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Video-mediated interpreting in criminal proceedings: two European surveys

1 Introduction

As part of gaining an overview of how video-mediated interpreting is used the criminal justice system, the AVIDICUS Project conducted two surveys in European Union member states: the first aimed at judicial services and legal practitioners; the second at legal interpreters. Each survey had its own distinct objective:

- The aim of the survey among legal practitioners and judicial institutions was to gauge the extent to which different forms of video-mediated interpreting are currently employed across different European countries and to elicit information regarding planned uses, as well as the underlying motivations for use on the part of the judicial services.
- The survey among legal interpreters was intended to capture the informants' views, attitudes and current experience with different forms of video-mediated interpreting and to obtain a self-assessment of interpreting performance under videoconference conditions, the perceived difficulties and requirements for training.

As with the overview of current practice (reported in the previous chapter), the results of the two European surveys helped shape the AVIDICUS comparative studies (see Balogh & Hertog, Braun & Taylor, and Miler-Cassino & Rybińska in this volume) ensuring that the settings tested were relevant and would lead to valid, appropriate recommendations on the use of videoconference interpreting (VCI) and remote interpreting (RI) in legal proceedings (for definitions, see the review of current practice by Braun & Taylor in this volume).

Although a number of surveys have been conducted among public service interpreters to investigate their self-perception and/or to contrast the views of public services interpreters and service providers (e.g. Angelleli 2003; Lee 2009; Martin & Abril Martí 2008; Martin & Ortega-Herráez 2009; Ortega Herráez & Foulquié Rubio 2008), none of them has focused on video-mediated interpreting to date.

The second section of this chapter outlines the methodological basis for conducting the two surveys. Section 3 presents the results of these two surveys. This includes responses on the frequency of VCI and RI use, the main settings in which they are employed, the legal, social and political contexts of VCI and RI use, the technological context, attitudes to video-mediated interpreting forms, and views on the need for specialised training. Section 4 draws conclusions from these responses, and ties together the two points-of-view represented by the surveys.

2 Methodology

2.1 The surveys

The legal practitioners' survey targeted judicial institutions in Europe, and more specifically those employing individuals with knowledge of current and planned uses of videoconference and remote interpreting in criminal proceedings. In order to gain as full a picture of the situation as possible, legal and judicial *institutions* were contacted with a questionnaire and invited to identify appropriate persons in their respective countries who would be able to provide information. The questionnaire was circulated in paper-based form, and participation was sought on the understanding that the information provided would be released in anonymised form and that, where relevant, reports would refer to a country's institutions in general (e.g. "the district courts of country X" or "the police force in country Y") but would not identify any specific institution by name nor location. The European Council Working Party on Legal Data Processing helped to disseminate the questionnaire and a number of national judicial institutions supported the dissemination of the questionnaire at national level.

The interpreters' survey, on the other hand, was aimed at legal interpreters who have experience with VCI and/or RI in criminal proceedings in particular, and more especially those who have worked in such settings more than once in the last five years. The survey was conducted online on the understanding that participation would be anonymous and that the responses would not be attributable to any participating individual. The link to the survey was sent to, and distributed by, professional interpreter associations and institutions throughout Europe for circulation to members and associates.

The two questionnaires were phrased differently, given the different purposes and respondent groups, but they covered the same and/or complementary information on the following aspects:

- The frequency with which VCI and RI are employed in different areas
- The main settings in which these methods of interpreting are employed
- The (perceived) reasons and motivations for their use
- The technology used and perceptions of its appropriateness
- The procedures for the use of VCI and RI
- Reactions to VCI and RI
- Perceptions regarding co-operation between judicial services and interpreters

The legal practitioners were also asked whether there is a legal basis, policy and guidance for VCI and RI. The interpreters were invited to give a self-assessment of various aspects of their performance in VCI/RI and to give their views on training for this method of interpreting. The surveys were intended to constitute a 'snapshot' of existing and planned uses of VCI and RI and attitudes towards them, and as such were not intended to be exhaustive.

2.2 The respondents

In total, the legal practitioners' questionnaire received 35 responses from institutions in 17 European Union Member States. These included responses from all parts of the criminal justice system, including, though not limited to, probation services, national ministries of justice, prosecution bodies, courts, and the police. In addition, one

immigration service responded. While this does not constitute a criminal justice institution, the responses are insightful and informative, and are thus included here in the interests of completeness.

It should be noted that some of the institutions already use VCI and/or RI in some way, while others do not; therefore, not all the questionnaires were completed in their entirety.

The interpreters' survey garnered 201 responses from 31 countries. 166 of these were completed and subsequently analysed. Of these 166 interpreters, 150 had interpreted in a VC situation (VCI or RI) at least once. In other words, 16 interpreters who completed the survey had never done VCI or RI. Given the nature of many questions, their views nevertheless provided valuable insights.

Most European countries were represented in the interpreters' questionnaire. Responses were received from EU member states (152) and from European countries outside the EU (2). The highest number of respondents (84) was from the UK. There were also individual responses from outside Europe (12) including Australia, Brazil, Cambodia, Canada, Mexico, Morocco, Turkey and the United States.

Of the 166 respondents to the interpreters' questionnaire who completed the questionnaire, 121 were female (i.e. 73%), and 45 male (i.e. 27%).

As figure 1 shows, the largest group of respondents were aged between 40-49 (33.7%). Only 1.8% were aged between 20-29; 18.1% were between 30-39; 27.1% were between the ages of 50 and 59; and 19% were over 60 years old.

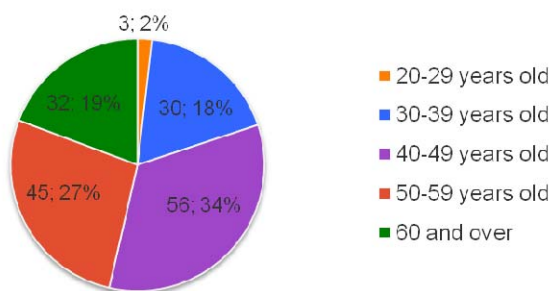


Figure 1: Distribution of age groups among the interpreters

Amongst the interpreters, 48 languages were said to be spoken natively, with the largest groups speaking English (26 respondents), Spanish (22), German (17), Portuguese (15), Dutch (14), Polish (13), Finnish (8), French (8), Chinese (7) and Turkish (5). Interpreters were then asked to state the non-native language(s) in which they work. 99.5% of respondents gave one working language, 78.7% also gave a second working language, and 36.1% a third language.

Interpreting experience ranged from very experienced (66.7% had done more than 2000 hours of general interpreting; 41.5% had carried out more than 2000 hours of interpreting in criminal justice proceedings) to far less experienced (9.3% had done less than 400 hours of general interpreting; in terms of criminal justice interpreting, 18.9% had done less than 400 hours of work). The work experience in terms of working hours generally correlated with the interpreters' age. The two categories were therefore analysed together.

When asked in which areas of criminal justice they work, all areas were represented in the interpreters' answers. The survey specifically asked whether respondents had

interpreted for the police, investigating judges, courts or prisons, but the interpreters also added that they had worked for, inter alia, probation services, defence counsel, customs, and forensic departments. Most interpreters stated that they also work in other areas, including other legal fields (immigration, civil law) as well as healthcare, business, conference, media and educational contexts (one respondent stated s/he was a staff interpreter for a university), charity and ecclesiastical areas, and the military.

3 Results of the European surveys

3.1 Frequency of use

One of the questions in each of the surveys attempted to elicit information about the extent of VCI and RI. The legal practitioners were asked to rate the estimated overall frequency of use in their respective countries and to comment on the areas in which uses of VCI and RI are planned. According to the responses, in some countries, VCI and RI are used very frequently; in others, it is rarely or never employed. However, its use is planned at all levels of criminal justice in Europe. The following table shows the situation in 2009, based on the self-assessment by the judicial institutions responding to the survey:

Used regularly	Used occasionally	Used rarely	Used but frequency unknown	Not (yet) used
Estonia Netherlands United Kingdom	Germany Poland Sweden	Czech Republic Denmark Malta Slovakia	Austria Belgium France	Lithuania

Table 1: Use of video-mediated interpreting by country

To give an example of the extent of available videoconferencing facilities – as an indirect indicator for the possible use of video-mediated interpreting – in February 2010, the British Ministry of Justice reported the following to the House of Commons:¹

Each UK jurisdiction has a wide range of video-conferencing facilities as detailed below. Most of these can be used in cross-border situations in accordance with relevant national and EU legislation. The use of video-conferencing between the UK and other Member States has to date been fairly limited; however, as capacity increases it is anticipated that so will its use.

England and Wales:

- Over 40% of Crown and Magistrates' Courts have videoconferencing facilities.
- 389 Crown Court rooms have videoconferencing facilities in 85 sites.
- 468 Magistrates' Court rooms have videoconferencing facilities in 274 sites.
- There are video-conferencing links in 58 of 218 County Court sites.

