

The Right to Language Assistance in Italian Criminal Proceedings

A Case Study of the Interpreting Service at the Milan Courthouse

Patrizia Anesa^[1] and Federica Cantagalli^[2]

University of Bergamo^[1]; Independent Researcher^[2]

ORCID: <https://orcid.org/0000-0002-0795-745X>^[1]; none^[2]

Email: patrizia.anesa@unibg.it^[1]; federica.cantagalli@hotmail.it^[2]

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Abstract

Court interpreting plays a critical role in ensuring effective communication during legal proceedings. This study explores issues related to language assistance services in Italian legal proceedings, focusing on the *Direttissime* division at the Milan Courthouse. Qualitative data were gathered through interviews with interpreters and professionals working at the courthouse as well as direct observations conducted in 2023. The interviews revealed systemic issues, including inadequate training, lack of legal expertise, and poor remuneration. Observations of courtroom proceedings also highlighted significant gaps in interpreter performance and organization, often compromising the defendant's understanding and participation. Notwithstanding the inherent constraints of a singular case study, this analysis corroborates the notion that, despite the implementation of legal reforms, there has been minimal advancement in enhancing the quality of interpretation over recent decades. Therefore, this work calls for better training, assessment, and remuneration for interpreters, alongside more collaborative efforts among legal stakeholders to uphold the right to a fair trial for non-native speakers.

1. Introduction¹

In judicial proceedings, court interpreters play a critical role in facilitating multilingual communication and bridging linguistic and cultural barriers among stakeholders (see Corsellis 2008; Niska 1995). Ensuring the right to language assistance services requires the selection of capable and qualified interpreters equipped with the necessary skills to perform this complex and multifaceted task. At the same time, the interpreter must operate within a supportive environment and receive the full support of legal practitioners and other stakeholders, as the

¹ This paper was conceived and written jointly, and responsibility can be assigned as follows: Patrizia Anesa: 50%; Federica Cantagalli: 50%. More specifically, Anesa is mainly responsible for Sections 1, 2, and 3.1; Cantagalli is mainly responsible for Sections 3.2, 3.3, and 3.4; the authors are equally responsible for Section 4.

quality of the interpretation and the success of the communication are a result of the collaboration of all the participants.

It has long been documented that the Italian language assistance service in courts faces significant challenges (Ballardini 2014; 2005; Falbo and Viezzi 2014; Falbo 2013; Spinzi 2013; Sandrelli 2011; Longhi 2004). In this respect, Italy has not yet fully witnessed a process of professionalization of legal interpreting, and the role of interpreter is often undervalued and subject to prejudice. This study delves into the current administration of linguistic assistance services in Italian criminal courts. This investigation describes the interpretation service offered at the Milan Courthouse, with particular attention to the division known as *Direttissime*,² to highlight the most critical issues.

2. The legal interpreter in Italy

Legal interpreting services are fundamental to safeguarding the rights of suspects, defendants, victims, and witnesses who do not possess adequate proficiency in the official language used during legal proceedings. These services are essential to ensure that all individuals, regardless of linguistic barriers, can participate fully in the judicial process. However, it is only in recent years that the focus has shifted from the mere provision of these services to the quality and dependability of interpretation in legal contexts.

This emphasis on quality was significantly bolstered by the enactment of EU Directive 2010/64/EU, which sets stringent standards for legal interpretation and translation services. The Directive has acted as a catalyst for a thorough reassessment of practices and benchmarks across EU member states. By introducing an EU-wide framework that prioritizes quality and mutual recognition, the Directive has driven efforts to harmonize standards and promote professional reciprocity among the member states (Katschinka 2014; see also Santangelo, Biral and Neroni Rezende 2022; Gialuz 2019; Amato and Mack 2015 for a specific analysis of the Italian context). This harmonization is considered a cornerstone for fostering mutual trust and enabling the exchange of expertise, both of which are crucial for the equitable and consistent application of justice across linguistic and national boundaries. In this respect, in response to European Directive 2010/64/EU, the Qualitas Project, funded by the European Commission and the Directorate-General for Justice, was established. The project concentrated on developing certification protocols through rigorous testing and assessment, particularly within police and

² A form of expedited criminal procedure provided by the Italian legal system, aiming to deal with cases of particular urgency or seriousness, often related to *in flagrante* crimes (see Section 3). See https://tribunale-milano.giustizia.it/it/cancelleria_direttissime.page. Last visited 06/06/2025.

legal environments (Giambruno 2014).³ Italy transposed Directive 2010/64/EU into national law through Legislative Decree No. 32 of March 4, 2014, and this legislative measure amended the Italian Code of Criminal Procedure (Codice di Procedura Penale, CPP)⁴ to integrate the rights established under the Directive.⁵ The reforms focus on the following: (1) guaranteeing the availability of interpreters and translators for defendants who do not speak or understand Italian, (2) establishing certification procedures to verify the qualifications of legal interpreters and translators, and (3) enhancing procedural guarantees, including the right to appeal if interpretation services are deemed inadequate. Despite the formal transposition, Italy faces significant challenges in meeting the standards of the Directive, as has been amply confirmed in the literature (see, *inter alia*, Ballardini 2014).

The role of the legal interpreter extends beyond the courtroom. Judicial interpreters provide their services across various sectors, including police interrogations, lawyer-client meetings, hearings, and trials, but also in other contexts, such as prisons, police stations, immigration offices, and telephone interceptions. Although these contexts exhibit similarities, they differ in terms of the relationship between interlocutors, the objective of the interaction, the formality of the conversation, the type of language used, and the role assumed by the interpreter (Hale 2007). In all these situations, non-Italian-speaking defendants or suspects must be assisted by an interpreter based on the principle that all individuals have the right to a fair trial. To the best of our knowledge, there is no comprehensive data available regarding the number of cases requiring interpreter interventions in Italy, but one can gauge the magnitude of the phenomenon based on the presence of foreigners in Italian prisons.

