

Community interpreting in Sweden and its significance to guaranteeing legal and medical security

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2010

Cultural diversity, Multilingualism and Ethnic minorities in Sweden

URI: <https://id.erudit.org/iderudit/1064050ar>

DOI: <https://doi.org/10.7202/1064050ar>

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Publisher(s)

Département des littératures de langue française

ISSN

2104-3272 (digital)

[Explore this journal](#)

Cite this article

Norström, E. (2010). Community interpreting in Sweden and its significance to guaranteeing legal and medical security. *Sens public*.
<https://doi.org/10.7202/1064050ar>

Article abstract

In this presentation, I deal with the legal situation in Sweden concerning the right to interpretation. I discuss the philosophy behind the right to interpretation given to public servants, medical staff as well as immigrants and minorities in Sweden. I also deal with the question of who the ideal interpreter is. What kind of education is offered and what skills are fundamental to master? What further skills are required, besides language and factual knowledge, in order to maintain legal and medical security? What are the codes of ethics? Furthermore, I compare this with the reality of the interpreter. What is his or her legal status and working conditions? Finally, I discuss who is responsible for guaranteeing legal and medical rights and why access to professional interpreting in the public sector is a concern of the state.

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Revue internationale
International Webjournal
www.sens-public.org

'Cultural diversity, Multilingualism and Ethnic minorities in Sweden'

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Community interpreting in Sweden and its significance to guaranteeing legal and medical security

EVA NORSTRÖM

Abstract: In this presentation, I deal with the legal situation in Sweden concerning the right to interpretation. I discuss the philosophy behind the right to interpretation given to public servants, medical staff as well as immigrants and minorities in Sweden. I also deal with the question of who the ideal interpreter is. What kind of education is offered and what skills are fundamental to master? What further skills are required, besides language and factual knowledge, in order to maintain legal and medical security? What are the codes of ethics? Furthermore, I compare this with the reality of the interpreter. What is his or her legal status and working conditions? Finally, I discuss who is responsible for guaranteeing legal and medical rights and why access to professional interpreting in the public sector is a concern of the state.

Cultural diversity, Multilingualism and Ethnic minorities in Sweden * Kulturell mångfald, Flerspråkighet och Etniska minoriteter i Sverige * Diversité culturelle, Multilinguisme et Minorités ethniques en Suède

International Conference 2-3 September 2009 – Stockholm, Sweden

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Community interpreting in Sweden and its significance to guaranteeing legal and medical security

EVA NORSTRÖM

Community interpreting in Sweden and its significance to guaranteeing legal and medical security

Eva Norström¹

Kontakttolkning i Sverige och dess betydelse för att garantera juridisk och medicinsk säkerhet. I min presentation behandlar jag den juridiska situationen i Sverige i förhållande till rätt till tolk. Jag diskuterar filosofin bakom den rätt till tolkning som offentliganställda och vårdpersonal har, liksom den rätt som den som inte kan svenska eller tillhör en erkänd minoritet har att få komma till tals genom tolkning. Vidare behandlar jag temat den "idealiske" tolken. Vilken utbildning erbjuds och vad måste man behärska för att utföra ett rättssäkert arbete? Vilka kompetenser behövs förutom språkkunskaper och faktakunskaper? Hur ser de etiska koderna ut? Jag jämför sedan detta med tolkens vardagsverklighet. Vilken juridisk status har tolken och hur ser hans eller hennes arbetsvillkor ut? Till sist diskuterar jag vems ansvar det är att garantera juridisk och medicinsk säkerhet och varför tillgången till professionella tolkar i den offentliga sektorn är ett statligt ansvar.

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"I was dreadfully disturbed when I left the room. The social worker gave totally incorrect information to the old man and I could do nothing but interpret. I am not permitted to anything but interpret, I interpret all that is said in the room and I am not allowed to interfere!" (An example from interviews with community interpreters of what causes frustration.)

The term *community interpreting* describes interpreting in institutional settings in which *public service providers* and individual clients do not speak the same language. Internationally, the need for community interpreters has increased due to migration globalisation and other factors. In Sweden, as in other countries, community interpreting has developed since the 1960s, and is still very much a developing process.

We² are currently working on two research projects that will continue until August 2011. *The Community Interpreter – a Cultural Broker* is financed by Riksbankens Jubileumsfond³ and *Behind*

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² Eva Norström, PhD, Kristina Gustafsson, PhD, and Ingrid Fioretos, PhD: the Department of Cultural Studies, Lund University. Azar Mahloujian: authorized community interpreter and author, Stockholm.

³ In 1962 a donation from the Swedish Central Bank (Riksbanken) was approved to create an independent foundation (Riksbankens Jubileumsfond). Its goal is to promote and support research in the Humanities and

Closed Doors – The significance of community interpreting for guaranteeing legal rights and integration; with a special focus on the reception of separated children and the processing of their asylum cases is co-financed by the European Refugee Fund III.

