Research Article

Civil Responsibility Arising From The Expert's Work – A Comparative Study

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Article History: Received: 11 January 2021; Revised: 12 February 2021; Accepted: 27 March 2021; Published online: 16 April 2021

Abstract: The difficulty faced by the judiciary in order to achieve the objective of establishing a case for the passing of this case does not hide from circumstances that do not meet the legal limit, but rather to the extent that these problems are of a technical or professional nature that exceeds the legal jurisdiction of the courts or judges. Achieving the desired justice, especially if the disputes are similar in ambiguity and overshadowed by the technical nature, which makes it difficult for the judge to understand that he is beyond the scope of his legal competence and experience in the field of law, especially with the great development of products and accompanying technical development can not be understood and understood only by the competent procession for my work Evolution. But often the law refers to the need to estimate some legal status by a competent person, as in the case of hidden defects and estimate the amount of compensation. Moreover, the judge and whatever he knows in some technical matters, but he can not know all kinds of science and knowledge, and the judge can not judge his personal knowledge. Therefore, the law permits the use of persons with sufficient knowledge in the technical field of the case pending by the judiciary through the expertise provided by the expert to the court, which facilitates the work of the judiciary and helps to prove the facts and form sufficient conviction for the issuance of the most appropriate and the most effective judgment.

Introduction

The primary goal that individuals aim to achieve by resorting to the judiciary and filing a lawsuit is for everyone with the right to obtain their rights to be fulfilled. The difficulty faced by the judiciary in order to achieve this goal is not hidden, due to the circumstances that the case goes through, including what are legal in nature and some that are of an artistic or professional nature. The judge is unable to understand the latter, as it deviates from the scope of his legal competence and his experience in the field of law. And it became more difficult with the great development in products and the accompanying technical development that can only be understood and understood by the specialist who accompanies the development process. And that the judge and whatever he has knowledge of in some technical matters, but he is not able to be familiar with all kinds of sciences and knowledge, just as he is not allowed to judge his personal knowledge. Therefore, the law permitted recourse to persons with sufficient knowledge in the technical field of the case before the judiciary, through the expertise provided by the expert to the court, which would facilitate the work of the judiciary and help in establishing the facts and creating sufficient conviction to issue the appropriate and more judicious judgment.

As a result of the technical and technical development witnessed in the field of products and services and the complexity of the technical matters that accompanied this development, it is noted that the judiciary has resorted to expertise to resolve cases. This does not constitute a disadvantage recorded on the judiciary. Rather, on the contrary, it is evidence of the judiciary's adherence to laws that allow it to resort to experts in a field other than its legal jurisdiction.

All of this made the civil liability of the expert a subject for many questions, the first of which is to determine the nature of the expert's work for which the expert's responsibility arises, the nature of the damage caused by the expert's business, and the side to which this damage is caused, taking into account that the expert is providing advice to the court, as well as Another question arises regarding what are the expert's obligations towards the court first and litigants second? All of this led us to discuss the issue of civil liability arising from the expert. The research topic will be studied through dividing it into three topics, in the first of which we discuss what the expert is, and in the second the legal nature of the expert's work, and in the third the extent of the availability of the pillars of civil responsibility in the expert's work. And if we were to discuss this, we will reach a conclusion that includes the most important results that we reach.

The first topic: What is the expert

To determine what the expert is, the expert must be defined first, and distinguish the expert from others, which may be similar to his work with them secondly. So we will assign each of these a separate requirement.

The first requirement: the definition of the expert

The expert's definition requires beginning with the definition of experience, which some have known as: (a procedure of investigation aimed at obtaining information related to the case through the specialist to decide on technical issues that the judge cannot be familiar with) , and some of the experts have known it: (specialized knowledge in One of the technical sciences decides to resort to the court in matters that need scientific explanation to show the truth) . As others have defined it as: (a scientific evidence by the scholars and specialists, based on the judge's request to express their opinion on the disputed matter, to show the truth, and the judge cannot do this himself) . According to the advanced definitions, each investigation measure or technical advice intended to obtain necessary information related to technical or scientific knowledge that is subject to a dispute between the parties is considered an experience which was confirmed by Article (132) of the Iraqi Evidence Law No. (107) for the year (1979) amended It states that: (Experience covers the scientific, technical, and other matters necessary to adjudicate a lawsuit without legal issues.) While the Egyptian Law of Evidence in Commercial and Civil Articles No. (25) for the year (1968) amended did not come with a definition of experience or expert, which is what This is the case in French Civil Procedure Code No. (1123-75) on (5 December 1975).

