
The Sworn Translator interpreter in Algeria: legal status, mission and prerogatives.

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Abstract:

This paper aims at bridging the research-practice gap in the certified translation's field and reviewing all the legal and regulatory provisions of sworn translator-interpreter as well as the observable developments of this profession, which has always existed in the Algerian legal history. We will try to clarify the main features of this profession, which has been legally practised for a long time in Algeria, from the legal status of the sworn translator-interpreter to the explicit presentation of his prerogatives and professional tasks entrusted to him. We will also deal with the conditions required to access this profession, which has been largely ignored, not to say underestimated by the average public, except for those who have used the services of a sworn translator-interpreter for professional or personal needs.

Keywords: legal ; certified translator; sworn interpreter; legal prerogatives, judicial translation.

1 .Introduction:

In this paper, we intend to present the Algerian sworn translator-interpreter to the rest of the world as a strong link in the interlingual communication and as a man of law exercising a legal profession in an official manner. In addition, we will tackle the main mission and tasks of a translator- interpreter and the conditions that must be fulfilled in order to enter this profession and become an auxiliary of justice in Algeria.

The sworn translator-interpreter in Algeria has always been considered as an integral part of the Algerian judicial system since the landing of the French colonial troops on the Sidi Fredj peninsula on June 14th 1830, from July 5th 1830 until Algeria's independence and even after. As a result, this profession, like so many others, has always been regulated and governed by laws and decrees systematically organising this official profession, which has not ceased to be modified and supplemented up until now.

A sworn translator-interpreter, like an ordinary translator, transmits messages and transposes written or oral content from one language into another, taking into account the cultural context of the language into he translates. He also endeavours to use terms specific to the field in question if he is translating in a specialised field.

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Given that the certified translation is currently booming in Algeria due to the importance of its contribution on a professional level for the public and judicial authorities and also in relation to the opening up of the Algerian market and the establishment of multinational companies, it is necessary to understand its specific features and the professional framework in which the sworn translator operates. Therefore, we are obliged to inform the public opinion about the importance of this profession by trying to answer the following question: What is the definition of a sworn translator-interpreter? What is his legal status and what does his mission consist of?

2. What is a sworn translator-interpreter?

A sworn translator-interpreter is a bilingual or trilingual linguist, with a university degree in translation, approved by the courts and tribunals in order to do this certified profession within a legal and regulated framework.

A sworn translator is an auxiliary of justice and a public officer authorised by the Ministry of Justice in Algeria (Boussalem, 2007, p7), mandated by the public authority, in charge of the management of a public office for his own account and under his sole responsibility.

Before officially taking up their duties, sworn translators take an oath before the court in the place where their office is located, so that they can legally practice their profession and provide certified translations or interpreting services in an official private or public institution.

The profession of a sworn translator requires a great deal of linguistic and extra-linguistic knowledge, particularly in terms of legislation, terminology and specialised jargon in the field in which they work.

Their translations follow a specific ethical code and precise rules. They use and follow a quality charter for the layout of the translated texts. Translators who produce sworn translations eventually become legal experts, working in a certified translation office called a "public translation office" (Official Journal, 1995, p6).

The translation of official documents by a sworn translator is a "certified translation" considered authentic and original and if it is not done by a sworn translator, it will lose its legal value and will not be considered as an authentic document by foreign authorities.

What will prove the veracity of the documents translated by a sworn translator is the presence of certain elements in the certified translation that remain essential for its validity, such as?

- The seal of the sworn translator interpreter affixed to the translated document.
- The Claw of the sworn translator-interpreter.
- The handwritten signature of the sworn translator.
- The certification form "translation certified as true to the original".
- The translation papers must be numbered and initialled.

3. Mission and prerogatives attached to this function:

Certified translations are provided by sworn translators who guarantee the quality and

accuracy of the translation. This certification by the translator means and attests that the final document corresponds to and is consistent with the original version.

Certified translations are usually required for official proceedings and for purely legal purposes. For this reason, they are carried out by experienced translators who specialise in the relevant field.

A sworn and certified translation has the same value as any other official documents in the eyes of the law, issued by any authorities in the country. Furthermore, legal documents must be certified by sworn translators to be considered equivalent to the original text.

