



## E-Bulletin 16 November 2022



---

## From the Chairman

Welcome to this edition of the EuroExpert e-bulletin. EuroExpert started the second half of 2022 with a change in Presidency from the Czech Republic to Germany. Willi Schmidbauer, President of our member, Bundesverband öffentlich bestellter und vereidigter sowie qualifizierter Sachverständiger e.V. (BVS), took over in a challenging period. EuroExpert

held its first in-person General Assembly since 2019 in Brussels and could look back on a very successful year including a positive outlook for 2022 and 2023.

We see that experts in Europe restart a variety of initiatives. We and our partners have started to deliver the first results in the [Project Findex II, co-funded by the European Union](#). Participants from many European countries give positive input to the different working groups. Some first results are published in this e-bulletin. A contribution from Austria makes clear that this also includes the experts working for courts. We look back on the Expert Congress in Montpellier where we have learned that experts have to prepare for new ways of work and look forward to the German Expert Day on the 17<sup>th</sup> and 18<sup>th</sup> November in Berlin. As ever contributions for future editions are welcome.

Dr Matthias Rant, Chairman



© Photo by Gregor Buchhaus

## European Commission publishes EU Justice Scoreboard 2022 – Digital Expert Evidence still needs more consideration



The EU Commission published the Scoreboard 2022 in May. At its 10<sup>th</sup> anniversary and for the second time, the Scoreboard gives information of how advanced judicial authorities manage the digital transformation. The figures show that experts can be heard by distance communication technology in nearly all types of cases and EU Member States. Different from notaries and lawyers still no data has been provided on the availability of secure electronic communication between courts and experts for giving evidence.

[Read more](#)

## Why court experts are important for the rule of law – A view from Austria



A well-functioning judiciary is the foundation of a well-balanced society. In our day and age, it has also become a guarantee - making sure not only that violations of the law are sanctioned but also, and equally important, that legal and economic differences are balanced. In a multi-strata society and an innovative economy, these will always arise and have to be resolved. Impartial institutions which can be relied upon are needed to reconcile or reduce differences. In the final analysis, this is the role which the independent judiciary is playing. However, on its own, the independent judiciary is not in a position to deal with, let alone decide in complex subject matters from

various technical fields, for example business, technology or science.

In our judicial system, it usually requires court experts to assist judges in getting the correct impression of the context as well as of the consequences a situation in dispute comes with.

There is no doubt that such experts called in by the courts must not only be absolutely independent, but also have excellent training. Furthermore, they must also ensure that they have the specialist knowledge required in the cases on hand.

[Read more](#)

## Find an expert II – WP2 Convergence work national registers – Update ^



Three working groups were formed to achieve the objectives set out in WP2:

- Define minimum criteria for a person to qualify as a “judicial expert”, in terms of competence, specific knowledge on procedural rules and ethics;
- Define standards to be met by bodies in charge of keeping experts’ directories in each member State; Provide specification and business plan for the creation and operation of the European register of judicial experts.

[Read more](#)

## Find an expert II – WP3

### Nomenclature convergence – Status report ^



Alongside the **Findex II project** and its action plan (timeline) the **task** specifically assigned to **Working Package 3** has been to develop a draft set of **nomenclature**, that will serve as a harmonized set of categories of fields of expertise. As the project also foresees the installation of a demo-IT-tool (search engine), where judicial experts shall be listed and found, the **main achievement** of Working Package 3 lies in the definition of a nomenclature as much as compatible with existing nomenclatures in Member States, that will allow for the search engine to smoothly frame existing definitions of areas of expertise and therefore to support the efficient search of the proper judicial expert. According to the project's outset, six Pilot Member States will start to be engaged in the application of the demo-IT-tool (search engine).

