Minutes of ImPLI Roundtables

Germany - Cologne: 24 July 2011
Scotland/UK – Edinburgh: 2 September 2011
Italy – Forli: 18 November 2011
Czech Republic – Prague: 20 January 2012
Belgium/Flanders – Antwerp: 27 April 2012
ImPLI Round Table, Forlì November 18th, 2011. 2.00 – 6.30 p.m.
Professor Delia Chiaro, Director of SITLEC Department, welcomed all participants and expressed her appreciation for the choice of the topic that attracts a lot of attention from the media and on which a lot of research work has still to be done.

Professor Rafael Lozano Miralles, Director of the School of Modern Languages for Interpreters and Translators of Forlì, welcomed the foreign partners as well as the representatives of Italian institutions and civil society and all other participants and briefly introduced the ImPLI project.

Professor Maria Chiara Russo, head of the post-graduate course in interpreting, expressed her appreciation for all the efforts made by ImPLI project partners so that positive results can be achieved in the area of legal interpreting, a complex activity which is neither sufficiently recognised nor appropriately remunerated in Italy.

Professor Gabriele Mack, round table moderator, suggested that all speakers, attendees and observers introduce themselves briefly.

Participating speakers:
Mrs Marilù Gattelli, Assistant Prosecutor in Forlì

Mr Giuseppe Giove, Regional Commander of the State Forest Corps for Emilia-Romagna

Mrs Annarita Fasciani, Sergeant of the State Police in Forlì

Mr Fabrizio Fratoni, Captain of Arma dei Carabinieri, Forlì

Mrs Flavia Vecchione, Linguistic Expert at Forlì Police Headquarters and Board Member of ANTIMI (National Association of the Interpreters of the Ministry of the Interior)

Mrs Anna Caterina Alimenti, Legal Interpreter and Translator, Lecturer at Libera Università San Pio V, Rome
**ImPLI Partners:**

Lessius-Hogeschool, Antwerp/Belgium:

prof. Heidi SALAETS

prof. Katalin BALOGH

FH Köln – Köln - Cologne/Germany

prof. Sylvia KALINA

prof. Barbara AHRENS

Charles University Prague/ Czech Republic

dott. Katy Stifterova

dott. Dagmar Dencikova (Vice-President, Chamber of Court Appointed Interpreters)

ISIT Paris/France

prof. Sarah BORDES

prof. Christiane DRIESEN

Herriot-Watt-University Edinburgh/UK

prof. Ursula BÖSER

prof. Christine WILSON

SSMLIT Forli/Italia

dott. Amalia AMATO

prof. Gabriele MACK
Attendees

Elio Ballardini, Researcher and Teacher at ForlìGraduate Interpreting Course, specialised in legal interpreting

Francesca Biagini, Researcher and Teacher of Interpreting at Forlì Post-Graduate Course in Interpreting

Christopher Garwood, Researcher and Teacher of Interpreting at Forlì Post-Graduate Course in Interpreting, specialised in legal interpreting

Maria Jesus Gonzalez, Researcher and Teacher of Interpreting at Forlì Post-Graduate Course in Interpreting

Ira Torresi, Researcher and Teacher of Interpreting at Forlì Post-Graduate Course in Interpreting

Observers

Mrs Rosalia Arlotto, Forest Corps Officer

Mrs Cristina Ramolacci, Linguistic Expert at Forlì Police Headquarters

Mr Giovanni Naccarato, Regional Commander, Forest Corps

After a self-introduction by all speakers, participants and observers Professor Gabi Mack gave the floor to the first speaker.

Speaker 1: Mrs Marilù Gattelli, Assistant Prosecutor, Forlì

The speaker explained that she has been dealing with preliminary investigations from 2000. She thanked the organisers for the invitation and stressed the importance of the topic at issue. First of all she explained how the prosecutor’s office works. The public prosecutor in Italy is separate from the judge of preliminary investigations as such. The prosecutor deals with the investigative stage of the criminal proceedings on the basis of the Italian criminal code and the Italian code of criminal procedure according to which the prosecutor gathers evidence during the investigation. On the basis of the evidence gathered a judge for the preliminary investigations makes the decision whether or not a case should go to court.
The term “judicial police” (polizia giudiziaria) is a very broad term and covers all sorts of law enforcement agencies: state police, carabinieri, the forest/environment police. The public prosecutor can either manage the investigation directly or delegate investigation activities to the judicial police. In actual fact most of the time the judicial police carry out the investigations, but there are delicate cases in which the public prosecutor would intervene directly. So the prosecutor might summon witnesses, listen to people who are detained, and so on. It is precisely in this sort of context that an interpreter might be necessary, for instance when a witness has to be listened to, and s/he does not speak Italian.

Another fundamental point made by the speaker is that an interpreter is needed when the prosecutor - under request by the judicial police and after receiving authorisation by the judge for the preliminary investigations - gives instructions to bug either a person’s phone or some premises. And here there can be a problem of language. This type of scenario is not covered by all foreign legislations, but in Italy this is provided for by law. In such cases the interpreter or translator is essential because otherwise the crucial heart of the investigation could not be carried out properly. In case of telephone tapping or other forms of bugging an on-going involvement of the interpreter is required, for several hours a day, and there are very few interpreters who are prepared to do this kind of work.

The speaker went on raising the question of how can one work out exactly when a suspect or a witness does not speak Italian. Article 143 of the Italian code of criminal procedure states that the defendant who does not speak Italian has the right to an interpreter, without having to pay, to understand the charges against him/her. Conversely, an Italian citizen is assumed to speak Italian according to this provision. But the provision does not say exactly what should be done when the judicial police or authorities are faced with a foreigner. This means that in practice the person to be interviewed is simply asked: “Do you speak Italian?” and “Do you understand Italian?”. Basically the whole procedure is based on that question. If the answer is “No” or if the foreigner says that he or she does not speak Italian sufficiently well an interpreter is appointed.

In Italy only some institutional professional profiles can call on an interpreter during investigations: the prosecutor, the judicial police, the defence counsel, and the judge in charge of the preliminary investigations. The prosecutor can request an interpreter in various instances including:

- during the preliminary hearings if a foreigner has to be detained
- when a foreign citizen must be interviewed while in provisional custody
- when a foreigner is caught red-handed.
In all these cases the interpreter must be present during the interview, otherwise all the proceedings can be considered null and void. It should also be said that the interpreter is becoming more and more important because in contemporary society there are more and more foreigners who are either victims or perpetrators of offences.

The official terminology used to define the status of the interpreter working in criminal proceedings depends on whom s/he is recruited by: the interpreter is called a “judicial police auxiliary” (*ausiliario*) when s/he is appointed by the judicial police. This expression indicates a person appointed by the police and acting as a legal officer. When the interpreter is appointed by the prosecutor s/he is called “technical consultant” (*consulente tecnico d’ufficio*) meaning a technical expert working for the prosecutor’s office. When the interpreter is appointed by the judge in court s/he is called an expert (*perito*) meaning an independent court appointed expert who does not work for one of the parties in the proceedings.

Recruitment criteria used by the prosecutor when appointing an interpreter

How does the prosecutor choose the interpreter? This is the first delicate issue in the Italian legislation. Theoretically, the prosecutor has quite a bit of freedom. The prosecutor can

- call upon an interpreter who is a member of staff of the Ministry of the Interior. These in-house interpreters are called linguistic experts and work at police headquarters or police stations all over Italy; or
- look at a register that is available at the various courts. This register, however is often not up to date, or does not contain an exhaustive list of interpreters; or
- turn to a free-lance interpreter “outside” the register.

Public prosecutors tend to prefer the last option because the in-house interpreters, as the last speaker will explain, who are full-time staff at the police offices only speak the main European languages: English, French and German. Most of the times there are no in-house interpreters available for other foreign languages that are frequently needed: Albanian, Romanian, Chinese, Arabic. So very often prosecutors recruit external interpreters who are called in for any specific action that has to be taken: for instance a detainee who has to be questioned in prison (the judge for the preliminary investigations or the prosecutor are the only ones who can do this, not the judicial police). Since there is often no exhaustive official list, these interpreters are called on an *ad hoc* basis. One important criterion for recruitment is that they should not know the suspect or defendant. So the first point the speaker stressed was
that there is no standard practice which applies across the board when recruiting interpreters. Moreover there is no standard practice to certify their skills.

The role of interpreters can be very delicate and important, particularly during the preliminary stages of the investigations. For this reason a number of practices have been devised. With the contribution of the police station in Forlì there is now a list of interpreters and translators; it is not an official list but it is a very useful one, drawn up taking into account also the reliability and availability of the interpreters before putting them on the list.

Usually it is very difficult to find an interpreter of a rare language, particularly when dealing with very urgent proceedings. In that case the judicial authority simply has to make do with whoever happens to be free because there are certain acts which have to be seen to immediately. The persons who work as interpreters exclusively in the legal sector are not able to follow any training courses as such because they do not exist yet in Italy.

If some progress has to be made certain conditions or standards should be defined and agreed between the schools and the judicial authorities. This would really help.

Although there is no official statistical data, on the basis of the speaker’s personal research in the office of the judge for preliminary investigations in Forlì about sixty interpreters are appointed in one year.

Interpreters’ remuneration

Another weak feature of the Italian legal system pertaining to the use of interpreters is the interpreters’ pay. The speaker said she felt a bit embarrassed to talk about this because the sums are so paltry, and it appears to be obvious that they need to change. She expressed the hope that the EU Directive - which is due to come into force - will change the situation. In Italy there is only a single text laying down the fees – it is a decree that goes back to 2002 (DPR 115/2002 about expenditure for justice) and is linked to a law issued in 1980 stating that the fee of the interpreter is proportionate to the time spent at work. According to this law the interpreter is a separate category from a doctor or say an accountant who are called on by the judicial authorities. Interpreters are paid by two-hour slots. The fee for the first two hours is Euro 14.68, for all the following two-hour slots the fee is Euro 8.15. It is unbelievably low but unfortunately this is the current state of play. This remuneration is clearly not sufficient. Obviously it is very hard for qualified interpreters to say that they wish to do their job for the judicial authorities on an on-going basis. They might do it occasionally. For rare languages the people who are available often do not have qualifications and yet the prosecutors have no option but to recruit them. The only requirement is that the person called upon to act as an interpreter must have no criminal records. Otherwise prosecutors have no other way or means.
to reject an interpreter. They have no power to change the interpreter’s fee. They lack alternatives and they can only call on people who are prepared to do the job despite the low fee. This is a problem that should be solved urgently and for which some rules would be necessary, so that the remuneration of the interpreters would be proportionate to their function which is so important.

