

## EUROPEAN TRANSLAW PROJECT: INNOVATIVE COMMUNICATION SOLUTIONS IN LEGAL INTERPRETING

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### *Abstract*

Law clinics in general provide aid to marginalized and underserved parts of the population who do not have the means to seek other forms of legal aid and often lack the information to do so. Hence, the question naturally arises how and in which way the clinics guarantee not only legal aid but also translating/interpreting services when assisting immigrants, refugees, asylum seekers or any other person who does not speak mother tongue. These often marginalized groups should by no means be denied *pro bono* legal aid but how to guarantee a fluent and clear communication? Who would provide these services? Is there any feedback on the quality of these services? In which languages the legal aid is offered? The problem is that in most legal clinics, at least in Slovenia, people providing *pro bono* interpreting services lack either legal training, interpreter training, or both, with possibly detrimental consequences for the quality of service. The article focuses on the importance of offering professional translating/interpreting services on a regular, organized and supervised level in a legal clinic, considering the fact that European multilingualism is a unique aspect of cultural diversity and the basis for freedom of speech and expression, access to information.

### *Key words*

TransLaw clinics, legal interpreting/translating, transcultural communication

The project "TransLaw. Exploring Legal Interpreting Service Paths and Transcultural Law Clinics for persons suspected or accused of crime" which received funding from the European Union's DG JUSTICE programme, JUST-JACC-PROC-AG-2016, is an innovative and valuable response to the current refugee crisis which after 2015 has increased the demand for legal interpreting in Europe, among others in the German speaking countries and Alps-Adria region.

Considering the fact that the European Union has twenty-four official languages and five hundred fifty-two language combinations, professional interpreting is much needed in all fields of legal services. European multilingualism is a unique aspect of cultural diversity and the basis for freedom of speech and expression, access to information, and also: equality in criminal proceedings. According to the UN-Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 5/6) all

persons have the right to a fair trial in a language understandable to them.

Europe is undergoing a steady progression in the diversity of its (criminal) population and a steady progression of language-requirements in the respective trial phases. Unfortunately economic situation puts financial pressure on judicial services in charge of hiring interpreters and an increasing number of persons suspected or accused of crime undergo very complex processes in the pre-trial, trial, and post-trial-phase requiring an interpreter. There is great need for legal interpreters with knowledge of these complex processes, knowledge of the legal system, social skills to build trust and rapport with the person suspected of crime and the respective language combinations. However, persons suspected or accused of crime are not guided by one interpreter only, but oftentimes by many interpreters in the pre-trial, trial, and post-trial phase, which makes the process even more complex. An

efficient solution for integrating qualified legal interpreters into these complex criminal proceedings is therefore crucial to ensuring judicial efficiency and strengthening the rights of EU citizens suspected or accused of crime.

The main objective of the current project is to discover and implement new pathways to secure the rights of persons suspected or accused of crime quickly and in mutual cooperation with legal professionals in an innovative form: Transcultural Law Clinics as intra-curriculum or extra-curriculum activities at the university level.

Law clinics first emerged in Central and Eastern Europe in the latter half of the 1990s in the wake of the massive changes after the fall of the Iron Curtain, when new societal, governmental and legal structures were forming. There was a need for both a form of hands-on legal education that could support the change and a high demand for legal aid. Poland, in particular, has developed a strong tradition of clinical legal education, with 26 law clinics in 15 cities /1/.

One of the main problems is that most law clinics in European countries operate with a very low budget as financing the outlines of clinical activities comprise: more than 60% of clinics' budget draws on university funds. 26% is sponsored by foundations and private entities. Only 13% receive funding from local or national government agencies /2/.