¹ <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/162/162we13.htm>

- 28 prisons have a total of 38 video links which could be used in cross-border situations—this is in addition to the Prison Court Video Link network which connects 151 Magistrates' and 30 Crown Courts with 66 prisons and young offender institutions (where the facilities are for domestic use only).
- It is expected that equipment will be deployed to all 139 prison establishments in future.
- 160 National Probation Service sites have a total of 172 video links.
- 42 prisons and 38 probation sites will have 99 IP video links by the end of March 2010.

While the early roll out of video-conferencing facilities focused on connecting prisons and courts, in England and Wales we encourage the use of available facilities and are in the process of increasing the capacity of available equipment and modernising the underlying technology.

Figures are also reported for the other jurisdictions of the UK, i.e. Scotland and Ireland.

Another example is Poland, which replied that VCI and RI are used “occasionally”. However, during 2004 and 2005, Poland experienced a sharp increase in the number of video-mediated court hearings, from 22 in 2004 to 126 in 2005. By 2007, the number had increased to 431, of which 22 were cross-border cases. 2008 saw 774 video-mediated court cases, including 35 cross-border cases. During the period 2006-2008, 90 courtrooms in 45 regional Polish courts were equipped with VC terminals. 2009 saw district courts begin to be fitted with VC facilities, as well as 21 prisons and detention centres. 11 public prosecutors’ offices were furnished with VC equipment in 2007.

The interpreters were asked about the extent of their personal experience with VCI and RI. The responses (Figure 2) suggest that VCI is currently more common than RI both in judicial proceedings and other situations, as the following diagram shows. Given that most respondents are from Europe (154 of 166), this can be taken as an indicator for the situation in Europe. As was pointed out in Braun & Taylor’s chapter in this volume on current practice, the distribution of VCI and RI outside Europe appears to be different.

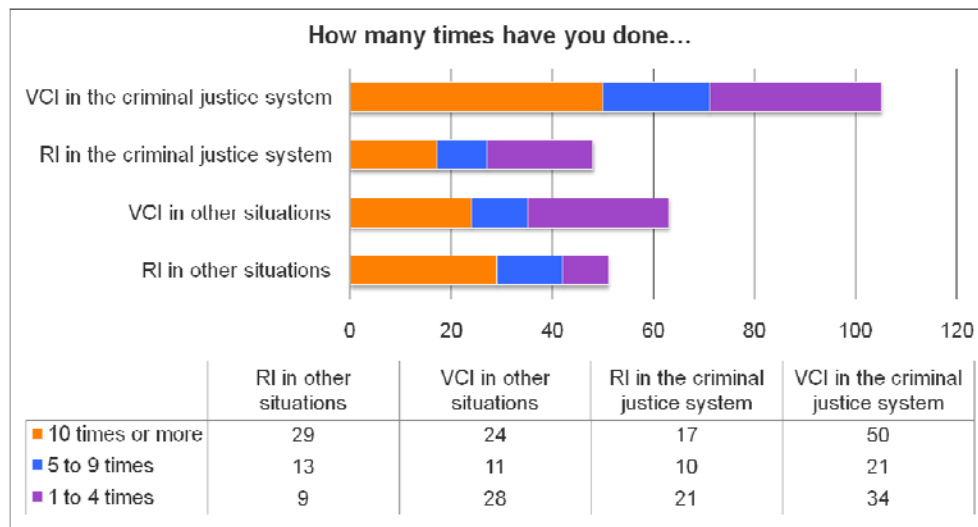


Figure 2: Interpreter experience with videoconference and remote interpreting

The chart is based on the responses of the 150 interpreters (out of 166 who completed the survey) who had done VCI or RI at least once. The total number of responses is higher than 150 because multiple replies were possible here.

3.2 Main settings

Another question in both surveys was aimed at ascertaining the settings in which video-mediated interpreting is used in criminal proceedings. The legal practitioners were asked to describe the settings and stages of the proceedings in which their respective countries or institutions have a need for video-based interpreting. According to the responses garnered in this practitioners' survey, VCI and RI are used, in principle, for all types of crime, and at all stages of criminal proceedings, albeit with varying frequency and restrictions.

Apart from differences in legislation and views on the permissible uses of VCI/RI, it seems to be the geography, politics and judicial structures of different countries that result in different needs. For example, Denmark reported using RI for court interpreting, owing to the fact that it has many small islands which constitute a challenge for the timely access to an interpreter. Thus, in the Danish scenario, RI is often 'more practical and flexible' than face-to-face interpreting. Interestingly, the mode of interpreting is simultaneous if possible.

All other countries that replied use VCI at the court stage of proceedings. The Scottish court services, for example, were of the opinion that 'courts are more likely to use VCI than RI [...]. Regarding RI, it is likely that using this would need to be raised with the judiciary in any given case as it is not a familiar concept'.

VCI settings include pre-trial hearings, and especially first hearings and bail and remand hearings. According to the responses from judicial authorities, the settings vary with regard to the location of the interpreter. In the Netherlands, for example, the interpreter is generally co-located with the non-native speaker, but can in fact choose his/her location. In Belgium, the interpreter is generally co-located with the legal practitioner, e.g. the prosecutor. In Poland, the location of interpreter is not regulated in law. In the UK, the location of the interpreter is not regulated, but in practice the interpreter is more frequently situated with the legal practitioner (in court) than with the non-native speaker (in prison or police custody).

In all of these cases, the mode of interpreting in VCI was reported to be consecutive. Only in some cases, when the interpreter is co-located with the non-native speaker, is whispered interpreting used.

The emphasis on VCI in court settings does not mean that there is no demand for RI in criminal proceedings in Europe. RI is a setting which is being considered by a number of European police forces. It is currently being introduced by the Metropolitan Police Service in London. The intention is to place interpreters in centralised hubs, similar to those in the Florida circuit courts (see Braun & Taylor's chapter on current practice in this volume), although the mode of interpreting will be consecutive. The Metropolitan Police Newsletter of October 2009 explained the plans as follows:

In order to speed up access to linguistic support, a new video conferencing platform will be created. Video equipment will be installed in each custody suite involved in the trial [meaning: a pilot phase], and in selected interview rooms for dealing with witnesses and victims. This network will be supported by the creation of 8

'interpreter hubs', strategically placed around London, to take account of demand and interpreter availability.²

In the counterpart survey, the interpreters were questioned once again about their experiences of the settings in which VCI and RI had been used. As shown in the legal practitioners' responses, the interpreters' responses also indicate that VCI and RI are used at all stages of criminal proceedings, from initial police interview to charge, pre-trial (bail, remand), trial and post-sentence, as well as for lawyer-defendant communication. The following chart shows the distribution of interpreter experience with VCI and RI at different stages of criminal proceedings (multiple replies were possible):

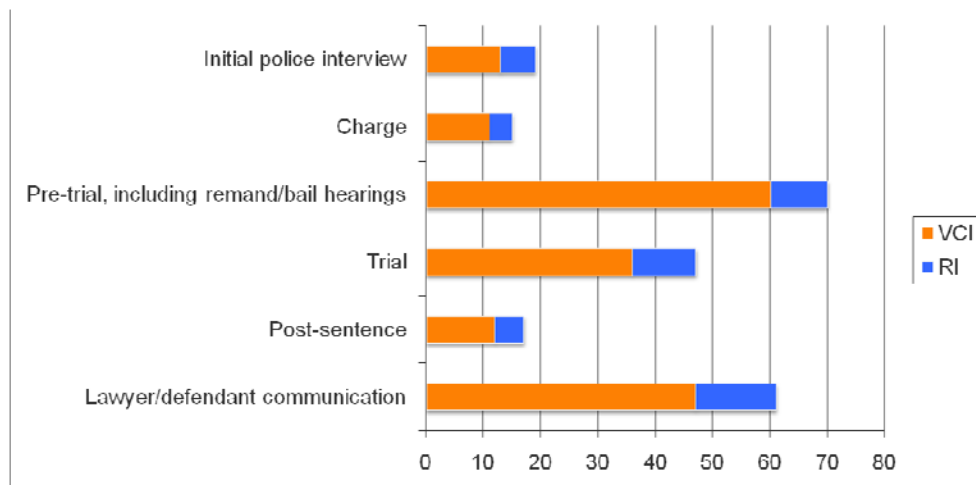


Figure 3: Interpreter experience with videoconference and remote interpreting in criminal justice

As above, the chart is based on the responses of the 150 interpreters (out of 166 who completed the survey) who had done VCI or RI at least once. The total number of responses is higher than 150 because multiple replies were possible here.

The distribution of experience among the interpreters seems to confirm that VCI is currently much more common than RI in Europe at all stages of the proceedings. The distribution of VCI is to a certain extent a reflection of the use of videoconferencing in criminal proceedings. Many of the reports cited in Braun & Taylor's review of current practice (in this volume) indicated that videoconferencing is most commonly used at the pre-trial stage, i.e. for first hearings and bail/remand hearings. What is clearly under-represented in the reports however, is lawyer-defendant communication.

