

Reflection Forum on Multilingualism and Interpreter Training

FINAL REPORT



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Ever since the idea was mooted that the Directorate General for Interpretation's long experience and expertise in conference interpreting could contribute to the improvement of training in other forms of interpretation, I felt that, apart from the challenge that the idea represented, we had the moral obligation to examine that possibility.

Under Commissioner Leonard Orban's guidance, heartened by his commitment and assured of the support of other Commission Departments active in this field, my services undertook fact-finding activities, which culminated in the proposal to set up a group of independent experts.

The Reflection Forum, representing the various stakeholders was subsequently created in June 2008, with a remit to draw up recommendations, in particular for training in the field of legal interpreting.

I am confident that the implementation of the Forum's recommendations will not only contribute significantly to the quality of legal interpretation across Europe, but will also have a positive impact on the attractiveness of the interpretation profession as a whole, which will ultimately benefit the conference interpretation services of the EU Institutions, by creating a larger pool of possible future high quality conference interpreters.

Therefore, I would like to extend a heartfelt thank you to all who have been involved in this exercise, in particular to the Forum members and the rapporteur, Professer Erik Hertog, for the quality of their work.

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INTRODUCTION

- 1. See Hertog and van Gucht, eds., 2008:189
- 2. Address by Commissioner Leonard Orban to the 11th SCIC-Universities Conference, 11 May 2007. http://ec.europa.eu/commission_barroso/orban/news/docs/speeches/070511_11th_SCIC_Universities_Conference_070511_11th_SCIC_Universities_Conference_en.pdf See

1. The need

As a result of enlargement and globalization, all Member States of the European Union now see an ever-growing movement of citizens. These people may be on holiday in a foreign country, studying or on a temporary job assignment, and occasionally they find themselves faced with legal problems in that country. They will then want to rely on a competent, quality legal interpreter to assist them in the proceedings. Similarly, immigration from outside the EU poses, and will continue to do so, even more complex language challenges.

The European Union has also come to realize the increased importance of the need for judicial cooperation and mutual recognition between Member States in order to guarantee security and justice in the EU, *inter alia* in the face of security risks or cross-border crime. However, such cooperation can only be effective if there is mutual confidence between the authorities of the Member States, and this ultimately rests on reliable communication channels and hence on reliable quality legal interpreting.

And, of course, there is the fundamental obligation of the Member States to safeguard citizens' rights and hence guarantee a fair trial, also across languages, as laid down in the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, and as developed in case law of the *European Court of Human Rights*.

Finally, inadequate low-calibre legal interpreting may put justice in jeopardy during police investigations or trial and post-trial proceedings. It may cost the system dearly in terms of money, time and quality of justice, whereas conversely the use of qualified legal interpreters will increase the efficiency of case progression, reduce ineffective trial hearings, avoid miscarriages of justice, and improve communication in out-of-court settings such as lawyer-client meetings or probation sessions, thus resulting in an overall more effective judicial process.

The conclusions from a recent survey on the provision of legal interpreting in the EU indicate that sufficient legal interpreting skills and structures are not yet in place in most Member States, though a process of development to do so is in progress across the EU, albeit still variable in coherence, quality and quantity . Whilst some Member States have already implemented examples of excellent practices, evidence suggests that others are still insufficiently prepared to deal with the inevitable language barriers and challenges in their legal systems. In these cases there are insufficient numbers of trained legal interpreters who meet, if at all, very different quality standards. There are no enforceable professional code of conduct, no reliable national register, no interdisciplinary guidelines for best practices in the legal services, no coherent comprehensive policy nor the budgetary means to ensure it.

Consequently, language still acts too often as a barrier for many citizens, members of ethnic minority groups or migrants, especially when they have to access the legal services across languages.

Therefore the need to provide all citizens, newcomers and immigrants in the EU who have to access justice across languages with quality legal interpreting is both a major ambition and challenge for the EU. This is why Mr Leonard Orban, European Commissioner for Multilingualism, recognizing this challenge and in agreement with Vice-President Barrot, responsible for Justice, Freedom and Security, took the initiative to ask a Reflection Forum to formulate recommendations on strategies to improve the quality of interpreting in the legal services, including immigration proceedings².

