

Legalising EU legal interpreters: a case for the NRPSI

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Abstract

The paper analyses the situation of legal interpreting in Europe and then focuses on the UK to discuss weak points and strong points of the National Register of Public Service Interpreters.

Introduction

In today's globalised world, characterised by mass migration flows and culturally and linguistically diverse societies, demand for public service interpreters (PSIs) has never been greater and this has had a significant impact on a variety of institutional settings, such as "police stations, social welfare centres, hospitals and courts, where [the interpreter] provides service for laymen and officials, when they speak different languages" (Wadensjö 2002: 355).

The unquestionable need for the services of PSIs has led to a growing amount of academic attention to the nature and dynamics of PSI interaction and the role of the interpreter (Berk-Seligson 1990, Carr *et al.* 1997, Mason 1999, Roy 2000, Hale 2004, Pöllabauer 2007, Wadensjö 1998). In particular, legal interpreters have been shown to play a vital role in facilitating communication for "those involved in whatever capacity in a legal system whose language they do not speak"

(European Commission 2009: 10).¹ However there has been little research on language policies which regulate the quality and provision of legal interpreting services. Furthermore the small number of studies has seldom been translated into national practices to indicate whether and how legal PSI practitioners can be expected to abide by ethical and professional obligations towards individual clients, service providers and society as a whole (de Pedro Ricoy *et al.* 2009: 2ff.).

This paper attempts to analyse policies and initiatives designed to regulate legal interpreting in the EU and, in particular, the United Kingdom. We begin by presenting an overview of existing EU legislation – in which “top-down” (O’Rourke/Castillo 2009) legal interpreting policies and initiatives are grounded – and evaluating recent collaborations of academics, practitioners, public service providers and legal institutions, which contribute towards the harmonisation of professional standards at EU level. Subsequently we will focus on recommendations on official registration systems, i.e. national registers of interpreters and translators that list all legal interpreters according to their level of accreditation (or competences). In particular we will provide a concrete example of a model of good practice in one member state, the UK’s National Register of Public Service Interpreters (NRPSI), and discuss its current state of crisis. In conclusion we will look at future challenges, with a focus on the EU projects BMT and TRAFUT.

1. Legislation on legal interpreting in the EU Member States

As highlighted in the Introduction, the last decades have seen an ever-growing moving of citizens throughout the world, affecting the linguistic and ethnic make-up of societies. As a result national governments and international institutions have set up a series of policies and initiatives in the area of human rights and legal proceedings, including policies and initiatives regarding the provision of legal interpreting.

In the international context, the fundamental human right of access to justice and due process is laid down in Article 7 of the Universal Declaration of Human Rights, designed to complement the UN Charter and of which all European countries are signatories:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. (United Nations 1948)

Furthermore, the promotion of equality lies at the heart of the European Union (Marlier *et al.* 2007) and results in equal access in all areas of information and services, in particular justice. As a result, the European Union has come to realise the increased importance of the need “to safeguard citizens’ rights and hence guarantee a fair trial, also across languages” (European Commission 2009: 7). This encompasses the right of access to a competent interpreter and translator, which

¹ For a detailed discussion on the definition of “legal interpreting” see Benmaman (1997), Berk-Seligson (2000), Laster/Taylor (1994: 28ff.) and Pöchhacker (2004: 14).

should be safeguarded and upheld when EU Member States plan and implement language policy measures regulating the provision of legal interpreting services to non-indigenous language groups.

1.1 The right of access to a competent legal interpreter

In the *European Convention on Human Rights* (ECHR), drafted in 1950 by the then newly formed Council of Europe and which entered into force on 3 September 1953, the relationship between interpreting (and translation) provision and the upholding of human rights is stipulated in Article 5² and is linked to the right to a fair trial in a democratic society (Article 6).³ In particular, the latter includes the right to a fair hearing, the right to a public hearing, the right to a hearing before an independent and impartial tribunal and the right to a hearing within a reasonable time (Council of Europe 1950).