The average duration of the communication also varied. Most of those who had interpreted for pre-trial and for lawyer-defendant consultations stated that the link lasted less than 30 minutes. Trials, however, generally lasted for more than an hour. Other uses for VCI and RI included witness interviews, pre-sentence reports and probation assessment.

Interpreters were invited to describe a typical experience of VCI or RI use. A male, UK-based Polish-English interpreter, for example, described his experiences working in

² <http://www.mpa.gov.uk/downloads/partnerships/icv/newsletter/2009-10.pdf>, p. 3.

magistrates' courts, interpreting via video link for lawyer-defendant communications and for pre-trial hearings lasting around 10 – 15 minutes. He reported that he is normally in court and sits next to the legal practitioner, using a mixture or consecutive and whispered interpreting, depending on the layout of the court and the quality of the equipment used for the hearing. He reported only being able to see the outline of the person for whom he was interpreting on the video screen, and stated that the image and sound quality are generally far from sufficient to allow him to do his job satisfactorily. More specifically, the problems he has encountered include connection failures, time lags, interference, and ignorance on the part of the court staff as to how the VC equipment works.

This interpreter's experience of VC rather contradicts the view expressed by some of the legal practitioner respondents (and some other interpreters) that there are no problems associated with using a video link to interpret. However, several respondents to the legal practitioners' questionnaire did report serious technological problems.

The above interpreter also mentioned that he had never seen VCI used in trials or for 'complex issues'. However, another UK-based interpreter describes an instance of VCI use during a Crown Court trial involving a domestic violence case. The VC link was necessary during the cross-examination of a witness. The interpreter was located with the witness at the remote site (in this case, another room within the court building). The mode of interpreting was consecutive. The respondent stated that, on the video screen, they were only able to see whoever was addressing the witness at that particular moment, but that the image quality and sound quality were excellent, and no problems occurred.

These two examples illustrate the difference in quality between the video links used in different types of court even within a single country, which is a source of different experiences and potentially varying attitudes of interpreters towards VCI and RI.

3.3 Reasons for use, legal basis, policy and guidance

Both groups were asked about the reasons they see for using VCI or RI in legal proceedings. The responses revealed strongly opposing views between the judicial authorities/legal practitioners and the interpreters. The interpreters' perception of the reasons for the implementation of VCI and RI is generally negative. Many interpreters believe that these forms of interpreting are implemented for the sole purpose of cutting interpreting costs. The interpreters' responses suggest that some interpreters feel threatened by this development, as they fear a drop in earnings.

The judicial authorities gave a wide range of reasons, including the following:

'More efficient use of resources'

'Reduces travel and waiting times'

'More practical and flexible'

'Better for environment'

'Safer'

'Not used to save money – rather it gives access to qualified legal interpreters for rare languages for which there is no qualified interpreter nearby. As long as a qualified interpreter is available locally, this is the preferred option'

'Means of providing access to justice for non-English speakers'

Indirectly, some of these responses confirm that cost cutting is an important element in the introduction of VCI and RI. The argument that VCI and RI are better for the environment may generally be interpreted as a post-hoc justification of cost cutting. What is noteworthy in some of the responses, however, is a level of dissatisfaction in the judicial services with the way interpreting is currently delivered. The points about timing and flexibility of VCI/RI indicate that the current arrangements are seen as being unsatisfactory, and VCI/RI are perceived as being a means of dealing with this.

At the same time, the legal practitioners' survey shows that when it comes to applying VCI or RI, the judicial services sometimes find themselves in a state of legal limbo. In response to the question of whether there is a legal basis for the use of VCI and RI, only some respondent countries referred to a concrete piece of legislation (see table 2). Others referred to general regulations regarding the use of VC in criminal proceedings but stated that no specific regulations on the use of interpreters in video links exist. Not all countries replied to this question.

Does the national law of your country make any provisions regarding the use of VCI/RI in criminal proceedings? If yes, please give details	
UK, Police	'32 1 (a) Criminal Justice Act 1988 -- essentially the discretion of the court.' 'PACE (Police and Criminal Evidence Act)' 'No plans to use in custody at present, because of the requirement for change in law. ... We would be very willing to consider it if it was legal.'
Scotland, Courts	'The Crown considers each case on its merits and if VC/RI were to facilitate court proceedings, it would be implemented.'
England/Wales, Courts	'A bill has been laid before Parliament that will legitimise, if passed, the use of VCI in court proceedings.' 'The law in England and Wales makes provision for a 'Live Link.' [...] Whilst a defendant's court attendance can be achieved under law by live link from a prison or other custodial environment, there are restrictions. Such a link is permissible for preliminary proceedings but not for trials. Sentencing is permissible in certain circumstances. Evidence by witnesses via a live link is permissible in restricted circumstances. The location of an interpreter who is appointed to assist a defendant, a witness or a court is subject to judicial direction which is most likely but not exclusively to be in favour of having the interpreter sitting with the person or persons he is required to assist. Accordingly, an interpreter may be required to assist from somewhere away from the courtroom. The precise location of an interpreter is not dictated by statute.'
Northern Ireland	'Criminal Justice (NI) Order 2008 (earlier legislation repealed and all consolidated in this Order) and the Criminal Appeal (NI) Act 1980'
Denmark	'Art 149, section 7, of the Danish Administration of Justice Act regards interpretation via VC in both civil and criminal proceedings. The provision will come into force on 1st October 2009. So far VC has only been in use on a voluntary basis from all parties, including the interpreter. According to art 149, section 7, an interpreter can participate in the proceeding via VC if it would imply disproportionate difficulties if the interpreter participated in the

	proceedings at the same place as the party (includes the suspect/defendant in criminal proceedings), witness or expert. It is a condition that interpretation via VC can be performed in an adequate/reassuring way. According to the article, the interpreter can participate via VC if s/he has to travel far. This could be the case if only a few interpreters know a particular language. Furthermore, it follows from article 149, section 7, that when the interpreter interprets for a party, witness, or expert who participates in the proceedings via VC, the interpreter should as far as possible participate in the proceedings from the same place as the party, witness or expert. However, the interpreter may, in exceptional cases, participate from another place to the party, witness or expert.'
Germany	'The EU Legal Assistance Agreement of 29 May 2009, which regulates witness hearings via VC. Also art 1 of the European Legal Assistance Agreement of 1959.'
France	'The final paragraph of art 706-71 of the Code of Criminal Procedure permits the use of RI via VC in the course of a hearing, questioning or confrontation of parties by the juge d'instruction. It is used, where absolutely necessary, if the interpreter cannot be present with other participants. Art 694-5 of the same Code makes art 706-71 applicable for the carrying out, by French authorities, of a request for mutual assistance.'
Poland	'Criminal Procedure Code, art 117, item 1 - this article allows the use of VC in criminal procedures. Hearing/interrogation shall be done in the presence of a sworn interpreter.'
Netherlands	' www.justitie.nl/onderwerpen/recht_en_rechtsbijstand/Videoconferentie/Wetten (in Dutch). Does not make any specific provision regarding RI.'
Estonia	'No, it does not'
Czech Republic	'Provision of the Czech Code of Criminal Procedure relating to VC are located in Provision 444 (hearing by videophone and telephone) and Provision 445 (Provision 444 - foreign state requests the carrying out of a hearing via video/telephone in the Czech Rep; provision 445 - Czech Rep requests hearing via video/telephone of a foreign state)'
Slovakia	'The Slovak national law does not contain any special provisions regulating VC in criminal proceedings. However, the provisions of the Slovak Code of Criminal Procedure regulate the hearing of witnesses and these provisions contain special situations, where the witness shall be heard by the use of technical equipment dedicated to the transmission of sound and picture.'
Malta	No provisions
Belgium	'There is a law dated 1 May 2005 (Belgian State Gazette 667/02/2005) which implements art 34 of the treaty of 29 May 2000 and the protocol dated 16 Oct 2001. Assistance of an interpreter is safeguarded by the European Convention on Human Rights.'

Table 2: Legal basis for the use of video-mediated interpreting in criminal justice

It is interesting to note that some respondent countries cited different pieces of legislation that in their opinion allowed or prohibited the use of VCI/RI. This suggests that there is some uncertainty as to which VCI and RI uses are actually covered by current legislation. Reference is also made to changing legislation with regard to the usage of VCI and RI.

The situation is similar with regard to policies and guidance on the use of VCI and RI. Whilst some countries referred to general guidelines for videoconferencing, there appear to be no specific guidelines for VCI and RI in criminal proceedings as yet in the respondent countries. Responses such as the following are symptomatic of the situation:

‘The judge decides in each individual case.’ (Denmark)

‘There is no specific policy on the use of VCI/RI.’ (Netherlands)

‘No instructions or guidelines. There is only a reference in an internal bylaw “for prosecutor and courts concerning MLA saying that they can use VC”. It is up to a prosecutor or a court to ask for a hearing to be conducted via VC’. (Czech Republic)

3.4 Technological basis

Legal practitioners reported a mixture of VC systems and connection types in use across Europe and, indeed, within individual institutions. The different types of hardware also varied in age. Accordingly, differences in the quality of ‘basic’ technology – for example, viewing screens – were reported. Furthermore, differing communication protocols and network capacities seem to cause problems in connectivity.

