

# LEGAL INTERPRETING IN MONTENEGRO IN VIEW OF ITS EU ACCESSION: DIAGNOSIS AND PROPOSALS OF NECESSARY MODIFICATIONS<sup>1</sup>

Jasmina Tatar Andjelic

[jtatar@t-com.me](mailto:jtatar@t-com.me)

University of Montenegro

## Abstract

The aim of this paper is to analyze current situation in the field of court interpreting in Montenegro, from both normative and practical point of view, in the light of future EU accession. Following the assertion that there is an increasing need for quality interpretation and the description of an ideal court interpreter, this paper presents the situation at the national level, relying upon the existing legislation in force. It is noted that Montenegrin legislation is generally harmonized with the EU Directive 2010/64/EU, but there is an issue of terminology that results in an unclear distinction between interpretation and translation. This paper proposes several solutions in order to define more detailed criteria for the selection of interpreters, form and content of the exam, necessity of organizing specialized training, introduction of a reliable system of quality control and establishment of a representative professional association.

## Résumé

Nous nous proposons d'étudier la position actuelle de l'interprétation judiciaire au Monténégro du point de vue législatif et pratique, dans une optique de l'adhésion européenne du pays. Suite à l'identification d'un besoin croissant des prestations de qualité et à la présentation du profil idéal de l'interprète judiciaire, nous avons procédé à un diagnostic de la situation nationale, en nous appuyant sur des textes législatifs en vigueur. Nous avons pu constater que la législation monténégrine est généralement conforme à la Directive 2010/64/UE, tout en indiquant les problèmes terminologiques, à savoir l'absence d'une distinction claire entre la traduction et l'interprétation. Nous avons également tenté de proposer quelques solutions relatives à la précision des critères de sélection des interprètes, la forme et du contenu de l'épreuve, la nécessité d'organiser les formations adaptées, l'établissement d'un système fiable du contrôle de qualité et la création d'une association professionnelle représentative.

**Keywords:** Legal interpretation. Court interpretation. Translation. EU accession. Interpretation skills.

**Mots-clés:** Interprétation juridique. Interprétation judiciaire. Traduction. Adhésion européenne. Compétences de l'interprète.

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## 1. Introduction

Montenegro is aimed at joining the European Union and, similar to other countries in South East Europe, that have already achieved that goal (Slovenia and Croatia), or the ones that are following its path according to the EU enlargement dynamics (Macedonia, Serbia, Bosnia and Herzegovina, Kosovo), it is expected to intensify official communication and cooperation at different levels, not only with the European institutions, but with the member states, as well. Having in mind the language barrier, this communication takes place with the help of translation / interpretation services. It seems that in this arena of intensive and rich exchange of opinions, the famous saying by Umberto Eco: “The language of Europe is translation” (“La lingua dell'Europa è la traduzione”) really proves to be true. It refers equally to interpretation if we have in mind the number of meetings and duration of negotiations. Experience with the previous EU enlargement shows that, initially, communication between the candidate country and the European institutions or EU member states rests upon the translation of legal texts, particularly the *acquis communautaire* in order to transpose them into national legislation. In this stage of approximation, interpretation is reserved for meetings between high officials, expert conferences and study visits. Thus, cooperation between judicial authorities and police authorities is still not in focus: it is often mentioned as an important element, but its implementation is still not effective. However, the more the candidate country progresses in the institutional approximation to the EU, the higher is the need for quality court interpretation, that is, the need for interpreters capable of meeting high international requirements, in terms of form, as well as content. The position of a university professor in combination with the status of a sworn court interpreter and conference interpreter accredited with the European institutions encouraged us to think about the importance of training of translators/interpreters and the lack of awareness in the state institutions regarding this issue. The aim of this paper is to analyze the position of court interpreters and interpretation in Montenegro, candidate country for EU membership, to identify the most important issues in light of the future adoption of the Directive 2010/64/EU of the European Parliament and the Council dated 20 October 2010 on the right to interpretation and translation in criminal proceedings, and the increasing participation of Montenegro in the regional, European and international judicial and police cooperation. The final aim of our analysis is to propose the solutions that will assist the relevant institutions to think and act in the direction of clarifying the role and importance of court interpreters, their training and selection criteria.

