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# International and European forensic support standards for criminal proceedings

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### Abstract

The research relevance is determined by the Ukrainian candidatedship European Union membership, and therefore one of its priority tasks is to adapt all legal mechanisms for regulating public relations to European standards, including in the area of criminal proceedings. The study aims to define the concept and content of international and European standards of forensic support of criminal proceedings. Comparative legal, systemic structural, and dogmatic methods were used in the study. Based on the study results, it is established that international and European standards of criminalistics support criminal proceedings covering both criminal procedural and forensic aspects. The author argues that in the criminal procedural aspect, such standards are manifested in the fact that all actions in criminal proceedings are carried out exclusively in the manner prescribed by criminal procedural legislation. A generalised statement on the fact that in the field of criminal proceedings, it is permissible to use the category of international standards for the implementation of this type of state activity in the course of its forensic support, but the procedural rules of both investigative and judicial activities cannot be brought by the international community to a single standard for all countries, since they are specific to each state depending on the system of government, legal system, historical, political and other features. The provisions of international and European standards of forensic support of criminal proceedings are also analysed, concluding that in the forensic aspect, criminal proceedings are implemented with the use of appropriate technical, tactical, and forensic support, and the allocation of such positions is of practical importance to ensure effective achievement of the objectives of criminal proceedings by the best international and European standards. The study findings can be used for further scientific research on the issues of criminal proceedings, as well as for improving the efficiency of the relevant part of Ukrainian criminal procedure legislation and law enforcement activities

### Keywords

investigation; criminal offence; human rights and freedoms; investigative (detective) actions; forensic means

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## Introduction

The research relevance is determined by several reasons. Firstly, Ukraine's course of integration into the European community involves adjustment of its legislation to the generally accepted standards of the European and international level in the field of regulation of all social relations, and forensic support of criminal proceedings in this process is no exception. Secondly, the armed aggression against Ukraine and war crimes committed against its citizens, as well as the need for their effective investigation, indicate the need to review the existing European and international standards of criminalistics support of criminal proceedings, both in Ukraine and worldwide, and their compliance with the requirements of the times in terms of the exercise of human and civil rights and freedoms.

The search for new criminal procedural procedures, which, following European and international legal standards, would be primarily focused on the restorative effect of justice, is highly relevant and has important theoretical and practical significance. The priority in law-making and law enforcement activities is the observance of human rights and freedoms, so this aspect should be addressed first and foremost when formulating international and European standards. The most optimal way to implement these standards in the criminal proceedings in Ukraine would be to create a criminal justice system that would function with maximum consideration of all its elements, which have their specific features, including forensic and criminological ones.

The issue of compliance with international and European standards was covered by V. Skryl (2023), who studies them in the forensic task-solving aspect in the field of detection and prevention of financial criminal offences. Thus, the researcher notes that internal factors and external threats to the financial security of business entities in general and financial institutions in particular under martial law require the development of a coherent strategy of Ukraine following European and international standards to neutralise these threats and increase the effectiveness of financial security.

Several studies also discuss the issues of international and European standards in solving other tasks in criminal proceedings. In particular, it is worth noting Y. Chornous *et al.* (2023), as they significantly contributed to the development of criminal procedure and forensic science in the context of the formation of international and European standards of lawmaking and law enforcement. The researchers investigated the issue of increasing the effectiveness of the investigation and prevention of crimes committed in the field of sports using the latest technologies and innovative approaches in forensics during the collection of evidence, considering the standards that have already been developed over time and are effective in criminal proceedings in European and other countries.

However, at the present stage in Ukraine, there is no unanimity of understanding among scholars regarding the very concept, content and, accordingly, the peculiarities of practical implementation of international and European standards of criminalistics support of criminal proceedings. According to T. Babchynska (2019), to avoid disputes on this issue, it is necessary to address the formation of a unified law enforcement practice in the implementation of international standards of the right to defence in the examination of testimony during court proceedings.