Documentation and information provided to the interpreters

The report

There is no provision stating exactly how documentation should be produced. Generally speaking the judicial police, the judge for preliminary investigations and the prosecution should make verbatim minutes of interviews or interrogations, but this is not always the case. Since there is no set rule as to how a report has to be drawn up, this really depends on the person in charge. So an interview might or might not be recorded. Only when the person under investigation is in provisional custody is there an obligation to record the interview. In this case if there is an interpreter working for the judicial police or the prosecutor everything is put down in writing. The report then is read out in the language of the suspect with the help of an interpreter before it is signed by the suspect. But there is no set rule about how exactly this should be done. Decisions are made on a case-by-case basis.

Information for interpreters. What sort of information should be given to the interpreter before the interview takes place? What does the interpreter need to know on a particular case? The scene of the crime? The type of offence? The procedures? The rights of the victim? The interviewing techniques? During the preliminary investigations if you wish to ensure that the quality of interpretation is sufficient and we know that the interpreter’s role is quite multi-faceted, the interpreter is not there just to translate, there is more than that – then it would be appropriate to provide the interpreter with a certain amount of information on the case at hand. Moreover the way the interview is going to be conducted should be explained to him/her. But again, everything here is left to the individual, and not all the people work in the same way. The assistant prosecutor said that she personally had always given information to the interpreters and she believed that this is appropriate. Interpreting mode and interviewee’s preference concerning the interpreter

The prosecutor and the judicial authorities in general also decide what type of translation/interpreting is necessary. Usually the first person pronoun is used in the written report but in oral translation sometimes the third person pronouns are used too. For instance a woman who is a victim of sexual abuse might ask for a female interpreter. Whenever possible the request is complied with. Unfortunately this is not always possible because, as mentioned before, there are cases when one has to act quickly or there are other contingencies.
Position/role of the interpreter

In court, during a trial, the role of the interpreter is clear because s/he can just confine her/his role to interpretation only. In the early stages of the investigations the judicial police or authorities have to work out exactly who the person is, whether there are any sort of links between the interpreter and the suspect, what exactly the situation is all about. The preliminary phases of investigations are very sensitive so the role of the interpreter is even more important. Should the interpreter be an ally of the judicial police and authorities? May be not an ally, but interpreters should cooperate. What is even more important is that during the preliminary investigations the interpreters should not create problems and they should not be perceived as a risk factor by investigating authorities.

The interpreter is also important from the legal point of view, because if a foreigner who does not speak Italian is not assisted by an interpreter the proceedings can be declared null and void. This case is becoming more and more frequent because defence lawyers are beginning to realise that they can challenge a decision by the judge and win their case on the grounds that there was no interpreting as required by law. What happens quite often is that during the initial stages of the investigation, the foreign person who has committed a crime does not say anything about his/her knowledge of Italian and consequently the judicial police or authorities do not appoint an interpreter because they assume that the person speaks and understands the language. Then, at a later stage, the defence counsel declares that the person under investigation does not speak Italian and this automatically invalidates all the investigations carried out before.

Ideally the same interpreter should be appointed for the whole investigation period because s/he knows what has been going on before – obviously without influencing the investigations – and what the context is, which obviously makes things much clearer. But the interpreter working for the judicial police should not be working also for the defence.

Directive 2010/64/EU

This Directive deals with the right to interpretation and translation in criminal proceedings. This Directive will have to be transposed into Italian legislation by October 2013. It is still not known by most people working in the sector and thus it is not taken into account. The transposition of the Directive will have an impact on the current situation since it should provide for certain rights and options which are not available to the person under investigation at the moment. Currently the Court of Cassation for criminal matters does not recognise the right to the defendant to an interpreter for the reading out of the sentence handed down by the Court. The person has the right to a free interpreter during the proceedings but when the final sentence is read by the Court the foreign defendant is not supposed to understand. This too will change with the transposition of the Directive.
Some other important features of the Directive:

- It refers to what happens when those under investigation do not speak Italian. Probably videoconferencing, Internet, telephone interpreting will have to be used;

- It refers to sufficient or at least adequate quality of interpreting;

- It refers to a register of independent and qualified interpreters;

- It also refers to the need to train prosecutors and judicial staff. Before concluding the speaker reported about a case that highlights the substantial role of the interpreter in criminal investigations. In May 2006 in Rimini, outside a bar alongside the sea, a 35-year old man was found dead. This man had worked for a voluntary association and was very well known in the area. He had been killed without any apparent reason and there were no witnesses. So this was a difficult case. The speaker was assistant prosecutor in Rimini and not in Forlì at the time. The police started their investigation and identified a German girl who the night before had been robbed by two rather violent foreigners, probably Romanians, who had beaten her up and taken her mobile. The right code of that phone had to be found in order to tap the phone. It was late at night and the only interpreter found by the police was an external interpreter. This is just an example of the fact that when the judicial police has to move swiftly it can just count on who is available. This interpreter helped the police and translated the telephone call between the girl and her family to have the phone code. The judicial police then decided that the phone had to be tapped and the investigation started immediately. An interpreter was appointed because the conversation on the phone was in Romanian. The interpreter was known to the police, she was reliable and had worked for them for some time. The interpreter listened to the call and realised that the two Romanians were talking about the murder. She also understood that these two people were trying to run away. She understood what was going on because she had heard about the case. So she informed the police who then informed the prosecutor. The two Romanians were caught and brought to the police station. They were two young men, in their early twenties and it was 4.00 or 5.00 o’clock in the morning and the interpreter had kept working without looking at the clock. At the police station there were the two suspects, the police officers, the interpreter and the speaker. The two young men were questioned and although they knew a little bit of Italian, in such a delicate situation an interpreter was appointed. The two suspects confessed and in the meanwhile the interpreter had already transcribed the three or four phone calls which were so important. The two young men were eventually arrested and sentenced to a thirty-year prison term. If an interpreter had not been available at that particular moment in time the case could have not been closed so successfully. To conclude the assistant prosecutor said she believes that the role of the interpreter is essential, particularly in the preliminary stage of investigations and she expressed her hope that the Italian legislator – when transposing the
Directive – will avail this opportunity to give the professional profile of the interpreter the relevance and importance it deserves.

Debate

Mrs Alimenti noted that in the reported case information was essential but she also stressed that the speaker is unique in providing the interpreter with information. In her long career, only once had she been given information about a case in advance. This was because it was a very important trial about a murder occurred in Via Poma, in Rome - and the hearing where she was supposed to work was about DNA testing techniques to be used to identify the person who had committed the murder. So the assistant prosecutor in Forli, Mrs Gattelli, is really an exception, also because she realises that interpreters are not experts in everything under the sun. Mrs Alimenti reported about a case of a car accident where the prosecutor had to establish whether it was a failing of the car or a failing of the driver and he had appointed two consultants who were experts in car engines. She had not been informed about the topic at issue and she was expected to know and be able to translate all the terms pertaining to car engines. She obviously did not know how to translate the different parts of the engine of a car and she had complained and explained that interpreters cannot be expected to be an expert in every field.

Mrs Gattelli answered to this comment by saying that perhaps some prosecutors believe – and they are probably wrong – that giving information to the interpreters may influence them. But since she believes that interpreters are professionals, giving them information does not mean influencing them and this must be done especially when there is a need for them to prepare on certain technical aspects and also to grasp certain overtones or undertones of the discourse which otherwise they may not be prepared for.

Speaker 2: Mr Giuseppe Giove, Regional Commander of the State Forest Corps for Emilia-Romagna, Bologna

Commander Giove’s presentation focused on the impact of the transposition of EU Directive 64/2010 on Italian legislation about judicial police activities.

The legal provisions guaranteeing the right to an interpreter in Italy and the impact of the EU Directive 64/2010

The speaker thanked the School for inviting him. He announced that his task would be to illustrate the role of judicial police during criminal proceedings and the impact of the Directive. In Italy judicial police acts on its own initiative to fight against criminal activities, investigates crimes and offences, tries to establish the evidence and to avoid that a crime is
repeated and then puts everything into the hands of the prosecuting office. The procedure to follow to resort to an interpreter and appoint one is not always clear. In Italy there is a specific guideline – article 143 of the Code of Criminal Procedure - stating that a defendant who does not speak Italian must be assisted by an interpreter in order for the proceedings to be fair and in order for the defendant to have the right to defence. In Italy the term used for the person under investigation changes according to the different phases of the investigative proceedings: first the person is a suspect, then technically speaking s/he becomes an investigated person and when the public prosecutor puts his/her name in a register then s/he becomes an accused person, who then becomes a defendant before the judge, in a trial. So the first problem for the judicial police is: *quid juris*?

In determining the tasks of the judicial police the legislator has stated that their activity is relatively free but at the same time he has set some goals. Moreover the activities performed by the judicial police do not always determine the final outcome of the proceedings because in Italy the judicial system is an adversarial one where the evidence is formed during the proceedings in Court.

