

Interpreting and Human Rights

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After World War II the Convention on Human Rights and Fundamental Freedoms, which the Council of Europe adopted sixty years ago, was the first document in Europe that spelled out clearly that

- “everyone who has been arrested shall be informed promptly, in a language that he understands, of the reasons for his arrest and of any charge against him” and that
- “everyone charged with a criminal offence has the [...] right to be informed promptly and in a language that he understands and in detail, of the nature and cause of the accusation against him” and
- “to have the free assistance of an interpreter if he cannot understand or speak the language used in court”.

The human right to be able to use one’s own language and to obtain interpreting services when faced with a situation in which a foreign language is spoken was therefore recognised by the Member States of the Council of Europe a long time ago. Over the years, the case law of the European Court of Human Rights has interpreted the scope and implications of these provisions.¹ This development of the human right to use one’s mother tongue and to receive assistance by interpreters when confronted with a different language setting is reflected in the EU’s Directive on the right to interpretation and translation in criminal proceedings.²

Of course, the practical implementation of the right to obtain interpreting (and translation) services in judicial settings varies from country to country, and the three years that EU Member States have been allowed to transpose the Directive

¹ For more information, please refer to the presentation by James Brannan on the ECHR’s case law, made at an AIIC seminar in October 2010, on www.eulita.eu.

² OJ L 280/1 of 26 October 2010.

will have to be used expeditiously if EU Member States want to comply with its requirements.

There are countries that have developed very detailed legislation on the admission to the legal interpreting and translation professions, as well as on the fees that can be charged in criminal proceedings. Austria is one of these countries, although budget restraints are forcing the judiciary of that country to depart from these standards. The same applies to the United Kingdom, where the Ministry of Justice wishes to cut costs for legal interpreting services by outsourcing them to agencies. This approach is pursued in spite of the fact that similar efforts in the past have led to very deplorable results. Then, there are countries in Europe that have no regulations at all, and simply deploy the persons who present themselves as possible court interpreters. And as one looks at the different countries of Europe, one finds many variations between these two extremes. One should mention, though, that in most countries professional associations have been playing a major role in past decades, in order to bring some order and quality to the regimes of their respective countries.

Article 5 of the Directive on the right to interpretation and translation in criminal proceedings, in particular, refers to the quality of the interpretation and translation services, and calls upon Member States “to take concrete measures to ensure that the interpretation and translation provided meets the quality required under Article 2(8) and Article 3(9)” of the Directive. To this end, EU Member States should establish registers of independent translators and interpreters who are appropriately qualified. These registers should also be made available to legal counsels and the relevant authorities.

Article 6 refers to another important aspect in connection with legal interpretation and translation, namely the training of the judiciary. It urges those “responsible for the training of judges, prosecutors and judicial staff involved in criminal proceedings to pay special attention to the particularities of communicating with the assistance of an interpreter, so as to ensure efficient and effective communication.”

EULITA, the European Legal Interpreters and Translators Association, was founded in 2010 – the year in which the EU’s Framework Decision on the right to interpretation and translation in criminal proceedings (the forerunner to the aforementioned Directive) was adopted but prevented from entry into force, on account of the Lisbon Treaty. A two-year EU-funded project under the Criminal Justice Program (JLS/2007/JPEN/249) preceded the foundation of EULITA, which has been set up as an international not-for-profit association under Belgian law. Representatives of the project partners currently act as members of the Executive Committee of EULITA. This European association has set itself the goal of contributing to activities geared to achieve high-quality standards for interpreting services in judicial settings. Another objective of EULITA is to contribute towards harmonizing the legal interpreting and translation regimes, as they can be found in EU Member States today, with a view to making interpreting services available on a cross-border basis. The basic and further training of legal interpreters and translators is

a key element in this context, which is pursued in cooperation with university departments specializing in the training of legal interpreters and translators. The Final Report of the EU's Reflection Forum on Multilingualism and Interpreter Training, which was published in June 2009, serves as a basis for these efforts.