Another, more practical, aspect in the field of criminal proceedings is highlighted by D. Magherescu (2022), who notes that the use of forensic science in criminal proceedings is a real problem for the judicial system. According to the scholar, this situation should be integrated into the overall structure of criminal justice, based primarily on traditional principles, as well as on European principles, the most important of which are due process and the resolution of criminal cases within a reasonable time.

Based on the analysis of the provisions of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), C. Walz *et al.* (2023) emphasise that a significant problem for states that accede to international legal instruments may be the fulfilment of the obligations stipulated by them. The researcher notes that not all countries, for example, can provide medical and forensic examinations after sexual violence, as well as assistance and counselling in case of trauma. In addition, participating States are also obliged to maintain effective criminal justice standards and procedures for investigating and punishing acts of violence, and the implementation of these rules is currently very uneven in individual countries.

The study aims to examine the main international and European standards of criminalistics support of criminal proceedings and their compliance with the requirements in the area of implementation and protection of human and civil rights. Following the study goal, the existing international legal acts regulating these issues were analysed and practical recommendations for the implementation of European and international standards of criminalistics support of criminal proceedings into Ukrainian legislation to improve its efficiency were developed.

## Materials and Methods

Both general scientific and special methods were used in the study to carry out a thorough study of the object of research. The analysis and synthesis methods were used to carry out a comprehensive analysis of the scientific works of researchers who directly or indirectly studied issues related to international and European standards of criminal justice and forensic support for

the investigation of criminal offences. Thus, the heuristic method was used to study various aspects of the interpretation of the concept of “standards”, both in terms of observance of human rights and freedoms and ensuring due process of criminal investigation. The generalisation method was used to formulate the study results and to identify groups of international and European standards. Induction and deduction methods were used to study various aspects of the interpretation of the concept of “standards”, both in terms of observance of human rights and freedoms and ensuring due process of criminal proceedings and their forensic support. The comparison, description and classification methods were used to systematise and summarise the views available in science regarding the forms of expression of standards in the course of criminal proceedings’ forensic support.

The comparative legal method, the systemic and structural, and the dogmatic approaches were used as special methods. The comparative legal method was used to analyse the rules of substantive and procedural law, scientific categories, definitions, and approaches. The systemic and structural method was used to identify and systematise the subjects of criminalistics support in criminal proceedings and to determine the international and European requirements for their activities. The dogmatic method was used to formulate scientific concepts and categories, clarify the conceptual and categorical apparatus of forensic science and the science of criminal procedure, and define the concepts of “international standard” and “European standard”.

The reference base of the study includes various regulatory acts and international documents related to the standards of criminalistics support of criminal proceedings. It covers both national legislations, in particular the laws of Ukraine on standardisation and amendments to the Constitution, and international standards, including ISO international standards. At the same time, international conventions and documents designed to protect human rights, prevent torture and ill-treatment, and ensure fair justice were analysed. The UN General Assembly resolutions, in particular on sustainable development, complement the normative framework as they are aimed at improving criminal justice and ensuring fairness in the international context. This variety of sources provides a wide range of

information and covers various aspects of forensic support in criminal proceedings.

The Laws of Ukraine No. 1315-VII<sup>1</sup> and No. 1401-VIII<sup>2</sup> and international standards such as ISO 21043-1:2021<sup>3</sup> and ISO 21043-2:2021<sup>4</sup> were used in the study. Furthermore, international documents and conventions such as the Rome Statute of the International Criminal Court<sup>5</sup>, the International Covenant on Civil and Political Rights<sup>6</sup>, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment Scope of the Body of Principles<sup>7</sup>, and the European Convention on Human Rights<sup>8</sup> were used in the analysis. The resolutions of the UN General Assembly, in particular on the 2030 Agenda for Sustainable Development<sup>9</sup>, aiming to improve criminal justice and ensure fairness, were also considered.

