



Título artículo / Títol article:

Quality of Interpreting in criminal proceedings in Spain under European Directive 2010/64/EU

Autores / Autors

María Jesús Blasco Mayor

Revista:

Cuadernos de ALDEEU

Versión / Versió:

PDF

Cita bibliográfica / Cita bibliogràfica (ISO 690):

Blasco Mayor, María Jesús. Quality of Interpreting in criminal proceedings in Spain under European Directive 2010/64/EU. *Cuadernos de ALDEEU*, 2013 , vol. 25, p. 165-190.

url Repositori UJI:

<http://hdl.handle.net/10234/89189>

QUALITY OF INTERPRETING IN CRIMINAL PROCEEDINGS IN SPAIN UNDER EUROPEAN DIRECTIVE 2010/64/EU

MARÍA JESÚS BLASCO MAYOR
Universitat Jaume I

Abstract

In spite of the proliferation of translation and interpreting degrees in Spanish universities, most court and police interpreting is not carried out by translation and interpreting graduates. This is due to various factors, including the tensions amongst the different legal interpreting (LI) stakeholders—certified LIs, court LIs ; low socio-professional recognition of court interpreters—often lower than that of unskilled workers and the lack of specific legal interpreting training, due to the foregoing. These conditions have long created a vicious circle. Under the new European Directive¹ that has just come into force, and which will have to be transposed to their jurisdictions by European member states by October 2013, every defendant has a right to good quality interpreting. Therefore both the working conditions and the training of interpreters will have to undergo radical transformations in Spain in order to meet the standards set by the Directive, such as the creation of a national register, or perhaps national and regional registers of certified interpreters, and the adoption of a code of conduct. At the same time, the social and professional status and role of legal interpreters in Spain is in need of an urgent update considering the ongoing changes in the situation. Up to now, the system has been dominated by outsourcing of court interpreting services in most Spanish regions. This paper addresses these issues in the light of a number of initiatives that have come from different stakeholders regarding the professional regulation that is needed in the Spanish legal context. The hope is that such initiatives will contribute to a win-win situation for all parties and eliminate unfair practices.

Keywords

Legal interpreting, European Directive, transposition, training, professionalization, certification, national register, outsourcing, quality, regulation.

1. Historical, Cultural, and Linguistic Background

Probably with the sole exception of the Second Republic before the outbreak of the Spanish Civil War in 1936, Spain has always had a tradition of lagging behind its European neighbours when it comes to social change. In the modern era, the lag can be attributed to the 40 years of the Franco

dictatorship, when social and even basic human rights were reduced or practically eliminated. Spain was very much a country enclosed within its borders, and the only migration that took place was that of Spanish workers or intellectuals looking for a better future in the United States, Canada, Australia, Germany, France and other European destinations. No immigrants were coming to make a living on Spanish soil.

When democracy arrived after Franco, much needed social justice plodded on slowly in the public sphere. Under the Spanish Constitution of 1978, general human and civil rights were guaranteed; in the following years, new legislation was implemented and government commenced working towards building something resembling a modern European state.

Culturally speaking, Spain is a Mediterranean country. Spanish families play a caring and protective role when relatives are without a job or have a run of bad luck, providing for both material and moral support; this is a role which is fulfilled by the state in more socially evolved societies. As a consequence, the state has traditionally turned its back on certain duties. However positive this societal behaviour may seem to the foreign eye, in actual fact it has hindered the achievement of further social goals in Spain by keeping the welfare state at a lower level than in other Member States in the European Community, thus preventing the fulfilment of certain social needs.

The connection between social needs and linguistic needs is one that Spanish society has yet to make. Linguistic rights are identified with the political rights of the autonomous regions of Spain that have languages of their own. They concern the imposition of Spanish and the official regional languages (Catalan, Galician, Basque). There is no official body or ombudsman for speakers of other languages in Spain. The government, and society at large, cannot tell the difference between a translator and an interpreter, despite being the only European country boasting 22 universities that offer translation and interpreting degrees.

As a consequence of this permanent neglect, and despite the fact that Spain is one of the main recipients of immigration in Europe, and large numbers of European citizens choose Spain as their residence after retirement, the effort to cater for all their needs within the public services has clearly been insufficient. In many public realms, such as health, education, and justice, measures have arrived slowly, clumsily or not at all. As Gascón Nasarre explains regarding justice provisions:

Sin embargo, mientras que las causas con extranjeros han ido en aumento, se ha podido constatar que el legislador no se ha adaptado a dicha situación, quedándose en una regulación legal propia del siglo XIX. Es decir, una normativa procesal que, lejos de abordar la problemática relacionada con dicho asunto, peca de una cierta buena voluntad que resulta decididamente insuficiente en el año 2011. (32)

According to Monzó (“Legal and Translational”), Spanish translators and interpreters (TIs) are beginning to organize and make themselves socially visible by creating structures such as professional associations. But however many professional associations are now part of the Spanish scene, this proliferation of structures contrasts with recent news in the press showing just how far from visibility the community of professional TIs remains to society at large. The newspaper *El Mundo* reported that: “La policía corta el servicio de traductores [sic] en las comisarías en las puertas del verano” (5/21/2012) <http://www.elmundo.es/elmundo/2012/05/31/espana/1338473520.html>

In a country whose tourism industry represents around 13% of its GDP, and steadily grows at a pace of 5% per year, and besides the fact that Spain continues to be one of the most popular destinations for European expatriates, the Spanish Ministry of the Interior has canceled the interpreting service in police stations during the summer of 2012.² Having to cope with customers’ complaints, the hotel industry proposes that tourism students act as interpreters in police stations.

