

United Kingdom

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

PI: LIVIA HOLDEN | Post-Doc: ANNA TSALAPATANIS | Data Collector: BRIDGET PRINCE

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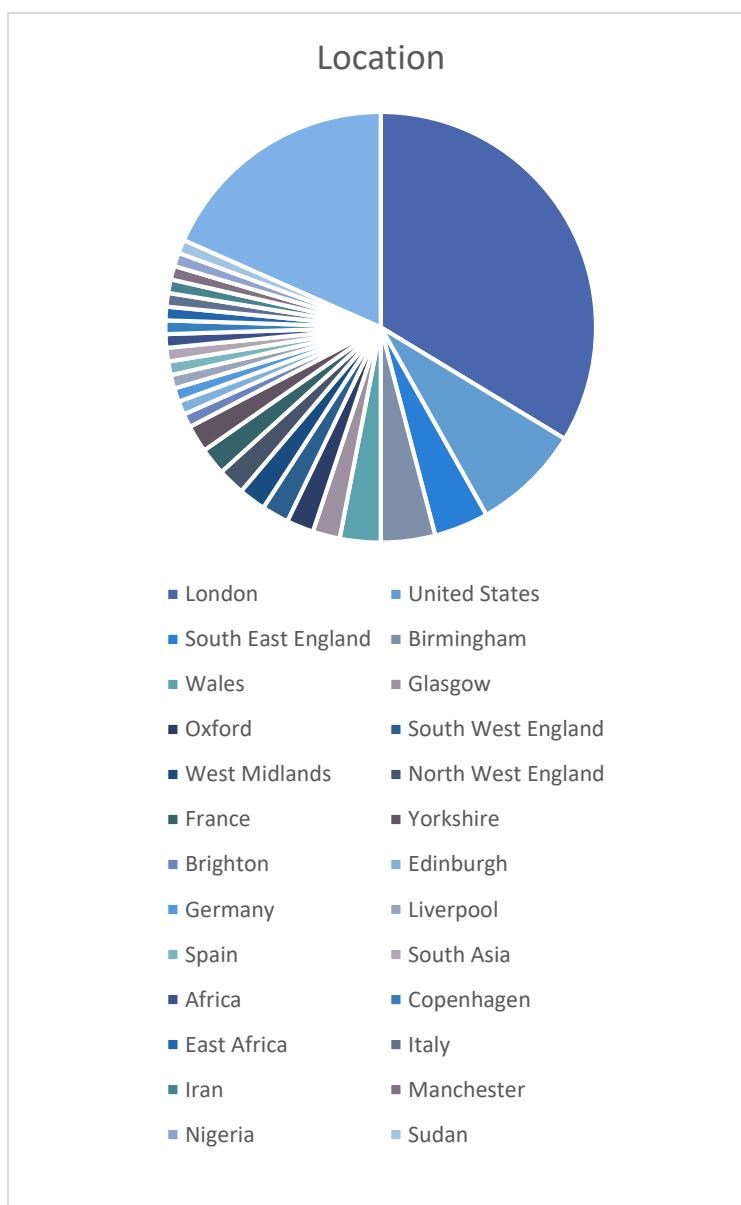
Sample

In total there were 242 respondents to the British survey, this number included 24 Judges (10%), 101 Lawyers (42%), 114 Experts (47%) and 3 Beneficiaries (1%).

Location

Of the 242 respondents, 93% (225) indicated their location, with roughly a third of those being based in London (74), followed by the United States (8%, 19), South East England (4%, 10), Birmingham (4%, 9), Wales (3%, 6), Glasgow (2%, 5), Oxford, (2%, 5), South West England, (2%, 5), West Midlands (2%, 5), North West England (2%, 5), France (2%, 4) and Yorkshire (2%, 4). All the remaining locations received 1% or less.

Location	%	Count
London	33%	74
United States	8%	19
South East England	4%	10
Birmingham	4%	9
Wales	3%	6
Glasgow	2%	5
Oxford	2%	5
South West England	2%	5
West Midlands	2%	5
North West England	2%	5
France	2%	4
Yorkshire	2%	4
Brighton	1%	3
Edinburgh	1%	3
Germany	1%	3
Liverpool	1%	3
Spain	1%	3
South Asia	1%	3
Africa	1%	2
Copenhagen	1%	2
East Africa	1%	2
Italy	1%	2
Iran	1%	2
Manchester	1%	2
Nigeria	1%	2
Sudan	1%	2
Other	18%	40
Total	100%	225



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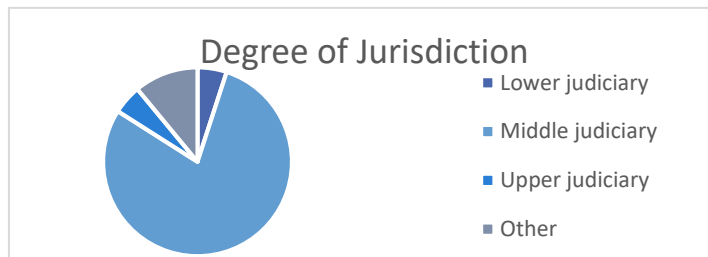
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Judges

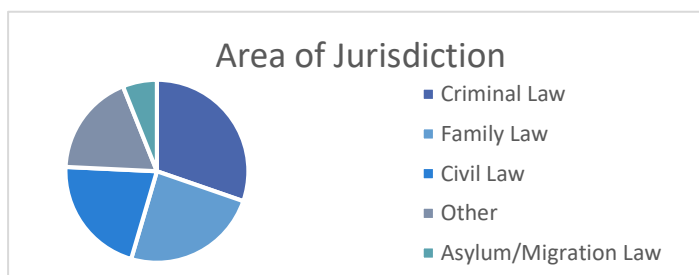
The most common degree of jurisdiction was 'Middle Judiciary' (79%, 15), followed by 'Other' (11%, 2) then 'Lower Judiciary' and 'Upper Judiciary' both on 5% (2). The two respondents who selected 'Other' and specified, both indicated that they were Circuit Judges.

Degree of Jurisdiction	%	Count
Lower judiciary	5%	1
Middle judiciary	79%	15
Upper judiciary	5%	1
Other	11%	2
Total	100%	19



In terms of area of jurisdiction, the most common response was 'Criminal Law' (30%, 10), followed by 'Family Law' (24%, 8), 'Civil Law' (21%, 7), 'Other' (18%, 6) and 'Asylum and Migration Law' (6%, 2). For those who selected 'Other', their clarifications included insolvency, mental health, taxation, administrative/public law and Court of Protection.

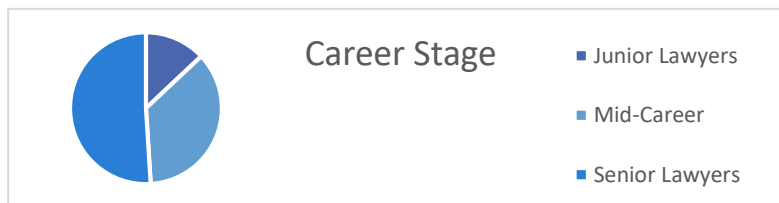
Area of Jurisdiction	%	Count
Criminal Law	30%	10
Family Law	24%	8
Civil Law	21%	7
Other	18%	6
Asylum/Migration Law	6%	2
Total	100%	33



Lawyers

More than half of the responding Lawyers indicated that they were Senior Lawyers (51%, 47) followed by mid-career (36%, 33), and Junior Lawyers (13%, 12).

