

PREFACE AND ACKNOWLEDGEMENTS

Qualitas: Assessing LI Quality through Testing and Certification is a project carried out under the auspices of the European Commission and the Directorate General for Justice through its Action Grants program. The work done on this project complements and furthers that done on previous EU projects over the last decade (Grotius 98/GR/131, Grotius 201/GRP/015, Agis JAI/2003/AGIS/048, Agis JLS/2006/AGIS/052, and Agis JLS/2007/JPEN/219). Qualitas aims to add significantly to Member States' ability to provide reliable interpreting services to their legal systems by providing tools to identify individuals who possess the requisite knowledge and skills to assist in judicial and police matters that involve individuals who do not have a sufficient command of the official language of the proceedings.

The project was developed in response to Articles 2.8 and 5.1 of European Directive 2010/64/EU on interpretation and translation in criminal proceedings. These articles stipulate that the interpretation and translation provided in criminal cases in judicial systems throughout the European Union should be of a quality sufficient to safeguard the fairness of the proceedings and that Member States must take concrete measures to achieve that level of quality. It further stipulates the establishment of registers of qualified interpreters with the goal of enhancing mutual trust between Member States and ensuring equal treatment for anyone involved in a criminal case who has limited or no knowledge of the language of the proceedings. A more recent directive, Directive 2012/29/EU, recognizes the rights of victims to interpreting services as well.

At present, mechanisms for certifying the competence of legal interpreters in many, if not most, EU Member States are inadequate or non-existent. The Member State Profiler Show included in this publication show the fragmented approach taken in many countries to the provision of LIT service and the often *ad hoc* measures that have been implemented, often in good faith, to deal with a very complicated issue. These approaches and measures may reflect a general lack of knowledge and understanding of legal interpreting,

a lack of awareness of the needs of individuals in a situation of linguistic limitations, or the difficulties involved in appropriately allocating limited resources. On the other hand, these surprisingly diverse approaches might also be a reflection of the creativity and perseverance of committed individuals who have been attempting to find innovative solutions to a long-standing problem in difficult social and economic times.

The Qualitas Project takes as its starting point the belief that there should be uniform quality standards throughout the European Union as regards legal interpreting in order to build the mutual trust and ensure the legal certainty that are the cornerstones of EU policy in matters of criminal justice. Through collaboration and cooperation, the fourteen experts who participated in the project have worked to define what those standards should be and how to achieve them. Examples of successful efforts have been examined alongside examples of missteps that have produced undesired results. Vigorous debate has taken place on a wide range of issues related to interpreting quality, with emphasis on feasible solutions that take into account the diversity that exists in the EU and current administrative and economic realities.

The project focuses on certification through testing and assessment as the best way to determine who is qualified to interpret in police and legal matters in the European Union. Project results are meant to provide the authorities, agencies, organizations and individuals responsible for providing legal interpreting services some practical advice on how to address the issues that must be considered when developing a qualifying or certification process. It offers understandable and useful foundational information based on research and experience, as well as specific steps to take to develop valid and reliable certification instruments for all of the languages required in their respective judicial systems. Suggested formats, question types, and performance criteria are offered, with reasoned justifications and indications for their use in specific situations. Sample texts, questions and scoring procedures are included. Detailed indications on test administration are also provided as the faulty administration of a good exam can invalidate the process. The Project's final phase entails providing a direct consultation service through an electronic help desk to anyone involved in providing legal interpreting services in the EU.

This book and the consultation services offered through the Project have required a great deal of effort and dedication by the project participants. I would like to thank each of them individually as well as our partner institutions for their contributions and support.

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Cynthia Giambruno

INTRODUCTION

Quality is a difficult concept to define, and it is even more difficult to achieve in a measurable and uniform fashion, especially in matters of human communication. The issue of quality in legal interpreting is certainly one that authorities and experts in many Member States are well aware of and have tried to address. The approaches taken have focused on training programs ranging from short workshops to full academic degree programs; on qualifications-based registers which often require experience, training and some proof of moral integrity; on oversight and sanctioning schemes for misfeasance; and in some cases on testing schemes, either free standing or in conjunction with training. In related professional fields, it has been recognized that the most effective means of ensuring quality is to determine the skills that are required, define acceptable performance levels, and develop evaluation instruments that will distinguish those who have achieved the required standard of performance from those who have not. Certifying competent interpreters using a similar approach, through a valid testing and assessment scheme, would put interpreters on equal footing with other professionals in the legal field. The members of the Qualitas Project support comprehensive testing as the best, and perhaps the only valid way of ensuring that individuals who are called to work in the legal system can perform to a pre-established level of excellence. Given that in the vast majority of cases, interpreter performance cannot be easily monitored by the users of those services (judges, lawyers, police, defendants, victims), it is of paramount importance that a system be devised to assess ability prior to allowing individuals to work in this field. Only in the most egregious of situations, in which faulty interpreting leads to a significant breakdown in communication, is poor performance perceivable. In many cases, errors go undetected and miscarriages of justice occur.

The Directorate General of Justice, Freedom and Security is well aware of the need to improve the interpreting services being delivered in courtrooms, police stations and other legal venues throughout the European Union, as is evidenced by the introduction of the issue of quality in Directive

2010/64/EU on the right to interpretation and translation in criminal proceedings. Legislative mandates that guarantee individuals the right to interpreting services have been in existence for many years, and services have indeed been provided. However, the number of complaints related to interpreting has multiplied, and there is a growing awareness of the problems that arise when quality standards are not in place.