In order to give professionals a higher profile, TI communities should invest in a number of actions proposed by Monzó (“Being ACTIVE” n/p), amongst which are the following:

- Increasing the profession’s prestige by investing in social capital, working in an idealised professional culture by promoting TIs to appear as characters in fiction, publishing stories in the mass media, according a more prominent position to news of TI activities in wars, international negotiations, and so forth.
- Allowing the public to recognise quality in training (by promoting certification) and performance (adding symbolism to practice) with a view to the creation of a legal status for professionals.
- Promoting a shared identity by creating communication opportunities for professional TIs.
- Promoting distinction from other fields by spreading the use of specialised concepts and language among professionals in their interactions with clients.

The British TI community understood this professional turn long ago, through practices such as wearing the NRPSI badge to courts and police assignments; or, in recent times of trouble, seeking the help of legal and communication experts and trade unions in order to defend their professional rights against the practices of invasive private agencies. These are understandable measures considering the losses involved. Their Spanish counterparts, however, have not reached that stage yet.

2. From the Old Sworn Interpreter to the Modern Sworn Translator-Interpreter

The first data of what could be called legal translation and interpreting in Spain dates as far back as 1529. In the midst of the Spanish colonial era in America there were laws regulating the profession. A few years later, in 1583, there are records that state that the interpreter *should be capable*, and what his remuneration must consist of, as follows: “Que los intérpretes de los indios tengan las partes y *calidades* necesarias, y se les *pague el salario* de gastos de justicia, estrados, o penas de cámara” (Peñaroja, italics are mine). This is most probably the first written record related to the quality of the interpreters.

Those were the days of the birth of the sworn interpreter or *intérprete jurado*, a figure that has survived the test of time almost untouched. Several centuries later, and into a new millenium, Monzó assigns Spanish sworn interpreters, now called “sworn translator-intepreters” and which she calls “certified Tis,” the following functions and duties:

Spanish certified TIs are TIs who translate documents which must fulfil any official function and, according to the traditional formula, certified TIs must certify the faithfulness and integrity of their translations before signing and sealing them; they also interpret in official situations when required, sign and seal whatever proceedings are taken, and swear to the faithfulness and integrity of their work. They can translate and interpret from the foreign language they have been appointed to into Spanish and viceversa. (“Legal and Translational” 143)

Regarding accreditation of certified TIs, which, for historical reasons, is done by the Ministry of Foreign Affairs, again we cite Monzó’s description:

They are not required to have any specific degree but must pass a public examination organized by the Ministry of Foreign Affairs.³ In this examination they are required to translate first a journalistic or literary text (although they do not have any jurisdiction over the translation of journalistic or literary texts) into Spanish without any supporting material, then a journalistic or literary text into the foreign language (again without any supporting material), then a third text with legal or economic content into Spanish “with the help of a dictionary”. Finally they must show their oral skills in the foreign language in an interview before a panel of examiners. People with a degree in Translation and Interpreting can obtain a dispensation from sitting for this exam.⁴ This dispensation is regulated under law, but its application has been irregular and degrees have been dealt with in different ways depending on the university granting them. (“Legal and Translational” 143-144)

And also about the register of TIs:

Moreover, there is a public registry of certified TIs, which contains the names and contact details of appointed TIs, as well as the declared fees they will charge for the following year. All this appears together with specific mention of the means by which they were appointed (that is, by examination before the Ministry, university degree or recognition by a similar European professional licence). (“Legal and Translational” 144)

On the other hand, since Spanish law stipulates that private citizens must seek the service of certified TIs whenever they need to produce official documents originally written in foreign languages, exclusive jurisdiction is thereby granted (Monzó, “Legal and Translational” 146).

Its contemporary equivalent, *traductor-intérprete jurado* or sworn translator-interpreter, is an attempt by the accreditation authority, the Ministry of Foreign Affairs, to include both professional profiles in the one title. It is the only TI professional qualification regulated by law.⁵ There is a list of sworn translator-interpreters on the Ministry of Foreign Affairs webpage with the names, contact data and the fees they charge. Since this is public information, anyone in need of their services contacts the sworn TI directly, so that there is no one managing this list; that is, the Ministry receives no notice of the professional activity of the people it certifies.

If this were a proper register, Spain would only need to make the necessary adjustments to implement the new European Directive. However, nothing could be further from the truth, since the sworn TI list is far from meeting the functions stated by the Directive. This is due to certain of its features, such as:

- Most certified TIs refuse to interpret because they have translation skills but not interpreting skills. Some of them used to interpret for the courts but stopped doing so when service was outsourced and fees dropped dramatically. Only a few of them interpret for the courts at present and only at civil hearings where they are paid, not by the agencies, but by their clients, which allows them to set their own fees.
- The sworn TIs certification system has been widely criticized by universities and professional associations for the following reasons: no interpreting tests are administered; no contents, evaluation criteria, or expert board of assessment members are published; and no language level accreditation is required. To sum up, there is no guarantee of quality in the process or expert involvement in it, in spite of the fact that there is plenty of expertise in Spain thanks to excellent research carried out at universities, and the fact that researchers are also practitioners.

- The register does not cater for most languages needed in court and police assignments because there are no TIs registered for those languages.
- The “register” itself is a pdf document on a webpage, not a database, and there is no management whatsoever. Once a sworn TI is listed in the register, s/he remains there ever after;⁶ no professional checks are performed; no quality control is performed by the Ministry; certified TIs are not bound to give evidence of their work to any professional body nor required to perform any continuous professional development.
- Hence regulation is vague; in reality it is a mostly unregulated profile when compared to that of lawyers or doctors.
- There is no professional college or chartered professional body to develop and defend the profession. In Spain, such bodies (e.g., the colleges of physicians and surgeons) are granted status by the Spanish Government, which has, allegedly rejected the establishment of a College of TIs.

To sum up, the Ministry cannot guarantee that services provided by the translators it certifies are quality translations or interpreting since it performs no quality control over their work nor has any control over the number and type of assignments they accept.

