

Austria

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CULTURAL EXPERTISE IN EUROPE: WHAT IS IT USEFUL FOR? (EURO-EXPERT)

PI: LIVIA HOLDEN | Post-Doc: ANNA TSALAPATANIS | Data Collector: STEFANIE LEMKE

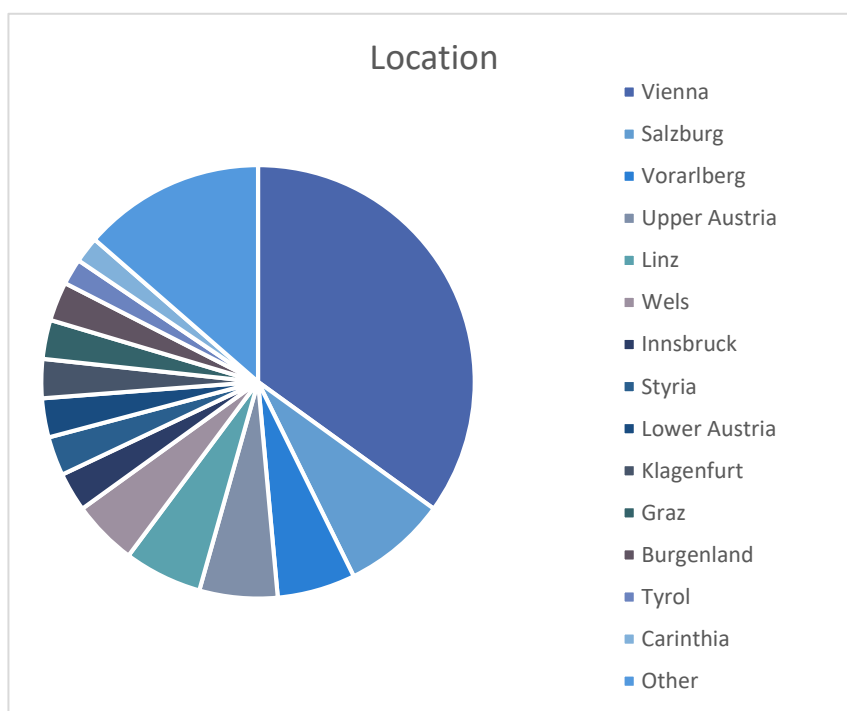
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Sample

There were 140 responses to the Austrian survey, of which 62% (87) were Judges, 5% (7) were Lawyers, 27% (38) were Experts and 6% (8) were Beneficiaries.

Of the 140 respondents, 118 indicated their location (84%). The most common location was Vienna (36%, 42) followed by Salzburg (8%, 9), then Vorarlberg (6%, 7), Upper Austria (6%, 7), Linz (6%, 7) and Welz (5%, 6) with all remaining areas receiving 3% or less.

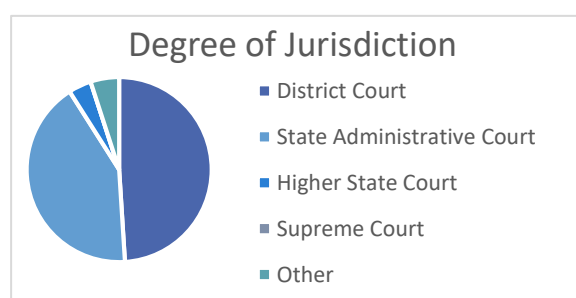
Location	%	Count
Vienna	36%	42
Salzburg	8%	9
Vorarlberg	6%	7
Upper Austria	6%	7
Linz	6%	7
Wels	5%	6
Innsbruck	3%	4
Styria	3%	3
Lower Austria	3%	3
Klagenfurt	3%	3
Graz	3%	3
Burgenland	3%	3
Tyrol	2%	2
Carinthia	2%	2
Other	14%	17
Total	100%	118



Judges

The most common degree of jurisdiction for Judges was District Court/Administrative Court (49%, 42), then the State Administrative Court (42%, 36) and the Higher State Courts (4%, 3). Four respondents selected 'other' (5%), with two indicating they were prosecutors, and one that they were based in the Constitutional Court, and another who was based in a provincial court.

Degree of Jurisdiction	%	Count
District Court / Administrative Court	49%	42
State Administrative Court	42%	36
Higher State Court	4%	3
Supreme Court / Other Federal Court	0%	0
Other	5%	4
Total	100%	85



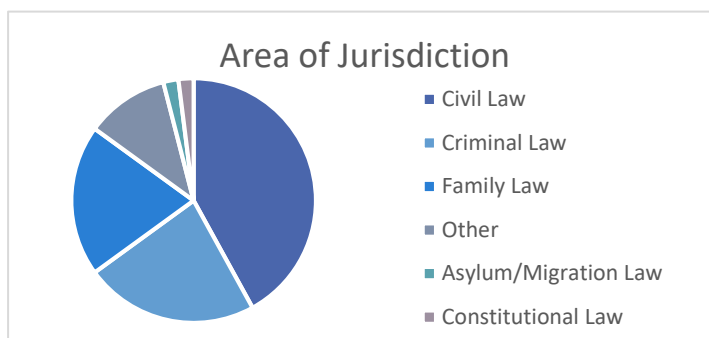
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The most common area of Jurisdiction was Civil Law (42%, 48) followed by Criminal Law (23%, 26), then Family Law (20%, 23), 'other' (11%, 12), with the remaining areas accounting for 2% or less. For those who selected 'other and specified, two indicated Administrative Law, two clarified Labour Law and Social Law, and two for Corporate Law, one response selected Inheritance Law, another Enforcement Law and finally Civil Rights.

