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Translation as social policy: quality management in public service interpreting and translation

by **Javier Moreno-Rivero**

- **Translation is an essential tool in diverse societies. As language conflicts grow within certain sectors of the population, translation and interpreting contribute to bridging the communication gap within multilingual nations.**
- **Governmental social policies in the UK and Spain recognise the right to translation and interpreting in public settings, yet their implementation needs to be reinforced.**
- **The provision of Public Service Interpreting and Translation (PSIT) has faced many challenges, and professionalisation is encouraged. The privatisation and outsourcing of court interpreting have proven to be detrimental to the profession.**
- **In this paper, we call for close collaborations between governmental agencies and policymakers with translation organizations to ensure that the quality of PSIT is guaranteed.**

Introduction

This paper critically evaluates the provision of translation and interpreting (T&I) in public services in the European Union in order to offer recommendations to strengthen legal T&I. In its multilingualism strategy, the Union recognizes the equal status of 24 official languages of its Member States. Because of the co-existence of all these languages, Europe relies on translation and interpreting to ensure dialogue among different communities and jurisdictions. Accordingly, interpreting and translation are integral parts of EU multilingualism, which aims to grant equal rights to languages among states, therefore

fulfilling equal democratic access to all citizens ([Monzó-Nebot & Jiménez-Salcedo 2017](#), [Doerr 2019](#)). At governmental level, language service provision has been considered of vital importance within the context of European cross-border communication, and translation and interpreting have been recognised as mechanisms for social cohesion for decades. The EU motto, “United in diversity”, acknowledges the importance of social policy, which addresses the governmental responses to societal imbalances in relation to basic services. Translation fosters mutual understanding and respects the rights of speakers to their languages. Translation policy, including translation and interpreting, then, is considered part of social policy, since it bridges communication in linguistically and ethnically diverse societies and it facilitates inclusive democratic participation. In this endeavour, the EU has developed a series of policy recommendations and guidelines that aim at ensuring access to translation and interpreting for all EU citizens at governmental level. However, more work to promote and improve the status of public service translation/interpreting professionals is required from national jurisdictions.

In the next sections, I will look into translation policies at a supranational level, and more precisely, the role of translation professionals in Spain and the United Kingdom. I will conclude by providing general recommendations to improve public service interpreting and translation (PSIT) in court settings.

Multilingualism in the EU: growing in diversity, challenging the norms

Let us first consider how translation and interpreting work in the EU. From the inception of the Union, Member States have demonstrated that managing a supranational legal order under a multilingual umbrella can only be done through translation ([Leung 2019](#)). In order to sustain diversity and respect for the principle of equality for all nations, all documentation must be translated into the 24 official languages used by the 28 Member States. The main objective of such translation policy is that all citizens enjoy equal conditions of democratic participation, but this raises two main challenges: first, EU multilingualism creates linguistic hierarchies (whereby some more widely used languages enjoy additional *de facto* prominence); and second, there is a large number of citizens whose mother tongue is not recognised as a language with official status (such as Welsh, Catalan or Breton, among others). In the past, the Union’s approach to multilingualism has been defined as idealistic with regards to translation, since the combinations into which translation can be rendered make it impossible to offer a translation service that works equally for all language pairs, currently 552. For internal purposes, the EU has given priority to languages of ‘higher status’, primarily those that enjoy prominence in international institutions, thus setting a complex linguistic hierarchy among them ([Nic Craith 2006](#), [Biel 2014](#)). Consequently, ‘procedural languages’ (English, French and German) are the working languages of the institutions; and ‘pivot languages’ (including the procedural languages, Spanish, Italian and more recently, Polish) are those used as a *relay* from which to translate into the rest of the official languages

within institutions and among other EU bodies. In order to operationalise the work of EU institutions, each of them has established a different language regime (see Table 1), which defines the working languages that are used within them.