## Results

The science of criminal procedure and the science of forensics increasingly emphasise the need to bring criminal procedure activities, as well as forensic tools, methods and techniques used in the investigation of criminal offences, into line with international and European standards. However, the concept of “standard” itself, its interpretation in the international and European context in the course of criminal investigation and the achievement of the objectives of criminal proceedings raises many questions. The actual content of the “international standards” concept concerning the forensic support of criminal proceedings is multi-dimensional. In particular, when it comes to criminal procedure, international standards of human rights and freedoms are of key importance, since the proper level of observance of human rights and freedoms is one of the criteria for the admissibility of evidence obtained in criminal proceedings. Accordingly, during the investigation of criminal offences, the parties to criminal proceedings are obliged to strictly comply with the criminal procedural form. Concerning forensic activities, the forensic support of criminal proceedings, namely its technical, tactical, and forensic components, must comply with the leading standards of forensic tools, methods, and techniques.

During criminal proceedings, while collecting evidence, identification, demand, seizure, preservation, and recording of sources of criminally relevant information

<sup>1</sup> Law of Ukraine No. 1315-VII “On Standardisation”. (2014, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1315-18#Text>.

<sup>2</sup> Law of Ukraine No. 1401-VIII “On Amendments to the Constitution of Ukraine (Regarding Justice)”. (2016, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1401-19#n2>.

<sup>3</sup> ISO 21043-1:2021. (2021, September). Retrieved from [https://online.budstandart.com/ua/catalog/doc-page.html?id\\_doc=96757](https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=96757).

<sup>4</sup> ISO 21043-2:2021. (2021, December). Retrieved from [https://online.budstandart.com/ua/catalog/doc-page.html?id\\_doc=96758](https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=96758).

<sup>5</sup> Rome Statute of the International Criminal Court. (1998, July). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_588#Text](https://zakon.rada.gov.ua/laws/show/995_588#Text).

<sup>6</sup> International Covenant on Civil and Political Rights. (1966, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_043#Text](https://zakon.rada.gov.ua/laws/show/995_043#Text).

<sup>7</sup> Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment Scope of the Body of Principles. (1988, December). Retrieved from [https://ips.ligazakon.net/document/view/MU88315?an=11&ed=1988\\_12\\_09](https://ips.ligazakon.net/document/view/MU88315?an=11&ed=1988_12_09).

<sup>8</sup> European Convention on Human Rights. (1950, November). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_004#Text](https://zakon.rada.gov.ua/laws/show/995_004#Text).

<sup>9</sup> Resolution Adopted by the General Assembly on 25 September 2015 No. 70/1 “Transforming our World: The 2030 Agenda for Sustainable Development”. (2015, September). Retrieved from <https://www.undp.org/sites/g/files/zskgke326/files/migration/ua/Agenda2030-eng.pdf>.

that may acquire the meaning of factual data, and further – sources of evidence in criminal proceedings, is carried out. Accordingly, the concept of “standard” should be used in the sense of “requirements” for both lawmaking and law enforcement activities based on the provisions of international and European legal sources and the best practices of European democratic states.

However, this does not encompass the entire meaning of the concept. Thus, the interpretation of the second meaning of the concept of “international standard” is based on the interpretation of clause 10 of Article 1 of the Law of Ukraine “On Standardisation” of 05 June 2014<sup>1</sup> as “a standard adopted by an international standardisation organisation and available to a wide range of users”. Thus, international standards are formed by the International Organisation for Standardisation (ISO), an international standard-setting body consisting of representatives of various national standardisation organisations (International Organisation for Standardisation). In the field of forensic science, the European Network of Forensic Science Institutes (ENFSI) sets important European standards in forensic interpretation. These are standards for the exchange of information between countries in the field of forensic science, the organisation of international cooperation in this field, as well as in expertise, and the organisation and conduct of training and advanced training of forensic research specialists.

The national standardisation body, which is the State Enterprise “Ukrainian Research and Training Centre for Standardisation, Certification and Quality”, is empowered to harmonise national standards and codes of practice with relevant international and regional standards and codes of practice. This means that they are responsible for ensuring that national regulations are in line with international standards, which contributes to the unification of approaches and improves the quality of products and services at the international level (Dulskyi, 2023). There are several international standards in place in Ukraine that are already being implemented in the forensic field. This is the international standard DSTU ISO 21043-1:2021 “Criminalistics. Part 1: Terms and Definitions”<sup>2</sup>, DSTU ISO 21043-2:2021 “Detection, Recording, Seizure, Transportation and Storage of Objects”<sup>3</sup> and several others.

