Procedural safeguards in the EU
Interpreter mediated questioning
of children in criminal procedure:
results of the
CO-Minor-IN/QUEST project

Prof. Katalin Balogh
Prof. Heidi Salaets
Outline

• Introduction
• Co-Minor-IN/QUEST
• Co-Minor-IN/QUEST II
• Concrete example of joint training
• Conclusion: networking to team up
Psychologist in Belgium: testimony (DS 22-10-2016)

(1) How can you expect from an 11-year old boy that [on the escape route] he knows where he was when the smuggler told him “We continue, without your parents. We will find them later.” A* knows from his own experience how smugglers work, has had hunger and thirst, and suddenly was alone in the world. He is traumatized and refuses any contact. He only tells me “If you don’t bring my parents, I have nothing to say”.

(2) We recently had a negative asylum decision for a 13-year old boy and his cousin. Because these kids have to answer questions like “What color have the briks of the house in your home country? “ How long is the walking distance to the nearest town?”
Latest asylum trends – May 2016

Number of applications for international protection in the EU+¹

In May 2016, EU+ countries recorded more than 99 000 applications for international protection.² Compared to April, this was a decrease of 5%. Applications in the first five months of 2016 have already exceeded the half million mark. In comparison, the first five months of 2015 produced fewer than 350 000 applications.

96% of all applicants were first-time applicants, i.e. they had not previously lodged an application for international protection in the same EU+ country. Of all 99 000 applicants, 2 633 or 2.7% claimed to be unaccompanied minors (UAMs) when lodging an application. While the total of UAMs remained stable, their share of the total was slightly higher than the previous month. 42% of all UAM applicants were Afghan citizens, followed by Somali (8%), Syrian (7%) and Pakistani (6%) nationals.
This year, **30 000 minors applied for asylum in June alone, and almost 90 000 unaccompanied minors applied for asylum in the European Union in 2015.** The present migration and refugee crisis in Europe has exacerbated the challenges regarding reception and assistance of children on the move, and has generated new problems of **child protection**, in particular in view of the large numbers of unaccompanied children who go missing.

The gravity of the situation has revealed **shortcomings in national policies** which relate to the treatment of all unaccompanied children – **guardianship issues**, the way **children’s rights and aspirations** are taken into account, **child-friendly age-assessment procedures**, as well as the **rights to social and medical services and education** and the **avoidance of detention at all costs**.

Manlio Di Stefano, rapporteur of the **Committee on Migration, Refugees and Displaced Persons** of the European Council

### Figures Federal Police Belgium

<table>
<thead>
<tr>
<th>Status</th>
<th>What kind of criminal facts?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indecent assault and rape</td>
<td>65%</td>
</tr>
<tr>
<td>Grievous bodily harm</td>
<td>20%</td>
</tr>
<tr>
<td>Duration of the interview</td>
<td>43 min</td>
</tr>
<tr>
<td>Age</td>
<td>From 2y until 18+</td>
</tr>
<tr>
<td>Mental impairment</td>
<td>12.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Status</th>
<th>3.7%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspect</td>
<td></td>
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</table>

Figures 2013 Federal Police Belgium

<table>
<thead>
<tr>
<th>Number of interviewed minors with T.A.M.</th>
<th>5797</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychologist present</td>
<td>21%</td>
</tr>
<tr>
<td>Confidant person present</td>
<td>16%</td>
</tr>
<tr>
<td>Interpreter present</td>
<td>1.85%</td>
</tr>
</tbody>
</table>

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• Co-Minor-IN/QUEST II
• Concrete example of joint training
• Conclusion: networking to team up
Coordinators:
Heidi Salaets & Katalin Balogh
Dominique van Schoor (research assistant) and consortium FR, HU, I, NL, UK

With financial support from the Criminal Justice Programme of the European Commission DG Justice

Cooperation in interpreter-mediated questioning of minors - JUST/2011/JPEN/AG/2961

Procedural safeguards in the EU 08-09 December 2016 Trier
• **Directive 2010/64/EU**: the right to translation and interpreting in criminal proceedings

• **Directive 2012/29/EU**: establishing minimum standards on the rights, support and protection of victims of crime

**vulnerable** interviewees who need extra support because of:

1. age (i.e. under 18) cfr definition of victim
2. native language (cfr right to understand / to be understood + right to interpretation/translation)
3. procedural status (either as a **victim, witness or suspect**).
Method: questionnaire

Combination of ...

