

## PERSPECTIVES ON THE QUALITY OF INTERPRETING AND THE ROLE OF INTERPRETERS WORKING IN ASYLUM-SEEKING CONTEXTS IN SPAIN

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### Abstract

The professionalisation of interpreters in legal settings is currently gaining momentum in Spain due to EU directives on the procedural rights of suspects and accused persons. To this may be added the longstanding humanitarian crisis, which has raised awareness of the quality of interpreting amongst a number of NGOs and other agencies that deal with asylum seekers. At present, interpreters are hired by private service providers on the basis of the languages needed or those that are available, with no specific training requirement. In this paper, I analyse the perceived quality of interpreting services and the role of the interpreter from a range of perspectives, including those of NGO agents (legal advisors, social workers and psychologists) and lawyers involved in such processes, following descriptive research methods. I then discuss existing perceptions about interpreters held by different professionals intervening in the asylum procedure, in an attempt to obtain a valid, data-driven picture of interpreting in the context of asylum seeking in Spain. Such information will hopefully serve to fill the void in the professional development of interpreters as an essential part of asylum processes and, most importantly, as a guarantee of human rights. It will also contribute to raising awareness amongst professionals who carry out their work with the assistance of interpreters.

Keywords: interpreter; training; professionalisation; asylum contexts; refugee agencies; lawyers; human rights.

## *PERSPECTIVES SOBRE LA QUALITAT DE LA INTERPRETACIÓ I EL PAPER DELS INTÈRPRETS QUE TREBALLEN EN CONTEXTOS DE SOL·LICITUDS D'ASIL A ESPANYA*

### Resum

*La professionalització dels intèrprets en l'àmbit jurídic està guanyant importància a Espanya a causa de les directives de la Unió Europea sobre els drets processals de persones sospitoses o acusades d'algun delicte. A això s'hi ha d'afegir la prolongada crisi humanitària, que ha sensibilitzat l'opinió pública sobre la qualitat de la interpretació proporcionada per diverses ONG i altres organismes que s'ocupen dels sol·licitants d'asil. Actualment, els proveïdors de serveis privats contracten els intèrprets en funció de les llengües que necessitin o que estiguin disponibles, sense exigir-los una formació específica. En aquest article, analitzem la qualitat percebuda dels serveis d'interpretació i el paper de l'intèpret des de diverses perspectives, incloses les dels agents de les ONG (assessors jurídics, treballadors socials i psicòlegs) i els advocats que participen en aquesta mena de processos, seguint mètodes d'investigació descriptiva. A continuació, tractarem les diferents percepcions sobre la figura de l'intèpret que tenen els diferents professionals que intervenen en el procediment de sol·licitud d'asil, amb l'objectiu d'obtenir una imatge vàlida, basada en dades, de la interpretació en el context de la sol·licitud d'asil a Espanya. S'espera que aquesta informació serveixi per omplir el buit que existeix en el desenvolupament professional dels intèrprets com a part essencial dels processos d'asil i, el que és més important, com a garantia dels drets humans. També contribuirà a sensibilitzar els professionals que desenvolupen la seva feina amb l'ajuda d'intèrprets.*

*Paraules clau:* intèpret; formació; professionalització; contextos de sol·licitud d'asil; agències de refugiats; advocats; drets humans.

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## 1 Introduction

People from many countries are fleeing from conflict, torture or abuse every day. Indeed, since 2011, the humanitarian crisis triggered by the war in Syria has increased exponentially, while Europe's response to the thousands who migrate to its shores has been to divert those who survive their journey to third countries such as Turkey, considered "safe" for this purpose. The itinerary of refugees arriving in Spain involves a number of ports of call to apply for initial assistance and subsequently some form of refugee status that will eventually allow them to live a decent life. This second journey begins the moment they set foot in Spanish territory where, if not returned to their countries of origin, refugees are plunged into a foreign land whose language and culture they know nothing about. Interpreters are probably the first friendly persons they meet when they arrive in a foreign land (Favieres Ruiz, 2016). However, the availability of interpreters in refugee settings is determined by many factors. The "highly unpredictable nature of migrant flows" is one of these, but not the only factor that causes "shortages of interpreters with particular language combinations to arise, leading authorities to go with whomever is available" (Valero Garcés, 2010, as cited in Tipton & Furmanek, 2016, p. 77). Thus, this particular situation entails generally unprofessional and substandard interpretation services (Polläbauer, 2004), and leads to a breach of human rights, since the assistance of a quality interpreter is one of the main conditions for these persons to obtain refugee status or at least some kind of international protection.

The situation outlined above, together with freedom of movement in Europe, has meant an increase in the use of legal translation and interpreting services, which include certified or sworn translations as well as court and police interpreting. The complexities and idiosyncrasies of interpreting in this type of setting are described in the literature on asylum interpreting (Polläbauer, 2004, 2006, 2022; Maryns, 2006, 2017; Barsky, 2014), as well as the UNHCR Handbooks (2017, 2022, and 2024 forthcoming), although research has been scarce due to the difficulty of data collection and confidentiality issues. Even though a number of current EU legal instruments guarantee the right to interpreting and translation in different legal settings, asylum included, they all neglect to define the notion of legal interpreter (Bajčić & Basanež, 2016, p. 1). All these issues contribute to what has been named the grey zone in asylum processes, or the gap between the law and the mechanisms and protocols that each country puts in place to comply with the law (Maryns, 2017).

The Spanish case adds to this unregulated panorama, in a country which until recently has avoided the massive arrival of displaced individuals, as opposed to Greece, Italy and Germany. Nevertheless, as mentioned before, Spain is home to a steady flow of migrants, asylum-seeking individuals and displaced persons from many different countries, and the overall figures continue to grow as new routes and ports of entry come into play. The latest data available from CEAR<sup>1</sup> – January 2019 – portray Spain as a major player regarding the right to asylum in Europe, positioned fourth after Germany, France and Greece in the number of applications for international protection, which outnumber those of Sweden and the United Kingdom, traditional receptors of asylum-seeking persons. The year 2018 was deemed a historical milestone in the right to asylum in Spain, showing an increase in immigration of 21.9% after five years of decline to 2017,<sup>2</sup> with individuals received from, in descending order, Romania, Morocco, United Kingdom, Italy, China, Germany, Bulgaria, France, Portugal, Ukraine and Russia.<sup>3</sup>

This paper looks at the peculiarities of the asylum procedure in Spain, focusing on the interpreting services provided and the perceptions of its users, especially those of lawyers, social workers and psychologists. It will present findings based on quantitative data collected through a questionnaire, and qualitative material gathered by means of open questions and interviews. These last procedures brought to the fore different narratives that sometimes coincided and sometimes clashed with each other. For this reason, a triangulation of the data resulted in a highly detailed picture of interpreting in the asylum context in Spain at the present time.

<sup>1</sup> CEAR is the acronym for the Comisión Española de Ayuda al Refugiado [Spanish Commission for Refugees], an NGO appointed by the Spanish Government to provide assistance to asylum-seeking persons in Spain.