## 2. Increased need for court interpretation in the process of EU accession

We have decided to look into the issue of interpretation in Montenegro from the point of view of selection criteria, training and quality control, because our personal experience revealed numerous shortcomings in this area, on one hand, and we have also noted that our observations are in line with the increased need for quality interpretation at the national level. Montenegro opened the accession negotiations with the EU in June 2012. This process will not only strengthen international judicial cooperation, such as international legal aid in criminal matters, and administrative cooperation in the field of judiciary and police matters, but Montenegro is rather a candidate country that opened the negotiations with chapters 23

and 24 of the *acquis* related to the judicial system and fundamental rights, and justice freedom and security. These chapters will remain open throughout the negotiation process and it is exactly in these fields that the European administration has had the greatest number of objections when it comes to Montenegro. In other words, the desire to progress down the European path must be reflected through the opening of court processes requiring international cooperation, particularly using the mutual legal aid requests and extradition requests.

Moreover, since Croatia joined the EU in June 2013, Montenegro has land border with the European Union (besides the blue border with Italy), thus becoming the country of transit for migrants and asylum seekers.<sup>2</sup>

Montenegro has to meet professional standards and quality standards in the area of court interpretation and translation, just as it did in terms of conference interpreting through the organization of accreditation test for Montenegrin language in Brussels, in February 2012 in the DG Interpretation in Brussels (former SCIC).

For the aforementioned reasons, the country that strives to fully adopt the EU standards and professional criteria, it must prepare itself in advance: in case of court interpretation, these preparations involve necessary review of the system of recruiting and selection and development of the system of training and quality control of court interpretation.

### 3. An ideal profile of a court interpreter

In order to best describe an ideal profile of a court interpreter, it is important to make a distinction between translator/interpreter, two faces of the same profession that require some of the same capacities, but are also characterized by significant differences. A good translator does not necessarily have to be a good interpreter, and vice versa, and this is exactly explained by the capabilities that are characteristic of just one or the other activity. In describing the capabilities of a court interpreter, we will mention here the definitions published in the *Final report of Reflection forum on multilingualism and interpreter training* (hereinafter: the *Forum*), published by the Directorate General for interpretation, which recommends the use of the term legal interpreter instead of the term court interpreter:

The Reflection Forum has opted for the term ‘Legal Interpreter/Interpreting’ because it is more inclusive than e.g. ‘court interpreter’, referring to one specific setting only, or ‘sworn’ interpreter, referring to one specific stage in the profession of the legal interpreter while, on the other hand, it is not as broad as e.g. ‘Public Service Interpreter’, which also covers other domains such as health or social services. However, legal interpreting does include interpreting in all settings in the legal services, from police and customs investigations, pre-trial hearings or lawyer-client meetings, to trials, post-trial procedures, immigration hearings, European Arrest Warrant proceedings, rogatory commissions, etc. One must not assume that even when a person masters both the languages to the level of complexity and accuracy required in the legal services, that this person can interpret. And a translator is not necessarily a good interpreter or vice versa! A ‘Legal Interpreter’ is a trained, qualified professional providing interpreting to those involved in whatever capacity in a legal system whose language they do not speak (...)

Our presentation of the capabilities of court interpreter relies on those that are set forth in this publication, but, in order to adapt them to the needs of our analysis, we will divide them into two groups – the abilities that translators and interpreters need and specific skills of the interpreters that are not necessary for translators.

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<sup>2</sup> This is confirmed through the opening of the Center for Asylum Seekers nearby Podgorica, in order to respond to the migration flows, mostly from Africa, and travelling through Greece and Albania.

### 3.1. *Competencies common to court translators and court interpreters*

#### 3.1.1. Language competences

It is clear that the court interpreter must possess linguistic competence of a conference interpreter. Mastery of their native language is essential: in addition to a rich vocabulary and eloquence, it involves not only knowledge of the standard language, but also all the linguistic registers.

When it comes to mastery of language B, we can point out, without exaggeration, that it is equally important for a court interpreter and a conference interpreter, although conference interpreters have often underestimated it in the past and were often accused of taking the elitist approach.<sup>3</sup> The *Forum* emphasizes the need for “proficient language knowledge and skills in both the language of the legal system and the foreign language”<sup>4</sup> and recommends level C1 or C2 “Common European Framework of Reference for Languages”. This aspect is even more important as a conference interpreter will often be in a position to translate the C language into the A or B language, as opposed to a court interpreter who will be in a situation to use his/her languages A and B in two directions. We will also add that the court translators need the same linguistic competence to work on the text and that, unlike the interpreter, they can always assess in advance their ability to do their job well. Interpreters are generally brought into the concrete situation and do not have this choice when the court proceedings start.

