

## CHILDREN AND JUSTICE: OVERCOMING LANGUAGE BARRIERS



CHILDREN AND JUSTICE:  
OVERCOMING LANGUAGE  
BARRIERS

Cooperation in interpreter-mediated  
questioning of minors

*Edited by*

Katalin BALOGH AND HEIDI SALAETS



intersentia

Cambridge – Antwerp – Portland

Intersentia Ltd  
Sheraton House | Castle Park  
Cambridge | CB3 0AX | United Kingdom  
Tel.: +44 1223 370 170 | Email: mail@intersentia.co.uk

*Distribution for the UK:*  
NBN International  
Airport Business Centre, 10 Thornbury Road  
Plymouth, PL6 7 PP  
United Kingdom  
Tel.: +44 1752 202 301 | Fax: +44 1752 202 331  
Email: orders@nbninternational.com

*Distribution for the USA and Canada:*  
International Specialized Book Services  
920 NE 58th Ave. Suite 300  
Portland, OR 97213  
USA  
Tel.: +1 800 944 6190 (toll free)  
Email: info@isbs.com

*Distribution for Austria:*  
Neuer Wissenschaftlicher Verlag  
Argentinierstraße 42/6  
1040 Wien  
Austria  
Tel.: +43 1 535 61 03 24  
Email: office@nwv.at

*Distribution for other countries:*  
Intersentia Publishing nv  
Groenstraat 31  
2640 Mortsel  
Belgium  
Tel.: +32 3 680 15 50  
Email: mail@intersentia.be

Children and Justice: Overcoming Language Barriers. Cooperation in interpreter-mediated questioning of minors  
Katalin Balogh and Heidi Salaets

© 2015 Intersentia  
Cambridge – Antwerp – Portland  
www.intersentia.com | www.intersentia.co.uk

© Omslagtekening: Rosalie Commers

ISBN 978-1-78068-282-2  
D/2015/7849/82  
NUR 820



JUST/2011/JPEN/AG/2961

*This publication has been produced with the financial support of the Criminal Justice Programme of the European Union. The contents of this publication are the sole responsibility of the CO-Minor-IN/QUEST consortium and can in no way be taken to reflect the views of the European Commission.*

British Library Cataloguing in Publication Data. A catalogue record for this book is available from the British Library.

No part of this book may be reproduced in any form, by print, photoprint, microfilm or any other means, without written permission from the publisher.

# CONTENTS

<i>Preface</i> .....	ix
<i>Biographies of the authors</i> .....	xiii

## **Chapter 1.**

<b>Introduction</b> .....	1
1.1. Definitions and general framework .....	1
1.1.1. The CO-Minor-IN/QUEST project .....	1
1.1.2. Research scope and definitions .....	5
1.1.3. Literature review .....	12
1.1.4. Conclusion .....	20
1.2. Legal framework .....	25
1.2.1. International and European legislation .....	25
1.2.1.1. Introduction .....	25
1.2.1.2. International rules .....	25
1.2.2. Children's rights in relation to criminal procedure and child friendly justice .....	35
1.2.2.1. A child-friendly and child-centered justice system .....	37
1.2.2.2. Principles of child-friendly justice according to the judicial procedure .....	45

## **Chapter 2.**

<b>Interpreted interviews with minors</b> .....	47
2.1. Case 1: Child victim .....	47
2.2. Discussion .....	50
2.2.1. Discussion: Legal actor (police officer) .....	50
2.2.2. Discussion: Psychologist .....	60
2.2.3. Discussion: Interpreters .....	64
2.2.3.1. Spoken language interpreter .....	64
2.2.3.2. Signed language interpreter .....	69
2.3. Overview Table Case 1 .....	74

**Chapter 3.**

**Interpreted interviews with highly vulnerable children** . . . . . 77

3.1. Definitions and vulnerability factors. . . . . 77

    3.1.1. Definitions . . . . . 79

        3.1.1.1. Vulnerability . . . . . 79

        3.1.1.2. Legal approach to vulnerability . . . . . 80

    3.1.2. Vulnerability factors. . . . . 83

        3.1.2.1. General considerations and classifications. . . . . 83

        3.1.2.2. Factors . . . . . 87

3.2. Highly vulnerable children in the justice system. . . . . 94

    3.2.1. Highly vulnerable children. . . . . 94

    3.2.2. The concept and models of disability, the disability process. . . . . 94

    3.2.3. Disabilities and special educational needs (SEN) . . . . . 96

        3.2.3.1. Groups of children with special educational needs . . . . . 97

    3.2.4. Highly vulnerable children and crime . . . . . 104

    3.2.5. How to identify highly vulnerable children . . . . . 106

    3.2.6. Meeting the needs of highly vulnerable children . . . . . 108

3.3. Developmentally appropriate interviewing of highly vulnerable children: A developmental psychology perspective. . . . . 113

    3.3.1. Children’s vulnerabilities in legal contexts. . . . . 113

        3.3.1.1. Linguistic considerations . . . . . 113

        3.3.1.2. Memory factors. . . . . 114

        3.3.1.3. Difficult concepts . . . . . 115

        3.3.1.4. Socio-emotional . . . . . 116

    3.3.2. Pre-substantive considerations. . . . . 116

        3.3.2.1. Ground rules . . . . . 117

        3.3.2.2. Rapport building and importance of social support . . . . . 116

    3.3.3. Open prompts . . . . . 118

    3.3.4. Focused questions. . . . . 120

    3.3.5. Closed-ended questions. . . . . 120

    3.3.6. Suggestibility . . . . . 121

    3.3.7. Psychology perspectives regarding the use of interpreters in forensic interviews . . . . . 123

3.4. Case 2: Highly vulnerable child suspect . . . . . 132

    3.4.1. Discussion: Legal actor (police officer) . . . . . 134

    3.4.2. Discussion: Legal actor (lawyer). . . . . 139

    3.4.3. Discussion: Child support worker . . . . . 146

    3.4.4. Discussion: Interpreters. . . . . 153

        3.4.4.1. Spoken language interpreter. . . . . 153

        3.4.4.2. Signed language interpreter . . . . . 158

3.5. Overview Table Case 2 . . . . . 166

3.6. Overview Tables Case 1 and 2: Key ideas and concepts . . . . . 169

**Chapter 4.**

**CO-Minor-IN/QUEST research findings. . . . . 175**

4.1. Summary of the survey findings. . . . . 175

    4.1.1. Introduction . . . . . 175

    4.1.2. Motives and first steps towards a questionnaire: the workshop . . 175

    4.1.3. The distribution of the questionnaire: where and when? . . . . . 178

    4.1.4. The questionnaire: Design. . . . . 179

    4.1.5. The questionnaire: Respondents . . . . . 183

    4.1.6. Methodology for results processing: mixed methods. . . . . 187

    4.1.7. Results and discussion based on the quantitative method. . . . . 188

    4.1.8. Results and discussion based on the qualitative method. . . . . 202

    4.1.9. Seating arrangement: quantitative and qualitative approach . . . . 212

    4.1.10. Summary of the needs expressed by the different professional  
            groups . . . . . 222

    4.1.11. Conclusion . . . . . 224

4.2. Issues of role in interpreting for minors . . . . . 228

    4.2.1. Introduction . . . . . 228

    4.2.2. Conceptualisations of the interpreter’s role in face-to-face  
            encounters . . . . . 229

    4.2.3. Interpreting for minors in an investigative context . . . . . 234

    4.2.4. Recommendations . . . . . 239

        4.2.4.1. Preparatory phase. . . . . 239

        4.2.4.2. Pre-substantive phase . . . . . 240

        4.2.4.3. The substantive phase of the interview. . . . . 241

        4.2.4.4. Post-interview phase . . . . . 242

        4.2.4.5. Adapting the process for children with specific  
                communication needs – sign language users . . . . . 242

4.3. Briefing, debriefing and support. . . . . 247

    4.3.1. Introduction . . . . . 247

    4.3.2. The CO-Minor-IN/QUEST survey results . . . . . 248

        4.3.2.1. The sample. . . . . 248

        4.3.2.2. Briefing. . . . . 250

        4.3.2.3. Debriefing . . . . . 256

        4.3.2.4. Support and counselling. . . . . 265

4.4. Interpreting techniques . . . . . 281

    4.4.1. State of the art . . . . . 281

        4.4.1.1. Consecutive interpreting. . . . . 282

        4.4.1.2. Whispered interpreting. . . . . 285

        4.4.1.3. What about simultaneous interpreting? . . . . . 285

        4.4.1.4. Interpreting for minors . . . . . 287

4.4.2.	Interviews . . . . .	290
4.4.2.1.	Mode . . . . .	293
4.4.2.2.	Who decides? . . . . .	295
4.4.2.3.	What about simultaneous interpreting? . . . . .	296
4.4.2.4.	Summary . . . . .	296
4.4.3.	Initial exploratory study . . . . .	298
4.4.3.1.	Methodology . . . . .	298
4.4.3.2.	Observations . . . . .	302
4.4.3.3.	Limits of the experiment . . . . .	309
4.4.3.4.	Discussion . . . . .	310
4.5.	Joint training . . . . .	313
4.5.1.	Legal practitioner's perspective . . . . .	313
4.5.1.1.	Introduction . . . . .	313
4.5.1.2.	Multidisciplinary training of all professionals in EU documents . . . . .	315
4.5.1.3.	The scope of the appropriate training . . . . .	318
4.5.1.4.	Conclusion . . . . .	319
4.5.2.	Psychologist's perspective . . . . .	319
4.5.2.1.	So why is psychology relevant? . . . . .	320
4.5.2.2.	Why joint training? . . . . .	321
4.5.3.	Interpreter's perspective . . . . .	323
	<i>Annexes</i> . . . . .	327
	Annex 1. Directive 2012/29/EU . . . . .	329
	Annex 2. CO-Minor-IN/QUEST survey (interpreters: spoken language) . . . . .	347
	Annex 3. CO-Minor-IN/QUEST survey (interpreters: signed language) . . . . .	359
	Annex 4. CO-Minor-IN/QUEST survey (justice and policing) . . . . .	371
	Annex 5. CO-Minor-IN/QUEST survey (psychologists) . . . . .	383
	Annex 6. CO-Minor-IN/QUEST survey (other professionals) . . . . .	395
	Annex 7. Mind Map: Main Factors of high vulnerability among child interviewees . . . . .	407



## PREFACE

This book is the result of a research project entitled CO-Minor-IN/QUEST (*JUST/2011/JPEN/AG/2961*), carried out under the supervision and with the support of the Criminal Justice Programme (DG Justice) of the European Union.

The project was developed in response to Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JH. Within the group of victims, we decided to focus on a particularly vulnerable group: minors. Once the project started, it became clear that was not easy to completely set victims apart from other procedural categories in criminal proceedings (e.g. suspects and witnesses). A suspect may ultimately appear to be a victim, or a victim can be an important witness, or a witness can even become a suspect upon closer investigation. Along the way, it also became less self-evident to define vulnerability as a concept as such in an interview context involving minors. Children are vulnerable by definition and that is why it was particularly difficult to draw the line between vulnerability and extreme vulnerability. In this publication, however, we try to offer some suggestions on the subject without pretending this to be the absolute truth.

First, the project acronym requires some further explanation: *cooperation in interpreter mediated questioning of minors*. The meaning of the CO-prefix can be read in a double way. It first of all symbolises the cooperation between the members of the project's research consortium located in six Member States: Belgium, France, Hungary, Italy, the Netherlands and the United Kingdom (Scotland). Secondly, it represents the cooperation between the different professionals involved in interpreter-mediated questioning of minors: legal actors (ranging from police to judges and lawyers in court), child support workers, psychologists, other professionals (e.g. paediatricians) and of course – specific to this context – interpreters.

It is clear that the term “Minor” in the title refers to children and young people under the age of 18, as defined in the 2012/19/EU Directive.

The abbreviation IN refers to the figure of the interpreter. Both letters are capitalised because in this particular setting the interpreter may often be considered a rather unexpected participant, one you do not think of at first. However, one can easily imagine that the presence of this key participant is

absolutely crucial when young child interviewees do yet not master the language of the host country (e.g. unaccompanied minors) or when traumatized children simply cannot understand and speak the language of the proceedings and cannot express their deepest feelings in a language and a culture that is not (yet) their own.

QUEST is an abbreviation that stands for the questioning itself, an interview with a minor (either as a suspect, victim or witness) as part of criminal proceedings. At the same time it is also a reference to a *quest* – not for the Holy Grail, of course! – but definitely a search. Together we are searching for the best possible way to provide the necessary support to these young people who come into contact with justice and do not speak the language of the proceedings. Our second aim is to improve collaboration in this delicate context where not only the interviewer and the interviewee are involved, but also other professionals can be present in the room (e.g. a lawyer, trust person and/or a psychologist). The interpreter is visibly present as well. In total, up to five people can sit next to the child. The child does not know anybody of them, except maybe for the trust person.

Another important question is: do all the professionals in the room know each other? Do they really know how the other professionals actually work and what the rules of their profession are? Are they aware of the role boundaries of each participant? In short: do they know how to work as a team in the best interest of the child? Our research project revealed much goodwill, but also showed that there is a great need to improve cooperation and to get to know each other better as professionals.

Before jumping to conclusions already, we briefly want to outline the content and structure of this book. The contributions in this publication are written from different angles. This resulted in a constructive ‘constellation’ of co-authors from six different countries and various professional backgrounds: academics, interpreters, and people from the working field with daily experience in psychology, psychiatry, child support work, policing and juvenile justice.

In the introduction, the research coordinators (Katalin Balogh, Heidi Salaets and Dominique Van Schoor) extensively describe the general framework of the Co-Minor-IN/QUEST-project. Subsequently, the legal framework surrounding the project will be explained by Eric Van der Mussele and Szilvia Gyurkó.

The next part of the book contains a concrete case with an interpreter-mediated child interview (scenario written by Hans De Wiest). By means of this case, we aimed to give practitioners the opportunity to comment on this situation and to explain how they would handle this particular case, while offering suggestions for *best practices* from their point of view. A police officer (Hans De Wiest),

a psychologist (Beatrice Bessi) and a spoken and signed language interpreter (Katarzyna Skrzyaniarz and Ann Davis respectively) will shed their light on case 1.

The second part of the publication deals with highly vulnerable children involved in interpreter-mediated questionings. As stated before, we first need to clarify what is meant by ‘highly vulnerable’ (György Virág). An overview of possible disorders and disabilities can be a first step to a protocol that can be used by interviewers to detect whether children are highly vulnerable (Ágota Szekeres). It is also important to know how interviewing techniques can be adapted to this group of highly vulnerable minors (David La Rooy).

Here again, a second case of an interpreter-mediated questioning (written by Hans De Wiest), this time involving a highly vulnerable minor, is commented on by different practitioners: a police officer (Hans De Wiest) but also a youth lawyer (Eric Van der Mussele), a child support worker (Éva Kerpel) and two interpreters (Carmen Tonitza, a spoken language interpreter, and Catherine King, a signed language interpreter).

Finally, the CO-Minor-IN/QUEST research findings will be discussed by the research team. Szilvia Gyurkó has taken on a major part of the quantitative research (e.g. generating statistics, cross tables and explaining the representativeness). Heidi Salaets and Katalin Balogh present the preparatory phase of the research (the expert workshop) and the methodology of the survey. The questionnaire was distributed in the six project partner countries, but had a larger outreach thanks to the snowball-method (non-probabilistic sampling method).

Thanks to a mixed method, the researchers collected both quantitative and qualitative results and were able to uncover the doubts, opinions and needs of all professional groups involved in interpreter-mediated questioning of minors (ImQM): interpreters, legal actors, child support workers and psychologists. Since the researchers were confronted with a massive amount of data, they decided to provide a summary of the most salient findings and most frequent needs expressed by all professionals.

Christine Wilson and Ursula Böser then focus on the role and position of the interpreter in the ImQM, while Amalia Amato and Gabi Mack examined the data collected on briefing, debriefing and support of the interpreter.

Lucie Solem analyses in depth the best suitable interpreting techniques in an ImQM. Her conclusion is that there are no fixed rules: each individual case must be treated differently.

At the end of this publication, György Virág (psychologist), Eric Van der Mussele (youth lawyer) and Christiane Driesen (legal interpreting expert) suggest, each from the point of view of their own profession, possible ways to organize joint training on ImQM. This joint training would enable the

professionals involved to both learn from each other and inform each other about their professional roles and ways of working.

Designing these joint trainings would be an exciting new step that could lead to more efficient and more professional ImQM, which would definitely serve the best interest of the child, the most vulnerable participant throughout the entire proceeding.

The project coordinators  
Heidi Salaets and Katalin Balogh

The project research assistant  
Dominique Van Schoor

**For further information, visit our project website:**  
[https://www.arts.kuleuven.be/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest](https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest)

# BIOGRAPHIES OF THE AUTHORS

## (in alphabetical order)

### **Amato, Amalia (Italy)**

Amalia Amato is currently research fellow at the Department of Interpreting and Translation (DIT) of Bologna University where she teaches interpreting. As a freelance interpreter and translator, she is member of A.I.I.C. (Association Internationale des Interprètes de Conférence) and I.T.I. (Institute of Translation and Interpreting).

### **Balogh, Katalin (Belgium)**

Katalin Balogh is the coordinator of the Legal Interpreting and Translation (LIT) training programme at the Faculty of Arts of the University of Leuven (Antwerp Campus). She teaches Intercultural Studies to the students of the Master in Interpreting. She was and still is involved in several European projects on legal interpreting and translation, together with Heidi Salaets.

### **Bessi, Beatrice (Italy)**

Beatrice Bessi is psychologist, psychotherapist and child psychoanalyst. She is also consultant for law enforcement agencies and Head of the juvenile Unit of the Associazione Artemisia in Florence. This association deals with children and women who are victims of violence or other forms of abuse or neglect.

### **Böser, Ursula (UK, Scotland)**

Ursula Böser is Professor of Intercultural Studies in the Department of Languages and Intercultural Studies (LINCS) at Heriot-Watt University, Edinburgh, and a member of the Center for Translation and Interpreting Studies in Scotland (CTISS). She teaches Public Service Interpreting, Conference Interpreting and Audiovisual Translation. Her teaching is informed by her extensive interpreting experience.

### **Davis, Ann (UK, Scotland)**

Ann Davis has many years of experience as a BSL (British Sign Language)/English interpreter, interpreter trainer and as the manager of an interpreting unit. She works in Scottish and UK contexts.

### **De Wiest, Hans (Belgium)**

Hans De Wiest is Chief Inspector at the Technical and Scientific Department of the Federal Police in Belgium. He is working at the Behavioral Science Unit, more specifically at the Department Interviewing of Minors where he develops and delivers training on interviewing techniques used in investigative child interviews.

**Driesen, Christiane (France)**

Christiane Driesen is a legal translator and interpreter as well as a conference interpreter. She currently directs continuing training courses in court and legal interpreting at the University of Applied Sciences of Magdeburg-Stendal and the University of Hamburg. She is the convener of the AIIC Committee for Court and Legal Interpreting. Christiane Driesen is also Vice-President of EULITA (European Legal Interpreters and Translators Association).

**Gyurkó, Szilvia (Hungary)**

Szilvia Gyurkó is a child rights expert and her main activities are advocacy, consultation, research and lobby work. She worked as a senior researcher on the field of domestic violence, child abuse and neglect, juvenile justice and sexual exploitation. Until 2014, she was advocacy director of the Hungarian National Committee for UNICEF.

**Kerpel, Éva (Hungary)**

Éva Kerpel currently works as an international family mediator. She is a macroeconomic analyst with international education and experience, author and editor of books, studies, articles. Trained as a trainer, mediator and coach, she worked in leading roles as a child protection expert in Hungarian and international NGOs. Her special interests include translation, she also acquired a diploma as a literary translator.

**King, Catherine (UK, Scotland)**

Catherine King has been a practicing interpreter since 1994 and was in the first cohort of British Sign Language (BSL)/English interpreting students to graduate from Heriot-Watt University in the year 2000. Over the course of her career she has worked across a range of domains including tertiary education, social services, police and courts and academia. An independent practitioner since 2001, she has contributed to a number of research projects and been an interpreter trainer in both the academic and continuing professional development context.

**La Rooy, David (UK, Scotland)**

David La Rooy has received specialist training on child forensic interviewing, as well as training in the assessment of the quality of investigative interviews conducted with children alleging abuse. He is a Chartered Psychologist, Chartered Scientist, and Associate Fellow of his professional governing body, the British Psychology Society. He was awarded a Scottish Institute for Policing Research Lectureship in 2008 and conducts research related to investigative interviewing.

**Mack, Gabriele (Italy)**

Gabriele D. Mack is associate professor in German language and linguistics at the Department of Interpreting and Translation (DIT) of Bologna University where she teaches interpreting. She coordinates the MA Conference Interpreting Programme and the German interpreting section. Until 1996 she worked as free-lance conference interpreter and editorial translator.

**Salaets, Heidi (Belgium)**

Heidi Salaets is the head of the Interpreting Studies Research Group at the Faculty of Arts of the University of Leuven (Antwerp, Brussels and Leuven campus). She trains interpreters in the Master and also conference interpreters (Italian-Dutch) in the postgraduate interpreting programme. Heidi Salaets is also responsible for the evaluation procedure in the LIT-training (Legal Interpreting and Translation). She was and still is involved in several European projects on legal interpreting and translation, together with Katalin Balogh.

**Skrzyniarz, Katarzyna (UK, Scotland)**

Katarzyna Skrzyniarz is an experienced interpreter working between Polish and English. She has also worked as a police officer and received training to work as a joint-interviewer.

**Solem, Lucie (France)**

Lucie Solem holds a master in Conference Interpreting from ISIT, Paris, and a master in Research in Translation Studies from ESIT, Paris. She works as a conference interpreter (French/Spanish, German, English and Portuguese) and a Spanish lecturer at ISIT Paris and IPLV Angers.

**Szekeres, Ágota (Hungary)**

Ágota Szekeres is assistant professor and head of the Department of Learning Difficulties and Intellectual Disabilities at the Faculty of Special Education of the Eötvös Loránd University. She also is a disability equality mentor. Her research focuses, among others, on SEN (people with Special Education Needs), project-based educations and the development of digital learning tools.

**Tonitza, Carmen (France)**

Carmen Tonitza is a French-Romanian legal interpreter and co-founder of ASTRID (Association Traducteurs, Interprètes et Déontologie).

**Van der Mussele, Eric (Belgium)**

Eric Van der Mussele is a certified youth lawyer in Antwerp, member of the Council of the Flemish Bar Association and also a trainer in juvenile law courses. He runs his own law firm and participates as an expert in various research projects.

**Van Schoor, Dominique (Belgium)**

Dominique Van Schoor holds an MA in English and Italian Literature and Linguistics from Ghent University and an MA in Interpreting (with specialization in legal interpreting) from KU Leuven, Antwerp campus. She has also completed the postgraduate programme in Conference Interpreting at KU Leuven, Antwerp campus and currently works as research assistant at the same university.

**Virág, György (Hungary)**

György Virág is a forensic psychologist and currently deputy director of the NIC (National Institute of Criminology) in Budapest. He is one of the main founders of the ESZTER Foundation.

**Wilson, Christine (UK, Scotland)**

Christine Wilson is an Associate Professor/Senior Teaching Fellow in Languages, teaching translation and interpreting in the department of Languages & Intercultural Studies at Heriot-Watt University. She is course coordinator of the postgraduate public service interpreting (legal settings) option. She was responsible for the design and delivery of training for public sector staff on working with interpreters (police officers, trainee advocates, judges and mental health specialists).



# CHAPTER 1

## INTRODUCTION

### 1.1. DEFINITIONS AND GENERAL FRAMEWORK

Dominique VAN SCHOOR, Heidi SALAETS and Katalin BALOGH

#### 1.1.1. THE CO-MINOR-IN/QUEST PROJECT

A twelve-year-old German boy is returning from a trip to Spain with his parents. On the way home, the family is carjacked and robbed at a lay-by along the motorway. The parents are seriously injured by two armed carjackers who steal the family's car and all their valuables, leaving the parents for dead in the middle of the night, with their son. When the police arrive at the crime scene, they find the terrified and injured family who are immediately taken to hospital. As both parents are seriously injured, they cannot be interviewed yet. Initially, the police can only rely on the son's statement to track down the offenders. However, the boy does not speak Spanish, except for a few words picked up from the children he played with near the holiday home. How will the police communicate with him? How can the interview team ensure that the conversation with the potentially traumatized boy runs as smoothly as possible? In what ways can they provide adequate protection and support? These are the main issues the CO-Minor-IN/QUEST project dealt with and which will be reflected in this publication.

The CO-Minor-IN/QUEST project (*Cooperation in Interpreter-Mediated Questioning of Minors: JUST/2011/JPEN/AG/2961*) belonged to the Criminal Justice Support Programme, set up by the Directorate-General Justice (DG Justice) of the European Commission to co-finance project actions that 'promote judicial cooperation within the field of criminal justice'.<sup>1</sup> In the spirit of this programme, the CO-Minor-IN/QUEST project aimed at improving international cooperation between all EU member states, and particularly those belonging to the project consortium: Belgium, France, Hungary, Italy, the Netherlands and

---

<sup>1</sup> Cf. [http://ec.europa.eu/justice/grants/programmes/criminal/index\\_en.htm](http://ec.europa.eu/justice/grants/programmes/criminal/index_en.htm) accessed 15.12.2014.

the United Kingdom. The following project partners participated in this two-year research project (January 2013 – December 2014) focused on improving interpreter-mediated child interviews.

- KU Leuven (University of Leuven) (Belgium): project co-ordinator;
- ISIT: Institut de management et de communication interculturels (Institute of Intercultural Management and Communication) (France);
- ESZTER Alapítvány az Erőszakos Szexuális Támadást Elszenvedettek Rehabilitációjára (Eszter Foundation) (Hungary);
- Università di Bologna (Bologna University) (Italy);
- Heriot-Watt University, Edinburgh (United Kingdom);
- Raad voor Rechtsbijstand (Legal Aid Board) (Netherlands);
- Ministerie van Veiligheid en Justitie (Ministry of Security and Justice) (Netherlands).

Another salient feature of the CO-Minor project, as well as its international orientation, is its multidisciplinary approach. The project brought together the expertise of all the professionals involved in interpreter-mediated child interviewing: not only interpreters, but also legal professionals (police officers, lawyers, youth judges, magistrates, etc.), psychologists/psychiatrists and child support workers. By involving the entire interview team, the project partners could discuss all the different aspects of child interviewing in detail and, at the same time, stimulate interprofessional collaboration.

This interdisciplinarity is clearly reflected in the project's milestones. Representatives of all the professions mentioned above were invited to the introductory workshop held in Antwerp, in May 2013. The three topic-based sessions of the workshop included speakers from each partner country and professional background: a trainer in forensic interview techniques and three legal practitioners (two youth lawyers and a youth judge), four psychologists and three interpreters (including a sign language interpreter). Each series of presentations concluded with a discussion session which offered the opportunity for both the project partners and the external experts to exchange expert knowledge and opinions.

The resulting observations served as a useful starting point for the project's research activities, such as the design of the survey instrument which was the central focus of the second workstream. Working together during the project meeting in The Hague (July 2013), the members of the consortium decided on the content of a questionnaire. The first version of this questionnaire was piloted with the help of some of the experts who had participated in the introductory workshop. The actual survey was conducted in five different languages (English

[the original version]; Dutch, French, Hungarian and Italian translations provided by the partners) and targeted the different professional fields involved: interpreting, police and justice, psychology and other professions (including child support). Initially, and thanks to intensive networking by the project partners and the local experts, the survey was circulated in all six partner countries (Belgium, France, Hungary, Italy, the Netherlands and the United Kingdom) from mid-October 2013 to mid-December 2013, but it even reached other European and non-European countries as well. The questionnaire responses enabled the consortium to undertake a first mapping of the most salient needs and concerns in the partner countries. During the Forlì meeting, in January 2014, the preliminary survey results were discussed and a set of interim recommendations on interpreter-mediated interviewing of minors was formulated.

The first two workstreams aimed at collecting information and in-depth knowledge on interpreter-mediated child interviewing in general. The third workstream specifically focused on highly-vulnerable interviewees: traumatised minors, children from minority groups, minors with a physical or mental disability, d/Deaf and hard of hearing children, etc. To collect more detailed information on this target group, the project partners carried out field visits to the Eszter Foundation (which aims to help survivors of sexual abuse and assault) and Sinosz (the Hungarian Association for the Deaf and Hard of Hearing), both located in Budapest. In addition, the project team organised a supplementary interdisciplinary round table discussion to which they invited Hungarian experts from various professions who regularly work with these highly vulnerable children: a police officer, a judge, a psychologist who works in the field of crisis-counselling, an international family mediator, a pedagogue and a representative of the Hungarian Association for the Deaf and Hard of Hearing. A similar round table was held during the Edinburgh meeting (May 2014) to explore certain aspects in further detail with the external experts present (a social worker specialised in joint investigative interviewing and four interpreters representing both spoken and signed languages). The key questions addressed in both round tables revolved around recognizing and handling vulnerability: how can the interview team collaborate to better understand and identify particular vulnerability factors for interviewees who do not speak the language of the procedure? How can the team best cope with this kind of situation and how can they ensure that highly vulnerable children are treated in the best possible way?

At this stage of the project, the project partners developed a leaflet with recommendations targeting all professionals who work with children in interview contexts; it contains separate guidelines for interpreters and other

professionals (i.e. legal practitioners, psychologists, child support workers, etc.) to be taken into account before, during and after the interview. The list of practical guidelines can be consulted easily by all professionals involved; they can, for instance, use it as a reminder and quickly read through the checklist before the start of an interpreted interview with a minor. The leaflet is currently available in five languages: English, French, Italian, Dutch and Hungarian.<sup>2</sup> The Faculty of Arts at KU Leuven (Antwerp Campus) is also preparing a Spanish translation of the leaflet and a Flemish Sign Language video. Based on the outcomes of the third workstream, the consortium members also explored ways to graphically represent the main factors of high vulnerability among child interviewees. As a first step in this direction, a mind map drawn by Gabi Mack and Amalia Amato was thus presented at the Paris meeting (September 2014; cf. Annex 7). In dealing with a (highly) vulnerable child, this tool can be used by the interview team as a sort of freely expandable picklist in order to gain a quick overview on the specific and interconnected aspects of vulnerability which make every single case different from any other. The map does not seek completeness but wants to encourage a mapping of the principal criticalities to be borne in mind by all parties dealing with vulnerable children.

The fourth workstream of the project was mainly devoted to dissemination. The final conference, which was held in Antwerp on 13–14 November 2014, also highlighted the interdisciplinary focus of the project through its selection of speakers, as the academic and professional lines of approach were intertwined. The project partners presented the survey findings and the results of the earlier workstreams, while experts from various professional fields and member states reflected on current and best practices in interpreter-mediated child interviewing. Not only was the interpreters' perspective<sup>3</sup> on child interviewing extensively discussed, but the views of legal practitioners<sup>4</sup>, psychologists<sup>5</sup> and child support professionals<sup>6</sup> were also addressed during this two-day meeting.<sup>7</sup> In a similar vein, this publication presents a comprehensive overview of the main findings of the project. It contains not only contributions by the project partners, but also discussions of case descriptions and concrete recommendations by professionals in the field. Moreover, the authors who have contributed to this publication come from different EU member states and represent the various

<sup>2</sup> The leaflets can also be downloaded for free at the project website: [https://www.arts.kuleuven.be/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/recommendations](https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest/recommendations).

<sup>3</sup> Both spoken and signed languages.

<sup>4</sup> An Honorary Judge from Italy, a Belgian juvenile judge and the head of the behavioural science department of the Belgian federal police.

<sup>5</sup> A forensic psychologist from the United Kingdom and a psychotherapist from Italy.

<sup>6</sup> An international family mediator from Hungary.

<sup>7</sup> The presentations of the speakers at the final conference can also be found on the project website: [https://www.arts.kuleuven.be/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/final-conference-presentations-of-the-speakers](https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest/final-conference-presentations-of-the-speakers).

disciplines concerned (interpreting, police & justice, psychology and child support), as shown in the table of contents.

The dual orientation of the project (i.e. international and interdisciplinary) offers optimal opportunities for the exchange and dissemination of best practices, one of the main aims of CO-Minor-IN/QUEST. This sharing of expertise will hopefully foster further awareness-raising in all the professional fields and, subsequently, lead to the improvement of interpreter-mediated child interview practice throughout the European Union.

### 1.1.2. RESEARCH SCOPE AND DEFINITIONS

As the title ‘Cooperation in Interpreter-Mediated Questioning of Minors’ reveals, the CO-Minor-IN/QUEST project specifically focuses on child interview settings when an interpreter is involved. Its main focus is limited to interviews in criminal cases; therefore, its research does not include questioning in civil procedures or asylum hearings. However, this does not mean that useful insights related to child interviewing in civil law or asylum cases were not taken into account. Secondly, the project’s research mainly concentrates on the pre-trial phase in criminal procedures, i.e. on the initial interview(s) with police officers, youth judges or prosecutors, or other relevant professionals prior to the proceedings in court. Such pre-trial questioning is of utmost importance, not least because any minor mistake in the initial stages can jeopardize the rest of the procedure. The very first interview in particular plays a crucial role in the process of truth-finding, given that the interviewee’s first account is least likely to be affected by external information or any other form of suggestion. Once again, this concentration on pre-trial contexts does not exclude reference to relevant research related to interviewing children in court throughout the project and within this publication.

The legal framework surrounding interviews with children in justice settings will not be discussed in detail here, since it will be outlined in the following sections on EU legislation (1.2.1) and children’s rights (1.2.2). In this section, relevant (inter)national legislation or official texts will be mentioned solely to underpin the project’s rationale and to account for the definitions used.

No single overview at European level on the exact number of interpreted pre-trial interviews with minors appears to be available for all member states. Similar overviews also seem to be lacking at national level. Records are kept of the number of children involved in criminal proceedings and, sometimes, it is also indicated whether they were born in the country. However, this type of data does not specify whether they were questioned through an interpreter. There are some

very rare examples of dedicated professionals who keep track of the number of interpreter-mediated child interviews in their department, region or country (cf. section 3.4.1 for Belgium), but these data are seldom or never officially published. Nevertheless, the overwhelming response rate to the CO-Minor-IN/QUEST survey (610 questionnaires completed) highlights the fact that a significant number of children are assisted by an interpreter, even if only in pre-trial settings. Due to the substantial amount of data collected in the questionnaire (a first exploratory study in the field) and the limited duration of the project, the co-ordinators decided not to scrutinize the number of interpreter-mediated child interviews in the partner countries or the rest of Europe. Therefore, it would be highly desirable to collect European statistics on this specific interview setting in a follow-up project, or to try to formulate reliable hypotheses on the basis of the data officially available. This could be a first step towards a systematic collection of data – and subsequent needs assessment – for the entire European Union, supported by the Ministries of Justice in the member states.

Interpreter-mediated pre-trial interviews require particular attention, because this specific type of questioning presents its own set of challenges. The interviewees involved need extra support and protection for three main reasons: their age, procedural status and language.

The first factor that contributes to the vulnerability of the interviewees is their *age*. According to the ECOSOC Resolution 2005/20: Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (hereinafter referred to as the ‘ECOSOC Guidelines’) (annex II – para.7b) all children are vulnerable by definition and ‘require special protection appropriate to their age, level of maturity and individual special needs’. When using the term ‘child(ren)’, ‘minor(s)’, ‘juvenile(s)’ or ‘underage’ in this publication, the authors will also employ the age limit of the above-mentioned Resolution, i.e. ‘under the age of 18’. This corresponds to the way in which children are defined in texts issued by authoritative international organizations, such as in Article 1 of the UN Convention on the Rights of the Child (UNCRC), in the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice and their explanatory memorandum (hereinafter referred to as the ‘COE Guidelines on child friendly justice’) (p. 3), and in Article 2 of Directive 2012/29/EU<sup>8</sup> and Article 3 of the draft Directive on procedural safeguards for children suspected or accused in criminal proceedings.<sup>9</sup>

<sup>8</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA [2012] OJ L 315/57.

<sup>9</sup> European Commission, Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings COM (2013) 822/2.

Therefore, in this publication, the term ‘child’ or any of the related words mentioned above, will refer to a person from the age of 0 up to 18, regardless of the age of criminal responsibility in any individual country. It is, however, true that this age range comprises many different stages in child development, from infant to young adult. Consequently, the age of the child will have an impact on the interview method. The preferred approach will vary according to the age of the interviewee: the conversation techniques used in an interview with a five-year old child will differ from the questioning methods a 16-year old adolescent will be faced with. Specifications per age category will be introduced, therefore, when relevant. The interviewers are confronted with even greater challenges when the actual age of the interviewee does not match his or her developmental age (e.g. a girl aged ten with a developmental age of approximately three to five years, or a ten-year-old boy with the intellectual age of an eighteen year old). In such a case, the interviewee’s position becomes even more vulnerable. In the second part of this publication (Chapter 3) particular attention will be devoted to working with highly vulnerable minors.

Another major vulnerability factor associated with pre-trial interview settings is the *procedural status* of the interviewee. As demonstrated above, all children are vulnerable by definition (because of their age) but those who come in contact with the law are even extra vulnerable. Very often they find themselves in an unfamiliar environment (e.g. the police station) after having experienced a threatening situation or having committed an offence themselves. As a result, they may feel confused and even scared. Therefore, everyone involved in an interview must be very careful not to cause any additional harm or trauma to the child during the interview. There is a potential risk of further traumatisation for children in all procedural categories: not only child victims and witnesses, but also child suspects.

According to Directive 2012/29/EU, victims are natural persons (in this specific case: under 18) who have suffered harm (physical, mental, emotional harm or economic loss) which was directly caused by a criminal offence.<sup>10</sup> A detailed definition of child witnesses could not be found, but the phrase ‘witnesses who are victims’ in *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* (p. 63) issued by the UK Ministry of Justice (2011) indicates a certain degree of overlap between both procedural categories. Furthermore, it seems to suggest that all victims are witnesses as well. The fact that witnesses and victims are often grouped under the same denominator in guidelines on child-friendly justice and interviewing (as shown by the above-mentioned UK Guidance, the ECOSOC

---

<sup>10</sup> Cf. footnote 8 (p. 65).

Guidelines and the UNODC<sup>11</sup> *Handbook for Professionals and Policymakers on Justice Matters involving Child Victims and Witnesses of Crime*) reveals that the interview approach for the two categories is likely to be similar. Both are labelled as particularly vulnerable, because they are susceptible to victimization and have to cope with ‘the serious physical, psychological and emotional consequences of crime’.<sup>12</sup> Starting from the preceding definition of the term ‘victim’, a child witness will be described, for the purpose of this publication, as a ‘natural person under 18 who has observed or may have certain knowledge about a criminal offence and to whom this capacity may cause physical or emotional harm’.

Not only do child witnesses and victims need specific protection during questioning, but this is also a requirement for child suspects, which is why the European Commission has drafted a Directive on procedural safeguards for children suspected or accused in criminal proceedings. In the explanatory memorandum to the draft Directive, it is made clear that this applies to ‘children meaning persons under the age of 18’ who ‘are suspected or accused of having committed a criminal offence’.<sup>13</sup> This definition will be used in this publication to cover the term child suspect(s), once again irrespective of the minimum age of criminal responsibility in the individual member states.

However, the boundaries between these different procedural statuses are not always clearly defined. As already explained above, victims and witnesses are often grouped together in a single category which requires the same interview technique to be used. It is easy to imagine how, in a case of domestic violence, for instance, a child who was originally called to testify as a witness may ultimately appear to be a victim. Therefore, a child’s procedural status can change during the course of the investigation. Moreover, a shift from victim to suspect is not unlikely, should the child victim’s statement ultimately reveal that s/he also has committed a criminal offence, or, conversely, a child suspect may eventually prove to be a victim of maltreatment. More than one procedural status may be hidden in the background of the same interviewee.

This reasoning is confirmed by Waterhouse et al. According to their observations in Scottish children’s hearings, one third of the children who were involved in a protection procedure (i.e. as victim) had already committed an offence beforehand, while the same percentage of child offenders had previously gone through a protection procedure as well. Kilbrandon (as cited by Waterhouse et al., 2004) attributes this to the fact that the two groups grow up in a similar

---

<sup>11</sup> United Nations Office on Drugs and Crime.

<sup>12</sup> Cf. ECOSOC Resolution 2005/20 para. 0007.

<sup>13</sup> Cf. footnote 9 (Article II, para. 14).



social environment.<sup>14</sup> This observation again fully endorses the idea that both child victims and child suspects require specific support and protection.

The third factor which contributes to the vulnerability of children in the interviews under examination in the project is their *first language* when it does not correspond to the language of the proceedings. This statement does not apply only to children from other countries who do not master the official language of the country concerned (e.g. the German boy who is questioned by the Spanish police in the beginning of this article) or to children from ethnic minority backgrounds who do not speak the majority language of their home country or region, but it also applies to users of signed languages, because the spoken language of the country may not be easily, or not at all, accessible to them. Therefore, the above-mentioned term ‘first language’ includes both spoken languages and signed languages, and the project’s research on interpreter-mediated interviewing of children will not be limited to spoken languages only. Even children who are – to a certain extent – familiar with the official language of the country and the proceedings may benefit from interpreter-mediation. Children who appear to be perfectly bilingual initially may be confronted with communication difficulties during an investigative interview: for example, because they cannot find the right words to describe their feelings and thoughts in their second/third language or because they are not acquainted with the legal terminology in that language. These children should also be given the opportunity to be supported by the assistance of an interpreter when needed.<sup>15</sup>

The right to interpretation and translation is laid down in various national and international legal instruments and guidelines, either explicitly or indirectly. Several texts address the issue in the most direct way and explicitly refer to the right to an interpreter for citizens involved in legal proceedings. The first legal text that should be mentioned in this regard is Directive 2010/64/EU on the right to interpretation and translation which states that ‘suspected or accused persons who do not speak or understand the language of the criminal proceedings concerned’ have the right to be assisted by an interpreter at the police station, in court and during interim hearings. This right also applies to ‘persons with hearing or speech impediments’.<sup>16</sup> The rules for interpretation in Directive 2010/64/EU are in agreement with Article 40 of the UNCRC, where children who are ‘alleged as or accused of having infringed the penal law’ and

<sup>14</sup> L. Waterhouse, J. Mcghee and N. Loucks, ‘Disentangling offenders and non-offenders in the Scottish children’s hearings: A clear divide?’ (2004) 43 (2) *The Howard Journal*, 171.

<sup>15</sup> UK Ministry of Justice, ‘*Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures*’ 2011, p. 57.

<sup>16</sup> Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings [2010] OJ L 280/1.

who ‘cannot understand or speak the language used’ in legal proceedings have the right to the ‘free assistance of an interpreter’.

If these two texts alone are considered, it could be argued that the right to interpretation only applies to child suspects (i.e. children who are suspected or accused of having committed a criminal offence). The more recent Directive 2012/29/EU, however, also takes account of victims in a specific article on the right to interpretation and translation (cf. Article 7): ‘victims who do not understand or speak the language of the criminal proceedings concerned’ are provided with interpretation free of charge in the same settings as those mentioned in Directive 2010/64/EU (at the police station, in court and during interim hearings),<sup>17</sup> a right that obviously extends to child victims as well. As mentioned above, these interpreting services for child victims and suspects should be provided free of charge.

Even though child witnesses do not seem to be included specifically with regard to free interpreter assistance, there are several other passages that refer indirectly to the use of an interpreter for children in judicial proceedings. Article 2 in the UNCRC and certain paragraphs in the ECOSOC Guidelines, for instance, address the principle of non-discrimination, which means that legal professionals should respect the language of the children they work with. In the ECOSOC Guidelines it is said that judicial actors should take into account the linguistic background of child victims and witnesses<sup>18</sup> and that interactions should ‘take place in a language that the child uses and understands’.<sup>19</sup> This text clearly imposes interpreting assistance for child witnesses as well, when they are involved in criminal proceedings. The same idea is also expressed in the UNODC Handbook which strongly recommends the provision of linguistic support for children when needed. The need for this specific type of assistance is justified precisely because of the increased vulnerability level caused by the child’s ethnic or linguistic background.<sup>20</sup> The *Guidance on interviewing victims and witnesses* of the UK Ministry of Justice even suggests letting witnesses decide which language they prefer to use during the interview.<sup>21</sup> Although this document is not an official legal text, it still contains important standards to be respected by professionals who work with child witnesses and victims. Moreover, it clearly emphasises the importance of taking into account the child’s personal opinion when deciding on the language of the interview.

<sup>17</sup> Cf. footnote 8 (pp. 67–68).

<sup>18</sup> ECOSOC Resolution 2005/20 (Annex: VI para. 15–16).

<sup>19</sup> ECOSOC Resolution 2005/20 (Annex: V para. 14).

<sup>20</sup> United Nations Office on Drugs and Crime [UNODC], *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime*, United Nations, New York 2009, p. 24–29, p. 54.

<sup>21</sup> Cf. footnote 15 (p. 57).

Several other basic rights for child witnesses, victims and suspects should be added to the above-mentioned regulations on interpretation, given that the fulfilment of the latter is vital for the successful implementation of the former. The right to participation, the right to be heard and the right to information are all essential requirements to guarantee a fair trial. The right to participation for child victims and witnesses – as described in the ECOSOC Guidelines – includes the right to freely express their own views, opinions and beliefs regarding judicial decisions, in their own words.<sup>22</sup> The importance of child participation in legal proceedings is closely related to their right to be heard, which is made explicit in Article 12 of the UNCRC and the fundamental principles of the COE Guidelines on child friendly justice (p. 4). The second text even alerts readers to possible communication difficulties that may occur in this context and which should be taken into consideration by justice professionals working with children. The third basic right is that child witnesses and victims are entitled to adequate information, including information about their rights and procedural aspects, as well as about any assistance available.<sup>23</sup> The information should be provided in a language that can be understood by the child.<sup>24</sup> In the ECOSOC Guidelines, further specifications are added: communication should be adapted to the age and maturity level of the child.<sup>25</sup> The UNODC Handbook even emphasises that the main responsibility for using child-friendly language lies with the judges, law enforcement officials, lawyers and prosecutors.<sup>26</sup>

It is clear that language is the key element in ensuring the above-mentioned rights. The entire interview team has a shared responsibility for guaranteeing that child witnesses, victims and suspects can exercise these rights: the interpreter is there to provide a faithful translation of what is said during the interview, but the leader of the interview team is responsible for appointing a professional interpreter when one is needed and – together with the other interview participants – for using child-friendly language. Above all, the primary concern of all professionals involved should be the child's best interests. This overarching principle should always be kept in mind when working with children in any interview setting, and particularly in criminal procedure.<sup>27</sup>

<sup>22</sup> ECOSOC Resolution 2005/20 (Annex: III para. 8b).

<sup>23</sup> Council of Europe [COE], *Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice and their explanatory memorandum* 2011 (p. 4); ECOSOC Resolution 2005/20 (Annex: VII para. 19).

<sup>24</sup> Cf. footnote 20 (p. 32).

<sup>25</sup> Cf. footnote 19.

<sup>26</sup> Cf. footnote 20 (pp. 37–39).

<sup>27</sup> Cf. UNCRC (Article 3); ECOSOC Resolution 2005/20 (Annex: III para. 8c); COE, *Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice and their explanatory memorandum* 2011 (p. 4).

### 1.1.3. LITERATURE REVIEW

The following literature review on pre-trial interviews with children is largely based on the masters dissertation *Interpreter-mediated interviews of child witnesses and victims: status quaestionis* by Van Schoor (2013).<sup>28</sup> As already indicated by the title, this research mainly focused on the questioning of child witnesses and victims, with particular attention to the CO-Minor-IN/QUEST partner countries: Belgium, France, Hungary, Italy, the Netherlands and the United Kingdom. A qualitative method (more specifically a literature review) was judged the best way of exploring this relatively unknown field of research. The first major aim was to identify any existing international or country-specific studies specifically addressing the topic of interpreter-mediated interviews with child witnesses or victims in a legal setting. The researcher therefore consulted sources in all the professional fields concerned with child interviewing: legal sources, sources in child psychology, police studies and interpreting studies.

The source material was gathered from the shared project folder<sup>29</sup> and through a structured search on the internet to find supplementary information. This online search consisted of consultation of scientific databases and search engines (e.g. Translation Studies Bibliography, EBSCOhost, Google Scholar, etc.), and the websites or databases of international organizations (e.g. United Nations, European Union [EUR-Lex], Council of Europe, etc.), as well as those of the police forces, Ministries of Justice and victim organisations in the partner countries. A thematic structure with three main focus points (the legal framework, the interview itself and the interpreting) was used to analyse the written sources in detail. Extra online searches were carried out to address gaps in the structure.

The literature review showed that there are only a very few studies on interpreted interviews with child witnesses or victims in a legal setting. This observation is most likely also valid for child suspects, given that the researcher was forced to use more general search terms (e.g. *interview*, *hearing*, *questioning*, etc. in combination with *child* or *children*) to generate the best chance of finding relevant hits. The only article that answered to this description was one by Matthias and Zaal (2002) on interpreting for children in South-African courts. Even though the text does not contain any information on pre-trial interviews

<sup>28</sup> D. Van Schoor, *Interpreter-mediated interviews of child witnesses and victims: status quaestionis*, KU Leuven/Thomas More, Antwerp 2013 (unpublished master dissertation) [https://www.arts.kuleuven.be/tolkwetenschap/projecten/co\\_minor\\_in\\_quest/interpreter-mediated-interviews-of-child-witnesses-and-victims-status-quaestionis](https://www.arts.kuleuven.be/tolkwetenschap/projecten/co_minor_in_quest/interpreter-mediated-interviews-of-child-witnesses-and-victims-status-quaestionis) accessed 15.12.2014.

<sup>29</sup> An online shared folder containing country-specific source material and other relevant documents selected by the CO-Minor-IN/QUEST project partners.

in any EU member state, it does clearly highlight key problems generally related to interpreting for children in a legal setting and, at the same time, it offers some suggestions for solutions.<sup>30</sup> When extending the range to work on interpreting for children in general, Nilsen's (2013) exploratory study with young children is worth mentioning, because it showed that even a 3-year old child is able to participate relatively smoothly in an interpreter-mediated conversation.<sup>31</sup> Other rather general sources on child interviewing in a legal setting could be found in the fields of psychology, law and police studies. The following sources provided a lot of useful information on contemporary interview protocols for child witnesses and victims:

- David LaRooy's website on The National Institute of Child Health and Human Development (NICHD) Protocol, which includes translated versions of the interview protocol (e.g. in Italian, Spanish, Portuguese, Chinese, etc.), training and background material<sup>32</sup>;
- Guckian and Byrne's article (2011) on best practices for investigative interviews<sup>33</sup>;
- Jaskiewicz-Obydzinska and Wach's text (n.d.) about cognitive interviewing of children<sup>34</sup>;
- Lamb et al.'s article (2007) about the use of the NICHD investigative interview protocol with children<sup>35</sup>;
- Scurich's text (2013) on questioning child witnesses.<sup>36</sup>

The author also found some texts on country-specific interviewing procedures in the UK (*Guidance on interviewing victims and witnesses* from the Ministry of Justice<sup>37</sup>), the Netherlands (publications in Dutch on hearing child witnesses

<sup>30</sup> C. Matthias and Z. Zaal, 'Hearing only a faint echo? Interpreters and Children in Court' (2002) 18 (3) *SAJHR (South African Journal on Human Rights)* 350, 371.

<sup>31</sup> A.B. Nilsen, 'Exploring interpreting for young children' (2013) 5 (2) *Translation & Interpreting* 14, 29.

<sup>32</sup> See D. La Rooy, *The NICHD Protocol* 2003. <http://nichdprotocol.com/> accessed 15.12.2014.

<sup>33</sup> E. Guckian and M. Byrne, 'Best practice for conducting investigative interviews' (2010–2011) 37 (2/3) *IP (The Irish Psychologist)* 69, 77.

<sup>34</sup> T. Jaskiewicz-Obydzinska and E. Wach, 'The cognitive interview of children', Institute of Forensic Expert Opinions, Kraków (n.d.). [www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf](http://www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf) accessed 15.12.2014.

<sup>35</sup> M.E. Lamb, Y. Orbach, I. Hershkowitz, P.W. Esplin and D. Horowitz, 'Structured forensic interview protocols improve the quality and informativeness of investigative interviews with children: A review of research using the NICHD investigative interview protocol' (2007) 31 (11–12) *Child Abuse & Neglect* 1201, 1231.

<sup>36</sup> N. Scurich, 'Questioning Child Witnesses' (2013) 25 (1) *The Jury Expert* 1, 6.

<sup>37</sup> UK MINISTRY OF JUSTICE, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* 2011.

in an interview studio<sup>38</sup>) and Belgium (an online text on video recorded interviews).<sup>39</sup>

The results of the literature review on interpreted interviewing of child witnesses and victims clearly revealed that interpreted questioning of children in legal contexts is a largely unexplored research topic. It is particularly the interpreter-mediated aspect which makes it a highly specialised matter. It is most likely that privacy issues play an important role, as well in the lack of readily available scientific studies. Interviews with minors as part of criminal proceedings are always kept highly confidential to protect the interests of the interviewees. This degree of confidentiality makes it more difficult to collect research material for a thorough study on the subject. Confidentiality is also problematic in another respect: i.e. making it difficult to access concrete information regarding actual interview procedures. Most of the instructions for the interview staff (police, legal professionals and/or psychologists) are, of course, for internal use only: these types of procedures are seldom widely accessible online. In some countries (e.g. Italy), no real national code of practice for child interviewing even exists.<sup>40</sup> Furthermore, as interpreted interviews with children are conducted less frequently than monolingual interviews, the topic is all the more easily overlooked.

Nonetheless, the general sources in the fields of child psychology and child interviewing (e.g. interview protocols, national and international guidelines, etc.) collected in the literature review generate a series of useful insights, especially when reviewed from an interpreting studies perspective. This unique combination of viewpoints makes it possible to answer the key question of this chapter: how does interpreting for children in a legal – more specifically pre-trial – setting differ from working with adult interviewees?

To answer this question, the key aspects that emerged from the literature review will be discussed in chronological order: before, during and after the child interview (following the same logic as in the project leaflet). The most crucial element *before* the interview is not surprisingly the preparatory phase. In the UK, this phase consists of a short conversation between the child and the

<sup>38</sup> L. Faber, 'Verhoor van minderjarige slachtoffers' (n.d.), <http://rechten.eldoc.ub.rug.nl/FILES/root/Tijdschriften/Ontmoetingen/Nr04/Faber/Faber.pdf> accessed 15.12.2014;  
M.S. Groenhuijsen, 'Audio-visuele registratie van verhoren van jeugdige getuigen' (1992) 22 (1) *DD* 1,7.

<sup>39</sup> K. Herbots, 'Verhoor van minderjarige slachtoffers of getuigen opnemen op video' (2006) [www.jeugdrecht.be/?action=artikel\\_detail&artikel=59](http://www.jeugdrecht.be/?action=artikel_detail&artikel=59) accessed 15.12.2014.

<sup>40</sup> La voix de l'enfant, '*Train together – se former ensemble: La formation des professionnels intervenant dans la prise en charge et recueil de la parole des mineurs victimes de violence sexuelles*' 2009, p. 38. [www.lavoixdelenfant.org/docs/publication\\_finale\\_traintogether.pdf](http://www.lavoixdelenfant.org/docs/publication_finale_traintogether.pdf) accessed 15.12.2014.

interviewer that takes place before the actual interview. Its main goal is to set up a mutual information exchange between the interviewer and the interviewee. The interviewer has the opportunity to collect some background information on the child (e.g. the age, culture and language of the child; level of cognitive and linguistic development; possible impairments or disorders, etc.), while the child is already being familiarised with the interview ground rules and the roles of the people present. In other countries, such as Belgium and the Netherlands, a similar introduction can be observed at the beginning of the questioning, which may or may not be part of the actual interview. Yet, only the UK Ministry of Justice recommends involving interpreters during the interview preparation phase to allow for another mutual exchange (this time between the interpreter and the interviewer) to take place and to start anticipating possible problems.

Interviewers can inform the interpreter about the interview techniques and structure they will use, while interpreters in turn can briefly set out the main principles of interpreted communication for the interviewer (e.g. literal vs. faithful translation, use of indirect speech, etc.).<sup>41</sup> A short briefing between the interpreter and the interviewer is the perfect gateway to a valuable exchange of information before the start of the interview. The presence of the interpreter is also crucial in the rapport building phase, where interviewers try to make the child feel at ease. The child has some time to get used to presence of the interpreter and to the peculiarities of an interpreter-mediated setting. The rules for interpreted communication can be set out explicitly (either by the interviewer or the interpreter) or even adapted to the needs of the child when difficulties arise (e.g. when whispered interpreting is too tiring for the child, or the child is confused by the use of direct speech [the interpreter using the first person singular]).

Whether the rapport building phase takes place before or *during* the actual interview, it always plays a crucial role in establishing trust between the interviewer and the child. For that reason, the beginning of the interview is highly important and a particularly sensitive approach is advisable, as is also the case during the rest of the conversation.<sup>42</sup> By means of a summary using the child's own wording, the interviewer can, for example, indirectly show to the interviewee that s/he was carefully listening to his/her story.<sup>43</sup> At the same time it also constitutes a comprehension check for the interviewer.<sup>44</sup>

<sup>41</sup> Cf. footnote 37 (p. 24, p. 46, p. 58).

<sup>42</sup> Cf. footnote 20 (p. 65).

<sup>43</sup> S. Rap and I. Weijers, *De jeugdstrafzitting: een pedagogisch perspectief*, SDU Uitgevers, Den Haag 2011, p. 155.

<sup>44</sup> UK Home Office, *Achieving best evidence in criminal proceedings: guidance for vulnerable or intimidated witnesses, including children* (consultation paper), Home Office Communication Directorate, London 2000, Chapter 2 – para. 11.1.2.

Legal interpreters working with children should, therefore, pay particular attention to this mechanism, so that they can render every single detail as faithfully as possible. Just like interviewers, they should also be very aware of their own behaviour. The child may feel rejected because of a particular tone of voice (e.g. one that is too authoritative) or certain facial expressions (contemptuous laughter, frowns, etc.).<sup>45</sup> This type of behaviour risks breaking the carefully built trust relationship with the interpreter and/or the other participants. Respect for the child's story should be at the forefront of every interaction in the interview.<sup>46</sup> Given that the interpreter is often perceived by the child to be a complete stranger, it may be quite difficult to establish trust. However, the complete opposite can also occur: the interviewee may see the interpreter as a trust person, because s/he speaks the same language and is therefore – in the mind of the child – the only person who is fully able to understand him/her. The best approach is to try and strike the right balance between a professional distance (to avoid falling into the advocacy mode) and a friendly attitude. The latter should be given priority, especially with child witnesses – and even more so when they are traumatised.<sup>47</sup> Matthias and Zaal (2002, pp. 364–65) not surprisingly emphasise that interpreters appointed for a child interview in a legal setting ought to have appropriate interpersonal skills and should, in the first place, of course, be willing to work with children.

Another typical characteristic of child interviews is the higher risk of suggestibility, compared to interviews with adults. Very young children (up to 5 years old) are particularly susceptible to suggestion.<sup>48</sup> Consequently, full understanding of the interview ground rules by the child is vital: minors must know that it is perfectly acceptable to say that they do not know the answer, that they can ask for clarification or correct the interviewer when this is needed.<sup>49</sup> Interviewers will try to stimulate free recall to obtain the most reliable account of what happened. To make sure that this flow of information is not interrupted, they will respect any silences, irrelevancies or repetitions and will not try to fill any gaps or ask immediate questions for clarification. Children need more

<sup>45</sup> C. Matthias and Z. Zaal, 'Hearing only a faint echo? Interpreters and Children in Court' (2002) 18 (3) *SAJHR* 359, 360.

UK Home Office, *Achieving best evidence in criminal proceedings: guidance for vulnerable or intimidated witnesses, including children* (consultation paper), Home Office Communication Directorate, London 2000, Chapter 2 – para. 9.1.4.

<sup>46</sup> Cf. footnote 20 (p. 43).

<sup>47</sup> Cf. footnote 37 (p. 177).

<sup>48</sup> E. Guckian and M. Byrne, 'Best practice for conducting investigative interviews' (2010–2011) 37 (2/3) *IP* 69, 70.

N. Scurich, 'Questioning Child Witnesses' (2013) 25 (1) *The Jury Expert* 1, 6.

UK Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* 2011, p. 177.

<sup>49</sup> Cf. footnote 38 (p. 37).



time to think: interruptions risk discouraging them.<sup>50</sup> Matthias and Zaal (2002, p. 361) continue on the same idea and conclude that interpreters should restrain themselves from forcing child interviewees to hurry up when they are telling their story. To limit possible suggestibility, interviewers may also consciously ask the same question again using a different form of words.<sup>51</sup> Simply the form of the question may influence the child, e.g. open versus closed questions, as demonstrated by Scurich (2013). The potential risk of suggestibility is reinforced even more by the fact that children tend to view adults as authority figures who must be obeyed.<sup>52</sup> Any action taken can, as a result, heavily mark the course and outcome of the interview.

Interpreters should be aware of all the factors that have an impact on the degree of suggestibility in a child interview. Thanks to information that could be provided by the interviewer (e.g. about the interview protocol, strategies or sequence of questions used, about the way a child's memory works, etc.), they would be better equipped to reduce the risk of influencing the child. At the same time, interpreters should also be conscious of the fact that their presence, to some extent, constitutes a filter to the interaction. In a judicial enquiry, however, every single detail could be a possible clue for the interviewer and is, therefore, of great importance. This may be even more significant in child interviews, where even the most illogical sounding answer might not be so illogical after all. In both cognitive interviewing and following the NICHD protocol, the child's words (which are frequently paraphrased or repeated by the interviewer) function as a kind of 'stepping stone' towards the next part of the interview. In addition, the words of child interviewees are also used to determine their cognitive level and emotions and, most importantly, to judge their reliability. Therefore, it is important that their words are only filtered to a minimal extent and, especially, that they are not altered in the interpretation. Matthias and Zaal (2002, p. 355) give a striking example of the latter: while a child victim of sexual abuse used the verb 'to sleep with', the interpreter selected the word 'to rape' in his translation. The court eventually started to have doubts about the veracity of the witness' statement, because they were convinced that a more specific term like 'rape' could not have been part of the register of a young child.

<sup>50</sup> T. Jaskiewicz-Obydzinska and E. Wach, 'The cognitive interview of children', Institute of Forensic Expert Opinions, Kraków (n.d.). [www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf](http://www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf) accessed 15.12.2014.

UK Home Office, *Achieving best evidence in criminal proceedings: guidance for vulnerable or intimidated witnesses, including children* (consultation paper), Home Office Communication Directorate, London 2000, Chapter 2 – para. 9.1.1–9.1.6.

UK Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* 2011, p. 177.

<sup>51</sup> Cf. footnote 44 (Chapter 2 – para. 10.4.2).

<sup>52</sup> UK Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* 2011, p. 177.

To be able to double-check the statements of a minor, current police interviews with children in criminal cases are frequently recorded, particularly when extra vulnerable witnesses or victims are involved.<sup>53</sup> It is also a possible quality control mechanism for those who want to verify whether everything was carried out according to the book. The major reason for video-recording investigative interviews with minors, however, resides in the fact that these recordings can be used as evidence. This limits the need for further interviews and, consequently, reduces the risk that the interviewee's account becomes affected by repetitive interviewing. As a result, child interviewees are exposed to fewer instances of direct contact with the justice system which helps avoid further traumatisation.<sup>54</sup> Sometimes witnesses no longer have to appear in court, because their video-recorded statement is considered to be equivalent to their testimony in person. For all the above reasons, video-recorded child interviews are a common practice in many European countries, e.g. Belgium, France, Italy, the Netherlands, UK, etc. This preference for video-recorded interviews has certain implications for the interpreting process. The range of techniques available may be more limited: whispered interpreting is, for instance, much more difficult to capture in a recording. Secondly, the quality control mechanism resulting from the recording also applies to interpreters: their performance can be verified, if so desired, and doubtful passages may be reviewed. There are many advantages to this system (not least for debriefing purposes, feedback, or the training of interpreters and, by extension, the entire interview team), but it is important that this should not lead to undue criticism of the figure of the interpreter.

The questioning of children in a legal setting often requires a relatively high number of interview participants, especially in criminal cases. Apart from the child, there is of course the lead interviewer, who may be assisted by a second interviewer. The latter is present in the control room to operate the recording equipment and observe the video interview. In some cases, a psychologist may also attend the questioning to carry out an indirect observation. Emotional assistance may be provided by a support person (e.g. a relative or appropriate

<sup>53</sup> B. de Wilde, 'Compensatie voor het uitblijven van een gelegenheid om een minderjarig slachtoffer als getuige te ondervragen' (2009) 34 (5) *NJCM-Bulletin*, 496.

M.S. Groenhuijsen, 'Audio-visuele registratie van verhoren van jeugdige getuigen' (1992) 22 (1) *DD* 2.

K. Herbots, 'Verhoor van minderjarige slachtoffers of getuigen opnemen op video' (2006) [www.jeugdrecht.be/?action=artikel\\_detail&artikel=59](http://www.jeugdrecht.be/?action=artikel_detail&artikel=59) accessed 15.12.2014.

<sup>54</sup> M.S. Groenhuijsen, 'Audio-visuele registratie van verhoren van jeugdige getuigen' (1992) 22 (1) *DD* 2.

E. Guckian and M. Byrne, 'Best practice for conducting investigative interviews' (2010–2011) 37 (2/3) *IP* 73.

UNODC, *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime*, United Nations, New York 2009, p. 66.

J.C. Wilson and G.M. Davies, 'An evaluation of the use of videotaped evidence for juvenile witnesses in criminal courts in England and Wales' (1999) 7 *European Journal on Criminal Policy and Research*, 82.

adult in the UK). Child suspects should be assisted by a lawyer while being interviewed by the police. According to the Salduz judgement, they also have the right to speak with their lawyer in private before the interview.<sup>55</sup> When the assistance of an interpreter is required, yet another ‘stranger’ is added to this long list of potential participants. The golden rule in child interviewing however, is to have as few people as possible present in the room. The more people, the greater the risk of destabilising the child and the greater the risk of obstructing the process of truth-finding. Once again, this factor might influence the interpreter’s way of working (e.g. selection of the interpreting mode) when the pressure is high to remain as ‘invisible’ as possible. Another important consequence of this mixed professional presence is that the exact roles of the participants need to be clearly established and agreed upon beforehand.

The child should, in turn, also be informed about the function of the professionals present in the interview and control room. This explanation can be given by the lead interviewer, or the interpreter can introduce him/herself (as it is customary in interviews with adults) – with the permission of the interviewer and preferably in wording that can easily be understood by the child. This brings us to another important topic: whose responsibility is it to use child-friendly rather than specialised language and to explain technical or legal jargon? This is the task of the legal professionals, not the task of interpreters. As Matthias and Zaal (2002, pp. 356–357) rightly observe, it is not up to the interpreter to simplify or explain difficult language, even if it is meant to help the child. Their observation squares with the ideas expressed in the COE Guidelines on child friendly justice (p. 10) and the UNODC *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime* (2009, p. 46): the use of child-appropriate language is the shared responsibility of the legal practitioners (police officers, judges, lawyers, etc.). The same rule is, of course, valid for any of the other adult interlocutors in the interview.

In addition, certain child or family specific language elements may be used with which the interpreter and/or the interviewer may not be familiar. In such a case, the interpreter may retain the original word in his/her translation – while (not) pointing this out to the interviewer, or s/he may ask the child for clarification directly – in close consultation with the interviewer.

It is important to remember that child interviews always create an unequal power relationship. As already explained in the second section of this article, children

---

<sup>55</sup> European Commission – Directorate-General for Justice, ‘Study on children’s involvement in judicial proceedings: Contextual overview for the criminal justice phase – The Netherlands’, Publications Office of the European Union, Luxembourg 2014, p. 14.  
[www.childreninjudicialproceedings.eu/docs/ContextualOverview/Netherlands.pdf](http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Netherlands.pdf) accessed 15.12.2014.

are vulnerable by definition. They become even more powerless when they find themselves in a legal interview setting with proceedings in a language they do not understand. In this context, they will often not assert themselves – even if they have been misunderstood or if they notice that a mistake has been made in the translation.<sup>56</sup> In fact, when the interviewer explicitly checks whether a young child or even an adolescent has understood everything correctly, they often say ‘yes’ even though this is not the case.<sup>57</sup> For that reason, interpreters should be particularly sensitive to potential mistranslations, which must be corrected as soon as the opportunity presents itself. It could also be argued that interpreters in child interviews should be allowed to signal particular misunderstandings in the communication (even though their translation was correct and the child indicates that everything was fully understood). Even more than in interview situations with adults, the unbalanced power relationship and the interviewee’s vulnerability may justify this kind of intervention – on condition, of course, that the interpreter acts in a manner which is transparent to all interlocutors.

The importance of close consultation between the interpreter and the interview team links up perfectly with the final stage of the questioning. *After* every child interview, a debriefing with all interview participants definitely serves a useful purpose. The interpreter can confer with the other professionals on the interview which has just concluded. Everyone has the opportunity to clarify certain particularities or resolve problems. The interpreter, for instance, can provide more information on the way in which the child spoke (very fast, hesitantly, etc.) or on a part s/he was forced to skip in translation, or can ask the interviewer for clarification on a particular term. Such collaboration can only be beneficial to the entire team of professionals, especially with a view to improving future child interviews.

#### 1.1.4. CONCLUSION

Based on the literature review above, it can definitely be concluded that interpreted child interviews in pre-trial settings truly are unexplored ‘territory’. More qualitative and quantitative research is needed to reveal the actual day-to-day child interview practices throughout Europe. The CO-Minor-IN/QUEST survey, the results of which will be described in this publication (Chapter 4), constitutes a major step forward since it is the very first attempt to map the current problems and needs in the field of interpreter-mediated child interviewing. Other types of research that would contribute to more advanced knowledge on the subject are interviews or focus group discussions with

<sup>56</sup> Cf. footnote 30 (p. 353, p. 361).

<sup>57</sup> Cf. footnote 43 (p. 105).

the participants involved or observational research in police stations, youth and criminal courts, etc. to unveil more about the interactional dynamics in interpreted child interviewing in these settings. Given that this topic is interdisciplinary by nature, the research methods or perspectives employed should also be interdisciplinary to a certain extent. The CO-Minor-IN/QUEST survey and the present publication (which contains chapters written by experts from every professional area involved) both fit within this shared framework.

Another important suggestion can be made regarding specialised training, not only for interpreters but also for the other professionals who deal with interpreted child interviews in a legal context. Specialised interpreter training should, of course, contain the standard elements, such as interpreting skills, deontology and legal interpreting (legal system, terminology, etc.) and be complemented by specific components on working with child interviewees. In addition to Matthias and Zaal (2002, p. 366) several internationally relevant texts<sup>58</sup> argue in favour of a course in children's rights for all professionals working with child witnesses, victims and suspects. Whether this is complemented by training on national juvenile law or not, it would be an efficient means of familiarising interpreters with the procedures and terminology specific to juvenile justice and legal cases involving children.

Matthias and Zaal (2002, p. 366) claim that interpreters in this part of the legal sector should know how to ask developmentally appropriate questions to children. Even though this is generally considered to be the responsibility of the other professionals who take the lead in the interview, it can still be assumed that some basic information on the specific interview techniques used in child questioning will be useful for interpreters working in child interview settings. If interpreters are at least aware of the existing techniques and know why (and when) they are used, it will be easier for them to translate the questions and answers of both the interviewer and interviewee as faithfully as possible.

Like Matthias and Zaal (2002, p. 357), the authors would also like to make a plea for interpreter training to include a component on communicating with children, so that interpreters know about the specificities of children's use of language and the best way to behave in the presence of child victims and witnesses.

The final component of the training could comprise an introduction to child development and psychology. Some background knowledge of the different developmental stages in childhood and adolescence, possible disorders, the

---

<sup>58</sup> COE, 'Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice and their explanatory memorandum' 2011 (p. 12).  
UNODC, *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime*, United Nations, New York 2009, p. 107.

functioning of memory in children, language acquisition, etc. will certainly be helpful to interpreters who are regularly faced with child interviewees. A certain degree of knowledge about trauma and victimisation and the corresponding behavioural aspects (e.g. panic, distrust, reluctance, etc.) are, according to the UNODC *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime* (2009, p. 50), also essential to the reference framework of all professionals working with child victims and witnesses. Matthias and Zaal (2002, p. 360) come to the same conclusion, specifically for interpreters.

Training that contains most or all of the above elements would be a helpful tool in providing professionals with the necessary skills to anticipate certain behaviour and deal with it in the best possible way, when they work in a challenging environment such as a pre-trial interview setting with children.

The observation above on the interdisciplinarity of research also applies to proposed training. As already mentioned, training in interpreter-mediated child interviewing is not only the concern of interpreters, but of the other professionals as well. Legal professionals, psychologists and child support workers should also be informed about the nature and characteristics of interpreted interaction and taught the basic principles of working with an interpreter. These principles can be practised in joint role plays, imitating a real interpreted child interview. And ideally legal practitioners should be involved in the course on children's rights, juvenile law and interview techniques. Similarly, psychologists and/or child support workers could contribute to the introductions on child development, psychology and trauma for interpreters and could teach them how to communicate successfully with child interviewees who are intimidated by the interview setting. Such joint training<sup>59</sup> would perfectly reflect the interdisciplinary nature of this fascinating research topic, i.e. interpreter-mediated child interviews in pre-trial settings.

## REFERENCES

- Council Of Europe [COE], '*Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice and their explanatory memorandum*' 2011. [www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20\\_4\\_.pdf](http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20_4_.pdf) accessed 15.12.2014.
- de Wilde B., 'Compensatie voor het uitblijven van een gelegenheid om een minderjarig slachtoffer als getuige te ondervragen' (2009) 34 (5) *NJCM-Bulletin*, 495, 511.

---

<sup>59</sup> For further suggestions on joint training, cf. section 4.5 of this publication.

- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings [2010] OJ L 280/1.
- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA [2012] OJ L 315/57.  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&qid=1421068975671&from=NL> accessed 15.12.2014.
- ECOSOC Resolution 2005/20: *UN Economic and Social Council 2005/20: Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*: E/RES/2005/20 [www.unhcr.org/refworld/docid/468922c92.html](http://www.unhcr.org/refworld/docid/468922c92.html) accessed 15.12.2014.
- European Commission, Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings COM (2013) 822/2.
- European Commission – Directorate-General for Justice, ‘Study on children’s involvement in judicial proceedings: Contextual overview for the criminal justice phase – The Netherlands’, Publications Office of the European Union, Luxembourg 2014.  
[www.childreninjudicialproceedings.eu/docs/ContextualOverview/Netherlands.pdf](http://www.childreninjudicialproceedings.eu/docs/ContextualOverview/Netherlands.pdf) accessed 15.12.2014.
- Faber L., ‘Verhoor van minderjarige slachtoffers’ (n.d).  
<http://rechten.eldoc.ub.rug.nl/FILES/root/Tijdschriften/Ontmoetingen/Nr04/Faber/Faber.pdf> accessed 15.12.2014.
- Groenhuijsen M.S., ‘Audio-visuele registratie van verhoren van jeugdige getuigen’ (1992) 22 (1) *DD* 1,7. <http://arno.uvt.nl/show.cgi?fid=27358> accessed 15.12.2014.
- Guckian E. and Byrne M., ‘Best practice for conducting investigative interviews’ (2010–2011) 37 (2/3) *IP (The Irish Psychologist)* 69, 77. <http://lenus.ie/hse/bitstream/10147/121488/1/Bestconductinginvestigativeinterviews.pdf> accessed 15.12.2014.
- Herbots K., ‘Verhoor van minderjarige slachtoffers of getuigen opnemen op video’ 2006. [www.jeugdrecht.be/?action=artikel\\_detail&artikel=59](http://www.jeugdrecht.be/?action=artikel_detail&artikel=59) accessed 15.12.2014.
- Jaskiewicz-Obydzinska T. and Wach E., ‘The cognitive interview of children’, Institute of Forensic Expert Opinions, Kraków (n.d).  
[www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf](http://www.canee.net/files/The%20Cognitive%20Interview%20of%20Children.pdf) accessed 15.12.2014
- La Rooy D., *The NICHD Protocol* 2003. <http://nichdprotocol.com/> accessed 15.12.2014
- Lamb M.E., Orbach Y., Hershkowitz I., Esplin P.W. and Horowitz D., ‘Structured forensic interview protocols improve the quality and informativeness of investigative interviews with children: A review of research using the NICHD investigative interview protocol’ (2007) 31 (11–12) *Child Abuse & Neglect* 1201, 1231. [www.ncbi.nlm.nih.gov/pmc/articles/PMC2180422/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2180422/) accessed 15.12.2014.
- La Voix de L’enfant. ‘*Train together – se former ensemble: La formation des professionnels intervenant dans la prise en charge et recueil de la parole des mineurs victimes de violence sexuelles*’ 2009. [www.lavoixdelenfant.org/docs/publication\\_finale\\_traintgether.pdf](http://www.lavoixdelenfant.org/docs/publication_finale_traintgether.pdf) accessed 15.12.2014.
- Matthias C. and Zaai Z., ‘Hearing only a faint echo? Interpreters and Children in Court’ (2002) 18 (3) *SAJHR (South African Journal on Human Rights)* 350, 371.

- Nilsen A.B., 'Exploring interpreting for young children' (2013) 5 (2) *Translation & Interpreting* 14, 29.
- Rap S. and Weijers I., *De jeugdstrafzitting: een pedagogisch perspectief*, SDU Uitgevers, Den Haag 2011.  
[www.rechtspraak.nl/Organisatie/Raad-Voor-De-Rechtspraak/Nieuws/Documents/jeugdstrafzitting%20een%20pedagogisch%20perspectief.pdf](http://www.rechtspraak.nl/Organisatie/Raad-Voor-De-Rechtspraak/Nieuws/Documents/jeugdstrafzitting%20een%20pedagogisch%20perspectief.pdf) accessed 15.12.2014.
- Scurich N., 'Questioning Child Witnesses' (2013) 25 (1) *The Jury Expert* 1, 6.  
[www.thejuryexpert.com/wp-content/uploads/JuryExpert\\_1301\\_Questioning.pdf](http://www.thejuryexpert.com/wp-content/uploads/JuryExpert_1301_Questioning.pdf) accessed 15.12.2014.
- United Nations, Convention on the Rights of the Child, *Treaty Series: Treaties and international agreements registered or filed and recorded with the secretariat of the United Nations*, vol.1577. (1989)  
<http://treaties.un.org/doc/publication/UNTS/Volume%201577/v1577.pdf> accessed 15.12.2014.
- United Nations Office on Drugs and Crime [UNODC], *Handbook for professionals and policymakers on justice matters involving child victims and witnesses of crime*, United Nations, New York 2009.  
[www.unodc.org/documents/justice-and-prison-reform/hb\\_justice\\_in\\_matters\\_professionals.pdf](http://www.unodc.org/documents/justice-and-prison-reform/hb_justice_in_matters_professionals.pdf) accessed 15.12.2014.
- UK Home Office, *Achieving best evidence in criminal proceedings: guidance for vulnerable or intimidated witnesses, including children* (consultation paper), Home Office Communication Directorate, London 2000.
- UK Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* 2011.  
[www.cps.gov.uk/publications/docs/best\\_evidence\\_in\\_criminal\\_proceedings.pdf](http://www.cps.gov.uk/publications/docs/best_evidence_in_criminal_proceedings.pdf) accessed 15.12.2014.
- Van Schoor D., *Interpreter-mediated interviews of child witnesses and victims: status quaestionis*, KU Leuven/Thomas More, Antwerp 2013 (unpublished master dissertation). [https://www.arts.kuleuven.be/tolkwetenschap/projecten/co\\_minor\\_in\\_quest/interpreter-mediated-interviews-of-child-witnesses-and-victims-status-quaestionis](https://www.arts.kuleuven.be/tolkwetenschap/projecten/co_minor_in_quest/interpreter-mediated-interviews-of-child-witnesses-and-victims-status-quaestionis) accessed 15.12.2014.
- Waterhouse L., Mcghee J. and Loucks N., 'Disentangling offenders and non-offenders in the Scottish children's hearings: A clear divide?' (2004) 43 (2) *The Howard Journal*, 164, 179.
- Wilson J.C. and Davies G.M., 'An evaluation of the use of videotaped evidence for juvenile witnesses in criminal courts in England and Wales' (1999) 7 *European Journal on Criminal Policy and Research*, 82, 96.

## WEBSITES

- [http://ec.europa.eu/justice/grants/programmes/criminal/index\\_en.htm](http://ec.europa.eu/justice/grants/programmes/criminal/index_en.htm) accessed 15.12.2014.
- [https://www.arts.kuleuven.be/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/recommendations](https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest/recommendations) accessed 15.12.2014.
- [https://www.arts.kuleuven.be/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/final-conference-presentations-of-the-speakers](https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest/final-conference-presentations-of-the-speakers) accessed 15.12.2014.



## 1.2. LEGAL FRAMEWORK

### 1.2.1. INTERNATIONAL AND EUROPEAN LEGISLATION

Eric VAN DER MUSSELE

#### 1.2.1.1. Introduction

In the course of the last 50 years, awareness of human rights and children's rights has increased. Europe and the United Nations have become aware of human rights, including children's rights, and have introduced and voted for several supranational instruments protecting suspects, victims and witnesses in criminal and pre-trial procedures.

In this section, the author will review these international rules, with a view to identifying the rules that give protection to children and juveniles in pre-trial proceedings.

Children are vulnerable victims, suspects and witnesses because of their age and, as defined by this project, because of their lack of knowledge of the language of the procedure and other communication problems.

Where and how the supranational rules address these communication problems for children is a question in which this chapter will aim to answer.

#### 1.2.1.2. International rules

- **United Nations**
- *United Nations Covenant on Civil and Political Rights*<sup>60</sup>

*All persons* (this means: adult or not) shall be equal before the courts and tribunals (Art. 14.1).

In determination of any criminal charge, everyone shall be entitled to the following minimum guarantees, in full equality: (Art. 14/3a) to *be informed promptly and in detail in a language which he understands* of the nature and cause of the charge against him, and (Art. 14/3f) to have the *free assistance of an interpreter if he cannot understand or speak the language used in court*.

---

<sup>60</sup> UN International Covenant on Civil and Political Rights, 9–12–1966 (BS.: 6–7-1983).

Article 14.3d provides as a minimum right for each person, in case of determination of any criminal charge against that person, to *have legal assistance* assigned to him, in any case where the interest of justice so requires, and *without payment* by him in any such case if he does not have sufficient means to pay for it.

– *Convention on the Rights of the Child*<sup>61</sup>

In the United Nations *International Convention on the Rights of the Child*, (Art. 12 §2), children have the right *to be heard in all judicial and administrative procedures which* can be facilitated through representation by a lawyer.

States Parties recognize (Art. 40.1) the right of every child alleged as, accused of, or recognized as having infringed the penal law to *be treated in a manner consistent with the promotion of the child's sense of dignity and worth*, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

Art. 40.2, with regard to the relevant provisions of international instruments, States Parties shall, in particular ensure that: ... b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:... (vi) *to have the free assistance of an interpreter if the child cannot understand or speak the language used.*

– *United Nations Principles and Guidelines on Access to Legal Aid*

In the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*,<sup>62</sup> Member States are invited *to guarantee the provision of legal aid* as their duty and responsibility, and to allocate the necessary human and financial resources, and without interfering in the independence of the legal aid provider.

– *The United Nations guidelines about juvenile delinquent behaviour*

These guidelines are reproduced in several national legislations and are often the inspiration for national or regional changes.

*BEIJING Rules* (Resolution 40/33 29-November-1985)

<sup>61</sup> UN International Convention on the Rights of the Child; A/RES/44 25 – 12–12–1989. Art. 12.

<sup>62</sup> UN – General Assembly of the United Nations, 20–123–2022, Principles 2, 3 7.

Minimum rules for administration of justice for children and juveniles.

*RIYATH* Rules (Resolution 45/112 of 14-December-1990)

General principles for prevention of juvenile crimes

In the justice chapter (VI.n°58) is expressed the need for *special training for those who work in the justice area* in order to respond more appropriately to the needs of minors and juveniles in legal procedures.

*HAVANA* Rules (Resolution 45/113 of 14-December-1990)

Rules protecting minors during every period of privation of liberty.

*VIENNA GUIDELINES* (Resolution 50/181 of 22-December-1995)

Administration of criminal justice for minors in 53 paragraphs, and general principles to make effective the implementation, by the member states, of the UN Children's Rights Treaty.

*CHILD VICTIM RULES* (Resolution 2005/20 of 22-July-2005)

Directives and suggestions to protect child victims and witnesses, in criminal justice cases.

In Art. 40–43 of the guidelines, disciplines are indicated in which the *professionals in child cases should be trained*: legal rules and principles, ethical principles, multidisciplinary training on interrogation of, and communication with children, child psychology etc.

*TOKYO RULES* (Resolution 45/110 of 14-December-1990)

Guidelines to develop measures substituting imprisonment for adult persons, children and juveniles.

– **Council of Europe**

– *European Convention on Human Rights*<sup>63</sup>

Articles 5 and 6 of the European Convention on Human Rights (ECHR) and several judgments of the European Court of Human Rights (ECtHR) underline the right to legal advice and *assistance by a lawyer and an interpreter* for convicted, arrested minors in the pre-trial phase, and for minors in institutions for protection reasons. *Free legal aid* in criminal and civil cases is a right when the minor is not able to develop an adequate defence in person, or when s/he could not get access to the judge without this legal aid.

---

<sup>63</sup> Signed: Rome, 4 November 1950.

Everyone who is arrested (Art. 5/2 ECHR) shall be informed promptly, *in a language which he understands*, of the reasons for his arrest and of any charge against him.

Everyone charged with a criminal offence (Art. 6/3 ECHR) has the following minimum rights: (a) to be informed promptly, *in a language which he understands and in detail*, of the nature and cause of the accusation against him, ... (e) to have the *free assistance of an interpreter* if he cannot understand or speak the language used in court.

- *Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice*

National authorities and practitioners should be guided by these proposals, elaborated by the European Juvenile Justice Observatory. The essential objective of this body is to set up a supranational space for reflection, analysis and elaboration of proposals centred on juvenile delinquency and the justice systems attempting to deal with it. The most important elements of the guidelines can be found in Chapters III, IV and V.<sup>64</sup>

These guidelines clearly stress the importance of training and quality in order to organise a practical and effective basic assistance and advice body for children and juveniles, and not merely an institutional body.

<sup>64</sup> EU Guidelines, Chapter III.E: (Fundamental Principles and Rule of Law) provides in full application of the rule of law for children, with the right to fair trial, the right to legal advice, access to courts and to appeal, to all judicial and non-judicial and administrative procedures. Chapter IV.D: (Child friendly justice during procedure) provides very clearly in (nr. 34) access to court for children based on adequately given legal advice, (nr. 35) free of costs and with legal counsel, (nr. 36) access to court for children-victims and for children in certain aspects of civil and family law, (nr. 37) the right to their own legal counsel and representation, in their own name if conflicts are possible with their parents or other involved parties, (nr. 38) access to legal aid, (nr. 39) with youth lawyers representing children, trained in children rights and with communication skills, (nr. 40) with their own rights and lawyers representing children to bring forward the opinion of the child, (nr. 41) and lawyers that provide children with all necessary information and explanations concerning possible consequences of the child's views and opinions, (nr. 42) and with eventual appointment of the guardian ad litem or another independent representative where there are conflicting interests with parents, (nr. 43) with independent representation from parents, especially if parents, family members or caregivers are possible offenders.

Chapter V: (promotion of other child friendly actions) provides under:

- d. first line information offices possibly linked to bar associations, welfare services... etc.,
- f. establishment of a system of specialised judges and lawyers for children,
- k. setting up of free of charges information services, online consultation, help lines etc.,
- l. appropriate support and training for all professionals working with children in justice systems.

A special chapter dedicated to these principles follows this overview of the legal framework.

– **European Union**

- *Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings*

Common minimum standards have to be applied in the fields of interpretation and translation in criminal proceedings with a view to enhancing mutual trust among Member States in interpretation in criminal proceedings & EAW (Art. 1.1).

Without distinction between adult people or children and juveniles (Art. 1.2), all persons from the time that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, have the *right to interpretation* (Art. 2).

The rights of defence for other language speakers (adult or minor) are guaranteed by:

Art. 2/4. Ensuring a *procedure or mechanism that is in place to ascertain whether suspected or accused persons speak and understand the language of the criminal proceedings and whether they need the assistance of an interpreter.*

Art. 2/5. Ensure that, *in accordance with procedures in national law, suspected or accused persons have the right to challenge a decision finding that there is no need for interpretation and, when interpretation has been provided, the possibility to complain that the quality of the interpretation is not sufficient to safeguard the fairness of the proceedings.*

Art. 2/8 Ensuring *that interpretation provided under this Article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence.*

Art. 3.1–9 providing the same quality and procedure mechanisms for translating as for interpreting.

Art. 4 guaranteeing that costs will be met by the member states, irrespective of the outcome of the proceedings.

Art. 5 and 6 provide quality measures (training, qualification, register) for interpreters/translators, and for the training of judges, prosecutors and judicial staff and those involved in criminal proceedings to pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication.

- *Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the **right to information** in criminal proceedings*

Besides the right to a free lawyer, to remain silent and to receive information, Art. 3.1.d grants the right to interpretation and translation. In Art. 3.2, it is specified that Member States shall ensure that the information provided for under paragraph 1 shall be given orally or in writing, in simple and accessible language, taking into account any particular needs of vulnerable suspects or vulnerable accused persons.

The *right to information* makes it possible to be heard, and to participate effectively in the procedures. This information concerns information about their rights, as well as about the procedure itself.

This *information has to be given as soon as possible*, at the latest before the first interview by the police (or others), to the accused and to his/her parents.

Art. 4 and 5 provide that the letter of rights is given to the suspect, *in a language the suspect understands*; Art. 6 and 7 describe obligations as *to information about the accusation* and access to the documents and material evidence of the case (always free of charge).

Art. 8 ensures that suspects or accused persons and their lawyers have the *right to challenge the possible failures or refusals* of the competent authorities *to provide the information in accordance with this directive*. This means that when the *quality of the legal assistance or the interpretation or translation work* is not sufficient to participate effectively in procedures, procedures and protest are possible and must be made possible and must be answered by the national authorities.

- *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*

**Child victims** should be considered as full bearers of rights and be entitled to exercise those rights.<sup>65</sup> Victims (including minors who are victims) of crime have access to legal aid, where they have the status of parties to criminal proceedings.<sup>66</sup> Specialized training should be provided by those responsible for

---

<sup>65</sup> EU 'Victim' Directive, Art. 14.

<sup>66</sup> EU 'Victim' Directive, Art. 13.

the training of lawyers, judges, prosecutors and victim support organisations in each Member State.<sup>67</sup>

In the preamble to this directive, it is stated that:

*(§34) Interpretation should therefore be made available, free of charge, during questioning of the victim and in order to enable them to participate actively in court hearings, in accordance with the role of the victim in the relevant criminal justice system.*

*For other aspects of criminal proceedings, the need for interpretation and translation can vary depending on specific issues, the role of the victim in the relevant criminal justice system and his or her involvement in proceedings and any specific rights they have. As such, interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.*

*(§35) The victim should have the right to challenge a decision finding that there is no need for interpretation or translation, in accordance with procedures in national law. That right does not entail the obligation for Member States to provide for a separate mechanism or complaint procedure in which such decision may be challenged and should not unreasonably prolong the criminal proceedings. An internal review of the decision in accordance with existing national procedures would suffice.*

*(§36) The fact that a victim speaks a language which is not widely spoken should not, in itself, be grounds to decide that interpretation or translation would unreasonably prolong the criminal proceedings.*

In the preamble, we read that appropriate initial and ongoing training is a requirement:

*(§61) Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services. This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate. Where*

<sup>67</sup> EU 'Victim' Directive, Art. 25 al. 3.

*relevant, such training should be gender sensitive. Member States' actions on training should be complemented by guidelines.*

*Directive 2013/48/EU of the European Parliament and the Council, of 22 October 2013, on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty*

The Permanent Representatives Committee (Coreper) endorsed the provisional agreement that was reached with the European Parliament on 28 May 2013. The directive deals, amongst other matters, with the following: the right of access to a lawyer for suspects and accused persons (when, under which conditions) and the principle of confidentiality of communications between the lawyer and the suspect or accused person. The 'compromise package' provisions also provide for legal aid<sup>68</sup> and rules following the Salduz hearings (Rules 26 and 27).

It will be no surprise that the Belgian Constitutional Court has already declared that the existing Belgian *Salduz* law is deemed to be in violation of the Constitution and international obligations, and that this had to be adjusted before September 2013.<sup>69</sup> It became clear that Dutch and Belgian legislation on the Salduz item must be adjusted in a significant way because, on 9 September 2013, this directive on 'access to a lawyer' was adopted by the European Parliament (memo EU 10-9-2013) with 661 votes for, 29 votes against, and 8 abstentions.

An important passage is where Europe expresses the will that assistance by a lawyer should be effective. The lawyer should be present at each hearing, identity parade, confrontation, experimental reconstruction of the scene.<sup>70</sup>

Lawyers should be present in an active way in all police and pre-trial hearings,<sup>71</sup> as well as in later court hearings and procedures, in order to preserve the fair trial rules from the first moment of the pre-trial procedures.

<sup>68</sup> EU 'compromise package': littera 29: (29) In cases where a suspect or accused person is deprived of liberty, Member States should make the necessary arrangements to ensure that ... *The arrangements could include those on legal aid if applicable.*

<sup>69</sup> Belgian Constitutional Court: 'Valentine arrest': 14-2-2013. At this moment no new law or articles of the Salduz Law are known.

<sup>70</sup> EU 'compromise package': littera 24-29, especially under 26-27.

<sup>71</sup> Several ECHR decisions indicate today, and before already, that the defense had to be active from the beginning of the procedure, in order to react and protest violations of the fair trial rule in pre-trial stage, in order to prevent violations of the fair trial rule: *Hermi v. Italy* (2006) (§71), *Amer v. Turkey* (2009) (§80) (§82), *Saman v. Turkey* (2011) (§30, §3 1, §35, §36).



