

Epistemological Characteristic and Procedural Significance of Steps and Stages of Appointing and Conducting Forensic Veterinary Examination

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The Research Purpose is to single out epistemological characteristics of steps of appointing and conducting forensic veterinary examination and to reveal their procedural significance for pre-trial investigation and trial of cases concerning animals. It has been proven that these steps differ by subject, purpose, methods and include their own components: 1) preparation of materials and appointment of forensic veterinary examination (adopting a decision on forensic examination appointment; singling out forensic examination subject; defining forensic examination category according to procedural features; order of its performance, choosing time for its conduct; preparing source information; obtaining objects for subsequent research; selection of the conducting subject; issuance of a procedural document on forensic examination appointment and the accused's (suspect, defendant) familiarization with its content; determining feasibility of the presence of process participants while forensic examination; sending the procedural document on forensic examination appointment and research objects to the conducting subject; interaction between subjects involved in appointment and conduct of forensic examination); 2) carrying out research by a forensic expert using specific veterinary expertise; 3) research, evaluation and verification of the expert conclusion (seeking clarifications from a forensic expert

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or interrogating him/her in court; appointment of additional examination or re-examination (if needed); acquainting the parties with the expert conclusion). The research methodological basis is the systematic approach (general scientific and special scientific methods).

Keywords: forensic veterinarian; steps of appointing and conducting forensic veterinary examination; forensic examination appointment subject; stages of materials preparation for forensic veterinary examination; epistemological characteristic.

Research Problem Formulation

The most complete and well-developed procedural form of applying specific expertise in court proceedings is forensic examination, as rightly stressed by S. F. Briukhan ¹. The significance of forensic examination lies in the fact that it provides judiciary with research findings on any proceedings (cases), and is also one of the means of ensuring human rights and freedoms ².

In scientific sources, emphasis is made on the issue of appointing and conducting forensic examinations, especially on the development of the modern theoretical framework of forensic expert activity in Ukraine ³, in particular under globalization conditions ⁴. As the expert conclusion

is a source of evidence (oftentimes: the most vital), postponing appointment of a forensic examination delays the pre-trial investigation and may lead to the closure of a criminal proceeding without achieving appropriate outcomes ⁵.

In particular, the reform of forensic expert activity in Ukraine was reflected in the introduction of new types of forensic examinations, one of which is forensic veterinary examination. Currently, the latter is being actively developed by specialists of National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science Institute» of the Ministry of Justice of Ukraine (hereinafter referred to as NSC «Hon. Prof. M. S. Bokarius FSI»). Kharkiv Scientific School of Forensic Veterinarians develops its own theoretical framework,

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- 1 Брюхань С. Ф. Проблемні питання підготовки матеріалів для проведення судово-почерковознавчих експертиз. *Актуальні питання судової експертизи і криміналістики* : зб. мат-лів міжнар. наук.-практ. конф.-полілогу (Харків, 15–16.04.2021). Харків, 2021. С. 115–116.
 - 2 Ключев О. М. Удосконалення експертного забезпечення правосуддя: теоретичні, правові та організаційні аспекти. *Теорія та практика судової експертизи і криміналістики*. 2019. Вип. 19. С. 102–117. DOI: 10.32353/khrife.1.2019.08 (date accessed: 15.03.2023).
 - 3 Угровецький О. П., Маланчак В. Є. Напрямки формування сучасного теоретичного підґрунтя судово-експертної діяльності в Україні. *Судова експертиза: сучасність та майбутнє* : зб. мат-лів кругл. столу (Львів, 25.01.2018). Львів, 2018. С. 132–135.
 - 4 Кіпоурас П., Овсянникова І. Судово-експертна діяльність в умовах глобалізації. *Теорія та практика судової експертизи і криміналістики*. 2021. Вип. 3 (25). С. 169–184. DOI: 10.32353/khrife.3.2021.12 (date accessed: 15.03.2023).
 - 5 Сімакова-Єфремян Е. Б. Про необхідність удосконалення законодавства щодо здійснення судово-експертної діяльності в Україні. *Ibid.* 2019. Вип. 19. С. 118–129. DOI: 10.32353/khrife.1.2019.09 (date accessed: 15.03.2023).

methodology and praxeology ⁶. At the same time, the issue of developing and substantiating the stages of material preparation by an authorized person (body) for appointment and conduct of forensic examination, specifically forensic veterinary examination, has been addressed since this stage is of primary importance for criminal procedure, processes in other areas of law, theory and practice forensic science.

Therefore, a proper understanding of procedural significance of material preparation stages when it comes to appointing and conducting forensic veterinary examination is vital for a clear

and substantiated determination of grounds for appointment and conduct of such forensic examination, as well as for ensuring correct implementation of the legal norms of this procedure.

Analysis of Essential Researches and Publications

Forensic veterinary examination is a means of providing evidence and powerful tools for asserting the truth in court proceedings of both Ukraine ⁷ and foreign countries ⁸ in cases involving animals, concerning: cruel treatment ⁹; violation of animal welfare

- 6 Яценко І. В. Вплив новітніх наукових здобутків Харківської наукової школи судово-ветеринарних експертів на ефективність призначення та проведення судово-ветеринарної експертизи. *Progressive Research in the Modern World* : Proceedings of VI International Scientific and Practical Conference (March 2—4, 2023). BoScience Publisher, Boston, USA, 2023. Pp. 27—44. URL: <https://sci-conf.com.ua/wp-content/uploads/2023/03/PROGRESSIVE-RESEARCH-IN-THE-MODERN-WORLD-2-4.03.23.pdf> (date accessed: 02.03.2023).
- 7 Синовєрська Т. І. Міжнародний досвід розслідування жорстокого поводження з тваринами та напрями його запровадження у вітчизняну практику. *Науковий вісник публічного та приватного права*. 2019. Вип. 1. Т. 1. С. 222—228. DOI: [10.32844/2618-1258.2019.1-1.38](https://doi.org/10.32844/2618-1258.2019.1-1.38) (date accessed: 02.03.2023) ; Уварова Н. В. До проблеми кримінальної відповідальності за жорстоке поводження з тваринами. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2018. № 4 (97). С. 138—140. DOI: [10.31733/2078-3566-2018-6-138-140](https://doi.org/10.31733/2078-3566-2018-6-138-140) (date accessed: 02.03.2023) ; Полтава К. О. Кримінологічна оцінка рівня і динаміки жорстокого поводження з тваринами в Україні та напрями його запобігання. *Право і суспільство*. 2020. № 1. Ч. 2. С. 129—136. DOI: [10.32842/2078-3736/2020.1-2.22](https://doi.org/10.32842/2078-3736/2020.1-2.22) (date accessed: 15.03.2023).
- 8 Stern A. W., McEwen B., McDonough S. P., Viner T., Brooks J. W., Kagan R., Brower A. Veterinary forensic pathology standards. *Journal of Forensic Science*. 2021. Vol. 66. Is. 3. Pp. 1176. DOI: [10.1111/1556-4029.14683](https://doi.org/10.1111/1556-4029.14683) (date accessed: 15.03.2023) ; Kritchevsky J. Adding evidence-based medicine to forensic evidence. *Veterinary Journal*. 2014. Vol. 199. Is. 3. Pp. 315—316. DOI: [10.1016/j.tvjl.2013.10.039](https://doi.org/10.1016/j.tvjl.2013.10.039) (date accessed: 15.03.2023) ; Cooper J. E., Cooper M. Veterinary involvement in forensic medicine. *The Veterinary Record*. 2021. Vol. 189. Is. 6. Pp. 249—250. DOI: [10.1002/etr.1004](https://doi.org/10.1002/etr.1004) (date accessed: 15.03.2023).
- 9 Hannah H. W. The Impact of Animal Welfare and Animal Anti-Cruelty Laws on Veterinarians. *Veterinary Clinics of North America: Small Animal Practice*. 1993. Vol. 23. Is. 5. Pp. 1109—1119. DOI: [10.1016/s0195-5616\(93\)50139-0](https://doi.org/10.1016/s0195-5616(93)50139-0) (date accessed: 15.03.2023) ; Monsalve S., Souza de P. V., Lopes A. S., Leite L. O., Polo G., Garcia R. Veterinary Forensics, Animal Welfare and Animal Abuse: Perceptions and Knowledge of Brazilian and Colombian Veterinary Students. *Journal of Veterinary Medical Education*. 2021. Vol. 48. Is. 6. Pp. 640—648. DOI: [10.3138/jvme-2019-0138](https://doi.org/10.3138/jvme-2019-0138) (date accessed: 10.03.2023) ; Bartelink E. J., Clinkinbeard Sh., Spessard C., Kilmartin A., Spangler W. L. Documenting non-accidental injury patterns in a dog abuse investigation: A collaborative approach between forensic anthropology and veterinary pathology. *Journal of Forensic Science*. 2022. Vol. 67. Is. 2. P. 756—765. DOI: [10.1111/1556-4029.14948](https://doi.org/10.1111/1556-4029.14948) (date accessed: 15.03.2023).

conditions ¹⁰; traffic collisions ¹¹; thefts ¹²; and starvation ¹⁵; deaths ¹⁶; electric shock ¹⁷; sudden death ¹³; deliberate poisoning ¹⁴ drowning ¹⁸; infliction of injuries ¹⁹,

- 10 Väärikkälä S., Koskela T., Hänninen L., Nevas M.. Evaluation of Criminal Sanctions Concerning Violations of Cattle and Pig Welfare. *Animals*. 2020. Vol. 10. Is. 4. P. 715. DOI: [10.3390/ani10040715](https://doi.org/10.3390/ani10040715) (date accessed: 15.03.2023).
- 11 Campos Fonseca Pinto de A. C. B., Massad M. R. R., Ribas L. M., Baroni C. O., Tremori T. M., Reis S. T. J., Rocha N. S. Complete cardiac and bronchial avulsion in a dog: Post-mortem computed tomography and forensic necropsy analysis. *Journal of Forensic Radiology and Imaging*. 2017. Vol. 8. Pp. 45–47. DOI: [10.1016/j.jofri.2016.11.006](https://doi.org/10.1016/j.jofri.2016.11.006) (date accessed: 15.03.2023).
- 12 Rubini S., Barbieri S., Gaudio R. M., Govoni G., Berna G. R., Fico R., Lorenzini R., Fontana M. C., Taddei R., Tassinari M. at all. Veterinary forensic sciences to solve a fatal case of predation on flamingos (*Phoenicopterus roseus*). *Veterinaria Italiana*. 2018. Vol. 54. Is. 2. Pp. 175–180. DOI: [10.12834/VetIt.1360.7488.1](https://doi.org/10.12834/VetIt.1360.7488.1) (date accessed: 15.03.2023).
- 13 Piegari G., Cardillo L., Alfano F., Vangone L., Iovane V., Fusco G. Pathological, Bacteriological and Virological Findings in Sudden and Unexpected Deaths in Young Dogs. *Animals*. 2020. Vol. 10. Is. 7. P. 1134. DOI: [10.3390/ani10071134](https://doi.org/10.3390/ani10071134) (date accessed: 15.03.2023).
- 14 Fukushima A. R., Peña-Muñoz J. W., Leoni L. A. B., Nicoletti M. A., Ferreira G. M., Delorenzi J. C. M. O. B., Ricci E. L., Brandão M. E., Paula Pantaleon de L., Gonçalves-Junior V., Waziry P. A. F., Maiorka P. C., Souza Spinosa de H. Development, Optimization, and Validation of Forensic Analytical Method for Quantification of Anticholinesterase Pesticides in Biological Matrices from Suspected Cases of Animal Poisoning. *Toxics*. 2022. Vol. 10. Is. 5. Art. 269. DOI: [10.3390/toxics10050269](https://doi.org/10.3390/toxics10050269) (date accessed: 15.03.2023) ; Botelho A. F. M., Machado A. M. D., da Silva R. H. S., Faria A. C., Machado L. S., Santos H., Braga S. D., Torres B. B. J., Miguel M. P., Chaves A. R., Melo M. M. Fatal metaldehyde poisoning in a dog confirmed by gas chromatography. *BMC Veterinary Research*. 2020. Vol. 16. Is. 1. Art. 139. DOI: [10.1186/s12917-020-02348-w](https://doi.org/10.1186/s12917-020-02348-w) (date accessed: 15.03.2023).
- 15 Ricci E., D'Aquino I., Paciello O., Whitfield V., Ressel L. Quantitative histologic evaluation reveals different degree of liver atrophy in cachectic and starved dogs. *Journal of Veterinary Diagnostic Investigation*. 2022. Vol. 34. Is. 6. Pp. 937–943. DOI: [10.1177/10406387221128326](https://doi.org/10.1177/10406387221128326) (date accessed: 15.03.2023).
- 16 Moore M. J., van der Hoop J., Barco S. G., Costidis A. M., Gulland F. M., Jepson P. D., Moore K. T., Raverty S., McLellan W. A. Criteria and case definitions for serious injury and death of pinnipeds and cetaceans caused by anthropogenic trauma. *Diseases of Aquatic Organisms*. 2013. Vol. 103. Is. 3. Pp. 299–264. DOI: [10.3354/dao02566](https://doi.org/10.3354/dao02566) (date accessed: 15.03.2023).
- 17 Viner T. C., Kagan R. A., Lehner A., Buchweitz J. P. Anticoagulant exposure in golden eagle (*Aquila chrysaetos*) power line electrocution and wind turbine mortalities. *Journal of Wildlife Diseases*. 2022. Vol. 58. Is. 2. Pp. 348–355. DOI: [10.7589/JWD-D-21-00144](https://doi.org/10.7589/JWD-D-21-00144) (date accessed: 15.03.2023).
- 18 Piegari G., Biase De D., d'Aquino I., Prisco F., Fico R., Ilsami R., Pozzato N., Genovese A., Paciello O. Diagnosis of Drowning and the Value of the Diatom Test in Veterinary Forensic Pathology. *Frontiers in Veterinary Science*. 2019. Vol. 6. Art. 404. DOI: [10.3389/fvets.2019.00404](https://doi.org/10.3389/fvets.2019.00404) (date accessed: 15.03.2023).
- 19 Neto R. L. A. L. T., Vieson M. D. Brain Tissue Pulmonary Embolism Due to Severe Blunt Force Head Trauma in a Dog. *Journal of Comparative Pathology*. 2020. Vol. 175. Pp. 75–78. DOI: [10.1016/j.jcpa.2020.01.001](https://doi.org/10.1016/j.jcpa.2020.01.001) (date accessed: 15.03.2023) ; Hsiou Ch.-L., Hsu Ch.-Ch., Liao P.-W., Yang F.-H., Lee A. N., Huang W.-H. Forensic Death Investigations of Dog Bite Injuries in 31 Cats. *Animals (Basel)*. 2022. Vol. 12. Is. 18. Art. 2404. DOI: [10.3390/ani12182404](https://doi.org/10.3390/ani12182404) (date accessed: 15.03.2023).

mutilations²⁰, gunshot injuries²¹ and injuries of the musculoskeletal system and internal organs²², etc.

