



RÄTTSTOLKARNA

Rätt tolk för rättsväsendet är en rättstolk

The implementation of directive 2010/64/EU

Remarks from the Swedish Association of Court interpreters,
Rättstolkarna

Initially, the Swedish Association of Court interpreters would like to explain the qualifications that are possible to obtain for an interpreter in Sweden.

Firstly, there are authorised interpreters. They have passed written and oral tests at the Swedish Legal, Financial and Administrative Services Agency. There are about 1,000 authorised interpreters in Sweden to date, in about 40 different languages.

Authorised interpreters can also apply for a certificate of specialisation in law or in medicine. They must then pass further written and oral tests to obtain this and are then called "court interpreters". There are approximately 200 court interpreters in Sweden to date.

As a direct result of the EU directive, the Swedish Code of Judicial Procedure was amended. The new chapter 5, section 6 says (my translation):

"The court shall, if possible, appoint an interpreter who is authorised to be the interpreter in the case."

The amendment consists of the fact that authorised interpreters, according to this law, should now be given priority to these assignments. Before the amendment, no mention of authorised interpreters was made in the law. The Swedish Association of Court Interpreters was asked to comment on the proposed amendments before they came into force, and we stressed that the legislation should first recommend a court interpreter, and then an Authorised interpreter. This was denied, given that "court interpreter" is not a legally protected professional title in Sweden, as is "authorised interpreter".

However, our association is positive to the amendment and believes that it has helped courts to assign more qualified interpreters to the court hearings. It has also been helpful for our association when we stress to the courts that more qualified interpreters must be assigned. We tell them that not only will the quality of interpretation be raised, it's also recommended by the Swedish Code of Judicial Procedure!

Some courts are sensitive to this, whereas we have more work to do in convincing others that this law should actually be applied. Our association does however, have good collaboration with the National Courts Administration on this issue, and they have published excellent guidelines to the use of interpreters in court, which I enclose in English translation.

However, the Code of Judicial Procedure also states (chapter 23 section 16) that what is said in chapter 5, section 6 about interpreters in court also goes for the preliminary



RÄTTSTOLKARNA

Rätt tolk för rättsväsendet är en rättstolk

inquiry. This is something that seems virtually unknown to the Police Authority as well as the Prosecution Office (the prosecutor in a case being in charge of preliminary inquiries and hence responsible for the use of interpreters). The Swedish association of Court interpreters has tried for years to contact both authorities to discuss this, but with limited success.

The directive also states that "Member States shall ensure that, in accordance with procedures in national law, suspected or accused persons have the right to challenge a decision finding that there is no need for interpretation and, when interpretation has been provided, the possibility to complain that the quality of the interpretation is not sufficient to safeguard the fairness of the proceedings." (Article 2, section 5). This has not been implemented explicitly in Swedish law. The legislators found that there was already a possibility, stated in another part of this law, to challenge procedural errors, and that non-existent or bad quality interpretation could be seen as such.

The relevant text changes

Current wording of the Code of Judicial Procedure

Chapter 5, Section 6

If a party, a witness, or any other person who shall be heard by the court does not have command of the Swedish language, an interpreter may be engaged to assist the court. If a suspect or an aggrieved person in a criminal case does not have command of the Swedish language an interpreter shall be engaged to assist the court during court sessions.

The court shall, if possible, appoint an interpreter who is authorised to be the interpreter in the case. Otherwise, the court shall appoint a suitable person. If a public interpreter for the language in question serves at the court, he or she shall be engaged.

Chapter 23, Section 16

The provisions of Chapters 24 through 28 shall apply to the use of coercive measures during the preliminary investigation.

The provisions of Chapter 5, section 6 and 8 and Chapter 33 section 9 shall apply when it concerns matters of interpreting and translation during the preliminary investigation. The investigation leader decides on these matters.