

## Scientific profile and professional responsibility of Court-appointed Medical Technical Consultants in Italy: time for a specific educational curriculum?

*Andrea A. Conti*

Department of Experimental and Clinical Medicine, University of Florence, Florence, Italy.

Dear editor,

Court-appointed Technical Consultants (CTCs) are fundamental figures in the Italian judicial system. CTCs are experts appointed by judges in order to supplement their activities by ascertaining, collecting and analyzing facts concerning the specific subject of a lawsuit. These experts formulate opinions, gather motivations and perform checks to provide clear, objective and irrefutable answers to the questions posed by judges. CTCs summarise their assessments and evaluations in a final written report called “court-appointed technical consultancy”. In this expert account, the general and basic features of the “service-of-process rule” and of the “right to defence”, which CTCs are called upon to give full attention to, must clearly emerge.

### **The medical field: Police Doctors**

With direct reference to the medical field, police doctors (i.e. specialists in forensic medicine) are very often designated by judges since they are highly reputed experts who have the role, among others, to collaborate on technical grounds with the administration of justice by performing ascertainments that require biological, clinical and medical-health knowledge and competence in the legal-juridical perspective. Police doctors are therefore called upon to acknowledge and define medical-legal issues in the context of scientific methodology, evaluating in particular causal relationships, various elements which combine to produce events, and

the chronological connection between episodes that determine aspects of medical-legal interest.

According to the Italian ministerial declaratory judgment regarding the specialty schools in Forensic Medicine (1), police doctors have to master the bases of knowledge and the applicative elements in the framework of internal, surgical and specialistic medicine, with specific attention to and awareness of the fundamental features of physical and instrumental semeiotics, of nosography and of differential diagnosis targeted to the medical definition of biological harm, of structural and functional damage, and of clinical disease and disability (1). The function of police doctors is therefore of paramount importance, also in the light of the fact that these professionals are usually assigned to coordinate the boards of CTCs. In fact, judges commonly appoint, besides other medical specialists (e.g. orthopaedics, psychiatrists, gynaecologists), according to the medical-legal case to assess, these police doctors, thus constituting groups of medical experts (the boards) who have to report their analyses and syntheses to the judges themselves.

### **The medical field: other Court-appointed Medical Technical Consultants**

While police doctors follow an academic, dedicated, well-structured educational curriculum (the University specialty school in Forensic Medicine), other CTCs, though not infrequently luminaries with one or many

medical specialties and professional acknowledgments, may have no specific legal-medicine and juridical expertise, precisely because a similar expertise is not required of them. They may well have personally and individually acquired legal, juridical and medical-legal knowledge, but, contrary to police doctors, they do not have the obligation of doing so.

In the professional context of the discussion on hand, it seems crystal clear that the specific activity of CTCs in Italy requires technical expertise, deontological deliberateness, professional diligence and observance of ethical, scientific and legal procedural rules, all of which are key points in their global profile. The selection of the CTCs is operated by judges who choose them among the experts indicated in suitable registers available in Italian law courts. The registers of law court experts are subdivided into several technical categories (*viz.* single disciplines or groups of disciplines), including, among others, the agricultural, the insurance, the banking, the commercial, the industrial and the medical-surgical ones. More restricted sub-categories are available according to specific requirements (*viz.* graphological appraisals).

With specific reference to the medical-surgical category of register experts, and to civil law, the role of CTCs is delicate and their functions appear relevant, since these scientific experts are called upon to “know” and to “know how to behave”, not only in their specific and limited professional sphere, the health-sanitary one, but also in the whole juridical context of legal proceedings and trials. Therefore, medical CTCs have to master, in a comprehensive and contemporaneous way, both health-scientific and procedural-juridical knowledge, the latter expression indicating the norms and rules of civil procedure regulating CTC activities in the context of legal controversies and lawsuits. The behavioural and relational models of medical-health CTCs must consequently be irreproachable, and characterized by a high degree of decorum, dignity, objectivity and correctness towards the two (or more) parties acting in the legal controversy.

The 2014 Italian Code of Medical Ethics clearly prescribes that every physician should respect colleagues even in the case of conflicting opinions (2). In the specific “know how to behave” ability of medical CTCs a developed communicational skill

and a notable dialogic competence must be included, in particular towards the consultants of the parties represented in the lawsuit, so that CTCs may elaborate a court-appointed technical consultancy that is solid on technical-scientific grounds, impeccable at the ethical-deontological level and absolutely consistent in health-professional terms.

The 2006 Italian reform of civil trial procedures has attributed to CTCs the power and the faculty to compose an emerging controversy, providing an expert possibility of concrete and effective conciliation (according to article 696-bis of the Italian Code of Civil Procedure, 3) for the adverse parties that have chosen the juridical instrument of the so-called “preventive technical consultancy”. The 2014 Italian Code of Medical Ethics (2) in articles 62 states that “the medical consultant of the party acquires the available scientific evidence and interprets it respecting the objectivity of the case on hand and furnishing a rigorous and soundly based assessment, providing an opinion guided by the cautious evaluation of the behaviour of the subjects involved”.

Although the professional expert opinions of CTCs are not binding on judges, the figures themselves have in any case relevant functions and consequent major responsibilities. Despite this important role, CTCs (differently from police doctors, as recalled above) do not have to follow any specific educational curriculum in Italy, and this constitutes food for thought in the context of the Italian judiciary civil system, also in the light of the fact that an excellent technical consultant (meaning the necessary professional scientific expert) is not necessarily always and also an optimal Court-appointed technical consultant (meaning the judge-required advisor fully prepared in the field of legal procedures).

## Conclusions

In the light of these considerations, in Italy some professionals of the legal world, and of the health context too, have proposed and continue to suggest targeted educational pathways for medical CTCs, which would provide these experts with formal specific qualifications.

The more limited and technical the subject of the legal controversy, the more complex and articulate is the responsibility of CTCs in contributing correctly to the formulation of the final decision of judges. Therefore, in synthesis and in conclusion, a full knowledge and a rigorous respect of the rules of legal proceedings emerge, together with a specific educational curriculum as increasingly important characteristics for current and future Court-appointed Technical Consultants.

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Correspondence:

Andrea Alberto Conti, MD, PhD, MPH  
Department of Experimental and Clinical Medicine,  
University of Florence.  
Largo Brambilla 3, I-50134, Firenze, Italy.  
E-mail: [andrea.conti@unifi.it](mailto:andrea.conti@unifi.it)