[Read more](#)

## Effective justice – Common conditions for transferring criminal proceedings between EU countries ^



The EU-Commission announces an upcoming adoption on common conditions for transferring criminal proceedings between EU countries. This initiative seeks to put in place common rules for transferring criminal proceedings between EU countries. By establishing common conditions under which criminal proceedings initiated in one EU

country may be transferred to another, the Commission aims to make criminal proceedings more efficient and improve the administration of justice in the EU. In case of an adoption it will be interesting to see how expert evidence would be considered.

Source: European Commission

[Read more](#)

## EU Commission presents draft act for technical and administrative details of the e-CODEX system ^



The e-CODEX system has been developed to facilitate the cross-border electronic exchange of data for judicial cooperation. Regulation (EU) 2022/850 sets the legal framework for the e-CODEX system and ensures its governance in eu-LISA (the EU Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice). The initiative aims to draw up the technical and administrative details for the e-CODEX system and its transfer to eu-LISA. This draft act is open for feedback not later than 2<sup>nd</sup> December 2022.

[Read more](#)

## The Future Expert – a robot? - CNCEJ organised 21st Congress in Montpellier



After 2016 in Strasbourg the Conseil National des Compagnies d'Experts de Justice held its 21<sup>st</sup> Congress on the 7<sup>th</sup> and 8<sup>th</sup> October in Montpellier. Main topic was the future of experts in a world of artificial intelligence. Will robots one day be endowed with such intelligence and knowledge that they will supplant scientists, researchers, professors, experts? This essential question was discussed with experts, representatives of justice and universities. The Congress was an excellent event to get informed about current developments experts are facing in the world of Artificial Intelligence.

## The Role of Experts for Justice in France



The role of Experts in court in France is determined by law. Being appointed by the judges his role contributes essential values to Justice. A view from France.

[Read more](#)



# German Expert Day in Berlin



The Bundesverband öffentlich bestellter und vereidigter sowie qualifizierter Sachverständiger e. V. (BVS) organises the [German Expert Day on the 17th and 18th November in Berlin](#). Main topic is the climate protection and the challenges for experts. One key topic will be a report on the Findex II-Project.

Membership of EuroExpert is not for individuals and is limited to organisations representing Experts within the states of the European Union. [You can find the details of the current members of EuroExpert here.](#)

**EuroExpert Absl.**  
59, Boulevard de Verdun  
2670 Luxembourg

[› Privacy Policy](#)  
[› Unsubscribe](#)

© 2022

Secretary General Bernhard Floter  
c/o Institut für Sachverständigenwesen  
Hohenstaufenring 48-54  
50674 Köln (Germany)

Phone + 49-221-91277110  
[secretary-general@euroexpert.org](mailto:secretary-general@euroexpert.org)



[DOWNLOADS \(/DOWNLOADS\)](#) [CONTACT \(/CONTACT\)](#) [E-BULLETIN \(/E-BULLETIN\)](#)



(/)

## European Commission publishes EU Justice Scoreboard 2022 – Digital Expert Evidence still needs more consideration

The EU Commission published the Scoreboard 2022 in May. At its 10<sup>th</sup> anniversary and for the second time, the Scoreboard gives information of how advanced judicial authorities manage the digital transformation. The figures show that experts can be heard by distance communication technology in nearly all types of cases and EU Member States. Different from notaries and lawyers still no data has been provided on the availability of secure electronic communication between courts and experts for giving evidence.

While the 2021 edition already took stock of how advanced judicial authorities are in the digital transformation, the 2022 Scoreboard also considers the effects of the COVID-19 pandemic. According to the Commission several Member States adopted new measures to ensure the regular functioning of courts, while also guaranteeing the continued and easy access to justice for all.

In his Foreword Didier Reynders, European Commissioner for Justice, states that the detailed indicators on digitalisation would be an essential monitoring tool showing Member States where there would be room for improvement. The 10-year anniversary of the Scoreboard would show us that the EU and its Member States remain committed to improving their justice systems and upholding the rule of law even during times of hardship.

