

Remuneration of Experts in Europe



**A Comparative Study of
Remuneration Systems
in Europe**

2016 Update

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FOR EUROPEAN
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Remuneration of Experts in Europe

The role of Experts is regularly changing which is reflected in the growing legal and economic cross-frontier relationships between the European States. The demand for well qualified and experienced Experts who are able to use their skills on an international level is also growing. It is therefore important that Experts are working to common standards irrespective of the arena of law in which they are operating. The adoption of the EuroExpert Code of Practice alongside with the core curriculum for training Experts and report standards make this possible.

There are many interesting questions relating to the practice and use of Experts as well as to the regulations for those practising. It is not surprising that there are many similarities across the systems but there are also a number of differences particularly in the way that Experts are appointed and instructed. It is for this reason that EuroExpert has since its inception undertaken a number of studies focusing on some of these areas. It is important for both Experts and those instructing and using them to understand these differences.

Not surprisingly some topics are of considerable importance to Experts as well as their users. Some of the most frequently asked questions are about the remuneration system for Experts, the level of fees and what can and cannot be charged. EuroExpert has, therefore, updated its previous study comparing the similarities and differences between the systems which highlights some interesting points.¹

The standardisation of the questions makes it possible to evaluate where the systems are similar and of course their differences. The current study was responded to by the following countries: Austria, Croatia, Czech Republic, Germany, Hungary, Netherlands, Poland, Portugal, Russia, Spain and the United Kingdom (UK). It is important to note that all but one of the respondents operate under the Civil Law System (the exception being the UK) where there is generally more codification and regulation than in the Common Law System.

Interestingly, despite the differences in the basic system of laws, the analysis has shown that the deviations of the systems are slight and there are more similarities than might be expected. As a general rule the remuneration of Court Appointed Experts or Experts appointed by public authorities is primarily based on a legally prescribed scale of charge. The UK is an exception in that, whilst there are prescribed charges for publicly funded (Legal Aid) work, Experts are primarily appointed privately with the basis for fees being agreed by market forces and contract.

Experts' fees are usually calculated on an hourly rate irrespective of the jurisdiction and most importantly in all countries there is a prohibition on the fee being either based on, or dependent on, the outcome of the case. This highlights the fact that independence, impartiality, objectivity and integrity for the Expert are paramount. These fundamental concepts are fully enshrined in the work of EuroExpert.

There are many other similarities such as the process for being paid and what additional charges can be made. It is clear that irrespective of the system Experts often encounter the same difficulties in actually receiving the fees and there can be a considerable delay in payment. The most startling difference is the wide range of fees that are can be or are charged. The fee level is often much lower than one might expect for an Expert and in some cases is even lower then they might expect to attract in the normal course of their professional activities. This discrepancy can lead to considerable challenges for both Experts and those instructing them as well as to overall administration of the Justice system.

1 The previous study (2010) can be found at www.euroexpert.org/downloads.

The Survey Questions

- 1 Are Expert fees the same for criminal and civil matters?
If no, please prepare two sets of answers one marked “civil” and the other “criminal”.
- 2 Is there a legally prescribed scale of charges for Experts in your country for:
 - Court Appointed Experts?
 - Experts appointed by public authorities?
 - Experts appointed by a private client?
- 3 What are the criteria for calculating the compensation/remuneration?
 - Hourly rate?
 - Based on value of the claim/amount of damage?
 - Based on outcome of case?
- 4 Are there differences in the scale of payment between the various specialisations of the Expert (eg medical, IT, construction)?
- 5 Is the degree of difficulty to formulate an expert opinion a reason for a different compensation?
- 6 Are additional payments (beyond the proper or agreed fee) permitted?
- 7 Is the Expert permitted to have assistance when preparing expert opinions?
- 8 What is the range for Expert’s fees (show highest and lowest)?
Is there an average or usual fee for an Expert?
- 9 Can the Expert receive either fees in advance or stage payments?
- 10 Can there be deviations from any fee tariff that is in force?
- 11 How does the Expert ensure that he is paid and what remedies are available to him if he is not?
- 12 Do Experts charge cancellation fees?

LANGUAGE

This document is in English which is not the first language of most of the respondents to the Questionnaire. Other than very minor amendments for clarification, the language used is that of the Respondent.

No attempt has been made to modify the words as we believe it is important not to interfere with the original answers.

Abbreviations used in this document

CAE		- Court Appointed Expert
CPR	England & Wales	- Civil Procedure Rules
FEA	Austria	- Fees Entitlement Act
JRAA	Germany	- German Judicial Remuneration and Allowances Act (Justizvergütungs-und-entschädigungsgesetz)
NRGD	Netherlands	- Netherlands Register of Court Experts (Nederlands Register Gerechtelijk Deskundigen)
PAE		- Party Appointed Expert
RCP	Portugal	- Regulamento das Custas Processuais
UC	Portugal	- Unidade de conta. 1 UC = €102
UK	England & Wales	- The term United Kingdom (UK) is used in this response. However the UK consists of three jurisdictions: England & Wales, Scotland and Northern Ireland. There are differences in each jurisdiction. The answers given here relate to England & Wales although the general principles will also apply to the other two jurisdictions.

Are Expert fees the same for criminal and civil matters

1


Table 1

Are Expert fees the same for criminal and civil matters

	Yes/No
Austria	x
Croatia	✓
Czech Republic	✓
Germany	✓
Hungary	x
Netherlands	✓
Poland	✓
Portugal	✓
Russia	x
Spain	x
United Kingdom	x

Austria

 NO

 In criminal matters in which mostly the state has to pay the fees, primarily the Expert can claim tariffs, listed in a catalogue of standard services (eg doctors, vehicle matters). If there are no tariffs or it is not a prescribed standard service, the Expert can claim a fee according his income outside of court reduced by 20%. As any tariffs (eg for doctors) are not cost effective the remuneration in criminal matters is inferior to civil matters. In civil matters the law widely refers to the income for work outside of court.

Croatia



YES

There is only one provision in the Rulebook on permanent court expert witnesses (hereinafter: the Rulebook) this applies to both civil and criminal matters as the Ordinance does not envisage any differences. This relates to payments of Expert fees to Experts in cases when the Court of Attorney's office appoints the Expert: *"Where the Expert fee is payable from the court or attorney's office budget it will be decreased by 20% from the prescribed value of point from article 24, paragraph 2."*

Czech Republic



YES

The Court Appointed Expert (CAE) fees are the same for criminal and civil matters.

Germany



YES

In civil and criminal matters, where an Expert is appointed, he is paid on the basis of the German Judicial Remuneration and Allowances Act, JRAA (Justizvergütungs-und-entschädigungsgesetz).

Hungary



NO

In a case of criminal matters the fees are determined in a regulation. In civil matters the Expert can adopt this, but can also deviate from it. He will specify his fee according to the latest regulation. The Expert informs the judge about the fee to be expected, he informs the parties, the Expert declares about the deadline and the fee for the expert opinion. Depending on these, a decision will be made on the appointment of the Expert and the appointment will be confirmed or withdrawn.

It is also the custom that the judge orders the parties to make a deposit for the fees.

Netherlands



YES

Experts' fees are in principle the same for criminal, civil and administrative matters. These are:

- Expert fees for civil matters: article 26 of the 'Court Fees for Civil Matters Act' and article 2 (1) of the Court Fees for Civil Matters Decree.
- Expert fees for administrative matters: article 8:36 of the General Administrative Law Act and article 2 (1) b of the Court Fees for Administrative Matters Decree.
- Expert fees for criminal law: Court Fees in Criminal Cases Act and Court Fees in Criminal Cases Decree 2003.

Poland



YES

The fees are the same for both criminal and civil matters.

Portugal



YES

The charges for Court Appointed Experts are not prescribed differently for criminal and civil matters.

Russia



NO

There is no legally prescribed scale of charges for Experts in Russia. That's why it is not possible to compare fees in civil and criminal cases.

Spain



NO

They are different. Usually, the fees for criminal matters are lower than for civil but it depends also on the matter that has to be examined.

United Kingdom



NO

Generally speaking there are differing fees for civil and criminal work. This is not absolute as some Experts charge the same fees for both. Where there is a difference rates for criminal work tend to be lower than for civil work.