3. Who Interprets in Spanish Courts and for the Police Today?

Spain has the dubious honour of having been the first European country to outsource the court interpreting service. Ever since private management of the service commenced in some autonomous regions in 2003, professionals have fled the courts. Chaos and absence of professionalism have reigned ever since: there is no quality control, no training or certification is required, and fees paid by the service providers are those of an unskilled worker—in many cases 8 euros per hour—although these agencies are in turn paid by the Justice authorities up to 50 euros per hour. Procedural rights are, therefore, not guaranteed in Spain. The same can be said about translation and interpreting in police proceedings.

Regarding interpreting in Spanish prisons, there are no interpreters in the prison system, and interpreting is carried out by convicts who speak the language. When lawyers visit their clients in prison, the prison should request an interpreter, but this is not always the case so most times other inmates who speak the language act as interpreters.

Ortega Herráez (96) describes three different models for providing court interpreting services in Spain, which are based on the different types of working relationship between the Justice administration and the interpreters in the different autonomous regions:

- Traditional model: a combination of staff interpreters and freelance interpreters. This was the original model used by the Ministry of Justice before the autonomous regions had full competence regarding the administration of justice in their territories and began the second, outsourcing model (La Rioja, Castilla–La Mancha, Baleares, Murcia). It was also used by central courts such as the Tribunal Supremo (Supreme Court) and the Audiencia Nacional (High Court), the highest national courts of justice in Spain, located in Madrid.
- Outsourcing model: prevalent in most of Spain at the moment. The administration puts out a call for tenders and private firms bid for the contract; the contract goes to the tenderer whose proposal is judged to be the most advantageous and the contractor then provides the service. The administration has no quality control mechanism.
- Public management: The Canary Islands Model. Started as a cooperative agreement between the regional justice administration and the University of Las Palmas de Gran Canaria to manage the service, it then became a system coordinated by chief interpreters who organize themselves and provide for the interpreting needs of legal clients. The functions of the coordinator figure are:
 - 1) Recruitment and assessment of certified, non-certified and non-professionally qualified interpreters
 - 2) Orientation and training
 - 3) Monitoring and supervision (González et al, qt. in Ortega Herráez 185)

According to González et al (qt. in Ortega Herráez 183-184):

The ideal interpreting supervisor is a person who has experience in interpretation, as it relates to the administration of justice, formal training in linguistics and/or advanced language studies, and preferably, formal education and/or experience in the field of administration. This comprehensive background would give the supervisor an appreciation for the problems and duties of the court interpreter and qualify the individual to oversee the clerical personnel who would fulfil numerous administrative responsibilities.

Selection criteria by the coordinator in Las Palmas de Gran Canaria (the capital of the region) follow an order of priority:

- 1) BA in Translation and Interpreting
- 2) If not, at least a Diploma in Translation and Interpreting
- 3) If not, sworn interpreter accreditation by Ministry of Foreign Affairs

- 4) Only in the event that no one with the foregoing criteria is found; then: 1) BA in Languages, 2) BA in Law, 3) BA in Tourism, 4) any other BA, plus language proficiency accreditations. If all this fails, then the applicant who shows the best linguistic competence (Ortega Herráez 140).

All this, plus very attractive remuneration - TIs get the full fee the government is paying (44 euros per hour in 2008) since no agency intervenes - has made this model the most attractive and cost effective to professionals, since elsewhere the intermediaries skim off most of the money.⁷

A similar model has been put forward by Pilar de Luna, the first Spanish magistrate to denounce continuous malpractice by unprofessional interpreters in her court. She has even dismissed interpreters sent by the agency when they failed to prove that they had proper training or professional qualifications, exercising a right that the law gives to Spanish magistrates.⁸

Other groups, mainly from academia, have followed suit, denouncing malpractice and exploitation by agencies. These groups include RED COMUNICA⁹ and CCDUTI (the Spanish association of translation and interpreting faculties and university departments).

4. First Steps Towards the Formation of Spanish Professional TI Associations

Professional associations or *colegios profesionales* have usually been promoted at universities in Spain. Universities have always felt the need to protect their graduates and to foster the creation of strong professional associations to defend their graduates' rights. And quite rightly so, since the risk is that without them anyone can enter the profession thus affecting professional standards and the need for university training.

The responsible parties for the first TI studies in Spain, the *diplomaturas* or three-year degrees that were being taught in Granada and Barcelona in the eighties, saw their efforts wasted when year after year their legitimate claim to establish a *colegio* for the profession was allegedly denied by the Government. The reason behind the refusal seems to have been the lobbying from translators and interpreters working in the ministries in Madrid, who had no formal TI training and saw their jobs in jeopardy, and lobbying from the only TI professional association at the time, whose members, mostly freelancers and literary translators, also lacked formal TI training.

However, building a *colegio* seems a necessary part of building a quality TI system as required by the Directive and by professional associations such as APTIJ,¹¹ whose members are formally trained translators and interpreters who have been working towards harmonization and have close ties with academic circles. Ideally, they should work towards an independent

professional body, together with universities, so that TI graduates find their way into the profession, professional standards and continuous professional development are promoted, and professionals are protected from agencies' *abusive* practices. Such colegios would also contribute to the quality requirements of the Directive by making sure only certified TIs entered the profession.

All in all, Spanish professional associations have a pivotal role to play in the building of the profession, as well as a significant social responsibility. It is for them to decide what kind of professionals they will accept and on what grounds.