Judicial police, according to article (1)57 of the Code of Criminal Procedure has the task to prepare reports about all the investigative actions and acts it performs, and this includes preparing official minutes and reports that comply with legal rules. When a person is under investigation (and is therefore not yet a defendant) the problem arises about when to use an interpreter and how. A lot has been written on this and there is a lot of case law because, as already said, the Code of Criminal Procedure establishes the right to have an interpreter for the defendant, but not for the person under investigation. This means that the person under investigation is not entitled to the same level of guarantees as the defendant in court, which seems to be unfair. So there have been rulings handed down – at times even contradictory ones – that try to provide guidelines about the right to an interpreter during the initial phases of criminal proceedings since our law does not specify all the details about that. The judicial police bases its action also on these rulings. So a first point made by the speaker was that there is a need for clearer and more detailed legal rules about the right to interpreting.

For the activities of judicial police, the term “interpreter” appears for the first time in article 149 of the Code of Criminal Procedure referring to the case of “accompaniment” to ascertain the identity of a person, which may be necessary when papers or photographs are not sufficient for identification purposes. In this case the judicial police is allowed to take the person to the police station for identification and keep the person in investigative detention for 24 hours. In this case, if the person is foreigner s/he it is entitled to use an interpreter.

Similarly to what happens to the person under investigation t- who is called with different names according to the stage of the proceedings s/he is in - different terms are used to define interpreters on the basis of who appoints them. When working for the judicial police the
interpreter is called a “judicial police auxiliary” meaning a person appointed by the police and acting as a legal officer. When the interpreter is appointed by the court s/he is called “court appointed expert” when appointed by the prosecutor s/he is called “technical consultant/expert”. Moreover Italian legislation does not distinguish between interpreters and translators, while the EU Directive does.

Against this backdrop it is important to understand what has happened over time: in compliance with the rules descending from the European Convention on Human Rights and the International Covenant on Civil and Political Rights, Italian Constitutional Court issued ruling no. 10/1993 stating that it is not possible to overrule the right to defence of a person who does not speak Italian and that translation must be provided also to the person who is not yet a defendant but is still under investigation. This way the guarantee of the right to interpreting was extended to anyone under investigation and was no longer confined only to defendants.

In this context EU Directive 64/32010 says a number of important things. We all know that directives have to be transposed and this may take some time, but in some cases Directives can be implemented directly because what they specify is so strong that we cannot wait for the Member States to transpose them in their national legislation. What does this Directive say? First of all it clearly states when and how an interpreter should be used. It defines the object and the scope of implementation and it says that an interpreter should be used in criminal proceedings or in any proceeding in which the person knows that s/he is under investigation. So it goes beyond the restriction of article 143 of the Italian Code of Criminal Procedure that was the object of so much legal debate among Italian judges in the past.

The speaker went on saying, jokingly, that he would need an interpreter to understand paragraph 3 of article 1 of the Directive because it states that “Where the law of a Member State provides for the imposition of a sanction regarding minor offences by an authority other than a court having jurisdiction in criminal matters, and the imposition of such a sanction may be appealed to such a court, this Directive shall apply only to the proceedings before that court following such an appeal”.

Basically this paragraph refers to minor offences for which a sanction can be imposed by an authority other than a court having jurisdiction in criminal matters. Yet, in Italy only a judge sitting in a Criminal Court can judge a crime. Italian legislation includes petty offences – misdemeanours – but they too fall under the jurisdiction of the criminal court judge. This is an important aspect that could be called a critical point. To illustrate this point the speaker made the example that follows. In Italy the Corps of Forest Rangers tries to ensure that international conventions are complied with - for example in case of illegal trafficking of endangered species. When they come up against an administrative offence, is it necessary to
have an interpreter in order to guarantee the right to defence of the person being interviewed? This was a first doubt that can be raised.

There is also another case that requires some thinking. In Italy there is a difference between criminal and administrative offences. For criminal offences the prosecutor has the burden of proof whereas for administrative offences it is the opposite: it is the suspect who must prove that s/he was not guilty of that offence. On this point the European legislator probably refers to joint crimes where the jurisdiction of the criminal court judge prevails over the jurisdiction of the administrative court judge.

In Italy administrative offences fall under the jurisdiction of local authorities (municipal authorities, provincial authorities, prefect) but if an offence infringes both administrative rules and criminal law, for instance, the criminal court judge will have jurisdiction for that offence. When reading this Directive the case in the example may become a problem: should the right to defence, which includes the right to interpreting, be extended also to people who commit administrative offences when these offences entail a criminal offence and therefore fall under the jurisdiction of a criminal court judge?

This is an issue that the Italian legislator will have to deal with when transposing the EU Directive into the Italian legislation by October 23rd 2013.

Costs associated with the transposition of the EU Directive 64/2010 and the interpreter’s profile The Directive also provides that the Member States must ensure, without delay, interpretation for suspected or accused persons who do not speak or understand the language of the criminal proceedings concerned. Moreover the Directive establishes that Member States must ensure that a procedure or mechanism is in place to ascertain whether suspected or accused persons speak and understand the language of the criminal proceedings. This means that the decision to use and interpreter will no longer be left to personal judgement of judicial police officers or prosecutors. In addition to this, according to the Directive, suspected or accused persons have the right to challenge a decision finding that there is no need for interpretation and, when interpretation has been provided, they have the possibility to complain that the quality of the interpretation is not sufficient to safeguard the fairness of the proceedings. These same provisions also apply to translation. All these provisions entail costs and that is going to be real a problem when transposing the content of this directive.

There are also other aspects associated to the implementation of this Directive: the quality of translation and interpreting and training. Member States will have to request those responsible for the training of judges, prosecutors and judicial staff involved in criminal proceedings to pay special attention to the particularities of communicating with the assistance of an interpreter. Finally the Directive contains a non-regression principle providing that Member States cannot transpose the provisions of the Directive in a way that limits or derogates from the spirit of the Directive. As far as the judicial police activities are
concerned, so far it is not completely sure how interpreters should be used. For example during investigations sometimes the judicial police use methods and tools that are invasive of the person’s rights, for instance searches, seizures, urgent fact finding. For these activities the Italian code provides for the possibility to be assisted by a lawyer. There is no obligation to ensure that the person under investigation is assisted by a defence lawyer, but the person being investigated has the option to be assisted by a counsel. Therefore if the judicial police makes a search or a seizure of some property of a foreigner, it is not clear whether an interpreter must be appointed to guarantee the right to defence. If one gives the Directive the broadest interpretation, an interpreter should be appointed, but the decisions of Italian courts state the opposite. Basically in Italy the decisions by the courts make a distinction between actions that require the presence of a lawyer and therefore of an interpreter, and the cases where the assistance of a lawyer (and an interpreter) is an option. This is a very delicate aspect because it can cause an infringement of the individual’s rights. The problem will have to be solved in a more general manner because the right to interpreting or translation cannot be linked only to certain stages or actions of the proceedings. It is necessary for the interpreter and the translator to be involved in the entire criminal proceedings and these should be understood in a broader sense than the different actions and acts that occur after a crime is reported (notitia criminis). Clear indications are necessary in this respect, so that the question about whether or not an interpreter should be appointed is not left open. The judicial police need to know if there is an obligation to appoint an interpreter and how to appoint the interpreter. It must be also clear whether the judicial police should refer to the police headquarters to find an interpreter or whether the interpreter must be selected from a list or a register of experts, or in another way.

Here the question arises about what is an interpreter: is the interpreter an expert? This is the case for the court appointed expert who is defined as a person with scientific knowledge who presents some facts and these facts are questionable because medicine or technical knowledge are not always hard science. Conversely, according to the speaker, there is only one way to interpret something: one word cannot be translated by one hundred different words. The speaker said he believes that the interpreter could be called a tertium genus (a third party), someone different from either the scientific expert or the court appointed expert. Interpreters should be given a special definition and be listed in a different register (from the register of experts) that ensures quality.

The speaker went on suggesting a possible wording to transpose the Directive on this point into the national legislation: “All state authorities, when they issue administrative or judicial provisions or orders, have the obligation to ascertain, also using an interpreter, whether or not the alien person understands and speaks Italian and what language the person speaks; if the alien person does not speak and understand Italian the provision or order concerning that alien person must be translated into the mother tongue of that person or into another language the person speaks and understands well enough”. If Italy passed a law along those lines a lot
of problems would be solved. Of course there is the issue of costs and that could be an obstacle to the transposition of the Directive in the form mentioned above. Undoubtedly there is a need for clearer rules, as Mrs Gattelli said, and the transposition of this Directive can help a lot in this respect.

**Debate**

Prof. Wilson asked for one point of clarification: the speaker made a distinction between Italian citizens who are de facto supposed to know Italian and foreigners. Are foreigners people who are not residing in Italy? And what happens to asylum seekers who are not Italians but are residents in Italy?

Mr Giove: there is one article in the Italian code about language minorities. For Italian citizens and foreigners who have acquired Italian citizenship we assume that they speak Italian. This is a problematic situation but the judicial police works on the basis of the assumption that an Italian citizen speaks Italian unless the contrary is proven; here there is the principle of the reversal of the burden of proof: the citizen has to prove that he or she does not speak Italian. Then, as the code provides, the judicial authorities or the prosecutor will have to check whether this person speaks or understands Italian or not with the help of an interpreter.

Mrs Vecchione referred to the article of the Directive quoted by Mr Giove about minor offences and the need for an interpreter. Being an interpreter for German she knows that there are differences between legal systems in the classification of offences. One offence may be considered a crime in Italy but in Germany it might be subject to just a fine. This example refers to a far more wide-ranging issue: the harmonisation of criminal law. What is an administrative offence in Italy might be something different in another country. It is a legislative problem.

Prof. Driesen expressed her appreciation for the presentation and for the fact that the speaker knows about the Directive (in Germany not many judges and prosecutors know about it). She went on expressing astonishment about the fact that the speaker mentioned many points about the Directive that are already settled by the Human Rights Convention, namely in articles 5, 6.1 and 6.3 clearly stating that if someone is apprehended by the police he or she has to be informed in a language he or she understands. Since the Convention dates back to the 50s Italy probably already has some legal rules that transpose this Convention into Italian legislation. Moreover there are rulings on the implementation of that Convention that provide for the obligation to use competent interpreters.
Another point mentioned by prof. Driesen pertained to the different views in different countries about the role of the interpreter who is sometimes seen as a mouthpiece, sometimes as an expert. In France an interpreter is considered as an expert but definitely not in Germany. To be an expert in Germany you have to bring material to the proceedings: If you are a translator, then you are an expert, if you are interviewed to give a report about cultural aspects, then you are an expert and you have to take a special oath because you bring something new to the proceedings. But if you are an interpreter you are not an expert because you are not supposed to bring anything new to the proceedings. There is a debate on this point in all European countries. It is a matter of philosophy and this is why what the speaker said about the interpreter’s profile and definition was so useful, because it went to the core of the problem.