Career Stage	%	Count
Junior Lawyers	13%	12
Mid-Career	36%	33
Senior Lawyers	51%	47
Total	100%	92



With regards to areas of law, the most common area of specialisation was Immigration Law (23%, 57) followed by Refugee and Asylum Law (16%, 38), then Administrative Law (12%, 30), Criminal Law, (8%, 20), and International Human Rights Law (8%, 19), with all the remaining areas receiving 5% or less. For those who selected 'other' (4%, 10) and specified, three indicated that they were in regulatory law and one each in public law, civil liberties, discrimination law, international criminal law, comity and planning cases involving Roma.



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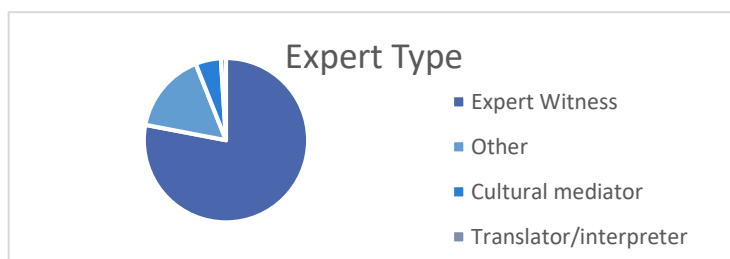
Areas of Law	%	Count
Immigration law	23%	57
Refugee and asylum law	16%	38
Administrative law	12%	30
Criminal law	8%	20
International human rights law	8%	19
European law	5%	13
Family law	5%	13
Constitutional law	5%	12
Other	4%	10
Business and commercial law	2%	5
Contracts and obligations	2%	5
Labour law	2%	5
Private international law	2%	4
Banking, bankruptcy, and insolvency law	1%	3
Environmental law	1%	2
Health law	1%	2
Inheritance law	1%	2
Financial law	0%	1
Intellectual and patent law	0%	1
Medical and bio law	0%	1
Property law	0%	1
Sports law	0%	0
Total	100%	244



Experts

Almost three quarters of experts indicated that they were expert witnesses (78%, 86), followed by 'other' 16% (18), then cultural mediator (5%, 5), and translator/interpreter (1%, 1). For those who selected 'other' and specified, eight indicated that they were country experts, two were anthropologists, two were researchers, one a human rights advocate and a person who works for an NGO.

Expert Type	%	Count
Expert Witness	78%	86
Other	16%	18
Cultural mediator	5%	5
Translator/interpreter	1%	1
Total	100%	110



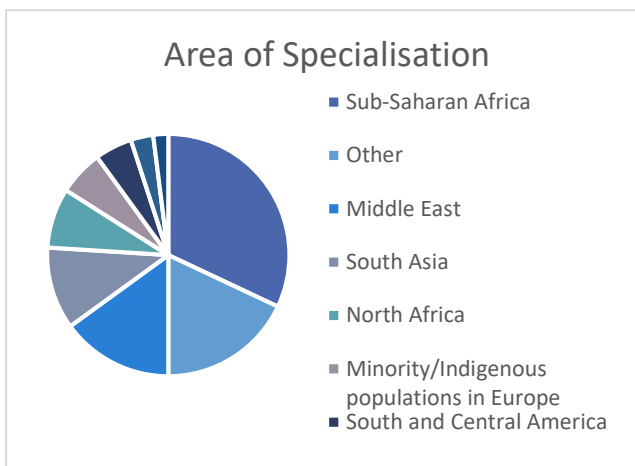
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In terms of area of specialisation, the most common area was 'Sub-Saharan Africa' (32%,41) followed by 'Other' (18%, 24), the 'Middle East' (15%, 20), 'South Asia' (11%, 14), 'North Africa' (8%, 11), 'Minority/Indigenous Populations', (6%, 8), with all other areas receiving 5% or less. Of those who selected 'other' and specified, indicated expertise in a specific country or more specific region including seven for former Soviet states, two for Albania, two for South Eastern Europe, and one each for Central Asia, Afghanistan, the Caribbean, Japan, West Africa, Chad and Sudan.

Area of Specialisation	%	Count
Sub-Saharan Africa	32%	41
Other	18%	24
Middle East	15%	20
South Asia	11%	14
North Africa	8%	11
Minority/Indigenous populations in Europe	6%	8
South and Central America	5%	6
South East Asia	3%	4
East Asia	2%	2
Total	100%	130



Frequency

Frequency of Involvement in Cultural Expertise

There was a fairly even spread with regards to the frequency of experts provision of services, with all categories ranging from between 19% and 13%, with 'less than 5' (19%, 21) and 'Other' (18%, 20) being the most common. For those who selected 'other' and specified, all indicated much higher numbers, with six indicating more than 100 cases, two between 100 and 200, two over 300, three over 400, one over 500, one over 1000, one approximately 2500, one several thousand and finally one that has contributed between 3500 and 4000 reports. For those providing written reports, the numbers were fairly similar to the figures provided overall, including those who selected other and specified. There were much lower numbers in the only oral evidence cases with 61% (67) indicating that they had never provided oral evidence only.

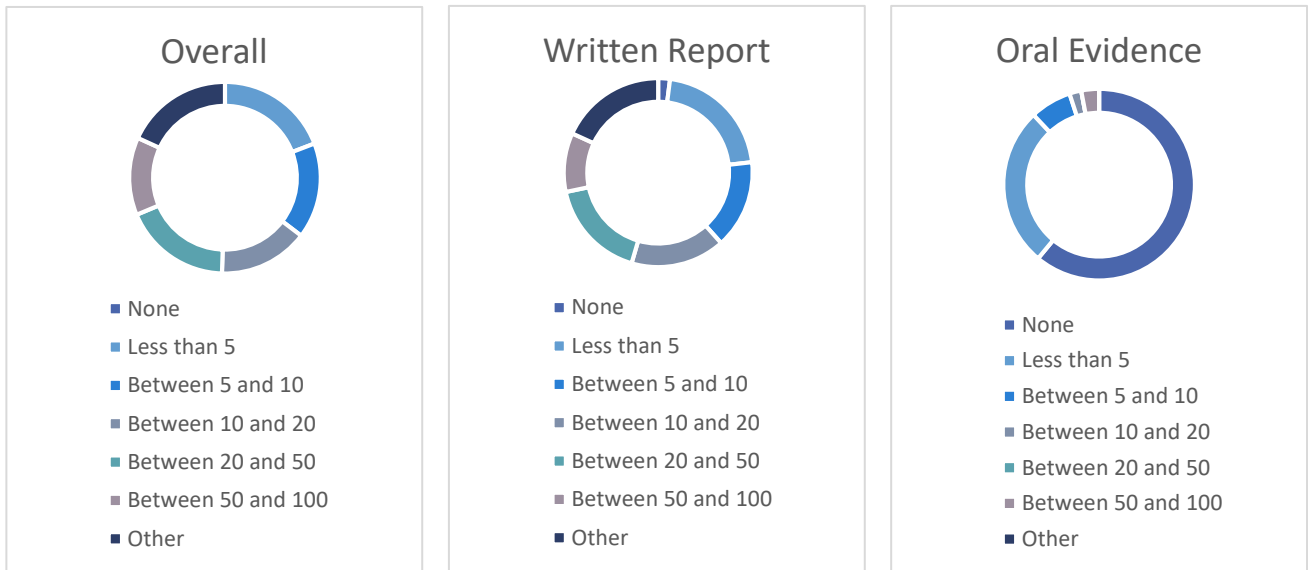
Number of cases	How many cases have you provided expert evidence/translation/mediation services for?		For how many cases have you provided only a written report?		For how many cases have you provided only oral evidence?	
	%	Count	%	count	%	count
None	n/a	n/a	2%	2	61%	67
Less than 5	19%	21	21%	23	27%	30
Between 5 and 10	16%	18	15%	17	7%	8
Between 10 and 20	15%	17	16%	18	2%	2
Between 20 and 50	18%	20	17%	19	0%	0
Between 50 and 100	13%	14	10%	11	3%	3
Other	18%	20	18%	20	0%	0
Total	100%	110	100%	110	100%	110



