

# The Role of Court Interpreting in Police Detainment Procedures Involving Foreign Citizens Suspected of Committing a Crime in Slovenia: The Suspects' Perspective

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The present paper focuses on the rights of suspects, who do not speak or understand the Slovenian language, to interpretation and translation in pre-trial procedures. The aim of the research was to examine whether the right to use one's own language is properly exercised and protected in the early stages of criminal procedures, especially during the first contact between a suspect and police officers conducting investigative and other actions. The empirical part of this contribution includes seven interviews with foreign citizens who were apprehended by the Slovenian Police on suspicion of committing a criminal offence. A detailed questionnaire was used to collect the data, asking the suspects to evaluate their communication with police officers and legal interpreters in terms of guaranteeing their language rights, as well as efficiency, ethics, fluency, expectations and positions of power. The analysis demonstrates that the suspects expressed no complaints regarding their treatment by the police, the provided communication with an interpreter and the quality of interpretation during their apprehension and detention. The authors conclude that Slovenian legislation provides sufficient protection of human rights regarding the use of a suspect's native language or another language of communication in the pre-trial procedure. Nevertheless, the issue of interpretation and translation for foreign nationals in criminal procedures deserves further attention.

**Keywords:** police station, translating and interpreting, criminal procedure, pre-trial procedure, TransLaw

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## 1 Introduction

For decades, the field of police interpreting has been overshadowed by the more public and the more examined specialisation of court interpreting (Gamal, 2014: 78) and, as a specialist area, it "remains widely under-researched in Interpreting and Police studies alike" (Gallai, 2013: 57). Some scholars even argue that the role of interpreters is usually seen by service users, especially those in the legal sector, as a mere 'conduit', or machine, translating words (Böser, 2013). However, an ever greater number of scholars acknowledge the importance of interpreting and apply the term 'interpreter-mediated' when describing the engagement of interpreters in a police interview (Gallai, 2013; Gallez & Maryns, 2014; Nakane, 2014; Salaets &

Balogh, 2015). Mulayim, Lai and Norma (2014: xxviii) claim, that "within the broader field of legal interpreting, police interpreting is emerging as a highly specialized, distinct application of interpreting. Police interpreting mainly takes place in police-suspect interviews and in obtaining statements from witnesses and victims. Interpreting is increasingly required in multilingual communities as members of ethnic communities come in contact with law enforcement agencies."

It is indisputable that interviewing suspects at a police station is of utmost importance in police investigations. Yet, what needs to be done to secure the rights of suspects who do not speak the language? In Slovenia, the Slovenian legislation recognises the special importance of language rights in procedures before law enforcement and judicial authorities. Not only is the right to use one's own language and script a constitutionally guaranteed right (Ustava Republike Slovenije [URS], 1991, Article 62), but the highest standards provided by the EU legal acts (e.g. Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings, 2010) were also diligently transposed into provisions regulating various legal procedures, including those of the Criminal Procedure Act (Zakon o kazenskem postopku [ZKP-UPB8], 2012).

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Considering the increasing scholarly interest in police interpreting and the importance of this particular type of interpreting for guaranteeing suspects' language rights, the present paper focuses on the suspects' right to interpretation and translation in the pre-trial stage of criminal proceedings at Slovenian police stations. The theoretical part of the paper discusses all levels of applicable legislation regulating this field, starting with the broadest level of constitutional protection, which also complies with the requirements stipulated by international conventions and EU law. In terms of police interpreting, this general protection of language rights is further realised through the relevant provisions of the Criminal Procedure Act (ZKP-UPB8, 2012), the Court Experts, Certified Appraisers and Court Interpreters Act (Zakon o sodnih izvedencih, sodnih cenilcih in sodnih tolmačih [ZSICT], 2018), as well as the Police Tasks and Powers Act (Zakon o nalogah in pooblastilih policije [ZNPPol], 2013).

