



HAL
open science

EURO-EXPERT Policymaking for Cultural Expertise

Noora Arajärvi, Livia Holden

► **To cite this version:**

Noora Arajärvi, Livia Holden. EURO-EXPERT Policymaking for Cultural Expertise. [0] CNRS, Panthéon Sorbonne. 2022. hal-03674947

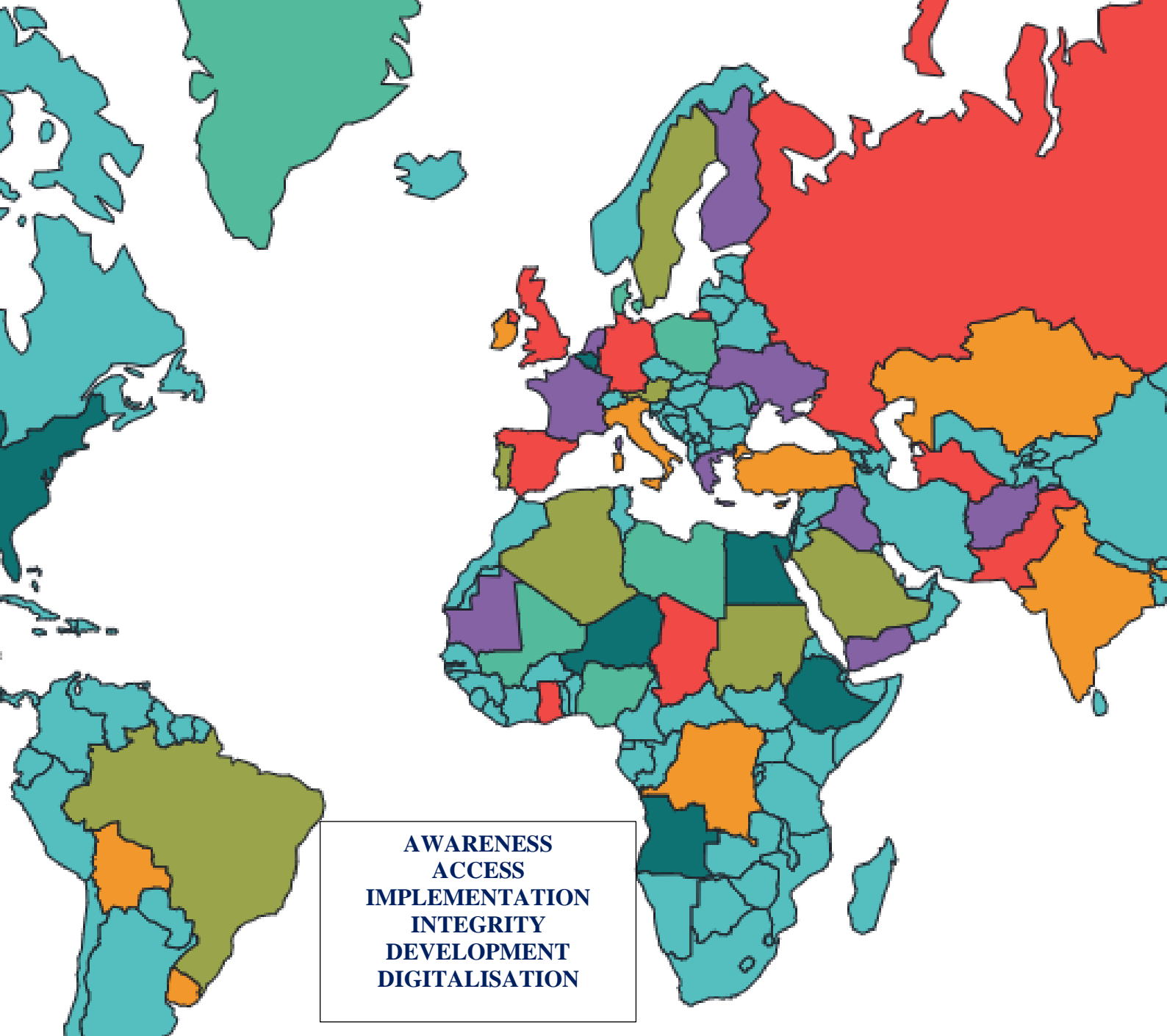
HAL Id: hal-03674947

<https://hal.science/hal-03674947>

Submitted on 21 May 2022

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.



AWARENESS
ACCESS
IMPLEMENTATION
INTEGRITY
DEVELOPMENT
DIGITALISATION

EURO-EXPERT

Policymaking for cultural expertise

Authors

Noora Arajärvi

Livia Holden

Technical coordination

Anungo Tumennasan

Cover

Joshua Bishay



European Research Council
Established by the European Commission

Table of Contents

EURO-EXPERT – European Research Council Grant (681814)	3
Data protection and ethics clearances	3
Scope and structure of the policy	3
Who should read this policy?	4
What is cultural expertise?	4
Where is cultural expertise used?	4
Who are the cultural experts?	4
What is the added value of cultural expertise and experts?	5
How to find an expert	5
How are experts appointed?	6
The ethics of cultural expertise	6
Recommendations: A roadmap for cultural expertise	6
1. Awareness of cultural expertise and cultural experts	7
2. Access to experts	8
3. Implementation and innovation of existing instruments and legislation	9
4. Integrity of experts and the ethics of cultural expertise	10
5. Development of cultural expertise skills	11
6. Digitalisation: Platforms facilitating inclusive access	12
Further reading	13
Other resources	13
Acknowledgements	14