EU institution	Working language(s)
European Parliament	All 24 official languages
Council of the European Union	
Economic and Social Committee	
Committee of the Regions	
European Union Intellectual Property Office	English, French, German, Spanish, Italian
European Commission	English, French, German
European Court of Auditors	
Court of Justice of the European Union	French
European Central Bank	English

Table 1. Working languages of the EU institutions

With this categorisation in mind, it must be determined what is translated and under which conditions. Taking into consideration the amount of translated documentation, three parallel categories can be drawn: (a) procedural languages, (b) EUR15 (the languages of the 15 states that were already members of the Union before the enlargements of 2004, 2007 and 2013), and (c) EUR13 (the languages of the Member States that joined the EU after 2004). For procedural languages, 100% of documentation is translated, but the situation is different for the other two: for the EUR15 languages, 50% of documentation is translated, whereas only 25% of documentation in the EUR13 states is translated. Although legislation is always prioritised and translated into all languages, access to information is uneven for speakers of the latter group, since only a fourth of all EU output is available in the post-2004 languages. The institutional use of translation proves that it can either enhance or hinder communication among nations and therefore, citizens. In economic terms, the Directorate-General for Translation of the European Commission reported an expenditure of €343 million in 2019 (inclusive of staff, outsourcing, IT, training and event organisation), which represents 0.2% of the overall EU budget, or a mere €1.04 per citizen of working age per year. Should this model be replicated in national multilingual regimes, it would facilitate the democratic integration of regional and minority languages ([Moreno-Rivero 2017](#)). In this sense, translator/interpreter-mediated communication in national domains can be distinguished from foreign languages and regional languages; and a differing translation policy can be designed in both cases.

Public services are intended to serve all members of a community. In this case, translating and interpreting for public services is a means of guaranteeing that speakers of different languages have equal access to resources. At the moment, the provision of PSIT in legal and healthcare settings in the EU is only regulated by two legal instruments: *Directive*

2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, which grants access to translation of all relevant documentation and also court interpreting in criminal -but not civil- proceedings to speakers of all EU official languages; and *Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare*, which acknowledges patients' rights to information. Although the latter does not include language-related provisions, the right to be informed in one of the official languages of the Union is implicitly subscribed. In assessing the legal force of these instruments, Article 288 of the Treaty on the Functioning of the European Union states that directives form part of the EU's secondary law. This means that while they are adopted by EU institutions and States, each country has the responsibility (and freedom) to develop its own laws determining the application of these rules. Consequently, the adoption of language rules that help manage PSIT partly relies on each State individually: there is a common EU-wide framework, but its implementation (and the lack of it) has been different in many countries (European Commission 2018).

In the past decade, key decisions have been taken with regards to legal translation and interpreting provision ([Ortega Herráez 2020](#)). I will take the examples of the UK and Spain, two multilingual nations with high levels of mobility (both incoming and outgoing) among EU nationals.

The status of legal translation and interpreting in criminal cases in the UK and Spain

Legal translation and interpreting are not new phenomena in either the UK or Spain. In the case of the UK, for instance, court interpreters in Northern Ireland and Wales have been acknowledged in historical and literature scholarship when discussing their annexation to England. In Spain, in the 16th Century, Charles V created the *Secretaría de Interpretación de Lenguas* (Office for Language Interpreting), entrusted with the task of translating official documents. In more recent times, both countries have worked on their provision of public service translation services, yet the status of translation professionals has yet to be enhanced.

In Spain, court procedures are regulated by the Spanish Code of Civil Procedure (*Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil*). In relation to language services, Article 143(1) states that court interpreting can be performed by anybody who knows the languages spoken in the court, provided that the interpreter makes an oath guaranteeing a faithful rendition of the spoken word. However, for that purpose, the Spanish Ministry for Foreign Affairs and Cooperation appoints *sworn translators and interpreters*, professionals who have passed a national examination and who are accountable for the rendering of a translation/interpretation. A major caveat needs to be made here: despite the fact that the Spanish Administration has a specific qualification for legal translators and interpreters, a literal legal interpretation of the Code would appear to imply that any speaker of the language

can perform the task, regardless of their proficiency or legal knowledge, and this is still acceptable in a courtroom. The lack of professionalisation of this sector is apparent through systemic reports about failures in ensuring communication in legal settings, with cases having to be adjourned because of poor translation/interpreting (see [further reading](#)).

