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Applying a sociological perspective to the analysis of court interpreting interactions: Exploring trust and distrust

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Abstract

This article introduces a novel approach to analysing court interpreting interactions by applying a sociological perspective. Using a corpus of transcripts of criminal trials held in Barcelona with interpreting services in English, French, and Romanian, this study develops a method to identify situations of distrust between interpreters and judges. It focuses on observing the dynamics of their interactions by analysing the distrust reactions shown by the judge. We rely on Luhmann's concept of trust, and more specifically on its functional equivalent: distrust. Two variables are used to operationalize distrust: the visibility of the interpreter in the discourse (the interpreter describes what is happening, checks that the defendant or witness understands what is being said, gives indications of behaviour, adds questions or answers or maintains conversations that are not translated for the other participants in the hearing) and the judge's understanding of the foreign language (the judge's ability to understand or speak the foreign language). This study examines the reactions of the judge in cases where they exhibit a certain degree of distrust and contributes to a sociological perspective on court interpreting studies, highlighting the power dynamics inherent in the interpreting process and the importance of trust in effective communication mediated by an interpreter.

Keywords

Court interpreting, ethics of interpreting, trust, corpus analysis, interaction analysis, Luhmann

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Catalonia has been in transition towards a multilingual society for years. The presence of various languages adds an element of complexity to the Catalan society that makes it necessary to depend on an intermediary intervention to make communication possible in public services. This situation is clearly reflected in courts, where communicative dynamics plays a very important role and interactions are in all respects highly hierarchical, with legally predetermined structures and a clear imprint of its written origin (Bestué 2019: 162). The intervention of an interpreter adds one more participant, whose presence might affect how power and control are typically distributed in a monolingual trial (Nartowska 2017). In this paper, our focus is on exploring interactions among participants, specifically how trust facilitates the coordination of actions and decisions in the communication (Raigal-Aran 2022).

The efficacy of interpreters has been a subject of scrutiny, as extensively evidenced by the literature (Arumí/Vargas-Urpí 2018; Vargas-Urpí 2017, 2019; Chi 2021). The lack of training of the practitioners serving as professional interpreters in such trials has been demonstrated (Vigier 2020). In this article, a court interpreter is considered to be a person who provides interpretation in court, regardless of their level of training or experience. In contrast, it is noteworthy that the impact of judges' lack of response regarding the vulnerability of speakers has not been accorded commensurate attention. While it has been emphasized that court interpreting is a collaborative effort, it is crucial to acknowledge that judges share the responsibility with other trial participants in ensuring the quality of interpreting (Ozolins/Hale 2009). And even if they feel they do not have at their disposal any mechanisms to monitor the interpreters' performance (Ortega-Herráez 2011), they clearly rely on the presence of these professionals to administer justice on a daily basis whenever a non-Spanish speaker is in the courtroom.

We argue that trust in the interpreter's work is the operative element of court interpreting interactions. Interpreter-assisted communication is generally considered successful in our corpus, primarily because it seldom elicits reactions from the judges. For example, we frequently observe monolingual side-conversations between the defendant or the witness and the interpreters in our data. While these interactions are visible and not in line with professional ethics, they are always tolerated. The only instances where reactions to the interpreter's performance are noted occur when judges possess a certain level of proficiency in the foreign language and can detect language-related issues. Therefore, language problems appear to be the sole factors that challenge trust in the interpreter's work in our corpus (Pym *et al.* 2023). We will delve into this thoroughly in the subsequent sections.

1. Applying trust in Translation and Interpreting Studies

Trust, a frequently discussed concept in the social sciences since the 1970s (Bachmann/Zaheer 2006; Lyon *et al.* 2015), is becoming more and more prevalent in a wide range of research fields (Morgner 2018). Without a specific definition having been universally accepted (Sanz *et al.* 2009: 42), in each particular case it has been conceptualised considering the research context. In this sense, trust is considered a

tool to reduce the feeling of insecurity, reduce the fear of uncertainty, reduce the possibility of making an adverse selection, facilitate decision-making in risk scenarios, solve problems, cooperate and coordinate, among others (Sanz *et al.* 2009: 31). In the field of Translation and Interpreting Studies, this concept has been explored in an increasing number of occasions (Froeliger 2004; Abdallah/Koskinen 2007; Duarte 2012; Cadwell 2015; Olohan/Davitti 2017; Wadensjö 2018; Rizzi *et al.* 2019) and data was gathered in almost all of them via structured or semi-structured interviews.

