

PROBLEMS OF APPLICATION OF SPECIAL KNOWLEDGE IN INVESTIGATION OF CRIMES AND ADMINISTRATIVE OFFENCES IN LITHUANIA

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Received on 12 November 2011; accepted on 15 March 2012

Abstract. *Research carried out in Lithuania shows that the system of expert bodies has already prepared for change. Such opinion is supported by the Lithuanian Government working group meeting concerning the improvement of experts' performance. In our opinion, Lithuania should ensure strategic, integrated multi-level forensic analysis, rational and potential use of material by not only dealing with a variety of forensic issues, but also by the interpretation of criminal investigation and prevention on scientific, methodological, didactic and organisational levels.*

The article presents the concept of research that is accomplishing in scientific project 'Special scientific knowledge of the investigation of crime: the concept and its realisation mechanism' and first intermediary results of the research. The purpose of the project is to formulate the scientific concept and realisation of special knowledge in the investigation of crimes and administrative offences in the direction of legal system reform.

Keywords: *application of special knowledge, forensic examination, investigation of crimes and administrative offences.*

Introduction

In most Member States of the European Union, as well as in the U.S., the integrated development programmes of scientific expertise are currently implemented in criminal investigations. For example, the U.S. Congress commissioned the Council of National Academy of Sciences to develop a forensic programme in the country. Development of such a complex document is also important for Lithuania, where for identifying this problem, by Decree No 33 of 28 January 2010 of the Prime Minister of the Republic of Lithuania, the working group was created, which stated in its conclusions that the largest problem in the field of forensic management and organisation was that the forensic system needed reform, the clear forensic institutions and development strategies and priorities. This problem must be solved on the State level.

Further analysis of the use of special knowledge for the procedural and organisational issues in investigation of crimes and administrative violations allows creating the scientific conception of the use of special knowledge in the investigation of crimes and administrative violations. This concept is consistent with major elements of forensic science of the European Union countries, in order to optimise the inception of the most advanced technologies in the investigation process of criminal and administrative violations and manage its legal framework for the purpose of developing an effective system of scientific and practical institutions, avoiding duplication and saving money. To this end, we organised a group of scientists, entitled ‘Scientific conception of applying special knowledge in the investigation of crimes and its implementation mechanism’, financially supported by the Lithuanian Scientific Council.

The article presents the scientific project ‘Special scientific knowledge of the investigation of crime: the concept and its realisation mechanism’ and its first results.

1. Purposes and Methods of Project Research

The purpose of project is to formulate the scientific concept of special knowledge in the investigation of crime and administrative offences and its realisation mechanism.

Collaborative project tasks:

- To create a framework for the development of expertology science in Lithuania and recommendations for the development of forensics and criminalistics fundamentals.
- To submit proposals to harmonise the criminal procedure and other procedural laws on the use of special knowledge.

- To provide scientifically based expertise in institutional reform strategy for Lithuania and its implementation mechanism.
- To develop a practical scientific knowledge of specific programmes and methodological recommendations for officials, experts, judges, and qualification courses for the audience.
- To present the completed research-based development and updating of training programmes, including joint programmes with foreign partners.

The study is based on the following methods: document analysis, descriptive, analytical and critical, system analysis, content analysis, meta-analysis and others. Withdrawing of application of specific knowledge in investigation of crimes and administrative violations in different contexts, the features, based on comparison of induction and simulation methods - all this made the application of special knowledge in the investigation of crimes and administrative violations a matrix identifying its importance. According to the analysis of the law enforcement practice, based on the content analysis of the documents, the mathematical statistical analysis, interviews and modelling techniques used, the influence of application of special knowledge in the investigation of crimes and administrative violations on law-making methodologies, trends and development were described.

While conducting research in this area, we tried to reach the widest possible geographic, institutional, official sample of empirical studies, linking the legal framework of theoretical concepts and their implementation with the practical analysis, by using their research in various working groups and committees operating experience and discussions with officials and colleagues.

Our most recent survey took the form of a questionnaire in English. It contained 20 questions. Respondents identified the main problems in groups that were relevant to expert bodies in order to optimise performance and enhance the performance indicators. It was important to investigate expertise in foreign research institutions, conduct the study of quality assurance and accreditation mechanisms, and determine whether there was specific training in universities.

The study was conducted by means of a questionnaire survey. Questionnaires were distributed during the forensic symposium held in Bratislava on 27 to 30 October 2011. 130 questionnaires were distributed, 89 were received completed. The targeted population were experts and forensic scientists, practitioners from 35 countries. The interim results of this survey will be presented later in this article.