Furthermore this right is reiterated in Article 14 (3) of the *International Covenant on Civil and Political Rights* 3 (ICCPR3) and Article 55 of the Rome Statute and has been implemented by the Member States of the EU under the Maastricht and Amsterdam Treaties and The Hague programmes.⁴

In particular the aim of the Treaty of Amsterdam is to create an area of freedom, security and justice within the European Union. An essential element in this context is “reliable communication, for the quality of all decisions and actions depends upon the quality of information and communication on which they are based” (Hertog 2003: 1). Therefore, reliable legal interpreters and translators are required at all levels of the legal system.

Since the ratification of these conventions and treaties the EU has stressed the importance of shared training and accreditation systems in promoting mutual trust between (criminal and civil) legal systems of Member States and supporting the Principle of Mutuality. We will now examine the ways in which the EU has helped contribute to the promotion of common standards in legal interpreting.

1.2 EU common standards for legal interpreters

Kolb and Pöchhacker (2008: 26) state that “with the exception of international tribunals, legal interpreting is typically set in a particular national context and thus constrained by a specific judicial framework and legal tradition”. This variety of practices within the European Union represents a challenge to efforts at harmonisation of LIT standards.

2 “Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him”.

3 “Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him [...]”.

4 However this does not automatically imply that the right in question has been consistently upheld; for examples of inadequate interpretation in criminal proceedings see *Fair Trials International*.

The first methods of fostering uniform standards for legal interpreting across EU Member States were set out and disseminated by the Grotius I and II projects, *Aequitas* (98/GR/131) and *Aequalitas* (2001/GRP/015),⁵ and the AGIS project. This work has been further supplemented by a *Questionnaire on the Provision of Legal Interpreting and Translation (LIT) in EU Member States* carried out with AGIS funding (Hertog/Van Gucht 2008).

In particular recommendations made in the first project and later disseminated through the second project to all Member States and some candidate countries concern standards of selection, training and accreditation of legal interpreters and translators, a code of ethics and a guide to good practice, and the interdisciplinary working arrangements between legal interpreters and translators on the one hand, and the legal services on the other.

In Chapter 4 of the *Aequalitas* project, Martinsen and Wolch-Rasmussen (2003: 41ff.) state that the educational and training⁶ structures mentioned above and linked to an accreditation system should be supplemented by an official registration system, i.e. a national register of interpreters and translators that lists all legal interpreters (and translators) according to their level of competence. They further suggest that only legal interpreters who have been formally assessed, either by obtaining an academic qualification or by passing an entry test, should be admitted to the register. The national register should specify the Legal Interpreters' and Translators' (LITs) personal data, language combinations, education and training, specialisation, experience and availability, to make it clear to the legal services what the exact qualifications of each legal interpreter are and how to locate them.

The Grotius projects have proven to be solid ground for discussion throughout the EU and have contributed significantly to more recent initiatives emanating from the EU Commission on procedural safeguards in criminal proceedings; most notably, a recommendation report has been drafted in March 2009 by the Reflection Forum on Multilingualism and Interpreter Training.

The report deals with issues such as the professional profile of the legal interpreter, training, the professional code of conduct and guidelines to good practice, working arrangements with the legal services and legal professionals and implementing an efficient structure of legal interpreting (European Commission 2009: 5).

In particular the Forum recommends that training be provided to the legal services and to legal professions on how to work across languages and cultures

5 The aim of EU Grotius Project 98/GR/131, which is presented in the *Aequitas* report, is to further the creation of “internationally consistent best practice standards and equivalencies in legal interpreting and translation” (Hertog 2001: 1), whereas Grotius II project's main objectives are to disseminate the achievements of Grotius I, to discuss the main issues tackled in Grotius I (codes, training, certification, etc.) in more detail and to derive “standards and models for the implementation of a comprehensive quality trajectory in legal interpreting and translation both in individual member states and throughout the EU” (Hertog 2003: 1).