Mr Giove said that he would answer only to the first part of the question and leave the second part to Mrs Gattelli. The Italian Constitutional Court ruling no. 10/1993 tried to fill the gap in the rules about interpreting in the Italian Code of Criminal Procedure. So the Constitutional Court has given a very broad interpretation of the context where the interpreter should be used.

Mrs Gattelli said that Italian case law had changed recently, particularly when a person has to be appointed to transcribe any tapping or bugging. In Italy there are different terms indicating a person who is called upon to assist the prosecutor or the court during criminal proceedings: the prosecutor appoints “technical consultants/experts” (consulenti tecnici d’ufficio) to assist him or her, while persons appointed by the courts to act as independent experts are called “periti”. Recently there was an objection made by a defence counsel who said that the judge could not appoint the same interpreter the prosecutor had appointed. This interpreter had transcribed tappings and the court issued a ruling saying that this person had acted as a “perito” (an expert who is appointed by the court) who is not just a mouthpiece. So in our case law the interpreter is recognised as a more complex profession, someone who provides added value, who contributes to the proceedings. There is no statutory rule, there is just case law. In Italy case law does not set a precedent that becomes binding as in other countries. Rulings by courts, however, set some principles that then have to be included in Italian legislation. But so far there is no statutory rule so there is a need to have something clearer which would make the work of prosecutors easier. With clear legal rules the judges would know what to do and so would prosecutors.

Mrs Alimenti added that many judges in Italy do not appoint the same interpreter because the interpreter appointed by the prosecutor is considered a consultant/expert working for one of the parties in the legal proceedings whereas the “perito” (an expert appointed by the judge in court) must be an independent expert. Similarly the same interpreter cannot work for the defence and for the prosecutor in the same proceedings.
Speaker 3: Mrs Annarita Fasciani, Sergeant of the State Police, Forlì

Sergeant Fasciani specified that she works for the Police Headquarters in Forlì and she is part of a patrol unit. Her unit deals with a number of offences against individuals: murder, stalking, sexual violence, offences against children and adolescents including paedophilia. Most of the investigation activities she carries out are either delegated by the prosecutor’s office or are autonomously initiated by her unit. Very often in order to carry out investigations, if foreign citizens are involved in an offence, her unit resorts to an interpreter. Although Forlì is a very small town, there are many citizens of different nationalities who live in this town and the use of interpreters has become more and more frequent.

The Police Headquarters in Forlì can avail of two linguistic experts, who are civil servants and work as in-house interpreters for the Ministry of Interior. Their working languages are English, French and German. For the other languages there are a number of ways to recruit interpreters, but there is no institutional practice, nor are there formal instructions or guidelines as to what should be done.

In Forlì, in order to recruit external interpreters, the Police drew up a list of foreign citizens who declared that they are available for interpreting. Sometimes they are citizens who have already worked for the Aliens’ Office or have helped asylum seekers. This list was drawn up because in the past it had been difficult to find an interpreter quickly, particularly in emergency situations. The criteria applied to choose these foreign citizens to put on the list were described as follows: these citizens were selected with the help of one linguistic expert, Mrs Cristina Ramolacci, who assessed their knowledge of written and spoken Italian and their legal translation and interpreting skills. Then the police office checked whether these people had criminal records or whether they were related to people having criminal records. When an interpreter cannot be found on this list, or there is no interpreter on the list for the language required, the police office turns to an agency in the Forlì area. The agency is asked to produce a cv of the interpreter who will potentially be assigned the job. In all the cases where interpreters are used, they are appointed and called “police auxiliaries”, meaning a person appointed by the Police acting as a legal officer according to article 143 paragraph 4 and article 379 of the Italian Code of Criminal Procedure.

The judicial police can resort to external interpreters or in-house interpreters to perform a number of activities and produce some documents that are part of the investigation activities: collecting summary information, interviewing suspects at the presence of their defence lawyer, interviewing children witnesses with support, producing full transcriptions of conversations tapped on the telephone or in other ways. In all these instances the interpreter is requested to produce a very close or even verbatim translation of what is being said, as literal as possible. Depending on the case at hand the interpreter might or might not be given information beforehand. Sometimes the interpreter is asked to translate the questions and the
answers without knowing anything about the investigation. In some cases the interpreter is not even informed of the crime that has been committed. This is part of the investigation technique, and not a sign of lack of trust on the interpreter. The police thinks that in some cases it is useful for the interpreter not to know anything about the person being interviewed, but this is an exception - usually the interpreter is informed about the type of offence and s/he is told whether the person to translate for is a witness or a potential suspect.

When the police is not in a very urgent situation and the circumstances allow for this, they prefer to have a sound recording of the interview. In many instances this has proven very useful, particularly when an external interpreter was recruited: if there are any doubts and the investigation is particularly complicated, the translation can be cross-checked by calling on another interpreter. In the past this was the case for investigations involving Chinese nationals, for several reasons. First of all the Ministry of Interior has very few in-house interpreters for this language, and they are in great demand. Secondly there are serious difficulties in finding an interpreter who is not part of the local Chinese community and is not closely related to the other Chinese nationals. In Forlì the Chinese community is very closely knit. In those instances all interviews are recorded and then another interpreter from another cities appointed to cross-check the translation provided by the first interpreter.

In some instances the judicial police called cultural mediators to act as interpreters, but they have a different professional profile, and often know the person under investigation, and this can lead to a very personal interpretation of what is being said during the interview. In the speaker’s experience, cultural mediators sometimes did not act as a “third party”, i.e. they were not neutral, whereas the role of the interpreter presupposes neutrality.

During interviews the interpreter is requested to produce a literal translation of what is being said. If need be, some points of clarification are asked about cultural differences or the register used by the interviewed person, but for the purpose of writing a legal document/report the translation must be literal. When the story of a victim is told, especially a victim of sexual abuse, the role of the interpreter becomes even more important because the interpreter can really help the police understand what happened. (S)he can also help the victim who is being interviewed relax, so that this person can explain the traumatic events that occurred. For women who are victims of abuse the judicial police always tries to find a female interpreter, so that the victim can feel more at ease, and this too can help in reconstructing events in greater detail.

Debate

Prof. Russo asked whether there have ever been cases in which no interpreter could be found, and if so what happened? Were the judicial proceedings not carried out then?
Sergeant Fasciani answered that if the police cannot find an interpreter and the person who must be interviewed cannot speak Italian, the proceedings simply cannot be carried out, as the questions and the answers must be fully understood by the person who is being interviewed. For sure the police in such a case will not write down a report, because the information got from a person without an interpreter would not be truthful.

Prof. Russo asked a second question about how frequently this happens in Forlì.

Sergeant Fasciani answered that it did not happen very often, but this was precisely the reason why they drew up the list of interpreters asking them when they are generally available to work. This way it is easier for the judicial police to know when to call on whom. Moreover they tried to have more than one person for each language on their list.

Prof. Wilson asked whether in case of a rare languages telephone interpreting can be used and if Is it allowed.

Sergeant Fasciani answered that in case of an emergency the police use anything, obviously, but the report cannot be written on the basis of telephone interpreting only. Telephone interpreting is used sometimes when the squad is out on the street and there are fights, for instance, and a witness does not speak Italian. In this case an interpreter is called on the phone from the list and asked to translate what the witness is saying, but to write the report and interpreter must be present.

Mr Ballardini said that according to Italian legislation, but also in other countries, the interpreter is not obliged to translate into his/her mother tongue and asked to what extent does this make things easier or more difficult.

Mrs Gattelli answered that the law does not say that the interpreter must work only into his/her mother tongue and that the person under investigation must necessarily use his/her mother tongue. The law states that a person under investigation has the right to interpreting into a language that s/he knows well. In many cases English or French can be used, and this makes it unnecessary for the prosecutor and the judicial police to find an interpreter of a rare language.

Prof. Kalina: the role of cultural mediators was mentioned. Is there a difference between the role of cultural mediators and interpreters? Are they the same persons? And if so, how do they know whether they are acting as cultural mediators or as interpreters?

Sergeant Fasciani said that on the basis of her experience, the difficulty in working with cultural mediators acting as interpreters is that cultural mediators very often see themselves
as allies of the person to be interviewed; often they are already acquainted with the past history of the person and frequently tend to take the side of the interviewed person. So mediators sometimes also “mediate” the description of the events, and the translation is not always faithful. It happened recently that the police started writing a report with the help of a cultural mediator, but then they realised that the cultural mediator was adding his own personal justifications for what the interviewed person had done. At least this was the impression the judicial police got from the translation. So the person was interviewed again with an interpreter to understand whether he was saying the same things or what they had heard during the first interview had been “mediated” by the cultural mediator.

Mrs Amato added a point of clarification for the foreign colleagues. There is a difference between cultural mediators and interpreters in Italy. The cultural mediator is defined by a law in Italy (Turco-Napolitano Law) and there is a description by the National Council for Economy and Labour of the tasks to be fulfilled by cultural mediators. They are supposed to do a lot of different things - almost a mission impossible. Mainly the cultural mediator is supposed to be a sort of liaison officer between non-Italian citizens and Italian public offices and services. There is also a language dimension in their profile, but the main role of cultural mediators is to ensure that individuals from other nationalities have access to Italian public services. Cultural mediators are also trained in a different way from interpreters. In practice very often cultural mediators are members of a community of foreigners, and many of them come from the countries of origin of migrants and are there to build bridges between migrants and the Italian state. So their role is quite different from the one of the interpreter.