Accordingly, some experts knew that (every person with high knowledge of knowledge of an artistic, scientific or practical subject sought by the judiciary in matters that fall within his competence) , and he also knew that: (a person who possesses the qualities and scientific and technical qualifications in the field of his technical competence And the professional enables him to give the correct opinion regarding the task delegated to it . While others exceeded the above by referring to the definition of the expert's method of acquiring experience in addition to the nature of the expert's work determined for his trait and distinguishing him from the work of others, he knew that: (Each person has special knowledge and expertise in the art of the arts and one of the traits so that it becomes a reference for their owners and others On knowing its characteristics, which it gained by studying, experimenting and the length of practice Accordingly, the expert shall be of assistance to the judge, who shall put at his disposal his knowledge and experience in order to settle the dispute before him .

Through the advanced definitions that dealt with the definition of the expert, we note first that the concept of the expert is a broad and flexible concept that includes everyone with knowledge in one of the fields of technical and technical life, in addition to these definitions have emerged scientific knowledge of the expert in his field of specialization, which was confirmed by Article (132)) From the aforementioned Iraqi Evidence Law in the context of its definition of experience, however, the Iraqi Evidence Law uses the word (scientific), which records on this that this word expands to include all sciences, including legal sciences, so it is more correct to replace it with technical opinion as it is In the French Code of Procedures in Articles (232-284), as it addresses explicitly the technical, not the scientific. Accordingly, the expert can be defined as (every person who has technical and technical know-how in a specific discipline drawn from his practice or study of this discipline that the court uses for matters outside of legal issues). This is in relation to the definition of the judicial expert, either the definition of the expert in general (it is every person who has technical or technical knowledge in a specific discipline obtained from his practice or study of this discipline is used to provide advice in the field of his specialty).

Through these definitions, it is possible to extract some characteristics of the expert, as he is first a natural person even if the task is entrusted to a certain institution with a moral personality because the true outlet for it is a natural person, and this expert has technical or technical know-how, whatever the way to obtain this knowledge, As it may acquire the qualification of the expert by studying as in the case of a doctor and an engineer or by practicing for a certain profession as in the case of owners of different professions or trades, in addition to the nature of the task performed by the expert is a specific task that cannot exceed the limits that were drawn for him because it is of a nature Exceptionally, it is not possible to resort to it except in the case of insufficient other means of proof , in addition to that the expert's opinion is not binding on the court and in a case that stipulated otherwise than his opinion the court should include the reason for not taking it .

The second requirement: distinguishing the expert from others, which is similar to his work with them.

In this requirement, we deal with distinguishing the expert from both the witness and the judge, each in a separate branch.

The first branch: distinguishing the expert from the witness

The testimony is defined as the news of a person in the Judicial Council with the right of others over others , so the witness provides the judge with information obtained through one of his senses and he has no right to increase, decrease, change, suspend or deduce . The expert's role is similar to that of the witness in that each of them decides the matters he witnessed, the details, conditions and circumstances related to the subject matter of the case . However, the experience differs from the testimony in terms of the faculties and intellectual capabilities enjoyed by

the expert in his field of expertise due to the involvement of the expert in this field and is based on personal skills related to the same expert . Certain art or drawing legal or logical results that result from such an adaptation , while the expert uses scientific or technical rules and deduction to reach the final result of the expertise using this study and his previous experience .

As for the witness, he can testify in all fields, and he is in contradiction to what the matter is in the expert, as his expertise can only be used in his field of specialization .

