

MINI-EXPERTISE UNDER ARTICLE 986 OF THE JUDICIAL CODE

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When is a simplified expert investigation the right choice?

In certain specific cases, a mini-expertise can help resolve a technical dispute more quickly and at lower cost than a classic expert investigation. That advantage only exists when the technical question is sharply defined and the simplified procedure sufficiently safeguards the rights of the defence.

[In a nutshell](#)

Mini-expertise is the common name for the limited intervention of an expert on the basis of Article 986 of the Judicial Code. The court may have an expert take part in an investigative measure to provide technical explanations, or have the expert report orally at a scheduled hearing. The formula is particularly suited to a concrete technical question that can be answered without the full course of a classic court-ordered expert investigation.

[What exactly is a mini-expertise?](#)

Article 986 of the Judicial Code does not provide for a shortened version of all the steps of a classic expert investigation. It offers the court a separate, limited investigative measure. The expert may, for example, attend a site inspection to provide technical explanations, or report orally at a hearing. A record (*proces-verbaal*) is drawn up of the expert's statement.

Under Article 986 of the Judicial Code, a written report is not mandatory. In practice, the court may further define the assignment and a short note may be useful, but that is not the statutory standard that applies automatically in every case. The precise assignment and the manner in which the parties can respond to the technical findings must therefore be clearly apparent from the court's decision and the further course of the proceedings.

[Why a mini-expertise differs from a classic expert investigation](#)

Aspect	Mini-expertise	Classic expert investigation
Purpose	Answering a limited technical question	Conducting a broader technical fact-finding investigation
Procedure	Technical explanations during an investigative measure or oral report at the hearing	Formal procedure under Articles 972 to 983 of the Judicial Code
Reporting	Record of the statement; no mandatory full written report	Preliminary opinion, parties' observations and final report
Time and costs	Generally more limited, depending on the assignment	Generally higher due to the scope and the formal steps
Best use	Specific and clear-cut technical issue	Complex, multiple or strongly disputed technical issues

What statutory assessment does the court make?

Article 875bis of the Judicial Code requires the court to limit the investigative measure to what is sufficient to resolve the dispute. In doing so, the court takes into account the relationship between the expected costs and the stakes of the case, and gives preference to the simplest, fastest and least costly measure.

That proportionality is the strongest legal basis for requesting a mini-expertise. The argument should not, however, be confined to the assertion that a classic expert investigation is expensive. The request must also demonstrate why the technical question is sufficiently limited and why an oral explanation or a single investigative measure allows for reliable fact-finding.

How does a mini-expertise proceed?

1. Defining the question

The court specifies which technical explanation is required. A party may request the measure; the court decides whether it is sufficient and may also opt for a limited expert intervention of its own motion.

2. Appointment of the expert

The court appoints an expert and determines the concrete assignment. The assignment must remain technical: the expert advises, but does not decide the legal dispute.

3. Limited intervention

The expert attends an ordered investigative measure or reports orally at the hearing scheduled for that purpose. The expert may use documents; the relevant documents are filed with the court registry after the intervention and may be

consulted by the parties or their counsel.

4. Adversarial debate

The parties must be given a genuine opportunity to take note of the technical elements and to respond to them. How this is done depends on the assignment and the course of the proceedings. In the case of a disputed or unexpected technical conclusion, a short time limit for a written response may be appropriate.

5. Record and decision

A record is drawn up of the expert's statement. The court then assesses the technical explanation together with the other documents in the case file. The court is not bound to follow the expert's opinion where it is contrary to its own conviction.

When is a mini-expertise appropriate?

A mini-expertise is particularly justifiable when the following features are present together:

- the technical question is concrete and can be formulated precisely;
- a single investigative measure or site inspection can bring the relevant facts to light;
- the number of parties involved and technical positions remains manageable;
- an extensive investigation with several investigative phases would be disproportionate to the stakes;
- the parties can respond effectively to the findings within a limited procedure.

Consider, for example, a clearly defined construction defect, the technical conformity of a specific delivery or another specific finding for which the court needs specialist explanation. The value of the dispute is relevant, but not decisive: even in a case with higher stakes, a mini-expertise may be appropriate when the technical question is genuinely limited.

