

## THE ROLE OF NON-STATE FORENSIC ORGANIZATIONS IN THE CONTEXT OF FORENSIC ACTIVITY IN THE REPUBLIC OF UZBEKISTAN

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*The article examines the stages of formation and development of the activities of non-state forensic organizations in the Republic of Uzbekistan. Particular attention is paid to the legal basis for the creation of non-state forensic organizations in Uzbekistan and in this context both the Decree of the President and the Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan are noted. The article reveals the content of two main provisions related to the procedure for organizing the activities of non-state forensic structures and retraining and advanced training of experts working in non-state forensic organizations. It is noted that, according to the legislation, non-state forensic organizations currently have the right to conduct research on 44 types of forensic expertise in the country. The regulatory legal acts governing the activities of non-state forensic organizations are listed. The characteristic features of conducting a forensic expertise, requirements for forensic experts of a non-governmental forensic organization are highlighted and described. Based on the already accumulated practical experience of the functioning of non-governmental forensic organizations in the Republic of Uzbekistan, the author sets out proposals for improving this area of activity, in particular, it is proposed to legislatively enshrine in the current law of the Republic of Uzbekistan "On Forensic Examination" special norms aimed at determining the legal status of non-governmental forensic organizations, and also notes the need to expand the list of types of expertise permitted for production in the above-mentioned organizations.*

**Keywords:** *expertise, expert, non-governmental forensic expert, non-governmental forensic organization, legislation, types of forensic expertise.*

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In the current process of globalization, the institutions engaged in forensic expertise should be constantly in scientific search, new expert research should be conducted in order to meet the demand and needs of the judicial authority, law enforcement agencies and citizens.

The results of forensic expertise are important in the guaranteed protection of the rights and freedoms of citizens, in the prevention and disclosure of crimes in all countries.

Therefore, in recent years, the Republic of Uzbekistan, along with other sectors, has been consistently implementing reforms aimed at further improving the expertise activities, which are one of the most important links of the judicial and legal system. The regulatory documents in this area are being improved, in accordance with the decrees and decisions of the President of the Republic of Uzbekistan adopted for the next 5 years to develop this sphere, the professional qualifications of forensic experts are being improved, the industry is being equipped with modern high-resolution analytical tools, and special attention is being paid to ensuring justice through the participation of lawyers and **non-governmental forensic experts** in the process of judicial examination.

To date, in the Republic of Uzbekistan, along with state forensic institutions, non-governmental forensic organizations have been established. The legal basis for the creation of non-state forensic organizations is the Decree of the President of the Republic of Uzbekistan dated January 17, 2019 No. PP-4125 “On measures to further improve forensic expertise activity”, which provides for the creation of a private form of a forensic organization, which was not previously provided by law. The decree provides for the retraining and advanced training of judicial experts of non-governmental forensic organizations in state institutions on a paid basis, persons who have completed retraining and advanced training courses in the field of forensic examination are provided with a certificate of a forensic expert confirming their professional competence in the field of forensic examination in relevant specialties[1].

In addition, this decision approved the list of types of forensic examinations that can be carried out by non-governmental forensic organizations, as well as the list of state institutions where retraining and advanced training courses are organized for experts of non-governmental forensic organizations.

In order to ensure the implementation of the priority tasks defined by this resolution, the Cabinet of Ministers of the Republic of Uzbekistan adopted Resolution No. 180 dated March 24, 2020, “On Approving the Regulation on the Organization of Activities of Non-Governmental Forensic Expertise Organizations”.

This resolution approved two main provisions: the “Regulation on the Procedure for Organizing the Activities of Non-Governmental Forensic Expertise Organizations” and the “Regulation on the Procedure for Retraining and Advanced Training of Experts in Non-Governmental Forensic Expertise Organizations” [2].

According to the resolution, **a non-governmental forensic expert organization is an organization specializing in conducting forensic examinations in civil, economic, criminal and administrative cases, and its composition includes experts with a certificate of a forensic expert.**

Only a forensic expert can act as the head of a non-governmental forensic expertise organization. A judicial expert may be the founder (participant) of only one non-governmental judicial expertise organization.