Earlier editions of the EU Justice Scoreboard provided comparative data on certain aspects of the ICT in justice systems. As announced in the Commission's Communication on the digitalisation of justice in the EU of 2<sup>nd</sup> December 2020, the Scoreboard was substantially augmented with further data on digitalisation in the Member States in 2021. The scoreboard 2022 can be read here

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3146](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3146)  
([https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3146](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3146))

Source: EU Commission

[DOWNLOADS \(/DOWNLOADS\)](#) [CONTACT \(/CONTACT\)](#) [E-BULLETIN \(/E-BULLETIN\)](#)

(1)

## **Why court experts are important for the rule of law – A view from Austria**

A well-functioning judiciary is the foundation of a well-balanced society. In our day and age, it has also become a guarantee - making sure not only that violations of the law are sanctioned but also, and equally important, that legal and economic differences are balanced. In a multi-strata society and an innovative economy, these will always arise and have to be resolved. Impartial institutions which can be relied upon are needed to reconcile or reduce differences. In the final analysis, this is the role which the independent judiciary is playing. However, on its own, the independent judiciary is not in a position to deal with, let alone decide in complex subject matters from various technical fields, for example business, technology or science.

In our judicial system, it usually requires court experts to assist judges in getting the correct impression of the context as well as of the consequences a situation in dispute comes with. There is no doubt that such experts called in by the courts must not only be absolutely independent, but also have excellent training. Furthermore, they must also ensure that they have the specialist knowledge required in the cases on hand.

Given the requirements which come with this job profile, it is easy to see that court experts must have excellent training and broad experience. If the national judiciaries want their work to be truly independent and high-quality, they must therefore safeguard a court expert system which meets these high standards.

At this point, I would like to use the Austrian system as an example as I explain how valuable a high-quality system of court experts is and how it has been possible to develop it.

In Austria, the Main Association of Generally Sworn and Court-Certified Experts acts as an independent body representing experts; almost 90% of the experts on the court lists are members of the Association.

The Austrian judiciary has in turn worked with the Main Association, thus contributing to building up a complex expert system which ensures the quality of court expert services. The Main Association of Generally Sworn and Court-Certified Experts developed the important executive access points, certification examinations and recertifications in cooperation with the judiciary, thus setting high quality standards as well as creating a close-meshed network for the purpose.

In my 30-year presidency of the Main Association, I have not only been able to raise the number of members from about 3,000 to almost 10,000 members – and it should be noted that membership is voluntary, and members may resign at any time - I have also joined forces with the judiciary in implementing a complete certification system for all experts. Recertification takes place every five years to ensure that the experts continue to meet the certification standard thanks to the continuing education they have to undergo. Our Main Association has also built an extensive network which provides comprehensive and sound support for court experts.

Why do I mention this?

I do that because in most court cases in the country, so much is decided based on the opinions of our experts, legally and economically.

Let us take a closer look at the economic implications of our expert opinions. In the small country of Austria, it is estimated that decisions with legal and economic effects to the tune of several billion euros are handed down every year. Moreover, these decisions often have serious longer-term economic impacts, future effects which show in a very striking manner how serious and grave many decisions can be for business and society. In this context, I am not speaking about the craftsman running a small business and suing for payment of his invoice.

No, I am referring to large-scale proceedings about tenders in the construction industry, to use just one example, and there are countless other instances of legal disputes about economic aspects of the business world. This goes to show how important it is to ensure excellent experts for the judiciary and for the work of the courts. Of course, this also presupposes that the remuneration for these expert services is appropriate and usually also somewhat elevated.

Again, the Main Association and I have worked to establish a high-quality remuneration system corresponding to the task or the responsibility involved, a system which has not only proven itself, but also one which enables the judiciary to access the best, and if necessary, the most expensive experts. This system thus makes it possible for the judiciary to ensure that not only highly qualified, but also truly independent experts are available.

The situation is not much different in the criminal justice system.