The majority of researchers, including the author of this research paper, analyzed the issue of appointment and conduct of forensic examinations²³. Certainly, their achievements contributed to resolution of certain issues, although particular issues have not been fully addressed by researchers to date.

Many Ukrainian theoreticians and practitioners have devoted their research to procedural issues of appointing various types of forensic examinations, namely: S. F. Briukhan²⁴ (preparation of materials

during appointment of forensic handwriting examinations: the algorithm of actions of an authorized person carrying out pre-trial investigation); O. V. Hladilina²⁵ (forensic medical examinations during investigation of intentional homicides; interaction of pre-trial investigation agencies with state specialized forensic medicine institutions); S. O. Ivanytskyi²⁶ (forensic trace evidence analyses); M. H. Polishchuk²⁷ (forensic examination as a form of specific expertise application in civil procedure); M. H. Shcherbakovskiy²⁸, E. B. Simakova-Yefremian²⁹, Ye. I. Makarenko³⁰, A. M. Lazebnyi and I. I. Bozhuk³¹ (forensic experts in a criminal proceeding);

- 20 Hull K. D., Jeckel S., Williams J. M., Ciavaglia Sh. A., Webster L. M. I., Fitzgerald E., Chang Y.-M., Martineau H. M. Fox (*Vulpes vulpes*) involvement identified in a series of cat carcass mutilations. *Veterinary Pathology*. 2022. Vol. 59. Is. 2. Pp. 299–309. DOI: [10.1177/03009858211052661](https://doi.org/10.1177/03009858211052661) (date accessed: 15.03.2023).
- 21 Bradley-Siemens N., Brower A. I. Veterinary Forensics: Firearms and Investigation of Projectile Injury. *Veterinary Pathology*. 2016. Vol. 53. Is. 5. Pp. 988–1000. DOI: [10.1177/0300985816653170](https://doi.org/10.1177/0300985816653170) (date accessed: 15.03.2023).
- 22 DeLay J. Postmortem findings in Ontario racehorses, 2003–2015. *Journal of Veterinary Diagnostic Investigation*. 2017. Vol. 29. Is. 4. Pp. 457–464. DOI: [10.1177/1040638717700690](https://doi.org/10.1177/1040638717700690) (date accessed: 02.03.2023).
- 23 Яценко І. В. Проблеми укладання уповноваженою особою постанови про призначення судово-ветеринарної експертизи та шляхи їх вирішення. *Форум Права*. 2022. Вип. 73. № 2. С. 6–21. DOI: [10.5281/zenodo.6471059](https://doi.org/10.5281/zenodo.6471059) (date accessed: 02.03.2023).
- 24 Брюхань С. Ф. Ор. cit.
- 25 Гладіліна О. В. Призначення судово-медичних експертиз: проблеми та перспективи. *Актуальні проблеми вітчизняної юриспруденції*. 2018. № 2. Т. 2. С. 61–63.
- 26 Іваницький С. О. До питання призначення трасологічної експертизи. *Актуальні питання судової експертизи і криміналістики* : зб. мат.-літ мінжар. наук.-практ. конф.-полілогу (Харків, 15–16.04.2021). Харків, 2021. С. 169–170.
- 27 Поліщук М. Г. Експертиза як форма використання спеціальних знань у цивільному процесі. *Юридичний науковий електронний журнал*. 2021. № 3. С. 125–127. DOI: [10.32782/2524-0374/2021-3/30](https://doi.org/10.32782/2524-0374/2021-3/30) (date accessed: 02.03.2023).
- 28 Щербаковський М. Г. Обов'язкове призначення судових експертиз у кримінальному провадженні. *Теорія та практика судової експертизи і криміналістики*. 2016. Вип. 16. С. 148–157.
- 29 Сімакова-Єфреман Е. Б. До питання про призначення та проведення судової експертизи у кримінальному процесі України. *Сучасні напрями розвитку судової експертизи та криміналістики* : тези доп. наук.-практ. конф., присвяч. пам'яті Засл. проф. М. С. Бокаріуса (Харків, 20.12.2016). Харків, 2016. С. 254–256.
- 30 Макаренко Є. І., Здор В. М. Проблеми призначення судової експертизи у кримінальному провадженні. *Право і суспільство*. 2019. № 3. С. 218–222. DOI: [10.32842/2078-3736-2019-3-1-36](https://doi.org/10.32842/2078-3736-2019-3-1-36) (date accessed: 02.03.2023).
- 31 Лазебний А. М., Божук І. І. Актуальні питання призначення криміналістичних судових експертиз в Україні. *Актуальні проблеми права: теорія і практика*. 2021. № 1 (41). С. 68–76. DOI: [10.33216/2218-5461-2021-41-1-68-76](https://doi.org/10.33216/2218-5461-2021-41-1-68-76) (date accessed: 02.03.2023).

R. L. Stepaniuk and V. V. Ionova ³² (forensic molecular genetic examination at the stage of pre-trial investigation).

As a result, when the steps of appointment and conduct of forensic veterinary examination lack epistemological characteristic and procedural significance, it negatively affects the practice of conducting forensic veterinary examination, leading to unjustified refusals to perform it, its substitution with alternative procedural actions, and asking questions that exceed the forensic expert's competence, etc.

Article Purpose

To single out epistemological characteristics of the steps of appointment and conduct of forensic veterinary examination and to reveal their procedural significance for pre-trial investigation and trial of cases related to offenses against life and health of animals.

Research Methods

The research methodological basis is a systematic approach conditioned by the specifics of the discussed topic and associated with the use of general scientific and special scientific methods, including:

- *analysis, synthesis, analogy*: to define the essence of the categorical apparatus of epistemological

characteristic and procedural significance of the steps of appointment and conduct of forensic veterinary examination;

- *formal and logical*: to organize the algorithm of appointment and conduct of forensic veterinary examination;
- *logical and grammatical*: to clarify etymological content of the concept of *steps of appointing and conducting forensic veterinary examination*;
- *logical and legal*: to research and resolve problematic issues of legal norms;
- *system and structural*: to systematize and structure issues on the appointment and conduct of forensic veterinary examination
- *modeling*: to forecast and develop issues of appointment and conduct of forensic veterinary examination, as well as outline ways of its improvement.

Main Content Presentation

The regulatory and legal framework governing the procedure for forensic examination appointment, in particular forensic veterinary examination, is the Criminal Procedure Code of Ukraine ³³, Civil Procedure Code of Ukraine ³⁴, Code of Commercial Procedure of Ukraine ³⁵, Code of Administrative Proceedings of Ukraine ³⁶,

32 Степанюк Р. Л., Іонова В. В. Призначення судової молекулярно-генетичної експертизи на стадії досудового розслідування: проблеми та шляхи їх вирішення. *Вісник Луганського державного університету внутрішніх справ ім. Е. О. Дідоренка*. 2020. Вип. 3 (91). С. 307–319. DOI: 10.33766/2524-0323.91.307-319 (date accessed: 02.03.2023).

33 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

34 Цивільний процесуальний кодекс України від 18.03.2004 р. № 1618-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

35 Господарський процесуальний кодекс України від 06.11.1991 р. № 1798-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

36 Кодекс адміністративного судочинства України від 06.07.2005 р. № 2747-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

Law of Ukraine *On Judicial Examination* (hereinafter referred to as *the specialized law*)³⁷, Instructions on the Appointment and Conduct of Forensic Examinations and Expert Research (hereinafter referred to as *Instructions No. 1*)³⁸, Instructions on the Peculiarities of Carrying Out Forensic Expert Activity by Certified Forensic Experts Who Do Not Work in State Specialized Forensic Science Institutions (hereinafter referred to as *Instructions No. 2*)³⁹, Scientific and Methodological Guidelines on the Preparation and Appointment of Forensic Examinations and Expert Research (hereinafter referred to as *the specialized SMGs*)⁴⁰.

It is appropriate to note that we fully share the scientific position expressed by Yu. I. Azarov⁴¹ as to the need to replace special terms used in the current legislation of Ukraine on forensic expert activity. Specifically, the author suggests replacing the term *examination* with *forensic examination*, the term *expert* with *forensic expert*, and the term *expert conclusion* with *forensic expert conclusion*.

Such a principled approach will define a specific field of expert activity: forensic, and not any other.

As is known, appointment of forensic examination at the pre-trial investigation stage is a procedural action of an authorized person (public prosecutor, investigator, inquiring officer) or investigating judge to establish factual data and circumstances with the help of specific expertise. Appointment and conduct of forensic examination in criminal proceedings is possible only after the opening of a criminal proceeding and the drawing up of a procedural document on its appointment by the authorized person (body). In other types of court proceedings: after the conclusion of a contract with a private forensic expert or a forensic science institution at the written request of a person (clause 1.8 of Section I of Instructions No. 1⁴²) or upon issuance of the court ruling if the examination was appointed by the court (Arts. 103–104 of the Civil Procedure Code of Ukraine⁴³).

The grounds for appointing forensic examination in a criminal proceeding

37 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 02.03.2023).

38 Інструкція про призначення та проведення судових експертиз та експертних досліджень : затв. наказом Мініюсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

39 Інструкція про особливості здійснення судово-експертної діяльності атестованими судовими експертами, що не працюють у державних спеціалізованих експертних установах : затв. наказом Мініюсту України від 12.12.2011 р. № 3505/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z1431-11#Text> (date accessed: 02.03.2023).

40 Науково-методичні рекомендації з питань підготовки та призначення судових експертиз та експертних досліджень : затв. наказом Мініюсту України від 08.10.1998 р. № 53/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

41 Азаров Ю. І. Щодо окремих питань призначення та проведення експертизи у кримінальному провадженні. *Наукове забезпечення досудового розслідування: проблеми теорії та практики* : зб. тез доп. V Всеукр. наук.-практ. конф. (Київ, 08.07.2016). Київ, 2016. С. 34–36. URL: https://www.naiu.kiev.ua/files/naukova-diyalnist/naukovi-zaxodi/zbirniki/2016/zbirn_nayk_zabezpech.pdf (date accessed: 02.03.2023).

42 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 25.03.2023).

43 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

are a decision of the authorized person conducting pre-trial investigation, availability of motions from the participants in criminal procedure, the legal norm that emphasizes the need for forensic examination appointment, recommendations from special forensic methodologies related to investigating certain types of offenses. A procedural document issued by the authorized person (body) on the appointment of forensic examination (the judgment of the investigating judge or the ruling of the public prosecutor, investigator, inquiring officer (at the stage of pre-trial investigation) or court (at the stage of judicial investigation)) initiates procedural relations between the subjects involved in appointment and conduct of forensic examination. Organizational, control functions and functions related to procurement of forensic examination are assigned to the head of an institution in which it is performed (clauses 1.10 and 1.11 of Section I of Instructions No. 1⁴⁴).

The basis for appointing forensic veterinary examination is the need to incorporate specific veterinary expertise. In each specific case, these circumstances are determined by the authorized person (body) who appoints forensic veterinary examination or involves a forensic expert.

In the light of the above, it should be emphasized that the need to carry out forensic veterinary examination arises when it is necessary to carry out research using specific scientific expertise in veterinary medicine in order to clarify circumstances essential for a case; when there is a doubt about veracity of data obtained in the course of investigation; when it is vital to check the version put forth by an authorized person who conducts pre-trial investigation. Let's stress

that there is no need to appoint forensic veterinary examination if factual data and circumstances of an offense can be established quite effectively by conducting other investigative actions: interrogation, inspection, search, etc. However, such situations do not take place often.

The process of appointing and conducting forensic veterinary examination, as well as any other forensic examination, consists of three steps (see Fig. 1).

