
„ASPECTS OF LEGAL INTERPRETING AND TRANSLATION“

LESSIUS UNIVERSITY COLLEGE

EULITA EUROPEAN TRANSLATORS AND INTERPRETERS ASSOCIATION

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IGBG INTERESSENGEMEINSCHAFT BUNDESDEUTSCHER GERICHTSDOLMETSCHER





**“THE FUNCTION OF A LEGAL INTERPRETER AND/OR TRANSLATOR IN THE FEDERAL REPUBLIC OF GERMANY
- PRECONDITIONS, QUALIFICATION, COMPENSATION AND LEGAL BASIS”**

- A SHORT ABSTRACT -

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1. LEGAL BASIS – SOME EXAMPLES

1.1. THE ECHR EUROPEAN CONVENTION ON HUMAN RIGHTS AND ITS FIVE PROTOCOLS (1950)

The ECHR is binding on all Member States of the European Council.

For monitoring the compliance of the ECHR regulations the European Court of Human Rights is responsible.

Article 5 ECHR

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

Article 6 ECHR

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. (...)

(3) Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(...)

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 13 ECHR

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 ECHR

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.



1. LEGAL BASIS – SOME EXAMPLES

1.2. PROPOSAL FOR A COUNCIL DECISION ON THE RIGHT TO INTERPRETATION AND TO TRANSLATION IN CRIMINAL PROCEEDINGS / KOM (2009) 338, 8 July 2009

Presented by the European Commission.

We now have to wait for the day when the proposal will be approved, and – most important - in which form. The question is - will we have to expect major changes or not regarding the content of the proposal?

The main aim of the proposal is to secure basic human rights. In addition, some more rights are going to be guaranteed in the proposal, f.e. for persons, which are affected by an European Arrest Warrant.

The proposal is based on:

1. The ECHR European Convention on Human Rights
2. The jurisdiction of the ECHR European Court on Human Rights concerning the required know how and expertise of an interpreter in the sense of the so called „linguist-lawyer“
 - case: Luedicke, Belkacem and Koç versus Germany
 - case: Cuscani versus United Kingdom
3. The recommendations of the „Reflection Forum on Multilingualism and Interpreter Training“ / Report on behalf of the Directorate General for Interpretation of the European Commission

Our sincere thanks to all the members of the „Reflection Forum on Multilingualism and Interpreter Training“, who have done an excellent and tremendous work by creating these recommendations on an European level, aiming on establishing quality criteria for academically educated legal interpreters. Some of the results / recommendations of the report are:

- There is high need of action within the European context
- The forum developed recommendations regarding the improvement of the supply of legal interpreters and/or translators for all Member States
- It worked out an academic qualification and competence profile regarding interpreting services
 - many thanks for that
- It suggested the implementation of academic curricula for the program of study „Legal Interpreting“
 - thanks also for that
- It proposed the installation of procedures for the accreditation, certification and official registration for legal interpreters and/or translators in the EU



1. LEGAL BASIS – SOME EXAMPLES

1.2. PROPOSAL FOR A COUNCIL DECISION ON THE RIGHT TO INTERPRETATION AND TO TRANSLATION IN CRIMINAL PROCEEDINGS / KOM (2009) 338, 8 July 2009

Concerning the content of the a.m. proposal I just wanted to underline the following:

Article 2 Right to Interpretation

Artikel 3 Right to Translation of the Most Important Documents

Artikel 4 The Cost Overtaking for Interpreting and Translation Services by the Member States

Artikel 5 The Quality of Interpreting and Translation Services

Concerning the basic requirements and the quality of legal interpreting and translation services the proposal refers to the recommendations of the „Reflection Forum on Multilingualism and Interpreter Training“.

Very important question for all of us in the future – will the academic profile of legal interpreters and/or translators be compulsory, or will it just be a recommendation?

Furthermore, the proposal points out the maximum requirements legal interpreters and/or translators are faced with.

Moreover:

With regard to the quality of interpreting and translation services judges, lawyers and other court staff should be trained. *(Remark: In my opinion and referring to the situation in Germany they must be trained – judges, lawyers etc. still have no idea concerning most important aspects of the theoretical and practical work of legal interpreters and/or translators.)*
The proposal comes into force 20 days after having been published in the Official Journal of the European Union.