6 The issue of PSI training and the pedagogical issues surrounding it are highly relevant to accreditation systems and have received growing attention by PSI scholars (e.g. Adams/Corsellis/Harmer 1995; Grbić 2001; Sandrelli 2001; Corsellis 2005, 2008).

and with interpreting. Furthermore, as already suggested in the two Grotius Projects, the Forum reiterates the need for a legal PSI national register:

To the benefit of all interested parties, official registration of all qualified legal interpreters is highly recommended. (...) A well thought out and regularly updated national register, administered by a national body, is the most adequate instrument for a search when the assistance of a legal interpreter is required. (European Commission 2009: 9)

Finally, 7 October 2010 is a milestone in the history of legal interpretation and translation in the EU. On this date the Council of Justice Ministers adopted “the first EU Directive ever in the area of criminal justice” (Reding 2011), i.e. Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings (European Union 2010), which the European Parliament had already adopted in June of the same year.

Its legal basis lies in Article 82(2) of the Treaty on the Functioning of the European Union (TFEU), which states that the EU Parliament and Council can establish minimum rules for mutual admissibility of evidence between Member States, the rights of individuals in criminal procedure and the rights of victims of crime. In Article 2 on the Right to Interpretation the fundamental right to a competent legal interpreter is reiterated.⁷

The main aim of this document is to set common minimum standards for LIT across Member States. Its basic principle is that interpretation should be provided during the investigative and judicial phases of the proceedings. Furthermore, in Article 5 (2) on the Quality of the interpretation and translation, Member States are once again encouraged to promote the adequacy of interpretation and translation and efficient access thereto by

establish[ing] a register or registers of independent translators and interpreters who are appropriately qualified. Once established, such register or registers shall, where appropriate, be made available to legal counsel and relevant authorities. (European Union 2010)

Indeed, as Article 9 on the Transposition stipulates, “Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 27 October 2013”. This means that virtually all Member States are now facing the urgent challenge to implement substantial changes in their national systems for the provision of translation and interpreting in criminal proceedings.

So far we have seen that the legal basis for the provision of PSI in the EU Member States is related to the implementation of international and EU conventions and resolutions, particularly ECHR, Articles 5 and 6. Common minimum standards for LIT throughout Europe have been further discussed in a number of documents drafted by EU institutions, which resulted in

7 “Member States shall ensure that suspected or accused persons who do not speak or understand the language of the criminal proceedings concerned are provided, without delay, with interpretation during criminal proceedings before investigative and judicial authorities, including during police questioning, all court hearings and any necessary interim hearings” (European Union 2010).

recommendations on strategies to improve the quality of interpreting in the legal services and in Directive 2010/64/EU. In this regard, a crucial question arises: have these words been translated into national practices across the EU Member States?

1.3 The reality of the situation

A relatively small number of academic studies have examined current practices in relation to the provision of translating and interpreting within the public services in different EU countries.⁸ However the conclusions from both academics and the recent survey on the “status quaestionis” (the provision of legal interpreting in the EU) by Hertog and van Gucht (2008) hint at a common problem, i.e. that sufficient legal interpreting skills and structures are not yet in place in most Member States, though a process of development to do so is in progress across the EU, albeit with different degrees of quality and quantity. In other words, the noble principles laid down by EU and international institutions are there, but they still do not seem to have been implemented in concrete realities.

This incoherent kaleidoscope of regulations, guidelines and provisions implies that whilst some EU countries have implemented examples of good practices, others still seem to be unprepared to tackle the inevitable language challenges in their judicial systems (Hertog/van Gucht 2008: 189). Most of the Member States still lack an enforceable professional code of conduct, reliable national registers, interdisciplinary guidelines and comprehensive policies for best practices in the legal services, and more generally trained legal interpreters who meet high professional standards.

Consequently, language still often represents a barrier for many citizens or minority language speakers involved in legal proceedings. In some jurisdictions court and police “interpreters” (individuals who have no academic or professional PSI qualifications, but have a reasonable grasp of the language) are allowed to work as interpreters in public service settings, such as courtrooms, on a regular basis. However, as Berk-Seligson (1990: 204) states, “no amount of oath-swearing can guarantee high quality interpreting from an interpreter who does not have the necessary competency”.

