‘You may now speak to your lawyer’: When interpreters mediate judges’ information to the accused

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Abstract. *This paper concerns interpreter-mediated courtroom hearings in Denmark. Based on audio-recordings, we analyse the contributions of judge and interpreter, and we focus on if, how and by whom the non-Danish speaking accused is informed about the possibility to speak with a lawyer in private. Although legally trivial, this information is crucial to the accused as it concerns his/her legal rights and options. We show how the informational sequence unfolds interactionally; we argue that the work of judge and interpreter is collaborative; and we discuss the potential of our sociolinguistic / interactional perspectives to inform the legal professionals. Here we are concerned with a wide-spread understanding of quality in legal interpreting. Rather than regarding ‘quality’ as equal to ‘correct’ and ‘accurate’ translation and focusing on the work of the interpreter in isolation, we suggest that it is necessary to consider context, aims, addressees and functions of the interpreting activity. We argue that the interpreter’s work facilitates better understanding for the accused, and at the same time, a more streamlined courtroom interaction.*

Keywords: *Interpreter, Judge, Informing, Courtroom Interaction, Sociolinguistics.*

Resumo. *Este artigo trata de audiências mediadas por intérpretes na Dinamarca. Com base em gravações de áudio, analisamos as contribuições do juiz e do intérprete e focamos em se, como e por quem o acusado que não fala dinamarquês é informado sobre a possibilidade de falar com um advogado em particular. Embora juridicamente trivial, esta informação é crucial para o arguido, uma vez que diz respeito aos seus direitos e opções legais. Mostramos como a sequência informacional se desenvolve interacionalmente, argumentamos que o trabalho do juiz e do intérprete é colaborativo e discutimos o potencial de nossa abordagem sociolinguística/interacional para informar os profissionais do direito. Estamos preocupados com uma compreensão amplamente difundida de qualidade na interpretação jurídica. Em vez de considerar a ”qualidade” como tradução ”correta” e ”exata” e focar no trabalho do intérprete isoladamente, sugerimos que é necessário considerar*

o contexto, os objetivos, os destinatários e as funções da atividade de interpretação. Argumentamos que o trabalho do intérprete facilita o melhor entendimento do acusado e, ao mesmo tempo, possibilita uma interação mais ágil no tribunal.

Palavras-chave: *Intérprete, Juiz; Informar, Audiências Criminais, Sociolinguística.*

Introduction

In this paper, we discuss how judge and interpreter inform an accused who does not speak the language of the court about the opportunity to speak to a lawyer in private during so-called preliminary statutory hearings (Danish *Grundlovsforhør*) in Denmark. This is *important* information, as the defence lawyer may assist the accused by providing essential insight about legal rights and options. It is also likely to be *new* information to the accused, and not the least to an accused with non-Danish background, whereas it is part of a routinized script for the legal representatives (judge and prosecutor). Based on audio-recordings of the public part of interpreter-mediated courtroom hearings in Denmark, we show how the informational sequence unfolds interactionally. This sheds light on how the professional participants position themselves, each other, and the accused in relation to the legal institution. Our analyses also illustrate with great clarity the essential role of the interpreter in what Wadensjö (1998) termed a communicative *pas-de-trois*, here involving judge, accused and interpreter. In this paper, we focus on the contributions of judge and interpreter, as these two participants share the responsibility of communicating the information about the lawyer to the accused. Also, we are more interested in the official part of the court meeting than in the information a lawyer may share with a client in private conversations. Furthermore, we do not have access to these private conversations.

Courtroom hearings are institutional, interactional activities, conducted according to a specific interaction order and with very specific linguistic practices – summarized through the label *Legalese*. The Danish-speaking judge is responsible for ensuring legal justice, maintaining order in court, allocating the floor, informing participants about upcoming activities, and making a final decision on the plausibility of the charges. In the data presented, the accused is explicitly addressed by the judge, but it is done only through an informational speech act concerning courtroom procedures, and silence is the preferred and (largely) actual response. The interpreter speaks both Danish and the 'foreign' language and is tasked with facilitating understanding so that a non-Danish speaking accused gets "at least the same opportunity [to understand] as a speaker of Danish", as stated in interpreting guidelines for the court (Domstolsstyrelsen 2006). What this means is not entirely clear. Nobody knows what Danish speaking accused persons understand, and the term 'understanding' is problematic when applied in situations where the participant who is supposed to 'understand' remains mostly silent (Karrebæk and Sørensen 2021; Pavlenko *et al.* 2019). Furthermore, although all lay participants may need guidance in order to follow and participate in court cases, those who do not speak the language of the court are even further removed from those that control the information flow and the interactional floor, and they may need more or different assistance (Angermeyer 2022). We show that the interpreter takes responsibility for helping the accused by doing more than translating, i.e. elaborating and contextualizing, and we also argue that this is in fact what the judge expects.

We have two aims with this paper. 1) To demonstrate and analyse the interactional and linguistic work that judge and interpreter do to inform the accused about the upcoming private conversation with a lawyer; work we see as collaborative and basically helpful to the accused. 2) To tease out the perspectives of a legal vs. sociolinguistic approach (in particular) in relation to the main interest of the legal system: quality in legal interpreting or *tolkekvalitet* 'interpreter/interpreting quality' (Institute for Human Rights 2015; National Audit Office 2018). This is important because the notion of quality is largely misguided and this for various reasons. One is that 'interpreting quality' is solely assigned to the interpreters and their skills in translating so-called accurately between two languages. As sociolinguists, we analyse interaction and discourse in context, address who the participants are, what relations they have, what actions they perform, how these are carried out, why and with what consequences. In contrast, legal institutions are looking primarily for assessments in terms of right or wrong, good or bad, truth or falsity. This paper tries to open the conversation between these two traditions in line with other recent work in language and law (D'hondt and May 2021). We do not discuss the ethical implications of our insights, but we believe that the analyses are relevant for a discussion of how the different participants should act in court, i.e. taking an ethical stance.