Another point is that cultural mediators so far have not been trained by Italian universities. Local authorities deal with their training and organise training courses together with associations of migrants and other types of voluntary associations, with no involvement of universities. The latter have continued to train Italian nationals in foreign languages, mainly Western European languages, but not as cultural mediators.

Mrs Vecchione remarked that Mrs Fasciani had explained the role of interpreters very well and she had said that in exceptional situations cultural mediators are called on. She specified that cultural mediators are never used when a formal, official report has to be signed. This is not allowed. Cultural mediators are called upon only as last resort, when no interpreter can be found for a rare language.

Mrs Alimenti added that in some municipalities there is a register for cultural mediators and in order to be eligible to be listed in that register you have to be a foreign national because you have to speak a minority language. Mr Grasso - the public prosecutor who is in charge of the national anti-mafia law enforcement agency in Italy - recently issued a circular stating that the role of cultural mediators in preliminary investigations could be important, and there was a debate about this. Also the assistant head of police in Bologna, Mr Maffei, maintained
that the role of the interpreter could be fulfilled by cultural mediators. But he did not consider all the problems deriving from this statement: cultural mediators play the role of advocates while interpreters have a totally different professional profile and they should obviously not defend the position of a person under investigation.

**Mr Garwood** said that some thesis written by SSLMIT students were based on questionnaires sent to lawyers and judges. The results of these surveys show that judges and lawyers prefer to use cultural mediators because they have at least some knowledge of the Italian legal system, whereas people working as interpreters (or calling themselves interpreters) for Chinese, Arabic or Albanian very often lack that knowledge. They are not trained at all, and produce a lot of damage when translating in the courtrooms. There is an abuse of the term interpreter in these cases: sometimes these people do not even speak Italian very well.

**Mrs Ramolacci** added a few points. First of all the main problem in Italy is that there is no national register of interpreters. This has been a problem for a long time. Various attempts have been made to create this register, but with no success so far.

Mrs Ramolacci then mentioned Martelli law applying to migrants as an example of legal provisions that do not solve the problem. This law states that expulsion orders for irregular migrants must be translated into English, French and/or Spanish. Very often the translated texts are handed to people who do not speak any of these languages, since they are citizens from Senegal, Albania, Romania and other countries where those languages are not spoken. Many lawyers have used this law to make appeals against these deportation orders on the grounds that they were not translated into the three languages as provided for by the law and they won the appeals. Yet this is just a formal issue that does not change the substance of the fact that the people concerned by these orders often do not understand the content of the expulsion order because they do not speak any of the languages it is translated into. The speaker hopes that the Directive can fill the legislative gap concerning translation and interpreting to the benefit not only of interpreters but mainly of foreigners involved in legal proceedings.

The speaker then referred to Mr Giove when he said that a word has only one possible meaning. She expressed her disagreement saying that on the contrary a word can have many meanings depending on the context. Particularly for telephone tapping this is a very serious problem. In certain cases people are arrested because one word is translated in a certain way instead of another. There was a blatant example of this just a few days earlier (the case of a young Moroccan who was arrested and charged with the murder of a teenager on the basis of a wrong translation of a phone conversation in Arabic. Fortunately the mistake was found a short while later).
Mrs Ramolacci agreed that the same interpreter cannot work for the prosecutor and the defence attorney because ethically speaking it not right. However in Italy there are lawyers who speak foreign languages very well and they do act also as interpreters. Again the problem here is the lack of a national register of interpreters. If an engineer is called for an expertise, he cannot work for both parties in the proceedings, and there is a protocol to follow for his/her appointment. The interpreters instead are also appointed to sign translations that are done (often badly done) by other people, and If one of the parties complains for the poor quality of the translation and claims a compensation for damage the judge has to make a decision, and the reputation of the translator who signed a bad piece of work s/he had not done is at stake. This is unfortunately the situation because this sector has not been properly regulated, but hopefully a solution will be found in the future.

Prof. Driesen asked for more information about recordings of police interviews. In some countries this is not allowed. According to her, this is an excellent solution to crosscheck the interpreter’s performance and ascertain whether the interpreter worked well or not.

The speaker also said that she was under the impression that the term interpreter is not understood by everybody in the same way. The speaker added that she works for both national and international courts, and there is a common practice to have all the information about the case to interpret for. At the international courts, if she is called upon to interpret an expertise - say on a supposedly Italian violin that turns out to be a XVII century German violin later transformed into a XVIII century Italian violin - she is provided with all the necessary information. Without preparing for such an assignment it would be impossible to translate. Interpreters are not medical doctors, and if consecutive interpreting is needed for a post-mortem, it is impossible to provide good quality without preparation.

Speaking about being neutral or not, prof. Driesen stated that when she interprets she has no time to take side since she is too busy interpreting, and in order to do a good job having information beforehand is essential. The interpreting profession started with the Nuremberg trials: the interpreters had the necessary information then, and the same applies today. Moreover to be an interpreter you have to be properly trained and be a professional. This job has little to do with the professional profile of a cultural mediator. Cultural mediators obviously can be very helpful, as experts for instance, but not as interpreters. Prof. Driesen recalled her own experience with a cultural mediator for Urdu who was also the head of the local Urdu community in a case about a young women who wanted to go to university. In his capacity as mediator he tampered with data and did all he could to prevent this young lady from going to university, because he was a friend of this young lady’s father. This young lady was lucky because she met prof Driesen who fought for her case. But this is the problem with cultural mediators: they belong to a local migrant community that tends reproduce the same situation as in the village they come from. Conversely, young women who come to Western
countries want to get rid of that culture. This is the danger of using cultural mediators instead of interpreters.

Coffee break

Speaker 4: Mr Fabrizio Fratoni, Captain of Arma dei Carabinieri, Forlì

Captain Fratoni thanked the organisers of the round table and expressed his appreciation for the ImPLI project. The project is of great interest for the Carabinieri because about 65 per cent of the offences perpetrated in Italy are investigated by Carabinieri and many crimes are committed by foreigners. Unfortunately this is on all newspaper and it can also be seen from the prisons’ population that is composed by an extremely high number of foreigners as detainees.

The Carabinieri have to investigate and proceed against a lot of crimes and, as stated in the Directive 64/2010, interpreting must be provided without delay. This is quite complicated also in terms of time schedule. The Directive mentions suspected persons, accused persons and also their relationship to the defence counsel. The previous speakers already concentrated on this issue that raises a series of problems also in the activities carried out by the Carabinieri when they act in their role of judicial police of their own initiative. Mention was made by previous speakers of searches, seizures and investigations that must be carried out in great urgency: evidence must be found about the crime and the crime scene has to be examined in order to make a careful reconstruction of the events. This is an essential activity because the Carabinieri must give indications to the prosecutor and to the judge of preliminary investigations as to how the event took place, where and when. All of this must be translated if the person involved is a foreigner.

Another aspect that the speaker felt was important to stress is to define protocols or guidelines about how to check if the person being interviewed or being suspected understands and speaks Italian. Another important aspect in the implementation of the Directive is article 2 paragraph 6 which provides for the possibility to use communication technologies such as videoconferencing, telephone, Internet in order to make the interpreter communicate with the judicial police officers as well as the suspect or victim or witness. The Directive paves the way to the use of these technologies for interpreting purposes. It remains to see how the Italian Legislator interprets this and how this remote mode of communication can operate in practice, in judicial police activities. Another point the speaker mentioned is that unfortunately the Directive does not mention the right to interpreting and translation for the victim. This is essential instead and the speaker expressed the wish that the legislator does not neglect those who are subject to crime and go to the police station or to the Carabinieri to report what happened. Foreign citizens report the crime in their mother tongue and in Italy there are now huge communities that speak what used to be rare languages, like
Chinese. Within these communities, also for cultural reasons, women are victims of offences more often than men. The Directive does not mention victims but the Italian legislator - when transposing the Directive - should also concentrate on them, as they play a central role in investigative activities. If a victim does not report an offence because of language barriers or if that report is not clear about the offence (for instance domestic violence or rape) it is difficult to carry out investigations. This is a fundamental aspect for the judicial police activity because the Carabinieri and the police are usually the first to come into contact with the victims.

As of July 2010 a European emergency call service – 112 – was established. In case of a crime anybody can dial that number and the call is diverted to the competent police force. This is a very important service and it will require special training for police forces too. Training is essential in this sector and should also include working with an interpreter in the preliminary stages of the criminal proceedings, including when a victim reports a crime by telephone. This is essential to provide an increasingly better protection of victims which is the mission of any law enforcement agency.

**Speaker 5: Mrs Anna Caterina Alimenti, Legal Interpreter and Translator, Lecturer at Libera Università San Pio V, Rome**

Mrs Alimenti started her presentation mentioning *Grotius I, Grotius II* and *Agis* projects she participated in and which in the last decade have contributed to raise awareness in EU Countries about the need for qualified interpreters and translators in legal proceedings as part of the wider European debate about access to a due process. To ensure this, the profession must be regulated. University courses are necessary to ensure that there is a standardization of training for all interpreters wishing to work in the Member States of the European Union. That is why the project *Building Mutual Trust* was set up with the aim of laying down the foundations for a common training course for legal interpreters as well as all the legal professions involved in legal proceedings in Europe. This will hopefully enhance judicial cooperation among the member States of the European Union and create a genuine European justice area based on the same principles. The member States involved in this project have undertook to define a model designed to help organising training courses for court interpreters and translators as well as to ensure on-going training to trainers and other professions working in the judicial proceedings. All this will have to be done by October 2013, the deadline for the transposition of Directive 64/2010.

The speaker then went on to illustrate a summary of some research work carried out by the students of LUSPIO university for their final dissertation. Mrs Alimenti explained that she used to teach “social interpreting” at this University. These individual research projects had a common denominator: their object was to see how the court interpreters/translators are considered by judges, lawyers and the interpreters themselves. The Court of Rome is the
largest court in Europe but has a great deal of shortcomings when it comes to interpreters and translators, according to the speaker’s 20-year experience there.