More specifically, in public service interpreting, it has been observed that users perceive the interpreting service to be satisfactory when the interpreting professionals come from their own informal networks (Edwards *et al.* 2005: 89). According to Rizzi *et al.* (2019: 12), trust can also have different levels as, for example, personal and institutional. It has also been observed that the fact that the interpreter undertakes multiple roles during interpreting in healthcare settings has no direct impact on how control, trust and satisfaction is perceived in relation to the interpreter's work (Zendedel *et al.* 2018: 1064). However, in the field of interpreting in police settings, an implicit lack of trust in interpreters' skills has been observed in interviews conducted with police officers, which seems to be related to the need for the police officers to maintain control (Wilson/Walsh 2021).

Luhmann's system's theory is a sociological framework that views society as a complex system of interconnected components. It emphasizes the autonomy and self-regulation of various subsystems (law, politics, economy, culture, etc.) and explores how these systems process and manage information to adapt and maintain stability in a complex dynamic social environment. Luhmann's theory has been applied a limited number of times in Translation and Interpreting Studies (Vermeer 2006; Hermans 2007; Tyulenev 2009, 2010, 2012a, 2012b; Botha 2020), but has not been adopted yet in court interpreting studies. In this article, we look at the interactions that take place in the courtroom with the presence of an interpreter, focusing on the most powerful participant in this context and the one who controls the development of the communicative act: the judge. We are using Luhmann's definition of trust, who considers it to be a mechanism for reducing social complexity (1968).

In this article, trust refers to the belief that someone has conveyed information accurately or, at least, efficiently. According to Luhmann (1968, trust helps to simplify social situations where there is no indication of distrust. In other words, distrust is the functional equivalent of trust (*Ibid.*: 123). It is just as important as trust because it enables us to make decisions in situations where we do not have enough information or where the information is negative. In Luhmann's words: "trust is not interested in knowing the essential truth about a matter, but in the success of reducing complexity" (*Ibid.*: 119, translated from German). Our study explores the relationship between trust and distrust and how it impacts court interpreting, which will allow a more in-depth analysis of court interpreting as a social act (Kang 2014).

2. Method

The aim of this article is to present the elements of measurement that allowed us to analyse and describe the relationship of trust between judges and interpreters observed in the criminal courtroom. We worked with a corpus of real court proceedings held

in the city of Barcelona from January to June 2015 compiled and transcribed verbatim by the researchers of the MIRAS research group and other universities (Arumí/Vargas-Urpí 2017, 2018; Bestué 2018, 2019; Orozco-Jutorán 2017, 2018, 2019; Vargas-Urpí 2017, 2019, 2020). The corpus of transcripts[1] is divided into 66 files corresponding to the 55 criminal trials,[2] a total of 1,116 minutes, of which 339.2 are bilingual (Vargas-Urpí 2019: 482). There are 19 trials with an English interpreter, nine with a French interpreter and 27 trials with a Romanian interpreter. In the 55 hearings, in total, 14 judges and 18 interpreters are involved. The corpus was analysed using EXMARaLDA (Schmidt/Wörner 2014), a free software tool for creating, managing, and analysing spoken language corpora.

Our objective was to develop a method enabling us to depict the interactions between interpreters and judges in a trial through the lens of trust. To formulate the analytical method, we had to transition from the conceptual realm of trust or distrust to elements that could be objectively measured within the corpus. This approach needed to rely on delineating elements discernible from scrutinizing the interactions within the courtroom, specifically, within the transcripts of these interactions. To achieve this, we randomly selected three trials from the corpus, one in each language (EN1, FR20, RO29). Subsequently, we performed up to three in-depth readings to identify interactions that could assist in characterizing trust and distrust within these interactions. This analytical process formed an integral part of a doctoral thesis project, with the three readings conducted collaboratively by the doctoral student and her supervisors. The results were then subject to detailed discussion.

Initially, we aimed to identify signs of trust, but these signs were technically invisible in the interactions we observed. We did, however, identify elements that suggested the existence of a potential process of distrust. We found that there were phenomena with similar patterns: (1) cases in which the interpreter's intervention is not due to their task of conveying information manifested in the original utterance, and (2) cases in which the interpreter does not need to translate because the judge speaks in the foreign language[3] or because the judge speaks immediately after the intervention of the defendant or the witness. Both phenomena were identified as our variables and our analysis focused on identifying signs of a lack of trust in the judge's reactions to these instances.

Judges could show some signs of distrust, either because they have some level of understanding of the foreign language or because the interpreter is clearly producing a non-rendition (Wadensjö 1998). Non-renditions, meaning renditions that do not correspond to an original utterance, can be used to manage turn-taking or dialogue in a justified manner but, as exposed extensively in Orozco-Jutorán (2017), Arumí/Vargas-Urpí (2018) and Vargas-Urpí (2019), most of the time are unjustified interventions in court interpreting. Indeed, unjustified non-renditions are used to warn, give

1 All information obtained in this research has been processed according to the Spanish Law 15/1999 and the EU Regulation (EU) 2016/679 on data protection.