- **open** questions $\rightarrow$ **qualitative** research purposes
- closed questions/MC $\rightarrow$ Likert-scales $\rightarrow$ **quantitative** research purposes

Method: distribution

- **4 groups**: legal actors/policing – psychologists – child support workers – interpreters – (other)
- Originally in 6 countries of consortium members: B, NL, Fr, UK (Scotland), HU, I
- Non-probabilistic sampling method: network/snowballing
Respondents

• Incomplete answers: 1263 started the survey
• Complete answers: **610**
• From the partner countries but also Norway (> 50 answers), Slovenia, Spain, Trinidad, Australia, Greece, Serbia ...
• Back translation of the I, Fr, Hu, Du answers into English
Design questionnaire

• Based on the experience of the workshop with all professionals involved in ImQM
• Design of the questionnaire with expert: Szilvia Gyurkó
• Main challenges
  - Before
  - During
  - After

the interpreter-mediated questioning of minors

Such as: Briefing before
  - Role of the interpreter
  - Position of the interpreter (where does he/she sit?)

Debriefing afterwards

Code of ethics?
Area of work

- 1 interpreting: 37%
- 2 justice and policing: 35%
- 3 psychology: 6%
- 4 child support: 3%
- 5 other: 3%

Co-funded by the Justice Programme of the European Union 2014-2020
Experience

Experience (working with minors)

- 56% 4 10 years or more
- 21% 3 4-9 years
- 14% 2 1-3 years
- 9% 1 Less than 1 year
Recent experience

Recent experience *(last 3 years)*

Number of professional encounters with minors

- **39%**: 10
- **18%**: 21-4
- **22%**: 35-20
- **9%**: 41-40
- **12%**: 5 OVER 40

70 %
The interpreter puts the minor at ease

<table>
<thead>
<tr>
<th>1 disagree</th>
<th>2 neither agree nor disagree</th>
<th>3 agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 interpreting</td>
<td>22.2%</td>
<td>29.2%</td>
</tr>
<tr>
<td>2 justice and policing</td>
<td>25.4%</td>
<td>30.2%</td>
</tr>
<tr>
<td>3 psychology</td>
<td>38.5%</td>
<td>23.1%</td>
</tr>
<tr>
<td>4 child support</td>
<td>4.5%</td>
<td>23.9%</td>
</tr>
<tr>
<td>5 other</td>
<td>0.0%</td>
<td>33.3%</td>
</tr>
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</table>
The interpreter explains socio-cultural differences

<table>
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<th>3 agree</th>
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<tr>
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<td>23,6%</td>
<td>14,8%</td>
<td>61,6%</td>
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<tr>
<td>2 justice and policing</td>
<td>22,2%</td>
<td>21,4%</td>
<td>56,3%</td>
</tr>
<tr>
<td>3 psychology</td>
<td>7,7%</td>
<td>38,5%</td>
<td>53,8%</td>
</tr>
<tr>
<td>4 child support</td>
<td>11,9%</td>
<td>14,9%</td>
<td>73,1%</td>
</tr>
<tr>
<td>5 other</td>
<td>0%</td>
<td>33,3%</td>
<td>66,7%</td>
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</table>
The interpreter explains technical terminology

<table>
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<th>3 agree</th>
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<tbody>
<tr>
<td>1 interpreting</td>
<td>26.9%</td>
<td>19.4%</td>
<td>53.7%</td>
</tr>
<tr>
<td>2 justice and policing</td>
<td>21.4%</td>
<td>25.4%</td>
<td>53.2%</td>
</tr>
<tr>
<td>3 psychology</td>
<td>23.1%</td>
<td>38.5%</td>
<td>38.5%</td>
</tr>
<tr>
<td>4 child support</td>
<td>13.4%</td>
<td>17.9%</td>
<td>68.7%</td>
</tr>
<tr>
<td>5 other</td>
<td>33.3%</td>
<td>33.3%</td>
<td>33.3%</td>
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</table>
The interpreter adjusts the language to the level of the minor

<table>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>1 interpreting</strong></td>
<td>21,8%</td>
<td>11,1%</td>
<td>67,1%</td>
</tr>
<tr>
<td><strong>2 justice and policing</strong></td>
<td>31,0%</td>
<td>18,3%</td>
<td>50,8%</td>
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<tr>
<td><strong>3 psychology</strong></td>
<td>38,5%</td>
<td>30,8%</td>
<td>30,8%</td>
</tr>
<tr>
<td><strong>4 child support</strong></td>
<td>3,0%</td>
<td>22,4%</td>
<td>74,6%</td>
</tr>
<tr>
<td><strong>5 other</strong></td>
<td>,0%</td>
<td>,0%</td>
<td>100,0%</td>
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</table>
The interpreter keeps the communication flowing

