

NOU 2014: 8 Interpreting in the public sector – a question relating to the right to due process of law and equal treatment

Summary

Terms of reference for the committee

The mandate of the Interpreting Services Review Committee (hereinafter the Committee) is based on the fact that while the public authorities spend substantial resources on interpreting services, the current use of resources is not necessarily commensurate with the quality of the interpretation. Interpreters are under-used, qualification requirements are lacking and there are poor procedures for booking interpreters. There is significant variation between sectors when it comes to the general conditions for interpretation assignments, for example with respect to hourly rates and the length of the assignments.

With the growing need for interpreting services and the requirement for competitive bidding for contracts, several public agencies issues calls for tenders for interpreting services. Experience shows that it is difficult to control the quality of the service when a contract has been won through a bidding competition. There is no organised system for interpreting in the public sector across the sectors.¹

The Committee's work confirms this picture. If interpreters are not used enough and if there is a lack of quality requirements, the right to due process of law and equal treatment is threatened. Moreover, resources are not being used efficiently or properly when society qualifies interpreters who are not then being used in the public sector.

The Committee has calculated that approximately 343 000 interpretation assignments were carried out in the public sector in 2013. The total amount of expenditures in the public sector on interpreting assignments was roughly estimated at NOK 490 million for the same year.

The Office of the Auditor General of Norway states that the police spent approximately NOK 64 million on interpreting services in 2009, but that 60 per cent of the interpreters used did not have documented qualifications. A survey undertaken by Helse Sør-Øst (South-East Health District) shows that nine of ten interpreters used during treatment administered by the specialist health service in 2011 lacked formal qualifications, even though this was listed as a requirement in the call for tenders.

The Committee believes that a primary goal must be that interpreting in the public sector contributes to guaranteeing the right to the due process of law and equal treatment. A natural consequence of this goal is that the public authorities must use qualified interpreters, and that at all times there must be a sufficient number of qualified interpreters to satisfy society's need for interpreting services.

Interpreting must be seen as an integral part of the public authority's duties in the sectors. If interpretation is necessary for the public agencies to undertake their duties properly, the necessary resources must be allocated so that service providers can communicate through a qualified interpreter. Communication through an interpreter must be a natural part of the

¹ The Ministry of Children, Equality and Social Inclusion (2013): Mandat for utvalg som skal utrede bruk av tolk i offentlig sektor (lang versjon) [Mandate for a committee review of the use of interpreting in the public sector (long version)]

operations of all public agencies. Expenses for interpreting services must be a visible item in their budgets.

Good and correct use of public funding and available competence must be the underpinning for the use of interpreting services by the public authorities.

The public sector's obligation to use qualified interpreters

Based on our knowledge of the situation, the interpreting services are not satisfactorily prioritised in the public sector, even if there has recently been positive development in this field. The legislation that governs communication through an interpreter is fragmented and often understood differently. The Committee therefore believes that it is necessary to lay down in law the obligation of public service providers to use qualified interpreters.

The Committee proposes that the public-sector obligation to use qualified interpreters should be passed into law as of 1 January 2019. Sections of the Act may come into force earlier, if necessary.

This legislative authorisation should be in the form of a separate Act (the Interpreting Act). The obligation to use qualified interpreters should apply in situations where the right to due process of law and equal treatment are concerns.

By "qualified interpreter" is meant that the interpreter as a minimum satisfies the requirements for being entered into the Norwegian National Register of Interpreters (category 5), cf. Chapters 10 and 17. Interpreters must be stimulated to raise their qualifications and thus advance in the register. Interpreters must have an ID card which shows both that they have been entered in the register and which category of interpreter they are registered under. The possibility of checking and quality assuring the entries in the register should be established through an inspection function under the Directorate of Integration and Diversity (IMDi).

Box 1.1 When should an interpreter be used?

A qualified interpreter must be used when considerations of the due process of law and equal treatment are important, and when it is required that the administrative body or agency has to use an interpreter to protect an individual's interests.

The public authorities should assess the need to use an interpreter in all situations where there is contact with individuals who do not have sufficient command of the administrative language.