The sworn translator-interpreter works with courts, police, customs and the gendarmerie whenever they need translation or interpretation: police custody, interrogation, investigation, hearing, telephone listening, translation of files, etc.

He also works with administrative and legal bodies to translate legal and official documents in the context of criminal proceedings.

In generally, the profession of the sworn translator interpreter involves the certified translation of official documents: driving licences, civil status documents (birth certificates, death certificates, marriage certificates, and divorce certificates), translations of diplomas, company articles of association, accounting documents, willpowers, judgments, notarial contracts.

His specific status allows him to be the only person authorised to certify the conformity of a translation to the original. To this end, the sworn translator-interpreter affixes his stamp, signature and a unique serial number to the translation and to the original.

4. Historical overview of the profession of sworn translator interpreter:

Algeria stands out from the rest of the world in the status given to the sworn translator- interpreter since the colonial period (Boussalem, 2007, p6), as it was a pioneer in adopting and regulating this profession by opting for a legislative route to regulate the status of the sworn translator-interpreter

During the colonial period and under the terms of the Minister of War's decree of 29 May 1846 (Boussalem, 2007, p6), no one could be appointed as an interpreter/translator unless he was at least 21 years old, were French or had been resident in Algeria for three years, and could prove, by examination before a special commission appointed by the Attorney General, that they were able to:

- Speak and write the French language correctly;
- Translate, according to the spoken language and the usual script, the languages for which he/she is asked to be named;
- Speak the same languages colloquially and write them in common characters.

4-1 Court interpreters in French Algeria :

Sworn translators have been divided into three different classes, namely:

4-1-1- First class: court interpreters at the Algiers Court of Appeal. The conditions of

admission are those required for first class military interpreters;

4-1-2- Second class: court interpreters at the courts of 1er instance or of commerce, the conditions of admission are those required for military interpreters of the second class;

4-1-3- Third class: interpreters at the justice of the peace, the conditions of aptitude are those required of third class military interpreters (*Decree of 25 April 1851. ART. 1^{er}*).

4-2- Examination: When a court interpreter is to be attached at the same time to two courts of a different level, he or she shall undergo the examination required of interpreters attached to the higher court (*Same decree. ART. 2*).

The examination board meets in Algiers whenever it is convened for this purpose by the Attorney General. It is composed of: a counsellor at the Court of Appeal, **president**; a professor at the Faculty of Letters; a senior army interpreter; a first class court interpreter, **members**; and the secretary-interpreter of the Public Prosecutor's Office, secretary. If the jury also has Kabyle candidates to examine, the following are added as members: a professor of Berber languages at the Faculty of Letters and a court interpreter working in Kabylie.

5. The examination usually consists of three written and three oral tests:

4-2-1 - WRITTEN TESTS :

4-2-1-1- A French dictation generally dealing with the agreement of participles, compound and collective nouns and adjectives. It is common to all three classes and is eliminatory.

4-2-1-2- A legibly and correctly written version (act or *cadi* judgement), to be translated into French.

4-2-1-3- A topic (judgement, ordinance, extract from a decree, order or circular, etc.), to be translated into Arabic.

The last two tests differ from class to class.

In addition to the three tests, the 2nd and 1st class exam includes a second version which consists of a 'FATWA' or legal consultation (Ahmed Hacene, 1917, p2).

The duration of each test is three hours. For the dictation, no drafts are made and candidates have fifteen minutes to reread their copies.

4-3- ORAL TESTS :

4-3-1- Oral interpretation of a civil or criminal case presented by an indigenous person, on the instructions of the president of the Commission, assisted by the court interpreter; and reproduction in Arabic of the questions by the president, to the same indigenous person; all under the supervision of the interpreter, **examiner** (Ahmed Hacene, 1917, p3).

4-3-2- Reading of a letter, report or other handwritten document, in common Arabic, with oral translation, in front of the senior army interpreter, examiner.

4-3-3- Reading, with grammatical explanation and oral translation, of a piece of Arabic literature, in front of the professor of the Faculty of Letters.

