

# Non-verbal communication as a component of Polish-English courtroom talk affecting the accuracy and impartiality of interpreting

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## Abstract

Non-verbal communication is a fundamental element of intercultural interactions. This paper seeks to discuss non-verbal expressions, such as gazes, long pauses, pointing gestures, nodding and other head movements, produced by the participants in Polish-English courtroom interactions with a view to studying the interpreter's obligation to provide accurate renditions and to remain impartial. It is hypothesized that not only may non-verbal components of the original speakers' utterances have an impact on the interpreters' renditions, but also that the interpreters' own non-verbal expressions have the potential to add to the meaning of their utterances. The results of the analysis show that all participants, including interpreters, use a non-verbal channel and that body language can affect the meaning of the messages transmitted throughout the interactions and lead to a possible lack of accuracy and/or impartiality in interpreting.

## Keywords

Non-verbal communication, impact, court interpreting, accuracy, impartiality.

This paper aims to analyse non-verbal communication viewed as an inseparable component of interpreter-mediated interactions in the courtroom. The paper will begin by discussing the principles of accuracy and impartiality, which are of paramount importance in court interpreting and by reviewing the previous research into non-verbal communication in formal interactions, whereas the empirical part includes real-life episodes analysed in order to determine whether the non-verbal channel adds to the meaning of the utterances produced by all participants.

### 1. Accuracy and impartiality in court interpreting as reflected in the Polish legal and ethical framework

The right to an interpreter in court proceedings is one of the manifestations of the general right to a fair trial, which in Poland is guaranteed in both international and national documents (cf. Biernacka 2019: 34-36). Sworn translators provide interpreting before Polish courts and their profession is governed by the *Act on the Profession of Sworn Translator* [*Ustawa o zawodzie tłumacza przysięgłego*, hereinafter referred to as the *Act*]<sup>1</sup> of 25 November 2004. Pursuant to Article 7.1 of the *Act*, sworn translators are bound by the oath, which indicates the ethical principles of, among others, due diligence and impartiality. The definitions of these principles can be found in *The Sworn Translator's Professional Code* [*Kodeks zawodowy tłumacza przysięgłego*, hereinafter referred to as the *Code*]<sup>2</sup> of 2019 that sets forth recommendations concerning accuracy and impartiality as the fundamental ethical principles to be followed by the professionals. As far as accuracy in interpreting is concerned, §17 of the *Code* imposes the sworn translators' obligation "to translate statements made by foreigners exactly in the form in which they were expressed in writing or orally, rendering the whole content, without omitting, adding or modifying anything," and to respect the style of the original utterance. According to §75 of the *Code*, accuracy stands for preserving, in the target language, the grammatical form of the original utterance. Impartiality, referred to in §4 of the *Code*, is understood as the interpreter's obligation to refrain from "expressing personal opinions or taking the clients' unfounded suggestions into consideration, or representing the views of the client or third parties concerned or involved".

Interestingly, neither the *Act* implemented by the State, nor the *Code* recommended by the institutional representatives of court interpreters, refer to the use of non-verbal expression in the bilingual courtroom. Therefore, it can be assumed that these rules and principles shall apply to both verbal and non-verbal channels.

1 Accessible at: <https://bip.ms.gov.pl/pl/rejstry-i-ewidencje/tlumacze-przysiegli/>

2 Accessible at: <https://tepis.org.pl/kodeks-tlumacza-przysieglego/>

## 2. Non-verbal expression in intercultural interactions

Scollon and Wong Scollon (1995: 143) state that non-verbal expression is “crucial to [...] understanding of discourse”. As regards intercultural interactions, non-verbal expression is an “inseparable part” (Ahrens 2015: 36) of the communication process and includes “facial expression, smiling, eye gaze, head nods, postural position, back-channelling, interruptions, overlapping speech, and paralinguistic speech characteristics such as speech rate, intonation, fluency, voice quality, pitch, loudness, and speech disfluencies” (Iglesias Fernández 2010: 216). Similarly, Wadensjö (1998: 273) defines talk “as a combination of verbal and non-verbal activities”. This notion is echoed by Mikkelson (2017), who finds that, in courtroom interactions, the meaning of original utterances is negotiated on the basis of both verbal and non-verbal messages. De Jongh (1992: 58) specifies that “attention must be paid not only to the words, but also to tone, changes of intonation, facial cues, and gestures, because the full context of an interpreted statement involves verbal as well as non-verbal communication”. Furthermore, De Jongh (1992: 30) explains that in bilingual communication the recipient of the interpreter’s renditions perceives their meaning “as a sum of relevant meanings carried by individual words, because the listener perceives the nonverbal part of the message at the same time as the words”, and states that “[b]ody language and gestures are of particular relevance for interpreters in the legal setting” (*Ibid.*: 58) due to interpreters’ high visibility and close proximity to the primary parties to the proceedings. Liber (2012: 138) points out that non-verbal expression is a sign of the speaker’s involvement in the communication, while Diamond (1996: 72) claims that it can serve to preserve certain information off the record. It is emphasized that exact encoding, emitting, decoding and conveying all manifestations of non-verbal expression may have three consequences: true communication, miscommunication, or lack of communication (Poyatos 1997: 263), and that, e.g., the use of space can be a “constant source of misunderstanding and confusion” (Scollon/Wong Scollon 1995: 145).

Lang (1978: 214) attributes the interpreter’s active role in courtroom interaction to the use of both verbal and non-verbal expression and points out that the interpreter’s clients “include [the interpreter] as an active participant not only linguistically but also gesturally, posturally and gaze-wise” and the interpreters themselves “can by these means actively involve [themselves]”. What is more, court interpreters’ use of non-verbal expression proves that they have the same interactional rights as primary parties to communicative acts; as Wadensjö (1998: 274) says, interpreters are able “to modulate the voice, to consciously use gaze and body positioning for interactional purposes”. Jacobsen (2003: 227) considers non-verbal elements introduced by court interpreters such as silent pauses and voice-filled pauses as additions, which have no impact on “the semantic and/or pragmatic content of the source text”.

Scholars pay attention to different aspects of non-verbal communication, since interactants use a range of non-verbal components in their talk. Poyatos (1997: 249) refers to interpreted communicative events as “triple audiovisual reality made up of verbal language, paralinguage and kinesics”, which means that parties to the interaction make use of all three channels.

The aim of this paper is to study gaze, long silences, pointing gestures, nodding and other head movements. Davitti (2015: 168) distinguishes three functions of gaze: expressive (to show “affiliation, threat or hostility”), regulatory (“to coordinate [...] social encounters”), and monitoring (to express “special states of reciprocity”). As to coordinating the encounter, it has been found that the interpreter gazes at the interactant who has “the sequentially-relevant speaking rights” (Vranjes *et al.* 2018: 461), by which the interpreter gives cues to the interactant as to their turn. As regards silences, Poyatos (1997: 266) refers to them as “empty pauses” and suggests that they are “powerful and eloquent elements of interaction” because they only make an impression of being gaps in a communicative act, while in fact they are “susceptible of transmitting certain messages as efficiently as words or more.” Mead (2015: 302) suggests that pauses have different meanings, such as, e.g., expressing hesitation, representing punctuation marks, or indicating instances to start speaking. The scholar also notices that research is needed to distinguish between real silent (unfilled) pauses, i.e., the ones “with no vocal signs,” and non-silent (filled) pauses, with “non-phonemic vocalisations.” González *et al.* (1991: 384) stress that pauses occurring in the talk of primary speakers must be rendered in the court interpreter’s renditions. Biernacka (2008: 303) suggests that pauses produced by the interpreter in a bilingual courtroom can be a result of the interpreter abstaining from rendering impolite messages expressed by a non-Polish speaking party. As the use of gestures is viewed as one of the cultural parameters in court interpreting, court interpreters are “bi-cultural experts” (Kelly 2000: 145) who need to convey “gestures whose meaning in the source language or culture contrast with that in the target language or culture” (*Ibid.*: 141-142). Nonetheless, the scholar notes that despite the interpreters’ willingness to provide explanations concerning cultural differences in the use of a non-verbal expression, judges and prosecutors consider such additional information unnecessary (*Ibid.*).

The relations between a verbal and non-verbal channel of communication as well as the role of non-verbal expressions can be classified according to eight main categories as proposed by Poyatos (1997: 258-259):

- a. “additional information”, meant as providing new information in relation to the original message;
- b. “supporting what is being said verbally”, that is, simultaneous use of verbal and non-verbal expression to convey the same message;
- c. “repeating what has been said verbally”, explained as duplicating the original information;
- d. “emphasizing what is being said verbally”, meant as adding emphasis to the original message;
- e. “de-emphasizing what is being said verbally”, described as weakening the original message;
- f. “contradicting what is being said verbally”, that is, denying the content of the original information;
- g. “economy device”, understood as replacing the verbal message with a non-verbal in order not to say something;
- h. “out of verbal deficiency”, that is, replacing the verbal message with a non-verbal expression when the speaker cannot find a word to describe the concept he is thinking of.

In view of the scholarly findings, which show that court interpreters assume responsibility not only for a correct understanding of both verbal and non-verbal messages sent by primary speakers in bilingual talk but also for their own non-verbal expression, this study is based on the following assumptions:

1. by considering the approaches proposing mutual complementarity of verbal and non-verbal expression (De Jongh 1992; Poyatos 1997; Wadensjö 1998; Ahrens 2015; Mikkelsen 2017), it is presupposed that in the case of courtroom interpreting a classification of the relations between the two channels is possible;
2. by challenging the findings of Jacobsen (2003: 227) on the neutrality of court interpreters' non-verbal expression, it is presumed that some manifestations of non-verbal communication deployed by interpreters (and other participants in communication in court) which do influence the meaning, can be detected;
3. by drawing on Wadensjö (1998: 110), it is believed that the communicative act is "talk-as-activity," that is, the interpreter is an active coordinator of the interaction.

### 3. Method and data

This analysis is an early attempt to try to respond to a demand for research into non-verbal communication in the setting of Polish-English courtroom interactions. It is believed that, in view of the legal and ethical framework for court interpreting in Poland, as well as the above reviewed scholarly findings, non-verbal expression can be analysed from the perspective of the rights of all the participants in court proceedings to be linguistically present (Gentile *et al.* 1996: 98).

This small-scale qualitative study – based on "real-life interpreter-mediated encounters" (Wadensjö 1995: 50) and aimed at mapping and understanding the impact of non-verbal elements of communication on accuracy and impartiality in court interpreting – is a continuation of the research into the interpreter's interactions in Polish courts of justice (cf. Biernacka 2019). The material for the study consists of transcriptions of audio- and video-recordings of trials conducted at the Civil and Economic Divisions of the Regional Court in Warsaw, Poland. The search query was carried out in 2013-2014, upon authorization granted by the President of the Court to access these recordings. Twelve interpreters of English and three interpreters of Spanish (all of them Polish native speakers) rendered their services in the proceedings. This analysis will discuss examples of the performances of the English-Polish interpreters. Out of a total of 37 hours of recordings, individual episodes illustrating the relations between verbal and non-verbal communication as categorized by Poyatos (1997: 258-259) have been selected. The interactions analysed in this paper constitute roughly 50 % of all the interactions<sup>3</sup>.

3 There were another 11 episodes, in which it was possible to observe non-verbal communication, however, they were excluded from this study as they reproduce the same issues as those selected for this analysis.

In the course of transcribing the recordings by the author of this paper, the information about non-verbal communication was included in the transcripts wherever it was feasible to capture any details other than only voices and other sounds. It must be underlined that the author of this paper had been permitted to use the official recordings<sup>4</sup> made of court proceedings. They are complementary to the written minutes and are not made specifically for the scholarly purposes. Contrary to the research into non-verbal communication in the French courtroom, where “the camera can be moved [...] and zoomed” (Licoppe *et al.* 2013: 4), the equipment used for recordings at the Regional Court in Warsaw (i.e., immovable closed circuit television cameras), while ensuring high voice quality, limits the possibility to satisfactorily elaborate on the use of non-verbal expression by the participants in court interactions (cf. Biernacka 2019: 80-81). However, despite certain limitations, the study can provide insights into the role of non-verbal communication in court interpreting.

#### 4. Analysis of episodes of Polish-English courtroom talk

As stated above, this study will propose a classification of the “relationships of nonverbal systems to words” proposed by Poyatos (1997: 258), which was originally designed to catalogue the challenges met by interpreters when decoding the information sent by the primary speakers enriching their verbal expression with non-verbal messages. For the purposes of this analysis, the classification becomes a methodological framework for identifying a possible meaning of non-verbal expression (such as gazes, long silences, pointing gestures, nodding and other head movements) used by all participants in the interaction, such as judges, lawyers, witnesses, interpreters and other parties.

The transcriptions included in each example repeat to a certain degree a pattern applied in the author’s previous research into court interpreting (cf. Biernacka 2019) and include the transcription symbols introduced by Wadensjö (1998), Jacobsen (2003) and Jefferson (2004)<sup>5</sup>.

4 The Act of 29 April 2010 amending the act – Code of Civil Procedure (*Journal of Laws* No. 108, item 684) introduced a new form of minutes (electronic minutes). Since the Law came into force on 1 July 2010, audio and video recording of all court hearings in civil cases has become obligatory in Poland.

5 To enable a better understanding of bilingual interactions, in all examples the author’s verbatim translation into English is provided under each original utterance in the Polish language. Non-verbal elements of the talk or information added by the author are in double brackets, e.g. ((gazing at the interpreter)), while inaudible words due to technical problems or chuchotage are marked with (xxx).

#### 4.1 Non-verbal elements providing additional information as compared to a verbal message

Non-verbal elements can implicitly provide additional information, as illustrated in Example (1):

Ex. 1

Witness: And... when I take these photos, print them, providing to my friends.  
Interpreter: Tak, i potem pan drukuje te zdjęcia akt, a następnie, aaa...,  
przedstawia je, daje do zapoznania swoim, eee... swoim znajomym...  
Yes, and then he prints these photos of the files, and then, aaa...,  
he presents them, gives his, eee... his acquaintances to read...  
Witness: helpers...  
Judge: ((gazing at the interpreter)) swoim znajomym, którzy są dwujęzyczni?  
His acquaintances who are bilingual?  
Interpreter: tak  
Yes.

The witness declares that *when he takes photos, he prints them and provides them to his friends*. The interpreter renders the witness' declaration, but introduces a grammatical shift: against the principle of accuracy recommending the use of the same grammatical form, she describes the witness' activities using the third instead of the original first person singular. It might very well be that a consequence of this shift is that the judge addresses the interpreter when he wants to retrieve detailed information from the witness. In other words, the grammatical shift excludes the witness from the interaction as a third party (indeed, referred to as *he* by the interpreter). The additional information conveyed by the judge's gaze is that the interpreter is the real interlocutor. The interpreter assumes this role by answering the judge's question immediately.

Similarly, Example (2) shows that non-verbal communication provides additional information:

Ex. 2

Judge: Chciałam zapytać świadka o godność, czy ma pan jakiś dokument tożsamości?  
I wanted to ask the witness for their name, do you have any document?  
Interpreter: What is your name? Do you have any identification document?  
Witness: (xxx) I have got a passport.  
Interpreter: Ma paszport.  
He has a passport.  
Witness: ((the witness gives the passport to the interpreter))  
Interpreter: ((the interpreter takes a document from the witness and presents it to the judge))  
Judge: Tak, dziękuję...  
Yes, thank you...

The judge asks the witness a standard question about his name and surname in order to establish the witness' identity. The interpreter renders the witness' answer informing that *he has a passport*. In her rendition, the interpreter applies a grammatical shift from the first to the third person singular, by which she gives the judge to understand that she positions herself within the judicial institution. In addition, it is the interpreter to whom the witness presents his passport, and it is the interpreter who takes the document and gives it to the judge. The long pause between the interpreter's rendition and the judge's turn filled with the interpreter helping with the passport is not just an interactional gap. The judge and the witness can understand this gap as an expression of the interpreter's lack of impartiality. The judge may perceive the interpreter as the witness's assistant, while the witness may think that the interpreter is a part of the institutional grid.

#### 4.2 Non-verbal elements supporting a verbal message

There are non-verbal elements, which support verbal information, as illustrated in Example (3):

Ex. 3

Judge: Uprzedzam Pana o obowiązku mówienia prawdy  
I advise you of the obligation to tell the truth.  
Interpreter: You must tell the truth.  
Witness: ((gazing at the interpreter)) What?  
Interpreter: You must say the truth.  
Witness: Yes...  
Interpreter: ((silence))

At a certain moment of the trial, the judge is obliged to advise the interrogated witness about his obligation to tell the truth. The interpreter renders the judge's instructions by summarizing the message rather than providing accurate – as to the style and register – interpreting. The witness, who probably cannot properly hear the utterance, simultaneously deploys a verbal expression (the question *what?*) and gazes at the interpreter in order to ask him to repeat the message. The supporting gaze unambiguously indicates the interpreter as the recipient of the witness' request; therefore, the interpreter, without asking the judge for permission to do so, repeats the message (however, changing the verb *tell* to *say*, which is difficult to explain). From an ethical point of view, the impartiality of the interpreter could be questioned; any interaction between the interpreter and a party to court proceedings may be carried out only upon the judge's permission.

### 4.3 Non-verbal elements repeating a verbal message

As shown in Example (4), non-verbal elements can repeat a verbal message:

Ex. 4

- Lawyer: Czy słyszał pan od powoda bądź stron wspólnie, że postanowili być razem?  
Have you heard from the plaintiff or from the parties jointly that they decided to be together?
- Interpreter: Have you heard from the petitioner ((the interpreter points at the plaintiff)) or from both parties that they decided to stay together?
- Witness: Yes.
- Interpreter: Tak.  
Yes.

The lawyer asks the witness if *he has heard from the plaintiff or from the parties jointly that they decided to be together*. The interpreter renders the lawyer's question accurately. A new element is that the rendition is cut into two parts by the interpreter's gesture pointing at the plaintiff after she says *petitioner*. The use of the pointing gesture might be explained by the interpreter's presumption that *petitioner* is a legal term and as such could probably be unknown to the witness. This may be a reason for which the interpreter decides to repeat the message conveyed verbally by explicitly indicating the party to whom the lawyer refers. In terms of the interpreter's ethics, it should be noticed that the non-verbal component introduces redundancy, but does not infringe the principle of accuracy.

### 4.4 Non-verbal elements emphasizing a verbal message

Non-verbal elements of communication may emphasize a verbal message, as illustrated in Example (5):

Ex. 5

- Witness: Oh, X is a fantastic mum!
- Interpreter: ((nodding)) X jest fantastyczną matką.  
X is a fantastic mother.
- Judge: Co pan rozumie pod pojęciem fantastycznej matki?  
What do you understand by fantastic mother?
- Interpreter: ((nodding)) What do you understand by fantastic mother?

The witness states that *X is a fantastic mother*. As regards the verbal channel of communication, the interpreter renders the witness' statement accurately. Nonetheless, a new element, i.e., a head movement, appears in the interaction; in addition to conveying a verbal content of the original utterance, the interpreter nods dynamically. This nodding may have at least three different meanings. First, it may mean that the interpreter confirms to herself that she understands what the witness means by what he says; secondly, it may mean that the interpreter

agrees with the witness in what he says about X; and thirdly, that the interpreter, even though unconsciously, uses a non-verbal channel to attract the judge's attention to the positive evaluation of X's attitude toward her child. In the first case, the non-verbal expression is understood as a sign of the interpreter's professional awareness of her capability of transmitting any information subject to interpreting. In the second case, the interpreter might be thought of as leaving her role as a message transmitter in favour of being an active participant in the proceedings. In the third case, the interpreter's non-verbal expression can be perceived as a sign of proceeding contrary to an ethical principle of accuracy: her nodding might affect the judge's favourable assessment of X as a *really* fantastic mother.

#### 4.5 Non-verbal elements de-emphasizing a verbal message

Non-verbal elements of communication may de-emphasize a verbal message, as illustrated in Example (6):

Ex. 6

- Judge:           Pouczam Pana o obowiązku mówienia prawdy, ponieważ w przeciwnym wypadku może być pan ponownie przesłuchany po odebraniu przyrzeczenia.  
I instruct you about the obligation to tell the truth because otherwise you can be interrogated again under oath
- Interpreter:    So, I instruct you to tell the truth because otherwise you will be interrogated under oath.
- Witness:        OK.
- Interpreter:    ((silence))

The judge instructs the witness about his obligation to tell the truth. The interpreter remains silent after the witness responds *OK* to the content of the instructions. On the one hand, the interpreter is aware of the fact that no response on the part of the witness is expected by the judge who, thus, needs no rendition, and, what is more, *OK* is a universal word, which does not need to be translated; therefore, the interpreter can allow herself to not say anything. On the other hand, however, the silence can be understood as a sign of the interpreter's verbal deficiency, which is due to the style transmitted by this word. This style is informal thus inconsistent with formal courtroom talk. The interpreter chooses not to repeat the word in order not to underline that the witness uses an inappropriate style. From an ethical point of view, the interpreter's verbal deficiency can be assessed as a lack of impartiality; by failing to render the witness' response she fails to inform the judge of the witness' relaxed attitude toward the proceedings.

#### 4.6 Non-verbal elements contradicting a verbal message

There are non-verbal components of communication that have a potential to contradict a verbal message conveyed by the primary speaker, as in Example (7):

Ex. 7

Judge: ((nods towards and gazes at the witness' wife)) Ojciec pani...  
Your father...  
Interpreter: Your father-in-law.

The judge, who interrogates an English-speaking witness, produces an utterance, of which the two elements, verbal and non-verbal messages, are apparently incoherent. On the one hand, the judge refers literally to *your father*, but on the other hand, by nodding toward and gazing at the witness' wife, he has yet another party in mind. Although a literal meaning of the judge's utterance is *your father*, the interpreter perceives all the information as making a reference to the witness' wife's father, i.e., the witness' father-in-law. Therefore, it is not only the interpreter's knowledge of the case, but also her ability to read out the non-verbally conveyed message that contributes to accurate interpreting. In terms of an ethical principle of accuracy, a non-verbal element of the communicative act contributes to precise interpreting, preventing the interpreter from committing a fatal error.

#### 4.7 Non-verbal elements as an economy device

Non-verbal components can be deployed as an economy device, as illustrated in Example (8):

Ex. 8

Witness: Who is the petitioner?  
Interpreter: ((interpreter makes a head movement to point out the adequate party to the proceedings))

During the court proceedings, a non-Polish speaking witness whispers a question to the interpreter about the petitioner, because the witness cannot identify that party. In reply, the interpreter, who follows the act of communication between the judge and the lawyers, makes a head movement by which she points out the petitioner. By doing so, she not only answers the witness' question, but also continues listening to the interaction. This shows that in the courtroom, non-verbal elements can be used as an economy device; they replace the words in the situations where verbal communication cannot be deployed, whatever the reason.

Example (9) shows that not only nodding but also gazing can serve as an economy device, as illustrated below:

Ex. 9

Judge: W tym miejscu tłumacz... na zarządzenie przewodniczącego opuszcza salę rozpraw. To wszystko. Może pan opuścić salę rozpraw.  
Here the interpreter... by an order of the President leaves the courtroom. That is all. You can leave the courtroom.  
Interpreter: You can go.

Witness: ((nodding to the interpreter and to the judge, while going out))

Interpreter: ((gazes at the judge and goes out))

The judge announces that the interpreter is permitted to leave the courtroom. This is usually ordered by the judge when interpreting is no longer needed during a particular trial. The interpreter summarizes the judge's announcement. In reply, the witness nods to the interpreter to confirm that he understands that he is allowed to go. Nonetheless, another instance of nodding is addressed to the judge; by doing so, the witness probably seeks to obtain confirmation on the part of the judge that he can actually go out. The interpreter follows the witness' behaviour in that she gazes at the judge, finds confirmation that she is allowed to leave, and goes out. This example shows that non-verbal elements replace spoken utterances such as questions and confirmation, in particular on the occasions where the judge does not expect any verbal response on the part of the recipients of his announcement. Therefore, both the witness' and the interpreter's non-verbal responses are admissible.

Example (10) shows that a gaze has the potential to affect the interpreter's impartiality:

Ex. 10

Witness: No, what I do is this. I take a smartphone, I take pictures, yes...  
((gazes at the interpreter)) I want this on protocol.

Interpreter: Czyli pan chciał, żeby to było zapisane w protokole, że pan robi zdjęcia akt, robi zdjęcia akt.

So he wants to have it recorded in the minutes that he takes the photos of the files, takes the photos of the files.

The witness, after describing his activities related to taking photos of the files, gazes at the interpreter and expressly addresses her with the request to have his declarations recorded in the minutes. In other words, a gaze is deployed in order to attract the interpreter's attention and to implicitly indicate her as the recipient of the request. By referring to the interpreter instead of the judge, the witness may make the judge think of interpreter bias. However, the witness' gaze can be explained by his convictions that it is the interpreter, and not the judge, who is his direct interlocutor. In reply to the witness' gaze, the interpreter intends to erase this possible impression by making a grammatical shift from the first to the third person singular, by which she confirms her impartiality.

#### 4.8 Non-verbal elements as a consequence of verbal deficiency

Example (11) illustrates the interpreter's verbal deficiency in an episode where the parties do not allow any space for interpreting:

Ex. 11

Judge: Co do przyrzeczenia...?  
In terms of the oath?  
Lawyer 1: Dziękujemy.  
Thank you.  
Lawyer 2: Dziękujemy.  
Thank you.  
Judge: Bez przyrzeczenia...  
Without an oath...  
Interpreter: ((silence))

The judge asks the lawyers one by one if they want the non-Polish speaking witness to testify under oath. The lawyers deem an oath unnecessary so the judge summarizes their opinions by saying *without an oath*. According to the principle of accuracy, the communicative act should be interpreted; if it is not, accuracy is at stake. However, during the whole interaction the interpreter remains silent. First, the parties speak quickly and accurate interpreting after each party's utterance is impossible. Secondly, the interpreter may assume that the lawyers have agreed that the oath is unnecessary, so the witness does not need to become aware of the content of the act of communication as he will not be asked to do anything. The silence may be a sign of the interpreter's ethical confusion as to her professional attitude. On the one hand she is recommended to render everything that is said in the courtroom, but on the other hand, the primary speakers do not let her satisfy the principle of accuracy; she feels uncertain whether she can step in to provide a rendition. What is more, it might also be claimed that she fails to follow the principle of impartiality by concealing the content of the talk from the English-speaking witness.

The interpreter's verbal deficiency is also shown in Example (12):

Ex. 12

Respondent: Anything else stupid to say?  
Interpreter: ((with her mouth open to start interpreting, but remaining silent))

The respondent asks the judge a question whether he is supposed to *say anything else as stupid as so far* has been said. The interpreter remains silent, although her first intention is to provide a rendition. Finally, she fails to do so. First, the interpreter might assume that the defendant's question is a marginal comment inconsistent with the main interaction. Secondly, the interpreter decides that the defendant's role is not to ask questions. Thirdly, the interpreter perceives the defendant's question as rude and thus improper as for courtroom talk. It is probable that the latter explanation is justified, which is proved by the interpreter's non-verbal readiness to interpret. Irrespective of the reasons behind the interpreter's choice, her silence is meaningful and can be perceived as a lack of impartiality and acting in favour of the respondent.

## 5. Conclusions

The analysis of the collected material allows discussion of the impact of non-verbal components on the assessment of an interpreter's performance as leading to a possible lack of accuracy and/or impartiality.

The episodes of interaction have been divided according to the classification proposed by Poyatos (1997). It is important to comment on the fact that the analysed signs of non-verbal expression were produced by all interlocutors: interpreters, judges and other representatives of the legal profession, as well as non-Polish speaking parties in the proceedings. Moreover, it was possible to distinguish all eight types of relations between verbal and non-verbal expression:

1. non-verbal elements providing additional information to a verbal message, such as gaze and silence. It is found that additional non-verbal information may have an impact on the interpreter's impartiality. As shown in Example (1), it is the judge who, by gazing at the interpreter, *invites* her to adopt an attitude showing lack of impartiality consisting of answering the questions instead of the witness. Long pauses filled with the interpreters' non-verbal expression (as in Example 2) can also be a manifestation of the interpreter's lack of impartiality;
2. non-verbal elements supporting a verbal message, such as gaze and silence. It is the witness who simultaneously uses both channels which speeds up the interaction and makes the interpreter neglect the formality of courtroom talk manifested by omitting the judge in the communicative act. This can be conducive to the interpreter's impartiality (Example 3);
3. non-verbal elements repeating a verbal message, such as pointing, observed in Example (4), in which the interpreter, by deploying a non-verbal expression, gives explanations to the non-Polish speaking party who the plaintiff is. This relation has no or only a slight impact on accuracy;
4. non-verbal elements emphasizing a verbal message, such as nodding on the part of the interpreter (Example 5). It may be argued that the interpreter's emphasis can be perceived as a sign of inaccuracy and a lack of impartiality;
5. non-verbal elements de-emphasizing a verbal message, such as silence on the part of the interpreter. In Example (6) silence is probably applied to soften the speaking style of the English-speaking primary party. This de-emphasis proves the interpreter's bias toward the non-Polish speaking party, for which reason the interpreter's impartiality can be questioned;
6. non-verbal elements contradicting a verbal message, such as gazing. It is detected that it is the primary parties who deploy non-verbal expression contradicting the verbal information. In Example (7), the interpreter's role consists of understanding the primary party's intention in order to render the information accurately and/or impartially. It proves that non-verbal elements have a crucial impact on the meaning;
7. non-verbal elements as an economy device, such as gaze, nodding, and other head movements. Even though they are deployed by all interactants, as shown in Examples (8), (9) and (10), they can put in question the interpreter's impartiality;

8. non-verbal elements as a consequence of verbal deficiency, which is manifested only by the interpreter's instances of silence. It is noticed that such silences can be a sign of the interpreter's disbelief that among the overlaps produced by primary speakers her turn to speak has come at last (Example 11) or a manifestation of the interpreter's hidden criticism towards the English-speaking party (Example 12).

Furthermore, after De Jongh (1992) and Mikkelson (2017), it is noticed that the analysed components of non-verbal expression are carriers of particular meaning only in a given context, while when appearing in another interaction, their function can be different. It means that a range of possible interpretations of, e.g., silences, is broad enough to lead to a variety of perceptions and explanations.

In view of the above findings, which confirm that non-verbal elements are inherent components of communication, it can be concluded that in Polish-English courtroom talk, when interpreters assist the primary speakers, although there are instances of their deficiency, linguistic support is constantly provided. From the perspective of a strict approach to the ethical principles of accuracy and impartiality, one may raise claims as to the full observance of these principles.

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