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## The last ten years of legal interpreting research (2008-2017).

### A review of research in the field of legal interpreting

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**Abstract.** *Despite the controversial discussion around the definition and extent of the role of interpreters in legal settings (Hale, 2008), academics, practisearchers and increasingly interpreter users seem to agree on the crucial role of legal interpreting for both institutional and non-institutional users. When a linguistic barrier exists, interaction in prisons, courtrooms, asylum hearings, or between police officers and victims, suspects or witnesses, relies on interpreters and is modified by the very bilingual and multicultural nature of the interpreter-mediated encounter. Legal interpreting is dependent upon legislative, political and socio-economic changes, such as the adoption of interpreting regulations or changes in migration policies; and researchers are making admirable efforts for the professionalization of legal interpreting. This review article describes the evolution of research on legal interpreting during the past ten years (2008-2017), and analyses the trends emerging and the focal points of research activity in the field. For the purposes of this review, publications on legal interpreting were compiled (including court, police, prison, asylum, immigration and military interpreting), and a database was created. Overall, 464 publications were collected and coded per setting and main theme, and reviewed for identification of salient themes and trends.*

**Keywords:** *Legal interpreting, research, themes, evolution.*

**Resumo.** *Apesar da controversa discussão em torno da definição e da dimensão do papel dos intérpretes em contextos legais (Hale, 2008), académicos, investigadores/profissionais e, cada vez mais, aqueles que recorrem aos serviços dos intérpretes parecem estar de acordo relativamente ao papel crucial da interpretação jurídica, quer para utilizadores institucionais, quer para utilizadores não institucionais. Sempre que existe uma barreira linguística, a interação nas prisões, na sala de audiências, nos pedidos de asilo ou entre agentes policiais e vítimas, suspeitos ou testemunhas, depende dos intérpretes e é modificada pela própria natureza bilingue e multicultural do evento mediado por intérpretes. A interpretação jurídica depende de alterações legislativas, políticas e sócio-económicas, tais como a adoção de regulamentos de interpretação ou mudanças nas políticas de*

*migração; e os investigadores têm feito esforços consideráveis com vista à profissionalização da interpretação jurídica. Este artigo de revisão descreve a evolução da investigação sobre interpretação jurídica ao longo dos últimos dez anos (2008-2017) e analisa as tendências emergentes e os principais pontos da atividade de investigação no campo. Para efeitos desta revisão, o artigo baseia-se na compilação de publicações sobre interpretação jurídica (incluindo interpretação em tribunal, polícia, prisão, pedidos de asilo, imigração e militar) e criação de uma base de dados. No global, foram recolhidas 464 publicações; estas foram subsequentemente codificadas por contexto e tema principal e revistas para identificação dos temas e tendências mais salientes.*

**Palavras-chave:** *Interpretação jurídica, investigação, temas, evolução.*

## **Introduction**

This review traces the state of the art and the development of legal interpreting research over the past ten years (2008-2017). Publications focusing on legal interpreting were collected and stored in a database (available for download on the journal website). The review will start with a descriptive bibliometric analysis of the number of outputs per setting, type of output, and year, which are presented against the social and legislative backdrop for the period analysed. Following the descriptive analysis, the trends, changes, and prevailing themes across settings and by setting are discussed, and differences between settings are highlighted. “Legal interpreting” is understood in this review as an umbrella term encompassing studies of interpreting in one or several fields, including law-enforcement settings, encounters related to asylum and immigration proceedings, interpreting in courtroom, police and prison settings, as well as studies looking into community settings with an element of legal interpreting.

Largely inspired by the criteria applied in (Monteoliva-García, 2016), but with a different aim in mind, this review includes publications that focus in particular on interpreting in legal settings. Some publications encompass aspects that pertain to both interpreting (oral) and translation (written), and it is undeniable that intersections between both translatory activities exist. However, both the nature of the activities and the evolution of research in them differ. The spoken nature of interpreting; its immediacy and limited access to, for instance, terminological resources to solve communication problems; the presence, whether face-to-face or remotely, of the interpreter in interpreted events; and the impact of those elements upon the translatory activity and upon other participants’ moves, shape the scope of research. For this reason, this review focuses on research on legal interpreting, i.e. on scholarly research on interpreting across the settings that are considered to fall under the umbrella of *legal interpreting* (Hertog, 2015a), namely the courtroom, police settings, prison, asylum, immigration, and military settings. As highlighted by Hertog (2015a) in his review of the legal interpreting field in the EU, over the past forty years, the scope of interpreting in the judiciary has moved from focusing primarily on court interpreting to embracing other settings, some of which are slowly but progressively receiving more scholarly attention.

Interpreting Studies as an academic discipline has gained agency within the broader field of Translation and Interpreting, as manifested in an increase in research activity focusing on interpreting, specialist academic conferences and interpreting journals over the past three decades. The recent publication of the *Encyclopedia of Interpreting Stud-*

ies (Pöchhacker, 2015) is also indicative of this trend. Pöchhacker (2015: 201) describes Interpreting Studies as a discipline that is interdisciplinary and multi-faceted in nature, in the sense that interdisciplinarity has been a feature of research on interpreting from its inception. This is manifest in studies looking into interpreting from related disciplines such as Linguistics, Pragmatics and Cognitive Psychology, interested in exploring, for instance, the interpreting process as a cognitive process (Gerver, 1975). This feature is also found in courtroom interpreting, as illustrated by the fact that one of the seminal studies on court interpreting was carried out by the sociolinguist Berk-Seligson (1990); or the most recent studies carried out by Angermeyer (2008) through the lens of Applied Linguistics. As will be discussed later, legal interpreting research is one of the fields with increasing collaboration between interpreting scholars and, practitioners, practisearchers (Gile, 2015b), and scholars or practitioners from the fields in which interpreting takes place. The latter is certainly the case with legal interpreting – and other fields that are often included under the label “community interpreting” or “interpreting in public service settings”, such as interpreting in healthcare, educational, mental health or social work contexts.

As the analysis presented below shows, research on legal interpreting has been propelled not only by the evolution of the field of interpreting, but also by legislative changes and by changes in the professional arena. Especially in the EU context, the adoption of a number of Directives safeguarding the right to translation and interpreting in legal proceedings of suspects and victims of crimes seems to have had a major impact upon the scope and research trends in the field. The focus on professionalisation and quality found in numerous studies illustrates the momentum brought about by legislative changes. In addition, the work of interpreters has attracted the attention of legal professionals and scholars from fields in which interpreting takes place. It seems timely to review the state of the art of a field that is changing rapidly, and which is directly affected by policies in the current climate of political instability and ideologies that are far from favouring the difference (whether cultural, linguistic or other) across the globe.

