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Romania

## I. Lists and registers of experts

In Romania, experts are listed by specialisation. The registers of experts are made available to the courts by the Ministry of Justice and they are kept by the civil courts or the criminal courts. The lists can be found [here](#).

Experts are authorised and listed in the register after an examination organised by the Ministry of Justice.

In order to acquire the status of judicial expert, a candidate must fulfil the following conditions:

be a Romanian citizen, a citizen of a Member State of the European Union or of a State belonging to the European Economic Area or a citizen of the Swiss Confederation;

know the Romanian language;

have full legal capacity;

be a graduate in the specialty for which he / she is present at the expert examination, proven by diploma;

have at least three years of experience in this specialty;

be medically fit for the work of an expert;

have no criminal record and enjoy a good professional and social reputation;

be declared successful in the exam organized by the Ministry of Justice.

The citizen of another Member State of the European Union or belonging to the European Economic Area and the Romanian citizen who have obtained the necessary professional qualification in another Member State of the European Union or belonging to the European Economic Area may acquire the status of an expert in Romania under the same conditions as Romanian citizens.

Experts can be removed from the register if they wish, if they do not meet the requirements anymore or if the competent authority decides so.

## II. Expert's qualifications

Experts have to be a member of a professional body in order to call themselves experts.

## III. Remuneration of experts

### 1. Civil procedure

The court order appointing an expert shall set out the expert's fees and, where appropriate, the advance for travel expenses. The court may ask the expert to estimate the costs of the expertise in writing within a certain time period.

The proof of payment of the fee shall be filed at the court registry by the party that was bound by the order, within five days from the appointment or within the time limit set by the court. The court may increase the fees until the report has been handed in.

### 2. Criminal proceedings

The expert is entitled to a fee for the performance of the expertise. The amount of the fee is set by the prosecutor or court according to the nature and complexity of the case and the expenses incurred by the expert.

## IV. Liability of experts

Experts are held liable according to the general contract and tort law. They are obliged to cover their possible liability via professional indemnity insurance.

Judicial technical experts guilty of misconduct committed in the exercise of the expert's activity may be subject to the following disciplinary sanctions by the Central Technical Judicial Technical expert, in relation to the seriousness of the offense committed:

written warning;

suspension of the right to perform judicial expertise over a period of 3 months to one year;

withdrawal of the status of judicial expert.

## V. Additional information about expert proceedings

The main legal provisions applicable to judicial expertise in Romania are Art. 330-331 of the Romanian Code of Civil Procedure. Further, Art. 172-191 of the Romanian Code of Criminal Procedure applies.

Experts are listed by specialization. The expert registers are public and are posted on the website of the Ministry of Justice.

Experts must apply to be enrolled in the register.

### 1. Appointment of experts

Romanian **civil law** provides for the appointment of one or three experts. Experts can be appointed by the court and by the parties involved. The parties can agree on one expert. If they do not agree, the expert will be appointed at random by the court in public session, from a list drawn up and communicated by the office of expertise.

Romanian **criminal law** provides for the appointment of only one expert. The expert can be appointed by the court during trial and by the prosecutor during the criminal investigation phase. In general, the prosecutor or the court appoints one expert. Only in situations where interdisciplinary knowledge is required, two or more experts will be appointed.

For this purpose, the same register as in civil proceedings is used. The requirements for experts are the same in both criminal and civil proceedings.

#### a) Appointment by a court

The civil court or criminal court has the power to appoint an expert either ex officio or according to a party's explicit request if the relevant facts can only be established with the help of a specialist. In this case, the expert will respond to the questions asked by the court or prosecutor until a specific date. The expert has to report any conflict of interest to the court. court appointed experts have access to the file.

#### b) Appointment by the parties

There are many types of party appointed experts in Romania:

Authorised independent experts appointed at the request of the parties or the accused (Article 172 (8) of the Code of Penal Procedure)

Official experts from laboratories or specialized institutions

Authorized independent national experts

From abroad (Art. 172 (8) of the Code of Penal Procedure).

Where there are no authorised experts available, the court may request the views of one or more persons or specialists in the respective field (Article 330, paragraph 3 of the Civil Procedure Code), who will thus be extrajudicial experts and expert witnesses. Experts appointed by the parties will control the action of a court appointed expert. It is not possible that the parties appoint an expert without the court having appointed an expert (article 173 paragraph 4 Code of Penal Procedure). Expert witnesses are witnesses with special scientific or technical knowledge, questioned by the court.

Experts have the right to refuse to perform the expertise for the same reasons witnesses may refuse to testify.

## **2. Procedure**

### **a) Civil Procedure**

The judge is not bound by the expert's opinion. The expert's only obligation is to deliver the report. Experts are allowed to be in contact with the parties during the proceedings, court appointed experts need the court's permission to do so.

#### **i. Expert report**

In Romanian expert proceedings a preliminary expert report is not required. The main report can be delivered only in writing. The expert has to follow a certain structure when providing his report.

If it is necessary to clarify or supplement the expert report, or if there is a contradiction between the experts' opinions, the court, ex officio or at the request of the parties, may ask the experts to clarify or complete their reports.

The court may order a counter-expertise upon request of the parties or ex officio if there are good reasons to do so. The counter-expertise will be provided by another expert than from the original report. The court freely decides on which reasoning it bases its judgement.

#### **ii. Court hearing**

In the course of criminal prosecution or trial, the expert may be heard by the investigating magistrate or the court at the request of the prosecutor or the parties or ex officio if the hearing is necessary to clarify the findings or conclusions of the expert.

In civil law procedure, if the experts can immediately express their opinion, they will be heard in the hearing, on the same rules as the witnesses and their opinion will be recorded in the judgment.

### **b) Criminal proceedings**

If the prosecutor or the court considers the expertise to be incomplete and this deficiency cannot be remedied by the expert's hearing, the court shall order, ex officio or at the request of the parties, a supplementary expertise by the same expert. If it is not possible to designate the same expert, a counter-expertise will be ordered.

The prosecutor or the court shall order a new expertise if the conclusions of the expert report are unclear or contradictory and these deficiencies cannot be remedied by hearing the expert.

*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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