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## How are Accuracy and Impartiality dealt with in Court Interpreter Training?

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**UNIVERSITÉ  
DE GENÈVE**

**FACULTÉ DE TRADUCTION  
ET D'INTERPRÉTATION**

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**How are Accuracy and Impartiality  
dealt with in Court Interpreter Training?**

Mémoire présenté à la Faculté de Traduction et d'Interprétation  
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**ABRÉGÉ / ABSTRACT:**

*This MA thesis aims to explore how accuracy and impartiality are addressed in court interpreter training. The first part of the thesis explores the issues of accuracy and impartiality from a multi-disciplinary perspective. Scholarly literature and codes of ethics for court interpreters are analysed in an attempt to clarify the meaning of the two notions and their practical implications. The second part focuses on how court interpreter training programmes deal with ethics. A questionnaire was submitted to ten training institutions to investigate the importance attached to ethics as well as the pedagogical approach for covering ethical issues, with a particular focus on accuracy and impartiality. The results confirm that ethics plays a central role in court interpreter training. More specifically, accuracy and impartiality are regarded as two key skills and are included in assessment criteria. Interestingly, trainers seem to favour a critical pedagogical approach based on case studies and open debates, showing that ethics is not set in stone and needs to be constantly redefined through critical reflection.*

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## **Introduction**

As barriers fall in an ever more globalised world, the need for qualified interpreters increases. The greater mobility of people across the world has also had obvious repercussions on legal scenarios, which have become increasingly multicultural and, therefore, ever more reliant on linguistic mediators. Interpreters are required in a host of different settings, ranging from police interviews and investigations to assistance for asylum seekers, courtroom hearings and trials, to mention but a few. However, the roles and responsibilities of legal interpreters are far from clearly defined. Interpreters are often confronted with the conflicting expectations of interpreter-service users and, while codes of conduct are widely available, it is not always clear to what extent they can serve as a guide for practitioners. Two seemingly self-evident qualities required of interpreters, if more closely inspected, prove blurred and controversial: accuracy and impartiality, while being abundantly referred to in literature, do not have universal definitions and subsequently, it can be argued, universal application.

This paper aims to explore how the notions of accuracy and impartiality are addressed in court interpreter training. In order to gain a better understanding of the two notions, the first part of this paper will provide a brief overview of how accuracy and impartiality have been investigated and debated over time, including in fields other than interpreting. Subsequently, codes of ethics from different countries will be compared and contrasted to highlight similarities and differences in how accuracy and impartiality are defined.

The second part of the paper will then focus on how the two notions are dealt with in court interpreter training programmes. During the research process, it became increasingly obvious that, although codes of ethics play an important role in guiding interpreters, they do not solve in and of themselves the dilemmas of accuracy and impartiality. Codes provide only general guidelines, which, by their very nature, may not always capture the complexity of real-life situations. Training,

therefore, can be seen as the missing link, combining general guidelines on the one hand with hands-on interpreting practice on the other.

In the light of these observations, the authors of this thesis thought it interesting to look at training programmes for legal interpreters and gather data on how ethics and, more specifically, accuracy and impartiality are addressed, if at all, in training curricula. What is the place of ethics? Is a clear definition of accuracy and impartiality provided? Are these two notions taken into account in the assessment of learners? To answer these questions, a questionnaire was designed and submitted to a sample of training institutions across the United Kingdom, the United States and Australia. The analysis of the responses collected is provided in the final chapter, in the hope of providing a useful insight into how the role and ethical conduct of legal interpreters are problematised in academia.

# 1 Court Interpreting: An Overview - Past and Present

## 1.1 Court Interpreting as a Right and a Profession

Legislation universally recognises - either directly or indirectly - that defendants and witnesses involved in judicial proceedings have a right to be informed of the charges against them and can request the assistance of an interpreter if they do not speak or understand the language of the proceedings. Article 2 of the Universal Declaration of Human Rights implicitly stresses the importance of ensuring a fair trial notwithstanding language barriers:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, *language* [authors' italics], religion, political or other opinion, national or social origin, property, birth or other status.

The International Covenant on Civil and Political Rights is very explicit about the right of any individual involved in judicial proceedings to be informed in a language that he/she understands:

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him. (Art. 14.3(a))

A similar principle is upheld by the UN declaration of the Rights of the Child (art. 40 (vi)).

The relationship between language and justice has always been of particular significance to the European Union (EU), a supranational entity binding together different languages, cultures and judicial systems. In 1992 the Maastricht Treaty established the so-called “third pillar”, originally known as “Justice and Home Affairs”, intended to foster cooperation with police forces and judicial authorities. The project is very ambitious in its scope, including cooperation on border controls, civil and criminal matters as well as the fight against drug trafficking, fraud and terrorism. It goes without saying that effective communication is of the essence to ensure the smooth running of such operations, and legal interpreters can play a pivotal role in this respect.

This is reflected in the European Convention of Human Rights, which clearly mentions the assistance of an interpreter among the minimum rights of any individual charged with a criminal offence:

Everyone charged with a criminal offence has the following minimum rights: [...] to have the free assistance of an interpreter if he cannot understand or speak the language used in court. (Art. 6 (3e))

Article 6 is a milestone in the field and has underpinned the approach of the European Court of Justice (ECJ) to language issues over the years. In 1978 (*Luedicke, Belkacem and Koç vs Germany*) the ECJ clearly cited article 6 (3e) in its ruling, stating that those who are not able to speak or understand the language used in court have “the right to receive the free assistance of an interpreter without subsequently having payment of the costs thereby incurred claimed back from him”. A few years later, in 1989 (*Kamasinki vs Austria*), the ECJ further stressed the importance of removing linguistic barriers in legal proceedings by stating that “the right, stated in paragraph 3(e) of Article 6, to the free assistance of an interpreter, applies not only to oral statements made at the trial

hearing but also to documentary material and the pre-trial proceedings”. Interestingly, the ruling touches upon another key issue: quality.

In the view of the need for the right guaranteed by paragraph 3 (e) to be practical and effective, the obligation of the competent authorities (...) may also extend to a degree of subsequent control over the adequacy of the interpretation provided.

(Hertog and Vanden Bosch, 2001: 16)

More recently, in 2010, the European Parliament and the Council of the European Union issued directive 2010/64/EU on the right to interpretation and translation in criminal proceedings, which contains further indications on issues pertaining to court interpreting, *inter alia*: costs, quality, record-keeping and training of judicial staff.

Another sign of the EU’s growing awareness of court interpreters’ role is the Grotius projects (I and II), financed by the EU Commission DG Justice and Home Affairs. The project is intended to investigate critical issues related to legal interpreting, such as standards of selection, training and accreditation of interpreters as well as codes of ethics and cooperation between legal interpreters and legal services, in order to provide recommendations to all EU member states.

These are just a few examples showing how international legislation has acknowledged that the removal of language barriers is vital to ensuring respect for basic human rights. Many more could be mentioned, ranging from the EU Charter of Fundamental Rights to provisions set forth in national legislations. The presence and legal recognition of court interpreters can be regarded as signs of a “free and fair society”, in which all members are given the opportunity to participate in legal proceedings on an equal footing, regardless of their language background (Fenton, 1997: 29). This recognition is all the more necessary in a world where legal scenarios have become increasingly multicultural. The legal setting - Mikkelsen argues - has “become increasingly

complex” (Mikkelsen, 2000b: 2), and so, arguably, have the contexts involving legal interpreters, ranging from police interviews and investigations to assistance for asylum seekers, courtroom hearings and trials (see Hale, 2008). The next sub-chapter will explore the various settings in which legal interpreting services may be required.

## **1.2 Settings: Does it all Boil Down to Courts?**

Contrary to what one might assume, the assistance of legal interpreters is not only required in hearings but throughout legal proceedings. First of all, interpreters may be needed from the very early stages of criminal investigations, e.g. the suspect’s arrival at the police station and his/her pre-interview, during which the suspect is notified the reasons for the arrest and is cautioned. In this phase, the interpreter’s tasks range from making telephone calls to writing a letter on the suspect’s behalf, if the latter is not able to do it him/herself. The interpreter may also be necessary during meetings between suspects and solicitors: in this case, everything said between the solicitor and his/her client is confidential and cannot be used as evidence.

Another scenario is the police interview, when everything that is said is tape-recorded. The interpreter may also be requested to assist the police in the search of premises, visit the scene of the crime (in order to help with neighbourhood questioning), interpret telephone interceptions or conduct video interviews. Additionally, interpreting services may be needed in custom and excise and immigration procedures.

Immigration interviews may prove particularly problematic, as they are often conducted when people may not be able to sustain the pressure of questioning in a foreign environment (see Morris, 1995). In the case of asylum seekers, for instance, the interviewees may have experienced trauma or torture and their statements may be inconsistent or lacking in clarity, with obvious repercussions on the accuracy of the interpreter’s rendition.

Of course, interpreters also work during court hearings, which present very distinct features from those of any other legal setting. Firstly, the court setting is a “rule-governed” environment (Fowler 1997: 192), where authority may affect the interaction of the parties involved. Any “outsider” taking part in the court proceedings, i.e. witnesses, defendants and court interpreters, may feel intimidated by the exposure to public scrutiny: as a result, the interpreters may, for instance, strive to find their place in this context, being neither observers nor regular members of the court personnel. Commenting on these environmental factors, Fowler defines her experience in court as “overwhelming” and “daunting” (1997: 191-2), one that may have “a distinctly negative effect upon witnesses and defendants alike” (1997: 192). Secondly, court interactions are characterised by a wide range of language registers<sup>1</sup> and different types of speech (opening speeches, examinations, cross-examinations, Q/A, etc.). From a pragmatic perspective, the norms governing courtroom interactions differ from those that characterise ordinary face-to-face interaction. Firstly, in a court setting, the number of active participants is limited and pre-determined, as are speaking turns (see Fowler, 1997). Secondly, questions can be phrased in different formats, varying from proper questions to statements, and it is up to the interpreter to recognise implicatures to convey the exact meaning intended by the speaker (Fowler, 1997: 194).

The variety of working contexts that has been outlined contradicts the popular representation whereby court interpreters work only in courts. In fact, court (or legal) interpreting requires versatility and adaptability, both physical and psychological, to different circumstances. This overview has provided a snapshot of the present but this does not mean that court interpreting is a modern activity. Although globalisation as we know it is undeniably a contemporary phenomenon, people have moved across borders since time immemorial, making interpretation one of the oldest professions in history. Legal interpreting has a long and often overlooked history, whose evolution will be rehearsed in the next part of the study.

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<sup>1</sup> In his book *The Five Clocks* (1962), Joos identifies five registers (frozen, formal, consultative, casual and intimate), chosen by the speaker based on the context.

### 1.3 Court Interpreting: A Walk down the Centuries

The origins of court interpreting can be traced back to ancient history. In the multilingual Roman Empire interpreters were needed to ensure that the judicial system was properly run. In the 5<sup>th</sup> Century AD, for instance, professors of law schools in Beirut and Constantinople worked together to render Latin legal terminology orally into Greek. A trend that continued well into the Middle Ages: as Roland points out, at the time of the Crusades the use of interpreters was common practice both among soldiers and between the Crusaders and the Arabs (Roland, 1999: 31).

In the 16<sup>th</sup> and 17<sup>th</sup> Century in Spain, interpreting was necessary to preserve the integrity of the Spanish Empire in Latin America. The need for language mediators between Spanish settlers and indigenous peoples was so compelling that it soon became a common practice to capture Indians and train them as language intermediaries. The *New Law of Indies*, published in 1681, acknowledged the importance of interpreting by including a chapter (Title 29 *De los intérpretes*) entirely devoted to linguistic issues arising between the government and the indigenous people. The chapter set out the interpreters' rights and responsibilities and addressed a wide range of issues including qualifications, appropriate behaviour, working hours and remuneration (see Giambruno Miguélez, 2008). This document is considered as the first step towards the professionalisation of court interpreters and appears to be informed by a surprisingly modern approach: not only does it officially recognise the role of interpreters in judicial proceedings but it goes as far as to define court interpreters as “instruments by which justice is done”:

Much harm and prejudice can be caused if the interpreters of Indian languages do not possess the loyalty, faith and good will that are required of them as instruments by which justice is done and by which the Indians are governed and their grievances addressed. (Giambruno, 2008: 37)

One of the most cited cases in the history of court interpreting, the 1791 English lawsuit *Du Barr vs Livette*, shows how much the judiciary of the time valued the profession of court interpreters and illustrates the equal professional dignity attached to both interpreters and lawyers.