### **Background to the study**

This review stems from Monteoliva-García (2016), a project sponsored by SSTI, the Society for the Study of Translation and Interpretation of NAJIT, the National Association of Judiciary Interpreters and Translators in the US. The aim of that project was to compile research outputs on legal and judiciary interpreting, conduct a bibliometric analysis and create an annotated bibliography for professional interpreters and scholars alike, in particular for legal interpreting practitioners and newcomers in the field as a research discipline. The research outputs were compiled from *Google Scholar* and *Web of Science* with the reference management system *EndNote*. The database was exported to *MS Access* and *MS Excel* for manual edition, including the fields generated by *EndNote* (author, year, title, publication type, publication title – for journal papers and book sections, abstract note, page, issue, volume, manual tags, and annotation) and two other fields. The two new fields, *Identifier 1* and *Identifier 2* were added manually to facilitate the task of selecting works. *Identifier 1* served the purposes of classifying the publications per setting or subdomain from the legal and judiciary domain, if there was one. Otherwise, the tag “legal” was used. *Identifier 2* was used to tag each publication according to the main thematic focus, such as *role*, *users’ perceptions*, *remote interpreting*, *discourse* and *pragmatics*. The list of themes and settings was made in collaboration with SSTI Board

of Directors because the task of dividing a field into subdomains and research foci was far from being a straightforward task. The subject index in the *Routledge Encyclopedia of Interpreting Studies* (2015) was used to select terms that are being used in the field.

The identifiers mentioned above made it possible to select publications for annotation that were representative of the variety of settings and themes, not proportional to the number of research outputs per setting. Had the latter been the case, most of the annotations would have been about publications on court interpreting. As discussed below, court interpreting still prevails as the most-widely researched setting among the ones included in this review, but other settings are witnessing a rise in number and scope. During the setting identification process, the tag *legal* was used in works that address the field as a whole or two or more domains. The tags for the subdomains were used when the publication focused on a particular one, such as *prison*.

In addition, the works for annotation were selected based on the following criteria: inclusion of seminal and authoritative works; inclusion of works from the different settings; thematic representation; and illustration of a variety of research methods. An attempt was made to show the diversity of research in the field, including both old and emerging themes. The annotated bibliography can be read in chronological order or in alphabetical order (by author). In Monteoliva-García (2016), both myself and SSTI Board of Directors considered that offering the reader the opportunity to reach the bibliography in chronological order would be helpful in illustrating the evolution of research in the field.

Although the database (Monteoliva-García, 2016) has been used as a starting point, the aim of this review differs in purpose and scope. This review reflects upon the state of the art and the evolution of research in the field. Drawing on a 10-year period (2008-2017), it provides an overview of research activity and reflects upon the trends both across subdomains and in specific ones within legal interpreting.

## Method

Research outputs for the period 2008-2016 were selected from the database of research outputs in legal and judiciary interpreting published until March 2016 (Monteoliva-García, 2016). Publications from 2008 to March 2016 were extracted and a new database created. On a second stage, publications for the period analysed were re-searched in order to both update the database, in case some had been missed in Monteoliva-García (2016), and publications for the period between March 2016 and December 2017 were added. *Google Scholar* was the starting point for the search process. Search queries were based on the combination of the key terms *interpreter* with *asylum*, *court*, *immigration*, *legal*, *police* or *prison*, and their translation into French, German, Italian and Spanish (the languages known by me). Publications in Portuguese that came up during the search process have also been included. The terms *interpreting* and *interpretation* were also combined with each of those terms, but not in isolation, as many hits were related to the interpretation of the law rather than to interpreting as a translatory activity. The key words “interpreter”, “translation”, “language” and “translator” were used to narrow down the search results.

Together with *Google Scholar*, publications were searched in *BITRA*, the Universidad de Alicante Bibliography on Translation and Interpreting; the UK service for doctoral thesis repositories *ETHos*; manual search queries of publications known to me that

were not listed; as well as the tables of contents of edited volumes and journals, because not every paper or section found was listed in Google Scholar. The latter were entered manually in the reference management system *New RefWorks*, exported to .cvs format and saved in *MS Excel* and *MS Access* files for manual editing and analysis. As in (Monteoliva-García, 2016), the fields *publication type*, *publication year*, *author*, *title*, *publication title*, *volume*, *issue*, *pages* and *manual tags* were transferred directly from the reference management system into the database. The fields *language*, *setting* and *category* (main theme) were entered manually by me.

In addition, the field “abstract” was also completed manually for those publications in which no abstract had been automatically retrieved by the reference management system, as well as for publications other than journal articles for which a description was available but had not been retrieved by the reference management system.

Regarding the themes addressed by legal interpreting scholars, this review draws on the themes identified in Monteoliva-García (2016), to which two more have been added. The first one is the category *rights* for works that focus on the rights to translation and interpreting services in legal settings; the second one is *legal implications*, which has been used to tag works exploring the legal implications or effects of interpreting in specific communicative events or proceedings. Finally, the discussion presented below will address both themes identified across settings and themes that seem specific to, or more widely researched in, certain settings.

Even though the search process aimed at comprehensiveness, it is unavoidable that publications have been missed – either because they are not included in the databases used or because they are unknown to me. The lack of knowledge of languages other than the ones included in the search queries also limits the extent to which the compilation of works analysed is representative of the field.

For the analysis, the starting point was a descriptive statistical analysis of the number of publications per year, setting, theme, type of publication, and the main journals. This initial bibliometric analysis was carried out in *MS Access* to obtain basic statistical information, and it is selective and descriptive in nature. It is selective because categories such as the number of citations or authors’ affiliations have not been included, as they are not relevant for the purposes of this review. As Gile (2015a) explains, bibliometric analysis has been used selectively in recent years in the field of Interpreting Studies, and it can be a useful method to explore new or emerging fields of specialization, such as the analysis by Martínez-Gómez (2015) on non-professional interpreting. As Gile (2015a) argues, statistical analysis of research outputs per author, affiliation and citations are indicators of productivity or impact. However, the productivity or impact of specific authors or academic institutions are not relevant factors for the purposes of this review, hence the number of citations and affiliation have not been included in the database. The basic statistical analysis presented in the first place aims at providing the reader with an overview of the amount of research across field and per field throughout the ten years selected for review and the types of outputs. This basic statistical analysis serves as a backdrop for the thematic analysis. The second part of the analysis presents a discussion of the focal points and thematic trends of the field based on the publications reviewed.