The testimony is considered direct evidence in the case contrary to experience, since experience is merely clarification or appreciation of evidence, it is closer to the judgment than to the testimony , and the expert may be returned in cases stipulated by the law, and it is not possible to work with the witness, in addition to resorting to Experience is aimed at finding out the truth of things that require technical knowledge. As for referring to the testimony, it will be to find out the truth of the things and the detailed facts on which the opponents disagree . Also, the witness cannot be replaced because the testimony is personal. As for the expert, he is not a certain appointed person, and therefore it can be replaced and changed . Finally, the testimony will be cured. Witness) .

The second branch: Distinguishing the expert from the judge

Although the task of the judge and the expert is similar in that one of them assesses the issues and provides their own opinion of the case, many differences arise between the two tasks, as the judge's decisions have the advantage of obligating the opponents if they gain the degree of bits while the expert's report is the goal It is necessary for the judge to clarify matters in order to reach the appropriate ruling, as experience is not binding on the court if it is judicial, nor is it binding on the parties if he used it outside the framework of litigation, this is on the one hand and on the other hand, it is possible to assign experts in any jurisdiction, except in the field of law as the expert In it is the judge, it is not permissible for the subject of experience to be a legal issue because the legal issues are not permissible for the expert to address, just as the court is not permitted to relinquish its jurisdiction over it which is stated in the provision of Article (132) of the amended Iraqi Evidence Law, it is not the job of the expert to judge between the litigants As the specialist in issuing judgments is the judge , and the litigants file their lawsuit, not the expert .

Thus, the clear differences appear between the expert and the judge, which gives a legal status to the expert that is completely different from the legal status of the judge, which is what we will address in the second topic.

The second topic

The legal nature of the expert's work

Whereas the expert's work is not limited to a specific field of life, nor to a specific type of knowledge and science, with which the scope for resorting to experience expands, as it is not determined by the courts, but also extends to some non-judicial claims between individuals that do not reach the degree of conflict. This requires us to distinguish between the legal nature of the work of the judicial expert, and the legal nature of the expert's work in cases other than litigation, and we mean the last consultant. We will each have a separate demand for it.

The first requirement: the legal nature of the work of the judicial expert

The doctrinal trends did not agree on defining the legal nature of the expert's work before the judiciary, but rather they were numerous. The first trend went to counting the work of the judicial expert such as testimony before the judiciary, as the expert certifies technical matters that explain the relationship between the facts and the results drawn from them, which helps the judge to form an opinion on the case Before it . However, this trend cannot be taken due to the different task of both the witness and the expert, and as we have already shown in distinguishing the witness from the expert. The second trend was that the work of the judicial expert is mandated by a public service, because the expert is only a person assigned by the judiciary to express his opinion In a specific incident .

While a third direction went to counting the expert's work as a power of attorney, either for one of the litigants, or for both, or for the judge, which was rejected by the French Court of Cassation, as it decided that the experts are neither agents nor affiliated with the litigants , because the expert's opinion is not binding on anyone In addition to his responsibility for his non-grave mistakes, in contrast to the responsibility of the agent , just as the agency is limited to legal work, and it is no secret that the expert's work is a physical and not legal work, as it is technical or scientific work to enter it with legal work.

The fourth trend was that the expert's work is only a measure intended to help the judge to reach the appropriate judgment in the event that there are technical or technical issues that the judge cannot estimate on his own, so experience is a means for assessing evidence presented to the judiciary and not an established evidence in itself , so that expert My time assistant to the judge and within the limits of technical issues .

The second requirement: the legal nature of the work of the consultant

The first thing that is noticed when examining the legal nature of the consultant's (friendly or voluntary) work is the absence of judicial capacity from the work he does and the failure of the judiciary to interfere in this experience,

whether in resorting to it or in choosing the expert by the court or agreeing to his choice by the parties, which Nodal nature predominates over this type of experience.

Despite this, however, the difference exists in determining the nature of the contract that governs this experience, but these differences can be limited to the scope of both the agency contract and the contract of employment and contracting. So he called the direction to consider the work of the consultant an agency contract , and to hold the expert accountable for all his mistakes as the agent . Although the work of the agent is consistent with the work of the expert with the availability of personal consideration in both of them and their commitment to providing information , what distinguishes the agency is that its place is always a legal behavior and not a physical work which is the opposite of what is the case in the experience and which is a physical work .