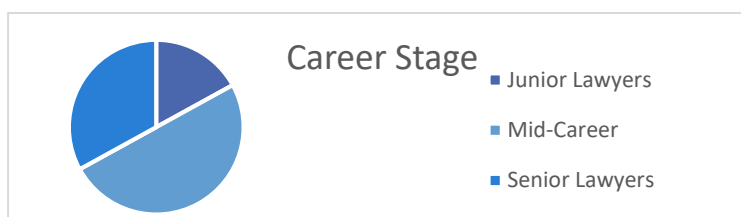
Area of Jurisdiction	%	Count
Civil Law	42%	48
Criminal Law	23%	26
Family Law	20%	23
Other	11%	12
Asylum/Migration Law	2%	2
Constitutional Law	2%	2
Total	100%	113



Lawyers

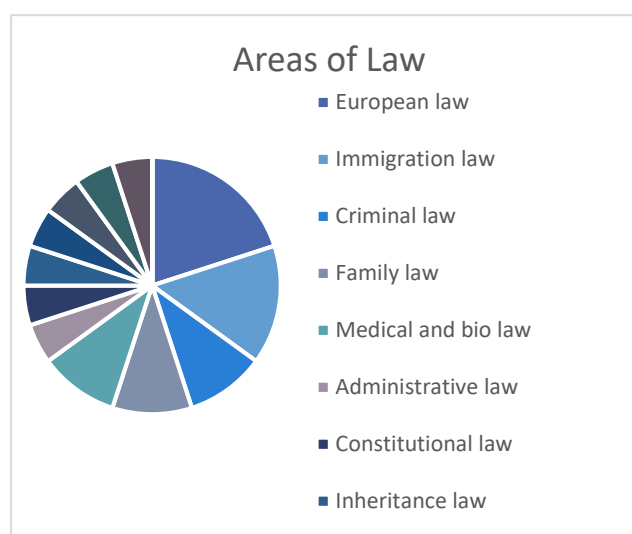
The most common Career stage for lawyers was Mid Career (50%, 3), followed by Senior Lawyers (33%, 2) and Junior Lawyers (17%, 1).

Career Stage	%	Count
Junior Lawyers	17%	1
Mid-Career	50%	3
Senior Lawyers	33%	2
Total	100%	6



The most common areas of law practiced in were European Law (20%, 4), Immigration law (15%, 3), Criminal Law (10%, 2), Family Law (10%, 2) and Medical and Bio Law (10%, 2), with all the remaining areas accounting for 5% or less.

Areas of Law	%	Count
European law	20%	4
Immigration law	15%	3
Criminal law	10%	2
Family law	10%	2
Medical and bio law	10%	2
Administrative law	5%	1
Constitutional law	5%	1
Inheritance law	5%	1
International human rights law	5%	1
Labour law	5%	1
Property law	5%	1
Refugee and asylum law	5%	1
Total	100%	20



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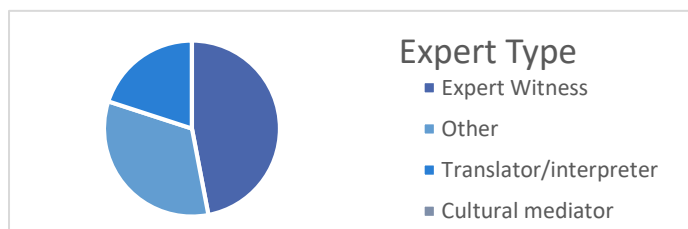
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Experts

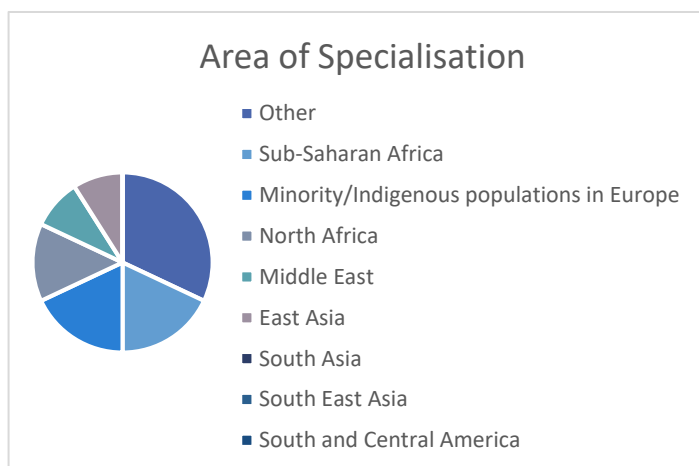
The most common expert type was Expert Witness (47%, 14) followed by 'other' (33%, 10) then Translator/interpreter (20%, 6). Of those who selected 'other' and specified, eight rendered assistance in either the family or juvenile courts, and one was an expert and translator.

Expert Type	%	Count
Expert Witness	47%	14
Other	33%	10
Translator/interpreter	20%	6
Cultural mediator	0%	0
Total	100%	30



The most common response to the question regarding area of specialisation was 'other' (32%, 7) followed by Sub-Saharan Africa (18%, 4), then Minority/Indigenous Populations in Europe (18%, 4), North Africa (14%, 3), the Middle East (9%, 2) and East Asia (9%, 2). Of those who selected 'other' and specified three indicated that they had no specialisation, one clarified Eastern Europe and another a region in Austria.

Area of Specialisation	%	Count
Other	32%	7
Sub-Saharan Africa	18%	4
Minority/Indigenous populations in Europe	18%	4
North Africa	14%	3
Middle East	9%	2
East Asia	9%	2
South Asia	0%	0
South East Asia	0%	0
South and Central America	0%	0
Total	100%	22



Frequency

Numeric Frequency

The most common response to the question regarding the number of cases experts had provided evidence for was 'Between 50 and 100' (32%, 9), followed by 'other' (29%, 8), then 'Between 20 and 50' cases (25%, 7), with all the remaining categories being selected only once or twice. These numbers differed somewhat between Written Reports and Oral Evidence, with Written Reports receiving much higher numbers, with the most frequent selecting being 'Between 50 and 100' (29%, 8), than Oral Evidence, whose most selected category was 'Less than 5' (34%, 10). For those who selected 'other' and specified to the cases overall, two specified that they had not provided expert evidence, one indicated more than 100, another 190, and finally one participant mentioned that they had been an interpreter since 1990. Clarifications to the 'other' option for Written Reports included 190, more than 100, 2250 and two who had not provided written opinions. Finally clarifications to the 'other' response of the Oral Evidence, four indicated that they had never given oral evidence, and one indicated that they had done so 2250 cases.

