

I. Instruction or appointment of experts

	Question 1.1	Question 1.2	Question 1.3	Question 1.4	Question 1.5	Question 1.6	Question 1.7	Question 1.8
	What is the definition of an expert witness within your legal system?	Please cite any specific procedural rules which provide for the instruction of an expert witness	In what circumstances (if any) would an individual be disqualified from instruction as an expert?	Where an expert is appointed by the court, do the parties have the opportunity to be heard prior to that appointment?	Who may instruct or appoint an expert? <i>(eg. court alone, parties only, court and parties)</i>	What criteria (if any) must be met before an expert may be appointed/instructed?	What form of quality controls are relied upon to ensure that any expert instructed/appointed is suitably qualified?	What information/evidence is provided to the expert for the purposes of his/her report?
Austria	A person, who by virtue of his/her expert knowledge is believed to determine probative facts or draw conclusions based on those facts.	An expert witness has to be appointed as soon as expert knowledge (which is not available to the law enforcement agencies) is necessary for inquiries or the taking of evidence.	An expert witness would be disqualified from instruction, if his/her findings or expertise would be indefinite, inconsistent or incomplete. In such cases the prosecutor or the judge would have to appoint another expert witness.	All parties to the procedure have to be informed about the appointment of an expert witness and also have the right to raise an objection against this appointed expert witness.	During the preliminary proceedings only the prosecutor may appoint an expert. After the validity of the indictment the court/judge has the right to choose an expert.	Particularly specialised knowledge.	Experts who are a member of the court's register of " <i>generally sworn in experts</i> " have to undergo a certification procedure before they will be appointed to this list. Other than that there are no quality controls.	The same information as is provided to the court/prosecutor. In most cases the original court file is sent to the expert. Experts can ask questions.
Belgium	No definition contained in the Belgian Code of Criminal Procedure ('CCP') a recent decision of the Belgian Supreme Court provides the following definition: " <i>a person who is appointed by a judge on account of his professional knowledge to provide the judge with technical advice in an independent and impartial manner, enabling the judge to perform his task, without being the judge's agent.</i> "	The public prosecutor may instruct an expert witness in the following circumstances: a) when a suspect is caught <i>in flagrante delicto</i> , he may require a doctor to take a blood sample, in order to determine the degree of intoxication. ¹ The Highway Code contains a similar provision. b) to compare DNA-material found at the crime scene with a DNA-sample handed over voluntarily by a suspect. ² c) to require a doctor to conduct an " <i>intrusive</i>	At the preliminary stage, the secret nature of the investigation seems to prevent challenging an expert: parties might not even know an expert has been appointed. At the trial stage on the other hand, experts can be challenged as long as they have not already deposited their report. In this case, the expert can no longer be challenged, but parties can always invoke the grounds for challenging in order to obtain a counter expertise.	An expert may be appointed by the court without prior consent or consultation of the parties.	The court alone.	No formalities.	No quality controls, other than some professional related qualifications where appropriate (eg. medical doctor).	Access to the entire case file. In addition the expert may ask further questions and attend police interviews.

¹ Art. 44bis of the CCP

² Art. 44ter of the CCP

³ Art. 90bis CCP

		<p><i>examination of the body” of a person who is of age (18 years old) and who agrees to the investigative act. This includes an examination of a suspect’s or a victim’s private parts, and is frequently used for investigations into sexual offences.³</i></p> <p>d) in the course of a preliminary investigation to appeal to “<i>persons who are considered competent due to their knowledge or profession, in order to assess the particular circumstances of the offence</i>”.</p>						
Czech Republic	Section 2 of Act No. 36/1967 Coll. on experts and interpreters states that the expert witness activities are performed by experts – persons registered in the Register of experts and interpreters. (<i>sic</i>)	Experts perform their activities in the district of a particular regional court. This court appoints experts from its district. Experts can also perform their activities in other regions than they are registered in.	The expert or parties must immediately report any doubt as to the expert’s objectivity in respect of the matter concerned. The parties or their representatives as well as the relevant professional bodies must also be informed. The body which appointed the expert is entitled to decide about his suspension.	Yes	The Court and/or parties	The Court must appoint a specialised institutes for rendering expert opinion or a registered expert.	Institutes specialized in providing expert opinions. The expert can only be registered in the Register after completion of a special training for providing expert opinions and has personal qualities and conditions for provision of expert opinions.	The judicial file for examination. In addition the parties are obliged to cooperate with the expert.
Estonia	A person who uses specific non-legal expertise in forensic examination or in cases provided by law, specific legal expertise. Forensic experts, officially certified experts and other persons appointed by bodies conducting proceedings may be experts.	Questions posed to the expert shall be specified in the order or ruling on expert assessment.	If 1) he/she has previously been subject to criminal proceedings on another basis in the same criminal matter; 2) he/she is or has been a person close to the accused, victim or civil defendant; 3) he/she cannot remain impartial for any other reason.	Yes	The body conducting the proceedings (i.e. the investigating authority during pre-trial proceedings, or the court during trial proceedings). Parties can pose questions to an expert through the court.	Where an expert is not from a forensic institution then he or she must be impartial and consent to conduct expert assessment.	Forensic Examination Act provides criteria relating to forensic experts. Officially certified experts must be admitted to a special registry. In order to apply for entry, experts must meet certain criteria regarding education,	Facts relating to the criminal offence, and other source information necessary for the expert assessment and the reasons for it, questions posed to the expert and assessment material