#### 3.1.2. Knowledge of the legal systems

It is understood that the translators and interpreters are familiar with the legal system of their country (or countries where their mother tongue is the official language), as well as the legal systems of the countries where the official language is their language B. Since the objective of this paper is to analyze the situation in Montenegro, it is important to point out that the Montenegrin language, contrary to what may be concluded from the various official names, from the linguistic point of view is almost identical to Bosnian, Croatian and Serbian. In other words, speakers of these four official languages do not need translation or interpretation to understand or make statements in the framework of legal and administrative procedures. Montenegrin court interpreter will certainly be in a position to work for the Bosnian, Croatian or Serbian nationals. The Constitution of Montenegro says that Bosnian, Croatian and Serbian language are in official use, along with Montenegrin. In addition, the translator / interpreter should be familiar with the legal system of the country where his B language is official. In other words, a court interpreter for French must be familiar not only with the legal system of France, but also of Belgium and Luxembourg (possibly Switzerland as the most important trade partner of the EU countries). The *Forum* emphasizes the importance of knowing “structures, procedures, legal professions, services, etc. General legal terminology and the specific terminology relevant to an assignment (e.g. family law, asylum, fraud, etc.)”.

### 3.2. *Specific competencies of the court interpreter*

#### 3.2.1. Interpersonal and intercultural competencies

Unlike written translators, court interpreters are in the situation of communication. Quality service by the interpreters obliges them to possess intercultural competences that enable them to bridge the different cultures and experiences of employees in the judiciary or the administration on the one side, and the person brought before justice on the other. Very often it is a stressful situation that is difficult to manage: in these circumstances, language competence and theoretical legal knowledge are insufficient. At the same time, court

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<sup>3</sup> Driesen, Drumond (2011:142)

<sup>4</sup> Forum (2009:9)

interpreters are confronted with people with different educational levels and with different experience, thus their interpersonal skills can play a decisive role for the good progress of communication. This is particularly important in the hearings or interviews with migrants and asylum seekers who come from remote areas.

### 3.2.2. Mastering interpretation skills

Finally, court interpreters, as well as conference interpreters, must know various forms of interpretation (liaison, consecutive, simultaneous, a vista) and to master the necessary techniques such as memorizing, note taking, stress control, etc. This requires special university training for court interpretation or proof of sufficiently long experience in various forms of interpretation.

### 3.3. Code of Ethics

An ideal profile of a court interpreter must be complemented with the ethical standards important for the performance of this task. To that end, *Forum* recommends to develop codes of conduct and best practice guides at the national level, which will then be observed by the interpreters.<sup>5</sup> It is important to refer also to the code of EULITA, the European Association of Court Translators and Interpreters, which may serve as a good example to the national associations in order to ensure better harmonization between the EU member states. This text contains the most important criteria of the best professional practice, precision, quality service, impartiality, confidentiality, etiquette, attitude, solidarity and loyalty.

## 4. Overview of the situation – identification of the most important problems

We will give an overview of the state of judicial interpretation and the position of court interpreters in Montenegro so that we can assess it, starting from the existing legal framework, through the selection criteria, all the way to the organization of knowledge checks.

### 4.1. Legislative and organizational framework

Following the renewal of its independence in 2006, already in 2007 Montenegro became the 47th member of the Council of Europe and it fully embraced the values expressed in the European Convention on Human Rights and Fundamental Freedoms (ECHR). Article six of the Convention relates to the right to a fair trial and represents the basis of the right to interpretation as part of court proceedings.

In terms of national legislation, we will present the Montenegrin Criminal Procedure Code, which ratifies the right to use their one's own language in criminal proceedings:

#### Article 8

(1) The criminal proceedings shall be conducted in the language that is in the official use in the Court.

(2) The parties, witnesses and other participants in the proceedings shall have the right to use their own language. If the proceedings are conducted in the language those persons do not understand, provision shall be made for an interpretation of statements and the translation of documents and other written evidence.