Executive summary

At EURO-EXPERT (ERC funded Consolidator grant 681814), we have developed and closely examined the new socio-legal concept of cultural expertise, studying its use and impact in Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Italy, Malta, the Netherlands, Poland, Portugal, Spain, Sweden and the United Kingdom. We collected both quantitative and qualitative data to answer the question ‘Cultural Expertise in Europe: What is it useful for?’. EURO-EXPERT’s data shows that the concept of cultural expertise can provide a theoretical framework for the range of tools and practical solutions that legal professionals and decision-makers have already developed to promote respect for basic human rights in diverse societies. Most of EURO-EXPERT’s research participants have requested the creation and implementation of training programmes for legal professionals and experts, along with better access to cultural expertise and experts. EURO-EXPERT has developed the roadmap of cultural expertise, which includes six milestones identifiable with the acronym **AAIIDD**.

- 1. Awareness of cultural expertise and cultural experts**
- 2. Access to experts**
- 3. Implementation and innovation of existing laws for the appointment of experts**
- 4. Integrity of experts and the ethics of cultural expertise**
- 5. Development of cultural expertise skills**
- 6. Digitalisation for sharing knowledge of cultural expertise**

EURO-EXPERT – European Research Council Grant (681814)

Respect for diversity is at the forefront of political accession to the European Union and among its Member States. Socio-legal scholarship has developed articulated reflections on the accommodation of ethnic and religious minorities in Europe. Cultural experts have been instructed with increasing frequency in judicial, pre-judicial, and post-judicial proceedings, involving members of diasporic communities as well as those belonging to specific social groups that identify as ethnic, religious, and linguistic minorities. In some common-law countries, the role of the expert witness has expanded to systematically assist the judge when parties belong to minorities; in most civil-law countries, similar roles are also played by translators and cultural mediators, including lawyers. All these practices and many others in which cultural arguments are used to assist conflict resolution and claims of rights fall under the umbrella definition of cultural expertise. Yet, whilst the use of cultural expertise has become widespread, a comprehensive and systematic assessment of it has been hindered by the lack of adequate awareness and contextualisation. Hence the question posed by **EURO-EXPERT: ‘Cultural Expertise in Europe: What is it useful for?’**

Addressing this question is crucial today also beyond formal justice in providing legal and para-legal professionals with practical and effective tools to advance substantive justice in multicultural and diverse societies. To this end, EURO-EXPERT has developed an integrated concept of cultural expertise and has investigated the development and impact of cultural expertise over time and space. Between 2018 and 2021, a modular team trained in mixed methods recorded the use and impact of cultural expertise in Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Italy, Malta, the Netherlands, Poland, Portugal, Spain, Sweden and the United Kingdom. The results are available on [the EURO-EXPERT website](#) as interactive map data visualisations, as well as on the [CULTEXP-database](#), in over 45 publications including [videos](#) and [data-summaries](#), in an Open Access textbook on cultural expertise, in syllabi for teaching cultural expertise to graduate students and legal professionals, and on [K-EXP](#) as an application using the indicators of impact of cultural expertise.

Data protection and ethics clearances

EURO-EXPERT has received ethics clearance through the University of Oxford Central University Research Ethics Committee (Reference number: R50528/RE002), as well as the Ethics Committee of the Oñati International Institute of Sociology of Law, the Ethics Committee of the University of Padua, the European Research Council Ethics Committee, and the INSERM (Institut National de la Santé et de la Recherche Médicale) Opinion 16-308. Data collection and management of datasets, including interviews for the current policy, have been conducted with voluntary informed consent of the participants and in compliance with national and international legislation and regulations and in accordance with good research practices. EURO-EXPERT abides by the General Data Protection Regulation 2016/679 (GDPR) and respective national laws. EURO-EXPERT has developed specific [GDPR compliant guidelines for the processing of personal data contained in legal documents](#). The EURO-EXPERT team also delivers specialised training to field researchers and consultants on personal data and anonymisation practices for judgments and legal documents.

Scope and structure of the policy

The current policy recommendations offer practical, evidence-based guidelines to policymakers and stakeholders who want to adopt cultural expertise in European countries. Based on quantitative and qualitative data collected by EURO-EXPERT, including an overview of national legislation and policies on the appointment of experts, and data on frequency, use and impact of cultural expertise in each EURO-EXPERT country, this policy proposes a roadmap with practical, clearly-defined steps. It provides a background for the policymakers and stakeholders to understand the problem and presents evidence and tools to support future policies for the adoption of measures for identifying, appointing, and instructing cultural experts. The policy is based on data, which is available in [country data summaries](#) and in [CULTEXP](#), the multilingual and cross-jurisdictional database that includes 4,800 cases and 1,000 expert reports collected by EURO-EXPERT.

Who should read this policy?