Escalation plan 2015–2018

The Committee proposes an escalation plan for interpreting services from 2015 to 2018. The plan should contribute to a sufficient increase in the number of qualified interpreters before the proposed obligation to use qualified interpreters comes into force on 1 January 2019. There should, moreover, be good systems in place for administering, booking and supervising the interpreters. The escalation plan involves:

- Providing a strategy for communication through an interpreter in each sector/agency
- Professionalizing the use of qualified interpreters in the public sector, including:

- increased use of interpreting services and the establishment of good booking systems in each sector
- new recommendations for public purchasers of interpreting services
- proposal for a new pay scale with differentiated rates for interpreters and remuneration for preparation and travel time
- training of public employees in communicating through interpreters
- Increasing the availability of qualified interpreters, including:
 - increased education capacity
 - more registered interpreters in the Norwegian National Register of Interpreters
 - strengthening and rationalising the state authorisation scheme for interpreters
 - the introduction of an authorisation scheme for interpreters in the Sami languages (North Sami, South Sami and Lule Sami)
- Developing the Norwegian National Register of Interpreters
- Increasing the use of screen interpretation, including the establishment of a new development and competence centre
- Strengthening the political and administrative role of the Ministry of Children, Equality and Social Inclusion as the national centre of expertise for interpretation in the public sector
- Strengthening the role of the Directorate of Integration and Diversity as the national authority for interpretation in the public sector
- Establishing a supervisory function
- Providing an annual publication with statistics showing the need for qualified interpreters in the various languages, as well as an assessment of language needs in the various sectors (the ten largest languages) in the coming period
- Establishing good systems for compiling statistics showing the use and expenses of interpreting services
- Increasing awareness of the use of interpreters in connection with security and contingency planning matters
- Continuing the development of terminology for Sami languages and national minority languages
- Developing "terminology banks" (digital dictionaries) for relevant interpretation languages (connected to education and the Norwegian National Register of Interpreters)

The public authorities are responsible for offering interpreting services when needed

The Committee views with concern how the under- and incorrect use of interpreters results in incorrect court judgements, incorrect treatment, case processing errors, low efficiency, longer waiting times and a drain on resources.

The Committee refers to how the use of qualified interpreters helps to reduce the number of misunderstandings and frustration and also the probability of important information being lost. Good communication will increase the trust people put in the authorities and will have a preventive effect. The report documents that the use of interpreters in many cases saves time and resources.

Each individual sector should, in the opinion of the Committee, have an independent responsibility for booking, quality assuring and supervising the interpreters. The booking competence in the public sector should be strengthened. The sections of the public sector that need interpreters must assume responsibility for organising themselves so that they can procure the interpreting services required for them to undertake their duties in a proper way.

The Committee has assessed a number of solutions for booking interpreting services for the public sector, and has found that each sector must take responsibility for suitable booking solutions. We refer here to the booking solutions at the Directorate of Immigration and *Tolkesentralen* [The Interpretation Office] at Oslo University Hospital (OUS) as examples that could be copied. The Committee recommends one national booking solution for interpreting services for small or rare languages. The Committee also finds it reasonable to have one national solution for booking interpreting services in the Sami languages.

When establishing separate booking offices the interpreter register should be based on the Norwegian National Register of Interpreters. Over time technical solutions should be considered so that public booking offices can make direct searches in the National Register and import information from it.

When it comes to security and having services available, the Committee finds that the local authorities should maintain an overview of which languages their inhabitants master. Many public sectors already have good contingency plans, but only a few of these have considered the fact that not all inhabitants understand the Norwegian language. The Committee recommends that strategies for reaching the section of the population with inadequate understanding of the Norwegian language should be embedded in all contingency plans.

The Norwegian National Register of Interpreters – requirements for entry in the register, increasing the number of interpreters, complaints procedures and supervision

The Committee finds that it should be required that all interpreters used in the public sector must be entered in the Norwegian National Register of Interpreters, or that the interpreters can prove that they satisfy the qualification requirements for being entered in the register. The Directorate of Integration and Diversity should issue special identity cards to interpreters in the register to make it easier for the institution/agency to check the documented qualifications of the interpreters.

The number of interpreters in the Norwegian National Register of Interpreters must be increased if the public authorities are to be able to comply with the obligation to use qualified interpreters. This increase must be accomplished by increasing capacity through education, authorisation and testing, as well as the provision of courses for the Register's recruitment categories. Awareness of the Register must also be raised.

There must be procedures that users of the Norwegian National Register of Interpreters can use to lodge complaints to the Directorate of Integration and Diversity about the registered interpreters.