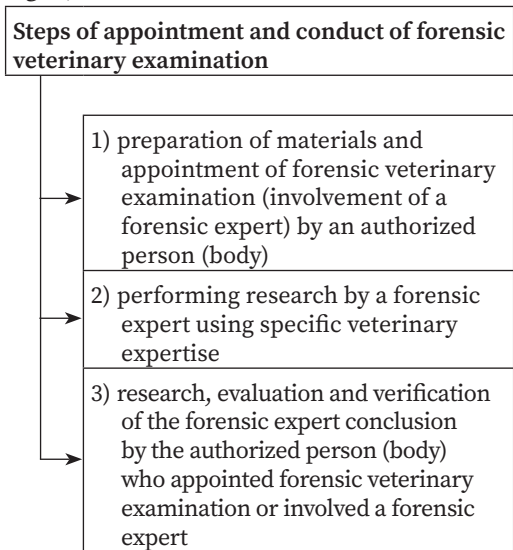


Fig. 1. Steps of appointment and conduct of forensic veterinary examination

Please note that the outlined steps differ in subject, purpose, and methods. Additionally, each of the stages has its own components. Let's describe each of them.

According to the right opinion of M. H. Shcherbakovskiy, preparation of materials for forensic examination appointment is a system of procedural, organizational, tactical and technical actions for collection, preparation and registration of forensic research objects needed for

44 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 25.03.2023).

forensic examination ⁴⁵. As stated by the author of this research, the specialist (expert) who is involved in the investigation by an authorized person (body) is of particular importance for forensic veterinary examination preparation. Most frequently, this is scene inspection or inspection of a place where the animal carcass was found ⁴⁶.

A favorable situation for a specialist's participation in investigative actions is as follows: *first*, the specialist purposefully helps the authorized person conducting the pre-trial investigation in a proper seizure of various material sources of information since it is a specialist who possesses knowledge about features of objects and about essential possibilities of conducting subsequent forensic veterinary examination; *secondly*, the specialist is able to examine not individual objects and traces artificially isolated from the environment in which they were found for research in laboratory conditions, but the entire set of these traces, which form a comprehensive understanding of a crime event. For example, a description of distinguishing features of a corpse (species, sex, age, breed), evaluation of body, indicating a posture and arrangement of various body parts of the animal carcass, establishing cadaveric phenomena (corpse cooling, rigor mortis, livor mortis, cadaveric dessication, autolysis, putrefactive changes); description of the condition of the skin and its derivatives, individual parts of the body and organs accessible for inspection from the outside; finding out localization and nature of injuries, existence of blood-like traces

and other layers on the animal's corpse and on other objects found at the scene; deathbed description. In light of the above, the peculiarity of trace evidence is that it can be studied as an independent, holistic formation within the diverse system of system-structural connections.

1 step. Preparation of materials and appointment of forensic veterinary examination (involvement of a forensic expert) by an authorized person (body)

The specifics of the *first stage* of appointing forensic veterinary examination is to investigate the event circumstances, put forward versions about the event, identify the physical source of information and address a task for the forensic veterinarian. This stage of preparation of materials and appointment of forensic veterinary examination includes stages, the list of which is provided in fig. 2.

Let's provide a more detailed description of each stage.

1. Adoption of a decision to appoint forensic veterinary examination by an authorized official

In order to make an informed decision regarding the necessity of conducting forensic veterinary examination within a criminal proceeding, as well as to determine its potential and effectiveness for pre-trial investigation of offenses ⁴⁷, it is necessary to analyze an investigative situation, determine the mechanism of the offense, and identify the interacting objects.

45 Щербаковский М. Г. Судебные экспертизы: назначение, производство, использование : учеб.-практ. пособ. Харьков, 2005. С. 187.

46 Яценко І. В. Проблеми використання спеціальних ветеринарних знань під час огляду трупа тварини на місці події та шляхи їх вирішення. *Юридичний науковий електронний журнал*. 2023. № 1. С. 485–505. DOI: [10.32782/2524-0374/2023-1/114](https://doi.org/10.32782/2524-0374/2023-1/114) (date accessed: 15.03.2023).

47 Яценко І. В., Дереча Л. М. Можливості судово-ветеринарної експертизи як нового виду судових експертиз. *Теорія та практика судової експертизи і криміналістики*. 2019. Вип. 19. С. 550–567. DOI: [10.32353/khrife.1.2019.044](https://doi.org/10.32353/khrife.1.2019.044) (date accessed: 15.03.2023).

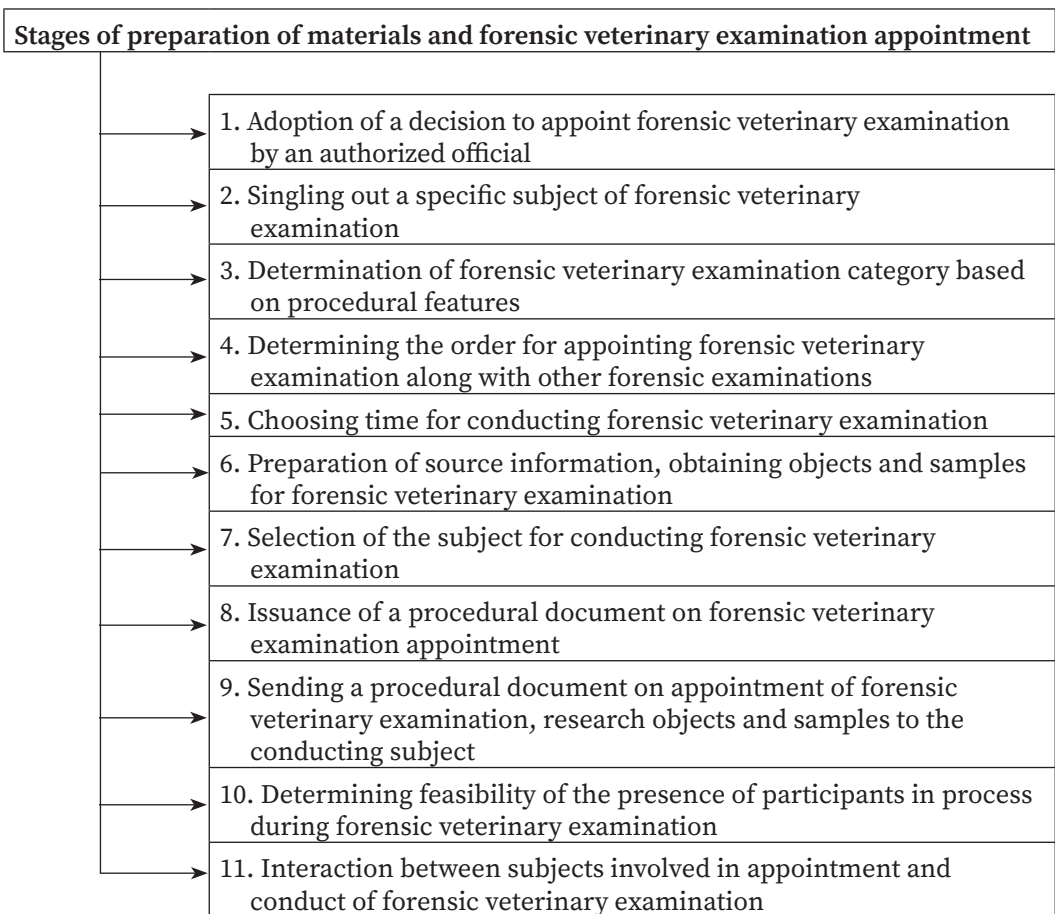


Fig. 2. Stages of preparation of materials and forensic veterinary examination appointment

Based on personal experience in forensic veterinary examination, it should be noted that quite often the subjects responsible for appointing forensic examination are not sufficiently familiar with its procedure, especially investigators and inquiring officers who may be appointing it for the

first time. Scientific and methodological guidelines have been developed and published to assist units of the National Police of Ukraine in providing information on peculiarities of appointing forensic veterinary examinations and organization of proving these facts in criminal proceedings⁴⁸.

48 Цуцкірідзе М. С., Орлова Т. А., Яценко І. В. та ін. Криміналістична характеристика проявів жорстокого поводження з тваринами. Особливості призначення судово-ветеринарної експертизи та організація доказування цих фактів у кримінальних провадженнях / Як захистити тварин від жорсткого поводження: організаційні, кримінальні, кримінальні процесуальні та криміналістичні аспекти : наук.-метод. рек. для підрозд. Нацполіції України. Харків, 2023. 87 с.

Forensic examinations are appointed for two primary reasons: *firstly*, based on direct provisions of the law, and *secondly*, when establishing factual data relevant to the case necessitates specific expertise application. It should be emphasized that assessing the cause of an animal's death (for example, in cases of improper veterinary care) or determining harm inflicted on health (for instance, excessive presence of xenobiotics or any pathogens in feeds or feed additives, particularly those life-threatening to animals and capable of causing poisoning), or establishing the severity of harm inflicted on an animal's health (such as physical injuries or mutilation) etc., cannot be accomplished by any means other than through conduct of forensic veterinary examination with the use of specific veterinary expertise⁴⁹.

However, in the current Criminal Procedure Code, there are no direct legal norms on mandatory conduct of forensic veterinary examination, unlike forensic medical examination (Part 2 of Article 242 of the Criminal Procedure Code⁵⁰), therefore we suggest amending Part 2 of Art. 242 *Grounds for expert examination* of the Criminal Procedure Code by adding paragraphs 7 and 8 of the following content:

"7) *establishing the cause of an animal's death;*

8) *ascertaining the severity of harm and the nature of physical injuries inflicted on the animal's health.*"

It worth noting that unjustified refusal by an authorized person to appoint forensic

veterinary examination during pre-trial investigation may result in an incomplete examination of evidence, which in turn can lead to the return of a criminal proceeding for further investigation.

According to procedural legislation, forensic examination (in particular, forensic veterinary examination) is appointed upon the request of the parties to a criminal proceeding, as well as on behalf of the investigative judge, court, or authorized person conducting pre-trial investigation, in accordance with the requirements of Part 1 of Article 242 of the Criminal Procedure Code⁵¹. The Criminal Procedure Code also regulates the procedure for involving a forensic expert (Article 243), consideration by the investigating judge of a motion to conduct forensic examination (Article 244), and conduct of forensic examination upon the court ruling (Article 332 of the Criminal Procedure Code)⁵².

The Civil Procedure Code stipulates: appointment of expert examination by the court (Article 103), passing of a ruling by the court on the appointment of an expert examination (Article 104), conducting an expert examination at the request of the case parties (Article 106), collection of materials for expert examination (Article 107)⁵³.

The Code of Commercial Procedure of Ukraine envisages appointment of expert examination by the court (Article 99), a ruling on the appointment of examination (Article 100), conducting an

49 Яценко І. В. Предмет судово-ветеринарної експертизи та його значення в теорії і практиці судової експертизи. *Науковий вісник Ужгородського Національного Університету. Серія Право*. 2022. Вип. 73. Т. 2. С. 163, 165. DOI: [10.24144/2307-3322.2022.73.55](https://doi.org/10.24144/2307-3322.2022.73.55) (date accessed: 25.03.2023).

50 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 25.03.2023).

51 Ibid.

52 Ibid.

53 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

expert examination at the request of the case parties (Article 101), collection of materials for expert examination (Article 102)⁵⁴.

The Code of Administrative Proceedings of Ukraine stipulates appointment of an expert examination by the court (Article 102), the court's ruling on the appointment of an expert examination (Article 103), conducting an expert examination at the request of the case parties (Article 104), and collection of materials for expert examination (Article 105)⁵⁵.

Let us emphasize that the customer of forensic veterinary examination must specify in the motion specific questions to which a forensic veterinarian should provide answers. The subject responsible for appointing forensic veterinary examination shall approve the request of the participants in the process to order and conduct forensic examination when circumstances requiring expert analysis may be relevant to a criminal proceeding and cannot be established by other means (i.e., interrogation, search, etc.). If the motion on forensic veterinary examination appointment is wholly or partially rejected, the grounds for refusal must be justified.

2. Singling out a specific subject of forensic veterinary examination

The subject of forensic veterinary examination encompasses a set of factual data and circumstances in a proceeding (case) related to the harm inflicted on the health and life of an animal (in particular: the nature, mechanism, sequence, severity, injuries inflicted before or after death, and age of formation of physical injuries;

occurrence and spread of diseases; cause of mutilation or death; defective provision of veterinary care; safety and quality of feeds and feed additives), which the forensic veterinarian determines using specific expertise in order to solve identification, diagnostic, and situational tasks⁵⁶.

Understanding the subject of forensic veterinary examination enables the subject of its appointment to:

- formulate questions that simultaneously serve as tasks assigned to the forensic expert for resolution;
- outline the range of factual data that should be established through expert means;
- provide the forensic science institution or private forensic expert only with those material objects that serve as physical data carriers (within the subject matter of a specific forensic veterinary examination or multidisciplinary forensic examination).

In practice, preference is given to the integrated approach: simultaneous consideration of multiple criteria allows for accurate identification of the subject of forensic veterinary examination and proper formulation of a clear set of questions that the forensic expert must address.