Whilst this policy is intended for everyone who is interested in the ethical and inclusive adoption of cultural expertise, its primary audience is policymakers and stakeholders: governmental and non-governmental bodies responsible for or involved in formulating, amending, and implementing policies. EURO-EXPERT acknowledges the benefits of the bottom-up approach and the key role of civil society and pressure-groups as stakeholders in advancing the recognition and use of cultural expertise. The engagement of these stakeholders with policymakers is crucial and they often act as intermediaries between those groups that are affected by or can benefit from cultural expertise and the governmental agencies. Three broad groups of stakeholders have been identified: state actors, non-state actors, and interest groups. This policy provides information and recommendations that can be implemented by the Ministries of Education, Justice and the Interior; regional representatives; parliamentary groups representing ethnic and linguistic minorities; representatives of legal and judicial professional bodies; and universities. In responding to stakeholders' requests for a cultural expertise roadmap and indicators of impact, this policy has striven to use accessible language to reach a wide range of stakeholders and policymakers. To gather input and review the way the recommendations are received, a draft of this policy has been circulated amongst key stakeholders and experts in EURO-EXPERT countries, and their feedback has been integrated in this final version.

What is cultural expertise?

Cultural expertise is the special knowledge of experts in laws and cultures, who provide evidence in court and out-of-court, for the use of the decision-making authority in dispute resolution and the claim of rights. Cultural expertise must be independent and procedurally neutral: experts must not advocate explicitly or implicitly for a specific legal outcome but can critically affirm their expert opinions.

Where is cultural expertise used?

Cultural expertise has been recorded in almost all fields of law and the following are just selected examples. In refugee, asylum and immigration law, experts may be instructed to assess whether applicants belong to persecuted groups or those that experience discrimination; the level of protection offered by state authorities in the applicants' countries of origin; the danger of returning to the applicants' countries of origin; the grounds cited in support of requests for residence permits; requirements for family reunification and citizenship; the authenticity of personal documents, and the accounts of unaccompanied minors and political dissidents. In family law, experts may be instructed to assess the components of the best interests of the children; their security and physical integrity in a case of a holiday planned with one of the parents who wishes to take the children to their country of origin; and the validity of polygamous and arranged marriages, divorces and adoptions. In criminal law, experts may be instructed to explain how human trafficking works when this overlaps with customary practices; ethnic and racial discrimination; the offensive nature of certain sentences or speech; or the interpretation of honour and gender-based violence in so-called honour killings. In human rights law, experts may be instructed to provide context for discrimination based on gender, sexuality, age, race, language or religion. In property and inheritance law, experts may provide information on the principles and implementation of laws that discriminate against certain social groups or describe the ancestral rights of Indigenous people to natural resources.

Who are the cultural experts?

[EURO-EXPERT maps](#) list the following types of experts: Native language speakers including translators, legal professionals, sociolinguists, and cultural mediators, country experts, academics, community leaders and religious leaders. Further assessment of cases and expert reports has shown that, in addition, NGOs, ethnopsychologists and ethnopsychiatrists and ombudspersons act as cultural experts in courts. This is not an exhaustive categorisation of types of cultural experts in courts and some categories contain overlapping elements; for instance, an Imam may be both a religious leader and a community leader, a professor may also be a native language speaker, and a translator may serve as a country expert. Cultural experts are usually specialists in a field of social science. They may be professionals or non-professionals, gaining their knowledge through personal experience.

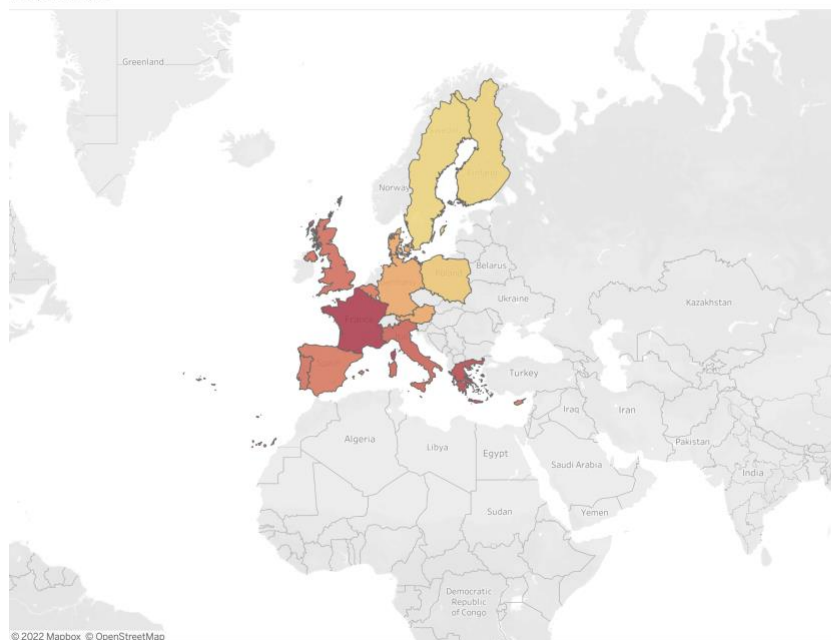
What is the added value of cultural expertise and experts?

