

# Find an Expert II : The consensus conference

**Presentation and public debates WP2-WG3**

*Assessing that the requirements are met*

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Higher Regional Court  
Cologne, Germany

**Official project  
partners**



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...with support from the Secretariat.

## Working Group 3

# What is our task?

### ***Definition, who?***

*What?*

Assessing that the requirements are met

Definition of requirements for experts to be registered in and stay on directory,

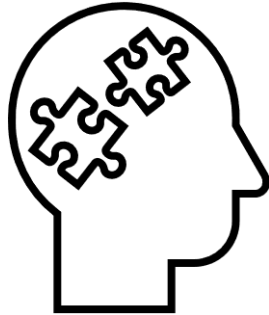
In terms of:

- Professional qualifications / education and professional experience
- Knowledge on procedural rules
- Ethics / Ethical behaviour

# Part 1: Competence - Qualifications - Experience

Verification  
of  
competence

Verification of  
professional  
qualifications  
/education



Verification  
of  
professional  
experience

## Verification of competence, professional qualifications / education and professional experience

- Majority of countries ask for **submission of diploma or certificates of professional education or training**
- Majority of countries ask for **CVs**.
- **Reference letters** less frequently.
- Minority of countries ask for **evidence of expert experience** or **written reports** to be submitted.
- Few countries ask for proof of (reporting) skills as an expert/ might be a diploma from a practical course for the judicial expert.

Each country has its own criteria and/or proceedings on how to assess the value and authenticity of a diploma.

# Verification of competence, professional qualifications / education and professional experience

## Initial registration as a judicial expert

### Recommendation:

- Applicants should produce evidence of a vocational or academic education or training.
- In some cases, proof of a minimum of five years of professional experience may also be considered sufficient.
- Evidence of MPA (membership in a professional association) is supportive but should not be mandatory.

## Evidence to be assessed

### Recommendation:

- Diplomas or certificates from a registered issuer.
- CV with a number of years of experience.
- References of employers or clients.

## Constraints on registering bodies

### Recommendation:

- Issuer of diploma, genuineness and value of diploma should be easily verifiable => assessment of evidences made at national level (no EU-wide database on diploma grading or equivalence).

# Verification of competence, professional qualifications / education and professional experience

## Renewal of registration as a judicial expert

### Recommendation:

- Proof of CPD<sup>1</sup> should be submitted with the Application.
- A written report can be submitted for review as well but should not be mandatory because some experts are rarely appointed due to the nature of their expertise.

## Evidence to be assessed

### Recommendation:

- CPD courses attendance certificates

<sup>1</sup> *continuous professional development*

# Should a "university grade" be mandatory to apply as an expert?

## Arguments against (CON)

- Some regulated professions in EU require an academic education; some require secondary school or attestation of competence by relevant body.
- Expert can be qualified by knowledge, skill, experience, training, or education;
- Expert's expertise can be based on experience alone or experience in conjunction with training/education.

## Arguments in favor (PRO)

- High-level education provides special knowledge & skills;
- Those professionals enjoy high status and public prestige also public trust.
- They adhere to ethical standards are committed to competence, integrity and morality.

# Part 2: Knowledge - Procedural rules

## Verification of knowledge of procedural rules?

The verification of knowledge on procedural rules **varies in wide range across the countries**: from a practical exam, an oral exam or an informal meeting

The main criteria used by the countries (information from the Questionnaire) to ensure that the Applicant has procedural knowledge are:

- **Formal training** as a judicial expert by an institute,
- **Oral or/and written exam** on procedural subjects,
- **Traineeship** by an experienced expert, **references and letters** by courts, judges,
- **Assessment of procedural knowledge** by committees composed of magistrates and experts, and other.

Some countries don't require procedural knowledge at all.

# Verification of knowledge of procedural rules?

## Initial registration as a judicial expert

### Recommendation:

- The Applicant should prove that they attended a course on procedural knowledge and pass successfully a subsequent test. The Applicant should also submit evidence of adherence to a code of conduct/practice.

## Evidence to be submitted

### Recommendation:

- Certificate of course attendance together with program and test-success issued by training body.
- Undersigned code of conduct/practice document.

## Constraints for the registering bodies

### Recommendation:

- Such courses and code of conduct should be developed when they are not available => one may use - as foundations.
- The Code of conduct in the EGLE-project report and also the Code of practice from EuroExpert.

## Verification of knowledge of procedural rules?

### Renewal of registration as a judicial expert

#### Recommendation:

- Procedural rules generally do not change a lot over time.
- Experience as a judicial expert demonstrated by an activity report is therefore sufficient proof of knowledge on proceedings.