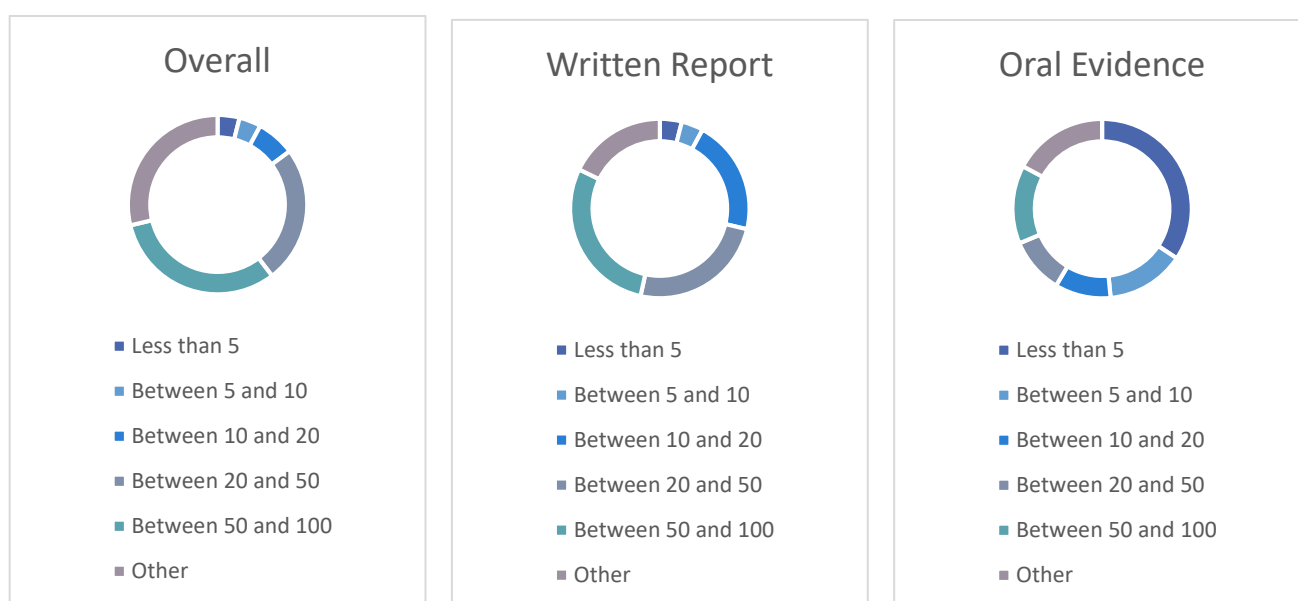


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Number of cases	How many cases have you provided expert evidence/translation/mediation services for?		For how many cases have you provided only a written report?		For how many cases have you provided only oral evidence?	
	%	Count	%	count	%	count
Less than 5	4%	1	4%	1	34%	10
Between 5 and 10	4%	1	4%	1	14%	4
Between 10 and 20	7%	2	21%	6	10%	3
Between 20 and 50	25%	7	25%	7	10%	3
Between 50 and 100	32%	9	29%	8	14%	4
Other	29%	8	18%	5	17%	5
Total	100%	28	100%	28	100%	29



Overall, most Judges and Lawyers responded 'other' (52%, 41) to the question regarding the number of cases in which they had instructed experts. The second most common response was 'Less than 10' (47%, 37). The only exception to this was one Lawyer who indicated that they had instructed 'Between 20 and 30' experts. For those who selected 'other' and specified 35 indicated that they had never instructed an expert, and two clarified that they had instructed three experts.

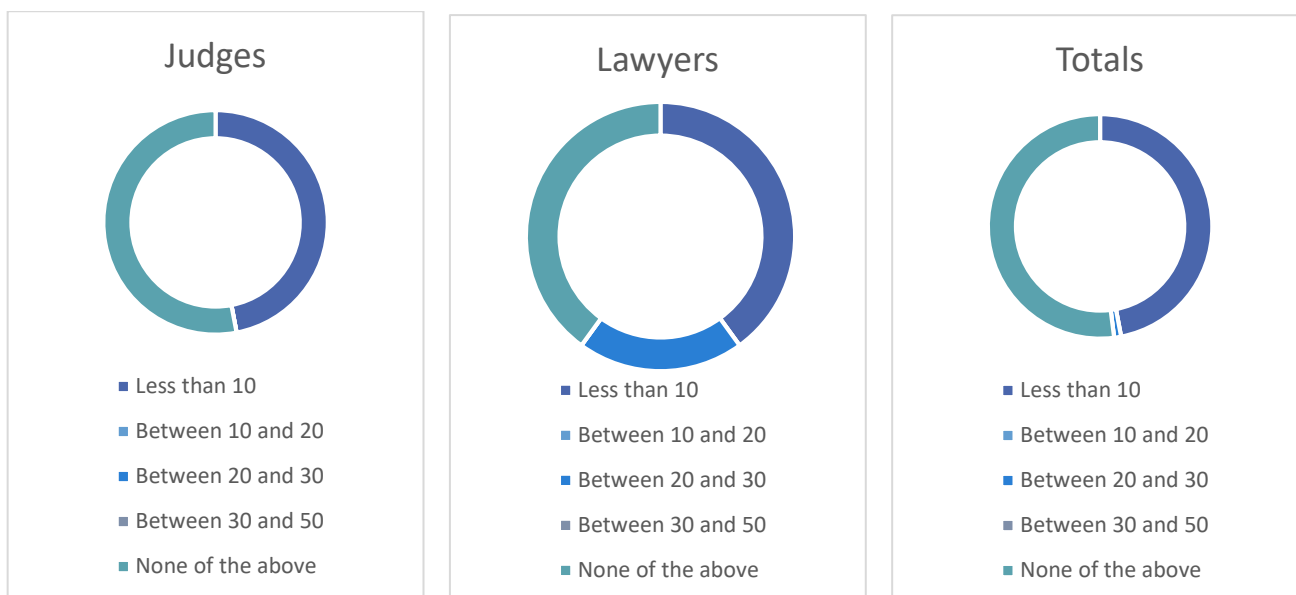
Number of cases	Judges		Lawyers		Totals	
	%	Count	%	Count	%	Count
Less than 10	47%	35	40%	2	47%	37
Between 10 and 20	0%	0	0%	0	0%	0
Between 20 and 30	0%	0	20%	1	1%	1
Between 30 and 50	0%	0	0%	0	0%	0
None of the above	53%	39	40%	2	52%	41
Totals	100%	74	100%	5	100%	79



