

Response of the Latvia

To the third Study Commission Questionnaire 2020 Costa Rica

For 2020, the Third Study Commission, which focuses on Criminal Law, decided to study "Communication in the criminal courtrooms".

This topic should cover different aspects of communication including questions related to interpreters and the communication of judges with non-legally educated participants to the procedure. In order to facilitate discussion and to assist us in learning from colleagues, we ask that each country answer the following questions:

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?

Courts in Latvia provide interpretation into two ways:

- Courts have their own court interpreters in more used languages (mostly Russian)
- for other languages the interpreters from the translation companies* are invited (*the agreement between company and Court Administration should be concluded)

Court Administration sets selection criteria for court interpreters and organizes selection procedures. The main requirement is the high quality of translation skills.

Also Licensed Translation Company sets its criteria and requirements for their interpreters. Translation Company is interested keep high standards so to safeguard their license and to win state procurement procedures.

Interpretation should be guaranteed for all parties of the case and it must not differ neither for victims or other parties to the court hearing.

2. Is the interpretation limited to certain languages?

No.

3. Who appoints the interpreter?

Either a court (if an interpreter is a staff member) or a licensed translation company upon request of particular court selects most relevant interpreter for particular case taking in account his experience and language skills.

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?

Judge during court hearing asks all parties involved if the translation is of good quality and everybody is satisfied with it and clearly understands what is translated.

5. Are there legal obligations for court interpreters?

Interpreters shall provide accurate and correct translation.

Apart from the legal obligations deriving from the contract, the Criminal Law - namely, Sections 300 and 302 – foresees the criminal liability, inter alia, for the interpreters in case of knowingly giving false translation or refusal to provide translation.

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?

Translation is provided for the whole hearing.

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?

Theoretically, the quality of interpretation might affect the outcome of case. In difficult cases for the oral translation it could be desirable that interpreter is aware of a nature of a case. However, the court takes into account also the documents and evidence so the risk that the quality of the interpretation in the court room affects the outcome is relatively low.

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?

As mentioned above, for difficult cases it would be desirable that interpreters know the nature of a case (mostly for the correct terminology). Also, high-skilled interpreters with the knowledge of the legal language should be involved during the trial.

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?

The Criminal Procedure Law foresees that people of this category should be represented and assisted by defense lawyer guaranteed by state for free.

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

Yes.

C. Nonverbal communication in the courtroom

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

It is important that these persons are assisted by defense lawyers and interpreters of a body languages - that is insured by Latvian law for free so it should not affect the outcome of the case

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

Yes.

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