2 There are 5 cases where the person who does not speak Spanish nor Catalan is the witness (EN14, FR21, FR28.1, FR28.2 and RO51). In the rest of the cases, the user is the defendant.

3 Language different from the official languages of the court, which are Catalan and Spanish, although in the corpus all the hearings are held in Spanish and the presence of Catalan is very rare (Vargas-Urpí 2020).

advice or instructions, but also to add information, or even to answer instead of the other person. In such situations the interpreter becomes discursively visible by taking a separate turn in the conversation. The fact that the other participants (i.e., judge, prosecutor, and defence counsel), who are in a more powerful position, tolerate these interventions and do not interrupt him/her has to be interpreted as a sign of recognition and entrustment of this irregular practice. To exemplify these situations observed in the data, Extract 1 presents a scenario in which the interpreter responds instead of the defendant, who remains entirely disengaged from the exchange, eliciting no reaction from the judge.

Extract 1 [EN6: 334-341]

Judge:	Conste su protesta en el acta y, dicho esto, pasamos a tomar declaración a Dino Krauss. Dino Krauss? (Let your objection be noted in the record and, having said that, we will now proceed with the statement of Dino Krauss. Dino Krauss?)
Interpreter:	Sí. (Yes.)

In many situations non-renditions can become side-conversations in the foreign language. These are cases in which a dialogue takes place in the foreign language between the defendant and the interpreter. Often, moreover, the question that precedes the side-conversation and the subsequent answer that is obtained do not correspond. For example, in the following extract the interpreter takes the initiative and interferes in the communication by asking the defendant to expand the information that he provides. Extract 2 presents a scenario to exemplify this situation:

Extract 2 [RO42: 133-143]

Prosecutor:	Dígale si además de él y del resto de acusados dormían allí más personas o solamente ellos. (Tell him whether other persons slept there in addition to him and the other defendants, or whether only the defendants slept there.)
Interpreter:	Ah, în afară de aceia care acuzați, ah, împreună cu tine dacă dormeau alte persoane? (Ah, apart from the defendant, ah, did other people sleep there?)
Defendant:	Da, dormeau altă, de la altă limbă, nu români. (Yes, they slept from another, from another language, not Romanian.)
Interpreter:	De unde? (From where?)
Defendant:	Spanioli sau marochine sau nu știu. (Spanish or Moroccan or I don't know.)
Interpreter:	Mai erau și marochine și spanioli? (Were there Moroccans and Spaniards as well?)
Defendant:	Da, erau mai multe corturi. (Yes, there were many tents.)
Interpreter:	Ah, habían más ah más tiendas allí de campaña y dice habían gente como marroquíes y españoles. (Ah, there were more ah more tents there and he says there were people like Moroccans and Spaniards.)

With regard to the second variable, the judge's ability to understand and speak the foreign language, we have classified these moments into two descriptive categories: cases in which the judge intervenes after an exchange between the defendant or the interpreter in a foreign language (without the interpreter having translated this intervention into the official language) and cases in which the judge speaks in the foreign language of the proceedings (cases in which the judge speaks in English, French or Romanian). The judge's ability to understand the foreign language was assessed on the basis of the presence of reactions from which knowledge of the foreign language is inferred (no specific data was available about the language level of the judges involved in the corpus). We have identified the cases where the judge directly speaks the foreign language and situations where s/he speaks right after the defendant's intervention in the foreign language so there is no need to wait for the interpretation.

The division of the instances of visibility of the interpreter in the discourse (Variable 1) in two distinct groups, as shown in Table 1, is facilitated by the duration of the intervention. This duration is quantified through the count of interactions that occur. With regards to instances where interpreters produce information through a single intervention, our findings suggest that the nature of the information conveyed is varied. Nevertheless, there is some redundancy in terms of the purpose of the information imparted. Such interventions can be categorized into five distinct elements: event description, comprehension check, behavioural indications, questions, and responses. With regards to instances where interpreters produce information through two or more interventions, they all take place in the foreign language of the proceedings, and they generate a dialogue between the interpreter and the defendant. We have called these "side-conversations" and two distinct metrics were employed to evaluate the duration of these exchanges: number of speaking-turns and duration of the exchanges in seconds. These metrics are necessary for assessing the impact of side-conversations on the judge's involvement in the trial. They highlight how much essential trial information the judge might miss when certain speaking-turns are not translated into Spanish during these side-conversations. As presented in Table 1, the categorization of instances of the judge's comprehension of the foreign language (Variable 2) can be attributed to the judge's mode of intervention. Specifically, when the judge speaks the foreign language or immediately follows the defendant's speech in Spanish without prior translation, it enables the classification of these instances into two distinct groups.

