

Historical Treatment of Expert Evidence in Criminal Proceedings

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Abstract: This material analyzes the use of expert evidence in criminal proceedings, an instrument that has undergone a long evolution, becoming essential for resolving technical and scientific issues. Initially, expertise was a broad field, but with the development of science and new techniques, it has become a specialized and significant tool in criminal investigations. The use of expert evidence developed in Europe since the 18th century and had a significant impact in Albania, especially after 1991, when the Albanian legal system adapted to international practices. Expertise plays a key role in verifying facts and analyzing scientific evidence, contributing to the administration of justice and ensuring a fair and reliable criminal process.

The key theme of "The Historical Treatment of Expert Evidence in Criminal Proceedings" is the use of expert evidence, which has undergone a long and significant evolution, becoming a key instrument in clarifying complex and technical issues that cannot be easily understood by judicial authorities. Expert evidence has a history that begins in the 18th and 19th centuries, spanning fields such as forensic medicine, ballistics, and DNA, and includes an organized structure that ensures expert assistance in verifying or disproving allegations. The use of expert evidence has increased especially after 1991 in Albania, when the legal system began to adapt to international standards and European Union practices.

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1. Introduction

In criminal justice, the use of expert evidence is one of the most important tools for clarifying and verifying evidence in a given case. Expertise is a necessary tool to uncover the truth in cases where ordinary evidence, such as witness testimonies, may be insufficient or unclear. Expert evidence is known for utilizing specialized knowledge, which helps to prove a criminal act, such as murders, serious events, or financial abuses. This material examines the historical use of expert evidence in criminal proceedings, its development, its impact on legal practices in Albania and international systems, and the importance of using expertise for a fair and reliable trial.

2. Origin and Evolution of Expert Evidence

2.1. Antiquity and the Middle Ages In antiquity, as well as during the Middle Ages, the use of experts was limited and often informal. Experts were individuals with deep knowledge in fields such as medicine, astrology, and ballistics, but attempts to use expertise as an evidentiary tool were limited. For example, in ancient Rome, the use of expertise could have been in the form of the opinion of a

physician or a jurist offering an opinion on specific events, without a formalized methodology.

However, during this period, the concept of the "expert" was not institutionalized, and experts were often simply authoritative figures offering their opinions without a clear legal framework defining the criteria for expertise and the methodology they employed.

2.2. The 18th and 19th Centuries With the development of science and the creation of new judicial institutions, the use of experts in criminal proceedings became more recognized and organized. The 18th century marked a significant step in the development of forensic medicine, a field that enabled experts to provide opinions on the cause of death, wounds, and the manner in which criminal events occurred. Physicians and other scientists began to have a significant impact on judicial processes, creating a close link between science and justice.

In the 19th century, with the rapid development of science and advancements in fields such as ballistics and biochemistry, experts began to play an increasingly important role in criminal proceedings, particularly in cases involving murders and other violent crimes. Experts were required to give their opinions based

on gathered evidence and to use new techniques developed by science.

2.3. The 20th and 21st Centuries In the 20th century, technology and scientific methods used in criminal investigations developed drastically. Expertise became one of the most important tools for uncovering the truth in criminal proceedings, especially with the use of DNA analysis, ballistics, toxicology, and other advancements in various scientific fields. While forensic medicine and criminalistics became more advanced, the influence of technology made expert evidence more effective and accurate.

In earlier centuries, such as during the Middle Ages and the early stages of the Renaissance of Legal Science, the expert was often a general authority who could offer an opinion on various issues, such as forensic medicine for murder cases. However, structured expertise, approved as admissible evidence in criminal proceedings, began to appear with the development of scientific techniques and judicial systems in the 18th and 19th centuries.

The use of expert evidence as admissible evidence in criminal proceedings has a long history, extending back to the early development of criminal justice systems and evidence in general. However, the use of expertise as specialized and accepted evidence in court began to be organized and became common with the development of scientific and professional techniques that required specialized knowledge.

In Europe, the use of expertise in criminal proceedings began in the 18th century and continued with the growing demand for deeper analyses in fields such as ballistics, forensic medicine, and handwriting analysis. One of the earliest instances of the use of expertise is related to forensic medicine, where experts in the medical field were called to give their opinions on murders, wounds, and the causes of damages.

In France and Germany, the use of expert evidence as admissible evidence became more structured during the 19th century. The legal systems of these countries created rules and standards for the use of expertise, with experts becoming part of the judicial institutions and presenting their evidence before the court.