### Descriptive analysis of legal interpreting publications (2008-2017)

Overall, 464 publications related to the field of legal interpreting were collected and added to the database for the period analysed. The publication types include books, book sections, conference proceedings, edited volumes, specialist handbooks, journal articles, monographic works and doctoral theses. The label *Handbook* was applied to manuals on legal interpreting addressed to educators, students, practitioners and/or interpreting users. The label *Book Section* has been used for book chapters or chapters in monographic works, and the label *Thesis* has been used for PhD theses. Table 1 below shows the number of publications per publication type:

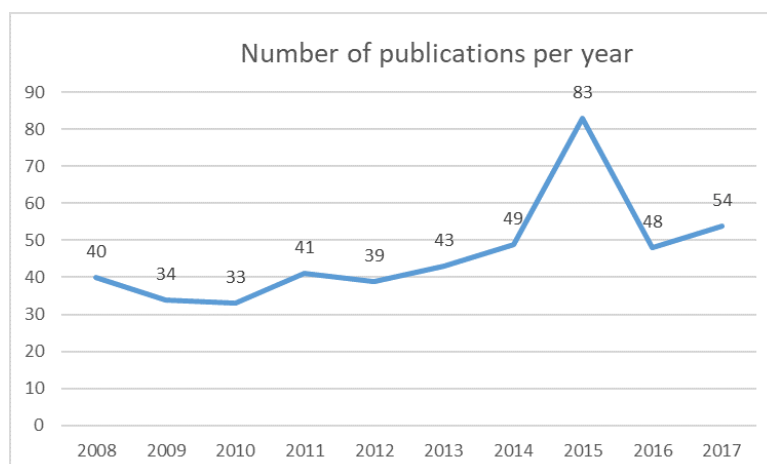
Publication Type	Number
Journal article	303
Book section	94
Book	16
Conference proceedings	14
Edited volume	12
Thesis	12
Monograph	6
Handbook	7
Total	464

Table 1. Number of publications per type

As shown in Table 1 above, journal articles and chapters in edited books are the two main types of publication between January 2008 and December 2017, 303 and 94 respectively. Sixteen books, twelve edited volumes and twelve theses were published. The majority of papers was published in specialist journals of Translation and Interpreting. Specialist journals on Translation and Interpreting with six or more publications on legal interpreting include *Interpreting: International Journal of Research and Practice in Interpreting* (N22), which was the first international peer-reviewed journal focusing solely on Interpreting as a scientific discipline (Riccardi, 2015); *MonTI. Monografías de Traducción e Interpretación* (N11), a Translation and Interpreting journal jointly published by three Spanish universities and which devoted issue 7 (2015) to legal interpreting; *TRANS: Revista de Traductología* (N11), also covering both Translation and Interpreting and published by the University of Málaga, in Spain, and with a monographic on legal interpreting (19.1) in 2015; *Translation and Interpreting* (N9), a refereed journal in the field of Translation and Interpreting Studies hosted by Western Sydney University in Australia; and six in *The Journal of the American Translation and Interpreting Studies Association* (N6). Broadening the scope of journals to those from disciplines other than Translation and Interpreting, it is worth highlighting that thirteen papers were published in *Language and Law / Linguagem e Direito*, eleven in the *International Journal of Speech Language and the Law*, and six in the *Journal of Pragmatics* in the period analysed.

### Publications per year

The analysis of publications per year shows a basically steady 'amount' of research activity in the period analysed with a peak of activity in 2015:



**Figure 1. Number of publications per year (2008-2017).**

The graph in Figure 1 above shows the total number of items published per year between 2008 and 2017. An average of 46.4 outputs were published per year for the period analysed. This average represents a marked increase compared to the 14.3 average number of publications identified in Monteoliva-García (2016) for the previous 10-year period (1998-2007).

In relation to this increase, it is worth noting the significance of the birth of *EULITA*, the “European Legal Interpreters and Translators Association”, created in 2009. According to their mission statement, *EULITA* do not only aim at representing the associations of legal translators and interpreters and their interests, but also at promoting best practice and cooperation among universities and other institutions in the field of Legal Interpreting and Translation. As contained in their mission statement, the promotion of research is included among the actions that serve those aims:

*EULITA* aims to strengthen and to represent the interests and concerns of the associations and their members vis-à-vis national, European and international organisations and institutions, to promote the establishment of associations of legal interpreters and translators in member states where as yet they do not exist, to promote close cooperation with academic institutions in the field of training and research and to encourage the establishment of national and EU-wide registers of qualified legal interpreters and translators, while at all times respecting the diversity of judicial systems and cultures.

*EULITA* is further committed to promoting quality in legal interpreting and translation through the recognition of the professional status of legal interpreters and translators, the exchange of information and best practices in training and continuous professional development and the organisation of events on issues such as training, research, professionalism, etc. thus promoting judicial cooperation and mutual trust by the member states in each other’s systems of legal interpreting and translation.

As shown in Figure 1 above, the number of research outputs in the year 2015 was exceptionally high, with 80 items. As mentioned by Hertog (2015a), 14 different EU projects among institutions and universities from different EU countries on legal interpreting and translation were conducted between 2007 (*Building Mutual Trust I*) and 2016 (the last one was *Justisigns*), which can be accessed at *EULITA*’s website<sup>1</sup>. The projects carried out



between 2011 and 2015 (*AVIDICUS 3*, *LIT Search*, *TraiLLD*, *Understanding Justice*, *Co-Minor-IN/QUEST*, *SOS-VICS*, *Qualitas*, *AVIDICUS 2*, *Building Mutual Trust II*, *ImPLI*, and *TRAFUT*) were two to three years long. As can be observed in the database, a large number of publications emerged from these research projects.

The adoption of three EU directives including legal safeguards and for those who require linguistic assistance in criminal proceedings, was a milestone for the rights of suspects and victims of crimes in the EU context, and it certainly seems to be related to the increase in research activity mentioned above – research projects and publications. *Directive 2010/64/EU of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings*<sup>2</sup> established the rights to translation and interpreting for suspects; the adoption of *Directive 2010/64/EU* was followed – and strengthened – by the adoption of two other instruments: *Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime*<sup>3</sup>, and *Directive 2013/48/EU of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest*<sup>4</sup>.

