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# WHAT STARTING PUBLIC SERVICE INTERPRETERS IN THE EU SHOULD KNOW ABOUT LEGISLATION: THE CASE OF BELGIUM AND THE NETHERLANDS. / LO QUE DEBERÍAN SABER LOS INTÉRPRETES RECIÉN FORMADOS EN LOS SERVICIOS PÚBLICOS EN LA UE SOBRE LA LEGISLACIÓN: EL CASO DE BÉLGICA Y LOS PAÍSES BAJOS.

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**Abstract:** The interpreting profession weaves its way through a tangled web of legal provisions. Especially in the areas of immigration, the court, the police or social services, third-party rights play an important role, and language assistance is needed to act following the law. Freelance interpreters are contracted. These interpreters have opted for entrepreneurship and private-law relationships with their clients. The public-law sphere, however, is very much a part of their activities, through their training, certification, fees they earn, but also taxation. Due to growing professionalization, higher demands are being placed on interpreters. Requirements nowadays are much stricter than an oath of faithful translation. This paper discusses what starting public service interpreters need to know about legal provisions when starting their career as entrepreneurs in Belgium and the Netherlands.

**Keywords:** Interpreting; Law; Entrepreneurship; Register.

**Resumen:** En la profesión de intérprete se cruzan numerosas disposiciones legales. Especialmente en los sectores de inmigración, tribunales y servicios policiales o sociales, los derechos de terceros desempeñan un papel esencial, y la asistencia lingüística es importante para la legalidad de las acciones. Se contrata a intérpretes *freelance*. Estos han optado por hacerse autónomos y por las relaciones de derecho privado con sus clientes. Sin embargo, la esfera del derecho público está muy presente en sus vidas, a través de su formación, certificación, despliegue, tarificación e impuestos. Debido a la creciente profesionalización del sector, el nivel exigido a los intérpretes es cada vez superior. Hoy en día, los criterios son más estrictos que el tradicional juramento de fidelidad. Comentamos lo que los jóvenes intérpretes necesitan saber al lanzarse como emprendedores en Bélgica y los Países Bajos.

**Palabras clave:** Interpretación; Legislación; Emprendedores; Registro.

## 1. Introduction

Every profession has to deal with legal provisions that create rights and obligations. However, at the start of their careers, young professionals do not always consider the legal instruments that apply to them and how these will largely determine their status and income. In this paper, we examine the legal provisions with which the interpreting profession must work.

For brevity's sake, we will not discuss interpreters who work with a civil servant or employee contract, or indeed freelance conference interpreters. Here, we focus on interpreters who work as freelancers for a public service. In her book *Interpreting and Translating in Public Service Settings*, De Pedro Ricoy (2009: 3) provides us with a broad definition of the domain:

The issues addressed in this book will be pertinent for: researchers (...), trainers of public service translators and sign-language or spoken language interpreters (...), policy-makers with interest in

social inclusion and equality of access for people of minority and ethnic backgrounds; individuals and agencies responsible for ensuring the effective delivery of services to multilingual, multi-cultural groups; employees in public service sectors, such as the legal system and immigration, health care, local government (social work, housing, education, environmental health), cross-cultural survey work, etc. and organizations in the voluntary and non-for-profit sector offering support to minority language groups (including Deaf communities).

This paper, however, does not specifically address sign-language interpreting for deaf communities.

What interests us is the specific mixture of private and public law that applies to the interpreter as a subject of rights. This involves the interpreter's qualifications and the way the profession is regulated, the kind of entrepreneurship they choose, social rights (social security, pension) and fiscal obligations. We will also examine the role of associations of interpreters, organisations that assert their views in terms of rights, duties and obligations. We will also limit our scope to the legal provisions in two EU countries, namely Belgium and the Netherlands.

Belgium and the Netherlands are two relatively small Western European countries that have a great deal in common in terms of their history and the language, Dutch<sup>1</sup>. They both form part of several supranational institutions, such as the Benelux; they are both founding member states of the EEC (now the European Union); they belong to the Council of Europe. They are also members of international institutions under the umbrella of the United Nations. While Belgium and the Netherlands refer to the same sources of law, there are numerous political, social or economic differences.

Belgium and the Netherlands have a different political structure. The Kingdom of Belgium (30,538 km<sup>2</sup>) became a federal state in 1993. The country has three official languages, Dutch, French and German, each corresponding to a specific territory. Dutch is the language of Flanders, French is spoken in Wallonia, and German is the language of a Walloon region close to the German border. Moreover, the capital Brussels is bilingual French-Dutch. Belgium's decentralized federal structure requires political decisions to be taken by a multi-level government, fragmenting public-law powers, and sometimes leading to different policies in different regions (Vande Lanotte, Bracke and Goedertier, 2014: 31; Popelier and Lemmens, 2015: 72). The Kingdom of the Netherlands (41,526 km<sup>2</sup>), on the other hand, is a decentralized unitary state (Rinkes et al., 2009: 221). Disregarding its Caribbean part, we will concentrate on the European part whose official language is Dutch. A minority language, Frisian, is spoken in the north of the Netherlands, but it is not an official language (Gorter, van der Meer and Riemersma, 2008: 185-197).

Both countries are highly regulated, so-called welfare states, with a range of social security facilities and pension accrual. Since the last economic crisis (2007-2013), however, the Dutch government has transferred a number of responsibilities back to its citizens. In the Netherlands, there is also a more liberal economic tradition, that is to say, certain government services have been outsourced to private companies by means of public tendering contracts, including interpreting services. In Belgium, this has happened to a lesser extent. There are no public tendering procedures for public service interpreting. Because political, economic, financial and social factors can have different impacts on the use of interpreters and on the interpreters themselves, we will discuss the various relevant legal domains in Section 2.

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<sup>1</sup> Dutch is a West-Germanic language spoken by 17 million people in the Netherlands and 6,5 million people in Belgium. The Dutch Language Union develops policies for the promotion of the language, see: <http://over.taalunie.org/dutch-language-union>

## 2. Relevant legal domains

The Belgian and Dutch legal systems both derive from the same tradition. Moreover, they are bound by supranational frameworks such as the Council of Europe and the European Union. Both systems can be divided into private law and public law. We will sketch the law domains that are relevant for interpreters as subjects of rights. Changes in a series of domains can have a direct impact on the status, assignments, earnings and well-being of interpreters. Informal interpreters, on the other hand, generally fall outside the scope of any of the following legal domains.

The relationships between people are regulated by so-called private law. The following sub-disciplines are relevant in this study:

- Civil law: this domain governs relations and contracts between persons, not only concerning aspects of life such as marriage or rent, but also contracts between for example freelancers and their clients. An important distinction to be made here is between the duty to achieve a result (e.g. to furnish a new kitchen) and the duty of best efforts (e.g. to give therapy, to perform an interpreting assignment). Other important aspects are liability for failure, and of course, due payment for the service.
- Labour law, social law: this domain covers the relationships between parties in the context of employment, social security and pension regimes. In the case of a freelance status, there is no standard employment relationship, but it is a service contract under private law.
- Commercial law: this domain governs the possible forms of enterprise and disputes between entrepreneurs.