The Committee believes that supervision of interpreters and their qualifications must be strengthened. Supervision is in the opinion of the Committee an important tool for raising the quality of a service. The Committee finds that the Directorate of Integration and Diversity should have such a supervisory role. As the directorate is the owner of the Norwegian National Register of Interpreters and the expert authority for interpreting in the public sector,

it is reasonable that the Directorate of Integration and Diversity should have the role of supervisor.

One possible sanction against interpreters, if it is proven that they do not comply with the guidelines for generally approved interpreting standards, should be that they can be removed from the Norwegian National Register of Interpreters.

Increased need for qualified interpreters

The Committee refers to the population projections made by Statistics Norway showing that the number of immigrants, and hence the linguistic diversity of the country, will increase in the coming years. Today around 300 languages are spoken in Norway, and the need for interpreting has been registered in more than 100 of these. As of June 2014, the Norwegian National Register of Interpreters has registered interpreters in 64 languages.

There is a need for the best possible information about which languages interpreters should be trained in, and estimates of the need in the future. This information must be updated on an on-going basis. The most accurate population prognoses possible and good immigration and language statistics will be essential in this context. The statistics should be considered together with information about the number of interpreting assignments in different languages and about expenses for interpreting services from interpreter providers and public enterprises.

The Committee proposes that the Directorate of Integration and Diversity should be assigned the task of compiling and collating this information, and that an annual publication should be issued on the need to qualify interpreters in different languages, as well as an assessment of language needs in the different sectors (the ten largest languages) in the coming years. Furthermore, the Directorate of Integration and Diversity should arrange an annual review conference where new statistics, experience and knowledge would be presented.

The Committee believes that a significant effort must be expended to qualify a sufficient number of interpreters to satisfy the future need for interpreters.

Major effort to qualify more interpreters

The Committee finds that it will be necessary to strengthen the qualification measures for interpreters to satisfy society's need for interpreting services. The Committee deems this to be a public authority responsibility.

Elements in the effort to qualify interpreters will be to:

- Establish systems to compile knowledge about interpreting needs in different languages
- Strengthen the interpreter education programmes, including training in screen interpretation
- Establish a programme for a Bachelor's degree in interpreting
- Establish a special education programme for interpreters in the Sami languages
- Provide a flexible education programme with high teacher density and practical exercises
- Raise awareness of the importance of offering education in several foreign languages both in compulsory education and on the college/university level to improve recruitment to interpreter training and to reap the benefits of having such linguistic diversity in Norway

Strengthening and rationalising the state authorisation scheme for interpreters

Authorisation tests should be offered in more languages on a yearly basis. Measures should be established so that more candidates can acquire the competence required to pass the authorisation test. A Bachelor's degree will contribute to this. A complete review of the interpreter training and the authorisation test should be considered.

State authorisation for interpreters in the Sami languages (North Sami, South Sami and Lule Sami) should be included in the ordinary state authorisation scheme which is stipulated in the Regulations relating to the state-authorized interpreter licence and the interpreting test. Tests in the Sami languages should be given regularly.

The licence to serve as a state-authorized interpreter must be revoked when one of the requirements for obtaining or having the licence is no longer satisfied. In the long term it should be assessed whether such authorisation should be renewed at regular intervals.

Strengthening, quality assuring and supervising the "Tospråklig sjekk for potensielle tolker (ToSPoT)" [Bilingual test for interpreter candidates]

The minimum requirement for persons who wish to take assignments as interpreters in the public sector is determined by the Bilingual test for interpreter candidates (ToSPoT). This minimum requirement for being entered in the Norwegian National Register of Interpreters must be maintained. Quality assurance and expert supervision of the test are therefore necessary. More knowledge is needed about bilingual testing, and resources must be allocated for evaluation and development of the form of the existing test and its content, as well as its administration.

It is also necessary to increase the capacity for testing candidates. Access to the test for relevant candidates must be simple, stable and predictable. ToSPoT should be available in all languages where there is a proven need for interpreters.

It is also important to strengthen the incentives for people who satisfy the minimum requirements for being entered in the Norwegian National Register of Interpreters to seek further qualification through interpreter training and authorisation.

Increased use of screen interpretation

Norway is a country with large distances and a widely-dispersed population. Needless to say, the need for qualified interpreters in more than 100 languages cannot be satisfied locally. This fact notwithstanding, all inhabitants must be offered equal public services, regardless of where they live. The Committee believes that increased use of remote interpreting (telephone and screen interpretation) is necessary to safeguard the right of due process and to provide equal services to the entire population.

