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RECOMMENDATIONS TO LEGAL
REPRESENTATIVES ON HOW TO HELP GET
THE MESSAGE ACROSS**

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INTERPRETING AT THE CJEU: RECOMMENDATIONS TO LEGAL REPRESENTATIVES ON HOW TO HELP GET THE MESSAGE ACROSS

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Abstract:

The Court of Justice of the European Union is a multilingual institution not unlike other EU institutions, with the Rules of Procedure regulating the language regime of its different proceedings. The European Commission, legal representatives and Agents of the Member State Governments must navigate the multilingual setting of the Court's hearings, speaking and listening through the medium of simultaneous interpretation. The (necessary) use of linguistic mediation involves the risk of loss of meaning. This paper addresses this problem by briefly describing the Court's relevant language use rules and the mental process of interpreting, with finally making some recommendations to ensure that the message communicated in the pleadings, answers and closing arguments gets across to the judges and the Advocate General.

keywords: Court of Justice of the European Union, interpreting, multilingualism, language of the case

1. Introduction

The language regime of the proceedings before the Court of Justice of the European Union (the Court and the General Court, based in Luxembourg), its implications for interpretation and planning the linguistic aspects of the hearing are of essence in securing access to justice in a multilingual European Union.³ The paper describes the language rules governing the hearings of the CJEU and the work of interpreters, from the general working methods to the specific preparation for court interpreting at the hearing. Based on survey of freelance interpreters working at the CJEU, the paper gives recommendations for easing the work of the interpreters with the important goal of getting the message across to the judges and other participants of the hearing.

2. Rules governing language use before the CJEU

The European Union is a multilingual polity, with legal guarantees to ensure the use of the official languages of the EU in its institutions. As Olga Łachacz, Rafał Mańko note, “[t]he general aim of multilingualism in the EU is to reconcile integration with the sovereign equality of Member States, regardless of the extent to which their languages are spoken. The *ratio legis*

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³ Márta Seresi, Petra Lea Láncoş: Tolmácsolás az Európai Unió Bíróságán - A gyakorló tolmácsok szemével. Magyar Jogi Nyelv, 2017/2., 1-7., 1.

of multilingualism lies in the direct effect of EU law, which affects not only governments, but also natural and legal persons and therefore should be accessible in all official languages.”⁴

The Court of Justice of the European Union’s Rules of Procedure (RoP) set forth the details governing language use before the court, listing all official languages under Article 36 that may be used as “the language of the case”. The language of the case is crucial in both written and oral proceedings, since all documents and pleadings must be rendered into the language of the case through translation and interpreting (Article 38 paras 1-2, Article 39 RoP). Nevertheless, Member States, non-Member States and witnesses or experts may use, or may be authorized to use another language, and in oral proceedings, the judges and the Advocate General may also use another official language (Article 38 paras 3-8 RoP). According to Article 37 RoP, it is the applicant that shall choose the language of the case, except where the defendant is a Member State. Finally, where the parties jointly or separately request that another language be used, the conduct of the proceedings in another language may be authorized (Article 37, paragraph 1, items a-c RoP). In the case of preliminary ruling procedures, the language of the case will be that of the referring court (Article 37, paragraph 3 RoP).

The importance of the language of the case is that it is always used during the oral procedure, therefore, interpreting to and from this language is guaranteed during the hearing.

3. Status and qualifications of EU interpreters

Interpreters wishing to work for the EU institutions must hold a post-graduate degree in conference interpreting and must also pass a test organized by the Commission and the European Parliament testing the consecutive and simultaneous interpreting skills of the candidates in all of their languages and “in each direction”, e.g. from Hungarian to English and from English to Hungarian.⁵ Interpreters may only interpret those directions and languages they have successfully passed the accreditation test for. Interpreters who are also officials of the EU must have passed an EU concourse as well and work full time as interpreters assigned to the Commission, the European Parliament or the CJEU. Meanwhile, freelance interpreters are selected on a needs basis for specific assignments in the framework of short term or long term recruitment. Besides proficiency in their working languages in the tested interpreting techniques and directions, interpreters must be impartial and ensure the confidentiality of the documents they access and the speeches they interpret.