(3) The person referred to in Paragraph 2 of this Article shall be instructed on his right to interpretation, and he may waive such right if he understands the language in which the proceedings are being conducted. A note shall be made in the record that the participant has been so informed, and his response thereto shall also be noted.

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<sup>5</sup> Forum(2009:17)

(4) Interpretation shall be performed by Court interpreter.<sup>6</sup>

Article 101 of the Law on Courts places the issue of engagement of court translators and interpreters in the jurisdiction of the court administration. Article 109, paragraph 2 of the Law stipulates that the Ministry of Justice of Montenegro prescribes the requirements for the appointment and work of court translators / interpreters.

In 2008, the Ministry of Justice of Montenegro adopted the Rulebook on permanent court interpreters<sup>7</sup> that determines the terms of appointment/revocation of translators / interpreters, as well as registry issues, tariffs and other issues in this field.

The Negotiation Position<sup>8</sup> for Chapter 24 of *acquis communautaire*, published in December 2013, clearly states that the Montenegrin legislative framework is in line with the Directive 2010/64/EU of the European Parliament and of the Council, dated 20 October 2010 on the right to translation and interpretation in criminal proceedings.

In Montenegro there are still no professional associations of court translators / interpreters, no code of ethics or a guide of good practice relating to their work. For this reason, the European association of legal translators and interpreters EULITA has no direct interlocutors at the national level.

We can conclude that there is a satisfactory national legal framework which regulates the right to court interpretation, and that framework is in line with the international standards. In the text below we will try to define major problems in its concrete implementation.

#### 4.2. *Non-existence of clear distinction between translation and interpretation*

The first important observation, based on an analysis of legal texts, our own interpretation experience and consultations with colleagues, refers to the lack of a clear distinction between interpretation and translation. These two activities are often confused by the public, but it is of great importance that the administrative structures, and especially the legislator, recognize this difference. The aforementioned problem does not refer exclusively to court translation / interpretation: this is something that all colleagues face, but, if we take into account the responsibility and legislative constraints, the most serious consequences are exactly in the field of judiciary.

This confusion is explained by the lack of activities that would be carried out by the translators / interpreters themselves to inform the public and clients (the absence of a representative professional association) on the one hand, and the terminology trap in the Montenegrin language, on the other. Namely, in the Montenegrin language, the term interpretation is usually translated as interpreting (literally "oral translation"), while the term translation translates as written translation (literally "written translation"). However, the terms translator and interpreter are usually translated with one term - *prevodilac* (translator), which is rarely accompanied by adjectives "written" and "oral" that would make the difference between them. Also, please note that in the Montenegrin language there are words *tumač* and *tumačenje* that accurately correspond to the terms "interpreter" and "interpretation", but their use is very limited. The two terms are found in the legislative texts that we have cited, as well

<sup>6</sup> Član 8

(1) Krivični postupak vodi se na crnogorskom jeziku.

(2) Stranke, svjedoci i druga lica koja učestvuju u postupku imaju pravo da u postupku upotrebljavaju svoj jezik ili jezik koji razumiju. Ako se postupak ne vodi na jeziku nekog od tih lica, obezbijediće se prevođenje iskaza, isprava i drugog pisanog dokaznog materijala.

(3) O pravu na prevođenje poučiče se lice iz stava 2 ovog člana, koje se može odreći tog prava ako zna jezik na kojem se vodi postupak. U zapisniku će se zabilježiti da je data pouka i izjava učesnika u postupku.

(4) Prevođenje se povjerava tumaču

Zakonik o krivičnom postupku („Službeni list Crne Gore”, broj 57/09)

English translation: Government of Montenegro webpage: [www.gov.me/files/1230044941.doc](http://www.gov.me/files/1230044941.doc).

<sup>7</sup> Pravilnik o stalnim sudskim tumačima (Službeni list Crne Gore broj 80/08).

<sup>8</sup> Negotiation position of Montenegro for the Inter-Governmental Conference in the accession of Montenegro to the EU for Chapter 24 – Justice, Freedom and Security.

as the Rulebook of the Ministry of Justice of Montenegro. However, this practice does not solve the problem: the legislator uses the term *interpreter* to refer to both translators and interpreters!

The lack of terminological distinctions, and thus the difference between these two notions among the general public should not be reflected in the legislative texts or work of the judiciary. When describing the profile of an interpreter, we pointed out that interpretation requires specific skills the absence of which can have a serious impact on the quality of work.