In the case of the UK, there is no specific qualification for court translators and interpreters, yet there are three main bodies that have established standards in the quest to professionalise the sector: the *Institute of Translation and Interpreting* (ITI), whose members can affix certification seals to their translations; the *Chartered Institute of Linguists* (CIOL), which administers the Diploma in Translation (DipTrans) and the Diploma in Public Service Interpreting (DPSI); and the *National Register for Public Service Interpreters* (NRPSI) and the newly-created *National Register for Public Service Translators* (NRPST), whose members must prove their professional services to be eligible to join. The NRPSI has the DPSI as a reference of quality interpreting; so those who have obtained the Diploma are automatically eligible to join their Register. However, other professional translators and interpreters who meet certain criteria can also join the Register if they do not hold the [diploma](#). In fact, the courts used to book court interpreters directly from the NRPSI, guaranteeing quality in the proceedings, and fair rates for professionals. However, this changed in 2011, when language services were outsourced. Since then, court translation and interpreting has been managed through a language provider, and this has resulted in a severe cut in rates and a flexibilisation of the appointment criteria. Representatives from the NRPSI have argued that under this system there have been times when the interpreter has not even turned up in court, or they cannot speak the language they were engaged for or they lack professional qualifications, jeopardising the case and the judicial system overall. Between 2011 and 2018, the Ministry of Justice's budget covering the costs of court translators and interpreters ranged from £120 to £168 million; yet the employment conditions put in place by the outsourced language provider have proven to undervalue the work of translators/interpreters.

In general, translation/interpreting in legal settings face the same challenge in both countries: specialized qualifications exist, yet governmental authorities fail to make them a requirement, and this results in many language service providers appointing non-professionals (often at a lower rate of pay) to undertake highly-specialised legal interpretation, which jeopardizes the rights of the accused and may lead to a miscarriage of justice. To improve the quality of translation/interpreting services, several organisations at national and international level have called for further professionalisation of court translators and interpreters. For instance, the *European Legal Interpreters and Translators Association* (EULITA) was responsible for instigating the adoption of Directive 2010/64/EU. They have repeatedly called upon the EU to ensure that all Member States have transposed it in domestic law, since the deadline to do so was in 2013, and seven years later, there is still a large number of countries which have failed to do so. More specifically, EULITA also drafted the ISO 20228:2019 standard on interpreting services, and the ISO 20771:2020 standard on legal translation, which was approved earlier this year. These standards, which shall still be applicable in the UK after

Brexit, establish the parameters that regulate legal translation and interpreting services, including translation processes, resources, confidentiality, professional development requirements and training. Other national organisations that have put forward initiatives arguing for such professionalisation include the NRPSI, the Spanish Professional Association of Court and Sworn Interpreters and Translators (APTIJ), the Spanish Association of Translators, Editors and Interpreters (ASETRAD), among others. With a solid knowledge of first-hand evidence from professional translators and interpreters, these organisations have attested to the working conditions in which many of them perform their jobs. As stated above, with the outsourcing of interpreters by the Ministry of Justice in 2011, which resulted in a 40% salary cut, more and more inexperienced interpreters started to accept these jobs. The unstable working conditions of court interpreting are contributing to a de-professionalisation of certain services, thus compromising the [right to a fair trial](#) for speakers of languages other than the national one.

Key recommendations on court and legal translation and interpreting

This report has briefly explored the challenges around court/legal translation and interpreting in the UK and Spain, and it reveals that while governments do provide budgets for PSIT, considerable improvements to the existing systems are needed. In light of such parameters, the following recommendations are made:

- Governments should comply with Directive 2010/64/EU on the right to translation and interpreting in criminal proceedings, and attempt to expand its remit to civil cases, whenever possible. In doing so, they should ensure translation/interpreting quality is maintained.
- Administrations should require mandatory professional certifications in legal translation and interpreting, working in liaison with national examination bodies which already offer such qualifications. Either a given authority or the body responsible for the appointment of translators/interpreters must assess that translators/interpreters are qualified.
- Policy-makers should consult delegates from translation/interpreting organisations in determining the extent of professional minimum requirements, following the provisions outlined in ISO 20228:2019 and ISO 20771:2020. This would entail the creation of a cross-sectoral committee able to make informed decisions combining evidence gathered from translation professionals with that from relevant governmental bodies.

Further reading

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About the author

Javier Moreno-Rivero is a researcher at the Faculty of Modern and Medieval Languages and Linguistics, University of Cambridge, where he teaches and examines on Language and Society and Spanish Translation. His academic interests lie in the intersections between language and the social sciences, with a particular focus on jurilinguistics, language policies and professional translation. At the moment, he serves on the editorial board of the *International Journal for the Semiotics of Law* (Springer).