

# **JUDICIAL EXPERTISE**



Expertise, according to Deutsch (2011), is essentially a means of proof, being carried out through inspections, document collection and object evaluation.

According to Deutsch (2011), in the expert area, professionals have access to ABNT NBR 13.572/1996, which is specific to engineering expertise in civil construction. Among the guidelines of ABNT NBR 14.653/2001, a standard referring to evaluations in general, the professional must be aware of the classification and nature of the asset, terminologies and definitions, defining the methodology to be adopted in their work, whilst taking care in the requirements basic skills for preparing reports and technical opinions.

Expert evidence is established by Kempner (2013) for cases in which confessions, documentary evidence or other elements brought to the judge by means provided for by law are not sufficient to support the judgment, so it is the expert evidence that guides the decision. Judicial decision.

## **Initial Stages of Expertise**

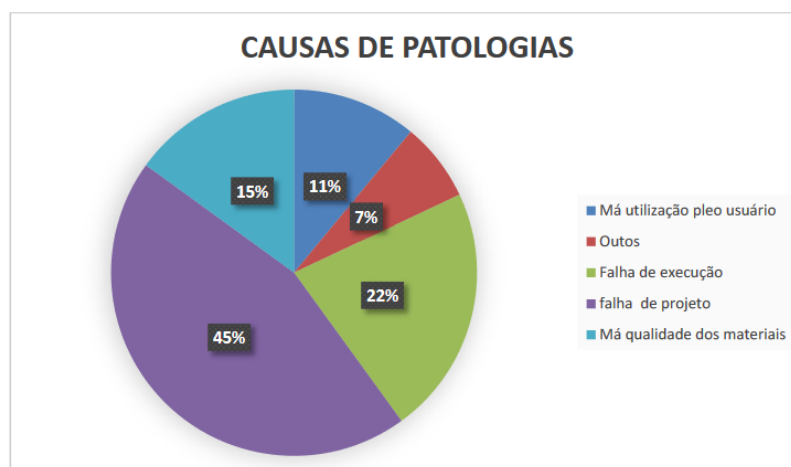
According to Alonso (2008), the expert must initially make a schedule as follows:

- I. Prepare the work plan;

- II. Obtain preliminary information about the subject matter of the investigation;
- III. Study in advance the subjects related to the expertise, including applicable legislation and standards, books and publications, previous expert reports or even information previously collected;
- IV. Investigate other sources of information;
- V. Prepare checklist; SAW. Ensure that all requirements are prepared and available for expertise;
- VI. Notify assistants;

The professional working in the area must, after becoming aware of the objectives and object of the investigation, seek information about what can be found, so as not to be caught by surprise. As an example, Graph 1, from the IBAPE/RS bibliography, reports the causes of pathologies in civil construction in the European region in the 70s, where it addresses the origin of failures, being in the first place related to deficient design, and in second place, in execution flaws and thirdly, in the materials used. Fourth place is due to poor use by users.

Gráfico 1 - Causas de Patologias na Europa nos anos de 70



Fonte: IBAPE/RS (2000)

Still in the same bibliography, in Brazil, studies by engineer Yoshimoto (1986) raised pathological problems in 36 buildings of a total of approximately 500 dwellings, including houses and apartments.

During the work, pathologies resulting from humidity, cracks and displacement of coatings were analyzed.

## **The conclusions obtained were:**

- Most refer to humidity problems, followed by cracks and displacement of coatings;
- In general, the presence of pathologies in single-story houses is greater than in apartments, motivated by the constant concern for maintenance on the part of property managers.
- Most problems have their origin in deficient projects or poor execution of works;

## **Practices for the course of an Expertise**

Alonso (2008) explains that there are no standardized procedures for developing expertise, but there are practical rules that the expert should use to better develop the results of their work, such as:

- 1- Apply the basic questions in all situations encountered during the examination, these questions being what, who, where, when, why and how;
- 2- Search for objective evidence on a factual basis, through relevant investigations;
- 3- Ask hypothetically (what would happen if..., suppose...);
- 4- Request new explanations, to resolve misunderstandings about something;
- 5- Request examples to make sure you understand the answers;
- 6- Systematize: The. Always ask questions, organized appropriately; B. Ask one question at a time; w. Just ask clear questions; d. Inquire who carries out the tasks, avoiding superiors; It is. If necessary, repeat the question; f. Reflect carefully on the answers obtained;
- 7- Avoid being tiring, if necessary;
- 8- Use understandable language;
- 9- Speak carefully and clearly;
- 10- Avoid emotions, acting impartially;
- 11- Return to the location of the events subject to the investigation, if necessary, complementing aspects or information that are still doubtful;
- 12- Use checklists to maintain relevant coverage;

- 13- Once the inspection is complete, thank and apologize for any inconvenience to anyone present during the inspection;
- 14- Avoid behaving in a way that makes those present understand that the expert is the master of the truth.

## **Final Steps of an Expertise**

According to Nór Filho (2008), the studies comprise the analysis, connection and interpretation of data verified in the investigations, being essential the formulation of hypotheses, compliance with applicable technical standards and legislation and, when necessary, the preparation of calculations.

Diagnoses and other conclusions must be of an exclusively technical nature, describing and situating mechanisms, agents and events, but free from any influence and without identifying those responsible. This function is an obligation of justice that uses, in order to provide grounds for decisions, the elements acquired and presented by the expert.