It may be raised that the legal adjustment of the consultant's work is tantamount to the employment contract , because both the subject of the experience and the employment contract is a material work, but what distinguishes the expert's work from the employment contract is the lack of experience of the dependency and supervision component which is a necessary element for determining the employment contract, as the worker is working Under the guidance and supervision of the employer, while the expert has his technical independence, he is the one who organizes his work and can not be subject to his findings except for his professional conscience and technical information .

And the expert's work may be approaching in that it is the product of his independent thought to the work of the contractor, which is also distinguished by his independence from the employer , and that both the expert's work and the contractor is described as a physical work, but they differ in terms of what it is, so the expert's work is based on providing intellectual knowledge in Technical issues consulted with to reach the final result of the experience other than the work of the contractor, who focuses mainly on making something or performing work in return for a fee that the other undertakes .

The third topic

Check the pillars of the civil liability of the expert

Verification of the expert's civil liability is based on the availability of the three pillars: error and damage and the causal link between error and damage. Before examining the elements of the expert's responsibility, we must know the legal description of the expert's responsibility in terms of being contractual, tortuous, or moral. Therefore, we will address the legal description of the expert's responsibility in the first demand, while the elements of the expert's responsibility will be the subject of research in the second demand.

The first requirement: the legal description of the expert's responsibility

The question of the legal description of the responsibility of the expert attracts many directions by counting it as a moral responsibility and denial of the civil responsibility of the expert, or through the establishment of the civil responsibility of the expert and the difference between whether it is contractual or default responsibility, which is not covered in both in an independent branch.

The first branch: the ethical nature of the expert's responsibility

A part of the French jurisprudence went to the inability to establish the civil responsibility of the judicial expert while he was in the process of completing the experience and providing his opinion in the case in question, and to say that the civil liability of the expert would affect the independence of the expert's work, which affects his freedom to estimate the things before him to express his opinion In it which is therefore a critical and unacceptable matter , the principle stating that the expert's moral responsibility is necessary only to enable him to carry out the work of experience and express his opinion is absolutely necessary . As for the French judiciary, he distinguished between the expert's expressing the opinion of the judge and this opinion is subject to the judge's discretion in terms of taking it or not, in this case the expert is subject to moral responsibility only , and he justified that by saying that when the experts 'reports were approved by a final ruling, these became The reports are part of it and become final, and the responsibility of the experts can only be established with the same conditions that the judges 'responsibility can be established for the rulings they issued and according to Article (494) of the French Law of Procedures, that this trend has been criticized, because the text of Article (494) of the law The French pleadings are nothing but a special text for judges, and others cannot be covered by the provisions of this article, and experts cannot include this ruling despite the expert's contribution to issuing the decisions . The tendency was to say that the expert is subject to civil liability when its elements are available, in order to preserve the interests of opponents and not to lose confidence in the expert, which was confirmed by the French Court of Cassation that the expert is subject to the rules of civil responsibility by its decision (since the experts appointed in the judiciary to express their opinion are subject to a general principle of public law while Concerning civil liability, evidence must be established of a causal relationship between the error that was proven against them and the damage that occurred .

The second branch: The contractual nature of the expert's responsibility

Some French rulings went on to consider that the expert's responsibility is a contractual responsibility ((, and I promised the expert an ordinary agent for opponents, who is contractual responsible for his mistakes and according to the provisions of Article (1991) of the French Civil Code)) However, this trend has been subjected to numerous criticisms due to the lack of a relationship A contract between the litigants and the expert , which was confirmed by the French Court of Cassation, as it ruled (the appointed experts from the judiciary are not agents of the litigants and they are not affiliated with them) .