<sup>2</sup> These figures do not include migrants arriving from Spanish-speaking countries.

<sup>3</sup> Instituto Nacional de Estadística (INE), [Notas de prensa. Cifras de Población a 1 de enero de 2017. Estadística de Migraciones 2016. Datos provisionales](#). Published on 29 June 2017.

## 2 Refugees seeking asylum in Spain: some data

According to CEAR (2017, p. 48), the EU's closed borders policy regarding migrants and refugees is forcing asylum seekers to make use of increasingly dangerous routes, mainly through Greece and Italy. As a consequence of the European Union's restrictive asylum and immigration policy during 2016, relocation and resettlement agreements for asylum seeking persons established by the EU in 2015 were not complied with, and only 16% of the quota was assigned.

During 2016, Germany registered the highest number of asylum applications per population of one million (8,789 applications), followed by Greece (4,625) and Austria (4,587). Spain's rate, though, evidences its lack of commitment to asylum-seeking persons, accepting only 335 applications for international protection out of 15,755 applications filed. The CEAR report stresses the fact that only 355 of asylum seekers obtained refugee status in Spain, 3.4% of all the applications filed. This is a very low percentage when compared to other EU countries such as Germany (41%) or France (21%).

## 3 Asylum procedure in Spain: the law

Technically speaking, Spain has wholly incorporated international and European legislation on asylum procedures into its legal system. The Geneva Convention (1951), the main legal instrument concerning refugees at international level, was officially ratified by Spain in 1978, three years after Franco's death. Besides this supranational law, there are other regional instruments, such as the Common European Asylum System (CEAS). Modelled on the Geneva Convention, the CEAS provides a uniform and valid asylum system for the European Union, as well as a uniform charter for subsidiary protection and common procedures for concession and withdrawal of refugee status. The CEAS has other bylaws in force such as the Dublin Regulation (2013), which establishes the rules that determine which country is responsible for the examination of each asylum application. There are also three European Directives on international protection:

- Directive 2011/95/EU, on the standards for qualification of third-country nationals or stateless persons as beneficiaries of international protection.
- Directive 2013/32/EU, on the common procedures for granting and withdrawing international protection.
- Directive 2013/33/EU, laying down the standards for the reception of applicants for international protection.

The actual procedure in Spain begins with the filing of an asylum application, which must be submitted in person. At this point it is important to make a distinction between CIES (Detention Centres for Foreigners) and border applications, and inland applications, a difference established in the Spanish Asylum Law 12/2009. Grounds for admission and refusal, which are more demanding at the border and CIES, also differ. In addition, it is important to highlight the enormous tension involved in border and CIES cases, since asylum seekers whose applications are refused are returned to their place of origin through a process that is resolved within a matter of days, known as *devoluciones en caliente* or "hot returns". According to Favieres Ruiz (2016), Law 12/2009 on asylum places asylum seekers in a discriminatory situation with respect to other applicants who are already within the national territory. Spain is one of the signatories of the Global Compact for Migration, "the first, intergovernmentally negotiated agreement, prepared under the auspices of the United Nations, to cover all dimensions of international migration in a holistic and comprehensive manner" (Refugees and Migrants, UN),<sup>4</sup> agreed by 160 countries in December 2018. According to the CEAR report (2019, p. 32), the Global Compact will oblige Spain to face a number of immigration challenges such as guaranteeing protection to all migrant persons on arrival, especially the most vulnerable; and putting an end to illegal returns at its borders and systematic arrests at CIES.

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4 See the full text of the [Global Compact for Migration](#).

## 4 Non-governmental organisations and international agencies in the asylum process in Spain

Although more and more organisations and associations collaborate in asylum and refugee processes, for the purposes of this article I will focus on the most relevant: UNHCR (when referring to its office in Spain, “ACNUR”), Cruz Roja/Red Cross (hereinafter, “Cruz Roja”), CEAR and CAR.

### ***ACNUR***

The Office of the United Nations High Commissioner for Refugees (UNHCR, or ACNUR in Spanish) plays the foremost role in the process, since all applications for asylum filed in Spain are communicated to it. ACNUR has access to all applicants and their files, which are collected in the Office of Asylum and Refuge (OAR) at the Spanish Ministry of the Interior in Madrid. Where an asylum application is made at the border or a CIE, ACNUR participates in the usual procedure by issuing a report indicating whether or not the applicant is deemed to be in need of protection. When the procedure is initiated inland, only requests deemed inadmissible for the ordinary legal procedure are sent to ACNUR (De Zabala, 2016).

### ***Cruz Roja***

Cruz Roja, the Spanish Red Cross, works mainly on applications filed inland. The organisation also provides initial assistance to persons arriving at the border, and is involved in the preparation of interviews with asylum seekers that will eventually take place at Immigration Offices: upon submission of an asylum application, the applicant is assigned an interview date, which can be up to three months later. During that time, it is the duty of Cruz Roja to help applicants prepare for the interview (Benlloch Gascó, 2016).

### ***CEAR (Comisión Española de Ayuda al Refugiado)***

The Spanish Commission for Refugee Assistance, CEAR, has around 1,000 reception points in different Spanish regions such as Andalusia, Catalonia, Valencia or the Basque Country. It has several reception programmes and plays an active role in asylum procedure interviews. If an application is dismissed, CEAR has the power to file an appeal at the Audiencia Nacional, the Spanish National High Court, though this will not halt the return procedure (Favieres Ruiz, 2016).

### ***CAR (Centro de Acogida de Refugiados)***

Refugee Reception Centres or CARs have been recently created by the Spanish Government to grant some kind of stability and promote the integration of persons awaiting the resolution of their international protection or refugee application. They fall under the umbrella of the Ministry of Employment, and there are only four of them in the whole country: two in Madrid, one in Valencia, and one in Seville.

## 5 Asylum procedure structures in Spain

Before considering the de facto structures for asylum procedure in Spain, it is worth reflecting on the actual implementation of EU legislation and how this creates a “grey zone” of unregulated aspects related to language provision in asylum procedures (Maryns, 2017), also referred to as “language assistance services” (Enríquez Raido, Crezee & Ridgeway, 2020).

The CEAS is supported by European directives such as 2013/32/EU, which establishes the right to a personal interview and unified standards for asylum determination. However, it makes little reference to language provision, leaving “much latitude for national implementation” (Enríquez Raido, Crezee & Ridgeway, 2020). According to Enríquez Raido et al., there are “linguistic challenges that remain unaddressed in the Directive that may cause applicants to miss out on linguistic support” and which, together with the inconsistent implementation of the Directive across Member States, indicate that the linguistic issue has yet to be attended to.

In Spain, interviews are conducted in OARs by immigration officials working for the Spanish Ministry of the Interior. There are no specific courts or tribunals for immigration cases, although rejected applications may be appealed in the Audiencia Nacional.