In criminal cases, the questions requiring a response are primarily about the responsibility and culpability of one or more persons as case are assessed and perpetrators are convicted, but there are economic consequences, too, and professional livelihoods or even personal freedom can be at stake.

This is yet another reason why it makes sense to ensure that a judge's decision is supported by an expert opinion drawn up by an excellent independent expert. Matters need not always involve the collapse of a large bridge.

I am proud to say that during my 30-year presidency of the Main Association of Generally Sworn and Court-Certified Experts in Austria, I have been able to build such a system - a very complex one - and it is largely satisfactory for our society, supporting our sound and independent judiciary. While there is nothing that cannot be improved, our judiciary and our experts are very satisfied with the system. It would be a beautiful thing to see a system like this or similar to it being developed in other EE member states because it would be a contribution to improving efficient and independent judiciaries.

Dr. Matthias Rant, Past President of Hauptverband der allgemein beeideten und gerichtlich zertifizierten Sachverständigen Österreichs

[DOWNLOADS \(/DOWNLOADS\)](#) [CONTACT \(/CONTACT\)](#) [E-BULLETIN \(/E-BULLETIN\)](#)



(/)

## Find an expert II – WP2 Convergence work national registers – Update

Three working groups were formed to achieve the objectives set out in WP2:

- Define minimum criteria for a person to qualify as a “judicial expert”, in terms of competence, specific knowledge on procedural rules and ethics;
- Define standards to be met by bodies in charge of keeping experts’ directories in each member State;
- Provide specification and business plan for the creation and operation of the European register of judicial experts.
- WG1 has to define common criteria for Judicial experts and to present them in a practical way. The Group must respond to the questions: what is competency? What are the ethical criteria? What is Independence? Impartiality?  
After having filled-in the questionnaires for the EU countries the group plans to evaluate the questionnaires for similarities and differences. The aim of the next meetings is to come closer to its assigned goal, a universally valid definition of experts.
- WG2 is in charge to define standards to be met by bodies in charge of Expert directories: who should be in charge and what is the role. It covers a lot of questions and a wide range of procedures.  
Is the body defined at a regional or national level? Who is it composed of? And also, how are data updated, managed and protected?
- WG3 works on requirements for experts to be registered in a directory and to stay on the directory.  
Which procedures are used for assessments? Which criteria for education, practical experience, insurance?  
An oath to take? Which duration of registration? Limitation? Training?

Proposals of the working groups will be merged and be proposed to the Consensus Conference in Jun 2023 as a common set of criteria and requirements.

*Extract by Martine Otter from Wolfgang Jacobs report with complementary information by Verena Wirwohl*



**Co-funded by  
the European Union**

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.

[DOWNLOADS \(/DOWNLOADS\)](#) [CONTACT \(/CONTACT\)](#) [E-BULLETIN \(/E-BULLETIN\)](#)



(/)

## Find an expert II – WP3 Nomenclature convergence – Status report

Alongside the **Findex II project** and its action plan (timeline) the **task** specifically assigned to **Working Package 3** has been to develop a draft set of **nomenclature**, that will serve as a harmonized set of categories of fields of expertise. As the project also foresees the installation of a demo-IT-tool (search engine), where judicial experts shall be listed and found, the **main achievement** of Working Package 3 lies in the definition of a nomenclature as much as compatible with existing nomenclatures in Member States, that will allow for the search engine to smoothly frame existing definitions of areas of expertise and therefore to support the efficient search of the proper judicial expert. According to the project's outset, six Pilot Member States will start to be engaged in the application of the demo-IT-tool (search engine).

On the way to producing the draft set of (harmonized/converged) nomenclature, the starting point for Working package 3 was to take a closer look at existing nomenclatures in the Member States to get an overview on the approaches, differences and similarities. The first milestone for the group was therefore to sum up existing nomenclatures already in place in the Pilot Member States (**inventory report**).