Cultural experts provide the members of the legal profession with the keys to understand and interpret the facts in view of their socio-cultural background. In many cases, the experts bring to light meanings that legal professionals are not able to identify by themselves. These can come from a variety of directions and concern a multitude of features. For example, cultural practices may have an effect on the way that parties recount events, including but not limited to customs and practices – such as gender and age-related rules – or prevent the disclosure of certain details by the parties or witnesses. Cultural expertise can provide and add to the relevant information by identifying whether the applicant belongs to a specified group entitled to international protection as a refugee or has the right to protection from violence, also including the threat of mafia activities and terrorism. The experts can explain and confirm legal, religious, or customary proceedings conducted within settings unfamiliar to the court, such as unilateral divorce, practices of body mutilation, and witchcraft. Cultural expertise can also elaborate on specific customs and practices related to nature and the environment, such as Indigenous practices of fishing and hunting, and competing rights over natural resources. Cultural experts can clarify the context of facts; explain behaviour, customs, traditions, and local practices; and provide contextual perspective to facts that would otherwise not be understood or whose significance might not be appreciated, so the courts can have a better understanding of the context and reach a more nuanced balance in their evaluation and decision-making process. Expert evidence can promote dialogue across disciplines, geographic areas, and social groups in diverse societies, and help minority groups to be heard in contexts that are often affected by structural inequalities.

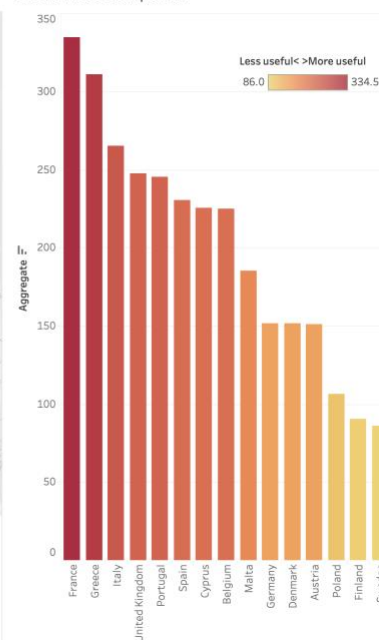
Data collected by EURO-EXPERT, as illustrated below, shows a varied perception of the usefulness of cultural expertise across Europe, indicating that it can help communication, nuanced appreciation of facts and evidence, increased acceptance of legal outcomes, a greater level of trust in the legal professions, and the opportunity for the judges to activate measures of support for vulnerable individuals.

Cultural expertise in court

Map Europe



Usefulness compared



How to find an expert

EURO-EXPERT's respondents highlighted the lack of models for identifying, appointing, and instructing cultural experts in the legal process. The EURO-EXPERT team has isolated four main ways in which experts may be found: Open Access registers, registers maintained by courts and police stations, government agencies' registers, and freelance experts.

- 1) Open Access registers of experts based on regional competences and experience (United Kingdom)
- 2) Registers of experts at specific courts, tribunals, and police stations (Italy, Germany, Greece, Portugal)
- 3) Home Office and government agencies' registers, or in certain countries (France, Italy) the public prosecutor's office for specific types of cases (especially terrorism)
- 4) Freelance experts known by word-of-mouth reputation (everywhere)

How are experts appointed?

Experts can be appointed by the court or by the parties or, in some cases, they can provide reports on their own initiative. Depending on the type of appointment, their role and contribution is that of expert witness, witness of fact, or *amicus curiae*. Depending on legislation and regulation, more variations occur in the format of appointment.

The ethics of cultural expertise

Cultural expertise is a conceptual framework for all tools and methods that tend to promote cultural diversity with potential to advance substantial equality and systematic inclusivity. It is, however, also fraught with potential biases and risks such as the essentialisation of cultures and stigmatisation of vulnerable communities. These risks must be minimised through the sound ethical positioning of cultural experts. Paramount ethics for social scientists are the "do no harm" principle and engagement in support of vulnerable groups, minorities, and First Nations/ Indigenous Peoples/ Aborigines as a service to the communities. Experts are bound to procedural neutrality in combination with critical affirmation: cultural experts' duty is to the court but from a position of independence that leaves room for potential divergence of opinions with the decision-making authorities.

Recommendations: A roadmap for cultural expertise

Whilst there is no one-size-fits-all guide to cultural expertise, most recommendations in this roadmap can be implemented across the EURO-EXPERT countries, all of which are faced with the inevitable task of addressing culture in court and out of court. Selecting and adapting recommendations to country-specific contexts and implementing them within or supporting the existing national legislation and policy will facilitate this process. The recommendations presented here build on existing structures and on the best country practices to systematise the use of cultural expertise. They are intended as a source of inspiration, and may be used as a roadmap with milestones and practical steps to assist states and stakeholders in identifying and developing cultural expertise. They also create new context-specific approaches, with links to the tools generated by EURO-EXPERT.

