

## Medical expertise in social security decisions: an empirical analysis

La prueba pericial médica en las decisiones de seguridad social: un análisis empírico

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### Resumen

El trabajo buscó determinar el grado de influencia de la conclusión técnica pericial en las sentencias dictadas en los procesos de seguridad social de los juzgados y tribunales federales de Río de Janeiro. Para ello, se analizaron cuali-cuantitativamente 431 procesos finalizados entre 2018 a 2020. Después de la clasificación en cuanto a las especialidades médicas, demandas en el proceso y el éxito de los pedidos, se realizó la comparación directa entre los reportes periciales y las sentencias. Fue posible concluir que la prueba técnica es esencial en el derecho de la seguridad social, siendo la principal influencia para las sentencias. Cuando no hubo esa experiencia directa, en la mayoría de las veces, lo que se observó fue la supremacía de las cuestiones legales procesales o sociales expresamente descriptas en la ley.

### Palabras claves

Seguridad social; sentencias; prueba técnica.

Fuente: DeCS (*Descriptor en Ciencias de la Salud*)

### Abstract

This study sought to determine the influence of technical expertise on judgments rendered in social security lawsuits at federal courts and judgeships in Rio de Janeiro city (RJ), Brazil. To this end, 431 legal proceedings completed between 2018 and 2020 were qualitatively and quantitatively analyzed. After classification as to medical specialty demanded in lawsuits and request successes, the expert reports were directly compared with court decisions. In conclusion, technical evidence showed to be essential for Social Security Law and is the main influence on court decisions. When there was no such direct influence, procedural, legal, or social issues expressly described by law had supremacy.

### Key words

Social security; court decisions; technical evidence

*Source: MeSH (Medical Subject Headings)*

### INTRODUCTION

As a way of conflict resolution and social pacification, Law has faced challenges since its inception that require a dialogue with other sciences and specialties. Expert inspection is a common practice since the first codifications and jurisdictions. Initially, it was done in the trial itself by the judge. Afterward, as knowledge evolved, this act gained complexity, requiring auxiliary techniques, which gave rise to the figure of the expert.

There are several areas of expertise, with medicine being one of the most often used in virtually all instances of Law. According to the molds of forensics today, the so-called technical test has gained prominence compared to other sorts of tests. The work of the medical expert, based on science and assured law, is taken as evidence. Report conclusions are evidential elements to be analyzed and equally evaluated, together with other pieces of evidence shown in the lawsuit, thus assisting the decision by magistrates.

Among the fields of expert investigation, expertise on work capacity for social security or welfare benefits is widely used and made by social security medical experts belonging to the staff of the Brazilian Social Security System (INSS), by force of law and tender. However, with the establishment of the Federal Special Courts and facilitation of access to justice, there was a vertiginous increase of cases against social welfare denial by local authorities, and hence medical examinations became commonplace in judicial venues.

Thus, the relevance of this study lies in bringing factual information on the practice of expertise in social security lawsuits, which is of great use for legal operators and experts, and magistrates, aiming to better understand it and its effects on Federal Court decisions.

Based on the hypothesis that, although all pieces of evidence are equalized in terms of decision-making impact, scientific evidence has in practice gained prominence in the face of others, this study sought to

determine the degree of influence of technical report conclusions by experts on court decisions regarding social security lawsuits in federal courts and judgeships in Rio de Janeiro. To this end, lawsuits completed between 2018 and 2020, their practical outcomes, and grounds for judgments were assessed. All this information is expected to provide background for future perspectives aimed at improving justice in the protection of social security rights, and ultimately, human rights.

## METHOD

Data collection took place in two stages. The first consisted of requesting the numbers of lawsuits completed between 2018 to 2020 that required medical expertise at the 2<sup>nd</sup> Federal Court of Petrópolis. Hereby, 296 lawsuits were made available, and their court decisions were searched on the e-Proc system (Digital System for Monitoring of Cases of the Federal Justice of the 2<sup>nd</sup> Region: <https://eproc.jfrj.jus.br/eproc/>).

To extend the scope of data analysis to other cities of the State of Rio de Janeiro, the second stage comprised an active search on the e-Proc system for social security lawsuits within the same period (between 2018 and 2020). To do so, some attorneys known for working in the social security sector were selected, and from their membership in the Brazilian Bar Association (OAB), 200 judicial decisions were downloaded. Then, after a careful selection, lawsuits without expertise or with expertise out of the medical field were excluded, thus selecting 135 decisions from the most diverse locations and medical specialties.