2. QUALIFICATION

2.1. ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY IN GENERAL

In one of my recent presentations for the Consulate General of the Republic of Poland I worked out, that – with one exception – there are no academic chairs in Germany dealing with the highly demanding theoretical and practical education and training for legal interpreters and/or translators in Germany.

Quite the contrary, we are permanently faced with the cancellation of academic chairs in the field of linguistics in the widest sense - despite the growing demand for highly professional interpreting and translation services in nearly all fields within European context.

In Germany, we have approximately 47 programs of study offered by 18 universities, colleges and universities of applied sciences which focus on the education of interpreting and/or translation abilities or foreign language training.

Only 1 program of study taken from this 47 leads to the required and highly specialized double-competence in the field of interpreting and/or translation and law: **B.A. Fachdolmetschen – B.A. in Specialized Interpreting Studies, prof. Christiane Driesen, The Magdeburg-Stendal University of Applied Sciences.**

16 programs of study taken from this 47 just lead to partial competencies in the fields of interpreting, translation, foreign language training and law.

Very often students just obtain a minor or major foreign language competence, which has nothing to do with an intensive translation and/or interpreting training.

Important – with regard to the 16 programs of study which are leading to partial competencies - the law subject just represents an option (optional study module, optional obligatory study module, supplementary subject), the law subject is not compulsory.



2. QUALIFICATION

2.2. ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY IN PARTICULAR

Let's have a look on the mentioned 17 programs of study in Germany:

The University of Leipzig (Universität Leipzig, IALT)

1. [B.A. in Translation](#) (6 semesters)
2. [M.A. in Translatology](#) (M.A. Translatologie) (4 semesters)
3. [M.A. in Conference Interpreting](#) (M.A. Konferenzdolmetschen) (4 semesters)
4. [Double-Degree Master Programme](#) (Doppelmaster), The Universität of Leipzig, The Universität of Strasbourg (2 semesters)
5. [EMT European Master in Translation](#) (4 semesters)

With regard to all programs of study students have the opportunity to choose the law subject in addition at Leipzig University.

The Johannes Gutenberg University of Mainz (Johannes Gutenberg Universität Mainz, FASK)

6. [B.A. in Language, Culture, Translation Studies](#) (B.A. Sprache, Kultur, Translation) (6 semesters)
Optional obligatory module: Law
7. [M.A. in Conference Interpreting](#) (M.A. Konferenzdolmetschen) (4 semesters)
Optional obligatory module: Law

The Magdeburg-Stendal University of Applied Sciences (Hochschule Magdeburg-Stendal)

8. [B.A. in Specialized Communications](#) (B.A. Fachkommunikation) (7 semesters)
Optional subject: Introduction into the basics of law/business economics



2. QUALIFICATION

2.2. ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY IN PARTICULAR

The Magdeburg-Stendal University of Applied Sciences (Hochschule Magdeburg-Stendal)

9. B.A. in Specialized Interpreting Studies (B.A. Fachdolmetschen) (7 semesters)

Translation, Interpreting, theoretical and practical problems of interpreting and translating, specialized interpreting for the public authorities, the courts and companies, translation of official documents and certificates, translation of common texts, basics of law, working with terminology, terminology research, databases and research, rhetoric/presentation techniques, electronic data processing systems, foreign culture competencies

The University of Heidelberg (Ruprecht-Karls-Universität Heidelberg)

10. B.A. in Translation Studies (B.A. Übersetzungswissenschaft) (6 semesters)

Optional obligatory module: Law

11. M.A. in Conference Interpreting (M.A. Konferenzdolmetschen) (4 semesters)

Optional module: Law

The University of Bonn (Rheinische Friedrich-Wilhelm-Universität Bonn)

12. B.A. in Asian Studies (B.A. Asienwissenschaften) (6 semesters)

No interpreting, no translation, just training of language competencies

Optional module: Basics of law

Cologne University of Applied Sciences (Fachhochschule Köln)

13. M.A. in Specialized Translation (M.A. Fachübersetzen) (4 semesters)

Optional specialized subject: Business Economics/Law



2. QUALIFICATION

2.2. ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY IN PARTICULAR

Institute for Foreign Languages at the University of Erlangen – Nuremberg (IFA Institut für Fremdsprachen und Auslandskunde bei der Universität Erlangen-Nürnberg)

