

Review:

Nadja Capus, Cornelia Griebel & Ivana Havelka (2024). *Multilingual Communications Surveillance in Criminal Law. The Role of Intercept Interpreter-translators*. Edward Elgar Publishing. 212 pp.

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Legal practitioners often cling to the fiction that IITs (intercept interpreter-translators) simply transfer what they hear or read from the source language into the target language and that they are able to conduct this task neutrally and objectively if they have no knowledge of the case. (p. 31)

In our view, the quotation above represents one of the central ideas that the interdisciplinary team of excellent scholars in Criminal Law, Translation Studies, Linguistics, and Cultural Studies wish to counter. As Translation Studies scholars, we have observed this perspective for several decades. Moreover, the idea that intercepted conversations, as a hybrid form of translation and interpreting, could be transferred verbatim without any loss of information or meaning “makes the application of translation technologies using artificial intelligence (AI) attractive” (p. 137). However, as shown throughout the entire volume, delegating the highly complex task of an IIT to a machine would add an extra layer of risk to the already delicately composed content of a TIR (Translated Intercept Record), jeopardising the right to a fair trial (see also Chapter 2).

The volume stands out for its wealth of sources in **Chapter 1**, including authentic criminal files, observational data, an online survey, interviews with police officers and IITs, and intercepted telephone conversations analysed through (de) contextualisation and recontextualisation strategies. While the authors emphasize the importance of “analyses of multifarious data, as well as the triangulation of the academic perspectives” (p. 6), the integration of the academic perspective could be clearer. The “references” and “further reading” sections, placed before the chapters, do not clarify which references are used where, nor does their placement seem logical, given that readers have not yet gone through the relevant discussions. For instance, while the concept of “priming” is briefly mentioned in Chapter 6, the preceding references section lists only a general article by Helen Fraser. Yet, among Fraser’s many relevant publications in the field of forensic linguistics since a few decades (with or without considering the topic of *translata*) only one specifically on “priming” is presented on p. 18 in Chapter 2. **Chapter 1** further offers valuable insights into the educational backgrounds, work experiences, and occupations of IITs beyond interception work. It is surprising – though not unexpected in our experience – that only 4 out of 46 survey respondents reported having interpreting and/or translator training. Finally, the glossary is an essential resource to navigate the reader through this highly specialised field. Crucial is the term *translatum* as a varying (written or oral) product of IITs’ translational activity (see Chapter 4).

Chapter 2 examines the legal context, focusing on the dual role of an intercept *translatum* as either informative or serving as evidence while underscoring the guiding principles of a fair trial. A central idea merits quotation:

After all, it is hard to imagine how a trial could be deemed fair if the preceding stages of the proceedings had already contravened the principle of a fair trial. (p. 24)

Reducing the risk of miscarriages of justice requires adherence to several rights. Firstly, the right to an impartial investigation requires IITs with “impeccable character and qualifications”. This principle sharply contrasts with survey findings showing that only

3 of the 36 IITs were hired through job advertisements, with most merely interviewed over the phone or not at all. Additionally, while IITs are expected to remain impartial experts, their close cooperation with police investigators challenges this ideal. Secondly, the right to effective defence requires timely access to sufficient materials, information about the IIT, and the availability of interpreters to verify problematic passages in the TIE (Translated Intercept Evidence). Thirdly, the right to equality of arms is fragile, as the request to review TIE is time-consuming, costly, and rarely meets the legal system's resources. One option is to let the appointed court interpreter verify disputed passages 'live' in court, but this is not ideal for the specialised nature of IIT.

Chapter 3 analyses translational processes involved in diverse TIR products, emphasising the complexity and diversity of IIT assignments and challenging the introductory quote. The authors stress the hybrid nature of the IITs' work, confirming that translational processes depend on the source information. For instance, aural sources can be recorded or real-time audio. In the latter case, IITs perform operative interpreting, a form of summary interpreting in close cooperation with investigators while recorded audio is influenced by factors like the tapping type (wiretapping or bugging), acceptable or bad acoustic quality (it rarely can be defined as 'good'), and conversation overlap. IITs may employ strategies, including multiple listens or headphones, to improve listening capacity (see Chapter 6 for relevant competencies). Two key methods are discussed: the one-step method (direct translation without transcription) and the two-step method (interlingual TIR based on intralingual transcripts). The latter ensures verifiability of the TIR (especially when used as evidence) but risks "cascading failure" (p. 93) when several IITs are involved, and also priming (meaning: expectations influence how IITs hear and interpret information, potentially affecting their listening skills). The biggest disadvantages are time and personnel costs. Secondly, source information can come from intralingual transcripts but also social media messages (e.g. WhatsApp), demanding careful (re)contextualisation of conversation content (e.g. internet slang). The introductory quote is again refuted: understanding a heard conversation within its original context is contextualisation, while recontextualisation involves transferring it into a new form, in this case, an intercept *translatum*. Relevant here is the type of translational product (see Chapter 4), the investigators' brief (if provided), and the purpose of the *translatum* (information or evidence). All information is considered reference information, meaning that body language is absent for intercept materials, while linguistic, prosodic, paralinguistic, non-linguistic, and extralinguistic are available but require excellent listening skills. The crucial question remains: should all this reference information be noted? The last two paragraphs of this central (and longest) chapter discuss two themes related to the specific activity or *translata* IITs produce: prioritizing information and working in cooperation. In the intercept context, only a proportion of surveilled data is translated, using various prioritizing or triage practices: this can be preselected lists of conversations by investigators or the result of the informal process whereby the triage of the au-

dio recordings is delegated to IITs. Needless to say, the latter places significant responsibility on IITs, which “may have an influence on the ongoing investigation” (p. 68) and affects fair trial outcomes. The authors define “working in cooperation” as active information sharing between investigators and IITs without involving IITs in investigative actions. Unfortunately, their research found a contradiction: some consider cooperation vital to constructing knowledge, while others prefer a more separate approach.