When conducting a forensic examination, non-governmental forensic organizations perform the same functions, have the same rights, fulfill the same obligations and are liable as state forensic institutions. A non-governmental forensic organization has the right to engage only in activities related to the conduct of forensic examinations.

The company name of the non-governmental forensic organization must indicate that it is a non-governmental forensic organization. Non-governmental forensic organizations are prohibited from carrying out forensic activities at their place of residence.

**Conducting a forensic examination by a non-governmental forensic organization.** According to the legislation, today, non-governmental forensic organizations have the right to conduct research on **44 types** of forensic examinations.

A forensic examination can be carried out on the basis of a decision of the official of the body conducting the pre-investigation check, the investigator, the prosecutor or the judge, a court ruling, as well as at the request of an attorney. An expert opinion is given based on the research results.

In addition, a non-governmental forensic expert organization may conduct research in accordance with the agreement on the types of permitted forensic examinations based on the appeals of legal entities and individuals. A specialist's opinion is given based on the research results.

In a non-state forensic expertise organization, the forensic examination is conducted on a fee-based basis in accordance with the agreement and the organization independently determines the prices for the forensic examinations. Payment for the conduct of forensic examinations by a non-state forensic expert organization can be made by the person that appointed the forensic examination in accordance with the legislation. Failure to pay for the contract of conducting an examination shall be the basis for the return of the examination objects and case materials without conducting an examination.

A non-state forensic expert organization must have a premises based on the right of ownership, use and disposal of the property, a material and technical base that allows for safe forensic examination and complies with the requirements of the standards.

***In 2022, the “Minimum requirements for the equipment of the material and technical base for each type of forensic examinations conducted by non-governmental forensic organizations” was developed by the Scientific Research Institute of Forensic Expertise of Republican Center of Forensic Expertise named after Kh. Suleymanova***

***under the Ministry of Justice of the Republic of Uzbekistan and approved by the order of the Minister of Justice of the Republic of Uzbekistan dated December 12, 2022 (registered by the Ministry of Justice of the Republic of Uzbekistan dated December 12, 2022 No. 3402).***

***The requirements specify the minimum necessary material and technical base for 44 types of forensic examinations.***

If the body that appointed the forensic examination is dissatisfied with the conclusion of the forensic examination conducted by a non-governmental forensic organization, the forensic examination can be conducted only by the state forensic organization.

In addition, additional and repeated forensic examinations based on the conclusion of the forensic examination conducted by state forensic organization, including commission and comprehensive forensic examinations may be conducted by a non-state forensic expert organization.

A non-governmental forensic expert organization has the right to carry out a forensic examination on the basis of orders received from all regions of the republic, as well as from foreign countries.

When conducting a forensic examination, a non-governmental forensic expert organization must adhere to scientific and methodological manuals approved by the scientific councils of the relevant state forensic institutions, as well as methods developed independently and tested in state forensic institutions.

When a judicial expert is dismissed, dies or is found guilty of a deliberate crime in accordance with the established procedure, or other circumstances that prevent the conduct of a forensic examination in accordance with legislative acts, the judicial examinations in his/her jurisdiction may be transferred by the head of a non-state judicial examination to another qualified forensic expert. This is immediately reported to the body that appointed the forensic examination.

If it is impossible to transfer the forensic expertise case to another qualified judicial expert, the head of the non-governmental forensic expertise organization shall return the objects of the examination and the case materials to the body that appointed the judicial examination within three days. In this case, the non-state forensic organization returns the payment made in accordance with the contract.

The involvement of other persons in the examination will not be allowed by a non-governmental forensic expertise organization without agreement with the body (person) that appointed the examination.

A non-governmental forensic organization that is an affiliated person of one of the parties according to a case submitted for forensic examination or a forensic expert of a non-governmental forensic organization is prohibited from conducting a forensic examination in this case.

**Affiliated persons of the parties participating in the case can be:**

- owner, founder, member of the supervisory council, executive committee, creditor and insurer of a non-state judicial expert organization;
- an expert or legal entity that has a share in the charter fund (capital charter) of non-state judicial expertise;
- people who are closely related to affiliated persons of the parties involved in the case.

**Requirements for Forensic Experts of a Non-State Forensic Expertise Organization.** The staff of a non-state forensic expert organization, in addition to its head, must consist of at least two forensic experts who have a certificate of a forensic expert in one or another direction of forensic expertise.