The analysis of a variety of sources (normative, theoretical studies, practice summaries, surveys, interviews, results) allows conducting an even deeper examination of issues that deserve to be studied further with regard to the proposals for reform of special knowledge. For data processing the statistical package SPSS was applied.

2. Discussion

Only some Lithuanian authors work in the same field. In 1993–1998, Janina Juškevičiūtė conducted her research ‘Application of special knowledge in crime

investigation: nowadays and future¹. Later on, she published more than 20 articles on the same topic. Other scientists, e.g. Hendryk Malevski², Gabrielė Juodkaitė-Granskienė³, have also conducted some research in the field of application of special knowledge in crime investigation. Rolandas Krikščiūnas and Snieguolė Matulienė⁴ have published some articles concerning the application of special knowledge in investigation of administrative violations. That is almost it concerning just application of special knowledge in crime investigation, meaning that authors do not pay much attention to other types of processes.

The first year of the project allows a brief overview of the results of these challenges⁵.

2.1. Management and Organisational Analysis of Expert System Institutions in Lithuania

At the time of criminal proceedings, experts appointed by the trial court perform examinations in forensic institutions established in accordance with the Lithuanian laws, and they are financed from the Lithuanian state budget. Averment in the administrative procedure is regulated by two major legal acts: the Code of Administrative Offences of the Republic of Lithuania⁶ and the Law on Administrative Proceedings of the Republic of Lithuania⁷, which enshrines the procedure for dealing with administrative offences and the procedure of administrative cases, as well as different rules of averment. Application of averment measures in the averment process is not regulated in detail by legislation.

State forensic institutions are set up specifically for expert work. The regulations of each state forensic institution are set out in their main areas of activity - conducting examinations and research work in the forensic field. Given the jurisdictional dependence of those institutions and their functions, they are modulated by features distinguishing the priorities of each of those expert agencies. A body with certain priority is responsible for particular type of expertise development in Lithuania.

In Lithuania, we have several state forensic institutions. Forensic law regulates private experts, coordinating council, however, insufficient attention is paid for coordination and optimisation of expert bodies.

Today in Lithuania the following main bodies of forensic science exist:

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- 1 Juškevičiūtė, J. *Specialių žinių panaudojimas tiriant nusikaltimus: būklė ir perspektyvos*. Daktaro disertacija. Socialiniai mokslai, teisė (01S) [Special knowledge use in criminal investigations: Status and Prospects. Doctoral Dissertation. Social Sciences, Law (01S)]. Vilnius: LTA, 1998.
 - 2 Malevski, H.; Kurapka, E.; Juškevičiūtė, J. Crime Science Examination and Investigation: a New Model of Criminalistic Conception. *Forensic Science International*. 2003, 136(1): 18–19.
 - 3 Juodkaitė-Granskienė, G.; Malevski, H.; Merkevičius, R. Teismo ekspertizės reglamentavimas – būklė ir perspektyvos [Forensic regulation - status and perspectives]. *Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika*. Vilnius: Lietuvos teismo ekspertizės centras, 2011, p. 9–21.
 - 4 Krikščiūnas, R.; Matulienė, S. Peculiarities of averment stages in cases concerning administrative offences. *Jurisprudencija*. 2011, 18(2): 659–674.
 - 5 See more report of the project [interactive]. [accessed 08-11-2011]. <http://sistema.lmt.lt/ATASKAITA/titulinis1.php?Atask_tipas=METINĖ&Metai=2011>.
 - 6 Code of Administrative Offences of the Republic of Lithuania. *Official Gazette*. 1985, No. 1-1.
 - 7 Law of the Republic of Lithuania on Administrative Proceedings. *Official Gazette*. 2000, No. 85-2566.

1. Lithuanian Forensic Science Centre (hereinafter – LFSC) under the Ministry of Justice.
2. Lithuanian Police Forensic Science Centre (hereinafter – LPFSC) under the Ministry of Interior.
3. State Forensic Medicine Service of the Lithuanian Ministry of Justice (hereinafter – SFMS); prior to 2010 it operated as the Forensic Medicine Institute at Mykolas Romeris University.
4. National Forensic Psychiatry Service (hereinafter – the NFPS), operating under the Ministry of Health.

Lithuanian Forensic Science Centre under the Ministry of Justice is a national public administration unit, designed - according to the case and investigating authorities - to carry out the tasks assigned to the studies as well as scholarly work in the field of criminology and forensic science. 38 types of examinations (tests) performed at the LFSC. The main customers of its expertise are courts, prosecutors, the police, customs authorities, security bodies, the Special Crime Investigation Service, the State Tax Inspectorate, the National Audit Office, private individuals and legal entities, foreign law enforcement authorities.

