



Translating and interpreting for active citizenship

Interpretation and translation in criminal proceedings

Gonçalo Braga da Cruz

European Commission, Directorate-General for Justice

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Unity in diversity: languages for mobility, jobs and
active citizenship

Summary

- 1. Directive 2010/64/EU – origin and main aspects**
2. Implementation

Origin of Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings

- Treaty of Lisbon, which introduced the new Article 82(2) of the TFEU
- It is the first Measure ("Measure A") on procedural rights after the Lisbon Treaty - Council "Roadmap", Council "Stockholm Programme" (2009), Commission Action Plan Implementing the "Stockholm Programme" (2010)

Origin of the Directive

In 2010, the number of non-nationals living in the 27 Member States of the EU was around 32,4 million (6,4% of the total population)

Main aspects of the Directive - Scope

- **Criminal proceedings**
- **Suspected or accused persons**
- **Which languages are covered?**
 - No provisions in the enacting terms
 - Recital 22: native language or any other language that the person speaks or understands

Main aspects of the Directive

- Right to interpretation (Article 2)

- **Entirety of the proceedings:**
 - Investigation, including police questioning, proceedings before court and interim hearings
 - Communication with legal counsel, within certain limits
- **Procedure or mechanism to ascertain need of interpretation:** The competent authority must act *ex officio*

Main aspects of the Directive - Right to translation (Article 3)

- **Essential documents**
 - Decision depriving person of liberty; charge or indictment; judgement
 - Competent authorities to decide on what other documents are essential in a given case
- **Oral translation or oral summary of essential documents**- possible on condition that it does not prejudice fairness of proceedings

Main aspects of the Directive - Quality

- Articles 2(8) and 3(9) – quality by reference to fairness of the proceedings/right of defence
- Complaint mechanisms – Articles 2(5) and 3(5)
- Article 5:
 - Concrete measures to be taken to ensure quality (e.g., minimum qualifications, accreditation, training, guidelines on best practices)
 - Member States shall endeavour to establish a register of qualified interpreters and translators

Summary

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Directive 2010/64/EU - Implementation

- **Quality** of interpretation and translation - e.g., *ad hoc* interpreters, registers of independent interpreters and translators appropriately qualified, how to detect bad quality interpretation and translation
- **Costs** –burden on Member States' budgets

Directive 2010/64/EU - Implementation

- **Languages**/difficulty for rarely used languages (need of sharing of resources between the MS)
- **Essential documents** - difficult notion to assess/partial translation of essential documents
- **Oral translation** - to what extent it is allowed/should not be systematic
- **Mechanism** to ascertain if the person speaks and understands the language

Directive 2010/64/EU - Implementation

Current situation:

- Only 7 Member States have communicated implementing measures to the Commission
- Commission is checking compliance with the Directive

Conclusion

- First measure on strengthening defence rights in criminal proceedings at EU level
- Free movement of citizens and respect for language diversity in the EU
- Quality of interpretation and translation – concrete measures have to be taken / importance of trained legal interpreters and legal translators
- New job opportunities