As shown in Table 1, when instances of visibility of the interpreter in the discourse (Variable 1) or the judge's comprehension of the foreign language (Variable 2) are found in our corpus, an assessment is made of the judge's response, which may include reactions as simple interruptions, comments on the interpreter's work and a subsequent change in the communicative strategy, or the request to replace the interpreter. Each scenario is associated with a corresponding trust impact, ranging from trust being maintained to a partial or total loss of trust.

Variables	Description of elements	Judge's reaction	Trust impact
Visibility of the interpreter in the discourse	One intervention (Event description, Comprehension check, Behavioural indications, Questions, Answers)	No reaction	Trust maintained
		Simple interruption	Trust maintained
		Comments on interpreter's work and change in communicative strategy	Partial loss of trust
		Request to replace the interpreter	Total loss of trust
	Two or more interventions (Side-conversations)	No reaction	Trust maintained
		Simple interruption	Trust maintained
		Comments on interpreter's work and change in communicative strategy	Partial loss of trust
		Request to replace the interpreter	Total loss of trust
Understanding of the foreign language by the judge	Judge's interventions without prior interpreting into the official language of the proceedings	No reaction	Trust maintained
		Simple interruption	Trust maintained
		Comments on interpreter's work and change in communicative strategy	Partial loss of trust
		Request to replace the interpreter	Total loss of trust
	Interventions of the judge in the foreign language of the proceedings	No Reaction	Trust maintained
		Simple interruption	Trust maintained
		Comments on interpreter's work and change in communicative strategy	Partial loss of trust
		Request to replace the interpreter	Total loss of trust

Table 1. Trust Measuring Analytical Method

In the first reading phase, we began the analysis of the transcripts: an in-depth reading of the 66 files of the corpus, corresponding to the 55 trials. When one of these elements was identified, the metadata was entered in an Excel spreadsheet, and the excerpt in an MS Word document. All cases were described and recorded with the following metadata:

Metadata	Description
ID	Numerical code identifying each case
Trial code	Number of the proceeding where the example has been identified
Language	Proceeding's foreign language
User of the interpreting service	Witness or defendant that has the right to an interpreter
Transcript identifier start	When the extract starts (expressed in minutes)
Transcript identifier end	When the ends
Exchange start	When the exchange starts
Exchange end	When the exchange ends (expressed in minutes)
Number of exchanges	Total number of interventions in the example
Judge	Code of the judge that participates in the trial
Interpreter	Code of the interpreter that participates in the trial

Table 2. Metadata

During the second reading phase, the researchers sought to identify elements that were not detected in the previous reading and to verify those that had already been identified. Again, the software EXMARaLDA (Schmidt/Wörner 2014) was used to analyse the corpus and MS Word and MS Excel were used to record new data and revisions of previous data, if necessary. A third close reading of the 66 files in the corpus was carried out in the third phase, but here the focus was mainly reviewing the data collected in the previous two phases. When we identified one of the elements, we looked at whether the judge responds to it. If s/he does, we considered that there is a possible sign of distrust.

3. Results

The results are presented in three parts: non-renditions as a sign of discourse visibility of the interpreter, impact of knowledge of the foreign language by the judges and judges' reactions.

3.1 Non-renditions as a sign of discourse visibility of the interpreter

We applied the analysis tool and identified the interpreter's interventions that do not respond to any previous speech by any of the other participants, i.e., the cases in which the interpreter "generates" information or is visible because s/he is producing a non-rendition. In total we have identified 76 instances of discourse visibility of the interpreter and we classified these instances into six descriptive categories. All of them are situations in which the interpreters add information based on their own initiative.

Firstly, we have identified situations in which the interpreter adds information about how the communicative act (event description), i.e., the criminal proceeding,

works. In them, we observe that the interpreter expands on the information provided by the original speaker, a member of the judiciary. In the second category, we observe situations in which the information added by the interpreter in the foreign language serves to ensure that the defendant has clearly understood what the member of the judiciary has asked him or her (comprehension check). The strategy followed by the interpreter to ensure that the defendant understands the question differs from case to case. There are situations where the interpreter asks the defendant directly and cases where the interpreter adds information to ensure that the defendant understands what is being said. Thirdly, there are situations where the interpreter adds information in the foreign language to advise the defendant on how to behave (behavioural indications). These cues refer to a variety of situations, but in all cases, they involve the interpreter telling the defendant what to do in terms of how s/he should handle the communicative situation. Fourthly, we identified questions asked by the interpreter that do not correspond to any prior intervention by a member of the judiciary or the defendant (questions). We noted that the added questions are found at the beginning of the hearing or during the cross-examination conducted by counsels. In the fifth category, we have identified the answers given by the interpreter that do not correspond to any prior intervention by the users of the interpreting service (answers). Finally, we identified side-conversations between the interpreter and the defendant in the foreign language. In them, there are two or more interventions by the interpreter that do not correspond to any previous intervention. In all these situations there is information that is not translated into the language of the proceeding. This excludes some of the participants in the communicative act, that is, speakers of the official language of the proceeding who do not understand the foreign language.