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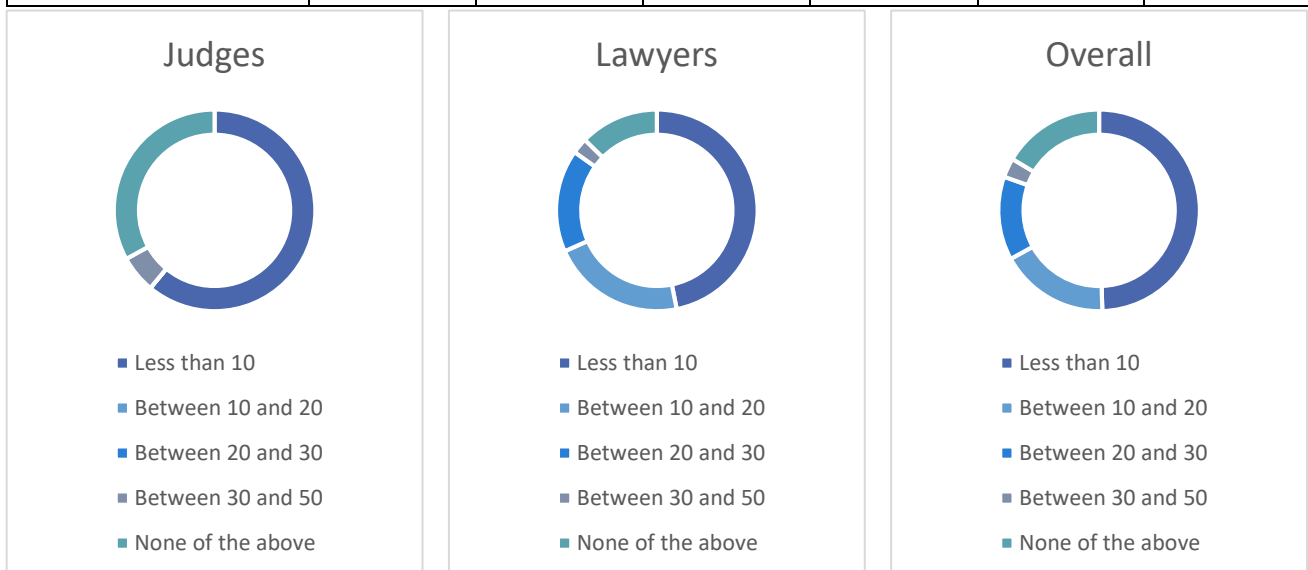
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Overall, almost half of respondents (49%, 48) had instructed experts in less than 10 cases, this number was higher among Judges (61%,11), than it was among Lawyers (47%, 37). For Judges, the next most common category was 'None of the above' (33%, 6), where all those who specified indicated that judges don't usually instruct experts. Lawyers on the other hand were more likely to have instructed experts, however two of those who selected 'other' and specified indicated that they were barristers and therefore cannot instruct experts.

Number of cases	Judges		Lawyers		Totals	
	%	Count	%	Count	%	Count
Less than 10	61%	11	47%	37	49%	48
Between 10 and 20	0%	0	22%	17	18%	17
Between 20 and 30	0%	0	16%	13	13%	13
Between 30 and 50	6%	1	3%	2	3%	3
None of the above	33%	6	13%	10	16%	16
Totals	100%	18	100%	79	100%	97



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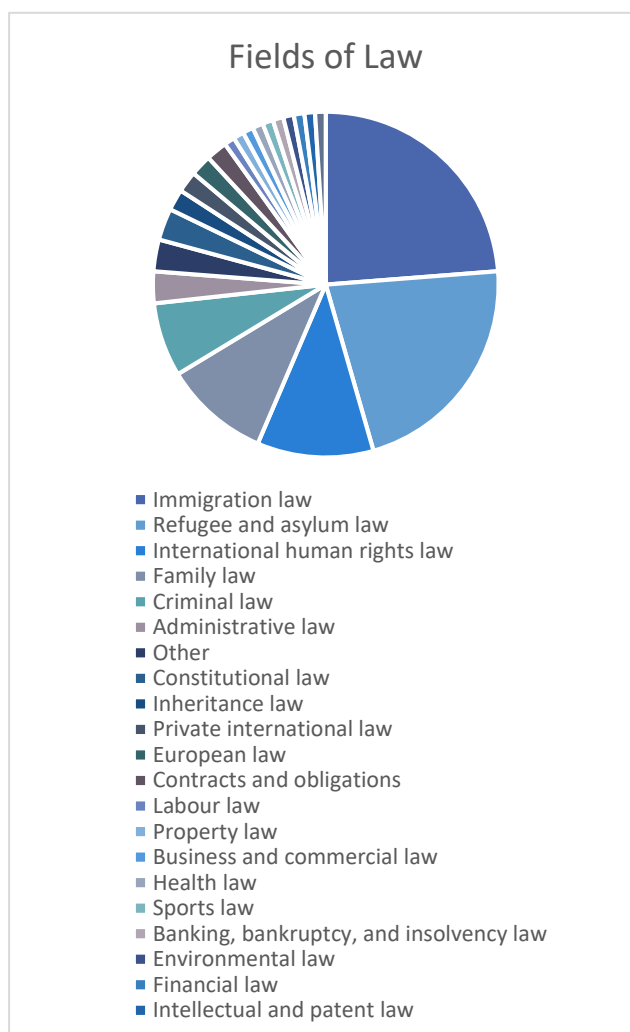
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There were only two respondents to the question asking beneficiaries how often they used the services of an expert witness or a country expert, one answered 'often' and the other 'never'.