Italy is a case in point. The increase in academic awareness and changes in the country’s demographic trends have not yet triggered commensurate responses from Italian policy makers. In particular, scholars (Ballardini 2002, 2005; Longhi 2005) have shown how the lack of policies that underpin Italian legal interpreters’ professional practices leads to repeated violations of the fundamental right to an

8 A comprehensive review of the different national regulations of legal PSI provision across Europe is beyond the scope of this paper. For further insight, see Perez/Wilson (2009) for Scotland; O’Rourke/Castillo (2009) for the Republic of Ireland, Scotland, and Spain; Fowler (2003), Townsley (2007) and de Pedro Ricoy (2010) for the UK.

interpreter enshrined in international conventions and Italian civil and criminal codes (cf. Ballardini 2005).⁹

However, rather than providing a summary of systematic “failures”, we will now focus on a (fairly) successful example of good practice tried and tested in the UK and aimed at certifying providers of interpreting services according to high professional standards: the National Register of Public Service Interpreters.

2. Registering qualified legal interpreters: the case of the NRPSI

Of particular relevance to legal interpreting in the UK Criminal Justice System (CJS) is the adoption into British Law on 2 October 2000 of the European Convention of Human Rights. As Townsley (2007: 167) states, “the incorporation of the ECHR into British law made the provision of interpretation for non-English speakers in criminal courts a legal requirement.”

In this context the National Agreement or NA (first drafted in 2001) was introduced, addressing concerns over the difficulty of obtaining professional interpreters raised in Lord Runciman’s *Report on the Royal Commission on Criminal Justice* (1993) and Lord Auld’s (2001) *Report on the Review of Criminal Justice System*. The Home Office Circular 17/2006 reinforced the importance of the National Agreement and the quality of interpreting services, and subsequent amendments were made in 2007 to strengthen it.

The National Agreement provides key guidance for all parties to criminal investigations and proceedings on the selection and treatment of interpreters within the CJS by setting out best practice guidelines and stipulating that only competent, reliable and security-vetted interpreters registered with one of the approved registers should be used in criminal proceedings:

It is essential that interpreters used in criminal proceedings should be competent to meet the ECHR obligations. To that end, the standard requirement is that every interpreter/LSP working in courts and police stations should be registered with one of the recommended registers, i.e. the National Register of Public Service Interpreters (NRPSI) at full or interim status (with Law Option) for non-English spoken languages, and, as full members, with CACDP for communicating with D/deaf people. (National Agreement, Art. 3.3.1)

The adoption of these registers, and in particular of the NRPSI, as primary sources for interpreters was a fundamental step towards the regulation and professionalisation of legal PSIs in the UK.

9 Specifically, Italian courtroom interpreters are required to enter a “Register of Experts and Expert Witnesses” (*Albo dei Periti o dei Consulenti tecnici*); however this varies from court to court and no entry test is provided to assess the interpreters’ skills and competence.

2.1 Background and implementation

The NRPSI, in existence since 1994, is a central register of qualified and police-vetted PSIs available to Public Service organisations and agencies in the UK (Townesley 2007: 166ff.). The register is administered by NRPSI Ltd, a wholly owned, non-profit subsidiary of the Institute of Linguists (the UK's largest language professional body).

The Register is currently made up of the names and contact details of over 2,300 public service interpreters in 99 languages (NRPSI 2011). As most professional interpreters' registers, the NRPSI specifies the two following aspects: performance standards (in terms of accuracy and completeness) and interpreters' ethical conduct as members of the profession (in terms of confidentiality and integrity).¹⁰

Therefore, interpreters engaged by the NRPSI are not employees but independent individuals who have undergone rigorous training, with accompanying accreditation. They are bound by their service provider's Code of Practice and are expected to demonstrate a high level of expertise and professionalism at all times. Finally the attainment of full membership is not only contingent on tests and qualifications, but also on proof of PSI work in the UK amounting to 400 hours (or 100 hours in the case of rare languages).

The NRPSI represents an important movement towards the regulation and professionalisation of PSIs in the UK, and this is highlighted by the "steady increase in the number of applications to sit the DPSI examination¹¹ (...) and in the number of registrants on the NRPSI" (Townesley 2007: 168). The past decade has also witnessed a slight increase of PSI training programmes at university level. Nonetheless, the UK public service interpreting sector and its National Register are still in their infancy, hence PSIs are still all too often not treated as fully-fledged professionals.

2.2 "All that glitters is not gold": weaknesses of the NRPSI

While the NRPSI is endeavouring to meet the unquestionable need for qualified public service interpreters as quickly as possible without jeopardising quality and standards, there are still serious issues related to the status of the profession that have a significant impact on the composition of the workforce in PSI and the quality of the services.

Firstly, there are scant monitoring mechanisms for the PSIs' professional performance in courtrooms and police stations and no long-term provision of continuous professional development (CPD). Hence, the legal interpreters' ability to manage delicate situations, to abide by a strict code of conduct and to react to the challenges arising "there and then" is seldom assessed (cf. de Pedro Ricoy 2010: 100-101).

¹⁰ See Cokely (2000), Mikkelson (2000) and the Special Issue of *The Translator* 7/2 (2001).

¹¹ The Diploma in Public Service Interpreting or DPSI, administered by the Institute of Linguists, is an "objective assessment of PSI skills providing an entry-level professional qualification for would-be practitioners" (Townesley 2007: 166).

The number of languages in which interpreters are tested and thus represented on the NRPSI is still limited and does not match the number of languages spoken in the country (Townesley 2007: 168). There is also a shortage of qualified trainers to prepare PSI practitioners; at the moment there is little formal training for PSI trainers, hence the training provided to potential PSIs in the UK is not uniform (Corsellis 2001; Perez/Wilson 2009).

In terms of quality of performance and roles in the PSI interaction, there is still a fair amount of work to do, especially in order to counteract the “unrealistic institutional demands for ‘verbatim translation’ by ‘invisible’ interpreters” (Pöchlacker 2004: 162).¹² Nowadays most scholars agree that this requirement for literal renditions (formal equivalence) is untenable, yet it appears to be included in Article 6.4 of the NRPSI Code of Professional Conduct, which states that “practitioners shall interpret truly and faithfully what is uttered, without adding, omitting or changing anything”.

A further hurdle comes from the “uneven progress of the up-take of professional Public Service Interpreting in place of other *ad-hoc* arrangements” (Townesley 2007) across the UK. There are several reasons why semi-qualified and unqualified interpreters are called upon to interpret in the courtroom or in police interviews. As already mentioned, some language combinations are rare and it may be impossible to find a suitable interpreter within a reasonable time. For more common languages, availability of NRPSI interpreters at short notice cannot always be guaranteed. Regrettably, training opportunities are still relatively scarce and obtaining a relevant qualification can be both expensive and time consuming.

However this uneven progress across sectors is mainly due to an “undefined” legal framework. The signing of the National Agreement has proved to be particularly relevant to the UK Criminal Justice System; however it can be “side-stepped by hard-pressured court listing officers and police officers” (Townesley 2007: 169) as the NA is not a legally binding instrument. This implies that in practice it can be ignored in favour of *ad-hoc* arrangements, with domino effects on the quality of the interpreters’ performances.

2.3 A state of crisis

The current legal *status quo* of the National Agreement has triggered an even greater threat to the profession: the outsourcing of provision of language services across the justice sector in England and Wales.

On 9 August 2010 the UK Ministry of Justice (MoJ) announced its intention to abandon the NA, incorporating some of its elements into commercial contracts and keeping others as “good practice guidance” (*Letter from Ministry of Justice* dated 9 August 2010, in EULITA 2011). Under the new plans the MoJ is thus contemplating the abolition of the existing NRPSI in order to move to a commercial Framework Agreement (FWA) for the delivery of CJS language services (EULITA 2011). This seems to derive from the MoJ’s perception that costs

¹² On the view of the interpreter as an invisible translating machine, see also Colin/Morris (1996: 99ff.), Knapp-Potthoff/Knapp (1986), Morris (1995), Roy (2002/1993).

will be saved by having a single point of contact for interpreter bookings and payment. Nevertheless, a number of objections surrounding the MoJ's decision to leave regulation to the whim of a single commercial entity can be raised.

Firstly, the Framework Agreement places the United Kingdom in breach of its obligations under Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings (cf. 2.2). In particular, the LIT register to be held by the MoJ's preferred supplier is not "a register or registers of independent translators and interpreters who are appropriately qualified" as intended in Article 5 (2) of the Directive. The commercial entity would effectively be awarded a monopoly for all CJS language services, under which it would function as *de facto* coordinator and regulator of LIT services; consequently, LITs on the new register would not be "independent" or "appropriately qualified" (albeit independently assessed).¹³

Secondly, the FWA does not appear to adequately safeguard the quality of legal interpreting services. In stark contrast to the existing standards enshrined in the National Agreement, new arrangements would allow unqualified and inexperienced linguists to practise in the CJS. This lowering of minimum standards for CJS interpreters is a direct consequence of introducing a "three-tier" system, which places interpreters and interpreting assignments into "tiers" according to interpreters' skills and qualifications. Specifically, the flawed design of the tiered structure does not reflect the realities of the work and allows the agency to supply unqualified "interpreters" drawn from the lowest tiers.

Thirdly, according to the commercial provider's Terms and Conditions, linguists' personal data may be exported to countries outside the EEA, such as India, where the agency has its call centre. As a result, interpreters who work on sensitive criminal or counter-terrorist investigations and prosecutions may have concerns about their personal safety; moreover, personal details of non-English speaking defendants, victims and witnesses are likely to be exported outside the EEA for processing, endangering their personal safety and (potentially) state security.

Moreover, the MoJ's seemingly cost-cutting exercise appears to disregard studies on the provision of LIT services carried out in other countries. For instance, Laster and Taylor analyse LIT services in Australia and conclude that:

while state resources are not limitless, it is nevertheless critical to set funding priorities on the basis of the commitment to principle. (...) The pressure to recoup costs should not be allowed to insidiously undermine the principle of non-discriminatory access to justice for all Australians. Much of the debate about models of service delivery is a thinly veiled attempt to justify cost-cutting, at the expense of accessibility and quality of service. (Laster/Taylor 1994: 25)

They also show that improvement in the quality of legal interpreting services comes at a cost, i.e. competence and professional qualifications, together with

13 (Unaccredited) assessments are to be delivered in centres designed by Middlesex University and examined by a panel composed of language professionals who do *not* currently work as interpreters; the resulting scores decide whether an interpreter is "a tier one, two or three". However, little is known regarding further arrangements for the delivery of the assessments, including related costs for interpreters.

levels of payment, are inextricably linked. Equally the potential costs to the judiciary of adjournments, mistrials, appeals and failed prosecutions as a result of inadequate interpreting cannot be underestimated.

Lastly, the Ministry of Justice's framework agreement is in breach of Sections 13 and 19 of the Equality Act in that spoken language interpreters (excluding Welsh) are treated differently from British Sign Language (BSL) interpreters, who will be able to keep their existing Terms and Conditions under the proposed framework agreement.

In conclusion this clearly represents a step backwards. A similar case occurred in Scotland in 2009,¹⁴ where court interpreting services were outsourced to one commercial agency. As a result, a high number of qualified interpreters left the profession as they did not intend to work for the rates of pay offered by the agency. This has affected the quality of interpreting and the exercise of justice itself; moreover, the expertise and experience gathered over decades has been lost forever, and there is now less incentive to invest time and money in PSI training and accreditation due to low financial rewards.

The commercial provider's introduction of tiers – along with other restrictive terms and conditions – and the drastic reduction of pay rates are forcing professional interpreters to leave CJS interpreting in England and Wales. While this exodus is slowly taking place, members and representatives of the profession are united in their opposition to the imposition of outsourcing. For instance, the Professional Interpreters' Alliance (PIA) was set up in the North West of England in 2009 to “promote and safeguard the interests of professional public service interpreters registered on the NRPSI and uphold standards within the profession” (*PIA Mission Statement 2010*) and is campaigning for the protection of title and regulation of the profession by statute. In particular, in August 2011 the PIA made an application for Judicial Review of the Ministry's decision to award the contract.¹⁵

However the core question is: how effective can a national fight against the outsourcing of interpreting services within the public sector and the exploitation of the profession by commercial intermediaries be without adequate actions at European level?