The relationship between the people and the government is regulated by so-called public law. The following sub-disciplines are relevant in this study:

- Constitutional law: this legal body is partly derived from international human rights conventions and European charters. These laws, for example, protect the right to a dignified life, education, health, and, in a number of circumstances also third parties (non-native speakers, refugees, migrants). According to the Charter of Fundamental Rights of the European Union and Directive 2004/38/EC on the Rights of Citizens of the Union and their Family Members to move and reside freely within the Territory of the Member States, EU nationals enjoy free movement and are free to work and provide services in another EU Member State. The Aliens Act, on the other hand, determines the right of residence and the civil and political rights that third-country nationals receive in an EU country. In Belgium and the Netherlands, for example, all newcomers from third countries, (except for a handful, such as Turkey), have the obligation to follow an integration programme.
- Educational law. A qualification testifying to knowledge and skills is generally a precondition to acquire a certain status on the labour market. It is then important to know to which degree qualifications are the criterion for the regulation of the profession.
- Law of taxation: this law includes, among other things, direct taxation (such as personal income tax or corporate taxation) and sales tax (VAT).
- Public procurement law: this domain determines the way in which the government awards supply contracts, e.g. service concessions to other authorities or private companies.
- Criminal law: this domain concerns persons in the context of crime, witness or victimhood. Here again, the laws in Belgium and the Netherlands are partly derived from higher sources of law such as the European Convention on Human Rights or the European Directive 2016/64/EU on the Right to Interpretation and Translation in criminal Proceedings.

In this paper, we will examine similarities and differences between Belgium and the Netherlands.

### 3. Recognition of degrees and access to the profession

#### 3.1 Degrees

Higher education in Belgium and the Netherlands falls within the domain of public law. In both countries, interpreter qualifications can be gained in colleges or universities.

In Belgium, due to the federal structure of the country and regional distribution of power, the Flemish<sup>2</sup> and Walloon<sup>3</sup> educational systems are governed by separate executive and legislative authorities. Since the Bologna reform (2004), there have therefore been three different interpreting qualifications in Belgium, more specifically two in Flanders and one in Wallonia. The three types of qualifications are academic. In Flanders, the Master's degree follows a 3-year Bachelor's degree in Applied Language Studies. It is awarded by Flemish universities in the 4th year. Moreover, after a postgraduate year (5th year), students can obtain a degree in conference interpreting. The Walloon Master's degree in Interpreting, on the other hand, is awarded by French-speaking universities. It follows a 3-year Bachelor in Translation and Interpreting. The Master programme consists, however, of two years of study (that is, a 4th and 5th year) and always leads to a degree as a conference interpreter. Our main interest in this paper is the Master's degree. Holding a certain qualification gives a certain status. Following Art. II.75 of the Flemish Codex Higher Education, it also grants the right to hold a specific title<sup>4</sup>. In Flanders, only Masters in Interpreting have the right to claim the title of 'Master in Interpreting'. This is important since in spite of the existence of qualifications, anyone in Belgium or the Netherlands can call themselves an 'interpreter' – though not a 'Master in Interpreting' – on their business card, which highlights the difference between regulations on qualifications and those on professions.

In the Netherlands, Higher education also offers opportunities to graduate from a college as an interpreter. However, it is a non-academic, skill-oriented training. The ITV College for Interpreting and Translation in Utrecht offers a four-year vocational training that leads to the title of 'Bachelor of Communication' as a specific 'Bachelor of Arts'. The Translation School at Zuyd College in Maastricht offers another four-year vocational training with translation and interpretation courses. After four years, graduates in Maastricht also receive a 'Bachelor of Arts' degree.

#### 3.2 Mutual recognition of degrees between Belgium and the Netherlands

The EEC-EU has been working on the mutual recognition of qualifications between Member States since 1984. The right to work in another Member State according to one's qualifications is an important mechanism in the free movement of workers<sup>5</sup>. That is why a network of national agencies has been established with the name ENIC-NARIC<sup>6</sup> (in Belgium, the agency is known as NARIC<sup>7</sup>, in the Netherlands as NUFFIC<sup>8</sup>). Due to their close ties, the Benelux countries broke new ground in 2013 by automatically recognizing each other's qualifications of the same level. This makes it easy to later opt for training or work opportunities in one country or another.

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<sup>2</sup> <https://onderwijs.vlaanderen.be/en/education-in-flanders>

<sup>3</sup> <http://www.enseignement.be/index.php>

<sup>4</sup> <https://data-onderwijs.vlaanderen.be/edulex/document.aspx?docid=14650>

<sup>5</sup> Benelux has published brochures on cross-border work between the three members states, see: <http://www.benelux.int/nl/publicaties/publicaties-overzicht/grensarbeidersbrochures-uitgave-2018>

<sup>6</sup> <http://www.enic-naric.net/>

<sup>7</sup> <https://www.naricvlaanderen.be/en/naric-vlaanderen>

<sup>8</sup> <https://www.nuffic.nl/>

### 3.3 *A regulated profession?*

#### 3.3.1 *Limitations of a degree*

In Belgium and the Netherlands, as in many other countries, the public service interpreter profession is nowadays protected by social instruments such as accreditation, certification, lists and registers. The oath is no longer considered as a guarantee for lifelong quality. The oath is in fact the ethical dimension that completes the procedure of recognition. This paper reflects the meaning given to ‘accreditation’ and ‘certification’ in the Belgian context<sup>9</sup>. Both concepts also exist in the Netherlands, but they are not applied to the domain of interpreting.

Accreditation of freelance interpreters is an official recognition and a requirement for in-house deployment by specific institutions or governments. The quality standards that candidates should meet are not always clear. The accreditation is usually followed by the signing of a code of ethics or the taking of an oath. Accredited persons are included in a list managed by the same institution or government, and receive an access badge. This institution or government in theory has the duty to use interpreters from the list. The list is a tangible instrument of private law relations between an institution and its interpreters.

Certification is another kind of official recognition, and a condition to gain access to assignments in certain sectors of public governance. It is more valuable than accreditation because it is less tied to a single institution. Certification guarantees that the interpreter has the necessary competences to carry out specific kinds of assignments for public bodies. It is only granted after an exam, and is usually followed by the signing of a code of ethics and sometimes swearing an oath. Certified persons receive a certificate. They are included in a register. In order to have their registration extended, they have to follow additional training. Gaining a place on the register is determined by public law regulations. The government agency or service in theory has the duty to use interpreters from the register. A register is again an instrument of the private law relation of the interpreter with the agency or service that contracts them.

#### 3.3.2 *Certification and register*

In the Netherlands, the switch to a central register for interpreters is regulated by the Law on Sworn Interpreters and Translators of 2007. The register is maintained by the Ministry of Security and Justice. The procedure involves both public and private law bodies. Interpreters are not required to be sworn in to find work in the Netherlands, but they certainly benefit from signing up with the Bureau for Sworn Interpreters and Translators<sup>10</sup> (WBTV) of the Legal Aid Board<sup>11</sup>, even if they do not ultimately work for the Ministry of Security and Justice. Though the Dutch law does not mention the words ‘accreditation’ or ‘certification’, only ‘registration in the register’ appears. Its requirements for language and interpreting skills, intercultural knowledge and integrity, however, correspond with those of a certification, since only a highly developed level of knowledge and skills gives interpreters access to assignments in a series of public law bodies. Candidates who have obtained an interpreter qualification in the Netherlands or Belgium can register without additional tests. The registration costs €125. Other candidates must take a series of tests, in particular in terms of their language and interpreting skills. These tests are set by recognized private testing centres against payment. Candidates must obtain a

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<sup>9</sup> We use Accreditation and Certification in a slightly different sense than Pym et al. (2012: 15) based on Stejskal (2003).