## 6 The interpreter's role in asylum contexts

Few studies have been carried out to date, due to the inherent intricacies of an area in which data are extremely difficult to access, since the whole process is highly confidential. Indeed, interpreted events in such contexts are deemed to belong to a “‘grey zone’ (Bancroft et al., 2013) in the legal interpreting domain for which a lack of specialised interpreter education has been identified” (Tipton & Furmanek, 2016, p. 76).<sup>5</sup> Most encounters in this context occur “face-to-face in the bilateral mode and may involve some sight translation and telephone interpreting” (Tipton & Furmanek, 2016, p. 77). The authors estimate that, although restrictive national immigration policies are likely to have a greater impact on the outcome of refugee status determination than the actual interpretation service, the importance of the interpreter’s assistance cannot be underestimated. To paraphrase Barsky (1994), even minor errors in the interpreter’s performance can be fatal, since these errors often remain unresolved (Tipton & Furmanek, 2016). Throughout the procedure, the applicant may encounter different interpreters in different settings such as the Cruz Roja, police facilities or refugee reception centres. Each of these interpreters will have had a different level of education (Tipton & Furmanek, 2016), and either some or no interpreting training at all. Interpreters may exhibit different beliefs and behaviours, all of which may impact on the applicant’s trust in the system. The asylum setting is one of constraint, often leading to situations where legal decisions have to be made on very limited grounds (Maryns, 2006, p. 1). Besides, the fact that the international legal instruments on refugee status adopted by many countries, namely the 1951 Convention and the 1967 Protocol, omit to define procedures has left the contracting parties “free to interpret the terms of the Convention/Protocol and to set up their own national procedures, subject to various instruments” (Lambert 1995, p. 4, in Maryns, 2006).

Indeed, a report issued by UNHCR (2010) elaborates on the differences observed in the way immigration officers prepare their interviews in a number of European Union countries. Some of these differences may stem from the low level of training received by the immigration officers. For instance, some countries have national policy guidelines regarding interview techniques, as is the case in the United Kingdom, where non-adversarial techniques are advised (Tipton & Furmanek, 2016, p. 83). The absence of guidelines in other countries suggests that it is up to the officers themselves to conduct the interview in the manner they consider best, mostly without any specific training or guidelines to follow. As regards Spain, only one study by León Pinilla, Jordà-Matthiasen and Prado-Gascó (2016) confirms the trend observed in other EU countries regarding the lack of resources and interpreter training.

The various professional groups that participate in the asylum procedure issue guidelines which include recommendations regarding the role of interpreters and protocols to be implemented in certain situations. These documents are a significant source of information regarding the way in which the interpreter’s role and function is perceived by such agents.

I have had access to a number of documents, some of which are in the public domain, while others are restricted to certain professional bodies such as Spanish bar associations. I have extracted the most relevant details contained in such documents, since they offer valuable information about the perceptions and preconceptions of interpreting held by the different agents involved in the procedure.

### *UNHCR interpreting guidelines*

According to the UNHCR protocol for interpreters (2010), interpreting services are necessary as a safeguard, therefore requiring the utmost responsibility in terms of impartiality, neutrality and confidentiality. Conceived as guidelines for the performance of interpreting in asylum contexts, the protocol is based on the observation that the interpreting services provided in many European countries are clearly substandard and have a negative impact on the whole procedure as well as the outcome. The protocol stresses the importance of note-taking in consecutive interpreting since it facilitates greater confidence, avoiding memory gaps and constant pausing for recall. Note-taking is said to improve clarity and fluency, and enables data verification, amongst other advantages. The protocol also mentions that the interpreter’s rendition should be shorter than the original,

<sup>5</sup> The literature on asylum interpreting under this heading is based on the excellent compendium presented by Tipton and Furmanek (2016, pp. 76–112), in their chapter entitled “Legal interpreting II: Asylum Procedures”.

since a slow interpreter prolongs the session unnecessarily, although an interpreter adopting the opposite approach may well summarise the content far too much.

Practical advice includes sitting next to the interviewer, not forgetting or ignoring detail, avoiding conversation with the asylum seeker, interpreting all questions even where the answer may seem obvious, interpreting any side conversations to the other participants, avoiding giving opinions or reacting with gestures, trying to clarify the meaning of an unknown word or expression by pointing it out to both participants, and clarifying cultural concepts mentioned by the asylum seekers, to name but a few.

### ***Working with interpreters: codes of practice for lawyers***

As concern about the need to safeguard legal rights in asylum procedures grows amongst the legal professions in Spain, a number of framework documents have been issued for the guidance of lawyers who work in such contexts. The first is a document produced by ACNUR and the Bar Association of Madrid<sup>6</sup> (2011) to implement Spanish Law 12/2009 on asylum. The jointly produced document is a guide for lawyers working with persons who seek international protection; it highlights, among others, the following recommendations for lawyers working with interpreters:

Do not use legalese, since these persons are not familiar with it and you will have to work assisted by an interpreter (p. 9).

During the interview, it is important that lawyers state whatever has affected the course of the interview: communication problems arising from not understanding the interpreter correctly, instances when the interpreter does not translate correctly what the applicant says, questions asked to the applicant, etc. In such cases, they shall tell the officer immediately and ask for these issues to be included in the application. If their request is denied, they shall draft a complaint which is subsequently included in the application (p. 10).

On several occasions, including the moment the applicants are informed of the dismissal of their application, or in any re-examination stage with their lawyer, lawyers shall be assisted by an interpreter. (p. 13).

Lawyers are advised to identify different needs that may arise, such as a female interpreter in case of gender issues, or that the interview be conducted in the applicant's best-known language (p. 21).

Lawyers shall alert against certain practices to promote careful selection of interpreters in an effort to avoid confrontation or incompatibilities between the interpreter and the applicant, i.e. a Moroccan interpreter should not assist a Saharan applicant, interpreters from rival ethnic groups should not be appointed, as in the case of Hutus-Tutsis in Rwandan cases. If these practices are not complied with, they shall make sure an informative note is included in the application (p. 23). (Oficina de ACNUR en España & Ilustre Colegio de la Abogacía de Madrid, 2011)

Another document recently issued by the General Council of Spanish Lawyers<sup>7</sup> (2017) goes even further in its acknowledgment of the figure of the interpreter, probably drawn from day-to-day experience gained over the years by lawyers working on international protection cases:

Lawyers shall find out what language is the applicant's best so that an "official" interpreter of that particular language is requested (p. 8).

The interpreter has to be "of sufficient capacity" (p. 11).

Regardless of the opinion of the immigration officers, lawyers must request an interpreter who speaks the language of the applicant, refusing to proceed without the assistance of the interpreter (p. 21).

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<sup>6</sup> Ilustre Colegio de la Abogacía de Madrid (ICAM).

<sup>7</sup> [Consejo General de la Abogacía Española](#).

The right to an interpreter in international protection procedures is correlative to the right to legal aid and the right to a defence (p. 24). (Consejo General de la Abogacía Española, 2017)

From these two framework documents, it can be concluded that preconceptions exist regarding the figure of the interpreter in legal settings. For example, it is assumed that neither the interpreter nor the applicant are familiar with legal language, and therefore standard language should be used when explaining legal concepts. The number of mentions in both documents of the fact that the interpreter should be apt for the job and speak the same language as the applicant shows that this is a very common problem encountered by legal professionals. The fact that both documents advise lawyers to make sure a note is attached to the application reflects a serious concern on their behalf that rights are safeguarded. However, it is unknown how many legal practitioners actually comply with these guidelines in their daily practice. It should be noted that the term “official” interpreter is used extensively in these documents, when no such figure currently exists in Spain, suggesting that legal professionals lack knowledge of exactly what legal interpreting services are available, who provides these services, and therefore what can be expected of them.