The title of the Rulebook on translators / interpreters contains the word *interpreter* and it is used to refer to both terms. This text defines even the model seal that the court interpreter is supposed to put on the translated documents and this model contains the term *interpreter* instead of the term *translator*.

Mentioned inaccuracies and even confusion between the two terms in the Montenegrin language result in numerous misunderstandings that result in problems in the quality of selection process and the translation work itself.

#### *4.3 Shortcomings regarding selection criteria*

We analyzed the selection criteria for court interpreters defined in the Rulebook of Court Interpreters (hereinafter: the Rulebook). The requirements for candidates to take the test regarding their knowledge of law are as follows: candidates must be Montenegrin citizens, they must hold a university degree and prove that they have not been criminally convicted, they must submit a health certificate and have at least five years of work experience with higher education diploma. The last requirement is rather vague, as it does not define which work experience is considered relevant for court translation / interpretation. Therefore, this requirement is reduced to a formal verification of whether there has been five years from the date of obtaining a university degree. The candidate is required to have "excellent knowledge of the language from which or to which the speech or written text is translated."<sup>9</sup> This quote is the only place in the text of the Rulebook where there is clear distinction between interpretation and translation and which emphasizes the importance of equal level of knowledge of both languages. It can be concluded that these criteria take into account the linguistic competence that we have identified as common for translators and interpreters, if we know that the legal knowledge is the subject matter of the test stipulated in the Rulebook. We compared the Rulebook on permanent court interpreters of Montenegro with equivalent texts from the other Western Balkan countries, member states, candidates and aspirants for membership of the European Union. As regards the selection criteria, the texts of Croatian, Bosnian, Serbian and Macedonian regulations are almost identical. The only difference relates to the fact that Croatian regulations do not oblige the candidate to be a Croatian citizen, but allows also foreign nationals, particularly those from the EU member states, to apply for the position of court translators / interpreters.

Specific capabilities of the interpreters defined in our "ideal profile" (as well as in the profile of the Forum) cannot be found among the selection criteria. Montenegrin Rulebook does not specify any interpersonal or intercultural competences, or the mastery of the interpretation technique as the selection criteria, nor do the rulebooks of the other countries mentioned above. In other words, no evidence of the experience in interpretation is required in advance, despite the importance of this experience for high-quality court interpretation.

#### *4.4 Shortcomings in the form and content of the exam*

The Rulebook states that candidates who meet the criteria set out in Article 2 shall take the examination regarding their knowledge of the Constitution and the organization of the judiciary.

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<sup>9</sup> "da potpuno vlada jezikom sa kojeg ili na koga prevodi govor ili pisani tekst", Article 2 of the Rulebook on permanent court interpreters (Official Gazette of Montenegro 80/08).

#### 4.4.1. Insufficient test of legal knowledge

The aforementioned exam should suit the check of legal knowledge related to the profile of the court interpreter but this is only partially the case. First, it refers to only one part of the legislation, and it is obvious that the court translator / interpreter often has to work outside the context of judicial proceedings. The exam organized by the Montenegrin authorities coincides with the requirements of the Forum cited in 3.1.2. It does not involve testing knowledge of the legal systems of the countries whose languages are similar or even linguistically identical with the Montenegrin language (Bosnia and Herzegovina, Croatia, Serbia). Finally, examination of legal knowledge is partial because it is not possible to verify the knowledge of the legal systems of the countries in which B language of the court interpreter is used.

#### 4.4.2. Non-existence of a language test

Moreover, examination of candidates for court translators / interpreters does not contain any verification of linguistic competence. This is evident from the composition of the three-member commission appointed by the Minister of Justice: the Rulebook does not define that members of the commission must be court translators / interpreters or qualified university professors. Equivalent examination committees in Macedonia and Bosnia and Herzegovina have compulsory participation of university professors of the relevant foreign language. So, it can be concluded that the only proof of knowledge of the foreign language that is required from the candidates is to have a university diploma in foreign language and literature, acquired more than five years ago.

#### 4.4.3. Absence of a written test

Verification of legal knowledge is exclusively oral and takes place in the Montenegrin language. There is no written exam, fundamental for translators, but important also for the interpreters who often use the *a vista* technique in interpretation, and this is one of the greatest shortcomings of the Montenegrin exam. For example, Macedonian and Bosnian Rulebooks on court translators / interpreters provide for a written exam that is organized prior to the oral one and it consists in translating various legal and administrative documents.

