



IRISH TRANSLATORS' AND INTERPRETERS' ASSOCIATION  
CUMANN AISTRITHEOIRÍ AGUS ATEANGAIRÍ NA hÉIREANN

22 March 2021

Commissioner for Justice Didier Reynders  
c/o Dr Fabien Le Bot, European Commission

cc: Ministers Helen McEntee and Roderic O'Gorman, Department of Justice; Commissioner Drew Harris, An Garda Síochána; Angela Denning, Courts Service; John Edwards, Association of Irish Judges; Ken Murphy, Law Society; John McDaid, Legal Aid Board; Sinéad Gibney, Irish Human Rights and Equality Commission; Fair Trials; Irish Council for Civil Liberties; Daniela Amodeo Perillo, European Legal Interpreters and Translators Association; Annette Schiller, FIT Europe

Dear Commissioner Reynders,

The Irish Translators' and Interpreters' Association (ITIA) was founded in 1986 as a not-for-profit organisation. It is the only professional association in Ireland representing the interests of practising translators and interpreters and is a member of EULITA, the European Legal Interpreters and Translators Association. The ITIA aims to promote the highest standards within the profession and to this end we hold examinations for our top category of membership, professional membership. We also have a separate examination for professional members who wish to specialise in the translation of legal documents and become ITIA Certified Legal Translators.

We have been concerned for many years about interpreter provision for spoken languages in police stations and the courts in Ireland and have sent various submissions to the Department of Justice, the Courts Service and An Garda Síochána (Irish police force). Directive 2010/64/EU on interpreting and translation in criminal proceedings was partly transposed into Irish law over seven years ago and Directive 2012/29/EU includes translation and interpreting for victims of crime. However, despite these legislative changes, absolutely nothing has been done to address the continuing lack of standards in interpreting and translation in criminal proceedings in Ireland, which is why we are now writing to you.

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings covers both sign and spoken languages. Article 5 Quality of the interpretation and translation, is particularly important as it emphasises the need for concrete measures to be taken in conjunction with a register:

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).
2. In order to promote the adequacy of interpretation and translation and efficient access thereto, Member States shall endeavour to establish a register or registers of independent translators and interpreters who are appropriately qualified. Once established, such register or registers shall, where appropriate, be made available to legal counsel and relevant authorities.

Inexplicably, no concrete measures have been taken by Ireland to ensure that interpreting and translation meet the quality required under the directive and no efforts of any kind have been made towards the establishment of a register of spoken language interpreters.

By contrast, thanks to recent changes, Irish sign language interpreters now meet these provisions. Qualifications are available in the form of a full university undergraduate course in sign language and sign language interpreting at B.A. level at the Centre for Deaf Studies established in Trinity College Dublin in 2001. In addition, national legislation in the form of the Irish Sign Language Act 2017 reinforces Directive 2010/64/EU and the statutory instruments transposing it into Irish law:

- 4.(1) A person may use Irish Sign Language in, or in any pleading in, any court.
- (2) Every court has, in any proceedings before it, the duty to do all that is reasonable to ensure that any person competent in Irish Sign Language and who cannot hear or understand English or Irish appearing in or giving evidence before it may be heard in that language, if that is his or her choice, and that in being so heard the person will not be placed at any disadvantage.

The Irish Sign Language Act 2017 also made provision for the engagement of verified competent Irish Sign Language interpreters:

7. A court or a public body, in compliance with its obligations under this Act, shall not engage the services of a person providing Irish Sign Language interpretation unless the person's competence has been verified by having been accredited in accordance with an accreditation scheme funded by the Minister for Employment Affairs and Social Protection.

Following on from the Act, the National Disability Inclusion Strategy 2017-2021 included provision for:

- Resourcing of the Sign Language Interpretation Service to increase the number of trained Sign Language and Deaf Interpreters, the establishment of a quality-assurance

and registration scheme for interpreters, and on-going professional training and development; (page 2)

The Sign Language Interpretation Service (SLIS) used this funding to explore how best to organise a register. The SLIS Register of sign language interpreters (RISLI) became available in December 2020. Alongside the register, continuing professional development (CPD) is mandatory and sign language interpreters on the register must engage in and record CPD and provide evidence of work practice. The CPD is made up of structured/unstructured and Deaf Community Engagement hours (where applicable). In addition, a minimum of 5% of members will be audited annually.

There is also a system in place for translation of the Irish language; an organisation called Foras na Gaeilge holds examinations for a seal of accreditation, a professional qualification for translators who translate between English and Irish. As regards translation of other language combinations, a number of universities across Ireland run undergraduate and postgraduate courses in translation studies. The Irish Translators' and Interpreters' Association examines members in its top category (professional members) who wish to become ITIA Certified Legal Translators. However, graduates of these courses and ITIA Certified Legal Translators are not necessarily recruited to translate legal documents pertaining to criminal proceedings. Instead, most of this work goes to 'translators' who do not hold a qualification in translation let alone legal translation.