The empirical section is based on interviews conducted with seven individuals (all male) suspected and accused of crime, who did not speak Slovenian, and their experience with interpreting, both formal and informal, at police stations. The decision to focus on the pre-trial stage was made because a person suspected or accused of crime first faces a language barrier at the police station. This pre-trial stage essentially includes all investigations carried out by the police before the matter goes to court. Given the importance and gravity of such police work, it is very important that only suitably qualified interpreters undertake police assignments. Luckily, the belief that any bilingual person can interpret has become a myth, as legal interpreting is a highly demanding professional field of expertise. The empirical part presents problems and difficulties encountered by suspects, which are classified into the following categories: 1) unavailability of an interpreter, 2) time constraints, 3) lack of interpreters for particular languages, 4) potential cross-cultural and cross-linguistic differences, and 5) co-operation between legal interpreters and legal professionals. The interviews were conducted in English as a *lingua franca*, in which all suspects were sufficiently fluent. In the discussion, conclusions are provided and directions for further research in the field of police interpreting are suggested.

The results of this research were collected in the framework of an international project entitled "TransLaw – Exploring Legal Interpreting Service Paths and Transcultural Law Clinics for Persons Suspected or Accused of a Crime" (Universität Wien, 2020).<sup>4</sup> The main objective of the project

was to discover and implement new pathways to secure the rights of immigrants and other persons, who do not speak the language and are suspected or accused of crime, quickly and in mutual cooperation with legal professionals in an innovative way, i.e. through Transcultural Law Clinics as intra-curricular or extra-curricular activities at the university level. The project aimed at gaining greater knowledge about the complex service paths of immigrants and other persons, who do not speak the language and are suspected or accused of crime, as well as about the possibilities and constraints of qualified legal interpreters in this pathway.

## 2 Legal Background of Court Interpreting in Pre-Trial Stages of Criminal Proceedings

The legislation regulating the use of language in all proceedings before Slovenian courts and other state authorities reflects two basic (albeit somewhat conflicting) concepts, both of which are guaranteed by the Constitution of the Republic of Slovenia (URS, 1991) and are also reflected in the relevant provisions of the Criminal Procedure Act<sup>5</sup> (ZKP-UPB8, 2012): the official language and the right to use one's own language and script. According to Article 11 of the Constitution of the Republic of Slovenia (URS, 1991), the official language in Slovenia is Slovene. In municipalities where Italian or Hungarian national communities reside, Italian or Hungarian are also official languages. The implication of this provision is a (mandatory) requirement for all state and other authorities performing a public function in the territory of the Republic of Slovenia to carry out their tasks in Slovene (or Italian or Hungarian, in respective municipalities). No such authority may choose to conduct proceedings in another language at their own discretion, regardless of whether their representatives understand the language in question (Avbelj, 2019; Kranjc, 2002; Šturm, 2010). This also applies to criminal proceedings, which are conducted in the official language of the court (ZKP-UPB8, 2012).

In order to guarantee the fundamental constitutional principles of equality before the law and effective judicial protection to persons who do not understand the official language, the Constitution balances this requirement with the right to use one's own language and script. According to Article 62

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<sup>5</sup> Following the Act Amending the Criminal Procedure Act (Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku [ZKP-M], 2014), the Slovenian legislation regulating criminal procedures complies with Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the Right to Interpretation and Translation in Criminal Proceedings (2010). See also Erbežnik (2010) and Kmet (2016).

of the Constitution of the Republic of Slovenia (URS, 1991), everyone has the right to use their own language and script in a manner provided by law in the exercise of their rights and duties and in procedures before state and other authorities performing a public function. No law or state authority may narrow the constitutional scope of this constitutional right, meaning that they must ensure that anyone who does not understand the official language is able to participate in such procedures in a language they understand (Avbelj, 2019; Šturm, 2010; Up-43/96). Accordingly, Article 8(1) of the Criminal Procedure Act (ZKP-UPB8, 2012) requires that if an investigative action, a judicial action or the main hearing are not conducted in the language of the subject of that action, the oral translation of their statements and of the statements of others, and the translation of documents and other written evidence, must be provided. In such cases, a professional court interpreter will be appointed.