The following table exemplifies the type of connection and hardware employed in different countries and institutions:

Country	What type of VC connection does your institution use?	What type of hardware is used?
Czech Rep	4xISDN. No possibility of running VC on IP network	IPOWER 9000
Denmark	Fibre	Sony and Creator or Tandberg
Estonia	Mainly ITU H323 standard IP. In international hearings, ISDN based on ITU H320 standard.	Mainly Tandberg; in courtrooms Bosch DCN systems. Prosecutors, attorneys, and experts also use PC-based VC software Polycom PVX to attend remotely.
France	ISDN, H320, two BRI bandwidth 256KB/s	Tandberg T1000, T990, T6000
Germany	BIAMP Audia VoIP-2	Beyerdynamic SIS
Malta		Polycom USX 8000, Full VC system and recording of session
Netherlands	Both ISDN and IP	Tandberg
Poland	During national sessions: broadband connection (above 2MB). During	Sony

	international sessions: ISDN connection.	
Slovakia	ISDN	Tandberg 550 (TTC7-05)
UK	Various types of connections and hardware were reported, e.g.	
England/Wales	Martin Dawes Link UK, Courts Direct ISDN Link, ISDN telephone connectivity 384KB	Polycom VSX 7000
England/Wales	IP for Prison Link network. Witness links use ISDN or PBX. For ISDN links, 3 or 4 lines recommended. Internal witness links use CAT 5 cabling. Old AEL witness links in Crown Court connect internally using Coax cabling.	Mostly Polycom VSX7000s or VSX7000e. Prison Link network uses Sony PCS 1 or Sony 1600. Witness links use 2x42" plasma screens (courtroom); 32" LCD or TFT monitor in witness room. Prison links: dual 42" plasma screens (Crown Court); dual 28" CRT screens (Magistrates Court) with 28-32" CRT screen in witness room.
Northern Ireland	At time of survey– ISDN connectivity, but due to move to IP in prisons. ISDN retained in county courts at present. Investigating IP to IP connectivity for Belfast courts.	Tandberg equipment (linkages to Court Service equipment may involve other manufacturers). T6000 units used mostly in courts, T85 Edge mostly in prisons with T1700 to be installed for office/consultation use.

Table 3: *Technological basis for the use of video-mediated interpreting in criminal justice*

Among the problems that were highlighted by many interpreters and some legal practitioners were problems with the sound and image quality of the videoconferences. On the other hand, several institutions reported no problems with the technology. Interpreter respondents frequently reported never being able to move the camera, adjust the volume, or see relevant documents.

3.5 Reactions

As a general rule, both legal practitioners and interpreters felt that face-to-face interpreting is always preferable to any form of video-mediated interpreting. Some legal institutions reported, however, that there were no problems with VCI and RI and no difference in quality. Interpreter opinion ranged from seeing absolutely no value in VCI and RI to 'everything is good'. The following table outlines the common ground and points of contention between institutions and interpreters:

Legal Practitioners	Interpreters
'There is no comparison: a one-to-one is the ideal scenario.'	'Everything is good.' 'Avoidance of contact with violent or dangerous detainees.'

	<p>'Useful in international cases'.</p> <p>'Avoids unnecessary travelling'.</p> <p>'Useful in an emergency.'</p>
<p>'The respondent's view is that face-to-face interpreting is preferable to VC interpreting. However, she thinks that VC interpreting is better than telephone interpretation and in an instant world has its place as a valid means of communication.'</p>	<p>'Quick, operative. I fully support VCI'.</p> <p>'I think you quickly get used to it.'</p> <p>'You can never be absolutely sure that you have been understood.'</p>
<p>'Face-to-face usually preferable (depends on technical quality of VC device).'</p>	<p>'RI is vital for traumatised witnesses.'</p> <p>'Should only be used when protecting the young and vulnerable. Not to be generalised.'</p>
<p>'The respondent is not aware of any reports of difference in quality.'</p> <p>'No difference, either in sound or picture/presence.'</p> <p>'No particular problems.'</p> <p>'[They are] of the same quality.'</p> <p>'VCI is usually of an inferior quality.'</p> <p>'The quality [...] has not been discussed or investigated.'</p>	<p>'From the interpreting point of view, I am afraid to say it doesn't have any good points; unless a high-tech system is developed and used, such as 3-dimensional megascreens with perfect sound.'</p> <p>'I cannot find any good points of VCI from the point of view of the interpreter.'</p> <p>'I cannot see any advantages, it is just an experiment which is 'flavour of the month' at the moment.'</p> <p>'Not adequate for legal settings'.</p> <p>'Sound quality needs drastic improvement.'</p> <p>'Picture quality needs drastic improvement.'</p> <p>'Technology is still rudimentary.'</p> <p>'Insufficient awareness of the difficulties caused by sound problems or lack of documents.'</p> <p>'Good points are sound quality and picture clarity.'</p>
<p>'Feedback has been positive.'</p>	<p>'Lack of rapport between interpreter and other participants.'</p> <p>'Unreal feeling, isolation.'</p> <p>'More tiring'</p> <p>'Very few, if any, good points.'</p> <p>'It is more difficult than FtF due to background noise, slower reaction time.'</p>

Table 4: Legal practitioner and interpreter reactions to VCI and RI

3.6 Co-operation

Interpreters were asked about their involvement in the decision to use a VC link in a criminal justice setting (see figure 4). When asked whether it had ever been explained to the interpreter why a particular interpreting assignment needs to involve either VCI or RI, of the total 149 respondents to this question, 39.6% (59) replied 'Yes, always'; 26.2% (39) responded 'sometimes'; and 34.2% (51) answered 'never'. The question of whether the interpreter had ever been informed beforehand that a video link will be involved was answered by 143 interpreters. Of them, 48.3% (69) stated that they were 'always' informed beforehand; 25.2% (36) said they were informed 'sometimes'; 26.6% (38) reported that they were 'never' informed. Finally, the interpreters were asked whether they had ever been consulted regarding the appropriateness of using VCI or RI. 14.2% (21) replied 'yes' and 85.8% (127) said 'no'.

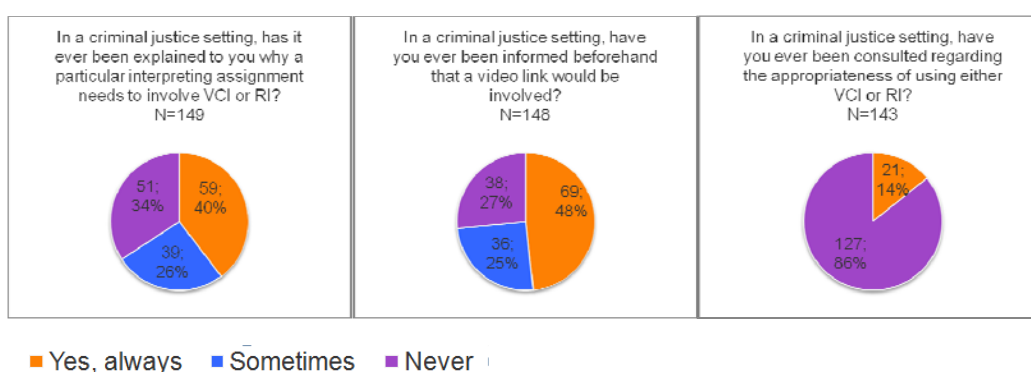


Figure 4: Interpreter consultation on the use of VCI/RI

Comments appended to the responses to these questions were varied and enlightening. One interpreter stated that 'there has been discussion between interpreters and a certain criminal justice authority on the appropriateness of using VCI and RI.' Apart from that, opinion was divided. Several other interpreters took the view that explaining the situation to them or consulting them was not necessary. Others thought the opposite or felt that their views were not seen as important. The following examples are representative of the comments made:

'Interpreters are usually never consulted on the use of VCI/RI. It appears we do not count'.

'The service user or the establishment never consider interpreters' comment important or useful.'

'Decision to use VCI/RI usually taken before an interpreter is consulted.'

'They just say, "get on with it".'

'We need to be part of the process and not just leave it to the "techies".'

'Closer cooperation between interpreter and person conducting investigation is required'

'You can ask the court official for some guidance'.

'I usually find out the reasons through asking'.

'The purpose of VCI in court with the defendant in custody is quite straightforward and self-explanatory.'