5. Transposition into Spanish Law – Where Do We Go from Here?

The origins of Directive 2010/EU/64 can be traced back to the Maastricht Treaty (1993) and the Lisbon Treaty (2007), which, according to the European Commission Criminal Justice Portal, “*will help to make a common European area of justice where national law enforcers and judiciaries can trust and rely on each other a reality. This will increase citizens’ confidence in the fairness of proceedings, particularly in the protection of their rights when they are in a court in another country, and if they fall victim to a crime.*”

The Directive is the first legislative instrument to be passed under the Lisbon Treaty, in a number of measures designed to increase ‘mutual trust’ between Member States in relation to their criminal justice systems (Morgan). The information the Commission was receiving, mostly citizens’ complaints on the quality of translation and interpretation in member states, revealed that the requirement to provide for interpreting and translation in criminal proceedings established in the European Charter of Human Rights, which all member states are signatories of, “*was not complied with in a satisfactory way in all EU Member States*” (Morgan 6).

From questionnaires the European Commission has sent to all governments, it is known that the Spanish Ministry of Justice considers that Spain already has a register, meaning the sworn translator-interpreter list which, as has been mentioned before, does not comply with the criteria established in the Directive. However, since there are a number of areas in which Spain does comply with it, it seems worthwhile to examine the Directive (EUD) and compare it with what is already happening in the country (Harris, personal communication 2012):

- *EUD ensures right to interpretation only in criminal trials*
In Spain, Spanish laws (leyes de enjuicimiento, which are procedure codes) cover both criminal and civil proceedings.
- *EUD includes assistance for people with hearing or speech impediments*

In Spain, Spanish Sign Language interpreters are provided in practice.

- *EUD includes communication between accused and their legal counsel*
In Spain, in theory only in prisons; in practice, inmates or police officers do the interpreting there.
- *EUD recognises use of telephone interpreting and videoconferencing*
In Spain, there is some experience of telephone interpreting (in Málaga). Technology is available in state-of-the-art premises such as the Ciudad de la Justicia—law courts—in Valencia, where videoconference interpreting has been and is used.¹²
- *EUD requires translation of essential documents and that it be “of quality sufficient to safeguard the fairness of the proceedings.”*
In Spain, no translation of essential documents is provided, and there is no quality control.
- *EUD: “Member states should ensure that control can be exercised over the adequacy of the interpretation and translation.”*
In Spain there is no control mechanism.
- *EUD calls for access to national databases of legal translators and interpreters “where such databases exist.”*
Spain has no such database.
- *EUD: states must take concrete steps to ensure that interpretation and translation are of the quality required.*
Spain has taken no steps at all.
- *EUD: “Member states shall endeavour to establish a register or registers of independent translators and interpreters who are appropriately qualified.”*
In Spain this mandate may be met by the Foreign Affairs list, although it is unclear
- *EUD: Interpreters must be required to respect confidentiality.*
In Spain there is no professional code of ethics.
- *EUD: There must be a mechanism for deciding whether a person needs and interpreter.*
In Spain there is no such mechanism.
- *EUD proposes the right to challenge a decision that an interpreter is not needed and to “complain” about bad interpreting.*
In Spain appeals can be made; however there is no way either for the

defendant or the lawyer to know whether the interpreting is good or bad.

- *EUD calls for training of judges and lawyers on conducting proceedings through an interpreter. It says nothing about the training of the interpreters although it mentions “qualified interpreters.”*
Spain has no provision for training legal personnel and no training programmes specifically for court interpreting at any level. For a while, sworn interpreter status was given to graduates from university TI programmes who requested it, but this has stopped. In any case, the universities only give training in a few languages.
- *EUD says nothing about accreditation beyond stating that there must be a register of qualified interpreters.*
In Spain, the system of certifying sworn interpreters through Foreign Affairs is an anachronism.
- *EUD: The use of an interpreter must be recorded.*
In Spain all criminal proceedings are video recorded.
- *EUD says nothing about pay*
In Spain the administration pays up to 60 EUR per interpreting hour to outsourced agencies, who in turn pay the interpreter between 8 and 12 EUR per hour. Pay is a major concern of the interpreters and low pay is a major disincentive.

According to the Directive, the European Commission must report on compliance to the European Parliament and Council by October 2014, and the Directive should be transposed by member states by 27 October 2013. It is not the best of times to undertake a structural reform that may mean an increase of public expenditure. Spain and other governments might give agreement in principle but say that the economic crisis prevents putting new measures into effect immediately. In order to avoid this happening, a system that is cost-effective and assures that public resources are correctly allocated and public money wisely spent needs to be designed. For years a lot of public money has been going to private agencies with no regard for quality or even the notion that they were providing a public service at all. Public administrators cannot and should not turn a blind eye any longer, since they are ultimately responsible.

6. Fundamentals of a Quality System for Legal Interpreting in Spain

There is already a consistent body of research regarding quality in interpreting. In Spain, Angela Collados and her team of researchers have conducted various research projects, all financed by the Ministry of Education

and the Ministry of Technology, on the quality parameters of simultaneous interpreting from the point of view of the users' expectations (Collados; Collados et al, *La evaluación*; Collados et al, *Qualitätsparameter*). This research results have had an impact both in Spain and in international academic circles. However much these findings can be applied to most cases, legal interpreting requires not only quality interpreting but also a quality management system. If anything, the stakes are higher in the case of legal interpreting because it should be run efficiently and smoothly for it to be useful; and it should be accountable, because it is financed with public revenue. In the same vein, Ortega Herráez ("Expectativas") states " [...] en la medida en que se garantice la calidad del proceso se puede influir en la calidad del producto" [The quality of the product depends on the quality of the process] (the translation is mine).