NOTE 1:

In the United Kingdom (UK) the underlying system for the remuneration of Experts is 'market forces'. In other words it is the amount which a client is prepared to pay and for which the Expert is prepared to undertake the commission. In practice there tends to be a broad range for fees which are acceptable to both clients and Experts.

The major exception to the market forces process is for 'publicly funded' work often known as 'legal aid'. This is not when a public authority appoints an Expert but is to increase access to justice for those who cannot afford to pay for legal assistance. In this case State funds are intended to cover the costs. In practice legal aid applying to Experts' fees is sparsely applied and is to be found mainly in criminal cases and in the Family courts for children cases. In legally aided cases there are scales of fees which are payable.

NOTE 2:

The actual rate of fees (for example £x per hour) will usually be determined by 'market forces'. Included within this term will be factors such as discipline; specialism; experience; qualifications; seniority; time-scale for the work; geographical location of the Expert. All work undertaken by an Expert should be governed by the principle of proportionality.

NOTE 3:

In these answers we deal with the fees payable to the Expert, normally by those parties for which the evidence is being presented. However the underlying principle is that the losing party pays the legal costs of the winning party (known as 'costs follow the event'). These costs are paid to the party and are rarely the full fee which has been charged by the Expert. Therefore the costs recovered in this way only defray the party's expenditure but the Party is still responsible for paying their Expert's proper fee.

Is there a legally prescribed scale of charges for Experts

- 1 Court Appointed Experts
- 2 Experts appointed by public authorities
- 3 Experts appointed by a private client

Table 2
Legally prescribed scale of charges for Experts

	Court Appointed	Public Authority	Private Client
Austria	✓	✓	✗
Croatia	✓	✗	✗
Czech Republic	✓	✓	✗
Germany	✓	✓	✗
Hungary	✓	✓	✗
Netherlands	✓	✓	✓
Poland	✓	✓	✗
Portugal	✓	✓	✓
Russia	✗	✗	✗
Spain	✗	✗	✗
United Kingdom	✗	✗	✗

Austria

1 - YES

The charges of Court Appointed Experts are prescribed in the 1975 Fee Entitlement Act (FEA). It also includes the procedure for claiming and quantifying the fees and the different elements the Expert can claim.

2 - YES

The Expert appointed by a public authority in an administration proceeding is the same as an Expert in court proceedings with regard to his entitlement to charges. Many administrative regulations have interpreted the provisions of the Fee Entitlement Act to be also applicable to administration proceedings.

Experts who are staff members of an authority (“ex officio experts”) cannot claim remuneration. They have to provide their services in the framework of their service duties.

3 - NO

The remuneration normally depends on the contract between the parties; if the agreement is lacking, an adequate remuneration is owed.

Croatia

1 - YES

Court Appointed Experts and valuers are regulated by provisions of the Rule-Book on permanent court expert witnesses.

2 - NO

In Croatia the Expert witnesses are appointed only by courts. Consequently, there are no special scales of charges.

3 - NO

Private clients may engage only the Court Appointed Experts or valuers. However, in cases where the court accepts such proposal, the applicable rates may then differ from the rates as set out in the Rule-Book, i.e. the applicable ones will be those as prescribed/set out by the legal entity where the Expert works (please see Question 4)

Czech Republic

1 - YES

The fees for Court Appointed Experts are prescribed in the decree of the Ministry of Justice.

2 - YES

The fees for Experts appointed by public authorities are prescribed in the decree of the ministry of justice.

3 - NO

It depends only on the agreement between the Expert and a private client.

Germany**1 - YES**

There exists a legally prescribed scale of charges for the CAE, the German Judicial Remuneration and Allowances Act, JRAA (Justizvergütungs- und -entschädigungsgesetz - JRAA). It was last amended 2013.

2 - YES

In most of the administrative proceedings where an Expert is appointed, he is paid on the basis of the JRAA (like a CAE). Either this law regulates the applicability in these cases or there are administrative regulations that relate to the JRAA.

If the Expert is part of the authority, he does not get an additional fee.

3 - NO

The remuneration depends on the contract between the Expert and his client.

Hungary**1 - YES**

The measure of fees is based on a prescription of the ministry of administrative and justice, partly regulated by a fee regulation, in case of ex officio procedures.

2 - YES

The measure of fees is based on a prescription of the ministry of administrative and justice, partly regulated by a fee regulation, in case of ex officio procedures.

3 - NO

The compensation is based on the agreement between the parties.

Netherlands



1 - YES

Starting point in this matter is the Court Fees in Criminal Cases Decree 2003.

Legally prescribed scale of charges for Experts; maximum rate of €116.09 per hour.

2 - YES

Starting point in this matter is the Court Fees in Criminal Cases Decree 2003.

Legally prescribed scale of charges for Experts; maximum rate of €116.09 per hour.

3 - YES

Starting point in this matter is article 1 (3) of the Court Fees in Criminal Cases Act and the Court Fees in Criminal Cases Decree 2003.

Legally prescribed scale of charges for Experts; maximum rate of €116.09 per hour.

Poland



1 - YES

2 - YES

3 - NO

Portugal



Under RCP, Law 26 – 2007 of 23 July, there is a base cost called u.c. which is the equivalent of €102. All Experts named in the case have the right to receive the number of u.c. that the Judge decides is appropriate taking into account the complexity of the case.

1 - YES

There is a special rule (RCP-Regulamento das Custas Processuais) that determines the remuneration of CAE. However this rule does not contain a scale.

2 - YES

Experts appointed by public authorities are governed by the same rules.

3 - YES

Experts appointed by a private client are governed by the same rules.

Russia**1 - NO****2 - NO****3 - NO****Spain****1 - NO****2 - NO**

(in Spain the Expert is only appointed by the Court).

3 - NO**United Kingdom****1 - NO**

Court Appointed Experts are rarely used in the UK. There is no official scale of Experts' fees. The general process is for each party in both civil and criminal matters, to appoint their own Experts (PAE).

2 - NO

Experts when appointed by a public authority negotiate their fees in the same way as they do with all clients. The possible exception is the Crown Prosecution Service (CPS). They are responsible for prosecuting and for appointing Experts for the prosecution of criminal cases. CPS does have a scale of fees which are payable to prosecution Experts.

Note: In legally aided cases the Expert is paid by a public authority via the instructor but the Expert is not appointed by them as this is the responsibility of the party.

3 - NO

With the exception of legally aided cases where there are scales that the Legal Aid Agency will pay. These are not identical for civil and criminal matters nor is the split into identical categories of expertise.

3

What are the criteria for calculating the compensation/remuneration

- 1 Hourly rate?
- 2 Based on value of the claim/amount of damage?
- 3 Based on the outcome of the case?

Table 3

What are the criteria for calculating the compensation/remuneration

	Hourly Rate	Value of Claim	Outcome of Case
Austria	✓	~	x
Croatia	~	x	x
Czech Republic	✓	x	x
Germany	✓	✓	x
Hungary	✓	x	x
Netherlands	✓	✓	x
Poland	✓	x	x
Portugal	✓	x	x
Russia	✓	~	x
Spain	~	~	~
United Kingdom	✓	x	x

~ : Refer to full answer in text below

Austria



There are two different types of calculating the remuneration by hourly rate:

One is to determine the compensation by the income that the Expert would customarily obtain for the same or a similar professional activity outside of court.

In other areas, where the payment of the charges is in the responsibility of the state (eg legal aid, penal cases, social-law cases) the fee for the Expert is only a fair approximation of the income outside the court (reduction of 20%). In this area the most important services by Experts are compensated on the basis of a scale of lump-sum remunerations contained in a catalogue of services.

If income outside of court cannot be proved, a framework of charges based on the necessary qualification of the Expert is applied (€20 - €60; €50 - €100; €80 - €150 per hour). The fee within the mentioned scopes is determined by the concrete qualification, the severity of the expertise and the necessary detailed statements. Besides that, there are also fee tariffs for some groups of Experts.

1 - YES

It contains the time input, the compensation of effort in simple cases and for taking part in hearings. Hourly rates are also used when the income of Experts out-side of court is also measured in hourly rates.

2 - SOMETIMES

Value-based charges are only found for valuing vehicles and real estate.

3 - NO

This is not contained in the Fee Entitlement Act. Aside from this it would not be compatible to the code of ethics.

Croatia



1 - SOMETIMES

In some cases there is an hourly rate to be applied, while in other cases the rate according to the tariff shall apply. However, this tariff is rather “modest” and it includes only about 30% of items which should actually be incorporated therein.