<table>
<thead>
<tr>
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<th>3 agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 interpreting</td>
<td>30,1%</td>
<td>29,2%</td>
</tr>
<tr>
<td>2 justice and policing</td>
<td>40,5%</td>
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<tr>
<td>3 psychology</td>
<td>46,2%</td>
<td>23,1%</td>
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<tr>
<td>4 child support</td>
<td>17,9%</td>
<td>23,9%</td>
</tr>
<tr>
<td>5 other</td>
<td>33,3%</td>
<td>,0%</td>
</tr>
</tbody>
</table>
The interpreter gives his opinion on the case

<table>
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<tr>
<th>1 disagree</th>
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</thead>
<tbody>
<tr>
<td>1 interpreting</td>
<td>84,3%</td>
<td>13,4%</td>
</tr>
<tr>
<td>2 justice and policing</td>
<td>76,2%</td>
<td>17,5%</td>
</tr>
<tr>
<td>3 psychology</td>
<td>92,3%</td>
<td>,0%</td>
</tr>
<tr>
<td>4 child support</td>
<td>61,2%</td>
<td>22,4%</td>
</tr>
<tr>
<td>5 other</td>
<td>33,3%</td>
<td>33,3%</td>
</tr>
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</table>
Qualitative part: Conclusion = Lack of:

**Time and Trust**
- training – professionality of interpreters?
- training of Other Professionals (OP) in working with an interpreter

**Knowledge about**
- role and requirements of interpreter
- role and requirements of OP

Knowledge about the profession of “the other” involved in interpreter mediated questioning of minors (ImQM)
- Question technique? Youth law?
- Child development? Mental age? Learning difficulties? Impairments/intellectual disabilities and vulnerability?
- Interpreting?
Interprofessional joint training

BEST INTERESTS OF THE CHILD

JOINT TRAINING

AWARENESS
Team-work: briefing/ interview / debriefing

Legal Professionals
Legal Interpreters
Forensic Psychologists
Child Support Workers

Co-funded by the Justice Programme of the European Union 2014-2020
A basic BUT important document: flyer in Du, Fr, En, I, Hu
BEFORE THE INTERVIEW

INTERPRETERS

Request a debriefing with all the professionals as an opportunity to raise any concerns related specifically to the interpreting.

Do not give your personal opinion, even if you are asked to do so.

Do not retain any documentation or your notes after the interview.

Be aware that you might be affected afterwards: if you find that the effect is prolonged or recurring, ask the institution which employed you or your professional body to facilitate access to counselling.

OTHER PROFESSIONALS

Request a professional interpreter as soon as you become aware that your language is not the child's first or preferred language.

You must not use family members as interpreters.

You should check that the interpreter appointed masters the language of the child.

Enable the interpreter to prepare, like any other professional, in order to provide high quality interpreting (e.g. by offering access to relevant documentation).

Brief the interpreter in a separate room about:

- the case (highlighting any particular issues or special needs),
- your interviewing strategies.

Agree the interpreting mode, and the strategies for cooperation and interaction.

Agree an appropriate seating arrangement with the interpreter. Ensure that impartiality is maintained from the moment all parties gather.

Replace the interpreter if they are not the right person for that particular job.

DURING THE INTERVIEW

INTERPRETERS

Ask to be introduced and for your role to be made clear before the interview starts.

Reflect the child's use of language (e.g. register, word choice, marked non-verbal signals, etc.).

- Do not take the lead in the communication process.
- Do not interrupt the child's story.

Channel requests for clarification or repetition through the other professionals, if you need to address the child.

Remain natural and do not display your emotions or allow your interpreting to be influenced by them.

Respect the child and avoid any patronising behaviour.

Do not take initiatives such as adapting the language to the needs of the child. This is the responsibility of the other professionals involved.

Do not fill any 'empty' gaps in the communication, because silence may be a part of the process.

OTHER PROFESSIONALS

Introduce the interpreter and explain the ground rules for communicating together before the actual questioning starts.

Take the lead in the interaction, you are responsible for:

- explaining the language to the age, maturity and needs of the child,
- explaining difficult words and technical/legal terminology,
- asking for clarification if necessary.

AFTER THE INTERVIEW

INTERPRETERS

Request a debriefing with all the professionals as an opportunity to raise any concerns related specifically to the interpreting.

Do not give your personal opinion, even if you are asked to do so.

Do not retain any documentation or your notes after the interview.

Be aware that you might be affected afterwards: if you find that the effect is prolonged or recurring, ask the institution which employed you or your professional body to facilitate access to counselling.

