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Belgium

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I. Lists and registers of experts

Only those persons who, by decision of the Minister of Justice or the official delegated by the Minister of Justice and on the advice of the Accreditation Commission, are entered in the national register of court experts and sworn translators, interpreters and translator-interpreters are authorised to hold the title of court expert and to accept and carry out assignments as court experts or to hold the title of sworn translator, interpreter or translator-interpreter and to carry out translation or interpretation assignments entrusted to them by law.

Natural persons are entered in the said register if they:

- are nationals of a Member State of the European Union or are legally resident there;
- have not been convicted by a final judgment, even if suspended, of a criminal offence resulting in a fine, work or imprisonment, with the exception of convictions for offences against road traffic regulations and convictions which, in the opinion of the Minister of Justice clearly do not constitute an obstacle to the performance of expert opinions in the field of expertise and specialisation in which they register as an expert or to the performance of translation or interpretation work by sworn translators, interpreters and translator-interpreters in the languages in which they register as a sworn translator, interpreter or translator-interpreter. This applies by analogy to persons who have been sentenced abroad to a penalty of the same nature by a judgment which has become *res judicata*;
- are at least 21 years of age if they are a sworn translator, interpreter or translator-interpreter;
- provide evidence that they have the necessary professional skills and legal knowledge;
- declare in writing that they are at the disposal of the judicial authorities;
- provide evidence of professional competence and legal knowledge;
- undertake to pursue further training in their field of competence;
- undertake to respect the code of ethics established by the King, which provides at least for the principles of independence and impartiality;
- have taken an oath.

The Federal Public Service Justice manages the register and continuously updates it.

Entry in the national register is valid for a period of six years, which can be extended each time for the same period. For the time being, entries are only provisional until the accreditation commission is set up. The accreditation commission started its work at the beginning of June 2019. All of the nearly 4,000 experts/translators/interpreters will have to be examined by 30 November 2022.

A transitional plan has been put in place whereby experts working for the judicial authorities are required to comply with its provisions no later than 6 years after the date of entry into force of the law of 10 April 2014. As a result, it has been postponed to 01 December 2022.

A new law of 20 December 2020 entered into force on 24 December 2020 allowing all experts to be registered in the provisional database. Their provisional registration is limited until 30 November 2022.

Currently, only judges have access to the register. In the future, it should be accessible to everyone on the website of the Federal Public Service Justice.

In order to be included in the register, the expert must prove that they have the required professional aptitude and legal knowledge (Article 555/8, 4, Judicial Code).

This proof is provided:

- With regard to professional competence:
 - for court experts, by a diploma obtained in the field of expertise in which the applicant is applying for registration as a judicial expert and by proof of five years' relevant experience during the eight years preceding the application for registration, or in the absence of a diploma, by proof of fifteen years' relevant experience during the twenty years preceding the application for registration;
 - for sworn translators, interpreters and translator-interpreters, any diploma obtained or evidence of at least two years' relevant experience acquired during a period of eight years preceding the application for registration or any other evidence of knowledge of the language(s) in respect of which they have applied for registration. Court experts and sworn translators, interpreters and translator-interpreters domiciled in another EU country can prove their professional competence by being registered in a similar register in their own country, and they must provide proof of this. A Royal Decree to be adopted by the Federal Parliament will determine the 'further training and education' obligations.
- With regard to legal knowledge: a certificate issued after completing a training course that meets the conditions set out in the [Royal Decree of 30 March 2018](#).

II. Remuneration of court experts

In civil cases, the court expert's fee is fixed by the parties. However, the court has the final say and can decide to reduce the fees of the proposed court expert.

In criminal matters, a Royal Decree determines the fees of the court experts.

The parties may not obtain legal aid to pay the expert's fee.

III. Liability of court experts

Court experts are liable according to the general rules (civil/contractual law). The expert's liability is not limited by law.

IV. Further information on the expertise procedure

The main legal provisions applicable to judicial expertise in Belgium are [Articles 962–991 undecies of the Belgian Judicial Code](#): (text available in Dutch, French and German).

The Belgian legal system does not distinguish between different types of experts but only includes court experts. It distinguishes only between court experts on the one hand and translators/interpreters on the other.

This title is protected.

1. The appointment of experts

According to the Belgian Judicial Code, only judges and investigating judges and/or the Public Prosecutor can appoint a court expert.

However, litigants are not prohibited from requesting the opinion of their own expert. This private expert is then called a 'technical adviser'. The law does not regulate their intervention.

Article 962 of the Belgian Judicial Code stipulates that: *'In order to resolve a dispute brought before them or in the event of an objective and present threat of a dispute, the judge may instruct experts to make findings or give an opinion of a technical nature. The judge may appoint the experts on whom the parties agree. The judge may only deviate from parties' choice by a reasoned decision.'*

a) Appointment by a court

There is no difference between the appointment of experts for the purposes of proceedings before a civil or criminal court. Articles 555/6 to 555/16 of the Judicial Code are applicable in both civil and criminal matters (Article 2 of the Judicial Code).

Except in the cases provided for in Article 555/15 of the Judicial Code (in cases of urgency or where no expert is available with the required expertise and specialisation), the courts are obliged to appoint an expert registered in the National Register of Judicial Experts.

Civil courts have the discretion to appoint any expert from the register whom they consider appropriate for the proposed assignment. They may also appoint experts chosen by the parties and are not allowed to deviate from this choice without a justified reason.

Experts have a legal obligation to verify that they are not in a conflict of interest.

b) Appointment by the parties

Each party may request the opinion of its own expert in civil matters. Such an expert is called a 'technical adviser'. When appointing a 'technical adviser', the parties are not required to follow any particular rules or procedure.

2. Procedure

The court has the discretion to decide whether an expert opinion is necessary for the dispute or to establish the truth.

The role of the expert is to give an opinion to the court in response to the specific assignment given to them by the court.

The court is never bound by the expert's opinion.

In civil proceedings, the court supervises the progress of the expert opinion and ensures that deadlines are met and that the expert's testimony is heard.

The expert must comply with the terms of their assignment.

The parties may contest the report by making statements and providing a counter-expertise.

Experts are allowed to be in contact with the parties during the proceedings but in order to respect the principle of adversarial debate, any communication must be made in the presence of all parties.

a) The expert report

The results of the expert's assessment are presented in a report.

The report includes the preliminaries, the work and findings of the expert as well as their conclusions. It also contains all the documents consulted by the expert.

The final report is filed with the court that appointed the expert.

In civil cases, if the court does not find the necessary clarifications, it may order either that the same expert carry out a supplementary expert opinion or that another expert opinion be given.

b) Hearing by the court

The court may hear the expert at the hearing. At the request of the expert or the parties, the judge may also hear the parties' technical advisers.

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