People with higher, and in exceptional cases, secondary specialized, professional education may hold the position of a judicial expert in a non-state forensic expertise organization. The head of a non-governmental forensic expertise organization must have a higher education.

A person recognized as legally incompetent or with limited legal capacity, convicted of an intentional crime, who has not recovered or withdrawn a criminal record for committing an intentional crime, does not be involved as a judicial expert.

The head of a non-governmental forensic expertise organization and forensic experts should raise their qualifications and legal knowledge every two years. It is not allowed to conduct a judicial examination by a judicial expert of a non-governmental judicial-expertise organization in the manner prescribed by law without obtaining a certificate of a judicial expert or without raising their qualifications and legal knowledge every two years.

The retraining, advanced training and legal knowledge of judicial experts of non-governmental forensic organizations is carried out in accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated March 24, 2020 No. 180.

A person who has not carried out a continuous forensic expertise activity in his (her) specialty for five years after receiving a certificate of a judicial expert can have the right to conduct a judicial expertise only after successfully passing the retraining courses of experts of a non-governmental judicial expertise organization.

Currently, there are 5 non-governmental forensic organizations and more than 30 non-governmental forensic experts in the Republic of Uzbekistan.

In addition, today there is a single registration book, which includes information about the people who received the certificate of a forensic expert of non-governmental forensic organizations, which is constantly updated, the single registration book is carried out by the Ministry of Justice of the Republic of Uzbekistan.

As a result of the creation and strengthening of this organization, it will be possible to satisfy the needs of law enforcement agencies and courts in the field of judicial expertise.

Despite the fact that the activities of non-governmental forensic organizations have been established and defined by legal acts related to their sphere, to date, their legal status,

rights and obligations have not been defined within the framework of legislation, including the Criminal Procedure Code.

**Based on the above, the following is proposed:**

**First.** To introduce and consolidate in the current Law of the Republic of Uzbekistan “On Judicial Expertise” and the Criminal Procedure Code specific norms aimed at determining the legal status, rights and obligations of non-governmental judicial expertise organizations;

**Secondly.** Non-governmental court experts must constantly improve the process of professional development and pass mandatory certification of rank at least once every 3 years. This, in turn, does not allow us to doubt the comprehensive knowledge and willingness of the non-governmental expert to perform the tasks assigned in conducting expert studies.

**Thirdly.** It is proposed to increase the number of non-governmental forensic organizations at the republican level and expand the list of types of expertise permitted to be conducted in these organizations.

The implementation of these proposals in practice will further develop the principle of adversarial proceedings of the parties in criminal cases and healthy competition. In addition, this will be one of the positive reasons for reducing of the expert work in the state-forensic organizations that currently operating in the Republic of Uzbekistan[3].

## References

1. Resolution of the President of the Republic of Uzbekistan dated January 17, 2019 No. 4125, [Electronic resource] - Access mode: <https://lex.uz/docs/4172023> ;
2. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated March 24, 2020 No. 180, [Electronic resource] - Access mode: <https://lex.uz/docs/4774077>;
3. Югай Л.Ю., Научный журнал “Актуальные проблемы борьбы с преступлениями и иными правонарушениями”, №1, 2020 – 74-76 с.

## О НЕКОТОРЫХ РЕГЛАМЕНТАЦИЯХ ДЕЯТЕЛЬНОСТИ НЕГОСУДАРСТВЕННЫХ СУДЕБНО-ЭКСПЕРТНЫХ ОРГАНИЗАЦИЙ В РЕСПУБЛИКЕ УЗБЕКИСТАН

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*В статье рассматриваются этапы становления и развития деятельности негосударственных судебно-экспертных организаций в Республике Узбекистан. Особое внимание уделено правовой основе создания негосударственных судебно-экспертных организаций в Узбекистане и в данном контексте в статье*