Theoretical Section

Sociolinguistic and interactional perspectives on courtroom interaction

Institutional interaction is characterized by a special interaction (Drew and Heritage 1992; Goffman 1983) order. Activities often have a pre- (and well-) defined goal which for the preliminary statutory hearing is to decide whether the charges are sufficiently strong to lead to a trial, and whether the accused should remain in custody. The participants' identities are defined in relation to the institution, here judge, accused, assigned defence lawyer, prosecutor, and all participants are mostly addressed and referred to with institutional labels. In court, there are many constraints on adequate and appropriate contributions (Drew 1992; Drew and Heritage 1992) and institutional identities come with very specific rights and constraints. The judge allocates turns. An accused has even more limited access to the floor than other participants, as s/he can only speak when addressed. Preferred or relevant response types are often severely limited, both because of the strategic work of lawyers (more below) and because of the very schematic order of the court meeting. Legal language in general is characteristic in terms of speech acts (Philips 1998), epistemic types (Mortensen and Mortensen 2017), and lexicon and syntax (Pavlenko 2008), and it is infamous for being difficult to understand for non-professionals. Moreover, experienced (and professional) participants share an inferential framework, and legal representatives may be very implicit when communicating with other professionals acquainted with rules and practices (Drew 1992; Karrebæk and Sørensen 2021), including the type and order of activities. Legal professionals act comfortably in relation to this whereas lay participants (accused, defendants and witnesses) are mostly unaware of courtroom rituals, including the procedures, preferred behaviour, ordinary activities (Angermeyer 2009) and expected discursive style (Ainsworth 2008; Conley and O'Barr 1998; Fielding 2013). Non-native speakers of the language of the court may have even greater difficulty than native speakers, which can lead to violations of their rights as many studies have shown in relation to Miranda rights (Ainsworth 2008; Berk-Seligson 2009; Brière 1978; Pavlenko 2008; Pavlenko *et al.* 2019). Lay persons can overall be seen as "ritual outsiders" (Elsrud *et al.*

2017: 684) and they rely on guidance. Thus, epistemic asymmetry between professional and non-professional participants in court constrains the possibilities for participation.

Legal professionals enforce the law and verbalize their roles in various ways. Based on interactional style, Conley and O'Barr (1990) and Philips (1998) identify different types of judges and relate the communicative style to the judges' ideological understanding of their professional role. Regardless of whether this is conscious or not, judges clearly do not conform to a stereotype of the "impassive arbiter" (Conley and O'Barr 1990: 111). The discursive choices of the legal professionals also affect the possibilities for lay participants. In cross-examination, the lawyer's lexical choices may influence witnesses' answers to factual questions (Heritage and Clayman 2010). Lawyers may try to manipulate the perception of the case by correcting or substituting witnesses' word choices, confusing or intimidating witnesses through formal or technical legal language (Eades 2006; Drew 1992), or drawing on what is presented as institutional categories in giving evidence (Goodwin 1994).

As paid professional participants, judge, prosecutor, and defence lawyer share an institutional perspective. Lay participants, on the other hand, are involved as individuals. Participating in a court meeting may happen only once in their life (Drew 1992: 44) and the consequences may be dramatic – imprisonment, deportation etc. Elsrud *et al.* (2017) takes up the asymmetry. A young man interviewed after his first trial reflects on this. He felt poorly understood by the legal representatives, and although he recognizes that for the lawyers and the prosecutors "it is just a job", it seems to him as if they are merely "playing a game" (Elsrud *et al.* 2017: 676). The legal participants' relaxed attitude shows that the court hearing is a routine, and this makes the young man feel even more alienated and excluded (Angermeyer 2021). Fielding (2013) similarly shows how lay participants get frustrated and confused when presenting accounts in court, as they are asked to do this in ways that differ greatly from social interaction in other settings and even from prior stages in the criminal process (see also Conley and O'Barr 1998). In sum, legal professionals may make the courtroom more or less accessible and comprehensible to lay participants. This is important as a study of courtroom interpreting will always *also* be a study of the legal representatives' language and interactional style.

Courtroom interpreting

Interpreting includes translation and coordination (Wadensjö 1998). Since one-to-one renditions are impossible due to semantic and structural incommensurability between languages, as well as to the nature of spoken discourse, interpreters often use *expanded* and *substituted renditions* through which they provide additional information and, in some cases, rephrase the source utterances in the rendition (Wadensjö 1998: 107). This differs from many interpreting guidelines (Rigspolitiet 2020; Indiana Supreme Court 2020) where a verbatim norm – or a norm of denotational / referential identity (Haviland 2003) - is often articulated. *Interpreting is interaction* (Wadensjö 1998) and *mediation.* When interpreters ask participants to stop, repeat or clarify, it exceeds translation as the interpreter assumes an independent speaker role in the participation framework. Interpreters may modify the content of (source) utterances through expansions, substitutions, and meta-commenting (Baraldi and Gavioli 2014; Kirilova and Højland 2022; Lee 2009; Mason 2006; Pavlenko *et al.* 2019). This may be to protect different participants' face (Hale 2004; Jacobsen 2012); it may be because languages are incommensurable, and reformulations and changes therefore necessary; because specific terms are untranslatable or do not correspond

to conventionalized lexical items in a target language; or because it creates better opportunities for understanding to unpack or disambiguate what is said. Interpreters' modifications are systematic. Karrebæk and Sørensen (2021) show how interpreters articulate semantic dimensions which are merely implied by the prosecutor. They also tailor their contributions to specific audiences. Angermeyer (2015) shows that interpreters may maintain first-person pronouns when translating into the language of the legal representatives but change the pronouns when addressing lay participants in the minority language – substituting e.g. "I" with "the judge" and "the foreigner" with "you" (Ng 2018). This often goes unnoticed by courtroom professionals who tend to believe that verbatim translation is the best, and thus expect interpreters to keep the deictic centre when using shifters. In fact, interpreters also do so to a larger extent when addressing the legal representatives.