After data collection, the selected lawsuits were divided into three groups according to expert evidence influence on judgments, namely: fully, partially, and non-influenced. The cases were also separated into those wherein benefits were granted, rejected, or terminated by agreements.

## RESULTS AND DISCUSSION

The analysis of expert examinations in social security cases of the 2<sup>nd</sup> Federal Court of Justice of Petrópolis was restricted to the years between 2018 and 2020. In all, 296 cases were analyzed, which were divided as a function of medical specialty involved, totaling 149 in psychiatry, 27 in general practice, 37 in physiatry, 76 in neurology, and 7 in orthopedics. Of the total lawsuits, 212 claimed sick pay resumption and transition to disability retirement, 75 continued provision benefit (BPC-LOAS); 8 of them death pension, and only one 25% rise in disability retirement due to third-party fostering.

Of all, 134 (45%) cases achieved full or partial success, while 162 (55%) were dismissed, that is, the majority.

In 184 cases, the judge had as the main grounding element the expert report. In 53 of these cases, there was the composition between the parties, generating an agreement after the production of pieces of evidence; 11 cases showed the partial influence of the medical expertise, with other pieces of evidence being used to complement the ground of the court decisions; in 5 cases, the lawsuit was terminated due to the author's unjustified absence, while 2 cases were terminated due to procedural problems; and in 41 cases, the judge did not ground the decision on the technical opinion. Most of the analyzed processes had technical evidence as to the main element of influence.

In 11 cases, the solution to the litigation was not reached completely based on the expertise. Among the situations that occurred, we highlight limitations of the technique that demanded supplementation of information by the other pieces of evidence and the judge's reasoning. An example was the fixing of the date of the beginning of the disability and the expiration date of the benefit, both were fixed in the absence of a technical response and based on the other documents present in the records or the law.

Another situation observed was the author's temporal recovery perspective. In these cases, the judge, when verifying the insured person's advanced age, considered that retirement was more appropriate instead of the sickness benefit proposed by the expert. On the other hand, the opposite situation was also observed, in which the expert understood that the severity of the pathology would make retirement necessary, but the judge considered that the sickness benefit for a certain period was better in the case when checking documents and the author's age.

Procedural issues are found in the 41 cases in which the judge did not have the expert report as the main element of influence, in which the main one was the absence of an insured condition for sickness or retirement benefits.

In cases of continuous welfare benefit, the main issues that reduced the influence of the report as the basis for the court decision were the income incompatible with  $\frac{1}{4}$  of the minimum wage per capita in the family nucleus or the patrimony, verifying incompatibility with the declared income, thus leaving the technical medical opinion in the background due to social and procedural issues that undermined the author's rights. Court decisions from 2018 to 2020 of other cities and courts of the State of Rio de Janeiro were randomly searched through the e-Proc system to expand the data collection and compare the data collected in the 2<sup>nd</sup> Federal Court of Petrópolis.

However, 135 cases were surveyed, 57 of them from the Federal Special Courts of Rio de Janeiro, 7 from the Federal District Court of Magé, 30 cases from the Special Courts of Niterói, 15 from the Federal District Court of Duque de Caxias, 1 from District Court of Campos, 1 from the District Court of São João de Meriti, 3 lawsuits from the Federal District Court of Itaperuna, and 21 of them from the Federal Special Court of São Gonçalo.

Of the 135 cases surveyed in the various locations in the State of Rio de Janeiro, we observed 1 case in general surgery, 2 cases in cardiology, 1 case in gastroenterology, 1 case in ophthalmology, 1 case in oncology, 2 in neurology, 2 in rheumatology, 2 in the vascular clinic, 9 in the general medical clinic, 59 cases in orthopedics, 25 cases in psychiatry, and 30 court decisions did not mention in the specialty.

Of the total number of processes and locations, 70 (52%) of them were not successful in the intended benefit and 65 (48%) had their requests partially or totally met. As for the claim, 125 lawsuits claimed sickness benefits with conversion to retirement, 7 of them sought continuous welfare benefit, and 3 legal proceedings were related to the pension due to death. We can also observe in the other cities of the State of Rio de Janeiro that most of the lawsuits were dismissed.

