, the organization of control over their activities, including financial matters. However it soon became evident that the Commission's powers were not sufficient and though its activities reached some positive results, the situation in the country called for more broad and effective measures with a view to strengthen cooperation between forensic units and institutions, to eliminate duplication of numerous types of examinations and inappropriate distribution of workload, to reduce the institutional influence on the work of experts. All these deficiencies were creating adverse effects on forensic expert's activities in general. So, the system that was in place at that period of time could not fully meet the growing needs of the Prosecutor's office, Internal Affairs bodies, investigation bodies and courts.

Finally, at a meeting of the Council on Legal and Judicial Activities under the President of the Republic of Belarus on July 31, 2012 a decision was made to create a single independent center for forensic examinations. By order of the Prime Minister of the Republic of Belarus of November 11, 2012, an interdepartmental working group was created which was headed by A. Shved (of one of the authors of this publication). The details of the reform and concrete legislative proposals, elaborated by this group, were supported by the President, which paved a way for the creation of a single state forensics body.

2. Institutional reform and the establishment of a single expert agency

2.1. Structure of the Committee

On April 22, 2013 the Decree of the President of the Republic of Belarus No. 202 "On establishing the State Forensic Examination Committee of the Republic of Belarus" [15] established a new body (State Forensic Examination Committee, or SFEC) and defined the main vector for further development of the state policy in the field of forensic activities in the Republic of Belarus.

The Committee is a centralized system of governmental bodies, brought together expert departments (units) of the Ministry of the Interior, the State Medical Forensic Service, the Ministry of Emergency Situations, the Ministry of Justice, and the Ministry of Defense.

The system of the SFEC consists of the central office (in Minsk), and territorial bodies (in each region of the Republic of Belarus). At the moment the territorial bodies are comprised of seven administrations (six administrations in regions (oblast)

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of the republic and one administration in Minsk), and a number of district (inter-district) divisions, which operate on smaller territories and are subordinate to the corresponding administration.

The Committee also has three subordinate organizations which assist it in the execution of its functions.

The Institute of the Committee is in charge of training of those aspiring to be experts, and providing educational activities for the experts. The educational programs cover theoretical and practical issues; they are consistent with state educational standards and rules [11]. Historically this institution was part of the forensic medical service; however, in 2013 its status and functions were changed. Nowadays it gives experts education and training on subjects that cover the majority of types of forensic examinations which are performed in the Committee.

Science and Practice Center (SPC) of the Committee conducts the fundamental and applied research in the areas which are considered the most relevant for the current development of forensic science. This work is aimed at creating new tools, methods and techniques for experts, in order to provide adequate expert support for law enforcement agencies. This is especially important due to the changing social-economic situation in the country, which calls for additional measures to ensure national security. The peculiarity of the SPC is the presence of personnel specializing in various fields of scientific knowledge (technical, humanitarian, natural sciences) and having practical experience in expert work, which ensures the complexity of the research and its practical orientation. To ensure further progress in the scientific work in 2017 a doctorate program was opened in the Center, which gave a new impetus for those who are interested in performing research in forensic science [12].

The Belsudexpertobespechenie enterprise carries out production activities supporting the interests of forensic examinations, for example, it has developed packaging material for seized material evidence which maintain various types of objects in the unchanged condition [10].