The importance of this directive for interpreting (and translating) resides in the (for some member states new) active role the directive sees for a lawyer, counsel for suspects, victims and even witnesses.

Interpreters must be aware that the police hearing is longer a “one-to-one” meeting between an adult or child and a police officer. The interpreter will be required to translate the communications between the police officer or lawyer to the child or adult (and back), as well as the communications between the lawyer and police officer(s). This police interview will have the same multi-party character as the pre-trial and trial hearings, taking place between the various parties who are participating.

“One-to-one” interpretation will be the exception, likely only to take place between the client and a lawyer, psychologist or social worker.

- *Draft Directive (COM/2013/0822, dd° 27-11-2013) of the European Commission on guarantees for children in criminal procedures*<sup>72</sup>

In the explanatory memorandum §2 and 3 we read that this directive is part of the Stockholm Program on minimum rules in criminal procedures-, together with the directives on interpreting, information, access to a lawyer, and on legal aid.

This directive ‘guarantees for children’, still to be voted on at the date of publication, contains the ultimate rules for the protection of minors in criminal procedures. In addition to social and medical examination at the different procedural stages, and the obligation to record interviews of minors conducted by police officers and judges, it is stated that only trained professionals (police officers, magistrates, lawyers) should be allowed to work with minors.

A non regression clause is part of the Draft Directive, which is important, because at a higher level of protection may already exist at the national level (for example: in Belgium, in youth protection cases, as well as in criminal cases without criminal punishment at the conclusion).

The rules about participation and interpretation/translation are the same as in the interpretation directive, but the article which relates to the training of judicial and law enforcement authorities, prison staff, lawyers defending children, and child support organizations (Art. 19/1,2,3) is very clear about the obligatory nature of training, the requirements and content of this training,

---

<sup>72</sup> Final voting is planned in February 2015.

and the way to ensure services are provided in an impartial, respectful and professional manner.

These additional rights for minors are applicable over and above the minimum rules in the other directives, because of the vulnerable nature of children, because of age, the reason why they need additional protection, and certainly because it can be presumed that some of them do not speak or understand the language of the procedure.

- *Draft Directive (COM/2013/0824 final-2013/0409 COD, dd° 27-11-13) of the European Commission on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in the European arrest warrant proceedings*

Suspects or accused persons have a right to legal aid, in criminal procedures when deprived of liberty, without undue delay and before questioning, and to the extent necessary to effectively exercise their right of access to a lawyer. Recovery of the costs for legal aid is only possible if foreseen by the national authorities.

A regression clause is part of the draft directive, which means that there can be no reduction in what is already provided for in the national legislation, can be granted under the (draft) directive (for example: legal aid for minors in Belgium, as a category entitled to legal aid because the legal and absolute presumption is that they are “without financial means”).

This directive is important because it stresses the obligation to cover defence costs, providing them free of charge to minors in criminal procedures.

The Directive on interpreting and translating is recalled in preamble 4 of this proposal for a legal aid directive. The interpreting and translating directive already states that interpretation and translation costs should be met by Member States and provided free (Art. 4).

## 1.2.2. CHILDREN'S RIGHTS IN RELATION TO CRIMINAL PROCEDURE AND CHILD FRIENDLY JUSTICE

Szilvia GYURKÓ

What we talk about when we talk about childhood?

It is hard to talk about children and childhood in the language of the law or legal norms. Being a child is a social, historical and cultural position, rather than a legal status. Therefore, unfortunately, the legal definition is much narrower and less complex. If we want to deal with child related legal issues, I believe we must try, first of all, to clarify the intricate meaning of 'childhood'.

'Childhood' is a modern discovery. The very idea that children are different from adults appears to be relatively new. Nowadays, we see childhood not only as a stage of biological development, but also as an elaborate social status fashioned by the attitudes, values and beliefs of a particular culture (that of an adult society). Until the end of the 19<sup>th</sup> century, children were regarded as miniature adults and childhood a mere chronological fact. In the 20<sup>th</sup> century, children were seen to be either totally innocent or helpless, in need of protection, regulation and control, with the hierarchy between adults and children evident and unquestionable. According to historians,<sup>73</sup> childhood was to come to the fore when children were no longer seen as economic necessities. Capitalism, industrialisation, growing family incomes, developing public health finally gave birth to the new (and now very 'trendy') concept of childhood in which the children's emotional profile is also recognised for the first time in history.<sup>74</sup> Unfortunately, the hierarchical attitude of the adult society has survived ever since and still largely appears to determine what adults think about children and childhood. As a general rule, however, children have now begun to be treated not simply as inexperienced members of society, but as being qualitatively different from adults.

The theory of 'children's rights' has its roots in the beliefs regarding and recognition of the distinctiveness of childhood and the vulnerability of children. At first, children's rights manifested themselves in international documents prohibiting child labour (in hazardous workplaces, such as mining, maritime jobs, etc.). Then, in 1989, the modern legal concept of childhood was born when the UN General Assembly recognized the inherent dignity and the equal and inalienable rights of all children, in the Convention on the Rights of the Child (CRC).

<sup>73</sup> L. DeMause: *History of Childhood*. 1974. New York. Harper and Row.

<sup>74</sup> In countries where children are still seen as economical necessities the cultural and legal status of children is weaker.

The CRC is the most widely accepted and best known international document and has been ratified by 194 countries worldwide since 1989.<sup>75</sup> The CRC articles provide the grounds and general principles of children's rights – and forms the basis for our general knowledge of the basic needs and best interests of the child. Theoretically, every child is equally entitled to children's rights without any kind of differentiation. Sadly, however, there are still many differences between growing up in Ruanda or in Brussels. Poverty, social or economic deprivation, natural disasters, armed conflicts and ancient cultural traditions affecting girls are the most important risk factors at a global level. In addition, migrant, minority, criminalized and street kids make up the largest group of children suffering from discrimination.

In the case of these children, the social construct of 'childhood' is more complex. Sometimes it may be very hard to accept that someone who has committed a serious assault, for example, is still a child and has special needs or rights. Even the child concerned may not think that s/he is in need of special care, support or help. It is very often the case that a runaway child or a child prostitute claims that running away or becoming a prostitute was his/her own choice. They usually pretend (as do child delinquents) that they are already adults with full self-determination. On the other hand, being a child is not a merit. It is a fact of life that everyone should respect regardless of how the child behaves or what s/he has done previously.

As a consequence, it is evident that children's rights are universal only in international documents and on paper. A range of controversial attitudes and customs distort the institutional, legal framework even if the economic or cultural frames are encouraging and promising. In order to bridge the gap between the internationally agreed principles and reality, international human rights organisations and the UN provide additional model rules, recommendations and guidelines. In the beginning, these documents mainly focused on child victims and extremely vulnerable children. However, over the last 20 years, attention has shifted towards child perpetrators and other groups of children who seem to be less vulnerable (runaway children, drug users, school bullies, etc.). In the background to this shift can be found the results of criminological and sociological research that have demonstrated an overlap between child victims and child perpetrators. In the majority of cases, it emerged that the child in conflict with the law had been abused or suffered violence within the family, school or other environments.<sup>76</sup> These research outcomes highlighted not only the complexity of child delinquency, but also the vulnerability factors affecting criminalised children. The whole concept of

---

<sup>75</sup> Only Somalia, the USA and South-Sudan did not ratify the CRC.

<sup>76</sup> Such an environment may be a sports club or a religious community, for instance.

‘child-friendly justice’ is rooted in this recognition and exists to protect not only the child victims or witnesses, but also the perpetrators of offences.

#### 1.2.2.1. *A child-friendly and child-centered justice system*

‘Child-friendly justice’ refers to justice systems which guarantee respect for and the effective implementation of all children’s rights at the highest attainable level, bearing in mind the principles listed (in tables) below and giving due consideration to the child’s level of maturity, understanding and the relevant circumstances of the case. It is, in particular, justice that is accessible, age-appropriate, speedy, unflagging, adapted to and focused on the needs and rights of the child, and which respects the rights of the child including the right to due process: i.e. to participate in and to understand the proceedings, to be respected in his/her private and family life and to be entitled to integrity and dignity.<sup>77</sup> The term ‘child-friendly’ is used in Europe, whereas UN documents prefer a different terminology, such as ‘child-centered’ justice. The difference between these terms is merely symbolic – the essence of both types of document ensures the implementation of children’s rights in criminal procedures and provides special measures at institutional level.

Child-friendly justice claims to adopt a holistic, multidisciplinary approach and deals with issues of the place and role, as well as the views, rights and needs of the child in judicial and non-judicial/alternative proceedings. It is unquestionable that responding to the requirements of the ‘rule of law’, with respect for the child’s rights should not jeopardise the rights of other parties involved in the procedure. Child-friendly justice principles amalgamate the fundamental rights of all children with the special rights of child victims and children in conflict with the law.

#### – *Rights of the child in relation to the criminal justice system*

Fundamental Principles in relation to Criminal Law/ Procedure	Special Rights of a Child in Conflict with the Law	Special Rights of a Child Victim or Witness	Special Child-friendly Justice Principles
Children = under the age of 18 (CRC Art. 1)			
Non-discrimination (CRC Art. 2)			
Best interest of the child (CRC Art. 3)			

<sup>77</sup> Definition based on CoE ‘Child-Friendly Justice Recommendation’ adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies.

Fundamental Principles in relation to Criminal Law/ Procedure	Special Rights of a Child in Conflict with the Law	Special Rights of a Child Victim or Witness	Special Child-friendly Justice Principles
No separation from parents (CRC Art. 9)		Rights to recovery and social reintegration of a child victim (Art. 39 of CRC)	
Freedom of expression, to be heard / child participation (CRC Art. 12, 13, 14)			
Right to privacy (CRC Art. 16.)			
Protection from all form of violence (CRC Art. 19, 32, 33, 34, 35, 36)			Fair trial
Special rights of disabled children (Art. 23 of CRC)	Special rights of accused children (Art. 40 of CRC)		Rule of Law (COE – CFJ Guideline, 2010)
Regular review of outplaced children (Art. 25. of CRC)	Protection from torture, other cruel, inhuman or degrading treatment or punishment (Art. 37 of CRC)		Training of professionals (COE – CFJ Guideline, 2010)
Right to education (Art. 28, 29 of CRC)			Multidisciplinary approach (COE-CFJ, 2010)
Special rights of minority children (Art. 30 of CRC)			
Right to recreational activities, rest, leisure (Art. 31 of CRC)			

– **FUNDAMENTAL PRINCIPLES**

– *The age issue*

When referring to child-friendly justice principles and children’s rights, ‘child’ means any person under the age of 18 years. In national legislation, several age limits exist that may confuse the understanding of the minimum age of criminal liability. For instance, at the age of fifteen, a Lithuanian girl is marriageable and, after marriage, she must be seen as an adult with full capacity. In the UK, a child can drive from the age of seventeen. The majority of European countries allow children over the age of fourteen or sixteen to make a binding agreement or contract that is enforceable. The ages of consent (to sexual intercourse) are currently set between twelve and eighteen across Europe. The law (that is equal to ‘adult society’ in this context) should face up to the controversial and unclear social construction of childhood and must deal with situations in which, for example, a seventeen-year-old Hungarian bride has no right to drink a glass of champagne at her wedding party (because it is prohibited by law until the age of eighteen).

From the perspective of criminal law and criminal procedures, the minimum age of criminal liability varies between ten and eighteen years old in the EU. In addition, most European countries have special ways (institutions, sanctions, etc.) of dealing with children and adolescents in conflict with the law. The complex – and sometimes controversial – legal regulations have only one clear (and strict) cornerstone: the UN Convention on the Rights of the Child<sup>78</sup> (CRC) that claims that a ‘child’ means every human being below the age of eighteen and, thus, every child has the same rights under the age of eighteen. Another cornerstone is that no child under the legal age of criminal responsibility should be subject to criminal charges. It is controversial what should be the most appropriate age of criminal responsibility with no clear-cut international standards in this regard.<sup>79</sup> In General Comment No. 10, the Committee on the Rights of the Child concludes that ‘a minimum age of criminal responsibility below the age of 12 years is considered by the committee not to be internationally acceptable’<sup>80</sup> An additional ‘soft law’ (Beijing Rules<sup>81</sup>) recommends that any minimum age of criminal responsibility ‘shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity’.<sup>82</sup>

The modern approaches to ‘the minimum age of criminal liability and child-friendly justice principles advise that, in general, there should be a close relationship between the notion of criminal responsibility and other social rights and responsibilities’ (such as marital status, civil majority, etc.).<sup>83</sup>

– *Best interests of the child*

Although there is no standard definition of the ‘best interests of the child’, the term broadly describes the well-being of the child. According to Article 3 of the CRC, the best interests of the child shall be a primary consideration and must therefore be applied in a systematic manner for any action by the court (other authorities or professionals) that affects children of its concern.

Depending on the magnitude of the decision for the child and his/her status in the procedure (witness, victim, perpetrator), different procedural safeguards

<sup>78</sup> Convention on the Rights of the Child, UN General Assembly 44/25, 20 November 1989.

<sup>79</sup> Source: Penal Reform International: The minimum age of criminal responsibility in: Justice for Children Briefing No. 4.

<sup>80</sup> UN Committee on the Rights of the Child (CRC), CRC General Comment No. 10 (2007): Children’s Rights in Juvenile Justice. 25 April 2007, CRC/C/GC/10, paragraph 32.

<sup>81</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice (‘The Beijing Rules’) Adopted by GA resolution 40/33 of 29 November 1985.

<sup>82</sup> ‘The Beijing Rules’ Rule 4.

<sup>83</sup> Source: Penal Reform International: The minimum age of criminal responsibility in: Justice for Children Briefing No. 4.

need to be in place in order to identify which of the available options is in his or her best interests. There is no question that training, protocols and professional standards are needed to support assessment of the best interest of the child.<sup>84</sup>

– *Non-discrimination*

One of the most important fundamental principles in our world is non-discrimination. Every single one of a child's rights must be secured without any kind of discrimination. However non-discrimination does not mean equal treatment for all children. In some cases, preferential treatment or positive discrimination could be viewed as necessary in restoring the balance between the rights and protection offered to children. Vulnerable children (such as child witnesses, victims or foreign, immigrant, unaccompanied children) are the usual targets of positive discrimination. Judges, prosecutors and lawyers naturally have an essential role to play in protecting children against discrimination. Their task is to ensure that existing laws and regulations prohibiting discrimination are respected in legal practice.<sup>85</sup>

– *Protection of private and family life*

The privacy and personal data of children who are or have been involved in judicial or non-judicial proceedings and other interventions should be protected. This principle generally implies that no information or personal data may be made available or published, particularly in the media, which could reveal or indirectly enable the disclosure of the child's identity, including any image, detailed description of the child or the child's family, names or addresses, audio and video records, etc.<sup>86</sup> The role of the media in child-related criminal cases is less controversial than in adult proceedings. Avoiding stigmatisation and protecting the privacy of the child, the media representation of child-related criminal cases is restricted by self-regulations, ethical codes and legal norms in most countries.

– *Right to express views and to be heard / child participation – Give children a voice!*

Judges should respect the right of children to be heard in all matters that affect them or, at least, to be heard when they are deemed to have a sufficient understanding of the matters under examination. The means used for this

---

<sup>84</sup> Every relevant document contains the necessity of multi-sectorial trainings and well-prepared professionals in the field.

<sup>85</sup> Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers. Chapter 13.

<sup>86</sup> CoE CFJ Recommendation. Chapter IV. A. Point 2.



purpose should be adapted to the child's level of understanding and ability to communicate and take into account the circumstances of the case.<sup>87</sup> Children should be consulted on the manner in which they wish to be heard. It is important (and underlines once again the strong need for professional training) that the child's view/opinion should be understood in accordance with his/her age and maturity. This right supposes both a child-friendly environment (where the child is able and intends to make statements) and a child-friendly language (used by the professionals).

– *Protection from all form of violence*

Article 19 of the CRC provides for state responsibility to protect every child from all forms of violence (physical, mental, emotional, sexual, exploitative, neglecting, etc.). Such protective measures should include effective procedures for the establishment of social programmes to provide the necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, as appropriate, for judicial involvement.

In general, the risk of secondary victimisation<sup>88</sup> is extremely high in the case of child victims of violent sexual attacks.<sup>89</sup> Child abuse can take place even during and after criminal procedures in detention centres, reformatory or correctional institutions, etc. The risk of physical violence or emotional abuse against children is higher in closed institutions than in families. However, only a few empirical research studies have been conducted in this field.<sup>90</sup>

– *Special rights of minority children*

Article 30 of the CRC provides that in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or one who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language. In the context of criminal procedures, minority (immigrant,

<sup>87</sup> CoE CFJ Recommendation. Chapter IV. A. Point 2.6.

<sup>88</sup> U. Orth: Secondary Victimization of Crime Victims by Criminal Proceedings. In: Social Justice Research, Vol. 15, No. 4, December 2002.

<sup>89</sup> Secondary victimization indicates a negative social or societal reaction in consequence of the primary victimization and means further violation of legitimate rights or entitlement by the victim. (L. Mondata, "Injustice in harm and loss". *Soc. Justice Res.* 1994, No 7, 5–28.

<sup>90</sup> N. Wolff, C.L. Blitz, J. Shi, R. Bachman, J.A. Siegel, "Sexual Violence inside Prisons. Rates of Victimization", *Journal of Urban Health*, September 2006, 83(5): 835–848.

indigenous) children should be treated as extremely vulnerable. Their special rights should be respected during the whole procedure and in any form of deprivation from liberty.

– **SPECIAL RIGHTS OF CHILD VICTIMS AND WITNESSES**

Child victims have been recognised as particularly vulnerable since the very beginning of the history of children's rights. State obligations came into force with the UN CRC in 1989 and then in several international and European legal documents<sup>91</sup> which also considered that every child victim or witness of a crime has the right to have his/her best interests given primary consideration, while safeguarding the rights of accused persons and convicted offenders.

Child victims are particularly vulnerable. The trauma and harm they suffered during the crime and the high risks of secondary victimisation during the criminal procedure are the major contributors to vulnerability. Child victims should be treated with compassion and respect for their dignity and should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counselling, support from health and social services, social reintegration and physical and psychological recovery services. Special assistance should be given to children who are disabled, ill, migrant or unaccompanied.

– *Right to recovery and social reintegration*

In accordance with the abovementioned general principle of special assistance for child victims, the CRC provides appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim. Article 39 of the CRC claims that such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. In most European countries, victim support services have been developed and are maintained by the state in close professional cooperation with competent non-governmental organisations (NGOs).

Sometimes recovery is needed because of the harm caused by the criminal procedure (secondary victimisation). The lack of empathy and of a child-friendly

---

<sup>91</sup> Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings  
Budapest Roadmap: Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings (Resolution 2011). Directive 2011/36/EU – preventing and combating trafficking in human beings & protecting its victims. Directive 2011/93 – combating the sexual abuse & exploitation of children & child pornography.

environment, the delaying processes and untrained professionals are the most frequent risk factors of secondary victimisation.<sup>92</sup>

– **SPECIAL RIGHTS FOR CHILDREN IN CONFLICT WITH THE LAW**

Youth offenders constitute a significant part of the ‘criminal problem’ and pose difficult and interesting challenges for child protection, youth policy and criminal justice policy. Despite the increased public concern about child delinquency, we know only a little about the background and motivation of these children and even less about ‘what works’ and ‘what does not work’ in reducing the criminal behaviour of children. There are many ‘myths’ and ‘fantasies’ which render understanding of this phenomenon much more difficult: such as, ‘poverty causes criminality’, ‘migrants/Roma-gipsy/street-children are criminals’, etc.<sup>93</sup>

– *Separation from parents as a last resort – deprivation of liberty*

Article 9 of the CRC claims that a child shall not be separated from his/her parents against his/her will, except that such separation is necessary for the best interests of the child. The behaviour of the child or a criminal act can be the reason for such separation; however, alternatives to judicial proceedings (and sanctions with no deprivation of liberty) should be encouraged whenever these may best serve the child’s best interests.

Any form of deprivation of the liberty of children should be a measure of last resort and be for the shortest appropriate period of time. When deprivation of liberty is imposed, children should be held separately from adults. Understanding the importance of family ties in the life of all children, the competent authorities should respect the family relationships of the child (as an emotional need of the child and as a potential way of social reintegration).

What kind of sanction or legal consequence is effective in the case of a child delinquent or juvenile offender? What is the purpose of the punishment? These are key questions and the CRC responds according to the following principles:

<sup>92</sup> R. Underwager and H. Wakefield, “Avoiding secondary victimization in child abuse investigations”, *Spetfamilies* 1999, Vol. 11 (2), p. 6.

<sup>93</sup> Council Roadmap for strengthening procedural rights of suspected and accused persons in criminal proceedings (2009). The Roadmap calls for the adoption of measures regarding: (1) The right to translation and interpretation (measure A), (2) The right to information on rights and information about the charges (measure B), (3) The right to legal advice and legal aid (measure C), (4) The right to communication with relatives, employers and consular authorities (measure D), (5) and regarding special safeguards for suspected or accused persons who are vulnerable (measure E).

- every child in conflict with the law has the right to be treated in a manner consistent with the promotion of his/her sense of dignity and worth,
  - the punishment should reinforce the child's respect for the human rights and fundamental freedoms of others,
  - the judge's decision should take into account the child's age,
  - the punishment should promote the child's reintegration into society.
- *Protection from torture, other cruel, inhuman or degrading treatment or punishment*

This right is closely linked to the fundamental principle of 'no violence against children'. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below 18 years of age (Art. 37(a) of the CRC).

- *Right to education*

Time is extremely precious to children. Avoiding undue delay is an important and fundamental principle of child-friendly justice, partly because of the importance of education and its role in children's socialisation. Every child has the right to access to education even during detention or his/her deprivation from liberty. Children in any form of deprivation from liberty should have the right to receive appropriate education, vocational guidance and training.

- **CHILD-FRIENDLY JUSTICE PRINCIPLES**

- *Fair trial and rule of law*

The rule of law<sup>94</sup> principle should apply fully to children as it does to adults. Elements of due process such as the principles of legality and proportionality, the presumption of innocence, the right to a fair trial, the right to legal advice, the right to access to courts and right to appeal, should be guaranteed for children, as they are for adults, and should not be minimised or denied under the pretext of the child's best interests.<sup>95</sup>

A fair trial requires that the child alleged as or accused of having infringed the penal law be able to effectively participate in the trial, and, therefore, needs to

---

<sup>94</sup> 1. The rule of law is a substantive legal principle. 2. The supremacy of regular as opposed to arbitrary power. 3. The doctrine that every person is subject to the ordinary law within the jurisdiction. In: B.A. Garner (ed.), *Black's Law Dictionary*, 2006, Thomson-West.

<sup>95</sup> Source: CoE 'Child Friendly Justice Recommendation' adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies.

comprehend the charges, and possible consequences and penalties, in order to direct the legal representative, to challenge witnesses, to provide an account of events, and to make appropriate decisions about evidence, testimony and measures to be imposed. The above-mentioned Beijing Rules (in Art. 14) provide that the proceedings should be conducted in an atmosphere of understanding to allow the child to participate and to express himself/herself freely. Taking into account the child's age and maturity may also require modified courtroom procedures and practices.<sup>96</sup>

– *Multidisciplinary approach*

Whilst fully respecting a child's right to private and family life, close cooperation between different professionals should be encouraged in order to obtain a comprehensive understanding of the child, and an assessment of his/her legal, psychological, social, emotional, physical and cognitive situation.<sup>97</sup> In other words, a holistic approach is needed with a deep understanding of the particularity and vulnerability of these children.

– *Training for professionals*

All professionals working with and for children should receive the vital interdisciplinary training on the rights and needs of children of different age groups, and on proceedings that are adapted to them. Professionals in direct contact with children should also be trained in communicating with them at all stages of development, and with children in situations of particular vulnerability (immigrant, unaccompanied, etc.).<sup>98</sup>

1.2.2.2. *Principles of child-friendly justice according to the judicial procedure*

The Council of Europe (CoE) Recommendation follows a special categorisation of criminal procedure related to child rights and divides them into three categories: child rights before, during and after the procedure. This approach highlights the importance of all stages of the criminal procedure and emphasises the strong need for a holistic approach.

<sup>96</sup> Paragraph 46, General Comment No. 10 (see footnote 8).

<sup>97</sup> Source: CoE 'Child Friendly Justice Recommendation' adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, point 5.

<sup>98</sup> CoE 'Child Friendly Justice Recommendation' adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, point 4.

Principles of child-friendly justice		
Before the procedure	During the procedure	After the procedure
Minimum age of criminal liability	Child-friendly courts	Avoiding undue delay / respecting children's rights
Alternatives to judicial proceedings	Legal counsel and representation	Implementation of judgments by force should be a measure of last resort
Right to information and to be informed		
Child-friendly police	Right to be heard and to express views	
Avoiding undue delay		
Child-friendly environment and child-friendly language		

The real benefit of this approach is the extended perception of the whole juvenile justice system. Diversion, the alternatives to judicial proceedings and even crime prevention can be an integral part of the juvenile justice system.

Children in conflict or in contact with criminal justice or welfare agencies either as children in need of protection, children at risk, on arrest, during trial, in detention or as victims and witnesses, are often in a vulnerable position, unaware of their rights or unable to enforce them. How these children are treated by the system is a critical factor in determining how they will be reintegrated into their families, schools and communities. The concept of 'child-friendly justice' imposes the idea of an independent institutional frame and well-trained, empathic professionals in every European country as a minimum standard.

## CHAPTER 2

# INTERPRETED INTERVIEWS WITH MINORS

### 2.1. CASE 1: CHILD VICTIM

(All the names of people and places are fictitious, but the events are real.)

On a Monday evening, Klaudia arrives, with her 10-year old daughter Ewa, at the local police station, in town X (Belgium). She wants to report an indecent assault on her daughter. An acquaintance of the family is alleged to have touched the girl inappropriately.

The police take the mother's statement while the minor is not present. This is to ensure that there is no confusion between their accounts of the events. The police then contact the public prosecutor's office by telephone. Upon the latter's request, Ewa is questioned by staff specially trained in child interviewing. They make use of the TAM interview method (*Techniek van het Audiovisueel verhoor van Minderjarigen*; Technique for Audio-visual interviewing of Minors).<sup>99</sup>

Ewa's parents are of Polish origin. Although Ewa goes to a Dutch-speaking school, she is able to express herself best in her mother tongue. The public prosecutor's office orders the assistance of a sworn interpreter during the interview. They also order the presence of an expert psychologist, who will be watching the interview from the observation room. She, the psychologist, is asked to analyse the child's statements and write a report of the interview.

The police (of town X) who have created the file will also organise the audio-visual interview. They are responsible for contacting:

- an interpreter. Since there is no national register of professional interpreters available, the police use the local list for their judicial district. After a few

---

<sup>99</sup> The behavioural science department of the Belgian federal police (child hearings section) is responsible for organising the TAM training for police officers. The interview method taught is based on the following main principles: non suggestiveness and a step-by-step structure.

attempts, the police officer is able to contact Roza, a sworn Dutch-Polish interpreter;

- a police officer specially trained in audio-visual interviews (TAM). Fortunately, there is a list of staff who are on call to ensure that qualified staff members are available at any time.

They must also:

- get in touch with the expert psychologist appointed by the public prosecutor's office;
- find a suitable date to meet with all the parties and book the audio-visual interview room. The interview will take place on Wednesday.

Pol is a member of Police Zone Y and a specially trained police officer who will conduct the child interview. He does not know anything about the content of the file, because he wants to approach the interview with an open mind and listen to the story of the minor without any prior knowledge. He has not been in touch with the interpreter beforehand; he even does not know her name.

Upon the arrival of the mother and her daughter, the interpreter and the police officers of Zone X (who are in charge of the file), Pol briefly informs the interpreter about the nature of the alleged offence (in this case, acts of indecency). Soon it becomes clear that the interpreter has never attended an audio-visual interview before. Pol therefore briefly explains how this type of interview is conducted. He does *not* ask the interpreter to *faithfully* translate everything that is said and asked, because he automatically expects her to do this. The interpreter is already acquainted with the Franchimont Act<sup>100</sup> and the Salduz Law.<sup>101</sup> The interviewer explains to her that he will inform the minor about these laws in a

---

<sup>100</sup> Act of 12 March 1998 for the improvement of the administration of criminal justice at the stage of the investigation and the judicial enquiry (E.G.M. Weitekamp and H.-J. Kerner (eds.), *Restorative Justice in Context: International practice and direction*, Routledge, New York 2011, p. 117) The Belgian Franchimont Act includes provisions such as the right to remain silent, the right to a copy of the report, etc.

<sup>101</sup> In *Salduz v Turkey* (GC, 27 November 2008, *Salduz v. Turkey*) the ECHR held that there had been a violation of Article 6 of the European Convention which guarantees the right to a fair trial because Salduz who was under eighteen at the time of the offence was denied legal assistance while in police custody, during which time he made a confession which he later claimed was made under duress. The ECHR says that Article 6 "requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right." [SEC (2011) 686 final of 8 June 2011- *Impact assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the rights of access to a lawyer and of notification of custody to a third person in criminal proceedings*, p. 13]  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011SC0686&from=NL>.



specific way. There are no further questions from the interpreter and, about ten minutes later, the actual interview starts. In the meantime, the psychologist has briefly introduced herself and her role to Ewa and her mother.

Given that Ewa is under age and that it may be quite difficult for her to tell the police about a sexual offence, she has the right to be assisted by a support person (e.g. a family member or friend). Ewa prefers to be interviewed alone. Meanwhile, her mother is sitting in the waiting room.

The cameras are switched on and a recording is being made. The minor and the interpreter are taken around the interview room. The interviewer shows them the seating positions for all the participants. Ewa will be sitting at a round table, with the interpreter on her left-hand side and Pol (the police officer) on the other side. Next, they are shown the adjacent observation room with its monitor and recording equipment, as well as the people present there: the person handling the case, another specially trained TAM police officer who is operating the recording equipment and the psychologist.

Once back in the interview room, the participants introduce themselves. Pol explains that the interpreter is present because he himself does not speak Polish. He emphasises that he finds it important to perfectly understand what Ewa tells him.

After Pol has explained the interview ground rules and some legal provisions relating to the interview, Ewa is asked to tell her story. During the interview, Ewa seems to be able to speak Dutch fairly well. Occasionally, she even answers in Dutch. Nevertheless, the interviewer encourages Ewa to speak Polish, even though she does understand the Dutch questions: 'To make sure that I understand you very well.'

Ewa tells how an acquaintance of her mother and father forced a French kiss upon her one day, and touched her breasts. Shortly afterwards, she told her mother everything. Her younger brother also saw what happened.

The police officer acts in accordance with the interview procedure and techniques learned: adopting a non-suggestive approach and not interrupting the minor's account are the most crucial aspects to keep in mind. The interviewer tries to act 'according to the book', yet he notices that Ewa's account of the facts merely consists of short sentences. The interview lasts for 34 minutes.

Once the interviewer has all the information needed, he will close the interview. The police officer who is in charge of the file is responsible for referral to victim support services. Ewa can go home with her mother. Given Ewa's emotional

reaction after the interview, the psychologist briefly talks with her to offer some support. The psychologist makes further arrangements with the mother for a follow-up appointment.

## 2.2. DISCUSSION

### 2.2.1. DISCUSSION: LEGAL ACTOR (POLICE OFFICER)

Hans DE WIEST

The questioning of minors is a difficult task that should not be underestimated. By means of an interview, the police try to find out whether an offence has taken place. A good interview is often the backbone of a judicial enquiry.

But there is more to it than that. Questioning minors requires particular abilities and skills on the part of those working with this target group. Minors are rightly considered to be particularly vulnerable. However, there are also a significant number of falsely reported crimes, which is a cause for concern for both the future of the victim and of the alleged suspect. There is always a reason behind every declaration, whether it is false or not. And that reason is not always immediately apparent.

Our primary consideration should be the interests and needs of the minor. We must deal with victims in an impartial, respectful and professional manner. They may be particularly vulnerable, such as traumatised children, children from minority groups or with special needs. They need special attention, support and protection, because of the high risk of secondary and repeat victimisation.

In Ewa's case, several actions are in line with Belgian legislation and a specific, taught interview technique that is recognised by the government. This technique will be discussed in further detail below.

Belgian law provides that all child victims or witnesses of crimes such as sexual assault and rape, fornication and pimping, female genital mutilation, by definition *must* be heard in an audio-visual interview, unless decided otherwise by the public prosecutor or the investigating judge.

Belgian legislation mandates that three spaces should be provided to minors in order to optimise the interview: an interview room, an observation room and a reception room. It is also determined by law that all minors (up to eighteen years

old) are recorded audio visually (above twelve years old with their permission, and if they are younger than twelve, they simply need to be informed).

The audio-visual recording of the interview takes place in the interview room specifically equipped for this purpose (see below) which is recognised by the public prosecutor and is located closest to the minor's place of residence.

From the start of the case, several aspects are addressed that perfectly reflect the way in which a police interview is conducted in real life. When someone reports an indecent assault to the justice system, a truth-finding process is set in motion. For that reason, the police are instructed never to question the person reporting the crime (in this case the mother, Klaudia) while the victim is present.

Why not? The adult version would affect the original version and hinder the search for truth. If a child hears the 'adult' version of his/her own story, the risk is that he or she will include this version in his/her own 'child' version. Whereas, it is precisely the minor's own version of the facts that the police want to record later on. Therefore, interviewing the adult who filed the complaint in the presence of a child victim must be avoided. The mother, in this case, was properly interviewed without the daughter being present.

In practice, it is not so easy to get together all the different professionals who are involved in ensuring the proper course of a police interview with a child victim. Preferably this should happen as soon as possible. This is necessary to make sure that the minor's personal account does not become affected by external elements introduced by his/her environment, which constitute an (un)intentional manipulation of the child's story. Intentional manipulation consists of deliberately influencing the minor's account, such as by photographing the injuries without correctly tracing their origin, but while asking the child: "Did he hurt you?" Unintentional manipulation is everything which influences the version of the facts as they were experienced by the child. An example of this can be found in ignorance of the child's close environment when asking questions: e.g. suggestive questions such as, 'Did he do... as well?' or 'He probably also touched your...?' or the hidden suggestion, 'He has always been that special... It does not surprise me.' As a result, the victim's version of the facts can thus be substantially different from what actually happened.

Who is authorised by law to be present during the hearing of a child victim or child witness of crime?

– *An interpreter*

His/her task is defined in the ministerial circular of 16 July, 2001 as: 'If a translation is necessary, an interpreter can be present'. No mention is made

of the need to have had training (as psychologists and police officers do) in the art of the questioning of minors and in the problems of child abuse, and to have practical experience.

The police are responsible for bringing all the parties together. From experience, they know that interpreters are the professional group that is most difficult to reach. Everyday experience shows that, at times, up to twenty telephone calls need to be made before an available interpreter can be found.

The police officer can refer to a national list of available interpreters via an internal system. In practice, there is sometimes a problem with this, because the list is not up to date:

- the police officer sometimes learns that an interpreter has been deceased for over three years;
- the phone numbers and/or email addresses may be out of date or no longer allocated to the interpreters concerned;
- the interpreter may no longer want to be on the list because he or she has had negative experiences in the past (for instance with the payment of the costs incurred by the state).

As a result, the police work with preference lists that contain the names of interpreters who are actually available and with whom they have already had positive experiences. Sometimes there is also a similar local list available at the public prosecutor's office.

– *A confidant (a support person)*<sup>102</sup>

A minor who is a victim or a witness (not a suspect) has the right to the presence of a confidant. His/her task is to put the minor at ease. This person stays in the background out of sight of the child (in the field of view of the camera) so as to minimise their impact on the victim's story. The support person is invited to maintain a passive attitude and not to intervene on their own initiative. The role of the confidant is explained to him/her on arrival at the location of the hearing. However, if the confidant is present during the actual questioning, this can hinder the search for truth and, therefore, should not be recommended.

---

<sup>102</sup> Art 91bis of the Belgian Code of Criminal Procedure §2. *Every minor who is a victim or witness of the acts (\*) referred to articles 347 bis, 372 to 377, 379, 380, 380 bis, 380 ter, 383, 383 bis, 385, 386, 387, 398 to 405 ter, 409, 410, 422 bis, 422 ter, 423, 425, 426 and 428 of the Code of Criminal Procedure, shall have the right to be accompanied by an adult of his own choice during every interview by judicial authorities, unless the public prosecutor or the investigating magistrate decides otherwise in relation to that person by reasoned order in the best interest of the minor or in order to ascertain the truth.*

– *An expert psychologist*<sup>103</sup>

The appointed expert has preferably received specialist training in child interview techniques and in the problems of child abuse, in addition to having practical experience. However, this expert can not provide psychological assistance to the minor, as initially provided for by law. His or her task consists primarily of contributing to the process of truth-finding. Consequently, he or she cannot function as support service worker at the same time. The public prosecutor does not order the assistance of a psychologist on a regular basis; this is decided on a case by case basis.

– *A lawyer (for the minor who is a suspect)*

According to the Salduz Law, the assistance of a lawyer is only focused on overseeing:

- respect for the right not to incriminate oneself and the freedom of choice to make a declaration, to answer the questions or to remain silent;
- the manner in which the person being interviewed is treated and, in particular, whether or not undue pressure or coercion is clearly exerted during questioning;
- notification of the rights of defence and the regularity of the questioning.

– *A police officer*

The interviewing of minors must be carried out by a police officer. This police officer has to meet three conditions:

- he or she must have been *selected* (by a committee) for that purpose. This selection consists of the screening of eight skills:
  - availability;
  - cooperative spirit;
  - listening skills;
  - self-criticism;
  - knowledge of how to deal with children;
  - awareness of how to deal with sexuality;
  - knowledge of children's issues;
  - insight of interview techniques;
- he or she must have received practical judicial *training* in the questioning of minors;
- and he or she must undertake advanced training on a regular basis.

<sup>103</sup> Ministerial circular of 16 July 2001. The audio-visual recordings of hearings with minors who have been victims of offences or have witnessed offences, point 2.1.7: *To examine the minor's credibility the public prosecutor or investigating magistrate decides whether a psychiatrist or psychologist shall be appointed as expert to attend the hearing of the minor. The appointed expert has preferably followed a specialised training in child interview techniques and in the problems of child abuse, next to having practical experience.*

The interview proceeds according to four principles: the first two being non-suggestiveness and a stepwise structure. The third is that the interview is a criminal investigation and, therefore, must be led by the police. It is not therapy. The police officer needs to collect as many investigative data as possible ‘à charge et à décharge’ [inculpatory and exculpatory evidence] from all persons involved, in the quest for the legal truth. I underline the word ‘legal’. Although a correct approach and a professional listening ear often *are* therapeutic, it is not the actual purpose... The fourth principle is *respect* for the minor and the accused person.

The police officer’s job is to hear the minor as accurately as possible (this is according to the four TAM principles) and to obtain as much free recall as possible in his quest for the truth. The police officer should be aware of his/her non-verbal contact, such as eye contact, facial expressions, posture (open/closed), gestures, body orientation, and physical distance. Police officers should know how to avoid some of the ‘incapacities’ in communication, such as interrupting, asking questions in a negative form, asking multiple questions in one sentence, answering our own questions or predicting answers with a suggestive movement of the head (for example: ‘Do you remember where you were?’ while shaking the head to indicate NO), and learning how to ask open-ended questions, how to invite free recall correctly, etc.

Where should all the people be positioned in the interview room? In the room there is a round table and a couple of chairs. There are also three cameras on the wall. The first one records what happens in the entire room and the position of all people present. The second one records the interaction between the interviewer and the minor, while the third camera films a close up of the child. A super-sensitive microphone is built into the centre of the table: this high-quality microphone even registers whispering by the various participants.

Given that the interview is recorded audio-visually, interviewers will take great care in applying the correct interview technique, because the court can keep a close eye on their behaviour. Therefore, they will try not to display behaviour that might influence the child or try not to ask leading questions. Sometimes the interpreter changes these questions, for example: ‘Where were you?’ may become ‘Can you tell us where you where?’ or ‘Where does that scratch come from?’ could become “Who did this?”

The same applies to the other participants. Everyone is aware that their actions are being videotaped. Like the police officer, they have no option other than to perform their duty correctly. For the interpreter, expert psychologist or lawyer this consists of ensuring that cultural or religious ties (between them and the child) do not influence the minor’s story. Care should be taken to avoid the

minor adapting her version to a culturally appropriate one. Emotional ties with the interviewee are to be avoided as well. The recordings ensure that the interaction is transparent for the court, showing the information obtained and, in particular, how it was obtained.

The interview is conducted and led by the police. Yet, every participant wants to be in the best possible position to be able to fulfil his or her task to the best of his or her abilities (see also Case 2: Section 3.4.1).

In Case 1, because the police officer does not know anything about the content of the file and is listening to the minor's story without any bias, in a neutral way, he can approach the interview with an open mind. Such an approach is a major advantage for this type of interview. However, it also means that he cannot inform the interpreter about the content of the interview during a briefing beforehand. Maybe it is not always necessary for interpreters to know this, but it can also be argued that it might be important for them to have prior warning of the potentially difficult story they will be confronted with, in order to decide in advance whether they can cope with the case emotionally.

Practice shows that the person who is actively questioning the interviewee might display fewer emotions (given that he is dealing with an inquiry and interview techniques) compared to the others who are listening to the story in a more passive way. This is particularly true in the case of the support person, and even for the police officer in the observation room. Interpreters are more actively involved, but this does not mean that they cannot become emotionally involved and may need to give vent to their emotions. A short debriefing and sharing of feelings with the other professionals involved have already been shown to be a sufficient form of first-line support. If required, they can also seek further individual support. The existence of an umbrella organisation responsible for the emotional well-being of every professional would not be a luxury.

Upon the arrival of the mother and her daughter, the interpreter and the police from Zone X (who are in charge of the file), the interviewer briefly informs the interpreter about the nature of the alleged offence (in this case: acts of indecency). Given that Pol himself has limited prior knowledge, he cannot provide any further information at this point.

Essentially, the police officer is allowed to interview a minor without having any prior knowledge. The main advantage is that the police officer remains free from prejudice and from seeing his expectations as the absolute truth. This self-fulfilling prophecy occurs when the interviewer (unconsciously) adheres to his own prior knowledge and wants it to be correct. Consequently, there is nothing

strange about a police officer not wanting to know, in detail, what happened before starting the interview. After all, the saying goes: 'Seek and you shall find.'

When talking about the alleged offence, Ewa says: 'He tried to put his tongue in my mouth, but I resisted by closing my mouth.'" She also claims that the suspect had touched her breasts.

Sometimes it becomes clear that the interpreter has never attended an audio-visual child interview before. It would save both the interpreter and the interviewer a lot of time, and it would also be a great relief, if both professionals were to discuss their way of working beforehand. Fortunately, in this case, the police officer briefly explains *how* this type of interview is conducted. He does *not* specifically ask the interpreter to *faithfully* translate everything that is said and asked, because he automatically expects her to do this. It is exactly this great lack of mutual understanding about each other's profession – which working method does the other professional use and why exactly that leads to possible problems in a forensic interview.

Everyday practice shows that interpreters are familiar with the Franchimont Act and Salduz Law, but, at the same time, they have no idea how to explain this in modified and child-friendly language that can more easily be understood by the interviewee.

Meanwhile, the psychologist has had a short conversation with Ewa and her mother. She has briefly introduced herself and her role to them both. The interpreter also has to be present to translate the entire conversation between the psychologist, Ewa and her mother. This encounter preferably happens in the presence of the police officer, who always remains in charge of these interactions. He will decide on the course of the interview and is responsible for making the report.

The observation room with recording equipment is shown to all the participants. Here too, the interpreter plays an important role.

During the interview, the police officer acts in accordance with the interview techniques learnt: adopting a non-suggestive approach and not interrupting the minor's account are the most crucial aspects to bear in mind. This requires very specific skills. The interviewer tries to act 'according to the book' in order to complete his investigative tasks correctly as part of the truth-finding process. The police must act correctly to collect as much information as possible to further enable the criminal investigation. While doing this, the interviewer wants to treat the minor with maximum respect. Neither the interpreter, nor the



psychologist, nor the lawyer knows what this interview technique entails exactly. They have another professional role.

The police officer expects everything said during the interview to be translated faithfully. A single word that is translated differently can make a vast difference. The police do not only need every single sentence produced by the interviewee, but also every single word. The order of the events in the story should also be respected, since the interview technique used is based on intensive listening and working with the words of the minor. A single word that is translated incorrectly or differently can change the content of the conversation. A proficient interviewer should even be able to work with the intonation in the child's speech. The intonation of the interviewer's source speech may change during the interpreting process and, as a result, the content of the question may also be subject to some changes. Fifty-five percent of our communication is non-verbal and thirty-seven percent relates to intonation. In total this accounts for ninety-two percent of our communication. Just like the police officer, the interpreter is always communicating, even when he or she is not saying anything. But how should one correctly render intonation when interpreting?

Pol introduces himself and his role in the police force. He explains that he is there not only to *talk with* but mainly also to *listen to* minors. The purpose behind this way of working is that the minor herself will tell as much as possible later on.

Pol gives a brief account of the facts about which Ewa will be interviewed, as provided for by the Salduz Law. He, therefore, uses a specialised technique adapted to the mental age of the minor.

The main aim is to carry out the interview in a non-suggestive way. To the police officer, it seems self-evident that the interpreter should be able to faithfully translate what is said, since every element obtained by suggestion could be challenged in court.

During this interview, Ewa is sitting in between the police officer and the interpreter at the round table. As a result, the girl always has to turn her head from left to right to be able to see both people. A better seating position would be the triangle formation, which will be described in more detail in the second case (cf. Section 3.4.1).

When asked for her date of birth, Ewa answers in Dutch. It soon becomes clear that she is able to speak Dutch very well. At that very moment, the interpreter's role is also clarified. Pol says: 'The interpreter is here because I do not speak Polish and because I want to make sure that I understand you well.' This is an essential truth.

Through an exploratory conversation, ranging from the child's hobbies to her home environment, the interviewer tries to build rapport, which allows him to fulfil his professional responsibilities. During this introduction and the process of becoming acquainted with each other, the minor is also getting accustomed to the interview techniques that will be used by the interviewer to discuss the actual facts of the case. Scientific research (Sternberg et al. – 1997) shows that minors who have been made familiar with the interview techniques give longer answers to open questions and do the same during free recall. Therefore, the police officer has good reasons for expecting the interpreter to translate his questions in exactly the same way as they were asked.

The police officer is also going to train the minor's episodic memory. The main aim is that the child learns how to separate individual facts, instead of mixing them up. Through working with the minor's recollection memory, through invitations and indications, a more detailed account is obtained, irrespective of the child's age. The information collected is also much more accurate.

The aim is that the interviewer invites the minor to narrate more. The method that is most effective here is based on open invitations: 'Tell me more about...'. After a while, segmentation is added to the invitation: 'Tell me more about "X" from the moment both of you were alone until the moment he started to kiss you.' This way of inviting the interviewee to talk (instead of asking questions) stimulates the conversation. As a result, the interviewer will not only collect more elements, but also more details than if he had used specific (open) questions.

The technique that consists of inviting minors to tell their own story and to split it up in several parts 'from...to...' can even result in answers that are four times as long and contain up to three times as many details. (Lamb et al., 1996; Sternberg et al., 1996)

To make himself clear, the interviewer uses very short sentences to address the minor. This facilitates the communication: very clear and short questions are of course easier to understand and answer. The interpreter also has no difficulties with this. This is, however, not the case during the free recall phase when the minor is supposed to tell her story without being interrupted; she is constantly being 'interrupted' by the interpreting process. Pol notices that the interpreter starts using the third person singular after a while. He and the interpreter even end up saying: 'She says that...' and 'Tell her that...'

Police officers should be able to react fast during an interview and immediately select the right invitations and segmentations to produce more free recall from the minor, without making any suggestion. While the interpreter is translating,

the police officer suddenly has some time to think, which he does not have during a regular interview. He can, for instance, use these moments to think through the next step of the interview. It also enables him to observe the child better.

In this case, we also see that Ewa speaks Dutch when talking about her hobbies and home environment during the introduction part of the interview. When she is invited to address the facts of the case, the police officer tells her that she is free to use her mother tongue. She is not obliged to use Dutch. The language choice has been agreed on before, so it is best that everyone uses his or her mother tongue and that the interpreter translates.

Even though the interview is complete, the duration of this interpreter-mediated interview is remarkably shorter than other interviews. It is twelve minutes shorter than the average police interview of a victim in Belgium (which takes about forty-six minutes). When taking into account that everything which was said should be translated here as well, one would expect it to last longer. Therefore, the short duration here is surprising. In general, the interview went quite well.

There is always a short break where the minor can relax for a moment and is asked to think about anything he/she may have been forgotten and did not tell. In this case, the break lasts for one minute. It is, therefore, very important that this type of silence is discussed beforehand by the interviewer and the interpreter. During the break almost nothing is said. The interpreter's role is, after all, not that of a confidant.

Experience shows that it is not always possible to have simultaneous interpreting during a videotaped interview, because the recording risks not being intelligible any more. The voices of the participants should not overlap. They should take turns to speak.

If interpreters sit behind the child, it becomes more difficult for them to see the minor's mouth moving, especially if the latter starts speaking more softly. When they sit next to the child, the minor will unconsciously make eye contact with the interpreter instead of the interviewer. The best position for the interpreter is therefore a bit off to one side in a triangle. (There are, of course, specific requirements in cases where signed language interpreters are present).

As for the presence of a confidant, the emotional/cultural involvement his/her presence alone is sufficient) can hinder the truth. Even the presence of an interpreter and/or even the gender of that interpreter may affect the search of truth. An interpreter, a psychologist, a lawyer or a confidant present during the

interview: nothing or no-one should hinder police officers in the performance of their task: their search for truth.

During free recall (when minors are telling their story uninterrupted), it is difficult for the police officer to find the right moment to ‘intervene’ and to avoid interrupting children when he/she wants to add something spontaneously. This becomes even more difficult when there is also an interpreter present who risks doing the same thing: interrupting the minor to translate part of the conversation. It should be noted that interpreters are absolutely *not allowed to interrupt* the child.

At the end of the interview, Ewa can go home with her mother. When closing the interview, the police officer in charge of the file is responsible for possible referral to victim support services. The interpreter still has the same task: i.e. translating what is said.

Some skills in interviewing ‘ordinary’ minors (victims, witnesses, suspects) constitute an important foundation upon which to build. Therefore, some experience in interviewing minors is needed before interviewing vulnerable minors. Research findings have shown that improper questioning of vulnerable people is a greater source of distortion of their accounts than are memory deficits.

## 2.2.2. DISCUSSION: PSYCHOLOGIST

Beatrice BESSI

The first thing that strikes me is that the behaviour of the Police is very codified and takes into account all the problematic steps entailed by cases like this one. The mother and the daughter are not interviewed together, for instance, because experience in legal proceedings shows that causing confusion from the very beginning may lead even to the failure of the whole proceeding. The audio-visual interview method for taking the minor’s statement has obviously been arranged in advance and it has certainly been vetted by experts.

Also, the public prosecutor seems to be used to making decisions that guarantee a successful outcome and that are intended to both protect the child and to carry out the prosecution of the suspect in the best possible way. In general, the legal professionals appear to have consolidated practices to conduct these cases in the best possible way. This is very important from the point of view of the minor’s

psychological protection – being confronted with people who act confidently according to established rules makes the child feel safe and confirms what all children believe, or hope for, namely that adults always know what to do, even in difficult situations and, above all, that they can trust them and tell them their painful and embarrassing experiences.

Problems arise with the interpreter. One of the points that I believe should be discussed is that children who come from foreign countries, and especially from developing countries, often *do not* want to speak their mother tongue, but they would rather try to forget it and want to show they are well integrated. The interpreter should also be aware that choosing their language is partly an emotional choice for children. A self-explanatory example is that of adopted children who forget their language of origin. Having to talk in their mother tongue makes them recall traumatic moments of their life that sometimes **MUST** be set aside. It seems clear that, in the case discussed here, the legal interpreter, however technically skilled s/he is, is certainly not trained to deal with a traumatized child.

As it is clearly mentioned in the case description, there is no national register of specialised interpreters, which is, in fact, a problem. Yet, the creation of a specific register of this sort of interpreter raises the issue of their training.

The people who have to deal with a child's statement, for whatever reason, often do not want to know anything in advance, because they want to avoid feeling personally involved or taking 'sides' with anyone; in other words, they want to be impartial and in some way 'super parties'. Unfortunately, this attitude makes legal professionals come unprepared to these interviews. Actually, being unprepared often makes them feel more nervous, as well as causing them to waste time while trying to understand the case at hand and, in some cases, they end up asking the child to repeat things too many times or, even worse, to repeat the whole statement. At present, we can assume that if children have to describe trauma and violent events to every single professional involved in the interview, they will feel less and less trustworthy, thus becoming less confident. As a result, legal professionals, in pursuing impartiality, risk severely damaging the child victim. Common sense and experience should be applied in this case too, as well as the ability to strike a balance between what we need to know in advance, in order to be well prepared, and what we should not know as professionals involved in an early phase of the proceedings.

The fact that the interpreter does not know anything about the case is potentially risky for a number of reasons, both straightforward professional reasons and psychological ones. In particular, we *do not* know how an unprepared interpreter

will react. And yet, if, for example, the interpreter unintentionally displays a fearful or even a disgusted facial expression, the child might immediately stop talking. Indeed, it is very common to see these reactions in people who are unfamiliar with crimes they often consider 'not normal'. What if the interpreter him/herself has been a victim? Once, I had the experience of working with a simultaneous interpreter who could not bear the stress of an abused woman's story and the interview was interrupted because she became very sick (and we could not replace her).

The part devoted to the interview clearly illustrates what I mentioned above. The girl understands the police officer well, and she wants to show that she can speak Dutch. The police officer kindly invites her to speak Polish 'to make sure he correctly understands what she says through the interpreter'; he is subtly implying that she cannot speak Dutch well enough. What if the girl feels hurt by this? It is necessary to have an interpreter who can translate at any time, but a translation is not necessarily needed all the time. And maybe it should not be used unless it is inevitable. In other words, an interpreter must be present, but it is much better if his/her work is not needed, so that the child feels able to communicate directly. This is an integration effort on the part of the child and integration efforts should always be welcomed, especially when made by children.

Ultimately, we do not know how the interpreter is feeling! We should not forget that the trauma affects *every* person coming into contact with these crimes and the interpreter, if not properly trained, could be unprepared for it.

The position of the interpreter with regard to the child is certainly fundamental. S/he should be able to see the minor's face, to see the facial expressions: the seating arrangement should be in a circle, or all participants seated the same distance from each other. This arrangement definitely conveys the idea of being welcome, in a space where words can circulate freely.

Fundamentally, in my opinion, the case looks like one where a number of professionals are dealing with a well-established mechanism. There is a precise procedure, significant actors, and a pre-arranged schedule. The only perspective that is missing is the interpreter's, who unfortunately ends up seeming like almost an alien body, entrusted with considerable responsibility with just a few instructions to follow, as if she had a mere technical function, rather than being *integrated* into the process because of her skills. It could be that she has been informed about the case, but that this is not stated, whereas it is clear that all precautions had been taken from both a clinical and a legal point of view.

A list of well-trained interpreters within the official register of interpreters is needed to avoid interpreters making a journey in unchartered territory, burdened with remarkable responsibility and subjected to emotional risks.

I would like to offer some suggestions by describing what we have achieved in Florence within the framework of a ministerial project which has recently concluded. The project consists of a number of practices for handling cases like this, where several professionals have to guarantee high-standards, all working together and at the same time.<sup>104</sup>

Of the various objectives of this project, essentially aimed at optimising the procedures that were already in use in this area, obviously one of the most significant was how to avoid “the secondary victimisation of the minor that takes place when institutions do not guarantee adequate intervention time and the modalities that are required by serious situations and that can meet the child’s needs.”<sup>105</sup>

At crucial moments when a number of professionals have to share knowledge and practices in order to be effective – as in the aforementioned case where a minor has to be interviewed on what she has suffered – the project requires a small multi-professional ‘*mini-équipe*’ to meet to discuss the case. I would like to stress the *practical* purpose of this meeting, since its aim is to let all the professionals involved in the case get to know each other, share procedures and information on that particular case and be prepared to solve possible problems. There is not any specific purpose other than facilitating the work of all the professionals involved.

There are various advantages: knowing all the other professionals is not at all irrelevant, because professionals often risk working in isolation. In addition, the definition itself ‘multi-professional *mini-équipe*’ draws everyone’s attention to the common goal, which requires everyone’s collaboration. Being part of a team means that everyone is inter-connected, including the interpreter who can prepare psychologically for the case.

<sup>104</sup> Municipality of Florence, Children’s Hospital Meyer, Artemisia association – *ALISEI Project – Protection, care and social reintegration models for minor victims of sexual abuse and exploitation* – Project funded by the Ministry for Equal Opportunities 2013–2014.

<sup>105</sup> Municipality of Florence, Children’s Hospital Meyer, Artemisia association, *ALISEI Project– MINIMUM SET OF PROCEDURES for subjects involved in the detection, protection, care and social reintegration of minor victims of sexual abuse and exploitation*. Municipality of Florence Press, Florence, 2014.

### 2.2.3. DISCUSSION: INTERPRETERS

#### 2.2.3.1. *Spoken language interpreter*

Katarzyna SKRZYNIARZ

In this particular case, I would expect to receive a briefing. It should be remembered that interpreters interpret in a number of challenging situations and one situation may be completely different from another. An appropriate and thorough briefing helps an interpreter to prepare for the assignment and, in saying this, I mean not only preparation of the facts but also mental preparation.

In my opinion, it would be essential to receive a *good* briefing, not a brief one, as is described in the case study. I realise that there will always be difficulty regarding how much an interpreter should know. If the interpreter knows too much, will she remain impartial? Or if the interpreter knows too little, will she be able to decipher certain words, phrases and the non-verbal behaviours of the child? Moreover, I believe that it would be very useful to discuss any issues that may arise during the interview and agree on certain techniques for dealing with problematic situations.

As stated above, it should not be a “brief” briefing. In many situations professionals have certain expectations as regards interpreters: however, they do not express these. Therefore, I believe that the rules for working together should be set and discussed. In this particular case, the police officer did not tell the interpreter that he expects her to interpret everything faithfully. A professional should clearly explain his/her expectations before the interview starts, as this would help avoid many problems, or help resolve them if they arise. Moreover, there is no point in rushing the process, because that may have an impact on the evidential value of the interview.

A range of issues should be discussed and agreed during the briefing. First of all, I would discuss the interpreting mode with the stakeholders. I would explain to the police officer and other professionals involved that I will try to interpret simultaneously as much as I can, taking into consideration the fact that the interview is recorded. I would also explain that this would allow me to interpret everything, even the smallest word or phrase which might seem irrelevant for me as the interpreter, but it may have evidential value. The stakeholders should then decide whether what is said is evidence or not.

Moreover, I would make clear that the interpreter’s role should be explained to the child. The child should understand that she should address the



professional, not the interpreter. Also, a girl of the age in the case study should be able to understand the interpreter's job, if it is explained to her.

With regard to role boundaries, in a case of this type, when the interpreter had never interpreted in the context of a joint interview, she should not only have had the process explained, but the boundaries should also have been set by the professionals. In such cases, not only is an interpreter able to understand the spoken language, but also the girl's body language. The natural human response would tell the interpreter to react to this which, if not controlled, might lead to the interpreter taking over the interview or, as a consequence of not knowing the process and the rules of this type of interview, the interpreter might make suggestions to the child. These issues should be clearly explained to the interpreter during the briefing to avoid a re-interview, as it is a very stressful process for the child.

The interpreter should also have an understanding of the model of a joint investigative interview and, in this particular case, when the interpreter has no previous experience, everyone would benefit from extra explanation time.

As regards seating arrangements, in my opinion, these should be set by the professionals and agreed with the interpreter. It would be advisable for the interpreter to sit next to the child who would face the professional. This would allow the child speak directly to the professional.

In my view, communication strategies should also be explained before the interview starts. I believe that they should be discussed not only with the professionals involved, but also with the child, who needs to understand why the interpreter may ask for clarification or why an interpreter writes something down during the interview. If these points are explained beforehand, no-one is surprised and such situations are easier to handle. The methods for requesting clarification or repetition should also be discussed and agreed.

When it comes to the handling of introductions, I would expect the lead professional to introduce me to everyone and also to explain my role as interpreter. It would also be good if certain aspects of my role and the communication strategies were explained to everyone.

As outlined above, I believe the interpreter should also be introduced to the child and that the interpreter's role should be explained to her. This would enable the interpreter to build rapport with the child and possibly notice problems with communication, if there are any. I believe that being clear about the interpreter's role can eliminate a child's lack of trust in the interpreter, or at least decrease any distrust. I believe that being open and professional towards the child, explaining

everything clearly, and answering the child's questions would help everyone avoid many difficult situations or at least make it easier to resolve them.

There may be difficulty in handling a child's language. If the interpreter is given an opportunity to have a conversation with the child before the interview, then the interpreter not only has an opportunity to build rapport with the child, but also to listen to the language the child uses. This would allow the interpreter to tell the professionals about any difficulties and seek a solution before the interview. It would also give the professionals and the interpreter a chance to agree on appropriate methods, as well as strategies for communicating these to the lead interviewer during the interview.

Even if no difficulties are observed before the interview, I would still want to agree with the professionals on the strategies I would use to communicate any problems to them during the interview.

It is extremely difficult to remain impartial in cases like this one and it does depend on the professionalism and experience of the interpreter.

Interpreters can keep their distance by concentrating on the interpreting process itself, and on the thoroughness and completeness of the interpretation and also by focusing on the methods for explaining their impressions to the professionals.

I would advise any interpreter to take a deep breath and clear his/her head and to just keep going. Also, it is important to remember that good and exact interpreting will result in good evidence, so the interpreter should concentrate on the evidence and not on their own emotions.

In a situation where the child displays distrust towards the interpreter before the interview, during the rapport building phase, then this should be signalled to the professionals as soon as it is observed by the interpreter. If it happens during the interview and the lead professional had discussed and given the interpreter guidance during the briefing, it would be easier to resolve it during the interview. It is the lead professional's responsibility to decide if they want to continue the interview.

There are, potentially, many challenges when interpreting for a child in this type of case. The first challenge is the knowledge and understanding of the process of a joint investigative interview. There are several rules and points to follow during this type of interview and, as a result of not knowing this process, the interpreter may impede the interview.

Another important aspect or challenge is that of understanding children, as well as the ability to speak to children. All professionals receive special training within joint interviews. I have not met a single interpreter who has received

similar training; therefore, the professionals should be aware of this and ensure that they explain everything to the interpreter.

Deciphering the child's phrases and interpreting them correctly into another language can also be a big challenge for interpreters. This may be easier for interpreters who have their own children or younger brothers or sisters; however, this is not guaranteed.

Retaining the same register and using the same vocabulary as the speaker may also be difficult. I believe that it is not the interpreter's role to make things easier for the child. The interpreter needs to remember that the lead professional may choose certain words or a particular register on purpose and the interpreter should not change it.

Another problem may be how to communicate problems in a way which will not distress the child. The process of the interview is unknown to the child and they might become apprehensive about the interview if there is an additional stress factor involved.

How to reflect child's use of language should be discussed with the professional before the interview. There might be words which the interpreter understands; however, the interpreter does not know the equivalent in the target language. It can be agreed with the professionals that, if the interpreter does not know the equivalent in the target language, the best explanation possible will be given. Moreover, communication of non-verbal signs should be agreed on before the interview.

There is always the difficulty that, if the child speaks some of the target language, the child can become upset if the interpreter starts to describe non-verbal signs. This should also be explained to the child before the interview.

The responsibility for adapting the language to the intellectual and linguistic level of the child lies with the professional. The interviewers receive special training which allows them to do that and they also know what expressions they can use to the child in order to obtain the best evidence. If the interpreter decides to change the language or adapt it without any previous agreement with the professionals this can affect the evidential value of the interview. This is something that interpreters should keep in mind.

If the interpreter sees that the child does not understand something, this should be communicated to the professional as soon as possible, in the way which was agreed before the interview.

Every debriefing gives everyone the chance to learn from the interview and from each other. A debriefing gives the interpreter the opportunity to pass on any observations they made during the interview or to communicate any impressions which would be essential to the case, for example that at one point

the girl changed her intonation, which made the interpreter feel she might be scared or hiding something.

It also gives the interpreter the chance to raise any concerns related to the interpreting process.

Moreover, a debriefing helps the interpreter deal with their emotions and may give them a chance to speak to psychologists or other professionals who can help them.

During a debrief, the interpreter would also have the opportunity to ask questions which could improve their interpreting skills in the future.

In conclusion, I would make the following recommendations. Having had the opportunity to receive joint investigative interview training, I would personally recommend training of this type to every interpreter. The interpreter's job requires an interpreter to interpret in different and challenging situations and interpreters receive training to prepare them for different areas. Moreover, every interpreter should aim to broaden their areas of professional interests to become a better interpreter. In the legal context, training includes both court and police settings.

However, although a joint investigative interview is a part of interpreting for the police, it is a very different process in comparison with other police processes. There are certain steps to be followed and, if the interpreter were to understand the process, then all parties would benefit.

If, for example, the lead professional has never worked with interpreters before in a joint investigative interview context, the interpreter would be able to explain the interpreter's role fully to them and also offer suggestions which might make the process smoother.

Moreover, through understanding the process, the interpreter would not, by accident, impede the evidential value of the interview.

I would also recommend that the initial briefing should not be rushed. I believe that it is better to take time and discuss certain aspects before the interview, than not to do so and perhaps be forced to repeat the interview at a later date.

Professionals do not always understand the interpreting process and, for example, keep addressing the interpreter, not the client, directly, saying: 'Can you ask her...?' This should be explained before the interview, as it may cause additional difficulty during the interview. Quite often interpreters assume that professionals know the 'rules' and do not check with them. It also needs to be clear that the interpreter will interpret everything and, if the parties do not want something to be interpreted, then they should not say it. This would avoid unnecessary distress or misunderstandings.

I realise that it would be an ideal situation if all interpreters were joint-interview trained and all professionals knew how to work with interpreters. So my last and I think the most important recommendation would be good communication and to establish a code of conduct before the interview begins so that problems can be minimised or avoided.

### 2.2.3.2. *Signed language interpreter*

Ann DAVIS

The following observations are made, based on the assumption that the child in this case is Deaf.<sup>106</sup> A briefing session for the interpreters and other professionals should be set up before starting this type of interview. A single interpreter may not be the most appropriate communication support provision to carry out this assignment: in other words, a team consisting of a sign language interpreter and a co-worker, such as a teacher who has a working relationship and understanding of the developmental stage and communication repertoire of the child, may be required. It would also be very helpful to have some background information about the mode of communication between the child and her parents.

In Scotland, it is more likely that a teacher of a child will be involved in this type of interview, as most interpreters work with adult users of British Sign Language. There may be some interpreters who have an understanding of child psychology or the stages of child development due to their own educational experiences, but this is not a part of the interpreter training curriculum.

British Sign Language (BSL) and other sign languages are not transmitted in the same way as spoken languages. This is why it is important to have a client-centred approach. If a child and his/her parents are all fluent sign language users, then the stages of language acquisition and cognitive development are parallel to those of spoken languages. However, in the UK, for instance, only 10% of BSL users come from families where BSL is the language of the home. Therefore, 90% of Deaf children are growing up in families where they may or may not be getting access to a sign language. Language planning, policies and resources in the education and health sectors have an impact upon the quality of services available to deaf children and their families. If a child, who is born profoundly deaf with no residual hearing, does not get access to a sign language at crucial stages of cognitive development, this can result in language delay; the child does not have access to a language to think in or as a means of communicating

<sup>106</sup> In the conventions generally used, 'deaf' signifies a clinical description, whereas 'Deaf' indicates membership of a linguistic and cultural community.

with other people. If a profoundly deaf child is denied access to this mode of communication, this can result in emotional and behavioural problems. During the briefing, the interpreter would discuss the challenges of interpreting with the police officer. If the police officer is not referring to information in the file on starting the interview – as in this case – he will have good reasons for adopting this particular investigative approach. However, the interpreter would need to know the nature of the alleged offence and discuss the difficulties of having no concrete details to refer to. The interpreter would have a discussion around how questions will be framed in the spoken language so that there can be a discussion of the strategies to employ when interpreting. The police officer may need to change his approach so that the interpreter does not use sign vocabulary that may lead the child or mislead the line of questioning: i.e. in the use of a particular hand-shape or placement or direction of a verb. Care must be taken when using manually-coded spoken language (or fingerspelling) and in the use of iconic sign vocabulary during the interview. For example, in using a term like ‘assault’ the interpreter may use a sign that looks like a person being punched and in this case the assault took a different form. Moreover, the interpreter may already know the child, but if this is the first time they have met, the interpreter will need to make adjustments and make particular linguistic choices according to the feedback from the child indicating understanding during the early stages of interaction.

As regards interpreting mode, although sign language interpreters mostly work simultaneously, it is recommended to begin this type of interview by working consecutively; this is more accurate and it gives participants an opportunity to check for meaning and understanding. Subsequently, it may be necessary to change mode to simultaneous interpreting. This depends upon the age or stage of development of the child or whether the child is at a point in their account which becomes more emotional or faster in pace. The interpreter can have an agreed cue with the police officer if she needs to interrupt or ask for clarification.

It should be agreed that the police officer (or the person leading the interview) will introduce the interpreter to the child and explain what it is that the interpreter is doing. The officer must explain that the interpreter is there for both parties so that they can understand each other. This will help prevent direct communication between the interpreter and the child and allow the police officer to take the lead role. However, there may need to be some flexibility around this. If the child does not engage or if she shows distrust of the interpreter, the interpreter may need to communicate directly with the child to build up some rapport. It is possible to do this, as long as the interpreter only explains why she is there. The interpreter may offer reassurance to the child by showing some empathy of being in this situation, but she must not align herself with the

child or collude with the child. By remaining transparent and supportive of the procedure, this type of facilitation may prevent the interview from breaking down.

The seating arrangement needs to be agreed before the interview to ensure there is a configuration where the interpreter and the police officer are opposite the child, so that both are able to have eye contact with the child. There can be some adjustment in having the interpreter slightly closer to the child. The height of seating arrangements is also important to avoid making the child feel overwhelmed or intimidated by the adults. It may be better to be in a lower position or at eye level position with the child.

In addition, the interpreter should agree upon communication strategies. Specifically, particular cues should be agreed upon to do the following:

- to ask the officer to rephrase a question;
- to suggest how a question could be rephrased;
- to interrupt/not interrupt the child;
- to request clarification of the child/of the police officer;
- to adjourn/to carry on with the interview.

The interpreter should be introduced to the psychologist and the police officer filming the interview, prior to the interview beginning. This would give the interpreter the opportunity to check if they have worked with a sign language interpreter before or not and, if not, to explain how a sign language interpreter works. The interpreter can give them an overview of, for example, the ways in which the syntax and grammatical structure of the sign language is not the same as the spoken language and how there is a delay in processing and working between the source and target languages. It may be helpful to explain how non-manual features (e.g. mouth patterns, facial expression, etc.) have a grammatical role, particularly in role shift and negation and in expressing adverbial information. For example, role shift is used when a person is retelling a story or going into the role of the character involved in the event to explain what happened, if giving a statement or their memory of an event. The use of facial expression may show an emotion belonging to one of the characters and which was expressed in the past, and it may not be the emotion of the person telling the story in the present. It is certainly recommended that a psychologist who has experience in working with Deaf people is available; there may, however, be time or geographical constraints, but it is important to request this and ask for consideration to be given to put this into place.

Once the interview is underway, if the interpreter is experiencing difficulties in handling the child's language then a cue should be used to adjourn the interview

so that the police officer can be advised of the problem. If the communication support is not effective then it is important to advise that another approach needs to be taken. This would need to be considered carefully. As suggested previously, there may be an appropriately skilled sign language user who could act as an intermediary working with the interpreter and the police officer: i.e. a teacher who knows the child, or an expert linguist in BSL, or an experienced youth worker who knows the child.

If the child does not trust the interpreter, an attempt can be made to build up some rapport by the interpreter having direct communication with the child. For example, to establish some rapport by reiterating why the interpreter is there, that she is trying to help her (the child) to understand what the police officer is saying and how the police officer is trying to find out what has happened. If it is not possible to build up trust or rapport, then it may be more productive to arrange for another interpreter in order to carry out the interview.

The main challenges for a sign language interpreter in this type of case is how to gauge the developmental stage of the child and how to pitch the level of communication in terms of choice of sign vocabulary and syntax, as BSL is not taught as a part of the curriculum in schools and the interpreter may not have had any training in this particular domain. There are a few interpreters who work in the field of education who may be asked to work in this area if they know the child involved. The language policies of different education authorities are so variable that the quality of education provided and the amount of support which families receive in different parts of the country is inconsistent and the quality of education for Deaf children varies as a result.

During the interview, the interpreter will attempt to reflect the register, choice of vocabulary and any paralinguistic features being used by the child through her use of appropriate features of the target language, use of style and formality of vocabulary, intonation and pace. This could be discussed during a debriefing.

The interpreter should work with the police officer to indicate if there is a need for the police officer to modify his use of language. There could be an agreed cue for the interpreter signalling the need to either adjourn to discuss this or to alert the police officer to adapt the language to suit the intellectual and linguistic level of the child. The interpreter should not unilaterally adapt the language without the knowledge of the police officer. This also applies to assumed knowledge or cultural mediation. There are instances of items of information.

There should always be an opportunity to have a debriefing after this kind of interview. There may be some reflections on the part of the interpreter that are worth feeding back. The interpreter may have made some errors which need to be



highlighted; there may also have been some repairs which were made during the interview. There may have been some dense pieces of language use that had to be edited to maintain the flow, particularly if it became emotive and fast paced and if it had been agreed (during the briefing) not to interrupt. There should also be an opportunity to discuss potential misunderstandings on the part of the police officer in terms of observations due to time lag. In addition, the observers may want to ask for clarification from the interpreter around the use of non-manual cues or use of body language which may have had a grammatical significance. Finally, the interpreter may wish to talk about any unexpected issues for them.

Given my experience, the following are some recommendations I would make to improve interpreter-mediated interviews with minors. Firstly, interpreter training curricula should include a unit on child development and the impact of different ages of onset of deafness and of different types of deafness on child development, as well as the impact of language delay on particular aspects of cognitive development.

Secondly, interpreters should be encouraged to pursue a specialism in interpreting with children.

There should also be joint multi-agency training sessions with interpreters and the professionals involved in criminal investigations and child protection investigations: i.e. police officers, teachers of Deaf children, child psychologists, and social workers.

Finally, it would also be useful to offer continuing professional development (CPD) or post qualifying training opportunities targeting college and university lecturers involved in the education of the above professional groups, so that this training can be included in the curriculum of undergraduate and postgraduate level courses in colleges and universities.

## 2.3. OVERVIEW TABLE CASE 1

**Case 1: Issues, ideas and concepts mentioned by the practitioners commenting on the case**

**Grey = mentioned by more than 2 practitioners**

Disclaimer: This overview is just to highlight the most striking correspondences between the comments of the practitioners. Some ideas were mentioned by various professionals from different fields of expertise. This does not mean, however, that when an item is not mentioned by practitioners, they by definition attach little or no importance to it. Professionals were free to write from their experiences and expertise. We only highlight frequencies and this does not imply any value judgement on the content of the respective contributions.

**Overview table case 1**

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Psychologist	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
National register of legal interpreters	X	X		
Training for all stakeholders	X		X	X
Specialization of stakeholders in interviewing minors	X	X		X
Respect	X		X	
Briefing		X	X	X
Debriefing	X		X	X
Psychological preparation of the interpreter for the interview	X		X	
Non-verbal signs	X	X	X	X
Agreement on seating arrangement	X	X	X	X
Eye contact	X			X
Interviewing techniques	X		X	
Introduction of LI by PO	X	X	X	X
Literal translation	X			

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Psychologist	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Faithful translation			X	
Quality control	X			
PO = leading person in the interaction	X		X	X
PO puts the minor at ease	X			
Disturbing interruption by LI	X			X
Preference for consecutive mode	X			X <sup>107</sup>
Preference for simultaneous mode			X	X <sup>108</sup>
Preference for using the 1 <sup>st</sup> person (direct speech)	X		X	X
Communication strategies	X	X	X	X
Explanation of the LI's task to the PO			X	X
Trust		X	X	X
Short conversation before the start of the interview	X (PO + minor)		X (LI + minor)	X
Check language of the minor			X	X
Check developmental stage of the child			X	X
Keeping emotional distance during the interview	X		X	
PO adapts the language to the level of the child	X		X	X
Checking the rules	X		X	
Code of conduct			X	
Multi-professional mini-team		X		

<sup>107</sup> To start with; consecutive mode enables the interpreter and participants to check for meaning.

<sup>108</sup> If necessary, when the interpreter can ensure the necessary accuracy and the age/developmental stage of the child allows for the use of simultaneous mode.



# CHAPTER 3

## INTERPRETED INTERVIEWS WITH HIGHLY VULNERABLE CHILDREN

### 3.1. DEFINITIONS AND VULNERABILITY FACTORS

György VIRÁG

*“Vulnerability is a concept fraught with paradox. To start with, the concept is in common use but its meaning is imprecise and contested. Confusing, complex, vague, ambiguous are but a few of the labels scholars across disciplines have used to refer to it. (Bio)ethics and law, in particular, are disciplines which have spawned an extensive literature on vulnerability.”*

Lourdes Peroni – Alexandra Timmer, *Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law*

*“Vulnerability is our susceptibility to be wounded. This fragility is part of our nature and cannot be escaped. The best the brain can do is to shut down conscious awareness of it when pain becomes so vast or unbearable that it threatens our ability to function. The automatic repression of painful emotion is a helpful child’s prime defence mechanism and can enable the child to endure trauma otherwise be catastrophic. The unfortunate consequence is a wholesale dulling of emotional awareness.”*

Gabor Maté, *In the Realm of Hungry Ghosts: Close Encounters with Addiction*

*“On and on the rain will say*

*How fragile we are”*

Sting, “Fragile”

If an object is easily broken or damaged, we deal with it cautiously and treat it in a certain careful way. We even place a warning label on the box it is packed in or on the wrapping, reminding everyone who comes into contact with it, that it is *fragile*. We, human beings, ‘subjects’, although we have no warning label attached, are all fragile; fragility, as *Gabor Mate* put it in the quotation

above, *'is part of our nature and cannot be escaped'*.<sup>109</sup> True as this may be, however, some of us are even more fragile, or, to use another term, more *vulnerable* than others due to certain personal or external characteristics and features. Therefore, we have at least the same level of responsibility and duty of care towards them as is shown to objects: the responsibility to provide enough attention and concern, to ensure special treatment due to their specific needs, and to follow specific or exceptional norms to prevent them being injured and harmed, as far as possible.

The focus of this project and book is not on vulnerability in general, but rather on children in the eddy of the process we call justice or jurisdiction. Therefore, it is further emphasised that children are vulnerable *per se*, by *their very nature, intrinsically because of their age*; as expressed by Martha Fineman, *'children... are prototypical examples of... vulnerable populations'*.<sup>110</sup> Childhood is an age span which is considered to start from birth and end officially, according to the European legal norms, at the age of eighteen (which is, in the legal systems of many countries, the age of majority, the age when someone legally becomes an adult). The law, in this case, reflects society's attitudes and standpoint regarding children, as well as the approaches of developmental and child psychology. The concept of childhood is a creation: a societal product, which only began to emerge at a certain point in human history and which has appeared to evolve and change since then. However, the modern notion does not represent children as 'mini-adults': a child is regarded as different from an adult not only in quantity, but also in quality, characterised by the lack of social, biological, sexual (and legal) maturity. This immaturity is, in general, what makes minors vulnerable in most social contexts including, in particular, legal procedures. However, it should be noted that developmentally (and here the term refers to psychological features as well as biological ones) childhood is not a unified nor a homogeneous period; it is differentiated and divided up into several developmental stages, and in these the effects of various developmental factors, as well as the vulnerability of the minor can be markedly diverse.<sup>111</sup>

This section will try to clarify the definition and nature of this human fragility or vulnerability in order to remove ambiguity and make it clear why action must be taken.

<sup>109</sup> Gabor Mate, *In the Realm of Hungry Ghosts: Close Encounters with Addiction*, North Atlantic Books, Berkeley California, 2010.

<sup>110</sup> See footnote 117 below.

<sup>111</sup> See more about these later under "Vulnerability factors".

### 3.1.1. DEFINITIONS

#### 3.1.1.1. Vulnerability

The term ‘vulnerability’ stems from the Latin word *vulnus* (wound) or *vulnerare* (to be wounded) and describes the potential for someone to be harmed physically and/or psychologically. It is often understood to be the counterpart of resilience.<sup>112</sup> Different dictionaries agree as to the essential meaning of the term. A vulnerable person is weak, defenceless and exposed. He/she is capable of or susceptible to being wounded or hurt physically or emotionally, and open to or defenceless against criticism or moral attack.<sup>113</sup> Peroni and Timmer point out that features of vulnerability ‘arise in the first place from our embodiment: as embodied beings we are all vulnerable, but we experience this vulnerability uniquely through our individual bodies.’<sup>114</sup>

In most accounts of vulnerability, harm and suffering are the central attributes. As Mary Neal’s summary of the literature states: ‘[V]ulnerability speaks to our universal capacity for suffering, in two ways. First, I am vulnerable because I depend upon the co-operation of others (including, importantly, the State)... Second, I am vulnerable because I am penetrable; I am permanently open and exposed to hurts and harms of various kinds.’<sup>115</sup>

The vulnerable subject or group is not able to withstand the hazards, risks or strikes of the environment. In the context of disaster and crisis, vulnerability ‘can be defined as the diminished capacity of an individual or group to anticipate, cope with, resist and recover from the impact of a natural or man-made hazard... it can... arise when people are isolated, insecure and defenceless in the face of risk, shock or stress’.<sup>116</sup>

Suffering and harm are undoubtedly terms with painful and negative connotations, and, therefore, stigmatising effects can be easily attached to

<sup>112</sup> [http://en.wikipedia.org/wiki/Social\\_vulnerability](http://en.wikipedia.org/wiki/Social_vulnerability) Downloaded on 9 October 2014. See also: Collins Dictionary, [www.collinsdictionary.com/dictionary/english/vulnerability?showCookiePolicy=true](http://www.collinsdictionary.com/dictionary/english/vulnerability?showCookiePolicy=true).

<sup>113</sup> Random House Kernerman, *Webster’s College Dictionary*, 2010 K Dictionaries Ltd., Random House, Inc., [www.thefreedictionary.com/vulnerable](http://www.thefreedictionary.com/vulnerable) See also e.g. here: American Heritage, *Dictionary of the English Language*, Fifth Edition, 2011, Houghton Mifflin Harcourt Publishing Company; *Collins English Dictionary – Complete and Unabridged*, HarperCollins Publishers 2003; or Dictionary.com <http://dictionary.reference.com/browse/vulnerable>.

<sup>114</sup> Lourdes Peroni and Alexandra Timmer, ‘Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law’, *International Journal of Constitutional Law* (2013), Vol. 11 No. 4, 1056–1085, p. 1058.

<http://icon.oxfordjournals.org/>; Downloaded on October 9, 2014.

<sup>115</sup> Mary Neal “‘Not Gods but Animals’: Human Dignity and Vulnerable Subjecthood”, 33 *Liverpool L. Rev.* 177, 186–187 (2012), cited by Peroni-Timmer 2013, (*supra*) p. 1058.

<sup>116</sup> International Federation of Red Cross and Red Crescent Societies, [www.ifrc.org/en/what-we-do/disaster-management/about-disasters/what-is-a-disaster/what-is-vulnerability/](http://www.ifrc.org/en/what-we-do/disaster-management/about-disasters/what-is-a-disaster/what-is-vulnerability/) Downloaded on December 23, 2014.

vulnerability when the term is used to define groups or subjects as representatives of a 'population'. As Fineman emphasised, 'vulnerability is typically associated with victimhood, deprivation, dependency, or pathology. For example, public health discourse refers to 'vulnerable populations', such as those who are infected with HIV-AIDS. Groups of persons living in poverty or confined in prisons or other state institutions are often labelled as vulnerable populations. Children or the elderly are prototypical examples of more sympathetic vulnerable populations'.<sup>117</sup>

As regards vulnerability and children, it has already been emphasised, in the introductory paragraphs, that minors are considered vulnerable as a given, by definition. What is particular about childhood or age as one of the vulnerability factors is the simple fact that, unlike the other factors, this is the unique feature that all adults have already been exposed to and, therefore, they definitely have their own personal experience.

Although it is not mentioned in the term's descriptions and definitions, vulnerability frequently and typically is accompanied by the devastating, destructive, painful and traumatising human emotions of shame and fear. A person in a vulnerable state feels that s/he is not and never can be good enough. Clearly, nobody dreams about or wishes to be in such a state.

### 3.1.1.2. *Legal approach to vulnerability*

Fragility or vulnerability, as a special state we have to deal with in order to ensure a fair treatment for those concerned, basically belongs to the realm of psychology. This is true, even in cases when the focus is on physical harm or impairments or on external factors and circumstances, since, ultimately, the consequences of these factors are mainly emotional, channelled through our psychic apparatus. We speak about fear, helplessness, disturbed emotional states or cognitive functioning, lack of ability to deal with psychological resources, etc.: psychological phenomena generated by some negative events, features or conditions. We have to manage and handle psychological harm: acute psychological damage, as well as emotional consequences which are chronic in nature. However, the *Cooperation in Interpreter-mediated Questioning of Minors* project focused on the participants in a *legal* process: vulnerable subjects (victims, suspects and witnesses) under the age of eighteen. This is a legal, and specifically a criminal law, context; therefore, the framework of reference, as well as the determinative and bounding definitions in this context, is provided by legal norms. In order to clarify the meaning of the term vulnerability in the interpreter-mediated questioning of minors, we cannot bypass or omit the legal

<sup>117</sup> Martha Albertson Fineman, 'The Vulnerable Subject: Anchoring Equality in the Human Condition', *Yale Journal of Law and Feminism*, Vol. 20, No. 1, 2008, p. 8.



approach; moreover, we must base the account of vulnerability primarily on existing legal definitions.

So what are we talking about when we talk about vulnerability in the realm of the law? There are several EU norms which should be given serious consideration at this point as their regulation aims to strengthen the procedural rights of certain groups or individuals (victims, suspects or other persons affected by the crime), to provide safeguards and to ensure the necessary information, support and protection to them.<sup>118</sup> These laws address subjects whom we undoubtedly would consider to be vulnerable persons (victims of domestic and sexual violence, sexual abuse, trafficking in human beings, child victims, etc.). However, they cannot be taken into account, as they neither mention nor contain any definition of vulnerability. Therefore, without conducting an exhaustive review, this section will provide a short overview of important European legislation including and/or defining vulnerability in explicit terms.

The legal protection of vulnerable subjects in the criminal process has focused, in particular, on the *victims* of crimes. However, the first legal instrument touching on the problem *expressis verbis*, namely the Council of the European Union Framework Decision on the standing of victims in criminal proceedings, was adopted only on the 15<sup>th</sup> of March, 2001.<sup>119</sup> The term *vulnerable* (more precisely: '*particularly vulnerable*') *victim* appears in this Framework Decision, as it states that 'each Member State shall ensure that victims who are **particularly vulnerable** can benefit from specific treatment best suited to their circumstances'<sup>120</sup> (emphasis added). Nonetheless, the Framework Decision makes no mention of the criteria by which member states should decide what 'particularly vulnerable' means, i.e. who is a particularly vulnerable subject. It

<sup>118</sup> Just to mention a few: DIRECTIVE 2012/13/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 May 2012 on the right to information in criminal proceedings; DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA; DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA; DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

<sup>119</sup> It was a milestone, as it was '*the first time that there is a so-called "hard-law instrument" concerning victims of crime became available at the international level. The Framework Decision codifies rules at the supranational level concerning the legal position of victims that are binding concerning the domestic legal order of the member states. Prior to 2001, only soft-law instruments were on offer, like the resolution of the General Assembly of the United Nations and the Recommendation of the Council of Europe in this field*', M.S. Groenhuijsen and Antony Pemberton. (2009), 'The EU framework decision for victims of crime: Does hard law make a difference?', *European Journal of Crime, Criminal Law and Criminal Justice*, 17(1), 43–59, p. 43.

<sup>120</sup> Section 2 of Article 2.

is left completely to the member states' discretion to define this concept. Just five years later, in 2006, the Recommendation of the Council of Europe<sup>121</sup> does provide insight into the concept of vulnerability, determining the relevant parameters. Article 3.4 declares: 'States should ensure that victims who are particularly vulnerable, either through their personal characteristics or through circumstances of the crime, can benefit from special measures best suited to their situation' (emphasis added). Though the Recommendation Rec (2006)8 determines the relevant parameters, there is no exact clarification of the difference between the meaning of the concepts '*vulnerable*' and '*particularly vulnerable*', as it is not an overstatement to posit that the reference to '*personal characteristics*' and the '*circumstances of the crime*' is quite vague and indefinite both in general and especially in the legal context. Obviously, one can call into question whether a more precise definition of vulnerability is needed in order to manage the problem and provide the necessary information, support and protection to those affected. The authors of the Project Victims in Europe share this attitude and are of the opinion that an explicit definition of vulnerability is not necessary for correct transposal of the article. Instead, reference to special treatment of categories of victims due to their specific needs is sufficient. Reviewing the legislation of the member states to see whether they do afford certain groups of victims special treatment, Project Victims in Europe found evidence of this kind of 'implicit' definition of vulnerability ('age victim' in 27, 'handicap victim' in 19, 'type of crime' in 20 member states).<sup>122</sup>

The critical position of victims in criminal procedure as regards vulnerability and, therefore, the enhanced focus of European legislation on them in this respect are understandable. However, it is also obvious that vulnerability does not depend on the role or procedural position a person has occupied in these processes. The factors and circumstances that make someone defenceless and exposed have the same affect on the person concerned, no matter whether he or she is the victim or the witness, or even the suspect of the criminal case concerned. This evident need for procedural safeguards for vulnerable suspects and accused was recognised by the European Commission, in 2013, with the publication of its Recommendation.<sup>123</sup> The first article declaring the aim of the Recommendation already gives a definition of the vulnerable person, stating that 'the aim of this Recommendation is to encourage Member States

<sup>121</sup> Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims (Adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies).

<sup>122</sup> Project Victims in Europe. Implementation of the EU Framework Decision on the standing of victims in the criminal proceedings in the Member States of the European Union 2009. [https://www.tilburguniversity.edu/upload/a5109807-64bf-446a-ad22-c57f850ea7c5\\_apvicineurope.pdf](https://www.tilburguniversity.edu/upload/a5109807-64bf-446a-ad22-c57f850ea7c5_apvicineurope.pdf) (Download date: 23. Sept. 2014), pp. 39–40.

<sup>123</sup> COMMISSION RECOMMENDATION of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings 2013/C 378/02.

to strengthen the procedural rights of all suspects or accused persons who are **not able to understand and to effectively participate in criminal proceedings due to age, their mental or physical condition or disabilities** (“vulnerable persons”) (emphasis added). Therefore, according to this Recommendation, vulnerability means lack of ability to understand and effectively participate in criminal proceedings, and this deficit is due to age, mental or physical condition, or disabilities. Apparently, this recommendation omitted the reference to the ‘circumstances of the crime’, which was an element of the Recommendation Rec(2006)8 of the Committee of Ministers relating to the victims of crimes, and used only the other element of that Recommendation, namely the specified ‘personal characteristics’ or impairments.

The 2013 Recommendation operates not only with the term ‘vulnerable person’, but also with the term ‘particularly vulnerable person’. According to Article 11, ‘Persons who are recognised as particularly vulnerable are not able to follow and understand the criminal proceedings. In order to ensure that their fair trial rights are ensured, they should not be able to waive their right to a lawyer.’

At this point, it could be argued that, based upon the text of this Recommendation, the difference between the ‘vulnerable persons’ who, by definition, ‘are not able to understand and to effectively participate in criminal proceedings’, and the ‘particularly vulnerable persons’, who are ‘not able to follow and understand the criminal proceedings’, is unclear. Furthermore, Article 13 states that ‘Vulnerable persons are not always able to understand the content of police interviews to which they are subject. In order to avoid any contestation of the content of an interview and thereby undue repetition of questioning, these interviews should be audio-visually recorded.’ It seems to be evident that the legislator’s intention was to provide additional safeguards to strengthen the procedural rights of vulnerable subjects and to ensure their enforcement even during police interviews. However, the repetition appears to be redundant.

### 3.1.2. VULNERABILITY FACTORS

#### 3.1.2.1. *General considerations and classifications*

On the most undifferentiated level of abstraction, there are two common factors of vulnerability: the hazard or danger that jeopardises the individual, and the lack of ability to cope with, to adapt to or to recover from this risky situation, usually in relation to or due to some internal or external condition.<sup>124</sup>

<sup>124</sup> Kroemker and Mosler use for these the terms ‘Criticality’ and ‘Capacity’ in their article about the dangers of the two closely intertwined systems, human social systems and ecosystems, in

*Coping* is expending conscious effort to solve the problems we are confronted with and seeking to master the conflicts we get into. The effect of a certain event or situation on us depends not only on what happens, i.e. the nature and characteristics of that particular event or situation, but also on how we experience it and how we are able to respond to it. This subjective and individual process includes the thoughts we have about and the meaning we assign to the event or situation, as well as the set of reactions we are able to mobilise in order to respond to the meaning we have assigned to it. The mechanisms of this coping are termed *coping strategies* or *coping skills*. The aim of coping activity is to overcome external and internal threats, to reduce stress levels and to master the critical situation or to adapt to it. There are different types of coping strategies. *Problem-focused coping strategies* are directed towards reducing or eliminating the stressor trying to deal with the cause of the problem, while *emotion-focused coping strategies* are directed towards moderating or changing the emotional reaction accompanying the perception of the stress. It is clear that we have different sets of coping strategies and our abilities to use these differ, just as it is unquestionable that the developmental level of these coping skills are personality and age dependent, which signifies that the age factor will have substantial relevance. In order to illustrate a crime relevant classification of coping strategies, we refer here to Echeburúa and Amor who, in their article on the evaluation of psychological harm in the victims of violent crime, differentiated positive and negative coping strategies for the crime victims. (Tables 1 and 2).<sup>125</sup>

**Table 1. Positive coping strategies**

- 
- Acceptance of the fact and resignation
  - Shared experience of pain and suffering
  - Reorganization of family system and everyday life
  - Positive reinterpretation of the event (as far as possible)
  - Establishment of new goals and relationships
  - Search for social support
  - Involvement in self-help groups or in an NGO
- 

---

relation to the Alps. See: Doerthe Kroemker and Hans-Joachim Mosler, 'Human Vulnerability – Factors Influencing the Implementation of Prevention and Protection Measures: An Agent Based Approach' in: K. Steininger and H. Weck-Hannemann (eds.), *Global Environmental Change in Alpine Regions. Impact, Recognition, Adaptation, and Mitigation*, Cheltenham: Edward Elgar, 2002, pp. 93–112, p 95.