14. State Certified/Officially Certified Translator (Staatlich geprüfter Übersetzer) (6 semesters)
Optional specialized subject: Law (only for the English language)
15. State Certified/Officially Certified Translator and Interpreter (Staatl. gepr. Übersetzer und Dolmetscher) (6 semesters)
Optional specialized subject: Law (only for the English language)

University of Applied Languages in Munich (SDI Hochschule für angewandte Sprachen München)

16. B.A. in International Business Communications (B.A. Internationale Wirtschaftskommunikation) (7 semesters)
No interpreting, no translation, foreign language competence
Economics and law (20%)

Specialty: University of Hamburg (Universität Hamburg)

17. Further studies „Interpreting and Translating for Public Authorities and at Court“ (10 months)
Costs: 2.416,-- EUR
Admission have: Skilled interpreters and translators
Lawyers with a foreign language competence
Applicants of comparable ability without graduate degree/university degree
Those applicants have to pass – when indicated - a qualifying examination
Qualifying examination consists of a conversation of about 20 – 30 minutes
Study conditions: In the study conditions we can further read, that 141 hours of personal attendance are demanded
60 hours taken from these 141 hours deal with the introduction into interpreting and note taking techniques
– which means 6 hours per month
In the field of legal interpreting this is definitely not enough, especially for participants with no linguistic background at all, the practical work as an interpreter at the court is just too demanding
Degree: Certificate of the University of Hamburg
Aim: To qualify participants for a work as legal interpreter and/or translator at court and for public authorities
Depending on further requirements participants can become a Sworn Translator and/or Interpreter of the Free and Hanseatic City of Hamburg

2. QUALIFICATION



2.3. NON-ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY “STATE CERTIFIED/OFFICIALLY CERTIFIED INTERPRETER AND/OR TRANSLATOR“

RESPONSIBILITY: STATE-RUN EXAMINATION AUTHORITIES IN NEARLY ALL FEDERAL STATES OF GERMANY

*Basis: Guideline for the Realization and Approval of Examinations for Translators, Interpreters and Sign Language Interpreters
(Decision of the Standing Conference of the Ministers of Education and Cultural Affairs of the Federal States of the Federal Republic of Germany - KMK - from 12th of March, 2004)*

German nationwide system of state-run examinations, where applicants have the opportunity to go through an examination for “interpreters“ and “translators“ without giving any evidence of an academic qualification/degree as an interpreter or translator or any other academic qualification. After having passed these examinations, they can work as so called “State-Certified/Officially Certified Interpreter“ or “State-Certified/Officially Certified Translator“, f.e. at the court or for public authorities.

Extract from the content of the a.m. guideline:

Examinations are carried out once a year.

Interested persons have to declare their interest and will then be admitted.

Examinations are carried out for all modern languages, provided that there are the respective and appropriate examiners at disposal.

Prerequisites for admission to the examination:

- educational achievement at medium level or equivalent (mittlerer Bildungsabschluß oder vergleichbar)
- may have a perennial education as translator and/or interpreter
- may have an equivalent foreign-language education
- may have practical experience as an interpreter and/or translator

How do the examinations look like at the state-run examination authorities?

Written examination:

- 3 hours
- Written essay which focusses on applied geography
- Translation of a demanding text of general nature from the foreign language into German (25 to 30 lines)
- Translation of a demanding text of general nature from German into the foreign language (25 to 30 lines)
- Applicants can choose the subject/specialized field for the written examination by their own



2. QUALIFICATION

2.3. NON-ACADEMIC QUALIFICATION OF INTERPRETERS AND/OR TRANSLATORS IN GERMANY

“STATE CERTIFIED/OFFICIALLY CERTIFIED INTERPRETER AND/OR TRANSLATOR“

RESPONSIBILITY: STATE-RUN EXAMINATION AUTHORITIES IN NEARLY ALL FEDERAL STATES OF GERMANY

Oral examination:

- 75 minutes
- Conversation will be carried out on political, economic, cultural and juridicial matters
- Applicants can choose the subject/specialized field for the examination by their own
- Some extemporaneous interpreting techniques are required (from German into the foreign language and vice versa)