## **7 Agents' perception of interpreters in refugee contexts**

As mentioned in the introduction above, the aim of this study is to obtain data that will help portray the perceptions of agents who work with interpreters in this field, especially their perceptions of the quality of interpreting services and the role of the interpreter in their professional encounters.

### ***Method***

A mixed methods approach was adopted for the purposes of this study, employing both quantitative and qualitative data collection methods in an attempt to draw a coherent picture of the contexts where interpreters are needed and what is expected of them, as well as the reality of the day-to-day situation as experienced by the various professional agents involved in asylum procedures, namely lawyers, social workers and psychologists.

A questionnaire was designed by the author and revised by Moro Ipola,<sup>8</sup> an expert on clinical evaluation and questionnaire design, and administered via Google Forms to a number of agents from Spain working for non-governmental organisations (Cruz Roja, CEAR and ACNUR) as well as to a group of lawyers affiliated to the Bar Association of Valencia who work with asylum cases.<sup>9</sup> The questionnaire was administered to a total of 24 agents and lawyers, of whom 23 responded and shared their personal viewpoints and approaches. The aim of the questionnaire was to obtain a sociological profile of the respondents, determine their actual knowledge of professional interpreting and record their impressions of their experiences working with interpreters.

### ***Questionnaire***

#### ***Sociological profile***

The 23 respondents comprised 18 women and men, with an average age of 40. The sample could be said to be relatively homogeneous in terms of age, with most of the respondents under 50 years of age.

The professional profile of the respondents included social workers, lawyers and a psychologist. Nine social workers and one psychologist worked for Cruz Roja Valencia, and one social worker worked at a Refugee Reception Centre (CAR) of the Spanish Ministry of Employment. Among the lawyers, one respondent was a lawyer from Cruz Roja Valencia, while another was a lawyer working for ACNUR (UNHCR); the remaining 10 were independent lawyers working in the Immigration Section of the Duty Lawyer Service of the Bar Association. Nearly half of the respondents worked in the social work sector, while the other half were lawyers working in asylum cases. From a professional standpoint, the sample of respondents can be said to be balanced

<sup>8</sup> Prof. Micaela Moro Ipola, [Universitat Jaume I](#).

<sup>9</sup> [Ilustre Colegio de Abogados de Valencia](#) (ICAV).

between the two main groups of professionals working with asylum-seeking persons. All the respondents confirmed that they dedicated time to assisting asylum-seeking individuals on a daily basis.

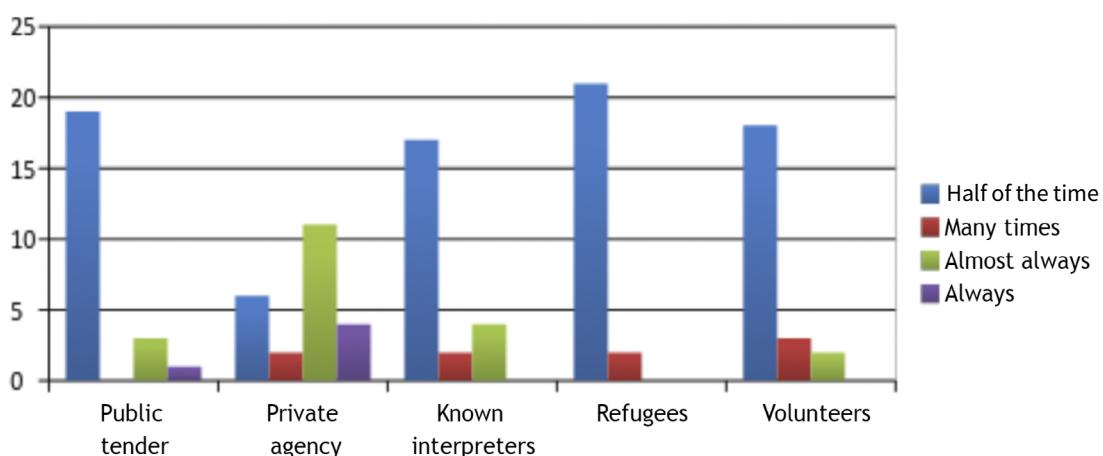
When asked how long they had been working with interpreters (question 1 of 8), 65.2% stated that they had been working with interpreters for five years or longer. For 13%, the period was between one and five years, while 21.7% of the respondents had up to one year's experience of working with interpreters. One respondent stated that she had been working with interpreters for 17 years. Although diversity may be appreciated in their experience of working with interpreters, all of them had at least some experience with interpreters and more than half (65.2%) could be considered very experienced in this regard.

Having established a brief sociological profile, the respondents answered a number of questions regarding their experience of working with interpreters.

*Question 2: Please indicate how interpreters are hired (you can choose more than ONE option).*

**Figure 1**

*How interpreters are hired*



*Source.* Own elaboration.

As seen in the figure above, there was a wide range of responses. This may be related to the fact that asylum agencies tend to cater for their interpreting needs from a variety of sources. As one respondent from Cruz Roja stated in a later interview, their main source of interpreters is volunteers. Otherwise, Cruz Roja resorts to a local private interpreter agency. In the open answer section in question 2, the ACNUR respondent explained that they normally work with an NGO specialised in providing translation and interpreting services in the international protection sector. Only in very specific circumstances do they engage the services of freelance translators and interpreters, and they never use public contractors or refugees as language professionals. The CAR centre hires a public contractor and only occasionally uses refugees they have previously assisted as interpreters (5% of the time). One of the independent lawyers stated that they mostly call on interpreters that they know, so it is not common for them to use other private translation and interpreting service providers. Overall, it may be concluded that there is a wide range of options available, some of which fall into the non-professional category (volunteers and refugees, since volunteers are normally bilingual persons, not professional interpreters). Agencies are widely used, either NGOs or private service providers, the latter being the most frequent option.

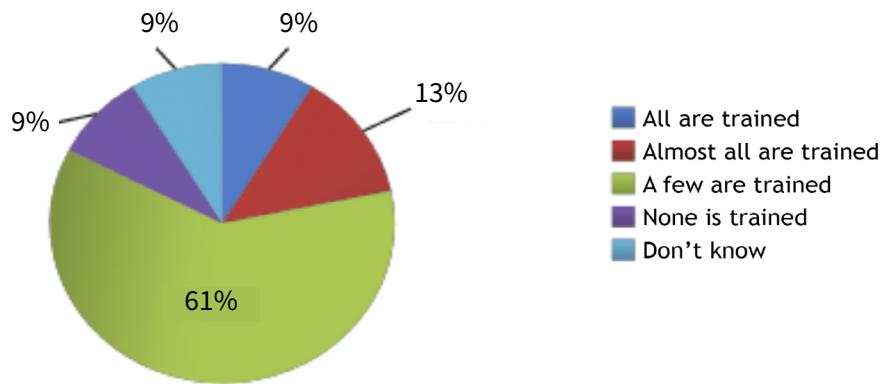
*Question 3: Do you know if the interpreters you normally work with are qualified as such?*

In response to question 3, 61% of the respondents considered that only a few of the interpreters they worked with were qualified interpreters; 9% thought that none of the interpreters were qualified, while a further 9% did not know whether they were qualified or not. On the other side of the spectrum, 21% of the respondents believed that almost all the interpreters they worked with had been trained, while only a few (9%) stated

that all the interpreters they worked with were qualified. Generally speaking, then, the respondents who used interpreting services recognised a lack of qualification and training amongst the interpreters they worked with.