It may be the interpreter alone who decides to do a modified rendition, based on an analysis of the source utterance in context, which institutional, interactional, and cultural functions it serves, and to whom it is (primarily) addressed. Alternatively, such decisions may result from collaborative efforts, they may be imposed by the physical context or something else.

Methodology, context, and data

We draw on a broad qualitative sociolinguistic framework, aligned with linguistic ethnography (Rampton *et al.* 2016) and interactional sociolinguistics (Rampton 2017). We consider language practices and linguistic ideologies as related to societal and social questions, such as the rule of law and the recognition and understanding and evaluation of professional identities (here: interpreter, judge). We pursue our interest through analyses of interactional sequences where two participants (interpreter and judge) demonstrate their understanding of appropriate discursive conduct in a courtroom by making information available to the accused.

We base our analysis on a unique corpus of audio-recordings of the official part of interpreted preliminary statutory hearings (Danish *Grundlovsforhør*) in Denmark. The preliminary statutory hearing is a pre-trial procedure which occurs within 24 hours after a person has been detained by the police on a provisional charge in a criminal case, in accordance with The Constitutional Act of the Realm of Denmark (71, 3, 1953)[1]. In addition to a judge, a prosecutor and a court-appointed defence lawyer are present, and if the accused does not speak the language of the court (Danish), the court provides interpreter assistance - for the accused to exercise the right to defence and for the court to have access to the perspective of the accused. A preliminary statutory hearing is usually rather short (15-20 minutes). The public part consists of two parts. In the first, the judge asks the accused to confirm name and date of birth and in most cases the judge introduces what is going to happen. The prosecutor then states the provisional charges and requests legal action. Subsequently, the accused is offered an opportunity to go into a separate room with the court-appointed defence lawyer to discuss the case. Most often this is the first time the accused and the lawyer meet, and it gives the accused the opportunity to ask questions and get legal advice. This conversation constitutes a break in the collective activity and in our data, it lasts around 10 minutes. We do not have access to this private conversation between the accused, interpreter, and defence lawyer. Upon the return of the lawyer and the accused, the lawyer announces their position on the charges. The dominant activities in the second part comprise that the prosecutor reads the documentation produced by the police,

and that the accused is questioned. Towards the end, the accused is offered a possibility to speak to the court but in our data, this is done extremely rarely (see Karrebæk, Under review). The judge finally presents a decision.

Language in the Danish preliminary statutory hearing is formal and specialized. Numbers are abundant (paragraph numbers, dates, and times), and much spoken discourse is text read aloud or dictated (Chen 2021). Most activities are procedural, and discourse is highly routinized. The accused speaks very little, and only when prompted by the judge and occasionally by the interpreter (although see Karrebæk, Under review). Both the judge and the interpreter act as socializing agents and institutional gatekeepers (Angermeyer 2015; Maryns 2009) by suppressing uninvited contributions. The format of the preliminary statutory hearing differs from other types of courtroom hearings where the accused is given more time to participate by e.g. answering questions and clarifying evidence. This setting is arguably even more constraining for the accused than other types of hearings. Yet, this is not our goal to discuss here.

All judges in Danish courts hold a law degree. They are expected to abide by the law and act impartially and independently of the executive power (cf. The Association of Danish Judges[2]). In contrast, most interpreters learn the trade on the job as there is currently (2022) no national education or certification of interpreters. Interpreting guidelines issued by the legal authorities (Domstolsstyrelsen 2006) address the role of the interpreter from a normative perspective, with verbatim translation represented as an ideal, and do not consider context-sensitive translation.

Our corpus consists of audio-recordings of 32 preliminary statutory hearings from a large court in Denmark (recorded between April 2019 and July 2019).[3] A judge to whom we had been introduced helped us contact the president of the court, the president gave us a general permission and communicated information about our project to all the judges. We collected informed consent from all speaking participants at every single recording session (including judges), and all participants are anonymised. Two researchers were present at every recording session. We recorded the hearings with two microphones, one placed in front of the judge, one in front of the accused and interpreter. Data were subsequently stored on a secure university server. Judges, prosecutors, and defence lawyers may be male or female, and we use gender appropriate pronouns. Our recordings were transcribed by the researchers and various language consultants with whom we worked closely; they are acknowledged before each transcription. For transcription conventions, see the end of the paper. Table 1 shows the distribution of languages in the hearings. In this article, we focus on 27 of the recordings, excluding those in Polish, Filipino and Somali, and one Arabic case which does not include a conversation with the lawyer.

In most cases, we were unable to obtain additional information about the specific interpreters we met, such as their interpreting experience, education etc. An estimate from the National Audit Office (2018) claims that out of the 2944 interpreters employed by the National Police (i.e., interpreters used in courts and by the police), 77% were so-called "mother tongue interpreters" with no documentation of language competences in the foreign language(s) they were hired for. Regarding the linguistic competences of the legal representatives (judge, prosecutor, defence lawyer), we have reasons to believe that they only rarely have competences in other foreign languages used than English, Swedish and Norwegian.

Languages	**Number of recordings**
Albanian	4
Arabic	8
Arabic and Spanish (one court meeting in two languages)	1
Dutch	1
English	6
Farsi	1
Filipino	1
French	1
Norwegian	1
Polish	2
Romanian	3
Somali	1
Spanish	1
Swedish	1

Table 1. Languages in the recordings of preliminary statutory hearings

All examples are translated into English. We have tried to catch the idiomatic quality while staying as closely as possible to the relevant semantic distinctions. Where it is relevant, we discuss linguistic details. It is important to point out that the translations reflect *our* semantic and pragmatic choices and although somehow comparable to the courtroom interpreters' translations, we have had much more time to work closely with them. We also had access to what occurred later and before in the situation.