			<p>4) if he/she works in a position subordinate to a participant in the criminal proceeding or an official of an investigative body who is conducting proceedings in the criminal matter or is in any other dependent relationship with such persons.</p> <p>A committee of experts shall not include persons close to each other. If an expert does not remove himself or herself a petition of challenge against the expert can be submitted.</p>				work experience etc. For other types of expert no quality controls.	
France	<p>Although there is no official definition, an expert is a specialist appointed by a magistrate with the mission to solve a technical question.</p>	<p>The expert is chosen at the discretion of the magistrate from a national list of natural or legal persons drawn up by the Court of Cassation or a list drawn up by the Courts of appeals. The magistrate can choose to appoint a person outside of these lists but has to justify his decision.</p> <p>An appointed expert has to take an oath before testifying. If he is listed, then he must also take oath when he is registered.</p>	<p>An expert designated on the national list must fulfil certain conditions. The lists are reviewed every year and the Court of Appeals or the Court of Cassation examines if the experts still fulfil the requirement conditions.</p> <p>An expert can be disbarred if he is responsible for a serious professional mistake for breach of the ethical rules governing his mission (to act with conscience and honour and respect the secrecy of the investigation); if he becomes legally disabled or if he is convicted for a breach of honour, probity or good morals. As for experts appointed outside of the lists system, it has been ruled that they must fulfil the same criteria as for listed experts.</p>	<p>A party can request an area of expertise; it can also suggest the name of an expert to the magistrate and present the questions they wish the expert to address. But the final decision as to the expert to appoint and the scope of his mission is determined by the magistrate, at his sole discretion.</p>	<p>Only a Magistrate can appoint an expert either at the parties' request or on its own initiative.</p>	<p>See 1.3 There is an annual review of experts list.</p>	<p>The lists of experts are reviewed every year. If an expert does not fulfil the requirements anymore, he will not be registered again.</p> <p>Also, in case of breach of his duties, an expert can be disbarred.</p>	<p>Access to the case file and to sealed evidence.</p>

Germany	No definition of an expert witness as such. Everyone who has a certain expertise for the topic which is to be dealt with can be appointed as an expert. It is a question of consideration of evidence as to whether the court trusts what the expert says or not.	The expert's report must be prepared under the judge's direction. In practice this means that the judge is supposed to draft, properly and clearly, the questions the expert shall answer.	N/A	No specific rule as to the right to be heard prior to the appointment. In practice, in most of the cases, it is possible for the defence lawyer to talk with the judge about the choice he could make, and to have some influence on the choice.	Before the case goes to court, only the prosecution; subsequently only that court. The defence may ask an expert to give his opinion on a certain issue but the court is only obliged to hear this expert when he is present in court.	None	No quality controls except the possibility to ask the expert in court about his education and his training in the relevant field.	The expert is able to read the files, question witnesses and is given freedom to use any means the expert considers appropriate in order to acquire the information he needs for the purposes of his report.
Greece	An expert witness is a person who has special knowledge on science and art (art. 183 of the Greek Code of Criminal Procedure).	At the discretion of the relevant authorities.	Parties can file a request for conduct that shows bias. The following individuals are not permitted to act as an expert witness a) individuals under the age of 21; b) individuals convicted for felonies or misdemeanours who have been banned from voting; c) disqualified public servants; d) disqualified professionals etc.	The name of the expert witness must be announced to the parties in order to allow them either to exercise their right to ask for his/her disqualification or to appoint a technical advisor in relation to the subject of expertise. This rule, however, does not apply where expert evidence is to be conducted by State Agencies (Police Laboratories etc.).	The Court, the investigating authorities or the parties.	See 1.4	Greek Code of Criminal Procedure applies if the expert fails to render his report within the required time limit granted by the authorities and if he conducted his work in a negligent way.	Any information needed to render the expert opinion. An expert may make a request for additional information.
Lithuania	The court expert is an individual, who has qualification of the court expert and is enrolled to the Register of the Court Experts of the Republic of Lithuania ("the Register"). If there is no expert with the due specialisation in the Register, the Law on the Court Examination provides that another person not enrolled in the Register may be	An expert must fulfil certain qualification requirements, take an oath and be enrolled on a register.	Where the qualification requirements are no longer fulfilled.	No strict rules as to hearing prior to appointment but in practice court often asks opinion of parties as to certain experts.	The court – either on its own initiative or according to a request of the parties	See 1.2 and 1.11	Only a person, who has due qualification, which is certified with enrolling him/her to the Register after he/she has a university degree, passed the court's expert qualification examination and the legal knowledge examination and took the oath.	All information required.