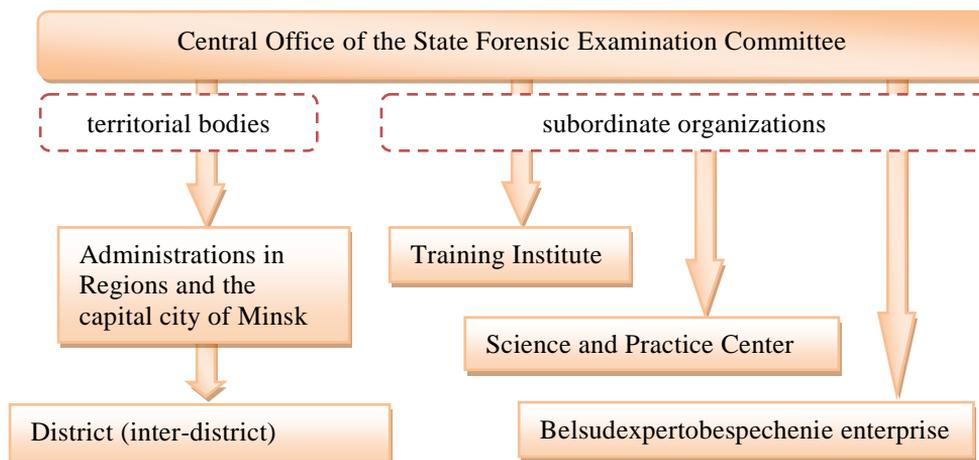


Fig. 1 Structure of the State Forensic Examination Committee (Source: Author)

2.2. Main consequences of the reform

The decision to reform the forensics system was implemented in the absence of a sufficient theoretical basis, as it was largely based on the urgent needs of the practice. However, six years after, main effects of the reform are already visible, so it possible to evaluate at least some of its major consequences. The results of the work of the SFEC show the number of positive changes in the general situation, order and security in the Republic of Belarus.

To begin with we would like to stress that the centralization of state forensics expert units has allowed to solve the majority of chronic problems in their activities, to improve the social effect of forensic expert practice, especially in terms of the guaranteeing the independence of forensic experts from external non-procedural influence. As a result, the chances of undue influence or pressure are much lower than earlier, which definitely adds to the overall perception of the legality and independence of experts' work.

A new model of organization of forensic activities has obvious economic effects, as the resources (including materials, tools, etc.) of various bodies, which had performed expert functions, were united and redistributed to ensure their adequate distribution within the country. Moreover, state budget for forensic expert activities is now more structured, centralized and better managed. At the moment the Committee pays special attention to a large-scale modernization of technical equipment, instruments and special tools.

The duration of the forensic examination was significantly reduced. The achievement of positive results in this direction was facilitated by the adoption of the SFEC's decision to create forensic units dealing with the most frequently requested forensic expertises in regional departments all over the country. As a result, for example, phonoscope, merchandising, automotive, economic, construction examinations and technical examinations of electronic devices are currently performed in territorial units [19, p. 6]. This expedites the process and makes it more cost-effective.

Another important change occurred in the field of forensic examination of new psychoactive substances. In 2010-2012, the strategy to combat their spread in Belarus was mostly defensive in nature. Drug dealers were constantly ahead: the substances were banned, and immediately after that 5-10 new (uncontrolled) psychoactive substances appeared in circulation. To counter this problem a decision was made to radically change the strategy for combating new types of drugs: in 2013, a system for monitoring the drug situation in the countries surrounding Belarus and beyond was introduced. Now the bans on psychoactive substances are introduced on the basis on the results of such monitoring, that is, most substances that are included in the *Republican list of narcotic substances, psychotropic substances and their precursors subject to state control in the Republic of Belarus* were banned on a "preemptive" basis, that is, before they first appeared in the territory of the Republic of Belarus [13].

It should be noted that the specifics of cognitive activity during the trial and, in particular, during the forensic examination leads to the fact that this type of knowledge is strictly regulated by the law, and the form of the forensic examination is defined in the procedural acts [20, p. 5]. Thus, specific steps were taken to ensure the highest

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quality of expert's conclusions as to their forms and substance, which requires relevant methodology.

In order to ensure consistent practice a comprehensive system for evaluating and controlling the quality of production of all types of examinations has been developed and implemented. Special units were created in the central office of the Committee which control, prevent and eliminate in a timely manner possible violations of the rules and methods of forensic examination, provide methodological support for experts and participate in elaboration of new expert methods and requirements for forensic activities.

Moreover, after the Committee was created the process of documenting and unification of the forensic methods started. At the moment the expert's actions during forensic examination process are in many ways strict adherence to the procedures is required, which increases the objectivity of the assessment of the expert's conclusion (in comparison with the situation that existed before the SFEC was created, when expert methods were descriptive and mostly recommendatory in nature).