To arrive at more general conclusions about interpreted hearings, we have created a collection of comparable sequences. In a prior publication, we looked at sequences where the prosecutor is the main legal professional speaker, the prosecutor primarily addresses the judge and defence lawyer, and the topic is highly procedural – although extremely important to the accused (Karrebæk and Sørensen 2021). As the interpreter's task is affected by e.g. the accused's participant role, the legal professional speaker, the speech acts, and potential legal consequences of the utterances, we wanted to focus on a sequence that differed on these aspects. This paper builds on a systematic analysis of the 27 cases, from which we have selected a smaller number of typical or particularly illustrative examples. Our comparison shows patterned behaviour; thus, we look at what is 'normal' vis a vis 'extraordinary'. In our conclusion, we discuss the consequences of the interpreters' practices, and how our analysis of practice informs an understanding of quality of courtroom interpreting.

Analyses

The judge may refer to the accused's conversation with a lawyer three times during the hearing. The first follows immediately after s/he has verified the name, the date of birth, and sometimes the time of arrest of the accused. This first mention is a statement that informs the accused that s/he will get to talk to the lawyer later during the meeting. We refer to this sequence as INF. The second mention follows the prosecutor's presentation of the charges. Here it is part of a directive: the judge prompts the accused and the lawyer (and interpreter) to leave the room for their private conversation. We refer to this as PROMPT. The third possibility happens when the accused, the lawyer and the interpreter return to

the courtroom after their conversation. This contains both a statement and a directive – first, the judge asserts that the accused and lawyer have returned, then s/he asks for the accused's position on the charges. The judge does not refer to the conversation with the lawyer at all three possible slots in all cases, and the way the judge articulates the event varies in terms of what information is included. We focus on the first and the second possibility of addressing the confidential talk (INF and PROMPT). These include new, relevant and important information for the accused, and they point forward in the court meeting. Therefore, it is important that the accused understands.

The judge's tasks

In this section we focus on the work done by the judge in the INF sequence; we return to the interpreter. The sequence is usually initiated by the judge introducing the defence lawyer, and in 21 out of our 27 cases the judge adds that the accused will get an opportunity to speak to the lawyer. See below how this may unfold.

Example 1
Participants: JUD: judge (m); INT: interpreter (m)
Languages: Romanian/Danish, Transcribed by Astrid Lovelady

```
01 JUD:   herren her det er jeres (0.3)          [forsvarer]
          the gentleman here that's your (0.3)   [defence lawyer]
02 INT:                                          [el este] apărătorul
                                                 [he is] the defence lawyer
03              (0.7)
04 JUD:   han er uafhængig af myndigheder
          he is independent of authorities
05 INT:   n-are treabă cu autorităţi[le]
          he has nothing to do with the authorit[ies]
06 JUD:                              [og ham får] I lov til at tale alene
                                     [and you will be allowed] to talk to
          him alone
07        med [lige om lidt]
              [in just a moment]
08 INT:       [imediat după xxx] să vorbiţi cu domnul separat
              [right after xxx] you will speak to the gentleman
              separately[1]
```

Example 1 begins with the judge's introduction of the defence lawyer: "the gentleman here that's your defence lawyer" (*herren her det er jeres forsvarer*; l.01), using the rather formal *herren* 'the gentleman' and a 2. pers. pl. pronoun because there are two accused persons present. He adds a deictic adverbial *her* 'here' which is often done in the introductory sequence, probably originally accompanied by a head turn or a hand gesture in the direction of the lawyer. Then follows an explanatory comment about the defence lawyer's affiliation to the court, namely that he is "independent of authorities" (*uafhængig af myndigheder*). Thirdly, the judge describes the upcoming conversation as private: the accused will get the opportunity (or "be allowed to") speak to the lawyer "alone" (*alene*).

And fourthly, he indicates an approximate time frame: it will happen "in just a moment" (*lige om lidt*).

Example 1 illustrates a typical way for the judge to introduce both the lawyer and the private conversation. To the legal representatives, this is a routine part of the statutory hearing whereas to most accused the judge presents new and important information. This is an *assigned* lawyer whom the accused has not met before (the accused knows the lawyer in advance in only one of our recordings), so the explicit identification is relevant. The opportunity to speak to the lawyer concerns the possibility of being informed about legal rights and legal options as well as of being heard by the court (Elsrud *et al.* 2017). None of the accused in our data are Danish citizens, and they are unlikely to be familiar with Danish legal procedures, making it even more vital to inform them properly (Elsrud *et al.* 2017). The judge takes this responsibility seriously; in 24 of the INF sequences the accused is informed by the judge that a lawyer has been *appointed*. In 21 of these cases, the judge further specifies that there will be time to *speak* with the lawyer; in three cases only the *presence* of the lawyer is mentioned. In these three cases, the accused may already have spoken to the lawyer or may have requested a specific lawyer. In one case, the defence lawyer introduces himself and the upcoming conversation, and in two cases the lawyer is simply not introduced (see Figure 1 1).

