

Irish Translators' and Interpreters' Association Submission on Procedural Safeguards for Suspects and Defendants in Criminal Proceedings throughout the European Union

Provision of Legal Interpreters and Translators

Firstly, the Irish Translators' and Interpreters' Association (ITIA) would like to point out that there is no system of certification in Ireland at present. As there are no sworn translators this means that there can be problems when legal documents such as naturalisation papers, adoption papers, birth and marriage certificates originate in Ireland but are required for proceedings in other European countries. Some translators will certify translations themselves but this is not the same as a State system where translators have to pass an exam in order to be allowed to certify legal documents. The ITIA believes that there should be an examination system for sworn translators to bring Ireland into line with the rest of Europe.

9. Should there be a formal mechanism for ascertaining whether the suspect/defendant understands the language of the proceedings sufficiently to defend himself?

Yes, because otherwise it is at the discretion of the local police and it would make more sense to have a systematic system in place so that the same criteria are applied throughout the country. However, it is generally recognised that even if a suspect/defendant has a good knowledge of the language of the court, s/he has the right to have the proceedings interpreted into his/her mother tongue.

A common problem in Ireland occurs where the police and the court agree that an interpreter is needed but no interpreter can be located and it is not unheard of for a case to go ahead without any interpreter.

10. Should Member States adopt criteria to determine how much of the proceedings, including those prior to the trial should be interpreted for the suspect/defendant?

Yes, although this tends to be less problematic in common law jurisdictions such as Ireland. However, written criteria would be useful.

11. What criteria can be used to determine when it is necessary for the defendant to have separate translators and interpreters from the prosecution/court (depending on the legal system)?

Unless the translator or interpreter is appointed by the court itself, in the common law adversarial system, even 'expert' witnesses as indeed translators and interpreters would be, are classified as being 'for' the prosecution/plaintiff or 'for' the defence/respondent.

12. Should Member States be required to provide translations of certain clearly defined procedural documents in criminal proceedings? If so, which documents represent the minimum necessary for a fair trial?

Again, the translation of procedural documents tends to pose fewer problems in common law jurisdictions.

13. Should Member States be required to draw up national registers of legal interpreters and translators?

Yes, a national register that is available to police and courts throughout the country is a must.

14. If Member States set up national registers of legal interpreters and translators, would it be preferable to use those registers as a basis for drawing up a single European register of translators and interpreters or to have system of access to the registers of other Member States?

It would be preferable to have a system of access to the registers of other states.

15. Should Member States be required to establish a national scheme for training legal interpreters and translators? If so, should a system of accreditation, renewable registration and continuous professional development be established?

The Irish Translators' and Interpreters' Association believes that a National Centre or Authority for Translation and Interpretation should be established. This Centre would operate a national register of qualified interpreters, provide training courses for translators and interpreters and the legal profession and possibly operate an accreditation system. Training courses should be provided at nominal expense and on a part time basis to would be interpreters. Obviously, such a Centre would have to properly funded by the State's Department of Justice.

16. Should Member States be required to appoint an accrediting body to govern a system of accreditation, renewable registration and continuous professional development? If so, is it desirable that the Ministry of Justice work with the accrediting body so as to ensure that the views and needs of the legal and linguistic professions are both taken into account?

Yes, this is essential to ensure that legal interpreters and translators operate to a proper standard. Training courses of themselves, while useful, are only of value when they are part of an accreditation system to ensure that only suitably qualified interpreters and translators can work. The ideas of renewable registration and continuous professional development are also essential elements of such a system of accreditation. It would be beneficial for the Department of Justice to work with such an accrediting body.

17. If Member States are required to establish a national scheme for providing legal interpreters and translators in criminal proceedings, should the requirement extend to verifying that remuneration is enough to make participation in the scheme attractive for translators and interpreters?

Yes. If this is not the case (a) potential interpreters and translators will not be interested in obtaining training and accreditation and (b) interpreters and translators will not be able to make a career or indeed a living out of interpreting. In the case of languages that are regularly needed consideration should be given to hiring staff interpreters in the courts.

18. How and by whom should a Code of Conduct be drawn up and regulated?

The interpreters and translators themselves should have a large input into any Code of Conduct. At present there is no specific Code of Conduct for legal interpreters in Ireland.. Input from the police, solicitors and barristers could also be useful but the final say should rest with the interpreters and translators.

19. The Commission understands that there is a dearth of appropriately qualified legal interpreters and translators. What can the Member States do to make this a more attractive profession?

If the job of interpreting and translating is seen as a profession attainable only after training and accreditation, that should help it be seen more seriously. At present in Ireland any interpreting apart from conference interpreting is often seen as a sideline, an extra source of income but not a job in itself. It is important that the public in general should be aware that legal interpreting and translating is a highly specialised area.

20. Should there be sanctions, other than any findings of the EctHR, if a Member State fails to provide interpretation and translation where a person is entitled to it?

Yes, this is essential if Member States are to take the proposed measures seriously. A slap on the wrist from the European Court of Human Rights will not make a difference. Although Ireland is a signatory to the European Convention on Human Rights and Fundamental Freedoms, the Convention has not been incorporated into Irish law.

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