Specialty:

- Oral examination can be reduced from 75 to 45 minutes, if applicants provide 2 theses worked out at home:
 - One thesis: 90 lines (approx. 1,5 standard paper sizes)
 - The other thesis: 60 lines (approx. 1 standard paper size)
 - Deadline: within 3 weeks
 - Strange: Provision of written theses is connected with an examination in the field of interpreting techniques and abilities

Unevaluated in this context remain the following competencies:

- Interpreting techniques like consecutive, simultaneous and chuchotage interpreting
- Note-taking techniques (consecutive interpreting)
- Juridicial terminology

The German job-title “State-Certified/Officially Certified Interpreter“ or “State-Certified/Officially Certified Translator“ has nothing to do with the academic degree conference interpreter, interpreter or translator or any other kind of academic degree. (One exception: Program of study at the Institute for Foreign Languages at the University of Erlangen-Nuremberg).

2. QUALIFICATION



2.5. REQUIREMENTS FOR LEGAL INTERPRETERS AND/OR TRANSLATORS IN GERMANY

2.5.1. AN ACADEMIC DEGREE/UNIVERSITY DEGREE IS NOT COMPULSORY TO WORK AS A LEGAL INTERPRETER AND/OR TRANSLATOR IN GERMANY

This is the situation in all Federal States of the Federal Republic of Germany.

2.5.2. THE QUALIFICATION OF A “STATE CERTIFIED/OFFICIALLY CERTIFIED INTERPRETER AND/OR TRANSLATOR“ IS SUFFICIENT AS WELL

This – again - is the situation in all Federal States of the Federal Republic of Germany.

2.5.3. THE SO CALLED “ LAWS ON LEGAL INTERPRETERS AND/OR TRANSLATORS“ OF THE FEDERAL STATES OF GERMANY OFTEN DON'T EVEN SETTLE MINIMUM QUALIFICATION STANDARDS

At the moment, the German Federal States are passing or modifying their so called “Laws on Legal Interpreters and/or Translators“; some have already managed to do so. On the one hand, this is due to a decision of the German Federal Court of Administration from the 16th of January 2007 (Az. 6 C 15.06). On the other hand, all the Federal “Laws on Legal Interpreters and/or Translators“ have to take into consideration the current law and guidelines of the European Union.

The Federal “Laws on Legal Interpreters and/or Translators“ form the basis for the attestation as a “Sworn Interpreter and/or Translator“. But this attestation in no case corresponds neither to an academic degree, nor an official examination or a minimum qualification.

Furthermore, being a “Sworn Interpreter and/or Translator“ is no exclusive criteria for having special access to the court and the performance of legal interpreting and/or translation services.

German judges are free in choosing whomever they want for the performance of legal interpreting and/or translation services. And they do so.

2. QUALIFICATION



2.5. REQUIREMENTS FOR LEGAL INTERPRETERS AND/OR TRANSLATORS IN GERMANY

2.5.4. THE “LAW ON THE CONSTITUTION OF THE COURT“ (GVG GERICHTSVERFASSUNGSGESETZ) CONTAINS NO MINIMUM REQUIREMENTS FOR LEGAL INTERPRETERS AND/OR TRANSLATORS

The articles 185, 187, 189 and 191 GVG define no minimum qualification requirements for legal translators and/or interpreters at the courts in Germany. I don't have to explain to you, what this means in respect to the quality and security of jurisdiction. On the contrary, on the basis of article 190 GVG clerks of the courts respectively registrars of the court offices even can be recruited for performing highly demanding legal interpreting services.

2.5.5. COMMAND OF THE LEGAL TERMINOLOGY NOT IN ALL FEDERAL STATES OF GERMANY REQUIRED

Here we had quite a different situation throughout Germany in the past, but we will be faced with it in future as well. Only in some Federal States the command of the legal terminology is compulsory. Here we have to wait until all “Laws on Legal Interpreters and/or Translators“ will have been amended or passed during the next 3 to 6 months.