The Court Experts, Certified Appraisers and Court Interpreters Act (ZSICT, 2018) defines court interpreters as persons appointed by the Minister of Justice for an unlimited time with the right and duty to interpret at main hearings and to interpret documents at the request of the court.<sup>6</sup> If no court interpreter is available for a particular language, the court may appoint another person who is fluent in a foreign language for which there are no (or not enough) court interpreters available (ZKP-UPB8, 2012).<sup>7</sup>

The right to use one's own language and script has important implications for procedural acts in pre-trial stages of criminal proceedings. Pursuant to Article 8 of the Criminal Procedure Act (ZKP-UPB8, 2012), a suspect has the right to use their own language and the right to interpretation and translation during all investigative police actions and questioning. The corresponding duty of the police to inform the suspect of their procedural rights is regulated by Article 148(4) of the Criminal Procedure Act (ZKP-UPB8, 2012), which states that if, in the course of gathering information, the police find grounds to suspect that a particular person (i.e. the suspect) has committed or participated in a criminal offence, they must inform that person – before they start gathering in-

formation from them – of the criminal offence of which they are suspected and the grounds for that suspicion, and instruct them that they are not obliged to give any statement or answer questions; that, if they intend to plead their case, they are not obliged to incriminate themselves or their close relatives or to confess guilt; that they are entitled to have a lawyer of their choosing present at their interrogation; and that anything they say may be used against them in a trial. The police must also inform the suspect that they have the right to use their language in investigative and other judicial actions and at the main hearing, as well as the right to interpretation or translation if a judicial action or the main hearing is not conducted in their language. In addition to informing a suspect of this right, the police must provide them with a list of registered court interpreters from which the suspect can choose, before any investigative action is conducted. When communicating with a suspect who does not understand Slovene, police officers may use another language that the suspect is able to understand, or appoint an interpreter to assist not only with gathering information but also with all other pre-trial actions (Oštir, Reven, & Gorkič, 2015; ZNNPol, 2013). Under Article 18(2) of the Criminal Procedure Act (ZKP-UPB8, 2012), a court may not base its decision on evidence obtained in violation of the human rights and basic freedoms provided by the Constitution, nor on evidence that was obtained in violation of the rules of criminal procedure.

If the suspect is also being deprived of liberty, their rights are additionally protected under both Article 19 of the Constitution of the Republic of Slovenia (URS, 1991), which guarantees everyone the right to personal liberty and stipulates that no one may be deprived of their liberty except in such cases and pursuant to such procedures as are provided by law, and Article 4 of the Criminal Procedure Act (ZKP-UPB8, 2012). The latter provision corresponds to Article 5(2) of the European Convention on Human Rights (1950) and requires that anyone deprived of their liberty be immediately informed in their mother tongue, or in a language they understand, of the reasons for the deprivation of their liberty. Within the shortest possible time thereafter, they must also be informed in writing of the reasons why they were deprived of their liberty. They must be instructed immediately that they are not obliged to make any statement, that they have the right to immediate legal representation of their own free choice and that the competent authority must, on their request, notify their relatives or those close to them of the deprivation of their liberty (Horvat, 2004). They must also be informed of their right to interpretation and translation with a written notice (ZKP-UPB8, 2012), which must be composed in their mother tongue or in a language they understand. If a written notice in the proper language is not available, then the suspect who is being deprived of their liberty must first be informed of their rights orally, in

<sup>6</sup> More detailed rules on the work of court interpreters are stipulated in the Rules on Court Experts, Certified Appraisers and Court Interpreters (Pravilnik o sodnih izvedencih, sodnih cenilcih in sodnih tolmačih, 2018). For more information on legal interpretation services, see also Biber and Sajko (2018).

<sup>7</sup> It is worth emphasising that the right of participants in proceedings to use their own language does not imply that the translation and interpretation into their mother tongue has to be provided, as it would be impossible to guarantee interpretation into all existing languages. Therefore, interpretation into a language that the participant understands is sufficient (Horvat, 2004).

a language they understand. The written notice must be provided without undue delay (ZKP-UPB8, 2012).