2 - NO

This criterion applies only to the attorneys.

3 - NO

This criterion applies only to the attorneys.

Czech Republic



1 - YES

Remuneration for work of Court Appointed Experts or Experts appointed by public authorities is calculated on an hourly rate. Remuneration including compensation of costs for expert opinions connected with autopsy in criminal matters has been fixed by lump-sums.

2 - NO

3 - NO

Germany



1 YES

For CAE the hourly rate is prescribed in the JRAA and is distinguished by different professional tasks of the Experts. The hourly rate of a Party Appointed Expert (PAE) can be freely agreed and is oriented on the profession and the severity of the expertise.

2 - YES

but only for PAE. In some areas (eg Experts for automobiles) it is usual to measure the compensation by the value of the claim or the amount of damage. But there does not exist any legal scale of charges.

3 - NO

it is not possible to base the remuneration of the Expert on the outcome of the case. This would be a contradiction to the Expert's neutrality and objectivity.

Hungary



1 - YES

The Expert is paid per hour. In cases of some special fields (for example: criminology, physicist, medical analyses) the Expert gets a fixed compensation.

2 - NO

But in case of a mandate this is possible.

3 - NO

Netherlands



1- YES

Article 6 of the Court Fees in Criminal Cases Decree 2003; €116.09 per hour.

2 - YES

Starting point is article 6 of the Court Fees in Criminal Cases Decree 2003, but the payment should be sufficient and cover all the costs (article 1 (1) of the Court Fees in Criminal Cases Act).

3 - NO

Does not apply in administrative, civil and criminal matters.

Poland



1 - YES

In most of the cases the hourly rate is functioning. Exceptions are Experts from medical disciplines who have a well-defined amount for specific activities (eg “autopsy”, “examination of the mental state”, “determination of the degree of invalidity”, etc.) as well as Experts in the field of geodesy and cartography (eg “the study of land registers”, “establishing the boundaries of the property”, etc.).

2 - NO

3 - NO

Portugal



1- YES

Hourly rate is the most common criteria for calculating the compensation/remuneration.

2 - NO

The value of the claim/amount of damage influences the compensation/remuneration indirectly through the hourly rate (more skills and responsibility required).

3 - NO

Russia



1 - YES

2 - NOT NORMALLY

3 - NO

Spain



Based on the difficulty of the matter.

United Kingdom



1 - YES

This is the normal basis for Experts' fees in the UK often with a restriction on the number of hours for which the Expert will be paid. However there is increasing pressure for Experts to work on a 'fixed fee' basis which is agreed on a case by case basis prior to the appointment of the Expert. The criteria used are basically market forces (see 1 above) and the practices of individual professions and trades.

2 - NO

This is a frequently used basis for Expert Advice but is not appropriate for expert witness work.

3 - NO

The linking of fees or other payments to the outcome of a case is not acceptable and is contrary to the Codes of Practice for Experts (see for example EuroExpert Code).

Are there differences in the scale of payment between the various specialisations of the Expert

Table 4

Are there differences in the scale of payment between the various specialisations of the Expert

	Outcome of Case
Austria	✓
Croatia	~
Czech Republic	x
Germany	✓
Hungary	x
Netherlands	✓
Poland	x
Portugal	x
Russia	x
Spain	✓
United Kingdom	✓

~ : Refer to full answer in text below

Austria

YES

The Fee Entitlement Act distinguishes charges for different types of activities, eg doctors, anthropologists, vehicle matters valuation of buildings etc. The law refers in this case to the income for work outside of court. As every case of income outside of court is considered individual, so it is not possible to provide any rates or examples. If the Expert does not prove his income, the law provides rates between €20 and €150 an hour.

Croatia



In respect of the tariff as prescribed in the Rule-Book, there are no differences in the scale of payments between the various specialisations of the Expert. However, since the current tariff is not elaborated in details – depending on complexity of the expertise, the Court Expert witnesses shall elaborate the time consumed and other expenses in their invoices and it is up to the Court decision whether the fair compensation will be approved. In cases where the witness is employed with a legal entity/company, the invoicing to the court and other parties shall be made in accordance with the tariff applied by such a legal entity.

Czech Republic



NO

There are no differences between the specialisations. The exception is in forensic medicine (autopsy) where there are fixed rates for various operations.

Germany



YES

There are broad differences between various specialisations of PAE as well as the CAE. The CAE gets a remuneration based on the scale of charges that is legally prescribed in the JRAA. The hourly rate depends on what professional task the Expert is acting in.

For example, the valuation of capital investments by a CAE is remunerated with €125/h; Experts for vehicle loss adjusting get €100/h; real estate valuation is remunerated with €90/h and Experts for building defects can require between €70/h and €90/h. The lowest hourly rate for a CAE is €65/h for ground surveyors.

Hungary



NO

There are no differences in the scale of charges for the different scopes of expert opinions. In cases of long scientific investigations, evaluation of the opinion of other Experts and complex and difficult calculations an increased scale of charge can be used (maximal 2.5).

Netherlands



YES

Article 3 (1) of the Court Fees in Criminal Cases Decree 2003:

- Psychologist: €89.10 per hour. Article 3 (2) and 3 (3) of the Court Fees in Criminal Cases Decree 2003.
- Psychiatrist: €116.09 per hour. Article 2 (1) a of the Court Fees in Criminal Cases Decree 2003.
- Translators: maximum of €1.69 per line. Article 5 of the Court Fees in Criminal Cases Decree 2003.
- Interpreters: €43.89 per hour. Article 4 (1) of the Court Fees in Criminal Cases Decree 2003.

Poland



NO

Generally No. Exceptions are Experts from medical disciplines and Experts in the field of geodesy and cartography. The differences relate to the method of calculating rates.

Portugal



NO

There are no scales. The Judge decides on the number of u.c. for each Expert in the case. However some forensic examinations have a rate determined in the RCP.

Russia



NO

No differences.

Spain



YES

The different specialist associations set the scale of fees which should be used by the Expert.

United Kingdom



YES

There are no set scale fees (see 2 above) but each profession and trade tends to have their individual range of norms.

The tables below give an indication of these from a survey of five different sectors.

Civil Rate (£)	Accountancy	Property & Construction	Engineering	Financial Services	Healthcare
Average/Hour	233	145	122	217	193
Maximum	650	300	250	325	380
Minimum	80	48	50	150	100

Criminal Rate (£)	Accountancy	Property & Construction	Engineering	Financial Services	Healthcare
Average/Hour	175	135	120	157	175
Maximum	350	200	250	200	360
Minimum	80	48	60	150	100



Is the degree of difficulty to formulate an expert opinion a reason for a different compensation

Table 5


Is the degree of difficulty to formulate an expert opinion a reason for a different compensation

	Yes/No
Austria	✓
Croatia	~
Czech Republic	✓
Germany	x
Hungary	✓
Netherlands	✓
Poland	✓
Portugal	✓
Russia	✓
Spain	✓
United Kingdom	✓

~ : Refer to full answer in text below

Austria

 YES

 This is also prescribed in the Fees Entitlement Act (FEA) and plays a role eg in the charges established in the FEA with medical examinations or expert opinions on vehicle technology.

Croatia



In respect of the tariff as prescribed in the Rule-Book, there are no differences in the scale of payments between the various specialisations of the Expert. However, since the current tariff is not elaborated in details – depending on complexity of the expertise, the Court Expert witnesses shall elaborate the time consumed and other expenses in their invoices and it is up to the Court decision whether the fair compensation will be approved. In cases where the witness is employed with a legal entity/company, the invoicing to the court and other parties shall be made in accordance with the tariff applied by such a legal entity.

Czech Republic



YES

It depends on the degree of difficulty and the required expertise.

Germany



NO

Not for CAE. The compensation is only based on the professional task and the necessary time he has to invest. But a difficult case normally increases the time the Expert needs, so that his remuneration is accordingly higher.

Hungary



YES



It depends on the complexity and the methods.

Netherlands



YES



Article 6 of the Court Fees in Criminal Cases Decree 2003 provides a general criterion. A higher hourly rate applies for more scientific and specified proceedings.

Poland



YES

Depending on the complexity of the problem, the conditions in which the opinion were developed or in the event of the particular difficulties – the rate may be increased by 50%.

Portugal



YES

The degree of difficulty to formulate an expert opinion influences the compensation/remuneration indirectly through the hourly rate (more skills and responsibility required).