<sup>10</sup> The name in Dutch is *Bureau Wet Beëdigde Vertalers en Tolken* (WBTV). <https://www.bureauwbtv.nl/>

<sup>11</sup> The name in Dutch is *Raad voor Rechtsbijstand*. <https://www.rvr.org/english>

C1 level of the CEFR<sup>12</sup> for both languages. The Quality Institute<sup>13</sup> of the Dutch Legal Aid Board has drawn up a framework for its interpreting tests.

Candidates who pass the test can apply to be included in the register. Both those who passed the tests and the graduate interpreters must submit a recent ‘Certificate of Good Conduct’, testifying to their blank criminal record. For this, they must pay the competent government another €38.85. When the application is approved, they are invited to take an oath that consists of the following text:

I swear / promise that I will perform my work as a sworn interpreter honestly, conscientiously and impartially, and will carry out my interpreter duties as befits a sworn interpreter.  
I swear / promise that I will observe secrecy with regard to confidential information that I discover through my work.<sup>14</sup>  
(my translation)

As soon as they are accepted, and also sworn in, interpreters receive a certificate of confirmation and a proof of identity. When carrying out assignments, they are obliged to show this proof of identity. Registration is valid for 5 years and an extension costs €75. In order to have their registration extended, they are required to follow additional training. They must pay for the refresher course themselves.

As there are no tests available for many languages, these interpreters find themselves on the so-called ‘alternative list’<sup>15</sup> of the Board, and can be used accordingly. Since they cannot take the oath of the register, they have to take it for each assignment. Neither do they have proof of identity. However, they have submitted a ‘Declaration of Conduct’, which is valid for all the assignments they perform. Interpreters on the alternative list are also expected to follow additional training. However, when tests are offered in their specific language combinations, they are obliged to take the tests.

Art. 28 of the *Dutch Law on Sworn Interpreters and Translators* also mentions a duty on the part of all immigration, court bodies and the police to call on sworn interpreters. However, this does not always go according to plan, mostly because there is a lack of interpreters in languages of lesser diffusion, or because unsworn interpreters are available more quickly (O’Flaherty, 2016: 47). The central register maintained by the Ministry of Security and Justice therefore is not perfectly suited to the labour market nor the needs of government bodies.

Due to its multi-level political structure, Belgium is a fragmented country that cannot form a central register for all interpreters, either sworn or unsworn. Federal and regional government bodies use different lists or registers. We will address these specific lists and registers in Sections 6, 7 and 8.

A discussion on the advantages but also the disadvantages of certification for translators (and interpreters) (see Gouadec, 2007: 252-257) is certainly relevant, but does not fall within the scope of this paper. Pym et al. (2012: 119), on the other hand, stress that certification of translators (and the same can be said of interpreters) should be a status signal, and should be recognised as having market value. In this paper, we will not examine the details of markets, except for that of public service interpreting.

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<sup>12</sup> <https://www.coe.int/en/web/common-european-framework-reference-languages/level-descriptions>

<sup>13</sup> <https://www.bureauwbvtv.nl/kwaliteitsinstituut>

<sup>14</sup> The original Dutch text is: “Ik zweer/beloof dat ik mijn werk als beëdigde tolk eerlijk, nauwgezet en onpartijdig zal uitvoeren en mij bij het uitoefenen van tolkwerkzaamheden zal gedragen zoals een beëdigde tolk betaamt.” “Ik zweer/beloof dat ik geheimhouding zal betrachten ten aanzien van vertrouwelijke informatie waarvan ik door mijn werk kennis neem”. See: <https://wetten.overheid.nl/BWBR0022704/2018-07-28>

<sup>15</sup> [https://www.bureauwbvtv.nl/binaries/content/assets/wbvtv/communicatie/11281\\_wbvtv-uitwijklijst.pdf](https://www.bureauwbvtv.nl/binaries/content/assets/wbvtv/communicatie/11281_wbvtv-uitwijklijst.pdf)

### 3.3.3 Intermediaries

One last factor that has a serious impact on the protection of the profession, are the intermediaries between the individual interpreters and the public service. These intermediaries are public law or private law organizations. Depending on their legal form, interpreters remain main contractors, or become subcontractors. Intermediaries can also freely choose to hire people with different statutes altogether, individuals who may or may not hold a degree or certification, or have been sworn in, etc. However, if intermediaries do not take the qualifications and competences of their interpreters seriously, then they will not obtain a quality label certification such as ISO 13611 for Community Interpreting (which is another name for public service interpreting).

Belgium and the Netherlands have different views on the role of intermediaries. In Belgium, federal public institutions act as brokers themselves, as can be seen in immigration services, court and police interpreting. The Ministries for the Home Office and Justice take care of both the accreditation or registration, the matching and the invoicing. Other domains of public service depend on regional governments that are no brokers themselves, but work through agencies. In Flanders, the register of certified social interpreters (see Section 5) for health services, education, local governments and employment is managed by the Flemish Agency for Civic Integration (AII)<sup>16</sup>, a subsidized autonomous agency established in Brussels. Certification is the responsibility of this agency, while matching and invoicing are dealt with by services distributed over Flanders. Local governments or services send their requests for language assistance to a local intermediary who provides an interpreter from the AII-register. In Wallonia, the mediator is SETIS<sup>17</sup>, a non-profit organization that recruits interpreters and matches the right person to a given job. There is also a form of invoicing, not for the benefit of the interpreter (who is an employee, not an entrepreneur), but for the non-profit organization itself.

In the Netherlands, the Legal Aid Board manages the registration of interpreters and, therefore, merely watches over the quality and the legitimacy of the instrument. The Ministry of Security and Justice, however, works with commercial companies that act as intermediaries or main contractors. The company assigns interpreters (who are entrepreneurs working in a subcontracting mode) depending on the government's needs and taking into account the duty the government has to use sworn interpreters. The choice of the government for a particular commercial company is based on tenders and adjudications based on a price quote. These companies match supply and demand and take care of the invoicing. In the Netherlands two companies, *Tolk- en Vertaalcentrum Nederland* (TVCN) and *Livewords*, have been the main actors in this market since 2015. The question is to what extent interpreters who work for intermediaries have the right to refuse an assignment. Another question is how they earn in this market. After all, their income depends on the rates that intermediaries have proposed in a competitive environment in their tenders. Commercial companies also work with interpreters who are not included in the register or even the alternative list, and who can be called in for non-register assignments.

## 4. Entrepreneurship

Entrepreneurship is a competence for which in general there is little training at interpreting faculties. Klimkovski (2015) discusses the traits of an entrepreneurial person in the translation

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<sup>16</sup> The name in Dutch is *Agentschap voor Integratie en Inburgering* (AII): <https://www.integratie-inburgering.be/>

<sup>17</sup> <http://www.setisbxl.be/wp/>

and interpreting business, addressing mainly the teaching of commercial aspects such as business plans, acquiring clients, accepting risks or becoming visible. He does not address the readiness of coping with the common legal or financial issues. In this paper, we address chiefly legal aspects of starting entrepreneurship, such as its legal forms, taxation rulings or social security contributions.