	appointed as the expert.						In case of violation of the oath, he/she faces an administrative or a criminal liability.	
Malta	No specific definition of an expert witness. An expert witness is considered to be so on the basis of his appointment by the relevant Court. Both in civil and in criminal proceedings, the Minister responsible for Justice is entitled to appoint persons whom he may deem fit to act as experts. The Criminal Code obliges the Court to appoint an expert where <i>"for the examination of any person or thing special knowledge is required."</i>	The Minister responsible for Justice may, after consultation with the Chief Justice, appoint a number of persons as official experts for the purpose of reporting on matters which require special technical skills or knowledge. If such appointments have been made then the Court is to nominate an expert from that list as the need arises and on a roster basis. If no appointments have been made by the Minister responsible for Justice then the Court may appoint other individuals as experts.	A party can object to the appointment of an individual as an expert (or referee) if good cause is shown, at any time prior to the filing of the expert's report. An expert will also be disqualified if any of the criteria applicable for the challenge of judges exists (eg. close in line, <i>sic</i> , worked on a related case).	Generally speaking there is no hearing prior to the appointment in criminal cases.	The Court on its own initiative or on the request of one of the parties.	No specific requirements	The Court establishes the competence of an expert by asking the expert to state his qualifications and competence and confirming such on oath.	Full access to the court documents. In some cases the Court may deem that it is expedient for the ends of justice to allow an expert to sit in court and hear the deposition of other witnesses. Furthermore, the court may (and often does) authorise the expert to receive documents and to examine witnesses on oath in order to carry out his work.
Netherlands	No definition is set out in Criminal code. In practice, this generally means that any person who knows more about a specific topic, than the common man may be assigned as an expert by the judge.	Prior to the trial the defendant may ask the investigating judge to appoint an expert. The public prosecutor may also on his own behalf or on the request of the defendant, appoint an expert witness with the task of informing him or assisting him or to do research, including research into the personality of the suspect. Conclusions must be presented by way of a written report. The explicit task and the period within which the report must be finished shall be given to the expert along with his appointment.		The public prosecutor and the defence have the right to make indications to and observations about the research. On request it is possible for the defendant to have contact with the expert to discuss the research. The defence has the possibility at the court hearing to be heard prior to the appointment of the expert.	The Court, prosecutor or defendant.		Specific profession related qualifications or if not up to the Court.	None

Norway	No legal definition however in judicial books etc., the expert witness often is defined as a person that is appointed in order to deliver an expert opinion or assessment in relation to the hearing of evidence, based on their professional knowledge. The definition of 'expert evidence' is a professional opinion relating to the facts of the case." ⁴				The Court but parties may make suggestions.	Necessary for deciding the case.	None	Investigation documents; access to all parts of proceedings; questioning parties; witnesses.
Poland	A person who has special knowledge and information in the relevant field that is not known for normal intelligent people.	In cases that require specific information, the court may (after hearing both parties as to the number and choice of expert witnesses) call one or more expert witnesses to provide an opinion. ⁵	In circumstances that exclude also judges from chairing the case (as a result of personal or legal dependence with a party that threaten impartiality, etc).	Yes – as regards number and choice of legal experts.	The Court alone (after hearing from the parties).	There must be a case that requires special knowledge that is not known for normal intelligent people.	Check of qualifications by the appointing court.	All relevant information connected with the case, together with court files. Expert witnesses may additionally hold any additional examinations deemed to be necessary.
Portugal	Expert evidence is defined as the perception and appreciation of facts through an opinion by a person with special qualifications in a certain technical, artistic or scientific domain.	Expert evidence is normally produced by the appropriate official establishment, laboratory or service. In these cases the judiciary authority will usually request the competent service to name the expert - expert evidence is to be produced by an expert chosen from the county expert lists. If there are no such lists or it is impossible to get back at them in due time, an honourable person with recognised skills in the matter will be appointed.	The expert witness may also request withdrawal in those situations in which there are serious grounds for suspicion that he is not impartial. The appointment of an expert may be challenged on the same grounds by the public prosecutor, the defendant, the assistant or the civil parties. The expert witness may also be disqualified as a result of legal or personal impartiality.	In criminal procedure, this is not usual. However the judiciary authority (judge or public prosecutor) may choose to hear the parties on the appointment of a certain expert, in particular in cases with a special significance.	The court alone. During the investigation, the public prosecutor may instruct experts, except where a defendant does not consent in respect of any invasive testing. The public prosecutor, the defendant, the assistant and the civil parties may appoint technical consultants. These may be present during the conduction of the expertise, if	See 1.2	No external control. The judiciary authority that appointed the expert (public prosecutor or judge) may order his replacement on the grounds of the expert's recklessness on fulfilling his tasks or of failure to produce the report within the term established by that authority.	Access to the file. Usually the authority that requested the expertise states which part of the file should be given to the expert for analysis. The expert witness may request for specific acts to be undertaken and may ask for clarification of any aspects which he finds necessary.