3. Determination of forensic veterinary examination category based on procedural features

The class, type and kind of forensic examination in accordance with its classification by specific expertise depend on the nature of a data carrier (provided for researching forensic examination object)

54 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

55 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

56 Яценко І. В. Предмет судово-ветеринарної експертизи ... С. 154–173. DOI: 10.24144/2307-3322.2022.73.55 (date accessed: 01.04.2023).

and the factual data and circumstances to be established (forensic examination subject)⁵⁷. The categories of forensic veterinary examination are also differentiated by procedural features: preliminary (main), additional, re-examination, commission, or multidisciplinary. Research on objects oftentimes necessitates the application of specific expertise from several scientific fields (for example, the establishment of species affiliation of skeletal bones or individual animal remains requires expertise from veterinary science, biology, and molecular genetics; cases involving poisoning: expertise from veterinary science, chemistry, and/or toxicology may be required). In such cases, *multidisciplinary forensic examination* is appointed (for example, forensic veterinary-biological, veterinary-molecular-genetic, veterinary-medical, or veterinary-trace evidence, etc.).

The subject of *re-examination* or *additional forensic examination*, in addition to providing the examination object(s), submits conclusions of previous examinations with all annexes, as well as additional materials related to forensic examination subject collected after a preliminary conclusion was provided. The procedural document on appointing forensic examination (involving a forensic expert) justifies reasons for such appointment (clause 3.3, Section III, Instructions No. 1⁵⁸). The expediency of such a procedure is confirmed by the author's own practice as a forensic expert.

4. Determining the order for appointing forensic veterinary examination along with other forensic examinations

Forensic veterinary examination can be a component of a set of different forensic

examinations related to the same object or group of objects, comprehensive research within a single forensic examination. From an epistemological perspective, these concepts are similar, but they have procedural differences, although they generally indicate an integrated approach to forensic examination subject.

In such a set, the authorized person conducting pre-trial investigation must determine the order of conducting forensic examinations: if the same objects need to undergo different expert researches; if results of one forensic examination will determine results of others; if application of destructive research methods to the object will significantly alter its properties and make it impossible (partially or completely) to conduct re-examination or other subsequent examinations. For example, to calculate damages in the case of bee mortality due to poisoning by chemicals (pesticides) of fields with nectar-bearing plants, it is necessary to first determine the cause of insects' death. This can be achieved through expert research by establishing a cause-and-effect relationship between the presence of pesticides in their bodies and in the soil and plants. It is done through conducting a multidisciplinary forensic veterinary-toxicological examination and only later forensic economic examination may be appointed. If necessary, in conjunction with other forensic examinations in a criminal proceeding concerning the death of mammals, the following are performed: first, forensic veterinary examination (to determine the pathomorphological changes in the carcasses); forensic toxicological examination (to exclude poisoning as the cause of death) or forensic ballistic

57 Сімакова-Єфремян Е. Б. Теоретико-правові та методологічні засади комплексних судово-експертних досліджень : дис. ... д-ра юрид. наук. Харків, 2017. С. 71–90.

58 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

examination (to determine the cause of death: gunshot or explosive trauma) and forensic merchandising examination (to calculate the value of dead animals) based on the results of previously conducted examinations. Due to the use of destructive methods (i.e., when dissecting the organs of an animal's carcass, etc.) while forensic veterinary examination, it is customary to photograph (according to the rules of forensic photography) all research steps and include photographs as annexes to the expert conclusion.

5. Choosing time for conducting forensic veterinary examination

Criminal procedural legislation does not establish time limits for appointing any forensic examination, including forensic veterinary examination. This is the task of forensic examination appointing authority who considers the specific situation and tactical considerations (anticipated volume and nature of evidentiary information). The main priority is, on the one hand, the timely scheduling of forensic examinations in order to avoid delays in the investigation, and on the other hand, to prevent irreversible changes to objects of research. For example, in the animal's carcass⁵⁹ processes of autolysis and putrefaction develop within one day⁶⁰ (during the late postmortem period) due to the action of rapidly multiplying microorganisms and enzymes in the tissues. As a result, organoleptic, physical, and chemical characteristics of the organs and tissues change, which can distort the assessment of macro- and microscopic features and lead to errors in forensic veterinary diagnosis as well as complicate determination of the

mechanism of injury and time of death, etc.⁶². In addition, the complexity of research in forensic veterinary examination means that it takes a long time to carry out.

The subsequent (re-examination, additional) forensic veterinary examination can be hindered even by freezing because during the freezing and thawing process, crystals of the frozen liquid partially damage the tissues, leading to changes in tissue coloration and elasticity. As a result, specific features that could be pathognomonic for certain types of injuries or diseases that caused the animal's death are significantly lost. What is more, freezing of the carcass of an animal which death resulted from poisoning can completely or partially destroy poison traces, making it difficult to detect it in organs and tissues even with the use of high-precision technical devices, thus preventing reaching an accurate conclusion as to the cause of the animal's death.

Freezing of the carcass of an animal which death resulted from the action of a pathogenic agent, alters or destroys the pathomorphological picture, which prevents the correct establishment of a forensic veterinary diagnosis and provision of an expert conclusion in a probable form.

Any postmortem changes in an animal's carcass, in the case of its cooling, freezing or deep-freezing, affect not only the expert evaluation and establishment of forensic veterinary diagnosis of fractures of skeleton bones, dislocations of joints, as well as rupture of muscles, ligaments, tendons, synovial bursas, internal organs, etc.

The most optimal solution (due to the inability to conduct forensic veterinary examination as quickly as possible) is to cool

59 An animal carcass is considered fresh within 24 hours at ambient temperature of +18 °C.

60 Yatsenko I., Kazantsev R. Cytomorphological characteristics of necroptates of internal organs of dogs in the early post-mortem period in the aspect of forensic veterinary examination. *Ukrainian Journal of Veterinary Sciences*. 2022. Vol. 13. No. 4. Pp. 60–74. DOI: 10.31548/ujvs.13(4).2022.60-74 (date accessed: 02.03.2023).

the animal carcass (0...+4°C) for a period of 2–3 days. If there is a need to preserve the animal carcass for a longer period, it should be frozen (at a temperature of 0...-2°C) or deep-frozen (at -8 °C). To temporarily store animal carcasses, it is necessary to establish refrigeration chambers (for example, in animal shelters, laboratories of the State Service of Ukraine for Food Safety and Consumer Protection, or forensic science institutions of the Ministry of Justice of Ukraine), which can be accessed by authorized individuals or body conducting pre-trial investigations regarding offenses against animals. For example, specialists of the NSC «Hon. Prof. M. S. Bokarius FSI» perform forensic veterinary autopsy at the municipal utility Animal Treatment Center (the corpses of animals undergoing expert examination are temporarily stored there in a refrigerating chamber) according to the agreement between the institutions.

The same applies to the immediate forensic veterinary examination of a living animal undergoing expert examination: as time passes, wounds heal, bruises disappear, and the morphology of scar tissue on the skin changes, which either makes it impossible to determine the time of injury formation or makes the expert conclusion more probable. If an immediate forensic veterinary examination is not possible, the authorized person (body) conducting pre-trial investigation may involve specialists in the relevant field of veterinary medicine who hold a specialist or master's level of education. These specialists provide information on the results of their examinations in a written advisory report with their personal signature, duly certified. It is worth noting that these specialists do not determine the severity of the harm inflicted on the animal's health⁶¹.

Therefore, the subject of forensic veterinary examination appointment should collect case materials as soon as possible, adopt a procedural document on forensic examination appointment and send them to the expert institution for execution.

It is necessary to appoint forensic veterinary examination as quickly as possible for several reasons. Firstly, conducting forensic examination and preparing the expert conclusion requires a certain amount of time, which is determined by research complexity. Another criterion for readiness of the authorized person or body to carry out forensic veterinary examination is collection of all necessary materials in full scope. Thus, if the object of the forensic veterinary examination is an animal carcass, the appointing subject must organize an inspection of the carcass at the scene with the participation of a forensic veterinarian and draw up a corresponding inspection report; if the animal that received veterinary care at a veterinary clinic is alive, then veterinary documents (medical history or medical card of the sick animal, etc.) should be collected and included in a criminal proceeding; if the object of forensic veterinary examination is feeds or feed additives: involve a specialist in veterinary medicine to examine them on-site, collect samples for laboratory analysis and package them.

6. Preparation of source information, obtaining objects and samples for forensic veterinary examination

This is an important procedural stage that significantly affects the quality of expert research and substantiation of the expert conclusion. All information sources needed for forensic veterinary examination appointment should be categorized as *proce-*

61 Яценко І. В., Парилівський О. І. Правила судово-ветеринарного визначення ступеня тяжкості шкоди, заподіяної здоров'ю тварини (методичні рекомендації). Харків, 2022. 47 с.

dural (judgment of the investigating judge or court, records of investigative actions, research objects, samples for comparative analysis, conclusions of the preliminary forensic veterinary examination, materials of a criminal proceeding [upon the motion of the forensic expert]: inspection records with annexes, records of physical evidence seizure of, etc.) and *non-procedural* (legal regulations and subordinate documents, standards, collections, literature sources, software products, etc.).

Source information must meet general conditions: *admissibility*, meaning it must be suitable from the standpoint of the legality of sources, techniques, and methods of obtaining it (Art. 86 of the Criminal Procedure Code of Ukraine ⁶², Art. 78 of the Civil Procedure Code of Ukraine ⁶³, Art. 77 of the Code of Commercial Procedure of Ukraine ⁶⁴, Art. 74 of the Code of Administrative Proceedings of Ukraine ⁶⁵); *adequacy* : if there is a con-

nection with a specific case (Art. 85 of the Civil Procedure Code of Ukraine ⁶⁶, Art. 77 the Civil Procedure Code of Ukraine ⁶⁷, Art. 76 the Code of Commercial Procedure of Ukraine ⁶⁸, Art. 73 the Code of Administrative Proceedings of Ukraine ⁶⁹); *reliability*: compliance with true case circumstances, certainty of origin (Art. 79 of the Civil Procedure Code of Ukraine ⁷⁰, Art. 78 of the Code of Commercial Procedure of Ukraine ⁷¹, Art. 75 of the Code of Administrative Proceedings of Ukraine ⁷²), *sufficiency* (Art. 80 of the Civil Procedure Code of Ukraine ⁷³, Art. 76 the Code of Administrative Proceedings of Ukraine ⁷⁴) and *representativeness* : quality and quantity corresponding to research methodological requirements.

The question of the scope of information provided to the forensic veterinarian is carefully considered and determined on a case-by-case basis by the appointing authority. The forensic veterinarian also has

- 62 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).
- 63 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 64 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).
- 65 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).
- 66 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).
- 67 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 68 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).
- 69 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).
- 70 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 71 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).
- 72 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).
- 73 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 74 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

the right to submit a motion for the provision of additional materials (para. 3 of cl. 2.1 of Sec. II of Instructions No. 1 ⁷⁵).

In accordance with para. 1 of cl. 2.1 of Section II of Instructions No. 1 ⁷⁶, the appointing subject of forensic veterinary examination shall provide the forensic expert with materials related to forensic examination subject (including records of investigations, veterinary documents, etc., containing factual information about the research object). The procedural document on forensic veterinary examination appointment (specifically the contract with a private forensic veterinarian or expert institution) must specify the list of objects provided for forensic examination. The customer of forensic veterinary examination is obliged to guarantee reliability of all materials submitted for forensic examination, eliminate any misinterpretations regarding the same objects, as well as prevent procedural failures during collection and fixation of evidence, violation of rules for handling physical evidence and its substitution. For example, the name of an animal undergoing examination, tattoo number, address where the animal was seized, etc., should not differ within a single document and across all documents provided to the forensic veterinarian for forensic examination. (Experience confirms that inaccuracies in these data, which investigators may make when appointing forensic veterinary examination, negatively impact the speed and effectiveness of forensic examination.)

Depending on the circumstances, materials for conducting forensic veterinary examination are submitted personally, by a courier, mail, directly from the place of their storage or location. During preparation of materials for conducting forensic veterinary examination, the authorized per-

son or body conducting the pre-trial investigation must:

- define the scope of research objects: physical evidence;
- obtain comparison samples to solve identification tasks, including the involvement of a veterinary medicine expert, especially during inspection of the scene;
- clarify source data;
- to delineate the part of the criminal proceeding materials that is relevant for establishing the facts necessary to provide an objective, well-founded, accurate and truthful conclusion of the forensic expert.

We share the viewpoint of S. F. Briukhan ⁷⁷ that the level of professional knowledge and skills in the field of forensic science of a person (body) appointing forensic examination is important for preparation of materials and formulation of questions to the forensic expert.

The key to successful conduct of forensic veterinary examination and resolution of questions addressed to a forensic expert lies in the proper and qualitative collection of physical evidence. Additionally, the forensic expert is provided with case files which content depends on the questions posed for forensic examination.

Therefore, ensuring authenticity, completeness and quality of objects submitted for forensic examination falls within the competence of an authorized person (body) responsible for appointing forensic veterinary examination. It is the duty of the forensic veterinarian to conduct a comprehensive, thorough, and objective research on objects.

Let's emphasize that the legal basis for selection of samples for forensic examination is the relevant legislation norm, as well

75 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

76 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

77 Брюхань С. Ф. *Op. cit.*

as a procedural document, which can be a judgement of the investigating judge or court and also a ruling of the investigator or inquiring officer.

The document on forensic examination appointment specifies: a person who will receive samples; which specific samples and in what quantity are provided; when and to whom samples are transferred after their receipt.