One way to achieve these goals is to admit a minimum of one professional association of legal interpreters and translators in every EU Member State, and to contribute to the creation of such associations in countries where they do not yet exist. In the one year of its existence, EULITA has admitted professional associations of legal interpreters and translators from Austria, Belgium, the Czech Republic, Germany, Finland, France, Italy, the Netherlands, Poland, Romania, Spain, Sweden, and the United Kingdom. EULITA is also committed to establishing close links to universities running study courses for legal interpreters and translators. To date, universities in Antwerp, Ljubljana, Trieste, Madrid and Zurich have joined EULITA. They can join EULITA as associate members and are welcome to conduct joint projects with EULITA that aim, for example, at developing model curricula for the training of legal interpreters and translators. Individual persons who take an interest in matters of legal interpretation and translation may also become members of EULITA. Especially this membership group comprises legal interpreters and translators from several overseas countries such as the USA, China or Colombia. One should not forget to mention that sign-language interpreting is part of the remit of the European Legal Interpreters and Translators Association. It therefore gladly accepted the application submitted by EFSLI, the European Forum of Sign Language Interpreters. The International Association of Conference Interpreters, AIIC, is another international professional organisation that is seeking close cooperation with EULITA.

Another important aspect of EULITA's activities is to establish relations with European and/or national associations of judges, prosecutors, lawyers and judicial staff, as communication between these professionals and legal interpreters and translators needs to be fostered and promoted. In many cases, insufficient awareness of the needs of legal interpreters acts as a barrier to effective communication through interpretation. In this context, one should mention the links that EULITA has established to Fair Trials International, the ECBA (European Criminal Bar Association) and the CCBE (Council of Bars and Law Societies in Europe). The EU's Justice Forum, of which EULITA has been a member from the very start, is the platform where contacts to the other stakeholders in the justice field can be successfully forged and maintained.

As the e-justice portal of the European Union is being gradually built up and expanded, legal interpreters and translators must make sure that national registers indicating their qualifications are in place and can serve as a source of information to judicial authorities but also lawyers and private individuals when looking for a specific language combination in a particular country. Especially for asylum proceedings, where interpreters for "exotic" languages will often be needed, the cross-border availability of such registers will be of great help. EULITA has already expressed to the responsible units in the EU hierarchy its will-

ingness to cooperate and to contribute towards the harmonisation of these tools.

Video-conferences by courts for the remote interpreting of witnesses, for example, are another type of interpreting assignment for legal interpreters that require harmonised qualifications so as to ensure the best-possible quality for these technically sophisticated types of communication. When providing interpreting services via electronic means, professional legal interpreters must be familiar with the specific technical requirements of video-conferences, which need to be taught and practiced at seminars or dedicated training modules.

EULITA is planning a series of regional seminars over a period of two to three years to which it will invite the different stakeholders in judicial proceedings to present possible models for the training of legal interpreters, as well as their certification and admission to a national register. Examples from different countries of how to set up and maintain such registers will also be presented and evaluated. Codes of ethics and best practices will be one further element in the program of these seminars. The results of these seminars will eventually be incorporated into EULITA prototypes for these various aspects of legal interpreting and translation. All of these efforts will contribute towards raising the standard of legal interpreting and translation, as well as harmonizing the standards of legal interpreting and translation throughout Europe and beyond.

EULITA held its first general assembly in Hannover, Germany, on 27 March 2010. An information meeting on 26 March provided an opportunity to interested persons to learn more about EULITA and its activities and plans for the future. Further details can be obtained from the EULITA website at www.eulita.eu.

European Legal Interpreters and Translators Association

Works cited

Brannan, James . “ECHR case-law on the right to language assistance in criminal proceedings and the EU response”. 2010 <http://eulita.eu/sites/default/files/ECHR%20case-law%20on%20the%20right%20to%20language%20assistance%20in%20criminal%20proceedings_0.ppt>.

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