⁴ The Act of 17 June 2005 No. 90 relating to judicial procedure in mediation and civil cases ("the Dispute Act") section 25-1

⁵ Article 278 par. 1 of the Code of civil procedure

					possible.			
Slovenia	No formal definition but Article 248 of the Criminal Procedure Code (CPC) describes an expert witness as someone with a specific scientific knowledge which the court doesn't possess.	He/she must give his testimony in accordance with the rules of his field of science and impartial. ⁶ False testimony is a criminal act.	If the expert is in any way connected with the parties involved (blood relation etc.)	No	The Court alone.	Expert must be formally appointed by Ministry of Justice.	No quality controls but must be widely recognised as expert in his field.	Full access to the court file.
Spain	An official expert is anyone who has an official qualification in science or art whose practice is regulated by the Administration. Non official expert are ones lacking official title but having the knowledge or special practice in any science or art.	No specific procedural rules'	Same as any witness if relative of defendant or his lawyer.	No opportunity to be heard prior to appointment. After the appointment the parties may challenge and reject the appointment.	The Court but parties may ask for appointment.	Have competence on the expertise.	Official list of experts in any science or art.	The Judge provides the expert with details in respect of the expertise required.
Sweden	A public authority or officer or persons known for their integrity and their knowledge of the subject at issue. ⁷	If the court deems so necessary.	A person whose relationship to a party or the matter at issue is such as to cast doubt upon his reliability may not be called as an expert. Furthermore, a person who has given an expert opinion requested by one of the parties, only as an exception should be appointed as an expert witness appointed by the court.	The court should provide the parties with the opportunity to state their view prior to the appointment.	The Court but the parties may request appointment. If the court refuses, the parties may summon an expert.	If the court finds it <u>necessary</u> for the determination of an issue the appraisal of which requires special professional knowledge.		

⁶ Article 252 of the CPC

⁷ Chapter 40 Section 1 of the Swedish Code of Judicial Procedure

	Question 1.9	Question 1.10	Question 1.11
	What form of quality controls exists in order to monitor the standard of work product from an expert within the proceedings?	Please set out any mandatory or voluntary accreditation/registration processes which apply to expert witnesses? (where mandatory, what provisions exist for <i>ad hoc</i> admissions)	What provisions exist for complaints to be registered against expert witnesses?
Austria	Each party has the right to ask the expert questions and/or challenge his/her expertise. In case an expert is biased, the code of criminal procedure provides for the same tools as in case a judge or prosecutor are biased.	A court's register of " <i>generally sworn in experts</i> ". To be appointed an expert has to undergo a certification procedure. <i>Ad-hoc</i> admitted experts are sworn in right before court.	Right of appeal by parties or claim that expert is biased.
Belgium	Quality control of indirect and pecuniary nature.	No mandatory accreditation procedures. Most courts work with unofficial lists or lists published by trade or professional organisations.	Few formal rules. Right to challenge or contact appointed authority for quality control.
Czech Republic	Suspension of an expert and an appointment of a different expert in case there are imperfections in the expert opinion.	See 1.6	Suspension of an expert and appointment of a different expert. The challenge of the conclusions of the expert opinion, which has to be reviewed by the court. The court may have the expert's report verified by another expert, by a scientific institute or by another institution.
Estonia	None	Only "officially certified experts" are subject to registration procedure. No accreditation requirements apply.	None
France	None	Experts need to be listed on official list. If magistrate appoints expert who is not listed, it has to motivate its decision.	None. The expert's responsibility can be held on different grounds: for a breach of ethical rules; for the commission of criminal offences; for having caused a damage to one of the parties on the basis of general torts law
Germany	None	No	Right to recuse expert.
Greece	Removal from Register for the duration of 3 years. Pecuniary damages.	Special procedure for annual drafting of Registry.	N/A
Italia	None, apart from the possibility to ask the intervention of the judge to sort out special controversial points in carrying on the activities.	List managed by Court but not mandatory.	None
Lithuania	Law on the Court Examination provides with the rules, how the results of the examination has to be recorded (<i>sic</i>).	Mandatory registration procedures.	Parties, the court and other persons involved in the case may claim a removal of the expert in case he/she has direct or indirect interest in the outcome of the case or there are other conditions, which raise doubts about his/her impartiality or qualification.
Malta	None	No formal accreditation or registration process. However the Minister responsible for Justice may nominate a number of individuals on a panel to serve as experts should the need arise.	Challenge on same grounds as judiciary. Challenge of referee for any cause or reason known at time of appointment.