In Albania, the use of expert evidence as admissible evidence has also been utilized since the creation of criminal justice institutions, but it gained clearer structure and rules after 1991 when the Albanian legal system began to develop in accordance with international standards and modern concepts of criminal justice. After the fall of the communist regime, with the increased use of technologies and sciences such as DNA and ballistics, expert evidence has taken on a prominent role in criminal proceedings.

In general, expert evidence began to be used in a structured and formalized manner as admissible evidence in criminal proceedings during the 19th century, while the further development of fields such as forensic medicine, criminalistics, and ballistics helped make expert evidence an important and accepted tool by courts to clarify complex issues related to crimes.

In the 19th century, the legal systems of countries such as France, Germany, and England began to establish clearer rules for the use of expertise. These countries used expert evidence not only for forensic medicine but also for other fields such as ballistics, fingerprint analysis, and later DNA. For example, in the 1870s, forensic medicine was institutionalized as a separate field contributing to crime investigations and trials.

In the 1900s, especially in European Union states, practices and standards were created that required the calling of experts to give their opinions on certain important facts. The development of technology for investigating physical evidence, such as DNA analysis, began to be used after 1980, when it became possible to directly link individuals to crimes through genetic traces.

3. The Use of Expert Evidence in Criminal Proceedings in Several European Union Countries

3.1. France: In France, where the use of expert evidence has a long history, expert evidence is an important part of the criminal procedure. In the French Criminal Procedure Code (Code de procédure pénale), experts are required to describe the methodology they use to reach their conclusions. Forensic expertise has been used in many well-known cases, such as for assessing the cause of death in murder events.

3.2. Germany: In Germany, experts also play an important role in criminal proceedings, especially when it comes to technical or scientific evidence. German courts require that experts be impartial and provide clear and detailed explanations of the methods used in evidence analysis. A common practice is the use of expertise in murder cases, where ballistics and trace analysis are common.

3.3. Italy: In Italy, the use of expert evidence is also standardized. Experts are invited in many cases to assist in the analysis of material evidence, such as DNA evidence to identify crime perpetrators. In cases of sexual violence, forensic expertise has been used to secure necessary evidence for the trial.

3.4. Albania and the European Union: In Albania, as part of efforts to integrate into the European Union, there has been an increased demand to standardize the use of expert evidence in criminal proceedings. This is an important step for harmonizing Albanian legislation with that of the European Union, where the use of expert evidence has a strong legal foundation.

Expert evidence has been an important part of the criminal process and has a long history that developed as part of the justice system. The use of experts to provide scientific or technical evidence has made criminal proceedings more reliable and fair, helping to clarify complex issues. In Albania, the use of expert evidence increased after 1991 and is now an important instrument in resolving criminal cases, adapting to the practices of the European Union.

In summary, expert evidence in criminal proceedings is an important tool for clarifying facts and addressing technical or scientific issues related to a criminal event. This evidence is provided by an expert, who is invited by the criminal investigation authorities or the court to give a professional opinion on specific matters within their field of expertise.

4. The Importance of Expert Testimony

Expert testimony is crucial for a fair trial, as it helps clarify unclear aspects of a case that are important for the court's decision-making. The use of expert testimony provides an opportunity to present reliable and accurate evidence, giving the court vital information that assists in determining relevant facts related to the criminal event.

In certain cases, expert testimony may be the only way to clarify circumstances that help identify the perpetrators of a crime, such as DNA analysis in violent crimes or ballistic expertise to identify

weapons used in crimes. Experts can also assist in assessing the mental state of the accused, particularly when it comes to their involvement in a crime, enabling the court to determine criminal responsibility.

4.2. Types of Expert Testimony in Criminal Proceedings

Expert testimony includes various types, such as forensic medical expertise, DNA analysis, ballistic expertise, handwriting analysis, and psychological evaluations. Each type plays a crucial role in aiding the investigation and trial processes.

- **Forensic Medical Expertise:** This is one of the most common types of expert testimony, used to determine the cause of death, identify injuries, and assess bodily harm to the victims.
- **DNA Expertise:** Used to identify individuals and link evidence found at the crime scene to potential perpetrators.
- **Ballistic Expertise:** Analyzes weapons and tools used in crimes and the possible connections between these weapons and the event.
- **Psychological Expertise:** Assesses the mental state of the accused and can assist in determining criminal responsibility.