Type of visibility of the interpreter in the discourse	EN	FR	RO	TOTAL
One intervention				
Event description	4	0	3	7
Comprehension check	4	2	4	10
Behavioural indications	6	1	6	13
Questions	7	1	8	16
Answers	6	0	0	6
Two or more interventions				
Side-conversations	6	1	17	24
TOTAL	33	5	38	76

Table 3. Visibility of the interpreter in the discourse

As described in Table 3, we identified a total of seventy-six cases of interpreter's visibility. In most of them, despite the interpreters deviating from their role as interpreter and disregarding the rules of the ethical codes in each of these circumstances, the judge, the prosecutor, and the defence counsel remain unresponsive, failing to hold them accountable. In 4.3 the 4 cases in which we observed some kind of prompt reaction by the judge are presented.

3.2 Impact of knowledge of the foreign language by the judges

We identified 22 situations in which the judge proves that s/he understands or speaks the foreign language. Thus, we observed that in 12 of the trials with English interpretation, the judge speaks without the need for prior translation; 7 trials in the case of French; and finally, in Romanian, there are no cases identified in which the judge intervenes without prior interpretation.

Of these 22 situations, 19 are cases in which the judge speaks without waiting for interpreting, i.e., cases in which s/he demonstrates having understood the foreign language interventions. In the other 3 situations the judge speaks the foreign language of the proceedings directly (English/French), without waiting for an interpreted utterance.

3.3 The judge's reactions

When it comes to the instances of the interpreter's discourse visibility, out of the 76 situations in which the interpreter generates information and becomes visible in the discourse, only in 4 cases did we observe some kind of prompt reaction by the judge. The four identified reactions were found in three different trials (EN4, EN5.1 and EN11), all of them with English as the foreign language. On the contrary, when it comes to situations in which the judge proves that s/he understands or speaks the foreign language, of the total of 22 situations that have been identified, 6 reactions by the judge were observed. These six reactions are spread over four different trials (EN2, EN5, EN5.1, FR28.1[4]), three in English and one in French. Those results show that judges are clearly stepping up more to their responsibilities when they have some knowledge of the foreign language (27.27% of reactions) compared to the negligible response (5.26%) to non-renditions produced by interpreters.

Table 4 lists these 10 reactions by the judges all together, which indicates in which trial the reaction was produced, the variable that was observed (whether it is due to interpreter's interventions that do not respond to any previous input, or a judge's ability to understand the foreign language of the proceedings), what the specific reaction was (including the reaction in the original language, in Spanish, and a translation into English) and, finally, the consequences of the reaction.

4 In two of these hearings (EN4 and EN5.1), signs of distrust have also been identified in relation to the interpreter's discursive visibility.

Trial	Variable	Judge's reaction	Description of the reaction's consequences
EN 4 [27-51]	Visibility of the interpreter	(REACTION1) The judge interrupts the side-conversation: "Bien, gracias, a ver..." (OK, thank you, let's see).	The judge interrupts the side-conversation without making any comment concerning the interpreter's work.
EN 4 [88-123]	Visibility of the interpreter	(REACTION2) The judge interrupts the side-conversation: "Sí, dígale que esto no es un negocio, es decir, que no porque reconozca los hechos, se condiciona que se le deje en libertad" (Yes, tell him that this is not a negotiation, namely, that just because he acknowledges the facts, it does not mean that he will be released).	The judge interrupts the side-conversation without making any comment concerning the interpreter's work.
EN 5 [133-182]	Visibility of the interpreter	(REACTION3) The judge interrupts the side-conversation: "Sí, dígale que si quiere contestar a las preguntas que le formulen o no, que tiene derecho a no declarar. Habla inglés esta señora, ¿no? Venga" (Yes, tell her whether she wants to answer the questions or not, that she has the right not to testify. This woman speaks English, doesn't she? Come on.).	The judge interrupts the side-conversation without making any comment concerning the interpreter's work.
EN11 [313-340]	Visibility of the interpreter	(REACTION4) The judge interrupts the side-conversation: "Eh... No, no, dígale que no puede hablar él. Que, si tiene alguna pregunta, se la haga a usted, y es usted quien se lo traduce" (Eh.... No, no, tell him that he cannot speak. If he has any questions, he should ask you, and it is you who translates for him)	The judge interrupts the side-conversation without making any comment concerning the interpreter's work.
EN2 [227-247]	Judge's foreign language competence	(REACTION5) The judge intervenes when there is a side-conversation between the defendant and the interpreter to interrupt this exchange, and does so in a way that makes it clear that he understands the content of the speeches in the foreign language: "A ver, a ver, dígale, tradúzcame a mí, por favor, dígale [I: Sí, señoría] que me mire la cara, lo primero"(Let's see, let's see, tell him, translate for me, please, tell him [I: Yes, Your Honour] to look at my face, firstly).	The judge interrupts the side-conversation without making any comment concerning the interpreter's work.