'An explanation isn't necessary'

Despite the variety of responses, many of them suggest that an increase in dialogue is required to avoid misunderstandings and prevent the perception among interpreters that they are a marginalised group whose opinion is inconsequential. At present the feeling that “we do not count” seems to be prevalent among interpreters. This perception may have influenced the interpreters’ self-assessment of their performance in VCI and RI situations, which will be reported in the next section.

3.7 Interpreter Self-Assessment

The interpreters who had experienced VCI/RI were invited to assess their performance and satisfaction levels when carrying out VCI and RI, basing their comparison on their general face-to-face interpreting experience.

Firstly, respondents were asked to rate their VCI performance, specifically in criminal proceedings:

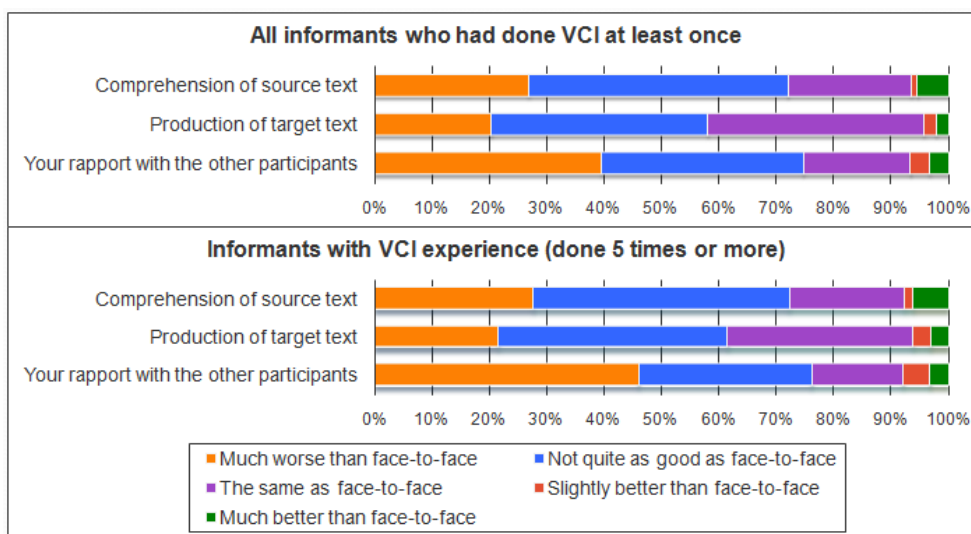


Figure 5: Interpreters’ rating of VCI performance

The majority of respondents judged their performance to be of a lesser standard than they would expect in a face-to-face scenario, irrespective of their level of experience. However, in each of the three parameters represented in the table, a considerable number felt that their performance was the same as in the face-to-face mode (for those who had five or more experiences: comprehension of source text – 21.5%; production of target text – 37.6%; rapport with others – 18.7%).

A similar picture emerges in relation to RI. As figure 6 shows, those with more experience of RI gave slightly lower ratings compared to the ratings for VCI in the same group. Yet the general proportions are similar to those for VCI. The most notable point is that the ratings for target text production are generally higher than the ratings for source text comprehension and rapport with the interlocutors. In other words, some of the interpreters felt that in spite of their problems with source text comprehension and rapport, they would still be able to perform at least as well as in face-to-face interpreting. This does not say anything about the actual interpreting quality in video-mediated interpreting, which does not seem to confirm the self-assessment (see Balogh & Hertog,

Braun & Taylor and Miler-Cassino & Rybińska in this volume; see also Moser-Mercer 2003, Roziner & Shlesinger 2010). The perception is, however, interesting as it suggests that approximately 40% of the interpreters who had some experience with VCI and 30% of those who had experience with RI either felt at ease with their own performance or at least chose to say they did.

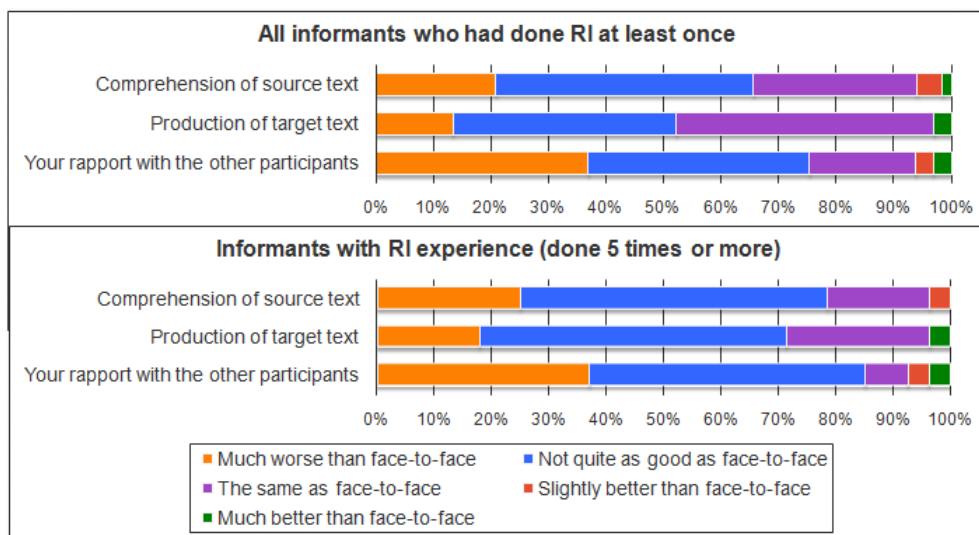


Figure 6: Interpreters' rating of RI performance

The interpreters were then asked to gauge their satisfaction levels for the two forms of video-mediated interpreting:

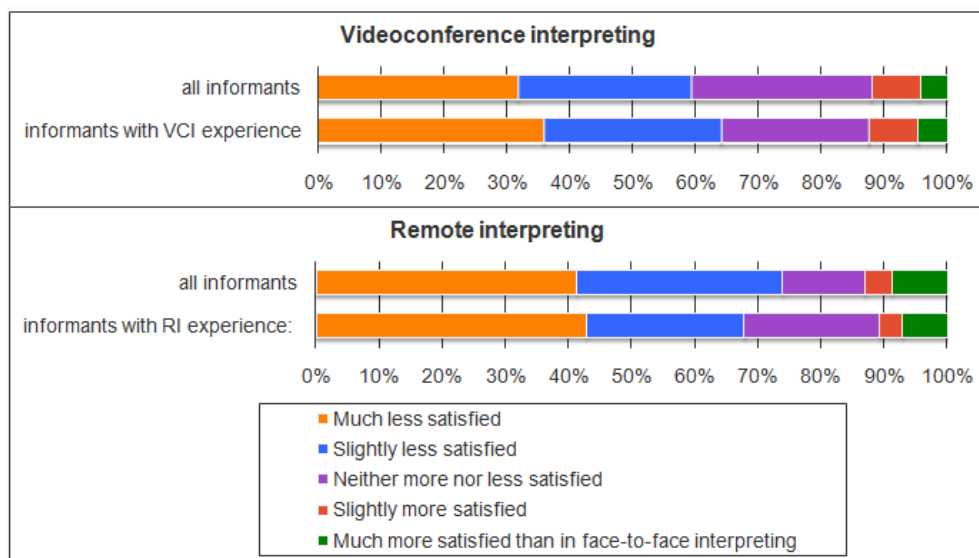


Figure 7: Interpreters' rating of satisfaction levels

Here again, RI was rated slightly lower than VCI; however, the differences are not great and the proportions are again similar. The majority of the interpreters find video-mediated interpreting less satisfactory than traditional face-to-face interpreting.

An interesting difference emerges, however, if the results – performance ratings and satisfaction levels – are broken down into age ranges. The distribution of age ranges, which was reported in section 2 (figure 1), is repeated as here figure 8 for ease of reference:

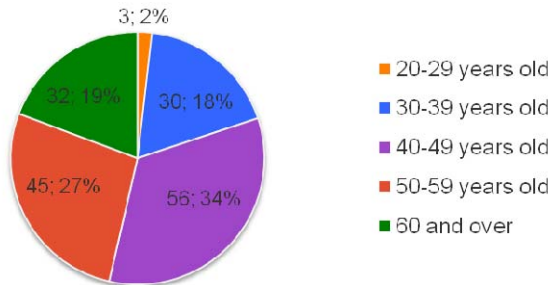


Figure 8: Distribution of age groups among the interpreters

The following charts (figures 9, 10 and 11) show the relative distribution of performance and satisfaction ratings by age group. Figures 9 and 10 show that the oldest age group gave the most positive ratings in all three performance-related categories. Moreover, in this age group the discrepancy between the ratings for target text production and the other two categories was lower than in the other groups, who generally rated their target text production higher than their source text comprehension and their rapport with the interlocutors. Given the correlation between age range and interpreting experience in our sample (see section 2), this suggests that general interpreting experience may have a more important role to play in the perception of video-mediated interpreting than specific experience with video-mediated interpreting itself.