Of the 135 cases, 107 had the sentence fully substantiated by the expert report, 17 cases had an agreement between the parties after the production of expert evidence, and 4 others had the partial influence of the

expert evidence, which was supplemented with an estimate of the starting date of the disability or estimated time of improvement. Finally, 5 court decisions were not influenced by the expert report due to the absence of the insured condition by the plaintiff. Adherence to technical opinion is predominant in other cities in the state of Rio de Janeiro.

The data express the great influence of the expertise in the solution of disputes, but it is not a piece of absolute evidence, being necessary the analysis of the legal proceeding as a whole, highlighting the causal link with the intended right. The practice of the theory presented by Mirza<sup>1</sup> was clear:

*“Expert evidence, like any other, is assessed according to the magistrate’s free motivated conviction [...]. The magistrate examines whether causality is shown in the evidence. Forgoing the demonstration of the causal link can lead to injustice in the decision.” (p. 17)*

It is demonstrated the congruence to the Code of Civil Procedure in which its article 371 brings “the judge will appreciate the constant evidence of the case, regardless of the person who promoted it, and will indicate in the decision the reasons for the conviction formation.”

Before the promulgation of the New Code, Lenio Streck had already warned of the need to limit court decisions to the rationality of the evidence, leading to the principle of no surprise. The professor argued that respect for individual law and legal certainty only exists if the contradictory and wide-ranging defenses are respected and enforced, generating a predictable decision to the limit of evidence and arguments.<sup>2</sup>

However, the issue is not yet pacific since there are jurisprudences after the promulgation of the new Code of Civil Procedure that bring different understanding, enabling a broad decision, close to free conviction, such as the judgment of REsp 1.280.825, of 2017. In this judgment, the Fourth Panel understood that applying the law not invoked by the parties does not offend the principle of non-surprise, that is, it sets a precedent for a broad decision-making power, hitting the principle of non-surprise.<sup>3</sup>

Another example that goes against rational persuasion and the contradictory occurred in the Internal Appeal in AREsp 1.468.820, in which the Third Panel understood the non-occurrence of an affront to the principle of non-surprise when the judge, examining the facts exposed in the initial petition, applies the legal understanding that is considered resolute for the cause. In other words, it goes against the removal of the term “free” from the examination of the evidence of the New Code of Civil Procedure.<sup>4</sup>

A study carried out by Wild<sup>5</sup> analyzed twenty-five judicial reports from the District Court of Santa Isabel, in the State of São Paulo, concluding that only four requests were unfounded in their entirety, demonstrating work capacity; sixteen were partially unable to function and five were totally disabled. Regarding the area of medical specialty, twenty cases were related to disability due to orthopedic disorders, four due to cardiovascular diseases, and one due to infectious diseases. In other words, most of those examined (72%) were incapacitated, unable to return to their duties, which leads to a conclusion different from that pointed out by INSS.

The author does not make clear the reason for the divergence, but points out the benefit of the doubt, respecting the principle of non-surprise given the discrepancy in technical conclusions, as observed in the jurisprudence.<sup>6</sup>

*The Panel granted the interlocutory appeal to anticipate the effects of the intended protection in the accident action, determining the reestablishment of the sickness benefit. Collecting the judgments of this Court, it was established that, having doubts about the insured person's working capacity and, mainly, because of the food nature of the benefit, the payment must be maintained until the issue is sufficiently resolved in terms of full cognition. The Rapporteur considered, in this case, the principle of the unfortunate, according to which, in the uncertainty of the facts, it is decided in favor of the insured, "in dubio pro operario" .20090020051282AGI, Judge Rapporteur Carmelita Brasil. Judgment Date 08/05/2009.*

Zini Lise<sup>7</sup> demonstrates an interesting reason for the divergence between technical opinions: the absence of complete exemption and autonomy in administrative expertise. The author reveals which factors affect the autonomy of the expert when in administrative work in INSS rooms, such as the number of characters in the report, little time for analysis, lack of safe and exclusive area for the expertise, and, mainly, the subordination relationship to INSS.