The inventory report was due by August 2022 and has been delivered on time. It has shown to no surprise that Pilot Member States have identified and divided up possible fields of expertise into nomenclatures, and different numbers of categories have been put in place throughout. Adding to that, many of the areas of expertise seem to have been similar by concept/approach, as judicial experts are presumably required to assist judicial proceedings on similar topics and questions. No need to explain, that i.e. the fields of medicine, real estate evaluation and/or forensics (and many more) are widely foreseen in one or the other way. On the other hand, (Pilot) Member State's approach on installing nomenclatures is varying significantly on the number of categories and the level of subdivision, as well as on the question of if the nomenclature has been standardised nationwide or if it is regionally determined.

Coming back to the task of Working Package 3, the **conclusions** drawn from the inventory report do serve as an initial inspiration for the upcoming discussions on the set of **nomenclature** that will have to be drafted for presentation at the Conference of Consensus. For example, commonly foreseen areas of expertise that could be identified in the inventory report will be most probably not only make it to the nomenclature of Findex II, they will also cover major parts. Coming from that, a first set of nomenclature has already been drafted and put up for discussion in Working Package 3, where to a certain extent commonly known categories of nomenclature have been taken over from existing sets. It has implicitly been defined as one of the guidelines for the approach in Working Package 3, that existing nomenclatures shall serve as patterns as much as

possible (to create a set, that deviates from already existing models only as far as harmonisation requires).

Working Package 3 is looking forward to fruitful and creative discussions on the draft set of nomenclature this very autumn. The **challenge** in front of us is not to be underestimated as differences and variations in Member States' nomenclatures need to be elegantly converged, and it is to be anticipated that the higher the level of (sub)division of areas of expertise the more pragmatic and creative the solutions will have to be. For this reason and in first place, it is envisaged to begin with a rather small number of categories that works out than to lose path in the discussions of details.

The spirit in Working Package 3 is comfortably high, and we are looking forward to being updating on the progress of Working Package 3 soon.

*Jan Wannemacher, Vienna and Bertrand Ludes - President of the Europe Commission of the CNCEJ lead the Working Package 3*



**Co-funded by  
the European Union**

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.



[DOWNLOADS \(/DOWNLOADS\)](#) [CONTACT \(/CONTACT\)](#) [E-BULLETIN \(/E-BULLETIN\)](#)



(/)

## The Role of Experts for Justice in France

The role of Experts in court in France is determined by law. Being appointed by the judges his role contributes essential values to Justice. A view from France.

In the French, Romano-Germanic system, l'Expert de Justice [the Expert at the Courts of Justice] is the Expert with the Judge.

Let us try to understand the whole interest and the advantage of being 'Expert with the Judge' – the cross relationships between science, technique and Society imply that the citizen and the Judge have to call for some specialists to inform the Judge's thinking on data relating to a dispute or litigation. Justice will need a magnifying glass to help the Judge see clearly and completely freely. Judicial expertise is a place for opening where the Judge discovers a cultural world which is often totally alien to him. Outside the legal sphere, but to serve law, Judge and Lawyer, through expertise, enrich their mutual experience.

Let us never forget, as philosopher André COMTE-SPONVILLE used to say – 'the Expert's opinion is halfway between the certainly wrong and the possibly right'. This legal expertise performed by the Expert with the Judge appears as a safety zone for the values indispensable to the implementation of Justice and first and foremost to ensure equality of arms and loyalty in the production of evidence.

Socially speaking, it would also be a true example of respect for others. Judicial expertise is the repository of the values of the trial. While strictly remaining outside the legal ground, the Expert will have to act as the guardian of the rules of the fair trial which he is part of.

Last, the Expert at the Courts is an example for Society. One cannot fail to acknowledge the exemplary nature of the relationship between the Judge, the Parties, their Counsel and the Expert for the broader global Society.

Patrice GARDEL M.D

*Expert at the French Court of Cassation*

*Président d'honneur de la CEJL*

*Président fondateur et Président d'honneur de la CIECAALY*

---

© 2022