EURO-EXPERT has identified a roadmap of six milestones, that can be implemented through practical steps, and which best respond to stakeholders' most frequent requests. The milestones are identified by the acronym AAIIDD – **Awareness, Access, Implementation and innovation, Integrity, Development, and Digitalisation** – each of which has both an independent and an interconnected role and can either serve as a starting point, be set aside, or be further developed and adapted by the users, depending on the contextual situation of each country. With an understanding of cultural expertise and its usefulness, stakeholders and policymakers can review the situation in their country in more depth and experiment to find the optimal entry points in the policymaking process and in the implementation of measures. Each milestone in the roadmap includes a short narrative, a list of guiding questions, and practical steps.

1. Awareness of cultural expertise and cultural experts

Awareness of the uses and benefits of cultural expertise varies greatly. Cultural expertise is not used as often as requested by the parties, even though EURO-EXPERT has found that legislation and regulations in most countries do allow for the appointment of cultural experts. Effective policies and practices are central to raising awareness and supporting the identification and appointment of cultural experts. When experts are appointed by the court, this places a responsibility and burden on the courts to identify cases in which cultural expertise is required. Therefore, it is essential that judges are aware of the necessity, benefits, and potential pitfalls of cultural expertise, and know how to use it in their courtrooms. This includes knowledge of how to identify and find suitable experts and what questions to ask them. Similarly, in jurisdictions where parties appoint the experts, it is vital that lawyers possess the knowledge of the possibility and process of expert appointment, know how to instruct experts, and are aware of the scope of the experts' mandate and contribution.

Awareness extends also to the costs of cultural expertise and is relevant for reaching the other milestones. Also, it is often the case that early engagement of a cultural expert – either out-of-court or at pre-trial stage – may reduce the overall legal costs. Countries and action groups that wish to integrate the use of cultural expertise in judicial proceedings and out-of-court conflict resolution may launch a national or regional overview of existing resources and means, aimed at raising awareness as to who cultural experts are and what they do, as well as how to identify, contact, and appoint them. Such an overview will clarify the effectiveness and reach of existing means of deploying cultural expertise and make it understandable to the courts, parties, beneficiaries, and other stakeholders, including prospective experts themselves.

Policymakers are called to consider these points in their national context:

1. Are judges and lawyers aware of cultural expertise and how to appoint cultural experts?
2. What is a cultural expert; who can become one; and what skills must they have?
3. What is the role of cultural experts and cultural expertise at different stages of the judicial process? Are experts involved in the investigation phase, pre-trial phase and/or in the courtroom?
4. How can cultural experts communicate their expertise to the courts, parties, beneficiaries, and other stakeholders? How is the credibility of the expert assessed, recognised, and recorded?
5. What tools do the cultural experts have at their disposal, such as databases, access to case law and previously submitted expert reports?

Practical steps:

1. Engage with judges and lawyers to discuss and promote better application and interpretation.
2. Identify key stakeholders: Ministries of Education, Justice and the Interior; regional representatives; representatives of ethnic and linguistic minorities; interest groups; representatives of legal and judicial professional bodies; and universities. (See the workshops conducted by EURO-EXPERT at an academic level and in schools).
3. Connect and cooperate with relevant professional expert associations to review the inclusivity of expert registers and lists (if relevant).
4. Map the existing out-of-court sites of cultural expertise (see [EURO-EXPERT out-of-court maps](#)). This can be done with online mapping tools, and stakeholders can be involved in this exercise. See [EURO-EXPERT website](#) for inspiration.

2. Access to experts

Research participants have often lamented difficulty in accessing experts. Data collected by EURO-EXPERT provides examples that can be used in the formulation of national guidelines on the appointment of cultural experts. These can be useful resources for judges and parties, as well as law enforcement and other stakeholders such as regional authorities and local representatives, and even municipal services, such as social services, counselling centres, prevention centres, refugee centres, anti-violence centres, and care homes.

The data shows that several countries have registers or listings of cultural experts, varying from Open Access registers to controlled registers endorsed by professional bodies and registers maintained by the courts, which may be court-specific, regional, or nationwide. Often, the existence of a formal court register brings credibility and professional exposure to the experts, but a certification requirement could provide an alternative tool in the professionalisation of cultural expertise. Registers and certification help judges, lawyers, and parties to easily identify and contact experts. Whilst official registers and lists can improve access to experts, they may also exclude the experts who would be best suited to advise in a specific case. Therefore, periodic revisions of regulations and policies dictating the lists of experts, together with consultations with experts' associations and the beneficiaries of cultural expertise will enhance inclusion and broaden the diversity of expertise and experts. This process of periodic revision is particularly important to foster the inclusion of junior experts and experts who belong to social, linguistic, ethnic, and religious minorities. Legal professionals should also be aware that most regulations allow for the appointment of experts even if they are not included in any register.

To ensure transparency, accessibility, and a high quality of expert evidence, rates of remuneration for cultural experts should be clearly defined and openly available. Countries and action groups may want to review policies on the remuneration of cultural experts and ensure that these are brought in line with the standardised remuneration of other types of experts. Formalised remuneration allows for financial assessment prior to an appointment and may disperse impressions of its costliness. Open Access rates of remuneration can remove the monopoly of certain well-known experts and can encourage a wider range of cultural experts to offer their services. Publication of an official list of rates of remuneration consolidates the position of cultural experts in legal proceedings. Inclusivity and access to cultural expertise will be further improved by providing it as a service that is covered by legal aid and court expenses; this would decrease the disparity between those who can pay for adequate legal assistance and those who cannot, and therefore advance access to justice for all.