Trial	Variable	Judge's reaction	Description of the reaction's consequences
EN4 [403-418]	Judge's foreign language competence	(REACTION6) The judge intervenes when there is a side-conversation between the defendant and the interpreter to interrupt this exchange, and does so in a way that makes it clear that she understands the content of the speeches in the foreign language: "Son dos cosas diferentes, lo -- , usted lo está entendiendo, una cosa es si se queda en prisión o no, que se resuelve después de que se dicte sentencia o si no se dicta sentencia, se resuelve una cosa, o se resuelve otra, y la otra es si usted ha cometido los hechos, si ha cometidos este delito, lo reconoce y acepta la condena. ¿Sí o no?" (They are two different things, the -- , you are understanding it, one thing is whether you stay in prison or not, which is resolved after the sentence is passed or if the sentence is not passed, one thing is resolved, or another is resolved, and the other is whether you have committed the facts, if you have committed this crime, you acknowledge it and accept the conviction. Yes or no?).	The judge interrupts the side-conversation without making any comment concerning the interpreter's work. The judge considers it necessary to make a clarification to address the doubts of the user of the interpreting. The side-conversation is not interrupted because of the side-conversation itself, but because of the content of what is being said.
EN5 [260-285]	Judge's foreign language competence	(REACTION7) She calls into question the quality of the interpreter's performance and training. The judge shows that she is doubtful about the interpreter's work by asking a question out loud and indicating to the interpreter how to translate a term: "Robar —a sí misma—. Steal ––a la intérprete–– (Steal —to herself—. Steal —to the interpreter—).	The judge requests replacing the interpreter.
EN5 [328-474]	Judge's foreign language competence	(REACTION8) The quality of the interpreting and the interpreter's training is called into question: "Es que *detained* tampoco existe. Interpreter, I don't know your level of English, but it is "detained" (There is no such thing as 'detained' either)	The judge requests replacing the interpreter.

Trial	Variable	Judge's reaction	Description of the reaction's consequences
EN5 [328-474]	Judge's foreign language competence	(REACTION9) The quality of the interpreting and the interpreter's training is called into question: "It's wrong (talking to herself)".	The judge requests replacing the interpreter.
FR28.1 [1480-1531]	Judge's foreign language competence	(REACTION10) The quality of the interpreting and the interpreter's training is called into question: "Sí, pero ent--, lo hemos..., como es una cosa delicada, como usted lo dice directamente, entonces lo entendemos major" (Yes, but we have..., as it is a rather delicate matter, as you put it directly, so we understand it better).	The performance of the interpreter is partially disregarded, and the user of the interpreting is asked to speak in Spanish.

Table 4. Identified judges' reactions

4. Discussion

We have identified only 10 reactions by the judges that can be considered expressions of distrust, although 98 elements were identified in total. They correspond to 5 trials (9.09 % of the corpus): 4 in English (EN2, EN4, EN5.1 and EN11) and 1 in French (FR28.1). No reaction was identified in any of the trials with an interpreter for Romanian despite the fact that 38 indicators were identified. In four of these five trials, the user of the interpreting is the defendant, and in one, it is the witness. We can observe that a total of four different judges participate in these five trials. One of them participates in two different trials, both of them in English (EN4 and EN5). As for the interpreters, four different interpreters participate (one of the interpreters participates in two trials, both in English).

The reactions from the judges can be divided into two groups: (1) cases in which the judge interrupts the communicative situation without making any comment concerning the interpreter's work (here we find six situations summarized in Table 2: REACTION1, REACTION2, REACTION3, REACTION4, REACTION5 and REACTION6) and (2) cases in which we do find explicit references to the interpreter's task (REACTION7, REACTION8, REACTION9 and REACTION10) and an assessment of the interpreter's language level.