5. Expert Testimony in Albania

5.1. The History of Expert Testimony in Albania

In Albania, the use of expert testimony has developed slowly but has played an important role in improving the justice system. During the communist period, the use of expertise was limited and closely controlled by the state. After 1991, with the transition to a democratic system and Albania's integration into the European Union, expert testimony gained a more prominent role in judicial processes.

- Expert testimony helps clarify technical or scientific elements of a case that are beyond the general knowledge of the court or investigators. Experts can assist in interpreting specific evidence such as DNA, ballistics, trace analysis, or the mental state of the accused.
- It provides an independent and impartial opinion, aiding authorities in making fair decisions during investigations or trials.

6. The Procedure of Expert Testimony:

- **Appointment of the Expert:** The prosecutor or the court decides to call upon an expert in a specific field to conduct an examination, and the expert must be on the approved list of experts maintained by the Ministry of Justice. The expert can be independent or appointed by a recognized institution.
- In certain cases, the defendant or the victim, as subjects of the criminal procedure, may privately call upon a licensed expert to scientifically prove their claims.
- **Execution of Expert Testimony:** The expert gathers information, conducts necessary examinations, and provides evidence that can be used to prepare the expert testimony.

7. Content of Expert Testimony

The expert testimony contains several important elements:

- **Identification of the Expert:** The identity of the expert and their experience in the relevant field.
- **Questions Directed to the Expert:** Specific issues that need to be clarified by the expert.
- **Explanation of the Methodology and Procedures Used by the Expert:** How the expert arrived at their conclusions.
- **Expert's Opinion:** Answers to the questions based on the expert's knowledge and professional experience, along with conclusions drawn from the expert testimony.
- **Submission of the Expert Testimony:** After preparing the expert testimony, the expert submits it to the relevant authorities, who may use it as a basis for making decisions in the criminal case.

Finally, expert testimony can be used as evidence in court, where the defense or prosecution may question or challenge the expert's opinion.

Sources of Information on Expert Testimony

There are various sources of information about expert testimony, covering a wide range of areas that help define, apply, and interpret this tool in both criminal and civil proceedings. Here are some of the main sources of information on expert testimony:

8. Legal Sources

- **Criminal Procedure Code of the Republic of Albania:** This is the primary legal document regulating the use of expert testimony in the criminal justice system. It includes rules for appointing experts, expert procedures, and the use of expert reports as evidence in court.
- **Law on Expert Services:** This law regulates the registration and supervision of experts in Albania, including qualifications requirements and procedures for appointing experts.
- **European Convention on Human Rights (ECHR):** This international document ensures individuals' rights to a fair trial, which includes the opportunity to use expert testimony as evidence in court.
- **European Union Legislation:** Directives and regulations from the European Union related to the use of expert testimony in criminal and civil proceedings help harmonize practices among member states.

9. Jurisprudential Sources (Judicial Practice)

- **Decisions of the Constitutional Court:** The decisions of Albania's Constitutional Court provide in-depth interpretation of the use of expert testimony as evidence and ensure that individuals' rights are respected in the criminal process.
- **European Court of Human Rights (ECHR):** The rulings of the ECHR are significant sources for interpreting the use of expert testimony in an international context, providing examples and guidelines for using expert testimony to ensure a fair trial.

10. Academic and Scientific Sources Studied on the Web

- **Books and specialized monographs:** Many authors and experts in the field of criminal justice, as well as specialists

in forensic medicine, ballistics, and other areas, have published works and books that analyze the use of expert testimony in criminal proceedings. These publications offer a deep understanding of the theory and practice of expert testimony.

- **Journals and scientific articles:** Specialized journals in the fields of justice, forensic medicine, and other areas of expertise publish research and case studies that can be very useful for professionals working with expert testimony.
- **Studies from Expert Commissions:** International and national expert commissions engaged in the development of expert methodologies often publish reports and guidelines that help in the use of expert testimony in criminal and civil processes.

11. International Practice Sources and Professional Standards

- **United Nations and Council of Europe Manuals:** Various countries and international organizations such as the United Nations and the Council of Europe have developed manuals and guidelines for the use of expert testimony, particularly in specialized fields such as forensic medicine, psychology, ballistics, and other forensic fields.
- **International Standards for Expert Testimony:** International organizations such as ISO and ACCU (Association of Forensic Scientists) have developed standards and protocols for expert testimony that help ensure the quality and reliability of expert processes, including the use of advanced technologies.
- **The Internet.**