Moreover, better training and career opportunities for legal interpreters may create synergies with other forms of interpreting, such as interpreting in the medical and social services, and ensure a critical mass also for conference interpreting which can benefit the European Institutions, since they are faced with a lack of sufficiently qualified conference interpreters.

2. Recent developments

This report builds on the work of previous Commission initiatives in this area, such as the various *GROTIUS* and *AGIS* projects and the current *Criminal Justice* projects funded by the Directorate General for Justice, Freedom and Security, as well as on the great expertise in interpreting training and multilingual issues in the Directorate General for Interpretation.

3. Remit of the Reflection Forum

The Reflection Forum on Multilingualism and Interpreter Training was set up under the impetus of Mr Orban, taking into consideration point III.6 of the Commission's Communication *A new framework strategy for multilingualism* (COM(2005) 596 final): "... Interpreters also help the institutions of multilingual societies to function. They support immigrant communities in courts, hospitals, police and immigration services. Properly trained, interpreters thus contribute to safeguarding human and democratic rights."

The purpose of the Forum has been to provide independent recommendations to the Commissioner for Multilingualism on strategies to implement best practices and quality improvement in legal interpreting in the Member States.

The recommendations are limited to interpreting only as the work was carried out under the auspices of DG Interpretation. However, this should not exclude future similar initiatives on translation in the legal services.

The members of the Forum very much hope that these recommendations, which are concrete and practical, will have wide repercussions not only on the quality of the provision of legal interpreting in the Member States but also on training options that may ultimately benefit the European Institutions, as mentioned above.

PROFESSIONAL PROFILE OF THE LEGAL INTERPRETER

The Reflection Forum has opted for the term 'Legal Interpreter/Interpreting' because it is more inclusive than e.g. 'court interpreter', referring to one specific setting only, or 'sworn' interpreter, referring to one specific stage in the profession of the legal interpreter while, on the other hand, it is not as broad as e.g. 'Public Service Interpreter', which also covers other domains such as health or social services. However, legal interpreting does include interpreting in all settings in the legal services, from police and customs investigations, pre-trial hearings or lawyer-client meetings, to trials, post-trial procedures, immigration hearings, European Arrest Warrant proceedings, rogatory commissions, etc.

One must not assume that even when a per son masters both the languages to the level of complexity and accuracy required in the legal services, that this person can interpret. And a translator is not necessarily a good interpreter or vice versa!

A 'Legal Interpreter' is a trained, qualified professional providing interpreting to those involved in whatever capacity in a legal system whose language they do not speak, and who does so according to a professional code of conduct in the interest of justice and in full awareness of good working arrangements with the legal services and other legal professionals.

To carry out this important task requires a professional profile that is built on the following competences:

Language proficiency:

proficient language knowledge and skills in both the language of the legal system and the foreign language. The Common European Framework of Reference for Languages: Learning, Teaching, Assessment may provide a yardstick here. The Reflection Forum recommends that the highest levels (C1 and C2) be required of legal interpreters³.

Knowledge of the relevant countries and cultures.

Interpersonal skills and attitudes:

legal interpreters often deal with a great cultural and linguistic diversity of people, often in stressed and anxious circumstances, in difficult settings, thus requiring strongly founded communication and interpersonal skills.

Knowledge of the legal systems:

structures, procedures, legal professions, services, etc. General legal terminology and the specific terminology relevant to an assignment (e.g. family law, asylum, fraud, etc.).

Interpreting skills:

mastery of the various forms of interpreting (dialogue, consecutive, simultaneous, sight translation) and the appropriate supportive strategies (such as memory, note-taking, stress management, etc.).

Profound awareness, integration and application of the **Professional Code of Conduct** and the **Guidelines to Good Practice**.

Recommendation

The Reflection Forum recommends that the legal services and professionals recognize the professional profile of the legal interpreter.

^{3.} Common European Framework of Reference for Languages: Learning, Teaching, Assessment (2001) http://www.coe.int/T/DG4/Linguistic/CADRE_EN.asp and Hertog, ed. 2001: Chapter 2 for more information on language standards for legal interpreters.

II. TRAINING

The first and obvious thing to say is that training is required. It is not acceptable for family and friends (and especially not fellow prison inmates) to interpret. It is not suggested that every course should be exactly the same, but it is clear that a common core curriculum ensures that legal interpreters within the EU are prepared to deal with the same range of assignments. It also has the potential to allow legal interpreters to work in other Member States or take course modules in the country of one of their languages. Common standards in training will also lay the foundations of a reliable compatible EU-wide register of legal interpreters.