Fields of law

The most common fields of law in which cultural expertise was used was 'Immigration Law' (24%, 119), followed by 'Refugee and Asylum Law' (22%, 113), then 'International Human Rights Law' (11%, 54), 'Family Law' (10%, 53) and 'Criminal Law' (7%, 36), with all remaining categories accounting for less than 5%. Of those who selected 'Other' (3%, 14) and specified, there were multiple single responses in areas such as extradition, international criminal law, asylum appeals, nationality law, town and county planning, and tax and investment protection.

Fields of Law	%	Count
Immigration law	24%	119
Refugee and asylum law	22%	113
International human rights law	11%	54
Family law	10%	53
Criminal law	7%	36
Administrative law	3%	15
Other	3%	14
Constitutional law	3%	13
Inheritance law	2%	12
Private international law	2%	10
European law	2%	9
Contracts and obligations	2%	8
Labour law	1%	7
Property law	1%	7
Business and commercial law	1%	6
Health law	1%	6
Sports law	1%	5
Banking, bankruptcy, and insolvency law	1%	4
Environmental law	1%	4
Financial law	1%	4
Intellectual and patent law	1%	3
Medical and bio law	1%	3
Total	100%	505



Sites

The most common site of cultural expertise was 'in court' (54%, 147), followed by 'out of court' (14%, 38), 'through NGOs' (9%, 24), 'in universities' (7%, 18) and 'other' (6%, 15) with all remaining areas receiving 4% or less. For those who selected 'Other' and specified, several indicated that they were unclear as to what the question was asking or that they were uncertain, and one indicated county councils and another clarified that it was through legal firms.

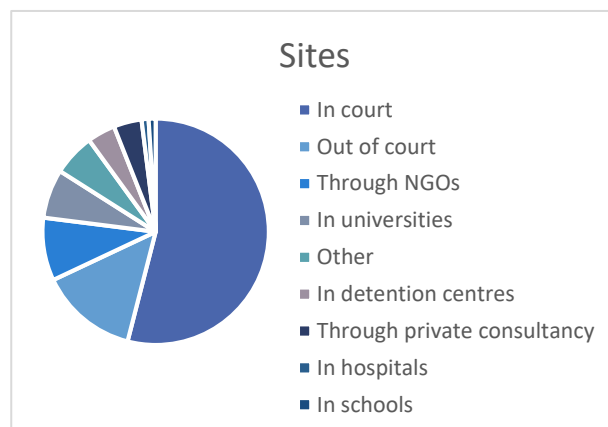


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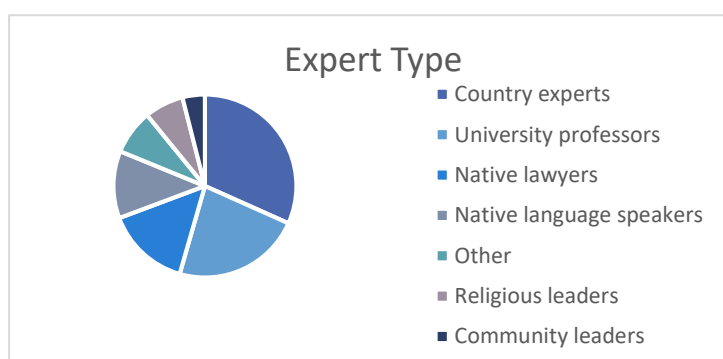
Sites	%	Total
In court	54%	147
Out of court	14%	38
Through NGOs	9%	24
In universities	7%	18
Other	6%	15
In detention centres	4%	12
Through private consultancy	4%	10
In hospitals	1%	4
In schools	1%	2
Total	100%	270



Typology of Experts

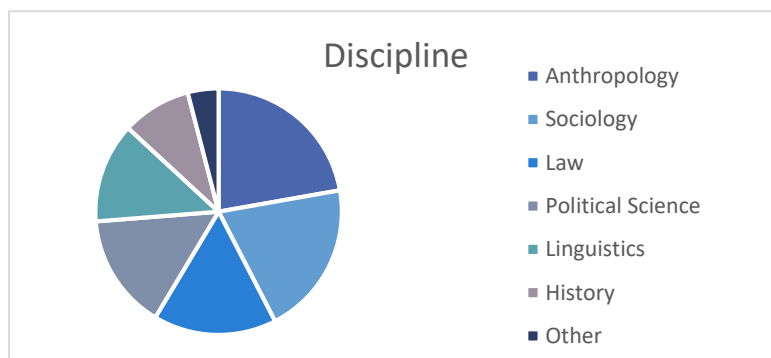
The type of experts most frequently instructed were country experts (32%, 64) followed by university professors (23%, 45), native lawyers (15%, 30), native language speakers (12%, 23), 'Other' (8%, 16), religious leaders (7%, 13) and community leaders (4%, 7). For those who selected other and specified, five indicated that they had never instructed an expert, two indicated social workers and one each for lawyers, journalists, and research experts.

Expert Type	%	Count
Country experts	32%	64
University professors	23%	45
Native lawyers	15%	30
Native language speakers	12%	23
Other	8%	16
Religious leaders	7%	13
Community leaders	4%	7
Total	100%	198



When asked to clarify which professors these were, the most common response was Anthropology (22%, 31) followed closely by Sociology (20%, 28), then Law (16%, 22), Political Science (15%, 21), Linguistics (13%, 18), History (9%, 13) and 'Other' (4%, 5). For those who selected 'other' and specified there was a single response each for religious studies, social science, social work and 'a mix of disciplines'.

Discipline	%	Count
Anthropology	22%	31
Sociology	20%	28
Law	16%	22
Political Science	15%	21
Linguistics	13%	18
History	9%	13
Other	4%	5
Total	100%	138