<sup>125</sup> Enrique Echeburúa, Paz de Corral and Pedro Javier Amor, 'Evaluation of Psychological Harm in the Victims of Violent Crime', *Psychology in Spain* 2003, Vol. 7, No 1, 10–18; Table 2 and Table 3, p. 13.

**Table 2. Negative coping strategies**

- 
- Dwelling on memories and asking questions with no answers
  - Feelings of guilt
  - Negative emotions of hate or revenge
  - Social isolation
  - Involvement in judicial processes, especially when the subject involves him/herself in them voluntarily
  - Excessive consumption of alcohol or drugs
  - Abuse of medicines
- 

‘Moving down’ through the levels of abstraction, but still speaking generally, the factors of vulnerability can be classified on the basis of the specifications of the conditions mentioned. Choosing the locus of the elements from the point of view of the subject concerned, there may be internal or individual factors (personal/constitutional/biological characteristics) and external features (situational, social, ecological, etc. factors). The same type of sorting can be conducted on the basis of ‘timing’ too, saying that there are personal and situational (internal and external) factors that already existed before the hazardous situation evolved, and factors which belong to the aftermath of the event.

Coming closer to the field of crime, research on victimology indicates three sets of vulnerability factors: 1. the pre-existing psychological or demographic features of the victim, 2. the severity and circumstances of the crime, and 3. the reaction of the social surroundings in the aftermath of victimisation.<sup>126</sup> Pre-existing features may be the so called *risk factors* referring to the psychological or demographic features or predispositions that make someone an easy or more attractive target to a potential aggressor (like being female, being young, living alone, having consumed excessive alcohol or drugs, having a condition of mental deficiency, etc.) and the genuine *vulnerability factors*. The latter, such as *psychological vulnerability* (precariousness of emotional balance) or *biological vulnerability* (a lower threshold of psycho-physiological activation), make a subject more likely to suffer an intense emotional impact after being the target of (or indirectly affected by) a crime.<sup>127</sup> Pre-existing emotional imbalance can enhance vulnerability through exacerbating the psychological impact of the crime. According to Echeburúa and Amor, ‘factors such as, a low level of intelligence (above all when there is a history of school failure), previous emotional fragility and poor adaptation to change, as well as an external locus of control and a perception of the crime as something extremely serious and irreversible, are likely to increase frustration and contribute to generating a sensation of helplessness and despair, with very little confidence in one’s

---

<sup>126</sup> Project Victims in Europe..., p. 39.

<sup>127</sup> Echeburúa and Amor, *ibid.*, pp. 12–13.

psychological resources for taking control of the situation. Emotional fragility is accentuated when there is a record as the victim of other violent crimes and abuse, when there is accumulated stress, when there are family psychiatric antecedents and when there is parental divorce before the victim reaches adolescence'<sup>128</sup> Research results on psychological and physical health problems after a man-made disaster indicate that 'after adjustment for demographic and disaster-related variables, pre-existing psychological problems were significantly associated with post-disaster self-reported health problems and post-disaster problems presented to the GP. This association was found for both psychological and physical post-disaster problems.'<sup>129</sup>As regards the second set of vulnerability factors (severity and circumstances of the crime), it is obvious that certain type of crimes (such as domestic violence, sexual violence, murder – with brutal impact for a relative in the case of the violent death of a loved one – or attempted murder, etc.) and the circumstances or severity of the same crime may increase the vulnerability of the subjects concerned significantly and constitute grounds for their special treatment. Among other researchers, Ozer et al.'s results, in their review of 2,647 studies of posttraumatic stress disorder for the meta-analysis of predictors of post-traumatic stress disorder (PTSD) or of its symptoms, suggested that peritraumatic psychological processes, not prior characteristics, are the strongest predictors of PTSD.<sup>130</sup>

The reaction of the social environment in the aftermath of victimisation (third set of vulnerability factors) also forms an important set of risk factors. Secondary victimisation is the phenomenon usually mentioned in this regard. As Echeburúa and Amor stated, 'secondary victimisation is determined by the subsequent relationship between the victim and the judicial-penal system (police, judicial system, etc.) or with defective social services. Institutional maltreatment aggravates the psychological harm to the victim and functions... as a subsequent ancillary cause'. The social support received is also of utmost importance regarding the stabilisation of the psychological harm suffered. Insufficient close social support can intensify considerably the emotional consequences of the crime, in general, and the role of parental and family support is extremely significant, especially in the case of minor subjects.

On the basis of the texts of the relevant European norms cited above, it is possible to differentiate two sets of vulnerability factors: 1. personal characteristics and 2. the circumstances of the crime (Art. 3.4 of Recommendation Rec(2006)8). The first set (personal characteristics) can be

<sup>128</sup> Ibid., p. 13.

<sup>129</sup> Anja J.E. Dirkzwager, Linda Grievink, Peter G. Van Der Velden en C. Joris Yzermans, 'Risk factors for psychological and physical health problems after a man-made disaster. Prospective study', *British Journal of Psychiatry* (2006), 189, pp. 144–149, p. 144.

<sup>130</sup> Emily J. Ozer, Suzanne R. Best, Tami L. Lipsey, Daniel S.Weiss, 'Predictors of posttraumatic stress disorder and symptoms in adults: A meta-analysis', *Psychological Bulletin*, Vol. 129(1), January 2003, 52–73.

further refined using the 2013 Commission Recommendation's definition (Art. 1) i.e. 1. age, 2. mental condition or disabilities and 3. physical condition or disabilities.

Finally, the *Cooperation in Interpreter-mediated Questioning of Minors* project's assumption was that in criminal proceedings, when the child victim and the legal practitioner do not speak the same language, minors are vulnerable because of two reasons ('factors'): age and native language.

### 3.1.2.2. Factors

In summary, what are the vulnerability factors specifically related to a minor who is participating in interpreter-mediated questioning during a criminal proceeding?

Looking through the legal norms cited above, it clearly stands out that, in attempting to identify the substance of vulnerability, the central point made in the definitions focuses on *understanding*. Vulnerable persons are people who are not able *to understand* the criminal proceedings or the content of police interviews to which they are subject. Therefore, in this context, vulnerability is defined as a *communication problem*: the vulnerable persons have a communication disability, an incapacity relating to the information process that limits the subjects' ability to effectively participate in the criminal proceedings and to exercise their procedural and other rights during the legal process. Apparently the typical situation *par excellence* where such a communication difficulty arises is precisely a hearing where the subjects (victims, witnesses or suspects) and the legal practitioners do not speak the same language and, therefore, interpreter-mediated questioning is required. Vulnerability factors in this type of situation are the circumstances or features that produce the communication difficulty or contribute to its creation. An overview of these factors is provided below, summarising them in a step-by-step or gradual mode. However, first of all, it is important to emphasise and remind the reader that vulnerability is usually not a single factor state where one element determines the end result; it is always the result of an interaction between different factors (internal, external, etc.), an interaction which is complex and hard to dissect or pull apart. This is true, of course, in the context of this project as well.

To summarise, what makes someone vulnerable or what are the vulnerability factors in an interpreter-mediated questioning of minors situation?

A minor is vulnerable due to his/her **age**, simply because he/she is a child. That is the reason why he/she is 'underage' according to the legal evaluation, meaning that he/she is under the age of taking full legal responsibility. The '*age-factor*' relates particularly to problems of communication and understanding. Crime and criminal procedure is an adult business; moreover, it is usually necessary

not only to be an adult but even to be a legal expert in order to comprehend and grasp the duties and rights, as well as the procedure. Knowledge and intellectual skills and abilities, such as, among other things, cognitive and verbal abilities, and being capable of comprehension, articulation and conceptualisation are age specific and, therefore, not developed enough in childhood, especially in the younger age groups, to put the minor in the position of being able to understand what is happening and to defend and to enforce his/her rights properly. The historical character of the concept of childhood has already been referred to in the introduction to this section and it was previously mentioned that, according to the modern notion of childhood, broadly speaking, immaturity can be regarded as a factor which qualitatively differentiates a child from an adult.<sup>131</sup> Having been the victim of a crime may result in massive psychological damage, even in the cognitive structure of an adult, resulting in feeling confused, finding it difficult to make a decision or being overwhelmed by perceptions of helplessness and lack of control. This is even more true in the case of the immature cognitive apparatus and intellectual skills of minors. The psychological damage suffered by them during or due to the crime can significantly incapacitate them: making it difficult to manage even the everyday demands of life, not to mention the intellectual demands of a criminal procedure.

It must be borne in mind that childhood is not only an intellectual handicap; minors are at a disadvantage emotionally as well (and, therefore, are vulnerable). They are more sensitive, susceptible, and, consequently, more defenceless from an emotive and affective point of view.

A child's situation is further complicated by the fact that childhood is not a unified or homogeneous period, as it is differentiated and divided up into several developmental stages. In these stages, the maturity of skills and abilities – and therefore the vulnerability – of the minor can be markedly diverse. Cognitive and emotional maturity are obviously significantly different in *toddlerhood* (learning to walk), in *early childhood* (play age), in *middle childhood* (school age), or in *adolescence* (puberty through post-puberty), though in both cases we speak about a child or a minor. Hence, when thinking about or planning the age appropriate treatment of a minor in interpreter-mediated questioning, we cannot speak about vulnerability in general but we have to tailor the intervention to the particular age or developmental phase of the particular child.

A minor is vulnerable in interpreter-mediated questioning due to **language** impediment, when his/her native tongue is different from the language used in the procedure and, therefore, he/she does not speak this language properly or

---

<sup>131</sup> There is not enough space here to explore in detail the meaning of this 'historical character', or why childhood is not a natural phenomenon, but rather a creation of society; therefore, we refer the reader to the well-known books by Philippe Ariès (*Centuries of Childhood*, 1962) and Hugh Cunningham (*The Invention of Childhood*, 2006).



does not speak it at all. As was pointed out above, vulnerability is defined as a communication problem or as a problem of understanding. Spoken language and verbal interaction are primary means of communication during a hearing; hence, anyone whose capacity is limited in this area, and, therefore, who requires assistance to be able to participate in the communication, is vulnerable. To have a sense of what this feels like: imagine how you would feel in a foreign country if you were suddenly stopped by a police patrol. Supposing that you speak only a few words of the language of that country and can only understand that you are suspected of or charged with an offence or are under arrest and that you have to solve the problem with the few words you master, would you feel vulnerable? Or would you find it convenient, easy-going and adequate to see a gynaecologist or a psychiatrist with the help of an interpreter? In a situation where precise expression of feelings, sentiments and sensations, as well as intimacy are of utmost importance, would it be a comfortable situation and easy to solve? (It goes without saying that the ‘*language-factor*’ also applies to participants in questioning who need a sign language interpreter because of a hearing impairment, as they obviously belong to this group.) In addition, the ‘*language-factor*’ is not limited to verbal communication in the strict sense, but it also involves a shared set of cultural and nonverbal (or meta-communicative) norms which native speakers have in common and that feature further enlarges the problem.

The vulnerability of the non-native speaker minor can be intensified and escalated by **impairments**, internal and external respectively.

*Internal* (individual/ biological) *impairment factors* or *personal characteristics* may be *physical impairments*, such as being deaf or hard of hearing (mentioned above), or having a visual impairment or other physical disabilities, as well as organic *mental disabilities* that restrict someone’s cognitive and intellectual capacities and/or verbal abilities. Intellectual disability and other neurodevelopmental disorders are mentioned here as examples.<sup>132</sup> *Psychological conditions* or *impairments* also belong to this category. Anxiety disorders, mood disorders, impulse-control disorders, dissociative disorders, just to mention a few<sup>133</sup>, can have a definite, manifest and intense effect on the capabilities concerned. Psychological impairments can be the result of external incidents, like deprivations, traumas (physical, sexual or verbal abuse, etc.) or witnessing violence. These markedly shape the ability and willingness to communicate verbally, as well as general trust in interpersonal relationships or the ability and willingness to engage or participate in a relationship at all.

<sup>132</sup> For details see: *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, published by the American Psychiatric Association, 2013.

<sup>133</sup> See footnote above.

The concept of psychological impairment due to external incidents is a kind of bridge of thought to the other impairment factor, *external impairment* or the *circumstances of the crime* committed.

*External psychological impairment* usually denotes the psychological harm or traumatic consequences of a crime. The typical aftermath of a trauma and the most common psychological damages are adaptive disorders (depression, anxiety), posttraumatic stress disorder (PTSD) and the general imbalance of the personality. There are numerous classifications of these consequences. Echeburúa and Amor provide the following list of psychological harm in victims of violent crime (Table 3).<sup>134</sup>

**Table 3. Psychological harm in victims of violent crime**

---

Negative feelings: humiliation, shame, guilt or anger
Anxiety
Constant worry due to the trauma, with a tendency for flashbacks
Depression
Progressive loss of personal confidence as consequence of the feelings of helplessness and despair
Decrease in self-esteem
Loss of interest and concentration with regard to activities previously enjoyed
Changes in the system of values, especially confidence in others and the belief in a just world
Hostility, aggressiveness, drug and alcohol abuse
Modification of relationships (emotional dependence, isolation)
Increase in vulnerability, with fear of living in a dangerous world, and loss of control over one's own life
Drastic change in lifestyle, with fear of going to the usual places; urgent need to change place of residence
Alterations in rhythm and amount of sleep
Sexual dysfunction

---

The consequences mentioned in this classification are typically the immediate or short-term results of a trauma and usually these are the relevant ones in a criminal procedure. However, it must be added that the trauma has long-term effects as well, inducing long-lasting distortions, and this is especially true in the case of the developing personality of a child. This can be of relevance in a criminal case as well, but should be borne in mind regardless of the prevailing circumstances. The thinking of the child victim is affected massively and for a long-term period by the trauma. In the trauma based world-view, the fundamental notion that life is orderly and meaningful disappears, the matrix of meaning, order and predictability is shattered. For the trauma victims, the irrational tendency to see benevolence in the world is lost; they accept

<sup>134</sup> Echeburúa and Amor, *ibid.*, p. 11, Table 1.

indifference or even malevolence as the rule. And, faced with a meaningless and malevolent world, mastery no longer exists.<sup>135</sup> As Gabor Maté formulated in his book: ‘The greatest damage done by neglect, trauma or emotional loss is not the immediate pain they inflict but the long-term distortions they induce in the way a developing child will continue to interpret the world and her situation in it. All too often these ill-conditioned implicit beliefs become self-fulfilling prophecies in our lives. We create meanings from our unconscious interpretation of early events, and then we forge our present experiences from the meaning we’ve created.’<sup>136</sup>

The *circumstances of the crime* here can represent two issues: the severity of the crime, on the one hand, and the type of crime on the other. Both can have a significant and heavy influence on the psychological condition of the subject concerned and thus on vulnerability. Regarding the latter, usually domestic and sexual violence is mentioned. For example, the Project Victims in Europe’s paper declared that ‘research has shown this risk [of secondary victimisation in the interaction with criminal justice agencies] to be elevated for victims of certain types of crimes (like sexual or domestic violence)...’<sup>137</sup> As regards the special treatment of categories of victims due to their specific needs, they concluded (based on their European research) that ‘as to vulnerability, the results show that most member states find mental disability or the **type of crime suffered** to constitute grounds for special treatment of victims. This concurs with the way the Council of Europe defines vulnerability’ (emphasis added).<sup>138</sup> Directive 2012/29/EU of the European Parliament and of the Council<sup>139</sup> emphasises two groups of crime: gender-based violence<sup>140</sup> and violence committed in a close relationship.<sup>141</sup> According to the Directive, gender-based violence: ‘May result in physical, sexual, emotional or psychological harm, or economic loss, to the victim. Gender-based violence is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called

<sup>135</sup> For more details, see Anna C. Salter, *Transforming Trauma. A Guide to Understanding and Treating Adult Survivors of Child Sexual Abuse*, London, Sage Publications Inc., 1995, pp. 201–220.

<sup>136</sup> Gabor Maté, *ibid.*

<sup>137</sup> Project Victims in Europe... p 39.

<sup>138</sup> *Ibid.* p 41.

<sup>139</sup> DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

<sup>140</sup> ‘Violence that is directed against a person because of that person’s gender, gender identity or gender expression or that affects persons of a particular gender disproportionately...’ *ibid.*

<sup>141</sup> ‘violence... committed by a person who is a current or former spouse, or partner or other family member of the victim, whether or not the offender shares or has shared the same household with the victim’ *ibid.*

”honour crimes”. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.’ (17) Finally, as regards violence committed in a close relationship, the Directive states: ‘Such violence could cover physical, sexual, psychological or economic violence and could result in physical, mental or emotional harm or economic loss. Violence in close relationships is a serious and often hidden social problem which could cause systematic psychological and physical trauma with severe consequences because the offender is a person whom the victim should be able to trust. Victims of violence in close relationships may therefore be in need of special protection measures. Women are affected disproportionately by this type of violence and the situation can be worse if the woman is dependent on the offender economically, socially or as regards her right to residence.’ (18)

To conclude as we began, the words of Sting’s lyrics stand here as a reminder of our fragility and vulnerability:

That nothing comes from violence and nothing ever could  
 For all those born beneath an angry star  
 Lest we forget how fragile we are.

## REFERENCES

- Dirkzwager, Anja J.E., Grievink, Linda, Van Der Velden, Peter G. and Yzermans, C. Joris, ‘Risk factors for psychological and physical health problems after a man-made disaster. Prospective study’, *British Journal of Psychiatry* (2006), 189, pp. 144–149.
- Groenhuijsen, M.S. and Pemberton, Antony (2009), ‘The EU framework decision for victims of crime: Does hard law make a difference?’, *European Journal of Crime, Criminal Law and Criminal Justice*, 17(1), 43–59.
- Echeburúa, Enrique, Corral, Paz de and Amor, Pedro Javier, ‘Evaluation of Psychological Harm in the Victims of Violent Crime’, *Psychology in Spain*, 2003, Vol. 7. No 1, 10–18.
- Fineman, Martha Albertson (2008), ‘The Vulnerable Subject: Anchoring Equality in the Human Condition’, *Yale Journal of Law and Feminism*, Vol. 20. No.1. 2008.
- Kroemker, Doerthe and Mosler, Hans-Joachim (2002), ‘Human Vulnerability – Factors Influencing the Implementation of Prevention and Protection Measures: An Agent Based Approach’, in: Steininger, K. and Weck-Hannemann, H. (eds.), *Global Environmental Change in Alpine Regions. Impact, Recognition, Adaptation, and Mitigation*, Cheltenham: Edward Elgar, 2002, pp. 93–112.
- Maté, Gabor, *In the Realm of Hungry Ghosts: Close Encounters with Addiction*, Berkely California, North Atlantic Books, 2010.
- Neal, Mary (2012), “‘Not Gods but Animals’: Human Dignity and Vulnerable Subjecthood”, 33 *Liverpool L. Rev.* 177, 186–187.

- Ozer, Emily J., Best, Suzanne R., Lipsey, Tami L., Weiss, Daniel S., 'Predictors of posttraumatic stress disorder and symptoms in adults: A meta-analysis', *Psychological Bulletin*, Vol. 129(1), January 2003, 52–73.
- Peroni, Lourdes and Timmer, Alexandra (2013), 'Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law', *International Journal of Constitutional Law*, Vol. 11 No. 4, 1056–1085, <http://icon.oxfordjournals.org/>, downloaded on 9 October 2014.
- Project Victims in Europe. Implementation of the EU Framework Decision on the standing of victims in the criminal proceedings in the Member States of the European Union 2009, [https://www.tilburguniversity.edu/upload/a5109807-64bf-446a-ad22-c57f850ea7c5\\_apvicineurope.pdf](https://www.tilburguniversity.edu/upload/a5109807-64bf-446a-ad22-c57f850ea7c5_apvicineurope.pdf), downloaded on 23 September 2014.
- Salter, Anna C., *Transforming Trauma. A Guide to Understanding and Treating Adult Survivors of Child Sexual Abuse*, London, Sage Publications Inc., 1995.

## 3.2. HIGHLY VULNERABLE CHILDREN IN THE JUSTICE SYSTEM

Ágota SZEKERES and Beata SZENCZI

### 3.2.1. HIGHLY VULNERABLE CHILDREN

In the justice systems of most countries, children are regarded as vulnerable witnesses because of their age. This makes all people under eighteen years of age, appearing as defence or prosecution witnesses in criminal proceedings, eligible for special assistance when giving their evidence in court or during questioning.

In addition to witnesses who are under the age of eighteen at the time of the hearing, adults are also considered vulnerable if they are likely to be unable to take care of themselves, or are less able to protect themselves against harm or exploitation due to age, illness, trauma or disability.

This section deals with people who are highly vulnerable in the sense that they are less able to take care of and protect themselves (1) due to their age and (2) by reason of disability; i.e. disabled children. The first part of the section provides an overview of the concept of disability. This is followed by a detailed description of the different disability groups with an emphasis on the characteristics that need to be taken into account when interacting with these people (communication, attention, memory, social skills, etc.). The prevalence of these children in justice systems and the relationship between disability and crime is discussed in Part 4. Finally, some guidance and tips are articulated that may help in collaborating with disabled children.

### 3.2.2. THE CONCEPT AND MODELS OF DISABILITY, THE DISABILITY PROCESS

According to the most recent models, disability is the result of a sequence of consequences that follows a disease or a disorder. A disease may result in impairment that may be followed by disability, then handicap. The meaning of the different concepts in this model are outlined below.

**Impairment** refers to a temporary or permanent anatomic, physiological or psychological loss or abnormality (e.g. an injured body part, organ, an amputated limb, restricted respiratory function, anxiety). Impairment is a deviation from some norm in the individual's biomedical status, where the defect may be in the organ system of vision, hearing, movement, speech or neural system.

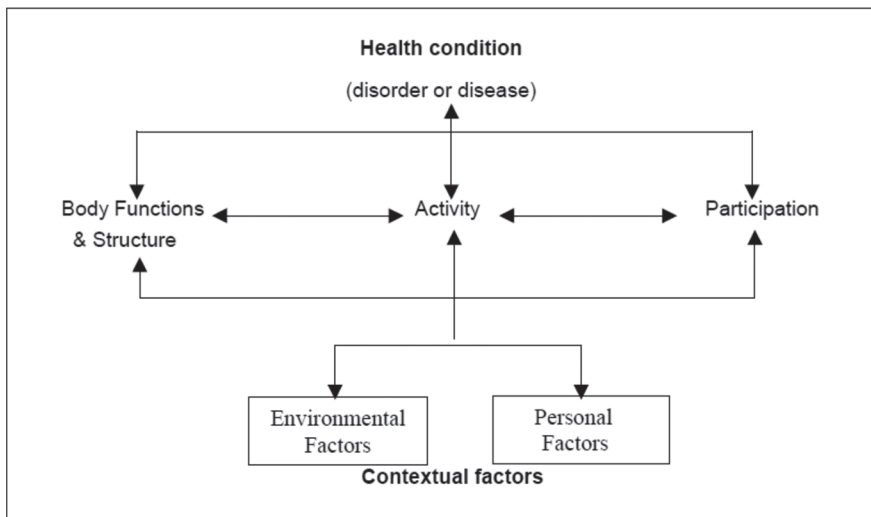
**Disability** refers to the temporary or permanent, partial or complete loss of skills necessary for normal human perceptual, motor or mental functions (walking, manipulation with objects, vision, speech, etc.). Disability is a deviation in the individual's human functions.

**Handicap** is a disadvantage for a given individual that limits or prevents the fulfilment of a role that is normal (depending on age, sex, and social and cultural factors) for that individual in their everyday lives (self-preservation, social relations, learning, earning capacity, entertainment). Handicap is a deviation from some norm in the social roles and functions of an individual as a social creature (WHO, 1980).

In this sense, these concepts refer to the three dimensions of the same process. Therefore, when we talk about human beings in special education, we believe that the individual is not identical with any of these, not with his/her impairment, disability or handicap (Mesterházi, 2004).

This linear approach proved to be insufficient to explain the whole phenomenon, so, in 2001 a new model appeared that tried to shed light on the interaction of different factors. Chart 1. below shows this model of disability.

Chart 1. The model of disability in ICD-10 (WHO, 2001)



Similarly, the starting point here is a disease or a disorder which may lead to impairment in body functions, activity limitations and participation restrictions.

Taking a closer look at activity and its limitations, the latter means that the implementation of different activities may be hindered. For instance, people with physical disabilities may experience difficulties with transportation (due to the low level of accessibility to buildings). Participation restrictions, on the other hand, refer to restricted participation in society, e.g. a youngster with a physical disability might face difficulties on the job market due to problems with transport. All these might be affected by certain environmental factors (e.g. values held by the close family or by the wider social environment, integration or segregation in education, etc.) or personal factors (the individual's own openness, communicational and cooperational skills) (WHO, 2001).

### 3.2.3. DISABILITIES AND SPECIAL EDUCATIONAL NEEDS (SEN)

Disability categories vary across countries. Disability classification of children, however, is most often associated with their different, or rather, special educational needs (SEN). Internationally, the most widely-accepted definition of SEN is a resources-based definition developed as an Organisation for Economic Co-operation and Development (OECD) indicator. Special needs education is here defined operationally in terms of the additional public and/or private resources provided to support the education of these students. These additional resources can be financial, personnel or material (OECD, 2007).

The three groups of individuals covered by the international definition of SEN are: students with disabilities, students with learning difficulties and disadvantaged children and youth. More specifically:

Cross-National Category A/Disabilities: Students with disabilities or impairments viewed in medical terms as organic disorders attributable to organic pathologies. The educational need arises from problems caused by the disability. Typical examples are students with visual or hearing impairment.

Cross-National Category B/Difficulties: Students with behavioural or emotional disorders, or specific difficulties in learning. The educational need arises primarily from problems in the interaction between the student and the educational context.

Cross-National Category C/Disadvantages: Disadvantages arise primarily from the socio-economic, cultural or linguistic status of the student. The educational need is to compensate for the disadvantages attributable to these factors. For instance, students whose mother tongue is different from that of the official language of the given country typically belong to Category C. (OECD, 2007).



This section outlines the characteristics of children belonging to Cross-National Category A/Disabilities and Cross-National Category B/Difficulties.

### 3.2.3.1. *Groups of children with special educational needs*

#### – **Physical disability**

Physical disability refers to conditions when due to the congenital or acquired impairment of the supporting (skeletal and articular systems) or the controlling (muscular and nervous systems) organ system the motor functioning and the socialisation of the individual are significantly and permanently handicapped. Due to the multiple etiology, the nature of physical disabilities varies with the individual, resulting in various personal developmental trajectories. The education of these children are largely dependent upon the remaining functions, e.g. ability to change positions and places, self-service, hand function, manipulation, use of objects, grafomotoric performance, verbal and non-verbal communication (Benczúr, 2000).

When interacting with children with physical disability, some things must be kept in mind. The ability structure of physically disabled children with intact intellect may exhibit special characteristics. For instance, the disability might interfere with communication as a result of which speech and the implementation of speech movements might be hard. Pronunciation is sometimes distorted, hard to understand. Mimics and other metacommunicative signals may also differ from what is usual. Other characteristics may include the slower speech becoming even slower with anxiety or stress. Comorbid problems may be deviations in cognitive functions, such as encoding or retrieving information from memory (Fótiné Hoffmann, Lénárt, Mlinkó, 2011).

#### – **Visual impairment**

Visual impairment refers to a best corrected central vision of 30% of intact vision or worse in the better eye or a visual acuity of better than 20/200 but with a visual field no greater than 20° (WHO).

There are 4 levels of visual function according to the International Classification of Diseases – ICD-10:

1. normal vision;
2. moderate visual impairment;
3. severe visual impairment;
4. blindness.

Moderate visual impairment combined with severe visual impairment is grouped under the term '*low vision*'. Low vision taken together with blindness represents all visual impairment.

According to ICD-10, 'a person with low vision is one who has impairment of visual functioning even after treatment and/or standard refractive correction, and has a visual acuity of less than 6/18 to light perception, or a visual field of less than 10 degrees from the point of fixation, but who uses, or is potentially able to use, vision for planning and/or execution of a task'.

When communicating with visually impaired children, one must consider that they cannot see non-verbal signs (mimicry, gestures, etc.), so speakers must be clear and precise in their utterances. At the same time, however, visually impaired individuals are very sensitive to metacommunicative signals (intonation, etc.). Pre-school age children sometimes do not use first person singular ('I') when talking about themselves. Visual impairment does not affect vocabulary, although the comprehension of abstract concepts might pose problems for visually impaired children, so it is better to use concrete nouns. It is also advisable to regularly check if the child/youngster is still paying attention, since, because of the lack of eye contact, this might be difficult to control.

#### – **Hearing impairment**

A child has hearing impairment, if the hearing loss interferes with his or her developmental, educational and learning potential to such an extent that for education to be successful, special educational support is necessary.

The groups of people with hearing impairment are:

1. Hard of hearing (mild 30–45 dB, moderate 45–60 dB, severe 65–90 dB): hearing loss causes difficulties in the acquisition and understanding of oral speech. The extent of this may range from communication disorder to the approximation of normal language skills;
2. Deaf (below 90 dB): characterised by the inability to spontaneously develop or acquire oral speech, or severe difficulties in doing so, and general difficulties in communication. Cognitive functions and thinking skills may be affected as a result of the severity and characteristics of the hearing loss, as well as due to environmental factors;
3. People with hearing impairment and dysphasia, in case of whom symptoms of learning disabilities may also be present: speech motor problems, level of skills in lipreading, dysgraphia, dyslexia, dysymbolia, dyspraxia (Farkas, Perlusz, 2000).

Hearing impaired children's main communication mode is speech, during which they rely on hearing supported by a hearing aid, as well as lipreading. Most hearing impaired children have a good command of lipreading, although speech reception is made difficult even for them, if the language uses many similar sounds. To distinguish between these, they need to make use of their remaining hearing and to deduce meaning from the context. Other circumstances may also hinder lipreading, such as getting used to the speech movements of the speaker, accent, dialects, a moustache or beard covering the lip, lighting conditions, etc. For some children – especially for those with dysphasia – lipreading is difficult. For them, writing may be as a solution, as visual information is presented simultaneously in this case. As for children who rely on remaining hearing and lipreading, it is important for the speaker to face the child, to be visible and understandable. The closer a speaker is to the child, the better he or she can understand. The ideal proximity is 20–30 cm. It is also important to note that the hearing aid amplifies noises, as well as speech.

To provide optimal conditions for lipreading, the interrogator must face the child and never cover his or her lips. The most appropriate style is to use normal tempo and articulation, as over articulation, slow speech or the raising of the volume do not assist lipreading – contrary to common belief. Gestures and mimicry, however, provide extra information; therefore, it is very important for these to be visible for the child. Speech reception by means of lipreading and relying on remaining hearing requires continuous attention and concentration on the part of the hearing impaired child, so it must be taken into consideration that the child may become tired earlier than expected.

For children with better language skills, but a lower level of lipreading, it might be necessary to call in an oral interpreter. An oral interpreter silently mouths speech simultaneously to the child with hearing impairment by adding more articulation or natural gestures. Oral interpreters usually position themselves near the hearing impaired individual and turn face-to-face to them. An oral interpreter may also help the child who has speech difficulties express him- or herself.

Some children with more severe impairment prefer sign language over oral language. A sign language interpreter converts the thoughts of the adult into sign language for the hearing impaired child and, if necessary, reads the signs of the hearing impaired individual and renders the message expressed in sign language into the oral language for the hearing party. Some issues to pay attention to when communicating with a hearing impaired individual with the help of an interpreter:

- the adult must not speak to the interpreter, but should turn to and look into the eyes of the hearing impaired child;

- a two-person conversation between the adult interviewer and adult interpreter must be avoided;
- during conversations, time must be given for the interpreter to convey the messages.

When interacting with hearing impaired children, even if the environment takes every necessary step to meet the needs of the child, misunderstandings can occur. The reason for this is that, in these cases, the hearing impaired child has language deficits that hinder understanding of spoken language. Consequently, it is important not to use ambiguous words or phrases. It is also difficult for these children to comprehend emotional messages accompanying oral speech and also intonation that modifies meaning. One should also be prepared for the fact that limited verbal communication in an oral environment causes frustration on behalf of the child which might result in oversensitivity, anger, touchiness or distrust (Perlusz, 2011).

- **Speech disorders**

Speech disorders are a general category for communication problems. These occur in all age groups and the causes might be congenital, acquired, organic or functional. Speech disorders include conditions such as speech sound disorders (articulation and phonological processes), dysphonia, fluency disorders (stuttering, sputtering), language-based learning disabilities, elective mutism, aphasia, etc.

Children and youngsters with speech disorders are more sensitive to their communication partner and to changes in the communication situation. Every time they feel 'communicative pressure', that is urging or lack of attention on the part of the partner, recognising this 'disruption in communication' (loss of eye contact, growing tempo, interruptions, unexpected questions, urging, impatience, etc.), they start to use different communication strategies according to the depth of the disorder, their speech competence and, last but not least, according to their personalities. This strategy can range from a maximal eagerness to reconstruct communication to as far as completely giving up on communication. Which strategy they choose is largely dependent on the partners. Will they or can they adapt to the situation using their own intact communicative competence? Will they keep up their interest, pay attention and speak slower and with enough breaks? Communication will only be successful, if they strive to be understandable and to understand in order to reach the communicative goal. For this to be achieved, speakers must adapt their speech to the needs of the child, must turn to face the child and pay attention. The face and the mouth should be visible when talking, eye contact should be maintained, and an 'ideal' volume, tempo, tone, intonation and

articulation should be found that is not unnatural, but is more understandable. This can be aided by gestures and mimicry. These last two strategies are extremely important if the child has problems with speech perception and comprehension, as the additional visual stimuli (the possibility of lipreading, gestures, mimicry, written aids) are necessary for better understanding. Our speech strategy is correct, if we use a slower tempo, 1–2 second breaks, and we leave time for the articulation of questions before expecting answers (Fehérné Kovács, 2011).

#### – **Autism**

Autism is a pervasive developmental disorder characterised by impaired socio-cognitive and communication skill development. It first appears early, during infancy or childhood, which means that it has a strong genetic basis, although most parents notice overt symptoms only after the age of one and a half years old (Balázs, 2000). It is important to note that autism is a highly variable disorder, a spectrum with cases exhibiting deep autism with massive delays in cognitive and language development at one end, and with slightly autistic, highly functioning persons at the other (Gyori, Kanizsai-Nagy & Stefanik, 2012).

The three areas where impairments are present:

1. reciprocal (mutual) social interactions (metacommunication, e.g. eye contact, sharing of solace, joy and other experiences, etc.);
2. communication (the development of speech, the functional use of speech, e.g. to keep up a conversation, or for non-verbal children the use of other media to compensate, metacommunication accompanying verbality, such as rhythm, tone, intonation, etc.);
3. behaviour, interest, activity (e.g. stereotypy, repetitive movements, insisting on sameness, resistance to change) (Balázs, 2000).

When interacting with a child with autism spectrum disorder, one should bear in mind the following:

- for people with autism, the social environment is unpredictable, often incomprehensible and stressful;
- the implementation of even the simplest, open-ended, goal-oriented actions can lead to failure;
- unimportant information can veil important, meaningful content.

For this reason, it is important to create an emotionally secure environment. One way of doing so is to make the environment comprehensible and predictable for the child with autism. Visually aided behavioural algorithms are of great help,

as well as closed-ended, clear tasks and requests. Our communication should be straight to the point and short (Gyori, Kanizsai-Nagy & Stefanik, 2012).

– **Emotional and behavioural disorders**

Emotional and behavioural disorders is a broad category. According to the Individuals with Disabilities Education Improvement Act (2004) in the USA, a child with an emotional and behavioural disorder is a child exhibiting one or more of the following characteristics to a marked degree for a long duration of time that adversely affects their education:

- difficulty in learning that cannot be explained by intellectual, sensory, or health factors;
- difficulty in building or maintaining satisfactory interpersonal relationships with peers and teachers;
- inappropriate types of behaviour (acting out against self or others) or feelings (expresses the need to harm self or others, low self-worth, etc.) under normal circumstances;
- a general pervasive mood of unhappiness or depression;
- a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia, and does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

One way to categorise emotional and behavioural disorders refers to the relationship between the child and the environment:

1. externalizing disorders are ‘mental disorders with primary symptoms that involve outward behavior as opposed to inner emotions’ (Thackery & Harris, 2002). Externalising symptoms include impulsivity, oppositional behaviours, attention deficit hyperactivity disorder (ADHD), and temper tantrums;
2. internalising behaviours are ‘directed inwardly toward the individual and represent an over controlled and inner-directed pattern of behavior’ (Gresham & Kern, 2004). These often come with disorders like anxiety disorders, depression, and withdrawal from others.

– **Mild intellectual disabilities, slow learners**

According to the latest Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (American Psychiatric Association, 2013) ‘intellectual disability involves impairments of general mental abilities that impact adaptive

functioning in three domains, or areas. These domains determine how well an individual copes with everyday tasks:

- the conceptual domain includes skills in language, reading, writing, math, reasoning, knowledge, and memory;
- the social domain refers to empathy, social judgment, interpersonal communication skills, the ability to make and retain friendships, and similar capacities;
- the practical domain centres on self-management in areas such as personal care, job responsibilities, money management, recreation, and organizing school and work tasks.’

Children with mild intellectual disabilities (MID) usually have an IQ of between 50 and 70. They can learn to read and write, are able to participate in their communities and society, have important relationships in life. However, they need individual pedagogical support, without which they have significant difficulties in learning.

From the beginning of the 20<sup>th</sup> century, with the expansion of education and the increased requirements in schools, there appeared a group of children unable to achieve the minimum standards and who are lagging behind in most subjects, although they are not intellectually disabled. Among these slow learners, there are a number of disadvantaged children from low socioeconomic status (SES) families. Their development and success also require extra support from the school.

Both children with Mild Intellectual Disability (MID) and slow learners display several characteristics. Impairments are noteworthy in the following domains:

- perception: perception of balance, tactile and kinaesthetic perception, auditory and visual perception, mnemonic functions (short-term and long-term memory, attention);
- motor skills (muscle tone, gross motor skills, fine motor skills, planning and implementing actions);
- social and emotional functioning (general psychological state, motivation, self-esteem, social integration).

Due to the impairment of these domains, many believe that children with mild intellectual disabilities are not competent witnesses and are incapable of giving evidence. Several studies have focused on the capability of MID children to recall events within a short period of time. These studies, however, did not fully support assumptions about incredibility. Henry and Gudjonsson (2003), for instance, asked MID children and typically-developing children to answer questions about a live staged event one day later and two weeks afterwards.

According to their results, children with MID performed as well as typically-developing children of the same age in response to free recall instructions, and they were just as able as same age peers to resist misleading questions. However, they performed more poorly on general questions and were more likely to change their answers during the second interview. In their review, Kebbell and Hatton (1999) also found that people with intellectual disabilities can provide accurate accounts of witnessed events, although their reports are less complete and are influenced by questioning methods. They recommend avoiding closed, complex or leading questions and the use of aids for a more accurate account of events.

– **Moderate to severe intellectual disabilities**

Moderate intellectual disability refers to an IQ score of between 35–49, below which we talk about severe intellectual disabilities.

Moderate or severe intellectual disabilities mean a complex impairment in body functions and structures. Comorbid disabilities are also frequent, such as physical disabilities, lower vision, hearing loss or speech defects. Cognitive functions are also impaired, which is manifested in slow and imprecise decoding of information. Cognitive processing is limited, bound by the subjective and objective reality.

People with moderate to severe intellectual disabilities need considerable support in school, at home and in their closer communities. They can learn the activities of daily living, self-help and self-care skills, but they need supervision to lead a semi-independent life.

Due to significant deficits in memory skills and delays in oral communication, children with moderate to severe intellectual disabilities have limited capacity to provide an accurate account of past life events and show markedly lower performance on eyewitness memory questions than children with mild intellectual disabilities (Henry & Gudjonsson, 2003).

### 3.2.4. HIGHLY VULNERABLE CHILDREN AND CRIME

Although there is limited research on the relationship between disability and crime, literature suggests that there is an increased risk of child maltreatment among children with disabilities. Disabled children are highly vulnerable to being the victims of several types of crimes, including physical abuse, sexual abuse and neglect (Sullivan & Knutson, 2000, Stalker & McArthur, 2012). In their study, Sullivan and Knutson (2000) found that children with disabilities were more likely to experience multiple forms of maltreatment than children without disabilities (63% vs 54.9%, respectively) and were also more likely to



experience multiple episodes of maltreatment compared to children without disabilities. More than ten years later, Stalker and McArthur (2012), by reviewing the relevant literature of 1996–2009, also established that there is evidence for a strong association between disability and child maltreatment, indicating that disabled children are significantly more likely to experience abuse than their non-disabled peers.

It is also likely that risk varies by both type of disability and type of maltreatment (Leeb, Armour, Bitsko & Merrick, 2012). As for type of disability, all children with behaviour disorders, intellectual disability, learning disability, speech/language disorders, physical disabilities, hearing impairment and visual impairment have an increased risk of maltreatment compared to children without an educationally identified disability (Sullivan & Knutson, 2000).

When looking at the different disability types, we cannot identify a single most vulnerable population, but vulnerability is highly dependent on the type of crime/maltreatment. For instance, children with behavioural disorders are more prone to neglect than any other group of children (Sullivan & Knutson, 1998). In their study, Sullivan and colleagues examined the prevalence of multiple types of maltreatment among children with disabilities, including behavioural disorders. Hospital, law enforcement, social services and foster care records were used to assess maltreatment and disability status. Three groups of children were compared with respect to abuse type: (a) those with a behaviour disorder, (b) those with a disability but no behaviour disorder, and (c) those with no disability (control group). Results showed that children with a behaviour disorder were more likely to experience neglect than either the control group children or children with another type of disability but no behaviour disorder. The behavioural disorder group were also more likely to experience a longer duration of sexual abuse (Sullivan & Knutson, 1998). This finding was also supported by the National Longitudinal Study of Adolescent to Adult Health (Add Health) in the United States that also showed a positive correlation between ADHD symptoms and child maltreatment; this finding was stronger for young people with inattentive symptoms (Ouyang, Fang, Mercy, Perou & Grosse, 2008). Children with ADHD are also more likely to get involved in interpersonal violence: Lam (2005) found that children hospitalised for injuries resulting from interpersonal violence were three times more likely to have ADHD than children with other types of injuries.

Results on the possible association between autism and the increased risk of being the victim of a crime are inconclusive. Some studies suggest that there is no evidence for a clear link between autism and maltreatment (Spencer, Devereux, Wallace, Sundrum, Shenoy & Bacchus, 2005; Sullivan and Knutson, 2000).

Mandell (2005), on the other hand, found that 30% of children with autism or Asperger syndrome had experienced physical or sexual abuse and concluded that this finding is similar to an increased risk for maltreatment among children with behavioural disorders. Similarly, in a 2006 survey of over 1500 individuals with autism and caregivers, 35% of the respondents claimed that they or their loved one with autism had been the victim of a crime. Of the reported cases, 38% included physical abuse or assault, 32% emotional abuse, and 13% sexual abuse (Autism Society, 2006).

The literature on intellectual disabilities also supports an increased risk for child maltreatment in this group (Horner-Johnson & Drum, 2006). Among children hospitalised for injuries, those with a pre-existing intellectual impairment were at increased risk for child abuse compared to those without intellectual disabilities (Braden, Swanson, & Di Scala, 2003).

As for physical disabilities, literature says that adolescent girls with a physical disability or long-term health problem are more likely to experience sexual violence than their non-disabled peers (Alriksson-Schmidt, Armour, & Thibadeau, 2010, Cheng & Udry, 2002).

Similarly, in a Norwegian study, it was found that adults who were visually impaired during their childhood were more often sexually abused than were sighted children. This greater prevalence was found both in comparison to a sighted control group in the general population and in a comparison with respondents who became visually impaired after the age of eighteen. Most incidents occurred before the age of sixteen. However, two-thirds of the respondents said that they had never reported the event.

Data also suggest that children with communication or sensory impairments, such as speech disorder or hearing impairment and learning disabilities, are also at increased risk of abuse (Stalker & McArthur, 2012). Severity of disability also has an impact on child vulnerability. Some recent studies found that children with mild impairments are at greater risk for maltreatment than those with more severe impairments (Fisher, Hodapp, Dykens, 2008; Helton & Cross, 2011).

### 3.2.5. HOW TO IDENTIFY HIGHLY VULNERABLE CHILDREN

Once children are in the justice system, there are certain signs that draw attention to the possibility of a child being vulnerable and belonging to one

group of disabled people or another. If the interviewers encounter any of the following, they have reason to suspect that this is the case, if the witness:

- does not speak or only a few words;
- has difficulties with understanding what the interrogator says;
- has difficulties communicating without an assistant or interpreter;
- uses a lot of gestures or signals (remember if an angry person uses gestures he or she may seem aggressive);
- seems not to understand the questions;
- is unable to answer questions immediately;
- focuses on nuances;
- shows short, but frequent attention lapses;
- cannot read or write;
- has difficulties with telling the time;
- has difficulties with telling his/her date of birth/age/address/phone number;
- has difficulties with telling what day it is today, where we are and who he/she is talking to;
- seems to be too eager to be nice;
- repeats what was said to him/her;
- seems to be too anxious/calm;
- seems not to care about the situation/is lethargic;
- seems confused (not sure what he/she said or what happens to him/her);
- seems physically underdeveloped;
- is violent;
- says weird things;
- does not understand everyday phrases.

It is easy to observe the behaviour, but it must be remembered that what we see is often not what it seems to be. While it is difficult to interpret the activity of an individual, further intervention is necessary in the case of the following:

- the eye or gaze is unusual;
- the witness holds his/her head and eyes in an unusual position when looking at things;
- the individual has difficulties with visually recognising someone;
- the individual moves carefully and groggily in an unfamiliar environment;
- the individual exhibits uncontrolled, involuntary muscle movements, or jerking.

The following may also provide important information:

- the child/youngster lives in a children's home or aftercare;
- the child/youngster studies at a special education institute;

- the child/youngster studies in mainstream education, but has an individual educational plan;
- the youngster receives disability support;
- the youngster works on a protected job programme;
- the youngster lives in a residential institution.

It is also important to note that similar behaviour may be the result of different causes. While there may be physical or psychological reasons for different sorts of behaviour, it is possible that they may also result from the use of drugs, alcohol, emotional states of frustration, irritability, anger, fear or acute anxiety, some of which may have their origins in environmental factors.

### 3.2.6. MEETING THE NEEDS OF HIGHLY VULNERABLE CHILDREN

Highly vulnerable witnesses must be given equal access to the justice system and are entitled to a service that is comparable to that experienced by any other witness. Although disabled witnesses sometimes pose a challenge for the person asking questions, the justice system must be as inclusive as possible by providing extra support or making accommodations for those whose participation can only be ensured with the help of these. The following are some tips and things to consider when preparing for working with an individual with a disability (based on Baladerian, 1998).

1. Try not to focus on differences, but focus on how you are alike.
2. Consider the concept of TAB (we are all temporarily able bodied).
3. Employ therapeutic empathy.
4. Prepare the client for the interview.
5. Focus upon knowledge as power for the client.
6. Maintain awareness of the client's possible limited reading ability.
7. Be aware of the client's need to be accompanied, or pressure on the victim to be accompanied.
8. Treat the client with dignity and respect, irrespective of their cognitive or physical impairment.
9. Identify practical aspects of treatment:
  - assess the need for an interpreter (due to speech production differences, use of assistive technology, facilitated communication, sign language, language processing impairments);
  - become familiar with the ethics of practice while using an interpreter, for example, know how to access and hire an interpreter;

- if applicable, e.g. for a client with a hearing impairment or speech disorder, use a note-pad and pen to communicate. Also inquire whether the client uses any assistive hearing devices;
- consider the applicability of:
  - evaluating the potential physical barriers associated with accessing the building, e.g. entering the building, getting to the office, using the bathroom, public telephone and drinking fountain;
  - the accessibility and sensitivity of the interview setting. Ensure sufficient room to manoeuvre for those using wheelchairs, scooters and other assistive devices, and adequate space for all persons present;
  - reducing, if not eliminating, noise and visual stimuli that could be distracting;
  - the accessibility of literature: are materials easy to read, e.g. large print, simple language (third grade reading level is recommended), and in the language of the client?

Also, be aware that vulnerable children are not a homogenous group and not all disabled children are vulnerable in the sense that they require special attention in practice. Police officers and police staff must remain mindful of the fact that not all of those with a disability will be vulnerable or would wish to be regarded as such. This depends on the nature and severity of their disability and how much it affects their ability to perform the functions of a witness.

When vulnerable witnesses are disabled children, they are entitled to all rights given to children and all rights given to disabled individuals at the same time. However, dealing with a disabled child requires even further steps. Disabled children, in most cases, need special care that might be given by a specialist only. In the case of the suspicious signs described above it is advisable to contact a specialist before further questioning the child. A special educator, who is familiar with the given disability group, can help identify the needs of the child and can aid communication with them. We advise contacting the following people in case of suspicion:

- a special educator specialised in the pedagogy of autism spectrum disorders;
- a special educator specialised in the pedagogy of intellectual disabilities;
- a speech therapist;
- a psycho pedagogue;
- a special educator specialised in the pedagogy of physical disabilities;
- a special educator specialised in the pedagogy of hearing impairment;
- a special educator specialised in the pedagogy of visual impairment;
- a special educator specialised in the pedagogy of general learning disabilities.

The relevant specialist can be found in special education training institutes, such as universities. Moreover, several lobby groups and associations exist in each country to advocate for the rights of and in the service of the different disability groups. Some international associations are, for example:

Autism-Europe: See more at [www.autismeurope.org](http://www.autismeurope.org)

American Association on Intellectual and Developmental Disabilities: See more at <http://aaidd.org>

The European Association of Persons with Intellectual Disabilities and their Families: See more at [www.inclusion-europe.org](http://www.inclusion-europe.org)

World Federation of the Deaf: See more at <http://wfdeaf.org/>

## REFERENCES

- Alriksson-Schmidt, A.I., Armour, B.S. & Thibadeau, J.K. (2010). Are adolescent girls with a physical disability at increased risk for sexual violence?. *Journal of School Health*, 80, 361–367.
- American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (5<sup>th</sup> ed.). Washington, DC: Author.
- Autism Society. (2006). Results of the victims of crime with autism survey.
- Baladerian, N.J. (1998). Interviewing skills to use with abuse victims who have developmental disabilities. Washington, DC: National Center on Elder Abuse.
- Balázs Anna (2000): Az autista gyermekek az óvodában és az iskolában. In: Illyés Sándor /szerk./: Gyógypedagógiai alapismeretek. ELTE BGGyFK, Budapest
- Benczúr Miklósné (2000): A mozgáskorlátozott gyermekek szomatopedagógiai nevelése az óvodában és az iskolában. In: Illyés Sándor /szerk./: Gyógypedagógiai alapismeretek. ELTE BGGyFK, Budapest, 535–560.
- Cheng, M.M., & Udry, J.R. (2002). Sexual behaviors of physically disabled adolescents in the United States. *Journal of Adolescent Health*, 31, 48–58.
- Farkas, M. & Perlusz, A. (2000). A hallássérült gyermekek óvodai és iskolai nevelése és oktatása. In: Illyés Sándor /szerk./: Gyógypedagógiai alapismeretek. ELTE BGGyFK, Budapest, 505–534.
- Fehérvé Kovács Zsuzsa (2011). A középiskolás korosztály iskolai teljesítményeinek összefüggései a kommunikációs/nyelvi zavarokkal. Az iskolai sikeresség támogatási lehetőségei az integrációban. In: Papp Gabriella /szerk./: Középiskolás fokon?! ELTE Eötvös Kiadó, ELTE Bárczi Gusztáv Gyógypedagógiai Kar, Budapest, 121–142.
- Fisher, M.H., Hodapp, R.M., & Dykens, E.M. (2008). Child abuse among children with disabilities: What we know and what we need to know. *International review of research in mental retardation*, 35. pp. 251–289.

- Fótiné Hoffmann Éva – Lénárt Zoltán – Mlinkó Renáta (2011). Mozgáskorlátozott tanulók középiskolai integrációja. In.: Papp Gabriella /szerk./: Középiskolás fokon?! ELTE Eötvös Kiadó, ELTE Bárczi Gusztáv Gyógypedagógiai Kar, Budapest, 163–177.
- Gresham, F.M., & Kern, L. (2004). Internalizing Behavior Problems in Children and Adolescents. In: Rutherford, B.R., Quinn, M.M., & Mathur, S.R. (eds.). Handbook of research in emotional and behavioral disorders. New York: The Guilford Press.
- Gyori, M., Kanizsai-Nagy, I. & Stefanik, K. (2012). The autism spectrum: Need for Specific Support, Approaches to Assistive ICT. In. Mintz, J., Gyori, M. & Aagaard, M. (eds.). Touching the future technology for autism?: Lessons from the HANDS project. Amsterdam: IOP Press, pp. 13–35.
- Helton, J.J., & Cross, T.P. (2011). The relationship of child functioning to parental physical assault: Linear and curvilinear models. *Child Maltreatment*, 16. (2), 1–11.
- Henry, L.A., & Gudjonsson, G.H. (2003). Eyewitness memory, suggestibility, and repeated recall sessions in children with mild and moderate intellectual disabilities. *Law and Human Behavior*, 27, 481–505.
- Horner-Johnson, W., & Drum, C. (2006). Prevalence of maltreatment of people with intellectual disabilities: A review of recently published research. *Mental Retardation and Developmental Disabilities Research Reviews*, 12, 57–69.
- ICD-10: International Classification of Diseases, 10<sup>th</sup> Revision.
- Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108–446. (2004). Retrieved from <http://idea.ed.gov/explore/view/p/%2Croot%2Cstatute%2C>.
- Kebbell, M.R., & Hatton, C. (1999). People with mental retardation as witnesses in court: A review. *Mental Retardation*, 37(3), 179–187.
- Kwam, M.H. (2005). Experiences of Childhood Sexual Abuse among Visually Impaired Adults in Norway: Prevalence and Characteristics. *Sexual Abuse*, 99. 1.
- Lam, L.T. (2005). Attention deficit disorder and hospitalization owing to intra-and interpersonal violence among children and young adolescents. *Journal of Adolescent Health*, 36, 19–24.
- Leeb, R.T., Armour, B S., Bitsko, R.H. & Merrick, M.T. (2012). Does childhood disability increase risk for child abuse and neglect? *Journal of Mental Health Research in Intellectual Disabilities*, 5, 4–31.
- Mandell, D.S. (2005). The prevalence and correlates of abuse among children with autism served in comprehensive community-based mental health settings. *Child Abuse & Neglect*, 29, 1359–1372.
- Mesterházi Zsuzsa (2004): “...A mélyben folyamatosan ugyanaz a bűvópatak táplálta...” A gyógypedagógia elméletképzésének főbb irányjai. In.: Zászkaliczky Péter – Verdes Tamás /szerk./: Tágabb értelemben vett gyógypedagógia. ELTE Bárczi Gusztáv Gyógypedagógiai Főiskolai Kar és Kölcsey Ferenc Protestáns Szakkollégium, Budapest, 17–65.
- OECD (2007). *Students with Disabilities, Learning Difficulties and Disadvantages. Policies, Statistics and Indicators*. Paris: OECD.
- Ouyang, L., Fang, X., Mercy, J., Perou, R., & Grosse, S.D. (2008). Attention-deficit/hyperactivity disorder symptoms and child maltreatment: A population-based study. *Journal of Pediatrics*, 153, 851–856.

- Perlusz Andrea (2011): A hallássérült tanulók középfokú oktatása – tendenciák, módszertani eljárások. In.: Papp Gabriella /szerk./: Középiskolás fokon?! ELTE Eötvös Kiadó, ELTE Bárczi Gusztáv Gyógypedagógiai Kar, Budapest, 81–98.
- Spencer, N., Devereux, E., Wallace, A., Sundrum, R., Shenoy, M. & Bacchus, C. (2005). Disabling conditions and registration for child abuse and neglect: A population-based study. *Pediatrics*, 116, 609–613.
- Sullivan, P.M., & Knutson, J.F. (1998). The association between child maltreatment and disabilities in a hospital-based epidemiological study. *Child Abuse & Neglect*, 22, 271–288.
- Sullivan, P., & Knutson, J.F. (2000). Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse & Neglect*, 24, 1257–1273.
- Stalker, K. and McArthur, K. (2012). Child abuse, child protection and disabled children: a review of recent research. *Child Abuse Review*, 21 (1). pp. 24–40.
- Thackery, E. & Harris, M. (2003). *The gale encyclopedia of mental disorders*. New York: Thomson Gale.
- World Health Organization (1980). *International Classification of Impairments, Disabilities and Handicaps*. Geneva, Switzerland: WHO.
- World Health Organization (2001): *International Classification of Functioning, Disability and Health (ICF)*. Geneva, Switzerland: WHO.



### 3.3. DEVELOPMENTALLY APPROPRIATE INTERVIEWING OF HIGHLY VULNERABLE CHILDREN: A DEVELOPMENTAL PSYCHOLOGY PERSPECTIVE

David J. LA ROOY, Elizabeth C. AHERN and Samantha J. ANDREWS

#### 3.3.1. CHILDREN'S VULNERABILITIES IN LEGAL CONTEXTS

Children's disclosures about abuse are extremely important because crimes involving children often occur in contexts where the child and alleged abuser are the only witnesses. In the case of physical abuse, where there is evidence of injury to a child, a suspected perpetrator may provide an 'innocent' explanation for a child's injuries or maintain silence. In cases of sexual abuse, suspects may also not be motivated to cooperate with authorities and there is usually no physical evidence accompanying allegations of sexual abuse (Myers, 2005). In both of these types of crime, the vulnerable child is the only source of information about what happened and it is critical that investigators rely on scientifically-based interviewing practices that have been proven to elicit accurate and detailed descriptions of children's abuse experiences. Not surprisingly, the current approach to interviewing child witnesses is shaped by a detailed understanding of children's emerging abilities and the numerous cognitive and developmental changes that occur throughout childhood and continue into early adulthood. Although children clearly can remember incidents they have experienced, the relationship between age, memory, and one's willingness to report abuse is complex, with several cognitive and socio-emotional factors influencing the quality of information provided by the child witness.

##### 3.3.1.1. *Linguistic considerations*

The psychological perspective regarding the interviewing of vulnerable children has been strongly influenced by some basic linguistic considerations. The development of communicative competence involves children learning how to use language appropriately in their given cultural context (Hymes, 1972). One element of that knowledge is the ability to learn to communicate in different ways, for example, commands, complaints, requests, and promises, and, importantly, to be able to recognise these different modes of communication in other people (Walker, 1994). The ability to communicate experiences not only requires the ability to store and remember experiences in the real world, but it also requires the ability to appreciate what the listener needs to know, what

should be included or left out of a narrative, as well as the ability to choose appropriate words to communicate the experience (Whitehurst & Sonnenschein, 1985). By five years of age, children become skilled at negation, using adjectives and possessives, and manipulating verb forms to show tense, aspect and number in a range and combination of sentence types (Bolinger, 1975; Brown, 1973; Lenneberg, 1967). Children's vocabulary also grows remarkably across the early years with twelve-month-olds beginning to use one or two words and by four or five years of age children develop vocabularies of thousands of words. While this is impressive, children still have emerging abilities to understand many concepts in the same way adults do and use words before they understand their meaning. Thus, in courtroom contexts where there is often no consideration of children's developmental abilities, age-inappropriate words and expressions, complex syntactic constructions, and general ambiguities often prevent children from fully explaining their experiences. By contrast, empirically-based procedures developed for interviewing vulnerable children have been, and continue to be, strongly influenced by our knowledge of child development and their emerging abilities.

### 3.3.1.2. *Memory factors*

Research shows us that vulnerable children can be very informative witnesses, especially when interviewed using interviewing techniques designed to maximise their strengths and when developmentally inappropriate methods of communication are avoided. Because investigative interviews in legal contexts serve the purpose of 'evidence gathering', it is important to be aware that child interviewing methods are specifically designed to account for the 'laws of memory', in particular what psychologists refer to as *autobiographical memory*. Our ability to store and access memories from our past about our autobiographical selves develops with age and the memory retrieval strategies we use in the early years develop dramatically (Schneider & Bjorklund, 1998). Research shows that younger children tend to remember fewer details about their experiences and to provide briefer accounts compared to older children (Baker-Ward, Gordon, Ornstein, Larus, & Clubb, 1993), and they are more likely than their older peers to make mistakes when asked tricky questions that require abilities and understandings of concepts that they may not have developed (Poole & Lindsay, 1998). However, although young children tend to remember fewer details and provide briefer accounts of their experiences than older children, their reports are no less accurate (Oates & Shrimpton, 1991) when they are interviewed appropriately. It is important to understand that it is normal for younger children to sometimes provide brief accounts and that simply reporting fewer details about experiences does not in itself indicate that the memory must necessarily be inaccurate.

### 3.3.1.3. *Difficult concepts*

Research-based approaches to interviewing child witnesses carefully consider children's strengths and limitations so that they are not interviewed in a manner that overreaches the children's mental abilities and current stage of development. One area that can overreach children's memory abilities is requiring children to identify the frequency and timing of alleged incidents of abuse. Although children can accurately recall *what happened* during past events, they are poor at estimating exactly how many times events occurred (Orbach & Lamb, 2007). Unfortunately though, professionals questioning children often overestimate children's ability to enumerate events (Saywitz, Lyon, & Goodman, 2011) because children can usually recite numbers before they know how to count and can count objects before they can count events in memory (Wynn, 1990), giving the false impression that they 'know' this information. In many legal jurisdictions, it is considered important to be able to know the frequency of alleged abuse, but questioning children specifically about numerosity oversteps their cognitive abilities, and they provide answers that lack credibility or appear to be rounded guesses, such as 10 times, 20 times or 100 times. Psychological research confirms that young children find even simple estimates of event frequency difficult (Friedman & Lyon, 2005). Psychologists recommend using a much simpler type of question about event frequency that recognises that children may not be able to remember all their abusive experiences. Interviewers are recommended to ask whether the experience happened 'one time or more than one time?' (Lamb, Hershkowitz, Orbach, & Esplin, 2008). Children can answer this form of a frequency question accurately which should be followed up with requests to recall the first and last time they remember the abuse experience because psychological research shows that these memories will be more easily identified and better remembered.

Similar to children's understanding of numbers, their understanding of time develops gradually throughout childhood and is still incomplete by the time they reach adolescence (Friedman, 1991; Lamb, Malloy, & La Rooy, 2011). Children can tell time on a clock before they can estimate when something occurred. Reporting the timing of a particular experience is quite a sophisticated cognitive task, which requires inferential skills (e.g., 'It was before New Year's, so it probably was December'; Friedman, 1993) that most children lack (Saywitz et al., 2011). In addition, some temporal terms can be confusing for young children. For example, 'yesterday' and 'today' are difficult for young children, in part because of their shifting meaning (e.g., today is tomorrow's yesterday; Saywitz et al., 2011). For young children, yesterday may refer to anything in the past, and tomorrow to anything in the future (Harner, 1982). Professionals questioning children in legal contexts should not assume young children

understand weeks and months or expect them to estimate time using these intervals (Saywitz et al., 2011). When questioning children about a sequence of events, interviewers should be cautious using the terms next, before, and after, because younger children often describe events in the order in which they occurred even when asked questions not following the natural event chronology (e.g., ‘What happened *before* you put on your socks?’ ‘*And then* I tied my shoes.’) (Carni & French, 1984). In light of this research, interviewers are encouraged to elicit information from children about contemporaneous events as a means to estimate the timing of an incident (Orbach & Lamb, 2007) such as a parent coming home from work.

#### 3.3.1.4. *Socio-emotional*

Another critical factor influencing information quality relates to the child’s willingness to report details rather than a singular focus on the child’s ability to remember. Many abused children are ambivalent about disclosing and are subject to pressures to recant if they have previously disclosed (Saywitz et al., 2011). A child might have freely disclosed to a parent or a trusted adult, but not be comfortable talking to a stranger. Moreover, dealing with nakedness and genital touch is potentially embarrassing (Saywitz, Goodman, Nicholas, & Moan, 1991) particularly if the child recognises that the touching was wrong (e.g., adolescents). Some sexual offenders warn victims not to tell (Smith & Elstein, 1993). Even without warnings, the secrecy shrouding abuse inherently suggests to the child not to tell. Sexual abusers sometimes threaten violence toward the child or others they love, which can strengthen reluctance to disclose (Sas & Cunningham, 1995). Perpetrators may seduce their victims, making the child reluctant to tell due to a sense of guilt. If family members, or even the child, have positive feelings about the abuser, the child may be protective of the suspect and not want to get the abuser in trouble (Sauzier, 1989). Certainly, this can often be the case when the offender is a trusted family member or someone closely affiliated with the child’s primary caregiver.

### 3.3.2. PRE-SUBSTANTIVE CONSIDERATIONS

Child investigative interviewing guidelines often recommend a phase approach through which interviewers first seek to ensure children’s comfort, explain the context of the interview, and offer children the opportunity to practise recalling details from memory. This is referred to as the *pre-substantive phase* of the interview, because it involves preparing children to be able to talk about possible abuse experiences before any transition into the *substantive phase* of the interview where specific allegations are sought.

### 3.3.2.1. *Ground rules*

Specifically, the pre-substantive phase of child forensic interviews focuses on fostering children's comfort in speaking to the interviewer, increasing children's understanding of the forensic interview process, and maximising their competence at recalling past events (Lamb et al., 2008). Explanation of *ground rules* are considered an important part of the pre-substantive phase of the interview. Ground rules are designed to help remove any pressure that interviewees may feel that they should provide a 'best guess', if they are not really sure about what happened, and/or to go along with interviewer suggestions by simply answering 'yes' because that is what the interviewer wants to hear. During the ground rules phase, children are thus specifically informed that they can and should tell interviewers when they do not know the answer to a question, when they do not understand a question, and that they should correct interviewers if the interviewer makes a mistake (Lamb et al., 2008). Ground rules also explicitly communicate to children that the interviewer does not know what has happened, and that they should only report things that really happened to them. Children must practise when to use and when not to use ground rules in order to use them appropriately during the interview (Gee, Gregory, & Pipe, 1999). Finally, children should also be asked to promise to tell the truth (Lyon, 2005) in light of research demonstrating that asking children to promise to tell the truth increases disclosures without increasing errors (Evans & Lee, 2010).

### 3.3.2.2. *Rapport building and importance of social support*

It is especially important for the early stages of the interview to also centre on rapport building so that the child feels relaxed by the time the interview transitions to substantive topics (Lamb et al., 2008). Clearly, this is important for children of all ages, including teenagers and children who might not have anticipated a fully-fledged forensic interview after having made an initial disclosure to a grown up or peer. A relaxed supportive interviewing environment can be fostered in several ways. The interviewer can show interest in the child by asking about activities the child enjoys. Following general inquiry into the child's likes, asking children to describe a past event unrelated to the allegation (*episodic memory training*) can be used to familiarise children with what it is like to talk about their experiences and allows them to become accustomed to being the primary speaker in the interviewer-child interaction. Episodic memory training is especially important because research has shown that when children practise retrieving memories, they are able to provide more detailed accounts about the actual abuse when the interviewer transitions to the allegation in question (Roberts, Brubacher, Price, & Powell, 2011). Other research shows that children's willingness to report information may be increased by using non-suggestive supportive comments (Lamb et al., 2008). These comments

include addressing children in a personal way (i.e., saying the child's name), facilitators ('uh huh'), expressions of interest in the child ('I want to know you better'), positive statements about children's general efforts ('I see you're working hard') and gratitude ('Thanks for letting me listen to you'). The end of rapport building is a critical point at which children's trust and cooperation should peak (Hershkowitz, Orbach, Lamb, Sternberg, & Horowitz, 2006).

These recommendations about rapport building may seem obvious because there is an expectation among professionals that highly vulnerable children should receive special care and support. In reality, research shows that what should happen and what actually happens is quite different (Hershkowitz et al., 2006). Children who are eager or willing to disclose typically receive more support because it is easier and more natural for interviewers to provide the support they need. For example, an interviewer can easily provide supportive statements to a child who is able to describe detailed accounts of their experience(s). Interviewers, however, find statements like 'I can tell you are trying really hard' as inappropriate when they are dealing with highly vulnerable reluctant children who are not communicating. Based on her experience with many thousands of forensic interviews, Hershkowitz (2011) compiled a list of special rapport prompts that can be used effectively with reluctant children. For example, these might include increasing small acts of kindness for the child (e.g., 'Here is a glass of water for you'), increasing empathetic statements (e.g., 'I know this must be difficult for you'), and generalising the child's difficulties (e.g., 'Everyone finds this difficult'). When there is strong suspicion that abuse has occurred additional support can be provided to reluctant children that emphasises concerns about the child (e.g., 'I am worried about you') and removes responsibility from the child (e.g., 'It's not your fault'). When distressing emotions are expressed the interviewers should address them (e.g., 'Tell me about why you are afraid'; 'Let me find you a tissue'). It is inappropriate to ignore the child's emotional needs and wishes (Hershkowitz et al., 2006). For example, if a child asks for the interview to be stopped or for a toilet break they should be allowed.

### 3.3.3. OPEN PROMPTS

There is considerable consensus that *open prompts* are the most desirable question type used in investigative interviews of children (see Lamb et al., 2008; Lamb, La Rooy, Malloy, & Katz, 2011) and it is important that those involved in the investigation are familiar with them, and are confident in using them. Open prompts are characterised by the absence of any specific information provided by the interviewer and they are inherently very vague queries (e.g., 'Tell me what happened'; 'What happened next?'). Open prompts do not provide or specify any particular 'clues' about what response is required from children

and do not include any information that the child has not already mentioned (e.g., ‘Did he hurt you?’ when the child has never said that they were hurt). Open prompts tap *free-recall* memory that requires children to generate their own response *using their own words*, whereas closed prompts tap recognition memory, requiring children to simply confirm or reject information provided by interviewers (e.g., ‘Did he make you swallow anything?’; ‘Was this during the day or at night time?’). Thus, a major benefit of using open prompts is that they are never considered as a means of ‘putting words into the mouths of children’ and shaping their answers in line with the interviewer’s preconceived expectations.

From a memory perspective, open prompts are also considered desirable because they generally elicit reliable, spontaneous, and elaborative descriptions about past experienced events from children (Lamb & Fauchier, 2001; Lamb, Orbach, Hershkowitz, Horowitz, & Abbott, 2007; Leichtman & Ceci, 1995). An often cited psychology experiment conducted by Dent and Stephenson (1979) found that, after watching a short film of a theft, capture, escape, and ensuing chase of an offender, ten- and eleven-year-old children were 91% accurate when responding to open prompts about the event, but only 81% accurate when answering closed and specific questions. Furthermore, in a case study of a five-year-old girl, Orbach and Lamb (2001) found that open prompts did not elicit any contradictory details in the account provided by an alleged victim, whereas 90% of contradictions came in response to questions that were not open. Since open prompts are more likely to elicit accurate responses from children, they also lead to greater consistency in children’s reports (Ghetti, Goodman, Eisen, Qin, & Davis, 2002), which is desirable in legal contexts, as inconsistency generally detracts from the credibility of witnesses. Furthermore, children have been shown to not contradict themselves in response to open prompts even when they are used across multiple interviews (La Rooy, Katz, Malloy, & Lamb, 2010; La Rooy et al., 2009; Orbach, Lamb, La Rooy, & Pipe, 2012).

Open prompts should also be used with children of all ages. It is sometimes believed that ‘alternative’ strategies are necessary when questioning children as young as four- and five-years-old, as they may omit much information that interviewers consider important (see Lamb et al., 2008). Indeed, young children typically recall briefer accounts of their experiences than older children (e.g., Baker-Ward et al., 1993), particularly in response to very general prompts (e.g., ‘Tell me what happened’; Lamb, Sternberg, Orbach, Esplin, Stewart, & Mitchell, 2003). In turn, interviewers typically react by prompting young children with more closed and specific questions (Hamond & Fivush, 1991). However, young children’s free-recall responses are not less accurate than those of older children (e.g., Flin, Boon, Knox, & Bull, 1992). In fact, younger children respond less accurately to closed questions than do older children (e.g.,

Bjorklund, Bjorklund, Brown, & Cassel, 1998), so from a memory perspective the use of closed and specific questions is counterproductive. Field research with actual forensic interviews has shown that children as young as four-years-old provide proportionately as much information in response to open questions as older children, although the brevity of their responses makes it necessary for interviewers to prompt for additional information (Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012; Lamb et al., 2003).

#### 3.3.4. FOCUSED QUESTIONS

‘Wh-’ and ‘how’ format questions are generally considered to be *focused questions*. They are different to open prompts because they tap cued-recall memory by focusing children on aspects or details of the allegation that they have previously mentioned in an effort to better understand the child’s experiences (e.g., ‘What colour was the car?’, ‘Where did he hit you?’). These focused questions require only short answers about an aspect of the event or object that may or may not be well remembered, but they do not force the child to choose between options posed by interviewers.

The main problem with these types of questions is that they can sometimes create misunderstandings, so the questions need to be carefully thought through. Even a simple question like, ‘What colour was the car?’ needs to be understood from the perspective of a child. For example, they might answer by providing the colour of the *inside* of the car, whereas an adult might assume that the child would obviously be stating the *outside* colour of the car. A thoughtful interviewer might attempt to make the question more developmentally appropriate by asking: ‘What colour was the *outside* of the car?’ Moreover, as discussed above, even simple concepts contained in these questions, that older children and adults understand well, can be misunderstood by younger children. Although the use of focused questions is not as successful as open prompts in encouraging children to provide reliable, spontaneous, and elaborative accounts (e.g., Lamb, Hershkowitz, Sternberg, Esplin, Hovav, Manor, & Yudilevitch, 1996; Sternberg, Lamb, Hershkowitz, Esplin, Redlich, & Sunshine, 1996), these type of Wh- format questions are preferable to the use of closed prompts (see Lamb et al., 2008; Lamb et al., 2011).

#### 3.3.5. CLOSED-ENDED QUESTIONS

When interviewers prompt children with closed questions, in which the children are required to confirm or reject information provided by the interviewers (e.g., ‘Was his shirt *blue* or *red*?’, ‘Did it hurt? [*yes* or *no*]’), they shift from recall to



*recognition memory*, and the probability of error rises dramatically (Hutcheson, Baxter, Telfer, & Warden, 1995; Lamb & Fauchier, 2001; Orbach & Lamb, 2001). Unfortunately, it is common to see child forensic interviews containing closed questions in attempts to elicit and/or clarify information (e.g., Cederborg, Orbach, Sternberg, & Lamb, 2000; Sternberg, Lamb, Davies, & Westcott, 2001). Furthermore, interviewers continue to prompt children using closed questions, despite having received training about the risks that they pose (Aldridge & Cameron, 1999; Lamb et al., 1996; Sternberg et al., 2001). Thus, some interviewer training programmes now include content that addresses interviewers' abilities to monitor the kinds of prompts and questions that they use in investigative interviews; this seems to help interviewers move away from closed questions to being more aware that they should use open prompts.

One of the reasons that closed questions are problematic has been illustrated by research showing that children often 'guess' when they do not know the answer to the questions that they are asked (Poole & White, 1991; 1993; Winer, Rasnake, & Smith, 1987), and feel more obliged to respond when questioned by an authority figure such as a forensic interviewer (Ceci, Ross, & Tolia, 1987a; Tobey & Goodman, 1992). Furthermore, when interviewers prompt children with closed 'yes/no' or 'choice' questions there is an increased risk of response biases (i.e., tendencies for children to say 'yes' or 'no' without reflection), as well as an increased risk for the false recognition of details introduced by the interviewer (Brainerd & Reyna, 1996).

That said, there is often a need to clarify information provided by the child using carefully planned closed questions. They should only be used for obtaining forensically crucial information, preferably at the end of the interview when open prompts have been extensively used (Lamb et al., 2008; Lamb et al., 2011). Ideally, closed questions should be contextualised, for example, 'When you told me he put his hand between your legs, *was that over the clothes or under the clothes?*' In this way final details about the information that the child has already provided can be elicited and help clarify the allegations that have been made.

### 3.3.6. SUGGESTIBILITY

Suggestive questions are the most problematic question type in forensic contexts (see Lamb et al., 2008; Lamb et al., 2011). Such prompts are statements or questions (often closed-ended) formulated in a way that communicates the expected response. They may introduce undisclosed details not already mentioned by the child but assumed either explicitly or implicitly by the interviewer, or query the truthfulness of the child's response (e.g., 'I understand he *threatened* you.' [when 'threatening' was not mentioned by the child]; 'He

touched you, didn't he?' [when 'touch' was not mentioned by the child]; 'Are you sure about that?'; 'Did that really happen?'; see Orbach & Pipe, 2011). There are many different types of suggestive techniques other than the use of suggestive questions that can negatively affect the quality of evidence children provide when interviewed (see Ceci & Bruck, 1995; London & Kulkofsky, 2010). These include the use of misleading information and props (e.g., Aldridge, Lamb, Sternberg, Orbach, Esplin, & Bowler, 2004; Pipe & Salmon, 2009; Thierry, Lamb, Orbach, & Pipe, 2005), repetition of closed questions (e.g., Andrews & Lamb, 2014; La Rooy & Lamb, 2011; Poole & White, 1991), imagination inflation (e.g., Bruck, Hembrooke, & Ceci, 1997; Ceci, Loftus, Leichtman, & Bruck, 1994; Schreiber, Bellah, Martinez, McLaurin, Strok, Garven, & Wood, 2006), and inappropriate reinforcement (e.g., Bruck et al., 1997; Garven, Wood, & Malpass, 2000), to name but a few.

Research has shown that, in response to suggestive questions, children may change details in their accounts and thus respond inconsistently either by incorporating suggested information into their memories of experienced events or acquiescing to perceived interviewer coercion (e.g., Eisen, Qin, Goodman, & Davis, 2002; Lamb & Fauchier, 2001; Orbach & Lamb, 2001). The deleterious effects of suggestive questions on children's accounts are particularly influential when the memory of an event is not rich or recent (e.g., Burgwyn-Bailes, Baker-Ward, Gordon, & Ornstein, 2001; Roberts & Powell, 2007), the question asked is complicated or confusing (e.g., 'Did neither of you do it either?', see Spencer & Lamb, 2012), or the interviewer appears to have such authority that the witness feels compelled to accept the interviewer's suggestion (see Pipe, Lamb, Orbach, & Esplin, 2004). For example, when a power imbalance exists between the person asking the questions and the person answering them, perceived social pressure increases the tendency to acquiesce, that is, the tendency for children to agree (e.g., Greenstock & Pipe, 1997; Pipe & Wilson, 1994). Indeed, Ceci and his colleagues found that preschoolers are less likely to accept false suggestions made by seven-year-old children rather than by adults (Ceci et al., 1987a; 1987b). Acquiescence also increases when children are asked leading questions about content that they have little or no knowledge about (e.g., Greenstock & Pipe, 1997; Pipe & Wilson, 1994). It is, therefore, important for interviewers not to introduce undisclosed information, in case children simply accept what is said (La Rooy, Malloy, & Lamb, 2011), and ask for elaboration using open-ended prompts.

Young children, particularly preschoolers, are more vulnerable to the deleterious effects of suggestive questions and techniques than are older children and adults (e.g., Ceci & Bruck, 1995; Poole & Lindsay, 1998; White, Leichtman, & Ceci, 1997; for reviews see Bruck & Ceci, 1999; Bruck, Ceci, & Principe, 2006;

London & Kulkofsky, 2010). For example, Eisen et al. (2002) interviewed 189 children (aged from three to seventeen-years-old) involved in evaluations of alleged maltreatment with misleading questions about an anogenital examination and clinical assessment. They found that younger children were more likely than older children to respond erroneously in response to specific questions. Preschoolers were the least resistant age group to suggestion and showed the greatest proportion of erroneous responses to misleading questions. Nevertheless, when practitioners abided by best-practice guidelines, children as young as three- or four-years-old provided informative accounts of abuse (Hershkowitz et al., 2012).

Fortunately, over recent decades the problems with suggestive questions have become well identified and there is widespread agreement among practitioners and researchers that suggestive techniques should not be used in forensic interviews (e.g., *Achieving Best Evidence in Criminal Proceedings*, 2011; American Professional Society on the Abuse of Children, 2012; Lamb et al., 2008). Thus, the focus now seems to predominate on encouraging and maintaining the use of open prompts throughout the interview: in effect interviewers are trained *what to do* rather than *what not to do*.

### 3.3.7. PSYCHOLOGY PERSPECTIVES REGARDING THE USE OF INTERPRETERS IN FORENSIC INTERVIEWS

In this section, we have discussed developmentally appropriate interviewing of vulnerable children from a psychological perspective. It would be accurate to say that almost every country or jurisdiction that has carefully considered its response to the needs of children in the legal system would be mindful of the concepts we have discussed. Advances in understanding developmental psychology have influenced interview guidelines throughout the world in many different countries and cultural contexts. In this regard it is also clear that the ‘laws of memory’ apply to children speaking different languages in many different countries and cultures. Operationalising this research within the broader context of child protection has required the commitment of diverse team of professionals including researchers, trainers, child forensic interviewers, police officers, social workers, and lawyers, expert witnesses, and judges. Continued research examining the quality of interviews conducted around the world remains a priority.

That said, it is surprising that the role of interpreters in forensic interviewing has received little attention in the literature on child forensic interviewing. Ideally, every child should be able to provide an account of what happened to them in their language of choice and for many reasons this will sometimes require the

presence of an interpreter. The introduction of an interpreter may bring unique practical challenges to the interview room and, from a psychological perspective, any possible impact on the dynamics of the interview must be carefully considered. Potentially, the presence of an interpreter could effect all aspects of an investigative interview from the planning phase, through to rapport, getting the allegation, and closure. Moreover, interpreters are key in relaying every piece of information between interviewer and child so that it is syntactically and semantically accurate.

Given the lack of research, we are left to speculate about the effects of interpreters in investigative interviews. An obvious factor would involve the time constraints and delays that are introduced when an interpreter is used in the interview. Potentially a forensic interview could double in length due to turn taking by the interviewer, child, and interpreter. The duration of the interview might also lengthen due to children and interviewers being exposed to more interruptions, such as necessary clarifications. Such disruptions may disrupt the natural flow of the interview and make memory retrieval more challenging (e.g., the child must wait longer for the next question to be asked and may forget what was stated in the previous conversational turn; the child may have moved forward to discuss another aspect of the event but then is required to take step back taking their mental framework out of sequence). Furthermore, children might have to report the event in shorter 'chunks' than they would otherwise have done in order for the contents of the child's report to be interpreted reliably. Additional considerations may also surround the way children communicate in forensic interviews because they can sometimes be reluctant to talk and speak quietly making them difficult to hear. Any 'inaccuracies' in translation, however small, might be used by legal professionals and expert witness to erode the credibility of the interview process.

The use of interpreters in child forensic interviews also raises socio-emotional issues. The dynamics of rapport between children, interpreters, and forensic interviewers presents a unique social context. With an interpreter present, two adults might be in the interviewing room potentially affecting the child's comfort in reporting intimate details of their experiences. In addition, when interviewers speak through an interpreter, it may be the interpreter who is 'speaking' and 'listening' to the child because it is the interpreter whom the child understands. In this sense, the interviewer is not the only person establishing rapport, but the interpreter is critically doing so as well. Thus, it may be especially important for interpreters to convey feelings/tones of warmth toward the child. Also, because an extra adult is in the interview, investigation teams should consider the room layout and how best to position interpreters, interviewers, and children such that the child's comfort is maximised. For example, it might make most sense

for the interpreter to sit next to the child since s/he will be the one the child understands and not to have two adults facing the child (which might increase the child's discomfort). Future research must examine these issues.

The potential benefits of using interpreters should also be considered. Increased length of interviews may necessitate that more sessions are required in order for the child to be able to provide a full account of what happened. Research shows that when interviews are conducted appropriately there are advantages to extended (Connell, 2009) or repeated interviews (La Rooy, Lamb, & Pipe, 2009). With extra time to recall information about our experiences, memories are recovered, and more details come to mind. Extra time between turn taking in investigative interviews may also provide interviewers more time to think about what they want to say next: they may be better able to generate questions that are more developmentally appropriate and avoid asking suggestive questions. Again, future research must examine these issues.

Conducting experimental, applied, and ecologically valid research in the area of investigative interviewing takes considerable time and resources but it is possible to suggest sensible next steps for interpreters based on what we have learned from investigative studies over the past three decades. One interview procedure that has been widely studied is the National Institute of Child Health and Human Development (NICHD) Protocol developed by Lamb and colleagues (2000; 2007; 2008). The NICHD Protocol has been designed to 'dovetail' into existing interviewing procedures developed in many countries and legal jurisdictions, and has informed the development of similar methods (e.g., Ten Step, Lyon, 2005; Achieving Best Evidence, 2011).

What is unique about this interviewing technique is that professionals working in many different countries have produced several translated versions. The primary aim of the translated versions was to extend the territory that the Protocol could be used in, and the numbers of interviewers that could use it. The NICHD Protocol website currently lists Chinese, English, Finnish, Georgian, Hebrew, Italian, Japanese, Korean, Portuguese, and Spanish versions of the Protocol (<http://nichdprotocol.com/the-nichd-protocol/>). When interpreters are required, translated versions of the interview Protocol may be a helpful tool in familiarising interpreters with the special features of the investigative interview, and the distinct phases and wording of questions. Expanding the languages in which the NICHD Protocol is available should involve interpreters in future research collaborations. Developmental psychologists must work closely with linguists and interpreters and continue to develop our evidence base surrounding 'what works' for children involved in the legal system.

## REFERENCES

- Achieving Best Evidence in Criminal Proceedings (2011). *Guidance on interviewing victims and witnesses, and guidance on using special measures*. London: Ministry of Justice.  
[www.cps.gov.uk/publications/docsbest\\_evidence\\_in\\_criminal\\_proceedings.pdf](http://www.cps.gov.uk/publications/docsbest_evidence_in_criminal_proceedings.pdf)  
 (last accessed 3/12/14).
- Aldridge, J. & Cameron, S. (1999). Interviewing child witnesses: Questioning techniques and the role of training. *Applied Developmental Science, 3*(2), 136–147. doi: 10.1207/s1532480xads0302\_7.
- Aldridge, J., Lamb, M.E., Sternberg, K.J., Orbach, Y., Esplin, P.W., & Bowler, L. (2004). Using a human figure drawing to elicit information from alleged victims of child abuse. *Journal of Consulting and Clinical Psychology, 72*(2), 304–316. doi: 10.1037/0022-006X.72.2.304.
- American Professional Society on the Abuse of Children, APSAC, (2012). *Practice guidelines: investigative interviewing in cases of alleged child abuse*.  
[http:// www.apsac.org/](http://www.apsac.org/) (last accessed 3/12/14).
- Andrews, S.J., & Lamb, M.E. (2014). The effects of age and delay on responses to repeated questions in forensic interviews with children alleging sexual abuse. *Law and Human Behavior, 38*(2), 171–180. doi: 10.1037/lhb0000064.
- Baker-Ward, L., Gordon, B.N., Ornstein, P.A., Larus, D.M., & Clubb, P.A. (1993). Young children's long-term retention of a paediatric examination. *Child Development, 64*(5), 1519–1533. doi: 10.2307/1131550.
- Bjorklund, D.F., Bjorklund, B., Brown, R., & Cassel, W. (1998). Children's susceptibility to repeated questions: How misinformation changes children's answers and their minds. *Applied Developmental Science, 2*(2), 99–111. doi: 10.1207/s1532480xads0202\_4.
- Bolinger, D. (1075). *Aspects of language* (2<sup>nd</sup> edn). New York: Harcourt, Brace, Jovanovich, Inc.
- Brainerd, C.J. & Reyna, V.F. (1996). Mere testing creates false memories in children. *Developmental Psychology, 32*(3), 467–476. doi: 10.1037/0012-1649.32.3.467.
- Brown, R. (1973). *A first language*. Cambridge, MA: Harvard University Press.
- Bruck, M. & Ceci, S.J. (1999). The suggestibility of children's memory. *Annual Review of Psychology, 50*, 419–439. doi:10.1146/annurev.psych.50.1.419.
- Bruck, M., Ceci, S.J., & Principe, G.F. (2006). The child and the law. In Renninger, K.A., Sigel, I.E., Damon, W. & Lerner, R.M. (Eds.), *Handbook of Child Psychology, 6<sup>th</sup> ed*, Vol. 4 (pp. 776–816). New York, NY: John Wiley & Sons, Ltd.
- Bruck, M., Hembrooke, H., & Ceci, S.J. (1997). Children's reports of pleasant and unpleasant events. In Read, D. & Lindsay, S. (eds.), *Recollections of trauma: Scientific research and clinical practice* (pp. 199–219). New York: Plenum.
- Burgwyn-Bailes, E., Baker-Ward, L., Gordon, B.N. & Ornstein, P.A. (2001). Children's memory for emergency medical treatment after one year: The impact of individual difference variables on recall and suggestibility. *Applied Cognitive Psychology, 15*(7), S25-S48. doi: 10.1002/acp.833.

- Carni, E. & French, L.A. (1984). The acquisition of before and after reconsidered: What develops? *Journal of Experimental Child Psychology*, 37(2), 394–403. doi:10.1016/0022-0965(84)90011-0.
- Ceci, S.J. & Bruck, M. (1995). *Jeopardy in the courtroom: a scientific analysis of children's testimony*. Washington DC: American Psychological Association.
- Ceci, S.J., Loftus, E.F., Leichtman, M.D., & Bruck, M. (1994). The possible role of source misattributions in the creation of false beliefs among preschoolers. *International Journal of Clinical and Experimental Hypnosis*, 42(4), 304–320. doi: 10.1080/00207149408409361.
- Ceci, S.J., Ross, D.F. & Toglia, M.P. (1987a). Suggestibility of children's memory: Psycholegal issues. *Journal of Experimental Psychology: General*, 116, 38–49. doi: 10.1037/0096-3445.116.1.38.
- Ceci, S.J., Ross, D.F. & Toglia, M.P. (1987b). Age differences in suggestibility: Narrowing the uncertainties. In Ceci, S.J. Toglia, M.P. & Ross, D.F. (eds.), *Children's eyewitness memory* (pp. 79–91). New York: Springer-Verlag.
- Cederborg, A.-C., Orbach, Y., Sternberg K.J., & Lamb, M.E. (2000). Investigative interviews of child witnesses in Sweden. *Child Abuse & Neglect*, 24(10), 1355–1361. doi:10.1016/S0145-2134(00)00183-6.
- Connell, M. (2009). The extended forensic evaluation. In Kuehne, K. & Connell, M. (Eds.), *The evaluation of child sexual abuse allegations: A Comprehensive guide to assessment and testimony*. (pp. 451–487). Wiley.
- Dent, H.R. & Stephenson, G.M. (1979). An experimental study of the effectiveness of different techniques of questioning child witnesses. *British Journal of Social and Clinical Psychology*, 18, 41–51. doi: 10.1111/j.2044-8260.1979.tb00302.x.
- Eisen, M.L., Qin, J., Goodman, G.S. & Davis, S.L. (2002). Memory and suggestibility in maltreated children: Age, stress arousal, dissociation, and psychopathology. *Journal of Experimental Child Psychology*, 83(3), 167–212. doi:10.1016/S0022-0965(02)00126-1.
- Evans, A.D. & Lee, K. (2010). Promising to tell the truth makes 8- to 16-year-olds more honest. *Behavioral Sciences & the Law*, 28(6), 801–811. doi:10.1002/bsl.960.
- Flin, R., Boon, J., Knorz, A., & Bull, R. (1992). The effect of a five month delay on children's and adults' eyewitness memory. *British Journal of Psychology*, 83(3), 323–336. doi: 10.1111/j.2044-8295.1992.tb02444.x.
- Friedman, W.J. (1991). The development of children's memory for the time of past events. *Child Development*, 62, 139–155. doi: 10.2307/1130710.
- Friedman, W.J. (1993). Memory for the time of past events. *Psychological Bulletin*, 113, 44–66. doi: 10.1037/0033-2909.113.1.44.
- Friedman, W.J. & Lyon, T.D. (2005). Development of temporal-reconstructive abilities. *Child Development*, 76(6), 913–932. doi: 10.1111/j.1467-8624.2005.00844.x-i1.
- Garven, S., Wood, J.M. & Malpass, R.S. (2000). Allegations of wrongdoing: The effects of reinforcement on children's mundane and fantastic claims. *Journal of Applied Psychology*, 85, 38–49. doi: 10.1037/0021-9010.85.1.38.
- Gee, S., Gregory, M., & Pipe, M.E. (1999). 'What colour is your pet dinosaur?' The impact of pre-interview training and question type on children's answers. *Legal and Criminological Psychology*, 4, 111–128. doi: 10.1348/135532599167716.