Netherlands		N/a	Right to complain to expert's affiliated association, certain professions submitted to disciplinary rules. If the content of the expert statement is false, the defendant can accuse the witness of perjury or forgery.
Norway	No standard rules. Specific rules for commission on forensic experts. Draft bill pending in parliament for establishment of expert evidence in child welfare case.	Ministry of Justice may appoint regular experts in forensic medicine. These are appointed at the proposal of the commission on forensic medicine. The regular experts in forensic medicine are often the ones being appointed, but the court may at the same time freely choose to appoint other experts in forensic medicine, which also regularly is done.	No specific rules other than disciplinary rules of professional organisations/
Poland	Court may ask additional questions or appoint another expert	President of District Court appoints expert witnesses for their district (for a five year term).The President may ask any institutions for their opinion on a particular candidate for the expert witness. There is also an institution of <i>ad hoc</i> expert witnesses, that are appointed by the court for a particular case.	Dismissal by President of District Court.
Portugal	None	Specific provisions for establishing registers of experts.	No
Slovenia	None. Parties may ask the court to appoint another expert - the court decides at its discretion.		
Spain	None	None	None
Sweden	The expert's report must be clear, if not the court can appoint another expert.	n/a	Rarely used rules to hold expert responsible to compensate for costs.

II. DISCLOSURE

	Question 2.1	Question 2.2
	What disclosure regime applies to expert evidence? (where appropriate please indicate where the provisions vary from the general disclosure regime for criminal proceeding)	Is any distinction made between experts appointed by defence/prosecution or court in terms of disclosure of/access to evidence? (if so, please specify)
Austria	No special disclosure regime	No difference. Special regime for private appointed witnesses. Court not obliged to hear these, expert has only access to files provided by appointed party.
Belgium	No special disclosure regime. Evidence provided by party appointed experts must be submitted to court file.	No difference. If party who appointed expert wishes that evidence is not relied on by court it should not be included in case file.
Czech Republic	The trial is open to the public; so is the expert opinion. Under particular conditions the public can be excluded from the trial; youth trials are not open to the public. Where the trial is not open to public, the expert opinion is under the disclosure regime.	No
Estonia	No	No
France	Expert work is carried out during the investigative phase, it will be protected by the secret of the investigation as part of the investigation.	No
Germany	No	No
Greece	No	No
Italia	No. General disclosure rules for criminal proceedings apply.	When an expert is appointed by the Judge prior to the trial or by the Court during the trial, the final paper, the report of the activities and the attached documents and evidence is disclosed to the parties and it is provided the right to cross examination in the trial. When an expert is appointed by the public prosecutor, the disclosure regime is the same as the general provisions (at the end of investigations, with special exceptions for very urgent activities and in this case the disclosure is provided before the end of investigations). When an expert is appointed by the defence counsel or other private parties (victims), it is up to the defence to show the result and, in this case, to call the expert at the hearing or, in some cases, to disclose the paper.
Lithuania	The act of expertise in criminal procedure can be disclosed at the court hearing even without participation of the expert if the examination is provided during pre-trial investigation and the act of expertise is thorough and clear enough.	No
Malta	No	No ex-parte expert allowed.
Netherlands	No	Concerning disclosure: When an expert is assigned by the defence, he can be placed under secrecy and he can have a derived right to refuse to give evidence, derived from the defendant and his attorney. Concerning access to evidence: experts who are not appointed by the (assistant) public prosecutor or the (investigating) judge do not automatically have access to evidence. This must be made available by the public prosecutor or (investigating) judge.
Norway	No	Only the court may appoint experts. Non-appointed experts that are engaged by the parties are considered as <i>private expert witnesses</i> , and have a slightly different legal position
Poland	No	No
Portugal	Generally disclosed, exception for expertise ordered during the investigation and the judiciary authority has a reason to believe that the fact of giving knowledge on the expertise to the defendant, the assistant or the civil parties will endanger the purpose of the investigation, he will not make public the decision that ordered the expertise to none of the parties.	No, in certain cases access to technical experts appointed by parties not immediately granted.
Slovenia	No	No

Spain	Total disclosure	No
Sweden	No	No

III. FUNDING

	Question 3.1	Question 3.2	Question 3.3	Question 3.4	Question 3.5	Question 3.6	Question 3.7
	Is public funding available for the instruction/appointment of defence, prosecution or court experts respectively?	What criteria is applied to any funding application in respect of an expert for the defence, prosecution or court respectively? <i>(please specify any guidance/regulations which apply)</i>	Where funding is available for expert witnesses within what timescale are such applications processed <i>(are proceedings ever delayed by the wait for funding?)</i>	Is provisional funding available and if so under what conditions?	Are any conditions attached to the provision of funding? <i>(eg. a limited number of hours or quality control assessment)</i>	Is funding linked to or independent from the court?	Do any problems exist in practice which prevent the use of expert evidence due to funding issues?
Austria	In general the costs of a trial including costs for expert evidence are covered by the state. If the accused is sentenced he may be convicted to bear the costs of an expert too.	The costs of an expert announced by the court are covered by the state at first. The fees of a private expert have to be covered by the party who appointed him/her. They will be not refinanced by court or the state also in the case of an acquittal.	In general such applications are processed within about three weeks. Proceedings are not delayed by the wait for funding.	See 3.1	No		No
Belgium	Costs for court-appointed experts are finally borne by the State if the suspect is acquitted, or the investigation led to nothing. If the suspect is convicted, he will be condemned in the legal costs caused by the offence, on the condition that the costs were incurred on account of	The scale of fees for court-appointed experts is laid down in an appendix to the Royal Decree concerning the Legal costs regulations.	Costs for expert examinations are advanced by the Ministry of Justice, pending a final conviction and subsequent reclaiming of these costs from the convicts. Proceedings are seldom delayed by the wait for	No provisional funding available other than advance payment (see 3.3).	No	Independent	Fees do not always cover the actual expert costs.