In 2022, foreigners comprised 31.5% of Italy's prison population, totaling 17,863 detainees, according to ISTAT.⁶ The most represented nationalities were Moroccan (20.2%), Romanian (11.7%), Albanian (10.4%), Tunisian (10.1%), and Nigerian (7.1%), reflecting broader entry trends.⁷ Linguistic assistance is needed not only for foreign detainees but also for victims, suspects, and witnesses, increasing demand for interpretation services. While some detainees may be fluent in Italian, many likely require language support.

³ The European Agency for Fundamental Rights project to examine practices related to the Directive in the EU can be found here: <https://fra.europa.eu/en/project/2015/right-interpretation-and-translation-and-right-information-criminal-proceedings-eu>. Last visited 06/06/2024.

⁴ Available at: <https://www.gazzettaufficiale.it/sommario/codici/codiceProceduraPenale>. Last visited 06/06/2025.

⁵ See Gialuz, Lupária and Scarpa (2017).

⁶ ISTAT (2023), *Annuario statistico italiano 2023. Giustizia, criminalità e sicurezza*. Available at: <https://www.istat.it/storage/ASI/2023/capitoli/C06.pdf>. Last visited 10/01/2024.

⁷ ISTAT (2023c), *Report Cittadini Non Comunitari in Italia: Anni 2022-2023*. Available at: <https://www.istat.it/it/files//2023/10/REPORT-CITTADINI-NON-COMUNITARI-2023.pdf>. Last visited 10/01/2024.

3. Interpreting services in criminal proceedings at the Milan Courthouse

3.1 Empirical investigation: objectives and methods

This qualitative research is based on data collected via interviews and direct observation. Specifically, the study was conducted on multiple fronts through the administration of six semi-structured interviews (with court interpreters and a member of the court staff) and direct observation of a hearing. The gathered information was compared with the statistical data provided by the Milan Courthouse.

This study was conducted primarily between April and July 2023 with the aim of analyzing the current issues regarding the role of legal interpreters in Italy. The choice of Milan as the locus of research is significant, as ISTAT data⁸ confirm the notable presence of foreigners residing in Milan. As of January 1, 2023, foreigners residing in Milan amounted to 261,277⁹ (19.2% of the total population). The most populous community comes from Egypt, followed by the Philippines and the People's Republic of China. In terms of crimes, Milan is also the city that reaches the highest rank among Italian cities (6,991 crimes reported annually per 100,000 inhabitants).¹⁰ Milan thus proves to be a valid subject of study, as it represents one of the major urban areas in which there are greater opportunities for social contact among foreign citizens, leading to corresponding instances of conflict.

This study focuses on the application of the right to language assistance in the criminal division of the Milan Courthouse, particularly in the *Direttissime*¹¹ division of the court, where proceedings for monocratic *direttissimo* proceedings occur. This type of trial is characterized by a condition of evidentiary visibility determined by two possibilities: 1. the arrested person is caught in the act of committing an offense (*in flagrante*), and 2. the suspect pleads guilty during the initial stages of interrogation. The *direttissimo* judgment is governed by Art. 449 of the Italian Code of Criminal Procedure, according to which the arrested person must be brought before the judge for validation of the arrest within 48 hours of capture.¹² The *Direttissime*

⁸ ISTAT (2023b), *Cittadini stranieri Milano 2023*. Available at: www.tuttitalia.it/lombardia/18-milano/statistiche/cittadini-stranieri-2023/. Last visited 10/01/2024.

⁹ The data provided do not account for the number of people illegally present in the area.

¹⁰ Il Sole 24 Ore (2023). Indice della criminalità. Available at: https://lab24.ilsole24ore.com/indice-della-criminalita/?refresh_ce=1. Last visited 10/01/2024.

¹¹ The term “*giudizio direttissimo*” is often referred to as “summary trial” or “summary judgement” in manuals such as Di Amato (2011, 177). However, these expressions are at times interchangeably used to refer to other procedures, such as “*giudizio immediato*” and “*rito abbreviato*,” and may thus be misleading. The *direttissimo* trial has specific features (e.g., can take place only in flagrante or upon confession of the defendant) and assumes unique contours within the Italian legal system. Considering the vast array of near-synonymic expressions that are employed by various institutions to refer to this very specific procedure in the English language, we have opted for the preservation of the Italian terminology. For further details, see Scarpa (2018).

¹² Article 391 of the CPP, paragraph 7, specifies that the arrest or detention ceases to be effective if the validation order is not pronounced or filed within 48 hours from the moment when the arrested person or detainee was made available to the judge.

division deals with the initial phase of validating the arrest and the subsequent development of criminal proceedings. It can conclude immediately with a judgment of conviction or acquittal or with a postponement to a later date. The latter option is frequent because judicial authority often requires further analysis and evidence to issue a judgment. Typically, the offenses involved are summary offenses, including petty drug dealing, theft, attempted robbery, and resisting arrest, while those requiring more serious investigative activity are sent for validation to the judge for preliminary investigations.