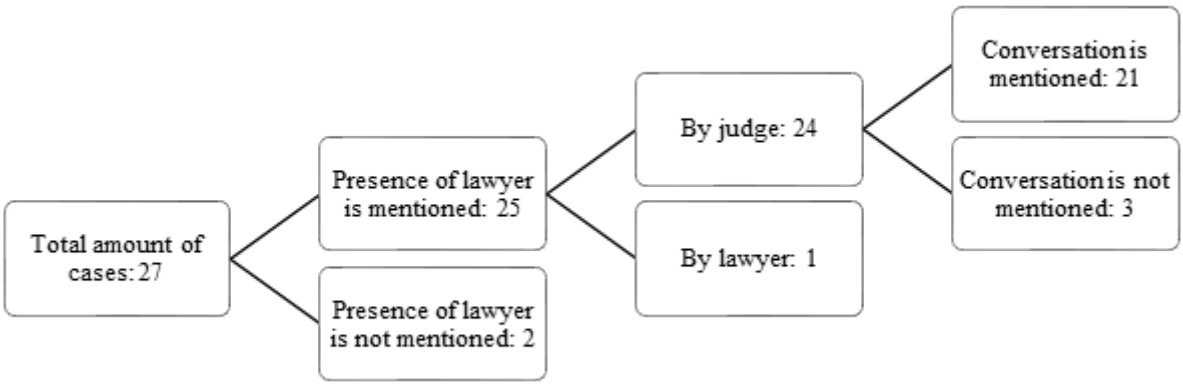

Figure 1. Mentioning the lawyer

An additional comment about the judge's contribution is relevant. By assuming responsibility for following procedures, informing about them, and enforcing them, the judge performs the role of chairperson, and s/he ensures equality before the law. S/he also ensures that the meeting progresses smoothly. This is part of the so-called ethical code of judges. The judge also acts to create authority through this. Authority results from the judge's institutionally assigned tasks, the diligence with which the judge carries these out, the concern shown for the ethical principles, *as well as* the respect shown by the other participants to the judge. This includes how they orient to the judge's right to control the

floor and distribute speaker rights. This is indirectly announced in the INF sequence which we discuss below.

Example 2
Participants: JUD: judge (f); INT: interpreter (m)
Languages: Danish/Albanian
Transcription: Paulina Bala and Bjorn Bisha

01	JUD:	>så skal vi lige høre< hvad det er (.) du er (.) sigtet for
		then we are going to hear what it is that you are charged with
02		og så får du mulighed [for at]
		and then you get the opportunity [to]
03	INT:	[skal jeg trykke]
		[*should I press*]
04		(.)
05	JUD:	så får du mulighed for at tale med øh forsvareren
		then you get the opportunity to speak to eh the defence lawyer
06		herovre som er beskikket for dig lige ba [gefter↘]
		over here who is appointed for you right af[terwards]
07	INT:	[>domethanë] sot do të bisedojm
		se për çfar arsye jeni arrestuar
		[*so today*] *we will speak about*
		the reason you were arrested
08		dhe më ndej do të kesh mundësi do me thanë fillimisht ta
		then you will have the opportunity first
09		lexoj prokurori se për çka je këtu më ndej
		to hear from the prosecutor why you are here and then
10		pra avokati do kesh mundësi në një dhomë tjetër të bisedosh
		speak to the lawyer in a separate room
11		bashkë↘< (.) ¯dakort¯
		together (.) understand
12	JUD:	værsågod
		here you go
13	INT:	xxx

Right before Example 2, the judge has explained to the accused that the purpose of the meeting is to determine if he should remain in custody. Subsequently, the judge outlines what is going to happen. First thing on the list is to inform the accused and the court about the charges: "then we are going to hear what it is that you are charged with" (line 01)[4]. This is an announcement of an upcoming activity *as well as* of speaker rights: the floor will now be allocated to the prosecutor. Then the accused is told that there will be an opportunity to consult a lawyer: "and then you will get the opportunity to talk to uh the defence lawyer over here right afterwards" (line 05). Again, an announcement of an upcoming activity *and* a new participation framework. This time the accused is informed

that he will be able to assume the speaker role. Finally, the judge gives the floor to the prosecutor with *værsågod* "here you go", and by informing about upcoming activities and distributing speaking rights to the other participants at specific, designated points during the court meeting, the judge performs as an institutional authority. To speak when one does not have an allocated slot, or without the judge allowing it, is inappropriate; it is rarely done, and when so, it is rarely acknowledged. Thereby the other participants validate and co-construct the judge's authority position. We return to this point in example 5.

The interpreter's task: Translating and creating understanding

As shown, the judge takes the responsibility for providing general information to all participants, and it is the interpreter's task to make this information available to the accused. The interpreter renders it in the language of the accused and sometimes adjusts it so that it becomes understandable in context. In this section, we investigate such renditions. First, despite the routinized character of the INF and PROMPT sequences, there are differences between the information presented in the cases. Observant readers may have noticed that in Example 1 the judge says that the lawyer is 'independent', whereas this is not mentioned in Example 2. We have found the following five themes in the INF and PROMPT sequences: 1) the identification of the lawyer; 2) the lawyer's affiliation; 3) the accused's opportunity to talk to this lawyer during the court hearing; 4) the location of the conversation; 5) the participants in this conversation. All themes are not necessarily addressed in any single sequence or in both the INF and the PROMPT sequence in the same case. It also varies when and how they get introduced, the degree of details provided, and the type of work that the interpreters do. Example 3 is particularly illustrative:

Example 3 Participants: JUD: judge (m) [5]*; INT: interpreter (f)*
Language: Danish/French
Transcription: Paulina Bala and Solvej Helleshøj Sørensen

01	JUD:	herren her det er din advokat
		the gentleman here that is your lawyer
02	INT:	à votre gauche est assis l'avocat
		to your left sits the lawyer
03		qui est commis pour votre défense
		who is appointed for your defence
04	JUD:	han er uafhængig af myndigheder
		he is independent of authorities
05	INT:	il ne dépend pas des autorités policiaires ou judiciaires
		he does not depend on the police or legal authorities
06	JUD:	og ham får du lov til at tale i enerum med lige om lidt
		and you will get to speak to him in a private room in a moment
07	INT:	avec lui nous irons dans une pièce voisine juste après
		we will go with him to an adjacent room right afterwards
08		pour discuter et de savoir (.) quelle suite aura votre défense
		to discuss and to know (.) what your defence will result in