However, in this regard, we must distinguish between whether the expert is a judicial expert. When that applies to him, the foregoing does not consider the responsibility of the judicial expert a contractual responsibility, as there is no contract for this on which the contractual responsibility is based, and his statement was presented, and whether the expert is not judicial (Consultant or amicable) In this case it is necessary to note the existence of a contract between the expert and the beneficiary of the damaged experience, and in the case of the existence of this contract, it cannot be denied or condoned because it is the primary basis on which the expert's responsibility is based on that, and in the absence of this contract, we We are in the matter of the expert's tort liability , and within the limits of the contractual responsibility, there must be a contract and this contract must be valid and the expert did not implement his obligations arising from the contract and he could not be forced to implement it or if the implementation of the commitment became impossible by mistake or if he delayed the implementation of his commitment , As the expert is obligated to provide his expertise and actually consulted him, not to exert effort in order to provide this experience and that this experience is presented correctly in accordance with the terms of the contract)) and that the experience is provided on time and in the event of failure to agree on this period then it must be The experience is within a reasonable period determined by the custom , and the expert must also maintain confidentiality when doing the work of the experience towards any person other than the contracted beneficiary of the experience, whether based on a condition in the contract or on the basis of the requirements of the profession and the personal consideration required in the contract from trust LUT .

From all of the foregoing, it becomes evident that the contractual responsibility of the expert may arise in the judicial expert's scope, but in the expert's scope and upon the expert's breach of one of the conditions agreed in the contract or what is covered by the scope of the contract of expertise.

The third branch: the expert's tort liability

The tort liability of the expert is created when the expert violates the completion of the task entrusted to him by the judiciary, as in the case of a violation of the judge's instructions or the abandonment of the task entrusted to him after informing him and accepting it and not giving up his mission to another person since the expert's personality is always considered, as it should The expert must adhere to the period specified for him to finish his mission, and the expert must also adhere to the complete impartiality of the litigants in the lawsuit and to stay away from everything that would arouse suspicion of his impartiality and preserve the secrets that he is informed of by virtue of his mission . Despite the fact that the Iraqi legislator did not clarify the provisions or the nature of the responsibility of the judicial expert, the one noticed in Article XVII of the Law of Experts before the Judiciary No. (163) for the year (1964) was imposed on the expert and after the complaint submitted against the expert or from the reports received On the grounds that he breached one of his duties or mistakes in his work a grave mistake or refrained without an acceptable excuse from performing the work entrusted to him, disciplinary sanctions which are the warning or warning or suspension from work for a period not exceeding one year or excluding the name of the expert from the roster of experts permanently, in the event that The expert's loss is one of the conditions necessary for him to hold the status of the expert legally, or when he committed something that affects the integrity, integrity, or good reputation, or proved incompetent to perform the work of experience. It is noted that the responsibility of the expert in accordance with this article is a special legal responsibility that does not preclude the taking of other legal measures if they have a place , and therefore the imposition of these penalties does not preclude the recourse to the expert to compensate the damage caused by the expert's fault to the rules of civil law and related to tort rather than contractual responsibility for failure to arrange The last one as mentioned above.

As for the scope of the consultant, the expert's responsibility is based on any behavior that deviates from the usual behavior or the desired result from experience, which results in such error as harm to others with the causal relationship between the error and the damage and in this case it is similar to the responsibility of the judicial expert, except that Any error that occurs in the implementation of the terms of the contract between the expert and the beneficiary of the experience is subject to the terms of the contract, and accordingly, the consultant may establish the right to the contractual responsibility as a result of a violation of the terms of the contract, and the default liability in the event of any error issued by him causing damage and does not at the same time constitute a breach Terms of the contract.

The second requirement: the pillars of the expert's responsibility

The establishment of civil liability, whether it is contractual or negligent responsibility, must have its foundations, which are error and harm, and the causal relationship between mistakes and damage, which we will show both in a separate branch.

The first branch: the error

The error in the scope of tort liability is defined as the deviation of a person from familiar behavior with his awareness of this deviation and the necessity of vigilance and insight in order not to harm others , so the error is a violation of a previous obligation and it is the legal duty imposed on every person not to harm others. And the error in the scope of tort liability is analyzed into two elements, the first of which is objective, which is the violation of a legal duty (infringement) and the second is a personal one, which is discrimination and perception of those who issued the error, which is indicated in Article (204) of the Iraqi Civil Law, which states (each count inflicts damage to others with any harm Compensation required).