- Ghetti, S., Goodman, G.S., Eisen, M.L., & Qin, J., Davis, S.L. (2002). Consistency in children's reports of sexual and physical abuse. *Child Abuse and Neglect*, 26(9), 977–995. doi: 10.1016/S0145–2134(02)00367–8.
- Greenstock, J. & Pipe, M.E. (1997). Are two heads better than one? Peer support and children's eyewitness reports. *Applied Cognitive Psychology*, 11(6), 461–483. doi:10.1002/(SICI)1099–0720(199712)11:6<461::AID-ACP473>3.0.CO;2-T.
- Hamond, N.R. & Fivush, R. (1991). Memories of Mickey Mouse: Young children recount their trip to Disney World. *Cognitive Development*, 6(4), 433–448. doi: 10.1016/0885–2014(91)90048-I.
- Harner, L. (1982). Immediacy and certainty: Factors in understanding future reference. *Journal of Child Language*, 9, 115–124. doi: 10.1017/S0305000900003652.
- Hershkowitz, I. (2011). Rapport building in investigative interviews of children. In Lamb, M.E., La Rooy, D., Malloy, L.C. & Katz, C. (Eds.), *Children's testimony: A handbook of psychological research and forensic practice*. Wiley-Blackwell.
- Hershkowitz, I., Lamb, M.E., Orbach, Y., Katz, C., & Horowitz, D. (2012). The development of communicative and narrative skills among preschoolers: lessons from forensic interviews about child abuse. *Child Development*, 83(2), 611–622. doi: 10.1111/j.14678624.2011.01704.x.
- Hershkowitz, I., Orbach, Y., Lamb, M.E., Sternberg, K.J., & Horowitz, D. (2006). Dynamics of forensic interviews with suspected abuse victims who do not disclose abuse. *Child Abuse & Neglect* 30(7), 753–769. doi:10.1016/j.chiabu.2005.10.016.
- Hutcheson, G.D., Baxter, J.S., Telfer, K., & Warden, D. (1995). Child witness statement quality: Question type and error of omission. *Law and Human Behavior*, 19(6), 631–648. doi: apa.org/?uid=1996–13279–001.
- Hymes, D. (1972). On communicative competence. In Pride, J.B. & Holmes, J. (Eds.), *Sociolinguistics*. Harmondsworth, England: Penguin Books.
- Lamb, M.E. & Fauchier, A. (2001). The effects of question type on self-contradictions by children in the course of forensic interviews. *Applied Cognitive Psychology*, 15(5), 483–491. doi: 10.1002/acp.726.
- Lamb, M.E., Hershkowitz, I., Orbach, Y., & Esplin, P.W. (2008). *Tell me what happened: structured investigative interviews of child victims and witnesses*. Chichester, UK: Wiley.
- Lamb, M.E., Hershkowitz, I., Sternberg, K.J., Esplin, P.W., Hovav, M., Manor, T., & Yudilevitch, L. (1996). Effects of investigative utterance types of Israeli children's responses. *International Journal of Behavioral Development*, 19(3), 627–637. doi: 10.1177/016502549601900310.
- Lamb, M.E., La Rooy, D.J., Malloy, L.C., & Katz, C. (Eds.). (2011). *Children's testimony: a handbook of psychological research and forensic practice*. Chichester, UK: Wiley-Blackwell.
- Lamb, M.E., Malloy, L.C., & La Rooy, D.J. (2011). Setting realistic expectations: Developmental characteristics, capacities and limitations. In Lamb, M.E., La Rooy, D.J., Malloy, L.C. & Katz, C. (eds.). *Children's testimony: A handbook of psychological research and forensic practice* (pp. 14–48). Chichester, UK: Wiley-Blackwell.
- Lamb, M.E., Orbach, Y., Hershkowitz, I., Esplin, P.W. & Horowitz, D. (2007). Structured forensic interview protocols improve the quality and informativeness of investigative



- interviews with children. *Child Abuse & Neglect*, 31(11–12), 1201–1231. doi:10.1016/j.chiabu.2007.03.021.
- Lamb, M.E., Sternberg, K.J., & Esplin, P.W. (2000). Effects of age and delay on the amount of information provided by alleged sex abuse victims in investigative interviews. *Child Development*, 71(6), 1586–1596. doi: 10.1111/1467-8624.00250.
- Lamb, M.E., Sternberg, K.J., Orbach, Y., Esplin, P.W., Stewart, H., & Mitchell, S. (2003). Age differences in young children's responses to open-ended invitations in the course of forensic interviews. *Journal of Consulting and Clinical Psychology*, 71(5), 926–934. doi: 10.1037/0022-006X.71.5.926.
- La Rooy, D., Katz, C., Malloy, L.C. & Lamb, M.E. (2010). Do we need to rethink guidance on repeated interviews? *Psychology, Public Policy and Law*, 16(4), 373–392. doi: 10.1037/a0019909.
- La Rooy, D.J. & Lamb, M.E. (2011). What happens when interviews ask repeated questions in forensic interviews with children alleging abuse? *Journal of Police and Criminal Psychology*, 26, 20–25. doi: 10.1007/s11896-010-9069-4.
- La Rooy, D., Lamb, M.E., & Pipe, M.E. (2009). Repeated Interviewing: A critical evaluation of the risks and potential benefits. In Kuehnle, K. & Connell, M. (Eds.), *The evaluation of child sexual abuse allegations: A comprehensive guide to assessment and testimony*. (pp. 327–361). Wiley.
- La Rooy, D.J., Malloy, L.C., Lamb, M.E. (2011). The development of memory in childhood. In Lamb, M.E., La Rooy, D.J., Malloy, L.C. & Katz, C. (Eds.). *Children's testimony: A handbook of psychological research and forensic practice* (pp. 49–68). Chichester, UK: Wiley-Blackwell.
- Leichtman, M.D. & Ceci, S.J. (1995). The effects of stereotypes and suggestion on preschoolers' reports. *Developmental Psychology*, 31(5), 568–578. doi: 10.1037/0012-1649.31.5.758.
- Lenneberg, E. (1967). *Biological foundations of language*. New York: Wiley.
- London, K. & Kulkofsky, S. (2010). Factors affecting the reliability of children's reports. In Davies, G.M. & Wright, D.B (Eds.), *New Frontiers in Applied Memory* (pp. 119–141). New York, NY: Psychology Press.
- Lyon, T.D. (2005). *Ten step investigative interview*. Los Angeles, CA: Author.
- Myers, J.E.B. (2005). *Myers on Evidence in Child, Domestic, and Elder Abuse Cases*. New York: Aspen.
- Oates, K. & Shrimpton, S. (1991). Children's memories for stressful and non-stressful events. *Medical Science and Law*, 31, 4–10. doi: 10.1177/002580249103100102.
- Orbach, Y. & Lamb, M.E. (2001). The relationship between within-interview contradictions and eliciting interviewer utterances. *Child Abuse & Neglect*, 25(3), 323–333. doi:10.1016/S0145-2134(00)00254-4.
- Orbach, Y. & Lamb, M.E. (2007). Young children's references to temporal attributes of allegedly experienced events in the course of forensic interviews. *Child Development*, 78(4), 1100–1120. doi: 10.1111/j.1467-8624.2007.01055.x.
- Orbach, Y., Lamb, M.E., La Rooy, D., & Pipe, M.E. (2012). A case study of witness consistency and memory recovery across multiple investigative interviews. *Applied Cognitive Psychology*, 26, 118–129. doi: 10.1002/acp.1803.

- Orbach, Y. & Pipe, M.E. (2011). Investigating substantive issues. In Lamb, M.E., La Rooy, D., Malloy, L.C. & Katz, C. (Eds.), *Children's testimony: A Handbook of psychological research and forensic practice* (pp. 147–164). Chichester, UK: Wiley.
- Pipe, M.E., Lamb, M.E., Orbach, Y., & Esplin, P.W. (2004). Recent research on children's testimony about experienced and witnessed events. *Developmental Review, 24*(4), 440–468. doi:10.1016/j.dr.2004.08.006.
- Pipe, M.E. & Salmon, K. (2009). Dolls, drawings, body diagrams, and other props: Role of props in investigative interviews. In Kuehnle, K. & Connell, M. (eds.), *The evaluation of child sexual abuse allegations: A comprehensive guide to assessment and testimony* (pp. 365–395). Hoboken, NJ: Wiley.
- Pipe, M.E. & Wilson, J.C. (1994). Cues and secrets: Influences on children's event reports. *Developmental Psychology, 30*(4), 515–525. doi: 10.1037/0012-1649.30.4.515.
- Poole, D.A. & Lindsay D.S. (1998). Assessing the accuracy of young children's reports: Lessons from the investigation of child sexual abuse. *Applied and Preventative Psychology, 7*, 1–26. doi: 10.1016/S0962-1849(98)80019-X.
- Poole, D.A. & White, L.T. (1993). Two years later: Effect of question repetition and retention interval on the eyewitness testimony of children and adults. *Developmental Psychology, 29*(5), 844–853. doi: 10.1037/0012-1649.29.5.844.
- Poole, D.A. & White, L.T. (1991). Effects of question repetition on the eyewitness testimony of children and adults. *Developmental Psychology, 27*(6), 975–986. doi: 10.1037/0012-1649.27.6.975.
- Roberts, K.P., Brubacher, S.P., Price, H.L., & Powell, M.B. (2011). Practice narratives. In Lamb, M.E., La Rooy, D., Katz, C. & Malloy, L. (Eds.), *Children's testimony: A Handbook of psychological research and forensic practice* (pp. 129–145). Chichester, UK: Wiley-Blackwell.
- Roberts, K.P. & Powell, M.B. (2007). The roles of prior experience and the timing of misinformation presentation on young children's event memories. *Child Development, 78*(4), 1137–1152. doi: 10.1111/j.1467-8624.2007.01057.x.
- Sas, L.D. & Cunningham, A.H. (1995). *Tipping the balance to tell the secret: The public discovery of child sexual abuse*. London, ON, Canada: London Family Court Clinic.
- Sauzier, M. (1989). Disclosure of child sexual abuse: For better or for worse. *Psychiatric Clinics of North America, 12*(2), 455–469.
- Saywitz, K.J., Goodman, G.S., Nicholas, E., & Moan, S.F. (1991). Children's memories of a physical examination involving genital touch: Implication for reports of child sexual abuse. *Journal of Consulting and Clinical Psychology, 59*(5), 682–691. doi: 10.1037/0022-006X.59.5.682.
- Saywitz, K.J., Lyon, T.D., & Goodman, G.S. (2011). Interviewing Children. In Myers, J.E.B. (Ed.), *The APSAC handbook on child maltreatment* (3<sup>rd</sup> edn.) (pp. 337–360). Newbury Park, CA: Sage.
- Schreiber, N., Bellah, L.D., Martinez, Y., McLaurin, K.A., Strok, R., Garven, S., & Wood, J.M. (2006). Suggestive interviewing in the McMarrin Preschool and Kelly Michaels daycare abuse cases: A case study. *Social Influence, 1*, 16–47. doi: 10.1080/15534510500361739.
- Schneider, W. & Bjorklund, D.F. (1998). Memory. In Damon, W., Kuhn, D. & Siegler, R.S. (eds.), *Handbook of child psychology: Cognition, perception, and language* (5<sup>th</sup> edn., Vol. 2, pp. 467–521). New York: Wiley.

- Smith, B.E. & Elstein, S.G. (1993). *The prosecution of child sexual abuse cases: Final report*. Washington, DC: National Center for Child Abuse & Neglect.
- Spencer, J.R. & Lamb, M.E. (2012) (Eds.). *Children and cross-examination: Time to change the rules?* Hart Publishing, Oxford and Portland: Oregon.
- Sternberg, K.J., Lamb, M.E., Davies, G.A., & Westcott, H.L. (2001). The Memorandum of Good Practice: Theory versus application. *Child Abuse & Neglect*, 25(5), 669–681. doi:10.1016/S0145–2134(01)00232–0.
- Sternberg, K.J., Lamb, M.E., Hershkowitz, I., Esplin, P.W., Redlich, A., & Sunshine, N. (1996). The relation between investigative utterance types and the informativeness of child witnesses. *Journal of Applied Developmental Psychology*, 17(3), 439–451. doi:10.1016/S0193–3973(96)90036–2.
- Thierry, K.L., Lamb, M.E., Orbach, Y. & Pipe, M.E. (2005). Developmental differences in the function and use of anatomical dolls during interviews with alleged sexual abuse victims. *Journal of Consulting and Clinical Psychology*, 73(6), 1135–1134. doi:10.1037/0022–006X.73.6.1125.
- Tobey, A.E. & Goodman, G.S. (1992). Children’s eyewitness memory: Effects of participation and forensic context. *Child Abuse & Neglect*, 16(6), 779–796. doi: 10.1016/0145–2134(92)90081–2.
- Walker, A.G. (1994). *Handbook on questioning children: A linguistic perspective*. Washington, DC: American Bar Association on Children and the Law.
- White, T.L., Leichtman, M.D. & Ceci, S.J. (1997). The good, the bad, and the ugly: accuracy, inaccuracy, and elaboration in preschoolers’ reports about a past event. *Applied Cognitive Psychology*, 11(7), S37–S54. doi: 10.1002/(SICI)1099–0720(199712)11:7<S37::AID-ACP546>3.0.CO;2–4.
- Whitehurst, G.J. & Sonnenschein, S. (1985). The development of communication: A functional analysis. In Whitehurst, G.J. (Ed.), *Annals of child development (Vol. 2)*. Greenwich, Connecticut: JAI Press.
- Winer, G.A., Rasnake, L.K. & Smith, D.A. (1987). Language versus logic: Response to misleading classificatory questions. *Journal of Psycholinguistic Research*, 16(4), 311–327. doi: 10.1007%2FBF01069285#.
- Wynn, K. (1990). Children’s understanding of counting. *Cognition*, 36(2), 155–193. doi:10.1016/0010–0277(90)90003–3.

### 3.4. CASE 2: HIGHLY VULNERABLE CHILD SUSPECT

(All names of people and places are fictitious, but the events are real.)

On a Friday afternoon, Rehela is brought to the police station. She is a 14-year old Roma girl who appears to be alone. Her parents cannot be traced. Rehela does not speak Dutch or French and is not able to communicate with the Dutch-speaking police.

The police want to question her because she possibly belongs to a gang committing ‘hug thefts’, a type of youth delinquency which frequently occurs in the area close to the French-Belgian border. Children beg for money and then thank the person and give them a hug, but at the same time his/her valuables (e.g. necklace, wallet, etc.) are stolen. Such thefts cause a lot of inconvenience in the area.

Given the considerable number of hug thefts, the public prosecutor’s office has instructed the police to call an interpreter and to ensure that Rehela is questioned by staff specially trained in child interviewing who make use of the TAM interview method (*Techniek van het Audiovisueel verhoor van Minderjarigen*) [Technique for Audio-visual interviewing of Minors].<sup>142</sup> The girl was caught in the act of committing a hug theft and a few pieces of jewellery and two wallets were confiscated. She must be interviewed as soon as possible.

The public prosecutor’s office orders the assistance of a sworn interpreter during the interview. Rehela is also assisted by a youth lawyer, as required by the Salduz Law.

The police (of town X) who have created the file will also organize the audio-visual interview. They are responsible for contacting:

- an interpreter. Since there is no national register of professional interpreters available, the police use the local list for their judicial district. After a few attempts, the police officer is able to contact Samira, a Romani interpreter;
- a police officer specially-trained in audio-visual interviews (TAM). Fortunately, there is a list of staff who are on call to ensure that qualified staff members are available at any time;
- a youth lawyer from the on call list.

---

<sup>142</sup> The behavioural science department of the Belgian federal police (child hearings section) is responsible for organizing the TAM training for police officers. The interview method taught is based on the following main principles: non suggestiveness and a stepwise structure.

Jan is a member of Police Zone Y and the specially-trained police officer who will conduct the child interview.

Once Rehela, the interpreter, the lawyer and the police of Zone X (who are in charge of the file) are all present in the interview room, Jan briefly explains to the interpreter that the interviewee is an under-age suspect and clarifies what the new Dutch word '*knuffeldieven*' (i.e. 'hugger muggers') means. Soon it becomes clear that the interpreter has never attended an audio-visual interview before. Jan therefore briefly explains how this type of interview is conducted. He does *not* ask the interpreter to *faithfully* translate everything that is said and asked, because he automatically expects her to do this. The interpreter is already acquainted with the Franchimont Act<sup>143</sup> and Salduz Law.<sup>144</sup> The interviewer explains to her that he will inform the minor about these laws in a specific way.

Since there are so few Romani interpreters, the same interpreter will also be present during the girl's private consultation with her lawyer.

Given the fact that Rehela is heard as a suspect, she does not have the right to be assisted by a support person (e.g. a family member or friend). Because the police did not succeed in tracing her parents, a social worker is appointed to assist her.

The cameras are switched on and a recording is being made. The minor and the interpreter are taken around the interview room. The interviewer already shows them the seating positions for all the participants. Rehela will be sitting at a round table, with the lawyer on her left-hand side and Jan (the police officer) on her other side. The interpreter will sit between the interviewee and the police officer in a triangular formation.

<sup>143</sup> Act of 12 March 1998 for the improvement of the administration of criminal justice at the stage of the investigation and the judicial enquiry. (E.G.M. Weitekamp and H.-J. Kerner (eds.), *Restorative Justice in Context: International practice and direction*, Routledge, New York 2011, p. 117) The Belgian Franchimont Act includes provisions such as the right to remain silent, the right to a copy of the report, etc.

<sup>144</sup> In *Salduz v Turkey* (*Salduz v. Turkey*, GC, 27 November 2008) the ECHR held that there had been a violation of Article 6 of the European Convention which guarantees the right to a fair trial because Salduz who was under eighteen at the time of the offence was denied legal assistance while in police custody, during which time he made a confession which he later claimed was made under duress. The ECHR said that Article 6 "requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right." [SEC (2011) 686 final of 8 June 2011- *Impact assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the rights of access to a lawyer and of notification of custody to a third person in criminal proceedings*, p. 13]

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011SC0686&from=NL>

Next they are shown the adjacent observation room with its monitor and recording equipment, as well as the people present there: the person handling the case and another specially-trained TAM police officer who is operating the recording equipment. The lawyer is already familiar with this type of setting and chooses to remain seated in the interview room during this explanation.

Once all participants are back in the interview room, they introduce themselves. Jan explains that the interpreter is present because he himself does not speak Romani. He emphasizes that he finds it important that both parties understand each other perfectly. The role of the lawyer is also made clear.

After Jan has explained the interview ground rules and some legal provisions relating to the hearing, Rehela is questioned about her potential involvement in the thefts.

During the interview, it becomes clear that Rehela does not speak Dutch at all. She also tries to win the interpreter over to her side.

She evades the questions and claims that she does not know anything about the items found in her pocket. She does say something about her family situation, but also insists that she does not know her address.

The police officer has some experience in questioning child victims and adult suspects. However, he is not specifically trained to conduct interviews of child suspects. Yet he notices that the girl uses very short sentences or does not answer at all. The interview lasts for 45 minutes. Once the interviewer has all the information needed, he closes the interview.

#### 3.4.1. DISCUSSION: LEGAL ACTOR (POLICE OFFICER)

Hans DE WIEST

The key issues from the first case are also repeated in this second case. Interviewing a minor is always a delicate issue. In the present case, a fourteen-year old girl must be interviewed as suspect, which presents somewhat different challenges. We either have to treat the child primarily as a person who is *underage* – and at the same time suspected of an offence – or as the *suspect* of a crime, who is underage as well. Where should the emphasis be placed? The European Convention on Human Rights (ECHR), Article 6 paragraph 2, states: ‘Everyone charged with a criminal offence shall be presumed innocent until his

guilt has been established in law.’ The first problem is that an accused minor has the right to a lawyer, and a child victim to a confidant. We should, for instance, ask ourselves what the role is of each of the minors in the following example: two minors, who are respectively five and six-years-old, played a game of sexual nature that went wrong. One child put a bottle in the other’s bottom. Are the police going to question them as suspects or as victims? After all, their exact role cannot be determined right from the beginning. If it is assumed that both children ended up in this game through particular circumstances, neither of the children will be treated as suspect. The problem is that an accused minor has the right to a lawyer, while a child victim has the right to a confidant. According to the ECHR, it is only the court which decides whether they are guilty. The second problem is that the interviewing technique is different. Therefore, the interviewer has to find the right balance in consultation with the magistrate.

Given that the police already have a great deal of experience, they know that suspects traditionally are in the habit of denying the facts to escape punishment by the court. The police should realise that Rehela is possibly the breadwinner for her family and that she may be forced to earn money for them by committing small thefts, as described in the case. When she is arrested, it is hardly surprising that she denies the facts.

This also means that, in addition, these minors are often not first-time offenders. This reality should not be underestimated. Minors who have been arrested repeatedly for similar offences and who have been interviewed several times also acquire experience of being questioned.

It is important to know that there are several offender profiles for each crime. The degree of confession differs with different types of suspects (introverts-extroverts) and different types of crimes (Mitchell, 1983; Neubauer, 1974; Holmberg & Christianson, 2002; Saint-Yves, 2002). A suspect actually has the willingness to confess, but everything depends on the circumstances of the interview (Moston, Stephenson & Williamson, 1992). Thus, his decision to confess a crime can be influenced by the way in which the interview is conducted. The same is true for an interview with a child suspect. The behaviour of the interviewer and the fact that every step is made clear will both contribute significantly to the interview being conducted in a correct and respectful way.

It is also important to know that child suspects are not only adolescents who are almost eighteen-years-old. There are also cases in which five-year-old child offenders are interviewed.

In this case, Rehela is questioned as suspect and has the right to be assisted by a lawyer. Because she is not able to understand Dutch or make herself understood in that language, she is also assisted by an interpreter.

When taking a closer look at Roma cultural issues, it becomes clear that this girl is even more vulnerable because of her background.

Experts in Romani studies identify three groups: the Gitanos (who are currently living in the South of France, Spain, Portugal and North Africa), the Manush or Sinti (French, German and Italian) and finally the Romani or Rom Gypsies.

They often speak Romanes (Romani) and in Belgium they sometimes have French as a second language, occasionally with Dutch as a third language. The second wave of Romani immigrants not only speak Romanes, but also the language of the country from which they fled and possibly some French as well. The majority of the recently migrated Romani living in Flanders do not speak Dutch.

The issues of Roma culture<sup>145</sup>, e.g. poverty, unlawfulness, the nuisance they often cause, low employment rates and discrimination are also reflected in the problems of Roma children, which are threefold:

- 1) they tend to be more frequently absent from school;
- 2) they are often being perceived as causing trouble;
- 3) their presence leads to high crime rates (mainly crimes against property).

This brings us to the social exploitation of Roma children: the children we encounter on the streets and who get involved in petty crime. They are habitual offenders who are used to commit offences. They remain loyal to their culture and will not jeopardise the honour of their family. Interviewing them is therefore very difficult, not only because of their culture, but also because of the language. The Romanes language is not very easy since it is mainly an oral language.

Solidarity is an extremely important concept. They belong to a close community, so, in this case too, there are particular skills that interpreters should possess, i.e. insight into Roma culture and the ability to fully focus on their main task: interpreting. Moreover, interpreters can also function as impartial cultural intermediaries. Child interviewees sometimes do understand the language of the proceedings, but refuse to speak it. They are perhaps able to understand what the police officer says, but do not want to reveal this immediately. This is also an

---

<sup>145</sup> N. De Mol, *Onbekend, onbemand? Beeldvorming van 'zigeuners' in België in de 19<sup>e</sup> en 20<sup>e</sup> eeuw*, Ghent University, Ghent 2010 (unpublished master dissertation).



aspect that should not be overlooked during the criminal investigation carried out by the police.

The presence of a youth lawyer, as required by the Salduz Law, could hinder the search for truth in some cases. The notification that someone cannot be forced to incriminate him or herself – in whatever way this is stated – is an indirect form of suggestion, which conflicts with our main task as police officers: truth-finding. This notification is, however, obligatory, because minors must be informed that they have the right *not* to incriminate themselves. The reason behind this notification is that minors are considered to be more susceptible to the pressure of a police interview.

The fact that there is also an interpreter present makes the practical organisation more difficult (it becomes less easy to bring all participants together) and may reveal several other communication difficulties as well. It frequently happens that an interpreter does not have any experience of this type of videotaped interview. In this case, the police officer takes some time to brief the interpreter about the way in which these interviews are conducted. It would, of course, be timesaving for all parties if the professionals can discuss the steps to the interview process beforehand to ensure that it is successful. It is necessary for the interpreter to know how the interview will be conducted and the stages the police officer will go through. For instance, the police officer uses very specific wording adapted to the language level of the minor.

Because neither of the professional (the police officer and the interpreter) is sufficiently familiar with the other's role, this might lead to misunderstandings. In this case, the police officer does *not* specifically ask the interpreter to faithfully translate everything that is said and asked, because he automatically expects her to do this. The interpreter may, however, be less aware of the manipulative behaviour of the minor who is trying to escape punishment. The police officer intentionally asks particular questions in a specific order and with very specific wording to fulfil his task. Certain techniques are required to make suspects talk themselves into a corner. Here it is necessary for both professionals to gain more insight in each other's way of working.

The interviewer decides where the participants will be sitting at the round table during the interview. He takes the lead in the conversation, in line with his function as police officer. Again, it would be normal for the professionals to discuss together (beforehand) whether it is possible for them to fulfil their task properly from their assigned position.

The lawyer should, indeed, be sitting beside the suspect. He defends the best interests and rights of the minor. The interviewer should also be sitting next to

the minor, at the other side (positioned at an angle of 90 degrees). He should be able to make eye contact with the interviewee to allow for optimal non-verbal communication. Such interaction between interviewer and interviewee is primordial.

The interpreter is sitting between the interviewer and the interviewee, while forming a triangle. This also seems to be the correct thing to do in a police interview. The police officer establishes and maintains contact with the interviewee, in line with the basic principles of a child interview.

As demonstrated by this case, it regularly happens that the minor tries to establish close contact with the interpreter or looks for his/her support. Rehela is also looking for an 'ally' to help her during the interview, preferably someone with whom she already has a special connection and who speaks her language. Rehela may unconsciously look for support against the supposed superiority of the police. She may find this support in the person of the interpreter, with whom she is not only connected through the language but often also through the culture. These are all reasons why the police officer and the interpreter should align their tasks beforehand. They should discuss the goal of the interview and how they can both contribute to achieving this goal in the best possible way. The role of the interpreter should be explained clearly: interpreters are there to translate and do not need to take responsibility for any other task. Different professionals are appointed by law to carry out the other tasks. This would be the most comfortable way of working.

It is important that the police officer directly addresses Rehela when asking questions and that she also answers him directly. Indirect speech (the third person form), such as 'He said /The police officer says that...' or 'Ask her if...', must never be used.

In reality, the interview took forty-five minutes. This type of interviews is *not* conducted by specially trained police officers, since no specific training for this purpose exists yet.

Here again it is also striking that the duration of the interview is slightly shorter than the average duration of a police interview, even though every sentence had to be repeated in the other language.

Another observation is that no fewer than 26% of the underage suspects have a mental impairment, which considerably increases the degree of complexity of these interviews.

Given the general complexity, the interviewer absolutely should have some experience in working with this group of child suspects. Training in interviewing child victims only is not sufficient. Once again, an efficient cooperation with interpreters requires joint effort and joint training, so that all professionals know what the others are doing. The main idea is to ‘understand and be understood’.

*Some figures:*

*(\*) The figures below only include videotaped interviews by the TAM networks in Belgium. The number of non-videotaped child interviews is, of course, higher.*

In 2013, in Belgium, 5797 minors have been interviewed by audio-visual methods.

In 21% of these interviews (in 2013), there was an expert psychologist present in the interview room, next to the child.

In 16% of these cases (in 2013), there was a confidant present next to the child.

In 85% of these cases (in 2013), there was an interpreter present next to the child.

Between 2004 and the end of 2013, about 43 000 interviews were videotaped; 65% of these interviews dealt with indecent assault and rape.

The oldest ‘underage’ interviewee (a person with an extended minority status) was 70 years old. In total, 30 adults with an extended minority status were questioned. In 2011, the youngest ‘suspect’ in a videotaped interview was 4-years old. In 2012, the youngest suspect was a 5-year-old and, in 2013, a 7-year-old.

An interview with a child suspect lasts for 52 minutes on average. This observation only applies to the 558 videotaped interviews with child suspects between 2011 and 2013. In 2.2% of these interviews, an interpreter was present.

Of these child suspects 26% were registered as minors with a mental impairment.

### 3.4.2. DISCUSSION: LEGAL ACTOR (LAWYER)

Eric VAN DER MUSSELE

After a briefing with the interpreter, police officer and lawyer, as counsel, I will speak to Rehela first.

The police want to question her because she possibly belongs to a gang committing 'hug thefts' a type of youth delinquency which frequently occurs in the area close to the French-Belgian border. Children beg for money and then thank the person and give them a hug, but at the same time his/her valuables (e.g. necklace, wallet, etc.) are stolen. Such thefts cause a lot of inconvenience in the area.

Given the considerable number of hug thefts, the public prosecutor's office has instructed the police to call an interpreter and to ensure that Rehela is questioned by staff specially trained in child interviewing who make use of the TAM interview method (*Techniek van het Audiovisueel verhoor van Minderjarigen*) [Technique for Audio-visual interviewing of Minors].<sup>146</sup> The girl was caught in the act of committing a hug theft and a few pieces of jewellery and two wallets were confiscated. She must be interviewed as soon as possible.

The public prosecutor's office orders the assistance of a sworn interpreter during the interview. Rehela is also assisted by a youth lawyer, as required by the Salduz Law.

The police (of town X) who have created the file will also organise the audio-visual interview. They are responsible for contacting:

- an interpreter. Since there is no national register of professional interpreters available, the police use the local list for their judicial district. After a few attempts, the police officer is able to contact Samira, a Romany interpreter;
- a police officer specially-trained in audio-visual interviews (TAM). Fortunately, there is a list of staff who are on call to ensure that qualified staff members are available at any time;
- a youth lawyer from the on call list.

Jan is a member of Police Zone Y and a specially-trained police officer who will conduct the child interview.

Once Rehela, the interpreter, the lawyer and the police of Zone X (who are in charge of the file) are all present in the interview room, Jan briefly explains to the interpreter that the interviewee is an under-age suspect and clarifies what the new Dutch word '*knuffeldieven*' (i.e. 'hugger muggers') means. Soon it becomes clear that the interpreter has never attended an audio-visual interview before. Jan therefore briefly explains how this type of interview is conducted. He does

---

<sup>146</sup> The behavioural science department of the Belgian federal police (child hearings section) is responsible for organizing the TAM training for police officers. The interview method taught is based on the following main principles: non suggestiveness and a stepwise structure.

not ask the interpreter to *faithfully* translate everything that is said and asked, because he automatically expects her to do this. The interpreter is already acquainted with the Franchimont Act<sup>147</sup> and Salduz Law.<sup>148</sup> The interviewer explains to her that he will inform the minor about these laws in a specific way.

Before the suspect's private consultation with her lawyer, a BRIEFING has to be organised without the arrested minor being present. This first briefing without the child suspect – but with all professionals involved (police, lawyer and interpreter) – is absolutely necessary.

The lawyer can be Rehela's personal youth lawyer, as it is maybe not the first time that she has been arrested or involved in social protection cases. In some member states, the personal youth lawyer is appointed each time and asked to give assistance.

When the youth lawyer knows that the minor has special needs as a vulnerable minor (not only as a Roma or as a foreign language speaker, but because of other physical or mental problems), he can inform the police and interpreter about these valuable elements, if professional secrecy allows him to do so.

Since there are so few Romani interpreters, the same interpreter will also be present during the girl's private consultation with her lawyer.

In addition to this, there are several other aspects that need to be discussed before private consultation with the lawyer starts.

The presence of a registered and certified interpreter is the best guarantee for effective interpretation and qualitative communication between the minor and

<sup>147</sup> Act of 12 March 1998 for the improvement of the administration of criminal justice at the stage of the investigation and the judicial enquiry. (E.G.M. Weitekamp and H.-J. Kerner (eds.), *Restorative Justice in Context: International practice and direction*, Routledge, New York 2011, p. 117) The Belgian Franchimont Act includes provisions such as the right to remain silent, the right to a copy of the report, etc.

<sup>148</sup> In *Salduz v Turkey* (*Salduz v. Turkey*, GC, 27 November 2008) the ECHR held that there had been a violation of Article 6 of the European Convention which guarantees the right to a fair trial because Salduz who was under eighteen at the time of the offence was denied legal assistance while in police custody, during which time he made a confession which he later claimed was made under duress. The ECHR said that Article 6 "requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right." [SEC (2011) 686 final of 8 June 2011- *Impact assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the rights of access to a lawyer and of notification of custody to a third person in criminal proceedings*, p. 13]  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011SC0686&from=NL>.

the youth lawyer. Multidisciplinary cooperation is the only possible way of achieving this, on the condition that all elements can be taken into account and that the guarantees for a fair trial and the rights of defence are respected.

But the demands of fair trial can also restrict this recommended cooperation to a certain extent. Exceptionally, there may be reasons – linked to the rights of defence and a fair trial – not to do so.

In what follows, we will discuss three of these exceptional circumstances.

The first concern is to know if the minor has any personal objections against the interpreter being present.

The police have to mention at least the name of the interpreter. On the basis of this information only, and possibly also a picture of the interpreter, the minor (and adult) suspect/victim/witness can assess if there could be a reason to refuse the intervention of the interpreter present.

The interpreter's name has to be mentioned for the following reasons. First of all, Rehela has the right to refuse the interpreter for personal reasons (because she recognises the interpreter or he/she is a family member; because of social, religious or personal objections, etc.). Secondly, the lawyer can also object to the intervention of the interpreter because he/she has already worked for the prosecution, during wiretaps in the same or a related case, etc. If necessary, it should also be possible to file a complaint against the interpreter (because of personal involvement, insufficient interpreting quality, use of the wrong language, working without training or accreditation, not being a member of the official list/register as ad hoc interpreter, having already worked as wiretap interpreter in the same or a related case, etc.).

If these elements are not taken into account, the rules of fair trial can be violated.

When the appointed interpreter is not suitable, a personal consultation with the lawyer in the minor's second or third language (without an interpreter) is to be preferred or one with a different interpreter, if there is no second or third language that can be used.

Exceptionally, the personal youth lawyer or the youth lawyer on the on call list can consciously opt for a private conversation with Rehela without an interpreter, in her second or third language. Lawyers know that the underage suspects (Roma and others) sometimes do not like to admit that they speak a bit of French or German.

In some cases, the reason clearly lies in the fact that underage gang members are threatened by adult members: the adults threaten to harm them or their family, their parents, little brothers and sisters, etc. These minors have the right to remain silent in order to protect their family members against what they think is inevitable. Every lawyer will try to look for other solutions, but this may not always be possible during the very first consultation.

Respecting the rights of defence has absolute priority, in this case, the right to remain silent, not to speak and even not to say what language can be spoken.

Thirdly, in some countries, prosecutors and police do not contact a different interpreter for the consultation with the lawyer, one who will not be present during the police interview. If the youth lawyer is able to speak a language with Rehela which they have in common, he will prefer to do so, in order to avoid the same interpreter being present during the consultation and in the police interview, even if no unprofessional behaviour can be proven on the part of the appointed interpreter.

The rights of defence are violated when the same interpreter is appointed for both the interview and the private consultation, because 'not only does justice have to be done, but [it] also has to be seen to be done', as decided by the ECHR. Otherwise, the impression can arise that the consultation with the lawyer is not entirely private, if the interpreter who is present has not been appointed by the defence but by the police, and will later have to perform during the police interview as well. This is certainly the case when lawyers are not allowed to appoint the interpreter of their choice for the private consultation.

Nevertheless, if the same interpreter is used for both the consultation and the interview (because there is no other interpreter available and no second or third language can be spoken) in some countries and legal fields, the lawyer will automatically object to this way of working.

Next, we will discuss several elements that require particular attention during the private consultation with the lawyer.

A private CONSULTATION with the youth lawyer has to be organised effectively and the police officers should see to it that:

- a private consultation room is available, without sound or (audio)visual recording or monitoring equipment;
- private communication is guaranteed – without any glass panes, audio or video;
- a table and at least three chairs are present;

- the room has a normal temperature;
- there is enough time available for consultation, especially for consultations in another language or interpreter-mediated consultations;
- a registered and competent interpreter is available in the language of the suspect's choice (this is the case in Belgium; some countries are obliged to provide interpretation in the language chosen by the suspect, his/her mother tongue, any known language, etc.).

The lawyer might, for instance, learn that Rehela is a victim of compulsion and family violence. It is possible that Rehela wants to leave the gang and wants protection, wishes to go to school, agrees to stay in a shelter home, etc. and does not wish at all to be send back to her 'parents' again...

The lawyer will explain to Rehela that he and the interpreter cannot tell the police this for reasons of professional secrecy and that she has to tell it herself during the forthcoming police interview. He will also see to it that she can ask that these elements are paid attention to.

The lawyer and interpreter cannot reveal these elements to the police and prosecutor. Only Rehela can do so if she wishes, either during the police interview, or maybe later in the pre-trial or trial phase to the youth judge.

Given the fact that Rehela is heard as a suspect, she does not have the right to be assisted by a support person (e.g. a family member or friend). Because the police did not succeed in tracing her parents, a social worker is appointed to assist her.

A SECOND BRIEFING without the suspect may be needed to resolve the problems that have been mentioned above. In that case, the prosecutor has to be consulted by the police officers.

The cameras are switched on and a recording is being made. The minor and the interpreter are taken around the interview room. The interviewer already shows them the seating positions for all the participants. Rehela will be sitting at a round table, with the lawyer on her left-hand side and Jan (the police officer) on her other side. The interpreter will sit between the interviewee and the police officer in a triangular formation.

Next they are shown the adjacent observation room with its monitor and recording equipment, as well as the people present there: the person handling the case and another specially-trained TAM police officer who is operating the recording equipment. The lawyer is already familiar with this type of setting and chooses to remain seated in the interview room during this explanation.



Once all participants are back in the interview room, they introduce themselves. Jan explains that the interpreter is present because he himself does not speak Romani. He emphasises that he finds it important that both parties understand each other perfectly. The role of the lawyer is also made clear.

After Jan has explained the interview ground rules and some legal provisions relating to the hearing, Rehela is questioned about her potential involvement in the thefts.

During the interview, it becomes clear that Rehela does not speak Dutch at all. She also tries to win the interpreter over to her side.

She evades the questions and claims that she does not know anything about the items found in her pocket. She does say something about her family situation, but also insists that she does not know her address.

During police interview itself, the lawyer can ask for a BREAK.

If Rehela does not start telling anything about her personal circumstances (compulsion, family violence, etc.) and does not tell the police that she was a victim of her family, was forced to go with others, and had to gather what was stolen because she was under fifteen-years-old and could not be punished, the lawyer can speak to her again in private to ask why she did not reveal this information.

If there is a good reason for it, she can wait for the next interview session (within twenty-four hours) to tell the youth judge.

But if she feels okay with it and already wishes to tell the police, the lawyer will explain to her that immediate protection measures and assistance can be offered.

After the break the interview goes on.

The police officer has some experience in questioning child victims and adult suspects. However, he is not specifically trained to conduct interviews of child suspects. Yet he notices that the girl uses very short sentences or does not answer at all. The interview lasts for 45 minutes. Once the interviewer has all the information needed, he closes the interview.

Before ending the interview, the suspect and lawyer need time for a review of the hearing.

At least they have the right to comment on the following issues, such as:

- refusal of a briefing prior to the consultation;
- refusal to appoint different interpreters for the consultation with the lawyer and the police interview;
- refusal of medical care, food or drink;
- refusal to postpone the interview when the child suspect is not capable of being interviewed (e.g. drunk, intoxicated by drugs, sleepy, etc.);
- unavailability of an appropriate consultation room; no normal room temperature; no direct contact or fully private conversation possible, etc.;
- refusal to have a break during the interview;
- refusal to read through or review the interview at the end;
- refusal to include rectifications or additional remarks made by the minor;
- refusal to reveal the name of the interpreter;
- refusal to provide interpretation in the right language (language of choice of the child, mother tongue, any other language known by the interviewee, etc.);
- refusal to appoint a qualified interpreter: one who is on the official list/register, trained, accredited and sworn in, masters the right language, provides good interpreting quality, etc.;
- refusal to change the language or replace the interpreter upon request;
- etc.

### 3.4.3. DISCUSSION: CHILD SUPPORT WORKER

Éva KERPEL

Case 2 involves a fourteen-year-old gipsy girl, Rehela, who had been caught red handed stealing on the street in Belgium. Even after her arrest, she is not accompanied by her parents or guardian or anyone whom she knows. Are her parents in Belgium? Or has she been trafficked to work as a begging and stealing slave? Is she afraid? Will she be handed over to the authorities of her native country? Will she be punished for getting into trouble with the Belgian authorities by her parents or other adults who possibly make her beg and steal? As she does not speak or understand the language spoken by the authorities who are investigating the case, there are no answers.

The professionals involved in this case are police officers, and a social worker, legal representative and interpreter. Depending on the specific case, representatives of other professions may be involved (doctor, appointed guardian, cultural mediator, for example). Together they form the professional

team for the case, and all members of this team need to work together in a harmonised way. The interpreter is a very special member of the team through whom all communication is understood by the child and by other members of the professional team. Therefore, the training, involvement in all team communication, and the professional conduct of the interpreter is an important precondition for the success of the team.

What other conditions need to be met in order to deal with the situation efficiently?

First of all, all professionals working with Rehela must agree on her **status**. Secondly, all professionals working with any child should be specifically **trained** to be able to do this work. Thirdly, it is helpful in the long run, if there is a **network** of the relevant professionals available nationally and across Europe. Fourthly, all professionals working with Rehela need to **cooperate** with each other as a **team**, with specific leadership by one of the professionals. Vis-à-vis the child, all professionals involved need to communicate the same message. Finally, all professionals working with children in crisis situations should take part in professional **supervision**, preferably as a team.

**Status.** According to the UN CRC definition adopted by all EU countries, Rehela is a child. Whether she has committed a crime or not, she is entitled to all forms of protection and help that are due to a child in any member country of the EU. It is important that all professionals involved in a case of a child understand that a person under eighteen years of age, a child, even when committing a crime, is a victim of his/her upbringing and circumstances. Therefore, when making preparations for handling a case that involves a child, it should not make any difference whether the child is an obvious victim or the perpetrator of a crime due to his/her being victim to his/her upbringing or circumstances. While legislation in most EU countries allows for the criminal prosecution of children under eighteen and they may be sentenced for the crime committed, the background to a child's clash with the law is always something missing in the child's upbringing. Support for victims is legislated on at the national and EU level. Status as a child should guarantee the highest level of attention and support for any person under eighteen.

How does the recognition that a child is a victim, even when being prosecuted as the perpetrator of an offence, help the professionals involved in the investigation? Understanding that a child victim or perpetrator is, by definition, a 'special needs' client will help all professionals make the right preparations. It is also key to the successful investigation to make the child feel safe and gain her trust. If there is but one member of the professional team working with Rehela who does not understand and adopt the basic principles of child protection, what

has possibly been achieved by the rest of the team with the child can easily be undone by that single person.

Rehela claims not to speak or understand the languages spoken to her by the authorities. If she is 'working' as a beggar or thief in Belgium, she is likely to understand at least the basics, but is also unlikely to have sufficient knowledge of a foreign language to participate in an investigation. The necessity of involving an interpreter is obvious. The proper training and involvement of the interpreter in the team is vital for the success of the team.

**Training.** All professionals working with children should receive specific and ongoing training to be able to do so. Children are particularly vulnerable when alone and involved in an investigation. Rehela is being accused of a crime and, according to the case description, she is not entitled to the support of a family member or friend. She is supported by a social worker she meets for the first time during the investigation.

Talking to a child with respect and understanding, and treating him/her as equal does not come easy to all professionals, especially if the child is accused of a crime. When working with children, professionals, even with the best of intentions, are sometimes patronising; they talk down to the child, try to build on the child's guilt feelings, use expressions the child does not understand, lecture and threaten the child. Anyone of these behaviours can silence a child and make him/her uncooperative. Again, if only some members of the team understand how best to approach a child and other members do not, a lot of trust building can be annulled with one wrong word or through body language. It is important to note again that the interpreter is part of the team and a very important member: the child will perceive the message mainly through the interpreter. Training and involving the interpreter in all preparations may prove essential to the success of the procedures and to being able to help the child.

Ideally, the interpreter assisting should be trained to work with children. In Rehela's case, a video interview is conducted, ideally the interpreter should be trained for that as well. In reality, interpreters trained to work with children and with video interviews as well, especially for an unusual language like Romani, are rarely available in any country.

While the different professionals dealing with a child's case have a wide range of education and are aware of child protection principles on very different levels, specific cross-profession training sessions for those potentially involved in managing a case can greatly help with the understanding of priorities and the working methods of other professions. This understanding, in turn, will result in better cooperation in the actual case management. For the interpreter, it is

particularly important to understand the intentions of the professionals he/she is translating for and, when translating, to identify with each role played by the other professionals. There needs to be an understanding in the team though, that there should be no contradicting communication to the child from the different professionals. If the same interpreter is used throughout the case (as it should happen), it can make the interpreter's role very difficult if he/she has to translate contradicting information. It may lead to losing the trust of even a more mature child, if the same person is communicating contradictory information.

Most interpreters acquire their skills in working with children by doing so. In very few countries are Training courses for interpreters on how best to communicate with a child and on how to make a child to cooperate, rather than on language and interpreting skills, are available in very few countries. Given the fact that the interpreters to be trained speak languages, it may be a good idea to develop training materials, in at least in the most used languages, for interpreters working with children.

Similarly, professionals working with children may need to learn how to work with interpreters. All too often, professionals relying on interpreters assume that there is a minor technical difference. In reality, especially when working with children, successful communication is, in the end, in the hands of the interpreter. Professionals working with children need to recognise that involving the interpreter in all preparations and case communication is vital to their own efficiency. There are very few professions in which training courses are offered to learn how to work with interpreters in children's cases. In view of the increasing workload of professionals dealing with children whose language they do not speak, cross-profession training materials could be developed and offered nationally and on an EU level on how to work with interpreters.

**Inter-Net-Work.** A possible solution to the general lack of appropriately trained interpreters with the right language combination could be to involve the interpreter online in the interview and on the other occasions as necessary. There are successful practices of working with interpreters online in business and other fields. A Romani interpreter with child protection training is more likely to be found in a country with a larger gipsy population, just as it is likely to be easier to find an interpreter of any European language with relevant training in the mother country. Building a European network of interpreters with child protection training and involving its members in the work with children online could be one way of solving the problem of finding the right interpreter at short notice when necessary. The online involvement of the interpreter may also speed up procedures when the interpreter is available in the same country. A pool of interpreters across Europe could also come in handy, if the gender of the interpreter is an issue, as it might be in some cultures or for some cases.

Also, interpretation may be limited to the language (words and sentences), but if a professional team is to understand the child's motives and gestures, in many cases some cultural interpretation might be necessary, which is most likely to come from an interpreter familiar with the given culture.

In addition to being able to assist online, a pool of trained interpreters could also extend the already existing practice of sharing knowledge and contribute to each other's further training.

Similarly, if other professionals regularly working with cases of children across frontiers form networks, they will be able to receive support from each other. While cooperation among different professionals exists at national and European levels, there is regularly a bottleneck to find those who are trained to work with children. A European network of different professionals working with children could assist in overcoming cultural issues that sometimes go unnoticed and, therefore, unsolved by an otherwise highly professional team.

Involving at least one of the professionals (most likely the interpreter) online in children's cases may seem like unduely challenging to a child in a crisis situation. In reality, children can adapt more easily than most adults. Translation arriving through a headphone and/or the interpreter being seen on a screen is usually experienced as fun by children, even in very serious situations. The fact that professionals and authorities take the trouble of arranging online help is usually welcomed by the child.

**Cooperation.** A child's case will necessarily involve experts from different professions and different organisations/authorities. In order to manage the situation properly, each case will require the setting up of a professional team. Apart from the challenges of harmonising the work of different offices, the difficulty comes from the different priorities of each profession. In a case involving a child, the child's best interest should be the number one consideration, even if it is a criminal investigation with a child suspect.

On a minimum level, cooperation among the professionals (including the interpreter!) should involve:

- working under the same case management even if they work for different offices;
- having an initial meeting before meeting the child;
- working out and maintaining a joint strategy;
- sharing all information;
- organising in-between and closing case conferences;
- taking part in team supervision.

Ideally, the team is led by the professional who can represent the best interests of the child and who can also make sure that the professional standards of each profession involved are closely observed. In most countries there is a set professional code of conduct for those working in person with children. For some situations, there are also European standards set. Teamwork also requires that, in addition to each profession's general minimum standards, the standards of child protection are met without fail.

Sharing of information and establishing a common work strategy and methods for the team is essential. Again, it is vital that all information is shared with the interpreter and that he/she is involved in the team's work as much as possible. As the interpreter is often the first person whose words the child understands, the interpreter needs to be able to represent the attitude the team want to convey to the child. If the interpreter is not trained to work with children, he/she needs to be given a crash course in the essentials before meeting the child in person or online. Specific dangers and challenges concerning the case or the child should also be discussed with the interpreter. The more information the interpreter is aware of, the better he/she can contribute to the success of the professional team. An interpreter insisting on his/her job description being limited to translating sentences may not be the right person to assist the work of professionals with children. If the team is lucky, the interpreter can also support the team with his/her own experience of having formally worked with children. In any case, any initiative of the interpreter should be agreed upon with the rest of the team prior to actually meeting the child.

In a case where the interpreter is working with the child online, all information and decisions should be provided before the actual interpretation commences. The work of the interpreter ideally does not end with the session with the child, but he/she also shares his/her observations of the child and the situation with the rest of the team. Interpreters with the right cultural background may provide additional information that otherwise would be impossible to obtain.

Cooperation within the team also means that the interpreter needs to keep to his/her agreed role. When working with children the person who actually understands their words directly bears the highest emotional burden. Interpreters are no more immune to feeling for children in trouble than any other adult. Often it is very hard to keep a distance, to resist the emotional invitation from the child. Yet, personal emotional involvement with the child will not only hinder the professional work, but also, in the end, let the child down. Even older children take signs of emotional involvement as a promise of further care. Professionals of child protection can usually establish an atmosphere of trust with the child. It is important that the interpreter closely follows their conduct.

**Supervision** is professional help to evaluate and rethink the actions, behaviour and emotions of members of the team. It can be individual or group supervision led by the supervisor, usually a psychologist or a senior representative of the same profession. When professional teams are formed on a case-by-case basis, it may be best to provide group supervision. As working with children is not only rewarding, but can also bring a heavy emotional burden, ideally, all professionals in the team, including the interpreter, should participate in the team supervision sessions.

Talking about the case has the obvious benefit of helping learn valuable lessons that can be useful in future cases. Less obvious is that talking about what happened during the case, what emotions each professional had to deal with and how well they succeeded in managing those emotions will not only prevent burning out as a professional, but will provide a certain level of security and satisfaction. These, in turn, are vital to further improving the professional quality of the work provided by the team.

In Rehela's case, it seems as if she closed down during the interview: her answers were short or she did not answer at all. There could be numerous reasons for this, including ones that the professionals can perhaps help with and those that are beyond their authority. Either way, it is a frustrating experience for both Rehela and for the team. If the case analysis investigates police criteria only, the conclusion may be that it is not good to work with that interpreter, or that a female police officer could have conducted the interview better. In supervision, however, there is an opportunity to find out more about what exactly happened, what actions could have been tried differently, how professionals can not only deal with, but also learn from the frustration they may have been exposed to. The case report mentions that Rehela tried to win over the interpreter. In supervision, it is possible to work with the emotions the interpreter had to deal with while this was happening. The interpreter can also find out about ways to turn a situation like this into a trust building exercise with the child.

Professionals working with children in crisis without supervision do not normally last long in their job. The emotional burden of witnessing a child's struggle, and not being able to help on the level one would like to, is huge. In order to prevent burning out as a professional and to enhance the efficiency of working with children, supervision is a must.

#### – **Concluding thoughts**

There is free movement of people in the European Union. Often people do not yet speak or understand the language of the country where they intend to settle. The elimination of borders also means that there is a large influx of people to



countries that are known for their higher living standards and/or extended benefits. Children can be the involuntary members of a travelling family. They are also trafficked and used as slaves by criminals to beg or steal or be exploited in numerous other ways.

When a child does not speak the language of the country where he/she is in trouble, the authorities intervene. They rely on the work of interpreters to be able to talk to the child.

None of the participants are prepared for these instances. The child is taken out of his/her environment, deprived of her/his ability to communicate and at the same time adults want something from him/her and he/she does not understand. The authorities need to deal with children, instead of the people they have been trained to work with, criminals. Professionals trained to work with children cannot get across the language barrier. Interpreters involved in the work experience emotional pressure to become surrogate mothers/fathers instead of simply translating sentences from one language to another.

The problem of unaccompanied or seemingly unaccompanied children in European countries who do not speak the local language or do not speak it well enough to deal with authorities is not going away. It is a European problem. We need to find European solutions that consider the rights, best interests, dignity and future of the children involved.

#### 3.4.4. DISCUSSION: INTERPRETERS

##### 3.4.4.1. *Spoken language interpreter*

Carmen TONITZA

The exact same case of Rehela could happen in any big city in France.

In my experience working as a Romanian legal interpreter, 70–80% of the cases I was called for involved minors as suspects. In all cases, we had to deal with very well organised networks. This has a lot of implications for our work as legal interpreters.

#### – **Overview of the situation**

In my view, the situation regarding the immigration of Romanian children into France can be divided into two periods: before 2007 and after 2007.

Before 2007 and Romania's EU membership, some Romanian children were bought by criminal networks in Romania in exchange for a promise made to their parents that they would have a job in France, which was a lie. Instead of working, they were obliged to steal. Some of these children did really believe they were working, in the truest sense of the word. It was the case, for example, in the thefts from the parking ticket machines; some of the children who were stealing thought they were collecting money on behalf of the city council. Other children arrived with their parents and the whole family, in particular between 2003 and 2006. In this case, children were involved in cases of pick-pocketing.

After 2007 and Romania's admission to the EU, a lot of Roma migrants from Romania arrived. Since 2007, networks have stopped trying to recruit Romanian minors, only Roma. Some Roma can speak some French. Others speak English, Italian or Spanish, because networks have moved around in Europe. Usually the language spoken within the family is Romani or a mixture of Romani and Romanian. But they also speak Romanian very well, because they have been exposed to this language since their early childhood (through watching TV, for example) and I have never been confronted with a situation where a Roma was not able to speak Romanian.

Roma people live in settlements (slums) on the margins of towns and society. They often have a wandering life, which does not facilitate their integration. Roma children are often members of clannish networks. They are 'mentored' by their families. Non-Roma Romanians are often more integrated into French society. They generally speak French well, and, therefore, those who may be interviewed by the police do not need an interpreter.

In the case of Roma minors, they consider interpreters, social workers, lawyers, police officers, and prosecutors as representatives of the authorities and, as a result, mistrust them. They have also been briefed by their network: they do not want to say a single word and know perfectly well how to behave in front of police officers. Some are victims of abuse, of ill-treatments committed by networks. For me, it does not make any difference if the person for whom I am interpreting is a Roma or not. But it is true that stigmatisation against Roma increases their vulnerability in many situations.

The legal status of the minor, suspect or victim, does not change anything to my work either. A child suspect is, above all, a child victim, no matter what her/his legal status is. She or he may be a victim of a network or in a broader sense, victim of her/his life conditions. No child spontaneously commits an offence. She/he does it when she/he finds her/himself in an adults' world, and those adults force her/him to act. I keep my distance in the same way, in every case. As an interpreter, I do my best not to show my emotions. It is my duty to remain impartial in every situation.

My work is not influenced by the fact that the child is a Roma or not, a suspect or a victim. In every case, I try to be compassionate and impartial.

– **BEFORE**

In my experience, professionals prefer not to give interpreters information in advance. For example, it would sometimes be very useful to know if the child has an impairment, but most of the time I can detect it during the interview. I have noticed a positive evolution for some years now: police officers and lawyers do not ask us for our impressions or points of view anymore.

Knowing in advance that the person for whom I will be interpreting is a Roma can help me a lot, though, because I can understand her/his way of life and background better, and especially her/his family background and the relationships she/he has with other members of her/his family, in the broadest sense of the term. It may seem like a detail, but, in fact, family patterns are very different from non-Roma Romanians.

Before the interview, I would explain intercultural differences: in Romania, for example, when facing a problem, we react by smiling. This can be confusing or misleading for a French person. Furthermore, very few Roma children go to school and have access to vocational training. In Roma culture, families indirectly force young people to marry at a very young age. Sometimes teenagers already have their own family to support. Clans play a central role in this culture.

I am not sure a briefing is necessary to talk about interpreting mode. For me it goes without saying, like an implicit rule: consecutive and, preferably, short consecutive. Sometimes, I have to interrupt the police or the minor if they speak for too long. If necessary, I ask the child to leave me some time to translate.

A briefing would be very useful to discuss interpreter's role boundaries. I had to understand the rules by myself, but it would have spared me time and energy if police officers had discussed the limits of the role of interpreters with me before the beginning of the interview. For inexperienced interpreters, this dialogue with police officers can help fix limits for the role of every professional and agree on what can be done and what not. But, in my opinion, what makes the difference between interpreters is training. A training adapted to legal interpreters' needs is necessary.

A briefing can also be an opportunity to discuss seating arrangement and find a compromise because some professionals have preferences. It is crucial for me to be able to see the child and that the child is able to see me. It is also important to agree on strategies in advance because the child could be thrown if adults disagree strongly in front of her/him.

In theory, I do not ask the child questions. If I have not understood, I simply say so to the police officer or I repeat the child's answer to the police officer who will decide whether some clarification is needed, but I do not request clarification on my own. The reality is that networks do train children: they know perfectly well how to avoid a question.

An introduction is absolutely necessary: 'Hi, I am the interpreter.' But it is not enough. My role should be explained to the child. I would like the lawyer or the police officer to clearly tell the child that my role is only to translate. Some children may think that I am also conducting the criminal investigation or that I will help them. Some lawyers do introduce me to the child, but not consistently. I think it is important that the person in charge of the interview introduces me. Adults quickly understand my role, children usually do not. If the person leading the interview does not introduce me, I appreciate it when she /he invites me to do so and leaves me some time to say that I am impartial, bound to professional secrecy and that I will translate everything in the first person. In the case of minor suspects, I like to add, 'You are responsible for what you are saying. Don't expect me to change your discourse.' Based on my experience, I have found out that adults spontaneously understand this, children do not.

- DURING

If I am faced with language difficulties, I have to immediately alert the police officer. If I understand the minor only partially, it can have a strong negative impact on the proceedings.

I always try to stay as close as possible to the child's language: vulgar language, baby talk, slang or jargon. For example, the young wallet thieves in Paris refer to tourists by the term 'Centaur' (like the mythical animal). The first time, I could not understand what the child meant. I translated the term literally. I also try to remain as faithful as possible to the tone of voice of the child, the words she/he uses. If I struggle to understand the child, I ask the police officer if I may ask the child questions for clarification. Linguistic difficulties arise very seldom, although the language spoken in Roma families is Romani, an Indo-Aryan language. But the language of education, of TV programmes is Romanian. Only once, a five-year-old boy who was a witness in a case could not understand Romanian. It happens very seldom, but there are exceptions.

I find it crucial to remain impartial in all circumstances and to convey this impression to the other participants. What I think of the case should remain incidental, but it is sometimes hard to maintain a distance. If the child is suspicious, I try to explain to her/him that my role is to translate. I guess this problem would have been avoided, if the police officer had done it before the beginning of the interview.

There is another more common difficulty with suspects: when the minor tries to gain my friendship and begins to confide in me: 'Don't tell them anything, but the truth is...' Suspects often turn to us, more than to their lawyer, because we speak the same language. Victims, on the contrary, do not have to look for alliances.

I really think it is up to the police officer to choose words that are adapted to the age of the child. Usually lawyers step in during the interview to explain

difficult concepts. But very often networks have already explained to minors how it works and how they should behave.

The main difficulty is that these children are trained not to say anything, to be careful, to elude questions. But I do not think it only applies to Roma children. I am convinced there is always an organisation hiding behind child suspects. In France, when the first infraction is committed, social services step in and isolated minors are given some help. The philosophy is to protect these children first, not to punish them. But it is very hard to pull victims out of networks, because they are briefed about interview techniques.

Sometimes I have the feeling that communication is not working well: the child gives an irrelevant answer, the officer gets irritated, the child digs his heels in. I cannot do anything, but I still feel I have failed. We are really like team members when we are working with minors. Police officers and lawyers should not be on two opposite sides in these cases. The role of everyone involved is to help these minors to leave networks.

#### – AFTER

A debriefing is very useful, especially in serious cases, because a lot of information that I could not explain during the interview may have escaped the police officer. Then we would have the opportunity to discuss it together. When I began in this field, I also felt the need to talk to someone after a difficult case to relax. Nowadays, I manage to deal with my stress better, but inside I occasionally feel very upset.

#### – *Recommendations*

– legal interpreters in France definitely need a code of ethics. For the time being, we are guided by our intuition and the code of ethics of other professionals working with us, but there is no code of ethics for legal interpreters. In the event that a professional asks us to do something we think is in contravention of the professional ethics, we have no written document to show which could explain why a legal interpreter should not act in this way.

ASTRID is an association launched to design a code of ethics that would define not only our rights, but also our duties. That would be a first step. In France, the situation of legal interpreting is improvised; there is still much to be done;

– furthermore, we need to think more of children's specific needs and of difficulties or misunderstandings that arise more often or more acutely with minors, especially regarding the limits of the interpreter's role. Some years ago, the Antenne des mineurs was created by lawyers to better adapt to minors' needs. We should follow their example;

– a training for interpreters, judges, lawyers and police officers and how they can best work together in the interest of the child is crucial. Police officers

especially should be better trained in the specific character of our job as interpreters.

#### 3.4.4.2. *Signed language interpreter*

Catherine KING

If it is assumed that the child in this case is Deaf and uses Sign Language, I offer the following reflections. Prior to an interview of this type I would do quite a lot of psychological preparation including considering the nature of a child suspect and how I may react to that. I find that this allows me to put aside my personal views on a particular case and the legal context, so that I can focus on the task at hand. It caught my eye that the whereabouts of the parents of the child in this case are unknown and that a social worker has been appointed to assist her. On a very personal level, I would be wondering what happens next for her. Often it is local authority or larger charity-based interpreting teams who are brought in to interpret for ongoing social work or housing issues and, as the police interpreter in previous stages, we are often excluded, quite rightly, from the pool of available interpreters. Nevertheless, the fact that we never know how or if a situation resolved itself for the young person is one of the most discussed issues among, in particular, freelance interpreters.

Alongside this psychological preparation, there is work to be done on calling up the framework of language that is used by young people who sign. This can be very varied, ranging from children who have a sign language as their primary language with good language models around them and who therefore display fluency, to children who have developed certain limited sign vocabulary in order to cope with a lack of a clearly defined internal language. The latter can occur when parents choose to educate their deaf child in the spoken language of the country, rather than the signed language of the country e.g. British Sign Language (BSL).

Walking into any police interview is walking into the unknown in terms of both circumstances and language use, but where a child is involved the issues are heightened as language is still developing. I find it imperative to consider the range of possibilities and scenarios that I might encounter. It is vital to think through how young people use language and to afford them the space to be themselves rather than inadvertently pressurising them into an unnatural language pattern. Where there is, for example, a lack of clarity, it is better practice to keep the interpreting process 'clean' by raising the fact that I am having a problem and allowing the lead interviewer to ask for clarification. In this way,

the young person only has one adult in authority asking for clarification rather than two. The people in the room at this interview therefore may well represent a dominant political ideology that could be antagonistically perceived. This is a feature of a community that has been in a position of suppression and which may perceive people from a spoken language background as responsible for this.

Knowing your environment is a helpful form of preparation. Where the interview takes place in a child-friendly environment, such as a Public Protection Unit, it is also useful to ask for a tour and an opportunity to see the image the cameras capture as, naturally, this is particularly important for recording interviews in which sign language is being used.

The briefing is the most important part of the assignment in my opinion. It is a good idea to ask for an hour for a briefing with the relevant personnel at the booking stage Where things have to happen quickly e.g. in connection with an arrest or a suspect interview, as in the above case, at least fifteen minutes should still be set aside to talk through the issues that may arise. This should be done away from the interview room and the other actors involved. Doing this at the outset can pre-empt potential difficulties and makes for a more effective interview.

The briefing needs to focus on relevant data that both the interpreter and the police officers need to know. Discussing interview techniques is essential to maintaining the integrity of the interview. However, many officers are extremely uncomfortable about sharing this information. Even when they are happy to share it, the lack of related training for interpreters means that they may not necessarily understand the nuance of these techniques. Handing the interpreter the file on the case is not particularly helpful and risks breaches of confidentiality. I would rather have a conversation that elicits the key information. The outcome of the officer(s) and the interpreter working as a team and, therefore, sharing information and strategies before the interview, is often a more effective interview. Not everybody agrees on this though, as it raises questions around what neutrality and professionalism mean in these circumstances. Maintaining the balance between being a team in order to negotiate the interpreting interaction effectively, but still remaining neutral to the interview objectives and outcome is a key aspect of the interpreter's task in my opinion.

One of the first issues that struck me about this case study is that the interpreter is briefed in the interview room alongside the suspect and the lawyer. The interpreter here is in a vulnerable position having to choose between attending fully to the briefing, in full view of an uncomprehending interviewee, or to attempt to offer an interpretation that allows the interviewee to understand but risks the interpreter not being able to fully attend to the briefing. To choose the

first strategy risks creating the impression that the police and the interpreter are a team ranged against the suspect while the latter choice risks the interpreter being unable to fully focus on the briefing and potentially missing important information. When an interpreter is compromised like this, the interpreting process can supersede the thought processes needed for the interpreter to absorb information.

Both of these approaches considerably restrict the ability of the interpreter to ask questions and get a full picture of the situation. The officers will only be willing to give the bare facts about the case given that the lawyer and/or the suspect may be listening to the conversation. It also restricts the scope of the briefing, as the interpreter cannot ask about the interview strategy. Giving a joint briefing of this kind also places everyone round the table in a vulnerable position. It is the job of the lawyer to protect the rights of his/her client and, if the interpreter manages the briefing by not interpreting or possibly summarising, the lawyer can legitimately claim that the client was not fully able to participate.

A briefing is valuable for both the interpreter and the interviewers. For the interpreter, access to the facts of the case as they stand are vital e.g. initial details of the suspect, language used (where known), the circumstances of the suspect's involvement with the police including details of the contact between the suspect and officers e.g. the arrest incident with geographical details if available, the alleged crime and whether there are known associates. These details are vital with sign languages given that proper nouns are manually coded (also known as fingerspelling) or sometimes local or common ways of referring to places are used. If the interpreter does not read the fingerspelling accurately at first use, it can create frustration in both clients or lead to a loss of confidence in the interpreter or to inaccurate information being recorded. Similarly if the interpreter is not local – and this may be deliberate for a number of reasons – she may not be familiar with local conventions for talking about local places and will need to clarify this. If interpreters have this information before the interview they are better armed to anticipate the language which will be produced during the interview. While information given to the interpreter prior to the interview is a support for the interpreting process, it must not be taken to be an established fact. It may well be that the arrest is described in the briefing as having happened in Street X, but the suspect subsequently states that it happened in Street Y. There is often a fear on the part of law enforcement officials that, by giving interpreters information prior to the interview, they will be less neutral or inclined to regurgitate already known information, I have trained myself not to assume that I will see any particular piece of information emerge throughout the interview and, in my experience, professional interpreters have the ability to remain purposefully open to alternative information emerging.



It is helpful to the interviewers to discuss which interpreting modes are available and which one might be best suited in a particular case. I would, however, make sure the officers were clear that interpreting is a fluid thing and that it does not help to stick to a particular mode just because it has been agreed. Many interpreters working between spoken and signed languages have been trained to work simultaneously, but consecutive is often more accurate and is often seen as a preferred alternative.

Different seating arrangements are required for spoken and signed language interpreting: the signing interviewee must be able to see the interpreter and the lead interviewer at the same time. This can be confusing to police officers who are more used to arrangements for interpreting between spoken languages. They also may feel uncomfortable with the interpreter being so physically close to them. It is also crucial in video recorded interviews to test out seating arrangements so that the interpretation and the source language from the suspect can be seen clearly in the recording. Currently, recording equipment does not provide a sufficiently clear image, so some of the subtle but important cues with sign languages are not captured. The video capture systems used currently in police interviews tend to provide a less than clear image therefore subtle but important cues that are integral to meaning in sign languages can be lost.

This preparation should be done without the suspect being present and in as unhurried a manner as possible. Quite commonly, and sometimes necessarily, the interpreter is given only a few minutes to discuss arrangements with the officers. This places stress on both parties before the interview even begins, especially if the officers are not trained or experienced in working with an interpreter. It is also fair to say that there are extremely competent legal interpreters who may find it difficult to articulate quickly and concisely what it is they do and what their role is. Ideally, this should be dealt with in training, rather than in the few precious minutes before a complex interview situation.

Some officers perceive interruptions for clarification on the part of the interpreter as disruptive. It is useful to point out during the briefing that interruption can actually be a positive technique where ambiguity or inaccurate rendition is the greater threat. Still at the briefing stage, I would raise the issue of communication strategies to ascertain how the interviewers were approaching the interview. In some situations, the interpreter may find it beneficial to offer cultural information such as the fact that interrupting a sign language user can mean that the narrative is interrupted this breaks the narrative thread for the sign language user and they will tend to begin again from a much earlier point in their story. This can be frustrating for the police officers who sometimes read this repetition as a suspect being obstructive or evasive (rather than recognising

it is simply a feature of the culture) thus setting up a false perception of the suspect. On the other hand, the suspect may actually be evasive. The best the interpreter can do in this situation is share that piece of cultural knowledge with the officers and allow them to make an informed decision. Qualified interpreters are generally trained to channel the need for clarification. However, this might not be the case with untrained community members who are sometimes utilised by police forces and, therefore, may serve to demonstrate the benefit of using trained interpreters.

There is one point that is rarely discussed, but that I find invaluable as an interpreter in these kinds of settings. Having a strategy that lets the officer and the interpreter get some time out from the interview at any point is useful. When the interpreter is feeling pressured by either party with regard to their role -as happens in this case study – or if the pressure arises from an unexpected emotional response or language challenge, the interpreter needs to be able to take time out and deal with that issue. A cue for this should be agreed at briefing stage. This is yet another reason for a separate pre-interview discussion.

All professionals in the interviewing process, including lawyers, need to understand how interpreting will affect the interaction. If that understanding is not present, the effectiveness of the representation could be called into question at a later stage in the judicial process. Using the same interpreter for the formal interview and the legal representation interview would be considered poor practice in my language combination, in Scotland. Despite the fact that there are relatively few BSL/English interpreters in the country who are trained to work in police settings, the risk to the case is greater than the benefit. However, in Scottish jurisdictions, we are now seeing this separation of duties being compromised since the Cadder ruling, i.e. the introduction of legal representation at the time of interview.<sup>149</sup>

There is something to be said about being able to introduce myself as the interpreter to the interviewee before the interview. This can create an effective communication environment that may make a big difference in a difficult situation such as this. With a minor, having some time to ‘chat’ is also helpful as it lets the interpreter deal with language issues, such as identifying school/home vocabulary as well as stylistic markers in language production, before getting to the main interview. However, if this introduction is mishandled you risk a sort of ‘imprinting’ where the interpreter is perceived as an ally or as taking the

<sup>149</sup> An appeal case based on the decision of the European Court of Human Rights in *Salduz v Turkey* (2008, led to the UK Supreme Court unanimously ruling, in the case of *Cadder v HM Advocate*, that the law in Scotland was incompatible with Article 6 of the ECHR in allowing a suspect to be detained and questioned by the police without having access to legal advice. New legislation was introduced on 27 October 2010.

lead in the interview. The question here is how the introduction should be done, who initiates it and who monitors it. Essentially, the interpreter is in a linguistic sense, if not physically, alone with the minor. Therefore, who monitors the conversation and whether it will be filmed should be checked in order to offer protection to both the interpreter and the minor, as well as to protect the future integrity of the case. Whilst it is preferable for the lead interviewer to introduce the interpreter and describe the role of the interpreter, this may be fraught with danger given that officers can deeply misunderstand that role. Any introduction should be done only after a briefing with the interpreter, as outlined above, so that the officer too is well briefed.

Language difficulties should be flagged to the lead interviewer immediately, so that each instance can be noted. Where the preponderance of difficulties in handling the minor's language becomes more than is helpful to the continuation of the interview, the paper trail/camera evidence supports the interpreting process which led to that.

Some legal professionals (both police and lawyers) can be reluctant to hear that there are difficulties and would rather the interpreter found another strategy to deal with these, but if difficulties are ignored this may lead to inaccuracies and, therefore, a compromised case. Obviously there are ramifications, if there are difficulties in handling the language and interviews may have to be terminated and/or rescheduled with all the resulting challenges that brings. Nevertheless, flagging up difficulties is a matter of ethics and doing so is consistent with the formal training programmes in Scotland.

It is particularly hard to remain impartial where a child is involved. It can either be that we over sympathise with the minor or that we struggle to conceal an antipathy or fear of him/her. To keep emotional distance there needs to be an agreement that the interpreter, as agreed in the briefing, is given adequate breaks and is supported in this by those who have booked her. These breaks should not just be opportunities for the police officers to discuss the trajectory of the interview with the interpreter but genuine moments of being alone that allow the interpreter to ensure her resilience. Where the minor is apparently hostile to the interpreter, despite the briefing and pre-interview introductions, it is useful to find a way to let the interviewers know this as soon as it becomes apparent. Again, this should be done as agreed in the briefing. In this specific case, the formal interview lasts only 45 minutes but the preliminary session could have taken up a considerable amount of time before this began, so it may be that the interpreter is starting to tire at the midway point. This is something to keep in mind.

There are many challenges in interpreting for children in any type of case. Apart from the fact that minors tend to use language according to their age and cultural group, there are vocabulary issues and neologisms, as well as cultural and inside knowledge that we cannot assume the interpreter understands. The other main challenge is that it is rare to find formal training for interpreters in this kind of language or setting and the usual police/legal courses that we have in both pre and post qualification training tend to focus on legal language, rather than on young people's language. I have found it useful to offer what I call 'footnote' strategies in situations where language use is challenging, adopting a slightly different tone or manner when alerting the officer to a linguistic issue than rendering an interpretation. With an officer open to this kind of dynamic work, the interview can be very productive and complete.

The issue of who modifies language so that it is suitable in the target language is a thorny one. In my experience, if the lead officer really wants to ensure the accuracy of the interview, s/he needs to control the source material according to what s/he is trying to achieve. In reality, it is often left to the interpreter to do this, which leaves the investigation open to the criticism that it is the interpreter who is interviewing the child and not the legal professional.

A debriefing is a very useful tool, but is also a counterpoint to the pre-briefing. Where I have repeatedly said that points can be covered in the pre-briefing, the debriefing is an opportunity to measure the efficacy of the strategies agreed. It is also a place where any residual issues can be raised and dealt with, such as interpreting points that did not fall into the expected categories. The third benefit of a debriefing is for the emotional and psychological health of the interpreter, by allowing the interview to remain in the station or unit rather than accompanying the interpreter home to be chewed over.

Given everything I have talked about here, it seems to me that there are three main recommendations I would offer. At the moment, in Scotland, formal training courses (both academic and vocational) cannot hope to cover all types of interpreting tasks, so often specialist areas such as this are excluded. Legal and police post qualification training courses can often be found and contribute positively to continuing professional development (CPD) for interpreters, but they tend to focus almost exclusively on the language use of the legal professionals. It would be very useful to the interpreting profession if courses were to offer training in the kinds of language used by minors. To this end, courses should include input from psychologists and linguists specialising in this area, as well as those fluent in the appropriate languages and interpreters who already work in this area. One of the difficulties interpreters face regarding children's language is that they rarely encounter children in their working lives and therefore lack opportunities to build up

skills. If we were to include particular education professionals who use the relevant language skills, we could pool resources and increase skills across many professional spheres.

My second recommendation would be that official police courses be opened up to interpreters. Whether these courses are tailored for the interpreting profession or are mainstream police courses admitting interpreters is a discussion to be had with the police forces of the country, but that the courses are necessary is beyond doubt. Joint training courses with interpreters and police officers which focus on interview techniques would also be extremely useful in fostering reciprocal understanding between the two professions and skilling up those interpreters in the field who lack this expertise.

My final recommendation is that police forces around Europe begin to seriously invest in the technology they use to record interviews. At the moment, even the newer technologies render the image as grainy and lacking in detail which makes them difficult to use in situations where interpreting points need to be checked e.g. for court cases or where dubiety exists about the accuracy of an interpretation. Where investment is made, it should be done so in conversation with experienced interpreters and officers well versed in the field.

### 3.5. OVERVIEW TABLE CASE 2

**Case 2: Issues, ideas and concepts mentioned by the practitioners commenting on the case**

**Grey = mentioned by more than 2 practitioners**

*Disclaimer:* This overview is just to highlight the most striking correspondences between the comments of the practitioners. Some ideas were mentioned by various professionals from different fields of expertise. This does not mean, however, that when an item is not mentioned by practitioners, they by definition attach little or no importance to it. Professionals were free to write from their experiences and expertise. We only highlight frequencies and this does not imply any value judgement on the content of the respective contributions.

**Overview table case 2**

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
National register of legal interpreters		X	X		
Joint training for all stakeholders	X		X	X	X
Respect			X		
No patronizing behaviour			X		X
Joint preparation of the interview			X		X
Psychological preparation of the LI for the interview			X		X
Trust			X	X	
Briefing	X	X (joint briefing)	X	X	X
Knowing the technical environment					X
Different LI during lawyer consultation and police interview		X			

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
The same interpreter throughout the case			X		
Short conversation with the minor before start of the interview		X			X (language check)
Child language development					X
Specialization of stakeholders in interviewing minors		X	X		
Adequate breaks		X			X
Preference for speaking to the minor in a 2 <sup>nd</sup> /3 <sup>rd</sup> language (without a LI)		X			
Debriefing / supervision session			X	X	X
Intercultural background information			X	X	X
Non-verbal signs	X			X	
Keeping emotional distance during the interview			X	X	X
Availability of an appropriate consultation room		X			
Interviewing techniques	X		X		X
Agreement on interpreting mode					X
Preference for consecutive mode				X	X
Introduction of the interpreter	X	X	X	X	X

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Defining the rules for all stakeholders	X	X		X	X
Faithful translation	X	X		X	
Insight into the LI's task			X		X
Internet-work/ Remote interpreting			X		
Communication strategies	X		X	X	X
Preference for using the 1 <sup>st</sup> person (direct speech)	X				
PO adapts the language to the level of the child	X			X	X
PO= leading person in the interaction	X	X			X
Agreement on seating arrangement	X	X		X	X
Eye contact	X			X	X
Teamwork	X	X	X	X	X
Strict confidentiality		X			
Team supervision			X		
Code of conduct			X	X	X



### 3.6. OVERVIEW TABLES CASE 1 AND 2: KEY IDEAS AND CONCEPTS

**Case 1: Issues, ideas and concepts mentioned by the practitioners commenting on the case**

**Grey = mentioned by more than 2 practitioners**

*Disclaimer:* This overview is just to highlight the most striking correspondences between the comments of the practitioners. Some ideas were mentioned by various professionals from different fields of expertise. This does not mean, however, that when an item is not mentioned by practitioners, they by definition attach little or no importance to it. Professionals were free to write from their experiences and expertise. We only highlight frequencies and this does not imply any value judgement on the content of the respective contributions.

Overview table case 1

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Psychologist	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
National register of legal interpreters	X	X		
Training for all stakeholders	X		X	X
Specialization of stakeholders in interviewing minors	X	X		X
Respect	X		X	
Briefing		X	X	X
Debriefing	X		X	X
Psychological preparation of the interpreter for the interview	X		X	
Non-verbal signs	X	X	X	X

<sup>150</sup> To start with; consecutive mode enables the interpreter and participants to check for meaning.

<sup>151</sup> If necessary, when the interpreter can ensure the necessary accuracy and the age/developmental stage of the child allows for the use of simultaneous mode.

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Psychologist	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Agreement on seating arrangement	X	X	X	X
Eye contact	X			X
Interviewing techniques	X		X	
Introduction of LI by PO	X	X	X	X
Literal translation	X			
Faithful translation			X	
Quality control	X			
PO = leading person in the interaction	X		X	X
PO puts the minor at ease	X			
Disturbing interruption by LI	X			X
Preference for consecutive mode	X			X <sup>150</sup>
Preference for simultaneous mode			X	X <sup>151</sup>
Preference for using the 1 <sup>st</sup> person (direct speech)	X		X	X
Communication strategies	X	X	X	X
Explanation of the LI's task to the PO			X	X
Trust		X	X	X
Short conversation before the start of the interview	X (PO + minor)		X (LI + minor)	X
Check language of the minor			X	X
Check developmental stage of the child			X	X

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Psychologist	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Keeping emotional distance during the interview	X		X	
PO adapts the language to the level of the child	X		X	X
Checking the rules	X		X	
Code of conduct			X	
Multi-professional mini-team		X		

## Case 2: Issues, ideas and concepts mentioned by the practitioners commenting on the case

### Overview table case 2

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
National register of legal interpreters		X	X		
Joint training for all stakeholders	X		X	X	X
Respect			X		
No patronizing behaviour			X		X
Joint preparation of the interview			X		X
Psychological preparation of the LI for the interview			X		X
Trust			X	X	
Briefing	X	X (joint briefing)	X	X	X
Knowing the technical environment					X

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Different LI during lawyer consultation and police interview		X			
The same interpreter throughout the case			X		
Short conversation with the minor before start of the interview		X			X (language check)
Child language development					X
Specialization of stakeholders in interviewing minors		X	X		
Adequate breaks		X			X
Preference for speaking to the minor in a 2 <sup>nd</sup> /3 <sup>rd</sup> language (without a LI)		X			
Debriefing / supervision session			X	X	X
Intercultural background information			X	X	X
Non-verbal signs	X			X	
Keeping emotional distance during the interview			X	X	X
Availability of an appropriate consultation room		X			
Interviewing techniques	X		X		X
Agreement on interpreting mode					X

ISSUES, IDEAS and CONCEPTS	Police officer (PO)	Youth Lawyer	International family mediator	Legal Interpreter (LI)	Sign Language Interpreter (SLI)
Preference for consecutive mode				X	X
Introduction of the interpreter	X	X	X	X	X
Defining the rules for all stakeholders	X	X		X	X
Faithful translation	X	X		X	
Insight into the LI's task			X		X
Internet-work/ Remote interpreting			X		
Communication strategies	X		X	X	X
Preference for using the 1 <sup>st</sup> person (direct speech)	X				
PO adapts the language to the level of the child	X			X	X
PO= leading person in the interaction	X	X			X
Agreement on seating arrangement	X	X		X	X
Eye contact	X			X	X
Teamwork	X	X	X	X	X
Strict confidentiality		X			
Team supervision			X		
Code of conduct			X	X	X

The following items were mentioned by almost all stakeholders in both cases and can thus be considered VERY IMPORTANT:

- briefing;
- debriefing;

- agreement on the seating arrangement;
- introduction of the interpreter;
- police officer is responsible for taking the lead in the interaction;
- communication strategies;
- adapting the language to the level of the child;
- (joint) training for all stakeholders.

**The following items were mentioned in case 1 and/or 2 by most stakeholders and can thus be considered IMPORTANT:**

- specialization of stakeholders in interviewing minors;
- non-verbal signs;
- preference for the use of first person (direct speech);
- trust;
- short conversation before the interview starts (either with the minor or with the legal interpreter);
- keeping emotional distance;
- interviewing techniques;
- definition of rules;
- faithful translation;
- eye contact;
- teamwork;
- code of conduct.

“Intercultural background information” was mentioned by three stakeholders, but only in case 2.

# CHAPTER 4

## CO-MINOR-IN/QUEST RESEARCH FINDINGS

### 4.1. SUMMARY OF THE SURVEY FINDINGS

Heidi SALAETS and Katalin BALOGH

#### 4.1.1. INTRODUCTION

Since the project, its actions, partners, rationale and general framework have been described in the introductory chapter, in this section, we will focus on important issues concerning the survey, which basically means the methodology, the results and discussion of the results.

First, the authors will address the traditional five Ws- and one H questions, central to every information-gathering process. First of all, the motive for the survey (why?) and, next: the time schedule (when?), the content (what?), the respondents (who?), and the distribution (where?) – all of which can be summarised in the methodology (how?). Methodology obviously covers both the design of the questionnaire and the analysis of the results.

#### 4.1.2. MOTIVES AND FIRST STEPS TOWARDS A QUESTIONNAIRE: THE WORKSHOP

From the beginning, it was stated in the project description that a needs analysis of the parties involved in the questioning of children was necessary. It became clear that the domain of Interpreter-mediated Questioning of Minors (ImQM) had hardly been explored, as has been shown in the literature review: several publications deal with questioning of minors in criminal (and civil) proceedings, but little has been published on the situation when minors do not speak the language of the court/jurisdiction. Moreover, in this kind of setting, we are dealing with different professionals ranging from the – specially trained – police officer to the psychologist, the child support worker, the youth lawyer,

the youth judge and the interpreter. A trust person is possibly present but (s)he is not necessarily an expert and/or professional; this person may be or mostly is a parent, a family member, or a close friend.

To perform a needs analysis, it is very important to pose the right questions and to know exactly what the aims are. To explore the questioning of minors with an interpreter in more depth, a twofold methodology was applied: first, a literature review, which has been discussed in Section 1.1; secondly, since questionnaire design is extremely important, we decided to organise a workshop where experts of the different domains involved in interpreter-mediated questioning of minors could have a face-to-face meeting. This aim was formulated as follows in the project application:

*This very specific setting of questioning children with an interpreter needs to be examined first of all by sharing expertise in how to deal with a child-centred approach. This must be done by a multi-disciplinary team: behavioural scientists, psychologists, psychiatrists, legal actors (lawyers, police, investigating judge) and interpreters will discuss how to collaborate efficiently to respect all the rights of children [...]*

This workshop took place on 6 May 2013 and involved three legal practitioners (i.e. a youth judge, a youth lawyer and a trainer in forensic interview techniques), two psychologists (one psychologist and one forensic psychologist) and three interpreters (Chinese–French, Arabic–Italian and English–British Sign Language). Every presentation unpacked a lot of information that was often new to the other participants and to the partners, and was followed by a brief discussion lead by other experts in the same field.

The main idea was, first of all, to listen to each other and to learn more about each other's expertise. When several professional domains come together in one joint professional activity, each professional is highly familiar with his own field of expertise, his own rules and his own ethics: however, this same expert often knows little or nothing at all about the way the other professionals work. For instance, the child support worker is not always aware of the interview protocol that police officers might use when questioning a child, the interpreter is rarely informed about interview techniques by the police and the police officer generally views the interpreter as an intruder, just to mention a few stereotypes. The workshop proved to be the ideal way to meet with several experts from all the professional areas to, first of all, discuss these stereotypes, their reason for existing and the way in which they could be prevented. Secondly, the workshop and the information gathered therein were also necessary for the preparation of design of the questionnaire.

From the round table discussion, it became clear that the interpreter is the interview participant with whom the others were least acquainted: other



professionals either thought that the interpreter was a kind of machine that is only there ‘to translate’ and preferably ‘to translate literally’, and that he or she must be as invisible as possible for the sake of the truth-finding process or, conversely, were convinced that he or she should show enough empathy and in some way ‘help’ to make the interview process easier by pointing out socio-cultural issues that come up during the interview. None of these ideas correspond to the actual role of the interpreter. The interpreters themselves clearly demanded more insights into the process through briefing about the case, through information about questioning techniques and knowledge about child development, since the term ‘minor’ covers very different stages of development, from zero to eighteen years old. To the partners, it became clear that the role of the interpreter should be questioned extensively, as well as the issue of briefing.

Furthermore, the legal practitioners highlighted the gap between daily practice and the law. For the project partners, the questionnaire should consequently focus on daily practice to uncover the exact needs in real life day-to-day situations. Asking questions about hypothetical or theoretical aspects only would not have helped us to discover the needs in the field and people would probably also have been less willing to participate. At that stage, it also became apparent that it was not easy to draw a clear-cut line between a child witness, suspect or victim, as has already been pointed out. During the workshop, the legal actors present (but not only them, of course) already learned a great deal about the way in which interpreters work. Already, at this stage, joint training of all the parties involved was brought up as a possible and efficient way of preventing future misunderstandings about the role of the interpreter and, by extension, of all the professionals involved. As will be shown in the part focusing on the survey’s content, we decided not to ask a specific question about joint training, but to formulate a general open question, at the end, on the broader needs and requirements.

Finally, the psychologists shed light on several issues that had to be taken into account when interviewing a child, including the particularities of communication with children, such as trauma awareness, which is crucial for all participants in the conversation. For example, non-verbal communication was stressed as being vital to the progress of the interview, as were hesitations, silence or knowing the child’s vocabulary. Police officers, judges, lawyers, etc., should consciously select the right language level when interacting with a child, without being patronising. It became clear that it is not the interpreter’s task to adapt the interviewer’s language to the level of the child or to explain (legal) terminology, words or concepts that go beyond the child’s understanding. Moreover, the following concerns were expressed, all of which point at issues that should be dealt with before and after the interview: thoroughly preparing the interpreter

by giving him or her access to the child's psychological report, a clear and child-friendly introduction to the interpreter's role during the interview ('Who am I? What will I (not) do? What will I (not) tell to others? Can you tell me everything just like you would tell it to the police officer?', etc.), a short discussion on the best possible interpreting mode (consecutive or simultaneous) and so on. Supervision of the interpreter through a psychological follow-up after the interview was also put forward as a possible support mechanism, since child interviews in criminal cases can be equally traumatising for all participants, but especially for the interpreter who normally does not deal with this kind of interview on a regular basis, unlike the expert police officer who is trained to conduct (video-recorded) interviews with children using a particular interview protocol (e.g. the NICHD protocol<sup>152</sup> by David La Rooy). This, however, does not mean that professionals who are used to working with traumatised children are all automatically immune to post-traumatic stress disorders, but the chances are higher that certain support services are already in place for them. These interventions encouraged us to ask additional questions about the briefing of the interpreter, to dig deeper into the role of the interpreter when a minor is being interviewed (mental, intellectual and linguistic age of the child), to pay special attention to communication with a child (introducing the people present and their specific role, the seating arrangements, etc.), and to inquire about debriefing arrangements for the interpreter.

#### 4.1.3. THE DISTRIBUTION OF THE QUESTIONNAIRE: WHERE AND WHEN?

The research team decided to distribute the questionnaire on-line, since this is possible thanks to modern tools and technology; it allows both for easier distribution and for more reliable processing of the results. This turned out to be the right choice, given the high number of completed questionnaires (cf. Section 4.1.5 below).

The research was conducted online via the Qualtrics Online Survey programme. This was the best and most sustainable solution given both the budget and the time available. The flexibility of online questioning allowed us to reach professionals in six different EU countries in a fast, convenient and simple way. Some of our target groups can be incredibly hard to reach (justice professionals, freelance interpreters, etc.), but by using an online survey we hoped to increase the response rate.

The original English-language questionnaire was translated into the languages of the participant countries and the final versions were back-translated and checked by native speakers from the targeted professions to ensure that the national versions

<sup>152</sup> [Http://nichdprotocol.com](http://nichdprotocol.com).

of the questionnaire contained the exact same questions and answering options as the original English-language one. Thanks to these five different language versions (En/Fr/It/Nl/Hu), the questionnaire was initially launched in October 2013, in the project partner countries, and closed on 16 December 2013. These six different EU member states were: Belgium, France, Hungary, Italy, the United Kingdom (Scotland) and the Netherlands. The questionnaire was distributed according to a non-probabilistic sampling method, i.e. the network or snowballing method.<sup>153</sup> This means all partners sent out the questionnaires to experts they knew who were working with minors, asking them to forward it to the contact people who had probably already worked in an ImQM setting. We spoke with colleagues during conferences and networking events, presenting our research, receiving a favourable response from them, and so we sent the questionnaire to some non-project partner countries as well. This snowball method could, of course, only partially predict which non-partner countries would be covered (e.g. Norway through Leonardo Doria de Souza, a partner in former networks), because we could not foresee where the questionnaire would spread exactly (see the diversity of participating countries, as described in Section 4.1.5).

Data from our online survey were configured directly to the CRM (Customer Relationship Management System) system of Qualtrics that enabled us to keep the integrity of our data at high level and reduce errors. After closing the online survey, the ‘data cleaning’ process started to dispose of incorrect or inconsistent data in our large sample. The Qualtrics programme automatically or semi-automatically identifies and, when possible, corrects errors in a large data set.

The method was an unexpected success, on which we will report in the results section. In all respects, it confirmed the researchers’ belief that there is an urgent need for more clarification and support in this unexplored field of research.

#### 4.1.4. THE QUESTIONNAIRE: DESIGN

Putting questions to the different professional groups involved in ImQM was the way to move forward, i.e. asking ‘people’s opinions about different issues’, while still keeping in mind that ‘you cannot ascertain whether what they say is true’.<sup>154</sup> Since the absolute ‘truth’ is not what we were looking for, a questionnaire would be the right instrument to ask people about the gaps, problems and needs they are confronted with. These needs do not only concern a child interview setting in general, but more specifically a setting where – in addition to the usual

<sup>153</sup> S. Hale, and J. Napier. *Research Methods in Interpreting. A practical Resource*, Bloomsbury, London-New Delhi-New York-Sydney 2014, p. 71.

<sup>154</sup> See: footnote nr. 153, p. 52.

challenges inherent to communicating with children – an important linguistic factor is also involved: the child does not speak the language of the interviewer (and/or child support worker, psychologist, lawyer, etc.).

For the questionnaire design, the researchers relied on the expertise of dr. Szilvia Gyurkó (Eszter Foundation), a criminologist, consultant and research expert for the Hungarian National Committee for UNICEF, who has acquired extensive experience in quantitative and qualitative research through many projects for NGOs and Hungarian Ministries.

The first component of the survey, i.e. the participant information page<sup>155</sup>, had to contain essential information, which would turn out to be of extremely high importance for our research and the analysis afterwards. An introductory text explaining the scope and purpose of the research was complemented by a drop-down menu where the participant had to select the preferred language for the questionnaire (Dutch, English, French, Hungarian or Italian). Next, the respondent was asked to select the country and region he or she works in. In the actual survey, respondents were subdivided into four categories according to their area of work: interpreting, justice and policing, psychology, and other (including child support/social services). For the recoding and subsequent analysis, the researchers decided to use five categories instead (justice and policing, psychology, interpreting, child support, and other) given that child support workers were almost omnipresent in the initial ‘other’ category.

Sign language interpreters and spoken language interpreters received a slightly different set of questions, because they each operate for example with different seating arrangements and are faced with different types of vulnerability (see chapter 3 on extreme vulnerability). Respondents were asked to indicate whether they worked as a spoken language interpreter or sign language interpreter (or both) so that their answers could be stored separately. Interpreters who work both as a spoken and a sign language interpreter were requested to fill in the questionnaire twice: first as a spoken language interpreter, then as a sign language interpreter.

