

**PRACTICES IN INTERVIEWING IMMIGRANTS: LEGAL IMPLICATIONS**

**REPORT ON HUNGARY**

**Hungarian Helsinki Committee  
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## Table of contents

1. Introduction.....	3
2. Legal framework, other documents, special trainings .....	3
3. Problematic situations at applying the legal provisions in asylum procedures.....	5
3.1 Not using professional interpreters.....	5
3.2 The asylum seeker does not have a good command of the language of the interview.....	5
3.3 Consequences of misinterpretation .....	6
3.4 Information about the procedure given to asylum seekers.....	6
4. Problematic situations in asylum procedures not regulated by law .....	7
4.1 The role and purpose of the interpreter .....	7
4.2 Standards of interpretation .....	7
4.3 Language competency .....	8
4.4 Intercultural skills.....	9
4.5 Accurate translation without judgement or adding any kind of information .....	9
4.6 Interviewers' and interpreters' behaviour during the interview .....	10
4.7 Translating the decision.....	11
4.8 Recognised refugees.....	12
5. Interpreting in other procedures.....	12
6. Summary of the recommendations .....	13

## **1. Introduction**

Regardless of the type of procedure, whenever a foreigner does not (or cannot) speak or does not have a good command of the language officially used, the quality of the interpretation has a huge influence on the outcome of the case. A successful interpretation can substantiate a relatively quick ending of the procedure. Based on a correctly written record the authority is able to make an appropriate decision. Both the interviewer and interpreter have an obligation to do their best to make the written record as correct as possible. However, there are few legal provisions dealing with interpretation. The few relevant provisions do not demand any special qualifications or skills to be an interpreter working with foreigners. Therefore the quality of interpretation can be very different even in same type of procedures. Although interpreters are required to be impartial and are not employees of the Office of Immigration and Nationality (hereinafter OIN) each authority has its own tested interpreters who have different knowledge, skills and experience. In general the interpreters used by the Metropolitan Court who decides on appeals against the decisions made in asylum cases are more qualified, trained and experienced than the interpreters used by the OIN. But even at the court no special qualification or certification is required.

The lawyers of the Hungarian Helsinki Committee (hereinafter HHC) often participate in interviews conducted during their clients' asylum procedures. The first short interview is conducted by the police, being the first authority the foreigner meets. If the foreigner asks for asylum his/her case will start with a preliminary examination where an OIN officer dealing with refugee affairs will conduct a short interview. If the application is admitted, a second officer, also dealing with refugee affairs, conducts one or more detailed interviews. If the decision is unsatisfactory for the asylum seeker and he/she appeals against it to the Metropolitan Court, the court is also obliged to conduct a personal interview with the help of an interpreter.

## **2. Legal framework, other documents, special trainings**

As in most asylum cases no documentary evidence is available, the personal interview is the only opportunity to substantiate the asylum seekers well founded fears. Therefore, Act LXXX of 2007 on Asylum authorises the person seeking recognition to use his/her mother tongue or a language which she/he understands both orally and in writing during the asylum procedure.<sup>1</sup>

The asylum seeker has an option to apply for asylum orally or submit a written application. In case of illiterate persons the OIN has to produce a written record which contains the application and the fact that the person is illiterate.<sup>2</sup> Upon submission of an application, the refugee authority informs the asylum seeker of his/her procedural rights and obligations in writing as well as the legal consequences of violations of these obligations. The written information has to be in his/her mother tongue or in another language understood by him/her.<sup>3</sup> The interview is held with the help of an interpreter who is usually present personally at the OINs office. The decision is also communicated by an interpreter, but the asylum seeker receives the written copy in Hungarian only.<sup>4</sup>

At all stages of the procedure, the OIN is obliged to provide an interpreter, including for sign language, unless the officer speaks the asylum seekers mother tongue or another language understood by him/her. If the officer speaks the asylum seeker's native language, the asylum seeker

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<sup>1</sup> Act LXXX of 2007 on Asylum (hereafter Act on Asylum), Section 36 (1).

<sup>2</sup> Government Decree 301/2007 (XI.9) implementing the Act LXXX of 2007 on Asylum, Section 62 (1), (2), (4).

<sup>3</sup> Ibid. Section 37 (1).