The concept of “standard” is also mentioned in part 2 of Article 567 of the Criminal Procedure Code of Ukraine “Interrogation at the request of a competent authority of a foreign state by means of a video or telephone conference”<sup>4</sup>. Interrogation by video or telephone conference is conducted following the

requirements of the procedural legislation of the requesting party if it does not contradict the principles of the criminal procedural legislation of Ukraine and the generally recognised standards of human rights and fundamental freedoms.

Thus, the concepts of both international and European standards in criminal proceedings, despite the active use of these terms in scientific works, in the practical implementation of a range of practical tasks, are quite diverse in terms of their interpretation and practical expression, and to date, no unified scientific opinion has been formed on this issue. The study analysis results conclude that the interpretation of the term “standard” has found its expression in both international and European contexts. Importantly, such standards apply to all persons involved in criminal proceedings. This includes both the prosecution and the defence, as well as the court, which implements the function of justice.

International standards for the protection of human rights and fundamental freedoms are divided into universal (applicable worldwide) and regional (applicable in a particular region of the globe). These international standards of forensic support of criminal proceedings are implemented both during the pre-trial investigation and the trial. It is worth emphasising the importance of the International Criminal Court, a permanent international organisation that has jurisdiction over international crimes and, in some cases, crimes of an international nature. The Court operates under the Rome Statute of 1998<sup>5</sup>.

Thus, the International Criminal Court may exercise its functions and powers, as provided for in the Statute, on the territory of any State Party and, by special agreement, on the territory of any other State; jurisdiction covers the most serious crimes of concern to the international community, including (a) crimes of genocide; (b) crimes against humanity; (c) war crimes; and (d) the crime of aggression, as defined in Articles 4 and 5 of the Statute of the International Criminal Court<sup>6</sup>. According to W. Arévalo-Ramírez & P. Martini (2022), who studied the interaction between international legal standards defined by the Rome Statute of the International Criminal Court (ICC) and national legislation in terms of the special peace jurisdiction, the adoption of international standards serves both to demonstrate the true nature of national options for the implementation of the transitional justice process and subsequent trial and to close the preliminary proceedings before the ICC.

It is worth noting that on 20 January 2000, Ukraine signed the Rome Statute of the International Criminal

<sup>1</sup> Law of Ukraine No. 1315-VII “On Standardisation”. (2014, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1315-18#Text>.

<sup>2</sup> ISO 21043-1:2021. (2021, September). Retrieved from [https://online.budstandart.com/ua/catalog/doc-page.html?id\\_doc=96757](https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=96757).

<sup>3</sup> ISO 21043-2:2021. (2021, December). Retrieved from [https://online.budstandart.com/ua/catalog/doc-page.html?id\\_doc=96758](https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=96758).

<sup>4</sup> Criminal Procedure Code of Ukraine. (2012, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

<sup>5</sup> Rome Statute of the International Criminal Court. (1998, July). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_588#Text](https://zakon.rada.gov.ua/laws/show/995_588#Text).

<sup>6</sup> Ibidem, 1998

Court but did not ratify it. At the same time, Ukraine has recognised its jurisdiction (following the 02.06.2016<sup>1</sup> amendments to the Constitution of Ukraine<sup>2</sup>) *ad hoc* on investigating war crimes committed by Russia on its territory. There are several important issues in this regard. For example, in the current circumstances, it is important not only to ensure the proper procedural procedure for collecting evidence by the Office of the Prosecutor of the International Criminal Court but also the forensic aspect of collecting evidence by this entity. The development of the forensic methodology for the investigation and trial of international war crimes by the International Criminal Court is also an important task, which involves the development of the most effective methods and means of activity following the leading standards. This includes the full range of issues related to forensic technical, tactical, forensic, and methodological support to ensure the effective and fair investigation and trial of international war crimes.