The question about the area of work was followed by information gathering regarding the respondents’ specific job titles (since the professional categories in the preceding question were only broad categories), on their experience of working with children in their specific domain and its frequency, the age categories of the children they worked with (subdivided according to scientific standards in child development: ages 0–3, 4–6, 7–10, 11–14, 15–18) and the types of cases they were involved in (by means of a checkbox listing possible criminal cases including the option ‘other’ and some space for further explanation). This

---

<sup>155</sup> See: footnote nr. 153, p. 55.

enabled the researchers to check the relevance and validity of the answers based on the respondents' general level of experience and the number of times they had worked with children. At the same time, these questions gave respondents the chance to leave the questionnaire, if the survey was not applicable to them, even though the introductory text (clearly stating that the questionnaire targeted people involved in interpreter-mediated communication with children) should have prevented them from starting anyway.

All respondents, apart from the interpreters, were asked if they were trained to work with interpreters. The interpreters, on the other hand, had to indicate what kind of interpreting training they had received (again through a checkbox which included the possibility of supplying any additional information about the course, kind of training or institute, etc.). In addition, participants were requested to point out whether they had ever received any specific training or education on how to work with children: if the answer was 'yes', an additional question was asked about the length of this training; if the answer was 'no' respondents could indicate whether they had received on-the-job training instead (offered by people from their own or other professional fields) or no training at all. The first section on experience and training was then concluded by the following key question: Do you have experience of interpreter-mediated encounters with minors? If this was the case, respondents could proceed to both the central and final part of the survey. If not, they were immediately directed to the final demographic section.

At the end of the survey, all respondents were asked for some additional demographic information, such as gender, age and highest level of qualification, as well as possible membership(s) of professional organisations and the strongest language or mother tongue (for the interpreters) and the language combinations they work in. This final part was not compulsory, but was strongly recommended, so that researchers could more easily place the responses in context. All information was treated anonymously and anyone who wanted could contact the organisers to receive information about the progress of the project and the results of the questionnaire. At the end of the survey, respondents were directed to the project website.

Since all factual and behavioural questions<sup>156</sup> were asked in the participant information section (at the beginning and at the end), that had to be completed by respondents both with and without experience in interpreter-mediated child interviewing; the actual questionnaire items involving attitudinal questions<sup>157</sup> were limited to the central part of the questionnaire. Attitudinal questions were followed each time by a non-binding open section for comments ('other' or 'please explain'), because it is known that 'many respondents will not want

<sup>156</sup> See: footnote nr. 153, p. 56.

<sup>157</sup> See: footnote nr. 153, pp. 55–56.

to spend extra time writing narrative answers and will leave those blank'.<sup>158</sup> Most questions were closed with checkboxes or required Likert scale answers, mostly giving the respondent the opportunity to provide more detailed or more in-depth answers. This option could be used, for example when the respondent could not find a relevant answer in the checklist or when he or she wanted to give an additional explanation to account for his or her answer.

After a general introductory question about the main challenges of working with children in legal settings, the following questions were structured chronologically and thus addressed issues arising before, during and after the interview. The questions were adapted to each professional group, as can be seen in the section entitled 'before the interview', for instance:

*Do you receive a briefing before working with minors? (- for the interpreters)*  
*Do you brief the interpreter before the encounter with minors? (- for legal practitioners, psychologists and other professional groups)*

Most issues and challenges regarding the interpreter-mediated questioning of minors were tackled in the 'during the interview' section, which seemed to be logical at that stage of the questionnaire design. Yet further research and experience acquired through expert meetings and round tables (in the year following the survey) would demonstrate that the most crucial phase is the preparatory phase before the interview, because adequate preparation is of the utmost importance in avoiding misunderstandings or problems during the interview. Even when this subsequently acquired knowledge was taken into consideration, the actual structure of the questionnaire (with a short component for the 'before the interview' and 'after the interview' section and a longer part for the 'during the interview' section) has not influenced the results in a negative way.

It is also important to note that both legal and interpreting terminology was localised for each questionnaire: e.g. in Italy a distinction has to be made between *interprete* (interpreter) and *mediatore linguistico-culturale* (language and culture 'mediator'); for the Scottish respondents, Scots law terminology (mixing common and civil approaches terminology) had to be used because it differs from continental civil law terminology.

Although a Dutch version was piloted in Antwerp (with one lawyer, one psychologist and one interpreter) and in the other partner countries, in which no major terminological problems or comprehension problems were detected (only some minor changes in the wording of the questions were made afterwards), the participants at the Alcalà conference<sup>159</sup>, pointed to a possible terminological problem after the closure of the questionnaire. This problem related to the question about the interpreter's function when working with minors. This

<sup>158</sup> See: footnote nr. 153, p. 57.

<sup>159</sup> [Http://tisp2014.tucongreso.es/en/presentation](http://tisp2014.tucongreso.es/en/presentation).

question was posed identically to all professional groups, by means of ten statements for which the respondent had to indicate to what extent he or she agreed with them on a Likert scale. According to some interpreter trainers or researchers, the third and fourth statements in particular could create confusion among non-interpreters because of the use of the adverbs ‘the interpreter interprets *literally*’ (statement 3) and ‘the interpreter interprets *faithfully*’ (fourth statement). Based on the experience of the authors of the questionnaire though, ‘literally’ is commonly understood as ‘word-for-word’, which obviously is not possible in interpreting or translation but which is generally assumed to be the case by professionals other than interpreters/translators. In contrast, ‘faithfully’ is (for most lay people) a content-related concept focusing on the extent to which a message has been transferred, not on the exact way in which it was translated. Furthermore, the considerable amount of extensive explanations given by the respondents in statements included at the bottom of the table show that there were few problems regarding ambiguity and we can, therefore, conclude that there are no problems of validity regarding these statements.

A concluding question, ‘What do you personally think is needed to improve interpreter-mediated encounters with minors?’, offered the respondent the opportunity to address other issues that were not mentioned in the previous questions and to stress (from a personal perspective) urgent needs in the field of interpreter-mediated questioning of minors. As stated before, we preferred to avoid an overly suggestive question asking about joint training and to let people propose their own needs and ideas.

An English-language version of the complete questionnaire can be consulted in Annexes 2, 3, 4, 5 and 6, and on the website of the Interpreting Studies Research Group of KU Leuven, campus Antwerp.<sup>160</sup>

#### 4.1.5. THE QUESTIONNAIRE: RESPONDENTS

More than 1000 respondents started the survey. After Qualtrics cleaned up incorrect or inconsistent data (Section 4.1.3 above), we still had a set of incomplete questionnaires. The reasons why people did not finish can be diverse and we can only formulate hypotheses: maybe some people did not read the introductory text attentively enough (despite this clearly indicating that the research focused on the questioning of minors *with an interpreter*) and became ‘stuck’ at the beginning. Others maybe gave up in the middle or even towards the end for technical reasons or for reasons of time or content.

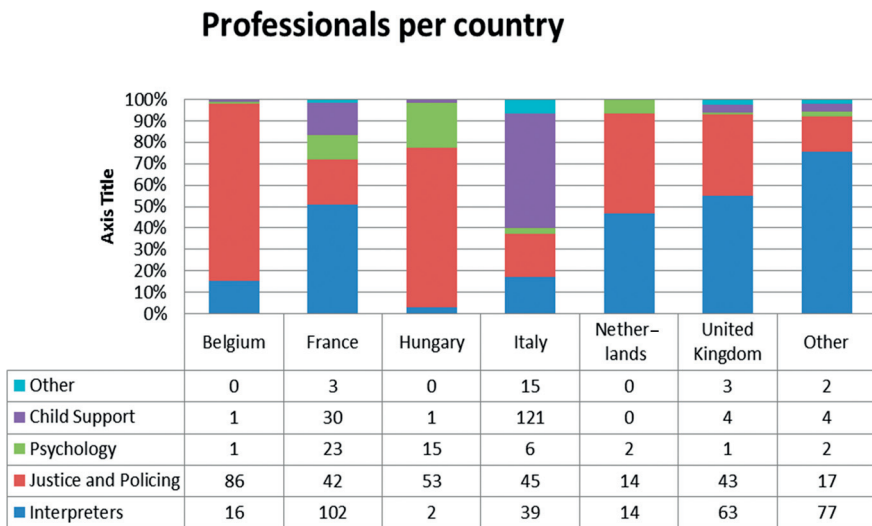
Nevertheless, we received 610 completed surveys according to Qualtrics, which only labels a questionnaire as completed when the respondent has gone through

<sup>160</sup> [www.arts.kuleuven.be/home/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/questionnaire](http://www.arts.kuleuven.be/home/english/rg_interpreting_studies/research-projects/co_minor_in_quest/questionnaire).

the entire survey to the very last question (with personal data) and subsequently clicks on the ‘submit’ button. Therefore, we decided to also take into account questionnaires which had been not fully completed, to avoid losing interesting information. It is always possible that people quit the questionnaire just before the end – e.g. because they did not want to provide personal information – or even in the middle by which point they had already supplied useful information we did not want to miss. The cross table for all professional groups and the six partner countries plus ‘other’ shows 848 answers in total, situated mainly in the partner countries, but, thanks to the snowball effect, also in Australia (1), Czech Republic (1), Estonia (1), Germany (2), Greece (1), Norway (82 answers), Serbia (1), Slovenia (4), Spain (3) and Trinidad (1). It is important to mention that we kept the answers of the ‘other’ countries in the full sample, but excluded them from the country specific analysis, due to time constraints. A separate analysis of the non-partner countries is not yet available at the time of publication.

The next element we want to stress is the diverse distribution of respondents by professional group. In some countries, mainly interpreters answered the questionnaire (e.g. UK or ‘other’/non-partner countries); in others, Justice and Policing was widely represented (such as in Hungary or Belgium) and, in only one country were child support workers well represented (i.e. Italy). The lowest response rate came generally from the psychologists but also from child support workers (except for Italy). This is shown in Figure 1.

Figure 1. Respondents by country and professional group



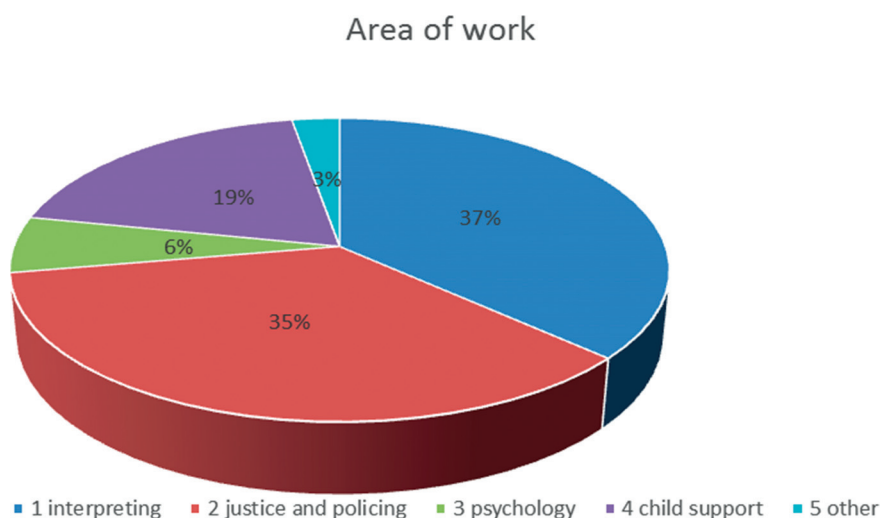
The only possible explanation for this diversity is that the snowball method did not reach as many professionals in the psychologist and social worker group



as expected, although their presence is highly recommended and often part of the standard procedure when questioning children. Of course, once again, this has to do with the non-verifiable part of the non-probabilistic sample method. It could be argued that this group is automatically much smaller, compared to the professional group of legal actors (who are a more differentiated group), but that argument could also apply to the interpreters, since an interpreter-mediated encounter with children is much more rare than a 'regular', monolingual encounter (i.e. where all interview participants speak the same language).

Figure 2 shows this distribution.

Figure 2. Respondents by professional group

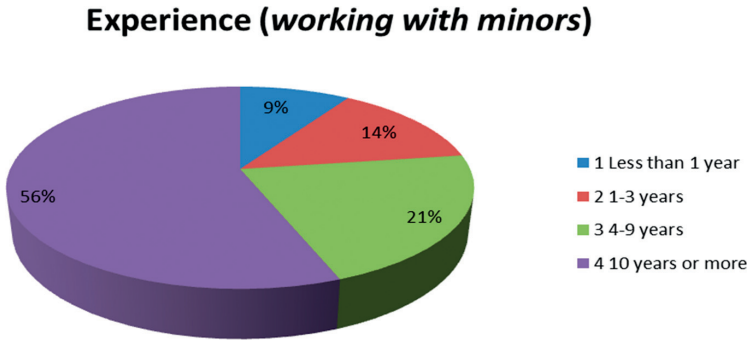


When we look at the experience of the respondents regarding the number of professional encounters, fewer than 88% had had at least one encounter with a minor during the previous three years.

It has to be mentioned that, after studying the original subdivision of the answers related to the respondents' recent experience in working with children (*Approximately how many times have you worked with minors in the last 3 years?: zero, between 1-4, 5-20, 21-40, over 40*), we decided to merge the results into just two categories: the first one 'zero' (including respondents who completed the questionnaire although they have no *recent* experience in working with minors) and the second one for the respondents who had at least one professional encounter with children in the last 3 years. This distinction clearly showed how many respondents had no recent experience: their data were thus less useful for the purposes of the research study. Respondents were also specifically asked about their experience of interpreter-mediated interviews (another element that had already been mentioned in the introductory text), as explained above.

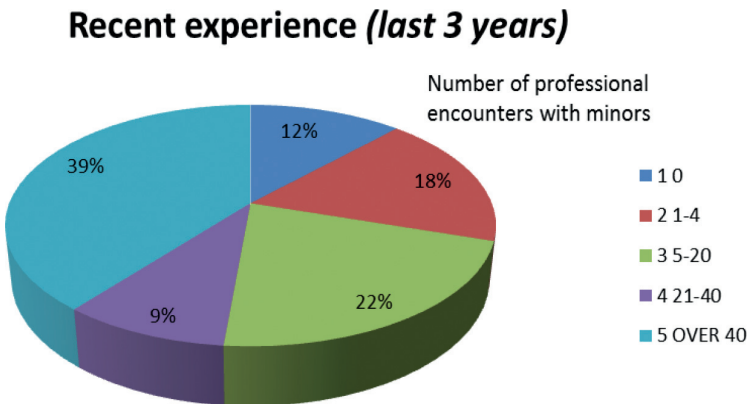
Figure 3, which shows the respondents' exact number of years of experience, is very reassuring. The vast majority have many years of experience in working with minors: 56% even have more than 10 years of experience. Only a small percentage of respondents (fewer than 1 in 10) has less than 1 year of experience in working with minors.

Figure 3. Respondents' experience in number of years in working with minors



When we subsequently look at Figure 4, this observation was confirmed: almost half of the researched population had had more than 20 professional encounters with children in the previous three years. Only one fifth had very little experience with children (between 1 and 4 professional encounters in the last three years), while still another 22% had 5 to 20 encounters with minors during the same period.

Figure 4. Respondents' experience in number of professional encounters with minors in the last 3 years



This means that the representativeness of the respondents is rather high: they have many years of experience in which they have had regular interviews with children, so they are best placed to identify problems and needs and to have a certain idea about possible solutions or recommendations.

#### 4.1.6. METHODOLOGY FOR RESULTS PROCESSING: MIXED METHODS

Mixed methods were used to analyse the results: a quantitative method was used to analyse the informative part relating to area of work, experience etc. and to check the significance of correlations between the data. Subsequently, a qualitative method was used to analyse and categorise the answers to the open ended questions as well as the remarks, comments and observations written by the respondents to provide, for example, further explanations to answers in the ‘other’ category.

Before discussing the actual results, some important observations must be made. Even though the sample was relatively large, we were not able to draw country-specific conclusions or conclusions for specific professions based on every individual item/question. The significance of correlations between data was never high enough to draw sound conclusions. Results from the cross tables could not be extrapolated to a specific profession or country in a statistically justifiable way.

Since an exhaustive presentation of all questionnaire results is beyond the scope of this contribution, we limit ourselves, in the quantitative results section, to the most interesting information related to Question 41 about the role of the interpreter and how it is seen by the different professionals present in an ImQM.

We will also address the seating arrangements, since the Qualtrics survey software enabled us to show respondents a drawing of a round table – with a minor (M) and an interviewer (I) already placed in a predefined position – and then ask them to indicate where the interpreter should be positioned, taking into account the complex setting of an ImQM. This question consisted of 15 separate items (Nos. 47 to 61), because people could tick different options. First of all, respondents had to choose the preferred position for the minor and the interviewer: the minor is either facing the interviewer (Position A) or sitting next to the interviewer (Position B). Moreover, this question needed to be answered separately by spoken language interpreters and sign language interpreters. It is known that the position of sign language interpreters is different because they must be clearly *visible* to the users. This is not the case for spoken language interpreters who, primarily, have to be clearly *audible*. The issue of the interpreter’s presence in the room is often the basis for discussion. The idea that interpreters work in a machine-like way and, theoretically, should be ‘invisible’ is still quite prominent, even though this way of working is no longer considered to be realistic in the 21<sup>st</sup> century. A third key element was the presence or absence of a psychologist/child support worker (indicated by ‘S’: support) which makes the seating arrangement at the table more (or less) complex and influences the position of the interpreter. We asked these set of questions not only to the interpreters themselves (signed or spoken language), but – logically – also to the other professionals (OP).

Further specific information about the main briefing and debriefing issues will be provided in chapter 4 of this book, Section 4.3.

The observations that apply to the quantitative component are also valid for the qualitative part: the massive number of narratives was unexpected and considered both a gift and a challenge by the researchers. It was a surprise in the sense that most professionals we spoke with – starting with the workshop mentioned earlier – predicted that the response rate would be very low. Not only because of the general ‘questionnaire saturation’ that all researchers are confronted with, but also because of the very specific niche which constitutes ImQM. This domain was seen as rather uncommon, especially since it only comprises a very small minority of the interview settings. Interpreted child interviews were said to occur too rarely to collect relevant answers. The reasoning behind this was that foreign-language speaking children quickly pick up the local language, a conclusion which is perhaps drawn too easily – as shown by the very satisfying response rate of the survey. The reasoning that children learn a language very quickly can be countered by different arguments. It is, for instance, not the case with minors who have just arrived in a foreign country (e.g. unaccompanied refugees) and are in (more or less urgent) need of social assistance. In addition, it can be argued that – as explained before – the concept ‘minor’ covers a wide range of ‘young’ people from zero to eighteen years of age. A seventeen-year-old does not acquire language like a three- or a ten-year-old. Moreover, it goes without saying that the chronological and mental age are not necessarily the same and that disabled people (psychologically, physically, behaviourally, etc.) acquire language in a different way (more slowly, remaining at a basic level, etc.). Finally, one must stress that ‘knowing’ the language (knowing the communicative basics necessary to survive) does not suffice, for example, to fully express oneself in a police station and explain in great detail one’s deepest feelings of fear and despair (e.g. in a case of sexual abuse).

In the next parts, we will discuss the answers to Question 41 about the role of the interpreter, as well as the specific needs expressed by all respondents at the end of the questionnaire.

#### 4.1.7. RESULTS AND DISCUSSION BASED ON THE QUANTITATIVE METHOD

For the quantitative analysis, first of all it was necessary to recode the regions and professions of the respondents. The recoding of the area of work comprised data from all countries. Based on the answers to the open question asking for a specific job title, the researchers could check whether respondents had assigned themselves to the correct professional category. For instance, some lawyers indicated that they belonged to the category of other professionals (4) instead of

justice and policing (2). There were also a few court interpreters who selected option (2) justice and policing instead of (1) interpreting. In order to guarantee coherence in the data, an extra column for recoding was inserted in the Excel file with the results: the code of the professional group that the respondent actually belonged to could be added to this column. In consultation with the project partners, it was also decided whether the country regions needed recoding as well. For some countries such a recoding was judged to be less useful (e.g. for Hungary or France). Nevertheless, partners from other countries (UK, Italy and Belgium) did prefer to regroup the regions.

In this section we will discuss – as indicated before – the items that were part of the question: ‘In your view, what is the interpreter’s function when working with minors?’, The following statements had to be evaluated on a Likert scale (*I completely disagree – I rather disagree – I neither agree nor disagree – I rather agree – I completely agree*).

1. the interpreter supports the minor (through his/her interpretation and initiative);
2. the interpreter supports the interviewer’s purposes (through his/her interpretation and initiative);
3. the interpreter interprets literally;
4. the interpreter interprets faithfully;
5. the interpreter takes the initiative to explain socio-cultural differences;
6. the interpreter takes the initiative to explain technical terminology;
7. the interpreter takes the initiative to adjust the language to the level of the minor;
8. the interpreter takes the initiative to put the minor at ease;
9. the interpreter takes the initiative to keep the communication flowing;
10. the interpreter gives his/her opinion on the case.

We chose these particular items, first of all, because they refer to the so-called ‘role’ of the interpreter, which is a frequently discussed topic, as is apparent from discussions at conferences and in the literature. Another reason for selecting these particular items is that the role of the interpreter is one of the key issues in the gradual professionalization of community interpreting. It is precisely the description of the role of the interpreter that results in divergent opinions, not only among different groups or ‘stakeholders’ (i.e. the interpreters themselves, interpreting researchers and interpreter users), but also within the research community itself.

Initially, the interpreter’s role was deemed to be too intrusive in the interaction process (‘the interpreter as a helper’- model), and the first normative and prescriptive rules for professional community interpreters were based on the ‘interpreter as machine’-metaphor. According to this view, the interpreter is

ideally a neutral conduit, without any influence on the conversational meanings, practices and context(s).

Since the 1980s, however, studies have shown that the passive conduit role for interpreting is in fact normatively unrealistic.<sup>161</sup> Partly in response to these observations, other models were introduced, including the bilingual-bicultural mediator model.<sup>162</sup> They suggest that the role of the interpreter should not be seen as fixed, but rather as flexible and adaptable, developing along with the interaction. In addition, authors like Roy and Angelelli have explored the role of the interpreter as a co-participant<sup>163</sup> and argue that the interpreter is an active participant in the mediated conversation.

Yet, in many codes of conduct formulated by clients, the strong normative expectation of the interpreter's neutrality largely remains in place. Consequently, not only do interpreters keep struggling with their role(s) and responsibilities<sup>164</sup> but also 'direct users' of interpreters either do not really know what to expect from an interpreter, or have the wrong expectations, not to mention the fact that research rarely sheds light on the perspective of the direct user. The direct user has to be clearly distinguished from the so-called client of interpreting services, which is the (sometimes even commercial) organisation that recruits the interpreters, establishes the ethical code and then sends the interpreter on a particular assignment. In our case, the direct users are the legal actor, psychologist or child support worker and the child him- or herself. Although we did not have the opportunity to speak with children – for obvious multiple reasons – we were at least able to listen to the voice of some direct interpreter users through the questionnaire.

A last reason for focusing on these data is that they clearly reveal the existing knowledge and gaps about the role the interpreter has to play in an ImQM.

Before entering into the details of the data, it has to be mentioned that we merged the 5-point Likert scale answers into three scales to obtain more clear-cut correlations; *I disagree* (merging *I completely disagree* and *I rather disagree*),

<sup>161</sup> C.V. Angelelli, *Deconstructing the invisible interpreter: a critical study of the interpersonal role of the interpreter in a cross-cultural/linguistic communicative event*, Unpublished Ph. D. thesis, Stanford University 2001.

M. Metzger, *Sign Language Interpreting: Deconstructing the Myth of Neutrality*, Gallaudet University Press, Washington, DC 1999.

C.B. Roy, *Interpreting as a Discourse Process*, Oxford University Press, New York and Oxford 2000.

C. Wadensjö, *Interpreting as Interaction*, Longman, London, 1998.

<sup>162</sup> P. Llewellyn-Jones and R.G. Lee, *Defining the Role of the Community Interpreter: the concept of 'role-space'*, Bloomsbury, London-New Delhi-New York-Sydney 2014.

<sup>163</sup> C.B. Roy, *Interpreting as a Discourse Process*, Oxford University Press, New York and Oxford 2000.

C.V. Angelelli, *Revisiting the Interpreter's Role. A study of conference, court and medical interpreters in Canada, Mexico and the United States*, J. Benjamins, Amsterdam/Philadelphia 2004.

<sup>164</sup> C. Valero-Garcés and A. Martin (eds.), *Crossing Borders in Community Interpreting. Definitions and dilemmas*, J. Benjamins, Amsterdam/Philadelphia 2008.

a kind of middle category that is hard to interpret (indifference? ignorance?) (*neither agree nor disagree*) and a third category: *I agree* (merging *I rather agree* and *I completely agree*).

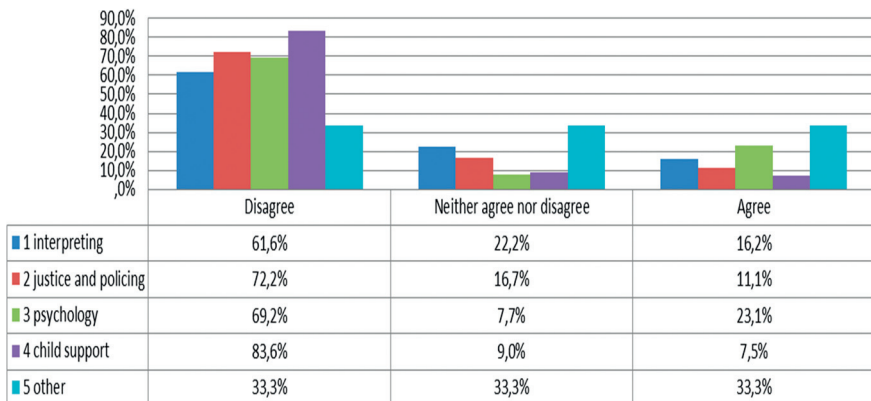
We also refer to the next section (Chapter 4.2) for a further reflexion on the role and position of the interpreter.

In what follows, we will discuss the results of the above-mentioned question and items. In this first stage, the charts will be analysed on a hypothetical basis and this interpretation will then be confirmed or denied in the quantitative part that allows for a more detailed analysis of the data gathered compared to the Likert scales only.

*Statement 1 The interpreter supports the minor (through his/her interpretation and initiative).*

As we see in Figure 5, it is reassuring that all professionals disagree with the statement: ‘The interpreter supports the minor (through his/her interpretation and initiative)’. The overall majority of the respondents seem to know that it is not the task of the interpreter to support the minor. Surprisingly enough, almost one out of every four psychologists think the opposite. This way of thinking is rather startling, because it is primarily their task to support the minor. They seem to call on the help of the interpreter to do their job. On the other hand, it is not that astonishing: they see the interpreter as a kind of ‘ally’ who can truly ‘get in touch’ with the child since he or she is the only person who speaks and understand the child’s language. In that sense, the interpreter can be seen as someone who is supporting the minor through the psychologist.

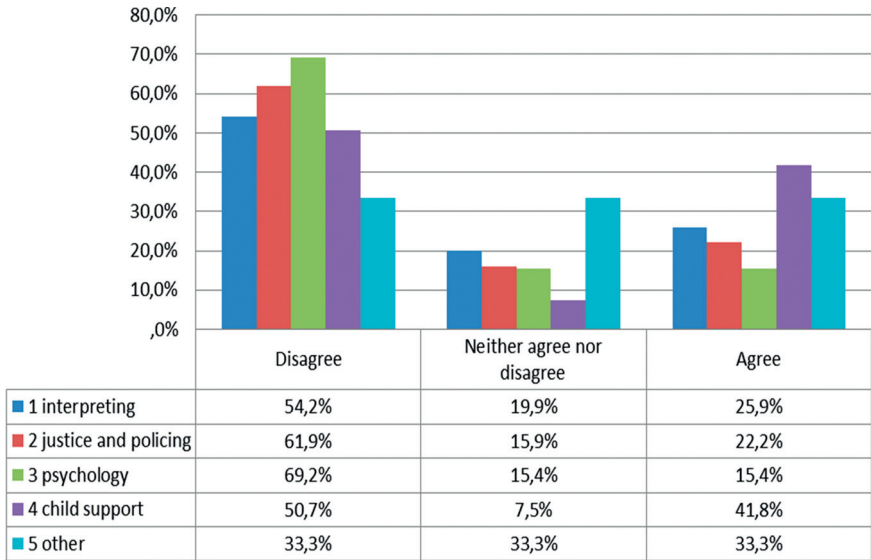
Figure 5. The interpreter supports the minor



*Statement 2 The interpreter supports the interviewer’s purposes (through his/her interpretation and initiative).*

At first sight (Figure 6), the bars at the ‘disagreement’ side seem to be most prominent. But this first impression is misleading: it is rather bizarre that only half of the interpreters disagree with this statement while one fifth is undecided and even one quarter of them agree with the idea that the interpreter should support the minor. The same is true for the child support workers, but there is one difference, which is that they are more likely not to be familiar with the actual role of the interpreter, whereas one would expect interpreters to know the boundaries of their own role. One fundamental element in the code of ethics for interpreters is impartiality. The psychologists seem to be less convinced that the interpreter should support the interviewer (only 15%), probably since they were more inclined to accept the interpreter as somebody who supports the minor instead.

**Figure 6. The interpreter supports the interviewer**



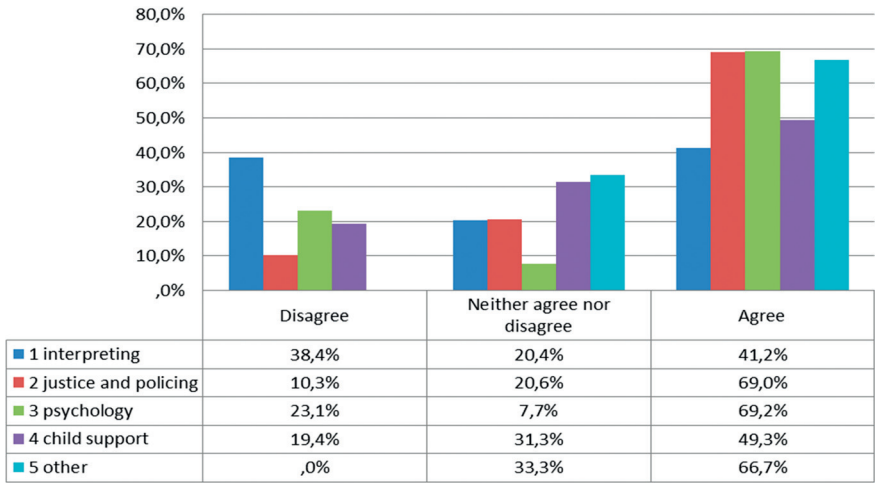
*Statement 3 The interpreter interprets literally.*

The group that is most convinced that the interpreter should interpret literally (Figure 7) is, not surprisingly, the justice and policing sector: only 10% of them disagree, and 20% are undecided. Even more striking is the lack of certainty in the interpreters group: there are almost as many interpreters who disagree with this statement as interpreters who agree. A trained interpreter should, however,



know that literal translation is not feasible because of different linguistic, cultural and situational factors.

**Figure 7. The interpreter interprets literally**

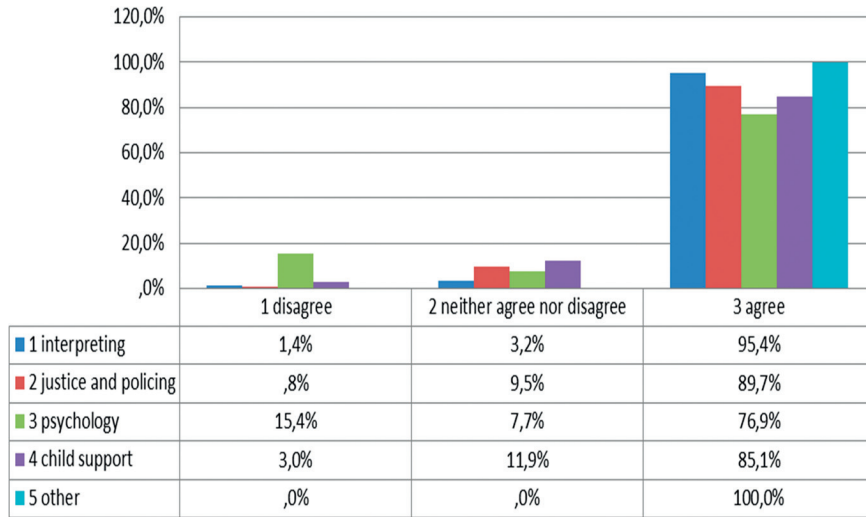


Our conviction that respondents have clearly understood the difference between translating ‘literally’ and ‘faithfully’ is confirmed by Figure 8, which summarises the participants’ attitudes to the statement below.

*Statement 4 The interpreter interprets faithfully.*

Almost everybody fully agrees that it is the interpreter’s task to interpret the ‘core’ of the message, i.e. the real and intended meaning of the original message, which is not the same as taking the words of one language and literally ‘transcoding’ them into another language, just as one would simply pour the contents of a red bucket into a blue bucket without any effort. This does not require any further explanation, since all respondents seem to have understood that interpreting ‘faithfully’ means that one adheres to the original idea instead of trying to express this idea with an exact word-for-word translation.

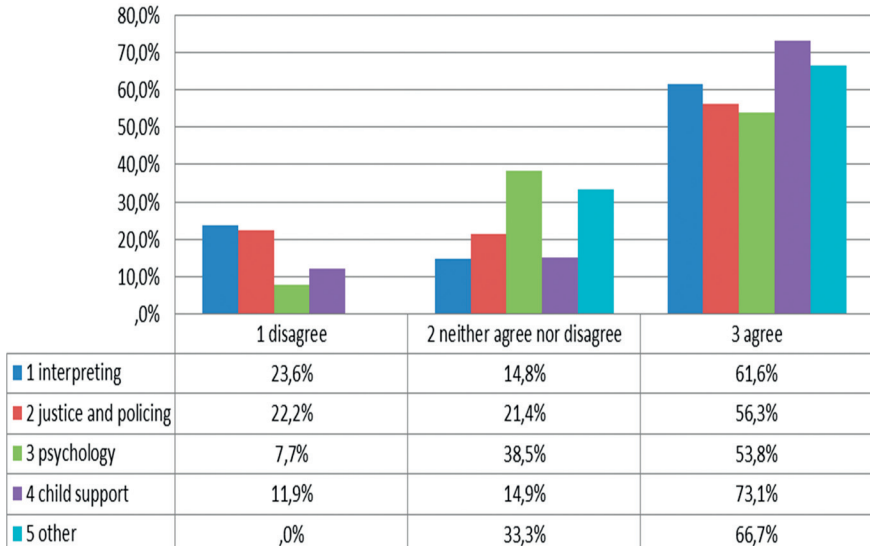
Figure 8. The interpreter interprets faithfully



*Statement 5 The interpreter takes the initiative to explain social-cultural differences.*

In all professional groups, more than 50% agree that the interpreter should take the initiative to explain socio-cultural differences (Figure 9), which is not the initial role of the interpreter as it is generally accepted. Of course, this statement as such does not say anything about the degree of transparency with which these socio-cultural differences are explained nor how necessary it is to provide a particular explanation in various situations. The child support workers are apparently most convinced about this aspect of the interpreter’s role. This is maybe because of the fact that they want to understand the personality and the way of ‘being’ of the minor in order to offer their support in the best way possible, just as the psychologists think that the interpreter should support the minor. The interpreter may, once again, be seen as an ‘instrument’ making it possible to get close to the minor. The next statement also deals with explanations initiated by the interpreter.

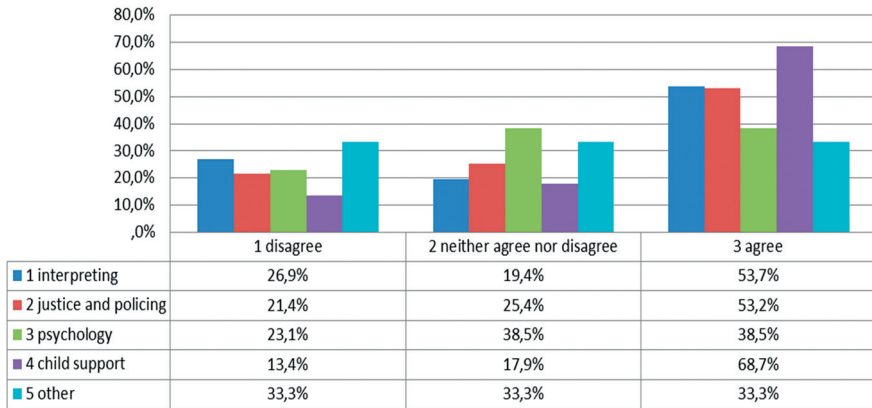
Figure 9. The interpreter takes the initiative to explain socio-cultural differences



*Statement 6 The interpreter takes the initiative to explain technical terminology.*

Figure 10 looks very similar to the previous one, but is much more difficult to explain or justify, even in a hypothetical way. In Figure 9, one could still justify the high degree of agreement with the interpreter explaining socio-cultural differences (see above), but in the high agreement rate in Figure 10 is rather alarming. Since interpreters are the only people who are familiar with both cultures, in a joint effort with the police, magistrates, lawyers, psychologists, etc., they can obtain all the necessary information needed through the interview and, hopefully, reach the ultimate goal: truth finding. This is, of course, not the actual task or responsibility of the interpreter, but through a faithful and correct interpretation, this goal can be reached. Yet, explaining terminology is not part of the role and expertise of interpreters. They must know the terminology, master the technicality of legal language but it is not their job to *explain* certain terms or concepts to the minor. Therefore, it is worrying that again more than 50% of the interpreters think they should do this. We expected a low agreement rate, since interpreters should know that their task is only to interpret what others say. If the legal language or the questioning is too complex, the interviewer should explain difficult concepts/terms and ask the interpreter to interpret this explanation. A possible solution that links the present statement to both the previous one and the next one is that the interpreter could 'flag up' a problem to the interviewer and tell him or her that the minor probably does not understand what is said, not because of the translation itself, but because of the terminology/concepts used.

**Figure 10. The interpreter takes the initiative to explain technical terminology**



The psychologists are least convinced of this statement, but 4 in 10 still agree. Finally, the child support group (almost 70%) along with the justice and policing sector (53%) seem to agree with this idea, which is again surprising. Why should they hand over to the interpreter what is essentially their responsibility? How can they possibly trust an interpreter – who is not a lawyer, judge, police officer or psychiatrist – to explain technical terminology that is not part of his or her expertise? The interpreter’s work consists of conveying the message and not of explaining technical terminology on his or her own behalf or initiative.

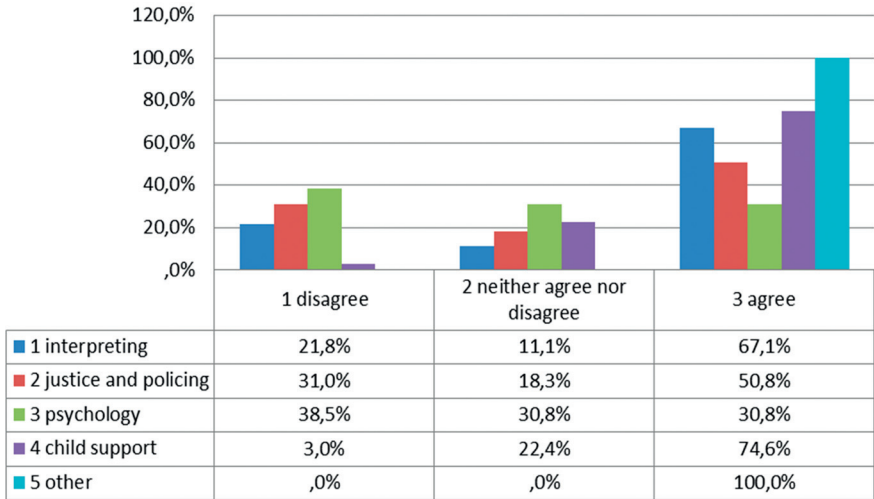
Fundamentally, this conviction also remains valid for the next statement.

*Statement 7 The interpreter takes the initiative to adjust the language to the level of the minor.*

The psychologists are – and with good reason – the least inclined to accept that it is up to the interpreter to adjust the language to the level of the minor (Figure 11). Again, this is not the interpreters’ task. At best they can signal that they have the feeling that the minor does not understand what is said. This may be for all kind of reasons – it is not the interpreters’ task to find out why – and, from then on, the interviewer (child support worker, psychologist, legal actor or police officer) can find out what the exact reason is. The child might, for example, be mentally ill, autistic, or may simply have a linguistic level that does not correspond to his or her age, just to name a few possibilities.

And if we look at the next statement, the other professionals hand even more responsibilities over to the interpreter.

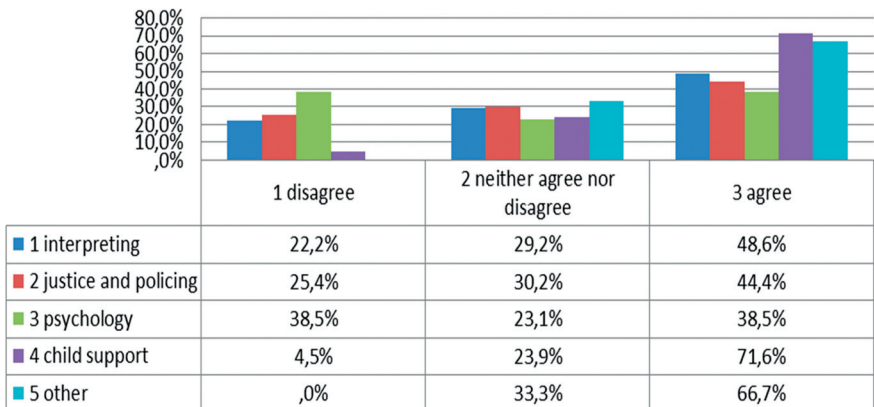
Figure 11. The interpreter takes the initiative to adjust the language to the level of the minor



*Statement 8 The interpreter takes the initiative to put the minor at ease.*

Again (Figure 12), every professional group – including the interpreters – thinks that putting the minor at his or her ease is something the interpreter can do as part of his or her job. From the quantitative part, we cannot, of course, deduce whether this simply consists of using a few comforting words or of giving a hug when the child is crying, but the fact is that the burden on the interpreter's shoulders becomes enormous. And yet another item is added to the interpreter's job description, as shown by Figure 13.

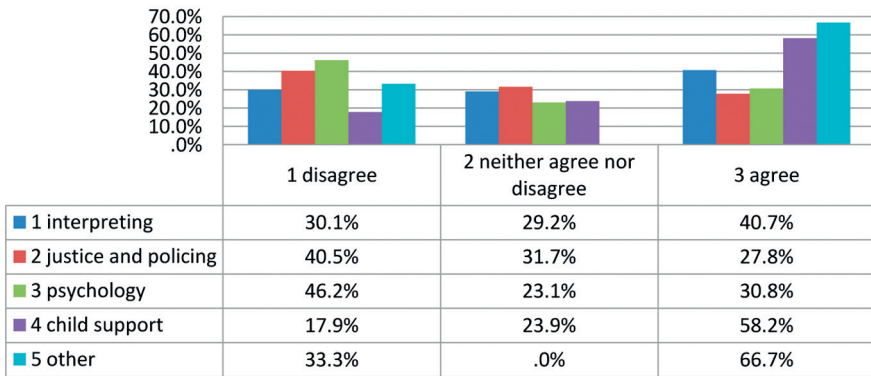
Figure 12. The interpreter takes the initiative to put the minor at ease



*Statement 9 The interpreter takes the initiative to keep the communication flowing.*

That the interpreter should keep the communication flowing is something psychologists, legal actors and police not seem to appreciate. This seems logical because it implies that the interpreter is taking the lead in the interview or conversation, in other words, taking over the job of the interviewer/psychologist. The child support workers, on the other hand, again seem to be convinced that interpreters should take the initiative to keep the communication flowing (almost 6/10 agree). Only for the tenth item is there almost a general consensus.

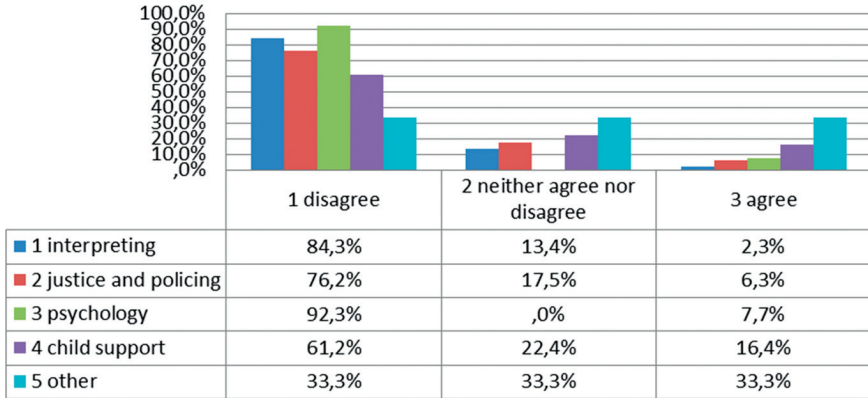
**Figure 13. The interpreter takes the initiative to keep the communication flowing**



*Statement 10 The interpreter gives his/her opinion on the case.*

Fortunately, almost every respondent in each professional group agrees that the interpreter is not part of the interviewing team as such and should maintain his impartiality. Still, there are almost one quarter of legal actors or police officers and almost 40% of child support workers who cannot decide on or agree with this statement (Figure 14). This is also rather worrying. Even more alarming is that not all interpreters disagree with this statement.

Figure 14. The interpreter gives his/her opinion on the case



The discussion of these results allows us to summarise and to interpret the findings for further research. Nevertheless, we must stress that, despite the considerable number of respondents, we cannot extrapolate these findings to all professionals in the working fields under examination, nor can we claim that our results are generally representative. All the outcomes and conclusions we formulate are limited to this individual research study, so, when we speak about the different professional groups and their opinions on the different statements or their answers to certain questions, it must be borne in mind that these only refer to the sample for this research. It is also important to bear in mind that Questions 5 to 9 – on actions undertaken by the interpreter – were clearly formulated as follows: ‘the interpreter *takes the initiative* to’ (explain socio-cultural differences, explain technical terminology, adjust the language to the level of the minor, put the minor at ease and keep the communication flowing).

A first observation is that the professional group of child support workers apparently knows the least about the role of the interpreter. They seem to consider the interpreter to be a full collaborator with a similar range of duties to those of a child support worker. The only action they do not appreciate is the interpreter supporting the minor, probably because they see this primarily as their job, whereas the interpreter can support the interviewer, according to 40% of child support workers. They are also convinced that interpreters may take the initiative to explain socio-cultural differences (70%), explain technical terminology (almost 70%), adjust the language to the level of the minor (more than 70%), put the minor at ease (70%), keep the communication flowing (almost 60%) and 16% even thinks that interpreters may give their opinion on the case. Again, these results are not to be taken as a strict truth: the fact that the child support workers agree with these statements does not necessarily mean that the interpreter *should* take this initiatives. It only shows that they agree

that interpreters may take these initiatives and they do not seem to have major problems with that.

The group of psychologists might be expected to give very similar answers and opinions, but that is not always the case. It must be stressed, though, that (together with the group of 'other professions') they are the smallest group: only 6% of the total. That is also why we did not treat the 'other' group in detail, because it is negligible in size (3%). The psychologists are much less convinced about handing over tasks to the interpreter, such as explaining socio-cultural differences (half of the psychologists vs. more than 70% of the child support workers), but, this is particularly the case when it comes to explaining technical terminology, adapting the language to the level of the child, putting the minor at ease and keeping the communication flowing (30–40% of the psychologists vs. 60–70% of the child support workers). This could be explained by a higher professional self-awareness on the part of the psychologists compared with the child support workers: they – rightly – are not willing to hand over their professional responsibilities to the interpreter.

The justice and policing group, on the other hand, seems to know most about the role of the interpreter, but that is only a first impression: this group is strict regarding the fact that interpreters should not give their opinion on the case (only 6.3% disagree), should not support the minor (11.1% disagree) even if twice as many think that interpreters can support the interviewer (22.2%), meaning mostly themselves. They generally also agree that interpreters should not keep the communication flowing (only 27.8% disagree) and are very convinced that an important skill on the part of interpreters is to translate faithfully (89.7%). But a majority of respondents (69%) also agree with the statement that *the interpreter interprets literally* when asked about the interpreter's function when working with minors. Here it becomes more evident that they do not always know which specific competencies are required and which linguistic difficulties and challenges exist when interpreting from one language in another. They are not aware of the fact that a mere transcoding (word-for-word literal translation) of messages does not only result in ridiculous, but also in erroneous and completely incomprehensible interpretations. As for the other initiatives taken by the interpreter, they think it is acceptable to let interpreters explain socio-cultural differences and technical terminology, to have them adapt the language to the level of the child and to put the minor at ease (in all these cases, about 50% of the respondents agree). As said before, this is rather astonishing, because they seem to hand over the control to the interpreter who is not trained to give explanations about technical terminology or adapt the language to the level of the child, while only the police officer, the youth judge or youth lawyer are trained to do this. This is a key reason why they should not hand over this task to the interpreter. The same goes for putting the minor at ease: this is not the interpreter's



responsibility. The police officer or youth lawyer must do this himself – *through* the assistance of the interpreter – but must not leave this entirely to the responsibility of the interpreter. The fact that they agree with the interpreter taking the initiative to explain socio-cultural differences can nevertheless be interpreted in a slightly different way: it falls within the interpreters' competence to know both cultures and detect the socio-cultural hurdles. So interpreters are best positioned to detect problems that result in communication barriers. Again, this does not say anything about the degree of transparency with which this is handled (e.g. the interpreter signals a misunderstanding, asks permission from the police officer to explain this and then tells the minor why he or she had this kind of side conversation with the interviewer). Of course, this is only possible if the minor has the developmental and intellectual capacity to understand this type of explanation – in other cases, an alternative solution must be found by agreement with the interviewer.

Last, but not least, the analysis of the interpreters group led to rather surprising results. Amazingly, some interpreters state that they have no opinion or a positive opinion about supporting the minor (4/10) or supporting the interviewer (5/10), whilst a basic element of the code of ethics and training of interpreters is impartiality. As for 'interpreting faithfully', the interpreters almost unanimously agree (95.4%, even if the figure of 100% might be expected), while it is surprising to see that 4/10 still agree to interpret literally. This is difficult to explain: it could be said that they gave a socially desirable answer because the professional groups with which legal interpreters mainly work (justice and policing) heavily emphasise the importance of a so-called 'literal' translation (7/10 in the justice and policing group). A trained interpreter, however, should be aware of the linguistic impossibility of literal translation. At the same time, we cannot really blame the justice and policing professionals for having a wrong idea about literal translation: after all it is not their area of expertise. Of course, these groups could also be trained and informed, so that they know more about the interpreting profession, but that is another issue. Even more surprising is that a relatively large number of interpreters agree with the remaining statements: the interpreter keeps the communication flowing (40.7%), puts the minor at ease (48.6%), takes the initiative to explain technical terminology (53.7%), explains socio-cultural differences (61.1%) and adjusts the language to the level of the child (67.1%). Again, a trained interpreter should know how to handle these situations but the question is: to what extent are these interpreters trained, or are they trained at all? Most of the interpreter respondents in our sample were not trained which may partly account for the fact that they do not always exactly know the boundaries of their role, particularly when working with children. Of the interpreters (experienced and inexperienced) who participated in the survey, 81.1% indicated that they had not received any training in working with minors. When interpreters lack the necessary training to deal with such a highly

specialised context, this limited knowledge may have an impact on the way in which they believe they are supposed fulfil their professional role. It probably also increases the risk of role boundary confusion. Another explanation could be that when confronted with a minor – who may be anxious, hurt, sad, shocked, frustrated or extremely vulnerable for various reasons – interpreters might feel that the specificity of the situation requires that they reposition the boundaries of their role to one that is less strict (e.g. comforting the minor, adjusting the language level, etc.), which may be a human reaction, but not necessarily a professional one. Still, 15% of the experienced interpreters are convinced that they are allowed to give their opinion on a case.

Overall, we can say that the other professionals are willing to hand over a lot of responsibilities to the interpreter, or, in other words, to put a lot of weight on the interpreter's shoulders who, in his or her turn, seems to accept these extra tasks. This is in strong contrast with what can be read in chapter 4 of this book (section 4.3): interpreters get hardly any briefing (taking into account various possible nuances regarding the exact meaning of the term 'briefing'), but afterwards, during the interview, they apparently are the people who should be able to do practically everything and, in that way, ensure that the interview works out well for all the parties. The current reality, in which interpreters often have to perform with little or no preparation, and only receive a little or no information just a few moments beforehand, must definitely be changed by making the other professionals aware of the paradox inherent in this idea. Complaints about the performance of interpreters may, of course, be based on lack of professionalism on the part of the interpreters, but may equally be caused by insufficient briefing or a lack of information given to the interpreter. On the one hand, interpreters should not be viewed by other professionals as miraculous translation machines that can even – by simply pushing a button – perform other tasks like putting the minor at ease and explaining all kinds of technical terminology, without there being any input to this 'machine'. On the other hand, interpreters should also be better informed and specially trained in specific interpreting skills, but also in maintaining their role boundaries. They should also be trained in assertiveness in order to be able to handle unreasonable expectations on the part of the other professionals or to refuse assignments/tasks that cannot possibly be fulfilled in an ImQM situation.

#### 4.1.8. RESULTS AND DISCUSSION BASED ON THE QUALITATIVE METHOD

It is impossible to present all the material gathered in the narratives; therefore, we decided to specifically look at particular narratives which regard problematic aspects of the interpreter's role both for the interpreters themselves

as for the other professional groups. Secondly, we will summarise the needs formulated by the respondents from the different professional groups involved in ImQM.

Since the project coordinators master all languages of the survey, they proceeded as follows for the qualitative part of the analysis: in the recoded Excel files, the columns with answers to the closed questions of the central part were first of all hidden, simply to reduce the total number of columns. Results were then filtered, first, by country (1 Belgium, 2 France, 3 Hungary, 4 Ireland, 5 Italy, 6 Netherlands, 7 UK, 8–17 other countries) and, afterwards, by professional field (1 interpreting, 2 justice and policing, 3 psychology, 4 child support, 5 other). Since most respondents did not answer every single open question, the blanks were filtered out at the next stage. When the researchers proceeded to the analysis of answers related to another question or professional field, filters were of course restored.

The narrative answers were copied to other Excel files that were categorised per country and area of work. These separate Excel files (for each country and profession) contained different sheets, labelled with the keyword of the respective question e.g. briefing, debriefing, position. On each of these sheets, another selection of keywords was recorded (at the second level) by extracting the main ideas found in the narratives. To avoid possible subjectivity, the selection of keywords was discussed and triangulated by the research team. For that purpose, a back translation into English had to be provided given that not all members of the team have equal mastery all the languages of the survey, Dutch and English being common languages for all three of them, but this is not the case for French, Italian and Hungarian. Every keyword in the first column was followed by all narrative responses that could be linked to that particular keyword or idea: in that way, one could immediately see which idea, problem or suggestion was shared by more than one respondent and seemed to be stressed. That does not mean that individual narratives were not taken into account: every single narrative or comment is, of course, important to the research. When putting the comments together, the original row number of the respondent was also mentioned next to the answer, to allow researchers to easily link these data to useful information about job title, gender, education, or other elements. The survey yielded a massive amount of qualitative data since – contrary to what is generally expected from questionnaires – respondents very frequently added extensive narrative responses consisting of one to five sentences, or even more. In total, twenty files were created which contain the categorised qualitative results from the project partner countries. We only have twenty files at our disposal (and not twenty-four as one would expect, given the six partner countries with four professional groups each): in Belgium there were no respondents in the fields of psychology and child support; in Hungary

there were no narrative responses for the ‘other/child support’ category, and in the UK mainly social workers are present during the questioning of children (instead of psychologists). The ‘other’ countries (outside the six EU member states of the project) have not yet been analysed at the date of publication.

After examining the charts, the analysis of the narrative responses provided an extra opportunity to look at the quantitative results in more depth and to add some further qualifications to the figures or correlations. As mentioned earlier, we will focus on some problematic aspects of the role of the interpreter:

- find out why social workers give the interpreter a lot of responsibility: explain socio-cultural differences (70%), explain technical terminology (almost 70%), adjust the language to the level of the minor (more than 70%), put the minor at ease (70%), keep the communication flowing (almost 60%);
  - and why psychologists are more reluctant to do so;
  - verify why members of the justice and policing group are so strict about literal translation (69%) and why they, on the other hand, are even prepared to let interpreters explain technical terminology (53.2%), which does not match with the so-called ‘literal’ translation, but, on the contrary, allows for additions initiated by the interpreter;
  - explain why the interpreters mostly tend to think the same way as the social workers: but in the case of the former, this way of thinking is more difficult to justify, because they should know better than social workers where the exact role boundaries of interpreters lie.
- **Child support workers**

When looking at the answers given by the child support workers and the psychologists in the different countries, the ‘struggle’ regarding the role of the interpreter is obvious. A slight weakness in the questionnaire is that, first of all, we could not predict the frequency of the additional explanations to Question 41 (10 attitudinal statements about the role of the interpreter, see quantitative analysis above), and, also, that it was not always crystal clear to which statement exactly the comments were referring – even though the follow-up question was formulated as follows:

*If you wish to further explain one or some of your choices in the table above, please use the following box*

Respondents rarely specified which statement their comment in the box applied to.

An exception can be found, for example, in the following answer of a UK social worker who specifically refers to particular statements in Question 41:

*Not role of interpreter to keep communication flowing. Interpreter is asked his/her opinion re[garding] anything that may have been missed due to cultural issues. / Whilst agreeing that the Interpreter translates literally – I mean that as best they can share what has been said and help if there are communication issues with language.*

One can easily see how answers are illustrated and how ‘literal’ translation is described as ‘within the limits of what the language allows’, how the idea of the interpreter as the one responsible for keeping the communication flowing is clearly rejected (and confirmed), and how the respondent clarifies that an interpreter can *only* give his opinion on cultural issues. The respondent hereby establishes a link between the last statement (10) and item (5) about the interpreter explaining socio-cultural differences.

Two French child support workers have a different opinion on this. The first one thinks it should be possible for the interpreter to explain a socio-cultural position in a transparent way (on condition that the minor approves), which does not mean that the interpreter is allowed to take a position in favour of any of the parties involved. (S)he also expresses an interesting opinion: namely, that impartiality on the part the interpreter is a must, both when working with adults and when working with minors.

*The interpreter can make explicit what the minor is not able to say, and clarify his own socio-cultural position if it is in line with his client, with the minor’s approval. BUT his code [of the interpreter] is that he must be impartial, so it happened to me that I asked a judge not to take into account a judgment expressed by the interpreter without it being suggested by his client (this also goes for interpreting for adults).*

The second child support worker is clearly reluctant about the interpreter making socio-cultural considerations explicit for any purpose:

*The interpreter must stick to his role as the one who transfers the words of the other. The socio-cultural considerations harm the minor, who may feel forced to fit into the scheme that has been set up by the interpreter. This keeps the minor from expressing himself as someone who carries words and a unique story/history, instead of expressing himself as a fixed cultural product.*

Other child support workers – e.g. in Italy – adhere more to the position of the interpreter being reasonably ‘partial’ (within certain limits) or even prefer the intercultural mediator to the interpreter.

*Absolute neutrality is not possible: during childhood and adolescence communicative principles are always mediated through emotional and ‘analogous’ relationships  
Facilitate communication between both cultures*

*Mediators are more useful than interpreters (because of previous negative experiences with interpreters)*

We can conclude that the child support workers' answers (as analysed in the quantitative part) must somehow be differentiated, at least when taking into account the minority that further explained their choices. According to them, it is possible for the role boundaries of the interpreter to become more flexible, but still within the limits of transparency and consensus, so that they – as child support workers – can achieve successful professional results.

– **Psychologists**

The more reluctant attitude of the psychologists (who are less willing to hand over tasks to the interpreter) is also partly confirmed by the narratives.

A Dutch psychologist states that it is not up to him to decide on the role of the interpreter

*In my opinion, this [i.e. deciding on the initiatives to be taken by an interpreter] must be dealt with by the professional group of the interpreters themselves.*

While a Hungarian psychologist states that 'communication must be established with the minor, not with the interpreter'

A few answers by French psychologists keep open the possibility of leaving some tasks to the interpreter, such as giving socio-cultural explanations, adapting the language to the level of the child, putting the minor at ease. However, these are always clearly described as initiatives **not** from the interpreter himself, but from a third party – both from the interviewer and minor – to which the interpreter can respond through transparent behaviour, correctly characterised as 'loyalty to the professional and the minor'.

*The interpreter can explain to the interviewer what the child does not understand or the ambiguities in our questions so that we can adapt our language level so to make ourselves understood.*

*The interpreter can – when a third person asks for it – propose socio-cultural and linguistic explanations His attitude must show double loyalty to the professional and the minor.*

*Ideally the interpreter would have the time to get to know the minor and establish communication and a warm-hearted relationship, while still keeping a distance. My answers can be seen in that light.*

The Italian psychologists also put the strict role of the interpreter very much into perspective. Their specific situation requires some further explanation, as shown in various narratives.

Meetings with psychologists take place at reception centres, immediately after the arrest: no investigative interviews are held in the presence of a psychologist, so the situation is slightly different. The following answers (from one and the same respondent) clearly put forward the idea of ‘common sense’ and the delicate balance in managing impartiality that interpreters have to deal with:

*It depends on the situation: sometimes the interpreter slightly makes up for the needs of the child (important to put the minor at ease with a small intervention) – this boundary should never be exceeded!*

*It depends on the case: sometimes it is appropriate for the interpreter to adopt a warm-hearted attitude, when this facilitates communication. Adopting a detached attitude on the other hand might seem the right thing to do for an interpreter, but it makes it more difficult for the children.*

We can conclude that the answers of the psychologists (as analysed in the quantitative part) are generally confirmed by the narratives (again taking into account the minority that account for their choices). Also, for them, it should be possible to make the role boundaries of the interpreter more flexible, but this shift cannot be initiated by the interpreters themselves who should always maintain an appropriate professional distance and detached attitude without being ‘cold’ or ‘inhuman’.

#### – Legal professionals (justice and police)

When we move on to the legal actors, it is striking – but not surprising – to see that they are much more categorical about what an interpreter should (not) do, at least as concerns literal translation for some Belgian respondents.

*The interpreter must translate literally what I say and what the minor says without “interpretation”*

or

*In Belgium a suspect or victim has the right to ask the police for a verbatim report of a declaration. This must also be possible in an interpreter-mediated context and report.*

From these narratives, it becomes clear that legal practitioners understand ‘literal’ as meaning ‘word-for-word’ (*verbatim*), and are unaware of the fact that there is no statistical one-to-one correspondence between any pair of languages.

Others use a more balanced wording and are aware that interpreting is not an easy machine-like task, but also stress that they want to remain in charge of the interview:

*The interpreter must interpret as literally as possible but the question should also be clear to the minor. The interpreter cannot take initiatives but can make some suggestions to the interviewer. It is the policeman who then decides if he agrees with it or not.*

Apparently, this is linked to a particular fear that legal practitioners have: the fear of losing control, as clearly expressed by a legal actor from the UK:

*When asking children and young people questions, it is essential that non leading questions are asked and it is impossible to know that the questions are put to the child in exactly the way they were asked.*

Legal actors seem to forget that they have already partly lost the control – simply because they do not speak the language of the interviewee – and that it is the interpreter who can and will give it back to them. This is precisely the job of the interpreter: to make communication – and thus the work of the legal actor – possible. This will, of course, only be the case if an important condition is fulfilled: the assurance that you are dealing with a professional interpreter.

Some legal practitioners are more lenient and think that an interpreter can point things out if some elements have to be clarified. Some are even willing to accept that the interpreter clarifies things ‘concerning both terminology and socio-cultural differences’” A French legal actor adds:

*The police or the judge gives him [the interpreter] the opportunity to explain terms or to adapt the level of the language.*

An Italian legal actor, on the other hand, understands the danger in a situation where interpreters take the initiative to explain things:

*The interpreter should only be the instrument that makes it possible for the interviewer to understand the minor and vice versa because he [the interpreter] usually does not have the legal or the psychological competences to become an active and integrated part of the conversation.*

A similar idea is stated by a Dutch legal actor:

*The interpreter must adapt to the specialist in this case, because the latter is the trained expert who extensively prepared himself for the interview.*



These narratives clearly illustrate at least one idea, i.e. that the role of the interpreter is not clear to legal practitioners. Whether this role is not well defined in general or not well known by the legal actors, we cannot trace. It is described in various ways ranging from ‘translating literally and nothing more’ or being ‘an instrument’ to merely ‘pointing out socio-cultural or terminological issues’-preferably during the briefing before the actual interview, while still allowing the interviewer to remain in charge, and, ultimately, to leaving things up to the common sense of the interpreter.

We should also stress that, as far as legal actors are concerned, narratives are less frequent. If we then look at the above-mentioned observations that justice and policing are rather strict about literal translation (69%), we could conclude that maybe this has to do with trying to keep control or, at least, having the idea of keeping control through the interpreter. The idea of continuing to lead is logical, but the idea of keeping control through so-called ‘safe’ literal translation is not. The only way to keep control is to trust in the professionalism of the interpreter and this can be achieved in two ways: when the legal actor is absolutely certain that the interpreter is a professional (because he or she is part of an official register, list or professional body, etc.) or if the legal actor come to a clear agreement on the role of the interpreter in a briefing session before the start of the interview. This briefing session is not meant to exclude the minor, but exclusively to discuss the role of the interpreter concerning issues like rendering questioning techniques, handling legal/technical terminology, adapting language to the level of the child, etc.

As far as the other statement in the quantitative data is concerned, which indicated that half of the legal actors would allow the interpreter to take the initiative to explain technical terminology, we could not find strong confirmation of this idea. There is only one single comment (already mentioned above) pointing in that direction. Other comments leave no room for initiatives to be taken by the interpreter or only allow particular actions (e.g. providing additional explanation), but always in agreement with the interviewer. Transparency seems to be the keyword and the interpreter is not considered an expert capable of explaining technical terminology. It is very hard to give an explanation for this contradiction, so the interpretation can only be hypothetical: the 50% of the legal actors who ticked the box ‘I agree /I completely agree’ when it comes to the interpreter explaining technical terms are maybe not entirely aware of the responsibility they are passing on to the interpreter, or are willing to hand over this kind of control to the interpreter, or maybe simply ticked the box because they think an interpreter is someone who can help with any kind of task during the interview process.

– **Interpreters**

When reading the extra comments on the 10 attitudinal statements made by interpreter respondents (discussing possible initiatives from their perspective, such as explaining either socio-cultural differences or technical terminology), they clearly confirm what has been said before: interpreters struggle with their role. They seem to know their code of ethics and know what (not) to do, but are often confronted with a reality that is much more complex than what is stipulated in a professional contract/code. Some interpreters are very careful and try to strike a balance. One Belgian interpreter explains (in a sentence full of hedges and general vocabulary) why he has chosen the ‘neither agree nor disagree’ answer.

*I gave these two neutral answers because sometimes it is possible to ask the person who is in charge of the interview permission to explain things.*

Furthermore, other Belgian interpreters try to explain that putting theory into practice is ‘not that simple’; again underlining the tight-rope they are on.

*Even though it is not allowed, in practice it is sometimes different. Without extra explanation, communication simply becomes impossible!*

Or they indicate that, without further explanation from them, the other participant(s) in the interview may think that potential problems are the result of a lack of professionalism on the part of the interpreter:

*As an interpreter you sometimes have the feeling that some nuance is necessary, e.g. when an interviewee gives an answer to a different question than the one asked. It then seems as if the interpreter translated the wrong question or answer, or made a translation mistake!*

Just as for the legal actors, we seem to be confronted with a contradiction – or there is at least no clear confirmation of what was found in the quantitative data where the interpreters did not even seem to object to taking initiatives such as giving extra explanation, putting the minor at ease or adapting the language to the level of the child. In the narratives, we found data that showed the contrary: not fewer than seven French reactions illustrated that initiatives can never be taken by the interpreter him- or herself, but only by the interviewer. To illustrate this we have selected these two clear quotes:

*The interpreter can only take initiatives after having agreed with the interlocutor. I think the task of the interpreter is not to take initiatives but to follow the initiatives of the interlocutor or those of the minor. If a child does not feel at ease it is for example the task of the police to put him at ease and we translate.*

The same idea comes from an Italian interpreter:

*The sentence ‘the interpreter takes the initiative’ is misleading because the interpreter cannot take initiatives in an autonomous way, but he can for instance take the initiative to ‘ask the magistrate if he [the interpreter] can explain technical terminology or socio-cultural differences’.*

Note that this interpreter knows his role, but without making the necessary distinction between socio-cultural explanation and technical terminology, which are two different competences (generating different responsibility). To explain socio-cultural differences falls within the competence of the interpreter, but he can only do this – as correctly suggested – if communication problems arise from socio-cultural differences and only with permission of the interviewer who has duly been informed. Explaining technical terminology, however, can never be part of an interpreter’s responsibility: technical terminology can only be explained by the interviewer and then translated by the interpreter. If necessary, the interpreter can only draw the interviewer’s attention to a particular problem of comprehension due to various reasons: the language of the interviewer is not adapted to that of the child or the interviewer uses terminology that is unknown to the minor.

This is only necessary if the interviewer seems ‘to forget’ that he or she is dealing with a minor, which can happen, but which is hopefully seldom the case when working with highly trained interviewers, or youth judges and lawyers specialised in dealing with minors. There are some testimonies from interpreters regarding negative experiences with interviewers, like in this comment from the UK:

*Explanation of specialist terminology should be done by the interviewer. Sadly often they [sic]*

where the interpreter probably meant ‘sadly often they don’t’.

However, other comments show that it is right to leave the questioning entirely in the hands of the professionalism of trained experts, such as the next comment by a UK interpreter which summarises the role of the interpreter and the dilemma of not being able to translate literally:

*My experience with minors is limited to police interviews with victims, i.e. statement-taking. I was always extremely impressed with the care and professionalism of police officers, who were plainly specifically trained in dealing with minors. They were responsible for the flow of communication and putting the minor at ease. My challenge lies in accurately interpreting their very carefully worded questions, when literality doesn’t work.*

Strangely enough, these are diametrically opposite opinions, both from the UK. This probably shows that professionalism can only be recognised in individuals who are willing to apply it. It is almost impossible to find out why two interpreters

in the same country have an experience which is so different: this greatly depends on the individual case and on the specific situation which cannot be captured through a questionnaire, even when space is left for extensive narratives. Police officers are not machines either, so it can be imagined that a police officer – despite his intensive training – becomes irritated by an arrogant and aggressive seventeen-year-old suspect, and reacts in a totally different way than he would when dealing with a frightened six-year-old girl who has been raped. These are only two of the thousands of possible cases in which minors from zero to eighteen-years-old can become involved and which professionals may have to deal with. Professionals should, of course, avoid this kind of behaviour, but again, when humans come together in such delicate situations, human errors are always possible.

To conclude, lack of clarity about the interpreter's presence and role could be avoided in (at least) two different ways. The first way is, as described by a French interpreter, to 'explain to the minor who the interpreter is to put him at ease and to make communication possible'.

The second way is suggested by a Dutch sign language interpreter who explains, in a very diplomatic way, that teamwork is the only way to move forward. This is necessary because sometimes even professionals do not always see how they can manage different problems when questioning minors, e.g. if the child is Deaf and has an additional disability:

*The three statements in which I indicated 'neither agree nor disagree' refer to things I do in collaboration with the investigator. Collaboration in a team when questioning Deaf minors is essential in my opinion. The interpreter can evaluate if the questions come across or if they need to be asked in a different way to come to an answer. This is because investigators and behaviourists lack specific knowledge when questioning Deaf children, especially when questioning Deaf children with an additional disability (I have seen various questionings which did not work out because of this combination). As an interpreter however, I have no right to interfere and the lead SHOULD stay with the investigator or the expert.*

This is a perfect example of how working together as a team of professionals is necessary to achieve one common goal: to finish the questioning of the minor with the most successful results for all the parties involved. Such results are of interest to all the professionals, but primarily also for the minor him- or herself, given his vulnerability.

#### 4.1.9. SEATING ARRANGEMENT: QUANTITATIVE AND QUALITATIVE APPROACH

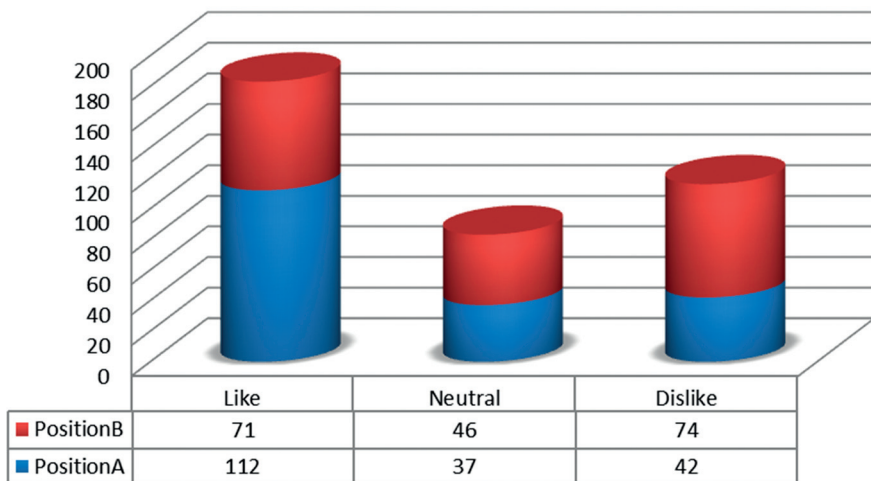
The physical setting of an (interpreter-mediated) interview is as important as its content. The position of the interpreter can have an influence on the minor's

answers or on the interviewer's questions. Therefore, the questionnaire also addressed the very important topic of the participants' seating arrangements during a professional encounter with a minor. The first question was the following: *In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.* The respondents could choose between two alternatives. In Position A (blue) the minor is sitting in front of the interviewer, while in Position B (red) the minor is sitting next to the interviewer. The question was asked to all respondents who had experience of interpreter-mediated child interviews: the spoken language interpreters, sign language interpreters and the other professionals (justice and police, psychology, child support, etc.). They were all supposed to answer the question by indicating (with an X) in the drawing where the interviewer should ideally position themselves in relation to the minor. It is important to note that the results in this section were not recoded, given that this specific type of data (collected by means of a heat map) does not allow for recoding.

We will treat first the answers of the spoken language interpreters, then the sign language interpreters and finally the other professional's answers.

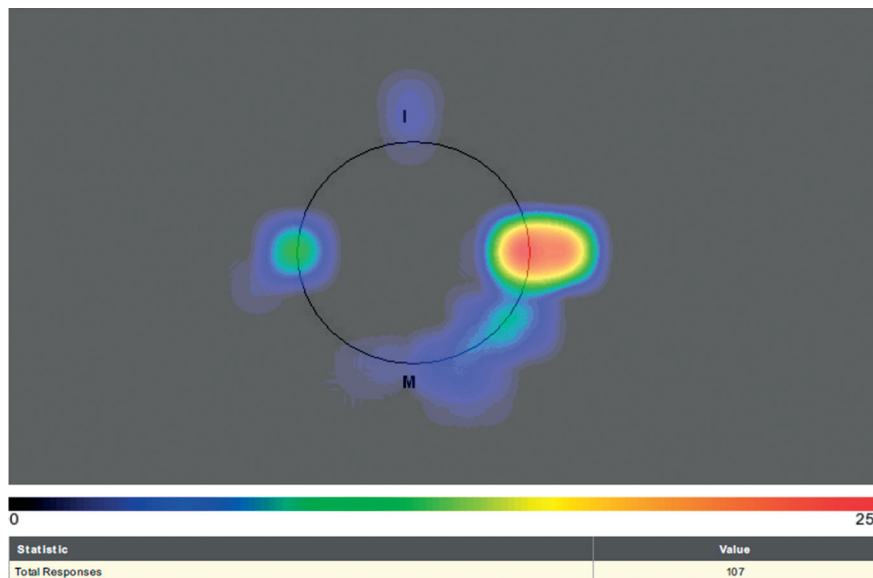
The spoken language interpreters' answers were unambiguous and clear. Most of them (112) prefer Position A where the minor is sitting facing the interviewer to Position B (71) where the minor is sitting next to the interviewer. This also works the other way round: 74 interpreters do not like it when the minor is sitting next to the interviewer, while only 42 reject a seating arrangement where the most important stakeholders are sitting facing each other. In Position A, the spoken language interpreters can more easily arrange seating in the triangle formation and also physically show their neutrality.

Figure 15. Seating arrangement (spoken language interpreters)



Next, the respondents were shown a drawing of a table with their preferred seating arrangement (either with the interviewer facing or next to the minor) on which they then had to indicate the preferred position of the interpreter by clicking on the heat map. Thanks to the Qualtrics programme, we could interpret their choice in more detail. The warmer the colour (yellow/red), the more respondents selected that particular position.

Figure 16. Seating arrangement (spoken language interpreters)



As it appears in Figure 16 from the – almost planetary or cosmological view – most spoken language interpreters prefer to sit at the same distance from the minor and the interviewer, in between both.

This is underlined by some of their remarks regarding the deontological code:

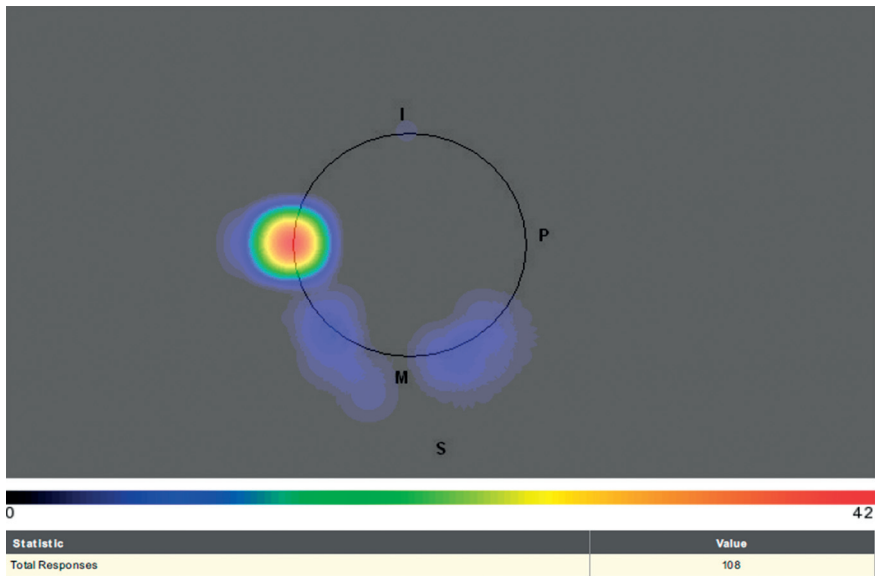
*I am insisting on having a place that allows me to ‘be forgotten’ as soon as possible.*  
(BE)

However, they also complain about the lack of opportunity of the impossibility to freely choose their position. This possibly explains the rather high number of respondents selecting Position B.

*I never had any choice in positioning. The seating was pre-set in video suites. I had to sit in seats allocated by the interviewer. In most cases, these were located so that I had the same angle of vision towards the minor, i.e. I was sitting nearer to or next to the interviewer, almost side by side with him/her, almost facing the minor.* (UK)

For Position A (Figure 17), the picture is even clearer if there is a third person (a psychologist and/or a child support worker) present in the interview room. Most of the interpreters select the most logical seating position: between the interviewer and the minor facing the psychologist. This way, they also opt for the most neutral position, at the same distance from each stakeholder.

Figure 17. Seating arrangement (spoken language interpreters)

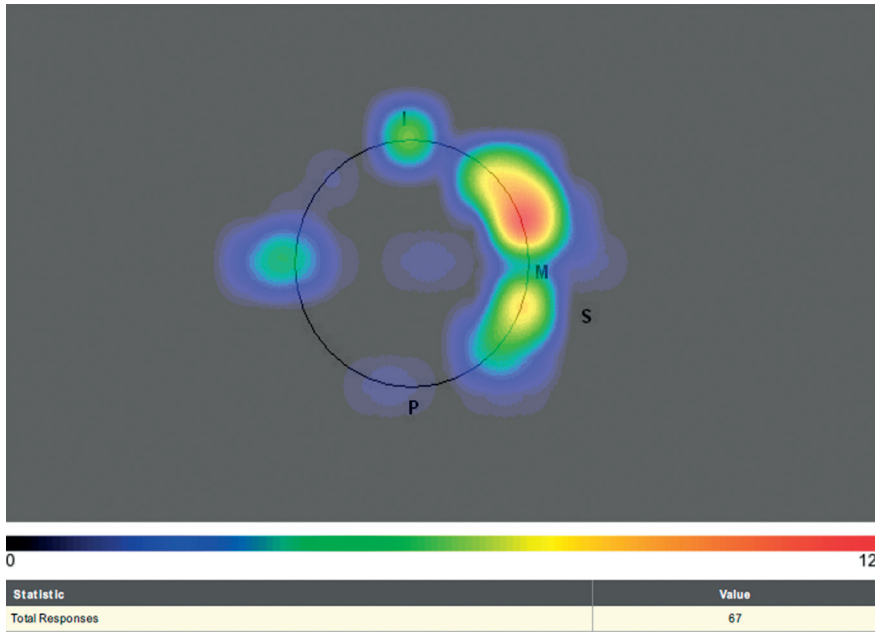


However, the presence of more than two adults during the interview makes the whole situation more complex, not only physically but also mentally. This situation is emphasised by a Belgian interpreter who states:

*When two participants are present together with an interpreter, their position is not well indicated here: the position of the interviewer [I], minor [M] and psychologist [P] is too threatening; a setting with three adults in front of a child is too formal for a good conversation. (BE)*

For the interpreters who choose Position B, the result is much chaotic (Figure 18). There is no single preferred position in which they are able to keep the same distance from every participant.

Figure 18. Seating arrangement (spoken language interpreters)



A clarification of this unstructured representation and respondents with different meanings can be found in the remark of a British interpreter:

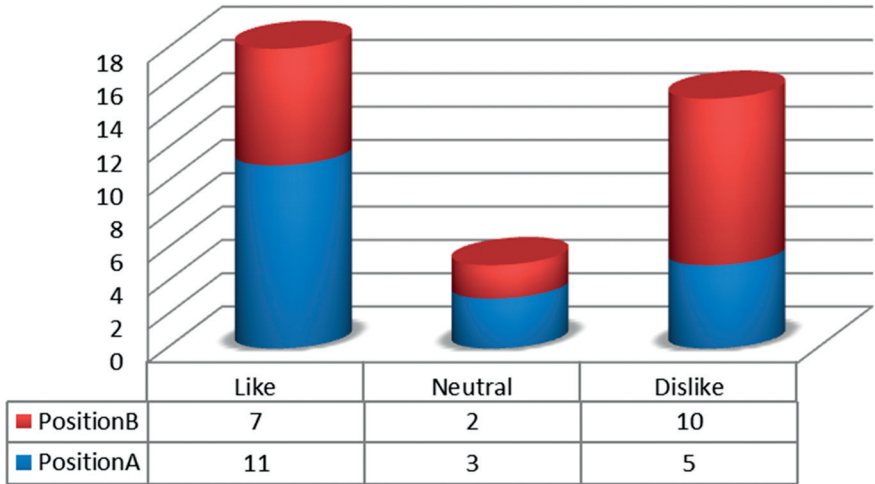
*In England in most places the interviews take place in a room with rectangular table with interviewer(s) on one side and person interviewed on the other side. In an adult interview I position myself either at the shorter side of the table equidistant from both interviewer and interviewee if possible, if not next to interviewee. If the interviewee is a minor, I position myself at the side of the minor to establish contact and trust (UK)*

From this it becomes clear that keeping a distance and remaining neutral in a professional encounter with a minor is not only a physical challenge, but it also seems to be directly linked to the emotional level as well.

When we look at the answers of the sign language interpreters (SLI), we notice their answers were very different. The difference between the answers of the spoken language interpreters and the SLI was enormous. They have a stronger idea about their position. This is, of course, logical, because otherwise they would not be able to do their job. Visibility is the absolute keyword when defining their position. That is also the reason why they choose Position A (minor facing the interviewer) (11) and almost every SL interpreter (10) disliked Position B (minor next to the interviewer) at the same time.

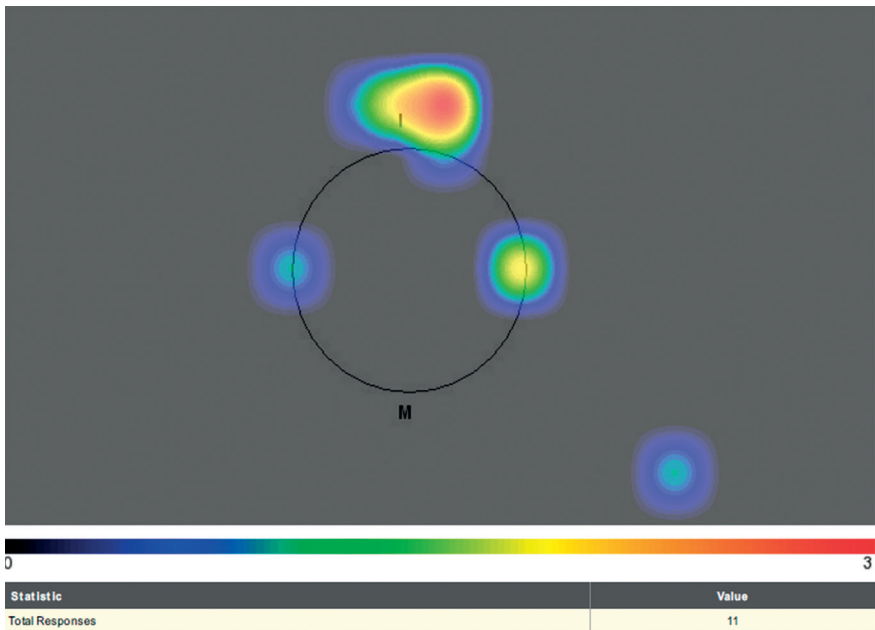


Figure 19. Seating arrangement (sign language interpreters)



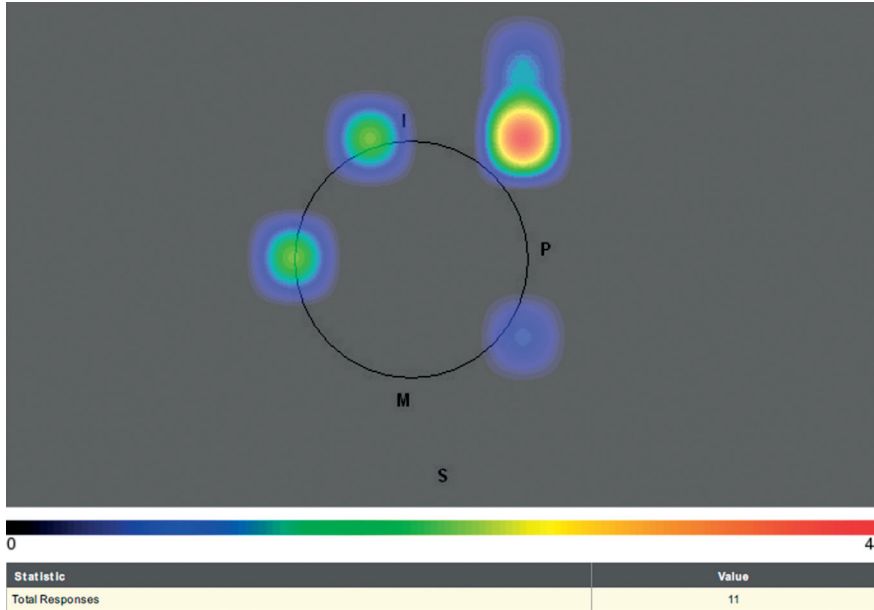
In any case, they always position themselves facing the minor, very often even behind the interviewer (Figure 20).

Figure 20. Seating arrangement (sign language interpreters)



The presence of a third person does not change much about the situation (Figure 21). The minor (who is in this case a sign language user) absolutely has to be visible at all times, more than any other participant. The SLI and the minor have to be able to see each other, otherwise communication is impossible. This is an absolute and crystal-clear rule SLIs have to follow.

Figure 21. Seating arrangement (sign language interpreters)



In their remarks they describe it as follows:

*Minor is deaf so must have good and clear eye contact, away from glare from windows. Interpreter can (and I do!) move according to best place for minor! (UK)*

Another Dutch SLI speaks about ‘the line of sight’ (NL).

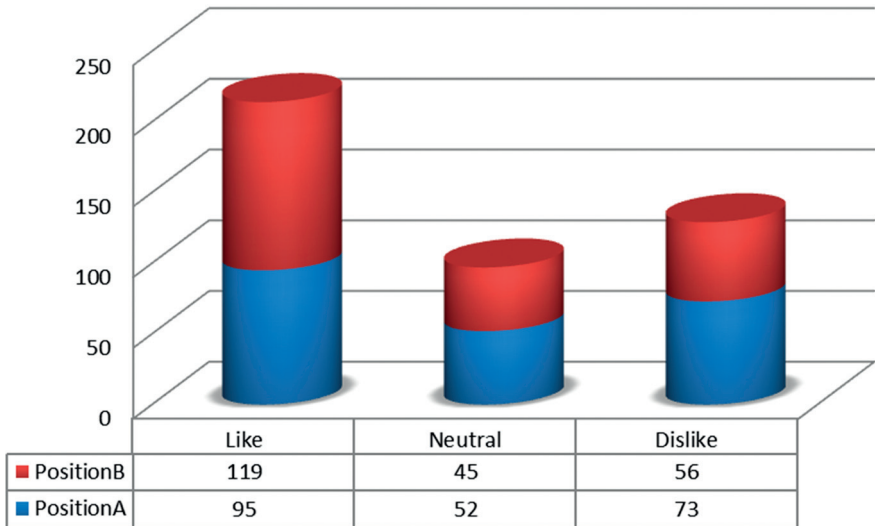
A French SLI writes:

*Everything depends on the place of the hearing person. The sign language interpreter will sit next to this person, a little bit behind so that the Deaf person can see the hearing interlocutor and the interpreter in the same visual field. (F)*

If we look at the answers of the other professionals (i.e. legal professionals, psychologists and child support workers), they seem to have a different understanding of the position of the interpreters compared to the interpreters themselves. They prefer Position B (119) where the interviewer is sitting next to

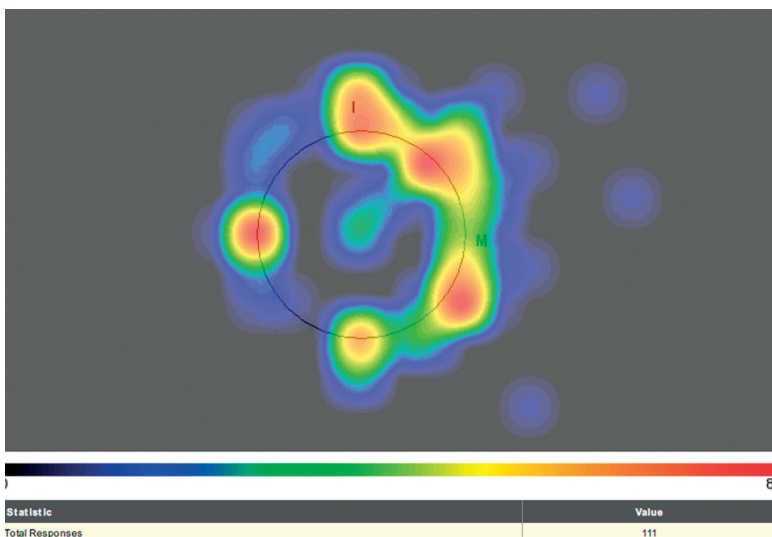
the minor and also indicate that they dislike Position A which was preferred by the interpreters.

Figure 22. Seating arrangement (other professionals)



What happens when the other professionals have to indicate the position of the interpreter? Given their preference for Position B, they place the interpreter in the following positions as shown in figure 23:

Figure 23. Seating arrangement (other professionals)



From this image we cannot deduce that there is only one rule and that the position of the interpreter seems to be fixed and well defined. The interpreter is placed almost everywhere (even on or under the table?). But also next to the minor, facing the minor, next to the interviewer or facing the interviewer.

This rationale behind this image, where everything seems to be defined by coincidence, will be made clear by the remarks of the other professionals.

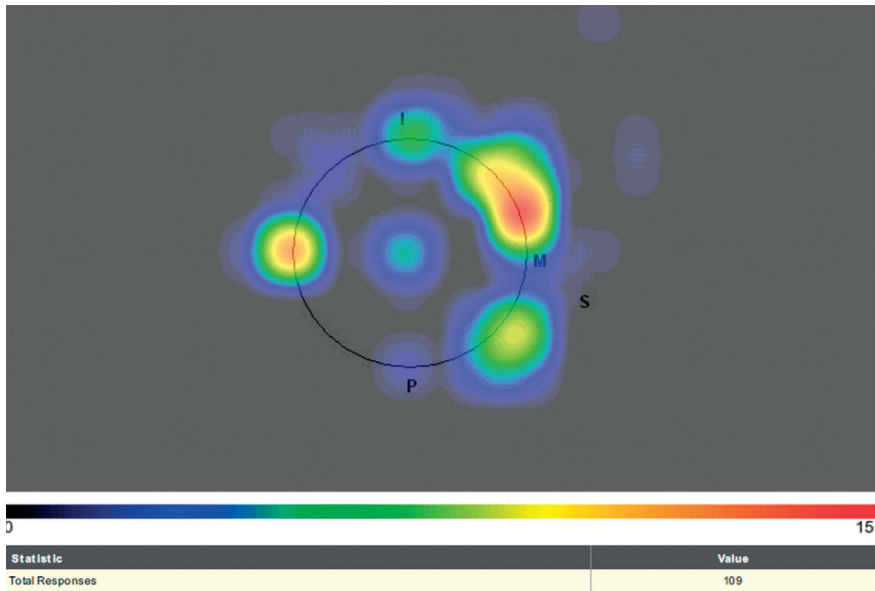
*It is always by coincidence how we sit down around the table. Recently I asked the interpreter to sit down next to me. A bit further from the child, but next to me. (Judge, HU)*

There is a huge lack of standardised rules for the position of the interpreter.