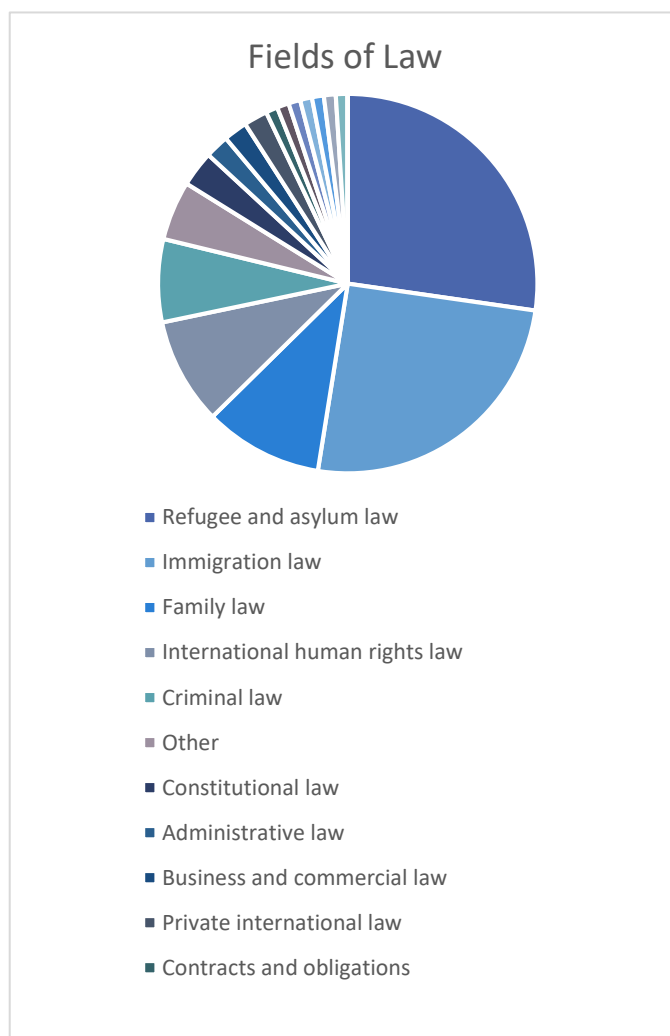
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The most common areas of Law in which experts had provided cultural expertise were 'Refugee and Asylum Law' (27%, 64), followed by 'Immigration Law' 25%, 61, 'Family Law' (10%, 24), 'International Human Rights Law' (9%, 21), 'Criminal Law' (7%, 16) and 'Other' (5%, 12), with all remaining answers receiving 3% or less. For those who selected other and specified six indicated that they had provided country expertise and one each for women's rights and gender issues, customary law, extradition, IT and investment protection law.

Fields of Law	%	Count
Refugee and asylum law	27%	64
Immigration law	25%	61
Family law	10%	24
International human rights law	9%	21
Criminal law	7%	16
Other	5%	12
Constitutional law	3%	6
Administrative law	2%	5
Business and commercial law	2%	5
Private international law	2%	5
Contracts and obligations	1%	3
Inheritance law	1%	3
Banking, bankruptcy, and insolvency law	1%	2
Financial law	1%	2
Health law	1%	2
Labour law	1%	2
Property law	1%	2
Environmental law	0%	1
European law	0%	1
Intellectual and patent law	0%	1
Medical and bio law	0%	1
Sports law	0%	1
Total	100%	240



Modalities

Appointment of Experts

The most common factor which influenced the appointment of an Expert was 'funding' (14%, 93), followed by 'the reputation of the expert' (12%, 78), then 'applicant's request' (12%, 77), 'cost' (11%, 74), 'the law allows the appointment/instruction of experts' (11%, 73), 'experts facilitate successful legal outcomes' (11%, 72), with all remaining categories accounting for 6% or less. Of those who selected 'other' (2%, 15) and specified, three indicated that they were unable to say, two indicated Home Office refusals, two specified a lack of country information, two clarified a lack of adequate existing evidence, one indicated a fear of an accusation of racism and one proportionality.

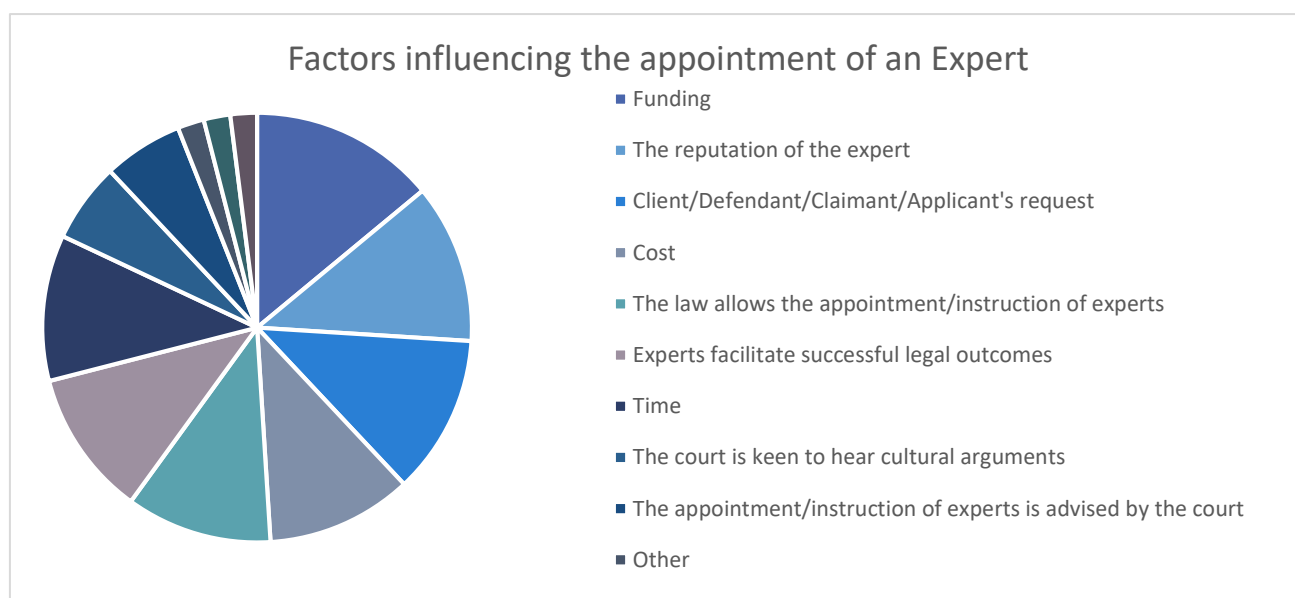


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Factors influencing the appointment of an Expert	%	Count
Funding	14%	93
The reputation of the expert	12%	78
Client/Defendant/Claimant/Applicant's request	12%	77
Cost	11%	74
The law allows the appointment/instruction of experts	11%	73
Experts facilitate successful legal outcomes	11%	73
Time	11%	72
The court is keen to hear cultural arguments	6%	41
The appointment/instruction of experts is advised by the court	6%	39
Other	2%	15
Expertise can also be used for an out of court settlement	2%	14
The court/prosecutor/Home Office have already appointed their expert	2%	11
Total	100%	660



The most common way experts are chosen are by 'reputation' (26%, 52), followed by 'competence' (22%, 44), then 'from professional expert registers' (18%, 36), 'on the balance between competence and cost' (12%, 23), 'other' (11%, 22), with all remaining categories accounting for 5% or less. For those who selected 'other' and specified, nine indicated that they had never chosen an expert, three clarified that they are very much limited by the legal aid rates, two specified on the reputation of colleagues, two indicated that they were chosen by the parties, then one response each for community based organisations, firm preferred service providers, from published materials and one who indicated that they are usually desperate and have little choice.