And knowing what is wrong in the scope of the expert's tort liability, it is necessary to know the nature of the expert's commitment whether it is an obligation to do care or an obligation to achieve an objective, and he sees a trend from the jurisprudence that the expert's commitment is an obligation to do care and that is for the technical competence of the expert's work, as he can prove that He has fulfilled his commitment to be careful in achieving the goal that the opponents are seeking, and he is in fact scientific and technical facts that have not been settled yet , but in some cases the expert may be asked to reach a specific and specific fact and in the event that he did not reach it and hit one of the opponents as a result, This damage is sufficient for the expert to perform the responsibility, except in the case of proving that the damage sustained is the result of a foreign cause or a force majeure after them a reason that pays the responsibility in this case .

While another trend in jurisprudence goes that the expert's commitment is a commitment with a result by taking all the necessary means and precautions to reach the goal, where he must do the care that the usual person does, and it can be inferred from some of the decisions of the Iraqi Court of Cassation where it ruled (it is not permissible The ruling is based on a vague report (It also ruled (the court neglected the opinion of the expert based on the assumption and assumption) As it ruled (if the court finds that the expert's report is not sufficient and does not serve as a reason for the ruling, it must entrust the task to another expert or other experts, not to include Experts to the first expert) . And since the expert often gives technical opinion, he is often professional, and when the Iraqi legislator has equated the expert with the judge in terms of response procedures, in Article (136) of the Iraqi Evidence Law No. (107) for the year (1979) amended, the error committed by the expert is mistakes. A professional is a mistake that is related to the technical assets of the profession and deviations from it, contrary to the duties imposed by these principles or a violation of the professional rules accepted by the members of the profession . Therefore, the expert's mistake, which is asked about him, is a professional mistake intended to deviate from acceptable behavior and must be professional and serious And, accordingly, the professional error of the judicial expert differs from other types of professional error, as it is the deviation of the judicial expert during the commencement of his work from the professional rules that govern the judicial experience with his awareness of this deviation .

It is noted that the expert's fault, according to Article (seventeen) of the Experts Law before the Judiciary No. (163) for the year (1964) may take many aspects, including his refusal without an acceptable excuse to perform a task entrusted to him, or to violate one of his duties, or erred in his work in error Particularly as stipulated in the aforementioned article, as in the case of accepting expertise outside his competence included in the roster of experts or if the expert's report deals with legal matters or in the event that the expert previously expressed his opinion on the subject of the dispute itself or the expert did not take The procedures to properly present his expertise, as in the case of relying on the previous work of another expert and many other aspects of errors that the denominator fails to mention .

The second branch: damage

Damage is one of the most important elements of liability, whether tort or contractual, it is not sufficient for there to be a mistake in determining responsibility, but rather harm must be caused by the error , so the damage is considered the responsibility of the responsibility as there is no liability without harm . And harm is all harm to a person in one of his rights or a legitimate interest to him, whether that right or that interest is of financial value or not .

The damage is either material or moral. Physical harm is defined as the damage that causes a person a financial loss, as it is the damage that affects the person in his money or body, or any of the rights that go into the evaluation of his wealth , because it is every violation of the interest of the victim of financial value, which may be a right or just a financial interest , As for moral (moral) harm, it is a harm that does not affect a person in his money, but rather affects a non-financial interest, such as deforming the body and beauty, or degradation of dignity and reputation , or it is the harm that infects a person's honor, reputation, consideration, and social status , so moral damage is every violation of a right or interest It is legitimate to cause harm to its owner, his emotions, or his feelings, even if he

does not cause him any financial loss or does not miss him a benefit of financial value and he does not incur financial burdens . As a basis for the liability, several conditions are required, namely that the damage be done, that it has not previously been compensated, that it be in violation of the claimant himself, that it focuses on the right of the claimant or a legitimate interest to him, and that the damage be direct .