**Figure 2**

*Qualification of interpreters*

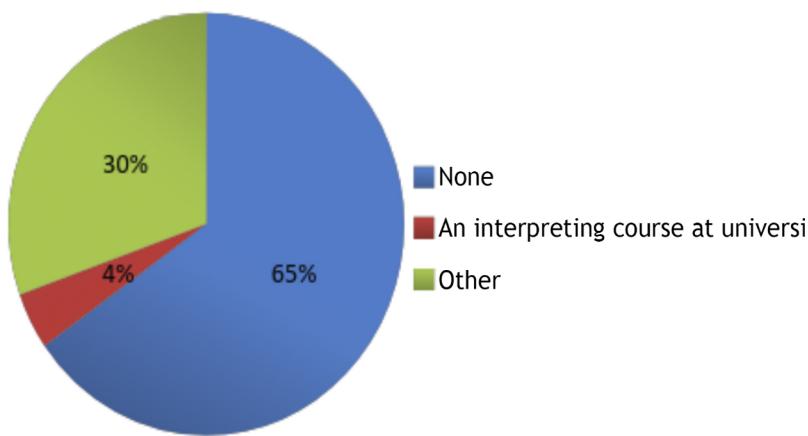


*Source.* Own elaboration.

*Question 4: If you work for an NGO or a public agency or administration, do you know if training is given to interpreters to work in this context? What does this training consist of?*

**Figure 3**

*Type of interpreting training*



*Source.* Own elaboration.

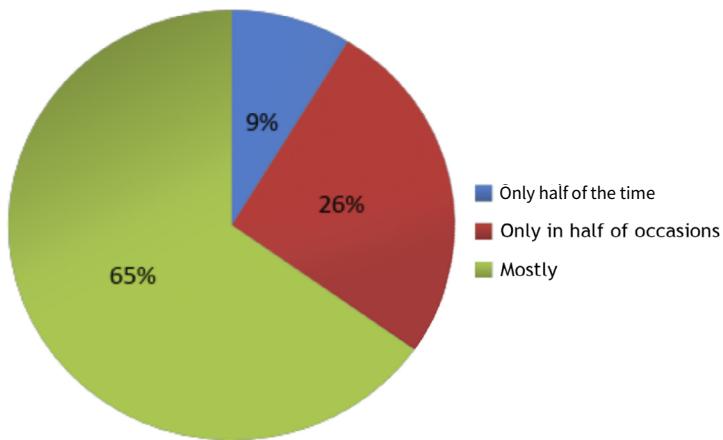
More than half of the respondents (65%) believed that no specific training was provided for the interpreters involved, and only 4% responded that interpreters had completed a specific university course. This is quite unlikely, however, given the fact that such courses do not exist at present in most Spanish universities, with some exceptions.<sup>10</sup> Almost half of the respondents used the comment section of the question to state that they very much doubted that interpreters were offered any kind of training (3 out of 7).

<sup>10</sup> Some exceptions to this would be the master's programme at the Universidad de Alcalá, "Master Universitario en Comunicación Intercultural, Interpretación y Traducción en los Servicios Públicos", in addition to a continuing education course "Capacitación para actuar como traductor e intérprete en el ámbito de la justicia" (2017) and the postgraduate expert course "Curso de experto en traducción e interpretación judicial" (2019) at the Universitat Jaume I in Castelló de la Plana. These courses include interpreting training in the asylum context.

*Question 5: In your experience, have interpreters resolved the communication needs of your clients? Please select an option.*

**Figure 4**

*Interpreters' ability to resolve communication needs*



*Source.* Own elaboration.

Again, 65% of the respondents said that the communication needs of their clients were met by the interpreters in most cases, while 26% felt that those needs were met only half of the time. Even though the satisfaction level was moderate, the fact that 35% of the respondents were not satisfied at least half of the time should be taken into consideration since it raises many questions.

*Question 6: According to your experience, what features would define a good interpreter as opposed to a not-so-good one?*

Remarkably, this open question was answered by all the respondents, all of whom provided quite elaborate and extensive answers. These responses showed that the respondents' main concern concerned the interpreter's role. The respondents identified the following features as the mark of a good interpreter:

They remain neutral by not expressing any personal opinions or engaging in side conversations. (5 answers).

They know their role, which is to translate everything that is said, avoiding summarising, mediating or interfering by explaining the procedure. (7 answers)

They are qualified interpreters and proficient speakers of both languages, and are familiar with the culture of the persons they interpret for. (2 answers)

They are respectful, sensitive and empathetic. (2 answers)

They indicate when they need to clarify something, or when the applicant expresses doubt. (3 answers)

They observe confidentiality, are objective and impartial. (2 answers)

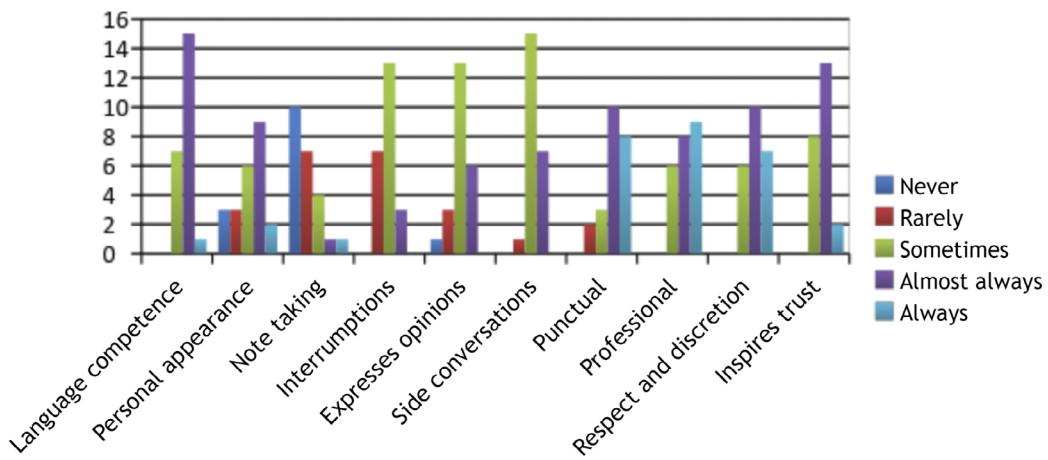
They inspire trust. (1 answer)

To sum up, all the traits and behaviours acknowledged by these agents as pertaining to a good interpreter can easily be matched to any interpreter code of ethics (such as the present NAJIT and APTIJ<sup>11</sup> ethical guidelines), and they are in line with UNHCR Guidelines (2009, 2017, 2022).