Russia



YES

The reason for different compensation in such cases is that a difficult case needs more hours to solve and an Expert of higher qualification.

Spain



YES

But there is not a specific criteria.

United Kingdom



YES

The complexity of the work that the Expert is required to undertake is one of the factors taken into account when negotiating fees. It is likely to affect the number of hours work required and the seniority and specialisation of the Expert. The more complex the case the fewer Experts there will be who are qualified to undertake the work. This is a market force which will effectively increase fees.


In legally aided cases there is an exception to the normal scale of fees for cases when for example, the work is so unusual or complex that the number of Experts is small. In these few cases higher fees can be paid if approved in advance and any specified requirements met.

6

Are additional payments (beyond the proper or agreed fee) permitted

Austria

 **YES**

 All variable expenses necessarily incurred with the work of an Expert can be claimed, other than fixed overheads. The Expert can claim:

- travel costs
- costs for auxiliary staff
- other expenses
- remuneration for time input
- compensation for effort

Croatia

 **YES**

 **Travel costs**

Travel expenses are remunerated only in case of public transport expenses. They include expenses for travel of the Expert from his place of residence to the place of expertise and back. They also include respective expenses for travel in his place of residence. In respect of the provisions of the Rule-Book, the following means of public transport are eligible: train, bus, ship, tram and plane.

The Expert is entitled to remuneration of travel expenses for journey made by the shortest possible distance and by most economic travel means.

In case the Expert cannot use the public transport means, he is allowed to use his own car, according to the rules applicable for judges. In such case he has to procure a report on number of kilometres for the shortest distance, according to the information published by the Croatian Automobile Club. The travel expenses are calculated on basis of clear and reliable travel order and accompanied documents (invoices) showing the travel expenses and other expenses quoted in the travel order.

In case of expertise outside of his residence for period 8-12 hours, the Expert is entitled to ½ of per diem, while in case of stay longer than 12 hours, he is entitled to full per diem, applicable for the judge who is in charge of the specific case. Expenses for accommodation are reimbursable in full according to the invoice, up to the amount applicable for the judge who is in charge of the case.

Photocopies

Copy (transcript) of one page of the text	4 points à HRK 2 =	HRK 8
Copy (transcript) of a table	10 points à HRK 2 =	HRK 20
Sketch drawing	30-100 points =	HRK 60 - 200
Office material, envelopes, photocopies, paper, postal expenses - actual expenses		
Software - Yes		
Tests - Yes		
Equipment - Yes		

Czech Republic



YES

The Expert has the right to claim travel costs and other expenses, among them photocopies and tests. He can claim also compensation for the consultant's assistance but only in cases if the judge agreed with this in advance. Usually it is not possible to claim costs consisted in software and equipment.

Germany



YES

The PAE can charge all the mentioned expenses, when he agreed this in the contract with his client. The CAE can charge the expenses that are prescribed in the "JRAA", when they are necessary; these are those mentioned above.

Hungary

 **YES**

 **Travel costs** - Yes

Photocopies - Yes

Software - No

Tests - Yes

Equipment - No

Others - Possible on weekends and holidays

Netherlands

 **YES**

 **Travel Costs**

Civil matters: Article 2 (1) of the Court Fees for Civil Matters Decree and article 11 of the Court Fees in Criminal Cases Decree 2003.

Administrative matters: Article 2 (1) c Court Fees for Administrative Matters Decree and article 11 (1) c of the Court Fees in Criminal Cases Decree 2003.

Criminal matters: Article 11 of the Court Fees in Criminal Matters Decree 2003.

General (for Experts like psychologist and psychiatrists): €2.70 per kilometres (return).

Translators and Interpreters: €1.54 per kilometres (return).

Other Experts: €0.28 per kilometres (return).

Photocopies - €0.18 for each page. Article 12 (3) b of the Court Fees in Criminal Cases Decree 2003.

Software - No.

Tests - Article 3 of the Court Fees in Criminal Cases Decree 2003. Payment of real costs made by the Expert with a maximum of €89.10 per hour.

Equipment - Payment of real costs made by the Expert.

Others - Payment of real costs made by the Expert.

Poland



YES

Travel costs - Yes

Photocopies - No

Software - No

Tests - No

Equipment - No

Others - No

Portugal



YES

All the mentioned costs could be presented directly in asked compensation/remuneration or additionally. Courts prefer an invoice which covers all.

Russia



NO

According to Russian law a Court Expert must inform the court about all sum of payment for expert examination in advance and he has no right to claim additional payments. The only exceptions are travel costs of a trip to court.

Spain



YES

Travel costs only

United Kingdom



YES

Subject to the terms of the Agreement between the party and the Expert additional payments may be made for reasonable and proportionate expenses incurred by the Expert. As a generalisation it is a reimbursement rather than a profit centre. All of the categories shown can be claimed. An Agreement may exclude a category, limit or restrict the amount claimable for example, the norm is £0.45 per mile for use of a car.

7

Is the Expert permitted to have assistance when preparing expert opinions

If so, are there any requirements and are you able to claim the costs of the assistance?

Table 6

Is the Expert permitted to have assistance when preparing expert opinions

	Yes/No
Austria	x
Croatia	✓
Czech Republic	✓
Germany	✓
Hungary	✓
Netherlands	✓
Poland	✓
Portugal	✓
Russia	x
Spain	✓
United Kingdom	✓

Austria

 NO



These expenses are refundable when the auxiliary staff was indispensable and necessary, in line with the line of scope of the Expert's activities. The amount of the costs for the assistance depends on the actual expense.

Croatia



YES

It is permitted in civil matters, if an Expert explains to the judge that certain investigation - service of someone else, such as laboratory or similar, is necessary. In criminal matters the position is similar but where the Expert decides it is necessary for a specialist examination of a specified part of the Report eg a vehicle defects examination at a Technical Examination Station, this is permitted. The cost of the examination is a recoverable cost.

Czech Republic



YES

Both the CAE and the PAE are obliged to exercise their activity in person. The CAE is entitled to co-opt a consultant for checking of special or partial questions. He has the right of compensation of costs connected with the co-option of a consultant only after the acceptance of the consultant in advance by the court or by the public authority. The Expert is obligated to instruct a consultant on the obligation of confidentiality. These persons can be exempted from this confidentiality by the court or public authority which appointed the Expert or by the person who requested the expert report.

Germany



YES

Although the CAE has the duty to make his expertise “in person”, he is allowed to have assistance, providing that he controls and supervises his auxiliary staff. Generally this applies also to the PAE.

Hungary



YES

If the Expert has to claim in some parts of his expertise the specialised knowledge of another Expert belonging to another special field he can call in. The costs for this assistance can be charged.

A panel of Experts can be created from Experts belonging to the same special field, if the appointing party is asking for it, these costs can be charged.

Netherlands



YES

It is permitted to have assistance when preparing expert opinions but the Expert needs the approval of the court/public authorities/private client. The assistance must be of a certain quality. The Expert is able to reclaim the costs of the assistance, within reason.

Poland



YES

The Expert is permitted to have assistance and he can reclaim the costs for this. There are no requirements.

Portugal



YES

Experts are permitted to develop all the diligences need for the purpose. That includes assistance or required examinations. Those additional costs will be covered by the compensation/remuneration of the Expert but only if they have been authorised by the Judge.

Russia



NO

Spain



YES

The assistant must be an Expert on the matter and it is permitted to reclaim the costs of the assistance.

United Kingdom



YES

The Expert is permitted to have assistance and is expected to use assistants where appropriate in order to reduce the fees of the Expert which are chargeable. The assistance should be at an appropriate level, by suitably qualified persons who should have their details shown in the Report and whether or not the Expert has supervised their work. Secretarial assistance is not normally chargeable as this is expected to be included within the Expert's fee.

What is the range for Expert's fees - show highest and lowest

Is there an average or usual fee for an Expert?

Austria



It cannot be given an average fee, because it depends on the income earned by the Expert outside of court appointment and there are no surveys on this subject.

Croatia



The hourly gross fee of HRK 70 (about €9) has been unchanged for 17 years. Our association challenged the constitutionality of this fee at the Constitutional Court of the Republic of Croatia. In the same period, the attorneys' fees increased since 1998 from HRK 70 to HRK 500 per hour. The average fee (which will, naturally, depend on complexity of the case) should amount to about €500.