Policymakers are called to consider these points, in their national context:

1. Are there registers and listings of cultural experts, and how inclusive are they?
2. Does legislation or policy cover the remuneration of cultural experts? Are rates of remuneration for experts openly accessible?
3. Does legal aid and court expenses regulations cover the appointment of cultural experts?

Practical steps:

1. Formulate national guidelines for judges and parties, as well as law enforcement and other stakeholders, to enable them to identify cases needing or benefitting from cultural expertise.
2. Consider whether the creation of specific and inclusive lists of cultural experts would be beneficial at the regional/national level.
3. Initiate the creation and set a transparent and public table on expert remuneration. This can be done by reviewing how other experts are remunerated, how other countries remunerate experts, and by engaging with professional associations.
4. Initiate the inclusion of cultural expertise as part of legal aid.

3. Implementation and innovation of existing instruments and legislation

In the EURO-EXPERT countries, legislation is already in place for the appointment of experts, but it can be improved further, implemented more effectively, and supported by regulatory and policy tools. The level of detail and clarity of the legislation on the appointment and the role of experts in legal proceedings varies greatly between countries.

As a basis for stakeholders and policymakers to commence promoting and improving access to cultural expertise, it is essential to provide an overview of existing legislation, instruments and resources, and the gaps within them. This should not be limited to the rules of procedure but should also include policies and practices. To embark on improving and implementing existing law and procedures on the appointment of experts, "best practices" can be drawn from other countries. Some of these have been compiled by EURO-EXPERT and made available upon request.

It is important to foster the right balance between flexibility and predictability. Legislation should not limit the mandate to appoint experts, whether by judges or by parties. Legislation should enable, as necessary, both judges and parties to instruct one or multiple experts. Whilst there may be requirements concerning the qualifications of experts, flexibility in the formal credentials and other attributes of experts should also be supported. For example, the exclusion of non-nationals from expert appointments is likely to deprive the parties from access to the type of expertise that might only be offered by the non-national. At the same time, EURO-EXPERT's findings show that countries which have official registers or listings of experts take experts more seriously and display more awareness of cultural expertise among the legal professions.

Policymakers are called to consider these points, in their national or regional context:

1. How detailed is the legislation on the appointment of experts?
2. Does or should the legislation address social sciences experts explicitly?
3. What are the practices and policies that impact the appointment of cultural experts beyond the rules of procedure?
4. What are the limits and objectives of the experts? Are these defined by legislation and existing policies?
5. Is there legislation about a register or a list of experts? How inclusive is this?
6. What, if any, issues on "equality of arms" does their role raise in proceedings?

Practical steps:

1. Consider whether the current legislation adequately addresses and allows for the appointment of cultural experts. Identify best practices in other countries to find the most suitable approach for your national context.
2. Identify the key bodies needed to revise the legislation.
3. Identify gaps. Universities and schools can be asked to carry out a short survey on real and perceived gaps in the use of cultural expertise.

4. Integrity of experts and the ethics of cultural expertise

There is a widespread consensus that cultural expertise should become an official competence with institutionalised recognition; a milestone which would be supported by a strengthened ethical commitment to experts' professional integrity. Discussions are ongoing among cultural experts regarding the issues of professionalisation, certification, and accreditation that have the potential to provide institutional recognition but also risk to challenge their disciplinary integrity. The data collected by EURO-EXPERT shows support for the creation of an enhanced ethical guide, which in addition to existing practice guides, assist social scientists in their work as experts.

More open dialogue is needed on the benefits and risks of certification and oversight mechanisms that would, as part of certification processes, assess and legitimate the eligibility and credibility of experts, and gauge the effectiveness of their services. EURO-EXPERT has engaged in these discussions to promote inclusion and diversity at the service of the beneficiaries and for the protection of human rights. Such discussions should be further encouraged at regional, national, and international levels, and these should be included in a policy to facilitate the adoption of appropriate cultural expertise both in litigation and out of court.

The potential revision of procedural rules and regulations concerning the appointment of cultural experts, the development of registers of cultural experts, and the procedure for the remuneration of cultural experts are all related to the formal establishment of the profession. Some examples of professional training leading to certification have been identified by EURO-EXPERT but should not be considered as exhaustive. Whilst training and certification programmes are not uncommon for forensic anthropologists and interpreters, they are still at their early stages of development for experts in laws and cultures. The existing certification programmes may, however, be seen as a source of inspiration, leading also to adaptation and innovation for context-appropriate training at regional levels. Emphasis should be placed upon the diversity of the certification process to ensure that cultural expertise stays true to its ethical framework of professional integrity.

Policymakers are called to consider these points:

1. Is training, leading to certification, available for cultural experts?
2. What resources can be accessed (regionally, nationally, internationally) to develop professionalisation and accreditation of cultural expertise?
3. Are there other national and international certification programmes to learn from or adapt?
4. Is there guidance, for example from a professional association, addressing the ethics of cultural expertise?
5. Are mentorship or networking programmes available for cultural experts?