In December 2020 the Garda Commissioner committed to provide telephone interpreting for Irish speakers in garda stations or when stopped on the roadside. We hope the service will be made available to speakers of other languages as well.

In February 2021 a White Paper to End Direct Provision included commitments to an accreditation test for interpreters working in the international protection process along with training and competency standards.

Unfortunately, the commendable progress in the provision of sign language interpreters and translators for the Irish language and plans for improvements in other areas merely serve to highlight the shortcomings in the transposition of the Directive in relation to spoken language interpreters. We are extremely concerned at the lack of appropriate standards in spoken language interpreting where the assumption seems to be that anyone who speaks English and another language can act as an interpreter in a garda station or in court. The requirements currently in force merely specify 'a recognised qualification in English' with no explanation of what is meant by 'a recognised qualification'. There is no acknowledgement of the skills required of legal interpreters. For example, the ISO 20228: 2019 standard for legal interpreting lists the general competences and qualifications of legal interpreters as:

- Legal interpreters shall have competences based on domain expertise, professional practice and qualifications abiding by a code of professional ethics and observing one or several protocols.
- Legal interpreters shall also demonstrate a commitment to life-long learning in the pursuit of updating their knowledge and the skills critical to effective linguistic decision-making and interpreting within legal settings.

- Legal interpreters shall have comprehensive knowledge of the structure of the legal system(s) and administration of justice in the countries where their source and target languages are used.
- They shall have an understanding of the relevant fields of law (substantive, procedural, criminal, civil, administrative, etc.)
- They shall demonstrate a thorough understanding of the roles of lawyers, judges, judicial officers, prosecutors, and interpreters.

Sadly, it is likely that very few legal interpreters of spoken language on the Irish market have these competences. The key problems continue to be:

- No training course for interpreters
- No testing to establish if interpreters are competent
- Little or no monitoring of interpreting quality
- Poor rates of pay
- Poor working conditions
- No register of interpreters

The State outsources interpreter and translator provision through procurement processes. In effect, the State is the dominant customer in this field of the translation industry. However, the State does not appear to hold any concerns about the standard of service provided. Indeed, it appears to us that the State prioritises the cheapest possible service and has zero regard for quality. In fact, rates of pay for interpreters and translators who engage in work in or for the courts and garda station have fallen dramatically in recent years and have become a disincentive for those who are qualified. It suits the State's purpose to engage with interpreter service providers rather than to deal directly with interpreters. While this may be convenient for the State it is inimical to the interests of the persons who come in contact with the criminal justice system and who require and are entitled to the support of appropriately qualified interpreters and translators.

While there is a separate, and in theory more satisfactory facility of obtaining "own choice" interpreters and translators in preparation for trial it is in itself compromised by the absence of a transparent register of competence enabling legal practitioners select with confidence. The default position has become that practitioners select from the main state preferred suppliers, notwithstanding reservations about quality, rather than assume the risk of being criticised for independent selection.

It is in the interest of defendants, witnesses and complainants but also of society to apply the standards set out in the Directive. When the Irish State voluntarily signed up to the directive, it opted in to all its provisions but then did not take any action to ensure that the provision of interpreters and translators met the requirements regarding quality as detailed in the Directive. Consequently, it is no surprise to see a developing but significant jurisprudence of cases where the outcomes have been less than satisfactory because of the poor quality of the interpretation on offer. It need not necessarily be so. The State needs to take concrete measures to ensure that interpreters and translators are trained and tested, and that accredited interpreters and translators are included on a national register. This is essential for

everyone in the system – police officers, solicitors, barristers, judges – to reduce the cost in human and financial terms of the risk of a miscarriage of justice.

It appears to us that the actions of Ireland now constitute a wholly unsatisfactory and illegal discrimination between the acceptable standards that have been created for interpretation in sign language cases and complete failure to transpose fully and efficiently the Directive for the interpretation of spoken languages and for translation.

I would invite you, Commissioner, to consider engaging in an immediate pilot communication with Ireland to establish if there are any preparatory works completed towards the establishment of training, accreditation and a register and if as I imagine it will be, the answer is in the negative, that you would consider infringement proceedings.

Yours sincerely

*MPhelan*

Mary Phelan  
ITIA Chairperson  
On behalf of the ITIA Executive Committee

[www.translatorsassociation.ie](http://www.translatorsassociation.ie)  
chairperson@translatorsassociation.ie