Everything said before the interpreter was equally in confidence as if said to the attorney when no interpreter was present; he was the organ through which the prisoner conveyed information to the attorney. (Morris, 1999a: 8)

The Congress of Vienna of 1815 was a veritable milestone for court interpreting: while, strictly speaking, the Congress was not a formal court of law, most of the talks that took place there focused on conflict resolution. It is worth pointing out that, at the time, although court interpreting was gaining popularity, defendants' rights were not acknowledged by the judiciary: courts would resort to interpreters to communicate with the witness or accused to receive testimony, but neglected the right of defendants to be informed through the interpreter of the course of the case. *R. vs Cargalis* (1876) illustrates this double standard: the case dealt with a murder committed on the high seas falling within the remit of English jurisdiction. Several non-English-speaking witnesses gave evidence and were reportedly interpreted into English but there is no proof that the defendants received interpretation of the evidence against them (Morris, 1999a: 23). Similar imbalances can be found in the 19<sup>th</sup> Century in judicial proceedings involving deaf people. In passing judgment on the Berry case (Great Britain, 1876), in which Berry, a deaf-mute, was tried and found guilty of theft, the judge stated that it would have been unfair to convict an individual not able to understand the proceedings because of his hearing impairment. To explain his position, the judge drew a parallel between his attitude to the deaf-mute defendant and his judicial treatment of a non-English-speaking defendant in a previous case:

I remember once trying a foreigner who knew no word of English and, there being a doubt as to the efficiency of the interpreter, and whether the prisoner could understand every word of the proceedings, I ordered the jury to be discharged.

(Morris, 1999a: 27)

This is an enlightened comment for the time, underlining on the one hand the foreign speaker's right to interpretation and stressing, on the other, the importance of quality in court interpreting: only if the interpreter is competent can the defendant fully understand the proceedings and therefore be tried fairly. A turning point came in 1916 with *R vs Lee Kun*, involving a Chinese man sentenced to death on a murder charge. Although interpretation services were provided at the trial, these were only partial: it came up during the appeal that prosecution evidence had not been interpreted to the defendant. The case made history as the judge Lord Reading stated that physical attendance was not enough for an accused to be considered fully present at the trial and that it was imperative for the defendant to understand the nature of the proceedings.

Court interpreting gained world visibility with the Nuremberg trials (1945), widely regarded as the genesis of court interpreting as a modern profession (Erevbenagie Usandolo, 2010: 37): from that moment onwards, quality officially became a matter for concern. In more recent times, court interpreters have repeatedly been in the spotlight in connection to international tribunals, such as the International Criminal Tribunal for the Former Yugoslavia or the Extraordinary Chambers in the Courts of Cambodia, and national instances, such as the Truth and Reconciliation Commission in South Africa between 1996 and 1999.

Despite the long record of the profession, court interpreting “was never recognised as a full-time occupation” (Mikkelsen, 2000b: 5) and only recently (i.e. in the second half of the 20<sup>th</sup> Century) has the need for formal training been acknowledged, as governments became increasingly aware of the importance of ensuring high quality standards in court interpreting. In 1978 the Court

Interpreters' Act was enacted in the United States, requiring Spanish interpreters working in the federal courts to pass a certification exam in order to demonstrate their proficiency and guarantee quality. In addition to that, the American Registry of Interpreters for the Deaf set up a legal skills certificate for its interpreters. Sweden followed suit by introducing a state authorisation exam in 1976, as did Australia and Canada in 1978 and the early '80s, respectively.

The emergence of professional associations, such as the National Association of Judiciary Interpreters and Translators (NAJIT) in 1988, has gone hand in hand with the professionalisation of court interpreting. These associations have been instrumental in setting performance standards in court interpreting, either administering directly interpreting exams for accreditation or cooperating with government agencies to ensure the quality of testing programmes. In addition to this, professional associations contribute to drafting and implementing professional codes of ethics in a bid to define an ethical conduct for the benefit of clients, practitioners and society as a whole. In spite of this progress, however, the reality of the profession still presents many a shortcoming, as will be outlined in the next part of the thesis.

#### **1.4 Court Interpreting Today: A Reality Check**

A cursory analysis is enough to realise that the principles upholding the importance of legal interpreters are often at variance with the reality of the profession. The 2009 Brennan Center for Justice report on Language Access in State Courts revealed that out of 25 million people with LEP (limited English proficiency) at least 13 million live in “states that do not require their courts to provide interpreters to LEP individuals in most types of civil cases”, adding that “another 6 million live in states that undercut their commitment to provide interpreters by charging for them”. The lack of interpreters is not ascribable to a lack of legislation, as many a federal law have repeatedly

guaranteed the provision of interpretation services both in civil and criminal cases, from Title VI of the Civil Rights Act of 1964 to the Court Interpreter's Act of 1978 (28 USC 1827)<sup>2</sup>.

Even when interpretation services are provided, it is often the case that the interpreters are unskilled individuals who have little - if any - formal training or accreditation:

Research has shown that courts must often rely on interpretation services of bilingual individuals who have received no specific training about the requirements, role and responsibilities of a court interpreter. Research has also shown that many judges and attorneys are also unaware of the professional responsibilities of the interpreter and how these translate into highly demanding technical skill requirements. (Hewitt, 1995: 198)

The situation does not seem to be much better in the EU. As Hertog points out:

On the whole, it is safe to say that there are insufficient LITs [legal interpreters and translators], either in terms of numbers, the wide range of languages required in member states or indeed in quality. Moreover, there is a lack of training and consistency in the interdisciplinary guidelines to good practice, and a lack of compatible national central registers - not to mention an EU one - which are easy to access on a 24-hour basis and are accompanied by an enforceable code of conduct. (2002:150)

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<sup>2</sup> For further information relative to US legislation on interpreting services, see R. Morris, "Court interpreting 2009: An undervalued and misunderstood profession? Or: Will justice speak?" available for download at [http://www.ruth-morris.info/?page\\_id=50](http://www.ruth-morris.info/?page_id=50)

This deplorable state of affairs has direct implications on justice and on the lives of all those who rely on interpreters to defend their rights or obtain justice. *Cuscani vs the United Kingdom* clearly illustrates how important it is for defendants to rely on professional interpreting services to be aware of the charges levelled against them as well as the proceedings as they unfold. Convicted of fraud and tax evasion, Mr Cuscani pleaded guilty in first instance; the Criminal Cases Review Commission, however, dismissed the defendant's plea, declaring that it was based on a misapprehended basis as the defendant had an inadequate understanding of the English language. It is worth noting that, although the first instance judge had granted a request for an interpreter, no professional was present during the hearing. Mr Cuscani's brother, who had no qualifications in legal interpreting, was called in to assist his brother linguistically, although his services were never solicited during the actual proceedings (see Tilbury, 2003: 62). Moving to the USA, the Alejandro Ramírez case (Ohio, 2000)<sup>3</sup> is equally indicative of the lamentable lack of professionalism characterising legal interpretation:

The defendant's conviction was eventually thrown out when incompetent police interpreting was revealed. The defendant's interrogation was translated by an "interpreter" who had studied Spanish for just two years, had no prior training in judiciary interpretation and was not fluent in Spanish. The Ohio Court of Appeals ruled that the defendant could not possibly have understood the proceedings. For example, at one stage the interpreter should have said: "You have the right to the advice of an attorney." Her Spanish interpretation was: "You have a right-hand turn to give a visa to a lawyer." (American Bar Association, 2010: 80)

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<sup>3</sup> For further information, see "The Administration of Justice in a Multilingual Society - Open to Interpretation or Lost in Translation?" - [http://www.eulita.eu/sites/default/files/AdminJustice\\_Kahaner.pdf](http://www.eulita.eu/sites/default/files/AdminJustice_Kahaner.pdf)  
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Another case in point is *U.S. vs Hasan* (California, 2010). Mr Hasan, convicted on three counts of perjury, mounted an appeal against the verdict by alleging that “the government violated his rights under the Court Interpreters Act (“CIA”), 28 U.S.C. § 1827, by failing to provide him with an interpreter when he appeared on two occasions before a grand jury” (see United States District Court for the Northern District of Oklahoma, 2010).

These cases highlight, as argued by Hertog (2002:156), an urgent need for a much more structured framework to guide legal interpreters in their profession and help establish better standards for all those who are involved in the profession or resort to it. Without such a framework, malpractice and unprofessional behaviour will continue unfettered, affecting the lives of many individuals and eventually bringing the whole profession into disrepute. Mikkelsen maintains (2000a: 49; 2000b: 7) that ethical codes and training courses are two pivotal instruments for professionalising court interpreting and acknowledging its value. Codes of ethics contain useful guidelines providing interpreters with a reference framework indicating what is professionally acceptable or obligatory. They guarantee standards and protect not only the interpreters but also the other parties involved, ultimately improving the status of the profession. The AUSIT Code of Ethics clearly states:

Adherence to a code of ethics represents an undertaking by the members of a professional association that they can be relied upon to behave according to rules that protect and respect the interests of their clients as well as those of their fellow members. (AUSIT Code of Ethics, nd: 1)

Codes of ethics will be the focus of the next chapters. Particular emphasis will be placed on two tenets enshrined in virtually all codes of professional conduct for court interpreters, namely: accuracy and impartiality. Although these two concepts are abundantly referred to in the codes, a

clear, unequivocal definition is seldom provided, leaving plenty of room for debate as to what is theoretically and practically meant by these seemingly self-evident terms. Before analysing codes of ethics, the authors thought it useful to take a look at scholarly literature to see how accuracy and impartiality have been problematised over the centuries, including in fields other than interpreting.

## 2 Accuracy

### 2.1 Accuracy: Lost in Translation?

Prior to being adopted in translation and interpreting research, the notion of accuracy traditionally fell within the domain of hard science, responding to its need for exactness and common rules: physics, technology, medicine and information systems are just a few of the many domains resorting to the notion of accuracy in their everyday practice.

An unambiguous definition of the term is provided by ISO (International Organisation for Standardisation), which describes accuracy as the “closeness of agreement between a quantity value obtained by measurement and the true value of the measurand” (International Vocabulary of Basic and General Terms in Metrology, 2004). Interestingly, the definition suggests that a perfect match between the quantity value measured and the true value of the measurand is not achievable.

Translation studies have also examined accuracy as part of the perennial dilemmas of translatability and loss in translation. In this respect, Newmark argues that a certain degree of loss is inevitable:

If the text describes a situation which has elements peculiar to the natural environment, institutions and culture of its language area, there is an inevitable loss of meaning, since the transference to... the translator's language can only be approximate. (Newmark, 1988: 7)

The notion of accuracy in translation has evolved significantly over time. For the purposes of this thesis and for the sake of brevity, the overview provided hereafter will focus on the most recent developments in translation studies, leaving aside the era of the so-called “belles infidèles”, a phrase coined in the 17<sup>th</sup> Century by grammarian Gile Ménage to describe the translations of classical texts which, albeit stylistically beautiful, diverged so much from the original as to be

deemed “unfaithful”. Moving to much more recent times, over the past few decades the notion of accuracy has been associated with that of equivalence between source text (ST) and target text (TT). The very definition of the term equivalence, however, is moot and has fuelled a heated debate with theorists putting forward several definitions - Jakobson (1959), Nida (1991), House (1977), Baker (1992) and Chesterman (2001) being just some of the illustrious names contributing to the debate.

Roman Jakobson is credited with introducing the notion of “equivalence in difference” (see Jakobson, 1959). He maintains “there is ordinarily no full equivalence between code-units” (ibid.), the impossibility of full equivalence between two languages resulting from the linguistic and structural constraints of each language, such as gender, verbal aspect and semantic field. This, however, does not imply the impossibility of translation because “whenever there is deficiency, terminology may be qualified and amplified by loanwords or loan translations, neologisms or semantic shifts, and finally, by circumlocutions” (ibid.). Jakobson provides a number of examples comparing English and Russian language structures, and explains that in the absence of a literal equivalent for a particular ST word or sentence it is up to the translator to adopt the most suitable strategy to bridge the gap between the two languages.

Eugene Nida, famous for his Bible translation studies, moves away from a strict word-for-word idea of equivalence, taking the debate to the next level. By introducing the notion of “dynamic equivalence” as opposed to “formal correspondence” (see Nida and Taber, 1969), Nida makes a distinction between identity and equivalence, the former being a formal notion, the latter being hinged on content as well as on the impact generated on the reader by the target text. According to the “equivalent effect” principle, the translator should attempt to elicit the same response from the translation’s reader as the original text would do if the reader could understand the source language. This, Nida concedes, may require the translator to make significant changes, for instance, of a grammatical nature:

Frequently, the form of the original text is changed; but as long as the change follows the rules of back transformation in the source language, of contextual consistency in the transfer, and of transformation in the receptor language, the message is preserved and the translation is faithful. (Nida and Taber, 1982:200)

Juliane House (1977) introduces the situational dimensions of the ST and TT, taking into account the context in which the translation will be received. House's theory presents obvious similarities with Vermeer's *skopos theory* (1996), which offers another interesting point of view on the impossibility of one-to-one equivalence in translation. As the name of the theory itself suggests, translation strategies must be consistent with the purpose of the ST, equivalence between the original and its translation being contingent on the TT fulfilling the purpose of the ST.