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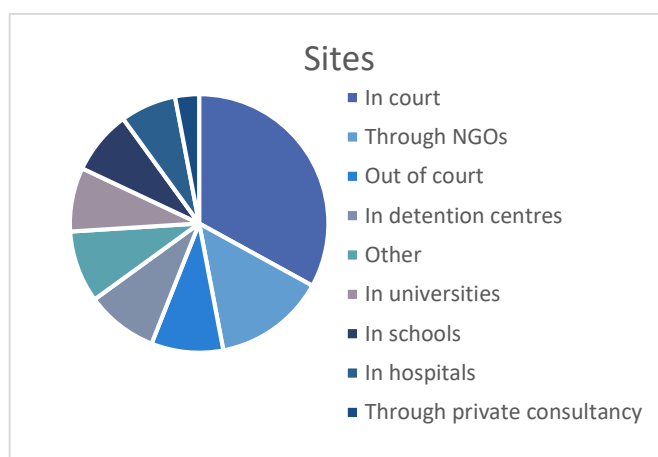


There were two responses to the question regarding beneficiaries frequency of use, with one response indicating 'Often' and another indicating 'Other', and clarifying 'more often'.

Sites

The most common site of cultural expertise is 'In Court' (33%, 42), followed by 'Through NGOs' (14%, 18) then 'Out of Court', 'In Detention Centres' and 'Other' (9%, 11 each), 'In Universities' and 'In Schools' each received 8% (10), with all remaining categories receiving 7% or less. All of those who selected 'other' and specified, indicated that they had no experience in this so far, and could not give any information.

Sites	%	Total
In court	33%	42
Through NGOs	14%	18
Out of court	9%	11
In detention centres	9%	11
Other	9%	11
In universities	8%	10
In schools	8%	10
In hospitals	7%	9
Through private consultancy	3%	4
Total	100%	126



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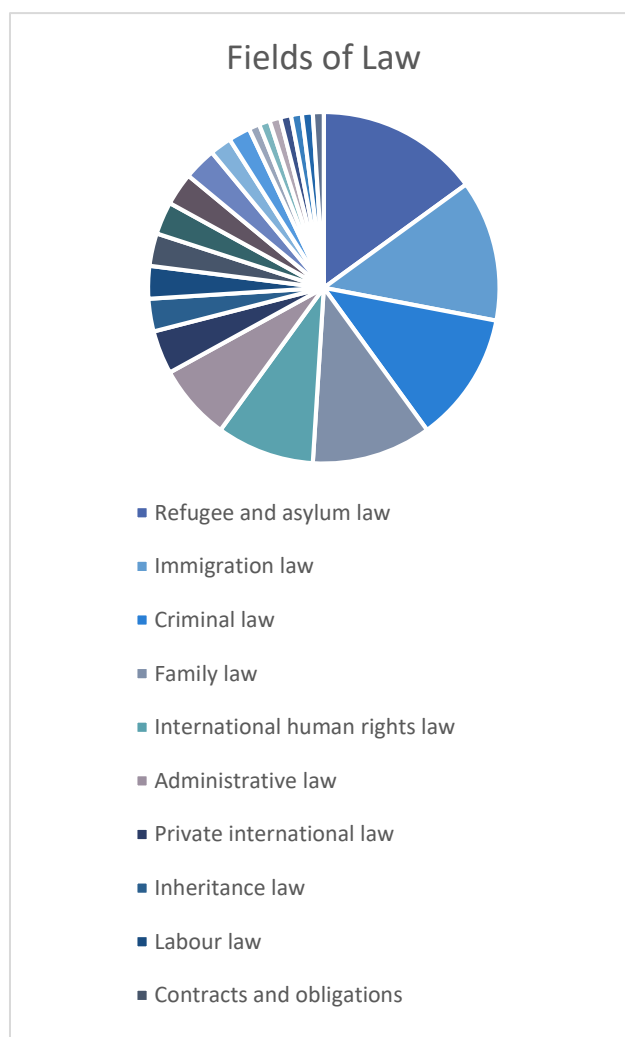
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Fields of law

The most common fields of law where CE is used according to Judges and Lawyers is foremost in Refugee and Asylum Law (15%, 57), followed by Immigration Law (13%, 51) then Criminal Law (12%, 45), Family Law (11%, 43), International Human Rights Law (9%, 33) and Administrative Law (7%, 28), with all the remaining areas accounting for 4% or less. Of those who selected 'other' and specified, three indicated that they did not know, and one clarified that it is used in Family Law, but they had inadequate experience of the other areas of law to comment on them.