Practical steps:

1. Share, implement, and evaluate best practices and techniques. Consider the benefits of transnational cooperation for the provision of the most suitable and accurate cultural expertise, including linguistic support.
2. Develop and raise awareness of the ethical requirements for cultural experts.
3. Develop a national professional training and certification system for experts in laws and cultures.
4. Consider ways to increase judges' and lawyers' awareness of cultural experts as a specialised professional group.
5. Keep the certification system fluid to ensure access and diversity within the pool of experts.
6. Consult EURO-EXPERT for information on current criteria for certification, criteria for the selection of experts, and existing networks for certification.

5. Development of cultural expertise skills

EURO-EXPERT data underlines the need for the development of skills both among members of the legal professions and prospective experts. The legal professions will benefit from knowing what kinds of questions can be put to experts and how experts can assist in the resolution of cases and the decision-making process. Education and training of both members of the legal professions and experts are crucial to improve access, quality of services, and mutual professional trust.

First and foremost, education and training will benefit judges and lawyers in understanding the notion of cultural expertise and why it is useful. This can be achieved, for example, by providing *ad hoc* training and by organising networking events for judges, lawyers, and legal professionals to familiarise them with the work and the providers of cultural expertise (NGOs, academic institutions, experts, etc.). The need for training is not limited to judges; most often, it is for the lawyers and legal advisors of the parties to recognise the need and to propose to instruct an expert. This includes building networks and cooperation between cultural experts and investigators, court staff, judges, prosecutors, lawyers, and other legal professionals. In this way, the various professionals involved can consider what skills of cultural expertise are available to them.

At the same time, cultural experts will benefit from increasing their knowledge of legal procedure and how to best present their expertise in a legal setting. EURO-EXPERT's survey on the training of experts indicates that most of the existing programmes for experts and mediators do not adequately cater for cultural expertise. In addition to more generalised training on cultural dynamics, the use of culture, and the impact of cultural arguments in the courts, *ad hoc* training courses are needed for cultural experts and field specialists in advancing expert knowledge on understanding the instruments for submitting court evidence and how to use these instruments. It is important to extend training on cultural skills also to law enforcement, police officials, investigators, correctional officers, and officials working with refugees. Streamlined education and training on cultural expertise will support the consolidation of a pool of ethically aware professionals, enhance the service they provide, and the recognition of the entry points of cultural expertise into the legal process.

Policymakers are called to consider these points:

1. Are there educational programmes which specifically focus on cultural expertise?
2. Do law schools, legal practice courses or judicial academies include courses or modules on cultural expertise?
3. Is cultural expertise offered as part of further training for judges and lawyers (by government ministries, universities, professional associations or NGOs)?
4. How do other governmental authorities include cultural expertise in their training programmes?

Practical steps:

1. Invite cultural experts for internships in courtrooms.
2. Give court staff the opportunity to learn about cultural expertise so that they can use it to build bridges between forensic and cultural disciplines to develop knowledge and trust.
3. Introduce shared tools to identify the specialisation of the work of the cultural expert so that it can be recognised as useful and objective by the courts.
4. Train both court and legal staff and cultural experts through university courses and training courses on culture and cultural expertise (teaching cultural anthropology on law degree courses, and cultural expertise/legal anthropology in anthropology or humanities degree courses).
5. Design and implement programmes for more effective cooperation between language experts, translators and interpreters and cultural experts, as well as lawyers and mediators.
6. Initiate and contribute to the internationalisation of the training and networks; foster the creation of an international scientific community specialising in cultural expertise.
7. EURO-EXPERT has designed and tested training modules and regularly provides training to the legal professions. Stakeholders can join the EURO-EXPERT training network, and access EURO-EXPERT training materials.

6. Digitalisation: Platforms facilitating inclusive access

Policy discussions should include all parties involved, namely the experts, the court and its staff, lawyers, professional representatives, politicians, and whenever possible, the beneficiaries. In particular, the dialogue between political representatives, policymakers, stakeholders, and experts can create a real space for awareness, training, and effective cooperation to consolidate the professionalisation of cultural experts.

Platforms for discussion, developing policy and strategy, implementation, and review are needed. The obvious means to reach this milestone and do so while reaching a wide participation, is through digital platforms and digitalised sharing of knowledge, resources, and documents. The network of contacts and information produced by EURO-EXPERT allows cultural experts to discuss typical cases, outline common techniques and practices, and develop correct shared strategies for dealing with cases efficiently. Such forums for bringing together experts and sharing experiences can provide a neutral space for interaction and cooperation, while taking into consideration the special features of each legal system.

Digitalisation, as a milestone, connects with and supports the other five milestones: digital access to legislation and instruments; raising awareness through online campaigns; involving people and improving cultural expertise in online training sessions; inclusivity in Open Access registers and lists of experts; and creation of professional online platforms and communities. Further, open digital access to documents dealing with cultural questions and cultural expertise is a vital resource for policymakers to gain comparative understanding of judicial disputes (geographically, substantively, affecting certain groups). Implementing a national – or transnational – policy on open digital access to judicial decisions and expert reports enhances transnational access to public court records, which in the long-term can lead to cross-judicialization and a standardised approach across countries. In this regard, policymakers can benefit from [the CULTEXP database](#), which includes around 4,800 cases and summaries written in non-specialist language, all translatable to 120 languages. [CULTEXP](#) is enhanced by [K-EXP](#) a cutting-edge digital tool built to support CULTEXP, which includes an Open Access Register of experts and a prototype application for assessing the prospective impact of expert reports based on specific indicators of impact.