Despite the challenges and problematic transposition of *Directive 2010/64/EU* into the legislation of the EU Member States, the adoption of this and the two other directives mentioned above was of paramount importance for the rights of those involved in legal proceedings and propelled research activity in the field of legal interpreting in the EU (Blasco-Mayor and Del Pozo Triviño, 2015; Hertog, 2015a). In the US, court interpreting as a profession has been regulated and evolving for decades, in particular in criminal cases, and certification and training schemes have been in place since the Court Interpreters Act was enacted in 1978. This Act establishes the right to have a certified or otherwise qualified interpreter for any individual who is involved in a court proceeding and requires one, whether due to a hearing impairment or to insufficient competence in English. Notwithstanding this right, certification, provision, training and quality standards are not homogeneous across states or languages, as highlighted by O’Laughlin (2016) and Abel (2012). In the EU, legal translators and interpreters are still in the process of regulating and establishing the profession, with a focus on setting up training programs and certification schemes, and differences between jurisdictions and legal traditions in different justice and law enforcement agencies make harmonization a challenging task. However, the fact that legal provisions guaranteeing the rights of those involved in criminal proceedings are in place, has channelled research efforts, many of which align with the purpose of the abovementioned legislation. In addition, the themes that are the foci of research revolve around the various and complex aspects that are key for professionalisation, such as the multi-faceted notion of quality, certification, training, access rights, the interpreter’s role, and remote interpreting. These studies also seem to have had a positive impact and promoted the support of governmental and justice institutions in national projects, as in the case of the comprehensive *TIPp* project<sup>5</sup> (Translation and interpreting in criminal proceedings) led by academics from the Universidad Autónoma de Barcelona and funded by the Spanish Ministry of Economy and Competitiveness.

The factors identified above are interrelated and reveal the extent to which the advances in research and in the quality of service and practice depend on political will

Giambruno (2016), while legislative changes are in turn in large part promoted, thanks to the efforts of academics and associations in the field.

### Publications per setting

The total number of publications per setting and their distribution (%) are presented in Figures 2 and 3 below:

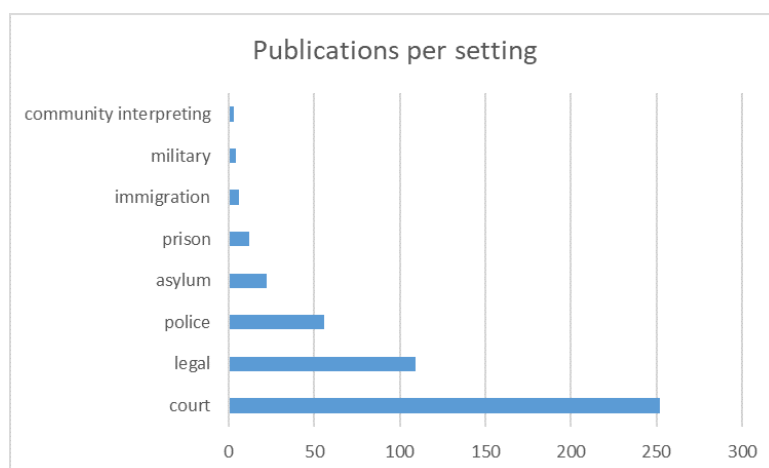


Figure 2. Publications per setting (N).

As shown in Figures 2 and 3, court interpreting is still the most widely researched field (54% of publications for the period analysed). The prominence of courtroom interaction in legal proceedings and aspects related to easier access to data are two potential factors that may account for this difference. Other settings still remain largely unexplored, as in the case of prison settings, with 12 publications. Despite the underrepresentation of interpreting in immigration proceedings, it is worth noting that they are often included in publications that have been labelled as legal in the database, i.e. addressing aspects that pertain to one or more domains or that are generic. Compared to the analysis in Monteoliva-García (2016) for the 1976-2016 period, the proportion of court interpreting studies has decreased (from 64% to 54%), and that of studies of police interpreting have increased (from 9% to 12%). Police interpreting seems to be emerging as an area of research interest, but it is still ill-explored.

As mentioned above, aspects that are specific to a given domain are sometimes subsumed in publications that have been labelled as *legal*. Many of the publications offering an overview of the field in a particular country or region include aspects of different domains and themes but have been labelled as *legal* in the database. As a result, even though the publications focusing exclusively on a particular setting are represented above, those settings have also been included in generic studies of legal interpreting, in particular police settings.

### Evolution of research activity per setting

This section describes the evolution of publications per setting during the 2008-2017 period. The field of court interpreting is still the most widely researched, and it is also the domain that attracts most attention in publications labelled as generic (*legal*). As shown

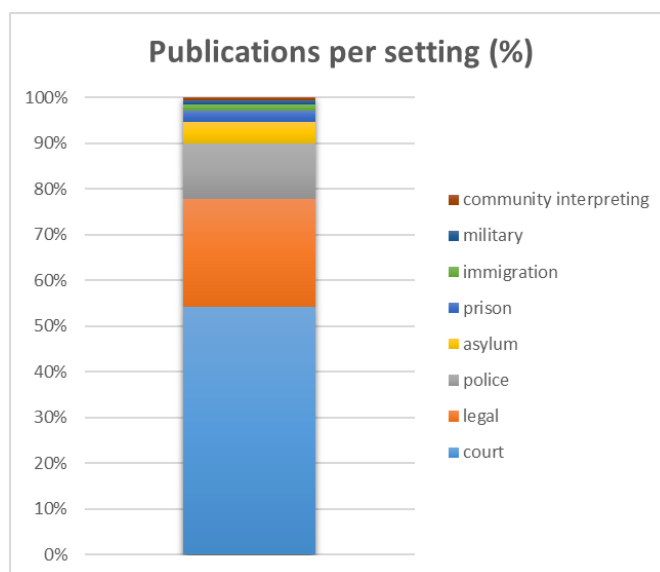


Figure 3. Publications per setting (%)

in Figure 4 below, the peak reached in 2015 for the total number of publications reviewed was also a peak for publications in court, police, immigration and prison interpreting:

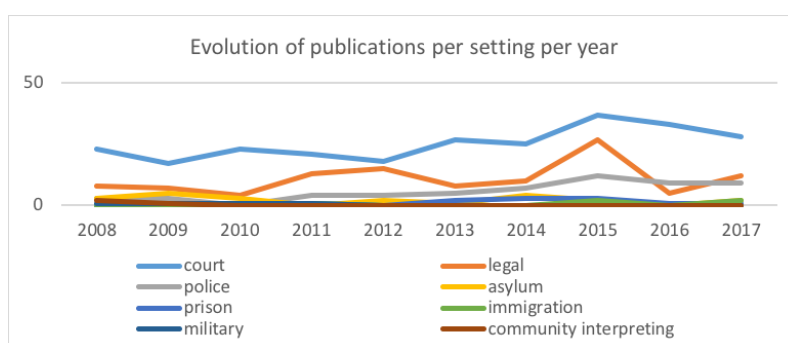


Figure 4. Publications per setting and year.