Czech Republic



The basic hourly rate is between 100 and 350 CZK + 21% VAT (in case the Expert obliged to pay VAT), i.e. between €3.60 and €12.60 + VAT without any adjustment from 2002. Usually now the required and charged fee is therefore 350 CZK + VAT. 17 senators of the Parliament submitted a proposal to the Constitutional Court for the annulment of these remuneration tariffs in June 2014. Unfortunately on 15th September 2015 the Constitutional Court rejected the proposal of 17 Senators of the Parliament for the annulment of these dishonest remuneration tariffs. According to the Constitutional Court the position of an expert witness is comparable to the position of white-collar workers or a witness, not to the position of a judge or advocate.

Germany



The remuneration of a PAE is between €70 and €180 per hour plus VAT. The CAE compensation fee ranges from €65 to €125 plus VAT.

Hungary



The compensation defined in the fee decree is rounded off between €8 and €40 per hour. It is difficult to define an average compensation out of this, but it can be fixed about €400 per appointment.

Netherlands



There is only a general maximum rate of €116.09 per hour.



There is no average or usual fee for an Expert.

Poland



The Expert's fee is accounted on the basis of hours worked, calculating the rates as follows:

- Basic rate = 1.28% - 1.81% x the base amount determined each year in the Budget Act;
- Rate for the Doctorate = 2.55% x the base amount;
- Rate for Doctor habilitatus = 3.08 x the base amount;
- Rate for the Professor = 3.93 x the base amount.

The exception is the expert opinion in medical disciplines for which the rate is calculated for specific actions, without specifying the hours worked (eg. "to determine the invalidity, disability or inability to work and their degree" = 3.72 – 14.43 x the base amount, "examination of corpses and human remains in the place of finding them" = 4.67 – 16.02 x the base amount, etc.). Similarly, in the case of geodesy and cartography.

In 2016 the base amount is the same as in 2015 – 1766,46 PLN.

It means that basic rate for 1-hour work of forensic expert varies from 22,61 PLN (1,28%) to 31,97 PLN (1,81%) and can be increased by half if the case is very complex. The amount payable per hour for an expert holding the professor title is 68,89 PLN (3,93%).

Portugal



The RCP says that the maximum compensation/remuneration of the Expert is €1,020. However the Constitutional Court recently determined this limit could be exceeded if it is justified. For common and simple works Experts ask from €408 to €612.

Russia



The range is €30 - €300 per hour.

Usually fee is about €80 per hour.

Spain



The medium highest €3,000.

The medium lowest €300.

There is not an average fee.

United Kingdom



It is difficult to give an accurate range as there is no regulation and statistics are not available.

One recent survey showed the highest fee as £480 per hour and the lowest at £30 with the average at £174 per hour whereas another showed the highest at £699, the lowest at £48 and the average at £183.



Delegates gather at the EuroExpert 2000 Madrid Congress

9

Can the Expert receive either fees in advance or stage payments

Table 7

Can the Expert receive either fees in advance or stage payments

	Yes/No
Austria	x
Croatia	✓
Czech Republic	✓
Germany	✓
Hungary	✓
Netherlands	✓
Poland	x
Portugal	✓
Russia	~
Spain	✓
United Kingdom	✓

~ : Dependent on the type of expert may be Yes or No.

Austria

YES

If the Expert applies for it an adequate amount in advance must be paid. There is also the possibility to apply multiple advance payments, when the work of the Expert takes a longer period of time.

Although the Fee Entitlement Act prescribes, that there should be only one single decision about the Expert's fee to cover his remuneration, the case law of first-instant courts allow the settlement of fees in several stages.

Croatia



YES

The court advances half of the envisaged amount to the Expert, provided that the client has to pay the full amount after issuance of final invoice. This amount remains on the court's account. In most difficult cases, the Attorney's office shall pay the advance to the Expert according to the agreement.

Czech Republic



YES

Especially to compensate his cash expenditures, eg in cases of travel and other costs, among them photocopies, tests and costs related to the cooperation with a consultant.

Germany



YES

The CAE as well as the PAE can claim fees in advance and stage payments. The CAE has to request the advanced payments, especially when the work takes a long time. The PAE has to make an agreement with his client. If he doesn't, he can only claim the compensation after he finished his expert opinion.

Hungary



YES

An advance payment (from the court) is already possible, up to a certain limit.

Netherlands



YES

Only in civil/private law cases, article 195 Dutch Code of Civil Procedure. In civil procedures the Court Appointed Expert is told not to start with his assignment before having had notice from the court. The judge first has to rule which party has to pay the advance (usually the plaintiff, but exceptions may be possible, consequence of not paying for the party may be that he loses the case). If the Expert has started prematurely there are no grounds for payment. The advance is always a matter of discussion between the court and the Expert (hours needed, expenses, hourly rates etc.). Parties may be involved in this discussion if the amount of the advance is exorbitant. Payment will be done through the courts themselves, but only as an intermediary

Poland



NO

Portugal



YES

However this is commonly only used when Experts are needed overseas (Madeira or Azores).

Russia



1- NO

For Court Experts it is not allowed.

2 - YES

For Experts appointed by the client it is a usual practice.

Spain



YES

United Kingdom



YES

It is usual for fees to date to be payable when the report is completed. In long assignments the practice of advance or regular amounts 'on account' is quite common. It is particularly found in cases in the construction industry.

Can there be deviations from any fee tariff that is in force

If so, what?

Table 8


Can there be deviations from any fee tariff that is in force

	Yes/No
Austria	~
Croatia	✓
Czech Republic	✓
Germany	x
Hungary	✓
Netherlands	✓
Poland	x
Portugal	✓
Russia	#
Spain	✓
United Kingdom	#

: Not Applicable

~ : Refer to full answer in text below

Austria

 The PAE can make contract-agreements about the extent of his compensation. But he has to heed the code of ethics.

The CAE can get a higher fee with the consent of the parties. It is also possible - in discretion of the court – to reduce the fee by up to one fourth (25%) for the Expert's work when he is culpable of delay or deficiencies in his work as an Expert.

Croatia



YES

It is possible in specific and more complex cases, where the Experts need to invest more time to process the case and prepare his expertise. However, these are not typical cases.

Czech Republic



YES

The basic hourly rates can be increased up to 20% in extraordinary difficult cases; up to 10% in cases of audit opinion and up to 50% in cases of express delivery or night work.

Germany



NO

A deviation from the fee tariff of CAE's is not allowed. Only in case of an agreement of both parties or of one party and the court, is it possible to deviate from the fee tariff. If the Expert is not listed in this legal tariff, he can ask the court to fix a remuneration.

Hungary



YES

In the case of ex officio procedures. If the Expert has to give an expert opinion that is very difficult, he has got the possibility to charge two and a half times the base fee.

In the case of non ex officio procedures, the Expert specifies the fee himself.

In the case of a private mandate the agreement of the parties is decisive.

Netherlands



YES

The rates are increased by a half in these cases:

Working on Saturdays, Sundays or holidays (Article 7 (a), (b) and c of the Court Fees in Criminal Cases Decree 2003); Working between 00.00 and 08.00 or between 20.00 and 24.00 (Article 7 (d) of the Court Fees in Criminal Cases Decree 2003).

There can also be deviations in cases of very difficult work.

Poland



NO

In principle the answer is No but the flat-rate tariffs often have identified salary scales. In addition, in some cases the expert can choose that he/she wants to calculate the fee by hours and not by tariffs.

Portugal



YES

The RCP says that the maximum compensation/remuneration of the Expert is

€102. However the Constitutional Court recently determined this limit could be exceeded if it is justified.

Russia



NOT APPLICABLE

There are no prescribed tariffs for Experts in Russia

Spain



YES

Usually when the documents provided are wrong and the Expert has to search for further information.

United Kingdom



NOT APPLICABLE

Basically there are no fee tariffs operating in the UK. However where there are, for example legally aided cases, there is usually an exception clause to give discretion to allow higher fees. It is an exception not a norm.

How does the Expert ensure that he is paid and what remedies are available to him if he is not

Austria



The claim of the Expert against the state is ensured by the Rules. If he wants to get the full amount of his income outside of court, he has to waive the State compensation and collect his fee from the parties. This can be risky, unless advance payments were made to cover the costs. To avoid this risk, the Expert can claim against the State but only the mentioned tariffs of the FEA or the hourly rate - based on the income outside of court - with a reduction of 20%.