Two questionnaires were drawn up: one for court translators and interpreters and one for magistrates, be they prosecutors or judges. These two sets of questionnaires should be looked at together because they were both drawn up to investigate these two categories and see whether they had the same view as to the role of the interpreter. The same methodology was applied in both studies which also made comparisons possible on certain aspects, e.g. how the three categories interact, what the expectations of one professional profile are as opposed to another and what respondents had to say about the fact that interpreters have no code of ethics. It is true that interpreters should have proper training and the appropriate skills to practice their profession in a proper fashion, but it is equally true that lawyers and judges must assess the ability of the interpreter to make sure that the person availing of her/his services is being treated fairly and also to ensure that everything proceeds as smoothly as possible in court. If a questionnaire had been drawn only for lawyers, or only for magistrates or only for interpreters, an objective picture of the situation would not have come up, whereas the objective of both studies was to see whether the current legislation on the interpreters’ professional activity is such that they can actually provide sufficient quality.

The questionnaires were presented and administered orally, in the form of an interview. There was no pre-defined written explanation for the questionnaires in order to avoid influencing the respondents. As Mr Garwood said during the previous debate, some of the people working as interpreters at the Rome Court were in fact not trained at all, they did not know how to answer to some of the questions, they could not indicate whether they used consecutive, chouchotage or what other interpreting mode they used. The oral interview was useful also to take note of the comments made by the interviewed persons. This is something that cannot be collected with written questionnaires. Most of the magistrates were very interested in this research study and felt that it was useful to make people more aware of the problems it dealt with.

Out of 100 magistrates contacted for the purpose of this study, 67 were interviewed and answered to the questionnaire. One magistrate during the interview underlined the central role played by the interpreter in the courtroom, defining it the voice of the defendant, an essential element for the court case to proceed properly. It was also said that during legal proceedings the role of the interpreter is crucial for the actual wording of the ruling handed down, because the defendant’s gestures and behaviour can be assessed directly by the judge but not what s/he says unless there is proper interpretation. One magistrate said that the profession is still not recognised as it should be and that because of the low fees not all the people who work as interpreters provide sufficient quality, though there are interpreters who are deeply committed to their job. Reference was also made to the fact that it is difficult to find qualified interpreters.
One of the questions asked to magistrates concerned the skills that interpreters should have to fulfil their task in the best way. 58% of the respondents said that bilingualism is essential for interpreters (bilingualism in this case meant an excellent knowledge of a foreign language learnt during an appropriate training) and 25 % of the respondents said that biculturalism is essential to ensure communication in court. 75 % of the interviewed magistrates said that it is absolutely essential for interpreters to be familiar with the legal systems and the legal terminology of the two languages involved in the proceedings. Only 8% of the respondents however said that it is important for interpreters to be familiar with other specialised language such as medical or scientific terminology. It was also said though that the knowledge of specialised language could be useful in cases of international rogatory letters.

Another objective of the questionnaires was to assess whether or not there is a possibility for interpreters to communicate with the parties involved in the legal case before the hearing: 58% of magistrates said that interpreters should be given the opportunity to talk about the case with the parties and/or with the judicial police whereas 42% of respondents had an opposite opinion.

Another question concerned how interpreters are recruited (to which multiple answers could be given). The information collected shows that there are various ways and channels to recruit interpreters: 38 answers reported that magistrates contacted translators or interpreters that they knew personally, they had already worked with and appreciated their skills. 33 answers indicated the Court Register as the source to recruit interpreters, and in 22 cases the answers said that the magistrates rely on what colleagues tell them. One magistrate included a comment saying that he just chooses the cheapest interpreter.

Another aspect investigated by the questionnaire concerned the question about whether or not professional negligence on the part of interpreters or translators can jeopardise the legal proceedings. 63 magistrates answered to this question almost unanimously: 62 said yes, only one said no. One judge of preliminary investigations added a comment saying that the interpreter should be a third party in the legal proceedings and if the interpreter has to do his/her job properly s/he should translate faithfully what is being said and should be respectful of his/her profession because a greater awareness of the authority of the interpreting profession results in a more professional work by the interpreters.

The speaker referred to the same case as Sergeant Fasciani, about a wrongly translated telephone conversation that had been tapped leading to the apprehension of wrong suspect. This person was on his journey to Morocco and in order to arrest him a boat was stopped, the person was taken to the police headquarters, and only after four other people had translated that same conversation it came out that the arrested person had nothing to do with the murder the police was investigating. It then transpired that the first translation was the exact opposite
of what that person had said. This shows that very often the police are not using qualified people.

Another aspect the two studies tried to investigate was how to improve interpreting and translation services in the legal proceedings. Magistrates were asked whether they thought it appropriate to organise training courses in order to achieve better interaction between magistrates and interpreters, and the questionnaire suggested that they could be involved as well. Out of the 61 magistrates who replied to this question, 31 said that these courses would not be useful. It should be noted, however, that they thought these courses were designed for interpreters only and that magistrates should not be involved. The same question about joint courses was asked to lawyers, and again the answers showed little interest on the part of this category.

A final interesting point that emerged from the first of the two studies is that some magistrates stressed the lack of homogeneity in the interpreters’ and translators’ skills. They reported about a high variability from excellent to poor. The same question was put to the lawyers who mainly said that for the interpreters to accomplish their tasks properly they have to be in contact with the parties in the legal proceedings. But according to the speaker’s first-hand experience, in real life there is not much interest shown in this interaction. The speaker organised a course at the criminal Chamber in Rome, and the magistrates and lawyers who attended the course were not interested in its content, but only in the credits to be gained (in Italy professionals need to get a certain number of training credits in order to remain members of their professional associations).

The questionnaires designed for the interpreters also contained some questions about their role and how they saw their profession. Interpreters were also asked to describe their work and professional experience and how they assessed their own work, what sort of training course they had attended and how they managed their daily work in court. Here too a multiple answer system was used. Translator/interpreters interviews expressed mainly dissatisfaction: they complained about the lack of recognition of their profession by Italian institutions, and about inadequate financial compensation. Their gross fee was already mentioned during the round table: Euro 8.15 for every two hour-slot, with a maximum of four slots per day. Interpreters and translators, who are self-employed, then have to pay their taxes on this gross amount. So in the end they are paid less than a cleaning lady.

Overall what emerged from this survey is that there is no homogeneity in terms of training and awareness of the interpreters’ role in the legal proceedings and this is certainly something that does not help fairness in legal proceedings.
The speaker concluded by saying that after 40 years of work as an interpreter in the courtroom, she still finds her job fascinating despite the fact that it is the Cinderella of all legal professions.

**Speaker 6: Mrs Flavia Vecchione**, Linguistic Expert at Forlì Police Headquarters and Board Member of ANTIMI (National Association of the Interpreters of the Ministry of the Interior)

Mrs Vecchione opened her presentation saying that she represented the other side of the coin compared to the previous speaker _Mrs Alimenti_ - who is a free-lance court interpreter, since she was going to speak on behalf of linguistic experts who are members of staff of the Ministry of the Interior and work as in-house translators/interpreters. She explained that she works at the police headquarters in Forlì. Linguistic experts (who are hired to do both interpreting and translation) do not only work in investigation activities and judicial proceedings but also in the administrative proceedings where migrants are involved, but since this subject was not the topic of the round table, the speaker explained that she was not going to illustrate it.

Mrs Vecchione went on saying that she spoke on behalf of ANTIMI (Italian National Association of Translators and Interpreters of the Ministry of the Interior [www.antimi.org](http://www.antimi.org)). ANTIMI was established in 2002 and it gathers about half of the linguistic experts (as their professional profile is called within the Ministry) who work all over Italy as full time staff of the Ministry of the Interior.

In-house interpreters and translators working for the Ministry of the Interior: selection, facts and figures

The linguistic experts (who work as in-house interprets and translators of the Ministry of the Interior) are about 250 in number all over Italy. They were all selected in different periods, mainly in two or three public competitions held in the mid-80s where candidates had to present their cv and sit an exam. Also in following competitions the same selection procedure was applied. According to the speaker it is fairly debatable how interpreters were selected because the exams were based primarily on written tests: one composition in Italian on a general topic and two translations of the same text into the two foreign languages each candidate had applied for. The candidates who passed the written test were shortlisted and had to pass an oral test consisting of a very brief general interview with the examiners. This is not considered by the speaker as a criterion suitable to select specialised interpreters.

Linguistic experts work either at the headquarters of the Ministry of Interior, in Rome, or at the police headquarters, police stations and other police offices throughout Italy (including Air, Sea and Land Border Police). About 75% of linguistic experts work in these local
offices, while the remaining 25% work at central level in Rome. The languages they cover are 11. The large majority of linguistic experts work in English, French, German and Spanish whereas a small number of them cover Albanian, Arabic, Chinese, Portuguese, Russian, Slovenian and Turkish. Arabic, Chinese, Slovenian and Turkish linguistic experts, however, can be counted on the fingers of one hand.

Tasks of linguistic experts

The task of all linguistic experts is basically legal translations and police interpreting. This is requested almost exclusively by local law enforcement agencies and in particular police headquarters, where linguistic experts mainly help mobile squads, D.I.G.O.S. (Police Branch for General Investigations and Special Operations) U.P.G.S.P. (Office for General Prevention and Public Rescue), Aliens'/Immigration Offices and the Crime Prevention Division. The other local offices at a provincial level that use linguistic experts are the so called special police agencies: 1) Traffic Police; 2) Mail and Communication Police; 3) Border Police (Air/Sea/Land); 4) Railway Police. In Forlì, for instance, linguistic experts work both for the police headquarters, where they are based, and for the police station in Cesena (a small town near Forlì), for the Air Border Police and the Traffic Police.

Situations requiring interpreting

Linguistic experts work as interpreters in a variety of situations where foreign citizens can be involved as: 1) under investigations; 2) witnesses; 3) victims.