*I'm not aware of there being a 'standard position'. If the interview takes place in the child's home, the positions are usually dictated by the available seating although I would try to avoid sitting directly opposite the child. / If the child is being interviewed as a suspect in a police station I would normally sit opposite them across a table. (UK)*

The presence of more adult participants during the encounter does not really change their view. For Position B, the visual representation in Figure 24 is almost as chaotic as in the previous Figure 23.

Figure 24. Seating arrangement (other professionals)



The place of the interpreter is not fixed, (s)he should be able to work from each part around the table. On the one hand, the other professionals do not seem to consider how this hinders the work of the interpreter. On the other hand, they also do not seem to be aware of the way in which positioning can express (im)partiality. This can be explained by the fact that other professionals may not always be aware of the code of ethics of interpreters.

One of the possible explanations can be found in the fact that in some countries the psychologist is very seldom present in the interview room.

*The psychologist is never allowed in the video room during the questioning. He is sitting in the central control room. One trust person is allowed but most minors want to have a conversation without trust person. In the cases I had, there was never a trust person present. (BE)*

A second reason may be, and this strongly links up with the previous remark, that the presence of too many adults can negatively influence the minor.

*During the interview of a minor there are TOO MANY people in the room. The child can be less attentive. (NL)*

A third interpretation could be that the legal actors see themselves (together with the minor) as the most important stakeholders during the interview. This is, of course, beyond doubt: the interviewer and interviewee are the key participants in the conversation and the interviewer has the lead. However, when a minor does not speak the language of the jurisdiction, communication is not possible without an interpreter. This is something other professionals seem to forget, or try to avoid, by trying to find creative solutions (using a contact language, gestures, mixed languages, etc.) which are never sufficient for an in-depth interview.

*The psychologist places himself a little bit behind, on a chair where he can see the minor, so not to hinder the conversation. The same goes for the interpreter, seeing the minor is not necessary. The investigator must remain the only interlocutor of the minor (BE)*

To conclude, we can say that there are apparently no fixed rules concerning the position of the interpreter during an interview with minors. This also means that the work of the interpreters will not only be physically much more difficult (e.g. think about an interpreter who has to turn his or her head all the time to be able to see one of the participants), but also the idea of neutrality and impartiality risks being seriously compromised.

The position of each stakeholder is a very important topic that should be addressed during the briefing, where a decision can be made beforehand about the most appropriate place for each participant.

#### 4.1.10. SUMMARY OF THE NEEDS EXPRESSED BY THE DIFFERENT PROFESSIONAL GROUPS

For a summary of the needs of the different professional groups, we have proceeded by keeping a tally chart without wanting to turn the narratives into pure quantitative data. If we want a detailed statistical analysis of the data in the narratives, we will have to use computerised systems because of the massive amount of material in the narratives. This is definitely interesting for follow-up research: analysing the narratives with specialised software for qualitative data like Atlas.ti<sup>165</sup> to compare it with the rather intuitive analysis based on a keyword system that was triangulated by the researchers themselves. A disadvantage of technical and computerised analysis of qualitative data is exactly that it lacks human interpretation and that, again, narratives and ‘stories’ are reduced to purely quantitative and ‘countable’ data. An advantage is that it objectifies possible subjective interpretation by the researchers.

According to our analysis, there are four keywords which stand out that must be paid attention to: the need for **more time**, **trust building**, **briefing/ teamwork and training** which may both be specialised training for a particular professional group or joint training for all the professional groups together. This is not surprising, because these key elements are unmistakably interconnected: more time before the interview allows for a better briefing and clearer agreements on the teamwork of all the professionals during the ImQM; good teamwork where professionals are confident about each other’s competence and professionalism will ensure that this trust is also displayed to the minor. In order to know and better understand the relevant (re)actions and competences of all the professionals present in the room (be it the social worker, the psychologist, the legal actor and/or the interpreter) and to become more confident about one’s own performance, it could be useful to have some additional training.

First of all, **trust building** and **time** go hand in hand, but the question is: who is responsible for the trust building with the minor? This can only be made clear in a **briefing**: on the one hand, we read that interpreters ask to be introduced or to introduce themselves to be sure that both the minor and the other professionals know what their task is. In an ImQM, the interpreter is an additional member

---

<sup>165</sup> <http://atlasti.com/qualitative-data-analysis-software/>

and often (as we can see in the charts above) the one who is the least known, so a clear introduction about his or her role can avoid a lot of misunderstandings.

Next to the introduction of the interpreter, briefing, teamwork and debriefing are frequently mentioned as the best way to get good results. According to an Italian respondent from the justice and policing-group, there should be

*a preliminary preparation both of the interpreter and other professionals: mutual understanding, situation/background of the minor, agreements on how to conduct the interview and to achieve its goals, as well as a good debriefing after the interview*

In the narratives of the interpreters, we often encountered the idea that it would be good to have **training** for other professionals on working with an interpreter. It is not only interpreters who ask for this, an Italian respondent from the legal actors-group also states:

*exercises in best practice [are needed] for the interpreter users: interviewers that are well prepared and trained, that know about cultural differences, that now how to put the minor at ease and know how to speak and work with an interpreter*

On the other hand, the interpreters are also aware of the fact that they need more specialised training in interviewing techniques and better knowledge about the specific way to deal with minors, about child psychology and child development. This opinion is often shared by legal actors and psychologists. A French psychologist states that there is a need for:

*training for interpreters for that specific target group, focused on knowledge about children and adolescents, respect for the code of ethics and impartiality, objective and kindly disposed listening*

All in all, a French interpreter formulates his needs in this very specific setting in a concise way:

*to make it possible for the interpreter to understand the specific way of working of psychologists, investigators, judges, other professionals in cases with minors*

If the interpreter needs training in interview techniques and child psychology, and if the psychologist, child support worker and legal actor need training in working with an interpreter, it would of course be a good idea to organise **joint training** for all parties involved in ImQM, an idea that is expressed by several respondents for all professions, but is summarised very well in the following comment by a UK interpreter:

*It would be wonderful to have some kind of seminar or workshop to sketch out the main points of training which police officers and other professionals receive when dealing*

*with minors. I have never had any. Surely as professionals, we could learn something even from a one-day event on pitfalls to avoid/tips that other professionals follow. Without compromising on our neutrality or role (in that it is not for us to initiate, for example, unless to clarify cultural misunderstanding).*

#### 4.1.11. CONCLUSION

In this contribution, only a very small part of the findings could be discussed, since introducing a largely unexplored research domain and the related methodological issues requires an extensive and detailed approach. Moreover, the number of responses was overwhelming, so that the researchers found themselves with a massive amount of data that could not all be analysed extensively (or not all in the same detailed way) during the period of the research project.

Nevertheless, we should stress that the research – despite the considerable number of respondents and narratives – of course also has its limitations. The first limitation – typical of widely spread questionnaires – is that it cannot be predicted how the questions will be understood. Extensive explanations cannot be added to the survey, because it would make the reading more tiring and increase the risk that people quit. Questions should, therefore, be formulated in a short, clear and structured way, which we tried to do (the survey was also piloted) but the individual personality of the respondents and the way in which they are going to interpret a particular question can never be evaluated. This limitation is somehow balanced by the open questions, the possibility of adding comments or selecting (and specifying) the option ‘other’. These are all clarifications that have been dealt with through the qualitative analysis of the study.

Another limitation is that when people are answering a question, they always have a specific situation in mind: it is never possible to cover all the possible instances of interpreter-mediated questioning of minors in all imaginable situations, the complete age range of the concept of ‘minor’ (from zero to eighteen- years-old) or all types of situations with extremely vulnerable children (the concept of extreme vulnerability being very delicate and hard to ‘define’).

We repeat that we were not able to draw country-specific conclusions or conclusions for specific professions based on every individual item/question, even though the sample was relatively large. The significance of correlations between data was never high enough to draw sound conclusions. Therefore, results from the cross tables could not be extrapolated to a specific profession or country in a statistically justifiable way.



Another issue dealt with in the analysis relates to the sometimes contrasting findings in the quantitative and qualitative part: this is because it could not be anticipated exactly beforehand how many and which respondents would write narratives, detailed comments, clarifications and/or explanations. In that sense, it is possible that the respondents who agree with a ‘wrong statement’ simply tick ‘I agree’, but do not give any further information, and that the people who have the right idea (e.g. the interpreter’s function does not consist of taking initiatives) extensively explain why they made that choice, describe in detail their experiences, opinions and (dis)agreement with a certain behaviour and/or statement. This is what we, for instance, encountered with the interpreters who apparently find it ‘normal’ (in the quantitative part) to take initiatives as regards several matters (explaining technical terminology, explaining socio-cultural differences, putting the minor at ease, adapting the language to the level of the child etc.) while in the narratives only the opposite idea was found, i.e. that it is not the role of the interpreter to take initiatives of any kind.

Nevertheless, we hope to have raised a certain degree of awareness, or at least taken the first step in that direction. We trust that we have uncovered some – serious – misunderstandings held by service users about the role of the interpreter that must be eliminated. But interpreters themselves also struggle with their role; they find it difficult to reconcile theory and (best) practice. The first set of guidelines regarding some basic elements of ethics and general behaviour when interviewing children in the presence of an interpreter can be found in the recommendations flyer, all of which were formulated by the consortium on the basis of the survey results. The five language versions of the flyer (Dutch, English, French, Hungarian and Italian) can be found on our website.<sup>166</sup> The flyers are freely accessible and every person interested can download and/or print them – and subsequently even translate them into other languages – and distribute them among stakeholders. Important items like the time requirement for professionally conducted interviews with a minor who does not speak the language of the interviewer, the need for a specific code of ethics for interpreters working with children and the importance of a thorough briefing are all elements that can be found in the above-mentioned leaflets.

It is also important to note, with regard to further research and the development of best practices, that respondents are frequently in favour of more specialised training on working with minors to gain more insight into specific interviewing techniques (for the interpreter group), or on working with interpreters (for the remaining professionals).

<sup>166</sup> [www.arts.kuleuven.be/home/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/recommendations](http://www.arts.kuleuven.be/home/english/rg_interpreting_studies/research-projects/co_minor_in_quest/recommendations).

This means there is still a long way to go, but at least the CO-Minor-IN/QUEST consortium has made the first move by starting to think about creating a better and more professional environment for children who find themselves in a threatening and ‘unfamiliar’ setting (e.g. a police station), because they have gone through an even more traumatising experience before. The high response rate to the questionnaire shows that this area of concern needs further research to attain best practices in child interviewing, through constructive teamwork.

We hope to be able to do follow-up research that will provide us with more information on the qualitative and the quantitative data, which could then be used as a starting point for designing a joint training module (including training materials), and an sensitisation programme both for minors (on the possibility of being questioned with an interpreter and the role of this ‘unknown person’) and for professionals who need to learn to work together in this very delicate setting.

## REFERENCES

- Angelelli, C.V. *Revisiting the Interpreter’s Role. A study of conference, court and medical interpreters in Canada, Mexico and the United States*, J. Benjamins, Amsterdam/Philadelphia 2004.
- Angelelli, C.V. *Deconstructing the invisible interpreter: a critical study of the interpersonal role of the interpreter in a cross-cultural/linguistic communicative event*, Unpublished Ph. D. thesis, Stanford University 2001.
- Hale, S. and Napier, J. *Research Methods in Interpreting. A practical Resource*, Bloomsbury, London-New Delhi-New York-Sydney 2014.
- Llewellyn-Jones, P. and Lee, R.G. *Defining the Role of the Community Interpreter: the concept of ‘role-space’*, Bloomsbury, London-New Delhi-New York-Sydney 2014.
- Metzger, M. *Sign Language Interpreting: Deconstructing the Myth of Neutrality*, Gallaudet University Press, Washington, DC 1999.
- Roy, C.B. *Interpreting as a Discourse Process*, Oxford University Press, New York and Oxford 2000.
- Roy, C. ‘The problem with definitions, descriptions and the role metaphor of interpreters’ (1993) 6 *Journal of Interpretation*, 127–153.
- Valero-Garcés, C. and Martin, A. (eds.), *Crossing Borders in Community Interpreting. Definitions and dilemmas*, J. Benjamins, Amsterdam/Philadelphia 2008.
- Wadensjö, C. *Interpreting as Interaction*, Longman, London 199

## WEBSITES

Alcalà conference website: <http://tisp2014.tucongreso.es/en/presentation> accessed 12–1–2015

Atlasti programme: <http://atlasti.com/qualitative-data-analysis-software/> accessed 12-1-2015

CO-Minor-IN/QUEST leaflets with recommendations: [www.arts.kuleuven.be/home/english/rg\\_interpreting\\_studies/research-projects/co\\_minor\\_in\\_quest/recommendations](http://www.arts.kuleuven.be/home/english/rg_interpreting_studies/research-projects/co_minor_in_quest/recommendations) accessed 12-1-2015

Directive 2010/64/EU: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1410463884876&uri=CELEX:32010L0064> accessed 12-1-2015

Directive 2012/29/EU: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1410870539096&uri=CELEX:32012L0029> accessed 12-1-2015

NICHD protocol: <http://nichdprotocol.com> accessed 12-1-2015

## 4.2. ISSUES OF ROLE IN INTERPRETING FOR MINORS

Ursula BÖSER and Christine WILSON

### 4.2.1. INTRODUCTION

Any non-institutional participant in legal processes may find the navigation of linguistic and discursive conventions associated with these challenging. However, the linguistic complexity of any legal encounter is likely to weigh far more heavily on children. Evidence-based practice in child interviewing in a monolingual forensic context can call upon a substantive body of research. David La Rooy's contribution to this volume highlights the specific challenges which are associated with child interviewing in an investigative context, and outlines interviewing techniques whereby these can be addressed in a developmentally appropriate way. Where children do not speak the dominant language of a particular jurisdiction, any linguistic and discursive devices will be passed on by and through an interpreter. What are the challenges faced by interpreters when working in an investigative context that involves minors? How might these challenges be accounted for in role definitions for the interpreter which reflect both the communicative requirements of minors and the institutional context associated with child investigative interviewing?

This chapter will discuss the conceptualisation of the role of the interpreter in face-to-face settings of an institutional nature. Findings from research on interpreting for children will highlight issues of role which arise in working with and for a specific group of users: that is, children. The recommendations which will round off our discussion translate findings from this research into a set of broad principles which should inform role descriptions for interpreters in pre-trial interactions with minors. These recommendations are also informed by discussions with stakeholders in the course of the Co-Minor-IN/Quest project seminars, as well as the survey findings discussed in this volume.

This contribution seeks to provide a basis for incremental research on a group of participants in interpreted interaction and an institutional context about which little is known so far. Such research might, for example, give further consideration to the different developmental stages of minors and their impact on the role of the interpreter. It may also highlight the need for further research on the perspective of non-institutional participants in interpreted face-to-face encounters.

#### 4.2.2. CONCEPTUALISATIONS OF THE INTERPRETER'S ROLE IN FACE-TO-FACE ENCOUNTERS

Initially, defining the role of an interpreter seems straightforward. Her or his task is to facilitate communication between two speakers who do not share the same language. However, the fact that speakers of different languages may not share the same culture, implies a more expanded remit. In institutional settings interpreters may, furthermore, have to navigate 'major gulfs of power'<sup>167</sup> amongst participants in an interaction. For all of these reasons, attempts to define the interpreter's role in terms of linguistic and communicative behaviour highlight the complex and multi-layered nature of interpreting as linguistic, cultural, communicative and socially-situated activity.

The difficulty of defining the role of the interpreter is reflected in the frequent use of metaphors in an attempt to capture its essence. A number of these highlight the perception of the interpreter's role as an engaged, partial, human-being and thus as advocate, missionary, helper, or ally. By contrast, the perception of the interpreter as non-person, as passive, invisible or even as a machine, is reflective of the conduit metaphor which describes human communication as a mechanical process of encoding and decoding.<sup>168</sup> Applied to the field of interpreting, this casts the interpreter as a kind of human telephone, a language-modem, a copying-machine, a black-box. Stressing, in particular, the notion of 'invisibility' are metaphors such as pane of glass, window, mirror, echo, ghost. Wadensjö's ground-breaking study *Interpreting as Interaction*<sup>169</sup> has shown that conceptualisations of the interpreter as conduit are not tenable. Contrasting the interpreter's normative role as set out in official codes of conduct/good practice with actual interpreter behaviour, Wadensjö finds that the interpreter is an engaged actor resolving not only problems of translation (relaying information), but also problems of mutual understanding, as well as coordinating communicative moves such as turn-taking.<sup>170</sup> Comparing speakers in an encounter with dancers, who coordinate their turns on the floor, Wadensjö

<sup>167</sup> C. Angelelli, *Revisiting the interpreter's role: a study of conference, court, and medical interpreters in Canada, Mexico, and the United States*, John Benjamins, Amsterdam & Philadelphia, 2004, p. 26.

<sup>168</sup> M. Reddy, 'The Conduit Metaphor: A Case of Frame Conflict in our Language about Language' in: A. Orthony (ed.), *Metaphor and Thought*, Cambridge University Press, Cambridge, 1979, pp. 284–324.

<sup>169</sup> C. Wadensjö, *Interpreting as Interaction*, Longman, London & New York, 1998.

<sup>170</sup> C. Angelelli, *Revisiting the interpreter's role: a study of conference, court, and medical interpreters in Canada, Mexico, and the United States*, John Benjamins, Amsterdam & Philadelphia, 2004;

C.B. Roy, 'Interpreters, their Role and Metaphorical Language Use', in A.L. Wilson (ed.), *Looking Ahead: Proceedings of the 31<sup>st</sup> Annual Conference of the American Translators Association*, Learned Information, Medford, N.J, 1990, pp. 77–86.

describes the interpreter-mediated encounter as a communicative *pas de trois*.<sup>171</sup> Numerous metaphors acknowledge the role of the interpreter as co-creator of discourse as conceived by Wadensjö. Here, he or she is viewed as a social intermediary, cultural broker, bilingual/bicultural specialist (providing access to cultural information); a communication facilitator, gatekeeper, coordinator of talk (with a role in the management of the communication process, such as turn-taking); an active participant (involved in co-constructing meaning).<sup>172</sup>

The extremes of advocacy and invisibility also surface in different perceptions of the interpreter's role on the part of primary participants in the interpreter-mediated event. For example, a member of a linguistic-minority may expect advocacy or support from an interpreter, whereas the public sector professional may expect rigorous adherence to a conduit-model based performance of role. In such a scenario the interpreter may find her/himself occupying an uncomfortable middle-ground. Wadensjö illustrates such contrasting expectations with reference to a case in which the public sector professional, a nurse, expects the interpreter to 'stick to the official Code of Conduct' which included the tenet to 'all the time translate everything *verbatim*'. The patient on the other hand understands interpreters to have '*special*, unique rights and responsibilities', rather than '*restricted* rights and responsibilities'.<sup>173</sup>

The way in which interpreters themselves perceive their interpersonal role as been the subject of a number of studies.<sup>174</sup> Surveying 293 interpreters from all settings and language combinations, in the US, Canada and Mexico, using

<sup>171</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998.

<sup>172</sup> For discussion of metaphors see: C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998; C. Wadensjö, 'The Double Role of a Dialogue Interpreter', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 354–371; A. Stewart, J.D. Schein and B.E. Cartwright, *Sign Language Interpreting: Exploring its Art and Science*, Allyn and Bacon, Needham Heights, MA, 1998; M. Metzger, *Sign Language Interpreting: Deconstructing the Myth of Neutrality*, Gallaudet University Press, Washington, D.C., 1999; M. Metzger, *Sign Language Interpreting: Deconstructing the Myth of Neutrality*, Gallaudet University Press, Washington, D.C., 1999; B. Alexieva, 'A Typology of Interpreter-mediated Events', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 218–246; C.B. Roy, 'The Problem with Definitions, Descriptions, and the Role Metaphors of Interpreters', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 344–353; C. Angelelli, 'The Interpersonal Role of the Interpreter in Cross-Cultural Communication: A Survey of Conference, Court and Medical Interpreters in the US, Canada and Mexico', in: L. Brunette, G. Bastin, I. Hemlin and H. Clarke (eds.), *The Critical Link 3: Interpreters in the Community*, John Benjamins, Amsterdam & Philadelphia, 2003, pp. 15–26.

<sup>173</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998.

<sup>174</sup> G. Tate and G.H. Turner, 'The Code and the Culture: Sign Language Interpreting – in search of the new breed's ethics', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 372–384;

an interpersonal role inventory (IPRI) research tool designed to measure interpreters' attitudes towards the visibility/invisibility of the interpersonal role, Angelelli finds clear evidence that none of the interpreters considered their role to be invisible in any work setting.<sup>175</sup> To a greater or lesser extent, these interpreters see themselves as playing a role in building trust, facilitating mutual respect, communicating affect as well as message, explaining cultural gaps, controlling the communication flow and aligning with one of the parties in interactions.

Research has shown that neither the notion of advocacy nor that of invisibility capture the reality of public service interpreting. However, locating the role of an interpreter along the spectrum from conduit, through socio-cultural and linguistic mediator to advocate/controller is a far more problematic undertaking. Views on role differ depending on setting (educational, welfare, medical, legal, etc.), the perceived level of disadvantage or vulnerability, cultural distance, or danger (cognitive development, language competence, position of equality, threat to well-being, etc.). However, even within a single setting role definitions may be affected by changing constellations: for example, in a legal setting whether an interviewee is a victim, witness or suspect may have an impact on permissible latitude in role definitions.

This supports the view that there can be no one-size-fits-all role description for face-to-face interpreting. Yet, in practice this very flexibility may not be helpful to interpreters. Ultimately, this may leave the task of defining a particular role profile to them, despite the fact that they may have little or limited knowledge of the institutional goals and parameters in which an interaction is embedded. How far, for example, should the interpreter be responsible for adapting language to the level of understanding of the interviewee or for achieving institutional goals, or for managing the overall flow of communication? How should cultural information be conveyed? Research by Tate & Turner<sup>176</sup> shows that interpreters would indeed welcome more specific guidance on how to manage their role within specific settings.

The inherent difficulty in capturing the interpreter's role is highlighted in one of the earliest studies on this topic by Bruce Anderson. Anderson notes that

---

C. Angelelli, *Revisiting the interpreter's role: a study of conference, court, and medical interpreters in Canada, Mexico, and the United States*, John Benjamins, Amsterdam & Philadelphia, 2004.

<sup>175</sup> C. Angelelli, *Revisiting the interpreter's role: a study of conference, court, and medical interpreters in Canada, Mexico, and the United States*, John Benjamins, Amsterdam & Philadelphia, 2004.

<sup>176</sup> G. Tate and G.H. Turner, 'The Code and the Culture: Sign Language Interpreting – in search of the new breed's ethics', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, p. 382.

this is characterised by ‘role conflict resulting from his pivotal position in the interaction network’. Intrinsically associated with role overload ‘the interpreter’s role is always partially undefined – that is, the role prescriptions are objectively inadequate. Not only are interpreters seldom clear about what they are to do, they are also frequently expected to do more than is objectively possible’<sup>177</sup> Unsurprisingly therefore, the topics of ‘role’ and ‘role conflict’ continue to feature prominently in studies on public service interpreting.<sup>178</sup>

As an alternative to the rule-based description of ‘role’, Llewellyn-Jones and Lee<sup>179</sup> posit that a more complete and usable notion is that interpreters’ behaviours are governed by the *role-space* they create and inhabit in any given situation. Building on earlier research in the field, they explain that this ‘space’ is determined by a range of factors which can be represented along three main axes. These are: X (the axis of participant/conversational alignment), Y (the axis of interaction management) and Z (the axis of ‘presentation of self’). They argue that these three axes define and delineate those areas in which interpreters make decisions and employ strategies to enable successful interactions and explain that by plotting the interpreter’s anticipated/actual positioning on these three axes, a three-dimensional shape or *space* is generated that delineates the appropriate role-space of the interpreter in any particular interaction.

Another attempt to advance beyond static notions of role is Mason’s concept of ‘positioning’.<sup>180</sup> This aims to capture the constantly evolving interaction amongst participants in which ‘positions’ are the subject of joint negotiation. Mason shows how a range of linguistic and paralinguistic moves signal attempts at reflexive and interactive positioning as well as their take-up by other participants. Gatekeeping, footing, manipulation of preferred/dispreferred

<sup>177</sup> R.B.W. Anderson, ‘Perspectives on the Role of the Interpreter’, in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 1976/2002, p. 212.

<sup>178</sup> Cf. H. Niska, ‘Just Interpreting: Role Conflicts and Discourse Types in Court Interpreting’, in: M. Morris (ed.), *Translation and the Law*, Benjamins, Amsterdam and Philadelphia, 1995, pp. 293–316; C.B. Roy, ‘Interpreters, their Role and Metaphorical Language Use’, in: A.L. Wilson (ed.), *Looking Ahead: Proceedings of the 31<sup>st</sup> Annual Conference of the American Translators Association*, Learned Information, Medford, N.J., 1990, pp. 77–86; C.B. Roy, *Interpreting as a Discourse Process*, Oxford University Press, New York & Oxford, 2000; S. Pöllabauer, ‘Interpreting in Asylum Hearings: Issues of Role, Responsibility and Power’, *Interpreting* 6 (2), 2004, pp. 143–180; M. Inghilleri, ‘Habitus, Field and Corpus: Interpreting as a Socially Situated Activity’, *Target* 15 (2), 2003, pp. 243–268; M. Inghilleri, ‘Mediating Zones of Uncertainty’,

<sup>179</sup> P. Llewellyn-Jones and R.G. Lee, *Redefining the Role of the Community Interpreter: The concept of role-space*, SLI Press, Carlton-le-Moorland, 2014 p. 10.

<sup>180</sup> I. Mason, ‘Role, Positioning and Discourse in Face-to-Face Interpreting’, in: R. De Pedro Ricoy, I. Perez and C.W.L. Wilson (eds.), *Interpreting and Translating in Public Service Settings: Policy, Practice, Pedagogy*, St Jerome Publishing, Manchester, UK and Kinderhook, USA, 2009, pp. 52–73.



responses, contextualisation cues, in-group identity, gaze and lexical choice are all elements seen to be involved in the process.

How are such conceptualisation of role reflected in policies which guide professional practice in this field? Commonly applied role definitions for interpreters are reflected in the standard codes of practice. Such codes generally feature the following tenets: respect for confidentiality, impartiality, professional conduct (such as only accepting work which the interpreter is fully competent to undertake), the need to interpret accurately and completely without adding or omitting anything, etc. However, recognising that this position is untenable, some codes go on to address the impossibility of not ‘adding or omitting anything’. They acknowledge the need to paraphrase in certain circumstances, or to intervene as the interpreter to ‘facilitate the interpreting’ or correct an error, even to flag up lack of understanding or a cultural issue. However, codes do not normally define what exactly ‘accuracy and completeness’ means. Does this, for example, include style of delivery, paralinguistic features, the unpacking of implicit cultural information, etc.? Nor do codes generally explain how certain stages of the process should be managed: for example, if one party introduces the interpreter whether this will affect impartiality by suggesting alignment between the interpreter and that party, nor specifically how interpreter interventions should be managed; and so on. A study of sixteen codes across nine countries, shows that only the NAJIT code explicitly states what the role of an interpreter is, whilst the AUSIT code advises interpreters to explain their role (but does not define it). The AVLIC code indicates some appropriate actions by the interpreter (e.g. that it may be appropriate to comment on the effectiveness of communication). All other codes analysed focus on what the role of the interpreter is *not*.<sup>181</sup> In other words, the standard codes do generally not provide concrete details of how to navigate the interpreter-mediated event in practice. While these findings point to the need for greater dialogue between researchers and institutional users of interpreting as well as other stakeholders in the process, the inherent limitations of such codes and guidelines must be acknowledged. As Tate and Turner note, what no code can do is to anticipate all possible situations in which an interpreter may find her/himself and offer an ‘off the peg’ solution to whatever dilemmas may arise. They suggest that some complementary ‘case law’ as an annex could bring the code of practice to life.<sup>182</sup>

<sup>181</sup> S.B. Hale, *Community Interpreting*, Palgrave Macmillan, Hampshire, UK, and New York, USA, 2007, p. 124.

<sup>182</sup> G. Tate and G.H. Turner, ‘The Code and the Culture: Sign Language Interpreting – in search of the new breed’s ethics’, in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, p. 374.

#### 4.2.3. INTERPRETING FOR MINORS IN AN INVESTIGATIVE CONTEXT

The emerging field of police interpreting has drawn on research which shows that interpreters are participants in a co-operative construction of discourse which draws on and enacts specific social, institutional, cultural and textual parameters. The ‘fiction’ of the interpreter as ‘mere machine’ has been particularly pronounced in legal discourse.<sup>183</sup> The, so far, most extensive analysis of the impact of interpreting on the dynamics of police interviews was undertaken by Nakane.<sup>184</sup> This builds on previous studies in which she debunks the ‘myth of the invisible mediator’ in police interviews.<sup>185</sup> Her analysis demonstrates that the reality of police interpreting deviates from the staple requirements of codes of practice not to alter, add, or omit information in their rendering. She also shows how turn-construction by primary speakers triggers either a form or a meaning-based approach on the part of interpreters<sup>186</sup>, and the translation and function of silence in interpreted police interviews.<sup>187</sup> Focusing on the user perspective, Russel analyses instances in which interactional dynamics and institutional requirements lead the interpreter to favour one statement over another.<sup>188</sup> Krouglov highlights the choices that face interpreters when translating from a non-standard dialect in which culturally specific items are open to different translations and which forces the interpreter to assume the role of linguistic expert.<sup>189</sup> The impact of interpreting in the context of particular forensic interview formats is analysed by Böser and Heydon and Lai.<sup>190</sup>

Little is known so far about interpreting for minors and how meaning is co-constructed in interpreted communication when one of the ‘builders’ at work is a child. At the time of writing, we cannot reference any analysis drawing on authentic data of interpreted interviews with minors in a police context. Not least

<sup>183</sup> K. Laster, V. Taylor, *Interpreters and the Legal System*, The Federation Press, Sydney, 1994, p. 113.

<sup>184</sup> I. Nakane, *Interpreter Mediated Police Interviews. A Discourse-Pragmatic Approach*, Palgrave MacMillan London, New York, 2014.

<sup>185</sup> I. Nakane, ‘The Myth of an Invisible Mediator: An Australian Case Study of English-Japanese Police Interpreting’ (2009) *Portal* 6 (1), pp. 1 – 16.

<sup>186</sup> I. Nakane, ‘Problems in Communicating the Suspect’s Rights in Interpreted Police Interviews’ *Applied Linguistics* 28 (1), 2007, pp. 87–112.

<sup>187</sup> I. Nakane, ‘The Role of Silence in Interpreted Police Interviews’ *Journal of Pragmatics*, 43 (9), pp. 2317–2330.

<sup>188</sup> S. Russell, ‘Three’s a Crowd: Shifting Dynamics in the Interpreted Interview’ in J. Cotterill (ed.) *Language in the Legal Process*, Palgrave Macmillan, Basingstoke, 2004, pp. 111 – 126.

<sup>189</sup> A. Krouglov, ‘Politeness and Sociocultural Context’ (1999) *The Translator* 5 (2), pp. 285–302.

<sup>190</sup> U. Böser, ‘So Tell Me What Happened! Interpreting the Free Recall Segment of the Investigative Interview’ *Translation and Interpreting Studies*, 8, (1), 2013, pp. 112–136; G. Heydon, M. Lai ‘Police Interviews Mediated by Interpreters: An Exercise in Dimishment’ *Investigative Interview: Research and Practice*, 5 (2), pp. 82–98.

in this respect, the contributions which interpreters have made to this volume, and throughout the Co-Minor-IN/Quest project, provide valuable glimpses into the reality of interpreter-mediated child interviews.

The presence of an interpreter in an investigative context is generally preceded by the assessment of an interviewee's degree of language proficiency. The appropriateness of this assessment is crucial before any mediated investigative interview, but even more so when minors are involved. Navigating an unfamiliar or even traumatic interaction in a second language does not only add considerably to the challenges which minors face, it may also deny them access to crucial linguistic problem-solving strategies such as code-switching e.g. when talking about parts of the body.<sup>191</sup> However, when access to an interpreter is provided, minors will still have to engage with a communicative format that differs considerably from familiar types of everyday communication. Whether very young children display an understanding of the difference between the interpreter and primary participants, and how they respond to interpreters' translating and co-ordinating activities, in particular the management of turn-taking, are questions addressed by Nilsen.<sup>192</sup> Her study is based on the observation of four children of between three and six and a half years of age during an experimental set-up of informal, interpreted interactions. This small sample yields a number of interesting insights for further study, such as the significance of children's linguistic profile for their engagement with interpreted interaction. Nilsen suggests that bilingual children's familiarity with the concept of linguistic difference may facilitate their participation in interpreted interaction, while children from ethnic minority backgrounds may even bring their own experience as interpreters (e.g. for family members) to an encounter.

More generally, the fact that all children in Nilsen's data accept the turn-taking activity of the interpreter seems to indicate that prior conversational turn-taking expertise also equips the children for interpreted communication. Moreover, the children also seem to be able to distinguish between interpreter's interruptions (as the interpreter commences turns in the other participant's language) and interruptions in their own language which are addressed to them. This conclusion seems to be supported by the fact that children do not lose their narrative thread when interrupted, as research on monolingual communication

<sup>191</sup> M. Aldridge, J. Wood, *Interviewing Children. A Guide for Child Care and Forensic Practitioners*, Wiley & Sons, Chichester, New York, 1998. M. Aldridge, J. Wood, *Interviewing Children. A Guide for Child Care and Forensic Practitioners*, Wiley & Sons, Chichester, New York, 1998. Aldridge suggests that the use of the language in which incidents of abuse occurred, can be particularly beneficial for mental reinstatement in the context of a cognitive interview.

<sup>192</sup> A.B. Nilsen, 'Exploring Interpreting for Young Children' *The International Journal of Translation & Interpreting Research* 5 (2), 2013, pp. 14 – 29.

would suggest.<sup>193</sup> Across the analysed segment, and perhaps most significantly, Nilsen identifies the challenge of face-work for interpreters working for children, and thus the need to display 'behaviour that serves to counteract communicative incidents that threaten face, or self-esteem'.<sup>194</sup> While the maintenance of communication with the child requires interpreters to establish trust, they also continuously need to ensure the inclusion of other interlocutors without slipping into the role of primary participant. In adhering to and asserting their translating role, they need to navigate the risk of the child feeling rejected. Non-verbal language, in particular gaze and the use of objects, such as a book in the hands of the primary speaker, are shown to play an important role in maintaining the desired participation framework in this intricate balancing act by the interpreter. However, Nilsen also records instances where the balance tips as the interpreter empowers the child through non-verbal means. This is the case when the primary speaker competes with the child for the floor, and the interpreter's use of voice and speed favours the continuation of the child's on-going turn over the interruption.

The 'reciprocal dependency between the interpreter's role performance and the environment in terms of constellation of people and their respective verbal and non-verbal activities and social relations'<sup>195</sup> to which Nilsen's observations attest, is also highlighted in Wadensjö's analysis of an interpreted medical examination of a seven-year-old Russian girl. The author notes that interlocutors such as children, who may be 'unskilled in the art of following or maintaining the common focus of interaction', frequently assume a 'highly flexible status as co-interlocutors' as they can 'abruptly be transformed/transform her-or himself from a person talked and listened to, into an object talked about and vice versa'.<sup>196</sup> In navigating such asymmetrical interaction, the interpreter in Wadensjö's example 'adapted and extended prescribed standards in order to involve the child'. Yet, simultaneously, she demonstrates loyalty to the intentions of the nursing staff by trying to make the child comply with their institutional agenda. Ultimately, the interpreter's co-ordinating activities take precedence over her translating. In Wadensjö's example, this results in a closer rapport between the interpreter and child than emerges between the nurse and the child.

<sup>193</sup> Nilsen notes with a view to the Norwegian context, that the need to avoid interruption and distraction when working for children and the concomittant requirement to render long sequences of speech, underlies interpreters' perception that working for children is particularly challenging.

<sup>194</sup> A.B. Nilsen, 'Exploring Interpreting for Young Children' *The International Journal of Translation & Interpreting Research* 5 (2), 2013, p. 23.

<sup>195</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998, p. 184.

<sup>196</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998, p. 185.

Questions of asymmetry in child interviews and of advocacy on the part of the interpreter also underlie the study by Keselman et al.<sup>197</sup> This traces the construction of children's participant status in asylum hearings with fourteen to eighteen-year-olds by focusing on monolingual side-sequences. In interpreted interaction, such sequences are commonly triggered by problems of hearing, speaking or understanding. However, the sequences identified by Keselman et al go beyond such 'repair' initiatives.<sup>198</sup> They provide evidence of the children's voices being lost by various means: the children are positioned as non-persons, since interpreting is simply suspended during procedural discussions, or their voice is distorted, as an interpreter with insufficient knowledge of both languages involved steers the negotiation of meaning towards distorting results. Furthermore, side sequences between the interpreter and minor, and also the interpreter and the caseworker, discredit the minor as informant, and, crucially in this institutional context, call their credibility into question. Finally, interpreters are shown to use monolingual sequences to steer minors towards what they consider to be the 'right' answer. In the study by Keselman et al, all of these instances are recognised by either the child or the case worker. Yet these 'sources of misalignment or miscommunication'<sup>199</sup> go unabated and are therefore co-constructed by the case worker. This demonstrates the need for joint maintenance and shared understanding of the interpreter's role.

The case for closer co-operation in the co-construction of the interpreter's role is also made in Keselman's study on the co-construction of asylum applications by unaccompanied children aged thirteen to eighteen.<sup>200</sup> It focuses on the use and interpretation of information-seeking prompts. In the data used by Keselman et al, case workers rely predominantly on option-posing questions and make only limited use of open questions, a linguistic device known to deliver higher quality information. The authors also find that open questions are more likely to be translated accurately than focused questions, and that the most frequent modification of question format and content occurs when interpreters simplify compound questions. In addition to identifying poor interpreting practice,<sup>201</sup> the findings of this study suggest that primary speakers can assist interpreted

<sup>197</sup> O. Keselman, A.-C. Cederborg, P. Linell "“That is not necessary for you to know!” Negotiation of Participation Status of Unaccompanied Children in Interpreter-mediated Asylum Hearings' (2010) *Interpreting* 12 (1), pp. 84–104.

<sup>198</sup> E.A. Schegloff, G. Jefferson, H. Sacks, 'The Preference for Self-correction in the Organization of Repair in Conversation' (1977) *Language* 53, 1977, pp. 361–382.

<sup>199</sup> O. Keselman, A.- C. Cederborg, M. Lamb, Ö. Dahlstrom. 'Asylum Seeking Minors in Interpreter-mediated Interviews: What Do They Say and What Happens to Their Responses?' *Journal of Child & Family Social Work* 21 (1), 2010, p. 90.

<sup>200</sup> O. Keselman, *Restricting Participation. Unaccompanied Children in Interpreter-mediated Asylum Hearings in Sweden*, Linköping Studies in Arts and Science, Linköping, 2009.

<sup>201</sup> It should, however, be noted that, for this study, researchers did not have access to information about interpreters' levels of training.

communication by designing their interventions with not just users, but also with interpreters, in mind.

Children's communicative and interactional repertoires differ from those of adults. In monolingual interviews, it is the task of the interviewer(s) to accommodate this difference and ensure that they 'collect information from children in ways that minimize distortion'.<sup>202</sup> However, acceptance of the fact that translation can never be 'literal', and that interpreters are not invisible, raises questions about the degree of latitude that interpreters may be accorded when they work with and for a group of users whose 'repertoire of communicative practices is limited by his or her lack of command over the linguistic resources or contextualization cues salient for the achievement of shared understanding of the event'.<sup>203</sup>

The studies above record the underlying asymmetry in multi-party talk involving minors in institutional settings and the ensuing role conflict for interpreters. The minor needs to be kept involved in and focused on communication. To achieve this, rapport and trust must be built and maintained. This might make it necessary for an interpreter to be able to say things which do not originate from the person who is leading the exchange. Interpreters have to manage a difficult balancing act and gauge just how much co-ordination and initiative is required to allow them to maintain their role as translators. Under the pressure of these conflicting demands, normative role boundaries are difficult to maintain. This is all the more the case as this pressure is frequently experienced in situations which call for basic human empathy and involvement rather than an adherence to prescriptions of neutrality.

The above studies provide evidence that interviewers and interpreters respond to this situation by co-operating in the restriction of participation rights or by oscillating between the status of primary speaker and mediator. In the context of asylum hearings described by Keselman, children are denied their voices without this being challenged.<sup>204</sup> In the medical encounter analysed by Wadensjö, the expansion of role facilitates a description of symptoms which might otherwise not have been available.<sup>205</sup> In an investigative interview with a minor, both role enactments by the interpreter would invalidate any evidence retrieved. This difference of outcome reflects the way in which

<sup>202</sup> D.A. Poole and M. Lamb, *Investigative Interviews of Children. A Guide for Helping Professionals*, American Psychological Association, Washington DC, 1998, p. 32.

<sup>203</sup> O. Keselman, *Restricting Participation. Unaccompanied Children in Interpreter-mediated Asylum Hearings in Sweden*, Linköping Studies in Arts and Science, Linköping, 2009, p. 17.

<sup>204</sup> O. Keselman, A-C. Cederborg, P. Linell "That is not necessary for you to know!" Negotiation of Participation Status of Unaccompanied Children in Interpreter-mediated Asylum Hearings' (2010) *Interpreting* 12 (1), pp. 84-104.

<sup>205</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998.

different institutional contexts ‘exert considerable influence on how meanings are negotiated and exchanged’.<sup>206</sup> An awareness of the institutional context and objectives of an interaction must inform our understanding of the role of the interpreter. In the case of interpreters working in investigative interactions with minors, this objective can generally be described as the elicitation of uncontaminated evidence ‘that may withstand scrutiny of the court as legally sound testimony’.<sup>207</sup>

#### 4.2.4. RECOMMENDATIONS

Role descriptions for interpreters working with minors in investigative settings not only need to reflect an understanding of what constitutes the ‘meaningful participation’ of children in these encounters<sup>208</sup>, but also the institutional goals pertaining to them. The following recommendations are informed by both of these tenets. They are set out below in the order of the following interview phases: pre-interview and briefing, pre-substantive phase, interview and debriefing. They focus on the following issues: agreeing, explaining and maintaining the interpreter’s role; the interpreter’s role before, during and after the interview; trust-building; the transparency of co-ordination activities by the interpreter, and the contextualisation of the interview.

##### 4.2.4.1. Preparatory phase

During the preparatory phase of an interview, interpreters should be viewed as member of the interviewing team. As such they should be provided with factual information (e.g. name, age, charges to be investigated) and be briefed about issues which impact on the interview (e.g. if they are working in a repeat interview, interview plan, specific linguistic devices to be employed). A joint understanding of the interpreter’s role will be established and made explicit and the strategies to be employed should the interpreter need to signal a particular issue or halt the interview (e.g. to disclose any conflict of interest) should be agreed.

The interpreter’s role in this preparatory phase may include providing guidance on such matters as interpreting modes which will best facilitate communication or seating arrangements. Whilst it falls within the role of an interpreter to

<sup>206</sup> B. Jacobsen, ‘The Community Interpreter: A Question of Role’, (2009) *Hermes – Journal of Language and Communication Studies* 42, pp. 159.

<sup>207</sup> Scottish Government. Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland, [www.scotland.gov.uk/Publications/2011/12/16102728/0](http://www.scotland.gov.uk/Publications/2011/12/16102728/0), last accessed 30 March 2015.

<sup>208</sup> O. Keselman, *Restricting Participation. Unaccompanied Children in Interpreter-mediated Asylum Hearings in Sweden*, Linköping Studies in Arts and Science, Linköping, 2009, p. 17.

provide background of a general nature on linguistic and cultural issues within their area of working practice, the assessment of language age or development is generally outside their area of expertise.

The crucial role of rapport-building and establishing trust with a minor to support the communicative framework is a recurring theme throughout the research. It also reverberates in the descriptions in this volume of the role conflict experienced by interpreters. Interview teams should, therefore, consider the usefulness of providing the interpreter with the opportunity to meet the minor prior to the interview for the purpose of initial familiarisation. Such pre-meetings should be subject to approval by the lead interviewer who will also be present. They should be on record and, where possible, video-recorded. Such meetings will focus on a personal introduction (e.g. 'I am Angela, it is nice to meet you') and talk of a general nature. They should not serve to explain their professional function.

#### 4.2.4.2. *Pre-substantive phase*

The asymmetric distribution of communicative and linguistic resources and the understanding of the communicative context between adults and minors underlie the need for a joint and shared understanding of the interpreter's role. Considerable emphasis should, therefore, be placed on establishing and maintaining communicative ground rules of an interpreted encounter with minors. The pre-substantive interview phase provides an opportunity to explain to the minor how interpreting works. In monolingual interviews, it serves to highlight the importance of truth telling, the need for children to say that they do not know or understand what is being asked about, and to correct misunderstandings. Children are alerted to the possibility of false suggestions and the interviewer's lack of knowledge about events in question. Practice interviews serve to rehearse such guidance and verbalise episodic memory in response to prompts. Pre-substantive interviews have been shown to be associated with an improvement in the quality of reports.<sup>209</sup>

These ground rules should be stated by the lead member of the interviewing team in a developmentally appropriate manner. For a young child this might take the form of: 'This is an interpreter. An interpreter is a person who helps people understand each other when they do not speak the same language. You speak X, I (the police officer) speak Y. Because the interpreter can speak X and Y, s/he can help us understand each other'. In the course of the pre-substantive interview, speaking through an interpreter can then be rehearsed. When there is evidence of

<sup>209</sup> Cf. M.E. Lamb, 'Preparing Children for Investigative Interviews: Rapport-Building, Instruction, and Evaluation' (2010) *Applied Developmental Science*. 14 (3), pp. 154–163.



role slippage (e.g. side-sequences, orientation of the child towards the interpreter) at this early stage, or later during the interview, the lead interpreter should restate the interpreter's role. Exceptionally, in cases where the the lead interviewer behaves in a way which compromises the interpreter's role, the interpreter may need to take action (e.g. by requesting time-out to clarify their role).

#### 4.2.4.3. *The substantive phase of the interview*

The interpreter's role comprises both translation and cultural mediation, i.e. interpreters will provide pragmatically accurate interpretation and access to culturally specific concepts. The notion of pragmatically accurate translation for a child may necessitate the mirroring of the non-verbal features of a statement. In their role as co-ordinators, interpreters may make contributions which are either text-oriented (e.g. requests for clarification) or interaction-oriented (e.g. requests to let the interpreter talk).<sup>210</sup> Interpreters may also use their expertise to 'footnote' or unpack certain terms (e.g. culturally specific items). To ensure transparency of these co-ordinating initiatives for all participants they must be made explicit and accessible to all in a manner demonstrated below in a German-English exchange (translation in italics).

Minor (to interpreter): Bitte, sagen sie ihnen das nicht.

*Please do not tell them that.*

Interpreter (to minor): Bitte denk daran, dass ich ihnen alles sagen muss, was du sagst. Ich mache das jetzt.

*Please remember that I have to tell them everything you say. I will do this now.*

Interpreter (to interviewers): She has asked me please not to tell you this. I have said that she should remember that I have to tell you everything she says and that this is what I will do right now.

The interpreter's co-ordinating role does not include such functions as giving counsel or advice, providing advocacy, or expressing opinions. The interpreter will not adapt language to make it developmentally appropriate (e.g. adjusting of register) in his/her translation role.

---

<sup>210</sup> C. Wadensjö. *Interpreting as Interaction*, Longman, London & New York, 1998, p. 110.

#### 4.2.4.4. *Post-interview phase*

Following an interview and during a debriefing, all interpreters would be expected to reflect on their interpreting performance and to flag-up or disclose any relevant information: for example, omissions or weaknesses in handling particular challenges (e.g. ambiguity of a term, significant omissions). Interpreters cannot be expected to evaluate the statement of a minor or provide forensic assessment of language. Interpreters should also be given the opportunity to speak about any issues they have found traumatic.

#### 4.2.4.5. *Adapting the process for children with specific communication needs – sign language users*

Our recommendations reflect the interactional profile of children and the way in which this should be taken into account in investigative interviewing. Research suggests that children with special communication needs are more likely to be subjected to abuse and, therefore, to become involved in investigative processes.<sup>211</sup> It would exceed the scope of this contribution to address the implications of even the most prevalent forms of such special communication needs. By way of principle, however, we highlight the need to adapt processes to ensure a context for meaningful communication where interpreters work with minors who may be described as highly vulnerable due their particular communication needs. Our recommendations for interpreter-mediated encounters involving sign language provide but one example of such adaptations.

Given the visual-gestural nature of signed language, the interviewer should consult the interpreter regarding seating and recording arrangements. It may be helpful, for example, to adjust seating to the child's level. The interpreter will also be able to provide advice regarding lighting and visual noise (such as distracting patterns or 'busy' visual frames).

Since most deaf children are born into hearing families, it is crucial to establish the minor's (signed) language development and preferred mode of communication, as well as their sense of cultural identity. The interpreter should be able to explain background issues relevant to language acquisition and their implications.

The interpreter should also be able to provide advice on particular features of signed language (e.g. role shift to indicate different parties referred to) and

---

<sup>211</sup> M. Aldridge, J. Wood, *Interviewing Children. A Guide for Child Care and Forensic Practitioners*, Wiley & Sons, Chichester, New York, 1998, p. 198.

communication style (e.g. storytelling) which may have particular relevance in the interview.

The expertise of the interpreter should allow them to ‘footnote’ or unpack certain terms (e.g. cultural items), but any initiatives must be flagged and made explicit. Although this skill is not unique to interpreters working with a signed language, it can be particularly relevant in the case of deaf children given the impact of the lack of educational structure/family background in language acquisition and development and a child’s potentially complex needs. This should be discussed during the briefing.

Finally, it should be borne in mind that some minors will be particularly isolated because of more complex needs: for example, they may be Deafblind or Deaf and from a Black, Asian and Minority Ethnic (BME) background.

## REFERENCES

- Aldridge, M., Wood, J. *Interviewing Children. A Guide for Child Care and Forensic Practitioners*, Wiley & Sons, Chichester, New York, 1998.
- Alexieva, B. ‘A Typology of Interpreter-mediated Events’, in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 218–246.
- Angelelli, C. ‘*The Interpersonal Role of the Interpreter in Cross-Cultural Communication: A Survey of Conference, Court and Medical Interpreters in the US, Canada and Mexico*’, in: L. Brunette, G. Bastin, I. Hemlin and H. Clarke (eds.), *The Critical Link 3: Interpreters in the Community*, John Benjamins, Amsterdam & Philadelphia, 2003, pp. 15–26.
- Angelelli, C. *Revisiting the interpreter’s role: a study of conference, court, and medical interpreters in Canada, Mexico, and the United States*, John Benjamins, Amsterdam & Philadelphia, 2004.
- Angelelli, C. and Osman, G. “A Crime in Another Language?” An Analysis of the Interpreter’s Role in the Yousry Case’, *Translation and Interpreting Studies* 2.1, 2007, pp. 47–82.
- Böser, U. ‘So Tell Me What Happened! Interpreting the Free Recall Segment of the Investigative Interview’ *Translation and Interpreting Studies*, 8, (1), 2013, pp. 112–136.
- Bruce, R.B.W. ‘Perspectives on the Role of the Interpreter’, in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 208–217.
- Fowler, Y. ‘The courtroom interpreter: paragon and intruder?’, in: S.B. Carr, R.P. Roberts, A. Dufour and D. Steyn (eds.), *The Critical Link, Interpreters in the Community*, John Benjamins, Amsterdam & Philadelphia, 1997, pp. 191–200.

- Goffmann, I.I. *The Presentation of Self in Everyday Life. Forms of Talk*. Penguin Books, Harmondsworth 1971.
- Hale, S.B. *Community Interpreting*, Palgrave Macmillan, Hampshire, UK, and New York, USA, 2007.
- Harris, B. & Sherwood, B. 'Translating as an Innate Skill', in: D. Gerver and S.W. Sinaiko (eds.) *Language Interpretation and Communication, Proceedings of the NATO Symposium, Venice, Italy, September 26 – October 1, 1977*, Plenum Press, London and New York, 1978, pp. 155–170.
- Hertog, E. (ed), *Aequitas Access to Justice across Language and Culture in the EU*, Lessius Hogeschool, Antwerpen, 2001, p. 183.
- Heydon, G., Lai, M. 'Police Interviews Mediated by Interpreters: An Exercise in Dimishment' *Investigative Interview: Research and Practice*, 5 (2), pp. 82–98.
- Inghilleri, M. 'Habitus, Field and Corpus: Interpreting as a Socially Situated Activity', *Target* 15 (2), 2003, pp. 243–268.
- Inghilleri, M. 'Mediating Zones of Uncertainty, Interpreter Agency, the Interpreting Habitus and Political Asylum Adjudication', *The Translator* 11 (1), 2005, pp. 69–85,
- Jacobsen, B. 'The Community Interpreter: A Question of Role', (2009) *Hermes – Journal of Language and Communication Studies* 42, pp. 155 – 166.
- Kaufert, J.M. and Koolage, W.W. 'Role Conflict among "Culture Brokers": The Experience of Native Canadian Medical Interpreters', *Social Science & Medicine* 18 (3), 1984, pp. 283–286.
- Keselman, O. *Restricting Participation. Unaccompanied Children in Interpreter-mediated Asylum Hearings in Sweden*, Linköping Studies in Arts and Science, Linköping, 2009.
- Keselman, O., Cederborg, A.-C., Linel, P. "'That is not necessary for you to know!" Negotiation of Participation Status of Unaccompanied Children in Interpreter-mediated Asylum Hearings' (2010) *Interpreting* 12 (1), pp. 84–104.
- Keselman, O., Cederborg, A.-C., Lamb, M., Dahlstrom, Ö. 'Asylum Seeking Minors in Interpreter-mediated Interviews: What Do They Say and What Happens to Their Responses?' *Journal of Child & Family Social Work* 21 (1), 2010, pp. 103 – 116.
- Knapp-Potthoff, A. and Knapp, K. 'Interweaving Two Discourses – the Difficult Task of the Non-Professional Interpreter', in: J. House and S. Blum-Kulka (eds.), *Interlingual and Intercultural Communication*, Gunter-Narr, Tübingen, 1986, pp. 141–168.
- Knapp-Potthoff, A. and Knapp, K. 'The Man (or Woman) in the Middle: Discoursal Aspects of Non-Professional Interpreting', in: K. Knapp, W. Enninger and A. Knapp-Potthoff (eds.), *Analyzing Intercultural Communication*, Mouton de Gruyter, Berlin, 1987, pp. 181–211.
- Krouglov, A. 'Politeness and Sociocultural Context' (1999) *The Translator* 5 (2), pp. 285–302.
- Lang, R. 'Behavioural Aspects of Liaison Interpreters in Papua New Guinea: Some Preliminary Observations', in: D. Gerver and S.W. Sinaiko (eds.) *Language Interpretation and Communication, Proceedings of the NATO Symposium, Venice, Italy, September 26 – October 1, 1977*, Plenum Press, London and New York, 1978, pp. 231–244.
- Laster, K., Taylor, V. *Interpreters and the Legal System*, The Federation Press, Sydney, 1994.

- Lamb, M.E. 'Preparing Children for Investigative Interviews: Rapport-Building, Instruction, and Evaluation' (2010) *Applied Developmental Science*. 14 (3), pp. 154–163.
- Llewellyn-Jones, P. and Lee, R.G. *Redefining the Role of the Community Interpreter: The concept of role-space*, SLI Press, Carlton-le-Moorland, 2014.
- Mason, I. 'Role, Positioning and Discourse in Face-to-Face Interpreting', in: R. de Pedro Rico, I. Perez and C.W.L. Wilson (eds.), *Interpreting and Translating in Public Service Settings: Policy, Practice, Pedagogy*, St Jerome Publishing, Manchester, UK and Kinderhook, USA, 2009, pp. 52–73.
- Metzger, M. *Sign Language Interpreting: Deconstructing the Myth of Neutrality*, Gallaudet University Press, Washington, D.C., 1999.
- Nakane, I. 'Problems in Communicating the Suspect's Rights in Interpreted Police Interviews' *Applied Linguistics* 28 (1), 2007, pp. 87–112.
- Nakane, I. 'The Myth of an Invisible Mediator: An Australian Case Study of English-Japanese Police Interpreting' (2009) *Portal* 6 (1), pp. 1–16.
- Nakane, I. 'The Role of Silence in Interpreted Police Interviews' *Journal of Pragmatics*, 43 (9), pp. 2317–2330
- Nakane, I. *Interpreter Mediated Police Interviews. A Discourse-Pragmatic Approach*, Palgrave MacMillan London, New York, 2014.
- Nilsen, A.B. 'Exploring Interpreting for Young Children' *The International Journal of Translation & Interpreting Research* 5 (2), 2013, pp. 14 – 29.
- Niska, H. 'Just Interpreting: Role Conflicts and Discourse Types in Court Interpreting', in: M. Morris (ed.), *Translation and the Law*, Benjamins, Amsterdam and Philadelphia, 1995, pp. 293–316.
- Pöllabauer, S. 'Interpreting in Asylum Hearings: Issues of Role, Responsibility and Power', *Interpreting* 6 (2), 2004, pp. 143–180.
- Poole, D.A. and Lamb, M. *Investigative Interviews of Children. A Guide for Helping Professionals*, American Psychological Association, Washington DC, 1998.
- Reddy, M. 'The Conduit Metaphor: A Case of Frame Conflict in our Language about Language', in: A. Orthony (ed.), *Metaphor and Thought*, Cambridge University Press, Cambridge, 1979, pp. 284–324.
- Roy, C.B. 'Interpreters, their Role and Metaphorical Language Use', in A.L. Wilson (ed.), *Looking Ahead: Proceedings of the 31<sup>st</sup> Annual Conference of the American Translators Association*, Learned Information, Medford, N.J, 1990, pp. 77–86.
- Roy, C.B. *Interpreting as a Discourse Process*, Oxford University Press, New York & Oxford, 2000.
- Roy, C.B. 'The Problem with Definitions, Descriptions, and the Role Metaphors of Interpreters', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 344–353.
- Russell, S. 'Three's a Crowd: Shifting Dynamics in the Interpreted Interview' in J. Cotterill (ed.) *Language in the Legal Process*, Palgrave Macmillan, Basingstoke, 2002, pp. 111–126.
- Schegloff, E.A., Jefferson, G., Sacks, H. 'The Preference for Self-correction in the Organization of Repair in Conversation' (1977) *Language* 53, 1977, pp. 361–382.

- Scottish Government. Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland, [www.scotland.gov.uk/Publications/2011/12/16102728/0](http://www.scotland.gov.uk/Publications/2011/12/16102728/0), last accessed 18.03.2015.
- Stewart, D.A., Schein, J.D. and Cartwright, B.E. *Sign Language Interpreting: Exploring its Art and Science*, Allyn and Bacon, Needham Heights, MA, 1998.
- Tate, G. and Turner, G.H. 'The Code and the Culture: Sign Language Interpreting – in search of the new breed's ethics', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 372–384.
- Toury, G. *Descriptive Translation Studies and Beyond*, John Benjamins, Amsterdam and Philadelphia, 1995.
- Wadensjö, C. *Interpreting as Interaction: On Dialogue Interpreting in Immigration Hearings and Medical Encounters*, University of Linköping, Linköping 1998, pp. 179–186.
- Wadensjö, C. *Interpreting as Interaction*, Longman, London & New York, 1998.
- Wadensjö, C. 'The Double Role of a Dialogue Interpreter', in: F. Pöchhacker and M. Schlesinger, *The Interpreting Studies Reader*, Routledge, London and New York, 2002, pp. 354–371.

### 4.3. BRIEFING, DEBRIEFING AND SUPPORT

Amalia AMATO and Gabriele MACK<sup>212</sup>

#### 4.3.1. INTRODUCTION

Thorough preparation for any professional assignment is universally considered to be essential for ensuring the quality of its results. This must also be true for interpreting, in whatever field, and indeed, both professional associations<sup>213</sup> and trainers<sup>214</sup> never fail to stress this. Statements of good practice and textbooks, besides the aspects pertaining to communication, always mention the importance of meta-communicative activities, recommending that interpreters learn as much as possible, in advance, about the subject, the participants and the object of the communication, and stress the professional's duty to do so.

Briefing, therefore, as 'a meeting at which detailed information or instructions are given' and which is organised in order 'to prepare or instruct by giving a summary of relevant facts'<sup>215</sup> is – or rather should be – part and parcel of any assignment in which an interpreter is involved.

<sup>212</sup> Page 247-258 (G. Mack), page 259-264 (A. Amato), page 265-268 (G. Mack), page 269-277 (A. Amato), references (G. Mack and A. Amato). Our heartfelt thanks to Niccolò Morselli for his help with the data and figures and to Guy Aston for his precious comments on a previous version.

<sup>213</sup> See AIIC 2008. EULITA 2013. The EULITA Code of Professional Ethics (2013), under the heading Professional Competence, states that 'Legal interpreters and legal translators must not take on an assignment for which they have no or inadequate competences (in terms of language or subject matter), or which they are not able to perform properly (e.g. for lack of time to prepare for the assignment).' This can only mean that they must know in advance what to expect and prepare for. The NCIHC National Standards of Practice for Interpreters in Health Care (2005), in the chapter "Professionalism", state that '20. The interpreter is prepared for all assignments. For example, an interpreter asks about the nature of the assignment and reviews relevant terminology.'

<sup>214</sup> '9.17 Preparation for an interpreted event

Given that the LIT [= legal interpreter and translator] can confirm his/her availability and judges the assignment to be within their competence, the contracting legal services should confirm that:

- there are no obvious conflicts of interest that might preclude the interpreter from acting in this case (e.g. that the interpreter knows the parties involved personally);
- the interpreter is given the name and contact details of the person in the legal services, in the event that there are unexpected developments, problems on the day or further questions to be asked;
- the interpreter is briefed on the relevant procedures and subject matter in a way that enables him/her to prepare properly for the assignment.' (Corsellis et al. 2011, p. 336). See also Gillies 2013, 26 ff.

<sup>215</sup> *Collins English Dictionary – Complete and Unabridged*, HarperCollins Publishers 1991, 1994, 1998, 2000, 2003.

The same could be said for debriefing, defined as the action ‘(of a soldier, astronaut, diplomat, etc.) to make or (of his or her superiors) to elicit a report after a mission or event’.<sup>216</sup> In the psychological (though rarely in the interpreting) literature, debriefing is often also mentioned in connection with counselling, defined as ‘guidance offered by social workers, doctors, etc., to help a person resolve social or personal problems’<sup>217</sup>, in particular in order to prevent occupational stress. Making sure one possesses all the elements relevant to the job before setting out to work, and assessing whether the main objectives of the assignment have been achieved, also have a regular place in professional standards quality checks (e.g. the forthcoming Italian standard for professional linguists).

However, it is almost impossible to retrieve data about actual practice in this field. Despite many short references in writings from Herbert (1952)<sup>218</sup> onwards, there is very little specific research literature on briefing and debriefing for interpreters, in conference or in public service contexts, let alone in legal settings where minors are involved. The CO-Minor-IN/QUEST survey data are all the more precious for this reason.

#### 4.3.2. THE CO-MINOR-IN/QUEST SURVEY RESULTS

In the following paragraphs, the main results of the CO-Minor-IN/QUEST survey on briefing, debriefing and support for interpreters working in legal settings with minors will be described. The survey results will also be discussed in the light of research literature on interpreting in other fields.

##### 4.3.2.1. *The sample*

The respondents to the questionnaire presented in this book were assigned to four areas of work (interpreting, justice and policing, psychology, social services and child support) plus a ragbag ‘other’ category in which there were, among others, two interpreter coordinators. As our research sample is not representative, it is not possible to interpret our data as potentially statistically significant. Obviously, all the respondents did not answer all questions they were asked. Thus, for the different aspects analysed here, the number of respondents may be different.

For the questions on briefing, debriefing and support, in particular, we shall basically consider two groups of respondents: interpreters and other

<sup>216</sup> *Collins English Dictionary – Complete and Unabridged*, HarperCollins Publishers 1991, 1994, 1998, 2000, 2003.

<sup>217</sup> *Collins English Dictionary – Complete and Unabridged*, HarperCollins Publishers 1991, 1994, 1998, 2000, 2003.

<sup>218</sup> ‘As long as possible before the meeting, the interpreter should secure a very complete file of the documents which will come up for discussion (...) Without those documents, he cannot prepare adequately for his task.’ (Herbert 1952/1968, p. 77; highlights by the author).



professionals. Interpreters are the most likely category to have no previous information about the communication situation or the people they are asked to work for. Therefore, the answers of other potential providers of information will be compared to the answers given by interpreters as potential beneficiaries of briefing, debriefing and support. Among the other professionals, only the answers given by respondents who claimed experience in interpreter-mediated encounters with minors will be considered. Moreover, in order to make the best possible use of the impressive wealth of answers received to this set of questions, we decided to analyse respondents from all countries and to use a fine-grained level of data disaggregation and analysis. In particular, some issues raised by respondents from countries which were not project partners, but represent good practices or valuable recommendations, will be discussed.

Answers were received to at least one of the questions about briefing from 230 interpreters (10%<sup>219</sup> of them sign language interpreters), 199 answered at least one question about debriefing, and 196 answered at least one of the questions about support.

Of the ‘experienced’ other professionals’, 221 answered at least one of the questions about briefing, 207 at least one question about debriefing, and 203 at least one of the questions about support.

The ‘other professional’ respondents on briefing came from the following seven countries: Italy 37%, Belgium 24%, France 11%, Hungary 10%, UK 9%, the Netherlands 5%, Norway 3%, and Other/not specified 1%.

The interpreters who answered at least one question on briefing came from 12 countries, 6 of which accounted for 96% of respondents (France 34%, Norway 22%, UK 20%, Italy 11%, the Netherlands 5%, and Belgium 4%).

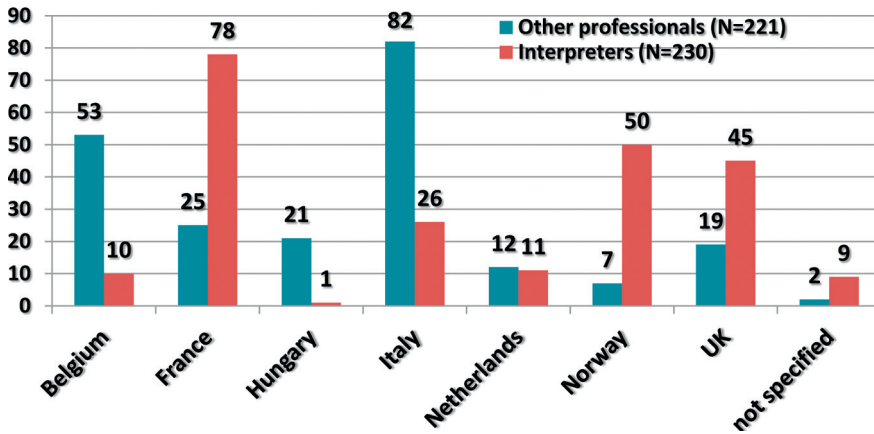
The number of answers on debriefing and support was lower for both categories of respondents, but the distribution of fields of activity and countries was substantially the same.

In most countries, there was a mismatch between the numbers of respondents in the two groups: in some countries we had many answers from interpreters, but few from other professionals; in other countries, the opposite was the case.

Figure 1 shows the number of respondents to the questions on briefing, broken down by country and by the categories of ‘interpreters’ and ‘other professionals’. All countries except the Netherlands show a marked discrepancy in the number of respondents belonging to the two categories. The countries with the biggest discrepancies between the two categories are Belgium, France, Italy and Norway. This imbalance in group size could be a reason for the diverging answers we obtained on these questions. Another explanation could be that, in the various countries, the two groups of respondents either do not work together, or have different perceptions of what briefing and debriefing are.

<sup>219</sup> All percentages are rounded.

Figure 1. Respondents to at least one question on briefing by category and country



#### 4.3.2.2. Briefing

As stated in the Introduction, no specific literature about briefing for interpreters in legal or other settings was found. Judging from the sparse literature about written translation, briefing has been and still is an object of frequent complaint from language professionals (e.g. Fraser 1997, Du Pont 2005). Both these authors conducted surveys on freelancers' information exchange with clients which show parallels with some of the responses to our questionnaire that will be discussed below. Fraser concluded that briefing is closely correlated to translators' job satisfaction, but also to recognition of their needs and professional status. According to Du Pont, adequate briefings are not common in day-to-day practice, though most translators claim that the better they understand their clients' needs, the better their translation becomes. Both Du Pont and Fraser observed that clients who give briefings are perceived as better clients, and that fostering the users' 'understanding of what is involved in translation in terms of recognition of their training, skills and professional status and of the time and resources needed to do a good job' yields rewarding results (Fraser 1997, p. 16).

Interestingly, in two specific studies about stress among conference interpreters, these two aspects emerged as well: in 33 interviews conducted by Cooper et al. (1982, 1983), 78% and 70% of respondents respectively mentioned unfamiliar subject matters and the lack of feedback on their job performance as sources of stress: 'Not being briefed on subjects' recorded significantly higher scores as a job stressor for freelancers than for staff interpreters. The AIIC Workload Study (2002), with over 800 respondents, mentioned 'preparation difficulties' as one of the major causes of difficulty and stress, and 'More briefing before sessions (advance supply of documents and terminology, etc.)' was the most frequent recommendation to improve performance, mentioned

by 24% of respondents; lack of evaluation or feedback on performance were also listed as task-related stress factors. Also, in public service interpreting the need for interpreters to prepare has been recognised for a long time and is often mentioned in the literature, also for children (e.g. Rousseau et al. 2011). Both Tebble's handbook on medical interpreting (1998) and Bashir and Bowley's work (2014) devote some paragraphs to briefing and debriefing, and to a specific checklist. Tribe and Sanders talk about the 'vital importance to arrange a pre-meeting session with the interpreter, preferably immediately before the actual interview' (2003, p. 65).

In papers referring more specifically to the legal context, Laster and Tayler (1994, p. 17) complain that (in Australia) often the interpreter is 'the least prepared participant in the case', and Gamal (2014) still feels the need to make a passionate case against the rule: 'Thou shalt not be briefed before interpreting in court'.

On the other hand, the literature shows a strong reluctance by institutional users of interpreter services in the legal field to brief interpreters. Many legal professionals claim that, for the sake of impartiality, the interpreter should not know anything in advance about the case s/he is called upon to interpret. This idea also emerged during the meetings with experts conducted in the CO-Minor-IN/QUEST and earlier research projects. Mulayim et al. (2014) reflect and sum up the fears about interpreters working for the police who may 'deviate from a faithful sound box role' (p. XXXII), revealing themselves as something other than a 'linguistic agent' or a 'faithful renderer' (p. 48). The same fear of losing control over the interaction is evident in Greenstone (2010) who wants an interpreter to be 'used' 'as "word machine" for the primary provider – nothing more' (p. 80) during medical and psychological crisis interventions.

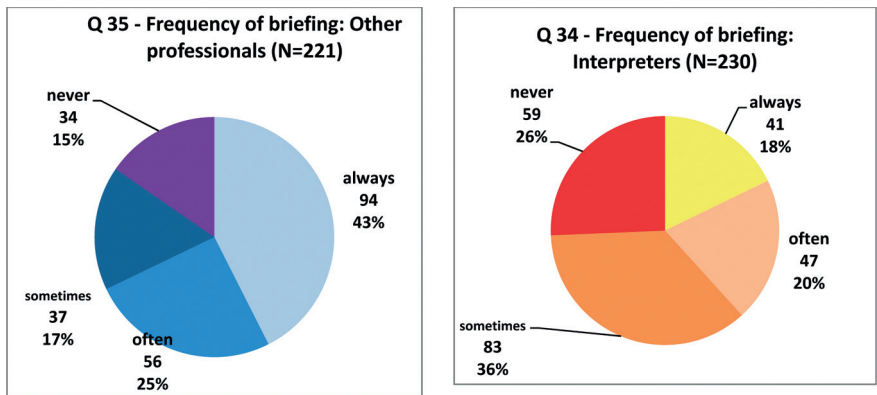
Quite the opposite attitude underlies an extensive training initiative on working with interpreters offered to members of the Scottish Criminal Investigation Department, where the 'understanding of interpreter's role and interpreting process', the 'importance of briefing' and the 'interpreter's perspective/difficulties' were the three single items mentioned most frequently as 'particularly useful/relevant insights' from training (Perez and Wilson 2007, p. 88). Eight out of 20 respondents stated that training made them modify their professional practice in the form of 'better planning, involving interpreter' or 'briefing/debriefing interpreter' (ibidem, p. 88). This again confirms Du Pont's findings that 'translator status can increase over time through communication with clients and through increased client education' (2005). It is not surprising that positive views of interpreter briefing come mainly from countries with a tradition of good cooperation and even joint training between the professionals involved in interpreter-mediated encounters, such as police, social workers, psychologists and judges. A 2011 film produced by the Cambridgeshire Constabulary explains 'how to meet, greet and brief your interpreter in order to enhance mediated communication'. Also, with regard to interpreting for children, the Guidance on

Interviewing Child Witnesses in Scotland (2003) recommends that, when the child’s first language is not English, interpreters ‘should be fully briefed as to their role and remit during the interview and to the principles of the phased interview. The interpreter should also have an understanding of the child’s cultural context as well as being able to speak the language’ (p. 41). Tribe (2005) devotes a specific item to briefing in her good practice guidelines, suggesting that ‘spending 10 or 15 minutes or so with the interpreter before meeting with the client to decide how you will work together, to explain the objectives of the meeting, and to share any relevant background information (...) may save you hours in the long run’ (p. 172).

– **Briefing frequency**

As mentioned above, a briefing is defined in the Collins dictionary<sup>220</sup> as ‘a meeting at which detailed information or instructions are given’ and which is organised in order ‘to prepare or instruct by giving a summary of relevant facts’. In the case of interpreter-mediated investigative interviews with a child, one piece of information we tried to collect with our questionnaire was the presence and frequency of briefing. Question 34 (*Do you receive a briefing before encounters with minors?*) was addressed to interpreters; Question 35 (*Do you brief the interpreter?*) was addressed to other professionals who claimed to have experience with interpreter-mediated interviews involving children. Possible answers were: always, often, sometimes, or never. The answers given by the two groups of respondents are shown in Figure 2.

Figure 2. Frequency of briefing: other professionals (N = 221) vs. interpreters (N = 230)



Among the 221 ‘other professionals’, the prevailing answer was ‘always’ (43%), followed by ‘often’ (25%). Yet, the answers ‘sometimes’ (17%) and ‘never’

<sup>220</sup> Collins English Dictionary, HarperCollins Publishers 1991–2003.

(15%) taken together make up for 32% of respondents, which means that one professional out of three never or only sometimes gives a briefing.

Among the 230 interpreters, 36% claim they never receive a briefing, 26% only sometimes, while briefing is given often to 20% and always only to 18% of our respondents.

At first sight, this difference in the claims as to briefing frequency is rather difficult to explain. One possible reason could be the imbalance in the geographical distributions of the respondent groups shown in Figure 1 (e.g. Italy had many more other professionals than interpreters, while in France the opposite was true). In order to clarify this issue, the analysis described above was repeated for each of the 7 individual countries with the highest numbers of respondents in one or both categories: Italy (108 respondents), France (103), UK (64), Belgium (63), Norway (57), the Netherlands (23) and Hungary (22): however we must bear in mind that the single groups of respondents in some cases were very small.

**Table 1. Frequency of briefing by country and groups: other professionals vs. interpreters**

	Other professionals (P)		Interpreters (I)		Discrepancy (percentage points)
	always + often	sometimes + never	always + often	sometimes + never	
all countries P=221 I=230	67%	33%	38%	62%	29 pts
Italy P=82 I=26	91%	9%	38%	62%	53 pts
France P=25 I=78	56%	44%	31%	69%	25 pts
UK P=19 I=45	95%	5%	48%	52%	47 pts
Belgium P=53 I=10	48%	52%	70%	30%	22 pts
Norway P=7 I=50	28%	72%	34%	66%	6 pts
Netherlands P=12 I=11	84%	16%	55%	45%	29 pts
Hungary P=21 I=1	24%	76%	-	100%	24 pts

Examining the answers given by the two groups in each country (see Table 1), the closest match between the answers of other professionals and interpreters regards Norway, followed by Belgium and France, while the biggest discrepancies are found in Italy and the UK. One peculiar aspect for Belgium and Norway is that, for both groups of answers, the interpreters' responses are more positive than the other professionals': there is a higher proportion of interpreters who claim they always/often get a briefing than there is of other professionals who say they always/often give it, and a lower figure for interpreters who say they are never/sometimes briefed than for other professionals who state they never/sometimes provide briefing.

If, instead, we compare the answers of spoken language interpreters with those of sign language interpreters (Table 2), there are still discrepancies, but their size is not comparable to those observed above. Sign language interpreters seem to receive briefing more often than their spoken language colleagues, though not as often as other professionals say they provide it.

**Table 2. Frequency of briefing: spoken language interpreters (N = 208) vs. sign language interpreters (N = 22) vs. other professionals (N = 221)**

	Spoken language interpreters (N=208)		Sign language interpreters (N=22)		Other professionals (N=221)	
	always + often	sometimes + never	always + often	sometimes + never	always + often	sometimes + never
all countries	38%	62%	46%	54%	67%	33%

Another explanation for the discrepancies observed in the answers on briefing frequency could be a mismatch between the respondent groups: i.e. the interpreters who responded to our survey were not those who work for and with the other professionals who responded. With the data we collected, there is no way to explore this hypothesis further.

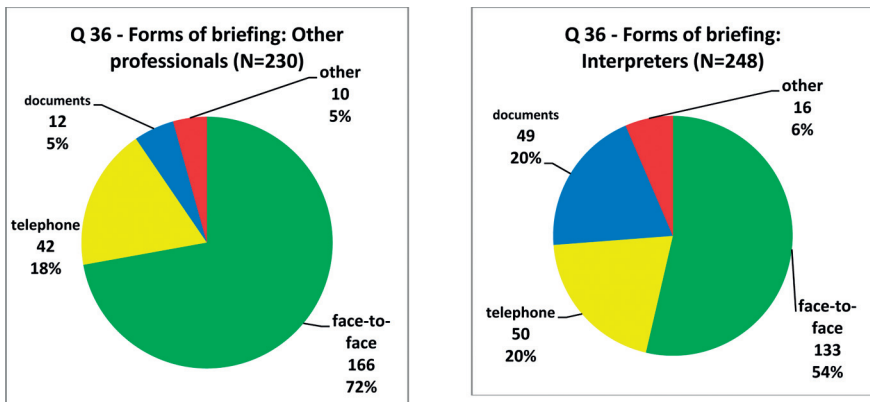
A more subtle reason might also be that there are different notions of what a briefing is supposed to be, and different perceptions of what fits into that category. Some of the information given to an interpreter may be considered briefing by a member of the legal professions or a social worker, but not by the interpreter. This would imply that information needs – for various reasons – are not fully expressed by interpreters nor understood by non-interpreters. An interesting suggestion in this direction comes from the survey on translators mentioned earlier, where the author concluded that 'although translators claim that their clients do not know what translation assignments entail, translators do not ask for the lacking input.' (Du Pont 2005). A recommendation to be drawn from this is that interpreters should learn to be very clear in explaining to the other professionals what they need to know in advance in order to be adequately prepared for an assignment.

Unfortunately, no other question on briefing was asked which could have shed some light on this aspect. Some elements did, however, emerge in comments made on briefing format, where four interpreters and six other professionals provided some information about the content of briefing. The other professionals mentioned the aim of the encounter, a summary of the case, its legal background, the typology of crime, and the investigative needs, along with the request to use a vocabulary appropriate to the minor's age and background, and possible traumatic psychological aspects. Interpreters mentioned other professionals involved in the procedure being present, and noted that the briefing was not a standard procedure and had to be requested by the interpreter: 'à ma demande lorsque c'est possible' (*at my request, if it is possible*). There was also an interesting hint that attitudes to briefing may vary according to the situation: 'indien het bij de politie is zorg ik ervoor dat ik vooraf een gesprek heb. Bij de rechtbank is daar niet altijd de mogelijkheid toe' (*When there is a policeman I ask for a conversation in advance. If there is the judge I don't always have this opportunity*). Some frustration is explicit in the statement made by a Norwegian licensed interpreter: 'Lack of information prior to a job is a big problem. I find very little understanding about our need to prepare. Both in court and child protection work'.

#### – Briefing format

Question 36 on briefing format asked how briefing was given. Respondents could choose from four answers, the last leaving space for specification: namely, access to documentation, face-to-face, by telephone, and other. Multiple answers were possible. The percentages of answers given by the two respondent groups are compared in Figure 3.

Figure 3. Forms of briefing: other professionals (230 items mentioned) vs. interpreters (248 items mentioned)



The other professionals group mentioned 230 items, of which ‘other’ items included one ‘in mail’ – presumably e-mail – and ten comments adding the details on face-to-face briefing discussed above. Interpreters’ answers included 12 comments.

As already observed when addressing the previous questions, some of the percentages, in this case especially the one regarding access to documents, differ considerably for the two respondent groups. Here the reason could be a different understanding of what documentation an interpreter may be given access to in a legal setting involving children. With the data we collected, it is not possible to explore this hypothesis further.

#### 4.3.2.3. *Debriefing*

As mentioned in the introduction, a debriefing is defined in the Collins dictionary<sup>221</sup> as the action ‘(of a soldier, astronaut, diplomat, etc.) to make or (of his or her superiors) to elicit a report after a mission or event’. In research literature debriefing with and for legal interpreters, in the sense of making or eliciting a report after an interpreter-mediated encounter, is mentioned even more rarely than briefing. In other fields, mainly healthcare and interpreting for deaf people, papers and references are much more frequent. Tribe (2005) recommends ‘spending a few minutes with your interpreter after the session reviewing how you worked together and any other pertinent aspects’ (p. 172). She also suggests ‘considering how interpreters are to be supported within your organisation’ and claims that ‘an interpreter is entitled to support in the same way as any other professional’ (p. 173).

Psychological debriefing is indeed a routine provision offered to support professionals exposed to the risk of traumatic and vicarious stress, such as police officers, fire fighters, health or disaster workers (see Carlier et al. 2000, Matthews 1997). In a paper about the risk of vicarious trauma for interpreters in healthcare settings Bontempo and Malcolm (2012) mention debriefing as an important organisational coping strategy which can be useful in other settings.<sup>222</sup> Its importance is also recognised in interpreting for children (cf. ‘Together for short lives’ 2011).

<sup>221</sup> *Collins English Dictionary*, HarperCollins Publishers 1991–2003.

<sup>222</sup> According to Stamm (1997, p. 1), helping-induced trauma in research literature is most commonly termed as compassion fatigue, countertransference, secondary traumatic stress, and vicarious traumatisation. The concept of vicarious traumatisation was first applied to ‘persons who work with victims may experience profound psychological effects, effects that can be disruptive and painful for the helper (i.e. mental health professional) and can persist for months or years after work with traumatized persons’ (McCann and Pearlman 1990, p. 133). Later on it was used also for other persons who assist traumatised persons, among whom justice system professionals. Cohen and Collens in their overview of twenty research papers (...) found ‘that the impact of trauma work can potentially increase short and long term levels of distress and that such psychological impact can be managed through personal and organizational coping strategies’ (2013, p. 2). For a basic literature overview referred to interpreting, see Bontempo and Malcolm 2012.



In the case of interpreter-mediated investigative interviews with a child, one of the pieces of information the research team tried to collect with the questionnaire was the presence and frequency of debriefing. Question 63 (*Do you get the opportunity for a debriefing?*) was addressed to interpreters, question 64 (*Do you have a debriefing with the interpreter?*) was addressed to other professionals who declared they had experience of interpreter-mediated interviews involving children.

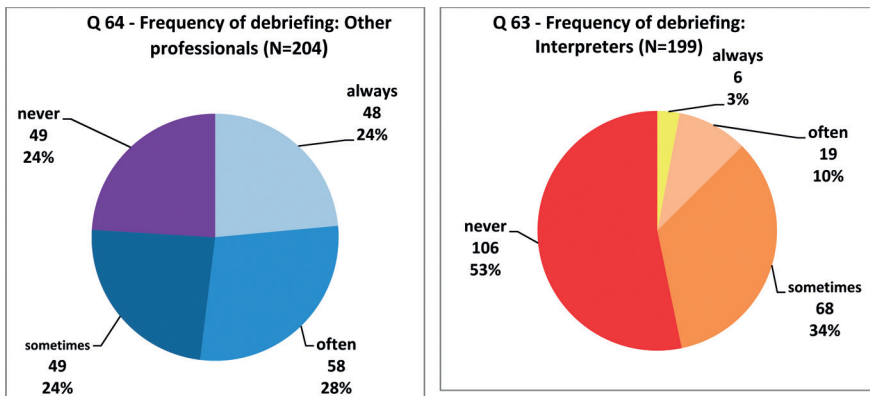
#### – Debriefing frequency

Like the questions on briefing, those on debriefing frequency foresaw four possible answers: always, often, sometimes, and never. The percentages of answers given by the two respondent groups are shown in Figure 4. As for briefing, here again different pictures emerge in the other professionals' and the interpreters' views.

The answers of 204 other professionals on the frequency of debriefing were almost evenly distributed among the four options: 52% stated that they always or often provide a debriefing to interpreters after the interview with the child, while 48% do so only sometimes or never.

A totally different picture emerges from the 199 interpreters' answers: 87% say they never or only sometimes receive a debriefing. The gap between the two respondent groups in this case is even bigger than that observed for briefing. The number of respondents is, however, lower, and this could be another indicator of the fact that debriefing is a less common practice in both groups.

Figure 4. Frequency of debriefing: other professionals (N = 204) vs. interpreters (N = 199)



Once more, the situation is slightly, but not substantially, better for sign language than for spoken language interpreters (Table 3).

**Table 3. Frequency of debriefing (2 groups): spoken language interpreters (N = 182) vs. sign language interpreters (N = 17)**

	Spoken language interpreters (N=182)		Sign language interpreters (N=17)		Discrepancy (percentage points)
	always + often	sometimes + never	always + often	sometimes + never	
all countries	11%	89%	24%	76%	13 pts

As with briefing, we tried to see whether a specific country or group imbalance was responsible for the difference in results, and calculated percentages of answers for countries and groups (Table 4). Italy and the UK show the largest mismatch, but, in other countries too, the discrepancies are conspicuous, with the exception of Belgium and Norway. This again suggests that two (or more) factors may have come into play, e.g. either the two groups do not work together, or/and they may have different perceptions of what debriefing is.

**Table 4. Frequency of debriefing by country and group: other professionals vs. interpreters**

	Other professionals (P)		Interpreters (I)		Discrepancy (percentage points)
	always + often	sometimes + never	always + often	sometimes + never	
all countries	52%	48%	13%	87%	39 pts
France P=19 I=66	37%	63%	10%	90%	27 pts
Italy P=77 I=23	75%	25%	13%	87%	62 pts
UK P=17 I=37	88%	12%	13%	87%	75 pts
Belgium P=50 I=8	28%	72%	25%	75%	3 pts
Norway P=7 I=47	0%	100%	10%	90%	10 pts
Hungary P=21 I=1	19%	81%	–	100%	19 pts
Netherlands P=11 I=11	73%	27%	27%	73%	46 pts

– **Usefulness of debriefing**

The two questions on the usefulness of debriefing (*Do/Would you find this useful?*) foresaw a yes/no answer. Those who had answered ‘never’ to the question on debriefing frequency were asked the second of these questions.

Among respondents who actually provide or receive debriefing, 146 other professionals and 94 interpreters responded. Both groups unanimously say that debriefing is useful, with only a small minority of 2% of other professionals and 4% of interpreters giving a negative answer.

In contrast, the answers of those who do not provide or receive debriefing are, once again, diverging: 76% of the 46 other professionals say they do not think debriefing would be useful, while 64% of the 105 interpreters say that it would. This may be regarded as a need on the part of interpreters which fails to be expressed adequately and which, therefore, is not (yet) met, and would match with Du Pont’s observation that ‘translators seem to assume that their clients will automatically provide crucial data without being explicitly asked by translators. Translators consider these input categories to be self-evident’ (Du Pont 2005).

– **Debriefing format**

The next question we asked (*What form does it take?*) concerned the form of debriefing when it occurred. This was an open question. We received 126 answers from other professionals and 72 from interpreters. From the answers given, we extracted, first of all, the kind of format indicated by respondents. Rather unsurprisingly, 98% of other professionals and almost 99% of interpreters answered that they provide and receive debriefing face-to-face, immediately after the interview.

Again, this piece of information can be positively interpreted, only if we assume that all professionals spend some time together to talk about the interview. A qualitative analysis is needed to find out further information about whether or not there is an agenda for the debriefing session, what it focuses on, its duration, the participants, and the level of formality or casualness. This information helps us understand whether this face-to-face interaction after the interview is really a debriefing or not. It may also be a supplementary investigative session, for instance, where other professionals question the interpreter to obtain confirmation of the information collected during the interview, or ask the interpreters to give their opinion about the truthfulness of the child’s statements. Debriefing could even be a session that does not include the interpreter, or be just a short exchange of opinions or impressions. For this reason we decided to perform a qualitative analysis of all the answers and comments provided to the open question about how debriefing takes place.

– **A qualitative analysis of answers on debriefing**

All the answers to the question on debriefing format provided by the two groups of respondents were translated into English from Dutch, French, Hungarian and Italian and were then analysed to see whether there were topics mentioned by both groups and topics mentioned by one group only. The idea here was, not only to highlight the most frequently mentioned issues, but also the ones raised by a minority of respondents which point to either a good practice or a recommendation for improvements. The items discussed in this section are, therefore, selected with the aim not only of highlighting weaknesses in the current practice of debriefing, but also good practice and potential areas for positive change. Five main aspects emerge from the answers: duration, informality, assessment of the interview and/or of the child, cultural brokerage, and performance assessment. Whenever available, the precise profession of the respondent is specified, otherwise the general category.

– **Duration and informality**

Interpreters commented eleven times on the short duration of the debriefings.

*‘Entretien court après le départ du mineur de la pièce’ (FR, Interpreter)  
(Short conversation after the child has left the room)*

Expressions indicating the short duration of debriefing sessions were also found in eleven of the answers given by other professionals.

*‘Kávézás közben’ (HU, Judge)  
(During a coffee)*

Both interpreters and professionals either explicitly or implicitly refer to the short duration of the debriefing. In many cases, there are adjectives to express short duration ‘kort’, ‘brief’, and in the last statement, the Hungarian judge implies that a debriefing session lasts as long as a cup of coffee. This statement introduces another aspect of debriefing that was mentioned by both groups: informality.

Among other professionals, although only eight answers explicitly or implicitly (in the corridor, over a coffee) mentioned informality, twenty-two answers contained expressions like ‘conversation’ or ‘exchange of opinions/ views’, sometimes used together with the qualifier ‘personal’. We cannot be sure that the respondents meant to imply informality with these expressions, but what is interesting is that no-one used the term ‘meeting’ or similar descriptors of a planned, structured encounter, as in the example below.

‘Napraten op de gang na de zitting eventueel met de ouders van de minderjarige erbij. De tolk gaat echter meestal direct weg’ (NL, Lawyer)  
*(A discussion afterwards in the corridor after the interview perhaps in the presence of the parents of the minor. The interpreter usually leaves immediately)*

The answer reported above is interesting not only because it implies informality (in the corridor and not in a room sitting around a table with the other professionals), but also because it shows that the interpreter is not included as a participant in this informal conversation.

Interpreters mentioned the informal nature of the debriefing they were offered 28 times. This was clear from their use of terms like ‘informal’ ‘casual’ and ‘chat’. It is interesting to note, though, that the comment below mentions the involvement of other professionals in this informal conversation, showing that there is a certain degree of cooperation among the various professionals participating in the interview.

‘Discussion informelle avec les enquêteurs/autres professions’ (FR, Interpreter)  
*(Informal discussion with investigators/other professionals)*

Furthermore, the comment above indicates that there is no formal or official briefing with the other professionals. Talking to colleagues (i.e. other interpreters) – perhaps for an exchange of impressions and ideas or to find solutions to problems – does not suggest an opportunity to discuss issues that may emerge during the interview, nor does it offer support.

– **Assessment, impressions, opinions, further information about the interview or the child**

This is the largest group of comments (76) by the other professionals, showing that the majority use this opportunity to assess how the interview went or to get more details from the interpreter. Among these respondents there is a group who are particularly interested in cultural aspects, as we shall see later.

‘Colloquio per ottenere informazioni aggiuntive e comprendere meglio la situazione del minore’ (IT, Pedagogist)  
*(An interview to obtain additional information and gain a better understanding of the child’s situation)*

The fact that this post-interview conversation is used by other professionals as a sort of an addendum to the interview with the child may give a further explanation of the contrasting results concerning the frequency and utility of debriefing. For a legal professional or a psychologist, to obtain more information or explanations from the interpreter could be perceived as a debriefing, while

probably this is not the case for the interpreters, who are questioned rather than being offered the possibility of expressing their doubts or problems.

Of the comments provided by interpreters, 19 confirm that the debriefing is used by other professionals to their own advantage, extracting further pieces of information from the interpreters or even asking them what their impressions are about the interview or about the behaviour of the child.

'We normally talk about the answers and the general behaviour of the offender/victim' (UK, Interpreter)

The fact that the interpreters are called upon to give their opinion or even impression of the interview, or of the answers given by the child or his/her behaviour, can be interpreted in two different ways. On the one hand, the other professionals show an interest in the interpreter's impressions and opinions: they recognise that the interpreter has communication skills and knowledge of a different culture that gives them access to more information during the interview, both emotionally and linguistically. On the other hand, this type of request jeopardises the impartiality of the interpreter, and can be misleading, if not dangerous, for subsequent phases of the proceedings.

#### - Cultural brokerage/mediation

The question of cultural knowledge and intercultural communication skills was mentioned 18 times by other professionals, but never by interpreters. We believe it is worth highlighting this aspect, because it shows that some other professionals are aware of cultural differences, and recognise the interpreter's competence in this area. Mostly this issue was mentioned by Italians; this may be due to the fact that Italy only recently became a country of immigration, and the legal professions and the police are 'on the front line' when it comes to communication with migrants, and hence more aware of cultural differences and barriers.