Chapter 4 explores the products of IITs, emphasising the influence of a criminal trial’s objectives on the choice of translational strategies. The authors argue that “the objective of a criminal trial determines which translational strategy is appropriate to produce the *translatum* needed [...] [influencing this way] how close the relationship is between the target text and the source text” (p. 80). Oral *translata* display a weak connection to the source text, while written *translata* (should) merge both oral and written communication conventions. Three types of written *translata* are identified: the short note (adapting *translatum* with minimal interlingual transformation); the summary (synopsised, analytical, target-language renderings) and the TIR (Translated Intercept Record), where conversations or conversation transcripts are transferred chronologically (full or excerpted) from the source into the target language, showcasing the hybridity of intercept IT. A notable challenge is deciding between intelligible target-language texts and verbatim rendering. The research reveals a Kafkaesque preference for verbatim “solutions” (p. 97). This way, the above-mentioned (re-)contextualisation becomes a real challenge, and the lack of transparency in applied rules worsens the much-needed reliability and verifiability. For instance, interpreting the noun “flower” as “cocaine” has different implications than translating “it is raining cats and dogs” literally into Dutch as “het regent katten en honden”, which makes no sense compared to the Dutch equivalent “pijpenstelen regenen” (“raining pipe stems”), both meaning “it is pouring outside.” The complexity intensifies with text messages, where idiosyncratic features further complicate the process, leading to a critical conclusion: “The fact that there is no standardized approach results in very different translations” (p. 105).

The hybrid nature of the translational activity, which produces intercept *translata*, creates tensions between legal, investigative, and translatorial demands (p. 107). **Chapter 5**, therefore, argues that ensuring the reliability of the translational process underlying written *translata* requires addressing all three perspectives. Using triangulated data, the authors convincingly argue that transparency is the only viable path toward achieving verifiability. This includes transparency in recruitment processes, oral data logs, and marked *translata* by “rendering the source information as holistically as possible and necessary, by including situational, contextual, and paralinguistic elements, and furthermore by *marking* these details accordingly” (p. 110, our highlight).

It is therefore no surprise that the only way to reach verifiable and minimally questionable intercept *translata* is through a set of competencies (**Chapter 6**) that IITs must possess. These competencies include bilingual, translational, and media-related skills

(Chapter 4), alongside interpersonal abilities (social skills) and personal abilities including adaptability, flexibility, and availability, which are critical given the unpredictable nature of intercept tasks. Moreover, the demanding job of an IIT requires robust intrapersonal competencies like stress management, psychological resilience, confidentiality, emotion processing, and self-assessment and self-management. The growing research on self-care for interpreters and translators, particularly in light of the distressing content IITs often encounter (e.g. graphic source materials, but not only) is an area worth further exploration such as Elstein and Kredens's (2022) work which highlights the emotional toll in forensic linguistic practice, even when *translata* as products are not explicitly discussed (disturbing content is not language-dependent). Of particular note are two overlooked competencies: first, forensic competence, where accents, unusual use of language and syntax, but also knowledge of forensic linguistics, is crucial but often unattainable, as shown in our efforts to disseminate the term FoLiTex (Forensic Linguistic Tap Expert), which remains unsuccessful and demonstrates a gap, as shared in the interview quote (and experienced by the author of this review):

It is occasionally possible for individuals to be awarded an assignment in intercept interpreting-translation whose insufficient knowledge of the language of proceedings led to them not being awarded a general certification for court and public service translation or interpreting. (p. 141)

How can we expect forensic linguistic knowledge if even basic linguistic knowledge is lacking? The lack of “knowledge of translation” (§ 6.4.5), such as professional self-understanding and procedural or methodological knowledge compounds the issue, and the following quote becomes a kind of self-fulfilling prophecy:

Not only the police officers but even the IITs themselves come to the conclusion that knowledge of the milieu and familiarity with criminal strategies are markedly more useful, especially while an investigation is ongoing, than academic, ideally translational, training. (p. 156)

Chapter 7 concludes the volume with a discussion on the classification of IIT roles, but it does so in a rather hasty way. As noted by the authors, three role types- “purely translational actor” (the machine translator), “auxiliary police officer” (the would-be investigator), and “masters of balance” are blurred in boundaries. The classification, as detailed brilliantly in Hohl Zürcher and Griebel's article (Griebel being also one of the authors of the volume), could have been expanded here. Instead, the reference to the article has been indicated in Chapter 6 as forthcoming while it was published in October 2024. In any case, the key question is: which role should be preferred, with the “masters of balance” being the most logical and balanced option?

A more detailed contents page could have improved the volume's navigability and addressed occasional inconsistencies in cross-referencing. Despite these minor shortcomings, this volume is strongly recommended for stakeholders involved in TIRs, including legal actors, interpreters-translators, interpreter trainers, practitioners, and scholars in interpreting studies, criminal law, and forensic linguistics. It underscores the urgent

need for IIT professionalization, emphasising their status as expert witnesses and promoting better-structured cooperation between IITs, police investigators, and judicial authorities. Concrete suggestions include internal handbooks or specific guidelines for handling intercept materials, standardised collaboration protocols between legal authorities and IITs, a two-way feedback culture (between investigators and IITs) and mechanisms for verifying *translata*. The authors' call for standardisation, underpinned by pioneering interdisciplinary research, is both imperative and legitimate, addressing the need to avoid deficiencies and errors and to ensure fair trials for all.

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