The solution to the above-mentioned problematic issues in Ukraine is possible only with due regard to the international experience of investigating international crimes. For instance, post-conflict transitional justice increasingly relies on the use of specialised investigative bodies to gather facts for trials of alleged perpetrators (Kolaneci & Pejo, 2023). The United Nations Investigative Team to Support Accountability for Crimes Committed by the Islamic State of Iraq and the Levant conducted interviews in Iraq with victims of crimes committed by the ISIL (Reicherter *et al.*, 2022). This experience should be used in the work of Ukrainian investigators with victims of war crimes committed during the Russian-Ukrainian war.

International and European standards of forensic support of criminal proceedings should consider the provisions of multilateral and bilateral international treaties on cooperation in criminal investigations. There are more than fifty bilateral treaties between Ukraine and foreign partner states alone, and they regulate specific mechanisms of cooperation adapted to the law enforcement practice of the interacting states.

Thus, the “standards of criminalistics support of criminal proceedings” (in the context of theoretical interpretation and practical activity) are those rules which are a model for the implementation of law enforcement activities, which include, in particular, the development and implementation of forensic recommendations on the use of forensic methods, tools, techniques, to meet the needs of practical activity of competent subjects in the implementation of their cognitive activity. The latter is manifested when working with forensically relevant information to include both factual data and sources of evidence relevant to criminal proceedings

based on the provisions of supranational international legal acts, as well as the law enforcement practice of supranational international courts whose jurisdiction is recognised by Ukraine. Furthermore, these standards should be integrated into the national legal system of Ukraine, and the regulations adopted by the competent standardisation body establishing the rules for working with forensically relevant information should meet the modern requirements of science and technology, as well as the best practices of law enforcement agencies in democratic countries.

International and European standards of forensic support of criminal proceedings cover criminal procedural and forensic aspects. These aspects are inter-related but have different forms of expression. The criminal procedural form provides for compliance with certain requirements enshrined in international treaties (the mandatory implementation of which has been confirmed by the Verkhovna Rada of Ukraine), which must be observed by all entities representing the parties to criminal proceedings in the collection, examination, evaluation, and use of evidence. Their violation or non-compliance results not only in non-compliance with the criminal procedural legislation of Ukraine but also, as a consequence, in the inadmissibility of the evidence and its sources. From a forensic perspective, compliance with such international and European standards is a key requirement in the development of means, methods, and techniques of forensic support (in the areas of technical, tactical, methodological, and forensic support). For example, in the development of new technical and forensic tools designed to work with forensically relevant information, as well as in the development of new tactics, provisions of forensic investigation methods, etc.

The study results suggest that the provisions of international legal acts and the results of law enforcement practice of international judicial institutions (in the European space, in particular, within the Council of Europe) enshrine provisions on the observance of fundamental human rights and freedoms, as well as forensic means, methods, techniques, and recommendations for their application based on their provisions. They contain requirements for handling forensically relevant information for the legitimate and effective investigation of criminal offences and achievement of the objectives of criminal proceedings.

The beginning of the formation of international standards of human rights and freedoms is associated with the activities of the United Nations, and the formation of the legal framework for the activities of the international organisation. First and foremost, these are the leading international treaties ratified by the

<sup>1</sup> Law of Ukraine No. 1401-VIII “On Amendments to the Constitution of Ukraine (Regarding Justice)”. (2016, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1401-19#n2>.

<sup>2</sup> Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80/ed19960628#Text>.

member states of the international organisation<sup>1,2,3</sup>, but there are numerous documents of a recommendatory nature that define international standards for the protection of human rights and freedoms and are used as a guide in lawmaking and law enforcement activities.

International standards in the context of ensuring human rights and fundamental freedoms are divided into universal (applicable worldwide) and regional (applicable in a particular region of the globe) standards. In the case of Ukraine, the relevant regional standards are European standards. The content of European standards is shaped by international treaties adopted in the “European space”, for example, within the framework of the Council of Europe. The key treaties here are the European Convention on Human Rights<sup>4</sup> and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment<sup>5</sup>.

