

Introduction

In response to increasing mobility and migration in Europe, the new European Directive on strengthening the rights to interpretation and translation in criminal proceedings¹ aims at a more consistent implementation of the rights set out in the European Convention on Human Rights and encourages the development of minimum standards for legal interpreting and translation in Europe. At the same time, the economic situation is putting pressure on public services and translation/interpreting service providers alike, jeopardizing quality standards and fair access to justice for all European citizens. In the area of interpreting, the use of videoconference technology has been promoted by the European e-Justice initiative and is now being widely considered as a potential solution for gaining cost-effective and timely access to qualified legal interpreters and thus for improving access to justice.

These developments give rise to many questions, including: how technological mediation through videoconferencing affects the quality of interpreting; how this is related to the actual videoconference setting and locations of participants and interpreter; and ultimately whether the emerging forms of videoconference and remote interpreting are sufficiently reliable for achieving the specific goals of legal communication such as evidence and information gathering, decision-making and delivering justice.

In other words, much is at stake. Communication in criminal proceedings is a highly sensitive type of communication, combining, for example, emotionally loaded communication, conflicting goals, asymmetry of power relations, varying levels of education and language proficiency and, in the case of other-language speakers, often an additional degree of vulnerability. According to prior research on videoconference communication, none of these characteristics suggests that legal communication would be an easy type of communication to manage via video link.

The question of viability from a communicative perspective is, therefore, a crucial one. It arguably overrides all other considerations, including financial savings. This is particularly so if it turns out that the 'human cost' is too high. At the same time, it may not be affordable to forego the option of video-mediated interpreting where it turns out to be viable.

It is against this backdrop that the AVIDICUS 1 Project (2008-2011), co-funded by the European Directorate General for Justice,² set out to research the quality and viability of video-mediated interpreting in criminal proceedings.

¹ Directive 2010/64/EU of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings. Available at <http://www.europarl.europa.eu/oeil/file.jsp?id=5840482>.

² This project was carried out with financial support from the Criminal Justice Programme of the European Commission - Directorate-General Justice (JLS/2008/JPEN/037). The views expressed in this book are the sole responsibility of the authors and do not necessarily reflect the views of the European Commission.

To cover the increasing diversification of interpreting situations involving a video link, a broad distinction was made in the project between *videoconference interpreting* (VCI) and *remote interpreting* (RI). Videoconference interpreting is the form of interpreting that is used when the proceedings take place at two video-linked locations (e.g. court and prison), with the interpreter being situated at either end of the link. Remote interpreting (RI) is the form of interpreting that is used when the proceedings take place at a single location (e.g. a courtroom), with the interpreter working via video link from a remote location (e.g. another courthouse). This distinction will be made throughout this volume.

The findings of the AVIDICUS 1 Project indicate that there is a growing demand for the use of different forms of video-mediated interpreting in a wide variety of settings to cater for specific local situations and demand throughout Europe, i.e. a generic solution will not suffice. This suggests that there is also a great demand for further locale-based research beyond the initial steps made in AVIDICUS 1.

At the same time there is a considerable lack of knowledge about the different forms of interpreting among both legal practitioners and interpreters. This, in turn, suggests that training and familiarisation, for example through the training modules devised by AVIDICUS, are crucial to a well-informed and broad-based approach to interpreting in technologically mediated situations. In fact, a realistic assessment of the viability of video-mediated interpreting could be said to be predicated on a basic level of training and familiarisation for all stakeholders.

Most importantly, however, the aims and findings of the AVIDICUS 1 Project need to be seen in context and to be complemented by further research, recommendations and legislation. The final AVIDICUS Symposium, which was held in London in February 2011 and on which the present volume is based, was an attempt to contextualise the AVIDICUS findings and to combine them with complementary research, especially in the area of sign-language interpreting. The present book thus provides a cross-section of the AVIDICUS findings and their wider context, as well as recommendations for judicial services, legal practitioners and police officers, and legal interpreters. The contributions are divided into five sections.

Section one examines the legislative background and technological context of video-mediated interpreting in criminal proceedings. In the opening contribution, *Caroline Morgan* introduces the European Directive on the right to interpreting and translation in criminal proceedings, describing the path leading to the Directive in its current form, adopted on 20th October 2010, before detailing the scope of the application of the Directive and the right to interpreting and translation. Again from a European perspective, *Evert-Jan van der Vlis* highlights the European E-Justice Action Plan and some of its components, in particular videoconferencing, its applicability to judicial cooperation and mutual recognition, problems of videoconferencing and its relationship to the ECHR.

