

CIVIL LEGAL EXPERT EXAMINATION IN LATVIA



(SUBJECT TO LEGAL OR JURISPRUDENTIAL DEVELOPMENTS)

Source : European expertise & expert institute

Tous droits de reproduction réservés / Copyright reserved

Corresponding contributor : Linda Strazdina (Assistant to the First President of the Supreme Court)

Authors : Philippe Jacquemin (Expert, EEEI Vice-President)
& Béatrice Deshayes (Avocat & Rechtsanwältin - Partner HW&H)

Update by : Dace Šulmane (adviser, Secretariat for the Judicial Council)

KEYWORDS : LEGAL EXPERT EXAMINATION / LATVIA - REF. : JJ, C, O5, O1

Questions	Answers	Observations
o. Other administrative order	Yes	
1. procedural rules in calling for an expert examination		A Court shall, upon a request from a party, order expert-examination in a case where specific knowledge in science, technology, art or another field is required to clarify facts relevant to the case. If necessary, a Court may order several such examinations. Expert examination shall be carried out by the persons laid down in the Law on Forensic Experts. The parties shall select the expert, upon mutual agreement, but if such agreement is not reached within the time limit set by the Court, the expert shall be selected by the Court. If necessary, several experts may be selected. If the appointment does not satisfy the Court or if the litigants disagree, the magistrate makes the decision.
1.1. On the initiative of :	A party	
1.2. Mandatory expert examinations	Only in criminal trials	
1.3. Decision-maker	The magistrate, in some cases	
1.4. Is a pre-trial expert examination possible ?	No	
2. Appointing an expert (or experts)	Two kinds of experts : state legal ; private	Two kinds of experts : state legal experts, holding a qualification valid for five years ; private experts holding accreditation from the government in the case where no legal expert had the necessary skills. Oath : for State experts, once only ; for private accredited experts, every time. Appointment by consensus : the judge has the final decision if the litigants' choice does not fulfil the conditions set by the Court. An expert may not participate in an examination of a case, if they have previously been a judge or a participant in examination of the case, and in cases as provided for in Section 19, Paragraph one, Clauses 2, 3 and 4 of this Law. Where the abovementioned circumstances exist, the expert shall withdraw prior to the commencement of the trial of the case. Removal of an expert shall be applied for, and a decision made by the Court in regard thereto, in accordance with the procedures laid down in Sections 20 and 21 of this Law. If the expert does not withdraw, participants in the case have the right to apply for removal of the expert on the bases referred to in this Section. The judge can appoint an expert panel that will jointly sign the report and is collectively responsible for it.
2.1. Register	Yes	
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	choice biased towards nationality	
2.6. Recusal by the litigant parties	Unspecified	
2.7. Expert's withdrawal (refusal of a mission)	not competent, not independent...	
2.8. Possibility of adding another expert	Yes	
2.9. Possibility of being assisted by a colleague	Yes	
3. Expert's mission definition	The judge	In civil law, the litigants may request an expert examination from the Court. A Court decision on the ordering of expert-examination shall specify what issues an expert opinion is required in regard to and whom the performing of the expert-examination has been assigned to.
3.1. Who determines the mission ?	The judge	
3.2. Type of missions	The expert cannot be assigned with determining legal facts.	
4. Expert's mission progress	Unspecified	This principle bears no relation to the expert's work. When carrying out his mission, the expert is independent. He has the right to review materials in the case, to question the participants and witnesses in the case, and to ask the Court to require additional materials. Participants in the case have the right to submit to the Court questions regarding which expert opinion must be provided. The Court shall determine issues requiring an expert opinion. The Court shall indicate grounds for rejection of issues submitted by participants in the case. Expert-examination shall be performed in the Court, or outside the Court if its performance in the Court is impossible or is problematic. A person selected as an expert must attend pursuant to a Court summons. An expert may also be examined by using a video conference at the Court based on the location of the expert or at the place specially equipped for such purpose. If an expert who has been summoned fails to attend the Court hearing for reasons that the Court finds unjustified, the Court may impose on the expert a fine of up to EUR 60.
4.1. Judge supervision	Unspecified	
4.2. Form of contradictory procedure	This principle bears no relation to the expert's work.	
4.3. Participation in the hearing	On request	

Questions	Answers	Observations
5. Close of the expert examination :		
5.1. Does conciliation put an end to the expert's mission ?	Unspecified	The report must answer all the questions asked, describe the process that was followed, the methods used, and the measures taken by the expert to reach his conclusions. The expert can be asked to provide more details or more information in his report and/or to answer questions during the hearing. If the expert opinion is not clear enough or is incomplete, a Court may order a supplementary expert-examination, assigning performance thereof to the same expert. If, when performing the expert-examination, an expert finds circumstances that are significant in the case and the expert has not been questioned regarding them, he or she is entitled to indicate such circumstances in the opinion. Where an expert opinion is not justified or the opinions of several experts contradict one another, the Court may order a repeated expert-examination, assigning performance thereof to another expert or experts.
5.2. Form imposed on the report	Yes. Written.	
5.3. Does the report put an end to the expert's mission ?	No	
5.4. Is there an imposed structure for the report ?	No	
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	
6. Funding for the expertise :		
6.1. Security-Payment	Unspecified	In civil law, for "private" expert examinations, the fees and costs are set by mutual understanding. For legal expert examinations, the fees are set by a ruling of the Council of Ministers.
6.2. Determining the amount of payment due	Unspecified	
6.3. Possibility of additional payment	Unspecified	
6.4. Determining fees and costs	In civil law, set by mutual understanding	
6.5. Possibility of contesting the fees	No	
7. Expert's liability within proceedings		
7.1. Are there any laws governing expert examinations ?	Yes	An expert may refuse to provide an opinion, if the material provided for their examination is not sufficient, or if the questions asked are beyond the scope of the special knowledge of the expert. In such cases the expert shall notify the Court, in writing, that it is not possible to provide an opinion. For refusal to perform their obligation without justified cause or for intentionally providing a false opinion, the expert shall be liable in accordance with the Criminal Law.
7.2. Expert liability	Civil and criminal	
7.3. Mandatory insurance for the expert	No	
8. The expert's status		
8.1. Existence of selection criteria (accreditation)	Yes (accreditation and certification procedures are not specified)	There is a classification of expert skills set by each State based on the area of expertise and methods used. For other fields, the experts are classified along the usual skills in matters of expert opinions. The requirements to apply for legal expert accreditation are set by the law which States, beyond the need to be independent, the expert's duties: to give an objective and scientifically based opinion on all his missions ; to refuse any mission outside of his area of knowledge ; to carry out his mission according to the Code of Procedure, acknowledged methods, scientifically approved and authorised by the Council of legal experts ; to only communicate the results to the persons allowed to receive them (confidentiality) ; to respect the person, especially a child, who might be the object of his expert examination ; to regularly maintain his level of skills. An expert commission can be created to cover more than one speciality. The expert is a natural person, there is no private expert structure in Latvia. There is a supervising institution ("Board of legal experts") which periodically organises accreditation, decides on potential suspensions or strikes from the register, supervises and controls the activity of legal experts. Accredited experts are represented by an association: the "Latvian Association of Independent Experts". A guide to good practice has been published for experts of the various specialisations, but it is not compulsory. In administrative and civil law : possible punishment with a fine.
8.2. Classification of skills	Set by each State	
8.3. Required qualifications	Unspecified	
8.4. Grant of accreditation	By the Justice Department	
8.5. Possibility of accrediting a legal person	No	
8.6. Validity period for the accreditation	5 years	
8.7. Regular assessment tests	By a supervising institution	
8.8. Supervision of the expert's mission	Yes (Qualitative and quantitative)	
8.9. Expert's activity report	Unspecified	
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	

BibliographyCivil Procedure Law / <https://likumi.lv/ta/en/en/id/50500-civil-procedure-law>