When is a classic expert investigation the wiser choice?

A full expert investigation is more appropriate when:

- several defects, causes or heads of damage must be examined in relation to one another;
- different parties each dispute their own technical responsibility;
- measurements, destructive testing, laboratory analysis or several site inspections are required;
- the expert must process extensive documentation or test alternative

scenarios;

- a structured written adversarial debate is essential for a reliable assessment.

In such cases, an overly limited assignment can be counterproductive. If a classic expert investigation nevertheless proves necessary after the mini-expertise, the intended time and cost savings are lost in whole or in part.

Who bears the costs?

The court determines which party or parties must bear the costs during the proceedings and in what proportion. It may also set an advance. After the expert's statement, the court immediately assesses the fees and costs at the bottom of the record and issues an enforcement order for that amount against the designated party or parties.

That provisional payment obligation is not necessarily the final allocation of costs. In the final decision, the amounts are assessed as legal costs. The ultimate allocation follows from the decision on legal costs and is therefore not automatically identical in every case to the provisional designation.

Can the assessment of the fees be appealed?

In principle, no. In *judgment no. 64/2025 of 24 April 2025*, the Constitutional Court confirmed that the difference from the classic expert investigation is constitutional. In a classic expert investigation, the decision on the fees may be open to opposition or appeal on the basis of Article 991 of the Judicial Code. That exception does not apply to the assessment within a mini-expertise.

This is an important practical consideration. The simplified procedure limits procedural incidents and is generally considerably cheaper, but the decision by which the court assesses the fees at the bottom of the record cannot be challenged separately by way of opposition or appeal.

How do you substantiate a request for a mini-expertise?

A persuasive request contains at least the following elements:

- the exact technical question to be answered, preferably in one or a few neutral sub-questions;
- the facts and documents showing that a technical explanation is needed;
- the reason why a single limited intervention can yield sufficiently reliable information;
- the proportionality assessment under Article 875bis of the Judicial Code;

- a workable arrangement for the parties to take note of the documents and to respond;
- a clear distinction from legal qualifications that are exclusively a matter for the court.

The quality of the wording of the assignment is decisive. A vague request to investigate all causes and damage does not fit within Article 986 of the Judicial Code. A clearly formulated question, by contrast, makes it clear why a limited measure is sufficient and reduces the risk that the investigation will expand after all.

Frequently asked questions

Is a mini-expertise binding on the court?

No. The expert provides technical information. The court remains competent to assess the facts and the law and need not follow the opinion where its conviction is to the contrary.

Is a written report mandatory?

No. Article 986 of the Judicial Code provides for a technical explanation during an investigative measure or an oral report at the hearing. A record is drawn up of the statement. A short written note may be arranged in practice, but is not an automatic statutory step.

Can a party impose a mini-expertise itself?

No. A party may request the measure with reasons, but the court decides which investigative measure is sufficient. The proportionality rule of Article 875bis of the Judicial Code is an important framework for that assessment.

Is a mini-expertise only suitable for small disputes?

No. Limited financial stakes often make the formula attractive, but it is above all the nature and scope of the technical question that are decisive. A simple technical issue may also arise in a case with greater economic stakes.

Conclusion

The mini-expertise under Article 986 of the Judicial Code is not a cheap standard alternative to every expert investigation. It is a targeted procedural choice for cases in which a clearly defined technical question can be answered reliably through a limited intervention. Anyone requesting the measure should therefore not only emphasise the expected time and cost savings, but above all demonstrate that the limited assignment is sufficient and that the adversarial debate remains workable.

Contact the specialists at STUDIO | LEGALE.

Sources

Judicial Code, in particular Articles 875bis, 962, 963 and 986. [Consolidated provisions on expert investigations](#)

Constitutional Court 24 April 2025, no. 64/2025, ECLI:BE:GHCC:2025:ARR.064.
[Judgment in Dutch](#)

Act of 10 April 2014, Article 7, repealing the former third paragraph of Article 986 of the Judicial Code. [Publication in the Belgian Official Gazette](#)

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