

# Interpreting in the dock

*Is Spain any closer to introducing court interpreting standards following the Madrid train bomb trials, ask Anne Martin and Juan Miguel Ortega Herráez*

Court interpreting arrangements in Spain are less than adequate, with few enforceable requirements regarding training and accreditation. Although legislation guarantees the right to an interpreter for all non-Spanish speakers involved in criminal proceedings, it does not refer to the qualifications of those appointed as interpreters and basically opens the door to anyone who states that they speak the languages required.

There is no official accreditation system in operation or regulations regarding the minimum level of training, leading to situations in which the defendant's right to a fair trial may be seriously jeopardised. A reduced number of staff interpreters are assigned to different courts, and many of them are well-qualified and efficient. However, in practice, most court interpreting is outsourced to private companies, which have no quality requirements and pay extremely low fees – all of which logically fails to attract qualified candidates. Up to now, few legal professionals have complained about this situation.

In 2007, a high-profile mega-trial took place in Madrid, which catapulted court interpreting to the forefront of current affairs.<sup>1</sup> The defendants were accused of perpetrating the terrorist attacks that shook Madrid on 11 March 2004, killing 191 people and wounding more than 1,500. In contrast to the usual situation, every effort was made to ensure quality interpreting. Throughout the trial, a team of six highly qualified professional conference interpreters offered simultaneous interpreting, a mode not usually used in Spanish courtrooms. Behind the scenes, another team provided consecutive interpreting for solicitors. Clearly, the legal authorities responsible were fully aware of the



need to ensure a high-quality service, given the level of media coverage and the sensitive nature of the trial.

Did this sharp contrast with what usually happens signify that the tide was turning for court interpreting in Spain? Or was it just an exception that confirmed the general rule? For now, it would appear to be an exception, although it is true that things seem to be moving, very slowly, in the right direction.

Spain has certainly been influenced by events at a European level, such as the Directive on the Right to Interpretation and Translation in Criminal Proceedings, adopted by the European Union (EU) in October 2010 and to be incorporated into national legislation by 2013. The Directive will oblige member states to ensure that defendants receive interpretation throughout the proceedings, unlike the situation in Spain, where interpreting is only provided when non-Spanish speakers are addressed directly.

The Directive also guarantees the right to interpretation during all stages of legal proceedings, including police questioning and even attorney-client communications, which are not explicitly guaranteed under

current Spanish legislation. More importantly, the Directive refers to the quality of the interpretation, establishing the need for registers of "independent translators and interpreters who are appropriately qualified". It is this final clause that will mark a major change in Spain as, currently, no requirements as to professional qualifications and training are in place.

The European Legal Interpreters and Translators Association (EULITA) was launched in 2009. Its aims include "promoting quality in legal interpreting... through the recognition of the professional status of legal interpreters". Undoubtedly, EULITA will play a major role in the implementation of the Directive in the EU member states. Indeed, EULITA and Lessius College in Antwerp have launched the EU-funded TRAFUT (Training for the Future) project, to support member states in the application of the Directive.

APTIJ, the Spanish Professional Association of Court and Sworn Translators and Interpreters, was set up in 2007 with the aim of bringing together court interpreters and translators in order to increase the visibility of the profession and lobby for greater recognition from the authorities. This initiative has been very successful. APTIJ is one of the founder-members of EULITA, in which it plays an active role, and has become the voice of Spanish court interpreting in Europe. It will also play an important part in the implementation of the Directive.

APTIJ particularly denounces the current trend of the Spanish authorities to outsource translation and interpreting services. Such a system makes it very difficult to guarantee quality, as the practitioners hired are paid extremely low fees, while some companies



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### TURNING THE TIDE?

*Lawyer Endika Zulueta (far left) spoke out about the need for qualified interpreters, after his client – the main defendant in the Madrid train bombing trial – was acquitted due to inadequate translations. Press coverage of the trial put court interpreters in the spotlight. Journalists report from outside the court (left)*

keep up to 60 percent of the amount paid for the service by the government. This policy undermines any attempt to professionalise court interpreting.

Another interesting development in Spain has been the production of a White Paper on Institutional Translation and Interpreting, presented in May this year. This document was drafted by RITAP, a network of translators and interpreters working for the Spanish government, under the auspices of the Ministry of Foreign Affairs and with support and input from the EU's DG Translation and APTIJ.

The White Paper is an in-depth study of the professional situation of all translators and interpreters working in institutional contexts in Spain, and aims at offering information and analysis in order to pave the way for improvements. Many shortcomings have been identified and the conclusions include recommendations for revising the current model and increasing professionalisation in general.

So far, we have addressed activities initiated by interpreters. However – and perhaps more importantly – legal professionals have also begun to speak out about the lamentable situation of court interpreting in Spain. Endika Zulueta, the defence lawyer assigned to the main defendant in the train bomb trial, has lectured around the country on the importance of quality interpreting and translation in order to guarantee the right to a fair trial. His own experience testifies to the crucial importance of quality translation and interpreting, as his client – supposedly the mastermind behind the whole attack – was acquitted, in part as a result of inadequate translation by non-

professional police translators. This caused great surprise, as the conviction of this defendant had been represented in the media as an almost foregone conclusion.

Zulueta has been joined by Pilar de Luna Jiménez, a Madrid judge, who, in 2009, decided systematically to refuse to work with unqualified interpreters sent to court by a contractor. She denounced the situation in an official report to the authorities and this action was widely covered by the media, increasing the visibility of court interpreting at the time.

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### *The supposed mastermind behind the attack was acquitted as a result of inadequate translation*

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Judge de Luna also presented a report on the situation at a conference of a major professional association of judges, Jueces Para la Democracia, whose support she obtained. This resulted in the association backing a proposal for a professional court interpreting system, involving the provision of interpreting services by accredited and trained professionals included on a register.

However, even though some influential legal professionals have now begun to speak out, many more seem to be totally unaware of (or unconcerned about) clear breaches of basic rights perpetrated in the proceedings in which they are involved. Recently, two

alleged Somali pirates were brought to trial in Spain, accused of holding the Spanish ship *Alakrana* hostage for 47 days in 2009. During the trial, which received wide media coverage, the defendants were seen to be receiving interpretation only when they were directly addressed. Therefore they did not understand the testimony of the witnesses declaring against them. They were each sentenced to 439 years in prison.

We will possibly never know the impact on court interpreting in Spain of the Madrid train bomb trial. Certainly, it demonstrated that what had previously only been seen in international courts was, indeed, possible in Spain. Bearing in mind the application of the EU Directive, the next couple of years will be crucial for court interpreting. It is now a question of whether there will be enough political will and support from the legal professions to make the difference towards the provision of a fair trial for non-Spanish-speaking defendants in Spain.

#### Notes

1 We have addressed the numerous issues surrounding this trial elsewhere: Martin, A and Ortega Herráez, J M, "Nuremberg in Madrid: The Role of Interpreting in the Madrid Train Bomb Trial" in *Communicate!*, AIC webzine, winter 2011; Martin, A and Ortega Herráez, J M, "From Invisible Machines to Visible Experts: Views on interpreter role and performance during the Madrid train bomb trial" in Schaeffner, C (ed), *Proceedings of Critical Link 6*, 2011, John Benjamins, Amsterdam/Philadelphia; Martin, A and Taibi, M, "Calidad bajo presión: el caso de la interpretación en el juicio del 11M", paper presented at the 2nd International Conference on Interpreting Quality, Almuñécar, 2011