

CIVIL LEGAL EXPERT EXAMINATION IN SLOVAKIA



(SUBJECT TO LEGAL OR JURISPRUDENTIAL DEVELOPMENTS)

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Questions	Answers	Observations
0. Other administrative order	No	
1. procedural rules in calling for an expert examination	The judge or the party (or parties) to the proceedings.	The Judge may appoint an expert upon the request of the party (in litigious proceedings) or upon judge's own discretion (in non-litigious proceedings). Parties to the proceedings may present a private expert statement as a piece of evidence.
1.1. On the initiative of :		
1.2. Mandatory expert examinations	Yes	No mandatory expert examinations in the civil litigious proceedings. In the non-litigious proceedings the expert statement is mandatory in the proceedings on the legal capacity of natural persons and the proceedings on detention in the healthcare institution
1.3. Decision-maker	The judge	
1.4. Is a pre-trial expert examination possible ?	Yes	
2. Appointing an expert (or experts)		
2.1. Register	Yes	The party may choose an expert exclusively from the list (register) kept by the Ministry of Justice (MoJ). The judge is supposed to preferably choose the expert from the list of the MoJ.
2.2. Oath	Yes	
2.3. Choice of the expert	Choice exclusively from the list kept by the Ministry of Justice.	If there is no expert for the desired field of activity in the official list or if the registered expert is not able to act the judge may select and appoint an "ad hoc" expert.
2.4. Participation by the parties in the appointment process ?	Yes	Recusal by the litigant parties is possible if the parties consider that the expert lacks impartiality. However, the decision lies with the judge.
2.5. Nationality	All	Expert's withdrawal (refusal of a mission) is possible, if there is a risk of conflict of interests or a doubt on the expert's independence and impartiality. The expert may refuse the mission if his/her tasks are beyond his/her expertise qualification.
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	Yes	
2.9. Possibility of being assisted by a colleague	Yes	
3. Expert's mission definition		
3.1. Who determines the mission ?	The judge or parties	The mission is determined by the judge, if the expert is appointed by the court, or by the party, if the statement of a private expert is required.
3.2. Type of missions	All	
4. Expert's mission progress	Yes	
4.1. Judge supervision		In the case of a court appointed expert the judge can oblige the parties to cooperate with the expert, if this is necessary for him to accomplish his mission. In the litigious procedure the parties may comment the findings and conclusions of the expertise, they are entitled to ask questions. In non-litigious procedures, the court takes into consideration the comments of the parties.
4.2. Form of contradictory procedure	Form is different depending on whether it is a litigious or non-litigious procedure.	
4.3. Participation in the hearing	Upon the judge's discretion or the party's motion.	
5. Close of the expert examination :		
5.1. Does conciliation put an end to the expert's mission ?	Yes	Written report is preferred, oral report is possible as well. Generally the report put an end to the expert's mission, but the expert can also be summoned to the hearing.
5.2. Form imposed on the report	Written report is preferred	

Questions	Answers	Observations
5.3. Does the report put an end to the expert's mission ?	Generally yes	Provision is made in Law N° 382/2004 and Ordinance N° 490/2004 of the formal requirements regarding the structure of the report. In general, the judge is not bound by the expert's conclusions. The expert statement is one of the means of proof. The judge is obliged to evaluate all evidence in their mutual context. The judge has to give his/her written reasonings in the judgement. The reasonings must provide a response to the essential circumstances of the case and the legal arguments including assessment of evidence provided.
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 ?	Not in general	
5.7. Possibility of a second opinion	Yes	
6. Funding for the expertise :		Judge (or court clerk) is determining the amount of payment due upon the tariff published by the MoJ. The tariff published in the form of Ordinance of the MoJ determinates the methods of calculation of the fees and costs. The final fees and costs of the court appointed expert are determined by the court decision. The fees and the costs of the private expert statement are borne by the party. The decision of court clerk on the fees and costs of the expert may be reviewed by a judge.
6.1. Security-Payment	Yes	
6.2. Determining the amount of payment due	Judge (or court clerk)	
6.3. Possibility of additional payment	Yes	
6.4. Determining fees and costs	According to the tariff published in the form of Ordinance of the MoJ.	
6.5. Possibility of contesting the fees	Yes	
7. Expert's liability within proceedings		Law N° 382/2004 stipulates that in order to be registered, experts must swear an oath before the Ministry of Justice and swear to respect the constitution, the law, and more generally all the mandatory rules and ethical principles (moral and ethical) of expertise. Henceforth experts must have professional insurance covering damages up to 33193 euros.
7.1. Are there any laws governing expert examinations ?	Yes	
7.2. Expert liability	Civil liability	
7.3. Mandatory insurance for the expert	Yes	
8. The expert's status		Under Act No. 382/2004 Coll. on experts, interpreters and translators, legal experts are classified in fields and subfields, which are specified by Directive of the Ministry of Justice No. 7/2009 on the organisation of the work of experts, interpreters, and translators. Required qualifications : full legal capacity ; clean criminal record ; training/practice of at least 7 years in the chosen field ; education (II. university degree if possible, otherwise the highest possible) in the chosen field ; successful completion of the experts professional exam ; successful completion of the specific education concerning the legislation on the expert activity ; sufficient material equipment ; no sanction of expert activity ban or removal from the register has been imposed in previous three years oath Code of ethics and good practice only within professional associations. Possibility of penalties ; depends e.g. on the gravity of misconduct the expert is found guilty of : written warning ; fine ; expert activity ban for maximum period of one year ; removal from the register Laws governing the expert's status : Act No. 382/2004 Coll. on experts, interpreters, and translators ; Act No. 160/2015 Coll. Code of Civil Litigation Procedure ; Act No. 301/2005 Coll. Code of Criminal Procedure ; Ordinance 490/2004 ; Ordinance 491/2004 on the payment of experts ; Ordinance 492/2004. Ministry of Justice has permanent access to the compulsory electronic experts journal.
8.1. Existence of selection criteria (accreditation)	Yes	
8.2. Classification of skills	Yes	
8.3. Required qualifications	A list of qualifications has been established.	
8.4. Grant of accreditation	Ministry of Justice	
8.5. Possibility of accrediting a legal person	Yes	
8.6. Validity period for the accreditation	Indefinite tenure	
8.7. Regular assessment tests	Generally every five years	
8.8. Supervision of the expert's mission	Yes	
8.9. Expert's activity report	Yes	
8.10. Code of ethics	No	
8.11. Good practices	No	
8.12. Possibility of penalties	Yes	
8.13. Laws governing the expert's status	Yes	

Bibliography

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