'Verifico che l'interprete abbia colto la descrizione fatta dal minore e che abbia capito il contesto italiano in cui i fatti vengono valutati' (IT, Justice and Policing)

*(I check that the interpreter understood what the child said and the Italian context in which the facts will be evaluated)*

This comment, in particular, shows that the respondent pays attention not only to his/her own understanding of cultural differences, but also wants to make sure that the child understands these differences. This 'double' awareness of cultural differences is definitely an example of good practice in the area of interpreter-mediated police interviews with children.

– **Assessment of the interpreter's and of other professionals' performance**

Among the answers provided by other professionals, assessment of the interpreter's performance was mentioned 12 times, while the assessment of other professionals' performance was only mentioned three times. In most cases, once again, the aim is to make sure that all the information was transferred and nothing omitted by the interpreter, as in the statement below:

'Vertellen wat goed liep bij de vertolking en wat niet' (BE, Justice and Policing)  
(*Telling what worked well in the interpreting and what not*)

Interpreters mentioned the assessment of their performance three times. This activity took place either on their own initiative, as in the comment quoted below, or at the request of other professionals.

'Je demande toujours si ma prestation a répondu à leurs attentes (choses à améliorer éventuellement)' (FR, Interpreter)  
(*I always ask whether my performance has met their expectations (things that might be improved)*)

The answer above is interesting because the interpreter takes the initiative to ask whether his/her performance met the expectations of the other professionals, so that s/he can obtain information about how to improve it.

'... in case there is anything that has been missed during translation or any concerns from interpreter' (UK, Social Worker)

This last comment mentions both an assessment of the interpreter's performance and a chance to express the interpreter's concerns: this social worker checks the accuracy of the translation, but also offers the interpreter the opportunity to raise issues, suggesting a two-way exchange.

There are also a couple of comments that refer to the performance of the other professionals, as in the quote below, which seems to be another example of good practice. The following quote describes what a debriefing should be: going through the interview again and expressing constructive criticism in order to improve future performance (*'criticizing each other in a positive way'*).

'Gewoon ervaringen uitwisselen over het verloop van het gesprek, mekaar op een positieve manier bekritisieren' (BE, Detective and Interviewer of video recorded interviews, Department of Youth and Morals)  
(*Just exchanging experiences on the course of the interview, criticizing each other in a positive way*)

The comment below shows another example of good practice: the French police officer who wrote it says that he goes through the video-recorded interview when it is over and, if necessary, discusses and clarifies the role of the interpreter and the expectations the investigative authorities have of the interpreter's work during a recorded interview with a child.

'Passe en revue le déroulement de l'audition et je recadre si nécessaire l'intervention de l'interprète et les attentes de l'enquêteur dans le cadre d'une audition audio-filmée de mineurs' (FR, Police Officer)

*(I go through the interview and, if needed, I discuss the role of the interpreter and the expectations of the prosecutor with regard to the video-recorded interview)*

On the basis of the number of answers, it seems that both other professionals and interpreters are not generally used to assessing their performance during a debriefing. Perhaps only the most demanding or daring embark on this type of exercise, which would, however, seem particularly useful in order to fine-tune cooperation, in a sensitive multi-party institutional interaction which has its own peculiar features, challenges, procedural rules and communication strategies.

– **Emotional and psychological support to interpreters**

In a few instances, the interpreters' answers on debriefing anticipated the questions on psychological support and counselling which were asked later on. Two of the other professionals also paid some attention to the emotional condition of the interpreter. This is a point we would highlight, because it would seem a good practice which should be encouraged. It also contrasts with the comments above, where we saw how debriefing is mainly seen as an opportunity to gain further information about the mood and the content of the interview or the child.

'Chiedo a volte se c'è qualcosa che è poco chiaro, se ha qualcosa da dire e poi mi informo su come sta' (IT, Psychologist)

*(Sometimes I ask whether there is something which is not clear, if s/he has something to say and then I ask him/her how s/he feels)*

'Sitting with the main interviewer who makes sure that I am OK with everything both emotionally and procedure. Often given the opportunity to go back and speak with them' (UK, Interpreter)

The first answer is a real example of a practice that should be widely adopted. The interpreter is asked how s/he feels following an interview with a child who is a victim, an offender, or a witness of a presumably traumatic event (since we are speaking of criminal justice). The next step should be to offer the interpreter



some form of psychological support (counselling, or seeing a psychologist, for instance) to overcome a stressful and probably also painful experience, and to avoid vicarious traumatisation. The British interpreter quoted above reported that debriefing focuses on his/her emotional state, with the opportunity to talk to another professional if s/he needs to, presumably a psychologist. This is definitely an area where action should be taken to make sure that interpreters who need it have emotional and psychological support. It should be unacceptable to let interpreters walk away from a disturbing or even traumatic event without any concern for their welfare and without offering them access to qualified help. It is precisely the issue of support for the interpreter that is the object of another question asked in our survey and discussed in the next section.

#### 4.3.2.4. *Support and counselling*

Concepts like work-related stress, burnout, and secondary trauma frequently appear in research work on various forms of public service interpreting which, more than other forms of interpreting, is liable to take place in potentially critical contexts where psycho-emotional aspects are part and parcel of the communication situation. Quite a lot of research has already been conducted on both interpreters and professionals using their services. This concerns medical interpreting, especially in therapeutic or mental health settings, but also interpreting for deaf people, and for refugees, asylum seekers, or traumatised people, as well as legal interpreting. One aspect that clearly emerges in hands-on recommendations for what has been called ‘trauma-informed interpreting’ is that, in settings where interpreters have long-term involvement with the same patients and professionals (as e.g. in psychotherapy), they can become part of a team which acknowledges that the traditional dyadic consultation between patient and practitioner inevitably becomes a three-way, triangular relationship (e.g. RCC Dublin Rape Crisis Centre 2008, Hilliard 2014). In such settings interpreters have access to counselling more easily. However, interpreters who work on a sessional basis may be unaware that they run the risk of personal consequences for their psycho-physical well-being.

Only a small part of research deals with distress and vicarious traumatisation affecting interpreters in the legal field.

Valero Garcès (2005) – after discussing the issue in general terms and giving an overview of four of the earliest studies dealing with interpreters – calls for action, underlining the need ‘to increase awareness and recognition among IPS [= interpreters in public services], employers and service providers of the risks negative psychological or emotional effects have on this profession.’ Morris (1999), in a paper on the conflicting ideas about the legal interpreter’s role and the consequences of the so-called ‘conduit’ metaphor – which views translation to be a purely mechanical substitution of words easily performed by any

bilingual – points out that interpreters often find themselves in situations which have strong effects on them as individuals.

According to Rana et al (2009), for (American Sign Language) court interpreters, knowledge about vicarious trauma is still in the awareness-raising phase – just as it is for conference interpreters, who in 2012 raised ‘the important and oft-neglected problem of secondary trauma among interpreters, the many colleagues working in the field of international criminal law being particularly at risk. Potential mitigating factors and initiatives such as the ICC ‘groupes de parole’ and work on ‘booth solidarity’ were discussed, as was the importance of research in this field’ (AIIC 2012).

Mazza (2013), in discussing a questionnaire submitted to interpreters working for the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), observes that ‘the interpreters interviewed agreed that this [i.e. exposure to traumatic narrative] is probably the main source of stress within their working setting, and the most difficult to get used to’ (p. 108) and that ‘interpreters at the ICTY and ICTR indicated that prolonged exposure to the harrowing content of the hearings leaves its mark and can have enduring effects’ (p. 112). The author gives extensive quotes revealing the struggle between emotions and professional behaviour in these interpreters, referring that only ‘starting from 2005–06, the ICTR – opened in 1995 – decided to recruit an in-house psychologist’ who ‘organizes together with the tribunal staff, [non-compulsory] meetings with interpreters in the form of debriefing sessions at the end of each trial’ (p. 113). Moreover, ‘the staff welfare and counselling unit provides psychological support and counselling services to all staff members, including interpreters. In addition, the ICTR regularly organizes a number of workshops for interpreters on counselling and managing post-traumatic stress disorders’. ‘At the ICTY there is an in-house psychologist providing psychological support for all staff members who can be consulted in a private session whenever needed (...) that interpreters find helpful. However, differently from the ICTR respondents, two ICTY interpreters stated that, in their opinion, they do not need counselling’ (p. 113).

Mellman (1995), referring to what she terms ‘countertransference’ in court interpreters, states that ‘human beings inherently experience countertransference and other unconscious reactions to the verbalizations and actions of others’ and concludes that only self-awareness can ‘mitigate in the forensic setting against the natural vulnerabilities that everyone has’ (pp. 470–471).

Research on interpreters’ distress responses in fields other than the legal is too extensive to be reviewed here. Many authors underline the profound differences in the role played by interpreters in different settings, but some common features emerge. The solutions generally proposed for the complexity of mediated communication in the ‘critical’ areas of public service interpreting are teamwork, support and supervision (Tribe 1999), and, above all, training for all

parties involved. In Tribe and Raval's book *Working with interpreters in mental health* (2003), several contributions focus on a collaborative model of work for the professions involved, among which Loshak discusses the process of integrating a bilingual communication assistant into a multidisciplinary child mental health team. Raval (2005) 'explores a collaborative approach to working with interpreters and families in the context of child and adolescent mental health service provision.' (p. 197). Two interesting contributions on how to deal with emotionally charged situations come from medical interpreters and physicians/MDs, suggesting that for 'interpreting bad news (...) interpreters might learn from medical training and research' (Espondaburu 2009), while on the other hand interpreters can 'provide insights for physicians about how to improve end-of-life discussions with language-discordant patients and their families' (Norris et al. 2005, p. 1016). Another proposal on how to cope with emotional stress in interpreting comes from sign language interpreting, where positive results were obtained in a Peer Support and Consultation Project for Interpreters (Anderson 2011). Keywords in the recommendations made are awareness, prevention (Bontempo and Malcolm 2012), supervision (Hetherington 2012) and self-care (Zenizo 2013); but perhaps the most effective hint is Tribe's apparently simple advice to professionals working with interpreters to 'spend time before and after interviews', despite growing financial constraints (1999, p. 573).

Summing up this short overview, one can safely assume that adequate meta-communication between all professionals involved in legal interpreting facilitates effective communication and satisfactory outcomes to interaction. Though 'professional interpreting is one of the few professions conducted wholly within another professional activity' (Mulayim et al. 2014, p. XXVI), the concept of an 'invisible interpreter' as a sort of robot which can be switched on when needed and acts as neutral conduit, simply transferring words from one language into another, is unsustainable and counterproductive (see Loutan et al 1999, Hsieh 2008). This is true not only in the therapeutic context in which, almost thirty years ago, Gretty Mirdal, Professor of Transcultural Clinical Psychology at the University of Copenhagen wrote:

The interpreter is the man or woman in the middle, between two cultures, between two persons, between two social levels (the patient and the professional), between two loyalties. The interpreter has a relationship both with the patient and with the therapist, has feelings toward both and is at the same time a target for their feelings and their projections. Thus to think of the interpreter as an objective, neutral channel, a computer which translates words from one language to another, is absurd. The interpreter does not convey words, she conveys meanings and must be extremely sensitive and thus 'subjective' to a certain extent. (Mirdal 1988, p. 237)

In our survey, the 218 interpreters who had worked with minors at least once during the last three years (18 of them sign language interpreters) reported that they had dealt with the following types of criminal cases:

- child abuse and neglect (N = 109, 21%);
- sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism) (N = 95, 18%);
- offences against property (e.g. burglary, theft of a motor vehicle, robbery) (N = 86, 16%);
- offences against the person (e.g. physical assault, homicide) (N = 77, 15%);
- other (amongst which asylum seeking, child trafficking, homicide, accidental death, violence in the family, against the mother or other minors) (N = 52, 10%);
- drug-related offences (e.g. drug trafficking) (N = 44, 8%);
- status offences (e.g. violating curfew, alcohol consumption) (N = 37, 7%);
- public order offences (e.g. riot, affray) (N = 29, 5%).

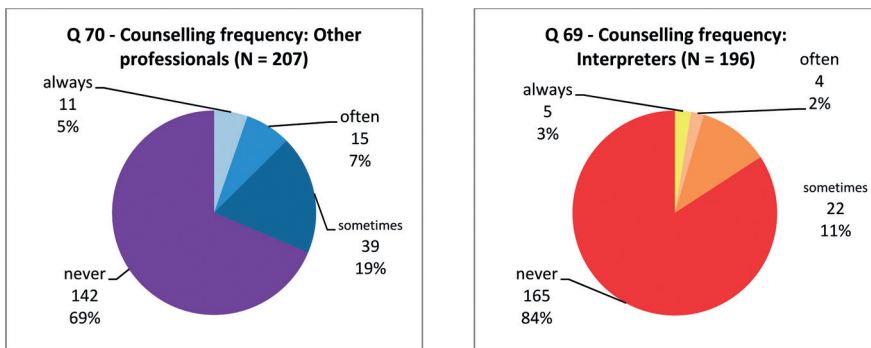
This list shows that the majority of cases dealt with matters which are potentially traumatic for all involved.

- **Counselling support frequency**

Questions 69 and 70 on the frequency of access to counselling support after traumatic cases – one put to interpreters, the other to other professionals – foresaw four possible answers: always, often, sometimes, and never.

Answers given by the two groups are shown in Figure 5. In both groups, the prevalent answer was never (69% other professionals, 84% interpreters). Only 12% and 5% respectively of respondents said that counselling support was always or often provided or received.

Figure 5. Counselling frequency: other professionals (N = 207) vs. interpreters (N = 196)



#### – Usefulness of counselling support

The questions on the usefulness of counselling support (*Do/Would you find this useful?*) were selected automatically according to the answer given on the question on support frequency and foresaw a yes/no answer. We received 61 answers from other professionals who provide support and 31 from interpreters who receive it. Both groups confirm that they do find support useful, with only 3% and 6% respectively giving negative answers.

The opinions of those who do not give or receive support are instead once again divergent: 54% of the other professionals who do not offer support are coherent in saying they do not think it would be useful, while 75% of the interpreters who do not receive it think that it would be. As with briefing and debriefing, this may be a signal of interpreters' failure to adequately express their needs, which are (consequently) not met.

#### – Counselling support format

The questions on the form of support (*What form does/should it take?*) were selected automatically according to whether or not support was available, and required open answers.

All the answers have been the object of qualitative analysis to highlight the main areas of concern. They will be discussed in the following paragraphs, starting with the experience of those who already use counselling, and concluding with what the respondents mentioned as desirable for the future.

#### – Forms of support to interpreters

The respondents who said that support was provided/received after interviews with children were asked, in Question 71, to describe the form that support took (*What form does it take?*). We received 71 answers, of which 47 were provided by other professionals and only 24 by interpreters. This discrepancy in the number of answers might suggest that, at least quantitatively, other professionals know more about support to interpreters than interpreters do, and that they have more experience in this area than the interpreter respondents. This would definitely seem a point for reflection. Maybe interpreters should be more explicit about their need for support, if they do not want it to remain a neglected issue.

As far as access to support after an interview or an emotionally demanding case is concerned, in our sample, 14 interpreters mentioned the possibility of seeing a psychologist, social worker, or the team leader as a form of support offered by the agency/institution they work for or by their own professional association, while 10 interpreters said they went to see a psychologist or are in therapy on their own initiative.

'Séance de régulation organisée au sein du service d'interprètes en présence d'un psy régulateur ou uniquement entre pairs (interprètes)' (FR, French Sign Language/French Interpreter)

*(A session organised by the interpreting service unit with a psychologist or simply between peers (interpreters))*

'C'è lo psicologo della polizia a disposizione, anche se non ne ho mai usufruito. Mi aiuta comunque sapere che esiste questo servizio' (IT, In-house Interpreter and Translator for the Ministry of the Interior working at police headquarters)

*(There is a psychologist working for the police I can refer to, however I have never used this service. But it helps to know that this service is there anyway)*

The answers above illustrate examples of good practice: these interpreters can have access to qualified professionals to receive support, either face-to-face or by telephone. They are not left with the burden of finding a way to cope with the psychological consequences of an emotionally intense or traumatic experience, unlike the other 10 interpreters who did not say whether the support they needed was offered by the organisation they worked for, or explicitly mentioned having to find it for themselves (and probably at their own expense).

'Avec un collègue interprète sous couvert du secret partagé' (FR, French Sign Language/French Interpreter)

*(With another interpreter colleague who is bound by confidentiality like me)*

'Je suis une psychanalise personnelle depuis + de vinght ans' (FR, French Interpreter)

*(I have been in psychoanalytic therapy for over 20 years)*

'Friend who is a support worker' (UK, Freelance Russian Interpreter and Translator)

These three answers describe three different forms of support: by colleagues (in the first case because of confidentiality), by a friend, and by a personal therapist (the interpreter has been in psychoanalysis for over 20 years). It seems that whenever qualified support services are not offered by the organisations interpreters are working for, they resort to other professionals or turn, on their own initiative, to a qualified psychologist. This does not seem the most appropriate solution. We believe that all interpreters should have free access to qualified psychological support if need be, rather than having to independently find a fall back option for lack of a better solution.

Of the 47 other professionals who mentioned the form of support offered to interpreters after an interview with children, 16 described support as an exchange of opinions, a face-to-face conversation about the case at hand, which they provided to the interpreter on the basis of their experience. Only 15 referred specifically to support from a qualified professional or a service. It is noteworthy that this group of respondents was mainly composed of psychologists, child

support workers, pedagogists, and social workers working in juvenile prisons. Four respondents stressed that support should be provided at the interpreter's request, two stated that an interview with a child is not a traumatic experience, and only one respondent stressed that interpreters need to be prepared, in advance, in order to be able to decide whether to accept or turn down the assignment. Some of the comments are quoted below.

'Face to face verbal offer' (UK, Police Constable)

'Door te bevestigen dat het een zwaar gesprek was en even entileren [*sic*]' (BE, Youth Lawyer)

*(By confirming it was a heavy conversation and 'give vent')*

All these answers reflect a view that is more similar to what was said about debriefing than to qualified psychological support. Although all these respondents generally recognise that some form of support is needed, they seem to believe that a simple exchange of opinions, or simply 'giving vent' to one's feelings or emotions, is sufficient to overcome a traumatic experience when this occurs. It is interesting to note that two respondents rule out the possibility of trauma due to an interview with a child, as in the statement below.

'That should not be a traumatic experience for the interpreter' (HU, Clinical Forensic Psychologist)

As we said before, 15 respondents mentioned offers of specialised psychological support to interpreters. Most of these are psychologists or social workers, but there are also a few members of the police who are well aware of the possible psychological consequences deriving from a stressful or traumatic interview. The following is just an example from this group of answers that explicitly or implicitly refers to qualified psychological assistance.

'Referral to their employer, Victim Support, Police Contact Officer as necessary' (UK, Police Sergeant)

Finally, four respondents wrote that support should be provided upon request by the interpreter, as in the comment below.

'Indien de tolk er zelf om verzoekt' (BE, Lawyer)

*(When the interpreter asks for it)*

This short qualitative analysis of answers to the question about the forms of support provided to interpreters shows that not all categories of respondents understand support in the same way. Among both interpreters and other professionals, some respondents generically see support as a form of debriefing,

with exchange of ideas or opinions about the interview, and not necessarily with the participation of a qualified psychologist. However, other respondents clearly identify support with counselling or other forms of therapy (psychoanalysis, supervision, individual session of psychotherapy). The issue of cost and who is charged for support services was not mentioned, although, in at least one case, it was clear that the interpreter paid for his/her own therapy. The question of confidentiality was only mentioned once, but, as we shall see below, there appears to be some reluctance to talk about a case with a psychologist or other professional who is not involved in that case.

#### – Desirable forms of support to interpreters

The respondents who had previously said that counselling support was never provided were asked what form they thought support to interpreters should take. The total number of answers received was 118: 80 from interpreters and 38 from other professionals.

Some recurrent issues emerged. There was a general request for support, face-to-face or on the phone, a request for specialised services such as counselling or therapy, and issues of confidentiality and cost were raised by some respondents. A few showed little awareness of the possible emotional and psychological consequences when working with children in criminal investigations. Three comments referred to training. All these aspects will be briefly discussed in the concluding pages.

#### – Request for support by interpreters

The answers provided by respondents show a clear need for support felt by interpreters working in this delicate setting. This goes from a general request for help to specific requests for specialised services. The following comments express this general need in, at times, colloquial terms.

‘Une discussion pour pouvoir vider le sac’ (FR, Interpreter and Translator at the Court of Appeal)

*(A conversation to get it off my chest)*

‘A short talk about how to get the content of the interpreted situation out of one’s thoughts and head’ (NO, Certified Interpreter)

The comments above show that interpreting for children during criminal proceedings does leave a mark on interpreters who would like to be able to give vent to their feelings in order to get the case ‘*out of one’s thoughts and head*’. The last statement also illustrates how the debriefing can, in some cases, be considered to be a form of support. The interpreter has feelings and can suffer the



psychological and even physical consequences of a particularly stressful activity (see Rana et al. 2009, Mazza 2013). Only five of the 80 interpreter respondents said they had no idea what form support should take, either because they had never thought about it or had never been offered any.

‘I don’t know. It has never happened. But I would have availed myself of such an offer’  
(NO, Norwegian Interpreter)

This answer is interesting because the Norwegian interpreter who wrote it clearly states that she would have used a support session or service if this had been offered. And indeed 25 respondents mentioned the need for support to be provided by specialised professionals in a specific form, as shown by the comment below.

‘A session with a counsellor or psychologist or series of such’ (UK, NRPSI ITI)

‘Psicologico / tecniche di training autogeno / a volte enorme coinvolgimento emotivo non si riesce a staccare le spina anche per giorni’ (IT, In-house Police Interpreter)  
*(Psychological support/autogenic training techniques/ sometimes the emotional involvement is overwhelming and you cannot wind down for days)*

All the comments above suggest that interpreters who work with child victims or offenders often have a clear idea of what form support should take. It is interesting that, of the interpreters quoted above, one is a member of the UK National Register of Public Service Interpreting, and one is an Italian in-house police interpreter. These trained professionals who work with the police routinely are more exposed to psychological consequences such as secondary trauma or burn-out, but they are also more aware of their counselling support needs. Another group of six answers make reference to a telephone form of counselling support as in the example below.

‘I would love to see a helpline facility offered by the professional associations e.g. NRPSI, or the Institute of Linguists, or the ITI, similar to the Legal Helpline for ITI members’ (UK, NRPSI Interpreter)

Whether it is a conversation to give vent to one’s feelings, a face-to-face encounter with a psychologist, counselling or the possibility of talking to someone on the phone, interpreters do not want to be left on their own with their traumatic experience and with no opportunity to receive help from the law enforcement agency they work for. This idea was clearly expressed by a French police interpreter who would like to receive the same support as police officers and under the same conditions: free of charge and without breaching confidentiality, as shown in the quote below:

‘La même assistance que pour les Policiers (gratuité & confidentialité)’ (FR, Interpreter)  
(*Same support as policemen (free of charge & confidentiality)*)

The issue of confidentiality was also mentioned in comments by two Norwegian interpreters as in the statement below.

‘One or more conversations where I can say what I think without breaching with my confidentiality obligations’ (NO, Interpreter)

‘Voor een beginnende tolk zou het nuttig kunnen zijn om zijn verhaal kwijt te kunnen. Tegelijkertijd is het zo dat een tolk een geheimhoudingsplicht heeft en dus niet over de zaak MAG praten. Een ervaren tolk heeft geleerd om hiermee om te gaan. Iemand die dit niet kan kan beter een ander beroep kiezen of bepaalde diensten niet aannemen’ (NL, Interpreter)  
(*For an interpreter starting in the profession it might be useful to be able to tell their story. On the other hand, the interpreter is bound to professional secrecy and is not allowed to talk about the case. An experienced interpreter is able to deal with this. Somebody who is not should choose another profession or refuse certain assignments*)

This last statement goes as far as saying that, for the sake of confidentiality, the interpreter should not talk about the case and is given only two options: either to deal with the psychological consequences by him/herself or to refuse the assignment. This is a very extreme interpretation of the professional obligation to secrecy. Confidentiality should not be a hindrance to offering support to interpreters, nor should interpreters be forbidden to talk about the psychological consequences of an interview with a child. It should be made clear both to interpreters and to other professionals who work with interpreters that confidentiality obligations must not hinder access to support for interpreters who feel they need to see a psychologist or another specialised professional or organisation to receive emotional and psychological support.

The need for training was expressed by some Italian interpreters who believe that prevention is better than cure.

‘Corso di formazione specifico’ (IT, Interpreter)  
(*Specific training course*)

Although this form of ex-ante support was mentioned only by three respondents, we believe it is worth mentioning as potentially a good practice to help avoid or soften the traumatic consequences of interpreting in this setting. Obviously, this should not rule out the possibility of access to an ex-post support service, if the interpreter requires it, as noted by other respondents.

'Le soutien psychologique devrait être possible, si jamais j'en ressentirais le besoin'  
(BE, Sworn Interpreter)  
(*Psychological support should be available if I need it*)

The fact that a number of respondents stressed that support should be provided to interpreters on demand suggests that they fear that this could be imposed on them, or become part of their professional obligations. The comments quoted above imply that interpreters should be free to choose whether they want support or not and, when they feel they need it, it should be accessible or made available – possibly for free.

In the next sub-section, we shall see what other professionals think about the forms of support to interpreters.

#### – **Forms of support to interpreters as expressed by other professionals**

Only 38 other professionals answered the question about what form they thought support to interpreters should take. This may suggest that they have not thought about it and have no clear idea, or that they consider the issue not relevant to their professional activity. The answers to this question can be grouped into four categories: specific face-to-face counselling; psychological help upon request from the interpreter; referral to existing services; setting up specific facilities. The last two categories suggest the introduction of a good practice, and will be discussed in detail later. What emerged from the comments is that those who wrote them are well aware of the need for support, and specifically mention the form this support should take.

'I have often remained concerned regarding the content of the interviews in relation to the interpreter's experience. It can often be highly graphic and upsetting with language used by child and interviewer not necessarily used in daily life. I would wish to direct the interpreter as a normal matter of course to an appropriate counselling source' (UK, Children & Families Social Worker)

All the forms of support suggested by different categories of other professionals show that they are aware of the need to refer the interpreter to a specialised professional, although they do not specifically mention a facility or service in their country which interpreters could be referred to. However, another group of respondents identified existing facilities or service centres that could be called upon to provide such support. While few in number, we believe this suggestion is worth mentioning here, because this could be a good practice, easily implemented and possibly at little or no additional cost.

'If the interpreter works in favour of the police, he/she would also be able to make use of the services that can accompany the police officer' (BE, Superintendent – Detective/Department of Youth and Morals)

Some of the group of other professionals suggested setting up a specific facility or procedure to provide support to interpreters. Again few in number, these proposals provide indications for new good practice in the area of interpreting for proceedings involving children.

'Lavoro in equipe con interprete fisso' (IT, Social Worker working with children involved in criminal cases)

*(The interpreter should be a full-time member of a team)*

This answer introduces a new concept: the interpreter should be fully integrated into the team of professionals who conduct interviews with children. This implies having specific skills to cope with stress and emotional trauma, along with access to the psychologist who works in the team. The idea of a multi-professional '*mini-équipe*' is something which was conceived in Tuscany (Italy) through a project called *Alisei*<sup>223</sup> (see Bessi's contribution to this book), and represents good practice when working in criminal proceedings involving children. As already mentioned, translators feel that the better they understand their clients' needs, the better their translation becomes, and 'the longer they work for a client, the better their translations become', and the more their expertise is valued (Du Pont 2005). The same idea underlies the creation of *mini-équipes* always made up of the same professionals, who can fine-tune their performances and be aware of each other's needs. This is precisely what the last comment above reports: if the interpreter works constantly with the same team of professionals s/he will develop the necessary skills to cope with interviews with children and will have the possibility of talking to the psychologist who deals with the cases for which the interpreter translates. This can lead not only to a shared understanding of the setting, professional roles, communication strategies, and potential problems, but can also build rapport among the team members and create far deeper understanding of the possible stressful or traumatic consequences of each particular case for each of the professionals involved.

Finally, a small group of other professionals, similarly to the group of interpreters, spoke about training:

'Of eenzelfde begeleiding als agenten ontvangen of er zou een speciale opgeleide psycholoog gevonden moeten kunnen worden of opgeleid moetne [*sic*] kunnen

---

<sup>223</sup> Municipality of Florence, Children's Hospital Meyer, Artemisia Association – *ALISEI Project – Protection, care and social reintegration models for minor victims of sexual abuse and exploitation* – Project funded by the Ministry for Equal Opportunities 2013, 2014.

worden om dit te realiseren. Want er kan soms sprake zijn van second-handtraumatizing' (NL, Typist for the Hearing Impaired)  
*(Either through getting the same support as police officers or through finding a specifically trained psychologist or actually training one to provide this support. This is because second-hand traumatizing [secondary traumatization] sometimes occurs)*

'Partecipazione a occasioni di formazione condivise' (IT, Social Worker)  
*(Participating in shared training)*

Here again, the idea is that interpreters should be prepared in advance to cope with disturbing and stressful situations. To us this seems highly desirable – prevention being a good form of support – though it should not exclude the possibility of interpreters having access to support services after an interview, if they feel they need it.

In conclusion, respondents to this question about counselling support came up with many inspiring ideas and proposals. We believe that listening to those who actually work in the field, and who are faced with difficult emotional situations or even trauma, can provide valuable information on how to deal with this increasingly important issue. Interpreters should not be left on their own to find their own means of support as and when they need it. Although only a small number of respondents answered this question, we should not forget that they are all professionals who have worked with children, whose suggestions derive from their experience in the field.

## REFERENCES<sup>224</sup>

- AIIC, 'Interpreter workload study – full report' (2002); available at <<http://aiic.net/page/657/interpreter-workload-study-full-report/lang/1>>.
- AIIC, 'Practical guide for professional conference interpreters' (2008); available at <<http://aiic.net/page/628/practical-guide-for-professional-conference-interpreters/lang/1>>.
- AIIC, 'Staff interpreters discuss workplace issues' (2012); available at <<http://aiic.net/page/6338/aiic-staff-interpreters-discuss-workplace-issues/lang/1>>.
- Anderson, A. 'Peer support and consultation project for interpreters: A model for supporting the well-being of interpreters who practice in mental health settings', in *Journal of Interpretation* (2011) 21:1, art. 2.
- Bashir, C. and Bowley, J. 'Briefing Guidelines for Interpreters in Psychological Settings' (2014); available online at <[https://www.academia.edu/7301736/Briefing\\_Guidelines\\_for\\_Interpreters\\_in\\_Psychological\\_Settings](https://www.academia.edu/7301736/Briefing_Guidelines_for_Interpreters_in_Psychological_Settings)>.

<sup>224</sup> All internet sites last accessed on 3 January 2015.

- Bontempo, K. and Malcolm, K. 'An ounce of prevention is worth a pound of cure: Educating interpreters about the risk of vicarious trauma in healthcare settings', in K. Malcolm and L. Swabey (eds.) *In our hands: Educating healthcare interpreters*, Gallaudet University Press, Washington, DC 2012, pp. 105–130.
- Cambridgeshire Constabulary Film Project 'Enhanced communication via an interpreter'. Launch 17.6.2011; available online at <[www.cambs-police.co.uk/help/professionalInterpreter/](http://www.cambs-police.co.uk/help/professionalInterpreter/)>.
- Carlier, I.V.E., Voerman, A.E. and Gersons, B.P.R. 'The influence of occupational de-briefing on post-traumatic stress symptomatology in traumatized police officers', in *British Journal of Medical Psychology* (2000) 73:1, pp. 87–98.
- Cohen, K. and Collens, P. 'The impact of trauma work – A meta-synthesis on vicarious trauma and vicarious trauma growth', in *Psychological Trauma: Theory, Research, Practice, and Policy* (2013) 5:6, pp. 570–580.
- Cooper, C.L., Cooper, R.D. and Tung, R.L. 'Interpreting stress: Sources of job stress among conference interpreters', in *Multilingua* (1982) 1:2, pp. 97–107.
- Cooper, C.L. and Cooper, R.D. 'Occupational stress among international interpreters', in *Journal of Occupational Medicine* (1983) 25:12, pp. 889–895.
- Corsellis, A., Clement, A. and Vanden Bosch, Y. 'The training of members of the legal services working through legal interpreters and translators', in B. Townsley (ed.) *Building Mutual Trust: a framework project for implementing EU common standards in legal interpreting and translating EU Criminal Justice Programme, project no: JLS/2007/JPEN/219 2008 – 2011 (JLS/2007/219)*, 2011; available online at <[www.lr.mdx.ac.uk/mutual-trust/mtdocs/BMT%20Report.pdf](http://www.lr.mdx.ac.uk/mutual-trust/mtdocs/BMT%20Report.pdf)>.
- Du Pont, O. 'Does a briefing limit creativity?', paper presented at the conference "Translation and Creativity", Portsmouth 11.11.2005; online in Translators Café (no page numbering).
- Espondaburu, L. 'Interpreting bad news: What interpreters might learn from medical training and research', in *ATA Chronicle* (2009) 38:8, 012–18; available online at <[www.atanet.org/chronicle/feature\\_article\\_august\\_2009.php](http://www.atanet.org/chronicle/feature_article_august_2009.php)>.
- EULITA 'Code of Professional Ethics adopted by the EULITA General Assembly in London, 6 April 2013'; available online at <[www.eulita.eu/sites/default/files/EULITA-code-London-e.pdf](http://www.eulita.eu/sites/default/files/EULITA-code-London-e.pdf)>.
- Fraser, J. 'Briefing? What briefing?', in *ITI Bulletin* (1997) pp. 13–16 (June).
- Gamal, M.Y. 'Thou shalt not be briefed before interpreting in court', paper presented at the RILL Conference – Language and Law in Social Practice, 16 – 17 May 2014 Royal Palace, Caserta, Italy.
- Gillies, A. *Conference Interpreting: A Student's Practice Book*, Routledge, London 2013.
- Greenstone, J.L. 'Use of interpreters with crisis intervention teams, behavioral health units, and medical strike teams: Responding appropriately and effectively, in *International Journal of Emergency Mental Health* (2010) 12:2, pp. 79–82.
- 'Guidance on interviewing child witnesses in Scotland – Supporting child witnesses guidance pack 2003'; available online at <[www.scotland.gov.uk/Publications/2003/09/18265/27033](http://www.scotland.gov.uk/Publications/2003/09/18265/27033)>.
- Herbert, J. *The interpreter's handbook: How to become a conference interpreter*. 1952. 2<sup>nd</sup> ed., revised and enlarged. Georg, Geneva 1952/1968.

- Hetherington, A. 'Supervision and the interpreting profession: Support and accountability through reflective practice', in *International Journal of Interpreter Education* (2012) 4:1, pp. 46–57.
- Hilliard, R. 'Using interpreters in health care settings' (2014); available online at [www.kidsnewtocanada.ca/care/interpreters](http://www.kidsnewtocanada.ca/care/interpreters).
- Hsieh, E. "I am not a robot!" Interpreters' views of their roles in health care settings', in *Qualitative Health Research* (2008) 18:10, pp. 1367–1383.
- Laster, K. and Taylor, V.L. *Interpreters and the legal system*, The Federation Press, Sydney 1994.
- Loshak, R. 'The role of the interpreter in child mental health: the changing landscape', in R. Tribe and H. Raval (eds.), *Undertaking mental health work using interpreters*, Brunner-Routledge, Hove/New York 2003, pp. 151–167.
- Loutan, L., Farinelli, T. and Pampallona, S. 'Medical interpreters have feelings too', in *Sozial- und Präventivmedizin* (1999) 44:6, pp. 280–282.
- Matthews, L.R. 'Effect of staff debriefing on post-traumatic stress symptoms after assaults by community housing residents', in *Psychiatric Services* (1997) 49, pp. 207–212.
- Mazza, S. *Interpreting at international criminal tribunals. The International Criminal Tribunals for the former Yugoslavia and Rwanda*; unpublished M.A. thesis 2013, DIT Forlì, Università di Bologna.
- McCann, I.L. and Pearlman, L.A. 'Vicarious traumatization: A framework the psychological effects of working with victims', in *Journal of Traumatic Stress* (1990) 3:1, pp. 131–149.
- Mellman, L. 'Countertransference in court interpreters', in *Bulletin of the American Academy of Psychiatry and the Law* (1995) 23:3, pp. 467–471; available online at [www.jaapl.org/content/23/3/467.full.pdf](http://www.jaapl.org/content/23/3/467.full.pdf).
- Mirdal, G.M. 'The interpreter in cross-cultural therapy', in *International Migration* (1988) 26:3, pp. 327–332.
- Morris, R. 'The gum syndrome: predicaments in court interpreting', in *Forensic Linguistics* (1999) 6:1, pp. 6–29.
- Mulayim, S., Lai, M. and Norma, C. *Police investigative interviews and interpreting: Contexts, challenges and strategies*, Routledge – CRC Press, London 2014.
- NCIHC 'National Standards of Practice for Interpreters in Health Care', The California Endowment, September 2005; available online at [www.ncihc.org/mc/page.do?sitePageId=57768](http://www.ncihc.org/mc/page.do?sitePageId=57768).
- Norris, W.M. et al., 'Communication about end-of-life care between language-discordant patients and clinicians: Insights from medical interpreters', in *Journal of Palliative Medicine* (2005) 8:5, pp. 1016–1024.
- Perez, I.A. and Wilson, C.W.L. 'Interpreter-mediated police interviews: Working as a professional team', in C. Wadensjö, B. Englund Dimitrova and A.-L. Nilsson (eds.), *The Critical Link 4: Professionalisation of interpreting in the community. Selected papers from the 4<sup>th</sup> International Conference on Interpreting in Legal, Health and Social Service Settings (Stockholm, 20–23 May, 2004)*, John Benjamins Publishing Company, Amsterdam/Philadelphia 2007, pp. 79–93.
- Rana, S., Shah, P. and Chaudhuri, K. 'Whose trauma is it? Vicarious trauma and its impact on court interpreters', in *Proteus* (2009) 18:4 Winter; available online at [www.najit.org/publications/proteus\\_articles/2009WinterWhoseTrauma.pdf](http://www.najit.org/publications/proteus_articles/2009WinterWhoseTrauma.pdf).

- Raval, H. 'Being heard and understood in the context of seeking asylum and refuge: Communicating with the help of bilingual co-workers', in *Clinical Child Psychology and Psychiatry* (2005) 10:2, pp. 197–217.
- RCC Dublin Rape Crisis Center, 'Interpreting in situations of sexual violence and other trauma: A handbook for community interpreters' (2011); available online at <[www.drcc.ie/wp-content/uploads/2011/03/RCC\\_Interpreting.pdf](http://www.drcc.ie/wp-content/uploads/2011/03/RCC_Interpreting.pdf)>.
- Rousseau, C., Measham, T. and Moro, M.-R. 'Working with interpreters in child mental health', in *Child and Adolescent Mental Health* (2011) 16:11, pp. 55–59.
- Stamm, B.H. 'Work-related secondary traumatic stress', in *PTSD Research Quarterly* (1997) 8, pp. 1–8; available online at <[www.ptsd.va.gov/professional/newsletters/research-quarterly/V8N2.pdf](http://www.ptsd.va.gov/professional/newsletters/research-quarterly/V8N2.pdf)>.
- Tebble, H. *Medical interpreting: Improving communication with your patients (companion to video)*, Language Australia, Geelong 1998; available online at <[files.eric.ed.gov/fulltext/ED426614.pdf](http://files.eric.ed.gov/fulltext/ED426614.pdf)>.
- Together for short lives, '*Guidance on working with interpreters in a children's hospice or a palliative care setting*', developed in association with Acorns and Rainbows Children's Hospices (2011); available online at <[www.togetherforshortlives.org.uk/assets/0000/5959/Working\\_with\\_Interpreters\\_final.pdf](http://www.togetherforshortlives.org.uk/assets/0000/5959/Working_with_Interpreters_final.pdf)>.
- Tribe, R. 'Bridging the gap or damming the flow? Some observations on using interpreters/bicultural workers when working with refugee clients, many of whom have been tortured', in *British Journal of Medical Psychology* (1999) 72:4, pp. 567–576.
- Tribe, R. 'Working with interpreters', in K. Barrett and W.H. George (eds.), *Race, culture, psychology, and law*, Sage Publications, Thousand Oaks et al. 2005, pp. 163–176.
- Tribe, R. and Raval, H. (eds.), *Undertaking mental health work using interpreters*, Brunner-Routledge, Hove/New York 2003.
- Tribe, R. and Sanders, M. 'Training issues for interpreters working in mental health', in R. Tribe and H. Raval (eds.), *Undertaking mental health work using interpreters*, Brunner-Routledge, Hove/New York 2003, pp. 54–68.
- Valero Garcés, C. 'Emotional and psychological effects on interpreters in public services: A critical factor to bear in mind', in *Translation Journal* (2005), 9:3; available online at <<http://accurapid.com/journal/33ips.html>>.
- Zenizo, A.L. 'Self-care in the field of interpreting', Master's theses, paper 3, Western Oregon University 2013; available online at <<http://digitalcommons.wou.edu/cgi/viewcontent.cgi?article=1006&context=theses>>.



## 4.4. INTERPRETING TECHNIQUES

Lucie SOLEM

### 4.4.1. STATE OF THE ART

The Code of Ethics of the European Legal Interpreters and Translators Association (EULITA) gives a definition of the three main interpreting techniques (2013: 1–2):

Consecutive interpreting: The interpreter renders the interpretation after the source-language speaker has finished speaking or signing. Spoken-language interpreters can use special note-taking techniques to help in the rendering of lengthy passages.

Simultaneous interpreting: The interpreter transfers the message from the source language into the target language while the source-language speaker speaks or signs continuously. This is the mode commonly used in sign-language interpreting as well as in conference settings.

Whispering (*chuchotage*): Simultaneous interpreting without the use of interpreting booths usually provided for a maximum of three persons.

Nevertheless, as there are often no soundproof booths in police stations and courts in Europe, the only two modes spoken language legal interpreters can use are consecutive interpreting and whispering.

There are few books which focus on the interpreting mode in legal proceedings and, apart from some exceptions to which we will return at the end of this first part, they do not tackle the specific situation of interpreting for children.

Angermeyer (2005: 208) makes a distinction between two situations: first, when interpreting enables a speaker of language B to follow an exchange between several speakers of language A, simultaneous or whispered interpreting is generally used (Situation 1). Secondly, when interpreting enables speakers from different languages to communicate, consecutive interpreting is generally used (Situation 2).

In Situation 1, the objective is to inform the main participants about the content of the exchange, rather than to trigger a reaction. The interpreter is under pressure of time, because there are no breaks in the conversation of speakers of language A, which forces the interpreter to use simultaneous/whispered interpreting. Moreover, the speakers of language A often interrupt one another or speak at the same time. In Situation 1, the interpreting in language A is kept as part of the record of the proceedings, unlike interpreting in language B (Hewitt, 1995: 34).

Consecutive interpreting is often used to interpret dialogues which directly involve the defendant or the witness to ensure that participants, lawyers, defendants and witnesses can communicate (Situation 2).

This classification is also used in Driesen (1992: 16), Edwards (1995: 13), Mikkelsen (2010), Driesen & Petersen (2011: 53), Jacobsen (2012), Gallez & Maryns (2014), among many others.

In this article, we will focus on situations in which the minor takes part in the conversation (Situation 2).

There are some recommendations on interpreting in a legal context: the choice of the interpreting technique should take into account the necessity of a fair procedure without interruption (Jacobsen, 2012: 223). (Short) consecutive is generally considered the most complete mode for interpreting dialogues because it enables the interpreter to preserve the relevant characteristics of the original exchange, including hesitations and repetitions (Jacobsen 2012: 217, IMPLI Final Report, 2012: 24–25). According to Eulita's Code of Ethics (2013: 2),

The source-language message shall be faithfully rendered in the target language by conserving all elements of the original message while accommodating the syntactic and semantic patterns of the target language. The register, style and tone of the source language shall be conserved. Errors, hesitations and repetitions should be conveyed.

#### 4.4.1.1. *Consecutive interpreting*

Since consecutive interpreting is the mode generally prescribed, we will begin with an analysis of the advantages and drawbacks of this technique.

- **Advantages**
- it enables participants to listen, and if needed, to record the original interview and the interpretation separately. It can be very useful to assess the faithfulness of the interpretation, and to easily detect the inaccuracies so that they can be corrected (Colin & Morris, 1996: 18);
- it facilitates the restitution of characteristics such as hesitations, discourse markers, repetitions, etc., which play a big part in defining the intention of the speakers (Jacobsen, 2012: 217);
- it maximises the transparency by maintaining the main characteristics of the witness' communication – both verbal and non-verbal, which is essential to assess his/her credibility (Gallez & Maryns, 2014: 50);
- the principle of directness of communication is respected: the participation status (Goffman 1981) of the main participants as direct speakers is preserved (Gallez & Maryns, 2014: 51);

- the principle of audibility is respected: all the participants can express their opinions in an audible manner in their own language (Gallez & Maryns, 2014: 51);
  - interpreters can listen to the whole message before interpreting it. They have time to organise their version in the target language, express it properly, and respect the target language's rules of grammar, style and syntax. The use of clumsy constructions or of false friends is thus less likely. Interpreters have more time to look up the appropriate terminology without losing information. They can take notes and consult them (Mikkelson, 2010: 6);
  - interpreters have better control over the situation. They can clarify any ambiguities or ask the speaker to repeat. They can see how their audience reacts. If they realise that the audience has not fully understood, they can adapt their interpreting accordingly (speak louder, correct their own mistakes or choose other words, as long as they remain faithful to the content and the register of the original version). Interpreters can also ask the witness to take breaks from time to time to be able to interpret as accurately as possible (Mikkelson, 2010: 6);
  - the other parties have more time to organise their thoughts while the interpreter is working. It enables them to express their questions and answers in a more concise way. Consecutive interpreting can actually save time (Mikkelson, 2010: 6);
  - because each and everyone can hear the version in both the source and target languages, other bilingual people can perceive the interpreter's mistakes. This might increase the interpreter's stress, but it also allows for greater exactitude (Mikkelson, 2012: 6).
- **Drawbacks**
- it extends the duration of the interview (Mikkelson, 2000: 70, Jacobsen, 2012: 225, amongst others);
  - for some people, it constitutes a barrier to communication, as the verbal expressions do not coincide with the facial expressions and body language of the person being interviewed (IMPLI, 2012: 24–25);
  - Driesen & Peterson (2011: 53) remark that consecutive interpreting often triggers impatience and suspicion from the participants. Jacobsen (2012: 220) shows that some people sometimes lack patience and do not wait for the end of the interpretation to start talking, especially when they do not need the speech to be interpreted to understand it;
  - it is not adapted to customary law in which the interviews of witnesses are conducted very quickly and are marked by an outburst of emotions (Mikkelson, 2000: 70);

- it modifies the rhythm of the interrogations and cross-examinations (Jacobsen, 2012: 85);
- some interpreters find it more difficult to maintain their role as a facilitator, because the main interlocutor often starts looking at the interpreter (Nakane, 2009: 11);
- it requires considerable mental efforts from the interpreter. The pressure to remember the message in its entirety is high, even with notes (Mikkelson, 2010: 6).

#### Drawbacks of long consecutive interpreting (with note-taking)

- the demand for faithfulness has to take into account the limits of interpreter's memory (Böser, 2013: 120);
- it requires the knowledge of note-taking techniques, techniques judged difficult or that have not been taught to all interpreters working for police services and courts (Jacobsen, 2012: 225);
- taking notes can seem suspicious (Jacobsen, 2012: 233, Colin & Morris, 1996: 97);
- there is sometimes no real space for the interpreters to work. Thus, they end up having to take notes with their notepads on their laps (Jacobsen, 2012: 224);
- some interpreters explain that they avoid taking extensive notes to keep a visual contact with the person they are interpreting for (Mikkelson, 2000: 72).

#### Drawbacks of short consecutive interpreting (without note-taking)

- techniques using free recall require that the retrieval of information is not interrupted. However, when a long testimony is interpreted, it will be regularly interrupted by a third party or the interpreter himself, in order to be interpreted (Böser, 2013: 120);
- witnesses interrupted by the interpreter after a few words are perceived as less credible than those able to keep up their own rhythm of speech (Berk-Seligson, 1990, quoted by Mikkelson, 2000: 72);
- interruptions can influence the main interlocutors' behaviours: What are the consequences of a speaker being interrupted? Does he lose his train of thought? Does he have more time to think (Jacobsen, 2012: 237, Wadensjö, 1998: 235)? Does he end up not saying what he wanted to say (Edwards, 1995: 85)?

#### 4.4.1.2. *Whispered interpreting*

##### – **Advantages**

- whispered interpreting does not slow down exchanges and does not require any equipment (Jacobsen, 2012);
- it does not require the witness's speech to be interrupted (Jacobsen, 2012: 225);
- it gives the impression that the legal interpreter is as invisible as possible and that he is contributing to the fast and efficient conduct of the trial (Jacobsen, 2012: 225). The interlocutors often have the impression that they are directly communicating with each other since speech and body language are perceived simultaneously (Driesen & Petersen, 2011: 84).

According to Jacobsen (2012: 219), whispered interpreting can be a good alternative to consecutive interpreting during dialogues (short speeches).

##### – **Drawbacks**

- police officers and people who are being interviewed could be distracted by the overlapping of two voices (IMPLI Final Report, 2012: 24);
- it requires training of interpreters in order to avoid situations in which the whispered speech becomes a summary or an inept repetition of the original speech (Jacobsen, 2012: 225);
- recorded interviews do not allow an overlapping of voices (IMPLI Final Report, 2012: 24);
- the interpreter might have to stay seated in an uncomfortable position for long periods of time (Colin & Morris, 1996: 18).

#### 4.4.1.3. *What about simultaneous interpreting?*

##### – **Advantages**

Mikkelson notices that simultaneous interpreting is increasingly used in courts in the US because they are progressively being equipped with the required infrastructure (2010).

However, she deplores the fact that that simultaneous interpreting is not the first choice everywhere. She declares (2000:73): 'it is widely agreed that simultaneous interpretation is really the only acceptable mode of interpreting, and that court systems should make a greater effort to recruit trained interpreters who can demonstrate proficiency in simultaneous interpretation.'

Driesen, Petersen (2011: 53) and Edwards (1995: 77) also deplore the lack of equipment in national courts, which would allow the use of simultaneous interpreting.

- simultaneous interpreting does not make proceedings longer (Mikkelson, 2010: 5, Aronson Fontes, 2005: 173, Colin & Morris, 1996: 19). Mikkelson also insists on the fact that courts are often overloaded with work;
- everyone can hear the answer of a witness in their headsets even if the acoustic of the room is poor (Grusky 1988 quoted by Mikkelson 2010: 4);
- it allows for a greater number of people to listen to the interpreted speech without disrupting the meeting (Mikkelson, 2010: 4).

- **Drawbacks**

- simultaneous interpreting requires specific infrastructures and equipment (Colin & Morris, 1996: 19);
- it is a difficult exercise, which requires intensive training (Mikkelson, 2000: 73). There are few or no trained interpreters for some language combinations;
- at least two interpreters need to share the work (Mikkelson, 2010: 4; Colin & Morris, 1996: 19);
- interpreters have less control of the situation. They have less contact with the people they interpret for and are less able to monitor their interpretation. The risk of making mistakes is, therefore, very high and interpreters have very little time to correct them (Mikkelson, 2010: 6);
- Mikkelson declares that consecutive interpreting is usually recommended when a high level of precision is required. She would like empirical research to show which mode is the most accurate. According to her, respect for the meaning and the equivalence of legal terms are more important than rapidity (Mikkelson, 2010: 5-6);
- the audibility and visibility principles are not respected (Galley & Maryins, 2014: 71).

Mikkelson (2000: 73) underlines that wireless equipment is often used in the United States and that it could be an improvement compared to whispered interpreting (although not as appropriate as simultaneous interpreting from a soundproof booth).

#### 4.4.1.4. *Interpreting for minors*

Little has been published on this subject:

- a brochure written for interpreters working with children in hospitals (Phoenix Children’s Hospital, 2008), clearly advises that consecutive interpreting should be used when working with children. The argumentation is based on the fact that listening to two people at the same time can be confusing and even upsetting for a child.  
‘Many interpreters use almost only consecutive interpreting when working with children, at least until they are old enough to go to high school, and even keep using it beyond this age with children with developmental delay’ (Phoenix Children’s Hospital, 2008: 6).

The rare academic studies concerning the interviewing of children has put into perspective the difficulties linked with the different modes of interpreting without drawing any conclusions:

- Aronson Fontes (2005) dedicates a chapter to the interpreters’ work when dealing with abused children. The author specifies that a certain adaptation is necessary when the user of interpreting is a child, but does not specify the potential consequences it could have for the interpreting mode;
- the exploratory study carried out by Nilsen (2013) is the first, to our knowledge, to have studied the interpreting of very young children between the ages of three and six-years-old. Four Norwegian children were invited to interact with an English woman through a Norwegian–English interpreter working with whispered interpreting. The author showed that dialoguing with young children through an interpreter is in fact possible. However, it is important to note that, as the children were so young, their answers were very short and their voice almost never overlaps with the voice of the interpreter. When a child answered in a more detailed manner and the interpreter began whispering for the speaker, the child patiently waited for the interpreter to finish before speaking again. ‘Sara’s speech is not noticeably disturbed by the interpreter’s intervention and the overlapping speech.’ (Nilsen, 2013: 26).  
Although the child continued to speak once the interpreter had finished interpreting, it should be noted that she stopped when the interpreter’s voice overlapped hers. Furthermore, the study does not give any examples of situations when the voice of the interpreter would have overlapped with the voice of the English-language speaker.

Colin & Morris (1996: 54) write that consecutive interpreting requires from the interpreter ‘outstanding note-taking and short-term memory skills because the child must not be interrupted by the interpreter. Hesitations and repetitions may

be relevant and the interpreter should try to reproduce these, but note-taking techniques do not normally allow for this. Even with high-calibre consecutive interpreting, the interview will be affected by the use of this technique'. The interpreter translates the speech of the child into the language of the interviewer once the child has finished talking. But the child may begin to speak again before the interpreter has given the whole of the previous passage. The interpreter has to take further notes again without having completely translated the whole idea. They add that 'the dynamics of the interview are likely to be adversely affected by the interruptions in child-interviewer communication that result from using this technique' (1996: 57).

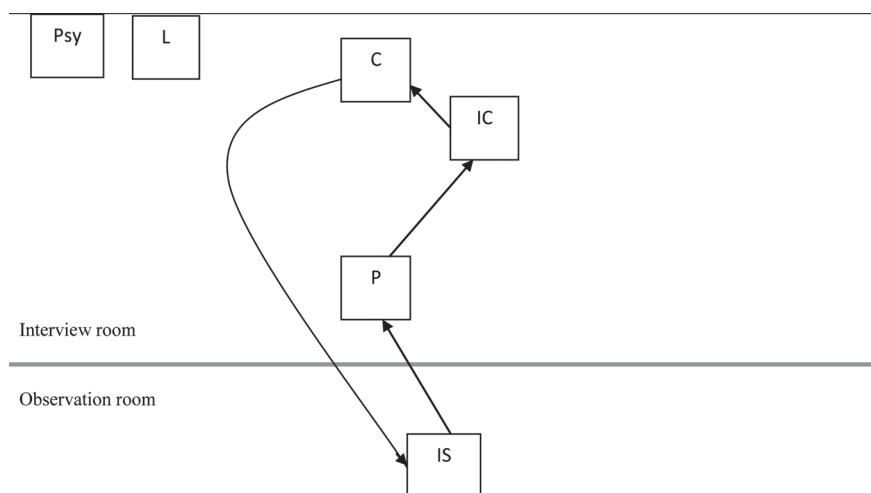
With whispered interpreting, these problems are avoided. However, there are other drawbacks:

- the child may be distracted or upset by seeing and hearing somebody talking to the interviewer at the same time as he or she is speaking;
- the interpreter will be less likely to hear the child clearly, and consequently may not interpret accurately;
- the interviewer may not be able to hear the interpreter properly;
- the interpreter's voice may be audible on the tape-recording of the interview, interfering with the recording of the child's voice;
- it is not possible to record the version (in the national language) whispered by the interpreter. In order to obtain a written version (in the national language) of what the child has said, it will be necessary to first transcribe everything said by the child and then translate it into (the national language);
- if a single interpreter is used throughout a lengthy interview, fatigue may lead to mistakes being made (p. 55).

Colin & Morris suggest an intermediary solution to the numerous drawbacks of both consecutive and whispered interpreting for children. To our knowledge, even if this solution has been used or tested, its results have never been published. In this system, what the interviewer says is interpreted consecutively for the child. This interpreter is in the same room as the child. What the child says is simultaneously interpreted for the interviewer by a second interpreter, from an observation room, for instance.



Figure 1.



- C: child, speaker of language A
- P: police officer, speaker of language B
- IC: interpreter using consecutive interpreting, from language B to language A
- IS: interpreter using simultaneous interpreting, from language A to language B
- Psy: psychologist, L: lawyer. Or another third party.

The necessary sound equipment for simultaneous interpreting is already available in observation rooms, even if other technical considerations must be taken into account in order to transfer the interpretation to the interviewer and ensure a good sound quality (headphones, microphone, etc.) for the interpreter, the interviewer and the stenographer responsible for keeping the record.

If the interpreters are sensitive, experienced and skilled in both simultaneous and consecutive interpreting, and provided that the technical arrangements are made properly, then the combined use of interpreting techniques should work well for accurately conveying to the interviewer what the child says to the interviewer and enabling the interviewer to communicate effectively with the child (Colin & Morris, 1996: 57).

In our opinion, this system is interesting because it reconciles the advantages of consecutive and simultaneous interpreting. It would be interesting to test this configuration with children and evaluate its advantages and drawbacks.

#### 4.4.2. INTERVIEWS

In order to learn more about the modes used by legal interpreters, contacted professionals with a solid experience in interpreter assisted interviews of minors. Only a few of them answered my questions (13 people), but they represent different viewpoints. The interviews have been recorded with their permission.

The first series of questions was common to all professionals: What is your experience of interpreter-assisted interviews of minors? What are the minors' profiles (age, language)? Did you receive a specific training to work with these minors?

For interpreters only: were you trained in interpreting? In legal interpreting?

Figure 2.

	Profession	Experience with minors	Minors' profiles
I1	Legal interpreter Romanian-French	Legal interpreter since 1993. Has intervened in more than 2000 proceedings (about 50% involving minors). Did not receive training.	Age: between 5 and 18, mostly children between 7 and 13-years-old because they are directly targeted by criminal networks. Prostitution, kidnapping, sequestration, theft. As many child suspects as victims.
I2	Legal interpreter Chinese-French	Interpreter for the police since 2001. Did not receive training.	Children of all ages, from 3 to 18-years-old. Mostly child suspects (but child suspects are, above all, victims, according to I2). For the younger children: witnesses of domestic violence.
I3	Legal interpreter Arabic-French	A few cases each month, but more since the beginning of the conflict in Syria. Did not receive training.	Mostly between 7 and 12-years-old, but some very young children, under 5.
I4	Legal interpreter Kurdish-French	Legal interpreter since 2006. A dozen cases per year. Did not receive training.	Mostly infants (abuse).

	Profession	Experience with minors	Minors' profiles
P1	Officer of the GCMV, Groupe central des mineurs victimes (a group helping minors, who are victims of crime)	P1 travels abroad to hear the minor victims of acts committed by French nationals and takes their testimony. All GCMV officers have received training to hear minors thanks to the intervention of magistrates, child psychologists and coroners. During the training, psychologists explain the mental development of children and their different stages, which enables officers to adapt their speech and to anticipate children's reactions. Has heard around 50 minors through the mediation of interpreters.	Children usually under 10-years-old. Very diverse nationalities: Asia, Africa, South America. Two major axes: sexual exploitation of children on the internet and sex tourism.
P2	Police captain of the Brigade pour la Protection des Mineurs (BPM), a French police unit in charge of protecting minors and of preventing crimes against minors	Has been working, since 2005, in the domestic department of the BPM. Deals with cases of violence, sexual abuse, abduction of minors, child cyber pornography, human trafficking, infanticide, prostitution. About fifty interviews through the intervention of an interpreter. Participated in a 15-day training course in child psychology and interview techniques.	Minor of all ages. Languages: Chinese, Spanish, Romanian, Arabic, Indian dialect, Sign Language.
P3	Police officer of the Brigade de Protection des Mineurs (BPM)	Has been working for the BPM since 2006.	Children: from the age of 2-years-old upwards. Languages: Romanian, Arabic, African dialects, Chinese, Spanish.
L1	Youth lawyer	About thirty cases in ten years. Receives 9-hours of training per year on working for children, based on a voluntary basis.	Mostly teenage suspects. Working languages: mostly Romanian and Arabic.

	Profession	Experience with minors	Minors' profiles
L2	Lawyer for the Antenne des Mineurs de Paris, an organisation providing help and support but also specialized lawyers to minors implicated in a judicial case	20 cases over the past 5 years.	Ages: mostly deals with victims of sexual abuse: girls between 2 and 12-years-old (prepubescent). Languages: very diverse.
M	Paediatrician and coroner in a medico-judicial unit	Carries out a medical examination as instructed by a public prosecutor or a juvenile judge.	His department has examined: <ul style="list-style-type: none"> <li>– 262 foreign isolated minors in 2013</li> <li>– 2541 minors in custody in 2013</li> </ul> Children: of all ages (0–18-years-old) of various nationalities: Bosnia, Romania, North Africa, Sub-Saharan Africa, Egypt, Iraq, Syria, India (Punjab). When the minor speaks English, the judicial medical unit does not need the intervention of an interpreter.
Psy 1	Child psychologist	Has been working for 3 years in a victimology centre for minors.	Mostly with young children (3–10).
Psy 2	Psychologist	Has been working for 5 years in a medical judicial unit. Has already worked with an interpreter about twenty times.	Languages: various Arabic and Chinese dialects.
J	Juvenile Court Judge	More than a hundred cases.	Generally: teenage suspects. But a few cases per month: young children, victims of family conflicts. Recurrent working languages are Arabic, Romanian and other Eastern European languages.

The following questions were slightly different, depending on the profession:

**Figure 3.**

For interpreters	For other professionals
Which interpreting technique do you mostly use (whispering or consecutive interpreting) when you render the interviewers' speech? When you render the minor's speech?	What is the interpreting technique used by the interpreters you work with when they render the minor's speech? And when they render your speech?
Does the interpreting technique you usually use differ depending on whether you interpret for a child or an adult? If so, why? Who decides on the interpreting technique used? Is this question discussed during a meeting before the beginning of the interview?	Have you noticed that interpreters use different interpreting techniques (whispering or consecutive interpreting) depending on whether they interpret for a child or an adult? What is your opinion on this matter? Who decides on the interpreting technique used? Is this question discussed during a meeting before the beginning of the interview?
Do you think simultaneous interpreting (in a booth) could be used during a minor's interview? Why?	Do you think simultaneous interpreting could be used during a minor's interview? (The interpreter works in a soundproof booth. You listen to the interpreter through a headset.) Why?

#### 4.4.2.1. Mode

The 13 people surveyed gave very different answers.

Respondents I1 and I2 said that they use whispered interpreting, I3 short consecutive interpreting and I4 long consecutive interpreting. It should be underlined that none of them have received training in interpreting. Respondents P1, M and P3 said that short consecutive interpreting is the most frequently used mode; P3 pointed out that this is especially true with minors up to 10-years-old. Psy1 was the only respondent who maintained that whispering interpreting is more frequently used. According to P2, the interpreting technique used depends on the minor's 'status': suspect or victim. J was the only respondent who declared that it varies depending on the person the interpreter is interpreting for: consecutive without notes to relay the adult's speech to the minor, and consecutive interpreting with notes to relay the minor's speech to the adult. Respondents L1, L2 and Psy2 said that the interpreting technique varies depending upon the interpreter.

The four interpreters answered that they do not change their interpreting technique depending on whether they interpret for an adult or a child. Nevertheless, I1 and I4 affirmed that their respective techniques are even better suited to working with a minor. I1 said that whispering interpreting can prevent delays in communication, which is 'important, especially with minors'. According to I4, whispering interpreting can cause a mental block for adults, 'not to mention the effect on a child'. I3, who uses short consecutive interpreting, would rather use long consecutive interpreting with children, because he

believes that interruptions are even more confusing for children than adults. For the same reasons, P3 and Psy2 also prefer long consecutive interpreting. Respondents P3, L1 and L2 said that interpreters adapt their techniques depending on the minor's age. All three have noticed that interpreters tend to use short consecutive interpreting more often with young children. P2, M and J think that interpreting techniques do not depend on the person's age.

P1 and M prefer using short consecutive interpreting, as does J, (to translate what the interviewer says to the child); P2 (for suspects); L1 and Psy1 prefer whispered interpreting. Long consecutive interpreting is recommended by P2 (for the victims) and by P3, L2, Psy2 and J (to relay what the child says).

#### *Advantages of consecutive interpreting*

- it makes the drafting of the minutes easier for the stenographer (I4, P3).
- it gives the victims time to think about their answers (P2) and for children's interlocutors to carefully analyse children's body language (P3, Psy2).
- it enables the interpreter to be more precise (P1).
- it enables suspects to hear the sound of the police officer's voice (P3).
- it enables the child to better understand the role of the interpreter (I4).

#### *Advantages of short consecutive interpreting*

- it is more suitable for discussion sessions (P1, P3, M).
- it is more precise and complete (I3, P1, J).
- it does not require note-taking techniques (I3).

#### *Advantages of long consecutive interpreting*

- the interpreter does not need to interrupt the child (I3, P3).

#### *Drawbacks of consecutive interpreting*

- the interpreter tends to alter the content and the style of the original speech to 'make it sound better' (I1, I2, L1, Psy2).
- the interpreter may be tempted to summarise the original speech (I2, L2, J).
- it extends the length of the interview (P3, J).
- it hinders the therapeutic process (Psy1).
- the dynamic of the exchange is often lost (I1).

#### *Drawbacks of short consecutive interpreting*

- the interpreter needs to interrupt the child, if he or she talks for too long (I3, P3).

*Drawbacks of long consecutive interpreting*

- the child may lose patience (L1).

*Advantages of whispered interpreting*

- the exchange is more dynamic and spontaneous (I1, I2, P2, Psy1).
- it prevents delay in communication and makes it possible to analyse the body language of the child better (Psy1).
- the translation is more exhaustive, which strengthens the police officer's trust in the interpreter (I2).
- it enables a more literal translation of the speech (I2, L1, Psy2).
- it is fast (P2).

*Drawbacks of whispered interpreting*

- it is confusing for a child (I4, P1, P2, P3, L2 and Psy2). It is a very tiring technique for the child (Psy2).
- whispered interpreting is impossible when the interview is being video-taped (P3).
- many police officers refuse the use of whispered interpreting (I4).

*4.4.2.2. Who decides?*

All 13 professionals replied that there was never a meeting before the interview to discuss which interpreting technique would be used. Nevertheless, the four interpreters and the two psychologists think that such a meeting could be useful. J thinks that other aspects of the interview are more important; M and L2 declare that it is up to the interpreter to decide which technique is more suited to the child's reactions. L1, P2 and P3 admit that a meeting would be useful, but impossible to set up due to a lack of time.

Respondent I4 made a particularly interesting comment: police officers 'refuse whispered interpreting because it is very difficult for them to concentrate'. When asked if police officers had ever clearly requested him to use consecutive interpreting or if he had ever had the opportunity to discuss it with them, he answered: 'No, but everyone knows that'.

Respondent P2 claims that the choice of the interpreting technique is made spontaneously 'according to the situation, the child and his or her reactions' and that the majority of the interpreters he works with systematically use whispering interpreting when working with minor suspects and long consecutive interpreting when the minor is a victim. When asked if he knew where this habit came from, whether he or his colleagues had given instructions to interpreters, he said that it was certainly 'the rule taught in interpreting schools'.

#### 4.4.2.3. *What about simultaneous interpreting?*

Out of the 9 professionals interviewed (excluding the 4 interpreters), 7 said that they were not really satisfied with the technique used by the interpreters (only M and J said they were rather satisfied). The main grievance (from P1, P2, L1, L2, Psy2) comes from the fact that interpreters and children sometimes have a 'private' conversation from which they are excluded. For P2, P3, L2, Psy1, Psy2 and J, the main problem is linked to the waste of time caused by consecutive interpreting. Therefore, all the professionals (including the four interpreters) were asked if they thought that simultaneous interpreting would be an interesting alternative.

Out of 11 answers (because P1 and J did not express their opinion), there is almost an equal split between the professionals in favour of simultaneous interpreting and those against it (I1, I2, I3, P2, Psy1, M). The reasons alluded to by the latter are:

- the physical presence of the interpreter next to the child is important (I1, I2, I3, M);
- simultaneous interpreting can be confusing for the child (L2, Psy1);
- simultaneous interpreting is said to be too complicated to implement in police stations (P2);
- the equipment is too expensive (P3).

Respondents I4, P3, L1, L2 and Psy2 said they are in favour of using simultaneous interpreting (provided that preliminary pedagogical efforts are made with the child stated I4 and Psy2 as a caveat) because:

- simultaneous interpreting saves time (I4, P2, Psy2);
- it contributes to a better understanding by the minor of each person's role (I4);
- simultaneous interpreting helps the interpreter be less emotionally involved in the situation (I4);
- police officers would have more control over the situation (P3);
- interpreters would have the opportunity to provide cultural clarifications (L1);
- it could reduce the interpreter's influence on the minor (L2).

#### 4.4.2.4. *Summary*

##### *Advantages of simultaneous interpreting compared to consecutive interpreting*

- it is fast;
- children can express themselves for as long as they wish, without being interrupted;



- the lag in the exchange is minimal: children’s body language coincides with their speech;
- simultaneous interpreting maintains the dynamic of the exchange and allows spontaneous reactions;
- children do not have to wait for the interpreter to finished translating their speech;
- it may be easier for interpreters to convey the child’s hesitations and changes of tone;
- the interpreter is perhaps less prone to summarising or enhancing the original speech;
- it does not require note-taking skills.

#### *Advantages of simultaneous interpreting compared to whispered interpreting*

- voices do not overlap. Children, police officers or stenographers can fully concentrate on the interpretation;
- everyone can adjust the volume. For instance, a psychologist focusing on the paraverbal elements of the child’s expression can turn down the volume at will;
- third parties can sit at the back of the room and listen to the interpretation with headsets;
- simultaneous interpreting allows audio-visual recording, as the interpretation can be recorded separately.

#### *Other advantages*

- simultaneous interpreting can reduce the interpreter’s interference in the exchange: incredulous, conniving, paternalist attitude, etc.;
- it restricts the temptation for conversation between the child and the interpreter.

#### *Drawbacks*

- the interpreters must receive specific training in simultaneous interpreting;
- there must be two interpreters in order to take turns;
- the equipment is relatively expensive;
- the equipment is not easily movable;
- the minor and interviewer cannot clearly hear the paraverbal elements;
- for the victims, simultaneous interpretation does not allow time to think.

#### *Advantages or drawbacks*

- does the physical absence of the interpreter help or hinder children’s participation and understanding?

- is the interpreter's role more difficult to explain to children because of his or her absence, or do children understand who is their main interlocutor better?
- do participants (including minors) accept this configuration?

#### 4.4.3. INITIAL EXPLORATORY STUDY

To observe the behaviour of a child in simultaneously interpreted situations, an exploratory experiment was conducted during which a dialogue between a child and a non French-speaking adult was interpreted, first using whispering, then simultaneous interpreting (in order to compare each child's reactions). However, it is only a preliminary study to compare the behaviour of a few children with the literature and the answers given by professionals.

This study aimed to answer the following questions:

- a) does the child take part in the exchange when whispered interpreting is used? What about when simultaneous interpreting is used?
- b) does the child clearly understand the content of the exchanges when whispered interpreting is used? What about when simultaneous interpreting is used?
- c) which mode does the child prefer? Which mode is the most effective according to the parents, speakers and interpreters?
- d) does the child understand who his/her main interlocutor is with whispered interpreting? With simultaneous interpreting?

##### 4.4.3.1. Methodology

Figure 4.

First name	Mathilde	Sofia	Jeanne	Nathan	Sarah
Age	5-years-old	7-years-old	4-years-old	6-years-old	3½-years-old
School level	Third year of preschool	First year of primary school	Second year of preschool	First year of primary school	First year of preschool
Linguistic knowledge	Is learning Chinese	French-British mother, Spanish father. Is learning Arabic. Regularly travels to Spain and England.		Is learning Chinese and English.	

First name	Mathilde	Sofia	Jeanne	Nathan	Sarah
Potential familiarity with interpreting	Father: legal interpreter	Mother: conference interpreter			
Parent present	accompanied by both her parents (whom we will call hereafter P1 and P1')	accompanied by her mother (whom we will call hereafter P2)	accompanied by her mother (whom we will call hereafter P3)	accompanied by his mother (whom we will call hereafter P4&5).	accompanied by her mother (P4&5).
Relationship with me		Sofia had already met me twice		Nathan is my nephew	Sarah is my niece

*Subjects:* The children knew neither the speaker nor the interpreter.

*Speakers:* Susanne, a native German-speaker (we will refer to her as S1 hereafter); María-José (we will refer to her as S2 hereafter) and David (we will refer to him as S3 hereafter), two native Spanish speakers.

The three speakers are used to interacting with young children. Moreover, S1 and S2 are teachers in an interpreting school, S3 is a conference interpreter and they have all witnessed/participated in interpreting situations. The three of them speak French very well, but they were asked not to speak French in front of the children, before, during or after the experiment. If one of the children seemed too stressed by the situation, it was agreed that we would stop the experiment and comfort the child in his mother tongue (French).

In agreement with a team of psychologists from the Centre de Victimologie pour Mineurs (an organisation specialised in children victimology and whose goal is to raise awareness about it) and the medico- judicial unit of the Parisian hospital, Hôtel Dieu, who helped to prepare this experiment, it was decided that the parents would present the experiment to their children as a means of testing a new method for people speaking different languages to understand each other. We impressed upon the parents the necessity of not putting pressure on their child since the experiment's goal was to test a tool, and not them, so that they would not feel that a particular behaviour was expected from them and they would not try to please the adults.

*Interpreters:* Two interpreters who had graduated in conference interpreting: one from ISIT, and the other from London Metropolitan University. Both had experience in conference interpreting, but had never worked with children or in the legal field. Indeed, I thought it was important that the interpreters were at ease with

simultaneous interpreting. Yet, the legal interpreters I met and who had already worked with children had never used this mode. I also wanted to be able to follow the exchanges, which significantly reduced the number of possible languages.

The German language interpreter’s (whom we will call I1 hereafter) language combination is: German (A), French (B).

The Spanish language interpreter’s (whom we will call I2 hereafter) language combination is: French (A), Spanish (B).

Figure 5.

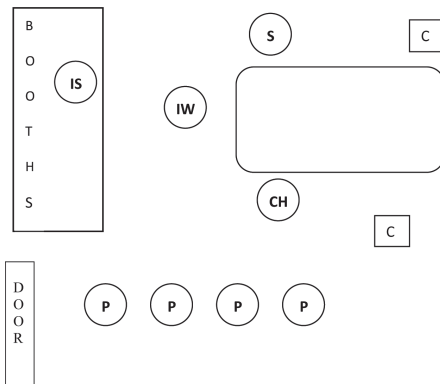
Child	Mathilde	Sofia	Jeanne	Nathan	Sarah
Language	German	German	Spanish	Spanish	Spanish
Speaker	S1	S1	S2	S2	S3
Interpreter	I1	I1	I2	I2	I2

*Location:* The experiment took place at ESIT (Graduate School of Interpreters and Translators) in a classroom equipped with soundproof interpreting booths. It should be noted that the glass between the interpreting booth and the rest of the room is see-through. Therefore the child and the interpreter could see each other.

The parents sat behind their child, a few metres away, out of their sightline. It was important to us that the parents sat a few feet away so that the child’s behaviour was less influenced by their presence. However, we also wished the parents to be present so that they could give us some feedback regarding their child’s behaviour during the experiment, in comparison with their usual behaviour.

Two cameras were set up around the table, 5–6 metres away from the children. None of them asked any questions, but we would have explained the reason if they had done so.

Figure 6.



IW: Interpreter during whispering interpreting  
 IS: Interpreter during simultaneous interpreting  
 S: Speaker  
 CH: Child  
 P: Public / audience (parents, cameraman, myself)  
 C: Camera

*Development of the experiment:* all the people present in the room were introduced to each child: first the Interpreter, then the Speaker, and then the Cameraman.

As the lead researcher, I personally introduced the Interpreter to each child using the method recommended by the Phoenix Children's Hospital (2008: 5).

"This is... (her name). When somebody speaks French, she is going to repeat in German/Spanish. When somebody speaks German/Spanish, she is going to repeat in French."

The Speakers started their intervention by explaining that they did not speak French and that ... the Interpreter (who was named and pointed to) was going to translate their sentences. That was translated by the Interpreter through whispered interpreting.

After speaking with the Hôtel Dieu psychologists team, it had been decided that the experiment would start with whispering interpreting, which we thought would be more tiring for the child than simultaneous interpreting. The first part was therefore interpreted through whispering, then, after about ten minutes, the Speaker put on his headset, turned on his microphone and asked the child to do the same. He showed him the interpreting booth and explained to him that it was where ... (Interpreter's name) was going to sit for the rest of the conversation. The Speaker asked the child if he had any questions, then the Interpreter went to the booth and the exchange went on for another ten minutes. Conversation topics were left to the decision of the Speakers although a few leads had been suggested to them by the Parents (whom had been contacted a few days earlier): Christmas holidays, school friends, family, pets, etc. The ground rule was to attempt to create a dialogue with the child by finding a conversation topic that might 'inspire' him or her and around which an exchange could be established. The Speakers were asked to change topics if they noticed that the child was ill at ease.

A test was carried out for each child during the whispering interpreted part and then during the simultaneously interpreted part: the Speaker asked the child to bring or show him something. The goal was to try and detect if the child knew who his main interlocutor was.

Once the experiment was over, I asked each child a few questions:

- what did you like?
- what didn't you like?
- did you like it better when ... (Interpreter's name) was sitting next to you or overthere in the booth? Why?

I then asked them questions on the content of the conversations.

The Parents, Speakers and Interpreters received a questionnaire. They had the opportunity to comment on their answers.

- which technique (whispering or simultaneous) did you think was the most efficient one? Why?

The Parents were asked an additional question:

- during the experiment, did you notice any changes in the way your child behaved or talked or anything out of the ordinary? Did you notice any changes between the first and second part of the interview?

The Parents completed the questionnaire immediately whereas the Speakers and Interpreters submitted it a few days later (upon their request).

#### 4.4.3.2. *Observations*

- **Participation in the exchange**

Four out of the five children were able to communicate and exchange with the Speaker. Jeanne's case was a bit more ambiguous. According to her mother, she had been running a fever the day before the experiment. Moreover, she did not know any of the people present in the room. She seemed very intimidated and very ill at ease. During the first few minutes, she did not respond to the Speaker's questions. Communication was gradually established by playing and drawing, but Jeanne only responded by nods or isolated words. When we switched to simultaneous, Jeanne first refused to put the headset on. Her mother intervened by putting the headset on her own ears first and then on Jeanne's. During simultaneous interpreting, communication was not established at any moment. During the whole exchange, Jeanne sat curled up, hands tied and staring at her feet. She only answered questions by nodding.

It is difficult to understand why. Perhaps Jeanne was not feeling well or perhaps she was shy or intimidated. Her mother answered one of the questions by saying: 'Jeanne is usually rather talkative'. According to her, Jeanne was 'clearly intimidated at first because everything started very quickly, but overall because she was very ill'.

Jeanne did not really answer the questions during the interview at the end of the experiment. She did not answer open questions. She did not respond to closed questions either or nodded silently.

A dialogue was established in the other cases during whispering as well as simultaneous interpreting. The four children immediately accepted to participate in simultaneous interpreting and to accept its rules (wearing the headset, speaking in the microphone).

It does not seem that the overlapping of the Interpreter's voice over the Speaker's, nor the overlapping of the Interpreter's voice over the children's, stood in

the way of communication. The four children spoke on their own, to add or correct information from a previous question, as can be seen in the following example:

**Figure 7.**

S1	I1	Mathilde
Möchtest Du gerne einen Hund haben?	Would you like to have a dog?	
		No
	Nein.	
(Laughs, then starts asking another question)		(Interrupting the Speaker). What I want is a rabbit and a goldfish.

However, if we look at the Parents' answers to the question: 'During the experiment, did you notice any changes in the way your child behaved or talked or anything out of the ordinary?', in four out of five cases, they noticed that their child was shyer than usual, but without any distinction between whispered and simultaneous interpreting.

P1 noticed that his daughter 'got bored or tired' quickly and showed 'a certain loss of attention by starting to draw'.

P4&5 noted that Nathan was 'really intimidated or thrown off. He responded only by nodding or by one or two words when he usually speaks in complete and well-constructed sentences'. Regarding Sarah, P4&5 noted that she was 'a little intimidated but she responded to most of the questions the same way she would have done with a single interlocutor in French'.

It is difficult to know if the children were disconcerted by the situation (unknown place with unknown people) or by the interpreting.

Only P2 said that her daughter 'spoke more than she usually speaks to adults. She's usually shyer than that'.

#### – Content understanding

During the interview that followed the exchange, I asked a few questions about the content to each child. The four children answered my questions correctly concerning the whispering interpreted part of the interview, as well as the simultaneously interpreted part. However, Sarah, and to a certain extent Nathan as well, apparently did not understand who was talking to them (see perception of the Interpreter's role by children).

– **Interpreting mode**

During the interview, after the experiment, all the children were asked the same questions: “what did you like?”, “what didn’t you like?” then “did you like it better when ... (Interpreter’s name) was sitting next to you or over there in the booth?” so as to listen to children’s spontaneous observations. The next questions were then asked with regard to their previous answers. It should be noted that there were very few spontaneous answers. One child did not respond at all, one child gave two answers to the first question; two children did not answer the second question.

- What did you like?
  - ‘The headset’ (two children)
  - ‘It’s fun, especially with the headsets’
  - ‘The red light of the microphone when it turns on’
  - ‘I liked everything’
  - ‘It’s not tiring’
- What didn’t you like?
  - ‘It’s weird’ (two children)
  - ‘It’s too hot’
  - ‘The stairs to go up to the second floor’

By asking the children who said it was a weird experience what they had found weird, one answered: ‘the headset keeps falling’ and the other ‘when ... (Interpreter’s name) was over there’ showing the booth, both of them referring to the simultaneously interpreted part of the exchange.

During the interview, Sarah, Sofia, Mathilde and Nathan said that they preferred simultaneous to whispered interpreting (with their own words). Jeanne did not answer. When asked why, one of them answered: ‘because of the headset, it’s so fun’. The others did not answer.

Answers to the questions: “Which technique (whispered or simultaneous) do you think worked better? Why?” asked in the questionnaires given to the parents, speakers and interpreters, show more diverse results:

**Figure 8.**

	P1	P1'	P2	P3	P4&5	S1	S2	S3	I1	I2
Whispering		X								X
Simultaneous					X				X	
Both	X		X			X	X	X		
No answer				X						



S2 replied that she could not say which technique worked better. She added: ‘I think whispered interpreting helped the child get used to the process, to make her feel confident before moving on to simultaneous interpreting’.

S1 replied that whispered interpreting ‘is more suited to making the child feel confident, but that the advantage of simultaneous interpreting is that the child identifies the person asking the questions better’.

S3 replied on the contrary: ‘whispered interpreting helps the child differentiate the interpreter from the interviewer.’

I1 responded that ‘contact between the child and the speaker is easier if the interpreter is “hidden”’.

For I2, it seems that whispered interpreting worked better. She said: ‘However, in both cases, I was a little embarrassed when the child was looking at me. I was wondering if I had to look down so she wouldn’t think I was the one talking to her. I was embarrassed as well when the child was asking a question, while looking at me, because I had the impression she was actually talking to me, and not to the speaker.’

P4&5 said that simultaneous interpreting worked better and added that, according to her, the children ‘seemed more comfortable, maybe because it was easier for them to focus on the voice in the headset and forget the voice they didn’t understand’.

The other participants did not comment on their answer.

#### – Child perception of the interpreter’s role

The speakers had to ask the child to bring him or her or show him or her something twice, once during the whispered interpreted part and another time during the simultaneously interpreted part. The objective was to see to whom the child was going to turn.

For instance, Mathilde wrote down her name on a sheet of paper. During simultaneous interpreting, when S1 asked her to give it to her, she did so without hesitation.

Then, during the interview, I asked each child a few questions about what had been said during whispering and simultaneous interpreting.

For example, in Sofia’s case:

(I asked her) “Does... (I1’s name) have children?”

(Sofia answered) “We don’t know, but... (S1’s name) has two daughters, but they’re already grown up. And before, they had a cat.”

Her answer matched what S1 actually said.

If Mathilde and Sofia apparently understood that the interpreter was not their main interlocutor, Nathan seemed confused: whereas he answered the first questions enthusiastically, he suddenly seemed uncomfortable when I asked him more precise questions about the origin of what had been said. Either he said

that he did not remember, or he looked with perplexity at S2 and I2, or he did not answer, visibly nervous, head down and frowning.

S2, in her comments, said that during her dialogue with Nathan, he kept looking at I2. According to her, ‘Nathan didn’t consider me as his direct interlocutor, at any time. I was sitting in front of him, but he wasn’t talking to me.’ Twice, when S2 asked Nathan to show her his drawing, he turned to I2.

Sarah answered the questions without hesitation, always naming the interpreter as her interlocutor in accordance with her behaviour during the exchange with S3.

Extract of the simultaneously interpreted dialogue between Sarah and S3:

(I2’s interpretation corresponds to what Sarah heard in her headset. I2 also interpreted into Spanish for S3. However, since her interpretation into Spanish is not relevant in this case, the transcription does not appear in table 9).

Figure 9.

S3	I2	Sarah	Myself	Sarah’s behaviour
¿Me podrías dar un pastelito de esos que tienes al lado? Me han encantado y solo he comido dos. ¿Me lo das, porfa? ¿Me das uno?	Would you please give me a biscuit? I liked it a lot and I only had two. Can you give me one more please?			Sarah smiles, looks at the booth, then at the pastries, and looks at her mother.
		Hmm		
Me apetece mucho. Antes me has dado dos. Y ahora quiero uno más. Que tengo hambre.	You know, I would really like a biscuit. You gave me two a while ago. And now I would like another one. Because I am hungry.			Sarah looks at the booth, then at her mother, then at the booth and once again at her mother.
		Ok!		Sarah stands up.
Sarah, estoy aquí. ¿Me das un pastel?	Hey, I am here. Can you give me a biscuit?			Sarah looks at the booth.
		(Incomprehensible words)		Sarah looks at her mother.

S3	I2	Sarah	Myself	Sarah's behaviour
Solo uno. No hace falta que me des todo el plato.	I just want one. You don't need to give me the whole plate. I just want one.			Sarah looks at 'me' (e.g. lead researcher).
			What's the matter, Sarah?	
		Come here!		Sarah gives me a biscuit.
			Who is it for?	Sarah points at I2 who is in the booth.
			I'm going to give it to her You stay here, ok?	Sarah sits again. The speaker smiles at her. Sarah watches me going out of the room.
Sarah, ¿le has dado un pastel a ...? (I2's name)?	Sarah, have you given a biscuit to... (I2's name)?			Sarah looks at the door then at the booth.
		Yes.		Sarah looks at the booth.
Pero yo te he pedido un pastel.	But I asked you to give me a biscuit.			
		Auntie just gave it to you.		Sarah looks at the door then at the booth.
No. ¿Dónde está? Yo no lo veo.	She didn't. Where is it? I don't see the biscuit.			Sarah looks at me as I enter the room.
Sarah. Sarah. ¡Sarah! Quiero un pastel por favor.	Sarah, I'd like a biscuit please.			Sarah looks at the speaker for 2 or 3 seconds, then at the booth. Then she takes a biscuit and gives it to me.
			Who is it for?	
		... (I2's name).		Sarah looks at me.

S3	I2	Sarah	Myself	Sarah's behaviour
¡Sarah! ¡Sarah! Yo quiero un pastel. ¡Yo!	No Sarah, I am the one who wants a biscuit!			Sarah quickly looks at the speaker, then at the booth, and then at me.
		Hmm.		
			I am going to give it to... (I2's name)?	
		Yes.		Sarah watches me leave.
No, pero Sarah..... (I2's name) ella está diciendo lo que yo digo en francés porque yo no hablo francés. Pero soy YO quien te está hablando, David. ¿Sabes? Yo quiero un pastel. ¿Me puedes dar uno por favor? Sarah, Sarah tengo mucha hambre. Dame un pastel, por favor.	No, Sarah... (I2's name) she is... she is saying the same thing as me, but she is saying it in French because I do not speak French.  But actually, I am the one talking to you, it's me, David, you know. And I would like a biscuit. Could you please give me a biscuit?			Sarah looks at the speaker for 2 seconds then at the booth. She looks quickly twice at the speaker then back at the booth.  Sarah watches me enter the room.
			I gave it to... (I2's name). Alright?	
		Yes.		
Sarah, Sarah, ¡hola! ¡Soy David!	Sarah, hello, hello, It's David!			Sarah looks at the speaker then at interpreting booth. She waves hello looking at the booth.
Hola, ¿me puedes dar un pastel por favor?	Hello, It's David! Can you give me a biscuit?			She waves hello to the speaker, looking at him.
		You have one!		She turns to look at me.

S3	I2	Sarah	Myself	Sarah's behaviour
			Do I have to do something?	She looks at me.
				Sarah nods.
			What do I have to do?	
		You have to show it to... (I2's name)		
			Another biscuit?	
		No, the first one. That you gave her.		
			But it is still in there (showing the booth).	Sarah looks at the booth.
		Well go and show her! She hasn't seen it!		She looks at me.
			She hasn't seen it?	
		Yes.		Sarah looks at the booth till the end.
Sarah, yo también quiero uno. ¿Me puedes dar uno más a mí?	Sarah, I would like a biscuit too. Can you give me one?			
		But the one... the one on your desk, it's for you!		

#### 4.4.3.3. Limits of the experiment

- the very limited number of children;
- the children's profile is not representative of a real situation: Mathilde and Sofia are interpreters' daughters, which could have influenced their behaviour or their understanding of the interpreter's role. Moreover, three of these children are learning foreign languages, which can also, paradoxically, bring them closer to the type of children legal interpreters usually meet (Nilsen, 2013: 17);
- the subjects of this experiment are children who have not undergone traumatic events. The Speakers were supposed to try and find interesting topics for the children and change topics if they noticed that the children

were ill at ease. In a real-life situation, the children for whom legal interpreters work have often been through stressful if not traumatic events and the interviewer will have to address them. We have deliberately chosen to exclude this psychological aspect from this experiment;

- we did not address the quality of the interpreting nor the specific difficulties encountered by the interpreters;
- the conditions were not exactly the same for all the children:
  - for scheduling reasons, it was impossible for us to recreate the same conditions for every child, nor to have the same Speaker and Interpreter;
  - even if instructions had been sent to the Parents regarding how to present the experiment to the children, each Parent very likely presented it in a different way;
- it was not possible to conduct a pilot study. The questionnaires had only been proofread by non-interpreter parents in order to rephrase ambiguous questions if needed;
- the experiment was only conducted in whispering and simultaneous interpreting. Consecutive interpreting was not included because of the lack of time at our disposal, the attention span of a child being limited.

More research needs to be done to gauge the impact of some parameters: for example, by beginning the experiment with simultaneous interpreting, by having a male interpreter translating the speech of a female speaker, or vice versa, etc.

#### 4.4.3.4. Discussion

Considering these limits, it seems difficult to draw conclusions from this experiment. The following observations should, therefore, be viewed with caution.

- communication appears to be possible through whispering and simultaneous interpreting with young children;
- children appear to understand the content of the interactions through whispering, as well as through simultaneous interpreting;
- we cannot establish if the interpreting mode influences children's understanding of the Interpreter's role;
- children seem to prefer simultaneous to whispering interpreting for its playful aspects. Parents, Interpreters and Speakers are divided on the question of the best interpreting mode;
- perhaps it should have been explained to the children in more detail how simultaneous interpreting works before the beginning of the interview (which is recommended by P3 and I2); they should have been shown the booths and asked to explain again in their own words to ensure that they

have actually understood. P4&5 suggested setting up ‘a little game before the interpreting starts, so that the child understands who is talking’.

I would like to thank the interpreters, police officers, lawyers, psychologists, judges and doctors who agreed to answer my questions and enthusiastically shared their professional experiences. My warmest thanks also go to the children, speakers, interpreters and parents who took part in the experiment.

## REFERENCES

- Angermeyer, P.S. (2005). “Who is ‘you’? Polite forms of address and ambiguous participant roles in court interpreting”, *Target* 17 (2), pp. 203–226.
- Aronson Fontes, L. (2005). *Child Abuse and Culture: Working with Diverse Families*, New York, The Guilford Press, pp. 159–175.
- Berk-Selingson, S. (1990). *The Bilingual Courtroom. Court Interpreters in the Judicial Process*, Chicago, Chicago University Press.
- Boser, U. (2013). “So tell me what happened! Interpreting the free recall segment of the investigative interview”, *Translation and Interpreting Studies* 8 (1), pp. 112–136.
- Colin, J. & Morris, R. (1996). *Interpreters and the Legal Process*, Winchester, Waterside Press, pp. 51–58.
- Driesen, C. & Petersen H.A. (2011). *Gerichtsdolmetschen: Grundwissen und -fertigkeiten*, Tübingen, Narr Studienbücher.
- Edwards A.B. (1995). *The Practice of Court Interpreting*, Amsterdam/Philadelphia, John Benjamins Publishing.
- Gallez, E. & Maryns, K. (2014). “Orality and authenticity in an interpreter-mediated defendant’s examination. A case study from the Belgian Assize Court” *Interpreting* 16 (1), pp. 49–80.
- Goffman, E. (1981). *Forms of talk*. Philadelphia, University of Philadelphia Press.
- Grusky, L. (1988). “Using a new technique for witness stand interpreting”, *The ATA Chronicle* n° 18, pp. 12–13.
- Hewitt, W. (1995). *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, Williamsburg, National Center for State Courts.
- Jacobsen, B. (2012). “The significance of interpreting modes for question-answer dialogues in court interpreting”, *Interpreting* 14 (2), pp. 217–241.
- Mikkelson, H. (2000). *Introduction to Court Interpreting*, Manchester, St Jerome Publishing.
- Mikkelson H. (2010). “Consecutive or Simultaneous? An Analysis of Their Use in the Judicial Setting”, *Accross the Board*, Australian Sign Language Interpreters Association, Vol. 5–1, pp. 4–7.
- Nakane, I. (2009). “The myth of an ‘Invisible Mediator’: An Australian Case Study of English-Japanese Police Interpreting”, *Portal Journal of Multidisciplinary International Studies*, 6 (1).
- Nilsen, A.B. (2013). “Exploring interpreting for young children”, *The International Journal for Translation & Interpreting Research*, Vol 5 (2), pp. 14–29.