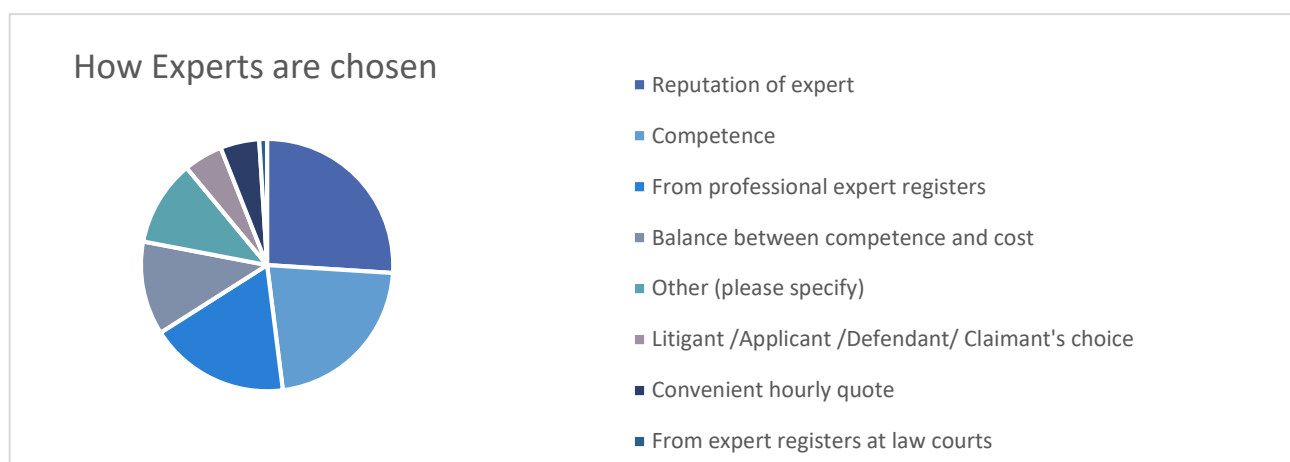


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How Experts are chosen	%	Count
Reputation of expert	26%	52
Competence	22%	44
From professional expert registers	18%	36
Balance between competence and cost	12%	23
Other	11%	22
Litigant /Applicant /Defendant/ Claimant's choice	5%	10
Convenient hourly quote	5%	9
From expert registers at law courts	1%	2
Total	100%	198



Experts most commonly start by being contacted by a lawyer (76%, 74), followed by being referred by a colleague (18%, 17), with all remaining areas accounting for 3% or less. For those who selected 'other' (3%, 3) and specified, two indicated by refugee legal aid and one was invited to become part of an expert directory.

How Experts Start their Careers	%	Count
I was contacted by a lawyer	76%	74
A colleague referred me	18%	17
Other	3%	3
I have been directly contacted by litigants/ applicants/ defendants/ complainants	2%	2
I was contacted by the Home Office	1%	1
I was contacted by a court	0%	0
Total	100%	97



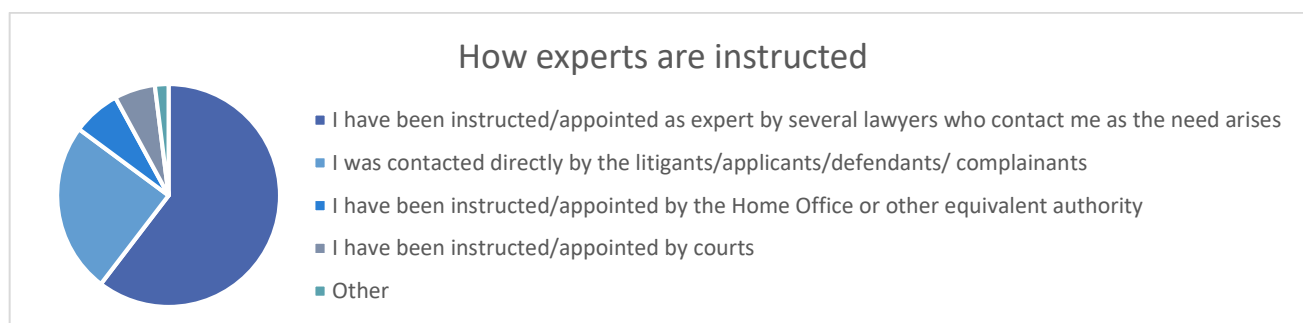
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Most commonly experts are instructed by lawyers (61%, 95), followed by applicants (25%, 39), then by Home Office or equivalent (7%, 11), then by courts (6%, 9), and finally 'other' (2%, 3). Of those who selected 'other' and specified, one indicated by another expert, another clarified that they were instructed by an arbitral tribunal, and finally one by a campaign organisation supporting applicants.

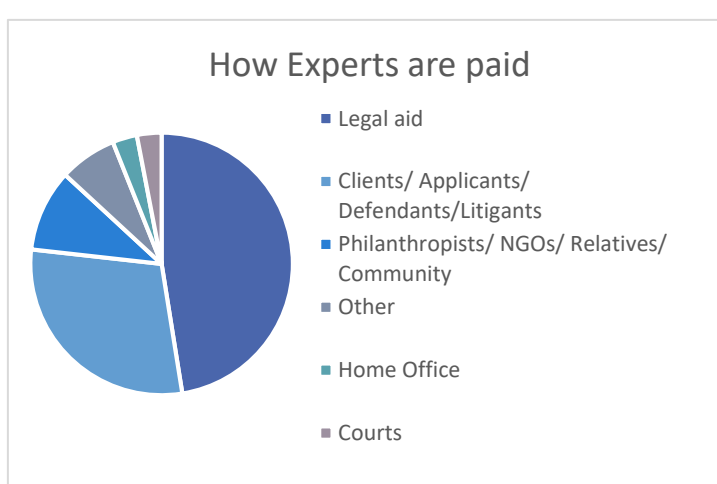
How Experts are instructed	%	Count
I have been instructed/appointed as expert by several lawyers who contact me as the need arises	61%	95
I was contacted directly by the litigants/applicants/defendants/ complainants	25%	39
I have been instructed/appointed by the Home Office or other equivalent authority	7%	11
I have been instructed/appointed by courts	6%	9
Other	2%	3
Total	100%	157



Cost of Cultural Expertise

Experts are most commonly paid using legal aid (47%, 140), followed by applicants (29%, 86), then Philanthropists/ NGOs/ Relatives/ Community (10%, 31) and 'other' (7%, 21) with all remaining areas accounting for 3% or less. Of those who selected 'other' and specified, eight indicated that they had provided their services pro bono, two clarified local authorities, and one each for NGOs, the privately paying parties, the crown prosecution service, and one the prosecuting agencies.