International legal documents set out requirements for the activities of bodies conducting criminal proceedings. In particular, they can be identified based on the results of studying multilateral and bilateral international treaties on cooperation between the competent authorities of states in the field of criminal justice, as well as the implementation of the tasks of the defence in these circumstances.

In this regard, it is worth noting the activities of international judicial institutions, the functioning of which generates international standards of criminal justice. First and foremost, this refers to an assessment of the results of the International Criminal Court, which is a permanent judicial institution of the United Nations and exercises universal international jurisdiction. A study of the Rome Statute of the International Criminal Court leads to the conclusion that the principles of proof established by this document are international standards for countries that have adopted and ratified this treaty. At the regional (European) level, this refers to the administration of justice and the formation of legal positions by the European Court of Human Rights (ECHR). Therefore, it is possible to note that the parties to criminal proceedings in the course of implementation of the tasks of criminal proceedings must comply with international standards in the context of human rights and freedoms. Particular attention in this regard is devoted to the activities of authorised persons, representatives of the prosecution and defence counsel as a key

subject of the defence since at the legislative level they are obliged to provide evidence in criminal proceedings.

## Discussion

It is important not only to study international and national standards of forensic support at the present stage but also to forecast development trends in this area for the future. The opinions of B. Holovkin (2020), noting that the international goals of global human development, which were set out in the UN Millennium Declaration<sup>6</sup> and the 2030 Agenda for Sustainable Development<sup>7</sup>, will be the guidelines for further development in the field of criminalistics, is valid. Furthermore, the scholar’s opinion that the scientific potential of criminal proceedings institutions will be aimed primarily at developing tools to reduce the impact on crime and social life of such negative social phenomena as poverty, social injustice and inequality, abuse of power by representatives of the authorities and society is also valid.

The importance of using international standards of forensic support of criminal proceedings in national systems is also noted by N. Abbasov (2022), V. Ladychenko *et al.* (2022) and V. Nehrebetskyi (2023). The last of these studies focuses on ensuring criminal proceedings when studying biometric systems during martial law. According to V. Nehrebetskyi (2023), international cooperation between criminalists and forensic experts in the system of mechanisms for investigating and combating war crimes, in particular in the context of the Russian invasion of Ukraine, is the most effective and appropriate for use in practice. This point of view coincides with the results of the study, which shows that the problem of improving international cooperation in the fight against crime is currently one of the most pressing in the activities of law enforcement agencies of democratic countries. In the era of digitalisation and innovative technologies, modern crime has acquired qualitatively new forms, its beneficial orientation has increased, the number of transnational offences has significantly increased, and the number of international criminal groups is growing.

Summing up the scientific discussion, Yu. Tsyhaniuk (2020) notes that the individual is the core aspect of the formation of international standards. In this aspect, the point of view of V. Shevchuk (2023) is that currently, in the context of martial law and modern European

<sup>1</sup> International Covenant on Civil and Political Rights. (1966, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_043#Text](https://zakon.rada.gov.ua/laws/show/995_043#Text).

<sup>2</sup> Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment Scope of the Body of Principles. (1988, December). Retrieved from [https://ips.ligazakon.net/document/view/MU88315?an=11&ed=1988\\_12\\_09](https://ips.ligazakon.net/document/view/MU88315?an=11&ed=1988_12_09).

<sup>3</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice. (1985, November). Retrieved from [https://zakononline.com.ua/documents/show/158593\\_\\_158593](https://zakononline.com.ua/documents/show/158593__158593).

<sup>4</sup> European Convention on Human Rights. (1950, November). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_004#Text](https://zakon.rada.gov.ua/laws/show/995_004#Text).

<sup>5</sup> European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (1987, November). Retrieved from [https://zakon.rada.gov.ua/laws/show/995\\_068#Text](https://zakon.rada.gov.ua/laws/show/995_068#Text).

<sup>6</sup> Resolution Adopted by the General Assembly No. 55/2. “United Nations Millennium Declaration”. (2000, September). Retrieved from [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_55\\_2.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_55_2.pdf).