Fields of Law	%	Count
Refugee and asylum law	15%	57
Immigration law	13%	51
Criminal law	12%	45
Family law	11%	43
International human rights law	9%	33
Administrative law	7%	28
Private international law	4%	14
Inheritance law	3%	13
Labour law	3%	13
Contracts and obligations	3%	12
European law	3%	12
Health law	3%	11
Constitutional law	3%	10
Business and commercial law	2%	9
Medical and bio law	2%	6
Environmental law	1%	5
Intellectual and patent law	1%	5
Financial law	1%	4
Other	1%	4
Banking, bankruptcy, and insolvency law	1%	3
Property law	1%	3
Sports law	1%	3
Total	100%	384



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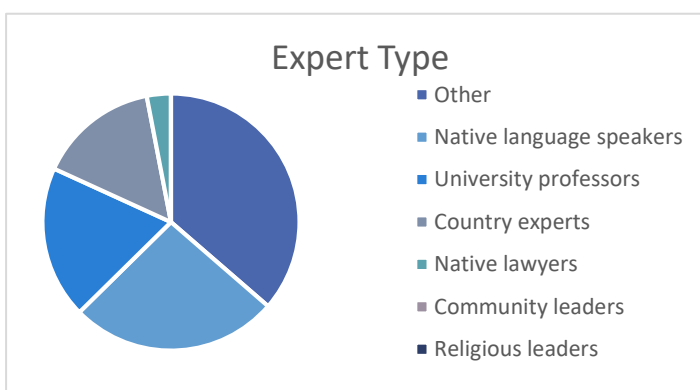
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Typology of Experts

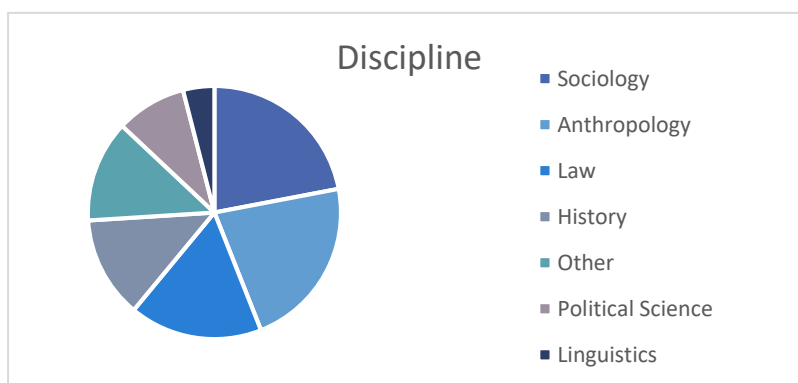
The most common response to the question regarding their expert type was 'Other' (36%, 26), followed by Native Language Speakers (26%, 19) then University Professors (19%, 4), Country Experts (15%, 11) and Native Lawyers (3%, 2). For those who selected 'other' and specified, eighteen indicated that they did not know or were unable to comment, and two specified interpreters.

Expert Type	%	Count
Other	36%	26
Native language speakers	26%	19
University professors	19%	14
Country experts	15%	11
Native lawyers	3%	2
Community leaders	0%	0
Religious leaders	0%	0
Total	100%	72



When those who selected University Professors were asked to specify their discipline, the most common responses were Sociology and Anthropology (both 22%, 5) followed by Law (17%, 4), then History and 'other' (13%, 3 each), Political Science (9%, 2) and Linguistics (4%, 1). For those who selected 'other' and specified, one indicated doctors and another psychologists and psychiatrists.

Discipline	%	Count
Sociology	22%	5
Anthropology	22%	5
Law	17%	4
History	13%	3
Other	13%	3
Political Science	9%	2
Linguistics	4%	1
Total	100%	23



The most common field of law where experts had provided cultural expertise was Family Law (18%, 15), followed by Business and Commercial Law (7%, 6), Contracts and Obligations (7%, 6) and Criminal Law (7%, 6), then Administrative Law (6%, 5), Immigration Law (6%, 5), Inheritance Law (6%, 5) and Labour Law (6%, 5) with all the remaining areas accounting for 5% or less. Of those who selected 'other' and specified, one indicated Liability Law, another Guardianship Law, another for Adult Protection Law and finally one in the field of electrical engineering.

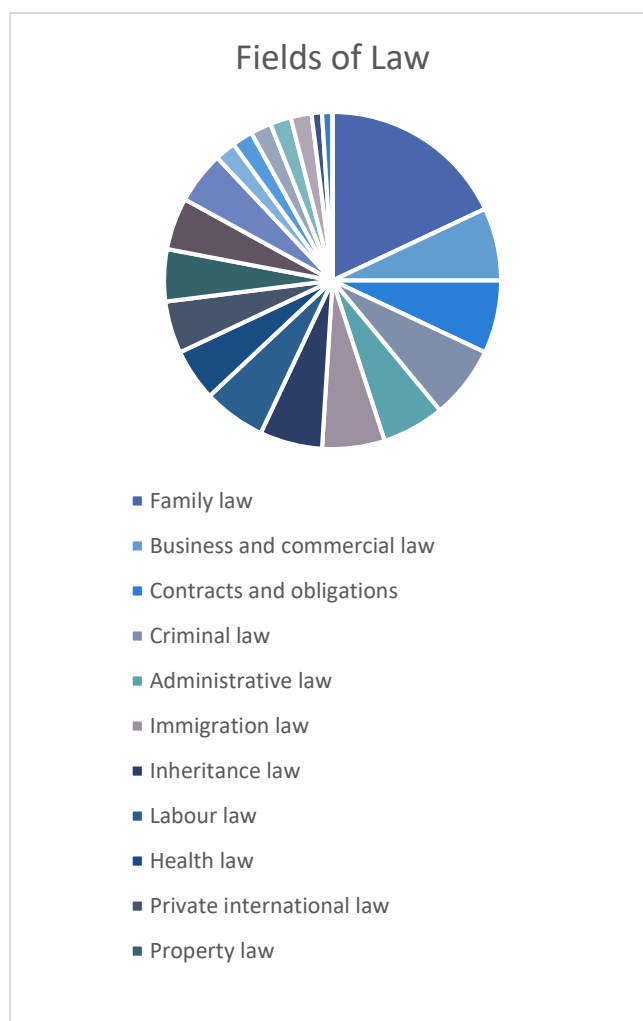


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Fields of Law	%	Count
Family law	18%	15
Business and commercial law	7%	6
Contracts and obligations	7%	6
Criminal law	7%	6
Administrative law	6%	5
Immigration law	6%	5
Inheritance law	6%	5
Labour law	6%	5
Health law	5%	4
Private international law	5%	4
Property law	5%	4
Refugee and asylum law	5%	4
Other	5%	4
Constitutional law	2%	2
Environmental law	2%	2
European law	2%	2
Financial law	2%	2
Intellectual and patent law	2%	2
International human rights law	1%	1
Medical and bio law	1%	1
Banking, bankruptcy, and insolvency law	0%	0
Sports law	0%	0
Total	100%	85