These tests are more or less difficult, depending on whether the candidate belongs to the 1st, 2nd or 3rd class. In addition, Kabyle candidates take two other tests concerning the Kabyle language:

4-3-3-1- **Reading** on a collection of Kabyle poems, with grammatical explanation and oral translation, in front of the Berber language **examiner** teacher

4-3-3-2- **Language exercise**, with oral interpretation in the same sense as for the Arabic interpretation (1st oral test), in the presence of the Chairman of the Committee and the Kabyle interpreter, who is the examiner.

No one can be presented for appointment as a court interpreter if he or she has not passed the examination required for the class of court interpreter to which he or she aspires before the jury, in accordance with the above provisions. The examination certificate must be attached to the application (*Decree of 25 April 1851. ART. 4*).

4-4- Treatment:

Interpreters cannot exercise any other profession. They must remain at the constant disposal of the magistrates. They alone are entitled to make and certify the translation of notifications in criminal or correctional matters and generally of all acts ordered by the courts (*Order of 19 May 1846. ART. 2*).

No act received by notaries, cadis or other public officers in Algeria is valid, when the parties do not speak the same language, without the intervention of a sworn interpreter-translator who will sign it as an additional witness⁽¹⁾ (*Same ordinance. ART. 3*)

No document written in English or any foreign languages can be produced in court, cited or annexed to another document received by a public official, unless it is accompanied by a translation made and certified by a sworn interpreter-translator. Deeds written in French or a foreign language cannot be produced before a judge or a notary without a translation into Arabic, also made and certified by a sworn interpreter-translator (*Same ordinance. ART. 4*).

Duly certified translations will be deemed authentic in court of their content, unless verified by the courts (*Same Order. ART. 5*).

The interpreters will translate the documents simply and briefly. They shall reproduce the literal meaning, except for explaining the spirit, if necessary, by annotations. When the expression to be translated has no corresponding or equivalent terms in the language of the translation, they shall recall this expression verbatim, indicating; however, the meaning, which they consider, should be attached to it (*Order of the Minister of War of 29 May 1846. ART. 7*).

Interpreters have the exclusive right, within the jurisdiction of the court before which they are sworn, to intervene between the parties, when necessary, in all authentic or private agreements. The decree appointing them shall determine their residence (*Order of 19 May 1846. ART. 7*).

4-5- Fees:

All translations must mention the price claimed or received by the interpreter (*Order of the Minister of War of 29 May 1848. ART. 9*).

The acceptance by court interpreters of any salary or indemnity whatsoever, in addition to their salary or fees⁽³⁾, will be prosecuted as misappropriation of funds (*Ordinance of 29 May 1846. ART. 8*).

The salary of court interpreters is: 6,000 francs, for the interpreters of the Court of Appeal (*Decision of the Governor General of 3 March 1915, with retroactive effect from 1 January 1915*); Of 2,400 francs, for those of the civil and commercial courts; and of 1,500 francs for those of the Justices of the Peace (*ESTOUBLON and LEBÉBURE, 1879, note 5, p. 518*).

In the arrondissements of Tizi-Ouzou and Bougie, the salary of the interpreters of the Justice of the Peace is, like that of the interpreters of the Tribunals, 2,400 francs, except in Djidjel where it is 1,500 francs, as in the other Justices of the Peace of Algeria⁽¹⁾, it should be pointed out that the salary of the interpreter of the Justice of the Peace of Perigot ville (arrondissement, of Sétif) is also 2,400 francs. Dellys (district of Tizi-Ouzou) and Taher (district of Bougie): 2,400 francs also. (*ESTOUBLON and LEBÉBURE, note 3, p. 97*).

Court interpreters, like other ministerial officers in Algeria, are appointed and dismissed by order of the Governor General, on the proposal of the heads of the Court (Decrees of 27 June 1901 and 25 September 1906). Before taking up their duties, they take an oath of office before the court of their district⁽²⁾ (Order of 19 May 1846). They are not required to provide any security (*Minister of War, Decree of 14 February 1876*).

Interpreters are placed under the supervision of the Procureur de la République and the Procureur Général, who may call them to order and reprimand them (Order of the Minister of War of 29 May 1846. ART. 10).