During the first three quarters of 2011, 3199 examinations were accomplished in the Lithuanian Forensic Expertise Centre. Compared to the same period of the last year, 157 additional examinations were conducted. –Most of them concerned handwriting, traffic accidents, drugs and psychotropic substances, documents, petroleum products, vegetable and animal facilities, criminalistics (trace) expertise. This year, especially during the last 3 months, the number of transport expertises has increased significantly, mainly consisting of simulated traffic accidents, in order to profit from insurance companies. There is a growing number of research requests concerning drugs and psychotropic substances, fire, accounting, hand trace, digital information. During this year, the demand for building experts has increased. At present, such examinations are not performed at the LFSC, however, its director is looking for additional funding in order to create new posts and perform new types of expertise. From January to September this year, a total of 787222 items were examined, 188762 questions were answered, and there were 196890 findings of the study, of which 98.3% were assertive. The duration of most examinations exceeded a period of 30 days. The greatest amounts of expertise are commissioned by the investigative bodies and courts⁸.

Lithuanian Police Forensic Science Centre under the Ministry of Interior is a specialized police body that provides scientific and technical assistance to the police and other investigating authorities of the country in preventing, detecting and investigating criminal acts. The Centre operates with 3 boards of identification, forensic investigations and studies and a cynologist board with the main function of research facilities and expertise based on orders from pre-trial judges and courts, in addition, it organises training of police officers to work with service dogs.

8 Lithuanian Forensic Science Centre Report concerning 9 month results [interactive]. [accessed 08-11-2011]. <<http://www.ltec.lt/index.php?id=420>>.

To ensure the quality of investigations of great importance to the Centre, a quality management system was implemented, which was heavily supported by: on 1 December 2009, the National Accreditation Bureau confirmed that the Centre met the BS EN ISO / IEC 17025:2005 standard and was accredited with regard to the 27 accredited methods. In 2010, accreditation has been extended to five more research methods (accreditation certificate No. LA.01.096 issued on 12 December 2009, Annex to the Order No. V-170 of the Accreditation Office Director of 27 December 2010). On 15 February 2011 there was approved accreditation of the Centre for the extension project Nr. 140-IL-90, whereby the scope of accreditation was planned to extend to the four methods of analysis. LPFSC cooperates with foreign authorities on the basis of international quality testing programmes.

The centre consists of the following bodies – 3 (general activity) sections: performance management, quality management, logistics and development, as well as the financial section and 3 (specific activity) boards: identity, forensic research, odorologic and cynologic, the primary purpose and function of which is preventing, detecting and investigating criminal acts and other violations of the law, with special expertise to carry out research facilities and expertise, as well as provide services to individuals. In 2011, the Centre improved the efficiency of its structural units and was planning performance optimisation tools, by purifying the performance of their functions⁹.

In this context, the structure of the Centre, the number of posts and status of general and special powers and responsibilities was approved, meaning that the staff formulated the specific objectives and functions of the Centre's performance and results, it became clear that the existing organisational (posts) structure of the Centre, offices of general and specific competence of the Government did not meet the ratio requirements set out in general and specific activities of the Centre, so the Centre lacks common functions (personnel administration, business planning, document management, finance and asset management, etc.). It is assumed that the management (internal management) model is not sufficiently effective and it would adversely affect the performance of the Centre. In order to maximise the efficient activities, the Centre must have the appropriate tools, an optimally efficient structure, functions and the required number of human resources.

The State Forensic Medicine Service under the Ministry of Justice of the Republic of Lithuania (SFMS) is an institution administered by the Ministry of Justice and established by the Government of the Republic of Lithuania (Resolution No. 1719 of the Government of the Republic of Lithuania of 16 December 2009 On the Change of the Status and Name of the Institute of Forensic Medicine of Mykolas Romeris University and empowering the Ministry of Justice to perform the Functions of the Founder). Its basic tasks involve performance of forensic examinations and investigations at the request of the court, prosecution and pre-trial investigation institutions, as well as at the request of individuals and legal persons; implementation of new investigation methods

9 Lithuanian Police Forensic Science Centre Report of the first half of 2011 [interactive]. [accessed 08-11-2011]. <http://ktc.policija.lt/veikla/planai_ir_ataskaitos.html>.

into expert practice; research and methodological activities in the sphere of forensic medicine.

Basic objectives and tasks of the State Forensic Medicine Service under the Ministry of Justice of the Republic of Lithuania are the following:

- provision of forensic services;
- carrying out research and methodological activities;
- ensuring provision and improvement of qualification of forensic medicine experts;
- ensuring co-operation with research and educational institutions.

