

Draft FIT Guidelines on Court Translators and Interpreters Working Conditions

Preamble

These Guidelines are addressed to Legal Practitioners who employ and work with translators and interpreters within judicial and other legal proceedings. This may include, *inter alia*, court administration, prosecution and defense lawyers, magistrates and judges, law enforcement or police officers.

The purpose of the present Guidelines is to ensure higher quality of translation and interpreting during judicial and other legal proceeding through raising awareness of translators' and interpreters' professional environment and working conditions.

Professional Role

The professional role of court translators and interpreters is to ensure that people with no or limited proficiency of the language of the court can benefit from the procedural fairness and a fair trial and not be disadvantaged because of the lack knowledge of the language of court. Translators and interpreters are equally expected to ensure that evidence is translated and interpreted accurately for the court.

Court translators and interpreters are bound by impartiality and should not give preference to or favour either party involved in a case. Their obligations should not extend beyond their role of accurately and fairly translating and interpreting any communication in both language directions.

Legal Practitioners should be familiar with the professional role and ensure the compliance with working conditions required by translators and interpreters.

Assessing the Need for an Interpreter

A procedure or mechanism should be in place to ascertain the language proficiency of persons involved in a judicial and other legal proceedings and whether they need the assistance of an interpreter.

Engaging an Interpreter

To maximise the ability of translation and interpreting services to provide an appropriate translation and/or interpreting professional for a particular case, Legal Practitioners seeking to engage the services of a translator or interpreter should give as much notice as possible.

Legal Practitioners should give preference to engaging qualified translators and interpreters. Where a qualified translator and interpreter cannot reasonably be obtained, another person deemed suitable for the task may be engaged instead.

A qualified translator or interpreter is defined as a person qualified for court translation or interpreting because they: (a) have a tertiary (university) qualification in translation and/or interpreting; (b) are certified; (c) have a membership with a professional body; and (d) have experience in translating or interpreting in courts. In the absence of such a professional, a suitable person may be defined as a translator or interpreter who has some, but not all, of these attributes, or in case when no professional translator or interpreter can be found. The court should endeavour to avoid engaging untrained and unqualified bilingual persons.

The Guidelines are directed to ensure that, when a court or state authority is responsible for engaging a translator and/or interpreter, the person engaged is the translator or interpreter possessing the highest qualifications, training, and experience available, and that the following principles are considered:

- Obtaining translation and interpreting competence and professional skills needed for any type of professional activity (e.g., consecutive or simultaneous interpreting) requires specific training, and should not be presumed to be possessed by any bilingual lay person.
- Translation and interpreting activity requires knowledge in specific subject areas addressed during the proceedings (legal, medical, etc.).

Engaging court translators and interpreters shall be based on professional competence, and exclude any form of corruption or discrimination solely on the ground of race, colour of skin, sex, language, religion, or social origin.

Legal Practitioners should consider adjourning the proceedings in case when no competent translator or interpreter is available.

Working Conditions

Legal Practitioners should provide adequate and appropriate working conditions to support translators and interpreters in the performance of their duties to the best of their ability.

- A dedicated workspace where translators and interpreters can wait until called, leave their belongings, prepare case-related materials, and be briefed and debriefed, etc.
- Counselling and debriefing services for interpreters when they have been engaged as well as access to required reference information and reasonable time to familiarise themselves with it.

- Regular breaks during the proceedings to prevent interpreters' fatigue that may impair the quality of interpretation.
- Acoustic comfort ensuring that all participants speak clearly, articulately, at a reasonable speed, with pauses, and one at a time, and that special audio (simultaneous interpretation) equipment is made available by the court. Speakers should also use their best endeavors to use plain language.
- Attention should be given to the specific needs of sign language interpreters.

In making directions as to the conduct of proceedings, Legal Practitioners should consider whether and to what extent translators and interpreters should be briefed on the nature of a matter prior to the commencement of proceedings and, if so, give consideration as to the time, which a translator or interpreter may reasonably require to become familiar with the briefing material. Translators and interpreters should be afforded reasonable time to familiarise themselves with materials that are relevant for the process of translation or interpretation in the particular case.

Remuneration

Court translators and interpreters should receive adequate remuneration reflecting their level of qualification, certification, skills, and professional experience, which includes remuneration for the time spent preparing and travelling, as well as any expenses incurred in connection with professional activity, where necessary.

In cases when rates are state regulated, there should be proceedings provided to ensure it is periodically adjusted.

Payment terms should be predictable and defined in advance, where negotiations are possible, unless the remuneration is defined by law. Translators and interpreters should be paid at regular intervals and within a reasonable period of time upon the termination of their task.

Safety

Legal Practitioners should implement measures to avoid risk of occupational injury in relation with court translation and interpreting, including psychological trauma suffered, personal safety and security, protection against infection, protection against undue constraint or retaliation, and confidentiality of personal data.