In this example the interpreter expands or substitutes almost every part of the judge's message. First, the judge informs the accused that the person at the other table "here" *(her*) is "your lawyer' " (*din advokat*). The interpreter elaborates the specific placement through a spatial adverbial when she says that the lawyer sits "to your left" (*à votre gauche*). The expanded rendition is probably used since the interpreter speaks after the judge and the judge's deictic (hand) gestures are therefore no longer available as a means of identification. The interpreter also specifies the function of the lawyer and that he has been provided by the court ("appointed for your defence"; *commis pour votre défense*). The accused rarely find a lawyer on their own (the preliminary statutory hearing falls within 24 hours after detainment), so the expanded rendition explains where the lawyer comes from. The judge then states that the lawyer is independent of the authorities which the interpreter renders as he is independent "of the police or the legal authorities" (*autorités policiaires ou judiciaires*). This expands on what 'authorities' involve, and it implies that the defence lawyer is not employed by the court, therefore he is impartial, or at least orienting towards the needs and possibilities of the accused - in addition to being loyal to the court. The judge continues: "and you will get to talk to him in a private room in a moment", using 2nd prs.sg. ('you', *du*), and making it clear that it is a confidential conversation. This is rendered as "we will go with him to an adjacent room right afterwards" (*avec lui nous irons dans une pièce voisine juste après*). The interpreter includes herself as a participant in the upcoming conversation by using 1st prs.pl. ("we will go", *nous irons*). Pronominal changes are common and occur primarily when the interpreter speaks in the foreign language (Angermeyer 2015; Ng 2018). In the example, the pronominal change clarifies to the accused that the interpreter will be present when the accused speaks with the lawyer in private. As the lawyer and the accused speak different languages, the interpreter enables the exchange of information, and her presence is vital but cannot be taken for granted. Another pronominal change happens in line 1-2 where the interpreter switches from 2nd prs. sg. to 2nd prs.pl., that is, from a colloquial form of address widely used in Danish (also in court) to the polite form in French. This shows the interpreter's awareness of different norms of politeness. In line 08-9, the interpreter expands "to talk" (*at tale*) into "to discuss and to know […] what your defence will result in" (*pour discuter et de savoir […] quelle suite aura votre défense*). Thereby she clarifies the aim of the talk with the lawyer – it is an opportunity to discuss a serious situation and to know *(savoir)* more about the case and its consequences. Finally, the judge's "in a private room" (*i enerum*) is rendered as "in an adjacent room" (*dans une pièce voisine*). There is no conventional equivalent in French to Danish *enerum*, a term often used when describing private conversations about sensitive matters. In the paraphrase, the element of privacy is less salient, but it is clarified that the room of the conversation is different from the room in which they find themselves now, implied by "adjacent to".

To sum up, the interpreter in Example 3 maintains the overall pragmatic meaning of the judge's message but adds many details. The reasons for the modified renditions seem to be 1) lexical: an equivalent to *enerum* does not exist in French; 2) pragmatic: to use the appropriate term of address (in French, 2nd prs.pl.); and most importantly, 3) contextual: to express explicitly what the judge merely implied, thereby orienting to assumptions about the accused's (lack of) knowledge about legal procedures (also Karrebæk and Sørensen 2021; Mason 2006).

Although Example 3 is particularly illustrative of interpreter expansions and substitutions, we see modifications and facilitating work in many other cases. Pronominal changes that demonstrate the participation of the interpreter in the private conversation are very general (cf. Example 5 to which we turn in a moment). Although not shown in Example 1, in this case address terms are changed into more formal and polite ones by the interpreter. The judge uses "you" (*I*), 2. prs.pl., which the interpreter modifies to a polite plural form *dumneavoastră* (2 prs.pl.). At the same time, the interpreter in Example 1 draws on a *less* formal register than the judge, e.g., by translating that the lawyer "is independent of authorities" (*uafhængig af myndigheder*) into "he has nothing to do with the authorities" (*n-are treabă cu autoritatile*), using the Romanian noun *treaba* 'work, business, activity' which is much more commonly used and less tied to formal contexts than *uafhængig* 'independent'. In this way, the translator converts a rather formally articulated turn into everyday language. It is possible that the interpreter does not have access to a formal register in Romanian. However, he is efficient and does not express surprise, hesitation, or confusion, and thus appears experienced, and we find it plausible that the substituted renditions are intentional. This would equal Mason's and Wadensjö's findings that interpreters may choose a less formal register than the source utterances to facilitate understanding (Mason 2006; Wadensjö 1998). In the example, the polite address term ensures that the translation of the source utterance will still be formal and therefore appropriate in relation to the legal context. In addition to a change in pronouns to signal formality and politeness, another general observation is that several interpreters do not include the private nature of the conversation in the translation. As mentioned, the French interpreter (Example 3) uses "an adjacent room" for *enerum* "private room". The Romanian interpreter (Example 1) conveys *alene* "alone" as "separately". As there are two accused, this may mean that they should speak one by one with the lawyer rather than together but separate from the other courtroom participants. In Example 2, the judge does not mention the privacy aspect, but the interpreter adds that the conversation will take place "in a separate room".

Independent contributions by the interpreter

In addition to examples of expanded and substituted renditions, our corpus contains examples where interpreters add information not mentioned by the judge in the immediate context. We refer to this as independent contributions. Example 4 shows how the prosecutor ends her presentation of the charges as part of a PROMPT sequence. The first 13 lines concern the possibility of getting a video mediated connection if there is a need to extend the detainment, and it is addressed to the court, i.e., to judge and defence lawyer. This sequence is interesting in itself, as the request is most often conveyed using implicature, which we have analysed elsewhere (Karrebæk and Sørensen 2021). We have included what happens immediately prior to the PROMPT sequence to situate it better.