	the offence for which he is convicted.		funding.				
Czech Republic	In criminal proceedings, the person who is proclaimed guilty must cover the expenses that are heard by the state by the lump-sum.	The funding is regulated by the Act No. 36/1967 Coll., on experts and interpreters. The tariff scale is regulated by the Decree of Ministry of Justice No. 37/1967 Coll., on the implementation of the Act No. 36/1967 Coll., on experts and interpreters, as amended.	In the criminal proceedings, the expert's fee is covered 30 days after its award at the latest.	In the civil proceedings, the court can decide that the parties have to submit a deposit for the elaboration of the expert opinion.	Remunerated on one-hour basis. This can be increased/decreased in relation to type and difficulty of an expert opinion. The state body can deny providing funding in case of a poor quality of an expert opinion.	Linked to the court.	No
Estonia	Yes	The procedure for the calculation of and compensation for the expenses of forensic institutions: <i>Government Regulation No 263, dated August 13, 2002.</i> The price list of examinations conducted in forensic institutions: <i>Government Regulation No 438, dated December 21, 2001.</i>	The expert is paid and compensated after the expert has performed its tasks. The body conducting the proceedings shall issue an order or ruling and payment shall be effected within 15 days of such ruling.	No	N/A	Linked to Court to the extent that Court has appointed the expert.	Complex and potentially expensive expert assessments have been denied by bodies conducting the proceedings.
France	Experts are always paid by the State. ⁸	rules concerning their fees, depending on the nature of the mission.	Experts are paid after their work is finished.	Yes, where an expert who has carried out exceptionally important works is obliged to make expensive trips or if they had to advance important sums.	The amount of these fees cannot surpass a third of the estimated fees the mission will incur.	N/A	N/A

⁸ Article 800 of the Criminal Procedure Code

Germany	Experts appointed by the court or the prosecutor are paid by the state – and finally by the accused if he is found guilty. Experts appointed by defendant are paid for the by party unless the Court decides that expertise was necessary.	N/A	N/A see 3.1	N/A	N/A	N/A	Where the court is unwilling to appoint an expert difficulties arise in establishing that expert evidence is necessary for the case.
Greece	An expert appointed by the Court or Investigating Authority is entitled to legal fees and expenses. No funding for expert witnesses appointed by party.	See 3.1	A few months.	N/A	N/A	Linked to Ministry of Justice, Court provide certificate upon finishing of report.	Delays to funding and low funding of experts not in the Register of Experts.
Lithuania	In case the court initiates the examination, the defendant in a criminal process has the right to ask the court to oblige the convict to cover the examination expenses.	Funding differs in civil criminal procedures. In case of court appointed or party appointed expert funding provided. ⁹ The court may enforce all expenses of proceedings from the convicted.	No	No	Type of expenses are indicated.	Linked to the Court.	Parties or court might decide not to appoint an expert taking into account the expert costs and the amount of the claim.
Malta	Court appointed experts are funded publicly in criminal proceedings. However the court may request that the accused pays costs if he is found guilty.	Depends on a number of factors such as hours, visits, length of report.	Usually processed within 2 months.	No	No	Linked to the court.	Tight budget has resulted in lack of funds.
Netherlands	Experts instructed/ appointed by the prosecution or the court	If assigned by the prosecution, court public funding is	N/A	Advance payment may be requested but must be	FPD and NFI experts bound to a fixed hourly rate, other	Linked to the Court.	If request by defendant to appoint an expert is refused by Court,

⁹ Article 104 of the Code of Criminal Procedure

	are paid by public funding. The defendant can ask the court or prosecutor to assign a witness, in that case it's expenses will be paid by public funding.	available.		approved by Court.	required to make up budget. ¹⁰		defendant needs sufficient financial resources otherwise banned from expert expertise.
Norway	Experts appointed by the court and prosecution are fully paid for, experts appointed by defendants are only paid for when certain criteria are met.	None for court or prosecution appointed experts. ¹¹ Experts engaged by the defence only may be compensated for expenditures and loss of income. However, under some conditions also entitlement to payment on the same terms as appointed experts.	Fee fixed and paid within 30 days.	No	None, however, at time of appointment court may decide to put a maximum limit of expert's payment.	Independent but Court may decide on maximum of expert's payment.	In case court refuses to appoint an expert and defendant needs to finance the expert himself.
Poland	Yes	The applying party has to pay for the expert. If such party wins then the losing party should pay all costs.	Directly paid.	The court may ask the party to make advance payment (if such a payment is not sufficient, then the State Treasury temporarily pays the expert witness.	Yes, based on qualification, expenditures, amount of work.	Linked to the Court see 3.2	No
Portugal	Yes, financed by the Court on a first stage.	The costs of the expertise will be added to the procedure costs. Unless he has legal aid in a modality that grants him the payment of these costs, the defendant will have to pay them, if he is convicted. If there is an acquittal, the defendant	No	See 3.2	See 3.2	See 3.2	Lack of funding.