The Qualitas Project has undertaken a study of the current situation to provide foundational information about legal interpreting practices in the 28 EU Member States¹. Practices and standards vary greatly, not only between Member States, but also from region to region within a Member State. In response to the information gathered, the members of the Qualitas Project have attempted to set out methods and guidelines for developing testing schemes to identify competent practitioners. The minimum core components that all certification schemes should include are explained, and issues of validity and reliability are addressed. This publication is not meant to be prescriptive, but rather to offer reasoned alternate approaches to testing and certification that can be adapted to the realities of each Member State. However, the goal is to work towards common base-line standards throughout the European Union in order to enhance the legal certainty that is needed for mutual trust to exist. The chapters are designed to stand-alone, and the book need not be read in any particular order or completely through. Thus, the repetition of certain fundamental concepts in several chapters is intentional. Each chapter addresses a specific issue and was developed by a small group of experts and then debated by the project members as a whole. The style used in each chapter reflects that of the expert group. Cross-referencing is provided to assist readers in accessing more in-depth information when needed.

Chapter 1 provides a general theoretical overview of some of the issues related to interpreting, including a discussion of the interactional nature of interpreting, the concept of bilingualism, and the underlying language proficiency that all interpreters must have. An exploration of language knowledge leads to the consideration of basic tenets of testing and the challenges involved in adequately testing language skills. From there a discussion is provided on interpreter testing, with an interesting introduction to languages of lesser diffusion and language variation.

1. In this study, legal translation is only addressed when the approach taken in a specific country is to bind translating and interpreting together. A concurrent EU project, the Qualettra Project, addresses issues related to legal translating. By taking the results of these two projects together, stakeholders will have the information they need to create well-founded certification schemes for both translating and interpreting.

Chapter 2 begins by setting out the minimum set of skills that should be tested in any legal interpreter certification scheme. It goes on to present basic principles of test design and psychometrics and identifies and explains some of the key testing principles that inform the development of such a scheme. It explains the concepts that test developers need to understand to be able to design a valid and reliable test including the test construct, performance-based assessment, test validity, authenticity, and reliability, scoring methods and screening. The importance of creating test specifications is also discussed and a sample is provided.

Chapter 3 gives form to many of the concepts presented in the previous chapter by providing a detailed and structured approach to developing interpreting tests. A brief overview of the interpreting modes used in police and judicial venues is presented, and options for testing skills in each mode are explained. For each mode a rationale is given, together with a list of factors to consider, guidelines for the selection of text types and characteristics (e.g. duration, length, linguistic density and so on), a discussion of the issues to consider as regards the use of live or recorded materials, and a set of recommended performance criteria. Sample scripts from established testing schemes are provided. Discrete-competency versus combined competency testing is explained and the use of an abridged or bifurcated testing approach is discussed.

Chapters 4 and 5 concern the testing of knowledge subsets rather than skill subsets, namely knowledge of the legal context and knowledge of the code of ethics and guidelines of good practice, respectively. To be effective, legal interpreters must understand the legal system in which they are working, be well versed in legal terminology in their working languages, and be competent at using on-line legal resources. Furthermore, an effective LI must not only know and understand the professional code of ethics, but must also integrate the principles of the code into his or her professional behaviour. These important areas and their implications for safe and reliable interpreting are clearly explained in these chapters, and options for testing interpreter competence are presented.

Chapter 6 deals specifically with languages of lesser diffusion. Being able to put speakers of all languages on equal footing in legal venues is a major challenge. In this chapter, approaches to identifying and qualifying interpreters for languages that are only required occasionally in court and for which there are no formal training programs are presented. Four phases are outlined: identifying candidates who can be trained and tested, providing training and mentoring for these interpreters, developing evaluation tools to measure their proficiency and skills, and instructing legal personnel as to

how to best work with LLD interpreters. Methods for evaluating untested interpreters for immediate use are also explored.

Chapter 7 deals with the application of new technologies to the field of LI testing and certification. Videoconferencing and remote interpreting are becoming a reality and have the potential to offer effective solutions to some of the thorniest issues facing the profession. In this very informative chapter, the different options related to using ICT in testing are presented in detail with a concise discussion of the advantages, challenges, and appropriate applications. Case studies are presented together with useful lists of vital points and recommendations. The chapter gives a realistic glimpse into the future when remote interpreting, training and testing will become commonplace. This rather long chapter is easy to read and provides a wealth of information in one of the most promising areas of EU collaboration and cooperation.

Chapter 8 explains in a concise and bulleted fashion the myriad administrative details that must be taken into account when setting up a testing or certification scheme. Ensuring that administrative, organizational and operational issues are appropriately dealt with is important since faulty procedures can invalidate even a well-designed test. The steps that need to be taken are classified as pre-testing, testing, and post-testing and include issues such as planning and publicising the test, creating a candidate handbook, establishing rules and regulations, evaluating test sight preparedness, covering staffing needs and reporting results. The importance of adequate security measures from start to finish is also discussed.

Chapter 9 provides a brief profile of each Member State as regards current practices in the provision and regulation of legal interpreting services. The information gathered includes current legislation governing interpreting services, the existence of national or regional registers, and procedures for the certification or qualification of LIs, if any. The findings show the great range of approaches that currently exist, from Member States with testing and certification schemes in a large number of languages to those that have no certification schemes of any kind. In addition to the individual country profiles, the report also includes component analyses and conclusions using a pan-EU approach.

Finally, a series of documents and links of interest are provided in the Appendices which complement the information provided in the different chapters of this book.