### Evidence to be assessed

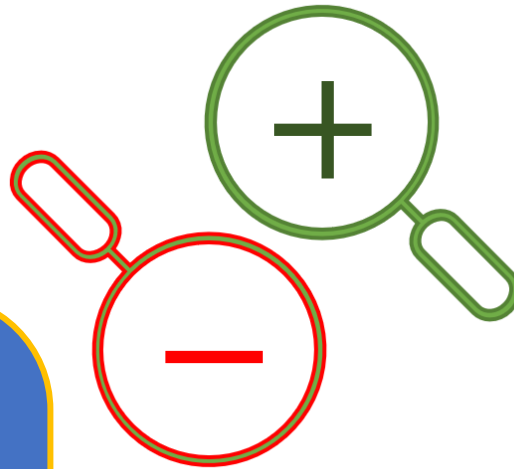
#### Recommendation:

- Recent activity report as judicial expert

# Should attending a specific training in procedural knowledge be required to apply as an expert?

## Arguments against (CON)

- In many countries attending education in procedural knowledge is not mandatory for the experts because it is usually transferred from the senior experts to experts that have just entered the profession.
- Work in multidisciplinary team of the experts allows junior experts to obtain procedural knowledge, terminology and the structure of the report and behavior in the courtroom from senior experts.



## Arguments in favor (PRO)

- A person can be an excellent expert and yet not suitably trained for preparation and presentation of an expertise in the courtroom.
- Training in the procedural knowledge allows expert to deliver an expertise best to their knowledge to help judges to understand certain issue and to make fair decision.

## Part 3: Ethics – ethical behaviour

## Verification of ethics / ethical behaviour

- Most countries attach **importance to ethical behaviour** requesting from an expert to take oath to **adhere to the code**.
- In some countries **the oath** is taken after registration.
- In some countries, the **practical exam** is proof of the expert's awareness of the concepts such as independence and impartiality.

## Verification of ethics / ethical behaviour

### Initial registration as a judicial expert

#### Recommendation:

- The Applicant shall produce an official proof of good conduct (ex.: state-issued certificate of no-criminal record) and references on their ethical behaviour delivered by legal professionals (for instance, judges, prosecutors, lawyers or already registered experts).

### Evidence to be assessed

#### Recommendation:

- Certificate of good conduct.
- Reference letters.

### Constraints for the registering bodies

#### Recommendation:

Evidence issuers should be easily verifiable => assessment of evidences made at national level.

### Renewal of registration as a judicial expert

#### Recommendation:

The Applicant shall produce a renewed version of the state issued document provided in the initial Application.

## Part 4: Additionnal values

## Additional values

### Initial registration as a judicial expert

#### Recommendation:

- The basic awareness of universal concepts such as „independence and impartiality“, their practical impact in a litigation context could also be assessed via a harmonized online-MCT<sup>1</sup>.

### Evidence to be assessed

#### Recommendation:

- Proof of successful MCT.

### Constraints for the registering bodies

#### Recommendation:

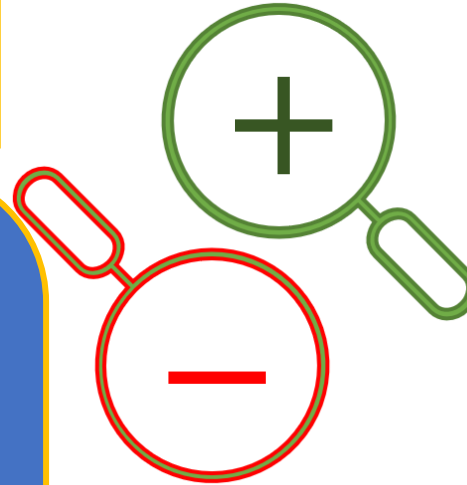
- None : see discussion on next page.

<sup>1</sup>MCT : Multiple choice online-test

Is an MCT (multiple choice test) an efficient tool to measure Applicants' awareness of the main principles of fair trial ?

### Arguments against (CON)

- By complying with the suggested ethical codex, Experts are committed that their expertise is based on their competence and qualification for subject issue, their probity, objectivity, loyalty to the truth, independence and impartiality.
- Ethical codex already provides that experts should be aware of principles of fair trial where their role can contribute to the fairness such as effectively use time to complete an expertise, refuse the assignment in case of conflict of interest/incompetency to the specific issue/work overload.



### Arguments in favor (PRO)

- Such a questionnaire would enable a uniform and EU-wide assessment. The tool would need little effort both to maintain and to make available to the registering bodies.



## Part 5: Further remarks

### Duration of registration

- 12 MS have a practice of registering once for a lifetime.
- 7 MS register for a initial period of 5-6 years with a possibility to renew the registration.
- 4 MS register for between 1 to 4 one to years (same).

### Requirements for renewal

- 10 MS request proof of CPD<sup>1</sup>,
- 3 MS Request report on activity as a judicial expert

<sup>1</sup> *continuous professional development*

### Duration of periods for initial and renewal registrations

#### Recommendation:

- It seems reasonable to recommend an initial registration for a limited period, which is effective in almost 50% of MS.
- For both initial and renewal registrations, a recommended duration of 5-years should meet a fair level of approval.

### Oath/Codex

#### Recommendation:

- Almost 50% of the MS ask for either an oath after registration or the formal approval of a charter document as part of the pre-registration procedure.
- A recommendation based on this alternative option should meet an acceptable level of approval.

## Further remarks

**Recommendation:**

### Liability insurance requirement

- Evidence of liability insurance may help to demonstrate the Applicant's understanding of the importance of his future role.
- However, such evidence is only required in five MS and checking an additional document would also induce workload for the registering body.
- To avoid this inconvenience, WG3 recommends that this requirement be listed in the suggested charter (code of good conduct).

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# Merci / Thank you !

## Questions / Discussion



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