1. Curriculum in Legal Interpreting

Essentially, there seem to be two main trajectories that can offer training in legal interpreting.

There is first the academic Bachelor/Master curriculum offered in a number of higher education institutes. This has the advantage of leading to solid theoretical and practical skills and can cover the practice of legal interpreting in greater depth. Certainly a Master's programme can meet the complexity of the diverse legal contexts and introduce the students to the more specialised fields within the legal system. The Master's could also provide a stepping-stone for students wishing to do research and lay the foundation for the training of trainers in legal interpreting. It may also provide the basis for the pursuit of a career in other areas of interpreting, such as e.g. conference interpreting.

However, while such a higher education stream where it exists is to be commended, the reality is that it will be offered only in the main European languages and has by necessity a wider academic remit than legal interpreting only. It also lacks the flexibility to meet the language needs of our rapidly changing multilingual societies.

Hence a second stream seems to be needed, either side by side with the academic one or else as the sole provider of legal interpreting training in a Member State. This second stream could be 'generic', i.e. teach all the students, often representing as many as twenty or even more languages in one course, in a 'non-language specific' way. To do this efficiently requires advance testing, before admission into the course, of the students' required proficiency in both the language of the country and their foreign language(s) and their aptitude for interpreting and the profession.

The training should be offered at a professional level in either academic or adult education establishments. The level of skills sought is that at First Degree or Bachelor level, though not, of course, in breadth of curriculum or length. It will usually be offered part-time, over an academic year, as almost all students are people with existing professional or domestic commitments.

Any curriculum should consist of classroom contact time (including adequate interpreting practice), observation visits and home study.

It is essential that the curriculum be taught by a multi-discipline group of tutors, consisting of both language and culture specialists, legal interpreting practitioners and legal professionals. Only such a team has access to real-life legal situations and can emphasise the essential importance of the code of conduct.

The Forum would suggest the following core curriculum in legal interpreting:

- Module 1: Introduction to legal interpreting and state of the art in the EU and the national practice.
- Module 2: Resources and information.
- **Module 3:** Language issues: legal language, terminology, the range of registers most commonly used in the legal contexts, oral genre-studies (e.g. interrogation, testimony, sentencing...).
- **Module 4:** Knowledge of the legal system: structures, procedures, processes and personnel; knowledge of the relevant aspects of criminal and civil law, the main settings (asylum, police, court...) augmented by observation visits.
- **Module 5:** Interpreting skills: dialogue, consecutive with and without note-taking, simultaneous and whispered simultaneous, sight translation. Mastery of the role of the legal interpreter (introduction, positioning, turn-taking, when and how to ask for clarification, etc.).
- Module 6: Professional Code of Conduct and Guidelines to Good Practice (see below).
- **Module 7:** Integrated practical skills through case studies, role plays, mock courts, etc.
- **Module 8:** Professional issues: awareness of the national professional association(s), working arrangements, how to accept and prepare for assignments, potential health and safety issues, time, diary and financial management, the need for continuous professional development, etc.

The core curriculum may of course offer a specific additional foreign language module to meet a certain need in a Member State, though that could also be made part of continuous professional development (see below).

2. Certification

Legal interpreters bear grave professional responsibilities. The quality of legal interpreting may seriously affect the quality of people's lives. Care has to be taken, therefore, to test and certify students not only on their ability to pass the qualifying examination but also on their suitability to join the profession.

Testing and assessment, leading to certification, can best be done by experienced legal interpreters, graduate native speakers of the languages and with the active participation of legal personnel from the various legal services to ensure a high degree of reliability and authenticity.

3. Accreditation

When a candidate has successfully passed the assessments, he or she is 'certified' by the training institute. However, it is important to ensure at all times, and certainly in the case of several training institutes offering the courses, that the certification is accepted and recognized, i.e. 'accredited' by a central authority. This could be e.g. a national examination board in the Ministry of Education or an accreditation authority in the Ministry of Justice, and accreditation should preferably be done in cooperation with the professional association, where it exists.

Accreditation of a training course and ensuing certification can take place on the basis of, inter alia, the curriculum, assessment criteria, quality control, staff, facilities etc. Only a rigorous accreditation system guarantees an equivalent standard of training, thus ensuring confidence in the legal services with regards to professional quality.