Modern justice places increasing demands on the validity of expert conclusions. As practice shows, in evaluating an expert's opinion as a source of evidence, a significant place is occupied by the means of formal assessment of compliance with established requirements. The court is interested in detailed regulation of the technology for the production of forensic examinations, as it gives him a more solid basis for believing that expert's findings are true. Developed rules of forensic science and strict adherence to them makes it unnecessary to use unsuitable tools for assessing the expert's opinion, which, in our mind, include requests for the opinions of "authoritative" scientists or specialists, the collection of information on expert experience, or simply blind trust in an "experienced" expert.

As Evett (2015) rightly noted, though there exists a classic image of a "forensic scientist" (someone who is usually male, of mature age; physical presence; eloquence; extensive academic credentials; and great experience), unfortunately, the history has many examples of "experts" which possessed all the characteristics given above – and yet provided court with opinions that led to what subsequently proved to be miscarriages of justice [3].

Rossinskaya (2016) points out that quite often the persons involved as experts in conducting underdeveloped types of examinations are not guided by expert technology, and use only the special knowledge, taken from "big science", as a result, they are going beyond their competence and try to solve the issues which are the prerogative of the law enforcement body, or to answer the questions that do not require expert knowledge [16].

This is especially true for the expert opinions which are given on *ad hoc* basis. Many scholars criticize such procedure and even consider them inadmissible in the course of trial. For example, Komissarova (2011) proposes to consider the results of *ad hoc* forensic expertises merely as a specialist's research, thereby supporting Zaitseva's position that it's not correct to describe something as „forensic examination“, when there are no trained experts, and the research methods, objects and methods of such expertise have not been developed [9].

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These arguments are in many respects true, so we think that forensic examination should be predominantly performed by professionals that have proper education and training; legislation changes are necessary with a view to establish that ad hoc examinations are possible only as an exception in cases when it is justified.

This lead us to the conclusion that quality of the examinations is directly related to the training of experts, which should ensure that they know not only their “big science” (chemistry, biology, engineering, etc), but also understand the procedural requirements of the trial.

As Gabel (2014) rightly notes, absence of uniform standards in forensic science training programs leads to uncertainty in both the quality and relevance of these programs [5, 330]. Her position is based on the results of the report of the U. S. National Academy of Sciences (2009), where these problems (in the fields of education and training) were described [18].

After the Committee was created special attention was paid to this issue. Institute of the Committee gives a comprehensive set of knowledge, providing experts with uniform and up-to-date training which is based on practical needs (this is achieved by involvement of practitioners (forensic experts of the Committee) in the educational process (not only they participate in the lectures and seminars, but they have their voice in elaborating of educational programs to ensure their correspondence to the practical needs). This is a very important part of the process of perfection of forensic system in the Republic of Belarus. The Institute is mainly focused on training forensic experts for the system of the State Committee of Forensic Expertise. However, a number of trainings were organized at the request of other expert institutions, including foreign ones, e.g. forensic experts from Kazakhstan, Abu Dhabi, Uzbekistan, and Moldova took courses at the Institute of the Committee.

2.3. View on the reform and foreign experiences

So, in brief, over the six-year period of operation of the State Forensic Examination Committee of the Republic of Belarus, many important changes pertinent to national security issues have been accomplished: the reform of legal regulation of forensic examination, enhanced training and certification of forensic experts, the material and technical, information and methodological support of forensic experts.

Today, the SFEC has all the possibilities to conduct all types of forensic examinations in a timely manner and in accordance with the highest standards, ensuring the unity of the methodology of forensic research. It leads the process of systematizing the existing and developing new methods of expert research, and their testing for guaranteed use.

The experience of the Republic of Belarus in centralizing expert services is actively studied both by practitioners and by scientists. Many delegations visit the Committee each year in order to assess the results of the reform. Similar reforms are discussed abroad, both by policy-makers and researches.

In 2011, a group of experts working on a feasibility study of the forensic infrastructure in the Republic of Moldova and on the external audit of the Center for Forensic Medicine of the Ministry of Health of the Republic of Moldova, indicated that it would be advisable to integrate all forensic services into a single one, since such

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a measure would strengthen the forensics and will guarantee its independence [4]. Nevertheless, at the moment there is no information that such measures have been implemented or are planned for implementation in the foreseeable future.