Having passed their accreditation tests, interpreters are assigned to the „Hungarian”, „Greek”, Spanish” etc. booth. Here, they work on assignments typically in groups of two or three. This is because interpreting is highly tiresome (some have likened it to the stress experienced by aviation traffic controllers) and the quality of interpretation starts to deteriorate after ca. 20 minutes.⁶ Thus, interpreters must share the work in the booth, switching regularly to allow for short resting periods. In the booth, interpreters help each other by handing over documents,

⁴ Olga Łachacz, Rafał Mańko: Multilingualism at the Court of Justice of the European Union: Theoretical and Practical Aspects. *Studies in Logic, Grammar and Rhetoric*, 34 (47) 2013, p.79 DOI: 10.2478/slgr-2013-0024

⁵ Seresi-Láncos op. cit.

⁶ Ildikó Horváth: Interpreter Behaviour: A Psychological Approach. *Hang Nyelviskola Bt.*, 2012.URL: https://knowledge-centre-interpretation.education.ec.europa.eu/sites/default/files/ildiko_horvath_interpreter_behaviour_a_psychological_approach_0.pdf

searching for and finding terms, jotting down numbers and names or even bringing coffee or pouring water for their boothmate.⁷

While those interpreters who are EU officials are bound to the institutions they are employed by, as freelance interpreters can accept assignments with any institution of the EU. Interpreting for the European Parliament requires a deep knowledge of the structure of the institution, its party groups, members and current affairs, and involves the interpretation of shorter speeches where the narrative of the speech must be reconstructed quickly. The register of speeches is more informal and interpreters must work with a vast vocabulary. Meanwhile, working for the Council and the Commission requires preparation involving typically draft legislation or presentations made available on the interpreters' SCIC-operated website. Meetings are more formal and involve working with technical terms. These assignments do not include a preparatory work day, and amount to typically 7-8 hour workdays.

5. Language regime of the hearing

CJEU interpreters (EU officials and freelance interpreters alike) facilitate communication among judges, lawyers, and litigants who may not share a common language, making their role essential in the justice system. The interpretation services at the CJEU are managed by a special unit of the Court (Interpretation Directorate) that coordinates the assignment of interpreters based on the specific needs of each case, language requirements, and the availability of interpreters.

While the EU has 24 official languages, proceedings before the CJEU are potentially interpreted into 23 languages (excluding Irish for the time being). Besides the language of the case, interpretation into the *de facto* working language of the CJEU, i.e. French is always provided,⁸ as well as interpretation into another widely used language, typically English. Interpretation into FR is recorded for future reference and may be consulted by the Court's referendaires.

Pivot languages are widely known languages, which typically serve as a bridge between the language of the case and other official languages, to which direct interpretation is difficult to provide from the source language. For example, if the language of the case is Hungarian, the FR and EN pivots ensure mediation into, for example, Estonian and Maltese. Interpretation is provided between the language of the case, possible pivot languages and the language of the judges, and that of the audience (in case the latter have registered in advanced and asked for

⁷ Seresi Márta, Láncoş Petra Lea: Szinkrontolmácsok együttmüködése a tolmácskabinban. Fordítástudomány Vol. 22., No. 2. (2020), pp. 42-43.

⁸ The ombudsman had to deal with the question whether the fact that none of the institutions in general, and the CJEU in particular did not choose a working language meant that they cannot advertise vacancies focusing on the *de facto* working languages that they use. In her decision, the European Ombudsman noted that “[t]he fact that institutions may not have formally chosen ‘working languages’ under either Article 6 or Article 7 of Regulation 1/1958 does not prevent them from evaluating the needs of the service for any given vacancy and from deciding, in that context, that knowledge of specific languages be required for that vacancy.” Since judges of the CJEU deliberate in French it is necessary to recruit lawyers to the CJEU with a good command of French. Therefore, such a recruitment policy is “objectively justified and proportionate and therefore in line with the requirements of the Charter, the Staff Regulations and the applicable case-law.” Decision Case 1940/2022/EIS. URL:<https://www.ombudsman.europa.eu/en/decision/en/167977>.

interpretation). Therefore, when planning the language regime of the proceedings, interpretation must be ensured in:

- the language of the case;
- pivot language(s), typically: FR and/or EN;
- other official languages used in the hearing (judges, AGs, Member State languages, and audience groups' languages granted by the Court).