Proposals relating to disciplinary penalties to be pronounced against them by the Governor General or by the First President or the Attorney General shall, like those concerning other ministerial officers in Algeria, be submitted to a disciplinary committee composed of : a Government Councillor, President, a representative of the Court, member, a representative of the Public Prosecutor's Office, member, appointed annually by the Governor General, and a public or ministerial officer, resident in Algiers, of the category to which the accused belongs, appointed in each case by the Governor General, on the advice of the First President and the Public Prosecutor (*Decree of 25 September 1906, amending Art. 6 of the decree of 27 June 1901*).

Infidelity or bad faith in interpretations or translations shall be punishable by revocation, without prejudice to the application of Articles 162, 174, 361, 362 and 363 of the Penal Code (*Ordinance of 19 May 1846. ART. 10*).

Any person who has usurped the functions of a court interpreter or sworn translator

shall be brought before the courts and liable to the application of Article 258 of the Penal Code (*Same ordinance. ART. 11*). this article is modified by the decree of 1 April 1916, which allows the final oath of an auxiliary court interpreter to any interpreting offices in Algeria.

The interpreters attached to the various jurisdictions must deputise for each other in case of need, without being entitled to any additional salary (*Order of the Minister of War, 29 May 1846. ART.4*).

5. The profession of a sworn translator-interpreter today:

The following is a presentation of the decree on the conditions of access, practice and discipline of the profession of sworn translator-interpreter and determining, in addition, the rules of organisation and functioning of the bodies of the profession.

Ordinance No. 95-13 of 11 March 1995 on the organisation of the profession of sworn translator- interpreter, (Official Gazette No. 17 of 29 March 1995, page 25.)

Executive Decree No. 95-436 of 18 December 1995 laying down the conditions of access, practice and discipline of the profession of sworn translator-interpreter as well as the rules of organisation and operation of the bodies of the profession.

Executive Decree No. 96-292 of 2 September 1996 organising the accounts of sworn translators- interpreters and setting the conditions for remuneration of their services.

5-1- The sworn translator-interpreter in the eyes of the Ministry of Justice :

Sworn translators-interpreters have the status of public officers. They are appointed to their office by order of the Minister of Justice. (Art. 4)

The sworn translators-interpreters are bound by professional secrecy. (Art. 11)

They have to wear their robes under the same conditions as court clerks when they are called upon to provide their services at court hearings. (Art. 4)

Translations that are certified by a sworn translator-interpreter will be deemed authentic until proven unfaithful. Proof of infidelity shall be provided by the opinion of three sworn translators- interpreters appointed by the court seized. (Art. 7)

Before taking up his duties, the sworn translator-interpreter shall take an oath in the court of his professional residence. (Art. 10)

Each public certified translation office shall be entrusted to an sworn translator-interpreter who shall manage it on his own account and be responsible for all matters relating to the operation of the office. (Art. 8)

The territorial jurisdiction of the public certified translation offices extends over the entire national territory. (Art. 2)

All translated documents will, on pain of nullity, bear the special seal of the sworn translator- interpreter. (Art. 23)

5-2- Conditions of access to the profession of sworn translator-interpreter :

Translators-interpreters must meet the following conditions (Art. 9) in order to be eligible for the competition for sworn translators-interpreters, namely:

- 5-2-1- Be of Algerian nationality,
- 5-2-2- Be at least 25 years old,
- 5-2-3- Enjoy their civil and civic rights and have not been convicted of a misdemeanour or crime,
- 5-2-4- Hold a diploma from the Institute of Interpreting and Translating or a title recognised as equivalent,
- 5-2-5- To have worked for at least five years in this capacity in a translation department of a court, a public administration or institution, a public or private establishment or body, a public certified translation office or a foreign translation agency.
- 5-2-6- Proof of professional residency within the framework of the present ordinance.
- 5-2-7- To pass the competition for the profession of sworn translator-interpreter.

5-3-Missions of sworn translator-interpreter :

Written or oral translation from one language into any other language (Art. 3)
 The sworn translator-interpreter alone is entitled to authenticate and certify the translation of any document or paper of any kind. (Art. 5)
 Within the limits of his competence and powers, the sworn translator-interpreter may, when requested, perform routine interpreting duties at meetings, conferences, colloquia, congresses, seminars or symposia (Art. 5).

