

## Information sheet on expert opinion tasks carried out by Empa

Empa strives, to the extent of its capabilities, to provide expert opinions for judicial and police authorities as well as for the benefit of legal entities or natural persons. While maintaining independence, objectivity and impartiality, and because of its experience and acceptance in society, Empa can use its expertise to help determine causes, collect facts, and to prevent and mediate in disputes.

In order to ensure that it maintains its reputation as an independent, objective and impartial body, while at the same time ensuring high quality work, Empa imposes certain conditions and obligations regarding its expert opinion tasks.

### 1. Examples of expert opinion tasks at Empa

Empa can, while maintaining its independence, objectivity and impartiality, provide expert opinions in the following situations:

- a) legal disputes;
- b) extrajudicial disputes;
- c) official investigations

Only as an exception may an expert from Empa sit as an arbitrator on an arbitral tribunal.

**No** expert opinion tasks are carried out by Empa regarding:

- a) **party-specific expert opinions**, i.e. expert opinions which are given in the interests of one of the parties in a dispute;
- b) work as a **subcontractor** to another expert that has been assigned such a task

If experts from Empa carry out expert opinion tasks as private individuals, they act and are liable in that capacity.

### 2. Content and scope of expert opinion tasks at Empa

An expert opinion task carried out by Empa means all and any technical and scientific evaluations and explanations intended for the purpose of clarifying facts that are carried out on behalf of Empa by Empa staff, in their capacity as technical and scientific experts, at the request of a third party.

### 3. Prerequisites for the conducting of expert opinion tasks by Empa

The following prerequisites must be fulfilled in order for Empa to conduct an expert opinion task:

- a) Empa must have the necessary information relevant to the circumstances.
- b) There must be a clearly defined, written order, in which the scope of the required expert opinion task and the relevant specialist technical issues are precisely formulated.
- c) The order must clarify who will pay for the expert opinion task.

- d) In expert opinions, only specialist technical issues may be answered and not legal issues.
- e) If the task relates to a dispute, Empa only provides an expert report if:
  - it is engaged as an expert by a judicial or police authority or by a court of arbitration; or
  - there is agreement among all the parties involved concerning:
    - engagement of Empa as an independent expert;
    - special technical issues being answered by Empa
- f) Expert opinions regarding the assessment of guarantee or warranty claims are treated in the same way as expert opinions relating to disputes. Such expert opinions are only provided by Empa with the written consent of all parties involved.

These prerequisites also apply in the same way to matters that are not the subject of a dispute, such as assessments and opinions relating to inspection and audit reports issued by Empa or third parties.

#### **4. Procedure in the case of a request for an expert opinion**

Requests

- from judicial and police authorities asking for an opinion;
- for an Empa employee to act as an arbitrator on an arbitration tribunal or as a witness before a competent judicial and police authority;
- for the issuing of an expert opinion in cases not involving disputes and
- for the conducting of an expert opinion task with the consent of all parties

are to be directed to the *Assistant of the Support Department*.

All other requests, including in particular:

- for the issuing of an expert opinion in cases not involving a dispute and
- for the assessment and issuing of an opinion relating to audit and inspection reports

may be sent **directly to the relevant department** for approval.

The person responsible at Empa clarifies whether the formal requirements have been met in accordance with point 3 and, after consultation with the relevant manager, nominates the expert(s). He/she then informs the client. After the appointment of the expert, he/she communicates directly with the client.

#### **5. Declining of an expert opinion task**

Empa may decline to perform an expert opinion task without having to provide a reason. If a request is declined for reasons of professional expertise, Empa may provide help in identifying an alternative expert.