For forensic veterinary examination, selection of samples from multiple pieces of physical evidence (including feeds and feed additives) is carried out in compliance with provisions of the Procedure for Sampling Animal, Plant, and Biotechnological Origin Products for Research Purposes ⁷⁸ (hereinafter: *the Procedure for Sampling Products*), Procedure for Sampling and Transportation (Dispatch) of Samples to Authorized Laboratories for the Purposes of State Control ⁷⁹ (hereinafter: *the Procedure for Sampling and Transportation*), as well as the Rules on Sampling Pathological Material, Blood, Feeds, Water, and their Dispatch for Laboratory Analysis ⁸⁰ (hereinafter: *the Rules on Sampling Pathological Material*) with mandatory mention of the last name of the specialist who participated in the sampling of such samples.

Each research object and sample are placed in a clean inert container (which ensures proper protection against contamination and damage during transportation),

registered with the date and place of their collection, sealed at the collection site, and labeled with explanatory inscriptions and identification code (corresponding to the identification code of the sampling act, allowing identification of the batch or portion of animal feeds or feed additives from which samples were taken) on the packaging (see Fig. 3–4); a sampling act should be drawn up and indicated in *the scene inspection record*. The procedure for sampling samples and items in a criminal proceeding is established in accordance with provisions on granting provisional access to items and documents (Arts. 160–166 of the Criminal Procedure Code ⁸¹).



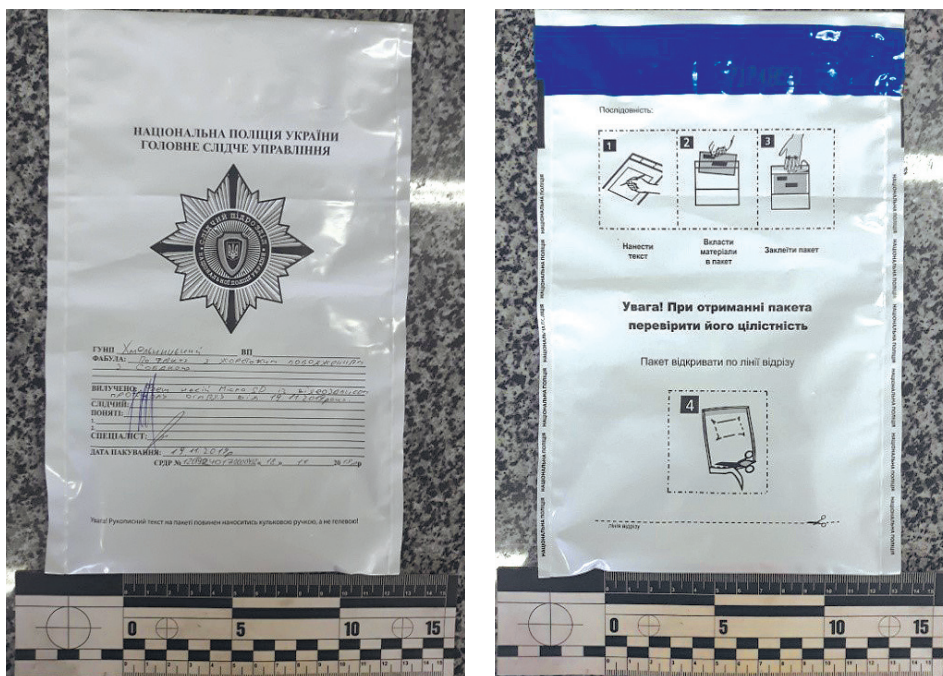
Fig. 3. A packaged forensic veterinary examination object with an explanatory inscription written on paper (from the archives of the NSC «Hon. Prof. M. S. Bokarius FSI»)

78 Порядок відбору зразків продукції тваринного, рослинного і біотехнологічного походження для проведення досліджень : затв. Постановою КМУ від 14.06.2002 р. № 833. URL: <https://zakon.rada.gov.ua/laws/show/833-2002-%D0%BF#Text> (date accessed: 02.03.2023).

79 Порядок відбору зразків та їх перевезення (пересилання) до уповноважених лабораторій для цілей державного контролю : затв. наказом Мінагрополітики України від 11.10.2018 р. № 490. URL: <https://zakon.rada.gov.ua/laws/show/z1464-18#Text> (date accessed: 02.03.2023).

80 Правила відбору зразків патологічного матеріалу, крові, кормів, води та пересилання їх для лабораторного дослідження : затв. голов. Держдепветмедицини Мінсільгосппроду України від 15.04.1997 р. № 15-14/111. URL: <http://vetlabkr.pp.ua/Content/files/%D0%9F%D1%80%D0%B0%D0%B2%D0%B8%D0%BB%D0%B0%20%D0%B2%D1%96%D0%B4%D0%B1%D0%BE%D1%80%D1%83%20%D0%B7%D1%80%D0%B0%D0%B7%D0%BA%D1%96%D0%B2%20%D0%BF%D0%B0%D1%82%D0%BE%D0%BB%D0%BE%D0%B3%D1%96%D1%87%D0%BD%D0%BE%D0%B3%D0%BE%20%D0%BC%D0%B0%D1%82%D0%B5%D1%80%D1%96%D0%B0%D0%BB%D1%83.pdf> (date accessed: 02.03.2023).

81 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).



a) b)
Fig. 4. General view of evidence packaging to be sent to a forensic veterinarian:
 a) front side; b) back side (from the archives
 of the NSC «Hon. Prof. M. S. Bokarius FSI»)

In a criminal proceeding, obtaining samples for examination is regulated by Article 245 ⁸², and collection of samples from items and documents is governed by Arts. 160–166 of the Criminal Procedure Code ⁸³. In a civil proceeding, collection of materials for expert examination is regulated by Article 107 of the Civil Procedure Code ⁸⁴, in a commercial proceeding: by Art. 102 of the Code of Commercial Procedure of Ukraine ⁸⁵, in

an administrative proceeding: by Art. 102 of the Code of Administrative Proceedings of Ukraine ⁸⁶. When determining which specific materials are necessary for conducting forensic examination, the court takes into account opinions of the parties involved and may also consider the opinion of the appointed forensic expert. Necessary materials are provided to the expert, although copies of these materials may be retained in the case files.

82 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

83 Ibid.

84 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

85 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

86 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

A forensic expert is not entitled to independently collect materials for conducting forensic examination (including forensic-veterinary), nor to selectively choose source data that are ambiguously reflected in materials provided to him/her (Pt. 4 of Art. 69 of the Criminal Procedure Code of Ukraine ⁸⁷; Pt. 2 of Art. 107 of the Civil Procedure Code of Ukraine ⁸⁸, Art. 102 of the Code of Commercial Procedure of Ukraine ⁸⁹ and Art. 105 of the Code of Administrative Proceedings of Ukraine ⁹⁰; para. 4 of cl. 2.3 of Sec. II of Instructions No. 1 ⁹¹). When deciding which materials to submit for forensic examination, the court (if necessary) also resolves the issue of obtaining relevant materials.

The forensic expert must ensure preservation of forensic examination object; if not, he/she should obtain an appropriate permission from a person (body) who appointed forensic examination or involved a forensic expert (cl. 3 of Part 5 of Art. 69 of the Criminal Procedure Code of Ukraine ⁹²;

Pts. 3 and 4 of Art. 108 of the Civil Procedure Code of Ukraine ⁹³, Art. 103 of the Commercial Procedure of Ukraine ⁹⁴, Art. 106 of the Code of Administrative Proceedings of Ukraine ⁹⁵; para. 7 of cl. 2.2 of Sec. II of Instructions No. 1 ⁹⁶).

Let's stress that obtaining permission to use destructive research methods prolongs terms of conducting forensic examination (including forensic veterinary examination). So, in order to save time, it is more expedient to immediately outline such permission in a procedural document (judgment or ruling) on forensic examination appointment ⁹⁷.

Therefore, the appointing authority of forensic veterinary examination should adhere to the following basic rules when preparing objects and materials for analysis:

- 1) to collect samples of pathological material, blood, feeds, water, and dispatch them for laboratory analysis with involvement of a specialist in

87 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

88 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

89 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

90 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

91 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

92 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

93 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

94 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

95 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

96 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

97 Яценко І. В. Проблеми укладання С. 17. DOI: 10.5281/zenodo.6471059 (date accessed: 02.03.2023).

- veterinary medicine in conformity with the Rules on Sampling⁹⁸;
- 2) to send significantly voluminous or massive research objects and objects for comparative analysis as samples to a forensic expert;
 - 3) to dry and transport animal excrements and manure in closed containers weighing 100–120 grams;
 - 4) to send the carrier item (such as a gauze swab, cotton, etc.) when examining micro-objects;
 - 5) to cover areas on carrier objects with stains or traces of biological origin, use clean paper and secure the edges of an object (proceed similarly in case no traces are found, but their presence is possible)⁹⁹;
 - 6) ensure inspection by a forensic expert of the research object at the location of the latter (if it is impossible to deliver the object). In this case, the subject of forensic veterinary examination appointment is obliged to transport a forensic expert to the place of object storage, to ensure free access to it and to create conditions necessary for conducting forensic examination.

If it is necessary to preserve the object at the crime scene, the authority responsible for the appointment of the forensic veterinary examination or the involvement of

a forensic expert shall organize its protection and take measures to preserve an object. She/He indicates it in the scene inspection report or in a document on relevant examination appointment.

Furthermore, a subject responsible for forensic veterinary examination appointment or involvement of a forensic expert must promptly respond to the need for additional materials, collection, and documentation of new evidence.

In a criminal proceeding, samples are taken for forensic examination by an authorised person conducting a pre-trial investigation or at the request of an investigating judge who appointed forensic veterinary examination. During the trial stage of a case, taking of samples shall be carried out by the court or, at its request, by a specialist in veterinary medicine (Art. 245 the Criminal Procedure Code of Ukraine¹⁰⁰), for instance, by an employee of a respective accredited laboratory (the SSUFSCP, SMSU, etc.), who possesses special knowledge and skills in sample collection (the forensic expert acquires legal status of a specialist after such involvement: see Art. 71 the Criminal Procedure Code of Ukraine¹⁰¹, Art. 74 the Civil Procedure Code of Ukraine¹⁰², Art. 71 the Code of Commercial Procedure of Ukraine¹⁰³, Art. 70 the Code of Administrative Proceedings of Ukraine¹⁰⁴).

98 Правила відбору зразків патологічного матеріалу URL: <http://vetlabkr.pp.ua/Content/files/%D0%9F%D1%80%D0%B0%D0%B2%D0%B8%D0%BB%D0%B0%20%D0%B2%D1%96%D0%B4%D0%B1%D0%BE%D1%80%D1%83%20%D0%B7%D1%80%D0%B0%D0%B7%D0%BA%D1%96%D0%B2%20%D0%BF%D0%B0%D1%82%D0%BE%D0%BB%D0%BE%D0%B3%D1%96%D1%87%D0%BD%D0%BE%D0%B3%D0%BE%20%D0%BC%D0%B0%D1%82%D0%B5%D1%80%D1%96%D0%B0%D0%BB%D1%83.pdf> (date accessed: 02.03.2023).

99 Яценко І. В. Проблеми використання С. 499. DOI: [10.32782/2524-0374/2023-1/114](https://doi.org/10.32782/2524-0374/2023-1/114) (date accessed: 15.03.2023).

100 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

101 Ibid.

102 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

103 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

104 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

In a civil, commercial, and administrative proceeding (if the court appoints forensic veterinary examination), all necessary materials are provided by the court. In the event that a party to the case initiates forensic examination, it is his/her obligation to provide relevant case materials to either the expert institution or a private forensic expert (Pt. 1 of Art. 107 the Civil Procedure Code of Ukraine ¹⁰⁵, Art. 102 the Code of Commercial Procedure of Ukraine ¹⁰⁶ and Art. 105 of the Code of Administrative Proceedings of Ukraine ¹⁰⁷).

Only originals or properly certified copies of veterinary documents should be provided for examination purposes. These copies must be signed by a veterinarian who treated an animal and should be compiled in accordance with originals. The originals should exhaustively outline information about the nature, location, and clinical presentation of injuries, as well as other necessary information that is vital for forensic examination ¹⁰⁸.

Let us note that fiscal receipts for payment for veterinary services indicating names and costs of veterinary drugs, as well as other similar materials, are not considered veterinary documents and therefore do not hold any significance for conducting forensic veterinary examination (at the same time serving as evidence of veterinary services provision). Veterinary documents include: an extract from the register of sick animals; an extract from the animal's ambulatory medical record or from medical history (epicrisis) if the animal has received treatment or undergone clinical examination

prior to forensic veterinary examination appointment; results of blood, urine, milk, and other biological fluid tests; protocols of ultrasonography, endoscopy, radiography, magnetic resonance imaging, and spiral computed tomography examinations, etc.

In order to establish, for example, animal mutilation, an authorized person (body) carrying out pre-trial investigation may provide the forensic expert with the animal's photos (with a detailed description provided by the veterinarian who examined the animal immediately after infliction of the injury, attached to a criminal proceeding or a case on other types of legal proceedings). However, this is only done in exceptional cases where signs of mutilation are evident and it is not possible to bring the animal to the forensic expert ¹⁰⁹.

In the case of appointing an additional examination or forensic veterinary re-examination at this stage, the forensic expert must be provided with conclusions of previous forensic examinations, including their appendices, as well as additional materials related to the subject of the forensic veterinary examination and collected after preliminary forensic examination.