<sup>4</sup> Ibid. Section 36 (2).

has to agree not to use an interpreter. If possible, the OIN provides an interpreter of the same sex.<sup>5</sup> In other immigration related procedures, when proceedings are launched ex officio, the costs of language services shall be borne by the competent authority.<sup>6</sup>

As for the interpreters' responsibility, the Criminal Code states, that a person who falsely translates as an interpreter or translator, commits the felony of giving false evidence which can result in up to three years imprisonment. If the subject-matter of the case is particularly sensitive, or important, the length of imprisonment can be expanded up to five years. If the interpreter commits a false translation by negligence he/she shall be punishable for a misdemeanour with imprisonment of up to one year, labour in the public interest, or fine.<sup>7</sup>

Regardless of the type of case all interpreters must agree to work in confidentiality. They cannot disclose any of the personal data or statements discovered during the interview or while translating documents without the asylum seeker's approval or legal provisions. The interpreter cannot be the foreigner's relative, cannot have any personal connection with him/her and has to be impartial.

Besides these basic rules, there are no other binding documents regarding the quality of interpretation. There are some guides translated into Hungarian which specify required standards of translation and special qualifications or experience expected from interpreters but these are not widely used. Most of these guides are written by the UNHCR. Interpreters Code of Conduct and Interpreting in a Refugee Context are all translated into Hungarian, but are rarely used.

Therefore, the HHC recently organised a two-day training designed specifically for interpreters, focusing on their role in the asylum process, and their responsibilities while interpreting. The training also showed them the related UNHCR documents and provided them with techniques on how to act if the asylum seeker has special needs or is traumatized. The training first overviewed the asylum procedure, and then dealt with the interpreter's role between the officer and the asylum seeker, with the consequences of misinterpretation and with the differences between interpreting at the administrative phase and before the court. The trainers showed examples of how a lack of intercultural skills and professional behaviour can lead to a false written record. Finally, they had a conversation about interpreting for a vulnerable person, e.g. minors, traumatised or mentally disabled individuals. The trainers were lawyers, officers, judges and psychiatrists. This way every stakeholder who is usually involved in an asylum case had the opportunity to express his/her opinion.

The HHC published an information leaflet translated into ten languages which is a guide for foreigners who want to submit an asylum claim. The leaflet describes the procedure in detail, highlighting the importance of the personal interview and credibility. It calls attention to the fact that for a successful case everything in the written record must be factually correct and has to fully reflect what the asylum seeker said during the interview. If something is wrong or missing, the asylum seeker must immediately inform the officer, who can then correct the record. It is important that the asylum seeker and the interpreter understand each other without difficulty. The leaflet gives suggestions to the asylum seeker for what to do if they notice any problems during the interpretation. It is possible that the interpreter speaks a different dialect of the language used by the asylum seeker or that he/she speaks with a pronunciation that is difficult for the asylum seeker to understand. Interpreters must behave in a neutral way in the asylum procedure; they do not have the right to ask the asylum seekers their own questions or to try to get them to withdraw their asylum application. If an asylum seeker has communication difficulties with the interpreter or he/she thinks

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<sup>5</sup> Government Degree 301/2007 (XI.9) Implementing the Act LXXX of 2007 on Asylum, Section 66, (1), (2).

<sup>6</sup> Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereafter act on Third-Country Nationals), Section 91, (3).

<sup>7</sup> Act IV of 1978 on the Criminal Code, Section 238, (2), (59), (6).

that the interpreter is not neutral, he/she should tell these problems immediately to the officer and/or his/her lawyer and ask for a different interpreter.

Although proper interpretation should be the most important requirement in immigration procedures, there are few documents evaluating the quality of the interpretation in Hungary. In recent years, only one document, published within a larger border monitoring programme, mentioned a possible problem during the interrogation of a minor by the police.<sup>8</sup> Apart from this single observation, reflections or evaluations regarding the quality and standards of interpretation for foreigners are rare if any.