In line 17, the judge acknowledges that the prosecutor has finished her turn ("yes thank you"), and with "please" (*værsgo*) she invites the next activity to begin. This is the conversation between accused and lawyer, and "please" implicitly prompts them to leave the room; in Danish *værsgo* (or *værsågod*) encourages somebody to (do) something. The interpreter makes it explicit what the lawyer and the accused are supposed to do: he invites the accused to "**go talk** with your lawyer", clarifies that he will participate in the conversation ("**let's** go" and "**we** go talk"), and adds that the conversation takes place in at a different place ("(we go to) **another** room") (lines 18-19). Although one

Example 4
Participants: JUD: judge (f); INT: interpreter (m); two accused persons
Language: Danish/English
Transcription: Paulina Bala

01 PRO: [(…) skal jeg bede om en fristforlængelse kan ske via et
[*(…) I ask that an extension of custody can happen through a*
02 (.) videolink]
(.) videolink]
03 INT: [but if not possible (.) then ask the eh]
04 could be made by a videolink ↗
05 (.)
06 PRO: [det vil ske fra retten i CITY]
[*that will happen from the court in CITY*]
07 INT: [so to speak videolink]
08 INT: so you can see the court h in from the jail on a big screen ts
09 and they can see you (.) on the screen sitting in the court↘
10 if you should be extended some time more↘
11 PRO: det vil [ske fra retten i CITY]
that will [happen from the court in CITY]
12 INT: [after thirteen days (.)
13 PRO: fordi anholdte bliver [overført til PLACE]
because the arrested will be transferred to [*PLACE*]
14 INT: [only if you must stay here] longer time
15 than this
16 PRO: xxx
17 JUD: ja (.) [tak værsgo]
Yes (.) [*thank you please*]
18 INT: [okay let's go talk] with your lawyer okay
19 we go to another room

may question the fluency, coherence and idiomatic quality of the interpreter's English translation, this interpreter is very experienced, and he demonstrates that he is aware of courtroom practices. He explains what *videolink* refers to, namely that the accused will participate in a new meeting (if an extension is necessary) from the prison where he can see the court, and "they can see you" (line 09). Also, he tells what will happen next in the PROMPT sequence without the judge articulating this. As already shown, the judge may refer to the conversation with the defence lawyer and its private character in a more explicit way, and this is the case in both the INF and the PROMPT sequence. The judge in Example 4 introduced the lawyer's presence, name, and function in the INF sequence, which took place shortly before, but she left it out in the PROMPT sequence. In the INF, the defence lawyer added "we will talk together in just a little while" (*vi taler sammen lige om lidt*), and the judge confirmed ("before you get the opportunity to speak to the lawyer…"). Rather than adding something absolutely new, the interpreter re-circulates given information and does so at a point where it becomes relevant to the accused.

In Example 4, it is the interpreter who explicitly prompts the accused to leave. This information is offered by the judge in 16 out of 27 PROMPT sequences, in four cases it is the defence lawyer, and in four cases both the defence lawyer and judge. In the three last cases, none of the legal representatives informs the accused that the conversation with the lawyer will happen now[6]; see table 2.

Announced by	**Number of cases**
Judge	16
Judge and defence lawyer	4
Defence lawyer	4
Interpreter only	3
Total number of cases	27

Table 2. Announcing that the conversation will take place now (PROMPT)

While in three cases the interpreter is taking the sole responsibility for informing the accused about the conversation with the lawyer, there are four cases, where the judge or lawyer announce it, but the interpreter says it before them. Two of these involve the same Arabic interpreter; see Example 5:

After pressing the charges, the prosecutor signals she is done, and the judge holds the floor again: "and that was that/it". The interpreter expands: "that was her speech" (*hāḏa kān kalāmhā),* verbalizing the discursive activity where there the charges were pressed ("the talk"), and pointing to speaker ("her") who pressed the charges. After a short pause (0.4 sec), the interpreter states: "now we will talk with the defence lawyer" (line 06). The judge mentioned the conversation with the lawyer in the INF sequence but has not re-introduced it – yet – and so the interpreter demonstrates familiarity with courtroom procedures. In overlap, the accused asks "how" (*kīf*). This is not picked up or responded to, and as such it has no sequential consequence. The judge subsequently states, in a formal register, "then there will be an opportunity to speak with your lawyer" (line 08). As the interpreter has already announced this conversation, she does not translate the judge's turn. The scratching of chairs suggests that some of the participants rise.

Examples 4 and 5 are similar in that it is the interpreter rather than the judge who takes the initiative to prompt the accused to leave the room. In Example 4 the judge does not

Example 5
Participants: JUD: judge (m); INT: interpreter (f); ACC: accused (m); PRO (f)
Language: Arabic
Transcription: Solvej Helleshøj Sørensen

01 PRO: og det var det.
and that was it.
02 (0.4)
03 INT: hāḏa [kān ka]lāmhā
that [was her sp]eech
04 PRO: [ja]
[yes]
05 INT: ḥalla' net[kalam] ma`a al-mu[ḥāmī al-dif`a]
now we will [speak] with the [defence lawyer]
06 ACC: [kīf]
[how]
07 JUD: [så vil der] være lejlighed til at
[then there will be an opportunity
08 tale med din advokat
to talk with your lawyer
09 (1.1) ((*chairs scratching against floor*))
10 DFL: så kan du sige til ham at han kan følge med mig
then you can tell him that he can follow me
11 (0.2)
12 INT: etfadal ma`ah
here you go with him

give an explicit prompt at all. This may be because the judge understands the interpreting language (English) and therefore knows that the accused has already received the necessary information; the judge can choose not to repeat it. The judge's choice not to repeat may reflect an orientation to the informational task as collaborative: It is important that the accused gets the information, not who says it. We return to this. In Example 5, the accused speaks Arabic, and the judge does not know what the interpreter has said. The judge issues the prompt after the interpreter.