#### 4.1 Legal forms of entrepreneurship

Interpreting is a service that can be rendered under different legal forms. Here we look at the possible legal forms of entrepreneurship according to Belgian and Dutch law. In general, Belgian and Dutch entrepreneurs have the same opportunities to start a company.

In both countries, an interpreter can start a company as a natural person<sup>18</sup>. If it is a strictly one-person business in the Netherlands, then the entrepreneur is called a ‘self-employed person without employees’<sup>19</sup>. If there are more natural persons involved, it is a so-called ‘partnership’. A one-person corporation is easy to create, but it has disadvantages too, such as the personal liability of its owner for all financial setbacks of the business.

Also in both countries, a statute of legal entity can be chosen for the business. In this case, there must be several partners and a fixed capital. The most striking difference with the self-employed entrepreneur is the limited liability of the partners, which is limited to a fixed sum.

Alternatively, interpreters may wish to be active outside the regulations of natural or legal persons, namely under a volunteer contract.

Thanks to legislation on administrative openness, information about companies in both countries is transparent. A public search in the Belgian Crossroads Bank for Enterprises (KBO)<sup>20</sup> of the Belgian Ministry of Economy<sup>21</sup>, or through a portal called “Doing business in the Netherlands”<sup>22</sup> of the Dutch government facilitates checking the legal status of a particular company or entrepreneur.

##### 4.1.1 Economic activity and fiscal aspects

In addition to the choice of a specific legal form of entrepreneurship, the identification of economic activity is important. This is carried out in the EU according to the so-called NACE codes<sup>23</sup>. These were drawn up in the EU with the free movement of services, the definition of the VAT rate and the collection of statistics on economic activity in mind. Belgium has the NACEBEL codes<sup>24</sup>. Interpreters and translators in Belgium are subsumed under NACEBEL code 74.300 and in the Netherlands under NACE code 74.3. Fledgling entrepreneurs are legally obliged to select one or more of these codes to indicate their economic activities.

The NACE codes determine the VAT obligation. Until 2014, Belgian court interpreters were exempt from VAT, but since 2014 they, too, have had to pay VAT. However, many

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<sup>18</sup> A ‘natural person’, in its legal meaning, is a person with his rights and obligations.

<sup>19</sup> In the Netherlands, the abbreviation ‘zzp’ is commonly used. It stands for *zelfstandige zonder personeel*. The ILO calls them ‘self-employed without employees’. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_614176.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_614176.pdf)

<sup>20</sup> The name in Dutch is *Kruispuntbank Ondernemingen* (KBO).

<sup>21</sup> <https://economie.fgov.be/en/themes/enterprises/crossroads-bank-enterprises/services-everyone/cbe-public-search>

<sup>22</sup> <https://business.gov.nl/>

<sup>23</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Statistical\\_classification\\_of\\_economic\\_activities\\_in\\_the\\_European\\_Community\\_\(NACE\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Statistical_classification_of_economic_activities_in_the_European_Community_(NACE))

<sup>24</sup> <https://statbel.fgov.be/nl/over-statbel/methodologie/classificaties/nace-bel-2008>

Belgian interpreters are liable to VAT in a mixed way. Flemish so-called ‘social interpreters’ or Walloon ‘interprète en milieu social’ (see Section 6), for example, are not liable to pay VAT because they are active in the welfare sector. In Belgium, there is also a threshold below which an entrepreneur is not liable to pay VAT. Self-employed entrepreneurs with an annual turnover under €25,000 are exempt from VAT. One-person corporations remain legally natural persons, and must declare the income from their businesses through the personal income tax. In Belgium, an independent entrepreneur in a one-person corporation can employ staff.

With regard to liability, the turnover of entrepreneurs in a one-person corporation is not separated from their private capital. In case of bankruptcy, the private property of such entrepreneurs (also that of a spouse in a marriage system of joint estate) can be seized. This also applies to the partnership. This is not an issue for interpreters (e.g. in a secondary occupation) with a small turnover. However, interpreters who receive many assignments need to be aware of such huge financial risks. They may therefore decide to switch to another legal form that offers more financial protection: the private company with limited liability. In that case, the company is liable to pay corporation tax and the liability is limited to the capital used. As far as the tax rate is concerned, entrepreneurs must take into account a progressive tax rate of 25% below €12,990, 40% up to €22,290 etc. calculated on the profit after deducting business expenses. Limited liability companies, however, enjoy a tax rate of 29.58%, and in some cases, the rate is even lower.

The Dutch legal forms for freelancers are similar to the Belgian ones. Interpreter and translation activity falls under NACE code 74.3 and is subject to VAT liability<sup>25</sup>. In the Netherlands, there is no mixed status. By using the name ‘self-employed without employee’ (commonly called ‘zzp’ in the Netherlands), it is also clear that a one-person corporation cannot employ any personnel, unlike their Belgian counterpart. As in Belgium, single entrepreneurs in the Netherlands are natural persons and there is no distinction between their private capital and their company capital. They must, therefore, also declare their income as part of the personal income tax. They are personally liable when their company has financial problems. An interpreter with a one-person corporation is advised to take out civil liability insurance. From 1 January 2020, Dutch entrepreneurs with a turnover under €20,000 a year will be exempt from VAT. In fact, the group of entrepreneurs that fall below this threshold in the Netherlands are not considered real entrepreneurs.

In the Netherlands, self-employed entrepreneurs declare their income via personal income tax. The profit less deduction of professional expenses is, in theory, taxed at 36.55% for the income bracket up to €20,242, 40.85% for the income bracket up to €68,507, etc. In practice, freelancers receive countless deductions, so they simply do not pay taxes on income up to €24,000. For the government, deductions that self-employed people enjoy represent a considerable loss of income for the social security system. Dutch limited liability companies pay a business tax of 20% for income up to €200,000, and 25% on the amount that exceeds this.

#### *4.1.2 Social security*

The social security system is a safety net that is included in the social contributions of all taxpayers. It includes forms of reimbursement, premiums and benefits, such as family allowance, health insurance, maternity allowance, adoption leave, statutory pension, informal care, service vouchers, etc. In Belgium and the Netherlands, social security contributions are automatically deducted from the wages of civil servants and employees. This deduction does

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<sup>25</sup> [https://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/themaoverstijgend/brochures\\_en\\_publicaties/liijst\\_bedrijfsactiviteitennace\\_codes](https://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/themaoverstijgend/brochures_en_publicaties/liijst_bedrijfsactiviteitennace_codes)

not occur automatically with entrepreneurs. The self-employed are generally entitled to fewer social benefits<sup>26</sup>.

In Belgium, self-employed persons are obliged to be registered with a social security fund from day one<sup>27</sup>. They can choose freely which fund they will join. The social security of an assisting spouse is included. The size of the contributions depends on the annual income, but amounts to 20.50%. The self-employed individual and their family can count on benefits such as health care, maternity leave, pension, etc. However, they cannot claim unemployment benefits or benefits due to occupational disability.

In the Netherlands, everyone benefits from child allowance, survivor benefit (for widows and orphans), long-term care insurance (for vulnerable persons, people with disabilities) and a statutory pension. For a broader pension, illness and occupational disability, self-employed people, however, are expected to put money aside themselves or take out insurance<sup>28</sup>. The premiums are high, but they are tax-deductible. To sweeten the pill, professional associations in the Netherlands have the habit of setting up a solidarity fund to help colleagues with illness or incapacity for work.

#### *4.2 Establishing a one-person corporation*

Starting a one-person corporation in Belgium is generally considered to be easy. The available brochures, however, do not go into the finer points. Future entrepreneurs have to fulfil a number of formalities before they can start. First, they must register in the aforementioned Crossroads Bank for Enterprises (KBO). Usually this is done through a payroll advice company that collects the necessary data. At present, this costs €85.5. The KBO registration number will also serve as the company's VAT number. Moreover, the payroll advice company takes care of the registration as an entrepreneur at the National Social Security Office (RSZ)<sup>29</sup>.

The first data requested by the payroll advice company are related to the identification of the entrepreneur (name, age, legal capacity) and their company (location, commercial name, expected turnover, desired start date and the nature of the activities according to the NACEBEL code). A second set of data has to do with the company's legal and financial situation. No starting capital is required. Entrepreneurs must open a business account with a bank of their choice. Only when they have obtained this number can the payroll advice company take steps for the VAT recognition. We already explained fiscal and liability aspects in Section 4.1.1.

In the Netherlands, future entrepreneurs turn to the Chamber of Commerce<sup>30</sup>. In addition to the data that serve for identification, they must provide information as to the legal form, expected turnover, expected costs and number of expected customers. The Chamber of Commerce will add the company to the trade register and assign an enterprise number and VAT number. The registration of a company costs €50. NACE / SBI<sup>31</sup> codes define the activities of the company (which will also determine the type of VAT). Translation and interpreting are given NACE code 74.3 in the Netherlands. If the turnover is very limited, the freelancer will not be regarded as an entrepreneur for VAT (and will be exempt, in other words), but will be for income taxes (paid on profits).

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<sup>26</sup> See the ILO working paper n° 228. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_614176.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_614176.pdf)

<sup>27</sup> <https://www.rsvz.be/nl>

<sup>28</sup> <http://www.rootsnroutes.eu/data/file/Sociale%20zekerheid%20Nederland.pdf>

<sup>29</sup> The name in Dutch is *Rijksdienst voor Sociale Zekerheid* (RSZ). This registration is important since the RSZ number becomes the national identity number of a person. <https://www.rsz.fgov.be/en> The English version of the website contains only basic information.

<sup>30</sup> <https://www.kvk.nl/>

<sup>31</sup> *Standaard Bedrijfsindeling* (SBI) is a code for the identification of activities in the Netherlands.

#### 4.3 Establishing a limited liability company

Interpreters can set up a limited liability company. In Belgium, with such a company, more formalities are involved than with the one-person corporation, and the incorporation is more expensive. A limited liability company requires at least two associates. It is then up to the notary public to draft the statutes (this includes the articles of association, address, names of partners, purpose, invested capital, distribution of shares, duration and financial plan). There must be a starting capital of €18,550. The liability is limited to this contribution. In the longer term, this option is financially safer than a one-person corporation. The incorporation of the company costs about €750, notary fees and publication in the Government Gazette about €1200. The deed must be filed with the Commercial Court within 15 days. Only then can the entrepreneur address the payroll advice company so that his company receives a number and is included in the KBO. This also costs another €85.50. The payroll advice company can immediately register the entrepreneur. The deed of incorporation must be registered with the Ministry of Finance. In addition, the entrepreneur must make themselves known to the national social security office and to the VAT administration in their region. The memorandum of association is published in the Government Gazette. The interpreter-entrepreneur must open a business bank account and pay a minimum of €6,200 into this account. In the event of a claim for damages, their private property or that of the spouse will remain protected. There must be an annual meeting of shareholders. Given the financial complexity of a limited liability company, it is advisable to use the services of an accountant.

In the Netherlands, an interpreter can start a company as a legal entity. The simplest form is the private company. The procedure starts with the notary public, who also draws up the statutes. The deed of incorporation costs €300 to €400. In the Netherlands, an RSIN number<sup>32</sup> is assigned in addition to an enterprise number and a VAT number. There must be a capital contribution at the start, but €0.01 of start-up capital is sufficient. The company must deposit annual accounts with the Chamber of Commerce. The deed is published in the Government Gazette. The costs of a limited liability company are higher than those of a one-person corporation. Annual shareholders' meetings must also take place. The Dutch tax authorities moreover require that business managers of the corporation receive a market-based wage, that is, at least €45,000 annually. Payroll taxes also apply to all wages, with the possibility of deduction of professional expenses. Corporation tax is lower than personal income tax. The legal form of the Dutch limited liability company involves a large turnover and, therefore, entails much greater financial pressure than a one-person corporation.

#### 4.4 The volunteer contract

Belgium and the Netherlands both have a legal framework for volunteering in various social sectors. This can be translation or interpreting. *La loi relative aux droits des volontaires* (2005)<sup>33</sup> outlines national provisions. In the Netherlands, provisions can be found in van Straten (2007) Volunteers must work for the benefit of society, not for financial gain and should not replace a paid job.

A volunteer contract is different from a freelance contract. More specifically, the volunteer is a natural person who does not expect a market-based pay for the assignment. The purpose of this type of agreement is mainly to formalize the relationship between the

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<sup>32</sup> <https://www.kvk.nl/over-de-kvk/over-het-handelsregister/wat-staat-er-in-het-handelsregister/nummers-in-het-handelsregister/rsin-nummer/> The RSIN is a number that gives access to a kind of Crossroads Databank of Enterprises.

<sup>33</sup> [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&table\\_name=loi&cn=2005070359](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2005070359)

organization and the volunteer in terms of clear agreements, a fixed fee, insurance and mutual civil liability. In Belgium or the Netherlands, voluntary reimbursement of expenses is not market-based, but it is still legal. Since the compensation is disproportionate to the nature of the work, there is no need to declare it to the tax authorities and no VAT is charged.

In Flanders, the reimbursement amounts to €34.71 per day (maximum) in 2019. The annual cap in Belgium is set at €1,388.40 per person, i.e. about 40 days a year. Anyone who exceeds this cap must report this type of income to the tax office. In Belgium, the NGO sector sporadically uses voluntary agreements. In the public service interpreting sector, the bilingual translation office Brussel Onthaal/Bruxelles Accueil continues to work structurally with volunteers for interpreting assignments. The service also works with freelancers.

The Dutch system largely corresponds to the Belgian. The monthly cap that a volunteer is allowed to receive in terms of reimbursement amounts to €170 in 2019, and the maximum annual amount is €1,700. This translates to a maximum of 5 days per month. If the volunteer exceeds the monthly or annual threshold, they must report this and pay personal income tax. In the Netherlands, local initiatives for the integration of migrants often seek voluntary interpreters for languages, such as Polish, Arabic or Tigrinya. There is no recognized Dutch intermediary who works with volunteers.

## 5. Professional associations

Both Belgium and the Netherlands have professional associations for interpreters and translators. By associating themselves with their sector, freelancers get a much better idea of their rights and they can defend collective positions. The professional association decides whether the candidate matches the professional profile. Following the trend of other European professional associations (Evetts, 1999: 121), the Belgian and Dutch interpreter associations are engaged in political activities, training and commercial issues, but do not occupy themselves with accreditation or certification of interpreters, which is in the hands of an institution or the state.