Moreover, accreditation of curricula which meet the standards succinctly described above will also lead to mutual confidence in the employment of legal interpreters between Member States, and contribute to the possibility of having an EU register of legal interpreters and an EU label of training institutes.

4. Training the trainers

Trainers are the foundation of a profession. It is they who integrate knowledge and skills into their students and educate future members of the profession in the standards, values and conduct required of them.

It is recommended that care be taken in the Member States to recruit professional trainers and provide them in an educational setting with the additional and specific teaching and training skills required, ranging from course methodology and teaching practice to diversity training, reliable assessment methods, etc.

5. Continuous Professional Development

Continuous Professional Development (CPD) offered by legal service providers, professional associations, academic or training institutions helps to safeguard the standards required by the profession and thereby contributes to the quality of practice of the individual legal interpreter, the status of the profession as a whole and the confidence that employers and clients have in such professionals.

The domain of the law and the practice of the legal services are constantly changing. CPD activities, therefore, e.g. on new sources of information and new technologies, on advanced language proficiency, on demanding specialisations – whether human trafficking, child abuse, terrorism, telephone-tapping or cross-border video-conferencing – on evaluation of one's practice, etc. will all contribute to the improvement of the competence of the legal interpreters. CPD can thus also lead to additional qualifications and improved employment prospects.

CPD is also an excellent instrument to provide in-service training to already practising legal interpreters who have not been trained formally. One may, of course, opt to have them follow the established curriculum and test them on the required competences once training has been instituted in a Member State. It is certainly recommended to strive as quickly as possible towards the same professional level of quality among all practising legal interpreters, and CPD could be a strategy to achieve this.

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Recommendations

The Reflection Forum recommends that Member States provide appropriate training in legal interpreting, both for new and already practising legal interpreters.

Such training should lead to a nationally recognized professional certification and be accredited by a recognized authority.

Efforts should be made to develop equivalent training throughout the EU, making a quality label of the establishments offering training, the exchange of materials, trainers and best practices, and a compatible register possible.

DG Interpretation could make a particularly useful contribution to enhance the quality of legal interpreting through its expertise in interpreting, training of trainers and the building of networks.

CODE OF CONDUCT AND GUIDELINES TO GOOD PRACTICE

A profession is defined as a group of people who not only share a common expertise but also 'profess' to a code of ethics ('conduct').

Professions come into being where trust is required, primarily because the clients are not in a position to judge for themselves the quality of service being given. Clients cannot judge for themselves the quality of the work of the legal interpreter because they do not speak both the languages in question.

In order to fulfil what is required of them, professions therefore not only set levels of expertise but also perform their assignments in accordance with a professionally established code of conduct. This is in the public interest as well as in the interest of their clients, colleagues and themselves.

Establishing a code is obviously the remit of national professional associations, though it is recommended to strive also for a common EU code, possibly through the creation of a European Association of legal interpreters.

A profession also responds to any allegations of breaches of the code through its own disciplinary procedures.

1. Professional Code of Conduct

The code of conduct provides the basic professional foundation on which the rest is built. It also provides legal interpreters with a framework in which to operate once qualified. Every legal interpreter therefore has to acquire a full understanding of the principles behind the code to the extent that they can integrate and apply it, even in stressful situations.

The code should be taught, as an integral part of the training, through formal teaching and through inclusion in role-plays, discussions and observations.

As said, it is up to the profession to draft its code. However, any code will contain the following fundamental principles⁴: legal interpreters must observe confidentiality and impartiality; disclose professional limitations or conflict of interest; undertake assignments only for which they are competent; always interpret to the best of their ability; decline any reward other than agreed fees and expenses; seek to increase their professional skills and safeguard professional standards.

It is crucial that all professional parties in the legal services are aware of each other's code of conduct and respect it.

2. Guidelines to Good Practice

Guidelines to good practice are designed to support the practical implementation of the professional code of conduct⁵. It is recommended that guidelines to good practice be worked out by the profession in cooperation with, and then made available to, each legal service. The guidelines will assist the legal interpreter in assessing an assignment before accepting it (e.g. language match, availability, subject matter, etc.), carrying it out in a professional way (e.g. observe dress codes, check any necessary arrangements, using direct speech, etc.) and evaluating the assignment after having completed it (e.g. identifying what elements were unsatisfactory, what went well, seeking support when necessary, etc.).