The different settings followed a rather similar evolution, except for publications classed as legal, which decreased between 2012 and 2013, while court interpreting and police interpreting ones increased. As mentioned in the previous section, the effects of legislative changes are observable not only in the number of outputs but also in the attention the different settings are receiving. Even though court interpreting is still the main research focus, scholars exploring interpreting in other legal fields should take advantage of the slight momentum gained over the past three years. Political and sociodemographic changes may hinder that momentum, though. One of the publications reviewed (Carlisle, 2017) is a book chapter from a book devoted to the future of languages after Brexit. The chapter explores the impact of Brexit upon translation and interpreting services in the criminal justice system and in police settings in the UK. Together with the ideologies promoting hate against migrants, for instance in the United States, assessing the impact of Brexit upon attitudes towards linguistic diversity, multilingualism and the rights to translation and interpreting in legal settings is certainly timely, in particular in the legal

context, where interpreting users are primarily migrants or members of communities that have the status of minorities. Furthermore, issues regarding the role and status of languages at universities and the future of interpreter training are at stake, as well as the future of research projects like the ones mentioned above, in which UK universities have participated.

### **Focal points in legal interpreting research (2008-2017)**

Following a review of the publications collected, the last ten years of legal interpreting research are characterized thematically by studies describing the state of affairs of legal interpreting in a country or region; studies furthering the discussion on themes that remain controversial, such as the legal interpreter's role; and the refinement and combination of research studies focusing on specific aspects. On reading the studies compiled, discourse-analytical analyses of interpreter-mediated interaction exploring participants moves at a micro-level certainly stand out. These cannot be classed as "new", but the diversity of aspects looked at through very detailed analyses is expanding, such as the handling of discourse markers in police interviews (Blakemore and Gallai, 2014; Gallai, 2013, 2015, 2017); the role of silence in interpreter-mediated police interviews and how it intersects with the strategic use of silence by interviewers (Nakane, 2011); the impact of micro-moves in interpreting upon the image projected by defendants in court interpreting (Gallez and Maryns, 2014); the role of gaze in turn-management and positioning with regard to other participants in asylum interviews (Mason, 2012); or the difficulties of coping with inexplicit language in court interaction (Lee, 2009), further and strengthen existing research that was of paramount importance in the first decades of research in the field (Berk-Seligson, 1990, 2002, 2017; Hale, 2004).

The period reviewed has also witnessed the publication of studies focusing on particular groups of interpreting users in specific subdomains, such as minors in asylum interviews; the needs of a particular group across legal settings (victims of domestic abuse); or the challenges of the use of new technologies upon particular aspects of interpreting dynamics (turn-taking in police interviews). The sections below review the diversity of themes addressed in the publications reviewed, and the foci and lenses through which authors have explored them.

### **The interpreter's role in legal settings**

The role of interpreters is one of the focal points of studies in public service settings, and certainly a controversial one in the literature on legal interpreting (Hale, 2008). The discussion surrounding the interpreter's role in community settings, including legal settings, encompasses debates about the very definition of role. Many legal practitioners using interpreting call for a machine-like interpreter who translates verbatim (Morris, 1995) without making an "interpretation", a view that reveals lack of awareness of the intricacies of discourse practices and sense-making processes, the influence of contextual factors upon human interaction, and misunderstanding the process of interpreting between languages with the interpretation of the law. At the other end of the spectrum, voices such as Barsky (1996) have advocated for interpreters having extensive latitude in terms of role performance and agency as active intermediaries in asylum interviews. This active role would be performed through breaching epistemic and cultural gaps between claimants and officers.

The metaphor of the interpreter as a machine or conduit (Reddy, 1979) has been largely challenged in community interpreting settings, including legal settings, but the study of the interpreter's role remains a central focal point. Laster and Taylor (1994) argue against narrow conceptualisations of the interpreter's role, such as the conduit model, and propose reconceptualising it and referring to interpreters as "communication facilitators". This conceptualisation offers a more realistic description of what interpreters do, and of the decision-making process involved in the interpreting process. In the literature reviewed, some studies find views among interpreters who favour that role. Martin and Ortega-Herráez (2009) conducted a survey-based study among court interpreters in Spain and found that some court interpreters perceive their role precisely as that of "facilitators of communication", a role they enact by adapting the register for both speakers, explaining legal procedure, or summarizing; actions which clash with the existing view of interpreters as conduits who translate literally.

It follows from the above, that the tension between the norms set out in codes of ethics, role performance and perceptions of role is evident, and researchers in the works reviewed acknowledge the difficulties of trying to find a universal definition and convergence:

In the middle of the spectrum between what is deemed by most as unacceptable advocacy for individual clients and what most consider acceptable advocacy for the interpreting process is a range of options for interpreter intervention that has yet to be fully defined (Mikkelsen, 2008: 87).

In one of the studies reviewed, Kinnunen and Koskinen (2010) note the lack of definition of the legal interpreter role and the consequences it has for practice and for the profession. Those exploring this complex and multi-faceted concept are resorting to a variety of theories or approaching it from different angles, and in relation to changes in the field, such as the use of new technologies, and show that the interpreter's role is far from machine-like or unaffected by contextual conditions. An example is found in Fowler (2013), who identified views and attitudes among judges regarding interpreters that seemed to be based on previous experiences of poor interpreting. Another example is the study by Devaux (2017), whose PhD thesis focused on interpreters' perception of their own role in court interpreting settings when videoconference interpreting is used. In his thesis, Devaux applies the Actor-Network-Theory and the concept of role-space to compare how interpreters perceive themselves depending on where they are located (prison or court). Angermeyer (2016) analysed authentic arbitration hearings in New York and explored the court interpreters' role in relation to the specific process of arbitrators obtaining consent from litigants, and the study revealed that interpreters intervene actively in that process. Baixauli-Olmos (2013, 2017) focused on interpreting in prison settings, one of the settings that remains largely unexplored, with the exception of the studies by himself (Baixauli-Olmos, 2013, 2017) and Martínez-Gómez (2014, 2015, 2016). Baixauli-Olmos calls for attention to the particular environment in which interpreting takes place in defining the role of interpreters, i.e. the prison, and Martínez-Gómez explores the role of non-professional interpreters and the interpreting quality with non-professional interpreting in prison settings.