Modalities

Appointment of Experts

The most commonly factor influencing the decision to appoint was that the appointment of experts was advised by the court (20%, 40), followed by that the law allows the appointment of experts (16%, 33), then the court is keen to hear cultural arguments (10%, 20), that experts facilitate successful legal outcomes (9%, 18), the client's request (8%, 17), time (8%, 16), the reputation of the expert (7%, 15), and cost (7%, 14), with all remaining areas accounting for 6% or less. Of those who selected other (3%, 6) and specified, three indicated that they do not have sufficient experience to respond, one that the expertise needs to be helpful for the specific case and finally that the expertise must be external to the court.



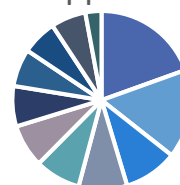
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Factor	%	Count
The appointment/ instruction of experts is advised by the court	20%	40
The law allows the appointment/ instruction of experts	16%	33
The court is keen to hear cultural arguments	10%	20
Experts facilitate successful legal outcomes	9%	18
Client/ Defendant/ Claimant/ Applicant's request	8%	17
Time	8%	16
The reputation of the expert	7%	15
Cost	7%	14
Expertise can also be used for an out of court settlement	6%	13
The court/ prosecutor/ Federal Office for Aliens and Asylum have already appointed their expert	6%	13
Other	3%	6
Total	100%	205

Factors influencing decision to appoint



- The appointment/instruction of experts is advised by the court
- The law allows the appointment/instruction of experts
- The court is keen to hear cultural arguments
- Experts facilitate successful legal outcomes
- Client/Defendant/Claimant/Applicant's request
- Time
- The reputation of the expert
- Cost
- Expertise can also be used for an out of court settlement

The most common factor in choosing an expert was competence (29%, 39), followed by from expert registers at law courts (20%, 27), then the reputation of the expert (19%, 26), then from professional expert registers (18%, 25) and other (11%, 15), with all remaining categories accounting for 2% or less. Of those who selected other and specified, eight indicated that they did not know, three that it was often the interpreters which provided the cultural know how, and finally one respondent that provided a list which included, professional aptitude, prompt assessment, oral expressiveness, and the ability to explain the results of the report to a layman.

Reason	%	Count
Competence	29%	39
From expert registers at law courts	20%	27
Reputation of expert	19%	26
From professional expert registers	18%	25
Other	11%	15
Litigant/ Applicant/ Defendant/ Claimant's choice	2%	3
Balance between competence and cost	1%	1
Convenient hourly quote	0%	0
Total	100%	136

Reasons for choosing appropriate expert



- Competence
- From expert registers at law courts
- Reputation of expert
- From professional expert registers
- Other
- Litigant/Applicant/Defendant/Claimant's choice
- Balance between competence and cost
- Convenient hourly quote

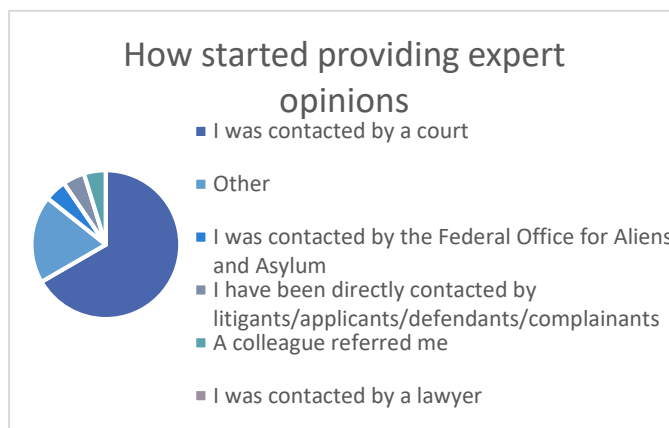
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Most experts started giving opinions after being contacted by a court (67%, 14), followed by other (19%, 4), with all the remaining options being selected by a single respondent. Of those who selected other and specified, one indicated that they were recommended by a professional association and another was commissioned privately.

Answer	%	Count
I was contacted by a court	67%	14
Other	19%	4
I was contacted by the Federal Office for Aliens and Asylum	5%	1
I have been directly contacted by litigants/ applicants/ defendants/ complainants	5%	1
A colleague referred me	5%	1
I was contacted by a lawyer	0%	0
Total	100%	21



Experts were most frequently appointed by lawyers (28%, 11), followed by the Federal Office for Aliens and Asylum (25%, 10), then having been contacted directly by litigants (23%, 9), other (18%, 7), by courts (5%, 2) and one respondent worked for an NGO. Of those who selected other and specified, five indicated that they were commissioned by courts and two by judges.

Field	%	Count
I have been instructed/ appointed as expert by several lawyers who contact me as the need arises	28%	11
I have been instructed/ appointed by courts	5%	2
I work for an NGO	3%	1
I have been instructed/ appointed by the Federal Office for Aliens and Asylum or other equivalent authority	25%	10
I was contacted directly by the litigants/ applicants/ defendants/ complainants	23%	9
Other	18%	7
Total	100%	40



Cost of Cultural Expertise

Cultural expertise is most commonly financed by courts (23%, 27), followed by clients (22%, 25), then by legal aid (21%, 24), by the Federal Office for Aliens and Asylum (18%, 21), other (11%, 13) and finally by Philanthropists/NGOs/Relative/Community. For those who selected other and specified, all indicated that they did not know.