Participants in proceedings may waive the right to translation or interpretation of certain investigative and other judicial actions, of a part of the main hearing and/or of certain judicial or other documents<sup>8</sup> by voluntarily and unequivocally declaring that they understand the language in which the proceedings are conducted. A judge might nevertheless decide that translation is necessary and order that such documents be translated. This is often the case with respect to the citizens of former Yugoslavian countries who understand Slovene and, consequently, waive the right to translation and interpretation, but who do not speak the language well enough to provide precise and clear answers. It is up to the judge to decide whether a court interpreter should be appointed and even to postpone certain judicial actions, if necessary. Slovenian case law indicates that the question of when to appoint an interpreter and when to trust that participants in proceedings possess sufficient knowledge of the official language is especially problematic (e.g. Constitutional Court of the Republic of Slovenia decisions Up-599/04, Up-178/05, etc.). The European Court of Human Rights recently established higher standards than those that were previously applied before Slovenian courts in the framework of the *Vizgirda v. Slovenia* case (2018).

### 3 Methodology

To collect the data for the analyses of interviews, a detailed questionnaire was used that seemed to be the best way of discovering individuals' needs, i.e. by asking people's opinions about different issues, while still keeping in mind that one cannot ascertain whether what they say is true (Hale & Napier, 2013: 52). The questionnaire was developed and prepared by the TransLaw project team in the second workstream, which was coordinated by Katalin Balogh and Heidi Salaets, and was used by all project partners. The questionnaire was believed to be the best instrument to ask people about the gaps, challenges and needs they experienced, in addition to the usual challenges inherent to interpreting, which represented another important stress factor.

The questionnaire had to be distributed personally, as all interviews were conducted at police stations or in public spaces and not online. Interviewees were asked to give their

permission to record the interviews, which were later transcribed. Since the design of the questionnaire is extremely important, the researchers followed the methodology for preparing and distributing questionnaires suggested by Salaets and Balogh (2015: 62), as presented in their research entitled "*CO-Minor-IN/QUEST: Improving interpreter-mediated pre-trial interviews with minors*", and first organised a round table with experts from the two participating domains, i.e. legal professionals (police officers, lawyers and judges), and interpreters (spoken language interpreters only). During the workshop, various challenges and stereotypes (why do they exist and what can be done to prevent them) were discussed, which helped to design the most appropriate questionnaire.

The interviews were anonymous. The structure of the questionnaire was the following: short components for the 'before the interview' and 'after the interview' sections and a longer 'during the interview' section. The first component of the survey, i.e. the participant information page (Hale & Napier, 2013: 55), contained essential information of extremely high importance for the research and the subsequent analysis (Salaets & Balogh, 2015: 8). An introductory text explaining the scope and purpose of the research was prepared in English and Slovene.

The initial question referred to the interviewee's experience with legal professionals and legal interpreters. For instance:

1. Please describe your first contact with the police, legal professionals or judicial authorities in Slovenia in relation to your current trial.

2. How did you communicate with the police, legal professionals or judicial authorities from your first contact with the legal system and subsequently?

Possible sub-questions:

– How well did you speak this language?

– Can you explain how well you were able to express yourself?

– How much did you understand?

Who spoke with you? Do you know who that person was? How did he/she introduce himself/herself? Can you describe the way the person worked?

– When or at what point did this person come in?

– How much time did it take until the person arrived? (minutes/ hours)

The main body of the questionnaire included ten questions and conclusive sub-questions, such as:

1. Did someone ask you if you could speak another language that you understand/speak (e.g. English)?

<sup>8</sup> But not of charges or indictments, summons, decisions on the deprivation of liberty, judgments and court decisions on the exclusion of evidence, the rejection of motions for evidence or on the exclusion of a judge.

Possible sub-questions:

- Who was that person?
- In which language did this communication take place?

How well did you speak this language?

- Can you explain how you were able to express yourself?

(choices: fully/partly/not at all)

- How much did you understand? (choices: everything/parts/nothing)

- Did you perceive any inconveniences, mistakes or similar at all? Can you give an example?

- Did you have the feeling the interpreter was saying or communicating everything the (other) legal professional(s) said, leaving parts out or including extra information?

2. Now we would like to go a little bit deeper into how communication worked with this person (question 2b). Did you know this person was an interpreter?

If yes, why? If no, why not?

3. Did you observe some sort of dialogue or short briefing between the interpreter and the legal professional? What did you observe? (telephone call, friendly/unfriendly conversation, etc.)

4. How well did the person speak your language? How well did you understand the person?

5. Did the person say things to you directly that were not part of the interpretation (e.g. address you directly with personal issues or other issues apart from communication/interpretation)? Like what? Can you provide any examples?

