

# Technical Assistant's Guide

01.1 Trust of the parties - The technical assistant is a person trusted by the party involved in the process, not subject to impediment or suspicion, and is hired and paid by them for this specific role.

01.2 The parties or even the judge cannot challenge the appointment of the technical assistant by the party (art. 466, first paragraph).

01.3 The technical assistant may be an employee of the party. These are normal cases, and the expert will understand and work normally with the company's assistant.

01.4 The technical assistant may be the party involved in the process, but this is not advisable. The expert may feel embarrassed during the investigations or meetings in which he is present with the assistants, and the work may not flow as desired by the assistant involved.

01.5 Qualification - In principle, the technical assistant must have the same qualification as the expert.

01.6 The expert must be legally qualified in the area of knowledge required in the expertise, be registered with the court (art. 156, first paragraph, of the CPC), belong to the court's expert list (art. 157, second paragraph, of the CPC) , if any, and be chosen in order of equity among the experts registered on the court's eventual list. However, the judge may choose the expert from the court's list who offers the best technical conditions in the designated expertise, outside the order of equal distribution.

01.7 In locations where there is no expert registered with the court, the judge may appoint someone who does not have recognized technical capacity to perform the expert. In cases of expert examinations in which the party paying the expert's fees has this exemption, the expert may be an employee of the court.

01.8 In cases where the paying party is a public body that does not have the budgetary conditions to do so, the expertise may be carried out by an expert belonging to another public body affiliated with the court (art. 156, first paragraph, of the CPC).

01.9 Citizens who do not have economic conditions will have to pay the procedural expenses through the court, through Free Legal Assistance - AJG. In this case, the expertise will be carried out: by an employee of the court itself, by an employee of a public body agreed for that purpose or by a private expert (art. 95, third paragraph, of the CPC). In the last case, the fees will be set according to the limits of the table used by the court for AJG.

01.10 The judge will only not appoint an expert registered with the court in cases: in which the court employee will carry out the expertise that would be paid for with funds from Free Legal Assistance – AJG; in which the professional is an employee of a public body contracted with the court to carry out AJG expertise; in which the professional is from a public body other than the one that pays the expert's fees and does not have the budget to do so. The art. 91, first paragraph, of the CPC, which deals with this last possibility, was possibly created to serve the Public Prosecutor's Office, as they normally have problems depositing the expert's fees.

01.11 Experts must be evaluated and re-evaluated by the courts (art. 156, third paragraph, of the CPC).

01.12 It is normal to find the expert with one qualification and the technical assistant with another in some types of expertise, as occurs in the environmental area; for example, the expert is a biologist and the technical assistant is a chemical engineer.

01.13 The technical assistant does not need to be legally qualified, as he is the party's exclusive trust. However, if he does not have the necessary qualification, he may suffer sanctions from the relevant council.

01.14 The technical assistant cannot be a legal entity: it can only be an individual. The technical assistant may be an expert in other actions.

01.15 Consensual expertise - No one imposes on the judge who to appoint as an expert, including the parties, except in consensual expertise. The parties can, by consensus, choose the expert, who does not need to be on the court's list of experts or on the court's register, but is fully capable. The parties will indicate technical assistants, location, date and time of the start of the examination (art. 471 of the CPC).

01.16 When the professional is contacted to be a technical assistant in an expert examination that has not yet been dispatched by the judge, he or she may suggest the name of a well-qualified expert to the party or to the lawyer who seeks him/her, so that he/she can be recommended to the judge in common agreement with the opposing party.

01.17 The technical assistant may be an expert in other processes.

01.18 Anyone who is a technical assistant to a party in another process cannot be an expert.