Regulation of expert activity

Short version of the Empa Management Manual Directive (MHB-4.2.2)

Empa endeavours to provide expert opinions to judicial and police authorities as well as legal and natural persons within the framework of its technical competence and thus to contribute to the clarification of causes, the investigation of facts, the prevention and mediation of disputes.

In order to maintain its independence, objectivity and neutrality and at the same time guarantee the quality of its work, Empa attaches the following conditions to its activities as an expert.

1. Principles

The expert opinion of Empa shall mean any technical-scientific assessment or explanation - usually within the framework of a clarification of the facts - which Empa employees carry out on behalf of Empa as technical-scientific experts at the request of a third party.

Empa can provide expert opinions in the following situations:

a) in judicial disputes at the request of the judicial authorities;

b) in the case of administrative investigations, at the request of the investigating judicial or police authorities;

c) in the case of out-of-court disputes, with the written consent of all parties to the dispute. Expert opinions for the assessment of guarantee or warranty claims and shall be treated as expert opinions in disputes, as shall investigations of the cause of damage with several parties involved. Such appraisals shall only be carried out by Empa with the written consent of all parties involved.

An Empa expert shall only exceptionally serve as an arbitrator in an arbitration tribunal.

Empa **does not** carry out any appraisal work:

a) in the case of **party opinions**, i.e. opinions that are issued for the benefit of a party involved in a dispute;

b) as **subcontractor** for a commissioned expert.

These principles and the following requirements also apply mutatis mutandis to non-contentious matters, such as the preparation of audit reports by Empa.

2. Requirements

The following requirements must be met for Empa to carry out an assessment activity:

a) There must be a clearly defined, written order in which the scope of the expert activity and the technical questions are precisely formulated.

b) Empa must have the necessary factual information at its disposal.

c) The contract must clearly state who is to bear the costs of the expert opinion.

d) Only technical questions may be answered in the expert opinion, but no legal questions.

e) In the event of a dispute, Empa shall issue an expert opinion only if:

- it is appointed by a judicial or police authority or by an arbitral tribunal as an expert witness; or
- the written consent of all parties involved in the dispute has been obtained in respect of:
  - Empa appointed as independent consultant;
  - the technical questions to be answered by Empa.

3. Procedure of an inquiry

Inquiries

- by judicial and police authorities,
- to prepare an expert opinion in controversial cases with the written consent of all parties to the dispute, or
- concerning the involvement of an Empa employee in an arbitral tribunal or as a witness before a competent judicial or police authority

should be addressed to the *Legal Department of Empa (gutachten@empa.ch)*.

All other inquiries, in particular:

- the preparation of an expert opinion in non-contentious cases, and
- the preparation of test reports

can be addressed directly to the responsible specialist department.

The person responsible shall clarify whether the formal requirements set out in paragraph 3 are met and whether the request falls within Empa's field of competence. It shall then inform the client whether the assignment can be carried out and, if so, by which expert. Once the expert has been appointed, he or she will communicate directly with the client.

4. Rejection of an inquiry

Empa may refuse to provide an expert opinion at any time without giving reasons. In the event of rejection for technical reasons, Empa may assist in the search for a suitable substitute assessor.

Empa Legal

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