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Dutch

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Netherlands

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I. Lists and Registers of Experts

In The Netherlands there are two registers: one primarily for civil and administrative law (LRGD) and one primarily for criminal law (NRGD). Besides those there is an expert institute for forensic evidence (NFI) and an Institute of Environmental Law Experts (STAB), both on the payroll of the Dutch state. Furthermore, there is the Dutch Association for Medical Specialist Reports (NVMSR). Experts are listed by specialisation. The registers of Experts are kept in different ways, LRGD and NVMSR are private, NRGD and NFI are managed by the Ministry of Justice, the STAB is an independent body, strictly working for the judiciary. No court is responsible for the register, nor the quality of the experts on it, in the Netherlands that is strictly separated. The courts lean on the quality assurances that these bodies provide. Judges are however involved in the admission and/or accreditation process of LRGD and NRGD registers.

Links:[National Register of Court Experts](#)[Netherlands Register of Court Experts](#)[Experts on environmental law and spatial planning](#)[Dutch Association for Medical Specialist Reports](#)

The registers NRGD/LRGD, NVMSR and the website of STAB are publicly accessible. There are search tools, however STAB Experts cannot be consulted by parties because they only are appointed to advise judges and that would create doubt in terms of independence. Public: see page [find an expert](#). This tool only covers experts in the LRGD register. It is accessible by specialisation. All Experts working at STAB are also registered in the LRGD register.

Members of NVMSR go through a training and examination process before qualifying as a judicial expert member.

To be registered in NRGD experts have to go through an accreditation procedure which takes into account both the field of expertise in which they should accountably excel but also in their role as an expert to the court, the skills required to be a good expert in the proceedings. LRGD builds on the certification of the professional standards which are laid down by the professional bodies and (trade) associations of the profession itself, and an education on the role as an expert, and a system of permanent education.

STAB has very strict hiring standards and a strict permanent educational system. Peer review of Expert reports is standard for STAB.

Experts do not have to swear an oath. Experts can be dismissed from the registers after formal complaints about not following the rules of conduct applicable to the different courts, which are widely similar.

The registers are kept up to date by the managing administrative bodies.

II. Expert's qualifications

Experts of the LRGD have to be a member of a professional body in order to call themselves experts. It follows that the criteria for professionalism and the educational requirements are stated by that body. NRGD also sets high standards for education in order for an expert to be admitted to the register. Experts are often a member of a professional body, but there are "niche" fields for which professional bodies do not exist, therefore it is not strictly mandatory. At STAB, LRGD and most likely NRGD permanent education is required in the form of Continual Professional Development. For instance at STAB 15% of the time is reserved for that, LRGD requires a minimum of 6 hours per year. Often the professional bodies accredit educational institutes. They have to prove that the education took place, i.e. providing lists of website registrations from education parties. Education has two goals: skills in the judicial context and expertise.

III. Remuneration of experts

In criminal and administrative proceedings the State pays the expert's remuneration. There is a fixed tariff system and the expert has to make a calculation in advance. At STAB it is different, STAB is paid by the Ministry of Environment. In civil cases the parties pay for the expertise.

IV. Liability of experts

Experts are held liable according to general contract and tort law. Experts are not obliged to have liability insurance by Law or by the appointing judge.

Experts may be insured by the company for which they work. Independent experts are insured at their own discretion, however several professional bodies make liability insurance compulsory.

V. Additional information about expert proceedings

The main legal provisions applicable to Judicial Expertise in The Netherlands are Art. 194 of the Code of Civil Procedure and Art. 8.47 Awb, the Code for Administrative Law and a law for Judicial Expertise in Criminal Law.

These laws are a framework: detailed guidelines for Judicial Expertise are found in the [Practice Direction for experts](#) in Dutch civil law cases.

Furthermore there is a code of conduct - with a legal basis - for experts in Criminal Law, and there is also a code of conduct issued by the High

Administrative Court for judicial expertise. For most forms of expertise, there are additional requirements as to the quality of expertise or the qualifications of experts.

The title of expert is not protected.

1 Appointment of experts

Experts can be appointed by the court and by the parties involved. The appointment of experts in administrative proceedings is similar to the one in civil proceedings, with the difference that in administrative law the costs are borne by the state and in civil proceedings the costs are borne by the parties. In all cases the court appointed expert has a duty to answer the questions asked by the court (possibly, after consulting the parties). In proceedings before a criminal court an expert can be appointed by the prosecutor or the judge during the investigation phase. For this purpose, there is a register that is governed by law, for which the expert has to meet stricter requirements than in civil and administrative proceedings. All court appointed experts have a legal obligation to report any conflict of interest.

1.a Appointment by a court

A civil court has discretionary power to appoint an expert either *ex officio* or according to a litigant's explicit request if the relevant facts cannot be established otherwise. In this case the oral hearing is postponed to a date after the delivery of the expert's report. The court has freedom of choice in principal to appoint any person it considers suitable to act as an expert. However appointing an expert from the relevant register is a practice widely followed by all courts. The expert has to report any conflict of interest to the court. Court-appointed experts have access to the file. In civil proceedings there are extra strict rules that apply to sub-experts who are consulted by the appointed expert during the mission, in that parties must know beforehand which persons are consulted and which questions they will be asked to answer

1.b Appointment by the parties

When parties appoint an expert, it is usually done at the start of legal proceedings, to build their case. The court may use these reports to decide a case. At any time in the proceedings, a judge may appoint an expert at the request of the parties. They all have to work according to the applicable rules and codes of conduct for the court appointed expert.

It is possible that both parties request a certain expert to be appointed, there are no special rules applicable. A judge can order that both parties appoint a single expert, but that is not common practice.

2 Procedure

2.a Civil procedure

The court monitors the progress of the experts investigations only in terms of time management. There is no quality control on the performance of the expert, no references are made in judgments. However STAB gets regular feedback on performance from the courts, although STAB is seldom asked in civil proceedings.

Parties can challenge the report by giving statements or by providing counter-expertise. Courts are not bound by the Expert report, but usually they follow the expert they have appointed. Party experts tend to be less influential than court appointed Experts. There are no procedures whereby experts meet prior to trial or are cross-examined prior to trial to seek to narrow the issues and for the court to understand the differences.

Experts are allowed to be in contact with the parties during the proceedings but only if necessary for fact finding and in presence of all parties. The Expert has to hold meetings in presence with all parties in order to collect their comments, if not hindered by professional standards as with medical cases.

1. Expert report

In The Netherlands there is a Model framework of report. Experts are required to provide a preliminary report, parties have the right to make remarks. The expert needs to address the parties' arguments in both the preliminary report as well as in the final report. No other specific requirements need be adhered to in the report. If ordered by the court the expert has to produce an additional report, for instance if there are additional questions. The report is usually given in writing, but may also be given orally in a court hearing.

2. Court hearing

The court only orders the expert to attend the hearings in exceptional cases, it can be requested by parties or ordered by the judge. Cross-examination is not usual.

2.b Other

The differences for other forms than civil law are not significant.

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

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