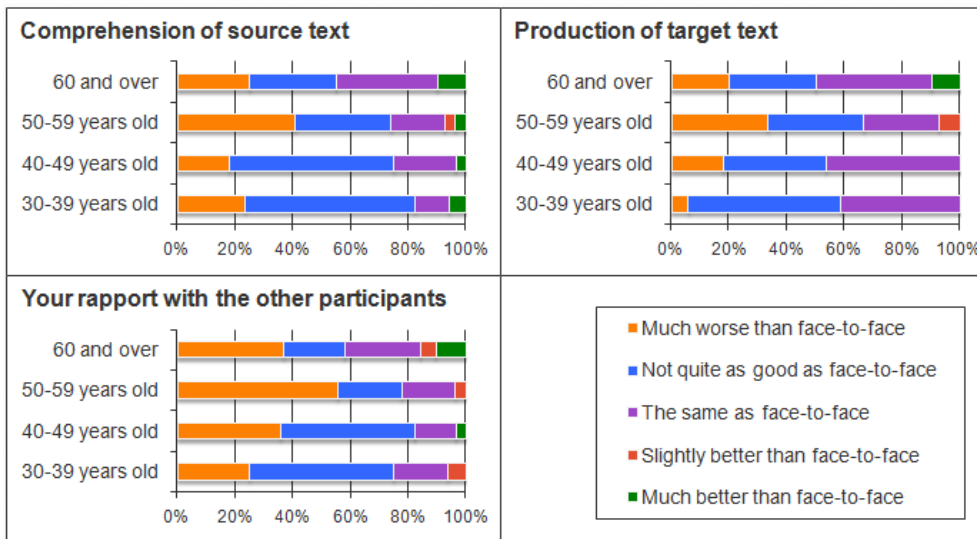


Figure 9: Rating of VCI Performance – by age range

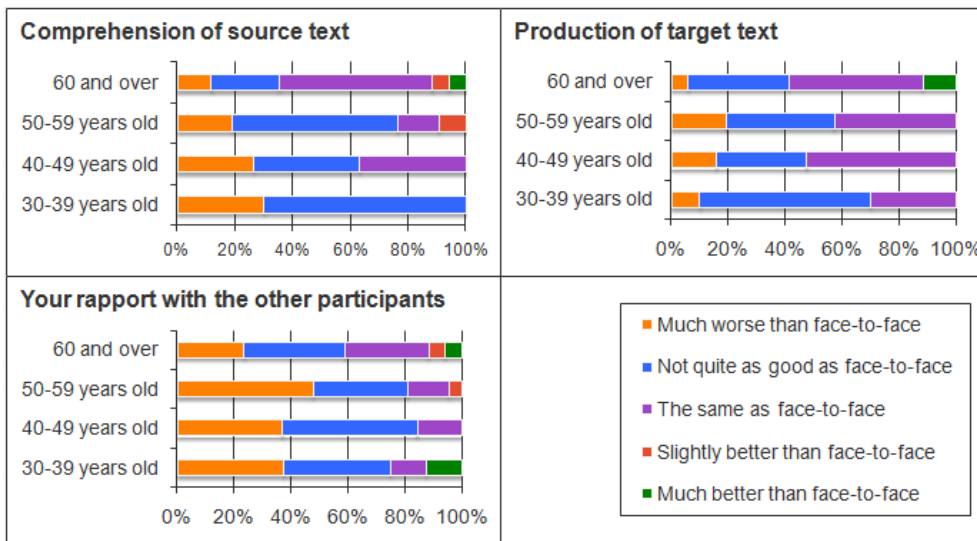


Figure 10: Rating of RI Performance – by age range

Figure 11 shows that, again, the ratings in terms of satisfaction levels were highest in the 60 years and over age group, with more than 50% being at least as satisfied with both RI and VCI as with face-to-face interpreting. It is also noteworthy that 15% in this age group had a slight or strong preference for VCI and 25% for RI compared to face-to-face interpreting.

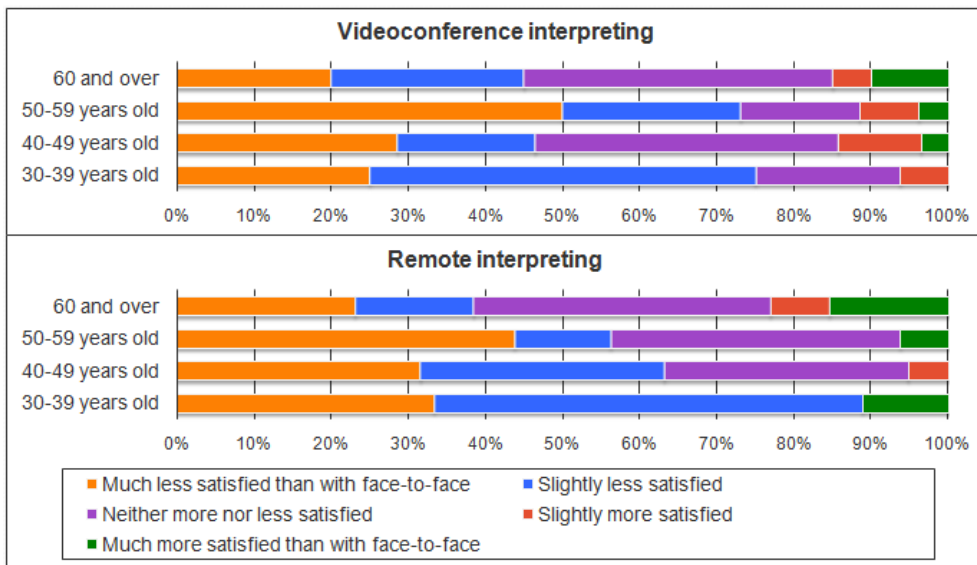


Figure 11: Satisfaction Levels for VCI and RI – by age range

The youngest of the four age groups analysed was the least positive group in terms of satisfaction levels. In this group, 76% and 89% were either slightly or much less satisfied with VCI and RI respectively when compared their level of satisfaction with face-to-face interpreting.

The largest group of respondents to the survey were based in the UK (84 out of the 166 interpreters who completed the questionnaire). As the next chart (figure 11) shows, satisfaction levels among UK-based interpreters are lower in relation to both VCI and RI than among interpreters in other countries. Apart from being generally more positive, the interpreters in other countries also made a greater distinction between VCI and RI, with the latter seen as less satisfactory than the former.

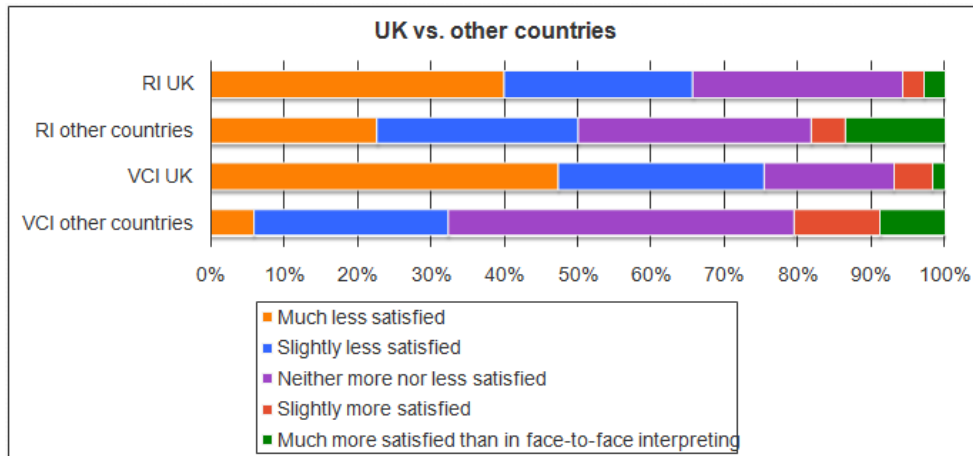


Figure 12: Satisfaction level of interpreters in the UK (N=84) vs. other countries (N=82)

It is possible that the generally negative attitude of UK interpreters has led to their making little distinction between VCI and RI. Another consideration is that video links in many Magistrates courts in England/Wales are based on outdated technology (see also Braun & Taylor's chapter on current practice in this volume), but since they have existed for a long time, they constitute one of the best known types of VC facility among legal interpreters in the UK. The quality of this equipment may be partially responsible for the low satisfaction ratings given by UK interpreters for VCI.

As a final question in the self-assessment section of the questionnaire, the interpreters were asked to rate their perception of video-mediated interpreting in terms of categories that were also used in some of the studies on remote conference interpreting (see Braun & Taylor's chapter on current practice in this volume). The categories included the interpreters' motivation, the perceived level of isolation, stress and fatigue compared to face-to-face interpreting. As expected, the interpreters rated both VCI and RI as being less motivating, more isolating, stressful and fatiguing than face-to-face interpreting (see figures 12 and 13 below). What is once again noteworthy, however, is that the oldest age group gave more positive ratings in all categories than the other three age groups analysed.