3. Looking ahead

For all its shortcomings, the NRPSI has proved to be a necessary tool for safeguarding the quality of legal interpreting. Now it risks either being replaced by the old procedures – whereby “police forces (...) used members of the local community, who may have good intentions but might not meet the requirements for a criminal investigation” (DS Martin Vaughan of Gwent police, interviewed by Welman 2010: 29) – or by a small number of profit-driven translation agencies

14 It is worth mentioning that NRPSI lists few Scottish PSIs and that there have been calls for a separate register in Scotland, in particular on the grounds that it has a distinct judicial system (cf. Perez/Wilson 2009).

15 At the time of writing the outcome of the claim for judicial review is still unknown.

due to the ongoing outsourcing of provision of LIT services. Indeed, the register (and the profession itself) is under threat; however it might not be too late to act.

Firstly regional initiatives in the UK have seen the development of cooperation between scholars in dialogue interpreting, local and national public sector agencies and national interpreters' professional bodies. A telling example is the course set up at Cardiff University aimed at training police forces in working with interpreters. Further, a film project on *Enhanced Communication Via an Interpreter* has been developed by Cambridgeshire Constabulary, New Link and NHS Peterborough in collaboration with the Institute of Linguists and NRPSI interpreters. Furthermore, a project carried out in Northern Ireland by CONNECT-NICEM has led to the publication of a *Guide for Police Officers and Interpreters* in which consideration is given to the issue of how users of interpreter services, such as police officers, lawyers and the judiciary, view the interpreter and how best to raise their awareness of the interpreter's role in their proceedings.

Moreover an EU initiative called Building Mutual Trust (BMT), first presented at the Critical Link 6 Conference and coordinated by Brown Townsley (Middlesex University), contributes towards the establishment of minimum standards in LIT by facilitating the creation of LIT training courses in EU Member States.

Co-financed by the Directorate General Justice, Freedom and Security of the European Commission and building on the work of the two Grotius projects, the Building Mutual Trust project was carried out over three years (2008-2011) and comprised 14 partners from Belgium, Denmark, Italy, Spain, Romania and the UK. The project's main aim is "to contribute to the creation of a common area of freedom, security and justice in the EU" (Townsley 2011: 6) by providing descriptions of minimum competencies of LIT in EU Member States, creating an open access databank of sample training materials for LIT trainers and legal services personnel working through a legal interpreter or translator, and establishing a trans-national mentoring network for trainers of LITs.

The overall goal of the implementation of mutually recognisable standards in European LIT, which contributes to the judicial cooperation and mutual trust referred to in the previous EU initiatives, also includes the creation of common standards for professional structures required for LITs. In particular, these structures should consist in an "independent body that offers relevant professional examinations at the required levels, (...) a professional regulator maintaining an easily accessible professional register (...), and a membership body (or bodies), governed by a board of elected professionals" (Corsellis *et al.* 2011: 329). While this work is being done in the legal context, it is anticipated that it will apply equally to healthcare and social-related sectors with minimum adaptation.

Lastly the European Legal Interpreters and Translators Association's (EULITA) and Lessius University College Antwerp's action programme for the years 2011-2013 focuses on implementing the TRAFUT (Training for the Future) project, which brings hope to the future of old and new PSI national registers across the European Union.

This project is intended to ensure that the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings is fully transposed and implemented by all member states within the deadline set in the Directive

(EULITA 2011). In particular, the following aspects covered by Articles 2, 3, 5 and 6 are presented and discussed with all relevant stakeholders in the course of four regional workshops: the issues of quality of LIT services and training of LITs; modern communication technologies in criminal proceedings (e.g. video-conference interpreting) or special arrangements for vulnerable persons (e.g. sign-language interpreting); best practices for the cooperation between LITs and the other judicial stakeholders (judges, prosecutors, police authorities, lawyers, LIT associations, etc.); and, finally, issues related to LIT national registers, such as admission procedures and register management. Furthermore, in the workshop's introductory session the legislative aspects in connection with the implementation of the Directive into member states' legislation and administrative procedures are addressed, as well as the issue of the costs of interpretation and translation (Article 4).

Representatives from seven EU Member States were selected to attend the first regional workshop in Ljubljana (Slovenia), including representatives from the UK's HM Courts and Tribunal Service as the project covers many issues that the UK reform of the language services for the justice sector addresses.