5-4- Fees of the sworn translator-interpreter:

The fees due to the sworn translator-interpreter in payment for his services are set out in Article 16 of Executive Decree No. 96-292, and are determined according to the nature of the act translated and for each typed page of 30 lines and 18 to 25 syllables per line. They are fixed as follows:

- For current translations 200 DA
- For diplomas and school documents 200 DA
- For technical translations 350 DA
- For civil status certificates 200 DA
- For administrative acts 250 DA
- For judgments or rulings 350 DA
- For any signature on any document 100 DA
- For entries on payment orders or bills of exchange 100 DA
- For consecutive or simultaneous interpreting of less than six (6) hours, including travel expenses, at conferences, seminars, symposia or other events, he/she shall be entitled to 1600 DA
- In addition, for each additional hour 500 DA

When the sworn translator-interpreter is called before a court of law, for oral or written translation, during hearings, enquiries, expert opinions or other measures of instruction ordered by the court, as well as any other operation per one-hour session and per case:

- the first hour 350 DA

- other hours 400 DA

For assistance in all notary, public officer and registry acts 300 DA in addition to transport costs.

For the certified revision of all translations other than those made by him, half the value of the original translation,

For any work or assignment relating to the profession of sworn translator-interpreter which is not included in this decree, the costs and fees shall, after specific justification and in the absence of an amicable settlement between the parties and unless there is an objection, be fixed by the president of the court to which the sworn translator-interpreter is attached,

Where a reproduction of a translation is not certified by the sworn translator-interpreter and has no official character, a fixed fee shall be paid for this copy for each roll of writing of 30 lines per page and 18 to 25 syllables per line, including the first roll, equal to half the value of the first translation. If the copy is duly signed, the provisions of Article 15 above shall apply. (Art. 16. Executive Decree n° 96-292).

The public prosecutors and the public prosecutors of the Republic may, for compelling reasons, request a sworn translator-interpreter to work, for a specified period of time, outside his place of residence, and shall state these reasons in their order, which shall contain, in addition to the name of sworn translator-interpreter, the nature of the oral or written translation and the place where it is to be made. In this case, the assistance of a sworn translator-interpreter will not increase the fees fixed by this decree. (Art. 17. Executive Decree No. 96-292).

When the sworn translator-interpreter travels more than three (3) kilometres from his place of residence to carry out translation work, he or she shall be paid an allowance equal to the expenses incurred, on presentation of supporting documents. (Art. 18 of Executive Decree No. 96-292).

The sworn translator-interpreter shall not be entitled to any rights other than those granted by this decree. (Art. 19. Executive Decree No. 96-292).

The sworn translator-interpreter is obliged to display the rates of his fees so as to enable users to become acquainted with them before the performance of his services. (Art. 20. Executive Decree No. 96-292)

6. Conclusion:

To conclude, the profession of a sworn translator-interpreter shows that the latter is a multilingual mediator whose role is extremely important. In this sense, he or she constitutes the core of any official multilingual communication operation in Algeria. The certified translations produced by the sworn translator are original and are deemed authentic by the foreign authorities, unlike uncertified translations produced by ordinary translators.

The sworn translator has always enjoyed a growing importance in the Algerian systems throughout the ages and the profession has always been governed by laws and regulated by decrees and ministerial orders, This proves that being a sworn translator-

interpreter in our country is a real privilege and that exercising such a profession, which is in full effervescence, is a real challenge for the translator who tries by all means to strengthen his position and to confer upon himself a well-defined social status placing him, without any doubt, at the head of the Algerian intellectual sphere.

We are forced to admit, moreover, that despite the social changes, the fees of translators in Algeria have not been modified for almost thirty years, which makes the financial and economic situation of these linguistic mediators difficult and pushes them to practice in deplorable or even pitiful conditions. Therefore, it would be appropriate to amend the laws and regulations governing the profession of sworn translators- interpreters.

We are thus, authorised to say that a possible draft decree, completely reorganising the body of interpreters, is foreseeable and has always been the subject of study within the tutelage and the chamber of sworn translators-interpreters, which will inevitably bear fruit in the future, in order to modify the regulations in force for a better organisation of the profession.

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