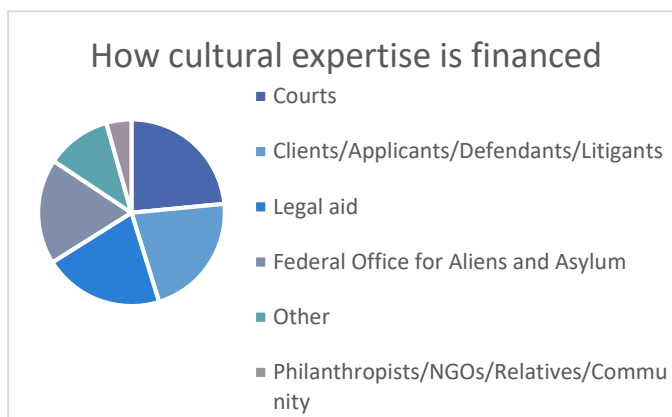


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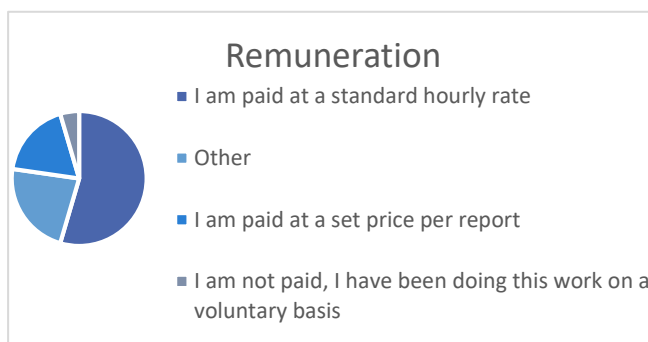
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Answer	%	Count
Courts	23%	27
Clients/ Applicants/ Defendants/ Litigants	22%	25
Legal aid	21%	24
Federal Office for Aliens and Asylum	18%	21
Other	11%	13
Philanthropists/ NGOs/ Relatives/ Community	4%	5
Total	100%	115



Over half of responses indicated that experts were paid at a standard hourly rate (55%, 12), followed by other (23%, 5), then being paid at a set price per report (18%, 4), with one respondent working on a voluntary basis. Of those who selected other and specified, five clarified that they are paid as a salaried employee.

Answer	%	Count
I am paid at a standard hourly rate	55%	12
Other	23%	5
I am paid at a set price per report	18%	4
I am not paid, I have been doing this work on a voluntary basis	5%	1
Total	100%	22



There were two most frequent responses to the question of the reuse of cultural expertise which included that it cannot be reused (30%, 17) and can only be reproduced in the same country/legal field (30%, 17), followed by cultural expertise being applicable in similar cases (21%, 12) and other (18%, 10). Of those who selected other and specified, seven indicated that they did not know, two that highlighted the rareness of the use of experts and one that specified it is not required by civil judges.

Answer	%	Count
Cultural expertise/expert witnessing is a unique and not repeatable experience	30%	17
Cultural expertise can only be reproduced within the same country/legal field	30%	17
Cultural expert witnessing is applicable to similar cases	21%	12
Other	18%	10
Total	100%	56



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Impact

Components of Impact

The most common components of impact include stringent conclusions (20%, 57), followed by reliable sources of contents (19%, 55), then use of statistics (13%, 37), first-hand experience (13%, 36), reputation of experts (11%, 30), quantitative assessment of risk (8%, 23), style (7%, 19) and advocacy (5%, 13), with all the remaining categories accounting for 4% or less. For those who selected other and specified, two indicated that they did not have enough experience, one that clarified specific expertise and another that highlighted accurate findings.

Field	%	Count
Stringent conclusions	20%	57
Reliable sources of contents	19%	55
Use of statistics	13%	37
First-hand experience	13%	36
Reputation of the experts	11%	30
Quantitative assessment of risk	8%	23
Style	7%	19
Advocacy	5%	13
Remuneration of experts	4%	11
Other	1%	4
Total	100%	285



Usefulness

A little over a third of respondents found cultural expertise moderately useful (36%, 27), followed by very useful (29%, 22), then slightly useful (16%, 12), not useful at all (16%, 12) and finally extremely useful (4%, 3).

Answer	%	Count
Extremely useful	4%	3
Very useful	29%	22
Moderately useful	36%	27
Slightly useful	16%	12
Not at all useful	16%	12
Total	100%	76



Cultural expertise is most useful in immigration law (55%, 36), followed by more useful in criminal law rather than civil law (17%, 11), then other (17%, 11), then more useful in civil law than criminal law (12%, 8). Of those who selected other and specified, three indicated foreign and asylum law, two clarified that they did not have enough experience, two that it can be useful in all areas of law, one that it is useful in all areas of law where foreigners are involved, along with another with a longer list of various areas of law including family law, custody law and human rights law.



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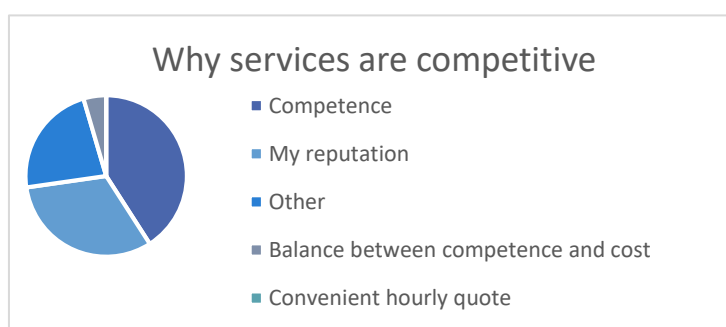
Answer	%	Count
Cultural expertise is most useful in immigration law	55%	36
Cultural expertise is more useful in criminal law than in civil law	17%	11
Cultural expertise is most useful in...	17%	11
Cultural expertise is more useful in civil law than in criminal law	12%	8
Total	100%	66



Competitiveness

The most common answer given for as to why experts felt their services were competitive was competence (41%, 9), followed by reputation (31%, 7), then other (23%, 5) and finally one respondent indicating the balance between competence and cost. Of those who selected other and specified, four indicated that it is not about competition as they are employed by the family court, and one commented that they are sworn and certified.