During the reporting period of 2010, the SFMS completed 7395 studies of the deceased. Compared to 2009, the number of studies decreased by 3.9%. In 2010, there was a 3.3% reduction in the tests trials of live persons (19 032 tests were completed). However, the number of on the spot tests increased significantly: in 2009 506 on the spot tests were performed (23.5% less than in 2008), 2010 entailed 562 on the spot visits (i.e. 1% more than in 2009). However, compared to 2009, the number of visits to courts fell by 20.6% (770 visits) (969 visits in 2009). In 2010, the SFMS conducted 244 examinations / surveys concerning case materials (in 2009, 371 examinations / tests were performed).

As mentioned in the SFMS 2010 annual report, summarising the problems associated with expertise, the most important is the persistence of relatively high workload, high level of non-violent deaths, the number of tests, long commission research (in some cases - also preliminary research) in terms of performance. Economic downturn has become a very relevant issue for the SFMS toxicology laboratory, so that the police officers are sending the tests of narcotic and psychotropic substances: by sending the samples of potentially intoxicated person's biological media, police officers have been clarified of the kind of material that could be administered. Such a situation requires expert laboratory investigation of all stupefying substances, while in Lithuania and its individual regions such investigation is generally used only for certain specific groups of drugs. These problems will continue to be considered within certain limits in legislation and in close collaboration with research customers, but also inter-board working groups, experts who deal with legislation¹⁰.

National Service of Forensic Psychiatry in Lithuania under the Ministry of Health is a Lithuanian national budgetary health body, with its main purpose laid down by the legislation to carry out forensic psychiatry, forensic psychology examinations assigned by prosecutors and other investigative agencies.

Operational objectives of the Service are: to carry out forensic psychiatry, forensic psychology examinations. For the implementation of these objectives, the following functions are in place: performing forensic psychiatry, forensic psychology examinations in criminal, civil and administrative proceedings. The Service provides the necessary psychiatric help for victims, sending them to health care institutions, performing forensic

10 Report of The State Forensic Medicine Service under the Ministry of Justice of the Republic of Lithuania for the period from 2010 01 01 to 2011 01 01 [interactive]. [accessed 08-11-2011]. <http://www.vtmt.lt/media/PDF_bylos/VTMT2010mveiklosataskaita_2011leidinys_pataisytas.pdf>.

psychiatry and forensic psychology research, preparing and approving expert research techniques, participating in the development of scientific programmes, preparing forensic psychiatrist and expert forensic psychologist experts and providing them with expert forensic psychiatrists and forensic psychologist.

We could not find information about certification services provided by the National Forensic Psychiatry Service, its accreditation of personnel and quality system implementation. We believe that this is one of the weakest aspects of its activities.

2.2. The Main Problems of Expert Activities

Our basic idea is that one of the main duties of the authorities is the safety of citizens and guarantees of their rights. Court expert research has been addressing these challenges. Today, a forensic expert is not a craftsman, they are also engaged in research activities. This is clearly seen in Western Europe, in particular in the U.S., where a judge not only receives and evaluates the evidence, but must ensure that the evidence on which the conviction is based would not only be permitted during the event associated with it, but also reliable, in particular this applies to scientific evidence (forensics). Scientific reliability of forensic evidence must be based on scientific patterns. This requires assessment of whether the methodology on which the conclusion is based is true of academic positions and whether they were correctly applied.

Asserting adverse dynamics of crimes and administrative violations, new ways and means of crimes trends in the occurrence, as ever the latest developments are increasing in research exploitation crimes and administrative violations needs. In most foreign countries a large development of modern criminal and administrative offenses examinations methodises and implementation of the outbreak are observed, helping to stabilize the rate of crimes and offences. The phenomenon of crimes and offences is analysed as the complex of criminalistics, forensic and criminological research; practical institutions optimize their activities.

The second factor, which has triggered this theme, was the task to optimise national expert bodies, by merging them into a number of institutes, which is not a new phenomenon. As already mentioned, the U.S. Congress was commissioned by the National Academy of Sciences Board to develop the forensic science programme. The Council states that it must be reformed to the National Forensic Science Institute (National Institute of Forensic Science). The main strategic objectives of this institute are judicial expertise, education and training programmes for the development of national databases and record management, general expertise, operational standards and creation of laws. The National Forensic Institute focuses on good practice in the accumulation and deployment of forensic science professionals and laboratories to establish mandatory standards for accreditation of laboratories and experts criminalist certification, and for this purpose provides the authority by encouraging further training, peer-reviewed science competent research and logistical support, and oversees the education standards in forensic science programmes for colleges and universities to assess new technologies in the forensics.