Law clinics in general provide aid to marginalised and underserved parts of the population who do not have the means to seek other forms of legal aid and often lack the information to do so. While in general law clinics' objectives and goals are clear, the question that we, as translators and interpreters, cannot help asking is how and in which way the clinics guarantee not only legal aid but also translating/interpreting services when assisting immigrants, refugees, asylum seekers or any other person who does not speak mother language? These often marginalized groups should by no means be denied *pro bono* legal aid but how to guarantee fluent and clear communication? Who usually provide these services? Is there any feedback on the quality of these services? In which languages the legal aid is offered? Scientific literature does not offer any insight into this problematic

The "TransLaw project" seeks answers and practical solutions to these questions. Transcultural Law Clinics may be organized in various forms,

hence the main objective is to enable students with legal and language skills to experience practical interpreting and translating work, to prepare for their daily work in service paths in criminal proceedings and to build mutual trusts with legal professionals and legal interpreters early in their careers. Such collaboration may smooth criminal proceedings, reduce costs and enhance mutual trust between the two professional groups.

The project TransLaw will bear four innovative TransLaw Clinics in four European countries (Austria, Belgium, Italy and Slovenia) /3/ and explore the functioning of this format in each country. Additionally, it is considered a new approach to train both interpreters and legal professionals in one joint training, preparing them for their daily work in service paths in criminal proceedings together (process innovation).

The project wants to gain increased knowledge about the complex service paths of persons suspected or accused of crime, and the possibilities and constraints of qualified legal interpreters in this pathway. The project also seeks to strengthen efforts of reacting to the refugee crisis in the Alps-Adria region in a coordinated and transferable approach and with a specific regional approach (geographical added value). It is considered a new approach to train both interpreters and legal professionals in one training, together and to explore the concept of a Transcultural Law Clinic (methodological added value).

"TransLaw" will especially focus on cooperation activities between legal professional and legal interpreters. It is especially important to us, that the main results of the analyzed service paths will thus be available to both professional groups across Europe. Additionally, universities' legal department and interpreters' departments plan to strengthen their cooperation within the universities and to create synergies there (cooperation added value). The partners in the project are University of Wien (Austria), Università Degli Studi di Trieste (Italy), Katholieke Universiteit Leuven (Belgium) and University of Maribor (Slovenia).

The kick-off meeting took place at the University of Vienna and was hosted by the members of the Austrian team: Prof. Dr. Mira Kadric-Scheiber, Dr. Katharina Resch, Dr. Christina Weißenböck and Dr. Sylvi Rennert.

At the meeting organized as post-graduate center four work-streams of the project were discussed in details: Management and Coordination of

the Project and Preparation Phase (prepared by Austrian partners), Analytical Phase (prepared by Belgian partners), Joint Training Phase (prepared by Italian partners) and Transcultural Law Clinics / Piloting Phase (prepared by Slovenian partners).

At what follows partners also discussed and elaborated on main objectives: how to increase knowledge about the possibilities of universities to provide legal support services to persons suspected or accused of crime in Transcultural Law Clinics; how to increase knowledge about service paths of persons suspected or accused of crime, possibilities and constraints of legal interpreters in this pathway; how to increase knowledge about the employability of refugees, migrants, and students with prior legal or language skills and thus strengthened trust of the (refugee) population in the justice system; recommendations 'how to enhance service paths' of persons suspected or accused of crime; implementing joint transdisciplinary trainings and awareness raising workshops and piloting Transcultural Law Clinics

The partners also focused on potential target groups and the means to reach them: (1) persons suspected or accused of crime: reached through practical partners (associated partners) by the partners and the legal professionals working there (2) legal professionals: reached through their employers, their professional associations, or in university trainings (3) legal interpreters: reached through their employers, their professional associations, or in university trainings. In the end of the meeting Risk Analysis and ethical issues were discussed

All partner agreed that all objectives and work-streams are clearly defined and the next working meeting was planned to be hold in the end of June in Trieste (Italy).