Croatia



The Expert needs to ensure payment of the advance into the court account and he should not deliver his expertise unless the full amount is on the court's account. It is up to the judge to then ensure the Expert is paid by the court.

Unfortunately although some judges are interested in making sure the Expert receives his remuneration others are not. Some finalise the case and archive the item without paying the Expert his remuneration. Some send the case to the court of higher instance and the Expert might wait for years until the case returns to the court of lower instance when the Expert has to try to get paid.

Recently, the Experts have been invited to initiate recovery from the Party or even the court.

Czech Republic



According to law the judges or the public authorities are obliged to decide about the remuneration of the CAE without unreasonable delay; at the latest within two months after the submitting of the expert opinion. Remuneration must be paid out at the latest by 30 days after the decision comes into force.

Czech Experts had a lot of problems with courts in civil proceedings due to the delay in paying the survey fees. According to law with effect from 1st July 2009 the judge is obliged to order that the parties to legal proceedings paid a deposit in the amount of Expert's expected remuneration.

In case the deposit is not paid the CAE is not obliged to elaborate his report. The CAE has the right to ask the President of the Regional Court or the Minister of Justice to put the matter right.

Germany



Against court order that reduces or refuses his justifiable remuneration the Expert can enter caveat. The PAE has to sue to enforce his claim

Hungary



In private cases the party that requires the expert opinion has for example to make a payment in advance to make sure that the Expert's fee is covered. In civil matters the party that requires the expert opinion has to make a deposit payment. In criminal cases the State has to pay the Expert's fee. The fee is fixed by the court. The Expert and the party that requires the expert opinion can appeal against this decision. In case of ex officio procedures the fee regulation of the Ministry of Administrative and Justice is decisive. In case of non ex officio procedures the Expert specifies the fee. The appointing court or the authority adopts the fee list by a decree.

Netherlands



In administrative and criminal matters the Expert gets paid by the Court (article 1 (1) of the Court Fees in Criminal Cases Act). Experts appointed by a private client in civil matters have to take care of their payment on their own - it is the Expert's responsibility. Ultimately he can always sue for his fees but this is not a normal procedure.

In criminal matters the Experts are appointed by the public prosecutor and/or judges, depending on whether they are in the NRGD or not. The fees are paid by the public prosecutor's (PP) office. If there is a discussion about the final fee, the Experts have to deal with the PP office. If they can't agree on the matter they may end up in court (civil). But usually it won't come that far.

Poland



Court informs the Expert that the remuneration has been granted. In cases of dispute, the Expert is entitled to appeal to the court authorities.

Portugal



The compensation/remuneration of the Expert is granted by the law. However the court does not pay the Expert until the parties have paid the court. Even then some resilience is required by Experts because the court services work very slowly. The payments are frequently delayed for 1 to 2 years, sometimes as long as 3 or 4 years.

Russia



According to Russian law a Court Expert will receive his payment from a special court account after presenting his report to the court. The sums of money, payable to Experts, are deposited to the court's bank account by the person that files the corresponding motion within the term, fixed by the court. If motions are filed by both parties, the required sums are deposited to the court's bank account in equal amounts. If the sums of money, payable to Experts, are not deposited to the court's bank account within the time fixed by the court, it may reject a motion to appoint an expert examination - if the case can be considered and a decision can be delivered on the basis of other evidence presented by the parties.

Spain



In civil matters the Expert is allowed to ask for an advance payment. If the advance payment is not made, the Expert is released from making the report. However, if the Expert does the work and it is not paid he can sue the debtor. In criminal matters is more difficult as he must complain to the administration or to the debtor who, in most of the cases, is insolvent.

United Kingdom



The starting point to getting paid is the Agreement appointing the Expert which should contain payment terms which are contractually enforceable. These should include dates or stages in the work when fees are payable for example completion of the Report. If the fees are not paid the Expert is entitled to cease work until payment is received. The Expert can take enforcement action for breach of contract to recover the fees and costs involved. These steps can produce both ethical and commercial difficulties. There have been instances where the courts have refused to order an Expert to attend court to give evidence when the fees have not been paid.

Do Experts charge cancellation fees

12

Table 9


Do Experts charge cancellation fees

	Yes/No
Austria	~
Croatia	x
Czech Republic	x
Germany	~
Hungary	✓
Netherlands	✓
Poland	x
Portugal	x
Russia	x
Spain	x
United Kingdom	✓

~ : Dependent on the type of expert may be Yes or No.

Austria

1- NO

 The CAE cannot claim cancellation fees.


If the Expert's work cannot be finished without his fault, he can claim charges for the services provided and executed.

2 - YES

The PAE can charge cancellation fees if it is agreed.

Croatia

NO

 Unfortunately, despite all irregularities and exposures of the Experts mentioned above, we have not yet experienced the collection of cancellation fees.

Czech Republic



NO

The CAE does not charge cancellation fees. In case of PAE it depends only on the agreement between the PAE and parties. However, if the expert's opinion is no longer needed, because litigation ends up without a final decision of the court (eg a settlement between the parties), the Expert can partially claim charges for the services provided and executed by the time his appointment ends.

Germany



1- NO

The CAE cannot claim cancellation fees. However, if the expert's opinion is no longer needed, because litigation ends up without a final decision of the court (eg a settlement between the parties) the Expert can partially claim the fees and additional payments by the time his appointment ends. If his expert opinion is not usable because of the Expert's fault (eg he acted grossly negligent by not disclosing a conflict of interest) he can lose the whole remuneration.

2 - YES

The PAE can charge cancellation fees if it is agreed.

Hungary



YES

The Expert can charge a fee for the quotation or in the case of the withdrawal of an appointment for his work done by then, but the appointing party can decide whether to award it or not. The Expert cannot charge a standby/all night service fee.

Netherlands



YES

Only for the already-made hours.(Article 1 of the Court Fees in Criminal Cases Act and article 2, 3, 4, 5 and 6 of the Court Fees in Criminal Cases Decree 2003).

Poland



NO

Generally, the hourly-rates are very low, the whole system is very old and illogical in some places as it is grounded in the past centrally planned economy. From time to time small changes/improvements are applied but without any strong impact on the overall. The reform of the remuneration system covering the court experts' activities has been postulated for years by the forensic societies but without success up to now.

Portugal



NO

It's not common. However, if there are expenses or work already done, Experts can ask for payment for it.

Russia



NO

Spain



NO

But they can charge for any expense that had been incurred eg photocopies, travel and costs in obtaining the official papers.

United Kingdom



YES

Subject to the Agreement (the contract between the Expert and those instructing), cancellation fees can be charged. There is no absolute but there is normally a scale taking into account the length of notice given, the amount of time which has been reserved and the effect on the Expert's practice. As an example if 1 month has been reserved for a trial and cancellation is received the day before the trial, the effect on the Expert's practice is likely to be greater than if 2 weeks' notice was given for a half a day's work. Cancellation fees are not liked by the legal profession and some, including the Legal Aid Agency, decline to pay them.

EuroExpert Standards

One of the principal objectives of EuroExpert is to ensure that all member countries subscribe to and follow common standards wherever their own systems of law permit. In furtherance of this aim EuroExpert has devised and published a number of 'Standards'. Each deals with a specific subject and they have all been adopted by the members.

The Standards are designed to be the minimum standard that should be applied by all members. It is hoped that their increased use will bring about the general raising of standards across Europe. In practical terms their use is not confined to this continent. To take the 'Code of Practice for Experts within EuroExpert' as a simple example. This is now in use by Experts in many countries and continents and helps not only in raising standards generally but giving confidence to the users of Experts. Judges, lawyers and parties are entitled to expect Experts to work to a standard of excellence and compliance with the Code of Practice is one method of Experts demonstrating this.

In our modern world much is changing and sometimes with bewildering rapidity. Experts must make certain they are and keep up to date with the legal environment within which they operate. To ensure compliance, training is a necessity and with this in mind EuroExpert has issued a Standard for the core curriculum for the training of Experts.

The following Standards are reproduced in this booklet:

- **Code of Practice for Experts within EuroExpert**
- **Association Standards within EuroExpert**
- **Report Standards within EuroExpert**
- **Core Curriculum for the Training of Experts**
- **Standard for Mediation training**
- **Language concerning the Use of Experts**

Code of Practice for Experts within EuroExpert

Preamble

This Code of Practice shows minimum standards of practice that should be maintained by all Experts.

