



D21 The Role of the Technical Experts in Civil Law Countries: The Italian Case

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Learning Overview: After attending this presentation, attendees will better understand the role technical experts play in legal proceedings in countries with civil law systems. Italy is used as an example, since the manner in which technical experts act in its legal system is well representative of other European countries that adopt a civil law system.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by providing a look into the role played by technical experts in civil law systems, a role that is significantly different from the one played in common law systems. Attendees will gain a better awareness of what is expected from a technical expert and what the responsibilities are that he or she will face when serving as a technical expert in the different tasks that both criminal law and civil law proceedings assign them.

In both criminal and civil law proceedings, technical experts are appointed by the judge and serve as his or her technical alter ego, with the task of explaining to the judge the technical issues involved in the proceedings (fingerprint identification and DNA analysis in criminal law proceedings, and failure causes, defect identification, and compliance to standards in litigations).¹⁻³ Different than common law systems, the technical experts, being appointed by the judges, do not act as witnesses and face a different responsibility.⁴ If, in rendering their expertise, they make serious technical mistakes that may mislead the judge, they can be charged with the crime of false appraisal that, in Italy, can be sanctioned with up to six years imprisonment.

Moreover, the parties (litigants in litigations, defendant and prosecutor in criminal law proceedings) can appoint their own technical experts that represent, from the sole technical point of view, the parties in every step of the technical expert activity and interact with the judge in an attempt to highlight the technical point of view of the party they represent.

The judge's technical expert produces, usually, a written report that, when related to litigations, must mandatorily include the observation(s) made by the parties, if submitted.

In general, the report submitted by the judge's technical expert represents the technical basis on which the judge makes his or her decision.

This presentation develops the above points, showing the different details of the role and responsibilities of the technical experts, both those appointed by the judges and those appointed by the parties.

Reference(s):

1. Working Group on the Quality of Justice - European Commission for the Efficiency of Justice. *Study on the Role of Experts in Judicial Systems of the Council of Europe Member States*. 2014.
2. Champod, Christophe and Vuille, Joelle. Scientific Evidence in Europe—Admissibility, Evaluation and Equality of Arms. *International Commentary on Evidence*, 9, n. 1 (2011), p.37-38.
3. Vuille, Joëlle. Admissibility and Appraisal of Scientific Evidence in Continental European Criminal Justice Systems: Past, Present and Future. *Australian Journal of Forensic Sciences*, 45, n. 4 (2013), pp. 389-397.
4. Ferrero Alessandro and Scotti Veronica. Forensic Metrology: A New Application Field for Measurement Experts Across Techniques and Ethics. *IEEE Instrumentation & Measurement Magazine*, 16, n. 1 (2013), pp.14-17.

Technical Experts, Civil Law Systems, Italy