Within the scope of our research, the position is important that conducting forensic veterinary examination will have much more effectiveness, validity and result in much lower risk of making an expert error compared to the research based on proceeding (case) materials.

Since obtaining samples and/or objects of research is an investigative action in a criminal procedure, execution of a rele-

105 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

106 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

107 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

108 Яценко І. В., Парилловський О. І. Оп. cit.

109 Яценко І. В. Методика судово-ветеринарного дослідження тварин з метою встановлення їх каліцтва. Харків, 2021. 50 с.

vant ruling or judgment is obligatory. The record drawn up on the basis of the results of obtaining samples is signed by all participants of a specified procedure. In the case of a person's refusal to sign, the authorized person (body) must make a corresponding entry in the record. Received samples are attached to the record in a packaged and sealed form. In the procedural document, it is necessary to specify precise names, quantities, weight, and other distinctive individual features of each object being submitted for forensic veterinary examination (for example: *To familiarize the forensic expert with materials from a criminal proceeding, provide one cardboard box containing the dog's body for forensic examination*).

If case materials contain information regarding peculiarities of identification, seizure, and preservation of examination object, or other circumstances that could affect its properties and features, it should be indicated in a procedural document (for example: *"After the death, the cat's corpse was kept frozen for five days"* or *"The animal's corpse was submitted for forensic examination after exhumation"*).

In the lack of the ability to provide forensic veterinary examination object to a forensic expert, the forensic veterinary examination is performed on the basis of photographs or other copies of the object, its descriptions, and other materials attached to a case in compliance with the stipulated legal procedure, as long as it does not contradict the methodological approaches to conducting forensic veterinary examination (for example, if the animal's carcass was dissected in the SSUFSCP laboratory in case of suspicion that the animal's death resulted from a disease, including an infec-

tious one, the carcass of such an animal is subjected to cremation, and the customer is issued a research protocol. This protocol is attached to a proceeding by the authorized person (conducting investigation) and may subsequently become forensic veterinary examination subject. It is stated in the procedural document on forensic veterinary examination appointment (involvement of a forensic expert) or is notified in writing to the forensic expert (cl. 3.5, Section III, Instructions No. 1¹¹⁰).

After conducting forensic veterinary examination, the forensic expert attaches packed and sealed forensic examination objects to her/his conclusion, specifies them in an accompanying document, and returns them to the subject that appointed forensic examination (involved a forensic expert). For instance, in the *Rules for Forensic Veterinary Examination of Animal Carcasses*¹¹¹ methodological guidelines developed by the author of this paper in collaboration, it is stipulated that the animal carcass or its remains after examination, as well as documentary materials of a proceeding, should be returned to a person who appointed forensic examination.

Therefore, S. F. Briukhan's viewpoint that the guarantee of research completeness and a reasoned categorical conclusion of the forensic expert is first of all the provision of samples for forensic examination in a sufficient quality, of the required quality and of unquestioned origin, etc., is valid. Thus, investigators and judges must constantly improve their knowledge and skills regarding rules for preparing materials for forensic examination by receiving appropriate consultations and involving specialists¹¹².

110 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

111 Яценко І. В., Казанцев Р. Г. Правила судово-ветеринарної експертизи трупів тварин : метод. рек. Харків, 2022. 29 с.

112 Брюхань С. Ф. Оп. cit.

If the court reverses the ruling on appointing forensic veterinary examination, the forensic expert is obliged to immediately return to the court materials and other documents used for conducting such examination. (Pt. 4 of Art. 107 of the Civil Procedure Code of Ukraine ¹¹³ and Art. 105 of the Code of Administrative Proceedings of Ukraine ¹¹⁴, Pt. 5 of Art. 102 of the Code of Commercial Procedure of Ukraine ¹¹⁵).

There is no provision in procedural legislation that would require a private forensic expert or an expert institution to immediately return materials and other documents used for conducting forensic examination to the participant in a case (forensic examination customer who involved a forensic expert). In this connection, we suggest amending Art. 107 *Collection of materials for expert examination* of the Civil Procedure Code of Ukraine ¹¹⁶ and Art. 105 *Collection of materials for expert examination* of the Code of Administrative Proceedings of Ukraine ¹¹⁷ with Pt. 5, Art. 102 *Collection of materials for expert examination* of the Code of Commercial Procedure of Ukraine ¹¹⁸ with Pt. 6 of the following content:

“On the demand of the participant in a case (forensic examination customer who involved the forensic expert independently), an involved

forensic expert is obliged to immediately return materials and other documents used by him/her for forensic examination.”

7. Selection of the subject for conducting forensic veterinary examination

The involvement of a forensic expert and conduct of forensic examination are investigative actions, specifically provided by legislation as a special form of obtaining new information that is significant for all types of court proceedings (criminal, civil, commercial, and administrative).

Among forensic science institutions under the Ministry of Justice of Ukraine, only NSC «Hon. Prof. M. S. Bokarius FSI» conducts forensic veterinary examination: you can find information about the list of objects, tasks, and issues solved through this type of forensic examination in the laboratory of physical, chemical, biological, and veterinary examinations on the institution's website.

Private forensic experts who are certified in the expert specialization 18.1 *Forensic Veterinary Examination* (as of today, there is only one such specialist in Ukraine) also have the right to conduct forensic veterinary examination, even if they do not work in a state specialized expert institution ¹¹⁹.

- 113 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 114 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).
- 115 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).
- 116 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).
- 117 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).
- 118 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).
- 119 Перелік видів судових експертиз та експертних спеціальностей, за якими присвоюється кваліфікація судового експерта фахівцям, які не є працівниками державних спеціалізованих установ : дод. 6 до Положення про Центральну експертно-кваліфікаційну комісію при Міністерстві юстиції України та агестацію судових експертів, затв. наказом Мініюсту України від 03.03.2015 р. № 301/5 (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/z0249-15#Text> (date accessed: 02.03.2023).

It's worth noting that selection of a state expert institution or a private forensic expert is the right of the subject appointing forensic examination. Thus, in civil (Pt. 3 of Art. 103 of the Civil Procedure Code of Ukraine ¹²⁰), commercial (Pt. 3 of Art. 99 of the Code of Commercial Procedure of Ukraine ¹²¹), and administrative (Pt. 3 of Art. 102 the Code of Administrative Proceedings of Ukraine ¹²²) proceedings, during appointment of forensic examination by the court, a forensic expert or expert institution are chosen by mutual agreement. If no agreement is reached, the choice is up to the court.

The authorized person (body) sends a copy of a procedural document on forensic examination appointment (ruling or order) to the expert institution, in which the forensic expert is notified of the criminal liability for misleading (Art. 384 of the Criminal Code of Ukraine ¹²³) a court or other authorized person (body), for refusal of a forensic expert to perform their duties (Art. 385 of the Criminal Code of Ukraine ¹²⁴), and also gives permission to use destructive research methods ¹²⁵.

Veterinary medicine professionals who are not certified forensic experts but

possess theoretical knowledge and practical skills in the field of forensic veterinary medicine (often veterinary discipline lecturers at higher education institutions or employees of research institutions) may also be involved in performing forensic examination as forensic experts. Such specialists acquire the status of a forensic expert, in particular of a forensic veterinary expert, only after the issuance of a procedural document by the subject responsible for forensic veterinary examination appointment (Part 1, Article 7 of the specialized Law ¹²⁶).

8. Issuance of a procedural document on forensic veterinary examination appointment

In a criminal proceeding, forensic examination appointment is legally formalized by drafting a procedural document: a judgment by an investigative judge (court) or a ruling by a public prosecutor (investigator or inquiring officer), which are procedural decisions (Pt. 1 of Art. 110 of the Criminal Procedure Code of Ukraine ¹²⁷, Chp. 9 of Sec. II of the Civil Procedure Code of Ukraine ¹²⁸ and the Code of Administrative Proceedings of Ukraine ¹²⁹). In conformity with Pt. 3 of Art. 110 of the Criminal Proce-

120 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

121 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

122 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

123 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 02.03.2023).

124 Ibid.

125 Яценко І. В. Проблеми укладання DOI: [10.5281/zenodo.6471059](https://doi.org/10.5281/zenodo.6471059) (date accessed: 02.03.2023).

126 Про судову експертизу URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 02.03.2023).

127 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

128 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

129 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

Code of Ukraine ¹³⁰, a ruling is issued in cases stipulated by this code, as well as when the investigator, inquiring officer or public prosecutor deems it necessary.

To conduct forensic examination, a forensic expert is involved, in particular a forensic veterinarian (Article 243 of the Criminal Procedure Code ¹³¹). Thus, the defense can appeal to the investigating judge with a motion to conduct forensic examination if the prosecution did not involve an expert to resolve issues that are essential for a criminal proceeding, or if the prosecution asked the expert questions that do not allow a full and appropriate opinion on the issues to be examined, or there are sufficient grounds to believe that a forensic expert involved by the public prosecution lacks the necessary knowledge, is biased or for other reasons will provide or provided an incomplete or incorrect conclusion (cl. of 1 Pt. 1 of Art. 244 of the Criminal Procedure Code of Ukraine ¹³²). We share the viewpoint of I. V. Hloviuk ¹³³ concerning the need to improve the procedure for considering the defense counselor's motion by the investigating judge on a forensic expert's involvement.

The motion shall be considered no later than five days from the date of its receipt

by the investigating judge of the local court within whose territorial jurisdiction the pre-trial investigation is conducted (Pt. 3 of Art. 244 of the Criminal Procedure Code of Ukraine ¹³⁴). A ruling of an investigating judge on assigning an expert examination shall include the questions posed before the expert by the person who has filed the respective motion. The investigating judge shall have the right to not include the questions posed by the person who has filed the respective motion into his ruling, having provided reasons for such decision, where the answers to such questions are not related to the criminal proceedings or are irrelevant for the court proceedings. (Pt. 7 of Art. 244 of the Criminal Procedure Code of Ukraine ¹³⁵). Where necessary, the investigating judge shall have the right on obtaining samples for examination (Pt. 8 Art. 244 the Criminal Procedure Code of Ukraine ¹³⁶).

In civil, commercial, and administrative proceedings, an examination is appointed by the court upon the motion of a party or at its own initiative (Art. 103 of the Civil Procedure Code of Ukraine ¹³⁷, Art. 99 of the Code of Commercial Procedure of Ukraine ¹³⁸, Art. 102 of the Code of

130 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

131 Ibid.

132 Ibid.

133 Гловюк І. В. Розгляд слідчим суддею клопотання про залучення експерта. *Eurasian Academic Research Journal*. 2016. № 2 (02). С. 23–28. URL: <http://dspace.onua.edu.ua/bitstream/handle/11300/8544/%d0%93%d0%bb%d0%be%d0%b2%d1%8e%d0%ba%20%d0%b7%d0%b0%d0%bb%d1%83%d1%87%d0%b5%d0%bd%d0%bd%d1%8f%20%d0%b5%d0%ba%d1%81%d0%bf%d0%b5%d1%80%d1%82%d0%b0.pdf?sequence=1&isAllowed=y> (date accessed: 02.03.2023).

134 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

135 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

136 Ibid.

137 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

138 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

Administrative Proceedings of Ukraine ¹³⁹). The court issues a judgment (Art. 104 of the Civil Procedure Code of Ukraine ¹⁴⁰, Art. 100 of the Code of Commercial Procedure of Ukraine ¹⁴¹, Art. 103 of the Code of Administrative Proceedings of Ukraine ¹⁴²) and sends it to the forensic expert to conduct forensic examination, as well as to participants in a case.

Thus, the grounds for appointing forensic examination by the court in types of proceedings other than criminal proceedings (Art. 103 of the Civil Procedure Code of Ukraine ¹⁴³, Art. 99 of the Code of Commercial Procedure of Ukraine ¹⁴⁴, Art. 102 of the Code of Administrative Proceedings of Ukraine ¹⁴⁵), are as follows: the need to apply specific expertise to clarify factual data and circumstances; neither party has provided an expert conclusion on these issues; there are reasonable doubts about the accuracy of expert conclusions provided by the parties; a motion by a party in a case where valid reasons are provided for the impossibility of providing an expert conclusion within the terms prescribed for submitting evidence (particularly due to the impossibility to obtain required materials for conducting the examination).

The mandatory appointment of forensic examination is governed by Art. 105 the

Civil Procedure Code of Ukraine, in particular:

“The appointment of an expert examination by a court shall be obligatory in the case of a petition for the appointment of an expert examination by both parties. The appointment of an examination by a court shall be also mandatory at the request of at least one of the parties, if the case requires the establishment of the following:

1) *the nature and degree of damage to health»* ¹⁴⁶.

However, the indicated norms relate solely to human beings: there are no grounds for appointing forensic veterinary examination in the current Civil Procedure Code. Analysis of our own expert practice from 2010 to 2022 demonstrates that it is impossible to find out the truth regarding offenses against the life and health of animals (especially in cases of cruelty towards them) without using such a means of proof as forensic veterinary examination or specific veterinary expertise in conjunction with specific expertise from another scientific field, i.e., through the conduct of forensic veterinary examination or multidisciplinary examination. In this respect, we suggest amending Pt. 1 of Article 105 of the Civil Procedure Code ¹⁴⁷ *Mandatory court appointment of*

139 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

140 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

141 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

142 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

143 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

144 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

145 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

146 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

147 Ibid.

expert examination with clause 4 of the following content:

“4) *the cause of death, nature, and degree of severity of harm inflicted on an animal’s health*”.