Direttissime trials frequently involve non-Italian speakers. According to Article 386 of the CPP, police must provide arrestees with a clear, written statement of their rights, including access to an interpreter and translated documents if they do not understand Italian. Such information may be provided orally if the written communication is not immediately available in the language known to the arrested person, without prejudice to the obligation to subsequently provide such information in written form. Hearings held in the *Direttissime* division are not recorded or transcribed. The minutes are drawn up by the clerk exclusively in Italian; the document acknowledges the possible presence of the interpreter but leaves no trace of the language transition process, making any subsequent translational analysis impossible after the hearing.

3.2 Statistical data on hearings in the *Direttissime* division

To integrate qualitative considerations, quantitative data pertaining to hearings held in the *Direttissime* division during the January-March 2023 quarter¹³ were analyzed. The objective was to ascertain the number of proceedings necessitating linguistic assistance services. This information was graciously provided by the registry of the division, aiding in understanding the actual linguistic needs in the current legal context.

Table 1 presents information regarding the number of proceedings that required the presence of an interpreter in the first quarter of 2023 in the *Direttissime* division of the Milan Courthouse, with specific reference to the languages involved.

¹³ As no statistical information regarding the number of hearings held with the presence of an interpreter is publicly available, these data were kindly collected by the staff of the *Direttissime* division, but it was not possible for them to gather data referring to a longer period of time as the activity is particularly time-consuming. However, the authors are currently working with other courthouses to offer more data in this regard on a national level.

Language	Number of proceedings
Arabic	177
French	24
English	19
Spanish	16
Romanian	7
Albanian	6
Filipino	6
Croatian	2
Senegal ¹⁴	2
Russian	2
Bulgarian ¹⁵	1
TOTAL	262

Tab. 1: Proceedings requiring the presence of an interpreter (January–March 2023)

The most frequently used language in interpretation services was Arabic, with 177 hearings held in three months and an average of 59 hearings per month. The following were European languages, often used as vehicular languages, namely French (with 24 proceedings), English (19), and Spanish (16). Then, we find Romanian, Albanian, and Filipino (with 7, 6, and 6 hearings, respectively), and finally Croatian, Senegalese, Russian, and Bulgarian. It is interesting to note that *Senegal* and *Bulgaria* were indicated with the name of the defendant's country of origin rather than the spoken language, and the same method was used for the paper register containing the names of the available interpreters. In total, 262 hearings were accounted for that required linguistic assistance services over the course of three months. In terms of percentage distribution, Arabic constituted 68% of such proceedings, followed by French (9%), English (7%), and Spanish (6%). The total number of languages reported in the period under consideration amounted to 11, suggesting once again a significant utilization of these languages as a lingua franca. The reference sample used for these statistics is limited to a three-month timeframe and is thus incapable of providing a comprehensive analysis of linguistic needs within the legal sphere; nevertheless, it still offers compelling avenues for reflection.

3.3 Qualitative analysis

The qualitative data collection process focused primarily on gathering insights from interviews and direct observations of courtroom interpretation services. This methodology stemmed from the intention to elucidate the phenomenon through the experiences of those involved on a daily basis, and the aim was to amplify the voices of those engaged in courtroom duties via semi-structured interviews. Upon delineating the themes of interest and framing questions to guide

¹⁴ The data provided by the court indicated the country without specifying the language required.

¹⁵ The data provided by the court only indicated the name of the country (*Bulgaria*), but it was possible to establish that the language required was Bulgarian.

the dialogue, interviewees were afforded ample opportunity to articulate their thoughts, fostering a flexible communicative exchange.

Five interpreters¹⁶ and the head of the *Direttissime* registry were involved, and all interviews were recorded and transcribed, except for one, upon the request of the interviewee. The majority of interviewees agreed to in-person meetings, with the exception of two interpreters who preferred remote communication. The research was complemented by direct observation of courtroom interpretation service operations,¹⁷ specifically an arrest validation hearing conducted within the *Direttissime* division, which took place in April 2023.

3.3.1 Insights from the direction of the *Direttissime*

The interview with the head of the division focused on the functioning of the interpretation service and its practical organization within this division of the court.¹⁸ The conversation addressed various themes, including interpreter recruitment methods, requisite qualifications, performance evaluation criteria, assigned tasks, and primary challenges associated with the organization of the service.

Insights gleaned from the conversation with the director elucidated the organizational workflow as follows: commencing at 7:30 a.m., law enforcement dispatches a list of detainees to the court from the previous day. Upon receiving these data, the clerk's office manages validation hearings, with three courtrooms dedicated to *Direttissime* proceedings, each equipped with three single judges, three honorary deputy prosecutors (representing the public prosecutor's office), and three clerks. Many validation hearings involve non-Italian-speaking individuals, and the clerk's office staff must identify detainees requiring interpretation services. This verification is conducted by law enforcement personnel operating within the precinct where detainees are held and communicated to the clerk's office via telephone. Based on this information, courtrooms are arranged, and interpreters are contacted starting at 8:00 a.m. and are allotted approximately an hour and a half to arrive at the courthouse. However, the exact start time of hearings cannot be determined until all documents related to the arrest are assembled. Once this documentation is obtained, validations commence in the three courtrooms successively, with each interpreter awaiting the conclusion of the preceding hearings. Generally, the daily number of arrests never drops below ten, but on the morning of our visit,

¹⁶ The selection of the interpreters was based solely on their availability, with no regard given to gender as a determining factor. The group of interpreters consisted of four females and one male. Due to this disproportion, it is not feasible to draw any conclusions regarding gender-based differences.

¹⁷ For the purpose of this paper, only one hearing will be analysed.

