

A. Interpretation in criminal courts

1. What criteria must be met for an interpreter to be appointed? Does this differ if it is for a party to the case, or a witness?

Within the federal system in Germany, the requirements differ from state to state. Generally, the interpreter can register with the competent authority (mostly a higher or lower district court) by presenting verification of their competence. Some states require certain federal or state diplomas, others accept individual proof via school or university certificates.

The general requirement is that the applicant can effortlessly understand everything he or she hears or reads, can express her- or himself spontaneously, fluently and precisely both in the German as well as in the foreign language. Furthermore, profound knowledge of German legal language is mandatory.

Once registered, the interpreter is sworn in as competent interpreter for the respective language and can act als interpretator in any court in the respective state without further verification.

Anyhow, registration is not mandatory. The courts can also deploy non-registered interpreters in which case the competence of the interpreter is verified individually.

The criteria are the same for the translation for parties to the case and for witnesses.

2. Is the interpretation limited to certain languages?

No. Any party to a case or witness has the right to interpretation regardless of their native language including dialects.

3. Who appoints the interpreter?

See No. 1

4. Are there standard requirements for the quality of the interpretation or qualifications of the interpreter?

See No. 1

If so, how does the judge ensure compliance?

The judge can only go by the references and proof of language skills.

In any event, how does the judge ensure that the interpretation is accurate and meets good standards?

Aside from the above mentioned verification the judge will give the interpreter time to converse with the person whose statement or testimony needs to be translated in order to make sure that they understand each other without any problems. In addition, by translating statements made by the accused, the judge gets an impression of the interpreter's understanding of the language and the ability to express himself. In addition, the judge pays attention to the extent to which an undisturbed and smooth translation takes place between the accused and his defense attorney.

5. Are there legal obligations for court interpreters?

The legal obligations are stipulated in Par. 189 Gerichtsverfassungsgesetz (Courts Constitution Act). At the start of the translation the interpreter has to take an oath to faithfully and conscientiously transmit. She or he also has an obligation to secrecy with regard to anything she or he learns during his engagement.

6. For the main hearing of the case is the translation for the whole hearing or only part of the hearing? If it is only part, which parts, and why is the whole hearing not translated?

If the defendant is in need of interpretation the whole trial will be translated into his native language. In case of witnesses, only their testimony will be translated

into German (and then back to the native language of the defendant, if necessary).

B. The importance of good interpretation and good communication for the verdict?

7. Assuming that the quality of interpretation could affect the outcome of a case:

7.1 Do you consider this applies more in certain types of cases than others and, if so, what types of cases?

The more complicated the matter, of course, the more susceptible any interpretation might be to fault. That can concern trials that require profound technical or scientific knowledge, e.g. cases relating to economic offenses.

7.2 Is it a problem that can be remedied, or a problem that the judiciary must live with? And if yes, how do we secure that no one is wrongfully convicted?

Within hers or his fiduciary duty the judge has to make sure that the defendant fully understands the contents of the trial. The judge will therefore ask the defendant periodically if she or he has understood or has any remaining questions. To some extent the judge might also rely on the defense lawyer to bring any problem of miscommunication or incomprehension to the court's attention. In complex trials the engagement of a second interpreter might be an option.

8. Is there a risk that people who have difficulty explaining themselves, possibly due to low intelligence or poor education, suffer disadvantages at the court? If yes, what remedies exist?

Irrespective of interpretation, that risk always exists. Again, the judge has to do anything in her or his power to make sure that there is no miscommunication. That might be achieved by using simpler language and advising the interpreter to do the same. If the defendant does not have counsel, German law provides for a defense lawyer to be appointed to the case.

9. Is intercultural communication a subject of training for judges or part of the instruction of juries?

Training in this area is not mandatory for judges but there are seminars offered on the subject.

C. Nonverbal communication in the courtroom

10. Can the body language of accused persons, victims or witnesses influence the outcome of a case?

Sure. Body language is always a means to receive an impression of the person's character. It is also an important part of assessing whether a person is lying or telling the truth.

11. Is nonverbal communication a subject of training for judges or part of the instruction of juries?

Again, advanced training in this area is not mandatory but strongly recommended. There are seminars that include the subject, e.g. assessment of witness testimonies.