



JUSTISIGNS: Access to justice across Europe

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Justisigns is a 30-month project funded through the European Commission's Leonardo Da Vinci Lifelong Learning programme. The project is concerned with promoting equal access in the justice system for deaf sign language users and brings together a number of European partners to develop and deliver a series of specialist training courses, specialist training materials and toolkits that promote best practices in the legal setting. The project is led by Interresource Group (Ireland), in collaboration with consortium partners: Heriot-Watt University in Scotland, Trinity College Dublin in Ireland, KU Leuven in Belgium, University of Applied Sciences of Special Needs Education in Switzerland, efsli (European Forum of Sign Language Interpreters), and EULITA (European Legal Interpreters & Translators Association)¹.

The justice sector is a vast and complex domain made up of a number of specialist areas, therefore for the purpose of the Justisigns project will focus largely on police interviews mediated by a signed language interpreter. Police interviews mediated by an interpreter is recognised as an under resourced area of research yet the most integral (Berk-Seligson, 2009; Nakane, 2009; Böser, 2013). The police interview is the initial phase of any legal enquiry, where the evidence collected is used repeatedly throughout the legal process and has a direct impact on the final judgement. Therefore, the interpreting or translation skills required to work in police interview settings demands serious attention and specialist training to ensure the integrity of the legal process is not compromised (Berk-Seligson 2009; Nakane, 2009; Böser, 2013).

The demand for interpreters in police interviews in the European Union (EU) has grown significantly due to the freedom of movement across member states. This raises important questions when it comes to protecting the rule of law. The European Commission (EC) has been working with the member states to harmonise the legal systems, which in turn protect human rights, linguistic & cultural diversity and equality (Morgan, 2011). Evidence of this

¹ www.justisigns.com

drive exists across EU legislation and the EU Criminal Justice programme² (which was adopted by on 12 February 2007). There are two particular Directives that are of vital significance of people who belong to a different linguistic community to the language used by law service:

- **DIRECTIVE 2010/64/EU on the right to interpretation and translation in criminal proceedings**
- **DIRECTIVE 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime**

Both Directives have been ratified by the majority of EU Members States and should have been transposed into domestic law by 27 October 2013. What do they offer the ordinary Deaf European Citizen? A deaf suspect/witness/victim has the right to be provided with an interpretation and translation support in all stages of the legal process, furthermore the cost of this provision is to be met by the state. The principle that every European citizen is entitled to equal access to justice could not be more clear than what is described in the two pieces of EU legislation listed above. EU member states (and the public services such as the police) are under an obligation to ensure equality of provision across language and culture.

A closer look at Directive 2010/64 will reveal a number of articles that are of further value to all stakeholders. These articles have the sole interest of protecting the integrity of the legal process:

- *Art. 2. 8 Interpretation... shall be of a quality sufficient to safeguard the fairness of the proceedings.*

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² The ultimate goal of the Criminal Justice Programme was to promote judicial cooperation based on mutual recognition and mutual confidence.

• Art. 5. 1 Member States shall take concrete measures to ensure that the interpretation and translation provided meets the quality required under Article 2(8) and Article 3(9).

• Art. 5. 2 Member States shall endeavour to establish a register or registers of independent translators and interpreters who are appropriately qualified.

• Art. 6 The training of judges, prosecutors and judicial staff... to pay special attention to the particularities of communicating with the assistance of an interpreter.

Most EU member states have committed themselves to ensuring that interpreters and translators who work in the legal domain are of *quality, appropriately trained and regulated*. This is in recognition that legal interpreting/translation task itself is highly a complex and a skilled profession. Those who fulfil this duty must do so without compromising the integrity of the legal process.

The question we now need to consider is, what is the gap between where member states are currently in terms of meeting their obligation described in the EU Directives? In the early phase of the Justisigns project we ran a pan-EU survey on interpreting provision in the legal domain. The survey found a serious deficit of legal interpreter training and certification pathways, which would suggest a shortage of specialist skills (Napier & Haug, 2015). Whilst the survey respondents could provide examples of positive practice it was not consistent. Not all interpreters were expected to meet a minimum criterion before working in the legal domain and not all were expected to undergo any assessment of their legal interpreting skills.