Mona Baker further explores the issue of equivalence, which she analyses on four different levels: word, grammatical, textual and pragmatic equivalence (see Baker, 1992 and Leonardi, 2010). Equivalence at word level and above word level is the simplest level of equivalence. When translating the ST for the first time, the translator analyses words as single units so as to find an "equivalent term in the TL". As for grammatical equivalence, Baker claims that different grammatical structures in the SL and TL may considerably alter the way the message is relayed. Therefore, the translator may choose to add or omit information in the TT because the TL is lacking in particular grammatical devices, such as number, tense, aspect, voice, person and gender. Textual equivalence is defined as the equivalence between ST and TT in terms of information and cohesion (target audience, purpose of the translation and text type are the three main factors guiding the translator in his/her decision-making process.) Pragmatic equivalence refers to implicatures and strategies of avoidance in the translation process, taking implied meanings into account in order to convey the ST message fully.

As Leonardi (2010) points out, the notion of equivalence remains at present one of the most controversial tenets of translation studies, as many different interpretations of the term have been brought to the fore. Trying to define equivalence means exploring the relationship between source text, target text, the translator (or interpreter) and the readers (or listeners), whose interplay lies at the core of every ethical issue. Indeed, the relationship between equivalence and ethics is central to Chesterman's reflection. In his work Chesterman (2001) describes four models of translation ethics: the ethics of representation, the ethics of service, the ethics of communication and norm-based ethics. The first model revolves around the tenets of fidelity and truth, the translator's goal being that of acting as "a good mirror" (Chesterman, 2001:140), representing the ST "without adding, omitting or changing anything" (ibid.). The ethics of service, on the other hand, puts the stress on loyalty to the client as the translator's chief concern; the ethics of communication sees the promotion of cross-cultural communication as the translator's main goal; finally, the norm-based model calls on the translator to fulfil the expectations of his/her target readership. The theoretical premises underlying the representation model can be traced back to the Romantic Movement and its emphasis on the need for "the Other" to be let to appear as it is, without any domestication by the translator. This model, however, is far from being flawless, as admitted by Chesterman himself, in that it is "vulnerable to arguments about the impossibility of totally true representation (...), about the illusion of perfect equivalence" (ibid.), a recurring dilemma for interpreters as well as for translators, as will be seen in the following part of the study.

## **2.2 From Translation Studies to Interpreting**

From the very outset, the theoretical premises developed in translation studies concerning accuracy and faithfulness have been integrated in interpreting research. Accuracy, however, takes on a different meaning depending on whether it is in the context of conference interpreting or court interpreting. The former has been traditionally associated with the so-called "théorie du sens" put

forward by Seleskovitch (1978), which maintains that the interpreter's utterances should express the speaker's ideas and not just mirror the linguistic equivalents through which these ideas are expressed. The interpreter must be faithful to "the original meaning" (Seleskovitch 1978: 101) as accuracy is not a matter of words but ideas, as argued by more recent research (Gile 1995, Seeber and Zelger 2007) into the crucial role of information reprocessing and editing in conference interpreting (see Morris, 1995). On the other hand, the constraints imposed upon interpreters by the legal context, both on a deontological and a practical level (among others, the court setting and the interpreting mode), mean that court interpreters do not have the same latitude as conference interpreters: "one cannot fix or modify any words, because such fixing would taint the case" (Edwards, 1995:1). The situation is further compounded by different perceptions as to what court interpreting is or should be about, as will be explained in the next sub-chapter.

### **2.3 Accuracy in Court Interpreting: A World of Conflicting Views**

As seen in this chapter, the term "accuracy" lends itself to many interpretations and the same goes for accuracy in court interpreting, as the parties involved in a given legal context may have different expectations as to what interpreting is and how it should be carried out. The following sub-chapter provides an overview of the different points of view and how they might affect the interpreter's work.

#### **2.3.1. Interpreting As Perceived by the Law: The Legal Fiction**

In the eyes of the law and its practitioners, interpreting is often equated with a word-for-word translation of the speaker's words (Morris, 1995:27; Hale, 1997: 201). As Mikkelsen points out (2010: 2), verbatim interpretation is "a pervasive myth within the judiciary", although statutes governing court interpretation do not mention the term "verbatim" explicitly and, rather, refer to the need to convey "the intended meaning". According to Morris (1995:30), the origin of this verbatim

prescription may lie in the oral tradition of early law, in which oral pleadings were characterised by carefully followed rituals. From the law's point of view, "language is conceived of as transparent" (Morris, 1995:30), a mere code through which messages are expressed, the implication being that on the one hand language-switching entails no loss of content or form and, on the other, that absolute accuracy can be achieved. The verbatim approach, therefore, does not take into account the multi-tier nature of human communication and perpetrates what has been defined as "the legal fiction" (Morris, 1995: 28; Mikkelsen, 2008:84) enabling the court to function as a monolingual setting.

This attitude has a potentially dangerous consequence: even though the law recognises the presence of two languages in the courtroom (i.e. the input in a foreign language and the output in the official working language of the court), *de facto* it only validates the output. In Morris's view (1995: 31), this occurs because the judiciary cannot afford to admit that the translation process is inherently imperfect: therefore, in the presence of error, it blames

the individuals whom it engages to pursue the unattainable Holy Grail of translatory perfection [as] that will enable it to ignore the differences that exist between speakers of different languages. (Morris, 1995: 31)

This denial does not uniquely concern interlingual communication but communication as a whole: the legal world refuses in equal measure to accept that intralingual exchanges are susceptible to misunderstanding. Admitting linguistic imperfection - whether it be an unclear argument or an unfinished sentence - would undermine the judiciary's mastery of language, and lawyers and judges cannot admit that they may be responsible for misunderstandings arising in court. Consequently, communication breakdowns are laid at the court interpreters' door (see Morris, 1995; Fowler, 1997).

Fenton (1997: 30) sheds more light on this, explaining why the interpreter can be perceived as a threat by the judiciary (especially in the adversarial system). Firstly, the power of language: control and mastery of the spoken language are seen as lawyers' prerogatives. When a lawyer has to resort to an interpreter "some of his power slips away from him and shifts to the interpreter who is now in control of the language [...], monopolizing the means of communication" (Fenton, 1997: 30). The interpreter therefore appears as a potential challenge to the power structure of the courtroom: "hence, the tacit approval of the cutting down of the interpreter's role to that of a machine" (Fenton, 1997: 31). Secondly, lawyers enjoy a position of power in the courtroom because they are the ones who ask questions. Whenever an interpreter relays their questions, lawyers fear that the interpreter might undermine the impact of their linguistic techniques or that their authority as "questioners" might shift to the interpreter. Interestingly, Morris (1995: 32) stresses that despite all the calls for verbatim interpretation made by the judiciary, an "unspoken and unwritten code of good practice" requires court interpreters to improve on defects of judges' and lawyers' performances. Conversely, interpreters are expected to adhere to the "verbatim prescription" strictly whenever witness statements are delivered. Thirdly, rules and procedures play a central role in the courtroom setting and the very participation of the interpreter in the judicial proceedings increases the complexity and the unpredictability of the proceedings (see Fenton, 1997; Fowler, 1997).

Incidentally, it is curious to note that legal practitioners use the term "interpretation" to describe the *intralingual* interpretation of legal texts, an activity that pertains exclusively to jurists and scholars, while terms such as "oral translation" tend to be preferred when describing the activity carried out by court interpreters (see Morris, 1995).

### 2.3.2 The Interpreter Between a Rock and a Hard Place

While the legal machine tends to reduce the interpreter's work to a mechanistic and infallible task<sup>4</sup>, on the other side of the fence are the defendants, who often see the interpreter as an ally who is there to help them and provide counsel. According to Hale (2008: 102-106), a common misconception on the part of minority language speakers is that the interpreter is an advocate for their cause. In a survey carried out among 685 Arabic, Spanish and Vietnamese speakers resorting to interpreters (see Hale and Luzardo, 1997), 56% of the interviewees stated that they saw the interpreters as compatriots who were there to help them.

Aboriginal court interpreters in Australia are also confronted with conflicting expectations (see Cooke, 2009). Aboriginal customary law can affect their performance, making it difficult for them to deliver an accurate rendition, i.e. by "Western standards". For instance, in Aboriginal culture it is considered highly disrespectful to ask a man questions about a woman categorised as his sister. Talking about recently deceased people and using their names is equally forbidden. Neglecting customary law and interpreting questions in the form in which they are asked may lead to embarrassment, hostility and reluctance on the part of the interviewee, thus endangering accuracy.

The difficulty of sticking to a purely verbatim approach is compounded by the diversity of ethnic groups involved in legal proceedings (see Mikkelsen, 1998). The fact that defendants may belong to different legal traditions widens the cultural gap that court interpreters have to bridge. Moreover, some of the languages spoken by immigrants - Hmong and Tigrinya, to provide but two examples - have never been languages of law or government in any country, and therefore do not

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<sup>4</sup> "The court interpreter has variously been compared to a phonograph (Gregory v. Chicago, R. I. & P. R. Co.); a transmission belt; transmission wire or telephone (United States v. Anguola at 1186); a court reporter (People v. Resendes at 612-13); a bilingual transmitter (Gaio v. R. at 430); a translating machine (Gaio at 431); a medium and conduit of an accurate and colourless transmission of questions to and answers from the witnesses (State v. Chyo Chiagk at 704); a mere cipher (R. v. Attard at 91); an organ conveying sentiments or information (Du Barré v. Livette); a mouthpiece (Gaio v. R. at 429); and a means of communication (Gaio v. R. at 432)." (Morris, 1999b: 9)

have any equivalent for terms such as “constitutional rights” or “district attorney”. This may compel the interpreter to coin equivalent phrases to explain such concepts, which is a very time-consuming task. Even so, the interpreter’s efforts may not be enough as “the defendant is caught in a system that is so alien to his experience that he may not be able to fit the phrase into his world view” (Mikkelsen, 1998).

These examples show that in the presence of linguistic and cultural gaps, the verbatim approach is not tenable. Incidentally, this point also shows how striving for accuracy may result in a presumed lack of impartiality, the two notions being closely intertwined, as will be explained in the next chapter. In the light of these considerations, a word-for-word rendition is clearly at variance with a more comprehensive, less-stereotyped definition of accuracy with respect to meaning. Accuracy implies a deeper understanding of the literal, semantic and pragmatic components of the message, as maintained by Seeber and Zelger (2007: 293) and Hale (1995: 202-203). According to Seeber and Zelger (2007: 293), messages are made up of a verbal, a semantic and an intentional component, and an accurate interpretation must “consider all three” (ibid.). According to Hale (1995: 202), accuracy does not only mean conveying the general content of the message but also the speaker’s intention. The court interpreter’s inability to match the pragmatic force of the original may lead to pragmatic failure, of which Hale distinguishes two typologies: pragmalinguistic and sociopragmatic. The former consists in an inappropriate transfer of speech act strategies from Language 1 to Language 2 and stems from a mistaken perception of the pragmatic force of the utterance, whereas the latter occurs whenever cultural differences cause a different understanding of the linguistic behaviour. In her study (see Hale, 1995), aimed at assessing the accuracy of court interpreters’ renditions, Hale provides several examples of such failures. In some cases, the interpreters fail to convey the speaker’s intention in the TL: for instance, in one of the extracts, a witness claims to be “una persona muy educada”, translated in English as “I am a very educated person”. The term “educated” is not pragmatically equivalent to “educada” in this context as the

witness is not implying that he is well educated but that he is well mannered (the concept of “education” has two meanings in Spanish: school education and upbringing). As this example clearly illustrates, the inability to reconcile the semantic and pragmatic meaning of ideas does affect rendition, leading to miscommunication.

## **2.4 Codes of Ethics: The Critical Link**

The conflicting expectations to which interpreters are confronted exert remarkable pressure on their work. Against this emotionally charged backdrop, codes of ethics and/or best practice could play an extremely important role in guiding practitioners, setting out basic principles to be borne in mind. It is interesting to note that several such codes have been drafted in many countries. Some have even called for a universal code to be drawn up in order to transcend differences and provide unity to what is often perceived as a patchy and unregulated profession (see Driesen, 2003). As Hale points out, the lack of compulsory pre-service training for court interpreters has meant that codes of ethics have become “the only consistent standard for most countries around the world through which general rules of conduct and practice are set” (Hale, 2007: 103). In the next sub-chapter, 17 codes of ethics from different countries will be compared and contrasted in a bid to find a common definition of accuracy (for the list of codes of ethics, see bibliography.)

### **2.4.1 Comparing Codes of Ethics: Accuracy**

The overall meaning of accuracy appears to coincide with the notion of absolute completeness. Almost all codes of ethics call for interpreters to interpret without adding, omitting and editing what has been said. It is interesting to note that some codes proscribe explaining concepts as well as paraphrasing as it is considered tantamount to twisting the message. In this respect, the indications provided by the NAJIT code and the Texas Association of Judiciary Interpreters & Translators:

There should be no distortion of the original message through addition, omission, explanation or paraphrasing,

appear substantially comparable to those of Wisconsin's code:

Interpreters shall render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

The NY Unified Court System Manual and Code of Ethics is even more specific, saying that court interpreters shall:

Not simplify or explain statements for a non-English speaking or hearing-impaired person even when the interpreter believes that the non-English speaking or hearing impaired person is unable to understand the speaker's language level. If necessary, the non-English speaking or hearing-impaired person may request an explanation or simplification.