It is recognized that there are different systems of law and many jurisdictions in Europe, any of which may impose additional duties and responsibilities which must be complied with by the Expert.

There are in addition to the Code of Practice, General Professional Principles with which an Expert should comply.

These include the Expert:

- Being a “fit and proper” person
- Having and maintaining a high standard of technical knowledge and practical experience in their professional field
- Keeping their knowledge up to date both in their expertise and as Experts and undertaking appropriate continuing professional developments and training.

The Code

1. Experts shall not do anything in the course of practising as an Expert, in any manner which compromises or impairs or is likely to compromise or impair any of the following:
 - a) the Expert’s independence, impartiality, objectivity and integrity,
 - b) the Expert’s duty to the Court or Tribunal,
 - c) the good repute of the Expert or of Experts generally,
 - d) the Expert’s proper standard of work,
 - e) the Expert’s duty to maintain confidentiality.
 2. An Expert who is retained or employed in any contentious proceeding shall not enter into any arrangement which could compromise his impartiality nor make his fee dependent on the outcome of the case nor should he accept any benefits other than his fee and expenses.
 3. An Expert should not accept instructions in any matter where there is an actual or potential conflict of interests. Notwithstanding this rule, if full disclosure is made to the judge or to those appointing him, the Expert may in appropriate cases accept instructions when those concerned specifically acknowledge the disclosure. Should an actual or potential conflict occur after instructions have been accepted, the Expert shall immediately notify all concerned and in appropriate cases resign his appointment.
 4. An Expert shall for the protection of his client maintain with a reputable insurer proper insurance for an adequate indemnity.
 5. Experts shall not publicise their practices in any manner which may reasonably be regarded as being in bad taste. Publicity must not be inaccurate or misleading in any way.
-

Association Standards within EuroExpert

Within the European Union and the member associations of EuroExpert the acceptance of individual members as experts is characterised by different procedures and designations.

- In some countries experts are accepted by demonstrating their competence in an application procedure by the association
- other experts are registered by the courts and have to demonstrate their qualification to these authorities
- others accept members through a third party certification by private or public authorities

The experts are then called recognized, accredited, certified, registered etc.

One of the aims of EuroExpert is the

- Development,
- Promotion,
- Convergence

of and education in common ethical and professional standards for experts within the European Union, based upon the principles of high qualification. The code of Practise, adopted within EuroExpert in 2000, includes the expert being a "fit and proper" person, having and maintaining a high standard of technical knowledge and practical experience in their professional field.

To assure these high standards the associations of EuroExpert shall have the following requirements for the acceptance and maintaining of individual membership as expert:

To be registered in a EuroExpert member association the applicant has to demonstrate to the association or the relevant authorities that:

- 1) He has appropriate qualifications, training, experience and a satisfactory knowledge of the requirements of the scope to be carried out as expert. This includes that the applicant has sufficient practical experience in his field of activity and in his scope of expertise.
- 2) He has demonstrated his competence by submitting a proper documentation (eg CV, copies of certificates for all relevant Academic and Professional qualifications, work experience and experience as expert, referees, reports, training).
- 3) He has given evidence of his competence as expert by oral, written, practical, a combination of the before mentioned methods, or other assessment, to a committee or instructed specialists with appropriate knowledge and experience in the field of activity of the applying candidate.

The association shall have adopted policies which:

- 1) maintain confidentiality of all information obtained in the process of its activities concerning membership.
- 2) define a development process (eg further training, Continuing professional development) to monitor members' compliance to the actual technical and ethical standards required in the field of their expert activity.
- 3) define policies and procedures for granting, maintaining, renewing, suspending or withdrawal of membership.

Report Standards within EuroExpert

General Requirements for Experts' Reports

A Report is a document that records (i) the instructions in respect of the assignment, (ii) the basis and purpose of the report, and (iii) the analysis and reasoning that have led to (iv) the opinion and conclusion arrived at by the expert.

The type, content and length of a report will vary according to the intended user, legal requirements and the nature and complexity of the assignment.

Expert reports should have a logical structure and a clearly organised layout with objective and verifiable justification for all opinions and conclusions expressed. The report should demonstrate clarity, impartiality, and consistency of approaches.

Prior to accepting an appointment as an expert, an expert must satisfy himself that he does not have any conflict of interests and carefully identify the issues to be addressed and be satisfied that he has the experience, knowledge and expertise to complete the assignment competently and with required expedition.

Expert evidence shall be restricted to that which is reasonably required to assist eg the court or tribunal in resolving the proceedings. Expert evidence shall be given in a written report unless the expert is instructed otherwise or unless the court directs otherwise.

The expert shall perform his role at all times competently and diligently and this shall include (but shall not be limited to) compliance with any relevant procedural rules and any applicable code of practice or guidance pertaining to matters such as ethics, professional principles, competence, disclosure and reporting.

Further Requirements:

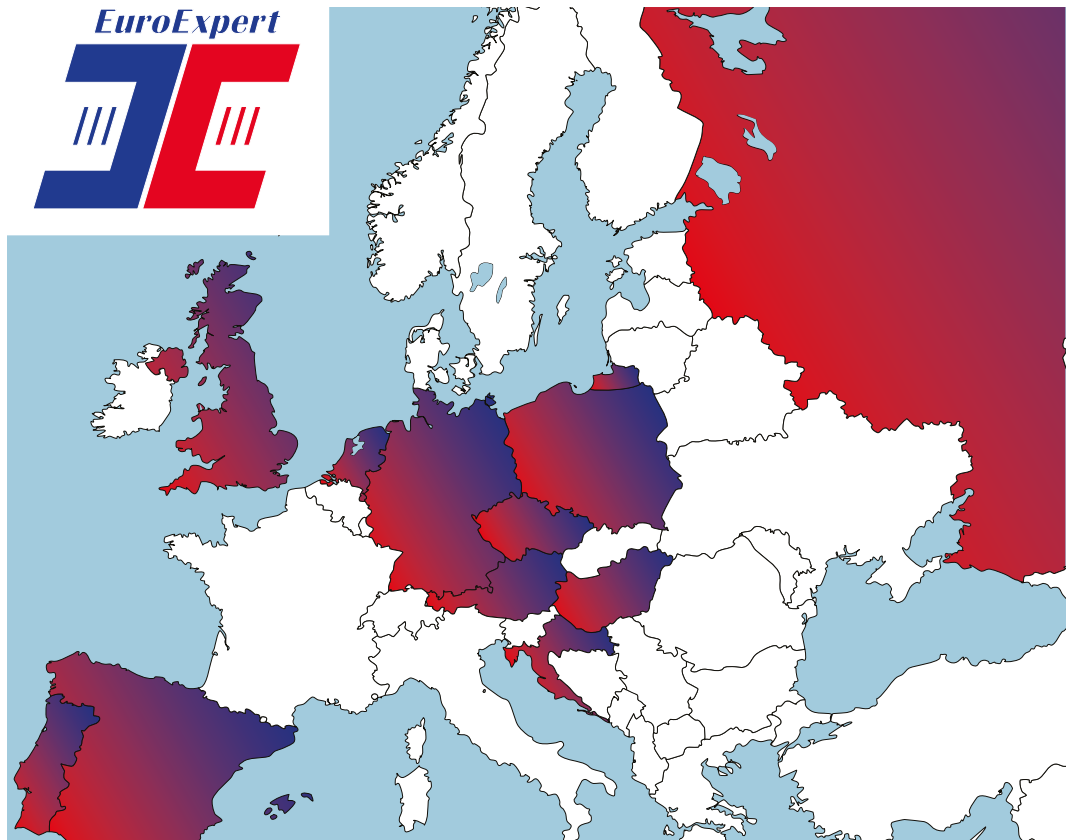
It is recognised that the different states within Europe have different laws, procedures and practices, any of which may impose additional or different requirements which must be complied with by experts providing services within or for use within any such jurisdiction.

An expert's report shall, unless otherwise agreed, instructed or legally required:

- specify the expert's name, his firm's name, his qualifications, expertise and comprehensive contact details.
- identify the purpose and intended use of the report.
- identify the client or clients.
- contain a statement setting out the substance of the instructions given to the expert which are material to the opinions expressed in the report or upon which those opinions are based.
- give comprehensive details of any inspection, site visit, or tests undertaken by the expert, which shall include (but not limited to) the date and time and duration and the names of those present.
- give comprehensive information as to any staff and/or assistants and/or subcontractors involved in the production of the report and set out their contribution to the same.
- give details of any literature or other material which the expert has relied on in making the report. Sketches and photos should be used in particular where they provide useful

illustrations or aid the understanding of the report.