If we look at the concept of quality in business, it is defined as the *non-inferiority* or *superiority* of something, and as *fitness for purpose*. There are five areas of quality in a business context:

1. Producing: providing something
2. Checking: confirming that something has been done correctly
3. Quality control: controlling a process to ensure that the outcomes are predictable.
4. Quality management: directing an organization so it optimizes its performance through analysis and improvement.
5. Quality assurance: obtaining confidence that a product or service will be satisfactory (normally performed by a purchaser).¹³

More specifically, with regard to quality in the public services, successful public services are those that are:

- easy to access
- delivered promptly
- responsive to reasonable customer needs
- communicated clearly and consistently
- delivered to high standards; and
- delivered in cost effective ways.¹⁴

The Spanish government and public services are undergoing a deep transformation which is definitely the way to go, but, as with all structural changes, it needs time. Striving to improve quality in the public services is not new and quality protocols are being implemented in some public administrations, such as the Ministry of Justice and the Ministry of the Interior, two of the main public sector employers of interpreters in Spain.

In the literature on quality control found on some Spanish ministries' websites, there is mention of quality systems procedures, such as benchmarking. Benchmarking is a tool that allows the evaluation and improvement of quality by comparing the results of a certain institution with another which is considered to be a reference in the field due to its good practices. Once the latter organization is identified, both processes and management are compared.

Another recent development regarding quality control in the public services in Spain is the establishment of service charters, which set out the standard of practice users can expect from the public service. Some ministries, regional and local authorities in Spain have developed these charters; even the Ministry of Justice boasts to have such charters implemented in some of its services.

In want of a reference on quality management of the service, most Spanish researchers on public service interpreting have looked to the British model, a model in the making and therefore far from perfect, but with a number of features that make it a serviceable model to be emulated for many reasons. The brain behind it, Ann Corsellis, proposed a framework for the provision of language services in the public realm that, to some extent, was adopted in the United Kingdom and has been operating until recently.¹⁵

Framework for the Provision of Public Services across Languages and Cultures

A. Providing a service includes the following tasks, which are the responsibility of the public service in question:

1. Finding out about the clients and their requirements
2. Preparing the service to meet those requirements
3. Giving information about the service to the clients
4. Exchanging information and negotiating decisions with clients
5. Delivering an appropriate service
6. Quality Assurance
7. Researching and developing the service

B. *By using, at each stage, the combination of professional skills below:*

<p>COMMUNICATION</p> <ol style="list-style-type: none"> 1. Interpreters 2. Translators 3. Language-aware personnel 4. Bilingual service Personnel 	<p>SERVICE DELIVERY</p> <ol style="list-style-type: none"> 5. Service professionals with relevant expertise 	<p>MANAGEMENT</p> <ol style="list-style-type: none"> 6. Planners, organisers, researchers with relevant expertise
--	---	---

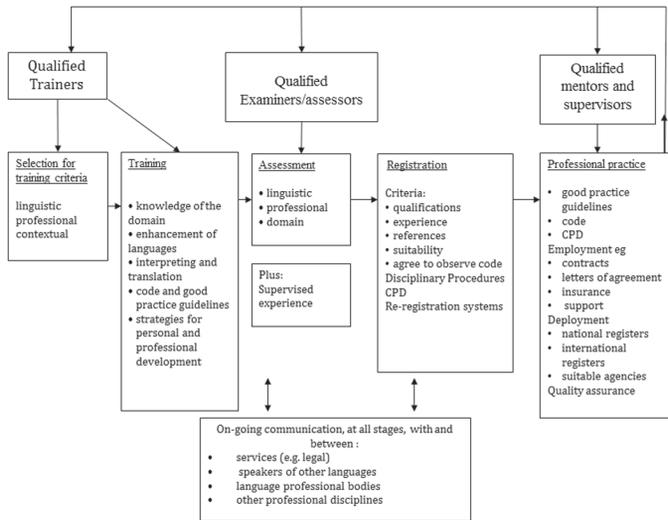
C. *Each skill in B above is made available through consistent, transparent:*

1. Selection
2. Training
3. Assessment at appropriate levels
4. Observance of code of ethics and good practice
5. Appropriate employment arrangements
6. Deployment
7. Support and Continuous Professional Development

(Corsellis 1995)

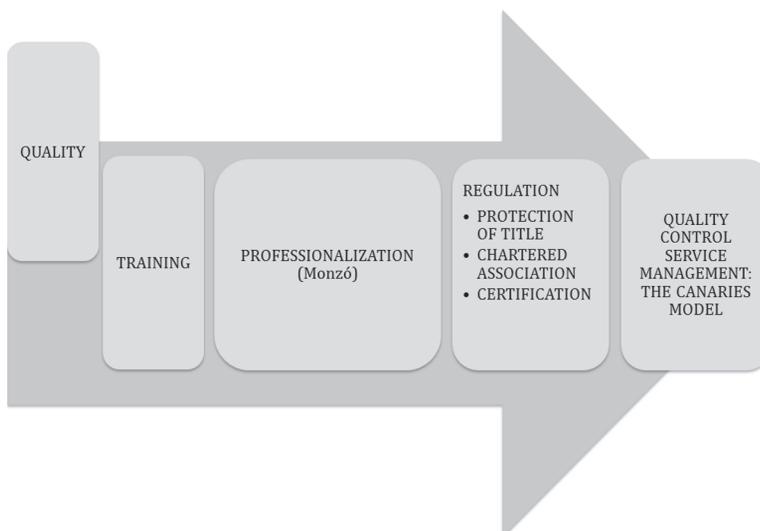
Corsellis' proposal is a management system for the provision of public services based on the involvement of those who work in them, such as administrators, suppliers, planners, organisers and researchers with expertise, on the basis of consistent and transparent professional selection, training, assessment, and support of interpreters. The framework was further expanded to include all the components of the profession (Corsellis, Aequitas), offering a detailed picture of the necessary processes and steps that should take place in order to guarantee quality from the training stage to professional supervision:

PSTI: COMPONENTS OF THE PROFESSION



Since the fabric of the legal interpreting professional was torn apart in Spain once external agencies entered the field and took control of it, a new system needs to be implemented from scratch. To start at a very basic level, a simple but effective quality system should be designed to include the four pillars of the profession: training, professionalization, regulation and quality control.