*Question 7: How often do you observe the following behaviours in interpreter performance?*

**Figure 5**

*Frequency of interpreters' behaviours*



*Source.* Own elaboration.

Regarding the linguistic competence of interpreters in Spanish, 15 respondents considered that interpreters were competent in almost all instances, while 7 found them to be competent only “sometimes”, and only one agent chose to respond “always”. Regarding their appearance, only two respondents stated that the appearance of interpreters was “always” appropriate. Even so, nine respondents considered the interpreter’s appearance appropriate in almost all instances, while six chose “sometimes”, and the other six replied that it was either “never” or “seldom” appropriate for the situation. Interestingly, when asked whether interpreters engaged in note-taking, 10 of the respondents stated “never”, seven chose “seldom”, 4 said “sometimes”, and only 2 agents chose “always” or “in almost all instances”. It should be said that, although a majority had never seen an interpreter taking notes of key information that came up during their work, the respondents were aware that it is an essential feature of the interpreting task, as mentioned below. With regard to interruptions and interpreters expressing their opinions, in both cases 13 agents reported that this happened “sometimes”; this was only surpassed by agents that reported the interpreter engaging in side conversations with the client (15). The last four behaviours, all concerning inherently ethical aspects of the profession of interpreting (punctuality, professionalism, showing respect and discretion, trustworthiness), were reported more frequently than the previous six. However, these scores contrasted quite sharply with the open comments provided in response to the same question, which were answered by all 23 agents. The fact that all 23 agents provided such open comments may reflect the strength of their feelings about this matter. Indeed, a number of comments in this section reinforced the lack of professional behaviour these agents perceived on a regular basis, although they normally acknowledged the interpreters’ punctuality and good manners. Some of the comments pertained to behaviours that were not included in the questionnaire, the most representative of these relating to lack of emotional control when applicants explained their experiences (body language), exceeding role boundaries (“Quite often they talk with the applicant and the applicants tell them things that they never tell me, they ask things that applicants hadn’t asked, they explain things from the applicants’ countries for me to understand the circumstances, without me asking for it or even needing it”, or “They give applicants their contact details”),

11 National Association of Judiciary Interpreters and Translators (United States) and Asociación Profesional de Traductores e Intérpretes Judiciales y Jurados (Spain).

expressing value judgements on the nationalities involved, making negative remarks about the outcome of the application, and being trustworthy only to the refugee, not the agent.

As can be seen from the responses to the open-ended question, there were a remarkable number of issues related to the interpreter's self-control (i.e., body language, showing emotions, unsolicited explanations, value judgments in relation to nationalities), professional attitude (giving their contact details or phone number), image and even credibility (they are only trusted by refugees, not by agents) that respondents reported systematically.

Lastly, question 8 asked respondents which traits or behaviours they deemed necessary in the interpreter so that the rights of the asylum applicants would be guaranteed, based on their experience. All the agents considered that solid linguistic competence, appearance, punctuality, professionalism, respect and trustworthiness were necessary traits and behaviours for the interpreter to guarantee the rights of applicants, while they all considered that interruptions, expressing their own opinions and maintaining parallel conversations were not acceptable. Note-taking was deemed necessary by 18 agents out of 23, in line with the findings above on agents being aware of the importance of note-taking.

When invited to share any other additional traits or behaviours they deemed essential, all 23 respondents provided detailed opinions. Regarding the interpreter's role, respondents recommended not disclosing personal information (e.g., their nationality, or whether they had children), making sure the person understands the procedures correctly, and asking the agent for clarification if the interpreter is not familiar with or does not understand a procedure or information before translating, therefore expecting an active role on the part of the interpreter to ensure full communication and compliance with the rights of their clients. Neutrality is an issue that triggered a lot of answers, and suggestions included avoiding negative or pessimistic comments, sexist or male chauvinistic attitudes, or openly professing a certain religion. Kindness, on the other hand, was mentioned as a desirable trait. A number of answers were directly related to professional education and training, such as having knowledge of international protection administrative procedures and guidelines, and advance preparation on the culture, anthropological issues and politics of the different countries of origin. Respondents also felt that interpreters should be trained in both gender issues and gender-based violence issues. Trust came up again, from both the applicants' and the agents' perspectives. As an example, the applicant should be given the choice between a male or female interpreter. One respondent explained that the applicants' trust in the whole procedure was affected if they saw the same interpreters intervening at different stages of the procedure (police, CAR, Cruz Roja, and so on), leading them to conclude that all institutions are interconnected. Trust in the interpreter on the part of the agent was also mentioned as desirable, and was associated with the neutrality trait, suggesting that impartial behaviour by the interpreter promotes trust on the part of the agent.

### **Interviews**

In a later, exploratory phase of the study, an in-depth interview was conducted with one of the agents involved, who works for the Immigration Section of a bar association in Spain.<sup>12</sup> The aim of the interview was to ascertain to what extent the law is providing effective mechanisms and protocols to safeguard the rights of applicants in Spain as regards interpreting provision. Its design was based on Hale and Napier's (2013, p. 97) description of the continuum of the interview structure:

[...] you can design an unstructured, open-ended anthropological interview which is more like a "friendly conversation" (Spradley 1979), has no fixed questions or time limits and is guided by the interviewee rather than the researcher [...] the interview process is flexible enough to allow the interviewee to express their thoughts and ideas, and build upon and explore the participant's responses to the prompt questions, or drill down into issues raised during the conversation.

A discourse analysis method was followed, including transcription of the recorded interview and translation from Spanish into English. A thematic analysis (Silverman, 2006, as cited in Hale & Napier, 2013) was then

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12 The particular details regarding the bar affiliation of Interviewee 1 have been omitted given the sensitive, confidential nature of the information provided.

performed in order to “identify overarching themes”, as well as a content analysis “to pull out representative quotes to elucidate various themes” (Hale & Napier, 2013, p.103).

The main results of the interview have been categorised thematically around the different scenarios regarding international protection in Spain:

#### At the border

The number of immediate returns in Spain was said to be on the rise, with the rights of foreign persons being sidelined at times. As one interviewee argued: “To start a deportation procedure, both the lawyer and the interpreter must be present. This is sometimes not the case”. In such cases, lawyers normally request the presence of an interpreter, since at times they are not called, or they are called to interpret over the phone.

Police follow Spanish Law 12/2009 on immigration, but this Law has not given rise to any specific regulations. In fact, the only regulations currently in force date back to 1995. Interpreters must be present when refugees are told about their rights, and they have the right to know what the procedure consists of. Police interpreting in Spain is generally outsourced to a private service provider, which means that interpreting quality is not always maintained: “Sometimes, if you’re lucky, it’s perfect, but some other times interpreters don’t understand what we are saying, or they don’t know what the situation in the country of origin of the applicant is”. Lawyers sometimes need to explain the situation in the applicant’s country of origin to make sure interpreters understand the questions they have to interpret, since it is vital for them to build trust with the applicant.

