

Third Study Commission Questionnaire

63rd Annual Meeting of the IAJ – 2021

ISAREL

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?

The interpreter is assessed using a three-step assessment process:

- a. Prerequisite – CV review and initial interview;
- b. Professional exam, written and oral, designed to test knowledge of a certain language. The exam lasts 2 hours and the passing grade is 80 (of 100). The exam is conducted in the presence of a representative of The Administration of the Courts.
- c. Security assessment.

After passing the assessment process, the interpreter proceeds to an initiation period, after which the interpreter must successfully complete a professional interpretation course.

The above applies for interpreters appointed to parties to a case or witnesses.

2. Is the interpreter limited to certain languages?

Yes. As explained above the assessment process of an interpreter is designed to ensure a good command of a certain language. However, an interpreter may test for more than one language.

3. Who appoints the interpreter?

The interpreter is appointed by a judge, usually in response to a request by a party to the case. After the judge's decision a court official invites the interpreter from a list of approved interpreters. The interpreters are not employed directly by The Administration of the Courts, but rather are considered outside contractors.

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

If so, how does the judge ensure compliance?

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

As explained above The Administration of the Courts receives translation services only from permit-holding interpreters.

The three-step assessment process of an interpreter is designed to ensure the quality of the interpretation.

The Israeli legal system is an adversarial one so parties may argue regarding the quality of the translation.

In addition, most Israelis speak more than one language. Frequently a lawyer or judge who is familiar with the relevant language is present, which helps to ensure the reliability and accuracy of the interpretation.

5. Are there legal obligations for court interpreters?

Yes. The court interpreter has legal obligations including:

- a. He or she cannot be personally acquainted with any of the parties or witnesses.
- b. He or she must keep all material related to the case in confidence.
- c. He or she is required to ensure that both the questions and answers are interpreted correctly without any omissions or additions.

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 parts, and why is the whole hearing not translated?

Yes, in Israel translation is available for the whole main hearing. It is to be noted that translation is available for the entire case, from the start to the verdict.

B. The importance 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?

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?

Poor quality of interpretation can definitely affect the outcome of any case, therefore the Israeli Judicial system makes every effort to ensure use of reliable interpretation services in order to provide a fair trial for all. The increasing use of recorded protocols may also help in that it is possible to repeat the testimony and ensure translation accuracy.

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?

Israel enacted a comprehensive law to contend with these issues—*The Law of Evidentiary and Testimonial Procedures (Adaptation for Persons with Intellectual or Mental Disabilities)* – 2005. This law includes details instructions for contending with the difficulties that persons with these disabilities may experience during judicial processes. Among these provisions are the appropriate method to warn persons with disabilities of the requirement to tell the truth; how to conduct a cross examination of persons with disabilities; the option that such a cross examination not be conducted either by the accused or the accused's attorney and, in some cases, without their presence in the courtroom; solicitations for an expert opinion on the appropriate way to question a person with disabilities; the admissibility of statements taken from persons with disabilities pre-trial, and more.

In accordance with this law, The Court Administration issued detailed procedures for enabling judicial processes for persons with disabilities. These include the appointment of trusted enablers in all courts, directions for how persons with disabilities may petition the court; and especially, how a judge should conduct a trial in such circumstances. Among these is an option for real-time display of the spoken content on a screen in the person's preferred language; engaging a sign language interpreter, etc.

Additionally, organizations, primarily non-profits, train "justice enablers," who support persons with disabilities in "telling their story," without attempting to influence the

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

Yes. The Israeli judicial system attributes great importance to training all those who are engaged in judicial work to understand the intercultural and social context in which the judicial system operates. Training courses on intercultural communication are available as part of the study programs at The Israeli Center for Judicial Education and Training. The courses are adjusted to all career stages and include topics such as communication with population groups who share unique cultural or linguistic backgrounds.

Israel does not have a jury system.

C. Nonverbal communication in the courtroom

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

The body language, the tone of speech and the overall demeanor of the witness, may assist the court in determining the reliability of the testimony.

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

Yes. The Israeli Center for Judicial Education and Training has developed a special training course on Interpersonal Communication in the courtroom including nonverbal communication. Topics addressed during the course include: The theoretical background to the subject of communication; the general characteristics of interpersonal communication; use of body language, posture, intonation, styles of communicating messages etc.

Israel does not have a jury system.

**On behalf of the Israeli Judge Association
Judge Tomer Urinov and Judge Rachel Barag-Hirshberg.**