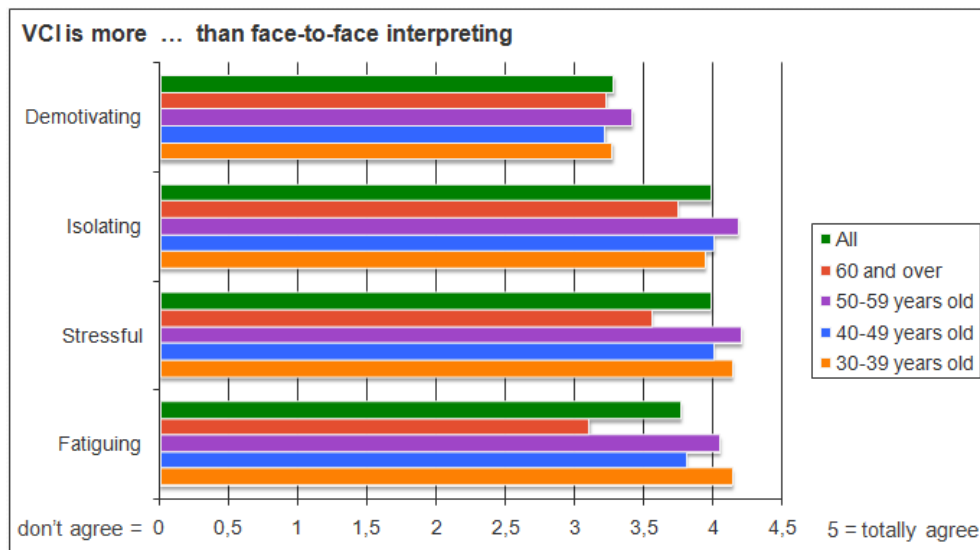


Figure 13: Emotional/physiological responses to VCI

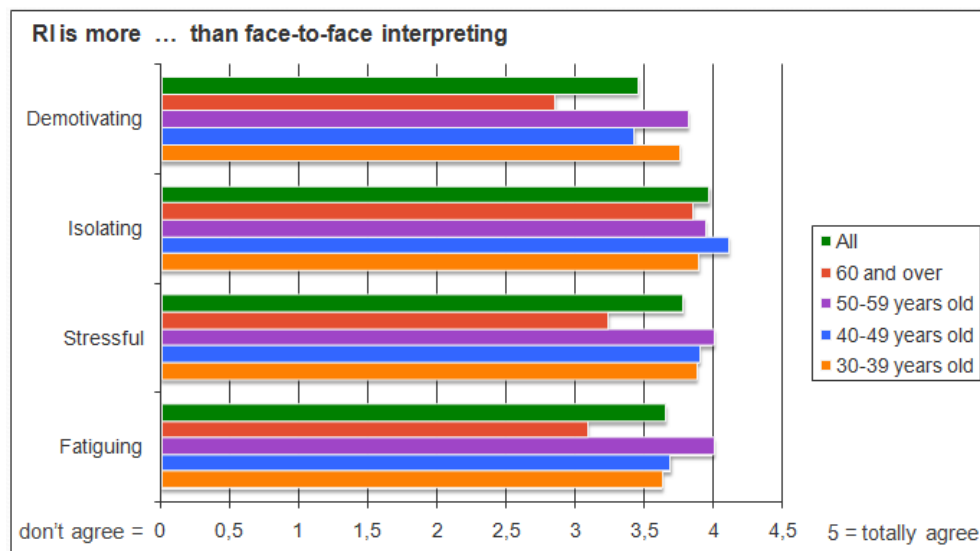


Figure 14: Emotional/physiological responses to RI

3.8 Training: views and expectations

In another section of the questionnaire, the interpreters were also asked about their views on training in VCI and RI. When asked whether there should be training for VCI/RI, the interpreters responded as shown in figure 15. What is remarkable is the relatively large number of “irrelevant responses”. As in other sections of the questionnaire, the interpreter respondents often used free comment boxes to describe their own (anecdotal) experience with VCI/RI, to express their general dissatisfaction with the implementation of VCI/RI or to comment on broader issues that are the subject of current debate within the interpreting profession, i.e. comments that do not relate specifically to training or to

VCI and RI and their uses. Many of these comments are indicative of an ongoing and often highly emotionalised debate within the interpreter community.

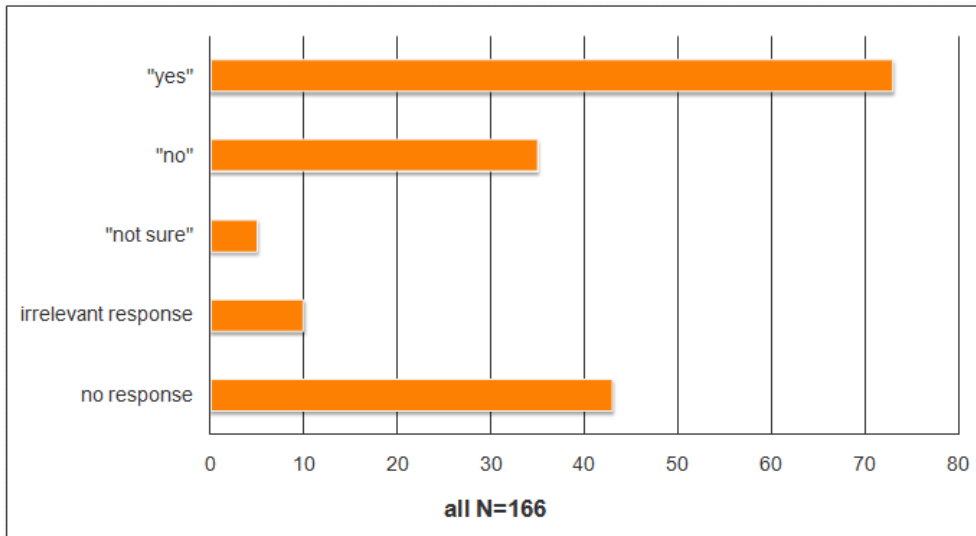


Figure 15: Interpreter views on VCI/RI training

What is equally insightful is the distribution of the responses in relation to the interpreters' experience with VCI/RI, as shown in the following graph (figure 15). Among the 16 interpreters who had never done VCI/RI, 10 (62.5%) felt that training would be necessary and only 1 (6.25%) thought that this was not the case. Among the 150 interpreters who had done VCI or RI at least once, only 63 (42%) agreed that training needs to be provided, whilst 34 (22.7%) deemed it unnecessary. In other words, the number of those who thought there should be training for VCI/RI seems to decrease relative to the experience.

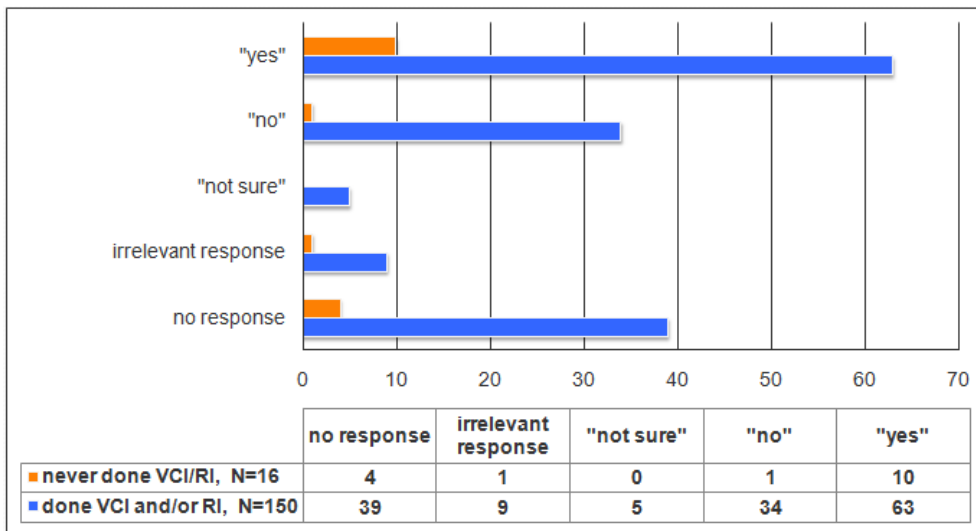


Figure 16: Interpreter views on VCI/RI training, according to experience

Some of the free comments relating to this question confirm this trend:

- 'You learn on the job, with mistakes and all.'
- 'Learned on my own with practice.'
- 'Court technicians instructed me on how to use the equipment.'
- 'Not training as such; more supervised hands-on experience.'
- 'It is quite straightforward and user friendly.'
- 'I do not think this requires special training.'