It should be emphasized that during the pre-trial investigation stage in a criminal proceeding, rulings and judgments are among the types of court decisions. The structure of a ruling issued by an investigator, inquiring officer, or public prosecutor on forensic examination appointment is stipulated in Pt. 5 of Art. 110 of the Criminal Procedure Code of Ukraine¹⁴⁸ shall consist of three parts (introductory, motivating and resolute). The ruling of an investigator, inquiring officer or prosecutor shall be issued on an official letterhead, signed by the official who has taken the appropriate procedural decision (Pt. 6 of Art. 110 of the Criminal Procedure Code of Ukraine¹⁴⁹).

We thoroughly examined components of a ruling on forensic examination appointment (in particular, forensic veterinary) in 2022¹⁵⁰. One of the relevant issues of compiling a procedural document on forensic examination appointment is formation of an expert task (list of questions) that should be resolved by the forensic expert.

The content of the court ruling (in particular, on forensic veterinary examination appointment) is governed by Art. 372 of the

Criminal Procedure Code of Ukraine¹⁵¹, Art. 260 of the Civil Procedure Code of Ukraine¹⁵², Pt. 1 of Art. 234 the Code of Commercial Procedure of Ukraine¹⁵³, Pt. 1 of Art. 248 of the Code of Administrative Proceedings of Ukraine¹⁵⁴. Let’s emphasize that improperly or inaccurately worded questions indicate a lack of understanding by the investigation of the purpose of appointing forensic examination as well as complicate research or make it impossible.

The forensic expert is prohibited from independently correcting questions addressed to her/him for resolution, at the same time he/she is given the right to submit a request for clarification of these questions (para. 4 of cl. 2.1 of Instructions No. 1¹⁵⁵). This suspends forensic examination conduct (until resolution of the submitted motion by the subject requesting its appointment), thus delaying the conduct of the forensic examination and, as a result, prolonging the pre-trial investigation.

Therefore, as rightly stated by S. O. Ivanytskyi¹⁵⁶, for a thorough, comprehensive, and objective investigation aimed at resolving questions posed to a forensic expert, they must be clearly formulated (in accordance with submitted objects) and their content should be understandable. For forensic veterinary examination, an approximate list of such questions is provided

148 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

149 Ibid.

150 Яценко І. В. Проблеми укладання ... DOI: 10.5281/zenodo.6471059 (date accessed: 02.03.2023).

151 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

152 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

153 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

154 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

155 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

156 Іваницький С. О. Op. cit.

in cl. 10.3 of the Sec. X of the specialized SMGs¹⁵⁷. The author of this research paper has developed, systematised, substantiated and proposed for use in practice a list of questions that can be asked in a procedural document for the appointment of forensic veterinary examination of a dead animal¹⁵⁸, a live animal, a dead animal suspected of being poisoned, feeds or feed additives¹⁵⁹. Our developments on peculiarities of appointing forensic veterinary examinations and organizing proof of these facts in criminal proceedings has been summarized in methodological guidelines for the units of the National Police of Ukraine¹⁶⁰.

9. Sending a procedural document on appointment of forensic veterinary examination, research objects and samples to the conducting subject

At this stage of conducting forensic examination, the main task of the appointing subject is to prepare objects for their transportation to the expert institution or private forensic expert.

Proceeding (case) files are submitted along with objects of research and a procedural document on forensic examination appointment (judgment of the investigating judge or court, or ruling of the prosecutor, investigator, or inquiring officer), as well as with a covering letter addressed to the head

of the expert institution or to the private expert.

Let's stress the fact that in criminal proceedings or other areas of court proceedings, additional expert conclusions with annexes are added to case materials if an additional examination or re-examination is ordered. Additionally, other supplementary materials related to forensic examination subject, collected after provision of the preliminary expert conclusion by the forensic expert, are included (with indication of motives and grounds for its appointment; para. 3.6 of Instructions No. 1¹⁶¹).

E. B. Simakova-Yefremian notes that the number of multidisciplinary forensic examinations has increased recently¹⁶². From our part, we have to acknowledge that their conduct increasingly requires application of specific veterinary expertise. For example, veterinary-biological, veterinary-trace evidence, veterinary-ballistic, veterinary-molecular-genetic, veterinary-art-historical, veterinary-medical, etc. (multi-discipline examinations have more capabilities compared to single-discipline forensic examinations).

Let us remind that a document on forensic examination appointment or involvement of forensic expert to conduct a multidisciplinary examination shall include the name of the forensic science institution(s),

157 Науково-методичні рекомендації ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

158 Яценко І. В., Парилівський О. І., Коломоєць Д. К. Обґрунтування питань, що ставляться в ухвалі суду та постанові слідчого при призначенні судово-ветеринарної експертизи трупів тварини з ознаками насильницької смерті від жорстокого поводження. *Ветеринарія, технології тваринництва та природокористування*. 2019. № 4. С. 184–197. DOI: [10.31890/vttp.2019.04.34](https://doi.org/10.31890/vttp.2019.04.34) (date accessed: 02.03.2023).

159 Яценко І. В. Проблеми укладання ... С. 11–15. DOI: [10.5281/zenodo.6471059](https://doi.org/10.5281/zenodo.6471059) (date accessed: 02.03.2023).

160 Цуцкірідзе М. С., Орлова Т. А., Яценко І. В. та ін. *Op. cit.*

161 Інструкція про призначення та проведення ... URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

162 Сімакова-Єфреміян Е. Б. Інтеграційні процеси в судовій експертизі: сутність та проблемні питання комплексних досліджень. *Теорія та практика судової експертизи і криміналістики*. 2016. Вип. 16. С. 172–183. URL: <https://khrife-journal.org/index.php/journal/article/download/81/79/> (date accessed: 02.03.2023).

specifying forensic experts entrusted with conducting such examination. In the case of participation of forensic experts who do not work in state specialized expert institutions, their full names, education, specialization, occupational affiliation, place of registration, and other details are also provided (para. 1 of cl. 3.7 of Instructions No. 1 ¹⁶³).

“If forensic examination is entrusted to experts from multiple expert institutions, a document on forensic examination appointment specifies which institution is the leading one that is, which of them organizes forensic examination, in particular coordination of forensic experts’ work and communication with the body (person) that appointed forensic examination (involved an expert).

If multidisciplinary forensic examination is entrusted to employees of the expert institution and a person who is not an employee of such an institution, the priority is given to the expert institution (paras. 1 and 2 of cl. 3.7 Instructions No. 1 ¹⁶⁴).

In case of conducting a multidisciplinary forensic examination, the document on its appointment (involvement of a forensic expert) is sent to each institution which employees participate in forensic examination, as well as to the forensic expert who is not employed in a state specialized expert institution. Objects of research and criminal proceeding materials in other types of court proceedings are directed to a leading expert institution (paras. 3 and 4 of cl. 3.7 of Instructions No. 1 ¹⁶⁵).

Objects and materials to be examined are sent to a person entrusted with performing forensic examination (a leading forensic expert or expert institution); Pt. 3 of Art. 104 of the Civil Procedure Code of Ukraine ¹⁶⁶, Pt. 3 of Art. 100 of the Code of Commercial Procedure of Ukraine ¹⁶⁷ and Pt. 3 of Art. 103 of the Code of Administrative Proceedings of Ukraine ¹⁶⁸) in sealed packaging ensuring their preservation and preventing unauthorized tampering without violating the integrity of the packaging. Physical evidence and comparative samples are packaged separately.

In forensic veterinary examinations, there are sometimes bulky research objects (for example: elephants, giraffe, moose, horse, cattle, etc.) that are difficult to transport. In such cases, a forensic veterinarian travels to the scene or conducts forensic examination of the object at its location. Under these circumstances, the authorized person (body) who appointed forensic veterinary examination must ensure the expert’s arrival at the scene, unimpeded access to research object, as well as suitable working conditions (cl. 3.9 of Instructions No. 1 ¹⁶⁹).

“Bulky items and other objects that are not eligible for postal delivery <...> are received personally at the expert institution or by a representative authorized by the body (person) who appointed forensic examination (involved a forensic expert), upon presentation of identification document” (para. 2 of cl. 4.20 of Instructions No. 1 ¹⁷⁰).

163 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

164 Ibid.

165 Ibid.

166 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

167 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

168 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

169 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

170 Ibid.

10. *Determining feasibility of the presence of participants in process during forensic veterinary examination*

The appointing authority of forensic veterinary examination has the right to be present during the conduct of expert researches related to items and objects of research (cl. 3 of Pt. 3 of Art. 69 of the Criminal Procedure Code of Ukraine ¹⁷¹, cl. 4 of Pt. 6 of Art. 72 of the Civil Procedure Code of Ukraine ¹⁷², cl. 4 of Pt. 6 of Art. 69 of the Code of Commercial Procedure of Ukraine ¹⁷³, cl. 4 of Pt. 6 of Art. 68 of the Code of Administrative Proceedings of Ukraine ¹⁷⁴, cl. 3 of Pt. 1 of Art. 13 of the specialized Law¹⁷⁵, para. 5 of cl. 2.1 of Sec. II of Instructions No. 1 ¹⁷⁶ and subcl. 3 of cl. 1 of Sec. II of Instructions No. 2 ¹⁷⁷).

During individual forensic examinations, in case of adoption of the corresponding decision by the authorized person (body), a participant in the process or his/her representative who is informed of the time and place of forensic examination may also be present. The absence of the notified person does not preclude forensic examination conduct. Persons present during forensic examination are mentioned in the expert conclusion.

From our perspective, the following individuals may be present during forensic veterinary examination:

- the prosecutor, investigator, inquiring officer;

- the accused, suspect (with the permission of the subject appointing forensic examination);
- veterinarians who treated an animal under examination (with the permission of the subject appointing forensic examination);

We consider personal presence of the subjects appointing forensic veterinary examination (involving a forensic expert) necessary in the following cases:

- obtaining up-to-date information from a forensic expert on research object (for example, the nature of bodily injuries and instruments of injury based on morphological features of injuries on the body). Such information can be immediately used for carrying out crime detection and investigation;
- direct perception by the subject appointing forensic examination (involving a forensic expert) of properties of an object (for example, during the dissection of an animal carcass, one can observe the nature and morphological features of bodily injuries, their localization, etc.);
- clarification of questions addressed to the forensic expert for resolution; presenting additional questions if new data are discovered while research;

171 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

172 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

173 Господарський процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

174 Кодекс адміністративного судочинства URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

175 Про судову експертизу URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 02.03.2023).

176 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

177 Інструкція про особливості здійснення URL: <https://zakon.rada.gov.ua/laws/show/z1431-11#Text> (date accessed: 02.03.2023).

- timely provision of additional materials to a forensic expert for conducting forensic examination.

The presence of the accused or the suspect during forensic veterinary examination is expedient when addressing issues related to her/his professional or official activities (most frequently, these are cases of inadequate provision of veterinary care or organization of veterinary sanitary measures: for example, mass animal mortality due to the spread of an acute infectious disease, clarification of technological processes in production of animal feeds and feed additives, etc.).

The individuals present should not interfere in the course of research but may provide explanations to a forensic expert regarding forensic examination subject. If a participant in the process obstructs the forensic expert's activities, the latter has the right to suspend research. The forensic expert (or the expert committee) prepares a conclusion in the absence of participants in the process.

11. Interaction between subjects involved in appointment and conduct of forensic veterinary examination

Interaction between subjects involved in conduct and appointment of forensic veterinary examination is a professional communication between the investigator, public prosecutor, court, head of the expert institution, and the forensic expert. Let's stress that activity of a forensic veterinarian (as well as a forensic expert in other expert specializations), although independent of the other subjects involved in conduct and appointment of forensic examination, is inseparably linked to the subjects appointing the examination exclusively within the framework of the law.

Based on the analysis of expert practice, we would like to express our own opinion on the praxeological aspects of the interaction between the subjects appointing and con-

ducting forensic veterinary examinations for a successful investigation of offences since they involve coordination of positions concerning:

- forensic examination purpose, which is to obtain factual data;
- forensic examination capabilities;
- quantity and quality of objects submitted for forensic examination;
- identification of new objects and physical evidence by a forensic expert;
- obtaining permission for destruction of objects;
- forensic examination subject, specifically questions (tasks) that need to be resolved in the course of forensic examination;
- peculiarities of selecting samples for research;
- place of performing forensic examination (forensic science institution, at the workplace of a private expert, or at the location of objects);
- time of forensic examination;
- clarification of results received while forensic examination;
- other circumstances arising during investigative actions, preparation and conduct of forensic examination (including in the presence of a public prosecutor, investigator, inquiring officer, or a client ordering forensic examination), evaluation and verification of the expert conclusion.

Let's point out that procedural interaction between the investigator and the forensic veterinarian can be direct or indirect, meaning it can be realized through the head of the forensic science institution. In relationships prescribed by legislative norms, the authorized person (body) conducting the pre-trial investigation, the forensic expert, and the head of the forensic institution are the subjects of interaction and have subjective rights and legal obligations. As

stated by A. O. Polianskyi¹⁷⁸, competence of subjects involved in the appointment and conduct of forensic examinations (including forensic veterinary examinations) is exercised exclusively within the framework of relevant legal relationships, in order to achieve a common goal: conducting an unbiased research on relevant materials as well as clarifying factual data and circumstances of a committed offense.

