

# CIVIL LEGAL EXPERT EXAMINATION IN HUNGARY



(SUBJECT TO LEGAL OR JURISPRUDENTIAL DEVELOPMENTS)

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Questions	Answers	Observations
<b>o. Other administrative order</b>	Yes	
<b>1. procedural rules in calling for an expert examination</b>	The court	According to the Hungarian Civil Procedure Code (CPC), the court may appoint the expert from the register of legal experts, or, exceptionally, an ad hoc expert can be called if particular expertise, this to determine the framework of the dispute or to establish a significant fact in the case. Unless otherwise provided for by law, an expert may be appointed on the basis of a party's request or by the trial judge. In certain cases special procedure rules allow the judge to order mandatory expert examination (e.g. guardianship). Pre-trial expert examination as a legal institution does not exist. However, in practice, the expert examination can be made before the trial : Private expertise ; the litigant may use an expert's report prepared by an expert in another proceeding in relation to the issue in question.
1.1. On the initiative of :		
1.2. Mandatory expert examinations	Yes	
1.3. Decision-maker	The judge	
1.4. Is a pre-trial expert examination possible ?	Pre-trial expert examination as a legal institution does not exist.	
<b>2. Appointing an expert (or experts)</b>	an official register is lead by the Ministry of Justice	The criteria of becoming a legal expert is strictly regulated. Parties can make proposals ; if there are no proposals or the parties cannot agree, the judge decides. Grounds for recusal are the same, as for judges : if the expert or his spouse has a personal interest in the dispute ; if the expert or his spouse is creditor, debtor to one of the parties ; if the expert or his spouse have family ties or allied to one of the litigants or his spouse ; if the expert mediates/mediated a case in connection with the case ; etc. Expert's withdrawal is possible, but only under limited circumstances such as lack of competence (partly or fully), or only specific expert can answer the question(s) (based on regulation), or there is a conflict of interest. Legal experts must carry out their mission without help from other experts, but other experts can be appointed for subjects for which specific expertise is necessary. If the questions are beyond the expert's area of expertise, he can suggest the court appoint additional experts with the necessary knowledge to confront the specific issues. Thus, adding another expert is possible with the previous agreement of the judge. In the case when the legal expert and the additional expert have diverging opinions, the judge can order for a new expert to be appointed in the panel of competent legal experts.
2.1. Register		
2.2. Oath	Yes	
2.3. Choice of the expert	The judge	
2.4. Participation by the parties in the appointment process ?	Yes	
2.5. Nationality	Irrelevant	
2.6. Recusal by the litigant parties	Possible	
2.7. Expert's withdrawal (refusal of a mission)	Yes	
2.8. Possibility of adding another expert	With the agreement of the judge	
2.9. Possibility of being assisted by a colleague	The judge must be informed together with an indication of the colleague's contribution.	
<b>3. Expert's mission definition</b>		The mission is determined by the judge.
3.1. Who determines the mission ?	The judge	
3.2. Type of missions	Expert opinion	
<b>4. Expert's mission progress</b>		The expert must be able to carry out his mission in due time. The expert has an obligation to inform the judge of any obstructions. The parties are legally required to collaborate. The <i>in situ</i> investigation techniques are contradictory, The court can order the expert to carry out investigations certain inspections with the court, or the litigants, <i>in absentia</i> . The expert's report can be discussed and contested during a hearing in which the expert attends upon request. The judge can ask the expert to give on oral presentation at the hearing.
4.1. Judge supervision	The judge does not get involved in the expert's mission.	
4.2. Form of contradictory procedure	The <i>in situ</i> investigation techniques are contradictory.	
4.3. Participation in the hearing	Upon the judge's discretion.	
<b>5. Close of the expert examination :</b>		The form of the report is primarily written, but can be oral be as well. The written report is communicated to all parties, who then have the right to ask questions either in written form or during a court hearing to which the expert is called. The replies to these questions are an integral part of the report. The end of his mission can be extended if there are additional inquiries to be carried out.
5.1. Does conciliation put an end to the expert's mission ?	Yes	
5.2. Form imposed on the report	The report is primarily written.	

