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Denmark

I. Lists and registers of experts

In Denmark there are several kinds of experts and the appointment, proceedings and whether there is a public list/register of the experts depends on what kind of expert is involved.

Examples of experts:

Expert assessor

Rent tribunal assessor

Children's experts

Expert valuation

Technical experts in minor cases

Also, associations can provide expertise in certain fields.

In some cases the court can find the expert in an internal database, which all the courts of Denmark have access to. The proceedings for appointment of these experts can vary, but common to all the experts are that they must be of unblemished reputation. The list/register of these experts will sometimes also be published on the website of the courts of Denmark to ensure transparency.

In other cases the court may appoint any person that it considers suitable and competent. In these cases some public organisations have registers of experts, from which the court might choose when the issue falls within their area of competence, for example forensics. When there is no list and if both litigants agree, the court will appoint an expert who seems competent. Only persons of unblemished reputation may be appointed.

II. Expert's qualifications

There are no requirements for the qualifications of Experts. The Court is not bound by the experts opinion but can assess it freely. This also applies to the probative value of the piece of evidence. In case the Danish Court Administration considers the applications of experts who would like to operate as an expert in minor cases, the Danish Court Administration consults the relevant industrial organizations and requests a criminal record. Other than this, there are no requirements with regard to the experts' educational or professional background.

III. Remuneration of experts

The remuneration depends on what kind of expert is involved in the case.

The remuneration of **expert assessor, rent tribunal assessor and children's experts** are prescribed and it is the Danish Court Administration which sets the rules for remuneration (the Administration of Justice Act article 93 and the Social Service Act article 172).

In civil proceedings where an **expert assessment** is necessary, e.g. a technical report, there are no prescribed rates nor restrictions to the experts fees. Their payment may not occur in advance. The court sets the fee payable to the court-appointed expert for his report and attendance in court as well as for reimbursement of any expenses incurred. Before the decision, the court will ask the parties for their comments. At the same time, the court will decide how the fee is to be allocated between the parties (the Administration of Justice Act article 208).

The party having requested the court to commission an expert report and the party's legal representative are liable for the costs involved. However, the other party and its legal representative are also liable for the portion of the costs which is attributable to the response to its questions. The party having requested the expert to be summoned to attend the hearing is liable for the costs in this regard. The court may direct the parties to provide security for the costs of the expert's report they requested (the Administration of Justice Act article 208).

In criminal proceedings, similar rules regarding expert reports apply (with necessary modifications) (the Administration of Justice Act article 210).

Concerning technical experts **in minor cases** the experts have to give a cost estimate on the expected costs and are not allowed to answer the technical questions before the remuneration is arranged. Subsequently the parties must comment on the experts cost estimate. Significant is that if the parties can't give security for the costs, the court can decide that the case will continue without the expert report. The Danish Court Administration set the rules (the Administration of Justice Act article 404).

IV. Liability of experts

There is no specific rule applicable to the liability of experts. The expert must respect the professional rules which regulate his specialty, impartiality and professional secrecy. Their liability is thus governed by general tort/contractual rules. Such rules do not provide any cap for liability.

The expert who does not comply with the professional rules as expected can be replaced, his fee reduced or can even be considered liable.

Criminal behaviour when carrying out one's mission can lead to criminal charges.

Finally, there is no obligation to cover their possible liability via professional liability insurance.

V. Additional information about expert proceedings

Rules on Expert proceedings can be found in different legislation and depend on the kind of expert involved. However, most of the rules are found in the Administration of Justice Act (consolidated Act 2021-09-15 No. 1835). Regarding children's experts, the rules are partly to be found in the Social Service Act. Parts of the Administration of Justice Act are translated into English.

1. Appointment of experts

In civil matters, the experts can be appointed by the court or the parties. A party may request the court to commission an expert to report on one or more questions.

In criminal matters, the court decides if there should be an expert intervention when it is requested by the defendant or the prosecution. Both the defence and the prosecution can call in expert witnesses.

Experts must report any conflict of interest with a party.

In minor cases (cases with no economic value or with a value less than 50.000 Danish crowns) the judge can decide to request an expert opinion. The experts who operate in minor cases are appointed by the Danish Court Administration.

a) Appointment by a court

The presiding judge/court appoints the expert assessors etc. for the individual case, where their expertise is considered necessary to be represented. The presiding judge chooses an expert assessor from the relevant list/register/internal database but, in some situations, are not obliged by these. Before the presiding judge/court decide to appoint the expert assessors, the parties may comment on the decision.

In cases where an expert assessment is requested by the parties, they can appoint an expert, but the court is not bound by their decision. When the parties agree on the name of an expert, the judge will generally appoint him/her (even if not obliged to do so). If the court appoints the expert, the court should inform the parties of the person he intends to appoint and allow the parties to submit their comments. If a list/register exists the court or party normally will choose an expert from this, but they are not always obliged to do so.

b) Appointment by the parties

When the parties want to appoint an expert to issue an opinion, they must follow a particular process: whenever the parties request an expert report in civil cases, they must file a written request with the court. The request must contain information on the purpose of the expert report and the object that is to undergo expert assessment.

If the court allows the parties have to submit their questions to the court. After receiving the questions, the court appoints one or more experts. As described above, the parties also appoint an expert, but the court is not bound by their appointment.

2. Procedure

a) Civil Procedure

The procedure depends on which type of expert is involved in the case. Sometimes the expert is summoned to a court hearing to answer questions regarding a subject-matter, e.g. children's expert in family law, an expert assessment of technical questions, and sometimes the expert only must draft a written report. Other times the expert acts like a judge and is a part of the deliberations.

Below are two examples:

The expert assessor appointed by the presiding judge/court for the individual case, where their expertise is considered necessary to be represented, acts like a judge (but with expert knowledge in a specific discipline) and take part in the courts deliberations. In family law the court will be assisted by children's experts.

In cases where an expert assessment is relevant regarding an issue the expert must answer the questions received from the court by a written report addressed to the court. The expert must inform the parties of the time and place of the inspection. If the expert report is deficient, the court may direct the expert to carry out the inspection again or supplement it in an additional written report. There are predefined templates for the expert report. The court doesn't monitor the expert's activity. After the report has been submitted, the parties may ask additional questions to the expert, if so permitted by the court. The court will then decide whether the additional questions are to be answered in writing by the expert in a supplementary report or orally by the expert in a court hearing. The expert may also be summoned to attend a court hearing to answer questions relating to the report.

The experts written or oral opinions are challenged by the parties during trial. In any case, the judge is never bound by the expert's opinions.

b) Other

In criminal cases, expert witnesses are also an option. They are summoned and usually attend the hearing.

The information presented here was gathered during the Find an Expert Project from contacts per country selected by the [European Expertise & Experts Institute EEEI](#).

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