The typical situations of police interpreting are the following:

Reports and private prosecutions where foreigners are involved (concerning thefts, physical abuse, property damage, and so on). It is the case of people who report all sorts of offences to the police.

Minutes of appointment of a defence counsel and choice of domicile (by the investigated person). In Italy there is an obligation for all persons who have committed a crime or are caught red-handed to appoint a defence counsel for the police interview and to choose a mail address and inform the Italian judicial authorities about it.

Summary information interviews (very often foreign citizens are heard as witnesses to report the events and circumstances of the crime they witnessed according to article 351 of the Italian Code of Criminal Procedure). In this case linguistic experts work as interpreters during the interview and then they do a sight translation of the minutes of the interview.
(written in Italian) so that the interviewed person can understand the content and sign the minutes.

Summary information interviews with investigated persons with the presence of a defence counsel (this activity can be carried out by the judicial police also on their own initiative and without a delegation by the judicial authority, as it is the case for searches and seizures according to article 350 of the Italian Code of Criminal Procedure).

Police interviews with investigated persons under delegation by the public prosecutor.

Voluntary statements by the investigated persons (article 374 Italian Code of Criminal Procedure). This is the case of a person under investigation who spontaneously goes to the police office and reports the event/s related to the offence or crime.

Service of deportation orders concerning foreigners who irregularly cross Italian borders or overstay their visa or residence permit. This is a very frequent case where interpreters are used because in 2009 a law was passed (no. 94 of 15/07/2009) making irregular migration a criminal offence.

Interpreting Techniques

Simultaneous interpreting is never used. One of the most frequently used interpreting modes is dialogue interpreting in face-to-face interviews involving two or more parties usually including: a judicial police officer, a foreigner and a defence counsel - when mandatory by law, as mentioned above - and the linguistic expert who interprets. This interpreting mode implies more than translation between two languages and the interpreter also plays a dialogue coordination role and acts a “moderator” between the parties.

Another frequently used interpreting technique is short consecutive (without note-taking). The need to translate speakers turn by turn or even shorter stretches of talk is due to the very nature and pace of interviews where questions are often very specific and targeted and require an immediate answer followed by another question asking for details or specifications that have to be immediately translated to the interviewing officer in order for the interaction to go on. This obviously rules out the possibility to use a long consecutive.

Telephone interpreting is not frequently used. The police resort to this interpreting mode only when for different reasons it is not possible to have a face-to-face interview with the foreign citizen and the interpreter - because it is very late at night or because of geographical distance, as mentioned by previous speakers. This interpreting technique is only used as initial step to collect general information about an event where foreign citizens might be
involved as victims or perpetrators of a crime and in order to explain to them the procedure provided for by Italian law for that particular crime. This happened to the speaker with the traffic police patrolling the motorway. The speaker was called on the mobile phone and was asked to help the police understand what a foreigner was saying. At times foreigners need to be informed that what they did is considered a crime in Italy and they have to choose a defence counsel, and this has to be done immediately, over the phone if need be, otherwise the judicial procedure would be blocked.

Sight translation is frequently used, as mentioned before, mainly to read the minutes/reports of an interview to a foreign citizen who has to sign them. This is a difficult task because the foreigner often asks the interpreter to translate the written text word for word and to explain what the acronyms mean.

In case of telephone tapping, as mentioned by Mrs Gattelli and Alimenti, the linguistic experts are requested to listen and summarise them or to transcribe a conversation in full when the investigating officers believe that the content is very relevant for the investigation. This type of activity may be particularly difficult because there can be background noise or a poor sound quality that make the conversations hardly audible. Also the content can be difficult to understand because of lack of context, or because the people on the phone may use a coded language that requires some briefing to the interpreter who otherwise will not understand what is being said. If for instance the people being tapped use the word “chalk” to say cocaine, the interpreter has to know.

Linguistic Experts’ Skills

Linguistic experts need to have both language and non-language skills. The language skills include the knowledge of legal terminology pertaining to the criminal justice systems of the countries where the working languages of the linguistic expert are spoken. The speaker stressed that lexicon knowledge necessarily entails the knowledge of the legal system. She made the example of a case when the interpreter has to explain to a foreign citizen that s/he can opt for a plea bargain during a summary trial. If the interpreter only knows the term and the foreigner is not familiar with it, s/he will not understand the option being offered. So it is important not only to master the legal jargon but also to know what it stands for in order to be able to explain the different Italian legal and judicial procedures to foreigners.

Another linguistic skill is the knowledge of the different registers and dialects or language variations. For languages that have many dialects or local variations this skill can only be considered as desirable but it is very difficult to actually acquire it.
Last but not least, linguistic experts need to master all the interpreting and translation techniques mentioned above.

Non-language skills include communication skills such as the ability to act as a moderator or dialogue coordinator between the parties involved in an interaction and the knowledge of culture-bound aspects: for instance knowing that the perception and representation of space and time may be different in another culture or continent and that some concepts that are commonly used in Europe may not be so common in other countries (the speaker made the example of the concept of family name in Nigeria).

Then, as previously mentioned, linguistic experts also need to have knowledge about possible differences between the criminal justice system in Italy and the one in force in the foreigner’s country of origin. The Italian law sets an obligation for any person who has committed a crime and has to be interviewed to appoint a defence counsel. This is something that the interpreter usually has to explain to foreign nationals who obviously object to this procedure because they simply do not know any lawyer in Italy but may instead have a lawyer in their own country.

Another essential skill that is necessary to work in police interpreting is stress management in order to cope with psychological and emotional stress caused also by the asymmetry of the interaction: a person under investigation may feel intimidated or put under pressure by the police officer, or a victim of a physical or sexual abuse may be traumatised or scared. In all these cases it is essential for an interpreter to be able to remain calm and this way contribute to avoid tensions during the interaction.

Cooperation between linguistic experts and judicial authorities

Most linguistic experts were hired as full time staff by the Ministry of the Interior about 25 years ago. Their tasks when working for the Ministry of the Interior were described before.

Most linguistic experts, however, have been helping also judicial authorities for about 20 years. In order to do this work they need to receive a yearly authorisation by the Ministry of the Interior. In this capacity they could be seen as competitors to the free-lance interpreters.

They can cooperate with judicial authorities mainly in two ways:

A “police auxiliary” (a person appointed by the judicial police acting as a legal officer) according to article 348 paragraph 4 of the Italian Code of Criminal Procedure. In this case they may be asked to go to the prosecutor’s office for a specific task: for instance to listen to and transcribe telephone conversations that were tapped.
As a court appointed expert or as a prosecutor appointed expert/consultant. As Mr Giove stressed during his presentation, there is not yet a clear definition of the profile of linguistic experts when they work for the judicial authorities. When the judge appoints them for an interpreting or translation task they are called court appointed experts (perito) whereas when they work for one of the parities in the criminal proceedings, for instance for the public prosecutor, they are called experts/consultants (consulente tecnico d’ufficio). In both cases they are free to accept or reject the assignment, but in order to be able to work for the judicial authorities they need to be authorised by the Ministry of the Interior and have to perform their work outside working hours.

It is important to highlight that linguistic experts essentially work during preliminary investigations (interviews with the prosecutor, detention orders to be serviced to arrested people, examination of witnesses, judicial police activities deriving from international rogatory letters) and in some cases they work during special criminal proceedings such as summary trials or writs of summons which are the two most frequent proceedings involving foreigners who need an interpreter.

The interpreting techniques used when working for the judicial authorities are basically the same as the ones used during judicial police actions except for whispered interpreting that is never used during judicial police interviews (since a written report must be prepared). This interpreting mode is mainly used when the judge/public prosecutor/counsel make their final statements or pleadings and the interpreter translates them to the benefit of the foreign party in the proceedings.

Critical issues

Training - Apart from the initial competition to select and hire linguistic experts, they were rarely offered training opportunities. Basically they self-trained themselves on the job. Except for occasional refresher courses on general topics or on terminology, there is a complete lack of training initiatives/events designed to offer in-depth knowledge about criminal law or criminal proceedings in Italy or in foreign countries or to explore the legal, ethical and professional aspects of police and legal interpreting.

Professional practice and code of conduct

More than 25 years after the first linguistic experts were hired by the Ministry of the Interior, in some parts of Italy there is still some reluctance by the police and other law enforcement agencies to consider linguistic experts as an essential help to perform their institutional duties. As a consequence, linguistic experts are asked to perform different tasks from what they signed up for. This reluctance derives from a mistrust in the interpreters and from a lack
of knowledge about their profession. Fortunately, in Forlì the linguistic experts work with
police officers who know and understand what their job is, but in many other places there is
still some mistrust and prejudice towards interpreters who are often called upon when there is
really no other solution available.

In most cases, when linguistic experts work for the judicial authorities they are not given
preliminary information about the subject of the examination/hearing. This entails the risk of
jeopardising the interpreter’s work and to cause a damage to both parties involved in the
proceedings, as Mrs Alimenti stressed during her presentation. Interpreters are left to find
information by themselves. They may try and find information going to talk to the clerk of
the court where the proceeding is going to take place but sometimes it is impossible to get
information even about the type of crime being the object of the proceedings. Yet interpreters
are expected to be conversant with any topic being discussed in court: from medicine to the
engine of an airplane. Often interpreters are told that information in confidential because
there is secrecy of investigations. In other cases the police fear that the interpreter could be a
defendant’s ally or side with the defendant, or not neutral. The other parties in the
proceedings, the defendants and their counsel, have the opposite prejudice: they tend to think
that interpreters who are hired by the Ministry of the Interior are on the side of the police and
the judicial authorities and they are not impartial. Moreover, in other cases the interpreter is
considered as an inconvenience, a necessary evil that one would do away with if it were
possible to communicate without interpreting.

**ANTIMI**

In light of the above mentioned criticalities, ANTIMI was established to try and help solve
them. This National Association of Translators and Interpreters hired by the Ministry of the
Interior has set itself a number of goals including:

Protecting and valuing the job of linguistic experts in the various contexts where they work,
including the legal/judicial settings and not only the police activities:

Promoting the exchange of professional experience and knowledge organising joint
workshops with other professional associations;

Establishing and strengthening relations with academic and research institutions to promote
the integration and interaction of theory and practice.