In REACTION1, for instance, the judge interrupts the side-conversation between the defendant and the interpreter in the foreign language. She does so by ending the exchange with "Bien, gracias, a ver" ("OK, thank you, let's see"), but no explicit reference is made to the event that generates this indication of distrust (the side-conversation between the defendant and the interpreter in English). Nevertheless, the judge seems to readdress the behaviour that he does not consider appropriate. We see another of these side-conversations in REACTION4. Here the judge interrupts them

by asking the interpreter to inform the defendant how speaking turns work: "Eh... No, no, dígale que no puede hablar él. Que, si tiene alguna pregunta, se la haga a usted, y es usted quien se lo traduce" ("Eh.... No, no, tell him that he cannot speak. If he has any questions, he should ask you, and it is you who translates for him"). There is one case (REACTION8) in which the language level is directly questioned: "Señora intérprete, yo no sé su nivel de inglés, pero *detained* ("Interpreter, I don't know your level of English, but it is "detained"). It is worth noting that all these instances of distrust towards the interpreter's foreign language level are concentrated in two trials. In one of them, the foreign language is English (EN5.1) and in the other, French (FR28.1).

The 10 identified reactions denoting signs of distrust have been classified regarding their potential negative implications for the trial. There are three situations: termination of the side-conversations, termination of the interpreter's intervention, and replacement of the interpreter. The case in which the judge reacts by explicitly or implicitly asking the interpreter and the defendant to stop speaking to each other in the foreign language does not have any consequences for the course of the trial or for the definition of the interpreter's role. It should be noted that side-conversations, which can extend up to 35 seconds, always occur in the foreign language, excluding speakers of the official language of the proceedings who do not understand the foreign language.

To illustrate these reactions of the judges, we have selected two situations detected in our corpus. One of them is considered a case of partial loss of trust and the other one a case of total loss of trust or total distrust – which is in fact the only trial that was suspended by the judge because of the considered non-performance by the interpreter.

In trial FR28.1 we find a partial loss of trust since the interpreter's level of knowledge of the foreign language is called into question but is not considered an obstacle to pursue with the trial. In this trial, the witness is a French businessman employing a rather specialized language and having some command of the Spanish language, while the interpreter lacks the expert knowledge and shows a clear inability to interpret. The reaction of the judge, instead of calling for a recess in court and the replacement of the interpreter, is to pursue the trial with the witness employing a limited Spanish and some sporadic assistance from the interpreter. The judge decides to settle on a very poor model of communication: the members of the judiciary will ask questions in Spanish and the witness will speak in his limited Spanish. The interpreter will step in whenever the witness asks him to do so and in doing that, becomes some sort of assistant serving the witness. The main language of communication for all court operators and for the interpreter is now Spanish, and the presence of French is reduced to the few occasions where the witness requests the assistance of the interpreter. It should be noted that both the defence counsel and the witness himself also indicate on several occasions that the interpreter's work is not accurate. However, there is never any reference to the possibility of replacing the interpreter. The witness's linguistic competence is observed in the interactions in the first part of his intervention —when he answers questions asked in Spanish without waiting for the French translation from the interpreter, when he corrects the interpreter's interventions or when he intervenes directly in Spanish— and, later on, both he and the defence lawyer admit this competence, which they indicate is by no means a full language competence. It is one of the judges who demonstrates that he understands and speaks the foreign language, in this case, French. However, the possibility of requesting the intervention of another interpreter does not seem to have been considered by the judge.

In trial EN5 we find a total loss of trust: the judge requests replacing the interpreter. The interpreter's level of knowledge of the foreign language is called into question and she is considered an obstacle to continuing with the trial. Here the defendant, an English speaker, is being charged with a theft offence, while the interpreter is a woman with limited English proficiency but quite effective communicative skills. The total loss of trust becomes evident when the interpreter is replaced, however several problems had already been identified beforehand, illustrated by the judge's reactions, that point to a loss of trust. In this case, the interpreter does not show that she does not understand or speak English. In this trial, all the signs of distrust towards the interpreter have a common denominator: the judge demonstrates that she understands English. Indeed, two of the triggers for the judge's reactions indicating distrust towards her are two English terms: *rob* and *detain*. Here, too, the language level of the interpreter is called into question. The judge considers that these are not accurate translations of the words used in Spanish, and this leads her to question the interpreter's level of English and, subsequently, her professionalism when the interpreter admits having accepted the job because no other interpreter was available. However, it should be noted that translation —in this case, interpreting— is based on the recipients assuming the existence of an equivalence that we cannot empirically prove actually exists (Duarte 2012: 20). In this context, the judge interrupts the trial and requests a new interpreter, citing what she views as an inaccurate translation of specific terms. Notably, we observe that the judge's limited knowledge of the foreign language is the sole factor triggering a complete loss of trust in the interpreter's performance.