### 4.5 *Lack of professional development and quality control*

#### 4.5.1. Professional development

Montenegrin legal texts do not stipulate training for court translators / interpreters, whether in the form of initial training, preceding the appointment or continuous training to keep track of frequent legislative changes in the period of preparations for EU accession. Croatian Rulebook is the only of the five analyzed texts, which provides for professional training lasting for a maximum of two months, and organized by professional associations with the license issued by the Ministry of Justice.<sup>10</sup>

#### 4.5.2. Duration of mandate and quality control

Duration of mandate of court translators / interpreters is not limited, which largely limits the possibilities for quality control.

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<sup>10</sup> Article 4 of the Croatian Rulebook



Croatian Rulebook provides that the court translators / interpreters are appointed for the period of four years and that after this period they can apply again.<sup>11</sup> Bosnian Decree also limits the duration of the appointment to four years.<sup>12</sup>

Quality control is referred to in the text of the Rulebook among the criteria for the dismissal of a court translator / interpreter: in addition to criteria relating to his ethics, compliance and health, incompetence may also be a reason for dismissal.

In concluding this review of the situation, we emphasize that we are trying to be critical and objective to draw the attention of experts to the need for changes in the position and the professional status of court interpreters in many aspects. Of course, their situation is far from ideal in most EU Member States, which is confirmed by the following statement of the Forum:

The conclusions from a recent survey on the provision of legal interpreting in the EU indicate that sufficient legal interpreting skills and structures are not yet in place in most Member States, though a process of development to do so is in progress across the EU, albeit still variable in coherence, quality and quantity. Whilst some Member States have already implemented examples of excellent practices, evidence suggests that others are still insufficiently prepared to deal with the inevitable language barriers and challenges in their legal systems. In these cases there are insufficient numbers of trained legal interpreters who meet, if at all, very different quality standards. There are no enforceable professional code of conduct, no reliable national register, no interdisciplinary guidelines for best practices in the legal services, no coherent comprehensive policy nor the budgetary means to ensure it.<sup>13</sup>

## 5. Proposed solutions

Based on the analysis of the law and actual situation with court interpretation in Montenegro, it can be noted that there is a strong need for legal changes in the terminological sense, changes of selection criteria, form and content of knowledge assessment, establishment of professional association, introduction of mandatory training and quality control system. It should be noted that we are fully aware of the national budgetary constraints at present, but also of the need for better functioning of the national judicial system in the context of future EU accession.

### 5.1. Changes in legal texts

#### 5.1.1. Terminological distinction

As we noted in the previous section, the normative framework which defines the right to court interpretation is satisfactory in terms of observance of the international and European standards. It would be desirable that the terminological distinction between a court translation and interpretation is present and clear in the legal texts governing these rights. As such, and according to our explanations on this issue we propose that the interpretation be referred to as *tumačenje* and interpreter be referred to as *Tumač*, as opposed to *prevodjenje* used to translate the term translation and *Prevodilac* to translate the term translator.

#### 5.1.2. Selection criteria

Based on the flaws in the selection criteria defined by the Montenegrin Rulebook that we have identified in the previous section, we propose solutions that better correspond to the selection of high-quality court interpreters. Under the assumption that the terminological, and thus the conceptual distinction between translation and interpretation services will be introduced in the

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<sup>11</sup> *Idem*, articles 10 and 12

<sup>12</sup> Article 10 of the Bosnian Decree

<sup>13</sup> Forum (2009:7)

laws that this Rulebook is based upon, we would propose several modifications in the existing criteria.

A number of criteria should remain the same, and this refers to evidence of moral integrity, the compulsory education level, as well as linguistic competence. In this regard, we propose to specify which documents are acceptable proof of experience as well as to specify the minimum duration of the experience expressed by the number of days of interpreting and number of translation pages for translation.

Satisfactory evidence of the experience should include certificates from employers stating the number of days of interpretation, the name and date of the event, as well as the number of pages and the title / theme of the translated document.

Any proof of vocational training in the techniques of interpretation at national or international level is also welcome and would be especially evaluated. On the other hand, the lack of evidence of experience in interpreting could be compensated for with the evidence of training in licensed establishments in the area of techniques of interpretation (consecutive, simultaneous, a vista, etc.).