These guidelines could be strengthened by other quality assurance strategies such as professional mentoring of beginning legal interpreters by a senior experienced colleague, the monitoring of a performance through observation or audio or video-recording, and ongoing opportunities for continuous professional development.

Recommendations

The Professional Code of Conduct is the responsibility of the professional association of legal interpreters.

Guidelines to Good Practice should be drawn up to ensure quality service.

The Professional Code of Conduct and the Guidelines to Good Practice should be an integral part of the training.

A common EU Professional Code of Conduct for legal interpreters could strengthen mutual confidence between Member States.

The Professional Code of Conduct should be recognized and respected by the other professionals in the legal services.

^{4.} See Hertog 2001 Chapter 7 for an example of a code drawn up within the framework of Grotius project 98/GR/131. Other examples are the codes of FIT, NAJIT or AUSIT.

^{5.} Again see Hertog 2001 Chapter 7 and FIT by way of example.

ARRANGEMENTS WITH THE LEGAL SERVICES AND LEGAL PROFESSIONALS

The legal process is multi-disciplinary. Members of each discipline need to work with members of other disciplines and each service has to know and respect the other's role. Consequently it is important that the judiciary, the police and other legal personnel know how to work with legal interpreters. Several police and court services have already drawn up exemplary guidelines that can serve as best practice.

1. Good Practice guidelines on working with legal interpreters

When having to deal with multilingual and multicultural clients, the legal services personnel and legal professionals should be trained in how communication works across languages and cultures. More specifically, they should be offered training on working with legal interpreters, including e.g. to recognise when an interpreter is needed, select a suitable interpreter from the approved register, brief the interpreter, recognise and respect the interpreter's role, skills and code of conduct, accommodate interpreting techniques e.g. consecutive or whispered simultaneous, etc. Such informed awareness will greatly enhance the efficiency of the proceedings or encounter.

2. Registration

To the benefit of all interested parties, official registration of all qualified legal interpreters is highly recommended. Registration allows the clients to find the interpreter who best corresponds to their needs and gives the legal interpreters an optimal chance to find employment in line with their particular specialisation and location. A well thought out and regularly updated national register, administered by a national body, is the most adequate instrument for a search when the assistance of a legal interpreter is required.

Such a national register contains personal data about the qualified legal interpreter but is also structured according to e.g. area and specialisations. It should contain enough information to make it clear to the client what the exact qualifications of each legal interpreter are.

Admittance to the register, i.e. 'registration', may take place as soon as the legal interpreter has passed the assessment tests and the accredited institute has authorised the result. Registration implies that the interpreters have to abide by the Professional Code of Conduct. Member States may consider to limit registration in time, e.g. for periods of five years, making extension of the registration dependent on attested CPD or any other quality assurance or monitoring system.

It is recommended to make registration mandatory, which means that legal interpreters who are not registered in the national register cannot work for the legal services and that vice versa the legal services are obliged to use only registered legal interpreters.

It is furthermore recommended to consider e-linking all the national registers into a European network. This would be of help when a legal interpreter moves to another country or is needed in another Member State for a rare language or specialisation.

3. Other quality assurance instruments

Legal interpreters will, in general, need support first and foremost to get factual and terminological information about the assignment to be carried out and, after the assignment, to get some feed-back. It is therefore recommended to set up adequate support systems in these respects.

As legal interpreters in certain cases can be deeply affected by stress and psychological factors, it is recommended that they have access to qualified assistance when needed.

Those instructing the legal interpreters have to take all measures to protect them against invasion of their privacy. Legal interpreters should never be left alone with a person to be interviewed.

Recommendations

The Reflection Forum recommends that training be provided to the legal services and to legal professions on how to work across languages and cultures and with interpreting.

A national register of qualified legal interpreters should be kept, and the use of only registered legal interpreters made mandatory.

The national registers should aim for EU consistency, thus allowing mutual access.

AN EFFICIENT STRUCTURE OF LEGAL INTERPRETING

In this final section we would like to highlight other relevant good practice recommendations with regards to legal interpreting.