¹⁸ For logistical reasons, it was not possible to collect more interviews with other members of staff. That would have provided more solid data, but the voice of the director can still offer a significant emic perspective on the interpreting service, which confirms the issues raised by the interpreters (see section 3.3.2).

there were twenty-five detainees awaiting validation, 85% of whom were non-Italian citizens. This is an exceptionally high percentage, considering that a significant portion of these foreigners require linguistic assistance services. The clerk's office maintains a paper register, listing the available interpreters sorted by reference languages in alphabetical order.

Interpreter appointments are based on their availability, with each interpreter asked to report their availability for the following month.¹⁹ This organizational structure is exclusive to the *Direttissime* division due to the substantial daily demand for interpreters. Scheduling is arranged with the aim of enabling interpreters to serve throughout the day if additional cases require the same language. The director emphasizes that scheduling is meticulously executed to avoid imbalances among candidates.

The selection of the interpreter is made from those included in the Milan Court's list of court-appointed experts, accessible on its website.²⁰ Application for registration is submitted to the court president, who is also responsible for overseeing consultant work and suspending or removing them from the list if they fail to fulfill their duties or exhibit unprofessional conduct.

Interpreter appointments are hindered by the nature of arrest validation hearings, imposing a maximum 48-hour limit from arrest to trial. This restricted timeframe means that it is not always possible to secure a suitable interpreter before the hearing, especially in a scenario in which the detainee speaks a language of limited prevalence in Italy and possesses no linguistic proficiency beyond their mother tongue. In such cases, if a suitable interpreter cannot be found within the statutory timeframe, validation proceeds nonetheless. As per the law, the validation of a non-Italian-speaking defendant is legitimate even without conducting a preliminary interrogation in the event of the impossibility of finding an interpreter for this purpose (Cass. Pen., Sec. I, judgment no. 41934 of 2009). What can be postponed is the remainder of the criminal proceeding, but not the validation hearing, as doing so would entail the release of the detainee and their return to liberty.

Regarding the language selection in interpretation services, the director confirmed the frequent use of a lingua franca as a substitute for the defendant's mother tongue. The director emphasized that the ability of defendants to express themselves in a language other than their own varies contingent upon their level of education and life experiences. Monthly rotations generally revolve around the most common languages, including Arabic, English, French, Spanish (primarily for South American citizens), Romanian, and Albanian. Arabic ranks as the most requested language, with thirteen interpreters, many of whom are proficient in at least two working languages (e.g., Arabic-English or Arabic-French). The director affirmed that, as

¹⁹ Public holidays do not interrupt validation hearings.

²⁰ <https://alboctuelenchi.giustizia.it/gestione-albi/ricercaIscritti/load>. Last visited 06/06/2025.

far as European languages are concerned, interpreters often work in combination with the three most common languages: Spanish, English, and French. Furthermore, the director confirmed the findings offered by ISTAT, indicating increased requests for linguistic assistance from Eastern European citizens, particularly those from Ukraine, based on recent migration flows.

Instances in which the chosen interpretation language proves inadequate are not uncommon, as defendants encounter significant communicative challenges during trials. Cases also arise in which detainees claim proficiency in Italian, but this linguistic competence proves insufficient during trial, necessitating urgent interpreter procurement. Conversely, there are instances in which the clerk's office summons an interpreter for an arrest validation hearing, only for the defendant to demonstrate adequate comprehension and expression in Italian during the trial.

The director recounted an incident in which the clerk's office encountered difficulty finding a sign language interpreter for a speech-and-hearing impaired detainee because sign languages are not listed in the court's register. In this emergency situation, a staff member contacted an acquaintance capable of using Italian sign language but lacking interpretive and translation experience. Although this incident underscored the need to engage competent sign language interpreters, no expert search was subsequently conducted to add such individuals to the list, as this was considered an exceptional case.

Among other issues, the director mentioned that interpreter registration requirements do not mandate legal expertise, but she believes this parameter should be included. She also observed that individuals spoken to often have limited education, so the interpreter often simplifies or synthesizes complex concepts, thereby reducing them to practical statements like "you have to go to prison" or "you have been released."

3.3.2 Interpreters' perspectives

All the interpreters included in the list provided in the Milan tribunal were contacted, and all those who gave their availability were interviewed. The interviews focused on aspects such as their training and work experience, prerequisites for courtroom engagement, interpretive modes, language usage during service, and personal reflections on the profession. Interviewees were asked to comment on positive, negative, and critical aspects of their work, as well as the level of cooperation they experienced from clients. Additionally, based on individual experiences, questions were posed regarding the timing of initial interactions between interpreters and non-native speakers, the frequency of services requiring the use of a lingua franca instead of the defendant's mother tongue, the provision of preparatory material before hearings, and the perceived requirements for becoming proficient interpreters. The interviews concluded with inquiries into the interpreters' perspectives on potential improvements to courtroom interpretation service management.

3.3.2.1 Background

Only one of the five interviewees had a background in linguistics whereas the others held degrees in economics, veterinary sciences, primary education and law. The latter interpreter reported having acquired two degrees and various academic credentials within the legal domain. Among all the interviewees, this individual was the only one with specific competence pertaining to the operational context in which they operated. Conversely, all the others claimed to have acquired an understanding of the Italian legal system and its associated language directly through on-the-job experience.

Regarding the prerequisites for commencing work within a courtroom setting, all the interviewees reported similar experiences: Registration with the court's registry requires prior enrollment with the Chamber of Commerce as a language expert. Linguistic proficiency can be demonstrated either through native fluency or by presenting various academic qualifications, coupled with evidence of translation work experience. Such experience is validated by submitting translations undertaken previously, attesting to mastery of linguistic structures in both working languages.