On the other hand, Moreira<sup>8</sup> collected data from the second semester of 2015 of lawsuits that involved medical expertise and, after that, applied the QUALITEC parameters to evaluate the quality of the reports made in the judicial headquarters. The parameters aim at clarity, reasoning, objectivity, and coherence being:

- 1 – Was the insured person's occupation recorded so that his/her work activity is understood?
- 2 – Is the current history with satisfactory content?
- 3 – Does the physical examination have sufficient data for medical expert evaluation?
- 4 – Is the disease onset date fixation correct and justified in the clinical history/consideration field?
- 5 – Is the disability onset date fixation correct and duly grounded in the history/consideration field?
- 6 – Was the exemption from the grace period evaluated correctly?
- 7 – Is there consistency between history, physical examination, ICD, and approval/rejection?
- 8 – Is the time for granting the disability benefit in accordance with the data contained in the expert medical report?

These criteria are necessary and relevant for the expert to list and prove the various pathologies, their evolution, treatment, and impact on capacity. After the application, homogeneity was verified among the Courts in the studied sample, with a significant concentration of the work to a few experts, that is, 25% of all reports were made by only 2 experts, and more than half of the reports were made by only 10 out of 61 identified experts.<sup>8</sup>



As the study continued, 61% of the reports were found to be inadequate according to the analysis criteria. Among the 10 most active experts, only 4 obtained a satisfactory assessment in their reports, and, finally, 90% of the reports of the two most active experts were considered unsatisfactory, not presenting sufficient elements for the reasoning. Examples of inconsistency were the absence of clinical or laboratory tests in the report that justified the reported disability or the declaration of a relative disability in a function that did not require the impaired ability or, still, failure to identify the disease or disability onset.<sup>8</sup>

The QUALITEC criteria showed 89.01% of adequacy compared to 10.99% of inadequacy when applied in administrative examinations at the same time, demonstrating congruence to the training carried out by the autarchy.<sup>8</sup>

Figueiredo<sup>9</sup> researched lawsuits that required expertise in psychiatry in the city of Florianópolis and found that among the 114 analyzed cases, only 17 participants were considered unable to work after the procedural action, that is, only 14.9% of the cases were granted.

In some cases, the expert of the autarchy becomes a technical assistant when working in a legal proceeding in a clear trend of interest, as he/she is linked to one of the parties, that is, INSS. However, his/her opinion will have probative and supervisory power over the technique employed by the expert appointed by the judge, exercising an influence on the court decision.<sup>10</sup>

Once an employee of the autarchy, there is a conflict of institutional interest since the institution that pays the benefits is the same one that pays, trains, and hires the medical expert, including the control of the heads and other administrative rules.<sup>7</sup>

It may justify the difference in the conclusion of the technical assistant vis-à-vis the judicial expert. However, if we compare the data collected in the present study, we can observe a reduction in the requests coming from a larger sample, which may indicate greater autonomy of the experts and improvement of the used technical criteria.

Moreira demonstrates the need for evaluative elements in the designation of experts due to all the controversy, forming a register of experts in the courts, achieving better standardization and quality of work.<sup>8</sup>

The 2<sup>nd</sup> Court of Petrópolis behaves similarly to the other Courts in the State of Rio de Janeiro, with the vast majority of processes having complete influence over technical opinion. Thus, the great relevance and weight of expert evidence are demonstrated, as most of the court decisions are based on technical opinion. According to Matos,<sup>11</sup> capacity or incapacity and ability or disability can only be defined by technical evidence and circumstances, that is, social security expertise is the door to access sickness or continuous welfare benefits. In this sense, the expert report differs from the assistance opinion since the former is invested with an exemption, remaining equidistant to the parties, and reviewing the technical assistance arguments, thus managing to promote the social security law.

We can also observe the influence of the technical evidence before the parties, as there was an agreement in 53 cases after the expert examination. We can also infer that the composition is still timid given the total number of cases, reflecting the expectation because of the sentence made by the authority.

It was clear that the judges are bound, as a rule, to adhere to the Precedent 77 of the National Uniformization Class (TNU),<sup>12</sup> which provides that: “The judge is not obliged to analyze the personal and social conditions when he/she does not recognize the applicant’s incapacity to his/her usual activity.” Thus, the expert report in which the incapacity for habitual activities was not identified as the main influence of the court decision. Another interesting point was the observation of the practice of judges at trial through the expanded biopsychosocial view, guided since the promulgation of the status of the person with disabilities (Law No. 13,146, of July 6, 2015),<sup>13</sup> together with the International Classification of Functioning, Disability and Health.<sup>14</sup>

