



E-Bulletin

26 March 2021



From the Chairman

Welcome to this edition of the EuroExpert e-bulletin. The world of Experts has, as ever, been both an interesting and a busy one. And, we started 2021 nearly how we stopped in 2020. All EuroExpert meetings and events have been held online and our associations worked hard on contacting their members in similar ways. All over Europe Courts have sometimes been closed, court hearings are delayed and some courts have intensified virtual hearings. Experts learned how to give evidence online. We realized that obviously courts in Europe have still a long way to go for a High-tech-Justice. However, it is encouraging that the EU agreed on a new regulatory framework to make judicial cross-border cooperation between national courts and access to justice more efficient through digitalisation. As ever contributions for future editions are welcome.

Dr Matthias Rant
Chairman



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e-Justice: EU publishes new rules on taking of evidence and service of documents



On the 2nd December 2020 the EU published two regulations that intend to make access to justice faster, more affordable and user-friendly for EU citizens and businesses. The two amended regulations on [the cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters](#) and on [service of documents](#), aim to make judicial cross-border cooperation between national courts and access to justice more efficient through digitalisation.

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IT Use in the Austrian Judicial System [^]



Since the beginning of the 1980s, the Austrian judicial system has been building up a comprehensive IT network in order to make optimum use of the options which the digital world offers for its tasks. This network supports the nationwide use of IT: all courts, public prosecutors' offices, prisons and the Federal Ministry of Justice can cooperate through IT via the Federal Computing Centre, which is the hub running all major applications of the judicial system.

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EuroExpertFinder – A Service of EuroExpert



[EuroExpertFinder](#) is an excellent resource for those seeking an Expert within Europe and beyond. EuroExpert as the Organisation for expert associations provides access to an expert network of more than 50,000 qualified experts. In 2020 most of the requests for nominations came from courts in Austria and Germany. Main Countries where experts had to be found were Croatia, the Czech Republic and Spain; primary field of Expertise was real estate valuation.

APAE Experts give opinion on intended new Expropriation Law in Portugal



The Portuguese Government has recently updated expropriation legislation. The changes allow public authorities to expropriate, in specific cases, private land and other real estate assets, and this without a full and complete identification of the expropriated parcel of land, of its owners and other interested parties. There is a possibility that the mandatory survey by a qualified and independent expert will be skipped in the future. Furthermore, temporary occupation of land required for surveying or granting access to ongoing public works will be automatic and unrestricted.

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Members of the Croatian Association of Court Experts and Appraisers appointed after earthquakes



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Court appointed Experts in Germany are paid higher fees ^



The law regarding the remuneration of court appointed experts was amended and took effect at the beginning of 2021. Commencing on January 1st, there started an increase in hourly fees in every field. The increase is averaging at about 23% after seven years of stagnation.

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Changes in both regulations establish among other things the use of a mandatory decentralised IT system (composed of interoperable national IT systems) to exchange documents electronically cross-border. The updated rules also promote the use of videoconferencing to allow also expert witnesses to give evidence online when they based in another country.

The regulations ((EU) 2020/1783 and (EU) 2020/1784) shall in general apply in 2022 and replace the Regulations (EC) No 1206/2001 and (EC) No 1393/2007. Some articles (especially concerning the technical infrastructure) shall apply in 2025.

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IT Use in the Austrian Judicial System

Since the beginning of the 1980s, the Austrian judicial system has been building up a comprehensive IT network in order to make optimum use of the options which the digital world offers for its tasks. This network supports the nationwide use of IT: all courts, public prosecutors' offices, prisons and the Federal Ministry of Justice can cooperate through IT via the Federal Computing Centre, which is the hub running all major applications of the judicial system.

Verfahrensautomation Justiz or VJ (which is described as “electronic case management”) is the electronic register which has proven its worth for many years. ERV, the electronic legal transactions system, enables almost all filings to court and service of court papers to be made electronically; this has also played a major role in increasing efficiency. The electronic notice board (Ediktsdatei), which can be accessed free of charge at www.edikte.justiz.gv.at, is in particular used for the publication of insolvency proceedings, judicial auctions, edicts from criminal and civil proceedings, announcements, notices and notifications, judicial receiverships, voluntary sales, publications by companies, a list of mediators, receivers and courts. In addition, further publications provided for by law are continuously made available via the electronic notice board. The case law documentation of the judiciary is also available on the Internet free of charge within the framework of the Federal Legal Information System (RIS) at www.ris.bka.gv.at. Another example is the search for court-certified experts and interpreters, which has been simplified significantly by the creation of the website www.sdgliste.justiz.gv.at.