Pleadings and other oral submissions will only be directly understood by those speaking that specific official language, all others will be listening to the interpretation of thereof. It is therefore of utmost importance that legal representatives be aware of the working methods and needs of interpreters to work efficiently and fully convey the speakers' message to the judges and Advocate General.

5. How do EU interpreters work?

When working for the CJEU, interpreters have an extra day of preparation before the day of the hearing. Preparation includes access to the files of the case, such as the parties' application, defence reply, rejoinder, the national court's questions, the intervening parties' submissions, possible questions from the judges or the Advocate General. The actual interpreting takes place the following day, with the hearing lasting between one to four hours, but may vary depending on the case.

Hearings are very formal and solemn and have a strong chilling effect on interpreters, since they are – in contrast with lawyer linguists who prepare the translations for the purposes of the CJEU – typically not lawyers. Besides the formal register, interpreters work with the technical terms of the case. During their preparatory day, interpreters go through the case file, read the interventions, preliminary reference, report for the hearing etc. They will build a glossary for the case with the relevant terms in the source and the target language. Where a provision of legislation is cited verbatim, they make copies of it in the source and the target language. They list relevant case numbers, case names, and legislation.

During their preparation, interpreters try to reconstruct the case and understand the parties' different arguments and narratives. To this end, familiarity with the case helps them quickly process the information during the hearing and interpret more faithfully. Why? The process of interpretation involves understanding the utterance in the source language, grasping the message in the abstract and verbalizing the message in the target language. This is most efficient where the interpreter can use anticipation, namely, when the interpreter knows what the parties will represent, the interpreter can work with their prior knowledge of lines of arguments, terms and narratives. While interpreting, interpreters are modelling the speakers' sentences and all that they have said and are expected to say.

Interpreters are constantly 'multitasking' in the sense that they are allocating cognitive efforts to the different functions they are performing at the same time, i.e. listening, processing, speaking, memorizing utterances, allocating attention.⁹ It is therefore important that interpreters

⁹ Gile, D. 2017. Testing the Effort Models' Tightrope Hypothesis in Simultaneous Interpreting - A Contribution. *Hermes*. 23. 153-172. 10.7146/hjlc.v12i23.25553.

not have to invest too much cognitive effort into understanding the utterance in the source language, whose first step is clear, articulated speech in a normal tempo with a “proper” accent in the source language. Only when this is a given, can the interpreter also understand in a second step the message conveyed by the speaker.

6. Recommendations for Agents

The task of simultaneous interpreters in the multilingual environment of the Court of Justice of the European Union is to help participants of the hearing to communicate easily and fluently. The interpreters prepare in advance for every hearing by studying the case-file in depth, nevertheless legal representatives can do a lot to help interpreters convey their messages faithfully. To this end, we conducted a brief oral survey on 14 October 2024 of 5 freelance interpreters working at the CJEU to be able to formulate recommendations to legal representatives on what aspects should be taken into consideration when speaking at the hearings. The survey results revealed that for a perfect rendition of the pleadings, interventions, answers and closing arguments, legal representatives should:

- a) send in their observations at least one day before the hearing – interpreters can access case files on the Friday preceding the week of the hearing within the encrypted maintained system for interpreters. If the legal representative decides to, or must read out a written text during the hearing, sending it to the CJEU’s Interpretation Directorate per email helps the interpreters to prepare and interpret complex sentence structures faithfully.

The CJEU operates its own, closed machine translation system that is used by lawyer-linguists and interpreters alike. It is optimized for the CJEU terminology, completely confidential and its results are proofread and corrected by those using it. Therefore, sending in notes, submissions even a few hours – but preferably days – before the hearing, as requested by the signs attached to the Agents’ lockers, ensures a complete and full interpretation of texts read out during the hearing. Even handwritten notes with references are helpful for interpreters! Quotations, references, figures, names, acronyms should be indicated in these written submissions, since these are especially difficult for interpreters to follow from read out speeches.

Due to the stringent confidentiality rules applied by the CJEU, such texts will be used only by the interpreters and will not be communicated or disclosed to anyone else.