Screen interpretation should become the preferred method in suitable situations, and there should be more planned concentration in this field in the future. The goal should be that half of all interpreting assignments in the public sector should be carried out through screen interpretation in 2023. This will reduce travel expenses and improve resource use with respect to the working hours of interpreters and those people using interpreters.

The Committee believes that an increase in the use of screen interpretation is an important step in achieving good access to qualified interpreters all across the country. The rapid development of technology opens for new and better solutions. In the health sector telemedicine offers increased access to specialist treatment and shorter waiting times for patients. More use of screen interpretation may yield similar gains.

Various pilot projects show that screen interpretation may contribute to professionalization, rationalisation and cost efficiency in the public sector. The Committee's calculations show that screen interpretation has socioeconomic benefits. The proportion of interpretation assignments carried out using screen interpretation is a decisive factor. The larger the proportion, the more profitable it will be to develop technology for screen interpretation. Heavier investments are nevertheless required in the establishment phase.

Technical support will be needed to successfully increase the use of screen interpretation. The Committee therefore proposes that a national development and competence centre for screen interpretation should be established which can provide advice on security and technical standards.

The Committee finds that telephone interpretation has limitations with respect to quality, but that this nevertheless should not be excluded as a communication form.

To ensure good communication with screen and telephone interpretation, interpreters and users of their services should receive training in these forms of communication.

There are indications that remote interpretation – whether through screen or telephone – poses extra challenges for the interpreter's concentration and capacity. More research is needed on this to contribute to adapting working conditions for interpreters and users of remote interpretation, as well as making this form of communication more efficient.

Public service providers must be able to communicate through an interpreter

All professional staff in the public services must be able to communicate with all their users. The theme "Communication through an interpreter" should in the opinion of the Committee therefore be introduced in the basic education of relevant professions, such doctors, lawyers and registered nurses.

Communication through an interpreter should also be part of the in-house training of staff who will need an interpreter in their work. The Committee recommends that existing course programmes and e-learning programmes should be used more actively. The new development and competence centre for screen interpretation should cooperate with the interpreter education at Oslo and Akershus University College on preparing special training for screen interpretation.

Better pay and working conditions for interpreters

The Committee finds that the great variation in general conditions for interpreting assignments in different sections of the public sector is unfortunate. This variation may undermine the interpreter profession, contribute to social dumping and may impede access to good interpreting services.

The knowledge base and input the Committee has received indicate that there is a relationship between low hourly rates, trained interpreters leaving the profession and poor interpreting-service quality.

The Committee recommends the introduction of a pay scale for interpreters. This will help to create order in a confusing market. The report refers to Kammarkollegiet [a public agency in Sweden which also deals with interpreters and translators], which in *Vägledning för avrop av tolkförmedlingstjänster* [Guide for the use of interpreter services] has specified differentiated rates for interpreters based on their qualifications.

Better general conditions and career prospects for qualified interpreters may also contribute to encouraging additional talented bilingual candidates to complete interpreter training and choose the interpreting profession as their livelihood. Many well qualified interpreters today leave for other professions. Of the 1130 candidates who have completed the interpreter training since 2003, only just a little over a half are today registered in the Norwegian National Register of Interpreters.²

The Committee believes that a closer follow-up of interpreters is necessary. As freelancers, interpreters should have a community of peers they can discuss their work situation with. This is an important duty that the booking services, whether private or public providers, should be responsible for.

The language of the Sami and other national minorities

In general, the measures proposed in the report will also apply to the Sami languages. The Committee would also like to point out the right of Sami speakers to choose whether to speak Sami or Norwegian in their dealings with the public sector in the administrative area for Sami languages. It is the service provider's responsibility to book an interpreter if this is what the user wishes.

The Committee proposes introducing an authorisation scheme and special education for Sami language interpreters.

Sami, Kven, Romani and Romanés are protected by the European Charter for the Protection of Regional or Minority languages. According to the information the Committee has received, the number of people using these languages on a day-to-day basis is low. There is a need to strengthen and revitalise the Sami languages and the languages of the national minorities. The development of terminology is a key measure for ensuring that communication through an interpreter in these languages is possible.

The recommendation from the Committee is unanimous.

² As of 30 June 2014 there are 739 interpreters with interpreter education entered in the Norwegian National Register of Interpreters (63 per cent of the approximately 1170 people who have taken interpreter education since 2003).