How Experts are paid	%	Count
Legal aid	47%	140
Clients/ Applicants/ Defendants/Litigants	29%	86
Philanthropists/ NGOs/ Relatives/ Community	10%	31
Other	7%	21
Home Office	3%	10
Courts	3%	8
Total	100%	296



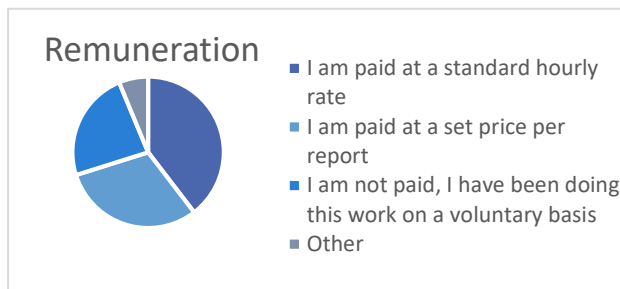
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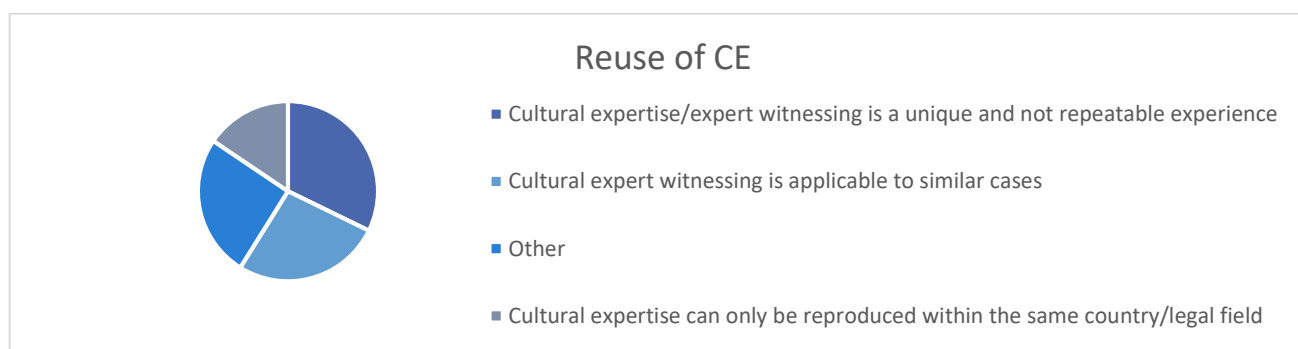
The most common response to how experts are paid is 'at a standard hourly rate' (40%, 57), followed by 'at a set price per report' (31%, 44), then 'doing this work on a voluntary basis' (24%, 34) and 'other' (6%, 9). Of those who selected 'other' and specified, six indicated that they do a combination of paid and unpaid work, one clarified that they are paid according to a sliding scale depending on the client, one specified that they are paid a fix rate, but work a great deal more than they are meant to and finally one explained that they are paid only for the written report, and that they provide oral evidence or general advice on a voluntary basis.

Answer	%	Count
I am paid at a standard hourly rate	40%	57
I am paid at a set price per report	31%	44
I am not paid, I have been doing this work on a voluntary basis	24%	34
Other	6%	9
Total	100%	144



When asked whether cultural expertise can be reused, almost a third indicated that 'it is a unique and not repeatable' (32%, 29) followed by it 'is applicable to similar cases' (27%, 24), then 'other' (26%, 23) and it 'can only be reproduced within the same country and legal field' (16%, 14). Of those who selected 'other' and specified, six indicated that they did not know, one indicated that it is broadly applicable, another that it is generally not, but depends on the case, one that it needs to be client specific, that it can only be done with the expert's consent, that it is not permitted in their particular field, and only if it is general country information.

Answer	%	Count
Cultural expertise/expert witnessing is a unique and not repeatable experience	32%	29
Cultural expert witnessing is applicable to similar cases	27%	24
Other	26%	23
Cultural expertise can only be reproduced within the same country/legal field	16%	14
Total	100%	90



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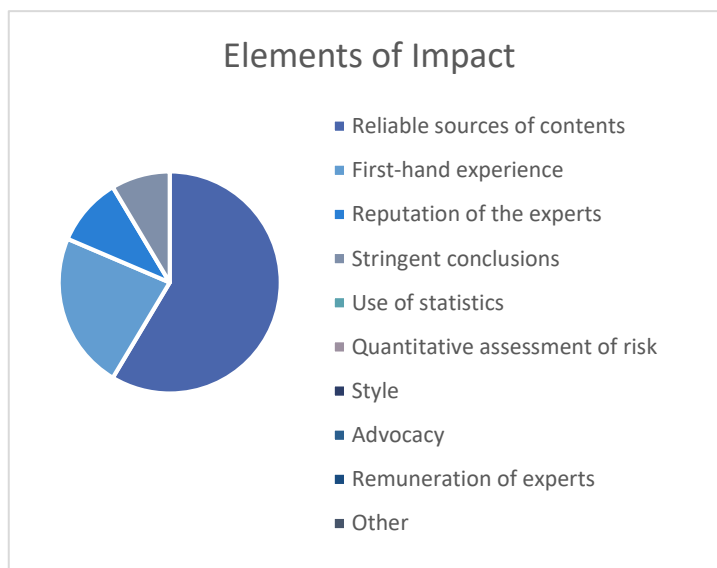
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Impact

Components of Impact

The most common elements of expert opinions that were most likely to have an impact were the 'reliable sources of contents' (19%, 156), followed by 'first-hand experience' (16%, 130), then 'reputation of the experts' (14%, 116), 'stringent conclusions' (12%, 94), 'use of statistics' (10%, 82), then 'quantitative assessment of risk' (9%, 74), 'style' (8%, 64), 'advocacy' (6%, 48), 'remuneration of experts' (5%, 39) and 'other' (1%, 8) of those who selected 'other' and specified, one indicated that the best reports are written in a way to assist rather than to replace the judge, another specifies well researched and logical conclusions, one mentions that this is case specific, one the importance of a large number of sources, one case specific research, one the previous court's opinion of the expert, and finally one clarified a list of five elements which included 1) Academic expertise and publications; 2) Recent/up-to-date country experience 3) Direct/first-hand knowledge through formal research, including specifically research visits to the country concerned 4) Reputation including previous positive comment by courts/tribunals, 5) Independence and objectivity.

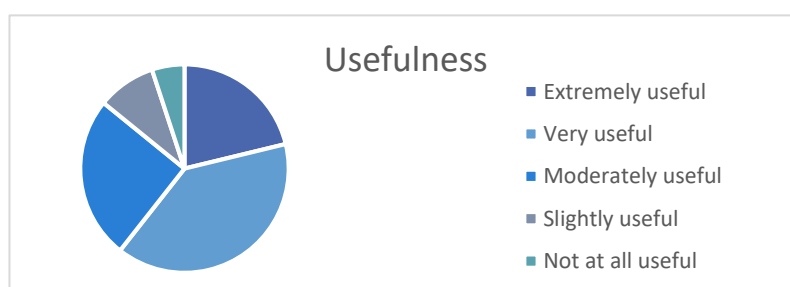
Field	%	Count
Reliable sources of contents	19%	156
First-hand experience	16%	130
Reputation of the experts	14%	116
Stringent conclusions	12%	94
Use of statistics	10%	82
Quantitative assessment of risk	9%	74
Style	8%	64
Advocacy	6%	48
Remuneration of experts	5%	39
Other	1%	8
Total	100%	811



Usefulness

When asked if cultural expertise was useful, the most common response was 'very useful' (39%, 37) followed by 'moderately useful' (25%, 24), then 'extremely useful' (21%, 20), 'slightly useful' (9%, 9) and 'not useful at all' (5%, 5).