The recommendations emphasize that the Institute will develop terminology and review the recommendations of standardisation regulations, recommendations for the education of quantitative and qualitative indicators, the autonomy of the recommendations (forensic services and their providers must be independent from external commercial pressures, law enforcement and prosecutor's offices), the analytical quality control system, develop ethical guidelines, it is generally mandatory, both public and private institutions and individuals, providing expert services for accreditation and certification guidelines and many recommendations relating to the expert coaching, biometric systems, automated installation and so on.

We had an opportunity to participate in the 96th anniversary conference of the U.S. International Association for Identification and participate in the discussions on these recommendations. The discussions helped to form the opinion that the forensic reform must go hand in hand with the reform of all institutions of criminal justice. Some expert performance problems existing in Lithuania must be urgently addressed to particular institutions:

- Identify and fully implement the forensic laboratory accreditation and personnel certification standards. The most important of them is the European Union Council Framework Decision 2009/905 JHA of 30 November 2009 on accreditation of forensic service providers carrying out laboratory activities. It must be stated that this process has already begun in some of the Lithuanian expert bodies¹¹.
- Research in the field of forensic foresight. Hopefully, Lithuanian scientists will also share the services. We see that in our study aims.

The authors also carried out the research in the working group created by the Prime Minister on 28 January 2010, and later in the interviews with the heads, experts and investigating officers of expert bodies. The following clusters of problems established during the research could be summarised¹²:

- the provision of services;
- state infrastructure problems;
- human resources (different specialists in the provision of training and qualification system. Professional training procedure is not regulated);
- payment for expert issues;
- Lithuania has no professional code of ethics for court experts;
- coordination council of experts is inactive;
- there are no control procedures for private court experts.

Furthermore, in 2005-2008, together with another group of researchers, we conducted a study on forensic science and forensic knowledge and their level in Lithuania. Respondents were represented by the pre-trial investigation bodies (including police),

11 Juodkaitė–Granskienė, G.; Malevski, H.; Merkevičius, R., *supra* note 3.

12 See more: Kurapka, V. E.; Bilevičiūtė, E.; Matulienė, S. Directions restructuring expert institutions in Lithuania. *Forensic tools and techniques in the detection and investigation of crimes: Materials V International scientific-practical conference on forensic science and forensic*. Ministry of Interior of Russia, expert forensic center. Moscow: FEC Home Office, 2011, p. 62–72.

prosecutor's office, expertise bodies, courts, the Bar and others institutions. The results of the survey show the practical implementation of practical skills in the field of forensic science, and recognise the need to strengthen the criminal-disciplinary, criminalistics and forensic science disciplines of teaching process in higher education and refresher training, which is inefficient in the Lithuanian police, prosecuting authorities, courts, expert bodies and other law enforcement bodies. For example, the Lithuanian police officer explains the reasons for inefficient crime investigation as follows: 29% – referred to imperfect laws, 17% – to weak legal knowledge, 8% – to problems of enforcement of the law, 9% – to low criminalistic and forensic knowledge, 2% – to issues in forensic expert recommendations, 11% – to poor organisation of work and services, 26% – to poor maintenance supplies, and 4% – to the lack of ethics and lack of motivation.

There are actual problems of legal regulation¹³. Firstly, in our opinion, most of the expert and specialist concepts are not enough differentiated and practically levelled. A person with special knowledge can both be an expert and a specialist, however, in case of a specialist there is a need for special skills (Lithuanian Code of Criminal Procedure, Art. 84 and 89.¹⁴), if the expert skills are required. Secondly, the functions of experts and specialists are confused. Both experts and specialists conduct research, give conclusions at pre-trial investigation and in court.

Thirdly, Article 205 of the Lithuanian Code of Criminal Procedure describes the investigation procedure for objects as follows: '...in order to find traces of a criminal act and other items of relevance to the investigation, identify the accident scene and other relevant circumstances of the case, the scene of the accident, the human body, the corps, the location, the facilities, documents and other objects shall be investigated. Items, documents and other objects shall be investigated at the place where they were found. Items, documents or other objects requiring much investigation time or investigation technique can be tested in a laboratory or any other place suitable for such investigation. Objects shall be examined by specialists. If a specialist is not an investigating officer of the pre-trial body, the investigation task shall be given to such officer in writing.'¹⁵ It follows that the investigation of objects is carried out by a specialist, although the study of objects is necessary for each stage of the expert study. In addition, objects can be examined in the form of an expert examination as well as in the pre-trial stage.

Fourthly, such separation creates unnecessary confusion between a specialist's and expert's opinion (expert report).. In practice there are cases that after the study of objects the same objects are given for examination, although there is no real evidence, the expert opinion are asked, certainly, but just to find out.