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5.3. Does the report put an end to the expert's mission ?	Not necessarily.	<p>The report must include: the object ; a brief methodological description; professional findings ; the opinion of the expert ; where a case has already been carried out and an expert report is carried out, an assessment of the data and findings relating to the previous investigation ; a reference to the methodological letter or, in the case is made.</p> <p>The judge is not bound by the observations and conclusions of the expert. He is free to accept or not the conclusions and decides at his sole discretion on their objectivity, value and scope. Thus he must look in the expert's report for all the elements of evidence which will help him establish his decision, without being bound by the findings of the report. There is a possibility of a second opinion, but only if there are concerns about the first opinion given by the appointed expert and the concerns cannot be cleared, on an argued request of one of the litigants and if the judge agrees to it. There is a possibility to appoint a body of experts as well for a second opinion.</p>
5.4. Is there an imposed structure for the report ?	Yes	
5.5. Is a preliminary report mandatory ?	No	
5.6. Is the judge bound by the expert's conclusions ?	No	
5.7. Possibility of a second opinion	Yes	
<b>6. Funding for the expertise :</b>		<p>Normally, the requesting party pays a security down payment on the fees and costs. If required, additional payment is possible, if the security payment does not cover his fees and costs.</p> <p>The expert determines his fees and costs. The expert draws up a detailed list of expenses and fees. However, the judge decides on the final amount. In special procedures, regulation determines the expert's fee.</p>
6.1. Security-Payment	Yes	
6.2. Determining the amount of payment due	The judge	
6.3. Possibility of additional payment	Yes	
6.4. Determining fees and costs	The expert	
6.5. Possibility of contesting the fees	Yes	
<b>7. Expert's liability within proceedings</b>		<p>The most important regulations are the Code of Civil Procedure, the Act on Legal Experts, the Code of Criminal Procedure, Regulation on the operation of Legal Experts, and various specific decrees and professional rules.</p>
7.1. Are there any laws governing expert examinations ?	Yes	
7.2. Expert liability	Civil and criminal, disciplinary and ethical.	
7.3. Mandatory insurance for the expert	Not required	
<b>8. The expert's status</b>		<p>Selection criteria is governed by the Act on Legal Experts. Candidates are appointed as experts after following a strict selection procedure including e.g. his specific knowledge to the field for which he seeks accreditation, qualification, length of practice and the length of expert nomination time.</p> <p>Skills are included in the Register.</p> <p>Accreditation is given according to qualifications and experience. Regulation governs the accepted qualifications.</p> <p>The legal expert must take part in the training ordered by ministerial decree every two years. If he does not comply with the registration conditions and training requirements, the expert can be stricken from the expert's register.</p> <p>Supervision can be initiated at the Hungarian Chamber of Legal Expert by the party, but only before the court's final decision. The Ministry of Justice is entitled to start official operational control over the expert's activity. Qualitative report must be sent quarterly to the Hungarian Chamber of Legal Experts. A register of the cases must also be lead.</p> <p>The Code of Conduct established by the Hungarian Chamber of Legal Expert, is in effect.</p> <p>Methodological letters are used.</p> <p>Penalties can be imposed. Reduction of expertise and expertise fee by the court; disciplinary and moral sanctions by the Hungarian Chamber of Legal Experts.</p>
8.1. Existence of selection criteria (accreditation)	Yes	
8.2. Classification of skills	Yes	
8.3. Required qualifications	Accreditation is given according to qualifications and experience.	
8.4. Grant of accreditation	Ministry of Justice	
8.5. Possibility of accrediting a legal person	Yes	
8.6. Validity period for the accreditation	Not limited.	
8.7. Regular assessment tests	Training ordered every two years.	
8.8. Supervision of the expert's mission	Yes	
8.9. Expert's activity report	Yes	
8.10. Code of ethics	Yes	
8.11. Good practices	Yes	
8.12. Possibility of penalties	Yes	
8.13. Laws governing the expert's status	Yes	

## Bibliography

Act XXIX of 2016 on Legal Experts ; Government Decree 210/2005. (X.5.) on the maintenance of the Legal Experts Register ; Government Decree 418/2017. (XII.19.) on the detailed rules of issuing an official certificate to justify the professional nature of the professional experience required for the registration of a legal expert ; Decree n. 9/2006. (II.27.) of the Ministry of Justice on the special areas of legal expertise and on the related necessary qualifications and other professional requirements.