With regard to this, the Virginia model code clearly states that:

A non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence.

Completeness seems to concern all linguistic elements including register and, if necessary, logical consistency: interpreters are expected to convey not only vulgar remarks, incoherent utterances and patent untruths “as presented” (see AUSIT code of ethics) by the speakers but also redundancies, repetitions, false starts and filler words. The Texas Association of Judiciary Interpreters & Translators and NAJIT state for instance that even “hedges, false starts and repetitions should be conveyed” by the interpreter. On a similar note, the Belgian Code of Ethics for Court Interpreters states that: “Les traducteurs, interprètes et traducteurs/interprètes restituent fidèlement les erreurs et les contrevérités”, and the Sierra Leone Code prescribes that court interpreters and translators should “convey the entire message, including vulgar or derogatory remarks”. The Professional Standards and Ethics for California Court Interpreters clearly indicate that “it is important for the interpreter to make every effort to state exactly what the witness said, no matter how illogical, irrelevant, ambiguous, or incomplete it may be”. The Indiana Interpreter Code of Conduct and Procedure also includes language registers among the features that make for an accurate rendition:

Colloquial, slang, obscene or crude language as well as sophisticated and scholarly language shall be conveyed in accordance with the usage of the speaker.

An interpreter is not to tone down, improve, or edit any statements.

This is echoed by the NAJIT code (“the register, style and tone of the source language should be conserved”) as well as by the Ontario Rules of Professional Conduct for Court Interpreters (“court interpreters shall faithfully reproduce in the target language the closest equivalent [...] primarily in terms of meaning [...], secondarily in terms of style”), although the latter prioritises meaning over style.

Even non-verbal clues, such as tone and emotions (see codes of Belgium, International Criminal Court for the former Yugoslavia, Sierra Leone, AUSIT) should be rendered. The Belgian

Code of Ethics for Court Interpreters and Translators and the International Criminal Court for the former Yugoslavia state:

Les interprètes jurés transmettent l'intégralité du message, y compris [...] les éléments non verbaux tels que le ton et les émotions de l'orateur.

A similar remark is featured in the Code of ethics for Interpreters and Translators employed by the Special Court in Sierra Leone:

Interpreters and translators shall convey the entire message including [...] any non-verbal clues, such as the tone of voice and emotions of the speaker.

Rendition of the speaker's emotions can be a slippery slope for court interpreters. According to the Professional Standards and Ethics for California Court Interpreters, "the key is moderation": the interpreter should convey the emotions without mimicking the witness/defendant.

Accuracy also entails a consistent use of terminology reflecting the original message: the interpreter should never use multiple interpretations when the speaker uses the same word or expression.

Interestingly, the Texas Association of Judiciary Interpreters & Translators Code calls for a rendition which shall "sound natural" in the TL, thus challenging the principle of verbatim interpretation. The same applies to the Rules of Professional Conduct for Court Interpreters of the State of Ontario:

Court interpreters shall faithfully and accurately reproduce in the target language the closest natural equivalent of the source language message, primarily in terms of meaning, and secondarily in terms of style.

The NAJIT code also makes allowance for the accommodation of “syntactic and semantic patterns” in the target language, provided that *all* the elements of the original message are conserved. This echoes The Professional Standards and Ethics for California Court Interpreters, where it is stated that interpreters:

must retain every single element of information that was contained in the original message, in as close to a verbatim form as natural English style, syntax, and grammar will allow.

The Professional Standards and Ethics for California Court Interpreters invite interpreters to err on the side of caution, suggesting a more literal approach:

Provided the interpretation makes sense, it is often best to keep as close as possible to the original so as to avoid inadvertently putting a different twist on the meaning.

The literal approach is applicable to proverbs, should an equivalent proverb not exist in the target language or in case of uncertainty on the part of the interpreter. Proverbs raise the question of how to interpret culturally bound terms and expressions, an issue that is dealt with by various codes. The Texas Association of Judiciary Interpreters & Translators, NAJIT and APTIJ, for example, stress that any “culturally bound terms or terms from the TL used in the SL” must be retained by the interpreter. Leaving words and concepts unchanged, however, seems to be in contrast to the recommendations of APCI (Association of Prison and Court Interpreters), according to which interpreters “shall take all reasonable steps to ensure complete and effective communication

between the parties” and “assist both parties [...] in the understanding of different cultural backgrounds”.

The Code for California Court Interpreters, for its part, deals with the conversion of units of measurements and currencies, stating that court interpreters shall refrain from providing their own calculations as that expertise is outside their remit.

The codes also make allowance for possible mistakes on the part of the interpreter, indicating the appropriate steps to be taken under such circumstances. In the event of error, codes clearly state that it is among the interpreter’s obligations to rectify any inaccuracy: “Interpreter errors should be corrected for the record as soon as possible” (Code of Ethics and Professional Responsibility of Certified Court Interpreters, Texas); “The ethical responsibility to preserve accuracy includes the interpreter’s duty to correct any errors of interpretation discovered during the proceeding” (Wisconsin’s Code of Ethics for Interpreters). Moreover, in order to avoid guessing and guarantee a faithful rendition, the interpreter has a duty to ask for clarification if in doubt:

If the interpreter did not hear or understand something he/she must ask for clarification (APTII);

Court interpreters who do not hear or understand what a speaker has said should seek clarification (NAJIT).

## 3 Impartiality

### 3.1 Impartiality In The Philosophical Debate

Over the last few centuries the notion of impartiality has been abundantly debated by philosophers and political thinkers, such as Bentham (1827), Weber (1918/1994) and Gert (1995). Impartiality is generally associated with a number of professional categories: for example, it is expected to be a major guiding principle for judges, teachers, referees, journalists and public officials, to name but a few. As Jeremy Bentham would put it:

Where is the cause in which any the slightest departure from the rule of impartiality is, in the eye of justice and reason, anything less than criminal on the part of the judge? (Bentham, 1827: 507)

Max Weber (1918/1994) saw impartiality as one of the prime virtues of public officials, who are required to act *sine ira et studio*, without hatred or passion, to the point of becoming “dehumanised” agents.

In common parlance, impartiality is taken to mean the absence of personal interests, bias or prejudice. This common-sense definition is essentially a *moral* one in that it suggests that impartiality is a desirable quality and that excluding certain considerations when, say, umpiring a baseball game, it is appropriate and ultimately just.

This common-sense approach, however, does not necessarily coincide with a purely formal definition of the term where implications of good and evil are simply not relevant. In its broad sense, impartiality was defined by Bernard Gert as follows: “A is impartial in respect R with regard to group G if and only if A’s actions in respect R are not influenced at all by which member(s) of G

benefit or are harmed by these actions” (Gert, 1995: 104). According to this definition, impartiality is just a set of decisions made by a particular agent in a particular context. If we take this definition to the extreme, even the acts of a serial killer could be described as impartial:

Consider an insane killer who chooses his victims on the basis of their resemblance to some celebrity. The killer may be impartial with respect to his victims’ occupations, religious beliefs, and so forth, but it would be absurd to regard this as a form of *moral* impartiality. (Jollymore, 2011)

This succinct overview shows how slippery and multi-faceted the concept of impartiality is, and renders necessary a preliminary distinction between a *formal* (epistemic) view of impartiality and a *moral* one.

The political-philosophical debate on *moral* impartiality has been dominated by two main sets of theories: consequentialist and deontological (see Jollymore, 2011). Consequentialists maintain that everyone “has a duty to perform at each moment the action that will, in his estimation, maximise the total amount of good in the universe” (Barry, 1995: 23).

Consequentialism seems to place each agent under a pervasive obligation to be strictly impartial between all persons, by requiring her always to exclude from her practical deliberations (almost) all considerations that do not bear directly on the ways in which people’s interests might be advanced or injured by her actions. (Jollymore, 2011)

Many criticisms have been levelled at consequentialist theories: on the one hand, some argue that it is too demanding and cannot be possibly extended to the whole of humanity; on the other, some argue that a consequentialist model is too permissive, in that no action can be prohibited per se, not even those violating basic human rights, if they can be shown to have been perpetrated for the greater good of humanity. On top of these objections, another criticism concerns the very nature of good, which - far from being a universally shared notion - has been a moot point for centuries. On the other end of the philosophical spectrum are deontologists, who think that *the right* rather than *the good* is fundamental to ethics. In their view, moral action is based on principles that are rationally acceptable to all. In particular, deontologists distinguish between a first-order and a second-order impartiality: first-order impartiality refers to ordinary situations where individuals have to make choices, while second-order impartiality operates only in special contexts: “contexts in which the rules, principles and institutions which govern first-order behaviour are evaluated and selected” (Jollymore, 2011). Unlike consequentialists, deontologists incorporate an “irreducible element of agent-relativity”, admitting the legitimacy of partial reasoning in some contexts, such as family relations or friendship. This concept is linked to the idea of “morally admirable partiality”, whereby in given contexts partiality is not only legitimate but also necessary or even admirable. The notion of second-order impartiality is, according to the deontologist standpoint, the type of impartiality one would expect to find in the legal environment, of which court interpreters are an integral part.

### **3.2 Impartiality in the Eyes of the Law**

Impartiality can be seen as an underlying principle of the judiciary. The concept of an independent, and therefore presumably impartial, judiciary can be traced back to the theory of separation of powers, whereby the legislative, executive and judicial functions of a government are entrusted to

separate bodies. Such separation of responsibilities is believed to guarantee effectiveness and transparency as it creates a self-monitoring system of mutual checks and balances intended to prevent any abuses of power.

The need for the judiciary to be independent and impartial is acknowledged by several human rights instruments, from article 14(1) of the International Covenant on Civil and Political Rights to article 8(1) of the American Convention on Human Rights and article 6(1) of the European Convention on Human Rights (see Office of the High Commissioner for Human Rights, 2003: 118). The Supreme Court of Canada describes the concept of judicial “impartiality” as referring to “a state of mind or attitude of the tribunal in relation to the issues and the parties in a particular case” (see Office of the High Commissioner for Human Rights, 2003: 119). The Human Rights Committee has held that the notion of “impartiality” as set out in article 14(1) “implies that judges must not harbour preconceptions about the matter put before them, and that they must not act in ways that promote the interests of one of the parties”. This idea of impartiality seems to be connected to the original meaning of the word “neutral”, which - as stressed by Gurianova (2010) - means “neither one nor the other” or “taking neither sides, occupying a middle position”. (Gurianova, 2010: 6)

The notion of impartiality in the judiciary presents two facets: a subjective dimension, whereby the court and its members are required not to hold any bias (see Office of the High Commissioner for Human Rights, 2003), and an objective one, whereby the court in question has to offer actual “guarantees to exclude any legitimate doubt in this respect.”

### **3.3 Impartiality and its Manifold Applications**

The question of impartiality comes up in a great deal of domains, ranging from science to humanities, including: psychoanalysis, translation and mediation. As seen above, being impartial is usually taken to mean being unbiased and unprejudiced and is often used as a synonym for fairness

and objectivity. Whoever wishes to approach their tasks objectively should be “impartial”, i.e. free from bias, favouritism and personal interests in what they do.

Psychoanalysts, for instance, should be free from any moral, religious or political beliefs that might affect their work when treating a patient. The psychiatrist is ideally a non-judgemental presence, who remains unaffected by the patient’s words, showing an attitude of “benevolent neutrality”. Anna Freud, for example, defined the analyst's position as "a point that is equidistant from the id, the ego and the superego" (Freud (1937), as cited in De Mijolla, 2005). Finding such a balanced position, however, might be easier said than done, as analysts are well aware of the risk of “counter-transference” when dealing with their patients. Counter-transference occurs whenever the therapists start having feelings for their patients, whether they be positive, such as love or sexual attraction, or negative, such as hostility, disgust or even hatred. Such a scenario might not be too rare, as some schools of thought believe that some amount of counter-transference is unavoidable in the relationship between the therapist and the patient.

The notion of impartiality has been at the centre of a heated debate in Translation Studies for a long time too, with conflicting schools of thought pitched against each other. On one end of the spectrum lies the belief that translators should not let their opinions or background influence their work, whereas on the other lies the need to acknowledge that translators inevitably tap into their opinions and feelings, which is why a single text gives rise to as many translations as there are translators (Buzadzhi’s study (2009), as cited in Gurianova, 2010: 11). In the light of these two extremes, Gurianova argues (2010: 11), it would appear more logical not to ask oneself whether a given translation is outright impartial or biased, but rather, to what degree the translator has intervened in the translation process, a principle that - as will be illustrated in the following sections - is equally applicable to mediation and interpreting.