### 5.1.3. Changes in form and content of the exam

We fully support the idea that candidates undergo verification of legal knowledge based on previous analysis of records. However, as we have already noted, knowledge evaluation provided for under the existing Rulebook does not allow testing of knowledge necessary for efficient court translation / interpretation. Namely, the oral examination should be preceded by a written exam that would allow verification of the ability of translating legal documents from Montenegrin and into Montenegrin language. This examination would be eliminatory, similar to the exam that is introduced by the Macedonian Ministry of Justice.

The content of the exam should also be supplemented by checking the knowledge of the legal system (or legal systems) of the countries where the interpreter's B language is in official use. This check can be organized in written or oral form.

The proposed changes can not be applied without previous change in the composition of the commission that is established by the Ministry of Justice: in addition besides the representatives of judicial and executive powers, the Commission should also have professional translators / interpreters and university professors of the relevant foreign language, possibly those who are familiar with legal terminology.<sup>14</sup>

## 5.2. *Organization of training*

In paragraph 4.5.1 we pointed out that the Rulebook does not provide for any mandatory nor optional training of court interpreters. Bearing in mind that training is essential for the quality of interpretation, we propose the introduction of initial and continuous training for court interpreters. This training should be mentioned in the legal texts, whether in the form of obligation, or in the form of recommendation, and organized in cooperation with the Ministry of Justice, the judicial authorities, universities and representatives of professional interpreters. Initial training should include theoretical part that will inform in more detail the future candidates about the national legal system, and the practical part – learning the technique of interpreting (consecutive, simultaneous, chuchotage, a vista) particularly the legal issues. This training would be organized before the competition and knowledge assessment of court translators / interpreters, as it serves as a preparation for them.

One of the best examples for the development of the program for initial training of court interpreters could be the university diploma "Court Translator-Interpreter" offered by the Graduate School for translation and interpretation (EIST).

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<sup>14</sup> We are aware that Montenegro, because of its size and the size of its population does not have professional translators/ interpreters for all languages, but these commissions are easy to assemble for the most used and the most demanded language in the framework of European integration, and those are English, French and German.

Court translators / interpreters require, in our view, continuous training during which they will have the opportunity to update their legal knowledge. This is all the more important because Montenegro is in the process of negotiations for EU membership, and that means more intensive reform and frequent changes in the legislation. Continuous training should be managed by the representatives of judiciary or the relevant ministry, with the support of the Professional Association of Interpreters. Court interpreters need training and exchange of information about professional practice, but this coincides with the needs of conference interpreters, and it could be included in the description of activities of associations of interpreters, trade unions, and professional organizations.

We have identified several problems related to the court interpretation in Montenegro which are the result of terminological misunderstandings or shortcomings in the existing regulations. We are convinced that most of these problems can be solved through information and adequate training of the judicial and legal staff in a broader sense, so we think that organization of one-day training would contribute to this goal, and the training would be organized by professional interpreters and their associations for the prosecutor's offices and the courts. This training would include information about the work of court translators / interpreters, their mandatory skills, ethics and engagement. Their aim would be to facilitate communication and to increase the knowledge of the court administration, judges and prosecutors. The same training can be arranged for the personal needs of the Notary Chamber, the Bar Association, local self-governments and other interested professional associations and structures.

As the proposed training would also be legally regulated, it is desirable to have them officially licensed by the relevant authority (Centre for Vocational Education in the Ministry of Education) as well as to establish cooperation with the Directorate General for Interpretation of the European Commission. In this regard, the recommendations of the Forum support and complement our proposals:

The Reflection Forum recommends that Member States provide appropriate training in legal interpreting, both for new and already practising legal interpreters.

Such training should lead to a nationally recognized professional certification and be accredited by a recognized authority.

Efforts should be made to develop equivalent training throughout the EU, making a quality label of the establishments offering training, the exchange of materials, trainers and best practices, and a compatible register possible.