Figure 1: Quality system for legal interpreting in Spain



Since professionalization has already been dealt with earlier in this paper (see paragraphs 1 and 4), I will concentrate on training, regulation and quality control in the next pages.

7. Training

As stated in the Directive, training must be provided for judges and legal personnel to work effectively with an interpreter. The Directive does not mention training of interpreters, but it does say that, in order to be entered in the register, interpreters should be qualified.

Spanish universities offer basic translation and interpreting training in undergraduate courses and some master or other postgraduate courses. At present, there is no postgraduate course in Spain specifically training legal interpreters. Universities willing—and with the necessary resources—to start running these courses should bear in mind that the languages they cater for do not include a number of languages normally used in courts and in police interviews.¹⁶



Figure 2: Training as Part of a Quality System for Legal Interpreting in Spain

Legal TI training, then, should be undertaken by universities along with professional associations and/or a *colegio*, making sure there are language-independent TI courses to cater for the less common languages.

The matter of certification is not an easy one. Since the Interpreting Office, or *Oficina de Interpretación de Lenguas* within the Foreign Office is, by law, the highest authority on translation and interpreting in Spain,¹⁷ it is thus the agency to decide whether it can undertake certification of court interpreters, and if it will do it. The complexity of certification in this area calls for a number of legal TI experts working together with the Ministry of Justice and the Oficina, if it finally decides to intervene, in order to design certification tests that are valid and reliable.

Ideally, a *colegio* could also intervene in certification, as is the case in Spain for lawyers, who have to take a master course and pass a certification exam issued by one of their professional *colegios*. A *colegio* could also be responsible for operating the register, as is currently done in the case of public lawyers who work for the Justice administration.

Universities agreeing on a national legal TI curriculum, which only those with the appropriate expertise would be allowed to teach, could also resolve certification; and assessment could be arranged by universities through their *tribunales evaluadores* (assessment commissions). There are many possibilities that need to be carefully considered. Policy makers should get together with experts and look at such possibilities in order to make arrangements that would satisfy all the stakeholders.

Regarding training curricula and materials, a number of efforts have already taken place at the European level to establish a common framework that promotes trust between member states when using another member state's professional interpreters register in accordance with the spirit of the Directive. DG Justice of the European Commission is confident that these projects will help a correct transposition of the directive in member states. The pioneering projects Building Mutual Trust and AVIDICUS both deal with legal interpreter training at a European level.¹⁸ A number of recently awarded projects deal with quality training, certification and assessment in Europe, showing DG Justice's interest in promoting quality interpreting and translation in the criminal justice area.

Regarding training in Spain, greater emphasis should be placed on establishing links with the judicial authorities so that courses and training materials are designed to be practical and trainees can benefit from work placements. This would be the way to start building bridges between future practitioners and the workplace. Judicial operators, such as judges and lawyers, should be included in interpreter training projects, teaching modules and courses.

8. Regulation and Certification

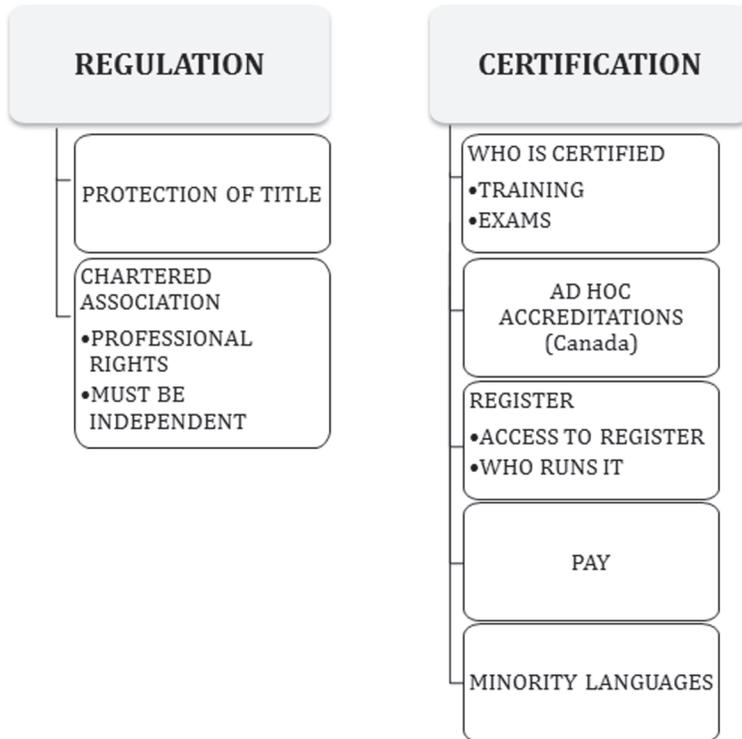


Figure 3: Regulation and Certification of Legal Interpreters in Spain

As for certification, since there is no previous effective certification of court TIs in Spain, a brand new testing system needs to be designed.¹⁹ There is a major trend towards unification of certifications, or at least mutual recognition of certifications between member states, and some other countries already have sound certification systems. Therefore the new Spanish certification system should, ideally, be drawn from existing good practices in the field. All in all, it should be a system that

- Is reliable, based on real situations, on previous experience, on research, on scientific testing methods.
- Is open and transparent: there should be public availability of evaluation criteria, evaluation boards, types of exams, preparation materials.

