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Malta

I. Lists and registers of experts

The court can use a list or register of persons interested to serve as experts. The list or register is maintained by the Department of Justice. Members of the Judiciary retain the discretion as to whom they appoint as court expert from the list/register made available to them for internal use. This register is intended only for use by the Judiciary. Persons interested to serve as court experts have to express their interest in order for their name and details to be included in the list with the Department of Justice. They do not take an oath; however, they are asked to complete a due diligence form consenting to verifications being carried out by the Department of Justice and to submit along with the form an authenticated copy of their warrant and/or qualifications, a recent Police Conduct Certificate, a Europass Curriculum Vitae and a handwritten motivational letter. The total number of persons interested to serve as court experts is about 1,000. However, Judges and Magistrates may appoint any person they consider suitable and competent even if they are not included in the lists (courts have freedom of choice). Lastly, the Courts also publish three lists of court experts, namely architects and civil engineers, accountants and engineers. These are published in the Government Gazette every year.

A list of experts for 2019 is published [here](#) (p. 4 et seq. of the PDF).

II. Expert's qualifications

Experts have to be qualified in order to call themselves experts, but they do not have to be a member of a professional body. There is no continuing professional development system or any requirement for regular improvement. There are no courses for experts. The title of expert is not protected and there is no distinction between different types of expert. The list/register of persons interested to serve as court experts, which is maintained by the Department of Justice, is categorised according to the area of expertise.

III. Remuneration of experts

The expert's remuneration is calculated according to a fixed tariff, but there is no restriction on how an expert can be remunerated. The expert is paid by one party, but it is up to the court to decide which party is to pay the costs. There is a possibility for the parties to receive legal aid and there are no prescribed rates. As for payment in advance, the court can order the parties to make a deposit in court and this will be withdrawn by the expert once his/her job is finalised.

IV. Liability of experts

General principles of tort and contract law are applicable with no cap on liability. Experts are not required to have professional indemnity insurance.

V. Additional information

The appointment of experts is governed by [Articles 644 to 682](#) of the Code of Organisation and Civil Procedure, Cap 12 of the Laws of Malta.

Furthermore, in the criminal field, the appointment of experts is governed by [Articles 650 to 657](#) of the Criminal Code, Cap 9 of the Laws of Malta.

Appointment of experts

In civil proceedings, experts are appointed by a court and may even be suggested by the parties. Thus, experts are appointed at the request of either the court or the parties in cases where technical points need to be established. This is the case, for example, with building matters, traffic accidents, accounting issues, medical problems and assessment of damages.

In criminal cases, the experts are chosen by the court. The procedure of challenging such experts is the same as that for civil cases. In criminal cases, the experts can make their report, either orally or in writing, according to the directions of the court. The report must state the facts and the circumstances on which the conclusions of the experts are based. If the report is made orally, it has to be reduced into writing by the registrar or by the person acting in his stead.

1. Appointment by a court

Experts have a legal obligation to declare conflicts of interest. Reports of experts appointed by the court carry more weight than those appointed by the parties.

2. Appointment by the parties

There is no particular process for appointment by a party. A single expert may be jointly appointed by agreement. A court may order the parties to appoint a single expert.

VI. Procedure

A) Civil procedure

There is no difference in the appointment procedure for preliminary or pre-trial proceedings.

1. Expert report

Parties are expected to provide detailed instructions to the expert and questions that the expert ought to address. The court decree that appoints the expert shall contain the terms of reference that the expert needs to examine. Once they file their reports and get paid, experts are called to take an oath over their report and at that point they are cross examined by both parties.

There is no set structure to the report, and experts are not required to produce a preliminary report. They are expected to address the parties' questions in the final report. Article 665 of the Code of Organisation and Civil Procedure, Chapter 12 of the Laws of Malta, stipulates what the report should contain. It provides that the report should state the inquiries made and the grounds of the findings. Moreover, it stipulates that the report should be clearly and legibly typewritten or written in ink. The report should not be supplemented by plans or models, unless the court so directs or the parties give their consent thereto.

2. Court hearing

There is no requirement for the expert to attend a preliminary hearing. It is normally expected that experts only inform parties of any sittings that they will be setting and any requests to be made by the experts to the parties is to be made during such sittings. Experts are usually cross examined at the hearing. The court does not monitor or control the progress of the expert's investigations and there is no quality control by the court. Parties may challenge the expert report both by statements and counter-expertise. The court is not bound to adopt the report of the expert against its own conviction.

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