In the U.S. Gabel (2014) supports the idea of creating a federal agency devoted to the reliable development and distribution of sound forensic science, however practical implications (understanding that legislators and states might be unwilling to proceed with the reform) make her come to the conclusion that this idea is unrealistic; instead, she claims that centralisation could solve at least some of the problems of forensic science, with creating a reliable forensic framework from the ground up, rather than the top down [5, 289].

Kloosterman *et al* (2015) discuss the possibilities of integrating “forensic platforms”, that is, a creation of a shared interdisciplinary forensic platform allowing rapid and efficient investigation of evidence first hand by case officers with off-site support from forensic experts [8]. The platform does not envisage the actual unification of forensic service providers; however, it shows a trend for integration.

In Russia Aminev (2016) calls for the reorganization of Russian forensic institutions by the withdrawal of forensic experts and their equipment from these organizations; after that on their basis special technical criminalistics units equipped for the collection, preliminary investigation of traces and other material evidence could be created [1].

Several important steps for the integration of forensic units were taken in Kazakhstan, were, according to the Decree of the Government of the Republic of Kazakhstan dated February 3, 2017 No. 34 “On Some Issues of Forensic Expertise”, the Center for Forensic Medicine was reorganized by joining the Center for Forensic Expertise of the Ministry of Justice and was renamed into the Center for Forensic Expertise of the Republic of Kazakhstan.

The creation of a single body of forensic examination in the Republic of Belarus was caused by a complex of practical problems, the solution of which within the framework of each specific department was impractical. As a result, the new system has been created that helps to increase the legal protection of citizens and organizations in the course of legal proceedings, and introduces new types of expertises and expert research methods almost simultaneously in the territory of the republic. Improving the professional level of expert staff and strengthening social protection of experts are also an important part of this process. All this directly affects the quality of the examinations, which in turn allows providing courts and other state bodies with the information necessary for legal proceedings, and therefore, to facilitate the investigation of criminal cases, the resolution of civil disputes, etc.

As a result, the fundamental principle of legal proceedings is implemented - ensuring a comprehensive, complete and objective study of the circumstances of the case. It should be noted that the Constitution of the Republic of Belarus guarantees everyone the protection of their rights and freedoms by a competent, independent and impartial court within the time periods specified by law. Forensic science is an important component of this process; as a consequence, its reform was an important step in maintaining national security, peace and order.

Conclusion

There is no doubt that the effectiveness of forensic activities is the factor that directly determines the level of combating crime and affects the national security in general. At the same time, the analysis showed that the system of forensic institutions and the organization of their activities, which had historically developed in Soviet times, had ceased to fully meet the growing needs of various law enforcement bodies, and courts. Certain practical inconveniences were caused by the fragmentation of expert institutions. The economic situation in the country demanded to increase the efficiency of forensic activities while minimizing costs.

At the same time, it should be noted that the reform was carried out very cautiously. The special procedural status of the expert and the importance of his conclusion for establishing the truth in criminal, administrative, civil and economic cases were put at the forefront. An in-depth analysis of the regulatory framework, economic feasibility and the possibility of maintaining a stable social situation was carried out. The experiences of foreign countries were studied and analyzed through the prism of applicability to the national system.

Currently, the main steps for further development of a centralized model of organization of forensic activities in Belarus are seen in the enhancing of cooperation with the initiators of forensic examinations so that they are appointed reasonably, taking into account the real needs, cost of reagents and equipment (for example, for genetic examinations). A rational solution to these issues will reduce the burden for experts, it will help to avoid situations of unreasonable appointment of a significant amount of expertise, in the absence of a real need for this to resolve the case.

Today, the State Forensic Examination Committee of the Republic of Belarus is an important component of the system of law enforcement and other state bodies, whose efforts are aimed at solving common problems of ensuring national security, observing the rule of law, interests of the state, protecting the rights and legitimate interests of citizens. The chosen way to transform the forensic system by centralizing proved to be efficient and justified. However, a constant thorough work is ahead to improve all areas of forensic science activity.

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