All the interviewees affirmed working as judicial interpreters once or twice a week, with the exception of one whose courtroom presence was limited to approximately once a month. Additionally, all engaged in written legal translations; however, for none of them did the role of interpreter-translator within the courtroom constitute their primary occupation. Interviewees reported working independently with other clients or undertaking diverse job responsibilities. Two of the five interpreters recounted initiating their collaboration with the judiciary as interpreter-translators without prior enrollment: one recalled being contacted by a friend during an urgent situation, necessitating an Armenian language interpreter for a hearing. Another interviewee commenced their courtroom career by assisting a justice of the peace with interpretation and translation services. For both interpreters, registration with the court's panel of experts occurred after the commencement of their employment.

3.3.2.2 Languages, modes, and practices

Regarding the working languages, three interpreters reported working solely with one language combination (one interpreter for Italian-Romanian and two for Italian-Spanish), while one interpreter claimed proficiency in three languages (English, Spanish, and Italian), and the last interpreter handled five languages (English, German, Russian, Armenian, and Italian). One interpreter noted that many colleagues offer their services for various languages without possessing solid translation competence in those languages.

When asked about the interpretation modes and techniques employed during a hearing, the responses revealed misunderstandings, with some interpreters seemingly confused about the

distinction between various forms of interpretation. Nonetheless, what emerged from the responses was the predominant use of short, consecutive interpretations. Two interpreters claimed to utilize whispered interpretation only in certain instances, depending on the complexity of the message to be translated and the judge's requests. All the interviewees affirmed not taking notes during the hearing except to jot down the date of indictment or other bureaucratic details.

Regarding the content of the interpretation, only two interpreters emphasized the importance of maintaining complete fidelity to the original text; two interpreters often provided a summary of the message in its translated version, while the last gave a vague and unclear response. The two interpreters who opted for a summary of the original text justified their choice by pointing out that judges often requested condensed interpretation and pressured the interpreter to expedite the process. Furthermore, both interpreters agreed that defendants often prefer a simplified translation that enables them to grasp concretely what is happening in the courtroom without delving into legal references. In this regard, one interpreter acknowledged their role as a linguistic assistant and reported often stepping in as a cultural mediator to help non-native speakers understand the dynamics of what was transpiring. Another interpreter bluntly described the interpretation process as follows: "Often, you deal with ignorant people, so if you give them technical information, they won't understand. You have to translate it into very basic terms. You have to summarize, and when they ask why they're going to jail, you just tell them the final bit, like *you're going to jail because you stole*, because legal jargon is quite pompous, and the poor guy barely knows his own language, let alone others."²¹

As far as the specialized languages that may emerge during a trial are concerned, apart from legal terminology, the interviewees mentioned the economic, construction, and medical sectors, but also recalled the presence of colloquial terms common in the defendants' countries of origin and often absent from major dictionaries. One interpreter reported not using any specialized language in interpretations, as this would not be understood by the defendants, who "generally are ignorant, have zero culture, so you have to speak at their level." Four interviewees stated that courts frequently rely on a lingua franca due to the difficulty of finding interpreters for less common languages, particularly in *Direttissime* trials where hearings take place shortly after the arrest.

According to the responses, the recruitment of interpreters is further hindered by the fact that justice operators have not received any linguistic training. This represents a limitation leading to numerous instances of disorganization and misunderstanding of the interpreter's

²¹ The interviews have been conducted in Italian. Unless specified otherwise, the translations were carried out by the authors.

role: the Armenian interpreter recounted being summoned for a service in Georgian, a language in which they had no linguistic proficiency; a Spanish interpreter noted that judicial authorities are unaware of the substantial linguistic differences between Castilian Spanish and Catalan, which is spoken in certain regions of Spain; another interpreter observed that within police stations, law enforcement personnel often fail to summon interpreters and attempt to communicate with the arrestee using multiple foreign languages to expedite operations.

Outside of hearings, the interviewees reported working in prisons and for environmental and telephone interceptions. One interpreter recounted being contacted in an emergency to go to the scene where a crime had been committed and to assist law enforcement in understanding the situational dynamics. Meetings with the lawyer aimed at deciding the defendant's defense strategy frequently do not involve an interpreter's presence. One interviewee described only one experience in which they were contacted for a similar service: the episode involved two wealthy Spanish youths accused of vandalism. In this case, the lawyer and the interpreter were paid directly by the defendants' families to devise a mutually agreed-upon defense strategy.

The initial encounter between interpreter and defendant almost always occurs in the courtroom. Generally, defendants are not permitted to speak privately with the interpreter outside the courtroom; however, the interviewees mentioned encountering tolerance from judicial authorities in cases in which the defendant requested clarification from the interpreter after the hearing.

All the interviewees reported having not received any information regarding a hearing before its commencement. The only documents that may be provided in advance are those requiring the interpreter-translator's expertise. On this point, opinions differed: Two interpreters deemed it unnecessary to receive preparatory material, as they believed it could prompt personal judgment on the matter, compromising their neutrality. Two interpreters argued that some indications would be useful to avoid translation errors. These two interviewees described how their requests for information often received vague or even misleading responses.