- ❑ make clear which of the facts stated in the report are within the expert's own knowledge; descriptions based on the expert's own findings or tests must be clearly distinguished from those based on his instructions or derived from statements made by third parties.
- ❑ where tests of a scientific or technical nature have been carried out, experts should state the methodology used and by whom the tests were undertaken and under whose supervision, summarising their respective qualifications and experience.
- ❑ where there is a range of opinion on the matters dealt with in the report - the expert shall summarise the range of opinion, and give reasons for his own opinion. The basis for making qualified statements (eg as to certainty, possibility, range of probability or impossibility) and the inclusion of any restrictions, limitations or caveats in respect of expressed opinions in the expert's report should be clearly explained and justified.
- ❑ state those facts (whether assumed or otherwise) upon which the expert opinions are based. Experts must distinguish clearly between those facts which they know to be true and those facts which they assume or have received.
- ❑ contain a summary of the conclusions reached. The summary should give the reader of the report an overview of all significant opinions contained within the report. The conclusions in the expert opinion must be presented clearly and intelligibly so that they may be readily understood by a non-expert.
- ❑ be signed. When reports are transmitted electronically, an expert shall take reasonable steps to protect the integrity of the data/text in the report.



Eleven Countries from across Europe responded to the survey.
The reach and influence of EuroExpert continues to grow.

EuroExpert Core Curriculum for the Training of Experts

EuroExpert in its aims includes the development, promotion and convergence of and education in common ethical and professional standards for experts within the European Union, based upon the principles of high qualification. As part of this aim it has agreed a core curriculum for the training of expert witnesses. Experts are required to be "fit and proper" persons and both having and maintaining a high standard of technical knowledge and practical experience in their professional field. The curriculum is designed to enhance this.

❑ **Codes of Practice:**

National/Regional Code of Practice for Experts (this includes the principles of the EuroExpert Code of Practice)

❑ **Justice System:**

Overview of National Justice Systems including differences between the inquisitorial and adversarial system

Basic Law to include contract, tort, fees, advertising and liability

❑ **Procedure Rules applicable to experts:**

Criminal

Civil

Others, where applicable

❑ **Role & Responsibilities of The Expert:**

Appointment procedures

Terms of engagement

Conflicts of interest

Giving evidence including requirements for reports

❑ **Alternatives to the Court Process:**

ADR including methods such as mediation and expert determination

The role of expert in different processes

EuroExpert Standard for Mediation training

One of EuroExpert's objectives is the development, promotion and convergence of and education in common ethical and professional standards for experts within the European Union, based upon the principles of high qualification; integrity; independence; impartiality; objectivity and respect for confidentiality.

EuroExpert has, therefore, developed a standard for Mediation training in order to promote experts as highly qualified mediators in the field of Alternative Dispute Resolution (ADR).

The Requirements

- A) Courses complying with the EuroExpert standard for mediation training shall enable participants to meet technical and personal requirements as a mediator

Technical requirements include:

- General understanding of the methods of Dispute Resolution
- Knowledge of Mediation principles and philosophy
- Understanding the mediation process and the mediator's techniques

Personal Requirements include in addition to interpersonal skills, the ability

- to listen
- to communicate
- to inspire confidence and trust

- B) The standard specifies minimum requirements which ensure that organizations offering training schemes for mediators operate in a consistent, comparable and reliable manner. To provide this assurance,

1) The training organization shall ensure that it

- uses qualified and experienced trainers/tutors to run the courses
- it complies with any standards in force
- only uses Courses that comply with appropriate EU-Standards

2) The training organisation shall adopt course requirements which include

- A Minimum Training and assessment of 40 hours
- 8 practical Role plays
- Practical assessment of 3 hours
- That Assessors should not normally have taught participants to be assessed

Language concerning the Use of Experts

Expert

A person who, through professional qualification(s) with special skills, technical knowledge and practical experience in one or more discipline(s), has competence to give an opinion in the fields about which he/she is consulted.

The Expert in Court

Expert witness

An expert whose opinion on any matter within his expertise is used for giving evidence.

Court appointed Expert (CAE)

An expert witness appointed and instructed by the Court. The overriding or paramount duty is to assist the Court on the matters within his expertise.

Party Appointed Expert (PAE)

An expert witness appointed and instructed by one of the parties in a dispute. The overriding or paramount duty is to assist the Court on the matters within his expertise and this duty overrides any obligation to the party from whom he has received instructions or by whom he is paid.

Single Joint Expert (SJE)

As with the PAE except that the SJE is appointed and instructed by two or more parties involved in the dispute. The overriding or paramount duty is to assist the Court on the matters within his expertise and this duty overrides any obligation to the parties from whom he has received instructions or by whom he is paid.

Expert Adviser

The Expert is appointed by one of the parties as their consultant in the dispute.

Professional witness

A professional person, for example a doctor of medicine, who because of his professional knowledge is called as a witness of fact.

Expert evidence

Any evidence given by an expert in his capacity as an expert witness.

Litigation

The taking of legal action in court.

Dispute

Disagreement leading to legal action.

The Use of Experts out of court

Adjudication

Exercise of a power delegated by contract or statute to a third party to resolve disputes on an interim or final basis as they arise without recourse to formal arbitration or litigation.

Expert Determination

The use of an independent Expert to investigate the referred matters and to give his determination which becomes binding on the parties.

(Early) Expert Evaluation

The use of an independent Expert to investigate and give his Expert opinion on any matter referred to him jointly by the parties. Normally this process will be used by the parties to assist them in reaching a settlement or narrowing the issues.

Arbitration

The private judicial resolution of a dispute in a final and legally binding manner, by a neutral or independent person, other than a judge in court, who is usually selected by or for the parties on the basis of his expertise and reputation in the field of activity from the which the dispute stems. Arbitration is governed by statute in most jurisdictions.

Competence of Experts

Certified, accredited, recognized, registered, listed

The method by which an Expert can demonstrate his competence varies with different countries. In some countries experts do this by an application procedure by a private association. In other countries experts are registered by the courts having satisfied them of that they are competent and have the appropriate qualifications. In some countries third party certification by private or public authorities is the method used.

The experts are then termed recognized, accredited, certified or registered. In some countries these Experts are listed as qualified experts by courts, private and public authorities.

Practice of Experts

It is recognised that there are different systems of law and many jurisdictions in the world, any of which may impose duties and responsibilities which must be complied with by Experts (eg Code of practice, Code of Ethics, General Professional Principles).

The value of an Expert Service depends essentially on a variety of criteria. The most important principles include the:

- independence
- impartiality
- objectivity and
- integrity

of an Expert.

Expertise Services

Appointment

The Expert having been selected by the court, a public authority, lawyer or a party (private client) to do expert work is formally appointed and has the duties and responsibilities of the appointment.

Assignment

The project or work that involves the expert.

Instruction

Having been selected and appointed for a particular case the expert is instructed by the court or the public or private client, as appropriate. The appointer gives the details of the mission and sets out in the expert's instructions the questions the expert has to answer.

- To give an opinion
- To evaluate and draw a conclusion.

Expert Report

Opinion formally expressed after evaluation. A Report is a document that records (i) the instructions in respect of the assignment, (ii) the basis and purpose of the report, and (iii) the analysis and reasoning that have led to (iv) the opinion and conclusion arrived at by the expert. The type, content and length of a report will vary according to the intended user, legal requirements and the nature and complexity of the assignment.

First opinion

Giving a first or preliminary statement to a question stipulated.

Inspection

Evaluation by observation, measurement, testing or gauging to determine the extent which inspection criteria are fulfilled.

Test

Evaluation to determine the extent to which test criteria are fulfilled (eg variance comparison) or the results of the tests.

Audit

Evaluation to determine the extent to which audit criteria are fulfilled.

Loss adjusting

Investigating insurance claims or claims for damages and recommending how much money should be paid out.

Valuation

Estimation of worth.

Verification

Evaluation and confirmation to ensure the accuracy, correctness, or truth of information and/or data.

Members of EuroExpert

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