Before our last example, we return to the uninvited contribution by the accused: *kīf* "how" (line 07). This illustrates three points. First, as the contribution is not taken up by the interpreter, she validates the judge's authority by acknowledging that it is him who needs to assign the turn. This is general practice among court interpreters (Angermeyer, 2009; Karrebæk, Under review) and although we have no other examples in the INF and PROMPT sequences, we have numerous examples elsewhere in our corpus. Second, this contribution shows that the accused is not aware of what is going to happen, and therefore it will matter to him what is said by the judge and the interpreter. Third, we have wondered about the relative scarcity of self-initiated turns from the accused. This may be due to an understanding and experience of the courtroom as a power-infused, hierarchical, unknown, overwhelming, and perhaps frightening setting to lay participants. Most lay people are silenced merely by entering a court, and this may be even more characteristic for foreigners charged with a crime who depend on the services of an interpreter. As the setting is intimidating, and as the cases may have serious consequences for the accused, this makes the informational and explanatory tasks of the professional participants even more vital. In our data, we find that judge and interpreter seem very intent on helping the accused within the constraints and aim of the institution. This simultaneously shows that the lay participants are perceived as 'ritual outsiders' (Elsrud et al., 2017) in the (legal) context. We return to this in the final discussion.

Concluding discussion: Cooperation in Court

In this paper, we have showed how a non-Danish speaking accused is informed about the possibility to speak to a legal expert in private. From a legal perspective this is relatively uninteresting information (as long it is delivered) because it has no consequences for the questions of evidence, responsibility, and guilt, which are central to the legal participants. Yet, providing the accused with relevant information in an adequate way is a question of attending to his or her legal rights, as it has been argued by other scholars, most significantly in studies of the delivery of the Miranda rights to non-English speakers (e.g., Pavlenko et al., 2019). In other words, legal rights and the rule of law are also interactional and sociolinguistic issues, and it is important to investigate it as such.

We compared two sequences in 27 different cases and identified a pattern. We showed that the judges demonstrated diligence in informing the accused. However, they did not always include all the relevant information, and already presented information was not necessarily repeated when it became relevant later in the court meeting. The interpreters on the other hand conveyed what was (probably) intended by the judge, yet unknown to or not (easily) inferable by the accused who were not intimately acquainted with the formal procedures. The consequences of this work include that interpreters may facilitate better understanding for the accused, providing them with necessary and relevant information, and at the same time, a more streamlined courtroom interaction, anticipating questions from the accused to understand the implicit part of judges' messages. In addition to

considerations of efficiency and equality before the law, a streamlined court meeting would also make the interpreters appear more professional. As all court interpreters work as freelancers, they are very concerned with securing future bookings, so professionalism in the eyes of the court is always an important (additional) consideration. We wish to underline that to us the interpreters walked a fine line as mediators, and that they most probably created better opportunities for both legal participants and the accused.

We presented our analysis to a few stakeholder judges, and their reaction was rather dismissive. To them, it did not give insight into what really mattered in interpreter-mediated courtroom hearings, namely interpreter / interpreting quality (*tolkekvalitet)*. In their opinion, quality had to do with 'correct' and 'precise' translations of words, and the onus was on the interpreter. We agree that to do a good interpreting job, it is central to be highly competent in the languages involved. Yet, we need to consider more than 'accuracy' and 'correctness' to assess what an interpreter does, and it is not the interpreters alone who are responsible for what is eventually conveyed and understood by the accused. In interpreter-mediated hearings, the relation between judge, message, and accused is not straight-forward at all. The presence of an interpreter requires considerations of what information is presented by whom, and what information is taken up and by whom. We believe that it is important that the legal system understands that there is a difference in the orientation by the judge and the interpreter, and that the interpreter helps to uphold the courtroom's institutional interaction order; the interpreter and the court collaborate. This seems to be sensed (if not declaratively known) by judges, yet on a normative and explicit level they do not routinely pay respect to this and they may even present an opposite understanding. The interpreter orients to the overall goal of the court meeting, and the judge relies on the interpreter's insight and ability to work both in parallel to the judge and in extension of this.

We do not argue that independent work from interpreters is always commendable, nor that all the interpreters in our data do an equally good job. For instance, some are less experienced than others, and therefore less capable of unfolding more implied messages. As there is currently no national training or certification, many learn about courtroom practices through practice. This is unfortunate. We also have one example where an interpreter gives independent advice to two accused in what ends up as an asylum case, saying that they should be careful to align their stories, and that they should be aware that what they are going to present will be consequential for the outcome of their asylum case. This is a serious but also deviant, even extreme case. It is illustrative of some of the ethical problems interpreters are confronted with, and it certainly exceeds what we normally expect from an interpreter. In the rest of our cases, the interpreters convey the pragmatic meaning *in addition to* the semantic meaning of the judge's turns, and thereby act as loyal to the court *in addition to* being interested in creating understanding. To assess quality in interpreting, it is necessary to consider the context, expectations, activities, and the needs of both lay participants and professionals. And it is the court as an institution that needs to find out what constitutes good interpreting. This, however, entails an understanding of what job the court leaves the interpreter with, and unpacking this is a task that sociolinguists and discourse analysts have expertise in (cf. D'hondt and May 2022).

Transcription key

ACC: Accused; JUD: judge; INT: Interpreter; PRO: prosecutor

PRO:	speaker
(1.4)	pause in seconds
(.)	pause under 0.3 seconds
PRO: forlæn[gelse]	overlapping speech
INT: [cer] sa fi	
°ja°	softer than preceding talk
=	latched on preceding talk
>talk<	fast speech
<talk>	slow speech
Talk	emphasis
der begæres video	ordinary font = Danish talk
video is requested	*italics = translation of original talk*
herën tjetër	underlining = non-Danish language

Notes

[1]Retrieved from https://www.ft.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/grundloven_samlet_2018_uk_web.ashx, (1.12.2021)

[2]Retrieved from https://www.dommerforeningen.dk/english/ethical-principles-for-judges/, see also The Council of Europe's recommendation (R 2010) 12 of 17.12. 2010.

[3]Although video-documentation would have been preferable, it was almost impossible just to get audio recordings. Only very few scholars in Denmark have been lucky to get authentic court room data (Mortensen and Mortensen 2017).

[4]The restart is caused by the interpreter's interruption; he asks if he should turn on a microphone on the table. This is ignored by the judge,

[5]The same judge as in Example 1.

[6]These three cases all have the same legal representatives and interpreter. They also concern the same type of offence.

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