In the field of police interpreting, Berk-Seligson's comprehensive volume *Coerced Confessions* (2009) documents and critically discusses the controversial use of police officers as interpreters and observes how coercion can be exerted through police officers'

shifts between their two roles in police interrogations in the United States. Kredens (2016) offers an account of the perceptions of both police officers and interpreters about the role of interpreters. Based on the respondents' reactions to different scenarios in which ethical issues were at stake, the study revealed a number of commonalities between the views of interpreters and police officers, which the author associates with both groups having a shared aim in the police interview.

## Quality

The complex notion of quality has attracted the attention of the academic community in the wider discipline of Interpreting Studies across interpreting modes and settings, and in relation to criteria such as quality parameters, assessment, standards, assurance, and controversies surrounding perceptions of quality. Three international scientific conferences focusing on Interpreting Quality have been held since 2001, and quality certainly stands out as a recurrent theme in the publications reviewed, whether as a focal point or in relation, primarily, to the assurance of quality in legal interpreting through testing and certification (Giambruno, 2016). This focus appears to be directly related to the efforts to develop legal interpreting standards following the adoption of Directive 2010/64/EU mentioned above.

Quality is the focus of one European project *Qualitas: Assessing LI Quality through Testing and Certification*<sup>6</sup>, conducted between 2011 and 2014. This project, and the publications emerging from the research activity, provide insightful discussions and materials for testing and assessment of interpreting competence as certification mechanisms, and ultimately as the tools to assure the quality of interpreting services. Together with the comprehensive publication (Giambruno, 2016) resulting from the project, which discusses the set of skills required for interpreting, the particular modes and requirements of the legal field, the use of videoconference interpreting, languages of lesser diffusion, and the design of testing and assessment materials. Other publications can be found on the project website, such as a report of the state of affairs of legal interpreting in the 27 EU countries; and specific aspects included in the main volume have been disseminated also through other publications (Ortega-Herráez, 2011).

The study of quality in video-mediated criminal proceedings has been the focus of the *AVIDICUS 1* project<sup>7</sup>, led by Professor Sabine Braun, and of the studies by Fowler (2013) on the use of video linking between courts and prisons in England; Licoppe and Verdier (2013, 2015) and Licoppe and Veyrier (2017), who focus on the use of videoconference in France and aspects related to participation; and Napier and Leneham (2011) on the feasibility of using remote interpreting in courts for sign language interpreting. In the framework of the most extensive project on remote interpreting in legal settings to date, the *AVIDICUS* project, the use of remote interpreting in legal settings across EU member states was analysed, and video-mediated interpreting was studied through surveys, experiments, comparative studies of face-to-face and video-mediated interpreting, for both spoken and sign languages. The research outputs related to this project revealed, for instance, the impact of remote interpreting or video interpreting upon the quality of interpreting in police interviews due to a higher degree of information loss and interpreting error, as well as an increase in interpreter fatigue. The potential of video technologies in legal interpreting settings was analysed and recommendations were made regarding the use of video-mediated interpreting and the different formats.

Two other projects followed *AVIDICUS 1*, (*AVIDICUS 2* and *AVIDICUS 3*), which expanded the research findings and scope initiated in *AVIDICUS 1*.

Other studies highlight the impact of factors that are specific to the environment in which interpreting takes place and which shape the notion of quality. One of them is the experimental study by Böser (2013) on police interviews with witnesses and the free-recall segment. In the study, Böser (2013) observes, among other aspects, that the segmentation of speech resulting from the use of consecutive interpreting impacts upon the purpose and format dynamics of the free-recall segment. Böser (2013) argues that the definition of quality in interpreting needs to be adopted bearing in mind the features of specific contexts, both the specific protocols and discourses and the nature of interpreted speech. In addition, working conditions have also been explored as a factor that can have an impact upon interpreting quality and quality assurance, as in Hale and Hale and Stern (2011), a study based on a nation-wide survey conducted in Australia.

It follows from the above that research on quality in legal interpreting is being conducted through different lenses and is taking into consideration an increasing number of factors. This trend will hopefully lead to changes in practice, assessment and training, and quality will probably remain as one of the focal points of research in the field, the advent of changes brought about by new technologies, advances and refinement of certification, and an enhanced understanding of the concept of quality itself.

### **Publications focusing on guidelines for interpreting users**

It is evident from the review process that legal interpreting studies not only focus on the interpreter, but most often on the communicative encounter and on the other (“primary”) participants or interpreting users. More importantly, guidelines and recommendations are being published for interpreting users on how to work with interpreters in different domain. Maddux (2010) addresses a largely unexplored area, namely the participation of interpreters in forensic evaluations in the United States, and proposes a number of protocols. The author analysed the various factors that come into play in interpreter-mediated interviews with forensic psychologists. In particular, Maddux (2010) identified factors in the literature that are related to the interviewee, such as cultural preferences or assumptions; factors emerging from the particular discourse context (the interview); as well as factors related to the interpreter, such as their level of competence. Following the analysis of the complex set of factors that affect interaction in the interpreter-mediated forensic interview, the author makes a number of recommendations for forensic psychologists, and notes the need to inform the court system and attorneys about the potential threats of interpreter-mediated forensic interviews to their validity and reliability. The fact that the author is himself a forensic psychologist is also relevant, as it shows a progressive increase of awareness and interest regarding interpreting and interpreters.

Drawing on the findings of the *ImPLI* project, Amato and Mack (2015) applied Conversation Analysis to design a handbook containing materials based on video-recorded police interviews, as well as activities for both interpreting trainees and police officers. The materials are designed to promote reflection on the interpreter’s role in police interviews. Albl-Mikasa *et al.* (2011) explored the impact of regulations that are in place in the court system to inform the judges and other judicial officers on how to work with interpreters. The authors distributed a survey among court interpreters to assess the impact of an information sheet available for judges upon their court interpreting practice.

The study revealed that the availability of the guidelines does not necessarily translate into best practices. For instance, interpreters seldom received information or terminology prior to the interpreted encounter, a practice that is included in the list of recommendations. This leads on to a point that is also recurrent in the literature, the need for cooperation between the different stakeholders, from policy-makers to interpreting users, academics and interpreting professionals (Heydon and Lai, 2013; Kinnunen, 2013; Salaets and Balogh, 2015).