As a matter of fact, the issue of neutrality in interpretation is deeply intertwined with the issue of neutrality in mediation, as “there is a (recent) tendency to regard interpretation as a process

similar to mediation” (Gurianova, 2010: 12), particularly in community interpreting contexts, where interaction can be argued to take on a triadic dimension rather than being a mere two-party process with the interpreter reduced to a language conduit between them. Honeyman and Yawanarajah (2003) define mediation as “a process in which a third-party neutral assists in resolving a dispute between two or more other parties”, facilitating communication between them. Again, however, the term “neutral” lends itself to many different interpretations, as some go as far as to say that there is no such thing as neutrality in mediation. As Rudvin would put it: “as there is no such thing as neutral dialogue, nor can there be (...) any such thing as neutral communication” (Rudvin, 2002:219). On the same note, Gulliver (1979: 217) maintains that neutrality is no more than a myth, a by-product of Western civilization, which is “neither invariably correct in practice in our society nor valid cross-culturally”. For example, in a Western triadic interpreting encounter the interpreters’ role is governed by their responsibility towards the host institution/nation. On the other hand, in non-Western societies interpreters are more accountable to their immediate social group or kin (see Rudvin, 2002). Torikai (2009) provides a case in point when stressing the need for interpreters in China to offer counselling on cultural or social matters and to change statements if needs be in order to avoid conflicts. It is clear from the examples above that the interpreter cannot be considered as a mere neutral conduit. A “language prism” (Rudvin, 2002: 220) would be a more suitable metaphor: the interaction between the SL message and the receptor/mediator allows the “light” (in our case, the meaning) to shine in many different directions and colours. Consequently, a wide range of interpretations is possible, depending on the point of view from which the light is seen.

Field (2000) suggests a distinction should be made between “neutrality” and “impartiality”, the former indicating a lack of interest in the outcome of the negotiation process on the part of the mediator, the latter indicating the mediator’s fairness and even-handedness towards the parties, these two dimensions being variable in different phases in the negotiation process.

Mediation and community interpreting share a number of similarities: as Rudvin maintains, community interpreters enable clients, with very different backgrounds and in unequal relationship of power and knowledge, to understand each other (see Rudvin, 2002), a definition which is clearly reminiscent of Honeyman's. In the light of this, it stands to reason that the traditional view of the community interpreter as a "non-person" is unrealistic, and that the interpreter - far from being a mere oral translation machine - should be seen as a full co-participant in the interaction. As Rudvin observes, "the interpreter's very being there affects the outcome of the exchange" (Rudvin, 2002: 223). To that, one must add the fact that the presence of community interpreters is much more noticeable than that of simultaneous interpreters, who are usually removed from the participants and communicate through a microphone, which makes it difficult to think of them as co-participants.

All of the above highlights the inherent fallacy of the notion of impartiality in community interpreting: interpreters cannot be involved in an interaction without actually taking part in it, that is, without contributing their personal background and making decisions all along the interaction process.

### **3.4 The Notion of Impartiality in Codes of Ethics:**

Codes of ethics for court interpreters do not provide a clear definition of impartiality. Most codes just state that the interpreter

shall be impartial, neutral and independent (APTIJ code of ethics),

shall interpret impartially between the various parties (APCI code of practice),

les interprètes sont tenus à l'impartialité la plus stricte (International Criminal Tribunal for the former Yugoslavia).

In the AUSIT code the notion of impartiality is strictly linked to that of “objectivity” and “professional detachment.” The code also mentions the aspect of “responsibility related to impartiality”, stating that the interpreter is “not responsible for what clients say or write.”

It is interesting to point out that not only are interpreters bound to “impartiality”, but they also have to keep up a “neutral image”. Some codes, such as the Texas Association of Judiciary Interpreters & Translators code and the NAJIT code, express this idea in a positive form:

Court interpreters (...) must maintain the appearance of impartiality and neutrality.

Some others, such as the Wisconsin code of ethics for court interpreters and the NY Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts, provide an equivalent indication from a negative perspective:

Interpreters shall refrain from conduct that may give an appearance of bias.

The Professional Standards and Ethics for California Court Interpreters caution the interpreter against the risk of conveying a biased image, which is likely to affect the credibility of both the interpreter and the people resorting to the interpreting service. The NAJIT code is even more specific in this regard, suggesting how to convey this neutral image:

During the course of the proceedings, interpreters shall not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party.

However, as pointed out by the Professional Standards and Ethics for California Court Interpreters, the very role of the interpreter makes distance-keeping arduous: since the interpreter is the only bilingual person in the courtroom, the minority language speaker will be likely to address him/her directly. In this regard, the Virginia Model Code of Professional Responsibility for Interpreters in the Judiciary explicitly states: “the interpreter should discourage a non-English speaking party’s personal dependence”.

Projecting a neutral image also implies that the interpreter shall not make any comment on the case he/she is working on: this recommendation is provided by several codes, among which the Wisconsin Code of Ethics for Court Interpreters, the Washington Code of Conduct for Court Interpreters and the NAJIT code. As the Professional Standards and Ethics for California Court Interpreters underline: “it is of outmost importance to remain neutral and try to avoid developing opinions about such matters”.

Interestingly, some codes indirectly acknowledge that the interpreter will inevitably have a personal point of view, but they clearly state that interpreters “shall not allow their personal attitude or opinions to influence the performance of their assignment” (Finnish Code of Professional Ethics for Court Interpreters) and “shall not voice or write an opinion, solicited or unsolicited, on any matter or person in relation to an assignment” (AUSIT). In this respect, the concept of impartiality is closely intertwined with that of accuracy insofar as the former appears as a *sine qua non* for the latter.

AUSIT clearly states that if the interpreter’s opinion hampers an impartial performance, it is the interpreter’s obligation to withdraw:

Interpreters and translators shall not accept, or shall withdraw from assignments in which impartiality may be difficult to maintain because of personal beliefs or circumstances.

On a more general note, conflicts of interest (whether perceived or real) are seen as the main obstacle to impartiality: all codes make reference to this, and affirm that the interpreter shall disclose all conflict of interest to the court. Some codes are even more explicit: the AUSIT code, for instance, states that “interpreters and translators shall frankly disclose all conflict of interest, including assignments for relatives and friends and those affecting their employers”, while the APCI code of practice recommends that “a member who is offered work in which he has any business, financial or other interest shall declare such interest before accepting such work”.

Furthermore, some codes point out that interpreters shall not accept fees of any kind from any party:

Members shall not accept remuneration or a gift of any kind from any party in respect of work, nor shall they make such remuneration or a gift” (APCI),

Interpreters and translators shall not, in the performance of their duties, solicit or accept any gratuities or other consideration, benefit or advantage of any kind” (Sierra Leone Code of Ethics for Interpreter and Translator employed by the Special Court).

The APTIJ code of ethics is even clearer, as it states that:

Fees received from one of the parties to the suit shall have no influence in the way they carry out their work.

The risk of undue interference is perceived and denounced in the APTIJ code of conduct, which lists the judicial actors likely to interfere with the interpreter’s work (“public, economic or

institutional authorities, judicial authorities, clients, fellow interpreters or translators, co-worker”) and calls for the interpreters to “remain independent in case of any kind of external interference, demand or interest that could damage their professional work”.

## 4 Conclusions

The previous two chapters explored the notions of accuracy and impartiality as analysed in scholarly literature and codes of ethics for court interpreters. This comparative study suggests that significant discrepancies exist between the two approaches.

### 4.1 Accuracy

The codes of ethics examined do not provide a clear definition of accuracy. Most of them, however, clearly state that legal interpreters are not to alter the message they are interpreting, either by adding or omitting what they hear. The interpreter’s aim seems to be absolute completeness, as all the elements of the original message have to be conserved, including hesitations, false starts, redundancies and inconsistent statements. Paraphrasing and explaining are equally to be avoided, as the recipient of the interpreted message should not be helped in any way, shape or form by the interpreter, whose role is not that of a cultural mediator or legal consultant.

However simple this may sound, if closely examined, codes of ethics reveal some inconsistencies: the APCI code, for example, does not exclude a more active role on the part of the interpreter, who “shall assist both parties [...] in the understanding of different cultural backgrounds”. Similarly, the Code of Ethics for Interpreters and Translators Employed by the Special Court for Sierra Leone states that interpreters shall also convey non-verbal clues “which may *facilitate* (emphasis added) the understanding of their listeners.” In addition, the Code of

Professional Conduct of the Institute of Translation and Interpreting of the United Kingdom states that interpreters must ensure “complete and effective communication, including intervention to prevent misunderstanding and incorrect cultural inference.” It is arguably a fine line to walk between ensuring effective communication and not altering the message in the least.

Moreover, when explaining what is meant by accuracy, some codes of ethics make explicit reference to finding the “closest natural equivalent” of the source-language message, a phrase famously coined by Nida (1991). By talking about “close equivalence”, Nida’s theory seems to concede that “full equivalence” is simply unattainable (as implied by the ISO definition of accuracy) and that some adjustments to the original message are somewhat inevitable. This is acknowledged by NAJIT, APTIJ and by the Texas Association of Judiciary Interpreters & Translators, according to which all elements of the original speech must be conserved “while accommodating the syntactic and semantic patterns of the target language.” It ensues that a verbatim approach - however desirable from the perspective of lawyers and judges (see 2.3.1) - is not tenable. As stated by Morris (1995) and Mikkelsen (2010b), legal officers tend to consider verbatim interpretation as the only acceptable rendition of the foreign language speaker’s utterances. However, differences in legal systems, grammar and syntax, to name but a few, make verbatim translation ineffective and *inaccurate*, at best, and meaningless, at worst. Accuracy, therefore, cannot be taken to mean “literalness” and this is clearly stated by some codes of ethics: “The client’s statements must be interpreted or translated [...] by avoidance of literal translation” (Irish Translators’ and Interpreters’ Association).

Striking a balance between the two extremes of literalness and inaccuracy, however, is no easy task and codes of ethics do not seem to provide ready-made solutions to specific problems. As Hale points out (2007: 113), codes of ethics state what interpreters should do *ideally*, without focusing on the difficulties that they may run into. After all, one should not expect too much of the codes as they cannot possibly cover all the challenges interpreters might have to face in their

careers. Interpreters are alone when it comes to making what often are split-second decisions, which is why they should be supported by an academic background where the guidelines set out by the codes can be discussed, elaborated on and put to the test. As Hale puts it: “Interpreters need to use their professional judgement. However, if they have not been trained as professionals, that judgement may be lacking.” (Hale, 2007:116)

To conclude, while codes of ethics seem to equate accuracy with completeness rather than word-for-word translation (except for proverbs or culturally bound concepts lacking a cultural equivalent in the target language), they do not provide solutions as to what interpreters should do when confronted with specific challenges. This, in turn, underlines the importance of training, understood as a complementary, rather than an alternative, tool. Wadensjö, for example, stresses the need for interpreters to have a thorough understanding of codes of ethics, of what “they imply in theory and in actual interpreter-mediated interaction” (Wadensjö, 1998: 286), and training seems to be the most suitable context for this kind of reflection. “It can be safely stated that the code of ethics would constitute a topic of discussion in any course of study. Graduates would have been trained to reflect on the meaning of the code, its applicability, its shortfalls and limitations and to evaluate their practice against this backdrop.” (Hale, 2007: 104)

## **4.2 Impartiality**

Accuracy is closely intertwined with impartiality in the sense that neutrality can facilitate faithfulness. As Hale points out, “a conscious attempt to remain neutral is simply one of the many aspects that can help an interpreter render a faithful interpretation” (Hale, 2007: 123). However, once again, defining the notion of impartiality is easier said than done. The codes of ethics analysed by the authors never provide a definition of the term. While all of them state that court interpreters

must remain “impartial and neutral”, thus making impartiality an essential professional requirement, they do not delve into the meaning of the notion.

Codes of ethics stress that court interpreters must maintain “the appearance of impartiality” (see the Texas Code of Ethics and Professional Responsibility of Certified Court Interpreters, the Wisconsin Code of Ethics for Court Interpreters and the New York Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts). This means adhering to a series of rules set out by the codes and mostly worded in a negative form: interpreters, for example, *cannot* converse with the parties involved, voice their opinion on any matter related to their assignment or provide legal advice. The lack of a theoretical definition is, therefore, partially compensated for by a description of what interpreters should do to *appear* as impartial, but no mention is made of impartiality in the interpreting process as such or on how the interpreters (should) “problematise” their role as impartial agents. The emphasis on the concept of “appearance” is noteworthy: when performing in legal proceedings, interpreters are seen as public officials rather than freelance professionals, and as such, not only must they be neutral and even-handed but they also have to “be *seen* (emphasis added) to be neutral” (Hale, 2007: 120).

Interestingly, while codes of ethics never provide examples of problematic situations that may undermine the interpreter’s ability to render a message *accurately*, they offer a wide range of concrete situations where court interpreters’ neutrality risks being undermined. This is the case of the APTIJ Code of Ethics for Court and Sworn Interpreters and Translators, which lists all the sources of external interference that might be brought to bear on court interpreters, from public, economic, judicial and institutional authorities to clients and colleagues.