As of 1st November 2011 ANTIMI is a full member of EULITA (European Legal Interpreters
and Translators Association). This European Association protects and promotes the rights of
legal interpreters and translators and pursues the same goals as ANTIMI. The speaker concluded her presentation giving the contact details of ANTIMI’s President and of ANTIMI.

Debate

Prof. Driesen asked for a copy of the written text by Mrs Alimenti.

Mrs Alimenti answered positively and added that apart from the text she read she could also provide another text she had prepared for an ANTIMI meeting.

Prof. Mack suggested that all the speakers, if they wish, can provide the organisers with their written texts that will be attached to the minutes of the round table.

Prof. Salaets would like to have the complete results of the surveys presented by Mrs Alimenti.

Mrs Alimenti specified that the results are part of some thesis written by LUSPIO students and data and percentages were extracted from these thesis.

Prof. Böser asked a question to Mrs Vecchione who said that she worked full time for the Italian Ministry of the Interior. Is not there a code of conduct to guide her in her profession? After so many years of service, maybe there is an institutional practice. It would be interesting to hear whether the perception of the speaker is that what is done in the ministry is coherent: for instance all cultural items are dealt with in the same way by all her colleagues. To what extent they are left free to develop an interpreting style or approach?

Mrs Vecchione answered that Prof. Böser really pointed her finger to a core issue that is also one of the main reasons why ANTIMI was established. ANTIMI members would like to establish and disseminate protocols because throughout the years of service linguistic experts have never received guidelines or standards to use in their professional practice. They exchange experience and have established a network to manage and carry out large translation projects with a short deadline, but that was done on their own initiative. Through this network they are trying to set some standards for translation work but unfortunately they are still a far cry away from establishing a code of conduct of a set of institutional practice. The only rule they have to comply with is they cannot carry out translation or interpreting assignments that clash or can cause damage to the professional activities they perform as members of staff of the Ministry of the Interior. But this is the only rule. There is no standardised practice nor code of conduct when they work as legal translators and interpreters.

Prof. Böser expressed her surprise that over the years no standard practice had emerged.
Mrs Vecchione answered that some common practices were developed informally, they are not formalised or codified and there are no checks carried out by the Ministry, simply out of lack of interest for the profession of linguistic experts. Moreover establishing standards or a common practice is not a deeply rooted cultural habit in Italy. ANTIMI is trying to do this but it is a long process.

Prof. Wilson asked two questions: the first related to the training of the legal professionals the speaker works with. Often when interpreters work with people who are not used to communicating through an interpreter and the interpreters end up training other practitioners on how to work with them, even if not in an open way, quite subtly. Mrs Wilson asked the speaker whether she felt that there was some progress made in that respect.

Mrs Vecchione answered that there has been some progress, but it was left to individual initiatives, to the ability to establish good relationships with the people one works with, but nothing is officially or formally established as a rule. The speaker’s personal experience is positive: she believes that in her office they were able to improve communication with the police and also with the interviewed people trying to have a softer attitude during the interviews. But once again this was their own initiative and not a standard practice or guideline.

Prof. Wilson asked her second question relating to working conditions for interpreters. Is there a requirement for breaks – for instance in order to recover concentration when it is going down - but also in terms of safety for the interpreter: for instance physical safety of the interpreters in the interview rooms. Mention was made of having to go to highways in case of car accidents. In this case, in Scotland police officers would prefer to use telephone interpreting than to have an interpreter at the road side because of the interpreter’s physical safety. What is the Italian situation?

Mrs Alimenti answered that there are no safety measures to protect interpreters. She had been threatened twice in the past. This is a complaint she expresses at every meeting also with judges. When interpreters are appointed as court appointed experts, the written document of appointment contains the name, family name, date and place of birth, address and telephone number of the interpreter. This way any interpreter can be easily identified. Chinese interpreters in Rome are now requesting to be left anonymous because they have serious problems with the migrant Chinese communities. In Spain, not only the interpreters, but also police officers have a number instead of their personal details included in the written reports, so that they cannot be easily identified. Judges and police officers in Italy enjoy various forms of protection, interpreters have no protection. This is an extremely important aspect but it is falling on deaf ears.
Mrs Alimenti then went on to answer to the previous question about working conditions and she added that whenever a new judge or prosecutor comes into office it is very difficult to make him/her understand how to work with an interpreter and make them accept minimum working standards. Especially with young newly appointed judges it is very difficult to make them understand when an interpreter is needed. Sometimes defendants say that they can speak Italian even if their knowledge of the language is very poor and the judge sends the interpreter home without even paying for the time spent travelling to the court and without refunding any travel expenses. Some people say that clients have to be educated but there are about 100 public prosecutors in Rome, you simply cannot start it all over again every time a prosecutor comes into office.

Mrs Vecchione answered that the situation for linguistic experts of the Ministry of the Interior is not so terrible as for free-lance interpreters. Linguistic experts work at police headquarters or police stations and this means that they are more protected than free-lancers. It happened to the speaker, however, that an investigated person upheld in custody was aggressive towards her but a police officer was there to prevent any attack. She was never threatened by suspects or defendants.

Mrs Ramolacci recalled of one or two cases in the past when her colleague in Rimini had been threatened by some defendants who were accused of exploiting prostitution, but the police protected the interpreter and nothing happened. Sometimes defendants have aggressive reactions in court but the police is there to keep everything under control and prevent any attack.

What Mrs Ramolacci finds more stressing is interpreting for the victims of physical or sexual abuse. It is an emotionally stressful experience and it is difficult not to side with the victim and remain neutral.

Mrs Stifterova asked a question about standard formats or procedures for phone tapping. Are there specific guidelines about transcriptions? Is the original transcribed and then translated?

Mrs Vecchione explained that the conversation is tapped and recorded as it occurs. Linguistic experts sit in front of a computer and they have to do two things at the same time: they have to listen to it and write it in the target language. They are never asked to transcribe the conversation in the original language and then translate it. Sometimes police officers may interrupt the linguistic expert while s/he is listening in order to ask questions about the conversation. If the conversation is particularly relevant for the investigation it is transcribed in full.
Mrs Stifterova explained that tapped telephone conversations in the Czech Republic are presented as evidence in court and the person being tapped has the right to check the transcript. So there is a need to have the transcription also in the original language.

Mrs Vecchione answered that she did not know in details what the law provides for when transcripts of tapped conversations are used in court.

Mrs Gattelli explained that the defendant has the right to get copies of the tapped conversations in the original language and listen to them using his/her own interpreter. Moreover, the defendant has the right to request that a new translation of the conversation into Italian be done by an independent expert who is not the same person who transcribed the conversation in the target language for the judicial police or for the prosecutor’s office. This way there is a guarantee for the defendant who can actually ask to have a copy of the tapes containing the recordings of the tapped conversation, then the defendant can appoint his/her interpreter to translate the conversation. In addition to this, if the case goes to court, the defendant can request the judge to appoint an expert to translate once again the same conversation.

Prof. Driesen addressed a question to Mrs Gattelli since from the previous presentations it seemed that there is mistrust towards translators and interpreters. Do not they have to take an oath when they work for criminal proceedings so that the amount of mistrust can be reduced? Her second question was addressed to Mrs Vecchione and related to the possibility for linguistic experts to cooperate with free-lance interpreters and work together with them. A final question concerned whether ANTMI was envisaging to organise further training or classes with universities about interpreting techniques, or to invite lawyers or other members of the legal profession to hold seminars or lectures.

Mrs Gattelli welcomed the question because she felt that this perception interpreters have about mistrust on the part of judges and prosecutors does not always mirror the real life situation. Magistrates have very limited funds earmarked for interpreting services and yet if they do not appoint interpreters during investigations some of their actions can be declared null and void. Moreover very often they have to call interpreters on a short notice and according to normal practice the court clerk calls the interpreters. More than a lack of trust there is a lack of funds and clear rules and this often has an impact on the relationships between interpreters and prosecutors. The lack of formalised procedures creates misperceptions and communication problems. There is also a lack of training that has an impact on this relationship. When Mrs Alimenti reported that during the survey one judge stated that he would recruit the cheapest interpreter, this raised some astonishment on the one hand, but on the other it can be easily understood if one takes into account also the budgetary controls and inspections that prosecutors receive to check how they spend their budget. The speaker expressed the wish that the Directive bring a completely new mind-set. Interpreters
are not a necessary evil, they are an opportunity. It is not a question of mistrust but rather of lack of funds, rules and training.

Mrs Gattelli went on saying that an oath is taken by interpreters in court and that judges are also aware that interpreters are bound by the secrecy of investigation and they trust interpreters when they appoint them. Unfortunately the lack of clear rules leaves the issue of trust in the hands of the individuals and it should not be so. This issue should not be left to personal discretionary power and the same goes for the issue of safety. Interpreters go to court and back home using their own means of transport, so their physical integrity is not fully guaranteed outside court.

Mrs Dencikova addressed a question to Mrs Gattelli. She receives regularly rogatory letters from Italy and sometimes they are handwritten. She was told that the police have no computers in Naples, she wanted to know whether this is true.

Mrs Gattelli answered that it might be true. Even if it is difficult to believe the prosecutor’s offices have a small budget, often they have an insufficient number of computers or printers. Nevertheless people should avoid certain types of practice if they respect the dignity of the institutional role they have.

Prof Mack expressed her regrets to close the round table on a negative note and she stressed that on the opposite some examples of good practice were described in the sector of police interpreting in Forlì. Also some attempts to make progress were illustrated and are under way. May be the IMPLI project will allow the participants to leverage on these good practices to start developing standards and protocols that could harmonise a number of activities that cannot be left to individual discretionary choices.

The moderator went on thanking all the participants and those who helped organise the round table, the technicians and the interpreters.