

## **11. HUNGARY**

**Author**  
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### **Other administrative order**

YES

### **I. Procedural rules in calling for an expert examination**

#### *I. 1) On the initiative of*

If the court does not have the required experience to establish or assess facts and circumstances.

The litigant with the burden of evidence is obliged to announce if it requests an expert examination.

#### *I.2) Mandatory expert examinations*

YES

#### *I. 3) Decision-maker*

The judge

#### *I.4) Is a pre-trial expert examination possible?*

UNSPECIFIED

### **II. Choice and appointment of the expert(s)**

#### *II. 1) Register*

There are “judicial chambers” which are territorially competent and a list of legal experts which usually follows the area of nomenclature.

To register, the expert must have the required qualifications and at least five years of experience, unless a ministerial decree states otherwise.

Natural persons, professional associations and companies registered as forensics specialists, as well as expert institutions created with this goal in mind, government agencies, legally authorised institutions or organisations may act as legal experts. The forensic scientist register is held by the Justice and Public Administration Department.

It is possible to appoint a civil servant or a public entity as legal expert.

A legal person can be appointed as legal expert.

In spite of the establishment of official registers, the judges may appoint an unregistered expert when none of the registered expert matches the case’s needs: an occasional expert can be appointed.

A member or employee in a company may act as legal expert only in the field in which he is registered in the forensic scientists register.

If two independent experts’ examinations do not clarify a question which has come up during litigation, the court can appoint a “college of experts”. The member of such a “college of experts”

must have a university degree in the field, an academic title or at least ten years of experience as legal expert in the given field. The members and president of the agency are appointed for five years by the Justice Department with the approval of the Minister in charge of the field in question.

The expert can ask for the contribution of a non-registered person as legal expert as well as the help of unqualified personnel to carry out operations which do not require specific knowledge.

As a general rule, the expert must ask permission or at least notify the authorities. In the experts' report, the answer to the questions given by the consultant must be clearly marked.

## **II. 2) Oath**

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## **II. 3) Choice of the Expert**

Litigants, if not, the judge

## **II. 4) Participation by the parties in the appointment process**

If the litigants agree, the judge is bound by their decision.

## **II. 5) Nationality**

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## **II. 6) Recusal by the litigant parties**

In civil law, grounds for recusal are the same as those that apply to judges.

*NB. Some European legislations, such as Hungary's, more generally refer to codes of ethics applicable to experts.*

The court can appoint another expert to replace the one originally appointed.

If the court has appointed an expert on the basis of the litigants' mutual consent, he can only be appointed if the previous expert is late in submitting his report or if he is unable to carry out his responsibility for one of the recusal reasons or for another important reason.

## **II. 7) Expert's withdrawal (refusal of a mission)**

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## **II. 8) Possibility of adding another expert**

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.

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: multiple expert examinations are thus made available for the judge to rule on the dispute.

## **II. 9) Possibility of being assisted by a colleague**

YES

## **III. Definition of the expert's mission**

### **III. 1) Who determines the mission?**

The judge

### **III. 2) Type of mission**

If the expert discovers an offense which is not in the mission's parameters or if he learns of the intent to commit an offense which might endanger the life or health of another person, he is obliged to tell his supervisory authority, the judge.

He must also notify the court if he cannot end his mission within the original deadline

## **IV. Progress of the expert's mission**

### **IV. 1) Judge supervision**

The expert's reports are prepared under the judge's supervision

### **IV. 2) Form of contradictory procedure**

The court can order the expert to carry out investigations and inspections with the court, or the litigants, *in absentia*.

### **IV. 3) Participation in the hearing**

On request

## **V. Close of the expert examination**

### **V. 1) Does conciliation put an end to the expert's mission?**

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### **V. 2) Form imposed on the report**

According to the proceedings regulations, the expert gives an oral statement with the litigants present.

In reality, the expert submits his report in writing and only gives an oral statement if necessary.

If the court believes it necessary, the expert can be summoned.

### **V. 3) Does the report put an end to the expert's mission?**

UNSPECIFIED

**V. 4) *Is there an imposed structure for the report?***

UNSPECIFIED

**V. 5) *Is a preliminary report mandatory?***

UNSPECIFIED

**V. 6) *Is the judge bound by the expert's conclusions?***

The expert's conclusions do not bind the court, the judge takes them into account as any piece of evidence.

**V. 7) *Possibility of a second opinion***

If the expert's opinion is unclear or incomplete, if it is in itself contradictory or contradicts the opinion of another expert, or if it hides certain established facts which can be substantiated, or if there is a doubt as to its authenticity, the expert can be asked to provide information necessary to the request by the court, and the court can decide to appoint another expert.

## **VI. Funding for the expert examination**

**VI. 1) *Security-Payment***

Normally, the requesting litigant pays a security on the fees and costs.

In complicated cases, the judge can order the legal expert to draw up a preliminary operation plan with estimated costs and fees incurred.

The litigant with the burden of evidence is obliged to announce if it requests an expert examination.

**VI. 2) *Determining the amount of payment due***

The judge

**VI. 3) *Possibility of additional payment***

YES

**VI. 4) *Determining fees and costs***

When the expert has submitted his report or given his oral statement, the court determines the fees and costs incurred, which can be contested either by the expert or the litigants.

The court orders the amount to be paid to the legal expert either from the amount paid down in security by the requesting litigant, or from the payments subsequently due by the unsuccessful litigant.

**VI. 5) *Possibility of contesting the fees***

YES

## VII. Expert liability within proceedings

### *VII. 1) Are there any laws governing expert examinations?*

The most important legal texts which regulate legal experts are the Code of Civil Procedure, the Law on the Chamber of Legal Experts, the Code of Criminal Procedure, the Law on the Extent of Legal Experts' Activities, and on the Appointment of Legal Experts and various specific decrees.

### *VII. 2) Expert liability*

YES

Civil and criminal

### *VII. 3) Mandatory insurance for the expert*

UNSPECIFIED

## VIII. The expert's status

### *VIII. 1) Existence of selection criteria (accreditation)*

Code of Civil Procedure

### *VIII. 2) Classification of skills*

UNSPECIFIED

### *VIII. 3) Required qualifications*

UNSPECIFIED

### *VIII. 4) Grant of accreditation*

UNSPECIFIED

### *VIII. 5) Possibility of accrediting a legal person*

UNSPECIFIED

### *VIII. 6) f) Validity period for the accreditation*

UNSPECIFIED

### *VIII. 7) Regular assessment tests*

The legal expert must take part in the training ordered by ministerial decree.

If he does not comply with the registration conditions and training requirements, the expert can be stricken from the expert's register.

### *VIII. 8) Supervision of the expert's mission*

UNSPECIFIED

### *VIII. 9) Expert's activity report*

YES



**VIII. 10) Code of ethics**

UNSPECIFIED

**VIII. 11) Good practice**

Ministerial decree

**VIII. 12) Possibility of penalties**

If the expert is at fault, for example with an undue delay, the court can mandate a fine.  
An absent expert can find himself arrested and detained.

**VIII. 13) Laws governing the expert's status**

YES

**IX. Bibliography**