We firmly believe that the project will increase knowledge about the employability of refugees, migrants, and students with prior legal or language skills and thus strengthened trust of the (refugee) population in the justice system. Practice in real or realistic situations is generally regarded as important in interpreter training and many universities require students to participate in an internship or other form of practical training. Interpreting at a law clinic offers an opportunity for public service or legal interpreting students to work

in a setting where their interpretation matters, as opposed to interpreting in mock trials and roleplay exercises at university or observing real trials. Working on real cases, with real clients and law students, allows them to reflect on their role and the ethics and dynamics of such interpreter-mediated interactions, and to acquire a better understanding of law and legal terminology. Of course there is a possibility for law students as well. They may learn how to work with interpreters: addressing the client directly rather than asking the interpreter to ask the client something, waiting for the interpretation to be completed before responding, keeping utterances to a manageable length, providing the interpreter with the material they need to prepare, etc. They also learn what they can and cannot expect from an interpreter, how important cultural background, dialect and nuanced communication can be, and learn to value the difficulty of the interpreter's task.

Transcultural law clinics address various problem by providing interpreting services by students under supervision of an interpreting trainer or professional, thus allowing both law and interpreting students to help particularly vulnerable people, become sensitized to their needs, gain empathy and an understanding of the ethics and social responsibility of their respective professions.

#### Notes

- /1/ Hannemann, Jan-Gero Alexander and Dietlein, Georg. 2016. *Studentische Rechtsberatung und Clinical Legal Education in Deutschland*. Berlin/Heidelberg: Springer, p.49
- /2/ Bartoli, Clelia. 2016. "Legal clinics in Europe: for a commitment of higher education in social justice." *Diritto & questioni pubbliche*, special issue, May 2016. Available at: [http://www.dirittoquestionipubbliche.org/page/2016\\_nSE\\_Legal-clinics-in-Europe/DQ\\_2016\\_Legal-Clinics-in-Europe\\_specialissue.pdf](http://www.dirittoquestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf) (last accessed 12 February 2018)
- /3/ Kilian, Matthias; Wenzel, Lisa. 2017. *Law Clinics in Deutschland: Zahlen, Typologien und Strukturen* Mehr als 60 Law Clinics haben sich im Umfeld der juristischen Fakultäten gebildet. In: *AnwBl* 10/2017: 963–965.

## EUROPSKI TRANSLAW PROJEKT: INOVATIVNA KOMUNIKACIJSKA RJEŠENJA U PRAVNOM TUMAČENJU

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### *Sažetak*

Pravne klinike općenito pružaju pomoć marginaliziranim i slabo osposobljenim dijelovima stanovništva koji nemaju sredstva za traženje drugih oblika pravne pomoći i često im nedostaju informacije za to. Stoga se, naravno, postavlja pitanje kako i na koji način klinike osiguravaju ne samo pravnu pomoć, već i usluge prevođenja/tumača prilikom pružanja pomoći imigrantima, izbjeglicama, tražiteljima azila ili bilo kojoj drugoj osobi koja ne govori materinji jezik. Ovim često marginaliziranim skupinama nikako ne smiju biti odbijena pro bono pravna pomoć, ali kako osigurati tečnu i jasnu komunikaciju? Tko bi pružao te usluge? Postoje li kakve povratne informacije o kvaliteti tih usluga? Na kojim jezicima se nudi pravna pomoć? Problem je u tome što u većini pravnih klinika, barem u Sloveniji, osobe koje pružaju usluge profesionalnog interpretiranja nemaju pravnu obuku, obuku tumača ili oboje, s mogućim štetnim posljedicama za kvalitetu usluge. Članak se usredotočuje na važnost pružanja profesionalnih usluga prevođenja/tumača na redovnoj, organiziranoj i nadziranoj razini u pravnim klinikama s obzirom na činjenicu da je europska višejezičnost jedinstveni aspekt kulturne raznolikosti i temelj za slobodu govora i izražavanja, te pristupa informaciji.

### *Ključne riječi*

*TransLaw klinike, pravno prevođenje/tumačenje, transkulturalna komunikacija*