<sup>7</sup> Resolution Adopted by the General Assembly on 25 September 2015 No. 70/1 “Transforming our World: The 2030 Agenda for Sustainable Development”. (2015, September). Retrieved from <https://www.undp.org/sites/g/files/zskgke326/files/migration/ua/Agenda2030-eng.pdf>.

integration processes, the criminalistics and criminal justice system of Ukraine are facing new challenges that will involve solving priority tasks in the context of war, is valid. This primarily concerns the formation of forensic knowledge following the current needs of the practice, the development of innovative forensic products, such means, techniques, and methods that will be aimed at combating crime related to the Russian invasion of Ukraine, as well as solving other important problems (Shevchuk, 2023). A similar point of view is supported by A. Schüller (2023), who notes that the precedent established in the context of the armed aggression against Ukraine can be used to strengthen international criminal justice, national justice, and international cooperation without depriving it of legitimacy through the creation of special courts. According to the scholar, there are still many conflicts that will bring great benefits if international criminal justice develops in an equal manner, adapted to all situations, considering the achievements of criminalistics and criminology.

The study results also coincide with the positions argued by H. Boreiko & V. Navrotska (2023) and B. Krzan (2021), who note that international criminal procedure combines elements of the accusatory and inquisitorial legal traditions, and thus forms a unique amalgam. However, according to the scholar, due to the wider scope and complexity of international crime dealt with by international criminal courts and tribunals, it might be noteworthy to consider the events and their previous experience through the prism of admissibility of evidence, which is not possible without regard to international standards of criminalistics in criminal proceedings.

A similar position is held by C. Seclì (2019), who studied the principle of “beyond reasonable doubt” and noted that it is necessary to confirm a criminal conviction due to the presumption of innocence. The author notes that although this rule is widely used in common law countries and even in some continental law countries, it is impossible to find a unanimous definition due to intense debates about its meaning in legal doctrines and international jurisprudence. In addition, the scholar concludes, that in the context of international criminal law, there are no rules on the best method of evaluating evidence to satisfy the “beyond reasonable doubt” standard.

As noted by C. Soler (2019), it is necessary to conduct criminal proceedings focused on the promotion and protection of human rights, as well as the overall provision of domestic, regional, and international criminal justice following universally recognised standards. The scholar suggests an idea of how the application of international criminal law can be consolidated and improved, both in terms of substantive international criminal law and procedural international criminal law, namely with the help of the tools offered by forensic science.

Thus, following the study results, it is possible to conclude what should be understood by the concept of “international and European standards of criminalistics support of criminal proceedings”. First of all, these are international standards for the protection of human rights and freedoms, which today are universal in nature, are applied in all spheres of public life, and particular attention to their formation and observance applies to all actors operating in the field of criminal proceedings. The importance of international standards in the field of criminalistics support of criminal proceedings lies in the fact that they are the basis for the unification of international and national law, and therefore are a source of development and improvement of Ukrainian legal acts. Thus, it is possible to summarise that international criminalistic standards support criminal proceedings, firstly, including international standards of protection of human rights and freedoms. Within the framework of this study, given the presence of criminal procedural and forensic aspects in the subject matter, it should be noted that international standards of criminalistics support of criminal proceedings are aimed at two main goals: ensuring the observance of fundamental human rights and freedoms and preventing their violations.

## Conclusions

It is possible to summarise that the concept of standards of criminalistics support of criminal proceedings can be classified as follows: depending on the binding nature of the source which enshrines the most important rights of participants to criminal proceedings – those contained in binding international acts and those contained in recommendatory international acts; depending on the scope of criminal justice standards – universal and regional; depending on the essence and significance of international standards of criminal justice.