Section two focuses on research into videoconference and remote interpreting in criminal proceedings: *Sabine Braun* and *Judith L. Taylor* firstly provide an overview of current research and practice in using video-mediated interpreting in criminal proceedings and other areas. They follow this with a chapter presenting the results of two European surveys into video-mediated interpreting. The surveys, targeted at legal practitioners and legal interpreters, were designed to elicit information regarding current and planned uses of videoconference and remote interpreting in criminal proceedings, and attitudes towards these. Following on from the survey findings, the next three chapters in this section outline the results of the AVIDICUS comparative studies. The

studies were designed to elicit information on the viability of videoconference and remote interpreting in criminal proceedings, and in particular to determine whether interpreting via video link impacts upon the quality of the interpretation. The AVIDICUS consortium partners who were responsible for the comparative studies investigated different settings: The University of Surrey partners, *Sabine Braun* and *Judith L. Taylor*, investigated remote interpreting in police interviews, using traditional face-to-face interpreting as a 'control'. The partners at Lessius Hogeschool, *Katalin Balogh* and *Erik Hertog*, explored different configurations of videoconference and remote interpreting in a police interview setting, examining the effect of having participants at different locations, again using face-to-face interpreting as a control. Similarly, the Polish partners at TEPIS, *Joanna Miler-Cassino* and *Zofia Rybińska*, also examined different configurations of videoconference and remote interpreting, but in this case a prosecution setting was adopted. The police and prosecution settings were selected, because the initial survey work showed that the greatest need for video-mediated interpreting is in the early stages of criminal proceedings. Furthermore, it was decided that an investigation of small-group communication settings such as initial police interviews, rather than complex settings such as trials, should be the focus of the comparative studies. It was assumed that the problems that occur in these small-group settings will persist, and possibly be magnified, in more complex settings such as the courtroom. The exploration of these small group communications is also felicitous, in that prior research on the use of video-mediated interpreting in legal proceedings has focused on courtroom communication. Following the presentation of the AVIDICUS comparative surveys, *Dirk Rombouts* focuses on one setting examined in the AVIDICUS studies, the police interview. In particular, he looks at the relationship dynamics between interviewer and interviewee, and provides insight into how the addition of a legal interpreter via video link affects this relationship. Moving to a complementary research perspective, in a paper dealing with sign-language interpreting in Australia, *Jemina Napier* describes a study of video-based sign-language interpreting in courts in New South Wales, examining issues of communication, perceptions of video-based interpreting, and concluding with recommendations made to the Department of Justice and Attorney General (DJAG) on the use of sign-language interpreters via video link.

Section three looks at technological issues surrounding video-mediated interpreting. *Peter van Rotterdam* and *Ronald van den Hoogen* describe the concept of 'true-to-life' videoconferencing and its importance for legal proceedings, and set out the minimum technical standards for the implementation of this concept. *Jose Esteban Causo* discusses conference interpreting using video links, and looks at the technical guidelines and solutions offered by the European Commission's Directorate General for Interpretation.

Section four addresses the issue of training for the various parties involved in video-mediated legal proceedings. Here, three new training modules are presented, all designed, developed and piloted by the partners of the AVIDICUS Project. The modules are targeted towards interpreting students, practising legal interpreters, and finally legal practitioners. The contribution presented by *Sabine Braun et al.* contains for each module an introduction, an in-depth outline of the syllabus including teaching materials, a description of the pilot sessions, and an evaluation of the pilot modules by those participating.

Section five of this volume draws conclusions and considers the implications of video-mediated interpreting in criminal proceedings for the future. In the penultimate chapter, *Ann Corsellis* reviews the context and purpose of the AVIDICUS Project, before outlining

the project's wider implications as well as future considerations. Finally, in the concluding chapter, *Sabine Braun* presents recommendations for video-mediated interpreting in criminal proceedings and best practice. The recommendations are targeted towards judicial authorities planning to implement video-mediated interpreting, legal practitioners and legal interpreters, and cover, *inter alia*, technological, practical and ethical issues.

Sabine Braun and Judith L. Taylor
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