In Belgium, the oldest association is the bilingual Belgian Chamber for Translators and Interpreters (BKVT/CBTI, founded in 1955)<sup>34</sup>. BKVT/CBTI is a member of several Belgian associations of entrepreneurs. The association has published a manual for starting translators and interpreters (BKVT, 2015) but not specifically for public service interpreters. Recently BKVT/CBTI published a market survey (Collard and Deneufbourg, 2018). Due to the many changes resulting from the transposition of European Directive 2010/64 / EU, many Belgian interpreters felt the need for more advocacy on their behalf. Two new associations, targeting the more specific group of sworn translators and interpreters, saw the light. These are LEXTRA LINGUA (founded in 2012)<sup>35</sup> and BBVT /UPTIA (founded in 2014)<sup>36</sup>, both of which are bilingual. Both of these associations have closely followed the developments of legal interpreting of the past years and have kept their members informed about all aspects, often with a strong fighting spirit. BKVT/CBTI and BBVT/UPTIA are both members of the European Legal Interpreters and Translators' Association (EULITA)<sup>37</sup>. BKVT/CBTI moreover is a member of the worldwide International Federation of Translators (FIT/IFT)<sup>38</sup>.

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<sup>34</sup> The name in Dutch is *Belgische Kamer voor Vertalers en Tolken* (BKVT); in French it is *Chambre Belge des Traducteurs et Interprètes* (CBTI). <https://www.cbti-bkvt.org/nl>

<sup>35</sup> [http://www.lextra-lingua.be/?page\\_id=2451&lang=nl](http://www.lextra-lingua.be/?page_id=2451&lang=nl)

<sup>36</sup> *Beroepsvereniging van en voor Beëdigd Vertalers en Tolken* (BBVT) / *Union Professionnelle de, par et pour les Traducteurs et Interprètes assermentés* (UPTIA): <https://bbvt.be/nl/home>

<sup>37</sup> <https://eulita.eu/wp/>

<sup>38</sup> <https://www.fit-ift.org/about/>

In the Netherlands, the Dutch Association of Interpreters and Translators (NGTV)<sup>39</sup> is the most important voice of the professional group. NGTV offers financial services to its members: it has a solidarity fund for members who are ill or incapacitated for work (Holtkamp, 2017: 4-5). NGTV is also affiliated with a debt collection agency (to enforce payment of arrears of invoices). Besides the general NGTV, there is the specialist association NUBVETO<sup>40</sup>, the Dutch Union for Sworn Translators and Interpreters. The latter presents itself on its website as the only trade union in the Netherlands for interpreters and translators in the public domain.

The European Network for Public Service Interpreters and Translators (ENPSIT), headquartered in Brussels, brings together members from all countries of the EU and the EEA around issues of interpreting in the context of public services. ENPSIT takes initiatives related to training and data collection. Since 2018, the network is in charge of the InDialog symposium on PSIT.

## 6. Social Interpreting

In Belgium there is a specific profession called ‘social interpreter’<sup>41</sup>. It covers only part of what is commonly understood by ‘public service’ interpreting, as it does not include the domains of the court, the police and asylum services. It refers to on-site, telephone or video interpreting in a series of public services for foreigners or newcomers, such as employment, social welfare, social housing, and reception of asylum seekers, legal counselling, health care or education. Because welfare, employment, social housing and education fall under regional competences, ‘social interpreting’ is handled differently between the French-speaking and Dutch-speaking areas.

On the Flemish side, the sector was regulated by the *Decree on Civic Integration of 7 July 2013*. The Decree determines, in great detail, the role of the various actors as well as their duties and rights. The users are organizations or institutions in Flanders or the bilingual Brussels Capital Region. The existence of a cooperation agreement determines whether the organization pays the interpretation performance itself. A central role is played by the Agency for Civic Integration<sup>42</sup> (AII), an independent agency that fulfils a number of core tasks<sup>43</sup>, among which the management of the register of certified social interpreters. All Flemish interpreting services use the same register. At the time of publication, there are 455 certified social interpreters for 40 languages. Interpreters who are included in the register can work for all Flemish social interpreting services. They are paid €45/hour. Those who are not yet on the register can also be summoned, but are paid less (about half the fee, about €20/hour). In order to solve the structural shortage in certain languages, the Agency has been involved in a project about ‘layered interpreting’, which means that soon-to-be interpreters can already be deployed after a short training period. The project, therefore, uses an alternative list of potential candidates for the register. At its current stage, the project is carrying out a risk assessment of providing services through less qualified interpreters. Flemish social interpreters work with a freelance contract, which means that they have to invoice their assignments. However, the invoice is not sent to the government organization or institution, but to an intermediary agency (e.g. In-Gent, Atlas, Brussel Onthaal), which invoices the client on the basis of whether or not there is a cooperation agreement. Social interpreters are subject to rates agreements. Following

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<sup>39</sup> The name in Dutch is *Nederlands Genootschap van Tolken en Vertalers* (NGVT), <https://ngtv.nl/nl/>

<sup>40</sup> <https://www.nubveto.nl/tolken-en-vertalers/>

<sup>41</sup> This is the literal English translation for *sociaal tolk* (in Dutch) and *interprète en milieu social* (in French).

<sup>42</sup> This is the English translation for *Agentschap Integratie en Inburgering-AII*. <https://www.integratie-inburgering.be/>

<sup>43</sup> See Chapter 6, art. 41 of the *Decree on Civic Integration*.

Art. 40§2 of the Belgian *VAT-Code*, social interpreters are VAT exempt, because they work in the sociocultural sector, more precisely for social welfare purposes. Of course, they have to pay social security contributions and taxes on their income. As a result, freelancers who are both social interpreters and asylum interpreters or sworn interpreters in court, have to combine multiple legal frameworks as legal interpreting does not have tax-exempt status. The Agency organizes high-quality interpreting thanks to training and certification tests. The certification test must be taken for each language combination (e.g. Spanish-Dutch) and is based on the standard competency profile for social interpreters drawn up by the Social and Economic Council for Flanders (SERV, 2008). A board assesses the candidates. Candidates pay €100 for the knowledge tests of Dutch and the other language. Certification tests are free, even if the candidate has to re-sit them.

In French-speaking Brussels and Wallonia, similar integration tracks for newcomers were approved by both governments and implemented in 2014 (Delizée, 2015: 23). The non-profit organizations SETIS<sup>44</sup>-Bruxelles<sup>45</sup> (2010) and SETIS-Wallonie<sup>46</sup> provide on-site interpreters, telephone and video interpreters (only in Brussels) to welfare services who attend to foreigners and newcomers. The origins of SETIS are different from those of public service interpreting in Flanders, which is inspired by the idea of civic integration. In particular, SETIS-Brussels came about to address the unemployment problem of (recognized) refugees and migrants in the capital. Potential interpreters are introduced to SETIS after they have been recommended by the Brussels Centre for Social Welfare (CPAS)<sup>47</sup>. By working in contractual employment for two years (according to Art. 60§7 of the Act regulating the public Centres for social Welfare) in a temporary status, they are then entitled to actual unemployment benefits. The legal employer is CPAS, but the unemployed person who is being employed can also be made available to third parties. The receiving person or organization pays CPAS €850 to €1,000 per month for the service. During this period, the employee is certain of an – albeit low – income, but acquires skills that open up more possibilities on the labour market later on. By using Art. 60, the CPAS is the legal employer, not SETIS. The framework of Local Employment Agencies (ALE)<sup>48</sup> offers another way of involving the long-term unemployed persons in individual assignments in their neighbourhood. In Brussels, these can therefore also be interpreting assignments. ALE-workers are reimbursed through a voucher system. They may not exceed the maximum of 45 monthly working hours if they do not want to lose their unemployment benefit. The hourly allowance is low (€4.50/hour), but the long-term unemployed can still earn an additional €180 per month.