EULITA's ultimate aim is to create an EU database of legal interpreters and translators in each of the 27 Member States, which will feature on the e-justice portal (e-justice.europa.eu). The EU LIT database is to be based on the requirements of the Directive and is intended to ensure that standards in the individual EU Member States are comparable. This can therefore only be put into practice "if the EU Directive on the right to interpretation and translation in criminal proceedings is transposed expediently and in a coordinated manner" (EULITA 2011).

4. Conclusion

This paper explores the work towards full recognition of legal interpreting as a regulated profession within the European Union, in particular in the UK.

It starts by exploring the international and EU legislations, which identify the right to a competent interpreter for individuals who do not speak the language of the legal system in which they are to be tried (De Mas 2000). In particular, Directive 2010/64/EU stresses that one way of ensuring compliance with professional standards is membership in a professional entity that has adopted a Code of Conduct and Practice. Recourse should therefore be made to certification procedures involving some form of testing or selection process.

As pointed out in 2.3, the field of legal dialogue interpreting remains, however, relatively unregulated as far as European countries are concerned. In this context the UK can be seen as an exception in that the adoption of the ECHR into British Law came with the creation of the National Agreement on the engagement of interpreters. In particular, Article 3.3.1 of the NA stipulates that it is essential that interpreters working within the UK criminal justice system should be from the National Register of Public Service Interpreters. The use of interpreters who are not qualified to the standard stipulated by the document puts the defendants,

victims and witnesses from ethnic minorities at risk of a “miscarriage of justice” (Hertog 2010: 7) and breaches their right to a fair trial under Article 6 of the ECHR.

At the same time it would be no exaggeration to say that the legal interpreting profession in the UK is currently in a state of crisis. The NRPSI, once the preferred source of qualified and vetted legal interpreters under the NA, is becoming obsolete as the Ministry of Justice is in the process of awarding a contract to implement a Framework Agreement (FWA) as the means of regulating the work of LITs in the Criminal Justice System; unless set aside, the FWA will replace the National Agreement and its associated Terms and Conditions. This, in turn, is likely to “destroy the UK’s beacon status within the EU and remove it from a model of best practice to the very bottom of the heap” (EULITA 2011). The proposed “reforms” of outsourcing seem to be contrary to the interests of justice, to both the letter and spirit of Directive 2010/64/EU on the Right to Interpretation and Translation, and are likely to end up providing the Courts in England and Wales with a lower quality of interpreting. In this context the EU project BMT is a welcome attempt to establish institutionally recognised and EU-consistent LIT training and assessment. Similarly welcome is the TRAFUT project, aimed to ensure that Directive 2010/64/EU is fully implemented by 2013 and to establish an EU LIT database in each of the 27 Member States.

In conclusion studies suggest that “properly trained interpreters (...) contribute to safeguarding human and democratic rights” (European Commission 2005: 11); on the contrary, an unregistered, inadequately trained or untrained “interpreter” can potentially trigger disastrous results for police investigation or court proceedings. Without an effective EU legal framework governing the provision of PSI “full professionalisation and regulation of Public Service Interpreting will not be achievable” (Townshley 2007: 169) and interpreters will not be able to meet the demands and expectations that they encounter in legal settings on an everyday basis. As Ruth Morris puts it:

(...) interpreters try to square the circle. Even the best ones are doomed to failure from time to time. But when the system fails to acknowledge the need to train, qualify, certify and recruit according to the principle of excellence, it is condemning itself to low-calibre interlingual performance which will seriously impair the ‘tissue of justice’, by building in systematic ‘missed stitches’. (Morris 2008: 39)

We hope that good examples such as the NRPSI – with its weaknesses and strengths – will be an inspiration to continue the work that still needs to be done in this field. It is all the more necessary that academics, practitioners, public service providers and judiciaries at EU level continue cooperating on judicial matters with a strong will to further the cause of equal access to quality legal interpreting. Moreover it is highly desirable that systematic analytical studies into the needs of public service organisations and PSI providers alike, as well as into the profile of interpreters, continue challenging the *status quo* of legal interpreting and impact on interpreters’ practice and other participants’ view of the interpreter’s role both in the EU and internationally.

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