Similarly, the interviewee admitted that, at the border, time is very limited and there is a lot of pressure on lawyers to proceed in haste: “Sometimes in many police stations they don’t let you talk to your client, or the police officer is present. There is an international protocol, but the problem in Spain is that they don’t provide the means needed”.

In general, two types of immigrants are established: those that are returned to their country, and individuals in need of international protection: “There is a doctrine that says that they all should fall under the umbrella of the Geneva Convention, that international protection should be guaranteed to all people, be they refugees or not”.

Still, police act differently if they know they are dealing with refugees: “They know they have to abide by the rules because his/her file goes straight to the OAR in Madrid, so they immediately call the lawyer and the interpreter”.

Sometimes displaced persons arrive in a state of shock. At times they are deaf, dehydrated or unconscious. Police send them to Cruz Roja, which is in charge of first-aid healthcare assistance at the borders (ports and airports):

In those cases the police forget about the legal procedure, and they don’t call a lawyer or an interpreter. Sometimes these people are stowaways and are left to their own devices. Sometimes we get calls from shipping agents, and they tell us that in such and such a ship they are carrying three stowaways [...] They call us now because they know there is a duty lawyers’ specialised service since 1999 [...] We fought really hard to have such a service [...], funded by the regional justice administration. Our communication network guarantees the life of the person [...]. Otherwise they might even be thrown overboard.

The main ports of entry in Spain are Algeciras, Ceuta and Melilla, hosting a number of Centres of Internment for Refugees (CETI) that are crammed full of people from many different countries, including Afghanistan, Pakistan and Syria:

They come from all over the Mediterranean [...] Last year a new commercial sea transport route started running between Alicante and Algiers. We realised that smaller boats were coming out of the large ships and arriving at the coast at Alicante.

It seems that the number of ports of entry in Spain is increasing with each day that passes. There are also other seemingly legal routes, such as planes flying into Valencia Airport from Eastern European countries,

mainly Ukraine: “[...] people arrive with fake visas, and when asked to show their documents they are filed for deportation”.

### Inland

Once a refugee has arrived in Spain, there is more time for the lawyer to prepare the case and brief the interpreter in advance:

You normally try to talk to the interpreters to tell them to get in touch with the applicants. We tell them where applicants are from, the questions we are going to ask, etc., so that they know a bit how to approach it.

Immigration policies are different in different parts of Spain and even international policies are interpreted differently. One interviewee referenced a seaport of entry in the Basque Country:

[...] where police are very respectful, comply with the norms, and immediately call the lawyer and the interpreter, but in other regions such as Valencia and Andalusia they are not so compliant. In other regions such as Extremadura or Guadalajara, which are inland and whose population is steadily decreasing and is distributed across rural areas, there is not a massive persecution of immigrants. They let them obtain their documents [...] In Valencia, once they are in the territory, they are stopped in the street to be filed for expulsion. I guess it's because we are at the border.

### Transposition of asylum-related EU directives

In Spain, the transposition of EU directives on asylum has been delayed and there is now a tendency to say that there is no obligation of compliance with supranational laws until the transposition to the Spanish legal system has been completed, contrary to EU doctrine: “I have applied EU directives before they were transposed to the Spanish legislation because I understand they enter into force almost since their publication, but some judges tend to dismiss the appeal”.

### Asylum applicants and displaced persons

Displaced persons are considered as a group, while asylum seekers are treated as individuals. The EU Directive on displaced persons, created in response to the war in Kosovo, was meant to be applied in the Syrian crisis, but no regulation was issued and in the end the agreement with Turkey as a recipient country for the displaced Syrians was signed.<sup>13</sup>

### Spain’s position in the humanitarian crisis

At one point Spain aimed to undertake a project to set up a number of immigration offices with police officers, lawyers and ACNUR lawyers, and of course interpreters:

[...] the idea was to differentiate Syrian people from non-Syrians. They were very concerned about that at the time. Nothing of the sort has been done in the end, probably because it would have created a dangerous precedent for border procedure.

Afraid of having to grant refugee status to too many persons, Spain decided to create a new kind of protection category, similar to that of the displaced persons, known as subsidiary protection: “It is neither asylum nor international protection. They are not acknowledged as refugees and therefore they cannot obtain a regular residence permit. It is a temporary permit under exceptional circumstances: after five years you stop being protected”.

ACNUR and a number of immigration lawyers told their clients to appeal this decision, and indeed there are sentences by the Spanish Supreme Court granting refugee status to Syrian persons: “Now they are granted refugee status straight away”.

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13 The full text can be viewed on the website of the [European Parliament](#).

## Human trafficking in Spain

Younger police officers seem more keen to comply with the law. When they detect a case of human trafficking, they apply the protocols: “One time at Valencia Airport a couple from [African country] were stopped. She was questioned by the police, but she wouldn’t say a word. They realised there was something wrong and called the lawyer”.

Coordination between all agencies involved is paramount to complying with the law when activating protocols, thus avoiding legal uncertainty:

When I see the police making their best efforts to comply with the law, I am convinced that things can change. There are police officers who are deeply concerned about the interpreters. They have told me that we need to do something about this. We are actually planning to have a meeting with all the agents involved (police, lawyers, ACNUR and interpreters).

## Police and interpreting

Some lawyers question the ethicality of the police calling an interpreter before they call a lawyer:

[...] it depends on the ethics and professionalism of the interpreter, some of them are used by police to find out things to their advantage [...] some interpreters are professional, but others have no idea what that entails, especially those who come from [name of private interpreting service provider].

## **Discussion**

An interesting impression can be drawn from the quantitative and qualitative data obtained through the agents’ perception of the role of interpreters. First of all, we have seen that asylum agencies can satisfy their interpreting needs in a number of ways, ranging from the non-professional volunteers preferred by Cruz Roja to the interpreters provided by private interpreting service providers or public contractors. Only in the case of ACNUR were interpreters sourced from an NGO specialising in the international protection sector. Refugees are used only rarely (5%) by some asylum agencies. Lawyers, for their part, tend to call interpreters they already know. Regarding the qualifications of interpreters, the agents were mostly unaware whether interpreters were qualified or had had any university level training at all, although they generally believed that the interpreters had not had that level of training. Responses varied as to the ability of interpreters to meet their communication needs, but 35% claimed to be dissatisfied half of the time. When asked to define the features that characterise a good interpreter, the responses were an almost exact match for UNHCR (2009) guidelines, especially regarding the professional traits present in all professional codes of ethics: objectivity and neutrality (not expressing personal opinions or engaging in side conversations, both a recurrent problem in this setting), the need for interpreters to inform the parties whenever they give any explanation, and empathy so that trust is built, trust being the crux of the matter in their work with agents. Other features such as language proficiency, conveying all the information, having a solid grasp of the context, observing confidentiality and being qualified were also deemed essential. Regarding behaviours regularly observed in interpreters, it is noteworthy that the agents who responded to the survey almost never observed note-taking by interpreters. They also reported that the appearance of interpreters was sometimes inappropriate. The linguistic competence of interpreters seemed to be optimal, contradicting Nova Sánchez (2017), which found that the interpreters in Cruz Roja Valencia could not even answer a questionnaire on their own role because they did not understand written Spanish and any explanations had to be spoken. Other behaviours worth mentioning for the insight they offer about interpreters acting in such settings are the fact that, at times, interpreters reportedly failed to control their body language, reacted emotionally to information, provided unsolicited and unnecessary information about cultural issues, exaggerated the information provided by the agent, expressed value judgements towards certain nationalities, offered their own advice, or made pessimistic remarks about the applicants’ prospects of obtaining refugee status. As already mentioned, the issue of trust was regarded by the respondents as having a significant impact on the whole process, with contradictory responses given by respondents to both open and closed questions. Indeed, one respondent complained that, generally speaking, agents do not trust interpreters, which may explain the emphasis in the different framework documents on checking whether the interpreter