### **Training, certification and professionalization**

Training needs and professionalization are two recurrent themes in the literature, with the three EU Directives mentioned above articulating many of the studies, such as the monographic issue by Blasco-Mayor and Del Pozo Triviño (2015), including an article by Hertog (2015b) on the directives; the edited volume by Bajčić, M. and Basaneže (2016); Dobrić (2014) on the changes required in the field of court interpreting in Croatia to comply with quality and service standards set out in the Directive; studies of the state of affairs in Italy, in particular regarding police interpreting (Amato and Mack, 2017) and training (Preziosi and Garwood, 2017); the state of affairs of the profession in Montenegro (Andjelic, 2015) and in Slovenia (Kutin and Ivelja, 2016); Ortega-Herráez (2015) on legal interpreting training in Spain and its relationship with professionalisation under the Directive; and Osiejewicz (2015) on training and quality under the Directive, to name but a few.

Beyond the EU context, Kasonde (2017) analyses the state of affairs of court interpreting and professional practice in Zambia, which is far from being up to the standards required; Al-Tenaiyi's thesis (2015) looks into the court interpreting profession in the United Arab Emirates; two scholars from the field of Criminal Law explore, among other aspects, the perceptions of other participants of the interpreters' role and factors that impact upon interpreting practice and interpreters (Aliverti and Seoighe, 2017), including the outsourcing of interpreting services to companies, poor working rates and conditions and their impact upon the quality of services; and discuss relevant themes in the field such as interpreters' power, the influence of other external factors upon interpreters' performance, and trust. Bowles (2008) discusses the lack of standards and regulations in the court system in Alabama; and Chen and Liao (2016) describe the professionalisation process of court interpreting in Taiwan and the current stage of development.

Despite the differences, many of the challenges in this arena are shared across countries and regions: the lack of recognition of the interpreter's status in the legal sector; mismatch between the required standards and the mechanisms to maintain them, as well as between qualifications and working conditions; differences in provision, training and quality control between languages; lack of regulation regarding interpreter selection and qualifications; and lack of monitoring of interpreting quality.

### **“Atypical” interpreting formats**

In the publications reviewed, the author noticed that some studies explored interpreting formats that differ from the typical formats used across legal settings (consecutive, short consecutive or simultaneous interpreting, and/or whispered interpreting, depending on the setting). The presence and/or participation of individuals other than the interpreter who have knowledge of both languages emerges as a factor that has an impact on the way interpreting takes place. One of the publications is the comprehensive PhD thesis



by Ng (2013) of the *atypical bilingual courtroom* in Hong Kong. The language used in courtroom interaction is English instead of Cantonese, and those citizens selected to act as jurors are assumed to understand English. The presence of participants with bilingual skills changes the workings of interpreting, for example through participants' interventions and ability to monitor the interpreter's performance. The presence of bilingual participants can also lead to the imposition of interpreting at certain stages and non-interpreted interaction at others, as problematized by Nakane (2010) in Japanese courts and Du (2015) in a Chinese criminal court. In both studies, the bilingual skills of defendants, who were speakers of minority languages, were taken for granted as sufficient and, rather than a stand-by mode of interpreting throughout the interaction, interpreting was used selectively only at certain stages. Both authors problematize the imposition of non-interpreting, leaving the interpreter present but silenced (Du, 2015) despite the visible cues of miscommunication.

Another atypical format is the *stand-by mode* of interpreting, a term coined by Angermeyer (2008) in his study of code-switching in small claims courts in New York City. In the stand-by mode, the primary participants communicate in their shared language and the interpreter takes part in the interaction intermittently, when miscommunication problems arise. Though it remains largely unexplored and it poses certain challenges both for the interpreter and for the interaction, Angermeyer found that the imposition of interpreting as an alleged form of guaranteeing communication reveals a monologising view of bilingual interaction and also comes with risks. The stand-by mode of interpreting has also been explored in police settings (Monteoliva-Garcia, 2017a,b), in particular in authentic video-recorded police interviews with suspects, in which a professional interpreter took part. The suspects, whose main language was Spanish, also had competencies in English and the stand-by mode of interpreting was used throughout the interviews. The interpreter interpreted either when the other participants requested her participation or when she identified cues of miscommunication. The stand-by format of interpreting was featured by participants' use or non-use of interpreting differently depending on the interview phase, a redefinition of the interpreter's role (with monitoring communicative success becoming a crucial part of her role), as well as by a high degree of collaboration among the three parties in managing the sense-making process.

Adversarial interpreting (Kredens, 2017) can also be included among emerging forms of interpreting discussed in the studies reviewed. The label refers to interpreted encounters in which two interpreters are present, such as a police interview in Kredens' study, one of them being normally the interpreter appointed by the institution, and the other one an interpreter brought by the other party, hence the term *adversarial*. The presence and participation of the second interpreter and how this affects the other interpreter's decisions lies at the heart of the study, for instance, when the interpreter who is monitoring the other interpreter intervenes and offers an allegedly better version than that provided by the interpreter, corrects it, or otherwise confirms it or supports it. Furthermore, the study discusses the still undefined protocols for expert assessment of interpreters' performance and the potential of monitoring.

The atypical formats of interpreting identified in the publications reviewed are all based on authentic cases, feature bilingualism, either among interpreting users or through the presence of two interpreters, and manifest practices that are occurring in

legal interpreting scenarios. They differ from more standard interpreting formats and, together with the situations in which those practices originate and the underlying factors, they highlight emerging needs and practices that will likely receive more scholarly attention from academics.

### **Focus on specific participants in interpreter-mediated encounters**

In the studies compiled it is noticeable the progressive specialization in the field through studies that focus on features of interpreting and the needs and/or rights of specific groups of interpreting users. The case of domestic violence victims and the professionals who work with them, including interpreters, is a telling example. Reporting domestic violence is less likely among victims who do not speak the language of the institution (Tipton, 2017). The *SOS-VICS*<sup>8</sup> project, funded by the EU and conducted in Spain, is the largest-scale project involving academics from several universities who focused on the state of the art of interpreting for victims of domestic violence across community settings, and developed materials, workshops and publications including reports, guidelines and recommendations for the different stakeholders (Abril Martí, 2015; Del Pozo Triviño and Toledano Buendía, 2016; del Pozo-Triviño, 2017). These publications offer an invaluable tool for those involved in the delicate encounters in which domestic violence victims do not speak the language of the institution, by for instance flagging up the risks for communication and the provision of legal, social work or health care services that may result from interpreters' lack of specialist knowledge of domestic violence protocols. Hale and Ozolins (2014) reflect on the valuable contribution of a short interpreting course for female workers involved in domestic violence cases in legal settings. Interpreter training is not always available or easily accessible for certain communities, and the availability of courses providing guidance is crucial.