OTHER PROFESSIONALS

* Request a debriefing with all the professionals to give the interpreter the opportunity to highlight any issues relating specifically to the interpreting.
* Do not ask the interpreter to give their personal opinion regarding individuals or on the case.
academics, interpreters (spoken and SLI), interpreter trainers, youth lawyers, police officers specialized in questioning minors, youth judges, forensic psychologists, child support workers, psychiatrists, children’s rights experts, international family mediator, expert learning difficulties and intellectual disabilities

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**CO-MINOR-IN/QUEST II**
Extension to asylum settings (Terre des Hommes)

- 5 project meetings (minutes & internal reports/recommendations)
- Project website

**METHODOLOGY (qualitative)**
Expert training in organizing focus groups and analyzing data

(1) **4 focus group discussions** (in each partner country) with all stakeholders of ImQM
- present the most striking results of ImQM first project
- ask for the most urgent needs each of them has for a joint training programme
(2) 11 interviews with children (in each partner country) in experimental settings on the effect of the presence of the interpreter (10 hearing, 1 Deaf)

**METHODOLOGY (naturalistic)**

- Design of joint training modules with the information gathered in previous stage(s)
- Pilot the modules and the role-plays (interactive, practice-oriented, effective) in a real training context with a “crossover section” of training modules with following instruments:
  - toolkit 1: to determine which professionals we will invite
  - toolkit 2: to know what their prior knowledge is
- Participant and non-participant observation notes

→ adapt/enhance final training modules
CO-MINOR-IN/QUEST II

DISSEMINATION

- Hands-on training module
- Manual with sustainable training material
- Training video for professionals
- 2 animation movies for minors (2 age groups)

HANDS-ON CONCLUSIVE WORKSHOP

to present all these materials

20 - 6 -2018 (World Refugee Day)
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T.A.M. → T.(E).A.M. work with interpreters

= T.A.M. is the French and Dutch acronym for Technique of Audio-visual questioning of Minors.

Almost 500 police officers T.A.M.

- 2 trainings in Fr
- 2 trainings in Dutch

Training of trainers T.A.M.

- 1 training in Fr
- 1 training in Dutch

With role plays

French / Dutch
Hungarian
Signed language
Role-play: interviewer (T.A.M.) – Hungarian victim – interpreter Hungarian/Dutch - trustperson
Evaluation of SLI roleplay (example)

Overall satisfaction role plays and discussion n=30

- Roleplay:
  - Very satisfied: 16
  - Satisfied: 8
  - Indifferent: 4
  - Not satisfied: 2

- Discussion:
  - Very satisfied: 18
  - Satisfied: 10
  - Indifferent: 2
  - Not satisfied: 2

Co-funded by the Justice Programme of the European Union 2014-2020
The Federal Police has nominated us as candidates for the "Society award of Human Sciences" for Co-Minor research.

We received an "honourable mention" and could present our research and the way we work with the Federal police (role play and illustration of methodology).
Outline

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Beverley Costa is the CEO and founder of Mothertongue and has a significant impact on the organisation as a whole. She has been the inspiration and is the embodiment of what Mothertongue is and has delivered. Mothertongue has striven to provide a service of excellence to its clients, and at every turn it has been the needs of the client that are put first and foremost. This ethos has been instilled and absorbed by everyone who has either volunteered or been employed by Mothertongue. It is simply what we do and that has permeated from Beverley. Her leadership principles have encouraged excellent performance and the desire to go ‘the extra mile’ to ensure a positive solution.
The Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 establishes common minimum rules for European Union (EU) countries on the right to interpretation and translation in criminal proceedings as well as in proceedings for the execution of the European arrest warrant. It contributes to the proper functioning of judicial cooperation within the EU by facilitating the mutual recognition of judicial decisions in criminal matters. The directive also aims to improve the protection of individual rights by developing the minimum standards for the right to a fair trial and the right of defense guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the EU.
PROCEDURAL SAFEGUARDS IN THE EU
PRACTICAL TRAINING FOR THE DAILY PRACTICE OF
JUDGES, PROSECUTORS, DEFENCE LAWYERS AND LAW
ENFORCEMENT OFFICIALS
Trier, 8-9 December 2016
ERA
Metzer Allee 4
54295 Trier
Languages: English and German (with simultaneous interpretation)
Organisers: Cornelia Riehle, ERA in cooperation with
the European Legal Interpreters and Translators Association (EULITA), the
European Criminal Bar Association (ECBA), the European Judicial Training
Network (EJTN), and the German Federal Ministry of Justice and Consumer
Protection (BMI/V)
COLLABORATE...

- Put our expertise together
- COMMUNICATE our findings to stakeholders
- COMMUNICATE our findings to the authorities
- DISSEMINATE!!
- JOIN FORCES!!
The first step to getting anywhere is deciding you're no longer willing to stay where you are.

OUR WEBSITE

https://www.arts.kuleuven.be/english/rg_interpreting_studies/index
Co-Minor-IN/QUEST


Co-Minor-IN/QUEST II

Thank you~~~

Question time!!!