Besides external pressure, codes of ethics also deal with interference due to the interpreter’s subjectivity. While interpreters are required to be conduits (see Roy, 2002) “as unobtrusive as possible” (see Codes of Ethics of the Texas Association of Judiciary Interpreters and Translators, AUSIT Codes of Ethics, the Texas Code of Ethics and Professional Responsibility of Certified

Court Interpreters) and not to “take an active part in any of the proceedings” (see Model Code of Professional Responsibility for Interpreters in the Judiciary), codes of ethics acknowledge, albeit implicitly, that they do have personal opinions and beliefs. Court interpreters are therefore recognised as “subjects” and not as mere “bridges” but are required to suspend their judgement so as to prevent their opinions from influencing their performance (see Finnish Code of Professional Ethics for Court Interpreters). As Hale (2007) and Rudvin (2002) rightly point out, having a personal opinion does not constitute unethical behaviour *per se*: on the contrary, “a conscious neutralistic stance can go a long way in assuring as much impartiality as is possible to allow for an ethical performance” (Hale, 2007: 123).

This position is in line with recent scholarly literature, where the myth of the interpreter as a neutral participant in the interaction is being increasingly questioned. Recent studies (such as Rudvin 2002 and Wandensjo 1998) suggest that interpreters are fully-fledged participants in a three-party process, whose very presence affects the exchange, thus debunking the notion of the interpreter as a non-visible agent. Moreover, some scholars (Rudvin 2002, Gulliver 1979) argue that neutrality is a cultural concept, typical of the Western world, which may vary (or even disappear) across cultures.

To conclude, the reflection on impartiality, both in codes of ethics and scholarly literature, has proven to be a conceptual minefield: court interpreters often swing between an ideal image of perfect impartiality, enshrined in codes of ethics, and a professional reality fraught with difficulties and contradictions. As Baker and Maier would put it: “the disjuncture between this challenging reality and the traditional professional ethos of neutrality and non-engagement (...) can leave many practitioners with a sense of unease or disorientation” (Baker & Maier, 2011:3). This goes to show, once again, how codes of ethics can provide only partial guidance, which needs to be complemented by proper training.

## 5 Training

As seen in the previous chapters, codes of ethics in and of themselves do not solve the dilemmas of accuracy and impartiality as they provide general guidelines, which, as such, may not always capture the complexity of real-life situations to which interpreters are exposed. Interpreter training can bridge the gap between the two ends of the spectrum, combining guidelines and theoretical reflection with hands-on interpreting practice.

As the need for community interpreting services increases in an ever more globalised world (according to data released by the US Bureau of Labor Statistics in 2012, employment opportunities for interpreters and translators working in schools, hospitals and courtrooms will rise “much faster than the average for all occupations”, with an expected growth of 42% from 2010 and 2020), so does the need for qualified interpreters. The academic world has promptly responded to this global trend by offering a plethora of courses, partially or exclusively focused on legal interpreting. Different kinds of training are offered, ranging from short intensive workshops and seminars to longer-term formalised programmes.

There is no doubt that training does make a difference in terms of professional quality, as shown by the recent controversy in the United Kingdom<sup>5</sup> around the allegedly dubious professionalism of the interpreters provided to British courts by a government-appointed contractor. In her survey on interpreting in Australian courts and tribunals (2011), Hale mentions Len Roberts-Smith, a former Western Australian Supreme Court judge, who reviewed cases where language issues led to jurisdictional error. In his report, published in 2009, Roberts-Smith identified two main causes: the lack of interpretation services or, when interpreting was provided, insufficient skills on the part of the interpreters. “Such high level skills”, argues Hale, “can only be acquired through rigorous specialised training of already highly competent bilinguals” (2011: 3). Hale is obviously not the only academic supporting the need for formal interpreter training: Mouallem (2011) also

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<sup>5</sup> See <http://www.guardian.co.uk/commentisfree/2012/aug/05/interpreters-courts-lost-translation-editorial>

believes that training is of the essence in public service interpreting (PSI) as interpreting needs in this sector are extremely specific and cannot be addressed simply by using untrained bilinguals. Mouallem, for example, points out that ethical matters, paraphrasing and sight translation are particularly important skills in PSI and are therefore allocated a considerable amount of time in training curricula. As for ethical issues, Baker and Maier maintain that ethics must hold a prominent place in translator-interpreter training, stating that “ethics is not extrinsic to translation (and interpreting), an activity that in itself is intrinsically ethical” (Baker and Maier, 2011: 3).

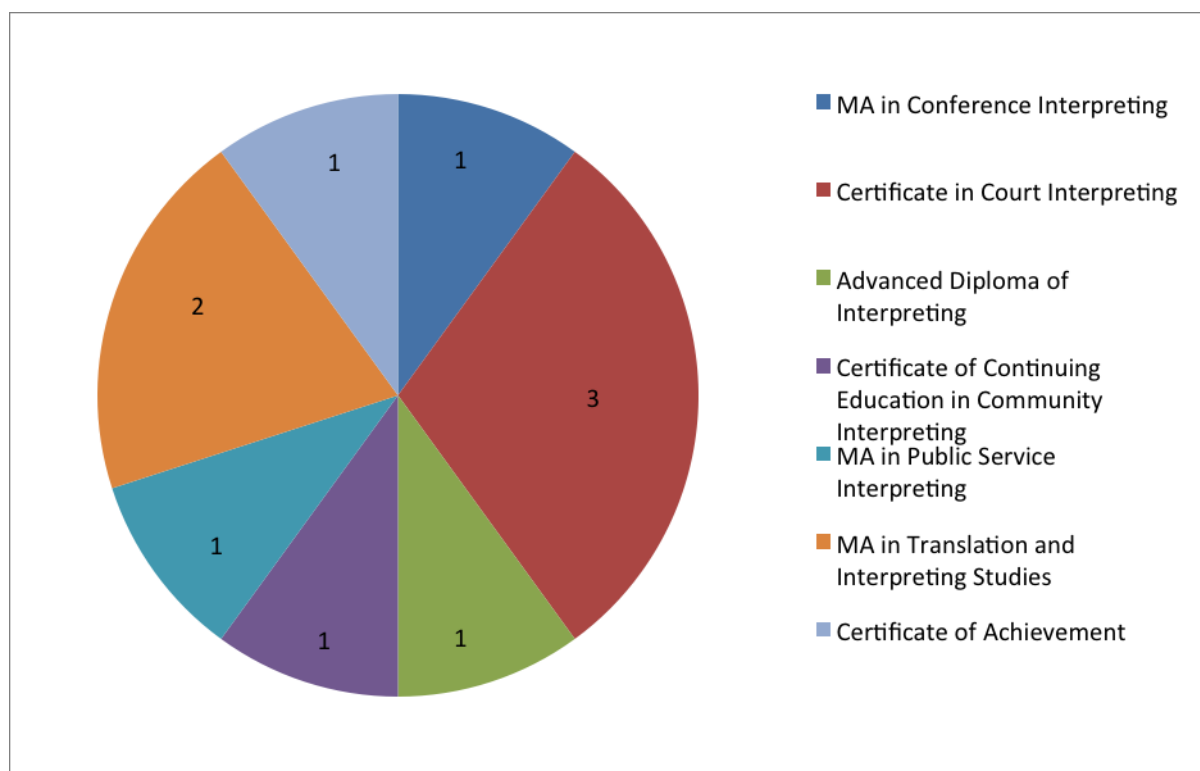
In the light of these observations, the authors of this thesis thought it interesting to explore the world of training to see how, if at all, ethical issues are presented to trainees. Training can provide aspiring interpreters with a breeding ground where they can familiarise themselves with the everyday life of the profession (which includes ethical dilemmas) and put their ethical and working principles to the test, reconsidering them as they go along, if necessary. In this regard, Baker and Maier rightly stress the need for training to provide translators and interpreters with “the conceptual means to reflect on various issues and situations (...) which they may find morally taxing, without having to fall back unthinkingly on rigid, abstract codes of practice” (ibid.).

Our investigation has, therefore, a double objective: firstly, to understand what place ethics has in interpreter training; secondly, to see what pedagogical approach is used to explore ethical matters, including the activities organised to allow students to reflect on ethical issues. In particular, special importance has been attached to the notions of accuracy and impartiality to see whether and how they are presented to and explored with the students and how, if at all, they fit into student assessment criteria.

## 5.1 The Questionnaire: An Overview

### 5.1.1 The Sample

The authors believed that the best way to answer these questions was to contact the training institutions and submit a questionnaire to them. The research was carried out among a sample of ten professional trainers from universities with court interpreting in their curricula. The make-up of the sample is shown in the pie chart below:



**Figure 1: The Sample**

Five of the programmes are based in North America, two in Australia and three in Europe. The training programmes differ in duration, number of hours, language combinations offered and types of qualification awarded at the end of the course. Some of them focus on court interpreting; others are devoted both to interpreting and translation.

### 5.1.2 The Structure

The questionnaire is divided into three parts (see Annex). The first part (questions 1-4) aims to investigate the place of ethics in interpreter training programmes to understand: whether ethics is dealt with at all (Q1), what ethics-related aspects are covered (Q2), how ethics is integrated into curricular activities (Q3) and what activities are organised to explore ethical issues (Q4). Respondents were asked to quantify their responses on a scale from 1 to 5 (Q 1, 2 and 4) or to select their answers from multiple options (Q3).

The second part revolves around the notion of accuracy (Q 5-7). Q5 investigates the trainers' pedagogical approach to teaching accuracy; Q6 explores whether and how the theoretical knowledge of accuracy is assessed, and Q7 focuses specifically on whether and how the ability of interpreting *accurately* is assessed in class. For this part of the questionnaire, respondents were asked yes/no questions and a blank space was provided to allow them to add comments.

The third and final part looks into the notion of impartiality (Q 8-10). Q8 investigates, similarly to Q5 for accuracy, the trainers' pedagogical approach; Q9 aims to ascertain whether and how the theoretical knowledge of impartiality is assessed; finally, Q10 focuses specifically on whether and how the ability of interpreting *impartially* is assessed. Again, the same methodology as in the second part was applied, with yes/no questions and blank spaces provided for further information.

### 5.1.3 Response Rate

The questionnaire, which was sent to a total of ten training institutions, obtained a response rate of 40%, i.e. four institutions out of ten. These four institutions are located across North America, Europe and Australia and offer long-term programmes lasting from 1 to 2 years, ranging from programmes in Court Interpreting to Masters' Degrees in Conference Interpreting and blended Masters' Degrees in Interpreting and Translation Studies. Of course, the sample is not representative of all the institutions that offer training in legal or community interpreting and the

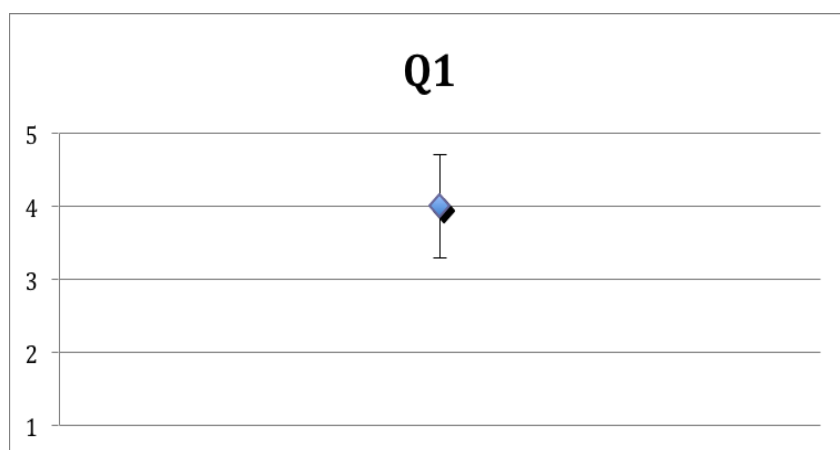
data that will be presented in the following paragraphs is nothing more than a case study of four distinct realities. Below is a table with information about the respondent institutions:

Programme	Duration	Location
MA in Translation and Interpretation Studies	1 year	United Kingdom
MA in Conference Interpretation	2 years	United States
Certificate in Legal Translation and Court Interpreting	1 year full-time; 2 years part-time	United States
MA in Interpreting and Translation	1.5 year	Australia

## 5.2 Results Analysis

### Question 1

To what extent do you agree with the following statement: “Ethical issues are covered throughout the training programme”?