### **3. Problematic situations at applying the legal provisions in asylum procedures**

#### ***3.1 Not using professional interpreters***

Although the law obliges the OIN to use a professional interpreter, during the first interview with the authorities, (usually with the police) the interviewer frequently uses other foreigners as interpreters who speak at least some English. It mostly happens when the asylum seeker speaks an “exotic” language (rarely spoken in Hungary), such as Somali, and an interpreter is not available at that moment. Later this may cause serious problems. When making a decision in an asylum case the OIN considers all interviews done with the asylum seeker regardless of which authority took it and at which phase of the procedure. The decision will list even those contradictions produced by using an unqualified translator. It is clear that for the asylum seeker it can be very uncomfortable and he/she may not tell his/her story to another foreigner. In addition, these interviews happen soon after arriving, so the “interpreters” can be just as tired and unable to concentrate after a long journey as the asylum seeker is.

For some languages, such as Sinhalese or Tamil there is no interpreter available. The OIN uses English if the asylum seeker can manage with this language, if not, they even use double translation. For example in the case of a family from Sri Lanka, the father spoke English well and his interview was conducted in English. His wife, father-in-law and mother-in-law did not speak any English and there was no interpreter available. The father interpreted for the relatives from Sinhalese to English and the OIN interpreter translated from English to Hungarian. In a similar case for a second Sinhalese asylum seeker his companion acted as a translator at the interview conducted by the police as he did not speak any English.

Solution:

In no circumstances the OIN shall be allowed to use other asylum seekers or recently arrived foreigners who also have an ongoing procedure as interpreters because it will cause tension between them and give undeserved privileges to those who speak more languages and they will gain personal information about others cases.

#### ***3.2 The asylum seeker does not have a good command of the language of the interview***

In some rare cases, usually when the officer who decides on the asylum application meets the asylum seeker for the first time at the interview, after few sentences it turns out that the asylum seeker cannot express him/herself in the language used for the interview conducted by the police or in the language used when writing the application.

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<sup>8</sup> Border Monitoring Project Ukraine: Acces to Protection Denied: Refoulement of Refugees and Minors on the Eastern Borders of the EU – the case of Hungary, Slovakia and Ukraine, p. 25.

Solution:

It would be advisable for the officers conducting the main, detailed interview to at least meet the asylum seekers before the interview and ask them about the languages they can speak.

### ***3.3 Consequences of misinterpretation***

The interpreters feel little responsibility for misinterpretation because they can hardly be accused of false interpretation and it is extremely difficult to prove such a fact. In most cases, the foreigners are afraid to express their doubts and correct the interpreters during the interview. Even if they do it, the authority may consider it a lack of cooperation with the authorities, which may lead to a refusal. When signing the written record made at the interview, the asylum seeker agrees that what was said is written down, translated back, and that he/she got a chance to correct any mistakes. After a signed written record it is almost impossible to prove false translation. Particularly because the written record is only in Hungarian and the asylum seeker does not receive a copy.

If the interpreter notices a misinterpretation, the interviewer corrects the sentence immediately. Still some officers do not allow the given answer to be changed if the asylum seeker notices a failure, but they just note the asylum seeker's observation at the end of the written record. Sometimes when deciding, the OIN evaluates the original sentence and the clarification as a contradiction.

Most of the asylum seekers especially those without a legal representative are afraid to express their doubts and correct the interpreters during the interview. They think that it would be rude and the OIN will think they want to set back the procedure and that they are dilatory. However, after signing the written record, complaining about the interpreter is pretty much useless as misinterpretation is hard to prove. In addition, the asylum seeker does not receive a copy of the interview, and often only realize how important it is to correct the misunderstandings when the decision is announced. The copy of the decision the asylum seeker receives is in Hungarian, which makes it extremely difficult to submit a detailed appeal. They can list just those things which they marked at the announcement of the decision. There is only a slight chance to convince the appeal judge of the interpreter's failure. This mostly happens in cases when the asylum seeker has a legal representative who can ask for a copy of the written record and then talks over the whole case with the asylum seeker before the personal interview conducted at the court.

The HHC has no knowledge about cases where the asylum seeker or the interviewer charged an interpreter for false interpretation. For the interviewer the interpreter is almost a "close colleague", therefore asylum seekers are often afraid and they do not want to weaken their vulnerable situation even more.

Solution:

The OIN should be obliged to provide asylum seekers with a copy of the written interview record after finishing the interview. In addition every interview should be digitally recorded so in cases where credibility is questioned at appeal procedures it could be easily checked if there was misinterpretation or not.