The sub-questions offered respondents an opportunity to address other issues, not mentioned in the main questions. Most issues and challenges regarding the suspect's experience and cooperation with a legal interpreter were tackled in the 'during the interview' section, which seemed to be logical at that stage of the questionnaire design. Each questionnaire also included a question in which the interviewee was asked to draw a sketch of their most recent experience at the police station that involved a legal interpreter and to draw the position of the suspect, the legal interpreter and the police officer present. Appropriate questions were then asked depending on the map: first, technical questions (distance, ability to hear the proceedings, etc.) For instance:

- Could you/How well could you see the others in the room?
- How were people positioned in relation to each other?
- How did you perceive the distances between the people present?
- Would you have liked to change your position? Where to? Why?

Questions did not require Likert scale answers (with a 1 to 5 range, from 'I completely disagree' to 'I completely

agree'), but respondents with the opportunity to give more detailed answers. After a general introductory question about the main challenges in working and interpreting in legal settings, the following questions were structured chronologically in order to address issues arising before, during and after the interview. The concluding section included questions, such as:

1. What was it like to have someone help you with communication? How did that change the communication with the legal professional(s) or authorities for you personally?

2. Did you receive any advice from the interpreter about the legal system in Slovenia and if so, what was it?

3. What rights do you think you have in the legal system? Can you name any rights? Do you know your rights concerning interpretation?

A combination of methods was used to analyse the results: a quantitative method could not be applied, as the questionnaires did not include closed questions that would restrict respondents' answers (as do the Likert scale scores and Yes/No answers). Subsequently, a qualitative method was used to analyse and categorise the answers to the open-ended questions, as well as remarks, comments and observations made by respondents, for example, in the 'other' category.

All interviews were later transcribed, as in the following example:

**II: #00:03:16#** *Thank you very much. Who spoke with you? Do you know who that person was? How did he or she introduce himself or herself if this was a man or a woman? Can you describe the way the person worked?*

**RI: #00:03:32#** *A lady who introduced herself by a full name as an interpreter. She said she would be translating and asked me to speak slowly. She was very attentive and sometimes made notes. She was always present when I talked to the police, my lawyer or judge.*

## 4 Findings

Analyses of the narrative revealed the following:

1. When it comes to the (formal) police interrogation, all suspects (apprehended and not apprehended) were informed in a language they understood (English in 5 cases and Croatian in 2 cases) of: (a) their right to access to a lawyer; (b) the nature and the scope of the accusation; (c) their right to interpretation and translation; (d) their right to remain silent (ZKP-UPB8, 2012).

2. All suspects exercised their right to interpretation and translation and the interpreter was called.

3. None of the seven suspects claimed that any questioning or interrogation took place without an interpreter. Police officers mainly informed the suspects of their rights and responded in the language they understood only to serve their most basic needs.

4. From the point of view of individuals suspected or accused of crime, the language assistance was very effective. All interviewees stressed that the interpreter was “nice”, “professional”, “friendly”, “arrived quickly” and that they spoke their language well.

5. The interpreter always introduced herself/himself and established some kind of personal contact with the suspect. In four cases, the interpreter asked the suspect how he was doing, in 1 case the interpreter also told the suspect not to worry. In two cases, the interpreters did not ask any introductory questions, but their behaviour was described as friendly and professional.

6. All the interviewees confirmed that the mode of legal interpretation was always consecutive. The interpreters either translated sentence segments or translated sentence by sentence.

7. All suspects claimed they trusted the interpreters and felt that they were interpreting everything that was being said.

8. If the suspect did not understand something, the interpreter asked for clarification. All suspects outlined that the interpreters were very patient and responded in a professional, friendly manner.

9. From the suspects' point of view, the interpreter always spoke the language perfectly. One of them even said that the interpreter spoke his language like it was her mother tongue. None of them ever had problems understanding the interpreter.

10. At the police station, the legal interpreter always sat either facing the suspect or next to the suspect. All the interviewees claimed that they could always see and hear the interpreter well enough.

11. All suspects found the presence of the interpreter extremely relieving from a psychological point of view. Three of the suspects got emotional during their interviews and claimed they felt frustrated when nobody spoke their language at the police station, though they understood English (and in 2 cases Croatian) well enough.