SETIS-Bruxelles is not a structurally subsidized agency, but is financially reliant on various donors, mainly the Brussels Capital Region (58%), various federal and regional ministries and the EU. SETIS-Wallonie is also reliant on Belgian and European subsidies (Delizée, 2015: 25-26). Given their status as unemployed people in employment, SETIS interpreters have no freelance status. On the Flemish side, only Brussel Onthaal works with interpreters with these statuses. This is because Brussel Onthaal, as Bruxelles Accueil<sup>49</sup>, is also active on the French-speaking market, and follows Walloon practices. Despite the use of these interpreters, SETIS agencies suffer from structural deficits for certain languages of lesser diffusion. The fact that SETIS-Bruxelles delivers a lot of interpreting to organizations that are its own financiers, and the low fees paid, explain the low rates imposed on the customers: €6/hour for on-site interpreting, and €12/hour for telephone interpreting. SETIS does not

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<sup>44</sup> The acronym SETIS stands for *Service de Traduction et d'Interprétariat en Milieu Social*.

<sup>45</sup> <http://www.setisbxl.be/wp/>

<sup>46</sup> <https://setisw.com/>

<sup>47</sup> *Centre Public d'Action Sociale*, acronym CPAS; [https://www.belgium.be/fr/famille/aide\\_sociale/cpas](https://www.belgium.be/fr/famille/aide_sociale/cpas)

<sup>48</sup> <http://www.actiris.be/part/tabid/789/language/fr-BE/Agences-Locale-pour-l-Emploi--ALE-.aspx>

<sup>49</sup> <http://www.sociaalvertaalbureau.be/>

organize certification tests, nor does it manage a register. SETIS has a list, matches demand and supply and sends invoices. Still, things are moving in the sector. In 2016 and 2017, SETIS interpreters for the first time received training in collaboration with a third party, the University of Mons<sup>50</sup>.

In the Netherlands, the government has sent a clear message of ‘participative democracy’ by shifting the responsibility to use interpreters in social welfare settings (health, education, employment) to the citizens. In 2012, the deployment of subsidized interpreters in health care was discontinued. Only asylum seekers in reception centres, victims of human trafficking and women staying in social relief are still entitled to reimbursement of their interpreting fees. Since then, doctors and patients have been responsible for good communication themselves and have had to decide for themselves whether to pay for an interpreter. Dutch social welfare services has therefore become a residual domain where unsworn interpreters can pick up direct assignments through their own networks.

## **7. Interpreting for immigration or asylum agencies**

In Belgium, the Federal Home Office is responsible for the asylum procedure and residence status of foreign nationals. The whole procedure takes place in Brussels. The same provisions cover Dutch- and French-speaking interpreters. The assignments are situated within three departments: Immigration Department (DVZ, reception), Commissariat-General for Refugees and Stateless Persons (CGVS, hearing), and the Council for Aliens Disputes (RVV, appeal procedure after refusal of refugee status). Together, the three services have published a brochure explaining the status of their interpreters (DVZ, CGVS and RVV: 2017).

Interpreters who work for these services must be self-employed. Their fees and travel expenses are paid according to the provisions of the Royal Decree of 9 May 2003. Rates are set by the government and are public. In 2018, the compensation amounted to €35.45 per hour. Rates are indexed annually. Interpreters can draw up an invoice after each performance, or monthly, based on a cost statement drawn up by the services. The interpreting service itself issues an accreditation and identification card. There is no oath to be sworn. Candidates are placed on a list after a favourable selection interview and a screening by State Security (to check whether they have been guilty of human trafficking, bribery, forgery, etc.). There is no specific professional association of asylum interpreters. Some of them are also sworn interpreters, and can therefore be members of one of their associations.

In the Netherlands, the procedures for obtaining asylum or citizenship take place via the Ministry of Security and Justice. Many interpreters with languages of lesser diffusion come from this group. Language assistance during the procedure is requested via a commercial intermediary, who can use both the register and the alternative list for this purpose.

## **8. Court and Police interpreting**

Language assistance in Belgium has been in place since the 1935 *Law on the Use of Languages in Court*, Arts. 30-31-32 This is in fact the first document that defines territories for the three official languages in Belgium and offers solutions for all imaginable language problems in court and police contexts. In the Act, however, there is no mention of a register or training.

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<sup>50</sup> [http://www.cresam.be/wp-content/uploads/2018/05/introduction\\_a\\_l\\_interpretation\\_et\\_a\\_la\\_mediation\\_umons\\_2016\\_2017.pdf](http://www.cresam.be/wp-content/uploads/2018/05/introduction_a_l_interpretation_et_a_la_mediation_umons_2016_2017.pdf)

In recent years, the landscape has changed considerably because of the transposition of *European Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings*. We do not discuss in this paper the changes this entails for the defendant. The essence of the interpreter's case is captured in Art. 2 point 8 and Art. 5:

Article 2  
Right to interpretation

8. Interpretation provided under this Article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that the suspected or accused persons have knowledge of the case against them and are able to exercise the right of the defence.

Article 5  
Quality of the interpretation and translation

1. Member States shall comply with the requirements of Article 2 (8) and Article 3 (9).
2. In order to promote the adequacy of interpretation and efficient access thereto, Member States shall be responsible for the registration of independent translators and interpreters who are appropriately qualified. Once established, such register or registers shall, where appropriate, be made available to legal counsel and relevant authorities.
3. Member States shall ensure that interpretation and translation are provided under this Directive.

Belgian judges, lawyers and interpreters have noticed how difficult it was to transpose the Directive. On the expiry date of transposition (27 October 2013), Belgium had not taken the necessary measures and an infringement procedure was initiated by the European Commission (European Commission, 2018:3) It appeared particularly difficult to guarantee conclusive legitimacy to the register mentioned in Art. 5 point 2. The introduction of a register was finally addressed by the *Act of 10 April 2014* Arts. 21 and 25 stipulate the eight conditions which candidates must meet: minimum age, European country national or residence permit, no legal antecedents and evidence of an excerpt from the criminal records, make themselves available to the authorities, professional qualifications (qualification or two years' experience) and legal knowledge, prove their general knowledge and interpreting skills (with a certificate of study), agree with the code of ethics and take the oath. In other words: it meets the requirements to be called a register.

The law provides that all interpreters (and translators) submit their application via the e-deposit portal of the government. An acceptance board decides on the application. The candidate is then summoned to take the oath. The text of the oath is as follows: "I swear that I will carry out my task carefully and in good conscience" (my translation). The interpreter is registered in the register. They receive an identification number and an identification card. These serve as proof that they belong to a certain professional group, which gives them rights but also imposes duties. Moreover, the government needs these items of identification to act legitimately.

The register will contain personal details such as name, first name, gender, contact details, procedural languages and judicial districts for which the interpreter is available. Only persons who are registered in the register will be legally authorized to carry out interpreting activities in the context of criminal proceedings. In case of insufficient assignments, they can be removed from the register.

Although a register creates mutual rights and obligations between the government and the interpreters, there are still some critical issues. Unlike the interpreters "who have to make themselves available to the government", the law does not stipulate to what extent the government will leave an interpreter the choice to refuse an assignment in a criminal case.