13 Kurapka, V. E.; Matulienė, S. Profesorius Eugenijaus Palskio teorinio palikimo įžvalgos ir jų realizacija Lietuvos Respublikos baudžiamojo proceso kodekse [Insight into theoretical legacy of Professor Eugenijus Palskys and its realization in the Code of Criminal Procedure of the Republic of Lithuania]. In: *Baudžiamasis procesas: nuo teorijos iki įrodinėjimo (prof. dr. Eugenijaus Palskio atminimui)*. Mokslo studija. Vilnius: Mykolo Romerio universiteto leidyba, 2011.

14 Lithuanian Code of Criminal Procedure. *Official Gazette*. 2002, No. 37-1341.

15 *Ibid.*

Fifthly, in our view, the incorrect departmental rules of criminal procedure legislation have recently emerged. For example, the Lithuanian Prosecutor General approved the recommendations¹⁶ concerning the allocation of tasks for specialists and experts. The definitions and requirements of expert examination and specialist conclusion are confused. Some doubts arise with regard to the status of such an Act.

The analysis of a variety of sources (normative, theoretical studies, summaries of practice, surveys, interviews, results) allows conducting an even more in-depth examination of issues that deserve to be studied further with regard to the proposals for the reform of special knowledge:

- Regulation of the legal status of the expert research subjects (rights and responsibilities).
- Regulation of complex examinations (expertise volume, number of participants, the ability to perform complex tests to one expert, comprehensive examination or test complex formulation of the conclusions of the procedure, inter-service examination, the head office, according to expert).
- Entities entitled to an expert's report, wheel extension (for example, the right to present evidence is granted to the counsel, or it may be a matter of self-examination performance regardless of the investigator or the prosecutor, require additional or re-examine whether the state institutions of expertise required and when).
- Required expertise allocation events (composite rate, which is necessary to mention the case and the formula that allows them to expand).
- Legal regulation of expert initiative (Independence of good faith).
- Optimisation of the form and content of the examiner's report (individual signs attached, references to methods, scientific validity, and completeness of the assessment not only of specialists into the consultation).
- Organisational and ethical issues (methodological recommendations for field inspection and installation, catalogisation, expert code of ethics).
- Some of the discussion questions (special knowledge of law; expert right perspective, the Code of Expertology - self-discipline, the examination of privatization range).
- Specific knowledge into practice is used not only in criminal proceedings, but very often, and in administrative and other processes, but in other types of processes little attention is paid to it. A constantly growing number of administrative offences are observed in Lithuania, which means that an increasing number of administrative cases are brought and decided. This consistent pattern, however, does not receive sufficient attention from scientists and legislators, since scientists, frequently discussing averment in the procedure of administrative

16 Lietuvos Respublikos generalinio prokuroro įsakymas „Dėl rekomendacijų dėl užduočių specialistams ir ekspertams skyrimo patvirtinimo“ 2011 m. sausio 18 d. Nr. I-14 [Order of the Prosecutor General of the Republic of Lithuania on the approval of recommendations concerning the allocation of tasks for specialists and experts, 2011 01 18 No. I-14].

cases in their works, devote very little attention to averment in administrative proceedings¹⁷.

Our study correlates with the European network of forensic investigation, which identified a wide range of obstacles that hinder achieving good results in the investigation of crimes and administrative violations, drew attention to the fact that it is good to build bridges of understanding between the researchers, the court and the expert, because prosecutors do not understand the data and the methods of examination. This causes a problem in the investigation, when they do not even know what the possibilities of modern expertise are.

There is the big importance of cooperation, especially in criminal investigations of cross-border terrorism, human trafficking, money laundering and counterfeiting. Emphasis is placed on the need to share information and databases. The question of universal education of experts is raised.

2.3. Further Interim Results of Project Research

A survey questionnaire was distributed in English language. It contained 20 questions, the most important of which were: Whether forensic science training programmes and policies were developed? Is a forensic quality control system in place in your country? What is your opinion on the regulatory issues of legal expertise? Is there a scientific or forensic institution (research institute, department of the university and etc.) in your country? Whether your country has the authority to supervise the studies and standards for accreditation of forensic higher education? Who coordinates and controls the activities of private experts? Do universities have specialised training courses for experts, practitioners, and are students taught for criminalists? In addition to the answers to questions given, the respondents also expressed their individual opinion in a separate sheet.

The study was conducted by questionnaire survey. Questionnaires were distributed during forensic symposium in Bratislava in 2011¹⁸. 130 questionnaires were distributed and 89 were received completed. Survey error was $\Delta = 0.1$.

The target population were experts and forensic scientists and practitioners from the following countries: Austria, Australia, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, India, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Norway, China, Poland, Portugal, Macedonia, Romania, Russia, Slovakia, South Africa, Spain, Turkey, Ukraine, United Kingdom, the United States.