The damage that results from the expert's fault is taken in several manifestations, including the loss of time to show the right and the charging of liabilities expenses and expenses as a result of the delay in dismissing the case due to the expert or the loss of the opportunity to win the case or prolonging the procedures without benefit or because of the presentation of information reached to him due to his experience or in the case of If it is resorted to another expert in the completion of the experience.

The third branch: the causal relationship

It is not sufficient for the civil liability of the expert to prove that the error occurred and that the damage occurred only. Rather, a causal relationship must be established between the expert's fault and the damage caused so that the error is a result of the nature of this error or a direct result of the expert's breach of his legal duty . The causal relationship is considered the third pillar of civil responsibility, but the proof of this pillar was not on the same degree, as many theories have been said to link the mistakes to the damage and the most important of them is the theory of equal or equal causes and the theory of the productive cause, and the Iraqi Civil Law has stipulated the link to causality And that is in paragraph (1) of Article (186) of it and the Egyptian Civil Law in Article (163) thereof, and it is noted that the Iraqi text clearly indicates the causal relationship between the one who caused the damage and the necessity of the damage due to this deliberate action. As for the Egyptian text, it is stipulated that the aggrieved party obtain compensation that The error has caused the damage of any relationship between the error and the damage, while the French law did not explicitly stipulate the relationship of causation between the error and the damage, but it can be inferred from the text of Article (1240) and also Article (1241) of the French Civil Code . However, what concerns us in this regard is to indicate the availability of a causal link between the expert's fault and the damage that may occur as a result of this mistake in performing the expert's task, especially in cases where the court needs to issue its judgment to an expert, and it appoints the experts according to the law , especially if the expert's opinion is an independent matter The trial court Also, the trial court may take a section of the expert's opinion if he deems it not contrary to the law with the discretionary authority it possesses and if the court finds that the expert's report is not sufficient and does not serve as a reason for the judgment, he must entrust the task to another expert or other experts . All of this may lead the court to issue its decision based on the expert's opinion, which may be wrong. The matter is validated by the causal relationship if the judge takes the expert's report despite the expert's mistake and led to an incorrect result, especially if the expert's opinion is not binding on the judge as we have presented and that The judge does not base his decision on the expert's report alone, but rather establishes it on a number of reasons, which may be numerous in addition to the expert's opinion on the other hand. At the same time, the general principles of civil responsibility require that the expert's opinion have the effective effect in forming the court's conviction, and therefore the plaintiff must: The evidence assesses that it was the expert's fault that prompted the verdict in the lawsuit, and this is often available in matters of a technical nature . On the contrary, in the event that the expert makes mistakes in his report and the court does not take this report, then this opponent does not have the right to adhere to the civil liability of the expert, except that the expert is responsible for the mistakes made by his aides and followers because they work under his supervision .

The concept of the causal relationship between error and harm, according to the previous concept, stood in the way of many issues without the victim receiving compensation for the damages caused to him, as a result of the lack of proof of this causal relationship between the error and the damage.

In the wake of the great development witnessed in the production of goods and products, the French judiciary called for adopting the legal causation and forsaking the proof of the causal relationship in compensating the damages in which the negative relationship cannot be proven .

Conclusion

It is clear from the above that the expert is every person who has technical or technical know-how in a specific discipline obtained by practicing or studying for the discipline, which is often used to find facts about things that require knowledge in their details, which are often issues of technical technical nature. The task of the expert is at the same time, defined either by the court, so he is a judicial expert, or by the stakeholders, he is a friendly or consultant expert, which results in a difference in the nature of the responsibility of the judicial expert from the consultant, who is often confused in determining responsibility, where The contractual nature of the latter appears in contrast to the responsibility of the judicial expert, which is governed by special laws regulating the work of this type of expert, although the tort liability may exist for both the consultant and the judiciary expert alike if its elements are available, noting that the concept of the expert's fault is a professional mistake It is represented by a

deviation from acceptable behavior, a profound professional deviation, and for the judicial expert, it is a deviation from the professional rules that regulate his work with his knowledge of this deviation.

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