### ***3.4 Information about the procedure given to asylum seekers***

It depends on the interviewer how detailed information is given about the procedure to the interpreter and to the asylum seeker. When submitting an application for asylum the asylum seeker

gets a sheet listing his rights and obligations during the procedure,<sup>9</sup> including the right to state if he/she does not understand the interpreter. In practice, the detailed interview is conducted at least a month after submitting the application, and the officers usually do not repeat these rights when starting the detailed interview. They just pose the automatic question if the asylum seeker understands his/her rights. In every written record exists the question of whether the asylum seeker understands the translator or not, but in practise this is more like a standard question at the beginning of the interview where the answer is usually an automatic “yes”.

Solution:

It would be useful if the officer at least listed the asylum seeker’s rights and obligations when starting the detailed interview. It would also be useful if the OIN compiled an accessible written document detailing the most important requirements for interpreters and make asylum seekers aware about their right to express their doubts concerning interpretation during the interview both when they do not understand the interpreter properly or the interpreter does not understand them or is not objective when interpreting.

#### **4. Problematic situations in asylum procedures not regulated by law**

##### ***4.1 The role and purpose of the interpreter***

Interpreters are often not aware of their role in the procedure. Some of them act as if they were the interviewer, some of them show negligence, and do not concentrate on translating exactly what the asylum seeker is stating.

It is clear that new or rarely used interpreters do not even know which type of procedural act or phase they are interpreting in. According to our experience prior to the interview or to the announcement of the decision, no information is given to the interpreter about the type or phase of the process.

Solution:

It would be very useful if the OIN organized a short meeting at least for the constant interpreters to explain to them that their role is to be a connection between the officer and the asylum seeker. They do not have to (nor are they legally allowed to) make up questions for the officer, and do not have to (and may not) correct the asylum seekers statements either. It is important to explain to the interpreters that in most cases the only evidence is the asylum seekers statement, so the decision depends on the standard of the interpretation.

##### ***4.2 Standards of interpretation***

The OIN has a list of frequently used interpreters, but, there is no method stated by the law or used by the authorities verifying the interpreter’s language skills or quality of his/her interpretation. The law does not list any additional qualification requirements for interpreters working in this field. With an appropriate certificate every interpreter can work in asylum cases. It is the HHC’s opinion that an average interpreter without any information or knowledge about these procedures, culture, the specifically used legal phrases, ethics, or psychology is simply unqualified for making a proper translation in an asylum procedure. In addition in order to decrease the costs, if there are more interpreters available for the same language, the OIN will unfortunately choose the cheapest and

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<sup>9</sup> Act on Asylum, Section 37, (1).

closest one and not the most qualified one.

Not all the interpreters make notes or stop the asylum seeker after few sentences to translate precisely what was told before the asylum seeker continues telling the story. When the interpreter summarizes more sentences, the important parts could be left out. At the end, when the interpreter is translating back, the asylum seeker cannot remember every single sentence from a three-hour-long or even longer interview. Therefore, it is essential to have breaks during the interview. It is straining for both the asylum seeker and the interpreter to maintain full concentration for several hours.

There is a significant quality difference between interpretation in the administrative phase and interpretation in the court procedure. Although there is no specific legal ground for such a difference, those interpreters who work with the court appear to be more qualified and trained for these special procedures than those who interpret in the administrative phase. The practical solution would be if the interpreters used at administrative procedures had at least the same competence than those used in front of the court. As most of the negative decisions are in connection with credibility and asylum seekers often complain in their appeals about interpretation, if the interpretation was more accurate, it would shorten the procedures. Based on a successful written record the OIN could be more effective in decision making.

Solution:

It would ease the OINs work if they used the existing documents (for example UNHCR's self-study documents) and if there would be a regular training organised for regularly used interpreters.

If the asylum seeker has a legal representative, he/she can make efforts to follow up the requirements listed by the UNHCR but except in extreme cases there is a little chance to get another interpreter. When a legal representative is present, both the interpreter and the interviewer feel as if they are being scrutinized more closely and so they work more precisely than in cases where the asylum seeker is without a legal representative. The legal representative can make sure that the written record is translated back to the asylum seeker and he/she got a chance to correct it if necessary. If there is contradiction between statements of the asylum seeker the legal representative can ask questions for clarification. