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### **F23 Technical Investigations Not Repeatable in the Italian Code of Criminal Procedure: The Guaranteed Anticipated Contradictory of the Defense**

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After attending this presentation, attendees will understand that the Italian rules governing the activities of technical investigations about people, things, or places are subject to rapid change. In these cases, during the preliminary investigation conducted by the Public Ministry and carried out by the judicial police, the Italian Code of Criminal Procedure provides for the participation of other parties to the proceedings with the help of a consultant in order to establish a contradictory with the prosecutor.

This presentation will impact the forensic science community by underlining the usefulness of the presence and participation of legal experts appointed by the crime victim and the suspect to a plea that cannot be presented at trial. In this way, the private parties can contribute their own remarks to the technical investigation, rather than contend with the conclusions of the district attorney's consultant.

Italian rules of technical investigations not repeatable. When the investigations relate to people, things, or places whose state is subject to modification, the prosecutor immediately warns the defendant, the victim of the crime, and the defense of the appointed day, time, and place and of their right to appoint technical advisors. The defense as well as the appointed technical consultants shall be entitled to attend the meeting, to participate in the investigations, and to make comments and reservations. If, before the meeting, the defendant initiates an evidentiary hearing before the judge, the prosecutor cannot proceed unless these investigations, if delayed, may not be more usefully made. If the prosecutor, despite the express request of the defendant and not under the condition of urgency, has also carried out an investigation, these results cannot be used in the trial.

The classic example of non-repeatable technical assessment is the autopsy of a corpse or, in cases of murder or involuntary manslaughter (e.g., medical malpractice, car accident, or a work-related accident).

In cases of murder, rarely is there already a suspect; however, in those rare cases (e.g., murder committed within a family), the suspect may participate in a fundamental investigation, offering comments and reservations, and perhaps stating his defense, such as self-defense. In wrongful death cases, the suspect is generally known (e.g., the responsible physician, the driver of the car, or an employer). In these cases, experts appointed by the suspect can directly verify the correctness of the expert opinions, contributing to the investigation of the relevant facts (e.g., cause of death, relationship of cause and effect, and/or other contributing factors).

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#### **Technical Investigations, Anticipated Contradictory, Italian Criminal Procedure**