3.3.2.3 Economic and logistical aspects

Several economic, logistical, and organizational issues emerged. The remunerative aspect was discussed extensively with all the interpreters, and, in most cases, it was introduced by the interviewees themselves during the conversation and identified as the most unsatisfactory element of the system. The law allows interpreters to request compensation if they, having appeared in court upon a summons, do not perform their work due to an error by the commissioning party. One interviewee stated that, in such cases, interpreters are often compensated for their presence, regardless. However, another interpreter emphasized that judges are not inclined to grant such compensation, and that such a request is "weighed

heavily,” placing the interpreter in a situation of significant discomfort. Moreover, judges may request defendants waive written translations of judgments or other types of written documents in exchange for a reduced sentence. Based on this testimony, the proposal is offered as an agreement aimed at saving the court the costs of translations and the related interpreter compensation. One interpreter, in contrast, reported knowing individuals who have been subjected to threats after attempting to report injustices suffered or were in resistance to the current remuneration system.

In addition to the stagnant situation regarding the fees allocated to interpreter-translators, the interviewees emphasized other aspects related to remuneration equally worthy of note, as follows:

- Paid allowances (*vacazioni*)²² do not take into account the actual hours worked by the interpreter, setting a maximum of four daily allowances for each assignment. Nonetheless, hearings held in the *Direttissime* division, due to organizational issues arising from the nature of these cases, do not provide a set start time for the hearing, and the interpreter is required to appear in court early in the morning, adapting to waiting times that can last for hours but are not considered at the time of compensation.
- Requests for compensation submitted by interpreters are sometimes reduced by judges who do not seem to recognize the value of language assistance services.
- Payment is subject to unreasonable delays, which can even extend to several years.
- Difficulties in exercising the right to reimbursement for travel expenses: One interpreter asserted that to request reimbursement for travel, it is necessary to present the original copies of the tickets in court.
- Difficulties in using the SIAMM platform²³ dedicated to compensation requests. Despite the court’s website having a section dedicated to explaining the request procedure,²⁴ two interpreters complained that the platform is not clear. One interpreter recounted that many of their compensation requests were rejected because they contained errors in completing the application but without specifying the reason for the refusal. In addition, the interpreter condemned the absence of an office dedicated to resolving these issues. Although interpreters are allowed to appeal in cases in which payment is denied or they receive less compensation than requested, what emerged from the interviews was a general sense of resignation and acceptance of the issues. Thus, many

²² A *vacazione* corresponds to a two-hour session.

²³ The SIAMM portal is available at: <http://siamm.giustizia.it/>. Last visited 10/01/2024.

²⁴ Information on payment is provided by the Ministry of Justice: https://www.giustizia.it/giustizia/it/3_7_11.page. Last visited 06/06/2025.

believed that the time required for an appeal had a greater value than the corresponding compensation.

On a positive note, registration with the court allows the interpreter to be called upon by companies, public administrations, or other clients needing legal translations. The interviewees agreed that the possibility of working privately motivates registration with the court, as these jobs guarantee higher earnings. One of the interpreters explained that it is impossible to live solely on judicial interpreting work; indeed, all the interviewees supplemented this role with another main occupation. An interpreter is free to refuse an assignment if they have a valid reason or another commitment, and there is no obligation regarding the number of jobs to perform. However, whenever the list is updated (not a frequent occurrence), only those who have actually worked in court can maintain their registration.

3.3.2.4 Further insights and suggestions

Regarding the characteristics of a good interpreter, all the interviewees agreed on the importance of maintaining a professional and impartial attitude and adhering to the meaning of the original message without being influenced by emotions or personal opinions. Other requirements include a passion for the work, patience, good communication skills, awareness of their role, listening skills, and empathy, as well as a full knowledge of dialectal inflections and linguistic variants widespread in different areas of the world. When working with defendants with limited linguistic proficiency or with a pronunciation that is difficult to understand, the interpreter's language skills are essential to ensure accurate interpretation and defense of the party.

In terms of the positive aspects of judicial interpretation work, three out of the five interviewees stated that they appreciate the dynamism and variety that characterize the cases. Three interpreters out of the five considered this work to be a way to continue studying and learning new concepts. An interesting response was given by one interpreter, who emphasized appreciating their work more because it is a way to improve their knowledge of Italian. One interpreter claimed to appreciate the "leadership position in managing the conversation between judge and party," while another participant appreciated being in situations of honesty and the opportunity to contribute to the triumph of justice.

Regarding potential improvements to be made to the system, some interpreters emphasized the need to introduce an official admission exam to the registry, stating that there are currently many people who enter into this role through acquaintances. Equally important is the introduction of a periodic test to assess whether the interpreter's skills have been maintained over time and their ability to perform the work adequately. One interviewee also proposed

extending the possibility of registration in the registry of experts and CTU²⁵ to non-Italian citizens. One interviewee suggested that interpreters be informed about the case in advance so that they can prepare for the terminology and not have to improvise during the hearing.

The interviewees also insisted on the need to improve payment management and to provide both interpreters and young lawyers with training courses on using the SIAMM platform. Moreover, rather than initiatives from individual courts, what is expected is an intervention of the ministry at the national level to guarantee more uniformity in the proceedings.

3.4 Direct observation of a hearing at the Milan Courthouse

A case concerning the validation hearing of an arrest was observed and transcribed²⁶ in April 2023. The case involved a young Iranian female, a native Persian speaker, who claimed to understand English. She was assigned an Arabic interpreter who also works for linguistic assistance services in English, recognizing it as an international language. The defendant was found in Italian territory without valid documentation. Questions were posed by the judge aiming to understand the means by which the girl entered the country and any possession of identification documents.

The lawyer arrived shortly before the beginning of the hearing and met on one side of the courtroom to briefly discuss the case with the defendant and the interpreter. Before the hearing began, the judge was provided with a file presented by the public prosecutor. Subsequently, the hearing commenced with the reading of the arrest report, during which the complete absence of a whispered interpretation service was observed. The interpreter provided linguistic assistance service in English, but the girl was a native Persian speaker. This resulted in the hearing being interrupted after about ten minutes due to the linguistic difficulties of the defendant, who did not understand English.