12. All suspects reported that the communication among police officers and the interpreter outside the questioning and interpreting was very basic. The police officers and the interpreter did not get involved in any longer communication that the suspect did not understand.

13. The suspects noticed that the legal interpreters were always treated with respect by police officers.

14. None of the individuals accused of crime used any services other than interpreting at this stage.

15. Three of the interviewees did not welcome the idea of students being present or providing interpreting services. They seemed to be concerned about the quality of service the students could provide, worrying that if the students could not interpret properly, this would have a direct, possibly negative, effect on their trial.

## 5 Discussion and Conclusion

Slovenian legislation regulating the language rights of suspects in criminal procedures appears to be meeting the standards imposed by both EU law (especially Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings, 2010) and legally binding international acts (e.g. the European Convention on Human Rights, 1950). The right to use one's own language in judicial proceedings is granted both constitutional protection and extensive statutory protection, especially in the field of criminal law, where the rights of suspects are a particularly sensitive topic, given the powerful position of the prosecutor as the representative of the all-powerful state. Not only are legal guarantees designed with the intention to give suspects the best chance to successfully pursue their interests at all stages of criminal proceedings and when responding to accusations, but the consequences of violating their language rights are another effective safeguard, with several measures imposed to protect those rights. Thus, under certain conditions, participants in proceedings may file a motion to exclude the appointed court interpreter or file an objection if they consider the interpretation or translation to be inappropriate or insufficient in pursuing their rights in pre-trial or criminal proceedings, or if they feel that interpretation or translation should have been provided in order to ensure the exercising of their rights, but it was not (ZKP-UPB8, 2012). If the inadequacy of interpretation or translation can be remedied by replacing the court interpreter, the judge may decide to do so, however, such a decision is at the discretion of the court and may be challenged before the appellate court in an appeal against the judgement, by claiming that such action represented an infringement of essential procedural requirements (ZKP-UPB8, 2012). Furthermore, any judicial action resulting in the denial of a participant's right to use and to follow the course of the main hearing in their own language constitutes another infringement of essential procedural requirements, which, in turn, represents grounds on which a judgment may be challenged before an appellate court or grounds for a request for legal protection against a final judicial decision, which may be filed before the Supreme Court (ZKP-UPB8, 2012). By claiming a violation of their constitutionally protected procedural guarantees, suspects may file a constitutional complaint with the Constitutional Court and,

as a last resort, are entitled to international legal protection, especially before the European Court of Human Rights.

The aim of study presented herein was to examine whether the right to use one's own language is properly exercised and protected in the early stages of criminal procedures, especially during the first contact between a suspect and police officers conducting investigative or other actions. At the pre-trial stage, suspects are particularly vulnerable, since they usually do not have a legal representative yet, they might not have any social contacts or support in the country, and they might not be able to communicate in the language the police officers understand. Therefore, their capability to pursue their rights and interests is entirely dependent on how well the legal provisions are implemented in practice and on the conduct of police officers, who are their first contacts.

The researchers are aware of the fact that the sample of interviews, which were conducted in the scope of this study, is limited, as it was very difficult to find interviewees. The aim of this research study was not to make general observations about interpreting at police stations as, naturally, there is always the possibility that other individuals suspected or accused of crime had a different, less positive experience with provided interpreting services at police stations in Slovenia. Therefore, the conclusions and similar patterns that could be drawn from the empirical research apply only and exclusively to the information received from participating interviewees.

The fact that all interviewees included in the sample had a very positive experience and did not encounter any problems in this regard is something to be welcomed. In all cases, the police officers provided proper legal instruction under Article 148(4) of the Criminal Procedure Act (ZKP-UPB8, 2012) and informed the suspects of their rights, including their right to interpretation and translation. Pursuant to Article 8(3) of the Criminal Procedure Act (ZKP-UPB8, 2012), a suspect may waive this right for certain investigative and other actions, which has to be done voluntarily and unequivocally; however, since all interviewees decided to exercise their right to interpretation and translation, no irregularities could be detected with respect to the waiver.

If police officers are able to communicate in any language a suspect understands, they may do so (ZNNPol, 2013); nevertheless, several interviewees reported that the communication at the police station was restricted to their most basic needs or providing information about their rights. It is thus possible to conclude that police officers acted properly by waiting for an interpreter and no information was gathered through the questioning of suspects without an interpreter being present. Furthermore, all interviewees described the language assis-

tance as very effective and saw the interpreters as professional, friendly and having a perfect command of their language. Based on the obtained responses it is therefore possible to conclude that no violations of procedural provisions could be identified in the sample regarding the right to interpretation during the pre-trial stage of criminal proceedings and that the suspects' constitutional rights to use their own language were sufficiently protected in practice. As already stated in the introductory section, the results of the empirical research study apply only to the interviews that were conducted. The number of interviewees was limited owing to the fact that it was very difficult to persuade individuals suspected of crime to share their experience with interpreting at police stations.

As explained above, Slovenian case law demonstrates that some issues with the suspects' right to interpretation and translation during the pre-trial stage of criminal proceedings at police stations nonetheless remain, especially regarding the court's discretion in deciding whether translation or interpretation is necessary, even in cases in which the suspects or the accused waive their right to interpretation. A recent judgement by the European Court of Human Rights in the *Vizgirda v. Slovenia* (2018) case set high standards that will have to be followed by Slovenian authorities in future cases. Therefore, even though the interviewees in the research were satisfied with their treatment and the quality of interpretation in the scope of their cases, this topic is worth further attention. It would be particularly interesting to examine the experience from the other side of the relationship, i.e. that of police officers working with foreign suspects, which is why the researchers are planning to further expand their survey by interviewing them as well.

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## **Vloga sodnega tolmačenja v postopku policijskega pridržanja tujih državljanov, osumljenih kaznivih dejanj v Sloveniji: vidik osumljencev**

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Članek se osredotoča na naraščajočo potrebo po prevajalskih in tolmaških storitvah v slovenski policiji v predkazenskih postopkih za tuje državljane, ki ne razumejo in govorijo slovenščine kot uradnega jezika Republike Slovenije. Če upoštevamo dejstvo, da v evropskem prostoru prihaja zaradi globalizacije in migrantskih tokov do vedno večje kulturne in posledično jezikovne raznolikosti, se tudi v Sloveniji spreminja struktura oseb, ki so osumljene ali obtožene kaznivih dejanj. Namen raziskave je preveriti, ali se pravica do uporabe lastnega (tujega) jezika ustrezno izvaja na policiji in upošteva v predkazenskem postopku, zlasti pri sporazumevanju s policisti v fazi pridržanja. Ustava Republike Slovenije (1991) v 62. členu določa, da ima vsakdo pravico uporabljati svoj jezik in pisavo na način, ki ga določa zakon, tudi v postopkih pred policijo in pravosodnimi organi. Raziskava temelji na ugotovitvah, pridobljenih v tretji fazi mednarodnega projekta TransLaw, katerega namen je bil poudariti pomen jezikovnih pravic kot temeljnih človekovih pravic za tuje udeležence v kazenskem postopku (Direktiva 2010/64/EU o pravici do tolmačenja in prevajanja v kazenskih postopkih). V empiričnem delu članka je bilo predstavljenih in analiziranih sedem intervjujev s tujimi državljani, ki jih je zaradi suma storitve kaznivega dejanja pridržala slovenska policija. Analiza raziskave kaže, da osumljenci niso imeli pripomb glede policijske obravnave in kakovosti tolmačenja ob pridržanju oziroma odvzemu prostosti. Avtorice ugotavljajo, da slovenska zakonodaja ustrezno ščiti človekove pravice glede rabe maternega jezika ali določenega drugega jezika sporazumevanja v predkazenskem postopku. Kljub temu avtorice ocenjujejo, da je treba tolmačenju in prevajanju za tuje v predsodnih in kazenskih postopkih, glede na pospešene migracijske in globalizacijske tokove, nameniti dodatno pozornost, saj so osumljenci ravno v preiskovalni fazi kazenskega postopka najbolj ranljivi.

**Ključne besede:** policija, prevajanje in tolmačenje, kazenski postopek, predsodni postopek, TransLaw

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