The aim of our research is to:

- analyse the position of community interpreters as cultural brokers in interpreted meetings and in communication between public service providers and clients /patients,
- describe and analyse the reception of separated minors through the eyes of the community interpreter,
- analyse the significance of interpreting to obtaining legal and medical rights, and to integration processes.

This presentation will touch on five themes:

1. The legal situation in Sweden concerning the right to interpreting service.
2. The underlying philosophy – why is community interpreting a concern of the state?
3. Who is the “ideal” interpreter? Education – Competencies – Ethics
4. What is the reality? – Legal status – Working conditions
5. Guaranteeing legal and medical rights? Who bears the responsibility?

The legal situation in Sweden concerning the right to interpreting service

The right to interpreting service is currently regulated by the Code of Judicial Procedure⁴, the Administrative Procedure Act⁵, and the Administrative Court Procedures Act⁶.

Interpreter service in court is a right under to the Code of Judicial Procedure. The Administrative Procedure Act regulates the way cases are handled by the administrative authorities and it specifies that a public authority should use an interpreter ‘when needed’. As we see, the formulation in the Administrative Procedure Act does not imply a right as ‘should’ and ‘when needed’ give the public service provider the right to decide whether an interpreter is called in or not. In our interviews, for example, there are several accounts of public service providers rebuking the immigrant for not knowing better Swedish and generally showing a lack of understanding about what it means to actually *know* a language. Many immigrants have satisfactory command of everyday Swedish, but cannot manage in extraordinary situations.

Social Sciences (www.rj.se)

⁴ Rättegångsbalk (1942:740)

⁵ Förvaltningslag (1986:223)

⁶ Förvaltningsprocesslag (1971:291)

Furthermore, the Administrative Procedure Act does not mention the need to call in authorised or otherwise professional, well-educated interpreters and this causes problems that will be addressed later on in this presentation.

Although it is not obligatory to use an interpreter, the police as a rule use interpreters when they are interviewing someone who cannot understand Swedish. It is also common in criminal cases on all levels.

The Social Services Act⁷ states nothing about rights and obligations concerning community interpreting. The Health and Medical Services Act⁸, however, contains a text which states that health care must be provided with respect for equality and respect for human dignity. This means that people who do not understand or speak Swedish must have the same access as others to proper health care, information about their illness and the care they are receiving. The patient is also entitled to know about tests and treatment and to be able to communicate properly with the doctor. It is thus obvious that in many cases use of an interpreter is necessary.

The services by an interpreter are regarded by most people as a right of an immigrant who cannot understand or speak Swedish. But it should be clear that it is equally necessary for the public service provider to use an interpreter in order to do his/her work professionally and with the legal and medical rights of the individual immigrant in mind. This is reflected on many municipal and county council websites, which provide information about interpreter support as a right.

Interpreting services are free of charge for the immigrant and are normally paid for by the service provider.

Citizens of the Nordic countries have specific rights with regard to interpreting and translation services. These rights are laid down in the Nordic Language Convention (1981).

The underlying philosophy – why is community interpreting a concern of the state?

The thinking behind giving immigrants and public service providers the possibility of using interpreters is based on human rights values and immigration policies. In Sweden, the key words for such policies are equality, freedom of choice and co-operation. None of these ideals are likely to be realised without the possibility of communicating with public service representatives.

Rights regulated by the state obviously make the implementation of these rights a concern of the state. In most cases, when the state defines obligations and rights it also defines a system for control and retribution. Contrary to most other fields, however, there is no supervisory authority, and it is thus very difficult indeed for the individual to assert his/her rights or to genuinely

⁷ Socialtjänstlag (2001:453)

⁸ Hälso- och sjukvårdslag (1982:763)

measure the quality of the agencies, the actual interpreting performed, and the public service provider's skills when using an interpreter.

Who is the 'ideal interpreter'? Education – Competencies – Ethics

Interpreter training was started in the late 1960s by local immigrant services bureaus. It developed over time. Today the principal responsibility for interpreter training financed by the state lies within the mandate of the Institute for Interpretation and Translation Studies (TÖI)⁹, at Stockholm University. TÖI also has overall responsibility for developing uniform education and authorisation of interpreters and translators. Basic training for interpreters is provided by four 'folk high schools' and three adult education associations. This basic training is either provided as distance tuition over two years or evening classes over one year. The curriculum contains courses in social services, medical care, the labour market, the workplace and legal matters. Each field contains facts, language and interpreting training, techniques and ethics. Training has taken place in more than 100 languages.

Alongside these programmes, under the supervision of TÖI, many folk high schools and adult education associations provide individual courses for interpreters, e.g. in medical care or social services. At Stockholm University interpreting courses are held in a number of languages.