Other studies have looked at interpreter-mediated encounters in domestic violence cases through a discourse-analytical lens. Elsrud (2014) analyses the negative impact upon interpreting users and their identity as "the other" as a result of poor interpreter performance, including omissions, changes and additions of information in domestic violence hearings. Tipton (2017) analyses the concept of risk management in interpreting through document analysis and questionnaires and interviews with interpreters who had experience in domestic violence interviews. The study focused on risk management as a crucial component of police interviews with victims of domestic abuse. A lack of specific and more focused procedures for interviews involving interpreters, and a number of areas in which there is scope for improvement were identified. One example is the need for interpreters to be equipped with the relevant knowledge on risk management procedures, and for police officers to be more knowledgeable about interpreters' needs and interpreting protocols.

Whereas defendants and witnesses prevail as non-institutional interpreting users in court interpreting studies, the needs and participation of jurors is also gaining scholarly attention. A group of researchers focusing on sign language interpreting analysed the rights of deaf individuals to act as jurors in Australia (Hale *et al.*, 2017; Napier and McEwin, 2015), a country in which deaf individuals do not have the right to act as jurors. The studies analysed the alleged risks for deaf jurors of being at a disadvantage with regard to hearing jurors as a result of accessing deliberations and instructions through a sign language interpreter. The results of both the pilot and the follow up study show that deaf jurors are not at a disadvantage, and these promising findings could translate into

legislative changes. It is also worth highlighting the work carried out by the members of the *Justisigns*<sup>9</sup> project, a EU-funded project aimed at developing training materials for deaf people, legal professionals and sign language interpreters to work in encounters that fall under the umbrella of the legal field and target the specific needs of the participants involved.

The atypical interpreting format discussed above in relation to Hong Kong's bilingual courts has also been addressed from the point of view of jurors as interpreting users (Ng, 2016). In her study, Ng identifies comprehension problems among jurors, for whom interpreting is not explicitly available – they only get to hear the interpreter when consecutive interpreting is used for the defendants. When jury members are selected, knowledge of English is one of the criteria for selection, but the study reveals flaws in the way competence is assessed – or rather simply taken for granted. Jurors reported comprehension problems, hence compromising the quality of trials. The study identifies a group of participants in proceedings who are deprived of the right to an interpreter despite the evidence showing that they would benefit from having one, and raises concerns about the quality of the proceedings.

This section concludes with another group of participants in legal encounters who are highly vulnerable: minors, and who fortunately have started to receive attention from researchers. In asylum settings, Keselman's thesis (2009) and publications (Keselman *et al.*, 2008, 2010a,b) provide a very detailed analysis of the complexity of asylum interviews with minors; the participation of interpreters and their impact upon the narratives told by minors; the challenges faced by participants in interaction in handling identity; and power issues in this particular type of encounter. Studies of such interpreter-mediated legal encounters have also looked into the specific participation framework in police interviews, in particular in the *Co-Minor-IN/QUEST I*<sup>10</sup> project and the still on-going *Co-Minor-IN/QUEST II*. The EU-funded project, in which experts from the fields of psychology, interpreting and justice took part, identified the features of pre-trial questioning of minors and the needs of this vulnerable target group, and proposed recommendations based on the specific features observed, such as the complex participation framework resulting from the participation of children, psychologists, interviewers, and interpreters, and the resulting need for a high degree of awareness of each other's role and cooperation; or the challenges posed by language use by children (Salaets and Balogh, 2015).

## Conclusion

This review described research activity in the field of legal interpreting and presented the themes that are being addressed by a community of researchers that is progressively specialising in specific types of encounters, groups and factors affecting interpreter-mediated communication. Through their research efforts, researchers from interpreting studies and other disciplines are contributing to advancing knowledge of important matters such as the needs of victims of domestic abuse in police interviews, the impact of having interpreting services available and training for particular subdomains of the legal sector, and the impact of the presence and participation of bilingual participants in interpreter-mediated legal encounters. As stressed at various points in this review, themes such as the interpreter's role, professionalisation and quality are ubiquitous in the literature, and will hopefully translate into enhanced practices and, in certain cases,

reforms in policies and regulations. The field features stark differences between settings, and the courtroom remains the most-widely researched field. Emerging fields, in which valuable research has been conducted, deserve further attention. Interpreting in prisons and asylum, immigration and police settings should receive further scholarly attention, but these are settings that are still less easily accessible. Hopefully, the increasing activity and cooperation between legal practitioners, interpreters and academics will also have an impact in facilitating access to those more confidential and less accessible domains. The threats of the current political climate and ideologies of hate against those who are quickly labelled as “other”, in part due to the fact that they speak a different language, are obvious for a practice that provides a service to both justice and law-enforcement institutions and migrants or members of minorities. Ultimately, the quality and professionalisation of legal interpreting in the various domains and specific encounters depends on the concerted efforts of policy-makers, academics, interpreters and legal practitioners, as well as on an increase in the awareness of the significance and the complexities of legal interpreting.

## Notes

<sup>1</sup>See *EULITA* website for a comprehensive list and a description of each project <http://eulita.eu/european-projects/>

<sup>2</sup>See *Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings* at EUR-Lex <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:jl0047>

<sup>3</sup>See *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* at EUR-LEX <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>

<sup>4</sup>See *Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings* at EUR-Lex <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0048>

<sup>5</sup>See *TIPP* project website: <http://pagines.uab.cat/tipp/en>

<sup>6</sup>See *Qualitas* project website: <http://www.qualitas-project.eu/>

<sup>7</sup>See the website hosting the three *AVIDICUS* projects: [http://www.videoconference-interpreting.net/?page\\_id=16](http://www.videoconference-interpreting.net/?page_id=16)

<sup>8</sup>See *SOS-VICS* project's website: <http://sosvicsweb.webs.uvigo.es/>

<sup>9</sup>See *Justisigns* project website: [http://justisigns.com/JUSTISIGNS\\_Project/About.html](http://justisigns.com/JUSTISIGNS_Project/About.html)

<sup>10</sup>See *Co-MINOR-IN/QUEST I and II* dedicated 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)

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