

CIVIL PROCEDURE CODE of RA, Procedure for appointment of judicial expertise

The expert

1. The person who possesses the right qualifications and appointed by the court in cases and in accordance with the procedure stipulated in this Code, can appear in court as an expert.
2. The person instructed to perform an expert examination must appear by court summons and give an objective conclusion based on the questions asked.
3. The expert is entitled, if necessary for his conclusions, to familiarize himself with the case, to participate in court sessions, ask questions, to ask the court to present to him additional materials. In case insufficiency of the presented materials, the expert can refuse from making a conclusion.

(Article 45 of the RA CPC)

The notion of evidence and its types

1. Information obtained in accordance with this Code and other laws is the evidence for the case, based on which the court finds out the demands and grounding the objections of the parties participating in the case, as well as the existence or absence of other considerations relevant for the case.

These pieces of information are supported by:

- I. written proofs and exhibits;
- II. experts' conclusions;
- III. the testimonies of the witnesses;
- IV. explanations provided by persons participating in the case.

(Article 47 of the RA CPC)

Appointment of expert examination

1. In order to clarify issues requiring specialized knowledge which arise during case trial, the court can by motion of a party (parties) or by its own initiative, appoint expert examination.
The costs of an expert examination appointed by a motion of a party are covered by this party.
The costs of an expert examination appointed by initiative of the court of the parties are covered at the expense of the court.

2. Persons participating in the case are entitled to propose questions to the court which must be clarified during the expert examination or to indicate the institution or the expert whom court may authorize the implementation of the expert examination.
3. The court makes a decision about conducting an expert examination in which the list of questions and their content is described.
4. The persons participating in the case are entitled to ask questions to the experts to find out their competence in the appropriate sphere of knowledge.
5. The court makes a decision about the appointment of an expert specifying the name of the court, data, case title, type of the expertise, representing questions, initials of the expert or the institution and the materials (documents) providing for expert examination, and if necessary the rules of conduct with them.
6. The court forewarns the expert about the criminal liability for providing obviously false conclusions. The court takes the expert signature about the warning which is attached to the record of the court session.
7. For the proofing process with the expert are applying the same rules of with the witness.

(Article 60 of the RA CPC)

Participation of parties in the expert examination

The persons participating in the case are entitled to be present at the examination, except those cases when their presence can hinder the regular work of the expert.

(Article 61 of the RA CPC)

The order of implementation of expert examination

1. The expert examination is implemented by the specialized institutions or specialists, appointed by court decree.
2. Court may appoint one or more experts with the same or different specialization. The experts have right to council with each other and give joint expert conclusion, if coming to the same conclusions. The experts, who have other conclusions, representing private conclusion.
3. Court, taking into account the interests of the case, can by motion of a party (parties) or by its own initiative abolish the relations between the experts and giving the joint conclusion by them.

4. The expert examination can be implemented in or out of the court according to the nature of the expertise and the possibility of bringing the materials (documents) to the court.
5. When the person appointed as an expert in the institution, he should implement the expert examination. The expert should urgently check the relevance of the expertise to his competence and the need for that the involvement of other experts. Discovering that fact or impossibility of implementation, the expert should have to inform the court about it urgently. The expert can't reauthorize the implementation of the expert examination to the other person.

In the cases of the help of other person during the implementation of the expert examination, besides the secondary additional supporting persons, the expert is obligated to inform the court his name and the massive of implemented work.

6. When the expert examination is implemented in specialized institutions, the persons, who did it, are obligated for that.

(Article 61.1 of the RA CPC)

Expert's conclusion

1. The expert's opinion is compiled in the written form. The conclusion must contain:
 - I. a note about the applied methods;
 - II. a detailed description of performed research;
 - III. the conclusions made as a result of the examination;
 - IV. grounded answers to asked questions.
2. If during the examination the expert finds out such facts significant for the case about which he was not asked any questions, the expert is entitled to reflect his conclusions about these facts in his conclusions.
3. The expert's conclusions are examined at the court session and are appraised together with other evidence.

If court finds it is necessary, the expert, who implemented the examination can be called to the court for oral explanations. It may also happen by motion of a party (parties).

In case of the expert's conclusion is insufficiently clear or incomplete, the court can appoint additional expert examination instructing the same or other expert (institution) to carry it out.

4. In case of the expert's conclusion is proper or based, or the contrast exists between different expert's conclusions, the court, can appoint repeated expert examination, instructing other experts (institution) to carry it out.
5. Additional or repeated expert examination is appointed by court decision, which also indicates the reasons, why the court disagree with the previous expert conclusions.

(Article 62 of the RA CPC)

The activities during preliminary session

Court in the preliminary session, particularly:

- VI. by motion of a party (parties) or by its own initiative according to this Code, can demand the necessary evidences, deals with the issues of appointing the expert examination, inviting of witnesses, experts, translators, examining the physical evidences at the place.

(Article 149.8 of the RA CPC)

Appointment of an expert examination to determine the citizen's mental condition

In case of grounded suspicions about the mental disorder of the citizen, the judge appoints a forensic psychiatric expert examination in order to find out his mental state.

In case of obvious evasion from the forensic psychiatric examination of the person who is the subject of the initiated incapability case, the court adopts a decision on the enforced forensic psychiatric expert examination of the citizen.

(Article 170 of the RA CPC)

Recognition of the citizen's incapability and the repeal of the limitation imposed on the citizen's capability.

1. In cases envisaged in the Civil Code of the Republic of Armenia, the court adopts a verdict, based on the application of the guardian, family member or on the appropriate conclusion of the forensic psychiatric examination, to recognize the recovered person as capable. Based on the verdict of the court, the guardianship imposed on the citizen is lifted.
2. In cases envisaged in the Civil Code of the Republic of Armenia, the court adopts a verdict, based on the application of the citizen, his tutor or family member, to lift then restriction on the capability of the citizen. Based on the verdict of the court, the tutorship imposed on the citizen is lifted.

(Article 173 of the RA CPC)