**Figure 2: Are ethical issues covered throughout the programme?**

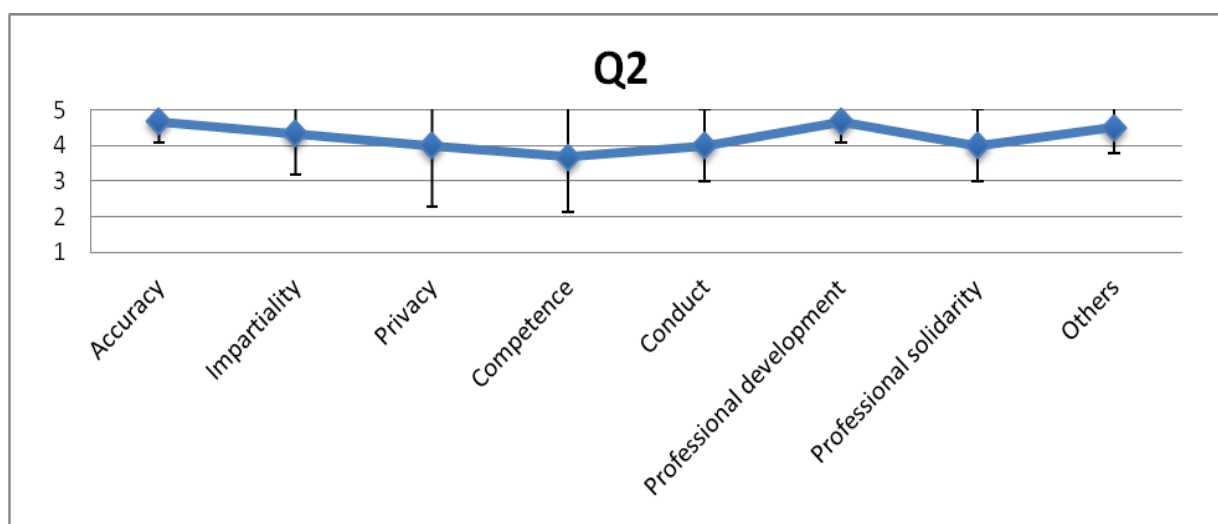
Scale: 1 = completely disagree, 5 = completely agree

Error bars indicate the standard deviation (SD)

Question 1 aims to ascertain what role ethics plays in training programmes. Respondents were asked to reply from 1 to 5, with 1 meaning that ethical issues are not covered at all and 5 that ethical issues have clear prominence in the training. The average response was 4 (SD 0.71). It is safe to say that, based on the responses elicited, the importance of ethics is widely acknowledged in training programmes. Baker and Maier point out that training has to alert students to the ethical implications of their actions and make them aware that all situations can be seen as “a site of ethical decision-making” (Baker and Maier, 2011:3). Interestingly, one of the participants expressed the wish that more time could be spent on ethics as certification exams for legal interpreters deal with ethics “only superficially” and time constraints do not always allow for a thorough coverage of ethical issues.

## Question 2

**If ethical issues are dealt with throughout the programme, what are the topics covered and to what extent?**



**Figure 3: Topics covered in interpreter training**

Scale: 1 = not covered at all, 5 = covered exhaustively

Respondents were asked to rate a number of ethical aspects from 1 to 5, stating if and to what extent they

are covered in the programmes of their respective institutions, with 1 meaning that the topic is not addressed at all and 5 that it is covered exhaustively. Topics included: accuracy; impartiality; respect for clients' right to privacy/confidentiality; obligation not to undertake work beyond one's competence and/or accreditation level; compliance with the standards of conduct set by codes of ethics; obligation to develop professional knowledge and skills, and professional solidarity. Interestingly, all of the above-mentioned are covered as no participant gave scores lower than 2 in their responses<sup>6</sup>. One of the participants gave all the topics mentioned a score of 5. Accuracy and professional development received the highest average score (4.67, SD: 0.58), demonstrating that all the institutions sampled agree on the importance of these two ethical aspects and consider them as priorities from a pedagogical standpoint. Particularly, the stress on professional development shows that, however important training and codes of ethics may be, interviewees recognise the need for practitioners to keep up to date and hone their skills over time. Impartiality also seems to be quite high on the participants' agenda, with an average response of 4.33 (SD 1.15).

As for the "Others" section, one respondent added two additional ethical topics: the obligation for the interpreter not to provide legal advice or opinions and to maintain proper professional relations, although these two aspects might also be categorized under the umbrella of impartiality and/or professional solidarity.

To conclude, all the training programmes surveyed seem to cover ethics extensively in all its facets. Responses were generally homogenous and presented a standard deviation of up to 1.15.

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<sup>6</sup> For this particular question, the number of participants taken into account is 3 as one participant did not score the topics individually but stated that all of the aforementioned topics are important and "referred to" across the curriculum. The participant draws particular attention to the aspect of compliance with standards of conduct, which has received an average response of 4, with a standard deviation of 1: "The idea - the respondent argues - is not to reproduce and reinforce standard codes of practice but to reflect critically on the implications of these codes and the complexity of the translation/interpreting situation, which often does not provide the comfort of straightforward ethical answers to such issues."

### Questions 3-4

**If ethics is dealt with throughout the programme, how are ethical issues covered?**

**If there is a specific sub-module, how is it structured?**

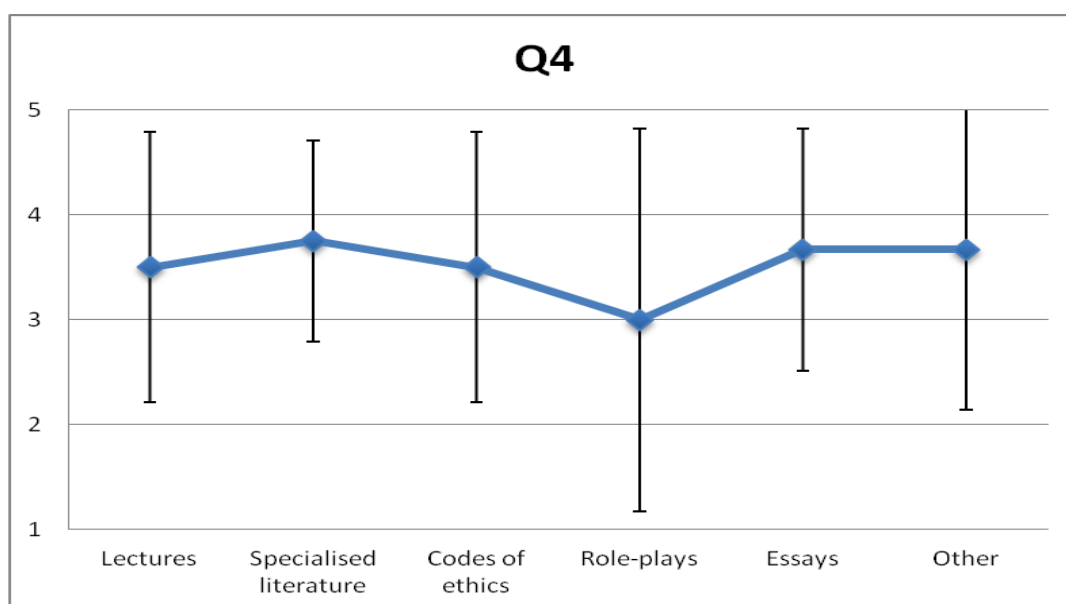
Questions 3 and 4 deal specifically with the practical organization of training in relation to ethics. Respondents were asked to indicate whether ethics is addressed in a module or sub-module or whether there is no specific (sub-)module devoted to ethics. Taking into account the differences between training programmes in terms of duration, structure and overall number of credits required, the questionnaire provided a definition of the terms “module” (i.e. a set of classes specifically dealing with ethical issues) and “sub-module” (i.e. a number of hours within a course devoted to ethical issues).

Based on the definitions provided, 75% of respondents said that their programmes offer a sub-module on ethics, with only 25% stating that a whole module on ethics is offered to learners. Interestingly, the very participants that chose the sub-module option also ticked the “no (sub-) module option”, with one of them stating that ethics “is covered throughout the entire MA”, adding that “just about everything discussed has ethical implications and these are highlighted throughout.” These responses, albeit seemingly contradictory, may be taken to underline the importance of ethics in training insofar as it is not rigidly compartmentalised but spills over into other curricular units. This is in line with Drugan and Megone’s thinking, which favours an “integrating approach” - whereby ethics is incorporated throughout the training curricula - as opposed to what they define as a “bolt-on method”, whereby ethics is addressed separately and is therefore “cut off from the course units that focus more directly on the technical skills required” (2011:190).

As for the structure of the (sub-)modules, participants were asked to indicate the type of activities offered to students. They could choose from a list including lectures; reading of specialized

literature; reading of codes of ethics; role-plays and writing of essays. Said activities could be rated based on their frequency throughout the (sub-)module on a scale from 1 (none) to 5 (all).

The responses clearly showed that the reading of specialized literature is the most recurrent pedagogical activity, with an average score of 3.75 (SD 0.96). The reading of codes of ethics is almost as frequent with an average score of 3.5 (SD 1.29). This shows that, while attaching special importance to the knowledge of the principles enshrined in professional codes of conduct, training institutions are equally, if not more, receptive of new developments in ethics-related research.



**Figure 4: Types of activities offered**

Scale: 1 = none, 5 = all

Error bars indicate the standard deviation

Although, once again, the sample is far too small to lend

itself to generalisations, it can be argued that trainers feel

the need to resort to argumentative material where ethical

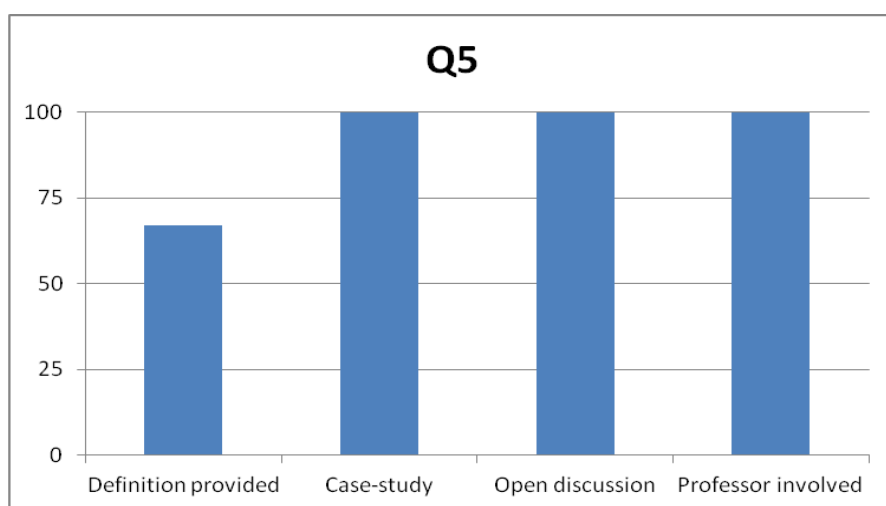
issues are expounded upon and problematised as they reflect more closely the complexity of the ethical dimension of interpreting. Essay writing is also widely used, with an average score of 3.67 (SD 1.15), whereas role-plays present the lowest average score, i.e. 3 (SD 1.83).

Respondents were also invited to add further learning activities to the list provided: 75% of participants did so, stating that in-class discussions take place often, either in response to specific questions brought up by students or to videos of court interpreters on the job watched in class (two

respondents). Additional activities include online discussions (25%) and quizzes (25%). These responses indicate that trainers attach great importance to interaction among learners and their active participation, which goes on to show that theoretical reflection on ethics is a work in progress necessitating constant problematisation and exchange.

### Question 5<sup>7</sup>

**If accuracy is dealt with, how is it presented to students?**



**Figure 5: Accuracy**

Question 5 aims to ascertain how the notion of accuracy is presented to students. 67% of participants stated that students are provided with a definition of the term, as opposed to 33% stating that no definition is provided. One respondent also added a 3-point definition, whereby accuracy means: 1) “no omissions, additions or changes in the original message, including preservation of register/style and spirit/intent of the original message”; 2) stating “absolutely everything that is said publicly during a proceeding, exactly as stated in the original, including all aspects of human communication other than words (tone, volume, pitch rate of speech, pauses, gestures, facial expressions); 3) “do not elaborate, correct, smooth out, clarify, explain, complete, embellish, rearrange or otherwise attempt to improve the original message.” Another respondent,

<sup>7</sup> It is important to point out that for the following questions (Q5-10), the number of overall respondents is 3, as the fourth participant did not fill in that part of the questionnaire.

however, while stating that a definition is provided, shows a more flexible approach, conceding that a number of factors have to be considered when defining accuracy, including bilingual competence, interpreting skills, physical factors such as fatigue, working conditions, background knowledge and clarity of source utterance. Two different approaches can therefore be seen: a more prescriptive approach, based on guidelines set out by codes of ethics, and a more critical approach, which does not refer only to codes of ethics but also to scholarly literature.

It is no coincidence that all respondents point out that case study also plays an important role in examining accuracy and how it is applied to real-life situations. This seems to show, once again, that, overall, training institutions favour a critical approach to explore the issue of accuracy.