- 1 It is recommended that legal interpreters have protection of title and that their status be defined in the law.
- 2. Relevant data should be collected as a basis for nationally co-ordinated and informed planning for meeting requirements in legal interpreting and to monitor progress. This effort would include:
 - Estimation of predicted demand: visitors (e.g. for tourism, trade or education), events (e.g. sporting, commercial fairs), legal services employing legal interpreters, new arrivals (immigration and migration), etc.
 - Current demand in terms of when legal interpreters are to be engaged, in which languages, in which geographical locations, etc.
 - Potential supply of qualified legal interpreters in terms of numbers, languages, training, locations, qualifications, etc.

This task, as well as the responsibility for liaising with the professional association(s), the accreditation of training and the keeping of the register, could be the responsibility of a governmental authority.

- 3. The necessary budget should be allocated for the provision of quality legal interpreting in the legal services as well as for the fair and reasonable remuneration of the legal interpreters.
- 4. The legal services should commit themselves to engage qualified, registered legal interpreters only.
- 5. The exchange of good practices and the establishment of training and professional networks should be encouraged and effectively established among EU countries to push standards of legal interpreting up effectively.

CONCLUDING RECOMMENDATIONS

The members of the Reflection Forum are aware of the important role outlined in this report for the judicial authorities in the Member States and the professional interpreting associations where they already exist. We hope efforts will be continued to establish associations where still needed.⁶

However, we would also like to call upon the following partners to assist in the process towards quality in legal interpreting in the EU.

Networks of academic, professional or other accredited training institutes should set up systems to exchange expertise, materials and best practices, including via e-learning platforms.

The legal services and legal professional associations such as CCBE (the *Council of Bars and Law Societies of Europe*), which has been an active member of the Reflection Forum, but also e.g. the *European Network of Councils for the Judiciary* or the *Eurojustice network of European Prosecutors-General* should become committed co-owners of the agenda of quality legal interpreting.

Various EU Commission Directorates General could continue to provide support to improve and ensure quality legal interpreting in the EU. DG Interpretation, for example, through its expertise in interpreting training, training of trainers and training materials; DG Translation through its terminology and language technology databases such as translation memories; DG Education and Culture through its Lifelong Learning projects; and DG Justice, Freedom and Security through continued funding of *Criminal Justice* projects in the area of legal interpreting and the support of its various networks.

The Reflection Forum hopes that the Member States take account of these recommendations, to adopt or adapt them to the local requirements.

The envisaged establishment of ELITA – the European Legal Interpreters and Translators Association – could be of assistance in this respect. This is the
objective of a current (2008-2010) JLS/2007/JPEN/249 project.

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FIT - International Federation of Translators (www.fit-ift.org)

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MEMBERS OF THE REFLECTION FORUM

External experts

Mr Gerard A. Brown, Solicitor-Advocate. UK member of the CCBE Criminal Law Committee.

Mr Aldo Bulgarelli, Information officer and member of the CCBE Italian delegation.

Ms Christiane Driesen, Conference and legal interpreter. Professor and Head of Legal Interpreting Training at the University of Applied Sciences in Magdeburg, Germany, and of several other training programmes.

Mr Erik Hertog, Professor of Cultural Studies and Interpreting in the Department of Applied Languages of Lessius University College, Antwerp, Belgium. Rapporteur of the Reflection

Ms Mira Kadric, Professor and Dean of Studies, Centre for Translation Studies, University of Vienna, Austria, and legal interpreter.

Ms Danuta Kierzkowska, Founder and President of the Polish Society of Sworn and Specialized Translators and author of several publications on legal translation and interpreting.

Mr Evert-Jan van der Vlis, Policy Advisor in the Legal Aid Department of the Ministry of Justice, The Hague, the Netherlands.

European Commission

Members

Ms Ann D'haen-Bertier, Director, Directorate C of the Commission's Directorate General for Interpretation, Chair of the Reflection Forum.

Mr Wolter Witteveen, Head of Multilingualism and Interpreter Training Support Unit.

Mr Luigi Fiorino, Policy Officer for Multilingualism.

Observers

Mr Diego Marani (DG Education and Culture), Policy Officer in the Multilingualism Unit.

Ms Caroline Morgan (DG Justice, Freedom and Security), Desk Officer for procedural rights, Criminal Justice Unit.

Mr Miguel Ángel Navarrete (DG Translation), Acting Head of Unit DGT-S.3, Translation Studies and Multilingualism.

FINAL REPORT

Reflection Forum on Multilingualism and Interpreter Training