For data processing the statistical package SPSS was applied. For analysis of each question, the descriptive statistics was used. For the analysis of coincidence of respondents' opinion Kendall coefficient of concordance was calculated. For variables for the connection setup Pearson's χ^2 criterion was used. In the future, the relationship

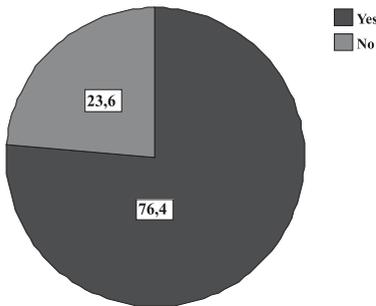
17 For more information see: Krikščiūnas, R.; Matulienė, S. Peculiarities of averment stages in cases of administrative offences. *Jurisprudencija*. 2011, 18(2): 659–674.

18 10th International Symposium of Forensic Sciences, 27 to 31 September 2011, Bratislava.

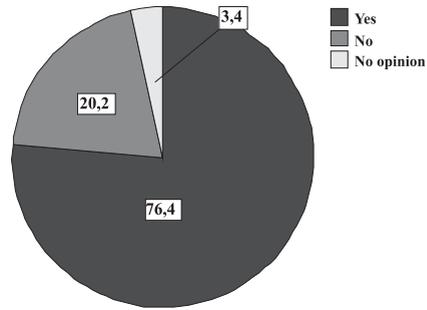
between all groups of variables will be determined. Factor analysis of the variables in different groups can be carried out. This makes it possible to exclude these variables in groups of factors.

The first key findings include:

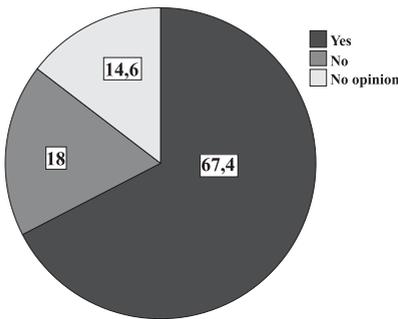
Have universities of your country specialized training courses for experts, specialists, or are students taught in criminalistics?



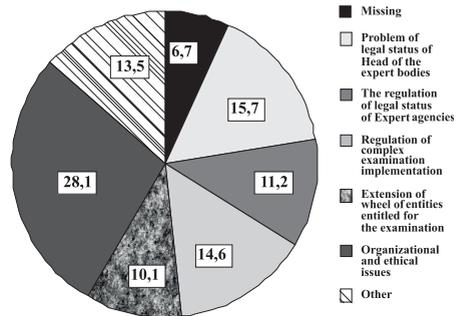
Are there forensic science education programs and policies?



Do you have in your country the control system of experts' examinations quality?



What you could see as problem of legal regulation of forensic examination?



Picture. First intermediate results of project

All the intermediate results of the study will be used to create the scientific concept of application of special knowledge in the investigation of crimes and other offences and determination of its implementation mechanism. This topic will be presented in a separate research paper. Finally, we emphasize that our position was strengthened by the U.S. Senate Resolution on Criminal Justice and Forensic Science Reform Act¹⁹ of 2011

19 U.S. Senate Resolution Criminal Justice and Forensic Science Reform Act of 2011 [interactive]. [accessed 08-11-2011]. <<http://www.bulletpath.com/2011/leahy-introduces-cjfsra/>>; <<http://www.opencongress.org/bill/112-s132/show>>.

on the optimisation of expert bodies, the findings of which in many cases are similar to the findings of our study.

Conclusions and Recommendations

The research carried out in Lithuania showed that the system of experts' institutions is ready for change. In our opinion, in Lithuania the scientific forensic institution should be established with a purpose to ensure the solution and examination of strategic, integrated various levels of the forensic examination problems, and rational use of existing capacity of material. The authorities should not only connect the number of forensic institutions with the variety of forensic examinations and forensic issues, but also with the scientific interpretation of the methodological, didactic and organisational issues of investigation of criminal and other offences and their prevention.

Given the situation, immediate steps must be taken to open the way for more effective application of scientific achievements in the investigation of crime and administrative offences, while taking into account the practical needs of law enforcement, an effective practical expertise in the network of institutions to coordinate their activities, and most importantly – to eliminate departmental interests and the possible influence of the governmental expert institutions.

Intermediate results allow us proposing a reform of expert institutions in the Forensic Scientific Institute, consistently attracting researchers from other institutions, and the establishment of the National Forensic Science Centre, aimed at a high level of professional development activities, in order to ensure efficient and prompt investigation. This is a logical step, as after the entry into force of the new Lithuanian Code of Criminal Procedure the role of pre-trial investigation has significantly increased; the specialist and expert opinions have become the dominant form of expertise in regional offices.

