Find an expert

Polen

I. Lists and registers of experts

Each regional court has its own list of experts. The regional court president is responsible for publication. See:
https://lublin.so.gov.pl/lista-bieglych,m,m1,2,270 for Lublin or
http://www.krakow.so.gov.pl/fck_pliki/file/Testowy/Biegli/Biegli_20180205_strona.pdf pliki/file/Testowy/Biegli/Biegli 20180205 strona.pdf for Krakow. The registers are publicly accessible.
There is an age qualification – person who wants to be an expert must be at least 25 years old. Experts must have theoretical and practical special knowledge in specific branch of science, technology, art, craft or other skill The criteria are not formalized. This is president of regional court who judges if candidate fulfills all conditions to become an expert. Experts do have to take an oath in order to be registered. A person who wants to be entered on the list of experts must submit an application to the president of the regional court.
The expert can be dismissed from the register by the regional court president:
at his request;
if the expert does not fulfill the requirements to perform this function any more or if it is determined that he did not fulfill them at the time of establishment and is still not responsible for them;
for important reasons, in particular if he performs his activities improperly.
There is no specific code of conduct or ethics applicable to experts, but the expert will
have to respect the civil / administrative / criminal procedure code.
The registers are regularly updated. In January each year, the president of regional court announces
the list of court experts to district courts and the Ministry of Justice, and notifies
everyone immediately about any change of the list and the initiation of criminal
proceedings or incapacitation in relation to these persons.
Experts are registered for a period of five years.
Experts are listed for particular branches of science, technology, art, craft, as well as other skills. The list of specialties is very long and diverse.
Once listed, experts have no particular obligation. They are not under any obligation to follow continuing education, although relevant postgraduate studies and courses exist. However, in practice, if they want to be appointed for the next period they should be able to prove that they deepen their knowledge (attending courses, conferences, postgraduate studies etc.).

II. Expert's qualifications

Experts must have theoretical and practical special knowledge in specific branch of science, technology, art, craft or other skill The criteria are not formalized. This is president of regional court who judges if candidate fulfills all conditions to become an expert.
Experts are not required to be a member of a professional body. They are formally not asked to improve their skills regularly and there is no system of continual professional development. While being an experts they do not have to prove that they participate in further education courses and there is no method to test the obtained knowledge. But if they want to be appointed for the next period they should be able to prove that they deepen their knowledge.

III. Remuneration of experts

The expert's remuneration is determined by the Regulation of Minister of Justice of April 24, 2013 on the determination of expert fees, lump sums and how to document expenses necessary to issue an opinion. The expert's hourly rates have been set, which are part of the base amount determined by the budget act. In general the expert's remuneration is in relation to the number of hours he/she devoted to the expertise and her/his degree of education. The regulation sets a minimum rate and a maximum rate.
The duty of payment of the experts' remuneration is handled by the judicial system or paid by one party. Parties can obtain legal aid with regard to the expert's remuneration with no prescribed rates.
The remuneration is fixed by a regulation. In specific cases, especially for difficult missions, the legal tariff can be exceeded by a specific court decision. But in practice, in civil procedure, the experts require the parties' agreement to receive higher fees.
In civil matters, when appointed by the court, one party is ordered to pay the expert in advance. Experts can receive advance payment on their fees. But at the end of the proceeding, in the judgment on the merits, the court decides who has to bear the final burden. It may be shared between the parties.
In criminal matters the experts are paid by the state (and imposed on the defendant only if in the case he is sentenced): funds paid by the state are subject to the control by the state financial control, which can challenge payments made in contravention of the law on the public finances.

IV. Liability of experts

In accordance with penal law, expert who presents false opinion can be sentenced up to 10 years of imprisonment.
There are no special civil provision for this subject. General regulations of civil law (tort/contractual law) are applicable to experts' liability.
Experts are not obliged to cover their possible liability via professional indemnity insurance.

V. Additional information about expert proceedings

The appointment of experts is regulated by the ordinance of the Minister of Justice dated 24th of January 2005. Additional regulation is stated in the Codes of Civil Procedure, Criminal Procedure and Administrative Procedure. In civil procedures parties may request the appointment of an expert. Usually, in civil procedure, the appointment of an expert depends on the advance payment by the applicant parties for the costs related to the preparation of an opinion.
In general the same rules apply in civil, criminal and administrative procedures. There are no fundamental differences between the appointment procedures in civil, administrative and criminal matters.
The title of judicial expert may only be used during and for the purposes of preparing an expert's opinion for courts or for prosecution. The number of experts in Poland is about 15 000.

1. Appointment of experts

Only courts and prosecution can appoint experts with the status of judicial experts. Ex officio or upon request of the party).Opinion prepared on appointment of court or prosecution constitutes special kind of evidence called expert's opinion.
Parties may hire experts privately, but their report will be filed as another piece of evidence.

a) Appointment by a court

The court uses a list of experts. Each regional court has its own list of experts. Appointing an expert from the (local) register is a practice widely followed by the court. However, using a register is not mandatory.

b) Appointment by the parties

While judicial experts are never appointed by the parties, the parties in civil and administrative procedures can hire their own expert. They do not have to follow particular processes or procedures.

2. Procedure

a) Civil procedure

In civil procedures the expert has no obligation to attend a preliminary hearing (if any). The court monitors the progress of the experts investigation as to time. The court is "the highest expert" and judges opinion's quality. Courts are not bound by the opinion expressed in expert reports and decide if opinion can be the basement to establishment the facts in the case.

Expert report

The expert delivers his or her report in writing. There is no particular structure that the expert has to follow in his or her report. There is no obligation to provide a preliminary report. In the final report the expert has to address the parties' arguments. In many cases the expert has to deliver an additional report. when the party submits such a request and the judge accepts it or at the request of the judge. This may occur when the expert did not answer all the questions included in his mission or where additional questions arise later on.
The court will issue a new order stating the need for additional input and specifying the questions that need to be answered. The parties can make a request for further clarification to the court. However, in practice, it is more likely that another expert is designated, depending on the satisfaction with the first report.

Court hearing

Experts are required to attend a hearing in order to answer questions by the court and the parties after delivering their report. They can be cross-examined in court.

b) Other

Some experts are appointed to attend in hearing of witnesses or parties, mainly psychologists. They evaluate people's capacity to perceive and to present their observations.

The information presented here was gathered during the Find an Expert Project from contacts per country selected by the European Expertise & Experts Institute EEEI.

Last update: 26/05/2021

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