Policymakers are called to consider these points:

1. Are there local, regional, or national platforms available for or supporting cultural expertise?
2. Which type(s) of platforms would best work in your national context? For example, would these include roundtables bringing different interested parties together, online forums, or other ways of sharing information and ideas?
3. How can you best make use of digital resources, such as [CULTEXP](#) and [K-EXP](#)?

Practical steps:

1. Use the data on cultural expertise for policymaking; see [CULTEXP](#) and [K-EXP](#) databases.
2. Create standardised guidelines for the publication of cases and expert reports on cultural expertise in an Open Access digital format.
3. Develop case strategies and develop national policies and implementable reform proposals based on data and evidence. See EURO-EXPERT publications and country data summaries.
4. Consider follow-up steps, including evaluation: Ideas and examples on how the change in policy on cultural expertise could be measured and its impact determined.

Further reading

Holden, Livia (ed.) *Cultural Expertise: An Emergent Concept and Evolving Practices*. Printed Edition of the Special Issue Published in *Laws*, 2020.

- The special issue offers descriptions of judicial practices involving cultural experts and surveys of the most frequent fields of expert witness that are related to culture. It asks who the experts are, and outlines their links with local communities and with the courts and with state power and politics; how cultural expert evidence has been received by judges; how cultural expertise has developed across the sister disciplines of history and psychiatry. Finally, it asks whether academic truth and legal truth are commensurable across time and space, in order to argue for closer cross-disciplinary cooperation between socio-legal experts and the legal profession and greater transparency in the practice of cultural expertise.

Holden, Livia (ed.) *Cultural Expertise and the Legal Professions*. Special issue in *NAVEIÑ REET: Nordic Journal of Law and Social Research*, No. 11, 2021.

- The special issue offers a selected sample of first-hand experiences about the use and usefulness of cultural expertise by a pool of legal professionals and expert witnesses in various jurisdictions ranging from immigration and asylum to Indigenous rights and including family law, international human rights and criminal law.

Holden, Livia. '*L'expertise culturelle*'. *Les Cahiers de la justice*, 2021.

- Intercultural skills have emerged as crucial for the resolution of disputes in increasingly diverse societies, to protect disadvantaged social groups and guarantee substantial access to justice. This French-language article examines the conceptualisation of cultural expertise in socio-legal sciences, looks at the use of cultural expertise in the thirteen European countries where we have carried out research, and offers a preliminary glimpse at the results on cultural expertise in Europe, with a section relating specifically to France.

Holden, Livia (ed.) *Cultural Expertise, Law, and Rights: A Comprehensive Guide*. Routledge, 2022.

- This edited textbook is intended for social sciences students, members of the legal profession and social workers who engage or plan to engage with cultural expertise in dispute resolution and the development of cultural arguments for the protection of human rights. It proposes an overview of theoretical and practical skills useful in acknowledging, implementing, and advancing cultural expert knowledge.

List of EURO-EXPERT publications: <https://culturalexpertise.net/#publications> and <https://hal.archives-ouvertes.fr/CULTURALEXPERTISE>

Other resources

EURO-EXPERT in-court and out-of-court maps: <https://culturalexpertise.net/>

CULTEXP: <https://culturalexpertise.net/cultexp/>

K-EXP: <https://culturalexpertise.net/k-exp/login>

EURO-EXPERT podcasts:



EURO-EXPERT in social media:



EURO-EXPERT mailing list:



Acknowledgements

This policy document is a primary output of EURO-EXPERT, an ERC-funded project (6818140). The authors acknowledge the feedback and the contribution of the following persons who have provided their inputs in the phase of data collection or their feedback when the draft of this policy was distributed:

Professor John Campbell, School of Oriental and African Studies
Dr Anastasia Chalkia, Greek Asylum Service - Ministry of Migration and Asylum
Judge Francesco Florit, Corte d'appello di Venezia
Professor Marie-Claire Foblets, Max Planck Institute for Social Anthropology
Professor Charlotte Girard, Université Paris Nanterre
Judge Carlos Gomez, High Court of the Balearic Islands
Professor Anthony Good, University of Edinburgh
Dr Andrzej Jakubowski, SAACLR, University of Opole
Dr Stig Toft Madsen, University of Copenhagen
Judge Martine de Maximy, Paris Cour d'Assises
Judge Victoria McCloud, Master of the Senior Courts, Queen's Bench Division
Judge Gualtiero Michelini, Rome Court of Appeal
Judge Luca Minniti, Tribunal of Florence
Dr Ticky Monekosso, Journalist and researcher
Dr Bartosz Pilitowski, Court Watch Poland Foundation
Professor Mathias Rohe, Friedrich-Alexander-Universität Erlangen-Nürnberg
Judge Hermine Wiersinga, The Hague Criminal Court of Appeal

Research assistants:

Venetia Argiropoulou
Gabriel Darin
Kim Thao Le
Natalia Danilova