A number of other comments reveal that some interpreters thought training needs to be provided to the other participants:

- 'Not necessarily for the interpreters. However most defendants may have big problems coping with VCI and RI.'
- 'To date, I feel my experience has been sufficient. However, the parties engaging the interpreter should be trained in the way they use us.'
- 'I do think that interpreters and all court parties should be adequately trained before considering this modality.'
- 'Yes, training is necessary. First of all for the technicians, for a good set-up of the cameras (choice of position, sound) is key. Secondly for the users, because the interpreter cannot intervene in the case of wrong use of buttons etc. Thirdly for the interpreter, although there are less changes for him/her.'

Furthermore, the interpreters commented on the kind of training that they would find useful:

- 'A course to get used to the new technology (sound/image) and the set-up would be useful.'
- 'Simple explanations of what can be expected and some audio-visual transmission coping techniques would have been welcome.'
- 'Practice would be helpful.'
- 'Training in communication and interpersonal skills.'
- 'Methodology of interpreting.'

An interesting discrepancy emerges when the responses concerning training are compared to the interpreters' self-assessment of their performance and the rating of their satisfaction levels with VCI/RI. Whilst self-assessment and satisfaction are impervious to the level of experience with VCI or RI, which would suggest that not much adaptation takes place, the perceived need for training drops with increasing experience, suggesting that an increased amount of experience may, after all, induce a subtle degree of comfort with the VC condition.

Apart from that, two conclusions emerge from scrutiny of the comments on training. Firstly, if training is necessary, then the other groups involved in the process – for instance, legal practitioners, police officers and court technicians – also require training, in addition to the interpreters. Secondly, there is a wide range of aspects – from practical to 'theoretical' – that interpreters would like to see included in training. Both the necessity for the training of legal practitioners as well as interpreters and the variety of points to be included in training are highlighted in Braun *et al.* in this volume.

4 Conclusions

This chapter has reported the findings from two surveys carried out in the AVIDICUS project, one among judicial institutions/legal practitioners and one among legal interpreters in Europe. Most of the 35 judicial institutions in Europe who responded to the survey reported that they use or plan to use video-based interpreting in criminal proceedings, either in their institution or at least in their countries, and they gave a variety of reasons for this. The interpreters' survey gathered 166 interpreters, mostly located in Europe, who had at least some experience with these forms of interpreting in criminal proceedings. Both surveys show that VCI is more common in Europe than RI but that both forms of interpreting are currently used at all stages of criminal proceedings.

The interpreters report many different experiences with regard to the settings in which they have encountered VCI or RI and the technological conditions under which they have worked. Accordingly, their views on video-based interpreting are extremely disparate, ranging from 'it doesn't have any good points' to 'everything is good'. The majority of the interpreters, however, have various doubts and anxieties in relation to video-mediated interpreting, which are not always known to, or acknowledged by, the judicial authorities.

Fragmentation of knowledge seems to be one of the biggest problems. A lack of knowledge on both sides can be identified with regard to the judicial institutions' reasons for the use of VCI and RI and the difficulties of video-based interpreting. Judicial institutions may have a range of reasons for using VCI and RI, but the interpreters' perception is that they are mainly of a financial nature. Thus, interpreters feel threatened by the anticipated cost cuts. In terms of difficulties, judicial institutions were inclined to report 'no problems' without making it clear what the basis for this assessment was.

The legal practitioners' survey also shows that there is little by way of specific guidance for VCI and RI and that the technological basis (equipment and type of connection) varies widely. The latter may be partially responsible for the extremely mixed reactions to VCI and RI from both sides, which range from 'sound/picture quality needs drastic improvement' and 'technology is still rudimentary' to 'good points are sound quality and picture clarity'.

Furthermore, many interpreters feel excluded from the process of implementing VCI and RI that is under way in judicial institutions. This may have helped to shape the self-assessment of their performance and satisfaction with VCI and RI. The self-assessment is generally on the negative side, with the exception of the oldest age group. A noteworthy point is, however, that the majority of interpreters rated their own target text production more positively than their ability to understand the source text and to build a rapport with the other interlocutors. On the whole, VCI and RI are perceived as less motivating, more stressful, fatiguing and isolating than face-to-face interpreting.

Because the uses of VCI and RI vary significantly from country to country and, indeed, within individual countries and institutions, it is difficult to put together a clear and accurate picture of video-mediated interpreting in the criminal justice services, and to identify correlations between conditions of use and performance. However, the following major conclusions can be drawn with regard to the current and emerging uses of VCI and RI in criminal proceedings:

- There exists a wide variety of legal communication settings to which both interpreters and legal practitioners need to adapt if the implementation of videoconferencing facilities proceeds.
- This is complemented by a wide variety of technical standards among and within countries, which is likely to make this adaptation process unnecessarily difficult.
- In addition, the continued use of low-quality equipment and connections jeopardises both the quality of legal interpreting in video-based settings and the acceptance of video-mediated interpreting among interpreters and possibly also legal practitioners.
- There are a number of discrepancies between the views of legal practitioners/judicial services and interpreters. For example, whilst judicial institutions cite a number of reasons for the implementation of VC-based interpreting solutions, interpreters mostly see these as a way to cut interpreting costs³ and thus feel threatened.
- Although generally speaking the respondents from the judicial services accept that video-mediated interpreting is unlikely ever to be as good as face-to-face interpreting, the judicial services are, as expected, more willing to embrace video-mediated interpreting than the interpreters. This is obviously linked to demand but the lack of knowledge about interpreting and its challenges, which is apparent in the legal practitioners' survey, carries a danger that the difficulties of video-mediated interpreting are underestimated.
- The analysis of the interpreters' responses reveals a marked tension between objective (and obvious) difficulties of video-mediated interpreting and resistance to change on the part of some interpreters. Interpreters feel excluded from discussions about the implementation of VC facilities in judicial institutions. They perceive the use of video-based interpreting as a cost cutting exercise and fear pay losses. Some interpreters also fear a dogged dependence on the technology.
- There is a conspicuous absence of clear rules and procedures, guidelines or policies on the use of VCI and RI.
- This is coupled with a lack of knowledge, cross-fertilisation, dialogue and co-operation among the stakeholders and complemented by a lack of training in, and research into, video-based interpreting, especially in the area of legal interpreting.

Whilst judicial institutions have a vested interest in the use of videoconferencing technology to resolve current problems with the provision of legal interpreting, many interpreters are suspicious of this development. Their anxieties (fear of the unknown in the changing landscape of interpreting, fear of pay loss, increased dependency on technology), the feeling of exclusion from the decision-making and implementation process, and the prevalence of outdated, inadequate equipment in some institutions are only some of the most prominent factors that are likely to shape the interpreters' attitudes towards video-based interpreting.

³ Discrepancies between the views and attitudes of legal practitioners and interpreters with regard to interpreting are not unknown (Lee 2007 for telephone interpreting; Foley 2006 and Lee 2009 for traditional court interpreting; see also Pöchhacker 2000 for Public Service Interpreting in general).

Equally importantly, the interpreters' perception that video-mediated interpreting is part of an exercise to cut down on interpreting costs is in stark contrast with their experience that video-based interpreting is more demanding, stressful and fatiguing than face-to-face interpreting and that it would therefore, in some interpreters' view, command higher fees. Some interpreters thus see themselves as being caught in a vicious cycle, which may increase the negative attitudes.

Some caveats are in order. The two surveys presented can only provide snapshots of the current situation. This can be illustrated by the observation that the interpreters' responses often focus on a particular setting. There is a striking reluctance on the part of some interpreters to accept that some of the problems they encountered may have been due to the idiosyncrasies of a particular setting or piece of equipment.

Given the generally low level of experience with video-mediated interpreting, it is highly likely that some adaptation and familiarisation is yet to take place and that initial reports on problems are as 'exaggerated' as the oversimplified claim made by some legal practitioners, court clerks or other administrators that there are no problems at all. At the same time, the survey results suggest that adaptation cannot be expected to take place on a fast track. The initial VCI/RI experience that some interpreters in our sample had gained did not lead to a more positive perception of the VC situations. Only an increase in the general interpreting experience seemed to be able to achieve this.

The wealth of information derived from the two surveys has provided invaluable input for the development of the AVIDICUS recommendations (see Braun in this volume). However, the question of whether and to what extent video-mediated interpreting can be used in criminal proceedings cannot be answered – and the recommendations would be incomplete – without a thorough analysis of the actual interpreting quality and an assessment of its appropriateness in a legal context.

In other words, a crucial task for research is to disentangle the subjective perceptions and their sources from the actual performance and interpreting quality that can be achieved in video-based interpreting in criminal proceedings. The findings of the AVIDICUS comparative studies in this respect, which have also shaped the recommendations, are covered in several contributions in this volume.

What is urgently required at a political level is an informed dialogue between all parties involved. The narrow focus of some interpreters on their limited experience also goes to show that – in addition to research and dialogue – the current situation also requires much more awareness-raising, education and training to overcome misperceptions, close the knowledge gap and support long-term adaptation processes, if video-mediated interpreting is, in the final analysis, deemed to be adequate in a legal context. Suggestions for the training of the main stakeholder groups are made by Braun *et al.* in this volume.

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