- Establishes prerequisites to obtain certification: Should certification be available only for TI graduates, only for graduates in languages, or for graduates at large? Should TI graduates benefit from a simpler certification process?
- Establishes two clearly differentiated paths, legal interpreter and legal translator, and includes this distinction in the regulation.
- Promotes partnerships with established institutions such as CIOI (UK) and similar organizations with a record of good practices in the field of testing for interpreting in the public services.
- Adapts old certificates to the new Directive requirements, such as in the case of *traductores-intérpretes jurados* (sworn translator-interpreters), who might automatically act as legal translators since they have jurisdiction over legal documents, but whose professional practice is mostly translating civil documents, not criminal ones. Serious concerns have also been expressed by stakeholders about *traductores-intérpretes jurados* acting as interpreters without specific interpreter certification or proof of professional interpreting practice.

There are, however, some major concerns and issues from all stakeholders that deserve to be mentioned:

- Should TI graduates be given priority in job offers? Some service users seem to think so (De Luna).
- How is access to training for all to be guaranteed? A possibility is to optimize resources by making basic TI within-degree courses open to external students and completing that training with specialized courses.
- How is access to the profession to be guaranteed for people who interpret in languages of limited diffusion?
- Should pay be included in any regulation?
- What code of ethics should be established and by whom? The certifying body, the Ministry of Justice, a *colegio profesional*? All of the above?

9. Quality Control

As has been said earlier, the Justice administration has sufficient means to establish quality control mechanisms, as stated in the Directive, for it has already shown that it is perfectly capable of doing so in many other public services. However, in this case quality control is something of an illusion,

since there is often no way for anyone on the spot to know if the interpreter is making mistakes, and so the system has to be based on trust.

- For legal operators to trust interpreters many things will have to change in Spain, from professional associations to regulation to profesionalization.
- The Canary Islands Model, as mentioned before, guarantees that quality is primarily controlled by an interpreter-coordinator in charge. It should be extended.
- Also, videorecording of interpreted proceedings should be made available for checks and further reference by the administration.

10. Conclusion

All the parts of the mechanism that could be implemented in Spain have been presented, and their role and interactions have been discussed. Spain is a mature enough democracy to develop and enforce public policies that are at the forefront without demanding an extra effort from the taxpayer. Spanish public higher education institutions lead research projects, both at national and international level, whose results are ready to be transferred to society. A number of such institutions are prepared and ready to undertake the challenge of training court and police interpreters to work in the Spanish public services. Professional associations are playing, and should keep on playing, a pivotal role in the making of the profession in Spain.

It remains to be seen if Spanish government officials and policy makers entrusted with transposition of European Directives in the Ministry of Justice will call meetings with all stakeholders and start working on the transposition of the Directive into national law. At this very troubled moment, Spain needs to show leadership in the public arena, in specific areas where it has the expertise, because it has been investing on it, and show Europe and the rest of the world that taxpayers' money is wisely spent on sound, trustworthy and professional public services that embody the European spirit of mutual recognition and trust within the European justice area. The Spanish Justice Secretary's words last May in his speech before the Spanish Parliament defending the budget seem to capture this very spirit:

España lucha hoy por demostrarle al mundo que puede dotarse de las condiciones de competitividad que hacen de ella un país fiable, seguro, eficaz, y perfectamente capacitado para asumir cualquier empresa que se le confie. [Spain fights today to show the world that it can develop the competitiveness conditions which make it a trustworthy, secure and efficient country, and perfectly capable of undertaking any enterprise it is entrusted with.]²⁰

It is November 2012 and the final countdown has started.

WORKS CITED

- Braun, Sabine & Judith L. Taylor, eds. *Videoconference and Remote Interpreting in Criminal Proceedings*. Guilford: U of Surrey, 2011.
<http://www.videoconference-interpreting.net/BraunTaylor2011.html>
- Collados Aís, Ángela. *La evaluación de la calidad en interpretación simultánea. La importancia de la comunicación no verbal*. Granada: Comares, 1998.
- and Macarena Pradas Macías, Elisabeth Stévaux, Olalla García Becerra, eds. *La evaluación de la calidad en interpretación simultánea: parámetros de incidencia*. Granada: Comares, 2007.
- and Emilia Iglesias Fernández, Macarena Pradas Macías, Elisabeth Stévaux, Hrsg. *Qualitätsparameter beim Simultandolmetschen. Interdisziplinäre Perspektiven*. Tübingen: Narr Verlag, 2011.
- Corsellis, Ann. *Non-English Speakers and the English Legal System*. Institute of Criminology, U of Cambridge. *Cropwood Occasional Paper* 20 (1995).
- “PSTI: Components of the Profession.” *Aequitas: Access to Justice across Language and Cultures*. Ed. E. Hertog. Antwerp: Lessius Hogeschool, 2001. 217.
- *Public Service Interpreting. The First Steps*. Basingstoke: Palgrave Macmillan, 2008.
- “Seven EU Projects – A Journey towards a Regulated Language Profession.” *Interpreting Naturally. A Tribute to Brian Harris*. Ed. María Jesús Blasco Mayor and Amparo Jiménez Ivars. Bern: Peter Lang, 2011. 143-163.

De Luna Jiménez de Parga, Pilar. "Alternativa para la contratación de los intérpretes y traductores judiciales que han de trabajar en los Tribunales de Justicia, frente al sistema actual." *Documento sin publicar*, 2009.

Gascón Nasarre, Fernando A. "Una breve radiografía de la interpretación judicial en España." *La linterna del traductor* 6 (2011): 31-40. http://www.lalinternadeltraductor.org/pdf/lalinterna_n6.pdf

González, R.D., Vásquez, V.F. & Mikkelsen. *Fundamentals of Court Interpretation: Theory, Policy and Practice*. Durham: Carolina Academic P, 1991.

Harris, Brian. "European Directive and Spain." *Personal communication*, 2012.

Monzó, Esther. "Being ACTIVE in Legal Translation and Interpreting: Researching and Acting on the Spanish Field." *Meta: Translators' Journal* 50.4 (2005).