To follow on from the survey the research team at Heriot-Watt University conducted a series of focus groups and interviews across the UK. They include:

- Police officers who have experience working with signed & spoken language interpreters
- Police officers who have never experience working with interpreters
- Police officers who have experience working with spoken language interpreters
- Police Link Officers for the Deaf (PLOD)
- Deaf people who have previous experience of being interviewed by the police
- Deaf family members who have indirect contact with the legal process
- Deaf legal experts
- Signed language interpreters who have developed a high level of experience working in police stations

The different groups all provided a range of insights to what policy changes were needed, training required and resources that were still lacking. In summary:

1. Deaf people did not feel they were receiving equal treatment and more could be done with the police in terms of basic deaf awareness training.
2. Police officers welcomed the opportunity to learn more basic deaf awareness training but questioned the actual perceived benefit. Police officer's contact with Deaf signed language users was impossible to predict and any skills developed through training is likely to be lost through lack of use.
3. Police officers and interpreters recognise that police services are beginning to improve. Police officers felt they were becoming more aware and experienced after handling incidences with other linguistic communities and working with spoken and signed language interpreters.
4. Police officers struggled to find appropriately trained interpreters. In some cases a lay person was suggested, or used, to act as an interpreter.
5. Deaf respondents and police officers provided examples where interviews had taken place without an interpreter present.
6. Deaf respondents, interpreters and police officers provided examples where interviews had taken place without video recording.
7. In some cases only the deaf suspect/witness/victim was filmed during the police interview. UK guidelines for police officers recommend the filming of both the deaf suspect and interpreter.
8. Interpreters' experiences of police interviews were dependent on the police officer's attitude (e.g. recognising that BSL is a different language) and willingness to accommodate the linguistic difference and ways of working with an interpreter.
9. Interpreters recognise further specialist training, certification process and review process was needed for all legal interpreters; however, no such opportunities exist in the UK. Currently interpreters find other ways to develop the necessary legal interpreting skills, e.g. completing a law degree; working in courts for 3 years before accepting work in police stations; meeting with police officers to review past assignments; and arranging with police officers to return to the police station and review the video recording of one's own interpreting work.

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10. Interpreters had mostly been self taught when it comes to understanding police interview procedures.

11. Mixed reports of interpreters participating in reflective practices. Not all interpreters made use of peer to peer support.

12. Some interpreters wanted to see a system in place where feedback could be provided/received in situations where police interview evidence had to be reviewed because of a serious interpreting error.

13. All stakeholders agreed that interpreters need to be vetted and should complete specialist training before entering the legal domain.

14. The Police Link Officer for the Deaf (PLOD) scheme in the UK appears to benefit all stakeholders. A PLOD officer is a voluntary position within the police force and are generally police officers who have a personal interest in working with a the British Deaf community. Through their own initiatives they act as an adviser to other police officers who are preparing to interview a Deaf suspect/witness/victim.

15. Some PLOD officers are in a position to vet which interpreters should be invited to work in police settings and provide support to the interpreter.

16. PLOD officers have had the freedom to define their remit and approach to working with the Deaf community.

17. PLOD officers currently see their own role as someone to champion the concerns of the Deaf community within their local police force, share their specialist skills and knowledge with other police officers and interpreters

18. There are examples in the UK where PLOD officers have been able to react to the feedback received from the Deaf community and improve the local police's services. For example, a number of police forces have a dedicated page on their website for British Sign Language (BSL) users. Information and guidance is provided in BSL and English text. One police force is working with the deaf community to establish a local Video Relay help line.

19. Not all stakeholders were aware of established guidelines and toolkits to working with an interpreter, which are either available on internal police networks for police officers or on the worldwide web for the public.

Whilst we see positive progress being made with legislation, such as Directive 2010/64 and 2012/29, where the interpreter and translator's practice is recognised as an essential part of the legal process, more work is needed with police forces who have a duty to uphold the law and follow best practices for evidence collection. A clear barrier preventing police forces from achieving their equality objectives was not only the lack of interpreters

in general, but the lack of certified legal interpreters and access to advice on how to handle interview mediated by an interpreter. To begin closing this gap governments have an obligation to encourage justice departments and police forces to work with deaf people, interpreters, deaf associations, interpreter associations and trainers to build new solutions that ultimately protect the integrity of the legal process.

This November at Heriot-Watt University the Justisigns consortium will begin applying the outcomes of our research into three CPD training sessions; 1) for interpreters who are working in police stations; 2) for police officers on conducting interviews mediated by an interpreter; and 3) for Deaf people. This is the first step towards developing a full 5 credit course for signed language interpreters, Deaf people and front-line legal professionals. Our goal is to ensure what we learn from our research filters through to those who have a duty to work together and ensure equality before the law. This study would not have been possible without the support from our consortium partners, and we would like to acknowledge the input of all participants to our survey, interviews and focus groups.