Answer	%	Count
Extremely useful	21%	20
Very useful	39%	37
Moderately useful	25%	24
Slightly useful	9%	9
Not at all useful	5%	5
Total	100%	95



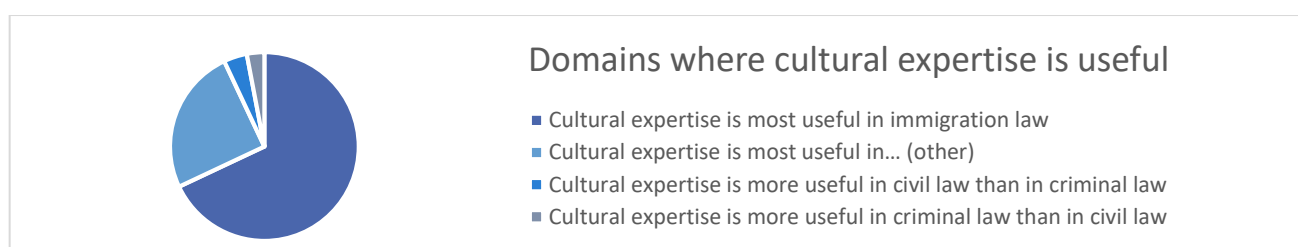
CULTURAL EXPERTISE IN EUROPE: WHAT IS IT USEFUL FOR? (EURO-EXPERT)

PI: LIVIA HOLDEN | Post-Doc: ANNA TSALAPATANIS | Data Collector: BRIDGET PRINCE

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Cultural expertise is more useful in 'immigration law' (68%, 106), followed by 'other' (25%, 40), then 'in civil law more than criminal law' (4%, 6), and 'in criminal law more than civil law' (3%, 5). Of those who selected 'other' and specified eleven indicated asylum law, eight clarified immigration law, six family law, five did not know, four indicated that they were only familiar with one area of law, three criminal law, two extradition and one mentioned international human rights law.

Answer	%	Count
Cultural expertise is most useful in immigration law	68%	106
Cultural expertise is most useful in... (other)	25%	40
Cultural expertise is more useful in civil law than in criminal law	4%	6
Cultural expertise is more useful in criminal law than in civil law	3%	5
Total	100%	157



Competitiveness

Most experts believed their services to be competitive due to their reputation (34%, 62), followed by competence (32%, 60), then a balance between competence and cost (22%, 41), convenient hourly quote (6%, 12), then 'other' (5%, 10). Of those who selected 'other' and specified, four indicated that the question is not relevant to them as their work is pro bono, one mentioned time management, another clarified Complexity of work, time spent in investigation, research and report writing and finally one for practical and theoretical knowledge of the issues.

Answer	%	Count
My reputation	34%	62
Competence	32%	60
Balance between competence and cost	22%	41
Convenient hourly quote	6%	12
Other	5%	10
Total	100%	185



Reputation of Experts

Experts indicated that they had built their reputation most commonly by having 'been regularly instructed/appointed as an expert for many years' (48%, 48), followed by, 'the cases in which they had provided expert opinions had been successful' (21%, 21), then 'I don't know' (17%, 17) and 'other' (13%, 13). Of those who selected 'other' and specified six mentioned their academic profiles, then two because of their positions on lists, one for word of mouth referrals, one through their civic activism and work on human rights, and one due to being one of very few people in the UK with the relevant specialised knowledge.



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Answer	%	Count
I have been regularly instructed/appointed as an expert for many years	48%	48
The cases in which I provided an expert opinion have been successful	21%	21
I don't know	17%	17
Other	13%	13
Total	100%	99

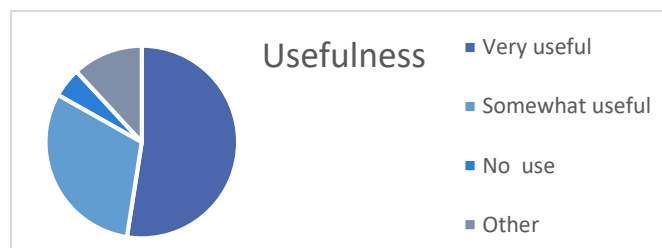


Improved Access

Database

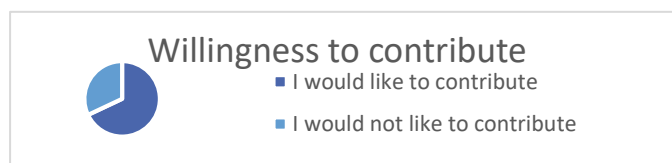
When asked whether a database on cultural expertise would be useful, the most common response was 'Very useful' (53%, 88) followed by 'Somewhat useful' (31%, 51), then 'Other' (12%, 20) and finally 'No use' (5%, 8). Of those who selected other and specified, five indicated that they did not know, five indicated that a database already existed and mentioned the Electronic Information Network (EIN), two mentioned other examples and one mentioned that it might be problematic due to cultural relativism.

Answer	%	Count
Very useful	53%	88
Somewhat useful	31%	51
No use	5%	8
Other	12%	20
Total	100%	167



Most respondents indicated that they would be interested in contributing to the establishment of a database (68%, 77) with the remaining 32% (36) indicating that they would not.

Answer	%	Count
I would like to contribute	68%	77
I would not like to contribute	32%	36
Total	100%	113



Capacity Building

When asked whether a program teaching cultural expertise would be useful, the most common response was 'Definitely yes' (30%, 51), followed by 'Probably yes' (29%, 48) and 'Might or might not' (29%, 48), then 'Probably not' (12%, 20) and 'Definitely not' (1%, 1).

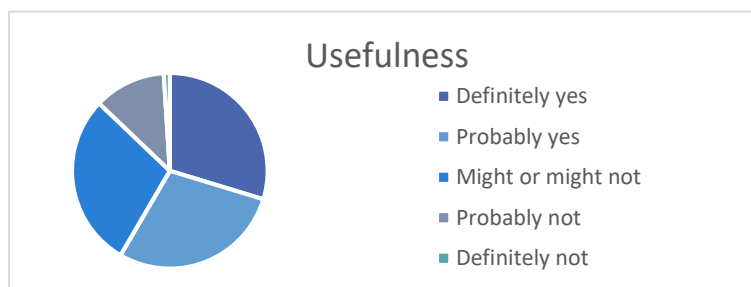


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Answer	%	Count
Definitely yes	30%	51
Probably yes	29%	48
Might or might not	29%	48
Probably not	12%	20
Definitely not	1%	1
Total	100%	168



The most common response to a question regarding the teaching/capacity building of cultural expertise was that more than half of the respondents would be interested in teaching cultural expertise (55%, 41), followed by 22% indicating that they knew of universities and organisations that might be interested in teaching cultural expertise (16), then 14% knew of professional organisations that may be interested in capacity building on cultural expertise (10), and 9% selected other (7). Of those who selected 'other' and specified, four clarified that they did not know, and one clarified the two types of educational institutions that they thought this might be useful for.

Answer	%	Count
I know of schools, universities or organisations that may be interested in teaching cultural expertise	22%	16
I know of professional organisations that may be interested in capacity building on the use of cultural expertise	14%	10
I would be interested in teaching cultural expertise	55%	41
Other	9%	7
Total	100%	74