—. "Legal and Translational Occupations in Spain. Regulation and Specialization in Jurisdictional Struggles." *Translation and Interpreting Studies* 4:2 (2009): 135-154.

Morgan, Caroline. "The New European Directive on the Rights to Interpretation and Translation in Criminal Proceedings." *Videoconference and Remote Interpreting In Criminal Proceedings*. Ed. Sabine Braun and J.L. Taylor. Guilford: University of Surrey, 2011. 5-10.

Ortega Herráez, Juan Miguel. "Expectativas de calidad en interpretación judicial y policial por parte del cliente-Administración: el caso de la subcontratación de servicios lingüísticos en España." Paper presented at *II Congreso Internacional sobre Calidad en Interpretación*, Almuñécar, Granada (24-26 de marzo, 2011).

—. *Interpretar para la justicia*. Granada: Comares, 2011.

Peñaraja Fa, Josep. “Historia de los intérpretes jurados.” *La linterna del traductor*. 2004. http://traduccion.rediris.es/6articulos_a.htm

Townsley, Brooke, ed. *Building Mutual Trust: A Framework Project for Implementing EU Common Standards in Legal Interpreting and Translation*. 2011. <http://www.lr.mdx.ac.uk/mutual-trust/mtdocs/BMT%20Report.pdf>

SECONDARY SOURCES

VV.AA. (2011) *Libro blanco de la traducción y la interpretación institucional. Conocer para reconocer*. Gobierno de España, Ministerio de Asuntos Exteriores y Cooperación, Comisión Europea, RITAP, APTIJ.

TRAFUT Madrid Workshop. 15 and 16 March 2012

VII Jornadas de traducción e interpretación judicial. Universitat Jaume I, Castellón, Spain, (2-4 July, 2012).

EULITA: <http://www.eulita.eu/>

CCDUTI BLOG: <http://ccduti.wordpress.com>

RED COMUNICA: <http://red-comunica.blogspot.com/es/>

EUROPEAN COMMISSION JUSTICE PORTAL: http://ec.europa.eu/justice/criminal/index_en.htm

Acknowledgments:

This paper, part of which was presented at IATIS Belfast in July 2012, has been inspired by two trailblazers of Public Service Interpreting, Brian Harris and Ann Corsellis – the giants upon whose shoulders we stand –, and has profited from their unconditional help and guidance, as well as from the contagious energy of a bunch of PSI experts I have had the luck to meet and the honour to work with. And of course, to Pilar de Luna, who stirred magistrates and knocked on our door. To all of you, a huge “thank you.”

NOTES

¹ Directive 2010/64/EU of the European Parliament and of the Council of October 20, 2010, on the right to interpretation and translation in criminal proceedings <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:EN:PDF>

² In August 2012 Spain beat its own record of monthly arrivals, having registered 7.9 million visitors. Source: http://en.wikipedia.org/wiki/Economy_of_Spain/

³ They are required to have a degree now, but not at the time Monzó's article went to press.

⁴ Since Monzó's article was published, the Ministry of Foreign Affairs has stopped the exemption and now everyone has to take the oral test.

⁵ Real Decreto 1665/91. Desarrolla la Directiva 1989/48. Real Decreto 1665/1991, de 25 octubre MINISTERIO RELACIONES CON LAS CORTES Y DE SECRETARÍA DEL GOBIERNO (Spanish Official Gazette 280 [November 22, 1991]: 37916); TITULOS ACADÉMICOS Y PROFESIONALES-COMUNIDAD ECONÓMICA EUROPEA. The latter approves standards for recognition of the higher education degrees and diplomas held by citizens of member states of the European Economic Community that require a minimum of three years of study.

⁶ Cases of deceased TIs still being listed have been reported.

⁷ It has recently transpired that private agencies have been expanding their businesses to European and US cities, probably with the help of the fees they are paid by the Spanish governments. There is concern amongst the interpreting community as to whether this could be a case of misappropriation.

⁸ Ley de Enjuiciamiento Criminal (LECrim)

⁹ <http://red-comunica.blogspot.com.es/>

¹⁰ <http://ccduti.wordpress.com>

¹¹ APTIJ, Asociación Profesional de Traductores e Intérpretes Jurados y Judiciales, is member of EULITA (European Legal Interpreters and Translators Association).

¹² Director of the Ciudad de la Justicia, Valencia. Personal communication.

¹³ Extract from Wikipedia: [http://en.wikipedia.org/wiki/Quality_\(business\)](http://en.wikipedia.org/wiki/Quality_(business)), accessed 15 October 2012.

¹⁴ Extract from House of Commons Committee of Public Accounts, *Delivering High Quality Public Services for All*, July 2006.

¹⁵ Effective February 2012, the UK Ministry of Justice outsourced all the court interpreting services for which it was responsible to a private company called Advanced Language Solutions (ALS). The contract has blatantly failed its purpose, which was to reduce costs without prejudice to quality, and is now being investigated by a House of Commons Select Committee. ALS has now been bought by CAPITA, a large service provider, which has conveniently rebranded it CAPITA Translation and Interpreting.

¹⁶ For languages in Spanish courts see Ortega Herráez 2011.

¹⁷ BOE (Boletín Oficial del Estado): <http://www.boe.es/boe/dias/2009/12/24/pdfs/BOE-A-2009-20767.pdf>

¹⁸ There have been previous European-funded projects such as AGIS, GROTIUS and GROTIUS II, which helped pave the way to the EU Directive (Corsellis, “Seven EU Projects”).

¹⁹ DG Justice of the European Commission has just granted two new projects to Spanish universities to work towards development of certain areas of the Directive; one of them, QUALITAS, led by the University of Alicante, is aimed at certification at European level.

²⁰ Speech of Justice’s Secretary, Alberto Ruiz Gallardón, before the Spanish Parliament defending the budget (22 May 2012).