During the course of the hearing, the interpreter's performance was far from sufficient to guarantee the provision of professional linguistic assistance. One of the main problems arose from the interpreter's poor knowledge of English, which was inadequate to offer an appropriate interpretation service, as is reflected in frequent grammatical errors (observable in Examples 1, 2, and 3) and incorrect and incomplete translation renditions (Examples 4 and 5).

- (1) *Interpreter*: Where you live in Italy? In Italy, where you go to sleep?

²⁵ Expert witnesses and consultants.

²⁶ For the purpose of this work, the transcription was not conducted according to the transcribing conventions of conversation analysis because in the inevitable tradeoff between accuracy and readability, the latter aspect was favored. When the Italian excerpts were considered particularly salient, the authors provided a translation in English in a footnote to allow non-Italian speakers to better appreciate the provided discussion.

- (2) *Interpreter*: How you begun the trip, the trip where it began?
- (3) *Interpreter*: You understand English well or you have . . . a little?
- (4) *Judge*: Ha documenti di identità autentici?²⁷
Interpreter: Your identity document, your document, document, your passport.
- (5) *Judge*: Ma lei ha detto che non ce l'aveva il passaporto.²⁸
Interpreter: You been saying you don't have your passport, your passport, passport, you've been have it before or not, you've been having a passport?

In Example 6, another element that emerged in the interpreter's rendition is a form of code mixing with the use of an Italian term within sentences constructed in English.

- (6) *Interpreter*: In Turchia, you've been having before, before Turchia you've been having passport, you have it your passport before Turchia?

Although it could be argued that these peculiarities derive from the need to adapt to the defendant's low level of English, the observation seemed to confirm that the interpreter's knowledge of English was not advanced. The expressive incapacity of the interpreter inevitably hindered the understanding of the defendant, who possessed a limited command of the language. However, it is plausible to assume that the lack of English competence on the defendant's part would have made it impossible, even for an expert interpreter, to carry out the interpretation process. The linguistic difficulties of the defendant were evident, as was her sense of bewilderment stemming from the impossibility of fully grasping what was happening around her. Her responses were often brief, hindered by the obligation to express herself in a language that was not her own, while the sentences uttered by the interpreter had to be repeated multiple times to be understood, thus impeding the smooth progress of the hearing. This hindrance can also be observed in some of her responses, for example:

- (7) *Defendant*: I . . . walking, walking in Greece.
Interpreter: Ah, you be moving from Turchia.
Defendant: Walking.

²⁷ "Do you have any authentic identity documents?"

²⁸ "But you said you did not have a passport."

The repetition of the word *walking* by the defendant, following the statement made by the interpreter, may demonstrate the possibility that the young woman was unfamiliar with the term *moving*.

There are several instances in which the interpreter displayed partiality and a lack of neutrality,²⁹ taking personal initiative in steering the dialogue, responding on behalf of the defendant, presumably based on information gathered through prehearing conversations with her (e.g., 8 and 9) or even assuming her responses (e.g., 10).

(8) *Judge*: Senta che lingue parla lei?³⁰

Interpreter: What is your language?

Defendant: Persian.

Interpreter: Persiano.

Judge: Lei non . . . neanche qualche parola?³¹

Interpreter: No, lei capisce inglese però non tanto.³²

In Example 9, the interpreter's presumed response, albeit unfounded, disrupts the smooth progression of the conversation. To rectify this issue and resume the course of the dialogue, the interpreter asks the defendant how her journey to Italy commenced, a question distinct from the one originally posed by the judge.

(9) *Judge*: Voglio sapere...³³

Interpreter: ... con che mezzi?³⁴

Judge: Con che mezzi, com'è arrivata.³⁵

Interpreter: Lei ha fatto...ha attraversato la Polonia, Germania e Italia.³⁶

Judge: Ma l'Iran non confina con la Polonia.³⁷

Interpreter: How you begun the trip, the trip where it began?

(10) *Interpreter*: In Turchia, you've been having before, before Turchia you've been having passport, you have it your passport before Turchia?
[Inaudible answer by the defendant]

²⁹ See Ballardini (2019) on the concept of neutrality.

³⁰ "Listen, what languages do you speak?"

³¹ "She does not . . . not even some words?"

³² "No, she understands English but not much."

³³ "I want to know. . ."

³⁴ "... by what means?"

³⁵ "by what means, how she arrived."

³⁶ "She did . . . she passed through Poland, Germany, and Italy."

³⁷ "But Iran doesn't border Poland."

Interpreter: Quello che dico io è che aveva il passaporto prima di attraversare...³⁸

Regarding the use of the grammatical person, the interpreter consistently employed the third-person singular when addressing their interlocutor, a common error identified by Rudvin (2015), while the international literature aligns in advocating for the use of the first person to foster spontaneity and immediacy in communication.