Traditionally, the main focus has been on ensuring international and national standards of human rights and freedoms in criminal proceedings. This is explained by several arguments. Firstly, the vast majority of scientific works on international and European standards in criminal proceedings are devoted to the observance of human rights and freedoms, both in a broad and narrow sense. Secondly, the Constitution of Ukraine of 1996, the laws of Ukraine, and bylaws in the context of legal relations regulated by them contain the idea of legality, ensuring human rights and freedoms. Thirdly, international, and European standards for the use of forensic tools, methods and techniques, as noted above, are international standards developed by the International Organisation for Standardisation (ISO) and European standards developed by the European Network of Forensic Science Institutions (ENFSI), which define the process of working with forensically relevant information, regulate the algorithm of actions of competent entities. They aim to ensure that the proper

procedure for handling forensically relevant information contributes to the observance of human rights and freedoms in criminal proceedings.

The general standards of criminalistics support of criminal proceedings, which are in force at all stages and proceedings of criminal justice, provide for the protection of human and civil rights: the right to access to justice and fair trial, which include investigation and consideration of cases by special investigative and judicial bodies, promptness of proceedings, prevention of conviction in the case of investigation and consideration, provision of free qualified assistance to the participant in the process, awareness of the participants in the process of all procedural actions, their rights and obligations, provision of the opportunity to express their opinion, the right to freedom and personal inviolability.

Special standards of forensic support of criminal proceedings, which are applied depending on the procedural status of persons involved in criminal proceedings, should address several aspects. These include standards of the rights of participants in the process relating to criminal prosecution, such as the compliance of criminal procedural measures with the characteristics of the offender and the circumstances of the

offence, the preference for non-judicial methods of resolving a legal conflict, and the obligations of states to prevent crime. The standards of the rights of victims and other participants in criminal proceedings are also considered, in particular, the right to defence in difficult situations during criminal proceedings and the observance of the interests of participants acting as victims and witnesses. In addition, it is advisable to consider fair restitution and compensation for the damage caused by the crime.

Further research in this area should focus on assessing the introduction of new technologies in the field of forensics that meet international and European standards, in particular in the areas of evidence collection, data analysis and human rights protection.

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### Conflict of Interest

None.

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# Міжнародні та європейські стандарти криміналістичного забезпечення кримінального провадження

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### Анотація

Актуальність дослідження зумовлена тим, що Україна є кандидатом на членство в Європейський Союз, тому одне з пріоритетних її завдань полягає в адаптації всіх юридичних механізмів регулювання суспільних відносин до європейських стандартів, зокрема й у сфері кримінального провадження. Мета статті – визначити поняття і зміст міжнародних та європейських стандартів криміналістичного забезпечення кримінального провадження. Для досягнення мети застосовано порівняльно-правовий, системно-структурний і догматичний методи. За результатами здійсненого дослідження встановлено, що міжнародні та європейські стандарти криміналістичного забезпечення кримінального провадження охоплюють як кримінальний процесуальний, так і криміналістичний аспекти. Аргументовано положення, що в кримінальному процесуальному аспекті такі стандарти виявляються в тому, що всі дії в кримінальному провадженні здійснюються виключно в тому порядку, який визначений кримінальним процесуальним законодавством. Сформульовано узагальнене положення про те, що у сфері кримінального провадження під час його криміналістичного забезпечення допустимо використати категорію міжнародних стандартів здійснення цього виду державної діяльності, але процедурні правила як слідчої, так і судової діяльності не можуть бути приведені міжнародною спільнотою до єдиного для всіх країн стандарту, оскільки вони специфічні в кожній державі залежно від устрою, правової системи, історичних, політичних та інших особливостей. Також проаналізовано положення міжнародних і європейських стандартів криміналістичного забезпечення кримінального провадження, сформульовано висновок про те, що в криміналістичному аспекті кримінальне провадження реалізують із застосуванням належного техніко-, тактико- й методико-криміналістичного забезпечення, а виокремлення таких позицій має практичне значення задля забезпечення ефективного досягнення завдань кримінального провадження за найкращими світовими та європейськими зразками. Практична цінність дослідження полягає в тому, що його результати може бути використано для подальших наукових розвідок з проблематики кримінального провадження, а також для підвищення ефективності відповідної частини українського кримінально-процесуального законодавства та правозастосовної діяльності

### Ключові слова:

розслідування; кримінальне правопорушення; права та свободи людини; слідчі (розшукові) дії; криміналістичні засоби