According to the new principles, there was an overcoming of the binomial capable or incapable, starting to assess the impact of the disease relative to the abilities of the others, and if there is any damage and if it can be overcome by the treatment and the access of that individual. Therefore, it started to adjust equal diseases under different situations, according to the peculiarities of the cases.<sup>15</sup>

Examples are situations in which the judges partially departed from the technical report on the grounds of the greater or lesser chance of recovery in younger patients or the low possibility of reintegration into the job market by older patients, even with the verification of residual capacity.<sup>16</sup>

According to the understanding of Precedent 77 of TNU,<sup>12</sup> there is the provision that “Once the partial incapacity for work is recognized, the judge must analyze the insured’s personal and social conditions for granting disability retirement,” expanding the magistrate’s biopsychosocial assessment.

Another frequent cause of partial dismissal from the report was the supplementation of technical gaps, such as the fixing of the disability onset date or the estimated improvement time. For this, the magistrate was guided by technical opinions present in the case file, demonstrating the rational persuasion of the evidence as a whole.<sup>10</sup>

An example is case 5047728-50.2018.4.02.5101/RJ, in which the judge interpreted beyond the technical opinion based on the broad biopsychosocial assessment. Thus, the judge granted the retirement benefit due to the longevity of the examined demandant, who was 63 years old at the expertise time.

*Despite the expert conclusions that professional rehabilitation is possible, I understand that, in the hypothesis, the author’s return to the job market is not applicable. Indeed. As it turns out, the plaintiff is 63 (sixty-three) years old, has not completed elementary school, and has been out of the job market for more than 6 (six) years, and, therefore, it does not seem possible to her professional rehabilitation in an activity compatible with her disability given her social conditions – old age, health condition, and little professional qualification. Thus, because of the medical conclusions and documents attached to the initial, it was proved that the factual situation experienced by the plaintiff meets the legal requirements required for the re-establishment of the sickness benefit, as well as for its conversion into disability retirement.*

Another interesting example was the process 0012531-71.2018.4.02.5117/RJ, in which the expert determined that the disability would be temporary for four months according to the performance of the



corrective surgery. However, as such a procedure would be uncertain of the occurrence, the judge ordered the benefit to be maintained for four months from the effective grant of the benefit.

*In light of what has been assessed, the sickness benefit should be granted, starting from the disability onset date, identified in the course of the claim – 09/24/2018. There is no need to talk, in turn, about granting disability retirement with an increase of 25%. Regarding the benefit termination date, it appears that the expert could not estimate the term for the insured's recovery and the provisions of art. 60, Paragraph 9 of Law No. 8,213/91 must be applied. In fact, in the absence of a foreseeable period for the author's effective recovery, and, given the lack of communication by the plaintiff about the surgical procedure, fixed at benefit termination date at 120 (one hundred and twenty) days from the reimplantation of the benefit, and the insured person must request its extension before the fixed benefit termination date if she considers that her incapacity persists.*

There is also the removal of the influence of the technical report in situations of non-insured status.<sup>17</sup> In this case, it is the non-formation or loss according to the number of contributions made by the plaintiff, who must comply with the social security rules of twelve contributions and the maintenance time on a case-by-case basis, being one, two, or three years since the last contribution.

An example is case number 5000325-82.2018.4.02.5102/RJ, in which the plaintiff was identified as incapable by the expert report, but the request was dismissed due to the lack of insured status.

*The medical examination carried out by a professional appointed by the Court found, based on the anamnesis, medical report, and physical examination, that the author has a sequel of ankle and elbow fracture and is partially and permanently incapacitated for work since 03/28/2019 (expertise date – event 58) (...) The interpretation of the transcribed provisions reveals that, even without the contribution, the insured could maintain the link with Social Security, but for a limited time to 36 (thirty-six) months. In this case, the plaintiff was on sickness benefit from 02/22/2014 to 02/04/2015 and collected social security contributions, as an individual taxpayer, referring to the competencies of 04 and 05 of 2016 (event 23, CNIS4). On the date of the incapacity for work verified by the judicial expert (03/28/2019), the author no longer held the status of insured since he does not have more than 120 (one hundred and twenty) monthly contributions (event 23, CNIS4) and, even if he proved the situation of involuntary unemployment, the grace period would be extended until 07/15/2018 (art. 15, II and §4 of Law No. 8,213/1991 associated with art. 30, II, of Law No. 8,212/1991). Therefore, it is not possible to implement the sickness benefit or convert it into retirement due to disability due to the lack of quality of the insured.*

A careful evaluation is observed for continuous welfare benefits because of the binomial disability and miserability. Thus, medical proof would not be enough to achieve the benefit but also the very unfavorable social condition.<sup>18</sup> Therefore, some court decisions are not successful given the cut in wages per person in

the family nucleus or even had the request unfounded due to the valuation of the assets they owned. This situation occurred in 23 cases, causing the plea of the plaintiff to be unfounded due to a fact that was foreign to medical expertise.