5. Conclusions

The aim of this article was to identify and present the key measurement elements used to observe how judges in the courtroom perceive and respond to the interpreter's performance in terms of trust and distrust. We operationalized two primary variables – discursive visibility of the interpreter, and the judge's ability to understand and speak the foreign language – which were applied to analyse the corpus. By employing a method to identify evidence of distrust towards interpreters, we have gained a better understanding of how interpreting influences the interactions between the agents involved, particularly between the interpreter and the judge. Our suggestion for further research is to employ this method in larger corpora with the assistance of specific software, such as EXMARaLDA (Schmidt/Wörner 2014), to obtain quantitative data and contemplate the responsibility of other agents in the quality of court interpreting. Our findings demonstrate that trust plays a pivotal role in understanding interpreting as a social act in the context of criminal trials.

We have identified ten judge's reactions that point to the existence of potential episodes of distrust towards interpreters, which has allowed us to describe loss of trust, both total and partial. The analysis of systematic and contextualized interactions has helped us to understand the role of interpreting in this social act and how it affects the interactions between the agents involved.

Our findings indicate that loss of trust towards the interpreter only undermines the functioning of the trial in rare cases. We have also observed that judges do not react or ask for any kind of explanation in the face of exclusionary behaviour by the

interpreters and the non-Spanish speakers, such as side-conversations, which due to their long duration (more than 35 seconds in some instances) could alert the members of the judiciary. Furthermore, these non-renditions, clearly against the interpreter's code of ethics, are not enough to generate distrust reactions from judges. Although the interactions eventually take place successfully from a communicative point of view, this does not imply that they do so from an ethical point of view.

The lack of reactions when faced with all these indicators underpin the very existence of a context of cooperation between the judge and the interpreter since breakdown of trust only occurs when the judge shows some knowledge of the foreign language. As argued in Pym *et al.* (2023), court interpreting in Spain follows a model of risk management greased by several instances of trust, for instance, the judge implicitly trusts the interpreter to carry out side-conversations in a language that is not Spanish, and the interpreter trusts the judge will allow these exchanges. The corpus reveals that this model is sustained in a lack of comprehensive awareness of the role of the interpreter by the members of the judiciary who only seem to perceive the textual task of the interpreter. Indeed, the only full challenge to the interpreter's performance is produced when evidence of "supposed" inaccurate textual translation is gathered. We observe that knowledge, or self-perceived knowledge of the foreign language, shapes trust in the Spanish courtrooms. The presence of the foreign language explains the need to trust in the interpreter and, at the same time, sustains the only reasons for not trusting showed by judges.

Excessive intervention by the interpreter, who is allowed to control turn taking and to conduct side-conversations, fails to generate any reaction from the judges. In our corpus, trials involving the Romanian-Spanish language pair exhibit the highest incidence of such transgressions, with interpreters of the Romanian language being particularly prone to more errors also in textual renditions as showed in Orozco Jutorán (2019) and Vargas-Urpí (2020). Interestingly, in the majority of these cases, distrust reactions from the judge do not occur. We have only identified signs of distrust coincidentally in two cases where the judge had some knowledge of the foreign language, being English or French. Nevertheless, the rights of the French and English speakers in our data are yet to be guaranteed, they hold a comparatively better status than the Romanian speakers. This is due to the fact that the judges' knowledge of the foreign language is the only variable that prompts some degree of response or scrutiny from them.

Since presence of the English and French languages combined represents only 15.42% of the court interpreting services provided in the Catalan context in 2020 (Generalitat de Catalunya 2020), other languages with an important presence, such as Arabic (42.21%) or Romanian (7.56%) remain unacceptably out of reach of the procedural rights – not only because of the default professionalism of the interpreters but, more seriously, because of the lack of awareness by the members of the judiciary about the role of the interpreter. The presence of the interpreter in the courtroom should overshadow the linguistic complexity added by the foreign language, since this communicative situation needs to be presided by trust to be functional. In addition, trust must by no means lead to judges completely abandoning their responsibilities in conducting and monitoring the interactions in the trial. By allowing unjustified non-renditions from interpreters, or encouraging them, they make most foreign languages "opaque" from the point of view of legal protection, and their speakers more vulnerable in the justice system.

According to our data, our analysis suggests that judges intervene solely based on their expertise in a particular language. Consequently, individuals who employ languages that are relatively unfamiliar to the judiciary are left in a more vulnerable and unprotected position. To address this precarious situation, implementing a trust/distrust framework could effectively mitigate such instances of defencelessness. Such an approach would allow judges to regain control of exchanges, by enabling them to exercise a degree of scrutiny over the proceedings despite the element of complexity added by the presence of the foreign language. Improving the standards of court interpreters' professionalism is an urgent and critical matter to assure access to justice for non-Spanish speakers, but those efforts need to go hand in hand in hand with a better understanding of good practices by all the criminal justice practitioners.

Transcription conventions

The corpus, consisting of authentic court proceedings held in the city of Barcelona from January to June 2015, was transcribed verbatim by the researchers of the MIRAS research group and other universities for the TIPP project.

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