Access to Justice for Vulnerable Groups in Russia

Seminar

Interpreters and the Legal Process

October 31, 2017

The seminar "Interpreters and the Legal Process" has gathered a diverse circle of participants including linguists and lawyers, students and experienced practitioners, beginner interpreters representing ethnic minorities and sign language interpreters, interpreters with no experience in courts and police and professional court interpreters working with a wide range of languages.

Several chapters from *Interpreters and the Legal Process* by Joan Colin and Ruth Morris, a court interpreter and a judge from Britain, were translated specifically for this seminar. The guidebook introduces interpreters and lawyers to the features of the two professions and the rules of interpreters' work at courts and police stations.

For most of the participants, this seminar has become the first of this kind that they have attended. Its most important outcome is the emergence of a network of colleagues who are seriously concerned about the quality of interpretation at courts.

The participants were impressed by the professionalism of the experienced interpreters who led the training, and by the useful information in the form of presentations and links shared with all the participants for further study. At the seminar, many questions were raised concerning all aspects of interpreters' work in criminal proceedings. Nearly all of them were related to the main issue, namely, the interpreter's function. Ideally, an interpreter should ensure mutual understanding of the parties to the proceedings, remove the language barrier between them and be a neutral independent channel of communication. It may seem at first that the interpreter's function is technical. All that he or she needs to do is interpret correctly. However, even this function involves many problems related to its practical implementation.

What does “interpret correctly” mean? Does it mean being literal or using equivalents from the native language? Should the interpreter explain legal terms? Should he or she make own comments or not? Can the interpreter ask clarifying questions?

What are the relations of the interpreter with the parties to the proceedings? What if the suspect (the accused) asks not just for interpretation but also for advice, taking the interpreter as an aide in defending his or her rights rather than just a technical expert who is helping justice? And what if the investigator asks the interpreter to help as an expert in intercultural communications?

What conditions are needed for proper interpretation? How should court interpreters be trained, selected, and admitted to work? How can highly qualified interpreters be motivated to take numerous routine criminal trials (where most of the accused are poor and illiterate) over corporate business disputes? What should the workload be so that the quality of the interpretation is not affected? How should the entire system of engaging and paying interpreters be organised?

How can interpreters protect their rights? What can be done if the employer does not provide the necessary resources (time, payment, procedure flexibility)?

Another question is, do the parties always want a high quality interpretation that would ensure the defendant has an exact understanding of asked questions? The tactics of barristers for cross-examination may be just the opposite, involving ambiguity, vagueness, confusion, etc. How should the interpreter behave in a situation like that?

What are the requirements for professional ethics of a court interpreter and how should they be applied in practice?

These are just a few of the issues that were discussed. Presentations were illustrated with examples from interpreters’ practice in various countries. The trainers played short educational videos and asked participants to share their own experience.

Oxana Yakimenko, a simultaneous interpreter and a university lecturer from St. Petersburg, described the Russian practice of interpreting at investigation and trial stages. She suggested that in addition to using professional literature to prepare for their job, the participants may also read fiction books written by interpreters. Using examples from her experience, educational videos of the Cambridge police and the American guide for court interpreters, Oxana demonstrated some of the ethical dilemmas that interpreters encounter. The discussion made it clear that policemen, investigators, judges and defence lawyers needed special training for working with interpreters just as well.

Elena Cook, a simultaneous interpreter and a university lecturer from London, talked about the development of court interpreting in the UK and Australia. In her opinion, in this respect even the well developed British judicial system is inferior to the centralised Australian system where the standards for court interpreting (and, more generally, any interpreting that is necessary for interaction with government authorities) are almost perfect. Such a policy results from the principles of respect for cultural diversity. Australia even has a Judicial Council on Cultural Diversity, which holds seminars for judges, law enforcement officers, and defence lawyers on a regular basis.

In England, the system has recently been reformed. In 2012, the national register of court interpreters was abolished and the service was transferred to companies. This had a negative effect on the quality of interpretation. In fact, the agency that won the tender last time did not manage to do a good job. At present, the registers are reinstated to some extent on a local scale.

A distinguishing feature of the British system is respect for the interpreters, which comes not just from the traditional culture of justice but also from profound understanding that proper interpretation is an element of the fundamental right to a fair trial in the meaning of the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the UK Human Rights Act.

The British Code of Ethics for Interpreters, especially the way how it stipulates the principles, values and responsibilities of the interpreter, may be a good example for other countries.

Alexander Larin, Director of Alba Translation Agency from Nizhniy Novgorod, commented on the provisions of the Russian procedural law with regard to the work of court interpreters and initiated a discussion on the need to specify the requirements for court interpreters. He also talked about the grounds for liability for deliberately wrong interpretation. Alexander mentioned the project of establishing a centre for court interpreters initiated by the Union of Translators of Russia.

Professional interpreters have done a great job of writing and substantiating legislative proposals in the following areas:

- Differentiation of the types of court interpreting.
- Requirements for candidates who are willing to get the status of a court interpreter.
- Tests for court interpreters and the composition of the qualification commission.
- Establishment of a united register containing details of court interpreters.
- Grounds for suspension and termination of the work of court interpreters.
- Rights and duties of court interpreters.
- Procedure for hiring court interpreters.

The project caused great interest among the participants. Its implementation will help improve the quality of work of court interpreters up to a modern level and help all parties to the proceedings perform their duties and exercise their rights for a fair trial.

Rudolf Georkyan, President of the Association of Scientific and Technical Translators of St. Petersburg and Honorary Member of the Polish Society of Court (Qualified) and Legal Translators, reminded the participants about the history of the work on the draft Code of Ethics for Court Interpreters and told how this work is organised in Poland.

At the end of the seminar, the participants shared their suggestions for future programs on the subject of court interpreting. The following ideas were proposed:

- invite judges and investigators to participate in seminars;
- develop cooperation with representatives of law enforcement agencies on providing proper conditions for interpreters;
- do training on communication skills and interaction with officials from law enforcement bodies;
- do training on developing skills for resisting psychological pressure;
- exercise case studies in small groups;
- hold seminars on practical issues of written translation in certain branches of law;
- continue engaging foreign experts;
- discuss clear criteria for observing the rights and duties of interpreters;
- analyse the relations of the interpreters and the employers;
- engage representatives of diasporas in the discussion;
- engage officials of the Migration Department of the Ministry of Internal Affairs;
- organise a system for certification of sign language interpreters in St. Petersburg;
- try role plays simulating the participation of an interpreter in interviews at police stations;
- try a moot trial exercise with participation of an interpreter;
- further discuss the project of reforming the institution of court interpreting.

The subject of court interpreting has turned out to be extremely complex, interesting, and promising for cooperation not just inside the community of court interpreters but also between the latter and the other parties to the proceedings and representatives of the government and NGOs. This seminar can give rise to fruitful cooperation on that matter in St. Petersburg, in Russia, and worldwide.