For example, we can highlight the process 5000457-30.2018.4.02.5106/RJ. In this case, the author's disability was demonstrated, but the condition of miserability was not proven by the established legal criteria. Thus, the influence of the medical expert's technical conclusion was ruled out and the request for the continuous welfare benefit was groundless based on the legal and social criteria.

*Regarding her health conditions, the expert found (Event 53) that the plaintiff has a schizoaffective disorder (ICD10 F25), a disease that, according to the expert, causes limitations/impediments that obstruct the plaintiff's participation in society under equal conditions with other people. In this context, long-term mental impediments are still present (...) Thus, the objective criterion (per capita income) must be compared with the individual factual situation of the requesting party to reach, on a case-by-case basis, a conclusion adequate regarding her socio-economic condition (...) he stated that he lives in a stable union with the plaintiff; that has lived with the plaintiff for 2 years and 8 months (since March 2017, approximately); that he works as a truck helper, receiving about R\$ 1,200.00 per month; that the plaintiff's son has always lived with the couple; that the plaintiff's daughter recently moved in with them; that she works. Therefore, it is concluded that the family group was composed of the plaintiff, her partner, and her son in the period from May 2017 to November 2019. Considering that the plaintiff's partner earns an approximate income of R\$ 1,200.00 per month, it is clear that the per capita income exceeds the limit established by law (...) For this reason, the miserability necessary for the exceptional obligation of the State to provide the continuous welfare benefit is not fulfilled.*

It is also clear the large volume of expertise related to neurological psychiatric or psychiatric orthopedic diseases. Thus, we can preliminarily infer that pathologies of the organic or psychic nervous system or musculoskeletal diseases are the ones that most generate disability for the population.

These conclusions are in line with the conclusions observed by Boff et al.,<sup>19</sup> who carried out a study with data from the INSS of Porto Alegre. The sickness benefits were analyzed in 1998, evidencing that 61% of them were due to clinical pathologies (4,119) and, among them, 24.8% were classified as musculoskeletal diseases, 18.9% mental disorders, and 16.2% cardiovascular diseases.

Similarly, Silveira<sup>20</sup> collected data on leave from work at a public health institution in 1999 and found musculoskeletal diseases (19%), mental disorders (15.5%), and cardiovascular diseases (13.5%) as the most frequent causes.

Also in line with these results is the study of Siano.<sup>21</sup> The author researched the proportion of work leaves and their causes by specialty in the city of Juiz de Fora, reaching the result that 33% of leaves related to orthopedic diseases, 21% related to diseases of the circulatory system, and 17% of pathologies related to mental disorders.

Thus, the cited studies allowed to observe the concomitance of results in a greater number of psychiatric, neurological, orthopedic, or physiatriac cases. However, the same numerical relevance was not observed in cardiocirculatory diseases, which can lead us to hypotheses that pathologies of this system have the greater resolution in the administrative expertise itself, generating less non-conformity and legal proceedings.

## CONCLUSION

The technical evidence has great influence and usefulness in Social Security Law. The collected data showed that, in most cases, the technical evidence was decisive for court decisions.

This fact demonstrates a significant decisive influence of this means of proof. Of course, such an influence is not absolute. A smaller number of cases were observed in which the technical evidence did not offer the basis used in the court decision or such influence occurred partially. In these cases, the court decision was motivated by other evidence or by supplementing the report through the principles, precedent, and law.

Exceptional cases were mainly those in which court decisions were based on procedural or even social issues, such as the plaintiff's per capita income, which influenced the conclusion at the expense of the expert conclusion. These situations demonstrate, of course, the superiority of the law in the final decision of the magistrate, who must confirm his/her conviction based on an integrated assessment of the entire process, with no hierarchy between pieces of evidence, filling any gaps or flaws in the expert evidence.

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