It is possible to become an authorised interpreter through proficiency examinations run by the Legal, Financial and Administrative Services Agency. Apart from passing the examination the person must, in order to be authorised, be of age, be of known personal integrity and otherwise be suitable to work as an interpreter.

Authorisation has developed in order to guarantee skilled and trustworthy interpreters. It is currently possible to become authorised in 38 languages although interpreting is performed in almost 170 languages. After becoming authorised one can go on to take further tests and be authorised as a court interpreter and/or a medical interpreter.

The Legal, Financial and Administrative Services Agency supervise authorised interpreters. Complaints can be lodged with the Agency and the Agency can take disciplinary action.

The main ethical guidance for community interpreters is called 'Good Interpreting Practice'¹⁰. It is published by the Swedish Legal, Financial and Administrative Services Agency. The interpreter is obliged to observe confidentiality under the Official Secrets Act¹¹ and the Confidentiality Obligation of Certain Interpreters and Translators Act¹². Other ethical rules include remaining neutral and impartial in interpreting situations, observing secrecy, interpret everything that is spoken in the

⁹ Tolk- och översättarinstitutet.

¹⁰ God tolksed

¹¹ Sekretesslag (1980:100)

¹² Lag om tystnadsplikt för vissa tolkar och översättare (1975:689)

room and performing the assigned task carefully and truthfully. If needed, the community interpreter must inform about what is and is not included in his/her assignment. Interpreting is done in the first person.

What is reality? – Legal status – Working conditions

In the vast majority of cases the interpreter is not employed and does not have any legal security as an employee. The interpreter is registered with one or more agencies and appointments are made through the agencies. Public service providers are obliged to comply with the Public Procurement Act¹³. This means that contracts are awarded in competition to agencies and not to the interpreters themselves. According to many critics this has undermined the possibility of interpreters to exert any influence over their situation labour law point of view. As there is no state supervision, except for authorised interpreters, and no supervision of agencies, it is not possible to make an accurate assessment of quality. It is, however, clear that there is a huge difference in the way agencies take care of their interpreters. Some agencies pay for education, authorisation, coaching and professional support whilst other agencies provide nothing.

Interpreting is not only about finding the right word. It is about listening and transmitting a message, it is about social and cultural codes, it is about handling taboos, feelings and fears. It is about knowing the subject you are interpreting, its professional language, rules and regulations. It is about understanding human nature.

Professional interpreters never seem to rest. They constantly upgrade their language and cultural skills as well as their knowledge of rules and regulations in both Sweden and their country of origin. This they do in their own time. The insecure work situation make many interpreters question all the time and effort they devote to remaining updated. Many also have other jobs to support themselves, which makes it difficult to continue interpreting. In the majority of interpreted encounters the interpreter is not authorised. Far too many do not even have basic training for interpreters. Hiring unskilled persons to interpret is a serious problem. Well-educated and even authorised interpreters are forced to compete for work with persons who literally "walk in off the street". The fact that there is no rule stipulating that an educated and professional interpreter must be hired before anyone who might "speak two languages" in reality becomes a threat to the personal security of the immigrant, who is totally dependent on the interpretation to secure his or her legal or medical rights. Especially serious is the situation for asylum-seekers and children who have absolutely no knowledge of the Swedish system.

¹³ Lag om offentlig upphandling (2007:1091)

Guaranteeing legal and medical rights – who bears the responsibility?

As we have seen, Swedish law demand state action. The state provides authorisation and education. However, these services do not meet the demand. Added to this, the state does not offer clarity on rights and provides no supervision. According to many critics the state needs to take more action in order to guarantee safe, professional interpreter services.

There is one organisation for interpreters. The Swedish Interpreters Association¹⁴ (STOF), which was founded in 1975. Its primary mandate is to safeguard its members' financial, social and professional interests.

There is one organisation for agencies, the Interpreter Services Council¹⁵ (TSR) with around 25 non-profit municipal agencies as members. The Council works to raise the quality of interpreting services in three main ways:

To increase the industry's knowledge of procurement, competition and market orientation.

To introduce methods for quality control and monitoring.

Through customer contacts provide training to all authorities that use interpreters in order for them to recognise the importance of professional interpreting services.

Final reflection

Interpreting is about in-depth knowledge of two languages, dialects, sociolects, jargon, slang and professional terminology. It is about maturity, cultural sensitivity, technique and ethics.

Interpreters are used in order to discharge obligations towards immigrants and for public service officials to be able to do their jobs.

Responsibility for guaranteeing maximal access to legal and medical rights rests with all the parties involved in the interpreting field: political willingness to supervise the field, the authorities' responsibility to carry out competent procurement and to educate their staff, the agencies' responsibility to support education, authorisation and coaching and, the educational providers' responsibility to develop programmes. Finally, there is the individual public service provider and interpreter, both of whom are equally responsible for their personal performance and integrity.

¹⁴ Sveriges tolkförbund

¹⁵ Tolkservicerådet