The current register is only transitional and will be valid until 30 November 2021. By that date, the provisionally registered interpreters must have submitted their applications to the

acceptance board, which will become fully operational in the course of 2019. The final registration will be valid for six years. During those six years, registered interpreters will need to follow refresher courses to qualify for extensions.

On 31 December 2016, a Royal Decree established the rates of interpreters (and translators) working at the request of the judicial authorities. The Decree lists a series of allowances to which interpreters are entitled (unit rate for all languages, according to the basic rate of €48 per hour), waiting time, unexpected cancellation, unexpectedly long assignments, assignments on Saturdays, public holidays and assignments with the aid of portable equipment, and clarifies whether invoices must be submitted. The Royal Decree says nothing, however, about a duty of the government to pay fees promptly.

After the *Royal Decree of 31 May 2017* on interpreting deontology, the training aspect finally received attention in the *Royal Decree of 3 March 2018*. This Royal Decree regulates the content, the final evaluation, the profile of the trainers and the obligations of course organizers. To guarantee that the trainee has sufficient knowledge of law, interpreting techniques, terminology and the ethical code, the course must be recognized by the aforementioned acceptance board. The Ministry of Justice has published a first list of programmes that received a certificate for the period 2018-2023. These are all the academic institutions involved for now: the University of Ghent and KU Leuven in Flanders, and the University of Mons and the Université Catholique de Louvain (UCL) in Wallonia.

The Netherlands has had a *Law on Sworn Interpreters* since 1878. *The Sworn Interpreting and Translation Act of 2007*, which came three years ahead of the European Directive, raised greater awareness of quality than the previous law. It led to the introduction of a Register of Sworn Translators and Interpreters. The Bureau for Sworn Translators and Interpreters (WBTV) manages the register, the registration, assessment, extension and follow-up of the training. Registration as an interpreter in the Dutch register costs €125. For the Certificate of Good Conduct, the candidate pays the competent authority €33.85, with prolongation costs of €75. The investment certainly pays off, because in this way the interpreter can also be called in for assignments on behalf of customers who are subject to a register obligation<sup>51</sup> and so they are more likely to be given work. Despite the high level of organization, there are problems with the register and the aforementioned alternative list. This is why the Dutch government commissioned a study into the future of interpretation services in the field of Security and Justice. According to the authors of the report that followed (Dierikx and Heijting, 2016), the problems came about because the government placed undue importance on a high standard for language skills. Specifically, the C1 level of the CEFR is currently required for both languages. A pragmatic solution, namely the decision to lower the standards, seemed advisable to the authors of the report. The report also signalled a problem related to EU legislation on public procurement. As the procurement of interpreting services by the Dutch Ministry of Security and Justice is covered via tendering procedures, this legislation is especially relevant in the Netherlands (while it is not in Belgium). According to EU Directives 2014/23 and 2014/24, which were transposed into Dutch law on 1 July 2016, all tenders must be drawn up according to a uniform European Tender Document. Separate sets of a proposed provision of services can no longer be submitted in a 'light' version, unless they fall below €80,000 in a proposal of at least five times this amount. Predictably, this hampers public procurement of interpreting services for the Dutch Ministry of Security and Justice. The new European rules require that all tenders go through a procedure that in practice is only achievable for large firms and that, therefore, simply pushes smaller players out of the market. This can have a huge impact on the intermediaries market and consequently on the assignments and income of the interpreters who are their subcontractors.

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<sup>51</sup> <https://www.bureauwbtv.nl/ik-zoek-een-tolk-vertaler/beschrijving-register-en-uitwijklijst>

Another sensitive issue in the Netherlands are interpreting fees. Since 2007, the plan has been to abandon the fixed rates to the benefit of market forces (which ultimately did not happen), and as a result there have been no index adjustments in recent years. This has led to a complete erosion of the fees. The authors of the report observe that fees do not seem too low, since many interpreters accept them. However, they observe too that better fees would help guarantee the availability of interpreters (Dierikx and Heijting, 2015: 21).

## 9. Conclusion

In this paper, we have examined the legal provisions that apply to freelance interpreters who carry out assignments for public service in Belgium or the Netherlands.

Both countries are EU Member States, which means that their citizens have the fundamental right to live and work in any other Member State. The mutual recognition of degrees, the sharing of NACE-codes, common VAT-rules or similar systems for social security make cross-border living and working much easier for any entrepreneur. The Netherlands and the northern Belgian region of Flanders moreover share the same language, Dutch. When a freelance interpreter wants to work for the public services in either country, a one-person corporation is sufficient to be able to comply with all legal requirements. In this case, no business plans, risk analyses or special visibility are needed, nor are tariffs to negotiate.

The Belgian and Dutch governments organize language assistance in public service domains in different ways. Looking back at De Pedro Ricoy's (2009: 3) definition of the domain of public service interpreting, we observe that Belgium offers solutions for all relevant domains (the legal system, health care, local government, housing, education), while the Netherlands limits the government's initiatives to the legal domain (court, police and asylum). This means that there are more opportunities for public service interpreters on the Belgian public market than in the Netherlands. In particular, the Flemish Agency for Civic Integration (AII), along with its satellite agencies, is an important motor of quality and stable working conditions for its social interpreters. Walloon SETIS offers solutions both for clients and newcomers, but is not sufficiently financially anchored to grant its interpreters long-term stability and a comfortable standard of living. The same market in the Netherlands, however, is in the hands of commercial actors, or even informal interpreters.

The domain where a comparison between the Netherlands and Belgium leads to a weak performance of the latter is the judicial. The transposition of Directive 2010/64/EU shows a clear example of the Netherlands as the best performer in this respect. Its *Law on Sworn Interpreters and Translators* even anticipated the Directive by three years. Qualifications, the Dutch register of sworn interpreters (even an alternative register) and provision of interpreters have all been well-managed since the law was introduced. In contrast, Belgium's federal government, under the permanent threat of European infringement procedures, has yet to complete its procedure. Not only was the transposition of the Directive a sequence of baby steps, Belgian interpreters are in spring 2019 still in the 'waiting room' of the definitive register. Interpreters associations are protesting that the process needs to be accelerated. Hopefully, this will ultimately lead to a situation where legal interpreters will be rewarded for their competences and skills.

However, there are worries too. In a system where intermediaries manage the provision of interpreters (whether or not through public procurement), the latter are totally dependent on fees fixed by governments or contractors without interpreters having a say. This means that starting interpreter-entrepreneurs should know that they will have little say in the service contract. If there is no timely adjustment, this leads to erosion of income and worse standards of living.

Another worry is the problem that for example the Dutch register could not solve, but even sharpened: the eternal problem of the supply of interpreters into languages of lesser diffusion. Public services need these interpreters, but many of them lack the qualifications or competences to apply for the register. In fact, the emerging discussion on the alternative lists and so-called ‘layered interpreting’ in the Netherlands and Belgium is simply the return of the well-known tension between urgent needs of clients and weak qualifications of interpreters. However, this should not be an argument to deny a decent living to those who are highly qualified.

## Acknowledgments

I am very grateful to Suzanne Van Gaelen (ITV-Hogeschool, Utrecht), Patrick Humblet (Faculty of Law and Criminology, Ghent University) and Pascal Rillof (AII, Brussels and ENPSIT). Any remaining errors are my responsibility.

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