- b) preferably speak freely - interpreters work much more effectively if the legal representative speaks freely, at a natural and calm pace. Free speech involves redundancies, such as “ehh...” giving interpreters a chance to catch up. Even without redundancies, free speech involves shorter sentences facilitating the reconstruction of the narrative, or at least it involves sentence structures that allow for an effective segmentation of the speech. Finally, free speech is typically “less dense” in technical terms, with the added bonus of an argumentation style that is less descriptive and more explanatory.

Even if the legal representative speaks freely, they may have notes for their personal use at the hearing. It is best practice to give a copy of these notes to the chef d’équipe (interpreter in charge of interpreters and liaising with participants of the hearing) so that interpreters can follow any possible names, numbers. Notes are always helpful, whether they are full sentences or just bullet points, if they are typed out handwritten.

- c) their oral pleadings should include short, concise sentences, since it is important that judges immediately understand the message communicated. Unlike in the case of documents, one cannot skip back and reread complex sentences that are uttered at a hearing. They are difficult to process and fully grasp; meanwhile, the legal representative will not notice that the interpreter is struggling with their sentence and has lost the thread, missed something etc. This way, the judges and the Advocate General may be missing an important piece of information as well. Therefore, preference should be given to short, concise sentences, since they immediately get the message across and do not require further thinking. Another disadvantage of long, complex sentences is that while a judge or Advocate General is mulling them over, they may miss the next ideas presented.

In fact, even complex ideas can be conveyed in shorter sentences. If pleadings and other submissions are sent out to the interpreters in advance, they can help reduce the obstacles posed by complex sentences, by “breaking up” longer sentences, for quicker and effective processing (verbalization). Verbalization does not involve a loss of meaning, since it is only done where a complex sentence can be reduced to separate segments that together convey the full message of the original sentence.

- d) speak in a normal tempo: if the legal representative speaks too fast, the interpreter – and thus all the other interpreters, judges, Advocate General – may miss something and will struggle to catch up. In fact, the interpreters’ console includes a button that interpreters can push whenever they feel that the speaker is speaking too fast to properly interpret them. If at least two interpreters push the “too fast” button, the president of the chamber shall be alerted and asks the speaker to slow down their presentation.

However, legal representatives should also refrain from speaking too slowly: if the speech is too slow, the interpreter will not be able to make sense of the sentence. This is because the most important elements of the sentence, verb, subject etc. will be difficult to connect with each other and the short-term memory of the interpreter will be stretched, while dealing with an artificial speech tempo.

It is worth noting, that answers to questions and closing arguments are notoriously difficult for both legal representatives and interpreters, since everyone is working on the fly. After having prepared based on the case file and the pleadings, interpreters can anticipate what the Agents will most probably answer. However, this type of interpretation requires quick and perfect processing of the legal representatives’ ideas – it is therefore helpful, if they continue to speak in a normal tempo and try to formulate simple sentences.

- e) finally, they should consider dropping case numbers and using the parties’ names for references cases where appropriate, since names are easier to recall than numbers. These should be in the submissions sent in in advance, or properly articulated, even repeated so that interpreters can pronounce them faithfully. Where possible, Latin terms and phrases should be avoided! While lawyers are widely familiar with Latin terms and phrases, these can be difficult for lay interpreters to reproduce.

In addition to the results of the survey, based on personal interpreting experience we must add that before taking the floor, legal representatives should remove their earphones through which they were following the interpretation and/ or lower the volume, place them far away

from their microphone to avoid any interference. In case the earphones interfere with the speaker's presentation, the interpreter must deal with listening to two speakers at the same time (the legal representative and a fellow interpreters' simultaneous interpretation), placing a huge burden on the interpreter to separate the two voices and concentrate solely on the speaker, process only their speech and speak at the same time.

Summary

This article sought to highlight the linguistic context of CJEU hearings, including the working methods of, and challenges faced by interpreters working on the case. By fostering better collaboration between interpreters and legal representatives, the accuracy and efficacy of communicating messages to the judges may be enhanced. Legal representatives are encouraged to adopt best practices such as preparing concise pleadings, providing written materials in advance, and speaking freely at a normal tempo. The acknowledgment of interpreters' impartiality and their adherence to confidentiality standards reinforces mutual trust in the system, enabling legal representatives to share materials, including notes for the hearing with interpreters for optimal preparation.