Open discussions are equally important and professors take active part in the debates. Their role in such discussions, however, is not always the same. Respondents stated that their role is stimulating the debates by playing the “devil’s advocate”, confronting students with the consequences of their thoughts, presenting legal arguments and guidelines and alternative scenarios (what if...?). Trainers stressed the importance of consequentiality, i.e. the potential consequences resulting from the interpreter’s work, thus highlighting the interpreter’s professional responsibility. Importantly, 67% of the trainers said that they act as guides for the students, by identifying the best solutions to given problems among those solicited from the students and pointing out “flaws in the students’ debates”. In particular, 33% make use of the codes of ethics in the debates, “referring them [students] directly” to them, whereas the rest of the sample never mention codes of ethics in their responses, focusing more on critical reflection.

Based on the responses provided, it appears that, while a majority of the trainers do provide definitions of accuracy, these definitions are not set in stone and are tried and tested through the analysis of relevant cases and open discussions among learners, where the trainer acts as a moderator drawing on his/her knowledge of the legal world, personal experience (“cited when relevant”) and by proposing thought-provoking scenarios.

## **Questions 6-7**

**Is the students' theoretical knowledge of accuracy assessed?**

**Is the students' interpreting accuracy assessed?**

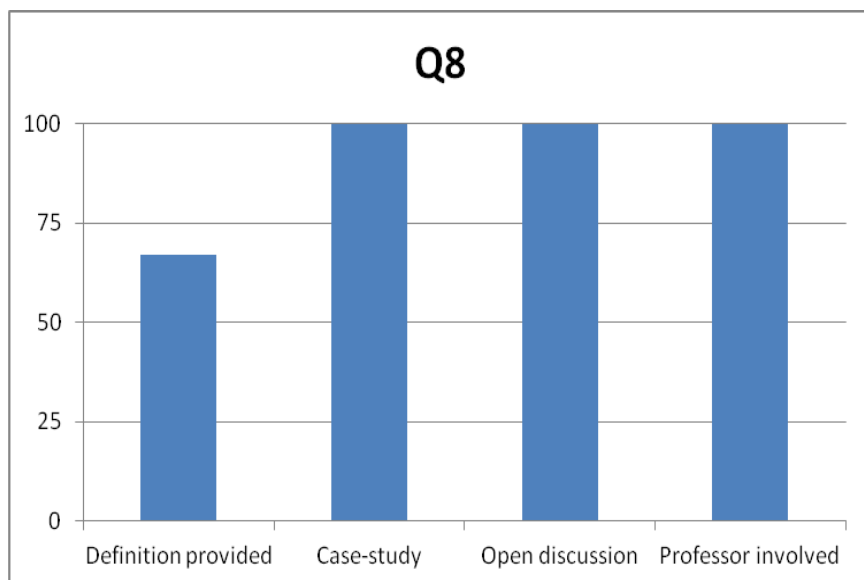
The participants were asked whether the students' theoretical knowledge of accuracy is assessed during the training programme. 67% of participants responded positively, adding that the assessment is done through theory tests, including true-and-false and multiple-choice exercises, and essay writing. Asked whether interpreting accuracy is assessed, all respondents gave a positive reply, stating that oral evaluations and exams are used to assess learners. One of the respondents also provided the evaluation criteria: "meaning, register, terminology, language mechanics, and clarity of delivery".

## **Question 8**

**If impartiality is dealt with, how is it presented to students?**

Question 8 intends to find out how the notion of impartiality is presented to students. 67% of respondents stated that a definition of impartiality is provided. One of the participants specified what she meant by impartiality; while not providing a proper definition of the notion in the strict sense, she listed a number of recommendations enabling interpreters to maintain a "neutral image": for instance, avoiding "inappropriate facial expressions, rolling the eyes, comments about the case or participants, side conversations with one of the participants, talking to one of the parties or relatives outside the presence of the other party". Moreover, interpreters should "try not to form an opinion about the case", and, if they do, they should not divulge it. Another participant who stated that a definition is provided explained that impartiality is presented to students by referring to scholarly literature on the topic. Like accuracy, impartiality is not therefore presented as a set-in-

stone concept that can be learnt and applied to real-life situations but is rather introduced as a debated issue, where a number of factors may come into play, e.g. the setting<sup>8</sup>. It can therefore be argued that no participant *really* provides a theoretical definition.



**Figure 6:**  
**Impartiality**

The analysis of case studies and open debates involving students appear as two other popular pedagogical tools, given that all respondents include them in their classes. This result confirms the idea that a critical analysis of real-life situations is an essential part of “ethical training”. One of the participants made this clear by stating that “discussions on impartiality come up in connection with *almost every* interpreting exercise”, as the choice of terms and the behaviour of the parties involved always provide an opportunity to reflect on impartiality (or lack thereof).

Another participant also described the way debates are carried out, with the trainer stimulating the discussion and students subsequently breaking into smaller discussion groups. As is the case with accuracy, the trainer can be seen to play a double role: on the one hand, kicking off the debate and eliciting the students’ reactions, and acting as a guide by identifying the best solutions and correcting “flaws” on the other. The same participant also mentions watching videos as discussion

<sup>8</sup> Another participant states that the dynamics of the adversarial courtroom are abundantly debated: this observation, coupled with Fenton’s study (1997), raises the question of whether the judicial system (adversarial or inquisitorial) affects court interpreters’ impartiality.

material. Once again, two trends can be observed: one is more centred on critical discussion, whereas the other focuses more on the respect for code of ethics.

To conclude, all the trainers interviewed acknowledge the fact that the interpreter's behaviour does have consequences on the other parties, hence the need to address impartiality in training. Although training - just like codes of ethics - does not offer ready-made solutions, i.e. an official definition of the term, what it does provide is a space for analysis and critical reflection, where prospective interpreters can familiarize with both codes of ethics and the decision-making dimension that is inherent in court interpreting.

### **Questions 9-10**

**Is the students' theoretical knowledge of impartiality assessed?**

**Is the students' interpreting impartiality assessed?**

The participants were asked whether the theoretical knowledge of impartiality is assessed during the training programme. Interestingly, all respondents gave a positive response. This result slightly differs from the answers provided when discussing accuracy (67%). Of course, the small size of the sample does not allow for generalizations, but it could be argued that impartiality may be considered, if not more important, at least a pre-requisite for accuracy, as argued by Hale (2007:123): "Neutrality [...] can facilitate faithfulness of interpretation". One participant indirectly stressed this, stating that impartiality is an "ABSOLUTE (sic) requirement for court interpreters." As for how impartiality is assessed, the respondents stated that written exams including theory tests, multiple choice, open questions and essays, are used.

Asked whether students' interpreting impartiality is assessed, all participants responded positively, stating that oral exams are used for evaluation purposes. Interestingly, one participant stressed that specific consecutive interpreting role-plays are designed to test the students' interpreting

impartiality, followed by post-interpreting feedback (where, incidentally, codes of ethics are referred to). Another respondent stressed that, in addition to viva examinations, several opportunities are offered to students, including internships at local Criminal Courts or “reputable agencies”, under the supervision of experienced practitioners. Students are also invited to shadow their trainers in real-life working contexts. Once again, training seems to favour a hands-on approach, allowing students to test their skills in the field and receive feedback thereon.

### **5.3 Conclusions**

To conclude, the project has shown that ethics in general does occupy a central place in the matter of court interpreter training (see Q1), so much so that it is covered both throughout programmes and in specific (sub-)modules. Indeed, its importance was highlighted by one of the respondents who expressed the wish that even more time could be devoted to it. This result confirms the importance of ethical training, highlighted by several recent studies (Baker and Maier, 2011; Hale, 2007). Specifically, accuracy and impartiality have been shown to be integral in training content (see Q2), with assessment of these competencies key to the outcome of the training (see Q6-7-9-10). The assessment of such skills is a key element in training because it provides a vital link between theoretical reflection and the reality of the profession: not only are students made aware of ethical tenets, but they should also demonstrate that they can apply such principles in practice.

Codes of ethics are incorporated into training curricula as pedagogical tools (as shown by Q2, where compliance with codes of ethics was rated 4 by participants) and their guidelines are explicitly referred to in class (see Q4). However, they seem to be insufficient as a guide to train students (or indeed to aid professionals, as argued in the theoretical section of this thesis). As such, codes of ethics only form part of a wide range of materials and instruments intended to stimulate

critical reflection, such as case studies, scholarly literature, specifically designed exercises and feedback, which students are exposed to and partake in.

The responses received point to a three-pronged learning approach, covering reading (input), debates (collective analysis) and essay writing (personal analysis), followed up with tests and viva examinations. In some cases, trainers even give students the opportunity to shadow them during legal proceedings, although students are not allowed to speak “on the record”.

Interestingly, trainers also raise awareness about the need for ongoing professional development (scored as high as accuracy in Q2). This shows that the dilemmas of the interpreters’ profession are always germane to the practice of interpreting and need to be constantly addressed in one’s career. As Baker and Maier rightly point out, the objective of training is to make sure students are able to “think through the consequences of their behaviour, rather than (...) [be told] what is right or wrong *per se*” (Baker & Maier, 2011: 4).

The small sample surveyed does not allow for comprehensive evaluations but does provide a starting point towards further investigation into the field of court interpreter training. Firstly, it would be interesting to extend the survey to a much larger sample of training institutions to see whether these tentative conclusions can be applied more generally. Secondly, it would be equally useful to canvass the views of students at the beginning and after interpreter training to see if they relate to ethical questions differently at these stages of the learning process.

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## ANNEX

This questionnaire is part of an MA research project. It explores the extent to which the concepts of accuracy and impartiality are applicable in real-life court interpreting.

The questionnaire is structured as follows: after filling out the “Participant Information” table, you will be asked to provide preliminary information about the court interpreting programme (duration and language combinations offered.) Questions 1-4 focus on whether/how ethics is covered in the programme, while questions 5-7 and 8-10 deal with accuracy and impartiality, respectively.

All participants will receive a copy of the research results if desired. All data will be treated anonymously and confidentially and be used for this research only.

Thank you.

### Participant Information

Name	
Surname	
Occupation	

### Preliminary Information

**How long is the course/programme?**

Weeks	
Months	
Years	
Contact hours	

**What are the language combinations offered?**

--

**Ethics in Court Interpreting**

**1) To what extent do you agree with the following statement: “Ethical issues are covered throughout the training programme”?**

To answer, please double click on a number from 1 (Completely disagree) to 5 (Completely agree)

1  2  3  4  5

**2) If ethical issues are dealt with throughout the programme, what are the topics covered and to what extent?**

To answer, double click on a number from 1 (Not covered at all) to 5 (Covered exhaustively)

- **Accuracy** (i.e. the need for interpreters to interpret without adding, omitting or editing) 1  2  3  4  5
- **Impartiality** (i.e. objectivity) 1  2  3  4  5
- **Respect for client’s right to privacy/confidentiality** 1  2  3  4  5
- **Obligation not to undertake work beyond one’s competence and/or accreditation level** 1  2  3  4  5
- **Compliance with the standards of conduct set by the profession’s codes of ethics** 1  2  3  4  5
- **Obligation to develop professional knowledge and skills** 1  2  3  4  5
- **Professional solidarity** 1  2  3  4  5
- **Others ... ..** 1  2  3  4  5

**3) If ethics is dealt with throughout the programme, how are ethical issues covered?**

To answer, please double click on one or more of the following options.

- Module on ethics (i.e a set of classes specifically dealing with ethical issues)
- Sub-module on ethics (i.e a number of hours within a course devoted to discussing ethical issues)
- No specific (sub-)module (i.e ethical issues are not dealt with in a specific course and are discussed in class at no pre-determined moment)

**4) If there is a specific (sub-)module, how is it structured?**

- **Number of contact hours: ...**

- **Type of activities offered**

Please quantify the activities by double-clicking on one of the numbers based on the following scale: 1(none) 2 (few) 3 (some) 4 (many) 5 (all).

- <b>Lectures</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>
- <b>Reading of specialised literature</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>
- <b>Reading of codes of ethics</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>
- <b>Role-plays</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>
- <b>Writing of essays</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>
- <b>Other*</b>	1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>

\*Other:

**Accuracy**

**5) If accuracy is dealt with, how is it presented to students?**

- A definition is provided      Yes       No

- If so, which one(s)?

- Through case-study      Yes       No

- Open discussion      Yes       No

- Is the professor actively involved in the debate?      Yes       No

- How?

- Other:

**6) Is the students' theoretical knowledge of accuracy assessed?      Yes  No**

- If so, according to what criteria?

**7) Is the students' interpreting accuracy assessed?      Yes  No**

- If so, according to what criteria?

**Impartiality**

**8) If impartiality is dealt with, how is it presented to students?**

- A definition is provided      Yes       No

- If so, which one(s)?

- Through case-study      Yes       No

- Open discussion      Yes       No

- Is the professor actively involved in the debate?      Yes       No

- How?

- Other:

**9) Is the students' theoretical knowledge of impartiality assessed?      Yes       No**

- If so, according to what criteria?

**10) Is the students' interpreting impartiality assessed?      Yes       No**

- If so, according to what criteria?

Thank you for taking the time to complete the questionnaire.