Anyone involved in procedural relations can initiate such interaction. For example, the authorized person (body) appointing the forensic veterinary examination initiates its conduct, and the forensic expert is obligated to accept the ruling on its appointment and proceed with forensic examination (para. 3 of cl. 2.2 of Sec. II of Instructions No. 1¹⁷⁹). At the same time, a forensic expert has the right to request additional materials and refuse to perform forensic examination if they are not provided (Pt. 7 of Art. 69 of the Criminal Procedure Code of Ukraine¹⁸⁰, Pt. 6 of Art. 104 of the Civil Procedure Code of Ukraine¹⁸¹, Pt. 6 of Art. 100 of the Code of Commercial Procedure of Ukraine, Pt. 6 of Art. 103 of the Code of Administrative Proceedings of Ukraine, para. 3 of cl. 2.1 of Instructions No. 1¹⁸²). The subject appointing forensic veterinary examination must grant the forensic expert's motion, and in case of refusal, provide justification for it.

During preparation for any investigative action involving a forensic expert in

the field of forensic veterinary medicine, the authorized person (body) conducting the pre-trial investigation and the expert jointly plan the course of forensic examination. Such interaction (before, during, and after forensic examination) involves close communicative communication between the investigator and the forensic expert, involving exchange of information within the law.

Procedural interaction between the subject appointing forensic veterinary examination and the expert involves advising the subject appointing forensic veterinary examination by a forensic veterinarian prior to its appointment and during its conduct. It also includes the forensic expert's appeal to the client ordering forensic examination for clarification of the research task after receiving the procedural document appointing it, as well as the explanation of the expert conclusion upon its completion, etc.

Procedural interaction between the head of the forensic science institution and the forensic expert is manifested in entrusting forensic veterinary examination to the latter. The head of the specialized forensic institution may initiate involvement of other forensic experts in conducting forensic veterinary panel examination or multidisciplinary forensic examination (such as veterinary-biological, veterinary-molecular-genetic, veterinary-trace evidence, etc.). Non-procedural relations between

178 Полянський А. О. Адміністративно-правові засади взаємодії судово-експертних установ з правоохоронними органами : дис. ... д-ра юрид. наук. Суми, 2021. 406 с. URL: <https://dspace.hnpu.edu.ua/server/api/core/bitstreams/9878f381-57f1-4bfa-b84c-7418ddb59fef/content> (date accessed: 02.03.2023).

179 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

180 Кримінальний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

181 Цивільний процесуальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

182 Інструкція про призначення та проведення URL: <https://zakon.rada.gov.ua/laws/show/z0705-98#Text> (date accessed: 02.03.2023).

the head and the forensic expert lie within their official duties.

Interaction of forensic experts involved in conducting panel or multidisciplinary forensic examinations is based on equality and independence among panel members and has an informal interpersonal nature. Collaborative efforts of all parties involved should be directed towards assisting each other for full fulfilment of their professional duties.

As stated by A.O. Polyanskyi, it is relevant to single out two groups of interaction principles between forensic science institutions and law enforcement agencies, general legal (humanism and legality) and specific (organizational independence, competence, mutual interest, etc.)¹⁸³.

Within our research, the following principles of interaction between the subjects appointing and conducting forensic veterinary examination are important:

- adherence to legality by the interacting subjects in the performance of functions assigned to them;
- organizational role of the authorized person (body) conducting pre-trial investigation in appointment of forensic examination and seizure of research objects;
- delineation of competencies of interacting subjects. Each of them acts within the scope of rights and powers granted to him/her, which presupposes the forensic expert's independence in choosing research methods and her/his independence during forensic examination and expert conclusion compilation;
- alignment of actions between the subject appointing forensic examination (involving a forensic ex-

pert) and the forensic expert (expert panel members);

- it is necessary for a forensic expert to be fully familiarised with the circumstances of an event and a specific investigative situation within the subject of expert research. This is essential for a forensic expert's orientation in determining research tasks, identifying objects and their informational fields, creating flow-charts, and evaluating forensic examination results;
- it is necessary for the authorised person (body) to be fully acquainted with conducting pre-trial investigation, with possibilities of scientific and technical research of specific objects, efficiency of alternative expert methodologies, taking into account the perspective of investigative situation development.

It should be stressed that if forensic veterinary examination is carried out in a specialized expert institution, then the institution head (head of the structural unit) organizing the research and taking into account questions posed to a forensic expert independently appoints forensic experts who must be involved in its conduct (provided that the initiator did not name a specific forensic expert [experts]). For example, a forensic veterinarian or a panel of forensic veterinarians (as holders of specific veterinary expertise) are involved in forensic veterinary examination. On the other hand, forensic veterinarians (as holders of specific veterinary expertise) and a forensic biologist (as a holder of specific biological expertise) are involved in conducting a multidisciplinary forensic veterinary-biological examination, etc.

183 Полянський А. О. *Op.cit.* URL: <https://dspace.hnpu.edu.ua/server/api/core/bitstreams/9878f381-57f1-4bfa-b84c-7418ddb59fef/content> (date accessed: 02.03.2023).

II step. Performing research by a forensic expert using specific veterinary expertise

The second step in organizing forensic veterinary examination is performing research by a forensic expert using specific veterinary expertise. During this step, a forensic veterinarian:

- familiarizes himself/herself with a procedural document on forensic examination appointment, as well as with other materials of a criminal proceeding (case materials in other types of court proceedings) related to research subject;
- if necessary, directs his/her motion to the appointing subject (who has involved a forensic expert) for provision of additional materials needed for drawing up the expert conclusion or for conducting an investigative action with his/her participation;
- conducts a scientifically substantiated research on objects according to the following stages: preparatory (preliminary examination), analytical (separate examination), comparative, synthesis (evaluative)¹⁸⁴;
- draws up the expert conclusion based on results of conducted forensic examination¹⁸⁵.

III step. Examination, evaluation, and verification of the expert conclusion by the authorized person (body) who appointed forensic veterinary examination or involved a forensic expert

During the third and final step, the authorized person (body) who appointed forensic examination in a criminal proceeding or involved a forensic expert in other types of court proceedings evaluates and verifies the expert conclusion by obtaining clarifications from the forensic veterinarian or through his/her interrogation in court; orders an additional forensic examination or forensic veterinary re-examination (if necessary); acquaints the defense with the expert conclusion if the forensic veterinarian was involved by the prosecution.

The expert conclusion is recognized as a source of evidence on which basis the court determines the existence (lack) of factual data or circumstances substantiating claims and objections of parties involved in a case, as well as other circumstances relevant to case resolution (Art. 84 of the Criminal Procedure Code of Ukraine¹⁸⁶, Art. 76 of the Civil Procedure Code of Ukraine¹⁸⁷, Art. 73 of the Code of Commercial Procedure of Ukraine¹⁸⁸, Art. 72 of the Code of Administrative Proceedings of Ukraine¹⁸⁹).

184 Яценко І. В. Стадії експертного дослідження та їх застосування у судово-ветеринарній експертизі трупів тварин. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 1 (26). С. 52–78. DOI: [10.32353/khrife.1.2022.04](https://doi.org/10.32353/khrife.1.2022.04) (date accessed: 02.03.2023).

185 Яценко І. В., Дереча Л. М., Парилловський О. І. Особливості структури висновку судово-ветеринарного експерта за результатами дослідження трупа тварини з ознаками насильницької смерті. *Ibid.* 2020. Вип. 21. С. 615–639. DOI: [10.32353/khrife.1.2020.44](https://doi.org/10.32353/khrife.1.2020.44) (date accessed: 02.03.2023).

186 Кримінальний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 02.03.2023).

187 Цивільний процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date accessed: 02.03.2023).

188 Господарський процесуальний кодекс ... URL: <https://zakon.rada.gov.ua/laws/show/1798-12#Text> (date accessed: 02.03.2023).

189 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (date accessed: 02.03.2023).

Thus, singling out epistemological characteristic of stages of appointment and conduct of forensic veterinary examination has enabled to reveal their procedural significance during pre-trial investigation and court investigation of animal-related offenses, as well as to outline ways to improve it through interaction of subjects of forensic expert activity at each stage of appointment, conduct, and evaluation of forensic veterinary examination.

Conclusions

Forensic veterinary examination is appointed and conducted in three steps: 1) preparation of materials and appointment of forensic veterinary examination (involvement of a forensic expert) by an authorized person (body); 2) conducting research by a forensic expert using specific veterinary expertise; 3) examination, evaluation, and verification of the forensic expert's conclusion by the authorized person (body) who appointed or involved the forensic expert for forensic veterinary examination.

Preparation of materials and appointment of forensic veterinary examination comprises the following steps: 1) the authorized subject's decision to appoint forensic veterinary examination; 2) singling out a specific subject of forensic veterinary examination; 3) determination of the category of forensic veterinary examination based on procedural features; 4) determination of the order of forensic veterinary examination appointment in conjunction with other forensic examinations; 5) choosing time for conducting forensic veterinary examination; 6) source information preparation, obtaining objects and samples for performing forensic veterinary examination; 7) selecting a subject for forensic veterinary examination conduct;

8) issuing a procedural document on forensic veterinary examination appointment; 9) sending a procedural document on forensic veterinary examination appointment, objects of research, and samples to the subject responsible for its conduct; 10) determining feasibility of participants' presence during forensic veterinary examination; 11) interaction between subjects involved in appointment and conduct of forensic veterinary examination.

The main principles of interaction between subjects involved in appointment and conduct of forensic veterinary examination at each stage are as follows: 1) compliance with legality by the interacting subjects while fulfilling their assigned functions. 2) the organizational role of the authorized person or body conducting pre-trial investigation in appointment of forensic examination and seizure of research objects; 3) delineation of competencies among the interacting subjects. Each of them acts within the scope of rights and powers granted to her/him, which involves independence of a forensic expert in choosing research methodologies and his/her autonomy during forensic examination and formulation of the expert conclusion; 4) alignment of actions between the appointing subject (involved in appointment of a forensic expert) and the forensic expert (members of the expert panel); 5) comprehensive familiarization of a forensic expert with event circumstances and a specific investigative situation within the scope of expert research subject. This is necessary for the forensic expert's orientation in determining research tasks, identifying objects, their informational fields, creating flow charts, and evaluating forensic examination results; 6) comprehensive familiarization of the authorized person (body) conducting pre-trial investigation with possibilities of

scientific and technical research on specific objects, with efficiency of alternative expert methodologies, taking into account the perspective of the investigative situation development.

Summarizing the above, we propose the following.

1. In order to save time, it is recommended that permission for the use of destructive examination methods be explicitly stated in a procedural document (judgement or ruling) on forensic veterinary examination appointment.

2. To amend Part 2 of Article 242 *Grounds for expert examination* of the Criminal Procedure Code of Ukraine with clauses 7 and 8 of the following content:

“7) establishing the cause of an animal’s death;

8) ascertaining the severity of harm and the nature of physical injuries inflicted on the animal’s health.”

3. To amend Article 107 *Collection of materials for expert examination* of the Civil Procedure Code of Ukraine and Article 105 *Collection of materials for expert examination* of the Code of Administrative Proceedings of Ukraine with the fifth part, and Article 102 *Collection of materials for expert examination* of the Code of Commercial Procedure of Ukraine with the sixth part of the following content:

“At the request of a party in a case (forensic examination customer), who independently involved a forensic expert, the appointed forensic expert is obliged to promptly return materials and other documents used by him/her for conducting forensic examination”.

4. To amend Part 1 of Article 105 *Mandatory court appointment of expert examination* of the Civil Procedure Code of Ukraine with clause 4 of the following content:

“4) the cause of death, nature, and degree of severity of harm inflicted on an animal’s health.”

Гносеологічна характеристика та процесуальне значення етапів і стадій призначення та проведення судово-ветеринарної експертизи

Володимир Яценко

Мета дослідження: виокремити гносеологічні характеристики етапів призначення і проведення судово-ветеринарної експертизи та розкрити їх процесуальне значення для досудового розслідування й судового розгляду справ щодо тварин. Доведено, що ці етапи різняться за суб’єктом, метою, способами й містять свої складові: 1) підготовка матеріалів і призначення судово-ветеринарної експертизи (ухвалення рішення про призначення експертизи; виокремлення предмета експертизи; визначення категорії експертизи за процесуальними ознаками, черговості її виконання, обрання часу її проведення; підготовка вихідної інформації; отримання об’єктів для дослідження; обрання суб’єкта проведення; винесення процесуального документа про призначення експертизи й ознайомлення з ним обвинувачуваного (підозрюваного, підсудного); визначення доцільності присутності учасників процесу під час проведення експертизи; скерування процесуального документа про призначення експертизи й об’єктів дослідження суб’єктові її проведення; взаємодія суб’єктів призначення та проведення експертизи); 2) проведення судовим експертом досліджень із використанням спеціальних ветеринарних знань; 3) дослідження, оцінка й перевірка висновку судового експерта (отримання роз’яснень від експерта або його допит у суді; призначення додаткової або повторної експертизи (за потреби); ознайомлення сторін із висновком). Методологічне підґрунтя дослідження — системний підхід (загальнонаукові та спеціальні наукові методи).

Ключові слова: судово-ветеринарний експерт; етапи призначення та проведення судово-ветеринарної експертизи; суб'єкт призначення судової експертизи; стадії підготовки матеріалів до проведення судово-ветеринарної експертизи; гносеологічна характеристика.

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The author declares no conflict of interest.

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