



European Legal Interpreters and Translators Association

The logo for the European Criminal Bar Association (ECBA). It features the letters "ECBA" in a large, bold, serif font. The "E" and "A" are blue, while the "C" and "B" are yellow. The logo is framed by a thin black border.

EUROPEAN CRIMINAL BAR ASSOCIATION

An association of European defence lawyers

Since its foundation in 1997 the ECBA (European Criminal Bar Association) has become the pre-eminent independent organisation of specialist defence lawyers in all Council of Europe countries. The ECBA aims to promote the fundamental rights of persons under investigation, suspects, accused and convicted persons, not only in theory but also in the daily practice of criminal proceeding throughout Europe.

The ECBA consists of specialist defence lawyers from over 35 European countries including 26 EU member states. Membership is open to all lawyers, whether practicing or in academic life, who support those aims.

The association holds conferences twice a year, in spring and autumn, during which members and non-members meet and discuss the latest developments in European criminal law. The ECBA also acts as a platform for lawyers to meet with lawyers from all member states and to exchange information and knowledge. Its website aims to give access to relevant information, laws, treaties and preparatory documents. At the members-section of the website lawyers can simply ask questions, look for lawyers they need in member-state countries, take part in committees preparing documents for several European projects, etc. The ECBA participates in several current EU funded projects in the field of criminal law and is member of the EU Justice Forum.

VADEMECUM

(Guidelines for a more effective communication with legal interpreters and translators)

a joint project between EULITA (European Legal Interpreters and Translators Association) and ECBA (European Criminal Bar Association), presented at the ECBA Spring Conference in Antwerp, Belgium, in April 2010.

Vademecum for magistrates, prosecutors, attorneys and legal interpreters

The following points are based on practical experience. It is by no means a complete listing but a first attempt to smoothen the cooperation between magistrates, prosecutors, attorneys and legal interpreters. Comments and suggestions are always welcome.

1) Selecting the interpreter

In order to guarantee excellent language skills and appropriate interpretation according to proper professional ethics, in principle only legal interpreters (sworn and court certified interpreters) are to be used.

For languages for which there are no registered court interpreters it would be beneficial if the judge or the prosecutor would verify the qualifications and skills of the interpreters before a hearing by means of a short conversation in order to obtain assurance about the knowledge and skills of the interpreter in the language of the proceedings.

2) Information on interpreting

In complicated and long proceedings, as well as in connection with voluminous files and difficult cases, a brief review of the case by the interpreter before the trial or a few days before the hearing is to be recommended in order to prepare effectively the specific terminology of a case (such as in the field of medicine, engineering, or economics).

3) Seating in the courtroom

The court interpreter should under all circumstances have a place assigned in the courtroom from where he/she is able to see and hear all parties, demonstrating to the parties that he/she is participating in the hearing as a neutral interpreter. This also applies if the interpreter is to translate by way of whispering.

At all times the interpreters should be provided with a good view and good acoustics, as well as the opportunity to take notes on a solid surface (e.g. a table).

4) Short presentation of the actors in the proceedings

Since court cases follow a different procedure in every country (and the average citizen is not familiar with court procedures), a short presentation of the actors (judge, prosecutor, court clerk, court interpreter, lawyers, etc.) will take away the nervousness from foreign defendants and will ensure a smoother course of the proceedings.

In particular, at this presentation it should be emphasized that the court interpreter is a neutral person and has the task of translating all questions and statements conscientiously and completely into the respectively other language.

5) Written texts presented at hearings

If written texts (indictments, documents, contracts, correspondence, files, etc.) are presented and read out at a hearing, these documents (original or copy) should be handed to the court interpreter so that he/she can sight-translate them.

6) Interpreting the hearing to the foreign-language parties

In order to allow foreign participants in a hearing to follow the proceedings (for example, during the interrogation of witnesses), the court interpreter must be allowed – e.g. by sitting next to the parties – to interpret the statements of witness and/or the judge (prosecutor, lawyers) in the whispering interpreting mode.

To facilitate this demanding type of interpretation and to avoid any acoustic disturbance during the court hearing, caused by the whispered interpretation, the use of a so-called "bidule" is recommended.

7) Interrupting an interpretation

The correct and full interpretation of a statement on the basis of notes requires maximum concentration. Any interventions during the interpretation by lawyers, judges, parties, etc. interrupt the logical course of the interpretation and should therefore only be made when the court interpreter has finished his/her interpretation.

8) Breaks

Since interpretation requires a high degree of concentration, short breaks should be scheduled after about one hour.

9) No transfer of judicial tasks to the court interpreter

Although court interpreters are aware that at the beginning of a hearing the parties will be asked for their identity, and that witnesses will be reminded of their duty to speak the truth, as well as that convicted persons will be informed of the legal remedies at their disposal, it is the judge's task to deal with these formalities, asking the interpreters only to communicate this information to the accused/convicted person.

10) Cultural competence of legal interpreters

If in the course of a hearing the judge or prosecutor would like to obtain information on specific customs of an ethnic group from the legal interpreter (e.g. whether a nod means "yes" or "no"), or when the legal interpreter finds it necessary to inform the judge or prosecutor of any such specific characteristics, so that they better understand the behaviour of a foreign party at a hearing, this should be done outside of the proceedings, e.g. during a short break requested by the legal interpreter.