is competent and official, and making a complaint if the interpreter is considered incompetent (Oficina de ACNUR en España, & Ilustre Colegio de Abogados de Madrid, 2011; Consejo General de la Abogacía, 2017). The findings also offer new insights on trust that do not appear to have been reflected in the literature so far, namely the fact that applicants may encounter the same interpreters in different settings and therefore believe that all the agents involved in the procedures (police, NGOs and lawyers) are interconnected. This may affect the way applicants perceive the whole process, and lead them to behave in a particular way, such as not informing interviewers of issues that may be relevant to defend their case.

For interpreters to be able to safeguard the rights of applicants, all the agents considered that solid language competence, appearance, punctuality, professionalism, respect and trustworthiness were necessary attributes. Note-taking skills were considered essential, whereas interruptions, expressing own opinions and engaging in side conversations were consistently criticised. Other traits and behaviours mentioned by the agents as necessary for interpreters are knowledge of the administrative procedures in international protection, not giving information about themselves, making sure the person understands correctly, being kind and avoiding negative comments, having a certain amount of knowledge of the country of origin of the applicant, being aware of gender and gender violence issues, and avoiding sexist or male chauvinistic attitudes. It could be inferred that these latter behaviours define many interpreters they normally work with, and that they consider these traits to have an impact on the procedure overall. However, it also means that interpreting in asylum contexts is a specialised professional activity, which would of necessity include the need for political and cultural knowledge of the different countries of origin, as well as specific training in how to work with gender violence victims. These findings are consistent with many recent studies (e.g., De Oliveira Araujo et al., 2019; Robbers et al., 2016), which have shown that considerable numbers of refugee women are victims of sexual violence. As long ago as 1993, UNHCR advised that those involved in the refugee status determination process be trained and sensitised to issues of gender and culture.

Moreover, the testimony of the lawyer who was interviewed separately offers a complete picture of the political and institutional context regarding asylum processes, as well as the actual international protection procedures that help explain both the extent of the application of asylum laws and the degree of human rights protection in Spain. The interviewee presents a narrative of complete despair with regard to the present policy, which varies from one geographical area of Spain to another and is especially tough in the main border areas and ports of entry. The interviewee stated that police officers seem to receive different instructions according to the asylum context (at the border or within the territory), and that actual discrimination exists, depending on the point of entry migrants find themselves at. The transposition of European directives to the Spanish legal system took a long time, and no regulations have yet to derive from them, leaving ample room for interpretation and application by legal operators (police and judges). Procedures are implemented particularly harshly at the border, where international protocols are seldom followed, and interpreter provision is scarce. Indeed, on many occasions, interpreters are not even present except on the phone, which may have a significant effect on the final outcome of the interview. On occasions, migrants are diverted to Cruz Roja for first-aid assistance and the whole legal procedure is overlooked. Furthermore, Spain has dropped plans to build a number of immigration offices equipped with police, ACNUR lawyers and interpreters. The main purpose of such facilities would have been to determine whether migrants are in fact displaced Syrians. Instead, a new rule has been enforced whereby police officers without specific immigration and asylum training deal with the interview part of the procedure, one of the main stages required to obtain refugee status. A new kind of protection category has also been created: a temporary permit of five years, after which time migrants can be deported. Police officers seem to act differently in different parts of Spain regarding compliance with protocols, and this would impact on the way in which interpreted interactions are conducted. There is some hope in the evidence that younger police officers are implementing protocols when appropriate and seem to wish to improve on the present situation. In the Valencia region, there are even plans to hold meetings with all the agents involved – police, lawyers, ACNUR and interpreters – since coordination is considered paramount to guarantee that rights are safeguarded. However, there remains plenty of mistrust on the part of lawyers towards the police and interpreters, and this stems from a perceived lack of professionalism of these two actors, which needs to be overcome through training. Lawyers seem to hold a different perception of the role of interpreters according to whether they “collaborate” with the police, which is deemed unethical, or with lawyers, which is seen as

positive and indeed necessary for a satisfactory outcome of the asylum application. This shows a rather partial view of the role of the interpreter, and ignores the fact that an interpreter must remain impartial at all times.

## 8 Conclusion

This study offers a brief but panoramic view of the current asylum-seeking procedures in Spain, taking into account the different agents involved and focusing on the interpreting services used, with particular reference to the role of interpreters and how they are perceived by the other agents involved. A number of issues arose in the discussion which confirmed previous work performed by the UNHCR in other EU countries (2010). These include interpreters' poor language proficiency and lack of interpreter training. Another issue hindering the safeguarding of the human and legal rights established in both international and national legal instruments is the lack of trained immigration officials. The role of immigration officials is taken on by untrained police officers and administrative officials, and this certainly merits further research, especially with regard to their reliance on interpreters to correctly perform their professional duties. The lack of mechanisms and protocols deployed by the Spanish Government – which has even meant that previous improvement efforts have been abandoned – only adds to the grey zone. This then perpetuates a vicious circle of maladministration of justice that is even more unacceptable from the perspective of the present humanitarian crisis. Nonetheless, there are initiatives, mainly from legal professional bodies, to improve the safeguarding of rights in the course of lawyers' duties; and for the first time there is a confluence of forces from different sectors – the legal sector, interpreter training institutions and NGOs – that have identified each other's needs and shortcomings and are on the way towards mutual collaboration in the defence of human rights. Further research is needed in this area, particularly as to how to train all the various agents involved in asylum contexts to work with interpreters. The training of interpreters working in such settings remains a void that needs to be filled, especially when it comes to dealing with languages of lesser diffusion. In this respect, the findings of this study provide an overview of what agents expect or need from the interpreter in order to carry out their duties, including a number of highly useful guidelines for interpreter training institutions. The findings also show how important it is for professionals to work with trained interpreters to build trust with their clients, an issue deemed of paramount importance by the agents who responded to the survey reported in this paper. Other areas with potential for future research are applicants' perceptions of the interpreters they encounter and the emotional factors at play in interpreted interactions when these are performed by non-professionals, with the aim of shedding more light on this complex and unknown context.

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