- Phoenix Children's Hospital (2008). "Spanish Bilingual Assistant: Introduction to Medical Interpreting", Section 8: Interpreting for children, pp. 1–10.
- Russel, D. (2002). "Interpreting in legal contexts: Consecutive and simultaneous interpretation", Burtonsville, MD, Linstok Press.
- Wadensjö, C. (1998). *Interpreting as interaction*. Londres, Longman.
- Driesen, C. (1992). "Traduction judiciaire en RFA. Atouts et écueils": <http://tradulex.com/articles/Driesen.pdf>  
retrieved on 22/05/14.
- EULITA (2013). Code of Professional Ethics:  
[www.eulita.eu/sites/default/files/EULITA-code-London-e.pdf](http://www.eulita.eu/sites/default/files/EULITA-code-London-e.pdf)  
retrieved on 20/06/14.
- IMPLI (2012). Final Report:  
[www.isit-paris.fr/documents/ImPLI/Final\\_Report.pdf](http://www.isit-paris.fr/documents/ImPLI/Final_Report.pdf)  
retrieved on 06/07/14.



## 4.5. JOINT TRAINING

Eric VAN DER MUSSELE, György VIRÁG and Christiane DRIESEN

In this section, three representatives of each professional category involved in interpreter-mediated questioning of minors will give their view on the most crucial part of their cooperation, i.e. on joint training. Youth lawyer, Eric Van der Mussele (from a legal point of view), forensic psychologist, Dr. György Virág (from a psychological point of view), and Dr. Christiane Driesen (from a legal interpreter's perspective) try to individuate the core elements of multidisciplinary training for interpreter-mediated communication with minors in pre-trial procedures.

### 4.5.1. LEGAL PRACTITIONER'S PERSPECTIVE

#### 4.5.1.1. Introduction

Professionals who act for minors in legal settings, with or without the assistance of interpreters, and who intervene on their behalf, realise that how to assist minors in the same way as adults seeking justice is not obvious.

In a field governed by professional rules, one rightly asks the question whether professionals (judges, prosecutors, lawyers, psychologists, social workers, police officers, interpreters...) working with minors, will continue to act in the same way as they do today, without special training.

We have to admit that specific training in communicating with children, in psychological and social needs and rights and procedures, is a necessity for all the professionals involved. If we are not trained in these matters, we risk harming the children who need our help. Moreover, we risk damaging our reputations and the reputation of our professional group.<sup>225</sup> The Dean of the Liege Bar stresses that it is not a matter of useful, but rather of obligatory training. The author would emphasise that even a lawyer may risk ethical sanctions if he or she acts without training and makes mistakes.

Ultimately, these problems not only affect the quality of the interpreting, but they can even affect the legal value of the interpretation and of the entire hearing,

<sup>225</sup> G. Rigo, "L'avocat devant le tribunal de la jeunesse – Aspects déontologiques de l'intervention de l'avocat pour assurer la défense des intérêts d'un mineur d'âge" in *Regards sur les règles déontologiques et professionnelles de l'avocat*, SBL éditions du jeune barreau de Liège, 249 and 253.

and procedure. It must be clear to all actors, that multidisciplinary cooperation has its limits, where the fair trial principles could be violated. (See the comments of the legal actor on Case 2, about the child suspect, in Section 3.4.2)

On 6 June 2014, we learned in the Europa Press-release,<sup>226</sup> that 1.086.000 children face criminal justice proceedings (12% of the total European population facing criminal justice). Twelve member states have mandatory training requirements on the rights and needs of children for judges, 11 for prosecutors and 7 for defence lawyers. Only in 5 countries does mandatory training exist for the 3 groups, (Belgium, the Czech Republic, Estonia, France and Italy) and a multidisciplinary approach for the cases only exists in 4 countries (Belgium, the Netherlands, Sweden and United Kingdom).

A final element that does not exist today, is training involving all the legal practitioners active in the pre-trial procedure, focusing on interpreting and translating issues together with the registered interpreters.<sup>227</sup> Indeed, training in this field ultimately means multidisciplinary training. We cannot succeed as a professional group on our own. We need all the professionals to cooperate, and to learn with and from each other.

We need presentations on theoretical aspects, at the same time and together with judges, prosecutors, lawyers, police officers, psychologists, child support workers and interpreters, delivered by the same group of legal and interpreting specialists, in each court district, to make clear, in the same way and to everyone involved, how to proceed correctly and to raise awareness of the interpreters' needs in pre-trial settings.

From a practical perspective today, we need an introduction and role-plays with interpreters, as training in the pre-trial setting. This training has to be developed and started as soon as possible. We need role-plays involving, at the same time, lawyers, judges (police officer, prosecutor, psychologists, child support worker...), minors (potentially played by actors) who are suspects/victims or witnesses, and interpreters.

---

<sup>226</sup> "Children in criminal proceedings: European Commission proposal to increase protection makes a decisive step forward"; Europa press release, Brussels 6–6–2014, p. 1, 2 and annex table 6.3.

<sup>227</sup> A general moment of study concerning the implementation of the *Salduz* jurisprudence, was a rare moment of study with politicians, police, lawyers, judges and interpreters together, organised by the POLITEIA on 18–9–2012 in Brussels, and with attention paid to interpreting and translation problems, but not with exclusive attention to these problems. One of the subjects was presented by Yolanda Vanden Bosch: 'EU Directive concerning the right on interpreting and translation in criminal matters';.

Hereafter, we will look closely at the elements, as pointed out in several Directives aiming at multidisciplinary training of professionals, to understand what the EU asks from the group of actors in this legal field.

#### 4.5.1.2. *Multidisciplinary training of all professionals in EU documents*

The Child-Friendly Justice Guidelines, as presented in the final draft version of 30–6–2010,<sup>228</sup> determine several elements with regard to the training of professionals and multidisciplinary training.

In Preamble (lit.s), it is mentioned that ‘*all concerned professionals*’ (emphasis added) working in contact with children in justice systems should receive appropriate support and training as well as a practical guidance in order to guarantee the rights of children’.

In Part III, ‘Child Friendly justice before, during and after judicial proceedings’, lit. 1A in ‘General’:

Point 4, ‘*Training of All professionals*’ (emphasis added) (thus: legal and other professionals) is indicated that:

- 1° this means interdisciplinary training *on rights and needs of children* as well as *on proceedings* that are adapted to them; and
- 2° training *in communication* at all ages and situations of particular vulnerability.

Point 5, ‘multidisciplinary approach’ means:

- 1° *close co-operation* between different professionals in order to obtain comprehensive understanding of the child as well as assessment *on legal, psychological, social, emotional, physical and cognitive situations*; and
- 2° A common assessment framework should be established for professionals (such as lawyers, psychologists, physicians, police, immigration officers, social workers, and mediators) enabling them to best serve children’s interest in a given case.

Where interpreters and translators are not explicitly mentioned, it is clear that they are included in the general reference to ‘all concerned professionals’.

<sup>228</sup> Juvenile Justice Observatory “towards a European strategy in juvenile Justice”, Draft Guidelines of the Committee of Ministers of the Council of Europe on “child friendly justice”, Strasbourg 30 June 2010, p. 33–47.

In the crucial Directive on the right to interpretation and translation in criminal proceedings<sup>229</sup> (in adult and child cases), training for interpreting/translation is not explicitly provided, but implied in Article 2/8, 3/9 and 5 where ‘*sufficient quality*’ of interpretation and translation is required in order to guarantee a fair procedure, and in Article 2/5 where a complaint must be made when the quality of interpretation/translation is not sufficient. In Article 6, Member States are asked to organise training on communication with interpreters for legal practitioners (judges, prosecutors and the judicial staff in courts).

In the victims Directive<sup>230</sup> (that covers adult and child victims), Article 25/1,2,3 provides for general and specialised training for police and court staff, judges and prosecutors, and lawyers, on the ‘*needs of victims*’.

In the Preamble nr. 61, very detailed information mentions that this training includes:

- *all officials involved in personal contact with victims, including victim support- and restorative justice services;*
- *initial and ongoing training;*
- *the ability to identify the needs of the victims in a respectful, sensitive and non-discriminatory way;*
- *victims with special needs and psychological needs;*
- *and training should be complemented by guidelines, recommendations, and the exchange of best practices with the Budapest roadmap.*

In the ‘access to a lawyer Directive’<sup>231</sup> (for adult and child suspects) the Preamble nr. 12 includes the rules of the above mentioned interpretation and translation Directive.

In the proposal for a Directive<sup>232</sup> on procedural safeguards for children, Article 19 confirms the need for professional specialisation for judicial and law enforcement and prison staff authorities, lawyers and restorative justice services.

---

<sup>229</sup> Directive 2010/64/EU of the European Parliament and Council of 20 October 2010.

<sup>230</sup> Directive 2012/29/EU of the European Parliament and Council on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

<sup>231</sup> Directive of the European Parliament and Council on the right of access to a lawyer in criminal procedures and on the right to communicate on arrest”, COM 2011 326 final, 2011/0154 COD.

<sup>232</sup> Proposal for a Directive <sup>[8]</sup>of the European Parliament and Council on procedural safeguards for children suspected or accused in criminal proceedings, COM 2013 822/2.

They must receive particular training on: *children's rights, appropriate interviewing techniques, child psychology, and communication in a language adapted to the pedagogical skills of children.*

Let us hope that this Directive will soon become the final one, including the important articles about multidisciplinary training.

In the 2013/0409 (COD) Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European Arrest Warrant proceedings {SWD(2013) 476 final}{SWD(2013) 477 final}{SWD(2013) 499 final}, we read that special attention has to be paid to the different levels of quality of the legal aid lawyers in the member states.

The European Bar authorities agree and stress the importance of training, through the comments of The Council of Bars and Law Societies of Europe (CCBE) on 4 April 14.

CCBE comments on the Explanatory Memorandum nr. 27:

*to this effect, Member States should set in place procedure or mechanisms for example duty lawyer schemes or emergency defence services, allowing intervention with short notice at police stations or detention centres, so that the right to provisional legal aid and access to a lawyer without undue delay after deprivation of liberty and before any questioning becomes practicable and effective. We stress the importance of the word 'effective' as we believe, for example, that that a scheme of duty lawyers who are inadequately trained and poorly resourced would not in our contention be effective.*

And CCBE Comments on the Articles:

*Article 3.d 'lawyer' means any person who in accordance with national law was qualified and entitled including by means of accreditation by an authorised body to provide legal advice and assistance to suspects or accused persons. We stress the fact that where a lawyer is assigned under a duty scheme, rather than chosen by a suspect there must be sufficient quality controls to ensure that they are adequately and currently trained.*

Indeed, it is clear that lawyers too need practice and training, as do all other actors in the field, working with (adults or) children in criminal procedures, including practice and training aimed at working with interpreters and translators, if needed.

A final vote on this proposal could lead to the overall training and specialisation of lawyers working with children in criminal procedures if the amendment for a new Article 4b is to be adopted, with inter alia Article 4b.lit.a:

*‘to ensure that systems ensuring quality of legal aid lawyers are put in place or maintained, in particular a system of accreditation for legal aid lawyers.’*

#### 4.5.1.3. *The scope of the appropriate training*

Training has to be organised as outlined in the various Directives: for and with all professionals working with children in the legal context, as *initial and ongoing* training, on *legal, psychological, social, emotional, physical and cognitive situations*, and on *communication skills* with children. This training has to be organised on a multidisciplinary basis, to guarantee the *quality of all professionals*.

When seeking to identify good practices, we can certainly look back to the very first changes in the field of defending children, in the Flemish Bar. The OVB (the Association of Flemish Bars) took the initiative to provide for youth lawyers, in cooperation with the university, a programme of eighty hours of courses in legal and as paralegal disciplines. In 2005, this training became reality. In addition to theory, a day of practical communication training is included with, for example, role-plays under professional guidance. The trainer, Prof. Dr Peter Adriaensen and his team, are even able to refuse training and the qualification of ‘youth lawyer’, when the candidate lawyer gives no guarantees on the communication level. This training has been qualified as ‘good practice’ and as an example for Europe, by the European Commission in 2010.<sup>233</sup>

Elements of this eighty-hour course could be a useful starting point for training for other professionals, or could be organised for and with all professionals together. The role-plays could work with the interpreters, psychologists and legal practitioners following courses together. In the OVB course, 9 lessons contain legal items, 9 lessons focus on psychological and social items, 2 items communication with children, and 1 item (partially) interpreting and translating.<sup>234</sup>

---

<sup>233</sup> Guidelines on child friendly justice and explanatory memorandum, p. 69, *Adopted by the Committee of Ministers on 17 November 2010, at the 1098th meeting of the Ministers’ Deputies. Guidelines and Explanatory Memorandum – version edited 31 May 2011.*

<sup>234</sup> For the full programme (in Dutch) see: [www.advocaat.be/pv/Course\\_Detail.asp?1=1&cid=45728](http://www.advocaat.be/pv/Course_Detail.asp?1=1&cid=45728).

#### 4.5.1.4. Conclusion

Legal practitioners and interpreters, psychologists and social workers must find out how quality of legal procedures for children can be realised in Europe, through specialised training and communication courses, including on interpreting services.

Our needs:

- 1° quality training through theoretical presentations on working with interpreters and interpreters needs, organised at the same moment and together with judges, prosecutors, lawyers, social assistants and interpreters, on children's rights, needs and procedures;
- 2° quality training through practical introductions and role plays with interpreters, in the pre-trial settings, in cooperation with lawyers, judges (police officer, prosecutor, social worker...), minor (potentially played by actors) suspects/victims or witnesses.

#### 4.5.2. PSYCHOLOGIST'S PERSPECTIVE

In order to unpack the psychologist's point of view and the contribution of psychology to joint training, may we first raise the following question: how do psychology and the psychologist fit into this subject field at all, what is their relevance?

The odd character of psychology's place in public comprehension and attitudes is clearly reflected in Paul Valery's quotation, which says that *'the purpose of psychology is to give us a completely different idea of the things we know best'*. Psychology, to put it simply, is the study of the mind and behaviour. The psychologist, therefore, is a 'human expert'; a specialist who, leaving behind the armchair philosophy from where he or she originally came, observes and interprets human individuals on the basis of his or her education and experience; his or her theoretical and practical understanding of the matter. Scrutiny in psychology is an attempt to understand and explain perceptions, thoughts, emotions, motivations and conducts; to understand ourselves and the people around us. That is, however, an ancient enough activity, what all we do, all day long and in every situation, whether this is conscious or not. It is something which is elementary and indispensable in order to survive, since we try to understand and predict the behaviour of the important others around us, as well as to justify and give an account for our deeds and behaviour. Therefore, we all are everyday psychologists, practitioners employing the so-called naive psychology; we are all 'naive experts' qualified by life. But if it is true, do we

need specialist professionals to explain matters and the state of affairs from a psychological point of view?

There are two hazards, two extreme ends of the scale. One is when we professionalise the obvious, apparent and open-and-shut life-events, infantilising and paralysing people, and making them uncertain, insecure and, in a way, intimidated in 'practising' their life, i.e. in acting naturally according their plain and simple feelings and sentiments. The other tempting mistake that can be made is quite the opposite: to ignore and disregard the evidence-based facts of the available knowledge, thinking that the common sense and native wit we have will be enough to understand and solve the problem.

Speaking about the psychologist's point of view and competency regarding training for interpreter-mediated communication with minors, there are two topics we have to clarify. The first is the relevance of the psychological knowledge – facts, information, skills – in this area, and second, the arguments supporting the need for joint, multidisciplinary training (versus conventional education and separate or disjoint training for each profession participating in the process, respectively).

#### 4.5.2.1. *So why is psychology relevant?*

First, it is relevant because we are speaking about *children*. A child is a young human being below the age of puberty or the legal age of majority, and not a small adult; children are tiny, but not 'goofy'. They function differently from adults; moreover, their capacity, their characteristics are distinct even from each other in the different developmental phases of childhood. Therefore, at least a basic level of knowledge about these developmental phases, and also about the relevant special characteristics of children, is required in order to work with them properly.

Secondly, psychology is relevant as children are *vulnerable*: vulnerable *per se*, just because they are children. Being a child means a state characterised by the lack of ability, influence or power compared to an adult. This is true, in general, and it is even truer in the context of a *legal process* that is utterly unknown and unfamiliar to the child. In addition, in our case, the children we deal with are even more vulnerable, since during the legal process *they cannot use their own language*. If they are not offenders, but rather are the *victims or the witnesses* of the crime in question, there is an enhanced vulnerability, as undergoing all the experiences they were subjected to means a great *possibility of being traumatised*. So, for the professionals participating in the procedure, it is necessary to have information about vulnerability, traumata and traumatisation, as well as basic knowledge about handling vulnerable and/or traumatised people.



Last, but not least, the activity we are speaking about is *communication*. Once again it can be said that we all communicate, furthermore, for lawyers, and especially for interpreters, communication is a fundamental instrument of their job, so why should we need a ‘specialist’ or an expert to explain anything regarding this?

First, communication is not only verbal; moreover, the great majority, 65–75%, of the communication or information transmitted is passed through a *nonverbal channel* or through *meta-communication*. What is more, the *decoding* of the meta-communication on the part of the recipient is partly *not conscious*: although we are not aware of it, we detect it and respond to this communication.

Secondly, *children’s communication* as well as their behaviour in a situation of communication are again *different* from adults’ and could involve different types of strategies for the professional participants in the criminal procedure. Communication is precisely the very process, the precise situation where the challenge and incapacity arising from the age factor come into force.

And thirdly, communication involves not only the content and the channel of the message but the *situational features* as well. Questions of proximity, and the arrangement or setting in the room in general are important problems here. The answer to the problems of how close we should be to each other and in what order, what there should be in the room where the pre-trial procedure is taking place, and what should not, etc. are not necessarily obvious and self-evident.

#### 4.5.2.2. *Why joint training?*

What is the advantage of a disjoint training course run for a homogenous group, i.e. for people from the same profession? Clearly it is simpler in terms of knowledge. The members of the group share the basic professional knowledge; they have similar information, skills and professional experiences. So, in planning a training programme, we can build on this common theoretical and/or practical understanding of the subject and it is not necessary to go back to the basics.

So what about *joint training*, a format in which participants are recruited directly from different but, for the purpose of the training, related professional backgrounds?

To give an answer, let us first take a short look at *training in general*. Training is a special, methodologically complex form of education, a practice-oriented knowledge transfer and a complex learning process, in which participants acquire not only information, but also skills, in a group setting, and they do this mainly through their own experiences. Training takes place in small groups of 8–16 members, ideally through continuous interactions between the trainer

and the group members (as well as between the group members themselves) and, therefore, there is continuous feedback for the participants. There may be short presentations by the trainer during the training, but, in trainings, mainly different playing, typically role-playing and situational playing exercises are used. Compared with the conventional, so called ‘frontal’ education or lecture, where there is an active agent who transfers the knowledge (‘teacher’) and several passive recipients who listen in order to gain the information (‘students’), some advantages of the training can be mentioned:

- it is *interactive* – participants learn about themselves (and about small group processes in general) through their interaction with each other, and they can learn not only from the trainer but from each other;
- they use feedback, problem solving, and role play to gain *insights* into themselves, others, and groups;
- they have opportunity to *express opinions*, add ideas, and *ask questions*;
- training creates opportunities for *more people* to practise skills or apply knowledge at the same time;
- learning is more *dynamic* and *active*;
- training groups encourage participants to know each other better, breaking down barriers and creating a more positive learning atmosphere;
- *self-experience* is a powerful instrument for acquiring necessary skills.

The basic assumption is that the professionals have the specific or professional knowledge necessary to practise their job in general, but they lack the knowledge and especially the skills necessary to work properly and correctly in situations such as interpreter-mediated communication with children, and to solve all the problems and meet all the challenges that are an inherent part of these situations. What they really need, besides gaining special information from the other professional areas, is mainly to learn how to cooperate and work together, and to understand the tasks and problems of the other professionals participating in this procedure. Taking part in joint training may be of excellent use for this purpose and contribute to a valuable exchange of knowledge and understanding between the different professional participants. According to the saying attributed to Albert Einstein: “*The only source of knowledge is experience. Everything else is just information.*” From the psychologist’s point of view, training as a self-experience based form of learning in general, and joint training as a model situation of cooperation, mutual understanding and respect in particular could be an optimal solution and a real source for gaining this knowledge.

### 4.5.3. INTERPRETER'S PERSPECTIVE

The exploratory phase of the Co-Minor-in/Quest project confirmed that training for the legal and medical professions are at least recommended in most member states, as it is in the United States, pursuant to the UN Convention on the Rights of the Child<sup>235</sup> and the Guidelines for Action on Children in the Criminal-Justice System<sup>236</sup>, developed for its implementation.

Any particular reference to children with insufficient or no command of the language of the court at all seems to be mostly missing. It is, therefore, not astonishing that neither a specific training of interpreters, nor the indispensable interaction between interviewers and interpreters, is mentioned as an issue.

The answers of professionals interviewed about the necessity of and expectations concerning interpreters' specific training show the latent misunderstandings towards the said profession. To illustrate this situation briefly, let us introduce two short quotes: the first one by a judge and the second one, by a forensic paediatrician.

Judge Jean-Pierre Rosenczveig about training:

'Yes, but what kind of training? Legal interpreters should gain knowledge of the legal world in general. It can be referred to as "training", "awareness courses" or whatever...'<sup>237</sup>

The expectations of the forensic paediatrician, Dr Caroline Rey-Salmon,<sup>238</sup> should be added:

'I think it would be a good idea to add courses to the training in schools of translation and interpreting, to improve their knowledge regarding how they should work with doctors like us. It would also be interesting to organise conferences in medical schools or for the experts, so that they could understand the work, the status and the training of the interpreter better, as well as understand how an interpreter gets in touch with someone he has never seen before, what tools he uses to build confidence between him and the minor and what advice the interpreters could give. That would allow us to know each other better, to know our ethics, experiences, and trainings.'

<sup>235</sup> Convention on the Rights of the Child (1989) New York; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (1985).

<sup>236</sup> Guidelines for Action on Children in the Criminal Justice System (1987), Vienna.

<sup>237</sup> Interview with Jean Pierre Rosenczveig, Président du Tribunal pour Enfant de Bobigny, *interview 31 January 2013*.

<sup>238</sup> Interview with Dr Caroline Rey-Salmon head of the Emergency Forensic Medical Service at the Hôtel-Dieu, Paris. *Interview 31 January 2013*.

In several cases encountered during the exploratory phase of the project, the professionals interviewing minors had to be prompted to consider the importance of trained interpreters assisting them in their task. This is comparable to the general lack of awareness about the damage caused by unqualified legal interpreters in criminal proceedings. Some of these professionals often assume that the interpreting profession has a structure similar to their own, with compulsory standardised studies, which would more or less involve preparation for even specialised interpreting tasks. Others simply think that the command of two languages, even approximately, suffices for working as an interpreter. Both approaches are equally detrimental, especially for dealing with minors and vulnerable persons.

Joint-training appeared, therefore, to the project participants, to be the best way of bridging the gaps between professionals working together in the framework of juvenile justice.

– **What are the benefits to be expected of a joint training?**

Knowing each other's discipline better will foster an efficient interaction between the professional groups, thus avoiding false expectations.

Understanding the objectives of the potential interviewers (police officer, judge, lawyer, psychologists, etc.) will induce higher quality interpreting and understanding the competences and professional ethics of interpreters will allow the users to rely on them and better focus on their own objectives.

– **Target groups**

The groups targeted by such training are professionals interacting in minors' interviews in the framework of criminal proceedings, such as: members of the police and legal profession, psychologists, forensic paediatricians, child support workers and, of course, legal interpreters.

Nevertheless, the following caveats are to be considered when planning joint training modules:

The starting points of the professionals involved are heterogenous. On the one hand, lawyers, police officers, psychologists, and physicians belong to regulated professions, based on fixed curricula, whereas, on the other hand, the interpreting profession, unfortunately, remains unregulated. Even after the

transposition of the EU Directive 2010/64<sup>239</sup> into the legislation of member states, there is still no guarantee of precise qualification profiles in all member states. For joint-training to be beneficial, the interpreters' group must be carefully selected. A pragmatic approach should make sure that potential participants comply with the criteria defined in the *Report of the Reflection Forum on Multilingualism and Interpreter training*.<sup>240</sup>

Required competences<sup>241</sup>

- language proficiency;
- knowledge of the relevant countries and cultures;
- knowledge of the legal systems;
- interpreting skills (dialogue, consecutive, simultaneous, sight translation);
- awareness, integration and application of the professional Code of Conduct and the Guidelines to Good Practice.

Two different formats for joint training can be suggested. The ideal would be to integrate such modules into standard curricula, for example, in Masters programmes in interpreting at university level.

In urgent circumstances, requiring greater flexibility, further training modules (CPD) could be organised by universities, professional associations or other institutions.

Some ten-hour modules should be sufficient for a first general approach, aimed at qualified professionals.

– **Recommended trainer profiles**

Senior members of the respective professions, with practical experience in interviewing children and adolescents, would also jointly determine the relevant training themes, according to participants' profiles and possible special circumstances.

<sup>239</sup> EU, Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

<sup>240</sup> Reflection Forum on Multilingualism and Interpreter Training: Final Report. [PDF] (2009). Available from: [www.eulita.eu/sites/default/files/Reflection%20Forum%20Final%20Report.pdf](http://www.eulita.eu/sites/default/files/Reflection%20Forum%20Final%20Report.pdf).

<sup>241</sup> Reflection Forum Final Report p. 10.

- **Suggested module's structure<sup>242</sup> based on experience of similar projects**

The proposed joint training module should consist of two parts:

- in separate groups (for at least three hours): introduction about the respective professions presented by a senior representative of each profession. Example: the representative of the interpreting profession jointly addresses the legal professionals and the group of forensic psychologists, explaining how to find suitable interpreters, their status, interpreting techniques, professional ethics, etc.;
- in Joint workshops: bilingual role plays should take place, illustrating, in depth, a typical case and specific aspects of different cases (i.e. different interviewing approaches according to the age, gender or social background of the minor as a victim or a suspect, etc). The roles of minors should be played by participants, briefed accordingly by the psychologist trainer.

The participants should be awarded a certificate to confirm their attendance on the training modules.

For greater efficiency, it would be extremely useful to put into practice the theoretical results of the Co-Minor-IN/QUEST project by starting and assessing a few pilot training modules focusing on subjects with special relevance in the respective participating countries.

The common key issues identified by all three professionals are the following:

- everybody prefers joint training, including the following aspects: legal perspective, psychological and developmental perspective, communicative perspective;
- heterogeneous group to facilitate the opportunity to learn from each other;
- special attention should be devoted to multilingual settings with minors;
- importance of cooperation and teamwork to create a common understanding of each other's professional role;
- role plays are an indispensable part of the joint training.

<sup>242</sup> Similar module structures were applied in 2011 and 2012 with great satisfaction at the Magdeburg University of Applied Sciences for the joint training of police officers and interpreting students. Since 2011 Joint training modules of the kind take place yearly also at the Institut de Management et Communication Interculturelle (ISIT) in Paris for young lawyers and interpreter students.

# ANNEXES





# ANNEX 1

## DIRECTIVE 2012/29/EU

14.11.2012

EN

Official Journal of the European Union

L 315/57

### DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2012

establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

(1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice, the cornerstone of which is the mutual recognition of judicial decisions in civil and criminal matters.

(2) The Union is committed to the protection of, and to the establishment of minimum standards in regard to, victims of crime and the Council has adopted Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings <sup>(4)</sup>. Under the Stockholm Programme – An open and secure Europe serving and protecting citizens <sup>(5)</sup>, adopted by the European Council at its meeting on 10 and 11 December 2009, the Commission and the Member States were asked to examine how to improve legislation and practical support measures for the protection of victims, with particular attention paid to, support for and recognition of, all victims, including for victims of terrorism, as a priority.

<sup>(1)</sup> OJ C 43, 15.2.2012, p. 39.

<sup>(2)</sup> OJ C 113, 18.4.2012, p. 56.

<sup>(3)</sup> Position of the European Parliament of 12 September 2012 (not yet published in the Official Journal) and decision of the Council of 4 October 2012.

<sup>(4)</sup> OJ L 82, 22.3.2001, p. 1.

<sup>(5)</sup> OJ C 115, 4.5.2010, p. 1.

(3) Article 82(2) of the Treaty on the Functioning of the European Union (TFEU) provides for the establishment of minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, in particular with regard to the rights of victims of crime.

(4) In its resolution of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings <sup>(6)</sup> (‘the Budapest roadmap’), the Council stated that action should be taken at Union level in order to strengthen the rights of, support for, and protection of victims of crime. To that end and in accordance with that resolution, this Directive aims to revise and supplement the principles set out in Framework Decision 2001/220/JHA and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings.

(5) The resolution of the European Parliament of 26 November 2009 on the elimination of violence against women <sup>(7)</sup> called on the Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women, not least by employing preventive measures, and called on the Union to guarantee the right to assistance and support for all victims of violence.

(6) In its resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women <sup>(8)</sup> the European Parliament proposed a strategy to combat violence against women, domestic violence and female genital mutilation as a basis for future legislative criminal-law instruments against gender-based violence including a framework to fight violence against women (policy, prevention, protection, prosecution, provision and partnership) to be followed up by a Union action plan. International regulation within this area includes the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted on 18 December 1979, the CEDAW Committee’s recommendations and decisions, and the Council of Europe Convention on preventing and combating violence against women and domestic violence adopted on 7 April 2011.

<sup>(7)</sup> OJ C 187, 28.6.2011, p. 1.

<sup>(8)</sup> OJ C 285 E, 21.10.2010, p. 53.

<sup>(9)</sup> OJ C 296 E, 2.10.2012, p. 26.

- (7) Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order<sup>(1)</sup> establishes a mechanism for the mutual recognition of protection measures in criminal matters between Member States. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims<sup>(2)</sup> and Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography<sup>(3)</sup> address, inter alia, the specific needs of the particular categories of victims of human trafficking, child sexual abuse, sexual exploitation and child pornography.
- (8) Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism<sup>(4)</sup> recognises that terrorism constitutes one of the most serious violations of the principles on which the Union is based, including the principle of democracy, and confirms that it constitutes, inter alia, a threat to the free exercise of human rights.
- (9) Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health. In all contacts with a competent authority operating within the context of criminal proceedings, and any service coming into contact with victims, such as victim support or restorative justice services, the personal situation and immediate needs, age, gender, possible disability and maturity of victims of crime should be taken into account while fully respecting their physical, mental and moral integrity. Victims of crime should be protected from secondary and repeat victimisation, from intimidation and from retaliation, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice.
- (10) This Directive does not address the conditions of the residence of victims of crime in the territory of the Member States. Member States should take the necessary measures to ensure that the rights set out in this Directive are not made conditional on the victim's residence status in their territory or on the victim's citizenship or nationality. Reporting a crime and participating in criminal proceedings do not create any rights regarding the residence status of the victim.
- (11) This Directive lays down minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection.
- (12) The rights set out in this Directive are without prejudice to the rights of the offender. The term 'offender' refers to a person who has been convicted of a crime. However, for the purposes of this Directive, it also refers to a suspected or accused person before any acknowledgement of guilt or conviction, and it is without prejudice to the presumption of innocence.
- (13) This Directive applies in relation to criminal offences committed in the Union and to criminal proceedings that take place in the Union. It confers rights on victims of extra-territorial offences only in relation to criminal proceedings that take place in the Union. Complaints made to competent authorities outside the Union, such as embassies, do not trigger the obligations set out in this Directive.
- (14) In applying this Directive, children's best interests must be a primary consideration, in accordance with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child adopted on 20 November 1989. Child victims should be considered and treated as the full bearers of rights set out in this Directive and should be entitled to exercise those rights in a manner that takes into account their capacity to form their own views.
- (15) In applying this Directive, Member States should ensure that victims with disabilities are able to benefit fully from the rights set out in this Directive, on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information.
- (16) Victims of terrorism have suffered attacks that are intended ultimately to harm society. They may therefore need special attention, support and protection due to the particular nature of the crime that has been committed against them. Victims of terrorism can be under significant public scrutiny and often need social recognition and respectful treatment by society. Member States should therefore take particular account of the needs of victims of terrorism, and should seek to protect their dignity and security.

<sup>(1)</sup> OJ L 338, 21.12.2011, p. 2.

<sup>(2)</sup> OJ L 101, 15.4.2011, p. 1.

<sup>(3)</sup> OJ L 335, 17.12.2011, p. 1.

<sup>(4)</sup> OJ L 164, 22.6.2002, p. 3.

- (17) Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence. It may result in physical, sexual, emotional or psychological harm, or economic loss, to the victim. Gender-based violence is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called 'honour crimes'. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.
- (18) Where violence is committed in a close relationship, it is committed by a person who is a current or former spouse, or partner or other family member of the victim, whether or not the offender shares or has shared the same household with the victim. Such violence could cover physical, sexual, psychological or economic violence and could result in physical, mental or emotional harm or economic loss. Violence in close relationships is a serious and often hidden social problem which could cause systematic psychological and physical trauma with severe consequences because the offender is a person whom the victim should be able to trust. Victims of violence in close relationships may therefore be in need of special protection measures. Women are affected disproportionately by this type of violence and the situation can be worse if the woman is dependent on the offender economically, socially or as regards her right to residence.
- (19) A person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them. It is possible that family members of victims are also harmed as a result of the crime. In particular, family members of a person whose death has been directly caused by a criminal offence could be harmed as a result of the crime. Such family members, who are indirect victims of the crime, should therefore also benefit from protection under this Directive. However, Member States should be able to establish procedures to limit the number of family members who can benefit from the rights set out in this Directive. In the case of a child, the child or, unless this is not in the best interests of the child, the holder of parental responsibility on behalf of the child, should be entitled to exercise the rights set out in this Directive. This Directive is without prejudice to any national administrative procedures required to establish that a person is a victim.
- (20) The role of victims in the criminal justice system and whether they can participate actively in criminal proceedings vary across Member States, depending on the national system, and is determined by one or more of the following criteria: whether the national system provides for a legal status as a party to criminal proceedings; whether the victim is under a legal requirement or is requested to participate actively in criminal proceedings, for example as a witness; and/or whether the victim has a legal entitlement under national law to participate actively in criminal proceedings and is seeking to do so, where the national system does not provide that victims have the legal status of a party to the criminal proceedings. Member States should determine which of those criteria apply to determine the scope of rights set out in this Directive where there are references to the role of the victim in the relevant criminal justice system.
- (21) Information and advice provided by competent authorities, victim support services and restorative justice services should, as far as possible, be given by means of a range of media and in a manner which can be understood by the victim. Such information and advice should be provided in simple and accessible language. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, age, maturity, intellectual and emotional capacity, literacy and any mental or physical impairment should be taken into account. Particular account should be taken of difficulties in understanding or communicating which may be due to a disability of some kind, such as hearing or speech impediments. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.
- (22) The moment when a complaint is made should, for the purposes of this Directive, be considered as falling within the context of the criminal proceedings. This should also include situations where authorities initiate criminal proceedings *ex officio* as a result of a criminal offence suffered by a victim.
- (23) Information about reimbursement of expenses should be provided, from the time of the first contact with a competent authority, for example in a leaflet stating the basic conditions for such reimbursement of expenses. Member States should not be required, at this early stage of the criminal proceedings, to decide on whether the victim concerned fulfils the conditions for reimbursement of expenses.

- (24) When reporting a crime, victims should receive a written acknowledgement of their complaint from the police, stating the basic elements of the crime, such as the type of crime, the time and place, and any damage or harm caused by the crime. This acknowledgement should include a file number and the time and place for reporting of the crime in order to serve as evidence that the crime has been reported, for example in relation to insurance claims.
- (25) Without prejudice to rules relating to limitation periods, the delayed reporting of a criminal offence due to fear of retaliation, humiliation or stigmatisation should not result in refusing acknowledgement of the victim's complaint.
- (26) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings. In this respect, information allowing the victim to know about the current status of any proceedings is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute. Unless otherwise required, it should be possible to provide the information communicated to the victim orally or in writing, including through electronic means.
- (27) Information to a victim should be provided to the last known correspondence address or electronic contact details given to the competent authority by the victim. In exceptional cases, for example due to the high number of victims involved in a case, it should be possible to provide information through the press, through an official website of the competent authority or through a similar communication channel.
- (28) Member States should not be obliged to provide information where disclosure of that information could affect the proper handling of a case or harm a given case or person, or if they consider it contrary to the essential interests of their security.
- (29) Competent authorities should ensure that victims receive updated contact details for communication about their case unless the victim has expressed a wish not to receive such information.
- (30) A reference to a 'decision' in the context of the right to information, interpretation and translation, should be understood only as a reference to the finding of guilt or otherwise ending criminal proceedings. The reasons for that decision should be provided to the victim through a copy of the document which contains that decision or through a brief summary of them.
- (31) The right to information about the time and place of a trial resulting from the complaint with regard to a criminal offence suffered by the victim should also apply to information about the time and place of a hearing related to an appeal of a judgment in the case.
- (32) Specific information about the release or the escape of the offender should be given to victims, upon request, at least in cases where there might be a danger or an identified risk of harm to the victims, unless there is an identified risk of harm to the offender which would result from the notification. Where there is an identified risk of harm to the offender which would result from the notification, the competent authority should take into account all other risks when determining an appropriate action. The reference to 'identified risk of harm to the victims' should cover such factors as the nature and severity of the crime and the risk of retaliation. Therefore, it should not be applied to those situations where minor offences were committed and thus where there is only a slight risk of harm to the victim.
- (33) Victims should receive information about any right to appeal of a decision to release the offender, if such a right exists in national law.
- (34) Justice cannot be effectively achieved unless victims can properly explain the circumstances of the crime and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure that victims are treated in a respectful manner and that they are able to access their rights. Interpretation should therefore be made available, free of charge, during questioning of the victim and in order to enable them to participate actively in court hearings, in accordance with the role of the victim in the relevant criminal justice system. For other aspects of criminal proceedings, the need for interpretation and translation can vary depending on specific issues, the role of the victim in the relevant criminal justice system and his or her involvement in proceedings and any specific rights they have. As such, interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.

- (35) The victim should have the right to challenge a decision finding that there is no need for interpretation or translation, in accordance with procedures in national law. That right does not entail the obligation for Member States to provide for a separate mechanism or complaint procedure in which such decision may be challenged and should not unreasonably prolong the criminal proceedings. An internal review of the decision in accordance with existing national procedures would suffice.
- (36) The fact that a victim speaks a language which is not widely spoken should not, in itself, be grounds to decide that interpretation or translation would unreasonably prolong the criminal proceedings.
- (37) Support should be available from the moment the competent authorities are aware of the victim and throughout criminal proceedings and for an appropriate time after such proceedings in accordance with the needs of the victim and the rights set out in this Directive. Support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services. Victims who have suffered considerable harm due to the severity of the crime could require specialist support services.
- (38) Persons who are particularly vulnerable or who find themselves in situations that expose them to a particularly high risk of harm, such as persons subjected to repeat violence in close relationships, victims of gender-based violence, or persons who fall victim to other types of crime in a Member State of which they are not nationals or residents, should be provided with specialist support and legal protection. Specialist support services should be based on an integrated and targeted approach which should, in particular, take into account the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, as well as the relationship between victims, offenders, children and their wider social environment. A main task of these services and their staff, which play an important role in supporting the victim to recover from and overcome potential harm or trauma as a result of a criminal offence, should be to inform victims about the rights set out in this Directive so that they can take decisions in a supportive environment that treats them with dignity, respect and sensitivity. The types of support that such specialist support services should offer could include providing shelter and safe accommodation, immediate medical support, referral to medical and forensic examination for evidence in cases of rape or sexual assault, short and long-term psychological counselling, trauma care, legal advice, advocacy and specific services for children as direct or indirect victims.
- (39) Victim support services are not required to provide extensive specialist and professional expertise themselves. If necessary, victim support services should assist victims in calling on existing professional support, such as psychologists.
- (40) Although the provision of support should not be dependent on victims making a complaint with regard to a criminal offence to a competent authority such as the police, such authorities are often best placed to inform victims of the possibility of support. Member States are therefore encouraged to establish appropriate conditions to enable the referral of victims to victim support services, including by ensuring that data protection requirements can be and are adhered to. Repeat referrals should be avoided.
- (41) The right of victims to be heard should be considered to have been fulfilled where victims are permitted to make statements or explanations in writing.
- (42) The right of child victims to be heard in criminal proceedings should not be precluded solely on the basis that the victim is a child or on the basis of that victim's age.
- (43) The right to a review of a decision not to prosecute should be understood as referring to decisions taken by prosecutors and investigative judges or law enforcement authorities such as police officers, but not to the decisions taken by courts. Any review of a decision not to prosecute should be carried out by a different person or authority to that which made the original decision, unless the initial decision not to prosecute was taken by the highest prosecuting authority, against whose decision no review can be made, in which case the review may be carried out by that same authority. The right to a review of a decision not to prosecute does not concern special procedures, such as proceedings against members of parliament or government, in relation to the exercise of their official position.

- (44) A decision ending criminal proceedings should include situations where a prosecutor decides to withdraw charges or discontinue proceedings.
- (45) A decision of the prosecutor resulting in an out-of-court settlement and thus ending criminal proceedings, excludes victims from the right to a review of a decision of the prosecutor not to prosecute, only if the settlement imposes a warning or an obligation.
- (46) Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim, but require safeguards to prevent secondary and repeat victimisation, intimidation and retaliation. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as the nature and severity of the crime, the ensuing degree of trauma, the repeat violation of a victim's physical, sexual, or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process. Restorative justice processes should, in principle, be confidential, unless agreed otherwise by the parties, or as required by national law due to an overriding public interest. Factors such as threats made or any forms of violence committed during the process may be considered as requiring disclosure in the public interest.
- (47) Victims should not be expected to incur expenses in relation to their participation in criminal proceedings. Member States should be required to reimburse only necessary expenses of victims in relation to their participation in criminal proceedings and should not be required to reimburse victims' legal fees. Member States should be able to impose conditions in regard to the reimbursement of expenses in national law, such as time limits for claiming reimbursement, standard rates for subsistence and travel costs and maximum daily amounts for loss of earnings. The right to reimbursement of expenses in criminal proceedings should not arise in a situation where a victim makes a statement on a criminal offence. Expenses should only be covered to the extent that the victim is obliged or requested by the competent authorities to be present and actively participate in the criminal proceedings.
- (48) Recoverable property which is seized in criminal proceedings should be returned as soon as possible to the victim of the crime, subject to exceptional circumstances, such as in a dispute concerning the ownership or where the possession of the property or the property itself is illegal. The right to have property returned should be without prejudice to its legitimate retention for the purposes of other legal proceedings.
- (49) The right to a decision on compensation from the offender and the relevant applicable procedure should also apply to victims resident in a Member State other than the Member State where the criminal offence was committed.
- (50) The obligation set out in this Directive to transmit complaints should not affect Member States' competence to institute proceedings and is without prejudice to the rules of conflict relating to the exercise of jurisdiction, as laid down in Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings<sup>(1)</sup>.
- (51) If the victim has left the territory of the Member State where the criminal offence was committed, that Member State should no longer be obliged to provide assistance, support and protection except for what is directly related to any criminal proceedings it is conducting regarding the criminal offence concerned, such as special protection measures during court proceedings. The Member State of the victim's residence should provide assistance, support and protection required for the victim's need to recover.
- (52) Measures should be available to protect the safety and dignity of victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, such as interim injunctions or protection or restraining orders.

<sup>(1)</sup> OJ L 328, 15.12.2009, p. 42.

- (53) The risk of secondary and repeat victimisation, of intimidation and of retaliation by the offender or as a result of participation in criminal proceedings should be limited by carrying out proceedings in a coordinated and respectful manner, enabling victims to establish trust in authorities. Interaction with competent authorities should be as easy as possible whilst limiting the number of unnecessary interactions the victim has with them through, for example, video recording of interviews and allowing its use in court proceedings. As wide a range of measures as possible should be made available to practitioners to prevent distress to the victim during court proceedings in particular as a result of visual contact with the offender, his or her family, associates or members of the public. To that end, Member States should be encouraged to introduce, especially in relation to court buildings and police stations, feasible and practical measures enabling the facilities to include amenities such as separate entrances and waiting areas for victims. In addition, Member States should, to the extent possible, plan the criminal proceedings so that contacts between victims and their family members and offenders are avoided, such as by summoning victims and offenders to hearings at different times.
- (54) Protecting the privacy of the victim can be an important means of preventing secondary and repeat victimisation, intimidation and retaliation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim. Such protection is particularly important for child victims, and includes non-disclosure of the name of the child. However, there might be cases where, exceptionally, the child can benefit from the disclosure or even widespread publication of information, for example where a child has been abducted. Measures to protect the privacy and images of victims and of their family members should always be consistent with the right to a fair trial and freedom of expression, as recognised in Articles 6 and 10, respectively, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- (55) Some victims are particularly at risk of secondary and repeat victimisation, of intimidation and of retaliation by the offender during criminal proceedings. It is possible that such a risk derives from the personal characteristics of the victim or the type, nature or circumstances of the crime. Only through individual assessments, carried out at the earliest opportunity, can such a risk be effectively identified. Such assessments should be carried out for all victims to determine whether they are at risk of secondary and repeat victimisation, of intimidation and of retaliation and what special protection measures they require.
- (56) Individual assessments should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim's residence is in a high crime or gang dominated area, or whether the victim's country of origin is not the Member State where the crime was committed.
- (57) Victims of human trafficking, terrorism, organised crime, violence in close relationships, sexual violence or exploitation, gender-based violence, hate crime, and victims with disabilities and child victims tend to experience a high rate of secondary and repeat victimisation, of intimidation and of retaliation. Particular care should be taken when assessing whether such victims are at risk of such victimisation, intimidation and of retaliation and there should be a strong presumption that those victims will benefit from special protection measures.
- (58) Victims who have been identified as vulnerable to secondary and repeat victimisation, to intimidation and to retaliation should be offered appropriate measures to protect them during criminal proceedings. The exact nature of such measures should be determined through the individual assessment, taking into account the wish of the victim. The extent of any such measure should be determined without prejudice to the rights of the defence and in accordance with rules of judicial discretion. The victims' concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.
- (59) Immediate operational needs and constraints may make it impossible to ensure, for example, that the same police officer consistently interview the victim; illness, maternity or parental leave are examples of such constraints. Furthermore, premises specially designed for interviews with victims may not be available due, for example, to renovation. In the event of such operational or practical constraints, a special measure envisaged following an individual assessment may not be possible to provide on a case-by-case basis.

- (60) Where, in accordance with this Directive, a guardian or a representative is to be appointed for a child, those roles could be performed by the same person or by a legal person, an institution or an authority.
- (61) Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services. This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate. Where relevant, such training should be gender sensitive. Member States' actions on training should be complemented by guidelines, recommendations and exchange of best practices in accordance with the Budapest roadmap.
- (62) Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime. For victims of crime to receive the proper degree of assistance, support and protection, public services should work in a coordinated manner and should be involved at all administrative levels — at Union level, and at national, regional and local level. Victims should be assisted in finding and addressing the competent authorities in order to avoid repeat referrals. Member States should consider developing 'sole points of access' or 'one-stop shops', that address victims' multiple needs when involved in criminal proceedings, including the need to receive information, assistance, support, protection and compensation.
- (63) In order to encourage and facilitate reporting of crimes and to allow victims to break the cycle of repeat victimisation, it is essential that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, sensitive, professional and non-discriminatory manner. This could increase victims' confidence in the criminal justice systems of Member States and reduce the number of unreported crimes. Practitioners who are likely to receive complaints from victims with regard to criminal offences should be appropriately trained to facilitate reporting of crimes, and measures should be put in place to enable third-party reporting, including by civil society organisations. It should be possible to make use of communication technology, such as e-mail, video recordings or online electronic forms for making complaints.
- (64) Systematic and adequate statistical data collection is recognised as an essential component of effective policymaking in the field of rights set out in this Directive. In order to facilitate evaluation of the application of this Directive, Member States should communicate to the Commission relevant statistical data related to the application of national procedures on victims of crime, including at least the number and type of the reported crimes and, as far as such data are known and are available, the number and age and gender of the victims. Relevant statistical data can include data recorded by the judicial authorities and by law enforcement agencies and, as far as possible, administrative data compiled by healthcare and social welfare services and by public and non-governmental victim support or restorative justice services and other organisations working with victims of crime. Judicial data can include information about reported crime, the number of cases that are investigated and persons prosecuted and sentenced. Service-based administrative data can include, as far as possible, data on how victims are using services provided by government agencies and public and private support organisations, such as the number of referrals by police to victim support services, the number of victims that request, receive or do not receive support or restorative justice.
- (65) This Directive aims to amend and expand the provisions of Framework Decision 2001/220/JHA. Since the amendments to be made are substantial in number and nature, that Framework Decision should, in the interests of clarity, be replaced in its entirety in relation to Member States participating in the adoption of this Directive.



- (66) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, it seeks to promote the right to dignity, life, physical and mental integrity, liberty and security, respect for private and family life, the right to property, the principle of non-discrimination, the principle of equality between women and men, the rights of the child, the elderly and persons with disabilities, and the right to a fair trial.
- (67) Since the objective of this Directive, namely to establish minimum standards on the rights, support and protection of victims of crime, cannot be sufficiently achieved by the Member States, and can therefore, by reason of its scale and potential effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (68) Personal data processed when implementing this Directive should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters <sup>(1)</sup> and in accordance with the principles laid down in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which all Member States have ratified.
- (69) This Directive does not affect more far reaching provisions contained in other Union acts which address the specific needs of particular categories of victims, such as victims of human trafficking and victims of child sexual abuse, sexual exploitation and child pornography, in a more targeted manner.
- (70) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the TEU and to the TFEU, those Member States have notified their wish to take part in the adoption and application of this Directive.
- (71) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (72) The European Data Protection Supervisor delivered an opinion on 17 October 2011 <sup>(2)</sup> based on Article 41(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(3)</sup>.

HAVE ADOPTED THIS DIRECTIVE:

#### CHAPTER 1

#### GENERAL PROVISIONS

##### Article 1

##### Objectives

1. The purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.

Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings. The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status.

2. Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.

##### Article 2

##### Definitions

1. For the purposes of this Directive the following definitions shall apply:

(a) 'victim' means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;

<sup>(1)</sup> OJ L 350, 30.12.2008, p. 60.

<sup>(2)</sup> OJ C 35, 9.2.2012, p. 10.

<sup>(3)</sup> OJ L 8, 12.1.2001, p. 1.

- (b) 'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;
  - (c) 'child' means any person below 18 years of age;
  - (d) 'restorative justice' means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.
2. Member States may establish procedures:
- (a) to limit the number of family members who may benefit from the rights set out in this Directive taking into account the individual circumstances of each case; and
  - (b) in relation to paragraph (1)(a)(ii), to determine which family members have priority in relation to the exercise of the rights set out in this Directive.

CHAPTER 2

PROVISION OF INFORMATION AND SUPPORT

Article 3

**Right to understand and to be understood**

1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.
  2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.
  3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.
- (a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
  - (b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;
  - (c) how and under what conditions they can obtain protection, including protection measures;
  - (d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
  - (e) how and under what conditions they can access compensation;
  - (f) how and under what conditions they are entitled to interpretation and translation;
  - (g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;
  - (h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;
  - (i) the contact details for communications about their case;
  - (j) the available restorative justice services;
  - (k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.

Article 4

**Right to receive information from the first contact with a competent authority**

1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:
2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

*Article 5***Right of victims when making a complaint**

1. Member States shall ensure that victims receive written acknowledgement of their formal complaint made by them to the competent authority of a Member State, stating the basic elements of the criminal offence concerned.

2. Member States shall ensure that victims who wish to make a complaint with regard to a criminal offence and who do not understand or speak the language of the competent authority be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance.

3. Member States shall ensure that victims who do not understand or speak the language of the competent authority, receive translation, free of charge, of the written acknowledgement of their complaint provided for in paragraph 1, if they so request, in a language that they understand.

*Article 6***Right to receive information about their case**

1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information:

- (a) any decision not to proceed with or to end an investigation or not to prosecute the offender;
- (b) the time and place of the trial, and the nature of the charges against the offender.

2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information:

- (a) any final judgment in a trial;
- (b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.

3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.

5. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.

6. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.

*Article 7***Right to interpretation and translation**

1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge, at least during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.

2. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings.

3. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request, with translations of information essential to the exercise of their rights in criminal proceedings in a language that they understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. Member States shall ensure that victims who are entitled to information about the time and place of the trial in accordance with Article 6(1)(b) and who do not understand the language of the competent authority, are provided with a translation of the information to which they are entitled, upon request.

5. Victims may submit a reasoned request to consider a document as essential. There shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling victims to actively participate in the criminal proceedings.

6. Notwithstanding paragraphs 1 and 3, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

7. Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law.

8. Interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation under this Article shall not unreasonably prolong the criminal proceedings.

*Article 8*

**Right to access victim support services**

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.

3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.

5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

*Article 9*

**Support from victim support services**

1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide:

- (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- (b) information about or direct referral to any relevant specialist support services in place;
- (c) emotional and, where available, psychological support;
- (d) advice relating to financial and practical issues arising from the crime;
- (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

2. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.

3. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide:

- (a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;
- (b) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling.

#### CHAPTER 3

#### PARTICIPATION IN CRIMINAL PROCEEDINGS

##### Article 10

##### Right to be heard

1. Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity.
2. The procedural rules under which victims may be heard during criminal proceedings and may provide evidence shall be determined by national law.

##### Article 11

##### Rights in the event of a decision not to prosecute

1. Member States shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.
2. Where, in accordance with national law, the role of the victim in the relevant criminal justice system will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.
3. Member States shall ensure that victims are notified without unnecessary delay of their right to receive, and that they receive sufficient information to decide whether to request a review of any decision not to prosecute upon request.
4. Where the decision not to prosecute is taken by the highest prosecuting authority against whose decision no review may be carried out under national law, the review may be carried out by the same authority.

5. Paragraphs 1, 3 and 4 shall not apply to a decision of the prosecutor not to prosecute, if such a decision results in an out-of-court settlement, in so far as national law makes such provision.

##### Article 12

##### Right to safeguards in the context of restorative justice services

1. Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:

- (a) the restorative justice services are used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time;
- (b) before agreeing to participate in the restorative justice process, the victim is provided with full and unbiased information about that process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;
- (c) the offender has acknowledged the basic facts of the case;
- (d) any agreement is arrived at voluntarily and may be taken into account in any further criminal proceedings;
- (e) discussions in restorative justice processes that are not conducted in public are confidential and are not subsequently disclosed, except with the agreement of the parties or as required by national law due to an overriding public interest.

2. Member States shall facilitate the referral of cases, as appropriate to restorative justice services, including through the establishment of procedures or guidelines on the conditions for such referral.

##### Article 13

##### Right to legal aid

Member States shall ensure that victims have access to legal aid, where they have the status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid shall be determined by national law.

## Article 14

**Right to reimbursement of expenses**

Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.

## Article 15

**Right to the return of property**

Member States shall ensure that, following a decision by a competent authority, recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings. The conditions or procedural rules under which such property is returned to the victims shall be determined by national law.

## Article 16

**Right to decision on compensation from the offender in the course of criminal proceedings**

1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.

2. Member States shall promote measures to encourage offenders to provide adequate compensation to victims.

## Article 17

**Rights of victims resident in another Member State**

1. Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position:

- (a) to take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority;
- (b) to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 <sup>(1)</sup> for the purpose of hearing victims who are resident abroad.

<sup>(1)</sup> OJ C 197, 12.7.2000, p. 3.

2. Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.

3. Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.

## CHAPTER 4

**PROTECTION OF VICTIMS AND RECOGNITION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS**

## Article 18

**Right to protection**

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

## Article 19

**Right to avoid contact between victim and offender**

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.

2. Member States shall ensure that new court premises have separate waiting areas for victims.

## Article 20

**Right to protection of victims during criminal investigations**

Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- (a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
- (b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;

- (c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary;
- (d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

#### Article 21

##### Right to protection of privacy

1. Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.
2. In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures.

#### Article 22

##### Individual assessment of victims to identify specific protection needs

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
2. The individual assessment shall, in particular, take into account:
  - (a) the personal characteristics of the victim;
  - (b) the type or nature of the crime; and
  - (c) the circumstances of the crime.
3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their

personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.

4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.
5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.
6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.
7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

#### Article 23

##### Right to protection of victims with specific protection needs during criminal proceedings

1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in Article 22(1), may benefit from the measures provided for in paragraphs 2 and 3 of this Article. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.
2. The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 22(1):
  - (a) interviews with the victim being carried out in premises designed or adapted for that purpose;
  - (b) interviews with the victim being carried out by or through professionals trained for that purpose;

- (c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice;
  - (d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.
3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings:
- (a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
  - (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
  - (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
  - (d) measures allowing a hearing to take place without the presence of the public.

*Article 24*

**Right to protection of child victims during criminal proceedings**

1. In addition to the measures provided for in Article 23, Member States shall ensure that where the victim is a child:
- (a) in criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings;
  - (b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;
  - (c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be,

a conflict of interest between the child victim and the holders of parental responsibility.

The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.

2. Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.

CHAPTER 5

OTHER PROVISIONS

*Article 25*

**Training of practitioners**

1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.
2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.
3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.
4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.
5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.



*Article 26***Cooperation and coordination of services**

1. Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation shall be aimed at least at:

- (a) the exchange of best practices;
- (b) consultation in individual cases; and
- (c) assistance to European networks working on matters directly relevant to victims' rights.

2. Member States shall take appropriate action, including through the internet, aimed at raising awareness of the rights set out in this Directive, reducing the risk of victimisation, and minimising the negative impact of crime and the risks of secondary and repeat victimisation, of intimidation and of retaliation, in particular by targeting groups at risk such as children, victims of gender-based violence and violence in close relationships. Such action may include information and awareness raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders.

## CHAPTER 6

## FINAL PROVISIONS

*Article 27***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 November 2015.

2. When Member States adopt those provisions they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

*Article 28***Provision of data and statistics**

Member States shall, by 16 November 2017 and every three years thereafter, communicate to the Commission available data

showing how victims have accessed the rights set out in this Directive.

*Article 29***Report**

The Commission shall, by 16 November 2017, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, including a description of action taken under Articles 8, 9 and 23, accompanied, if necessary, by legislative proposals.

*Article 30***Replacement of Framework Decision 2001/220/JHA**

Framework Decision 2001/220/JHA is hereby replaced in relation to Member States participating in the adoption of this Directive, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law.

In relation to Member States participating in the adoption of this Directive, references to that Framework Decision shall be construed as references to this Directive.

*Article 31***Entry into force**

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

*Article 32***Addressees**

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg, 25 October 2012.

For the European Parliament  
The President  
M. SCHULZ

For the Council  
The President  
A. D. MAVROYIANNIS



# ANNEX 2

## CO-MINOR-IN/QUEST SURVEY (INTERPRETERS: SPOKEN LANGUAGE)

Please select the language of the survey in the upper right corner.

Gelieve de gewenste taal te selecteren in de rechterbovenhoek.

Si prega di selezionare la lingua in cui si desidera compilare il questionario.

Kérjük, válasszon nyelvet a jobb oldali listából.

Veuillez choisir la langue du questionnaire en haut à droite.

This survey is part of the CO-Minor-IN/QUEST project which is an interdisciplinary project funded by the EU (DG Justice - JUST/JPEN/AG/2961). This project seeks to improve the interpreter-mediated questioning of minors. For the purpose of this study, the term 'minor' means a young person under the age of 18. The project focuses on victims, suspects and witnesses in criminal justice settings.

This survey is a first step in taking stock of the present situation. We invite everybody involved in interpreter-mediated communication with minors in a criminal justice context to share their expertise.

The results of this questionnaire will be used only for research purposes and your responses will be treated anonymously. Filling in this questionnaire should not take you more than 10 minutes.

Please indicate the country you work in.

- Belgium
- France
- Hungary
- Ireland
- Italy
- Netherlands
- United Kingdom
- Other

Please indicate the region(s) you work in.

Please select your area of work.

- Interpreting
- Justice and policing
- Psychology
- Other

*If you work both as a sign language interpreter (sign/spoken language) and a spoken language interpreter (between 2 spoken languages), please complete the questionnaire as a sign language interpreter first of all. Then, if you also wish to express your views as a spoken language interpreter, you can complete the survey a second time from that perspective.*

Are you?

- A spoken language interpreter
- A sign language interpreter

What is your job title?

How long have you worked with minors in this professional field?

- Less than 1 year
- 1-3 years
- 4-9 years
- 10 years or more

#### TRAINING

Have you received any specific education or training to work with minors?

- Yes
- No

How long was this training?

Have you received training in any of the following?  
Please tick all those which apply.

- Interpreting in legal contexts
- Intercultural awareness
- Consecutive interpreting
- Simultaneous interpreting (with equipment or in the booth)
- Sight translation
- Chuchotage (whispered interpreting)
- Note taking
- Other
- None of these

#### EXPERIENCE

Approximately how many times have you worked with minors in the last 3 years?

- 0
- 1-4
- 5-20
- 21-40
- over 40

What was the age range of the minors you worked with during this period?  
Please tick all those which apply.

- 0-3 years
- 4-6 years
- 7-10 years
- 11-14 years
- 15-18 years

Which types of criminal cases were involved?

- Sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism)
- Offences against the person (e.g. physical assault, homicide)
- Drug related offences (e.g. drug trafficking)
- Offences against property (e.g. burglary, theft of a motor vehicle, robbery)
- Child abuse and neglect
- Public order offences (e.g. riot, affray)
- Status offences (e.g. violating curfew, alcohol consumption)
- Other

#### MAIN CHALLENGES

When interpreting during an encounter with a minor in legal settings, what are the main challenges which arise?  
Please tick all those which apply.

Please explain.

- Working with the child
- Working with the other professionals
- Handling the interpreting process
- Other

#### BEFORE THE INTERVIEW

Do you receive a briefing before interpreting with minors?

- Always
- Often
- Sometimes
- Never

How?

- Access to documentation
- Face to face
- By telephone
- Other

**DURING THE INTERVIEW**

Do you follow any guidelines or codes of practice for interpreting for minors?

Yes

No

Please specify:

In your view, what is the interpreter's function when working with minors?

	Completely disagree	Disagree	Neither agree nor disagree	Agree	Completely agree
1. The interpreter supports the minor (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The interpreter supports the interviewer's purposes (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The interpreter interprets literally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The interpreter interprets faithfully.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The interpreter takes the initiative to explain social-cultural differences.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The interpreter takes the initiative to explain technical terminology.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The interpreter takes the initiative to adjust the language to the level of the minor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The interpreter takes the initiative to put the minor at ease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The interpreter takes the initiative to keep the communication flowing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The interpreter gives his/her opinion on the case.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you wish to further explain one or some of your choices in the table above, please use the following box:

Have you ever asked to be replaced during an encounter?

Yes

No

Why?

Please tick all those which apply.

Emotionally difficult case

Personal trauma in your own past

Conflict of interest

Other

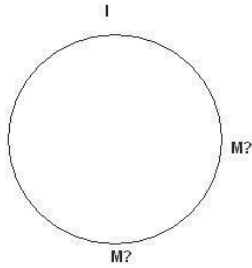
In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.

I = interviewer

Please click on both squares until they change colour to indicate the best position for the minor.

Green (v) = the best position

Red (x) = position that is not recommended



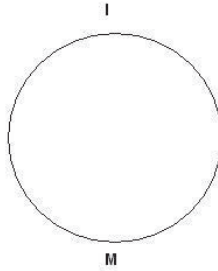
If in your country the standard position of the main participants differs, please explain in the box below:



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

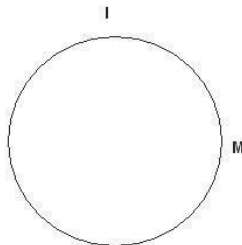
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

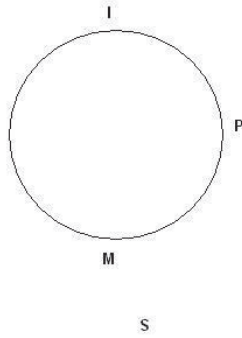
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

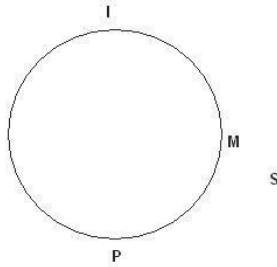
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

Please click on the best position for the interpreter.



**AFTER THE INTERVIEW**

Do you get the opportunity for a de-briefing?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

Do you have access to any counselling support after traumatic cases?

- Always
- Often
- Sometimes
- Never

Would you find this useful?

- Yes
- No

What form should it take?

What do you personally think is needed to improve interpreter-mediated encounters with minors?

To set your responses in context, we would be grateful if you could complete the following information.

What is your first, strongest language (mother tongue)?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

What are the language combinations you use as an interpreter?  
(e.g. from French to English)

Annex 2. CO-Minor-IN/QUEST survey (interpreters: spoken language)

Please list the relevant professional associations you are a member of.

What is your highest level of academic qualification?

- Secondary school
- Undergraduate degree
- Masters degree (or equivalent taught post-graduate course)
- Doctorate
- Other

Are you: (optional)

- Male
- Female

What is your age? (optional)

- 18-22
- 23-29
- 30-40
- 41-54
- 55-65
- 65+

Thank you for your cooperation.

Please ensure you click on the 'next' button, otherwise none of your answers will be recorded.

If you would like to contribute further to this study or if you want to follow the progress of the study, please go to <http://www.arts.kuleuven.be/home/tolkwetenschap/co-minor-in-quest>  
For further information, please contact [heidi.salaets@arts.kuleuven.be](mailto:heidi.salaets@arts.kuleuven.be)



# ANNEX 3

## CO-MINOR-IN/QUEST SURVEY (INTERPRETERS: SIGNED LANGUAGE)

Please select the language of the survey in the upper right corner.

Gelieve de gewenste taal te selecteren in de rechterbovenhoek.

Si prega di selezionare la lingua in cui si desidera compilare il questionario.

Kérjük, válasszon nyelvet a jobb oldali listából.

Veuillez choisir la langue du questionnaire en haut à droite.

This survey is part of the CO-Minor-IN/QUEST project which is an interdisciplinary project funded by the EU (DG Justice - JUST/JPEN/AG/2961). This project seeks to improve the interpreter-mediated questioning of minors. For the purpose of this study, the term 'minor' means a young person under the age of 18. The project focuses on victims, suspects and witnesses in criminal justice settings.

This survey is a first step in taking stock of the present situation. We invite everybody involved in interpreter-mediated communication with minors in a criminal justice context to share their expertise.

The results of this questionnaire will be used only for research purposes and your responses will be treated anonymously. Filling in this questionnaire should not take you more than 10 minutes.

Please indicate the country you work in.

Belgium

France

Hungary

Ireland

Italy

Netherlands

United Kingdom

Other

Please indicate the region(s) you work in.

Please select your area of work.

- Interpreting
- Justice and policing
- Psychology
- Other

*If you work both as a sign language interpreter (sign/spoken language) and a spoken language interpreter (between 2 spoken languages), please complete the questionnaire as a sign language interpreter first of all. Then, if you also wish to express your views as a spoken language interpreter, you can complete the survey a second time from that perspective.*

Are you?

- A spoken language interpreter
- A sign language interpreter

What is your job title?

How long have you worked with minors in this professional field?

- Less than 1 year
- 1-3 years
- 4-9 years
- 10 years or more

#### TRAINING

Have you received any specific education or training to work with minors?

- Yes
- No

How long was this training?



Have you received training in any of the following?  
Please tick all those which apply.

- Interpreting in legal contexts
- Intercultural awareness
- Consecutive interpreting
- Simultaneous interpreting (with equipment or in the booth)
- Sight translation
- Chuchotage (whispered interpreting)
- Note taking
- Other
- None of these

#### EXPERIENCE

Approximately how many times have you worked with minors in the last 3 years?

- 0
- 1-4
- 5-20
- 21-40
- over 40

What was the age range of the minors you worked with during this period?  
Please tick all those which apply.

- 0-3 years
- 4-6 years
- 7-10 years
- 11-14 years
- 15-18 years

Which types of criminal cases were involved?

- Sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism)
- Offences against the person (e.g. physical assault, homicide)
- Drug related offences (e.g. drug trafficking)
- Offences against property (e.g. burglary, theft of a motor vehicle, robbery)
- Child abuse and neglect
- Public order offences (e.g. riot, affray)
- Status offences (e.g. violating curfew, alcohol consumption)
- Other

#### MAIN CHALLENGES

When interpreting during an encounter with a minor in legal settings, what are the main challenges which arise?  
Please tick all those which apply.

Please explain.

- Working with the child
- Working with the other professionals
- Handling the interpreting process
- Other

#### BEFORE THE INTERVIEW

Do you receive a briefing before interpreting with minors?

- Always
- Often
- Sometimes
- Never

How?

- Access to documentation
- Face to face
- By telephone
- Other

**DURING THE INTERVIEW**

Do you follow any guidelines or codes of practice for interpreting for minors?

Yes

No

Please specify:

In your view, what is the interpreter's function when working with minors?

	Completely disagree	Disagree	Neither agree nor disagree	Agree	Completely agree
1. The interpreter supports the minor (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The interpreter supports the interviewer's purposes (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The interpreter interprets literally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The interpreter interprets faithfully.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The interpreter takes the initiative to explain social-cultural differences.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The interpreter takes the initiative to explain technical terminology.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The interpreter takes the initiative to adjust the language to the level of the minor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The interpreter takes the initiative to put the minor at ease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The interpreter takes the initiative to keep the communication flowing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The interpreter gives his/her opinion on the case.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you wish to further explain one or some of your choices in the table above, please use the following box:

Have you ever asked to be replaced during an encounter?

Yes

No

Why?

Please tick all those which apply.

Emotionally difficult case

Personal trauma in your own past

Conflict of interest

Other

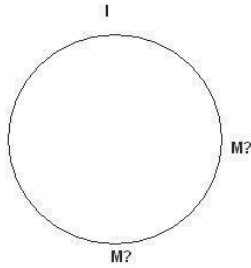
In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.

I = interviewer

Please click on both squares until they change colour to indicate the best position for the minor.

Green (v) = the best position

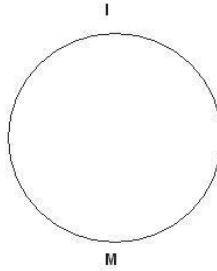
Red (x) = position that is not recommended



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

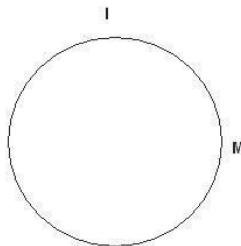
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

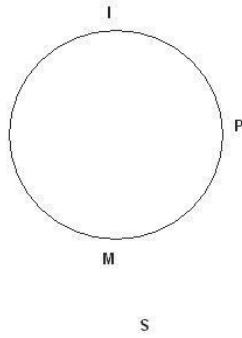
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

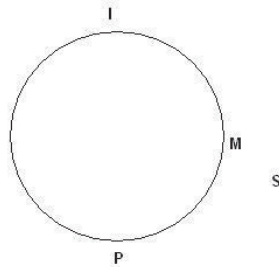
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

Please click on the best position for the interpreter.



If in your country the standard position of the main participants differs, please explain in the box below:

#### AFTER THE INTERVIEW

Do you get the opportunity for a de-briefing?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

Do you have access to any counselling support after traumatic cases?

- Always
- Often
- Sometimes
- Never

Would you find this useful?

- Yes
- No

What form should it take?

What do you personally think is needed to improve interpreter-mediated encounters with minors?

To set your responses in context, we would be grateful if you could complete the following information.

What is your first, strongest language (mother tongue)?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other



Annex 3. CO-Minor-IN/QUEST survey (interpreters: signed language)

What are the language combinations you use as an interpreter?  
(e.g. from French to English)

Please list the relevant professional associations you are a member of.

What is your highest level of academic qualification?

- Secondary school
- Undergraduate degree
- Masters degree (or equivalent taught post-graduate course)
- Doctorate
- Other

Are you: (optional)

- Male
- Female

What is your age? (optional)

- 18-22
- 23-29
- 30-40
- 41-54
- 55-65
- 65+

Thank you for your cooperation.

Please ensure you click on the 'next' button, otherwise none of your answers will be recorded.

If you would like to contribute further to this study or if you want to follow the progress of the study, please go to <http://www.arts.kuleuven.be/home/tolkwetenschap/co-minor-in-quest>  
For further information, please contact [heidi.salaets@arts.kuleuven.be](mailto:heidi.salaets@arts.kuleuven.be)



# ANNEX 4

## CO-MINOR-IN/QUEST SURVEY (JUSTICE AND POLICING)

Please select the language of the survey in the upper right corner.

Gelieve de gewenste taal te selecteren in de rechterbovenhoek.

Si prega di selezionare la lingua in cui si desidera compilare il questionario.

Kérjük, válasszon nyelvet a jobb oldali listából.

Veillez choisir la langue du questionnaire en haut à droite.

This survey is part of the CO-Minor-IN/QUEST project which is an interdisciplinary project funded by the EU (DG Justice - JUST/JPEN/AG/2961). This project seeks to improve the interpreter-mediated questioning of minors. For the purpose of this study, the term 'minor' means a young person under the age of 18. The project focuses on victims, suspects and witnesses in criminal justice settings.

This survey is a first step in taking stock of the present situation. We invite everybody involved in interpreter-mediated communication with minors in a criminal justice context to share their expertise.

The results of this questionnaire will be used only for research purposes and your responses will be treated anonymously. Filling in this questionnaire should not take you more than 10 minutes.

Please indicate the country you work in.

Belgium

France

Hungary

Ireland

Italy

Netherlands

United Kingdom

Other

Please indicate the region(s) you work in.

Please select your area of work.

- Interpreting
  - Justice and policing
  - Psychology
  - Other
- 

What is your job title?

How long have you worked with minors in this professional field?

- Less than 1 year
- 1-3 years
- 4-9 years
- 10 years or more

#### TRAINING

Have you received any specific education or training to work with minors?

- Yes
- No

How long was this training?

Have you received any training related to working with interpreters?

- Yes
- No

Please indicate what kind of training.

**EXPERIENCE**

Approximately how many times have you worked with minors in the last 3 years?

- 0
- 1-4
- 5-20
- 21-40
- over 40

What was the age range of the minors you worked with during this period?  
Please tick all those which apply.

- 0-3 years
- 4-6 years
- 7-10 years
- 11-14 years
- 15-18 years

Which types of criminal cases were involved?

- Sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism)
- Offences against the person (e.g. physical assault, homicide)
- Drug related offences (e.g. drug trafficking)
- Offences against property (e.g. burglary, theft of a motor vehicle, robbery)
- Child abuse and neglect
- Public order offences (e.g. riot, affray)
- Status offences (e.g. violating curfew, alcohol consumption)
- Other

Do you have experience with interpreter-mediated encounters with minors?

- Yes
- No

**MAIN CHALLENGES**

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the child:

- Disturbed state (anxiety, frustration, distress, etc.) which prevents cooperation
- Insufficient cooperation with the interpreter
- Emotional attachment to the interpreter
- Other

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the interpreting:

- Lack of neutrality
- Poor understanding of interview techniques
- Insufficient cooperation
- Other

**BEFORE THE INTERVIEW**

Do you brief the interpreter before the encounter with minors?

- Always
- Often
- Sometimes
- Never

How?

- Access to documentation
- Face to face
- By telephone
- Other

**DURING THE INTERVIEW**

Do you follow any guidelines or codes of practice for working through interpreters?

- Yes
- No

Annex 4. CO-Minor-IN/QUEST survey (justice and policing)

Please specify:

In your view, what special characteristics are required from an interpreter when working with minors?

- None
- Same gender as the minor
- Previous experience in working with minors
- Previous experience in the same case
- Sworn interpreter
- Other

In your view, what is the interpreter's function when working with minors?

	Completely disagree	Disagree	Neither agree nor disagree	Agree	Completely agree
1. The interpreter supports the minor (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The interpreter supports the interviewer's purposes (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The interpreter interprets literally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The interpreter interprets faithfully.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The interpreter takes the initiative to explain social-cultural differences.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The interpreter takes the initiative to explain technical terminology.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The interpreter takes the initiative to adjust the language to the level of the minor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The interpreter takes the initiative to put the minor at ease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The interpreter takes the initiative to keep the communication flowing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The interpreter gives his/her opinion on the case.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you wish to further explain one or some of your choices in the table above, please use the following box:

Have you ever replaced the interpreter during an encounter?

Yes

No

Why?

Please tick all those which apply.

Conflict of interest

Insufficient cooperation

Poor language skills

Unprofessional behaviour

Other

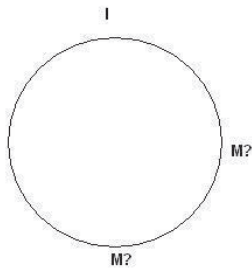
In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.

I = interviewer

Please click on both squares until they change colour to indicate the best position for the minor.

Green (v) = the best position

Red (x) = position that is not recommended

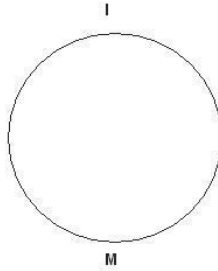




In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

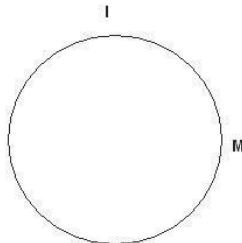
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

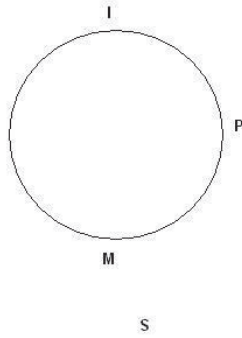
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

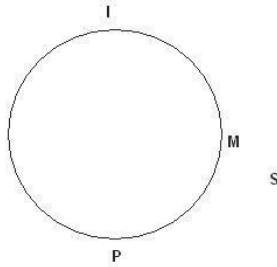
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

Please click on the best position for the interpreter.



If in your country the standard position of the main participants differs, please explain in the box below:

#### AFTER THE INTERVIEW

Do you have a de-briefing with the interpreter?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

Do you offer the interpreter access to any counselling support after traumatic cases?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

What do you personally think is needed to improve interpreter-mediated encounters with minors?

To set your responses in context, we would be grateful if you could complete the following information.

What is your first, strongest language (mother tongue)?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

Which languages do you conduct interviews in?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

Please list the relevant professional associations you are a member of.

What is your highest level of academic qualification?

- Secondary school
- Undergraduate degree
- Masters degree (or equivalent taught post-graduate course)
- Doctorate
- Other

Are you: (optional)

- Male
- Female

What is your age? (optional)

- 18-22
- 23-29
- 30-40
- 41-54
- 55-65
- 65+

Thank you for your cooperation.

Please ensure you click on the 'next' button, otherwise none of your answers will be recorded.

If you would like to contribute further to this study or if you want to follow the progress of the study, please go to <http://www.arts.kuleuven.be/home/tolkwetenschap/co-minor-in-quest>  
For further information, please contact [heidi.salaets@arts.kuleuven.be](mailto:heidi.salaets@arts.kuleuven.be)



# ANNEX 5

## CO-MINOR-IN/QUEST SURVEY (PSYCHOLOGISTS)

Please select the language of the survey in the upper right corner.

Gelieve de gewenste taal te selecteren in de rechterbovenhoek.

Si prega di selezionare la lingua in cui si desidera compilare il questionario.

Kérjük, válasszon nyelvet a jobb oldali listából.

Veillez choisir la langue du questionnaire en haut à droite.

This survey is part of the CO-Minor-IN/QUEST project which is an interdisciplinary project funded by the EU (DG Justice - JUST/JPEN/AG/2961). This project seeks to improve the interpreter-mediated questioning of minors. For the purpose of this study, the term 'minor' means a young person under the age of 18. The project focuses on victims, suspects and witnesses in criminal justice settings.

This survey is a first step in taking stock of the present situation. We invite everybody involved in interpreter-mediated communication with minors in a criminal justice context to share their expertise.

The results of this questionnaire will be used only for research purposes and your responses will be treated anonymously. Filling in this questionnaire should not take you more than 10 minutes.

Please indicate the country you work in.

Belgium

France

Hungary

Ireland

Italy

Netherlands

United Kingdom

Other

Please indicate the region(s) you work in.

Please select your area of work.

- Interpreting
- Justice and policing
- Psychology
- Other

What is your job title?

How long have you worked with minors in this professional field?

- Less than 1 year
- 1-3 years
- 4-9 years
- 10 years or more

#### TRAINING

Have you received any specific education or training to work with minors?

- Yes
- No

How long was this training?

Have you received any training related to working with interpreters?

- Yes
- No

Did you receive on the job training?

- Yes
- No



**EXPERIENCE**

Approximately how many times have you worked with minors in the last 3 years?

- 0
- 1-4
- 5-20
- 21-40
- over 40

What was the age range of the minors you worked with during this period?

Please tick all those which apply.

- 0-3 years
- 4-6 years
- 7-10 years
- 11-14 years
- 15-18 years

Which types of criminal cases were involved?

- Sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism)
- Offences against the person (e.g. physical assault, homicide)
- Drug related offences (e.g. drug trafficking)
- Offences against property (e.g. burglary, theft of a motor vehicle, robbery)
- Child abuse and neglect
- Public order offences (e.g. riot, affray)
- Status offences (e.g. violating curfew, alcohol consumption)
- Other

Do you have experience with interpreter-mediated encounters with minors?

- Yes
- No

**MAIN CHALLENGES**

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the child:

- Disturbed state (anxiety, frustration, distress, etc.) which prevents cooperation
- Insufficient cooperation with the interpreter
- Emotional attachment to the interpreter
- Other

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the interpreting:

- Lack of neutrality
- Poor understanding of interview techniques
- Insufficient cooperation
- Other

**BEFORE THE INTERVIEW**

Do you brief the interpreter before the encounter with minors?

- Always
- Often
- Sometimes
- Never

How?

- Access to documentation
- Face to face
- By telephone
- Other

**DURING THE INTERVIEW**

Do you follow any guidelines or codes of practice for working through interpreters?

- Yes
- No

Please specify:

In your view, what special characteristics are required from an interpreter when working with minors?

- None
- Same gender as the minor
- Previous experience in working with minors
- Previous experience in the same case
- Sworn interpreter
- Other

In your view, what is the interpreter's function when working with minors?

	Completely disagree	Disagree	Neither agree nor disagree	Agree	Completely agree
1. The interpreter supports the minor (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The interpreter supports the interviewer's purposes (through his/her interpretation and initiative).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The interpreter interprets literally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The interpreter interprets faithfully.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The interpreter takes the initiative to explain social-cultural differences.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The interpreter takes the initiative to explain technical terminology.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The interpreter takes the initiative to adjust the language to the level of the minor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The interpreter takes the initiative to put the minor at ease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The interpreter takes the initiative to keep the communication flowing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The interpreter gives his/her opinion on the case.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you wish to further explain one or some of your choices in the table above, please use the following box:

Have you ever replaced the interpreter during an encounter?

Yes

No

Why?

Please tick all those which apply.

Conflict of interest

Insufficient cooperation

Poor language skills

Unprofessional behaviour

Other

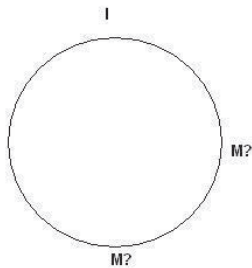
In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.

I = interviewer

Please click on both squares until they change colour to indicate the best position for the minor.

Green (v) = the best position

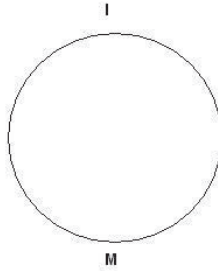
Red (x) = position that is not recommended



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

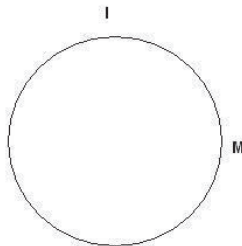
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

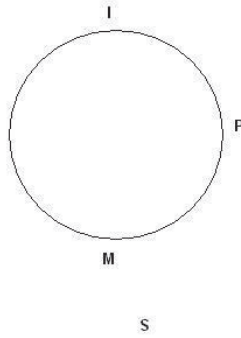
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

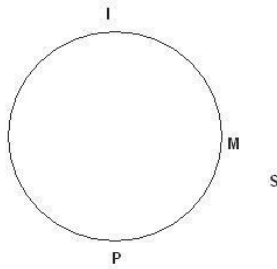
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

Please click on the best position for the interpreter.



If in your country the standard position of the main participants differs, please explain in the box below:

#### AFTER THE INTERVIEW

Do you have a de-briefing with the interpreter?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

Do you offer the interpreter access to any counselling support after traumatic cases?

- Always
- Often
- Sometimes
- Never

Would you find this useful?

- Yes
- No

What form should it take?

What do you personally think is needed to improve interpreter-mediated encounters with minors?

To set your responses in context, we would be grateful if you could complete the following information.

What is your first, strongest language (mother tongue)?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other



Which languages do you conduct interviews in?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

Please list the relevant professional associations you are a member of.

What is your highest level of academic qualification?

- Secondary school
- Undergraduate degree
- Masters degree (or equivalent taught post-graduate course)
- Doctorate
- Other

Are you: (optional)

- Male
- Female

What is your age? (optional)

- 18-22
- 23-29
- 30-40
- 41-54
- 55-65
- 65+

Thank you for your cooperation.

Please ensure you click on the 'next' button, otherwise none of your answers will be recorded.

If you would like to contribute further to this study or if you want to follow the progress of the study, please go to <http://www.arts.kuleuven.be/home/tolkwetenschap/co-minor-in-quest>  
For further information, please contact [heidi.salaets@arts.kuleuven.be](mailto:heidi.salaets@arts.kuleuven.be)



# ANNEX 6

## CO-MINOR-IN/QUEST SURVEY (OTHER PROFESSIONALS)

Please select the language of the survey in the upper right corner.

Gelieve de gewenste taal te selecteren in de rechterbovenhoek.

Si prega di selezionare la lingua in cui si desidera compilare il questionario.

Kérjük, válasszon nyelvet a jobb oldali listából.

Veuillez choisir la langue du questionnaire en haut à droite.

This survey is part of the CO-Minor-IN/QUEST project which is an interdisciplinary project funded by the EU (DG Justice - JUST/JPEN/AG/2961). This project seeks to improve the interpreter-mediated questioning of minors. For the purpose of this study, the term 'minor' means a young person under the age of 18. The project focuses on victims, suspects and witnesses in criminal justice settings.

This survey is a first step in taking stock of the present situation. We invite everybody involved in interpreter-mediated communication with minors in a criminal justice context to share their expertise.

The results of this questionnaire will be used only for research purposes and your responses will be treated anonymously. Filling in this questionnaire should not take you more than 10 minutes.

Please indicate the country you work in.

- Belgium
- France
- Hungary
- Ireland
- Italy
- Netherlands
- United Kingdom
- Other

Please indicate the region(s) you work in.

Please select your area of work.

- Interpreting
- Justice and policing
- Psychology
- Other

What is your job title?

How long have you worked with minors in this professional field?

- Less than 1 year
- 1-3 years
- 4-9 years
- 10 years or more

#### TRAINING

Have you received any specific education or training to work with minors?

- Yes
- No

How long was this training?

Have you received any training related to working with interpreters?

- Yes
- No

Please indicate what kind of training.

**EXPERIENCE**

Approximately how many times have you worked with minors in the last 3 years?

- 0
- 1-4
- 5-20
- 21-40
- over 40

What was the age range of the minors you worked with during this period?  
Please tick all those which apply.

- 0-3 years
- 4-6 years
- 7-10 years
- 11-14 years
- 15-18 years

Which types of criminal cases were involved?

- Sexual offences (e.g. rape, sexual assault; commercial sexual exploitation: prostitution, pornography, sex tourism)
- Offences against the person (e.g. physical assault, homicide)
- Drug related offences (e.g. drug trafficking)
- Offences against property (e.g. burglary, theft of a motor vehicle, robbery)
- Child abuse and neglect
- Public order offences (e.g. riot, affray)
- Status offences (e.g. violating curfew, alcohol consumption)
- Other

Do you have experience with interpreter-mediated encounters with minors?

- Yes
- No

**MAIN CHALLENGES**

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the child:

- Disturbed state (anxiety, frustration, distress, etc.) which prevents cooperation
- Insufficient cooperation with the interpreter
- Emotional attachment to the interpreter
- Other

When interacting with a minor in legal settings through an interpreter, what do you perceive to be the main challenge(s)? Please tick all those which apply.

With the interpreting:

- Lack of neutrality
- Poor understanding of interview techniques
- Insufficient cooperation
- Other

**BEFORE THE INTERVIEW**

Do you brief the interpreter before the encounter with minors?

- Always
- Often
- Sometimes
- Never

How?

- Access to documentation
- Face to face
- By telephone
- Other

**DURING THE INTERVIEW**

Do you follow any guidelines or codes of practice for working through interpreters?

- Yes
- No

Annex 6. CO-Minor-IN/QUEST survey (other professionals)

Please specify:

In your view, what special characteristics are required from an interpreter when working with minors?

- None
- Same gender as the minor
- Previous experience in working with minors
- Previous experience in the same case
- Sworn interpreter
- Other

In your view, what is the interpreter's function when working with minors?

	Completely disagree	Disagree	Neither agree nor disagree	Agree	Completely agree
1. The interpreter supports the minor (through his/her interpretation and initiative).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. The interpreter supports the interviewer's purposes (through his/her interpretation and initiative).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. The interpreter interprets literally.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. The interpreter interprets faithfully.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. The interpreter takes the initiative to explain social-cultural differences.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. The interpreter takes the initiative to explain technical terminology.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. The interpreter takes the initiative to adjust the language to the level of the minor.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. The interpreter takes the initiative to put the minor at ease.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9. The interpreter takes the initiative to keep the communication flowing.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. The interpreter gives his/her opinion on the case.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you wish to further explain one or some of your choices in the table above, please use the following box:

Have you ever replaced the interpreter during an encounter?

Yes

No

Why?

Please tick all those which apply.

Conflict of interest

Insufficient cooperation

Poor language skills

Unprofessional behaviour

Other

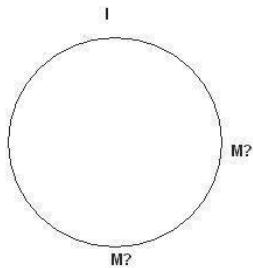
In the drawing below please indicate where the minor should normally be positioned in relation to the interviewer.

I = interviewer

Please click on both squares until they change colour to indicate the best position for the minor.

Green (v) = the best position

Red (x) = position that is not recommended

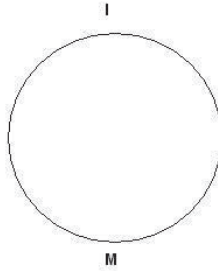




In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

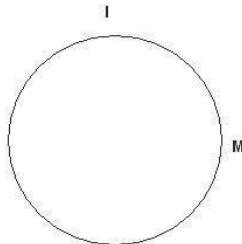
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants?

I = interviewer  
M = minor

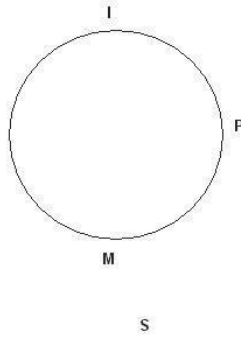
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

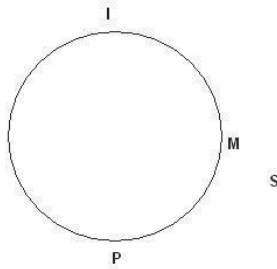
Please click on the best position for the interpreter.



In the drawing below please indicate where interpreters should ideally position themselves in relation to the main participants.

I = interviewer  
M = minor  
P = psychologist  
S = support person

Please click on the best position for the interpreter.



If in your country the standard position of the main participants differs, please explain in the box below:

#### AFTER THE INTERVIEW

Do you have a de-briefing with the interpreter?

- Always
- Often
- Sometimes
- Never

Would you find this useful?

- Yes
- No

What form should it take?

Do you offer the interpreter access to any counselling support after traumatic cases?

- Always
- Often
- Sometimes
- Never

What form does it take?

Do you find this useful?

- Yes
- No

What do you personally think is needed to improve interpreter-mediated encounters with minors?

To set your responses in context, we would be grateful if you could complete the following information.

What is your first, strongest language (mother tongue)?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

Which languages do you conduct interviews in?

- English
- Français
- Italiano
- Nederlands
- Magyar
- Other

Please list the relevant professional associations you are a member of.

What is your highest level of academic qualification?

- Secondary school
- Undergraduate degree
- Masters degree (or equivalent taught post-graduate course)
- Doctorate
- Other

Are you: (optional)

- Male
- Female

What is your age? (optional)

- 18-22
- 23-29
- 30-40
- 41-54
- 55-65
- 65+

Thank you for your cooperation.

Please ensure you click on the 'next' button, otherwise none of your answers will be recorded.

If you would like to contribute further to this study or if you want to follow the progress of the study, please go to <http://www.arts.kuleuven.be/home/tolkwetenschap/co-minor-in-quest>  
For further information, please contact [heidi.salaets@arts.kuleuven.be](mailto:heidi.salaets@arts.kuleuven.be)



# ANNEX 7

## MIND MAP: MAIN FACTORS OF HIGH VULNERABILITY AMONG CHILD INTERVIEWEES