2.5.6. SOME RESTRICTIONS FOR ACADEMICALLY EDUCATED CONFERENCE INTERPRETERS, INTERPRETERS AND/OR TRANSLATORS

In addition, academically educated conference interpreters, interpreters and translators are faced with restrictions when trying to get the attestation “Sworn Interpreter and/or Translator“ in some Federal States of Germany. And this despite the fact, that they have been working for the courts in other Federal States or EU-Member States for years or decades. They have to undergo an additional “Procedure on Identifying the Qualificational Suitability/Aptitude“ (Eignungsfeststellungsverfahren). This is still the situation in Bavaria, Hamburg and Mecklenburg-Vorpommern. As far as we can observe, Bavaria will cancel this procedure in the next future.

Furthermore, we are convinced, that the other two Federal States will follow because these procedures are discriminating against academically educated conference interpreters, interpreters and/or translators. No other academic group – lawyers, pharmacists, dentists, practitioners, teachers – has to undergo an additional procedure which is proving their professional competencies and abilities after having gained the respective academic degree. In addition, this practice stands in contradiction to the German and European Law.



2. QUALIFICATION

2.5. REQUIREMENTS FOR LEGAL INTERPRETERS AND/OR TRANSLATORS IN GERMANY

2.5.7. OVERTAKING OF „SWORN INTERPRETERS AND/OR TRANSLATORS“ ON THE BASIS OF THE NEW/AMENDED “LAWS ON LEGAL INTERPRETERS AND/OR TRANSLATORS“ WITHOUT QUALIFICATION REQUIREMENTS

We are worried, that so called „colleagues“ with no relevant academic degree or qualification will be overtaken without any qualificaltional requirements on the basis of the new/amended laws of the Federal States. With only one exception – the Federal State of Nordrhein-Westphalia.

At the moment, we recommend to the judges and lawyers associations we are cooperating with to proof the qualification and ability of the legal interpreter and/or translator in each case. In cases of insufficient performance in legal interpreting and translation we recommend to the lawyers to immediately make a complaint about it.

3. COMPENSATION



3.1. “LAW ON COMPENSATION IN THE FIELD OF JUSTICE“ (JVEG JUSTIZVERGÜTUNGS- UND ENTSCHÄDIGUNGSGESETZ)

In Germany we have the JVEG which is regulating the compensation of interpreters and/or translators at the court and for the directories of public prosecution. The former intention was to define academically common compensation standards.

Roughly speaking: The compensation starts at 1,25 EUR net per standard line (translation), in the field of interpreting 55,-- EUR net per hour (interpreting) were defined, plus compensation for other services.

3.2. ARTICLE 14 JVEG

Unfortunately, we have article 14 JVEG which allows the authorities of justice to make special agreements with interpreters and/or translators, who are “more often“ working for the courts. This is the only criterion.

Despite the fact, that we are faced with public orders, which require of course the realization of public tenders.

3.3. SYSTEMATIC INFILTRATION OF THE JVEG ON A FEDERAL STATE LEVEL AND IN THE CONSEQUENCE VERY POOR FINANCIAL CONDITIONS FOR OUR COLLEAGUES

4. WAYS OF ORDER PLACING



4.1. NO DIRECT ORDER PLACING

In some Federal States of Germany we have the situation that legal interpreters and/or translators don't receive direct orders from the authorities of justice at all.

The orders are being placed to translation companies, and this despite the fact, that our colleagues are expressly at disposal for the authorities of justice and waiting for their call.

In Federal States like Schleswig-Holstein, Saxons, Saxony-Anhalt or Berlin the situation is especially critical.

Colleagues receive the orders in placement by translation agencies on the basis of often poor financial conditions.

Sometimes the financial conditions don't allow a realization of the agency order in an economic senseful way, which means colleagues have to refuse the orders.

4.2. POSITIVE NEW TRENDS IN THE RESULT OF LOBBY WORK

In some recently passed or expected "Laws on Legal Interpreters and/or Translators" – f.e. in Schleswig-Holstein, Berlin, Brandenburg, Nordrhein-Westfalen – the orders will be placed now directly.

We hope that the direct placing of orders will be the state of the art in all German Federal States – like in other Member States of the EU. Our IGBG is fighting for this all the time.

Nevertheless, we closely have to observe the ways of order placing by the authorities of justice in the German and European context in the future as well.

Thank you very much for paying attention to my paper!

We are looking forward to discussions and joint activities with our colleagues to better the situation on an European level!



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