Answers Belgium

1. Is training and accreditation of experts required in your jurisdiction?

Training (understood as regularly followed courses) is not required and proof of competence “before the court” is not requested. The judge looks only who is on the special lists drawn by the court management or recently who is on the national list of experts (Law 10.04.2014, published 19.12.2014 – with transitional provisions for 2 years after the publishing). To be on that national list expert have to give proof of competence in their profession (a degree and five years of proven practice) and “proof of judicial knowledge” (a certificate of a recognized institute). The latter means that from time to time courses are given for non-lawyers on the conduct of a judicial expertise (this is a kind of ‘training’).

2. What powers do you have as a judge to control the use of expert evidence?

The court appoints the judicial experts and decides on the necessity of appointing an expert. There is a subsidiarity principle: the court must limit the choice of the investigative measure to what is sufficient to resolve the dispute. And always the most simple, fast and inexpensive measure is preferred.

3. How can the tendency towards relying on excessive numbers of experts be prevented or managed?

The number of judicial experts per case is limited, either one or a board of experts (mostly three: this is practical for voting).

4. Are there means of avoiding expert bias, and if so, how?

The judge always appoints judicial experts not affiliated to any party.

And moreover a judicial expert always can be challenged and replaced on the same grounds as judges.
5. How are experts to be prevented from usurping the role of the primary finder of fact in civil matters?

The judge decides on the questions which need to be answered by the judicial experts.

The parties can use as much reports of experts chosen by their own (technical advisers) as they seem appropriate to defend their arguments and claims, but those have not the same value as reports of judicial experts.

I can also refer to the more extended answers of Luxembourg while expert evidence is treated the same in Belgium (only the references to articles in the Law is different).

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