отмечаются как Указ Президента, так и Постановления Кабинета Министров Республики Узбекистан. Автор раскрывает содержание двух основных положений относящихся к порядку организации деятельности негосударственных судебно-экспертных структур, а также переподготовки и повышения квалификации экспертов работающих в негосударственных судебно-экспертных организациях. Отмечается, что согласно законодательству, в настоящее время в стране негосударственные судебно-экспертные организации имеют право проводить исследования по 44 видам судебных экспертиз. Перечислены нормативно-правовые акты регламентирующие деятельность негосударственных судебно-экспертных организаций. Выделяются и описываются характерные особенности проведения судебной экспертизы, требования к судебным экспертам негосударственной судебно-экспертной организации. На основании уже накопленного практического опыта функционирования негосударственных судебно-экспертных организаций в Республике Узбекистан автором предлагаются решения по совершенствованию данной сферы деятельности, в частности предлагается законодательно закрепить в действующем законе Республики Узбекистан «О судебной экспертизе» специальные нормы направленные на определение правового статуса негосударственных судебно-экспертных организаций. Отмечается необходимость расширения перечня видов экспертиз разрешенных к производству в негосударственных судебно-экспертных организациях.

**Ключевые слова:** экспертиза, эксперт, негосударственный судебный эксперт, законодательство, виды судебной экспертизы.

## ՈւՋԲԵԿՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅՈՒՆՈՒՄ ՈՉ ՊԵՏԱԿԱՆ ԴԱՏԱՓՈՐՁԱԳԻՏԱԿԱՆ ԿԱԶՄԱԿԵՐՊՈՒԹՅՈՒՆՆԵՐԻ ԴԵՐԸ ԴԱՏԱՓՈՐՁԱԳԻՏԱԿԱՆ ԳՈՐԾՈՒՆԵՈՒԹՅԱՆ ՀԱՄԱՏԵՔՍՏՈՒՄ

**Կուդրապով Ս.Մ.**

Հոդվածում դիտարկվում են Ուզբեկստանի Հանրապետությունում ոչ պետական դատափորձագիտական կազմակերպությունների կայացման և զարգացման փուլերը: Հատուկ ուշադրություն է դարձվում Ուզբեկստանի ոչ պետական դատափորձագիտական կազմակերպությունների ստեղծման իրավական հիմքերին, նաև այս համատեքստում նշվում են ինչպես ՈՒՀ նախագահի հրամանագրերը, այնպես էլ ՈՒՀ կառավարության որոշումները:

Հոդվածում բացահայտվում են երկու հիմնական դրույթներ, որոնք առնչվում են ոչ պետական դատափորձագիտական կառույցների գործունեության կազմակերպման կարգին, ինչպես նաև այդ կազմակերպություններում աշխատող փորձագետների վերապատրաստման և որակավորման բարձրացման գործընթացներին: Նշվում է, որ

ներկայումս ըստ գործող օրենսդրության երկրի ոչ պետական դատափորձագիտական կազմակերպություններին թույլատրվում է իրականացնել դատական փորձաքննությունների 44 տեսակներ: Ներկայացվում են այն նորմատիվ իրավական ակտերը, որոնք կարգավորում են ոչ պետական դատափորձագիտական կազմակերպությունների գործունեությունը: Առանձնացվում և նկարագրվում են դատական փորձաքննության իրականացման փուլային առանձնահատկությունները, ինչպես նաև ոչ պետական դատափորձագիտական կազմակերպությունում դատական փորձագետներին ներկայացվող պահանջները:

Հենվելով Ուզբեկստանի Հանրապետությունում ոչ պետական դատափորձագիտական կազմակերպությունների գործունեության ընթացքում կուտակված գործնական փորձի վրա՝ հեղինակը ներկայացնում է ոլորտի զարգացման վերաբերյալ առաջարկություններ: Մասնավորապես, առաջարկվում է գործող «Դատական փորձաքննության մասին» ՈԻՀ օրենքում օրենսդրորեն ամրագրել ոչ պետական դատափորձագիտական կազմակերպությունների իրավական կարգավիճակը սահմանող հատուկ նորմեր, ինչպես նաև սահմանել վերոնշյալ կազմակերպությունների կողմից թույլատրված փորձաքննությունների ցանկի ընդլայնման անհրաժեշտությունը:

**Բանալի բառեր.** փորձաքննություն, դատական փորձագետ, ոչ պետական դատափորձագիտական կազմակերպություն, դատական փորձաքննության տեսակներ

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