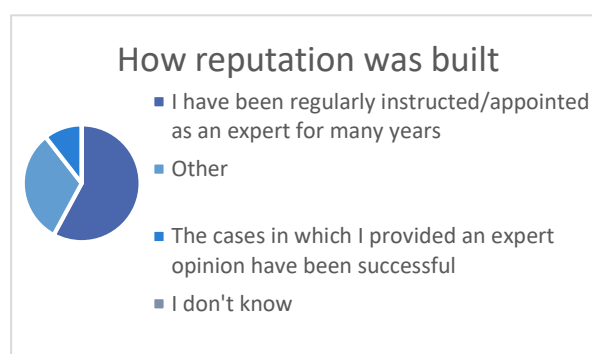
Answer	%	Count
Competence	41%	9
My reputation	32%	7
Other	23%	5
Balance between competence and cost	5%	1
Convenient hourly quote	0%	0
Total	100%	22



Reputation of Experts

More than half of the experts who responded indicated that they had built their reputation by being regularly appointed over a number of years (58%, 11), followed by other (32%, 6), and then having the cases in which they have provided expertise in being successful (11%, 2). Of those who selected other and specified, five indicated that they are employed by the family court, and another due to their expertise as an appraiser.

Answer	%	Count
I have been regularly instructed/appointed as an expert for many years	58%	11
Other	32%	6
The cases in which I provided an expert opinion have been successful	11%	2
I don't know	0%	0
Total	100%	19



CULTURAL EXPERTISE IN EUROPE: WHAT IS IT USEFUL FOR? (EURO-EXPERT)

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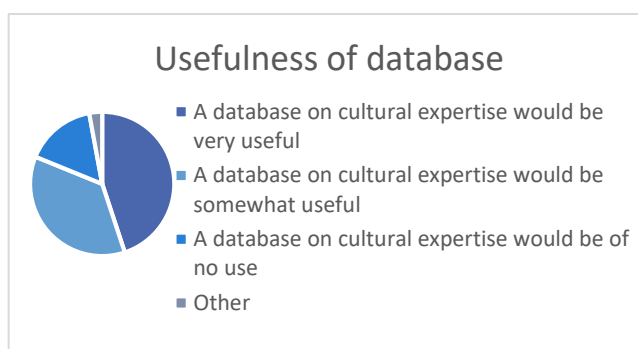
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Improved Access

Database

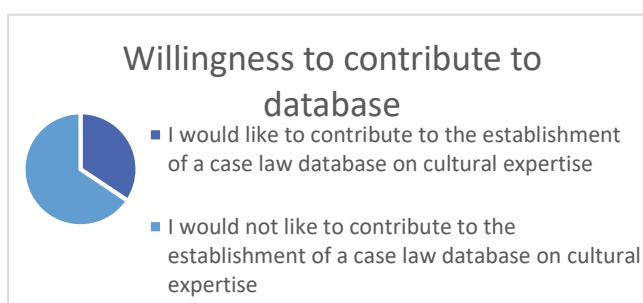
Almost half of respondents thought that a database on cultural expertise would be very useful (45%, 31), followed by somewhat useful (36%, 25), then of no use (16%, 11) and two respondents who selected other, both of which specified that they had no experience in these areas.

Answer	%	Count
A database on cultural expertise would be very useful	45%	31
A database on cultural expertise would be somewhat useful	36%	25
A database on cultural expertise would be of no use	16%	11
Other	3%	2
Total	100%	69



Most respondents did not wish to contribute to the establishment of a case law database (66%, 21), while close to one third of respondents did (34%, 11).

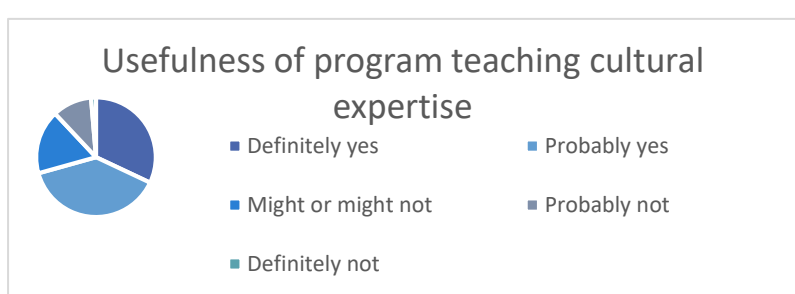
Answer	%	Count
I would like to contribute to the establishment of a case law database on cultural expertise	34%	11
I would not like to contribute to the establishment of a case law database on cultural expertise	66%	21
Total	100%	32



Capacity Building

The most common response to the question regarding the usefulness of a program teaching cultural expertise was probably yes (39%, 29), followed by definitely yes (32%, 24), then might or might not (17%, 13), probably not (11%, 8) and definitely not (1%, 1).

Answer	%	Count
Definitely yes	32%	24
Probably yes	39%	29
Might or might not	17%	13
Probably not	11%	8
Definitely not	1%	1
Total	100%	75



CULTURAL EXPERTISE IN EUROPE: WHAT IS IT USEFUL FOR? (EURO-EXPERT)

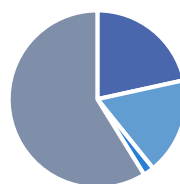
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With regards to the question on interest in the teaching program, the most common response was other (59%, 30), followed by knowing educational organisations which may be interested (22%, 9), then knowing professional organisations that may be interested (18%, 9) and finally one respondent who would be interested in teaching cultural expertise themselves (2%). For those who selected other and specified, five indicated that they did not know, and two clarified specific organisations.

Answer	%	Count
I know of schools, universities or organisations that may be interested in teaching cultural expertise	22%	11
I know of professional organisations that may be interested in capacity building on the use of cultural expertise	18%	9
I would be interested in teaching cultural expertise	2%	1
Other	59%	30
Total	100%	51

Interest in cultural expertise teaching program



- I know of schools, universities or organisations that may be interested in teaching cultural expertise
- I know of professional organisations that may be interested in capacity building on the use of cultural expertise
- I would be interested in teaching cultural expertise
- Other