In our view, reorganisation of the expert bodies in Lithuania would lead to optimising the positive effects:

- their activities would be coordinated by a single ministry instead of three – Ministry of Health, Ministry of Justice, Ministry of Interior;
- avoiding duplication, improved management;
- more efficient allocation of expert workflow;
- more rational allocation of the budget planning and efficient allocation of funds will provide the infrastructure and medical equipment and technological upgrading in line with EU standards;
- centralised professional development for experts will ensure high level of professional qualifications, investigations and examinations, quality, standardisation and certification;
- Forensic Case Studies, accredited laboratory activities;
- more efficient and rational solutions to existing problems – reducing the unnecessarily high court expert's workload, dealing with human resources issues and ensuring adequate payment for the workload and the particularities and elimination of unregulated functions;

- coordinated case of expert services, tariff-setting mechanism.

Such a system would be more optimal, it would be avoid duplication and would be more efficient, as the closer a specialist and researcher would be at the scene, the more time and resources would be saved.

The concept of application of special knowledge should involve administrative procedure and other forms of procedure. The conducted research allows us stating that in cases of administrative offences there should be made up the unity of evidence and form content. The actual data confirmed by the evidence provided should, during the consideration of the case, form an averment object, the content of which is revealed by a properly applied material rule of law.

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SPECIALIŲ ŽINIŲ TAIKYMO PROBLEMAS TIRIANT NUSIKALTIMUS IR ADMINISTRACINĖS TEISĖS PAŽEIDIMUS LIETUVOJE

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Santrauka. *Atlikti tyrimai Lietuvoje parodė, kad ekspertinių įstaigų sistema jau yra pribrendusi pokyčiams. Pritariant Lietuvos Respublikos Vyriausybės 2010 m. sausio 28 d. pasitarimo nuostatoms dėl ekspertinės veiklos tobulinimo, mūsų nuomone, Lietuvoje turėtų būti įkurta mokslinė įstaiga, kuri užtikrintų strateginį, kompleksinį įvairių lygių teismo ekspertizės problemų nagrinėjimą, racionalų esamo potencialo ir materialinės bazės panaudojimą sprendžiant ne tik įvairius teismo ekspertizės ir kriminalistikos klausimus, bet ir nusikaltimų tyrimo aiškinimo ir užkardymo mokslinius, metodinius, didaktinius ir organizacinius klausimus.*

Straipsnis pristato tyrimą, vykdomą moksliniame projekte „Specialių žinių taikymo nusikaltimų tyrime mokslinė koncepcija bei jos įgyvendinimo mechanizmas“, ir pirminius atliekamo tyrimo rezultatus. Paties projekto tikslas yra sukurti specialių žinių taikymo nusikaltimų ir administracinių pažeidimų tyrime mokslinę koncepciją bei jos įgyvendinimo kryptis teisinės reformos kontekste. Tyrimais šioje srityje mes pabandėme aprėpti kuo platesnę geografinę, institucinę, pareigybinę imtį, empirinius tyrimus siedami su teisinės bazės, teorinių koncepcijų ir jų įgyvendinimo praktikos analize, panaudodami savo tyrimus, dalyvavimo įvairių darbo grupių ir komisijų veikloje patirtį, diskusijų su pareigūnais ir kolegomis informaciją.

Paskutinis naujausias mūsų tyrimas įgyvendinant projektą yra ekspertų ir specialistų iš 35 šalių apklausa anglų kalba. Respondentų atsakymai padės išskirti pagrindines problemų grupes, kurios yra aktualios siekiant optimizuoti ekspertinių įstaigų veiklą ir padidinti jų veiklos efektyvumo rodiklius. Svarbu buvo ištirti užsienio mokslo ekspertinių įstaigų atliekamų tyrimo kokybės užtikrinimo bei akreditacijos mechanizmus bei nustatyti, ar yra specialūs mokymai universitetuose. Straipsnyje pristatomi pirminiai svarbiausi šios apklausos rezultatai, o visas tyrimas bus vėliau pateiktas kaip atskiras mokslinis straipsnis.

Atlikta įvairių šaltinių (norminių aktų, teorinių darbų, praktikos apibendrinimų, apklausų, interviu rezultatų) analizė leidžia suformuoti dar kelias nuodugnesnio nagrinėjimo vertas problemas, kurios bus tyrinėjamos toliau, rengiant pasiūlymus dėl specialių žinių taikymo reformos.

Reikšminiai žodžiai: *specialių mokslo žinių taikymas, teismo ekspertizė, nusikaltimų bei administracinės teisės pažeidimų tyrimas.*

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