

# **The problems of judicial expertise in criminal proceedings**

## **Abstract**

Contemporary criminal proceedings are highly dependable on judicial expertise and in number of cases we encounter a situation where the determination of the facts is based on the expert evidence. However, judicial expertise is linked to a number of issues which damage the reputation of the field which is then considered to be untrustworthy by the general public. This paper is divided into 5 separate chapters dissecting the most commonly criticised practices by the general public.

At first the issue of relegating responsibilities from the judge to the judicial experts is analysed. The author believes that there are two root causes to the problem, one being the factual accuracy of the provided expert evidence and the other being the unnecessary utilization of judicial experts.

The aforementioned relegation of responsibilities places power in the hands of the experts whose work seldom meet the appropriate quality given the increased level of responsibility. Therefore the author further focuses on the problems with the quality of the expert evidence as well as examining the warranties provided by the current legislation and the shortcomings of this legislation along with the changes of it that are coming into effect as of 1 January 2021.

The third issue discussed is the topic of deliberately skewed or false expert evidence. Accounting for the influence of the submitter on the private expert evidence the author examines the sanctioning possibilities that can befall the experts upon providing false or skewed expert evidence and highlights the issues that arise from the sanctioning.

Furthermore this paper analyses the problems related to the creation of the delayed judicial process which is commonly linked to the judicial expertise and it analyses the instruments that the court has at its disposal to utilise in order to limit these delays. Finally the amount of the fees, which is generally considered to be insufficient is discussed along with the possible ramifications.

Special attention was paid to the changes in relevant legislation with regards to the acceptance of the law No. 254/2019 Coll. which comes into effect as of 1 January 2021. In this paper the theoretical knowledge is filed in with actual examples from a judicial expert and ex-officio defender from the areas of psychiatry and sexology.

**Keywords:** judicial experts – expert evidence – expert