¹⁰ Meaning of FPD and NFI ?

¹¹ *Criminal Procedure Act section 138 and 148 and the Act of 21 July 1916 No. 2.*

		will not have to pay for the procedure costs. ¹²					
Slovenia	Yes	Experts are paid by the state in advance (in criminal proceedings), and if the defendant is convicted, he must reimburse these costs.	Usually not the case.	See 3.2	None	Linked to the Court	None
Spain	Yes	If admitted by the Court no funding limitations.	Immediately	No	No	Linked to the Court	None
Sweden	Yes	The degree of difficulty and the extent of the assignment, account of time taken to fulfil the assignment etc.	Decision taken during trial or before conclusion.		See 3.2	Linked to the Court	None

IV. ADMISSIBILITY

	Question 4.1	Question 4.2	Question 4.3	Question 4.4	Question 4.5	Question 4.6
	What test is applied to determine admissibility of expert evidence?	Please cite any specific procedural rules which apply to the admissibility of an expert witness which would not apply to a civilian witness	May expert evidence be admitted into the proceedings in written form without oral testimony from the relevant expert? if yes, in what circumstances?	How is the weight/importance to be given to expert evidence determined?	Please set out the procedure (if any) by which expert evidence may be excluded.	Please set out any problems which have arisen in practice from the over reliance placed upon expert evidence in criminal proceedings?
Austria	See 1.7	--	Expert evidence may be admitted into the proceedings in written form as well as oral testimony. ¹³	Major principles of the Austrian Criminal Procedure is "free consideration of evidence" by the judge, hence it is up to him/her whether or not and how he/she takes the expert evidence into consideration.	See 4.4	Expert evidence holds an extremely strong weight therefore it's very difficult to convince the judge of different points of view. In many cases the expert witnesses seem not to be to close to the interests of the prosecution.
Belgium						

¹² Law regulating legal aid Law 24/2004 of 29.07 (modified by Law 47/2007, of 28.09)

¹³ § 252 Code of Criminal Proceedings

Czech Republic	No such tests. Admissibility of expert evidence is evaluated according to the Act on the experts and interpreters stating requirements on expert opinion that has to be fulfilled.	See 4.1	Yes, may depend on type of expert evidence and need of court.	Same weight and importance as other evidence.	The body which appointed the expert is entitled to decide about the suspension by the resolution and the expert opinion must be reviewed.	Not available
Estonia	a) specific non-legal expertise is required to determine facts relevant to the case; and b) an expert needs to be duly appointed and instructed by the body conducting proceedings c) expert has not been a person who is subject to removal from proceedings	Not provided	Expert evidence always provided in writing, expert may be heard by court.	No specific importance	-When the expert has been appointed other than in accordance with applicable requirements, or -when the assessment has been conducted in such a way that the reliability of the conclusions of the expert is doubtful.	In case of potentially substandard expert evidence only measure is to obtain a second expert opinion by a different expert. Due to time and financial constraints, reluctance by investigative authorities as well as courts to grant such second expert opinions.
France	No	None	General rule: written report, expert may be heard at hearing.	Court free to determine	Expert evidence can be declared void under certain circumstances.	Over reliance has led to various judicial disasters in the past.
Germany		If Court has expert knowledge itself or in case refused because the controvertible question has been already answered sufficiently by the first expert witness. ¹⁴				
Greece	No specific rules other than general rules on admissibility.	See 1.4	General rule: written evidence but expert may be heard in court.	Evidence given in the context of criminal proceedings by Public Authorities is always given more weight than evidence given from witnesses, documents etc. Same applies to evidence provided by the Forensics Laboratory of the Police.	See 4.1	Often expert evidence referred to which leads to imbalance.
Lithuania	Examination finding must be	Expert witness is a	The expert evidence is	Same as other evidence	In the event the judge	n/a