The Justice 3.0 strategic initiative of the Federal Ministry of Justice has involved all professional groups and professional associations on the way to eJustice; for several years, the initiative has i.a. been addressing the question of how the IT workplaces of the judicial system should be designed in the future so that the judicial system will be able to offer its services to citizens and businesses in a modern and efficient manner in the face of constantly growing workload and increasing challenges. In this context, the integrated computerised workplace for the judicial system - the electronic integration portal (eIP) - is being created for all those working in the system; in addition to providing digital, mobile, individually structurable and thus ergonomic judicial files, the eIP is to combine all the key advantages of digitalised work. Accompanying measures for expanding the ERV system as well as opening further electronic communication channels between business and citizens (enabling e.g. the electronic inspection of files) are being implemented or are on the digital agenda of the project.

As of 1 July 2019, experts and interpreters have been obliged to use the ERV system. Since 1 December 2019, experts have been receiving all mail and service from authorities via the new eZustellung (“eService”) system. Whilst it was previously required to send paper files to experts so these could draw up expert opinions, the file content is now made available electronically. Another advantage is that the former practice of involving one expert after the other could be largely replaced by information to several experts in parallel and simultaneously. This has made a

significant contribution to speeding up proceedings.

All these digital tools enable the Austrian judicial system to conduct and conclude a wide variety of proceedings in a high-quality, fast and efficient manner. Austria's court-certified experts and interpreters contribute significantly to this as they support and accompany digital progress in the judicial system in an open-minded and welcoming way.

APAE Experts give opinion on intended new Expropriation Law in Portugal

The Portuguese Government has recently updated expropriation legislation. The changes allow public authorities to expropriate, in specific cases, private land and other real estate assets, and this without a full and complete identification of the expropriated parcel of land, of its owners and other interested parties. There is a possibility that the mandatory survey by a qualified and independent expert will be skipped in the future. Furthermore, temporary occupation of land required for surveying or granting access to ongoing public works will be automatic and unrestricted.

Before the approval of this legislation, APAE has transmitted the concerns and objections of the experts to the national chartered engineers organization (Ordem dos Engenheiros). This organization shared these concerns, and therefore forwarded them in due time to the prime minister, to several members of government, to members of parliament and party leaders, stressing the unconstitutional and anti-economic aspects of the legal changes in progress. In spite of these actions, the new legislation was finally approved.

The Portuguese association of experts identified several negative consequences of this legislation:

- Risk and uncertainty are added to physical assets, reducing their market/estimated value.
- Property rights are offended, in a way that APAE finds unconstitutional.
- Acquisition of right-of-way for public infrastructures can become difficult without proper and trusted procedures, consuming additional time and money.

Background

Amid the pandemic crisis, governments around the world are adopting exceptional measures affecting individual rights - lockdowns and temporary limitations to free circulation. Simultaneously, economic policies are trying to mitigate the severe economic and social impact of these unprecedented measures.

Aside from direct compensations to firms and individuals, some countries - among them Portugal - are planning massive public investment in infrastructure such as ports, railroads and roads, expecting a generous contribution from EU emergency funds.

In order to preserve individual guarantees while safeguarding public interest and upholding the legitimate right of landowners to just compensation, the actual legal procedures were consolidated and summarized in a specific "Code of Expropriation".



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Despite the fact that at that time Croatia was in lockdown due to the covid-19 virus pandemic, the members of the Croatian Association of Court Expert Witnesses and Valuers were immediately involved into this project with the program, possibly accessed by all these engineers.

Further Activities of the Croatian Association of Court Expert Witnesses and Valuers

In 2020 the Association organized a lecture and an exchange of experiences for experts.

Currently the expert association notices a greater need for appraisers, but also a greater desire of individuals to practise as experts. As developments are still restricted due to the pandemic, more webinars for the purpose of training will be launched.



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The last increase in the remuneration of court appointed experts in Germany occurred during 2013. Experts, who deliver expert opinions for German courts and other judicial authorities, are now paid a remuneration of 70 to 155 € per hour plus value added tax (VAT). Their specific hourly fees are calculated according to the average payment they earn while working for private contractors in their respective fields. There is a five percent deduction from this fee, the remaining amount is classified according to eighteen different pay levels in 5 € intervals. For example, an expert for real estate valuation will be paid a fee of 115 € per hour, an expert for damages concerning buildings a fee of 105 €. During a nationwide survey of all publicly certified experts in 2018, the average amounts of hourly fees while working for a private contractor were determined for more than 150 different fields of expertise. During the survey it was found out that the difference between payment as a court appointed expert and payment while working for private contractors had risen to more than thirty percent.

Accordingly, the legislator was obligated to adjust the payment of court appointed experts. The Federal Ministry of Justice and Consumer Protection is expecting additional spending in the field of court expertise in the range of about 80 million € per year. Here it is important to consider that more than half of the costs paid for expert opinions commissioned by the courts or other judicial authorities, have to be paid by the state, because this is either a legal requirement for certain judicial proceedings or because the parties involved are unable to pay for an expert themselves.