DG Interpretation could make a particularly useful contribution to enhance the quality of legal interpreting through its expertise in interpreting, training of trainers and the building of networks.<sup>15</sup>

### *5.3. Introduction of the quality control system*

Montenegrin Rulebook does not provide for a system of quality control of the services of court translators and interpreters. Since the appointment of interpreters is not limited in time, it is difficult to organize periodic control. Moreover, the absence of the code of ethics or codes of good practice hinders the implementation of a disciplinary proceeding in which to review the behavior of the interpreter in a situation of violation of the rules of profession. In this respect, it is more than desirable that the relevant professional association adopts the Code of Ethics harmonized with the Code of Professional Ethics of EULITA

When it comes to quality control, we would suggest to the competent authorities to introduce a system of appointment of court translators / interpreters for a limited period of time with the possibility to apply again: similar to the Croatian colleagues, translators / interpreters should be able to apply again provided they submit proof of quality of their work. That quality could be evidenced through the evaluation of work by the court administration and other clients.

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<sup>15</sup> Forum (2009:14).

#### 5.4. Professional association

Before we conclude our considerations regarding the opportunities for improvement of the conditions of selection and quality of service of court interpreters, we emphasize the importance of establishment of an Association and for several reasons. Professional Association would allow translators and interpreters to share information, representing their interests, helping to organize the necessary training for members, partners and customers, contributing to raising awareness of the general public about the importance of the work of translators and interpreters. The Association would also adopt a code of ethics and could join EULITA to establish cooperation and exchange at the European level.

### 6. Conclusion

The aim of this paper is to analyze the state of court interpretation in Montenegro from the legal and practical point of view, in view of the Montenegrin accession to the EU. We have identified the growing need for quality services of court interpreters as the country approaches the European Union and advances in the process of negotiations. After the presentation of the ideal profile of a court interpreter that we used as a benchmark, we engaged in a review of the national situation, relying on the current legal texts and the Rulebook on permanent court interpreters. We have noted that the Montenegrin legislation is generally in line with the Directive 2010/64 / UE of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, but also that the texts that we analyzed do not make a clear distinction between translation and interpretation which entails a number of deficiencies in the selection, verification of capabilities, training and quality control of the services. In other words, despite the introduction of terminological distinction in the mentioned texts, it is necessary to make important changes in the national rulebook that defines the selection criteria and organization of the exam. That is why we have proposed some solutions that are specifically related to the positioning of the interpreter, the form and content of knowledge assessment, organization of appropriate training and the establishment of a reliable quality control system. In order to verify the objectivity of our observations, we have studied the regulations and similar texts governing the requirements for the selection of court interpreters in the Western Balkans: Bosnia and Herzegovina, Croatia, Macedonia and Serbia. At the same time, the establishment of a professional national association of court translators and interpreters as a partner of the judiciary and the administration would enable colleagues to better present their needs and carry out their business in a better regulated and more competitive environment, which is conducive to quality, in the interest of citizens and respect for fundamental rights.

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#### BIONOTE / BIOGRAPHIE

**Jasmina Tatar Andjelic** has a PhD in linguistics from the University of Strasbourg, France and a MA from the University of Novi Sad, Serbia. She has been teaching modern

French and translation for 10 years at the Department of French language and literature at the Faculty of Philosophy in Nikšić, University of Montenegro. She is also teaching French syntax, translation and consecutive interpretation at the Institute for Foreign Languages in Podgorica, University of Montenegro. She has participated in several international seminars and published articles on French syntax and translation. She is a court interpreter and translator of French, translator for the French website “Le Courrier des Balkans” as well as active conference interpreter accredited to the EU institutions for Montenegrin, French and Italian. Her research interests include syntax, contrastive linguistics studies, theory of translation and interpretation, and historical linguistics.

**Jasmina Tatar Andjelic** est docteur en science du langage, elle a soutenu sa thèse de doctorat à l’Université de Strasbourg. Elle enseigne le français moderne et la traduction au Département du français de la Faculté de philosophie de Niksic, Université du Monténégro ainsi que la syntaxe du français et l’interprétation consécutive à l’Institut des langues étrangères à Podgorica. Elle a fait ses études du français à l’Université de Novi Sad, Serbie, puis à l’Université. Elle a participé à de nombreux colloques linguistiques nationaux et régionaux. Elle est interprète/traductrice judiciaire pour le français, traductrice du « Le Courrier des Balkans » et interprète de conférence accréditée auprès des institutions européennes pour les langues française et italienne. Ses recherches portent sur la syntaxe, la linguistique contrastive, théorie de la traduction et de l’interprétation ainsi que la linguistique diachronique.