¹⁴ § 244,IV StPO

	in accordance with the law on Court Examination.	person, who has special knowledge sufficient to give expert evidence.	disclosed at the court hearing when the expert is absent if the examination is executed during pre-trial investigation and the act of expertise is thorough and clear enough. ¹⁵	except in certain categories the findings of the expert have <i>prima facie</i> weight.	disagrees with expert evidence.	
Malta	Expert like any witness needs to be suitably qualified.	Experts are examined and cross examined in each others presence.	Written form but both parties entitled to cross examine expert orally.	No specific criteria	In cases where a counter expertise expert is reached by a dissenting opinion of majority of votes.	Conflicting methodologies have resulted in different conclusions being reached for relatively similar situations.
Netherlands	Developed by case law.	Same as witness, except expert has to take an oath.	Written form, in exceptional cases expert can be heard in court.	No specific criteria	No specific rules	Reliance of expert testimony was in discussion.
Norway	For privately collected expert evidence see 4.5	No specific rules	Written form, expert can be heard in court hearings	No specific criteria, in practice expert evidence considered of more importance	None, however expert evidence excluded no significance for the substance of the judgment, b) relates to matters that have already been adequately proved, c) obviously have no probative force	Difficult to overlook or independently assess the expert opinion in cases which demand an advanced knowledge in eg. medicine or technical sciences.
Poland	Same basis as other evidentiary material.	Expert witness may be interrogated, but also he may study court files, ask parties and witnesses, participate in examinations and inspections.	Yes if Court decides so and parties do not ask for interrogation of expert witness.	No specific criteria	See 4.1 and exclusion in case expert is personal or legal dependant on one of the parties.	n/a
Portugal	Relevant and necessary.	No specific rules	Yes but oral testimony may be requested.	The technical, scientific or artistic judgement inherent to expert evidence is not subject to the free assessment of the judge	None	Expert evidence is considered more weight than other evidence.
Slovenia	Must be on register.	None	Yes if parties do not request oral testimony.	Court's discretion	None	Cases involving DNA evidence – defence cannot effectively question this evidence due to the opinion of the courts that this

¹⁵ Article 285 of the Code of Criminal Procedure

						evidence is 100% reliable.
Spain	Once expert is appointed evidence is admitted.	None	Only in drug trafficking on the kind, weight and percentage of purity of the substance, but the defence may call to cross examination to the expert.	Court's discretion	None	Judges consider the expert report of the parties, specially of the defence as not impartial.
Sweden	Impartial	Chapter 40 section 1, 4,7,8, 10	Written report, unless one of the parties requires oral testimony.	Court's discretion	n/a	--

V. MUTUAL LEGAL ASSISTANCE

	Question 5.1	Question 5.2	Question 5.3
	Where proceedings require the evidence of an expert from outside of the jurisdiction do any procedural difficulties arise in respect of the admission of such evidence?	What provisions exist to enable access to material outside of the jurisdiction for the purposes of instructing an expert?	Please set out examples of any cases from your experience which have involved the use of expert evidence emanating from outside of the jurisdiction (either by use of an expert from a different jurisdiction or by virtue of the need to obtain access to material from outside of the jurisdiction for the purposes of expert consideration) and any problems arising in the course of such proceedings.
Austria	No	None	A case where expert evidence was requested. The court appointed an Austrian institute but as it was highly overloaded it could not provide expert evidence within reasonable time. The defence asked for appointing a different institute from Switzerland and Germany. However, the application wasn't dealt with because of another breach of the Austrian code of criminal procedure.
Belgium	Report has to be in the language that is used in the trial at hand (Dutch, French or German), but judges can make an exception in case of special circumstances or if special fields of study are involved. For expert evidence that is already gathered abroad additional requirements have to be fulfilled.	None, usual rules on Mutual Assistance apply	A Belgian judge needs to treat the foreign expert evidence experts from jurisdictions who are not considered to be neutral very cautiously.
Czech Republic	No information available	No information available	No information available
Estonia	No	None, usual rules on Mutual Assistance apply	N/A
France	An expert who is not on the court or national list can be appointed as long as he has taken an oath.	None	N/A
Germany	No	No	N/A

Greece	No	Depending on the jurisdiction a request is made through Ministry of Justice.	A case in which a number of experts were testing evidence was conducted to the Laboratories of New Scotland Yard and the Results were forwarded to the Hellenic Authorities and were included in the Court's case-file.
Lithuania	Only evidence provided by expert from a Member State of the EU or from a country, which has signed legal assistance agreement.	See 5.1	N/A
Malta	No, might be problem of additional costs.	No	N/A
Netherlands	No	Request to other jurisdictions for legal assistance. Anrequest for seizure of important material can be done by the prosecutor to the investigating magistrate of the other jurisdiction. ¹⁶	In a number of criminal cases an odour expert from Belgium , Mr. Frijters, was assigned as an expert, as in the Netherlands no such expert was available/known. No problem Arose.
Norway	No	Sub-regulation on collecting evidence outside the jurisdiction in civil cases. ¹⁷	N/A
Poland	As long as criteria of 1.10 are fulfilled.	Bilateral agreements	N/A
Portugal		None, general rules on Mutual Assistance apply	DNA analysis from abroad & otaining autopsy reports from abroad.
Slovenia	Report must be translated into Slovenian.	None	Use of foreign expertise in the fields of forensic science.
Spain	Must follow the procedural rules.	Court will give the expert all that is needed to carry the expertise. ¹⁸	N/A
Sweden	No	Special provisions are found in the Act (1946:817) on taking of evidence in foreign courts, according to which a Swedish court can decide that written or oral evidence shall be taken in a foreign court. Act does not apply if EC rules on mutual assistance apply.	N/A

¹⁶ Art. 552n lid 1 sub d WvSv

¹⁷ Regulation of 28 April 1950 No. 3419

¹⁸ Sect 485 Criminal Procedure Act