In the aforementioned examples, the interpreter assumed the role of gatekeeper, taking control of the dialogue and becoming the sole participant managing the conversation (see Hale 2008, 102). By acting in this manner, the interpreter created confusion and diminished the decision-making power of the participants by adding information to their statements, omitting others, and altering the completeness of the translated message. Even in cases in which the interpreter sought to act with the best intentions, aiming to assist the non-native speaker in presenting their testimony (advocating for the powerless participant), he effectively chose to respond based on what was deemed relevant, which did not necessarily align with the judge's expectations. By responding on behalf of the defendant, the interpreter assumed the role of a speech assistant, exceeding his duties and imposing himself as the primary interlocutor of the judge, occupying a role different from the one he was assigned (Biagini 2013). However, the variety of positions assumed by interpreters often does not automatically compromise the proceedings (Biagini 2013). The interpreters' roles may reflect the expectations placed on them by other participants who expect them to perform tasks that extend beyond their institutional role. This was evident in the presented hearing, where neither the judge nor the lawyers seemed concerned about the interpreter's behavior, nor did they recognize the rendition as unprofessional.

Another issue arose from the complete absence of interpretation during the reading of the arrest report at the beginning of the hearing. During this phase, the defendant remained entirely excluded from the communicative context and became involved only when direct questions were posed by the judge. When asked about the need to provide a whispered interpretation of the report, the interpreter responded that it was unnecessary, as details regarding the arrest, such as the date, time, and location, could be omitted "since they already know." However, the omission of these elements not only prevented the defendant from confirming their veracity but also failed to uphold the fundamental principle of judicial linguistic assistance: the aim to place the non-native speaker on an equal footing with other participants in the legal process, ensuring their full comprehension of the hearing and active participation. The literature and the relevant ethical codes converge on the idea that even

³⁸ "What I am saying is that she had her passport before crossing."

monologues not directly addressed to the defendant or foreign witness, or those that do not directly involve them (such as the reading of the arrest report, lawyers' closing arguments, final judgments, etc.) must be fully interpreted.

All of the aforementioned elements regarding the observed hearing rendered communication impossible. However, faced with the defendant's evident linguistic difficulty, the judge made another attempt to proceed with the validation by suggesting the use of another vehicular language, such as French or Turkish. Even the interpreter himself did not realize their own unpreparedness and claimed to be doing his best to try to communicate with the defendant.

In Example 10, after the defendant had declared that she spoke only Persian, the judge mentioned the possibility of using Turkish.

- (11) *Judge*: Lei cosa sa? Perché noi abbiamo un interprete della lingua turca. Lei che lingua conosce, come si chiama la lingua che conosce?³⁹

Suggesting the use of Turkish with a Persian speaker is a clear manifestation of the lack of knowledge of basic linguistic principles that should be mastered when dealing with services that require, by law, language assistance.

4. Discussion and conclusion

This study provides insights into the issues related to linguistic assistance in criminal proceedings, elucidating the perspectives of practitioners engaged in this field while discussing their requests and suggestions. The findings reveal criticalities akin to those documented in prior research, indicating a notable lack of concerted efforts in recent years to enhance interpretation quality, which necessitates further development. The issues raised by this investigation closely mirror those identified by studies conducted in Italian courts over time (Ballardini and González Rodríguez 2021; Garwood 2012; Ballardini 2005), suggesting that the reforms implemented do not seem to have led to substantial improvements in interpreting practices.

The current legal framework often involves nonprofessional interpreters operating within highly sensitive contexts, impacting the lives and liberties of the involved individuals. A key concern pertains to interpreter training, with many lacking linguistic and interpreting certifications, as well as foundational legal literacy. The absence of appropriate interpreting services is a violation of the right to a fair trial and can thus represent a cause for appeal (Ng 2022). Observations from a specific hearing highlight inconsistencies in summoning qualified

³⁹ "What do you know? Because we have an interpreter of Turkish. What languages do you know? What is it called the language that you know?"

interpreters, even for widely spoken languages. This tendency may stem from court officers' preference for easily accessible interpreters, overlooking their training and assessing them primarily based on demeanor rather than interpretive competency. Enhancing the interpreter's role is vital for ensuring fair trials for non-native defendants and community-wide benefits, necessitating collaboration and shared responsibility among stakeholders. While initial steps are underway through degree programs and professionalization courses, greater efforts and investments remain imperative, as the human costs of poor interpretation management outweigh other expenses.

One of the main limitations of this work lies in the limited number of hearings observed due to practical difficulties in accessing this type of data. For example, many of the scheduled hearings were canceled at the last minute for several reasons, including the absence of the defendant. Larger amounts of data would obviously allow for drawing more solid considerations, and thus, further research efforts have to be made in that direction. Despite the limitations inherent in the nature of a single case study, the analysis can offer insights based on authentic, recent data.

Additional studies could be conducted on the use of technology in legal interpretation services, aiming to evaluate the effectiveness of remote communication platforms, associated costs, and the risks associated with their usage. Lastly, it would be equally interesting and advantageous to involve defendants in research investigating their assessment of the linguistic assistance services received, as this approach could elicit the viewpoints of those primarily targeted by interpretation services. Such studies would make a significant contribution to the quality of linguistic assistance in the judicial realm, promoting equitable accessibility and ensuring the efficacy of the legal system for all, irrespective of spoken language.

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Bionote

Patrizia Anesa is Associate Professor of English Language, Linguistics and Translation at the University of Bergamo, Italy. She holds a Ph.D. in English Studies, with a specialization in professional communication. She is a member of the Research Centre on Specialized Languages (CERLIS) and an Associate Editor of the IDEA project (International Dialects of English Archive). Her research interests lie mostly in ESP and technology-enhanced language learning.

She is currently principal investigator of the EU co-funded PRIN project “Enhancing ESP competence in educational and professional contexts via augmented reality”.

Federica Cantagalli is an independent researcher in the field of English language studies. Her research interests mainly focus on the exploration of interpreting techniques and strategies, with a particular emphasis on the Italian-English language pair. Her analysis primarily concerns the area of legal communication.

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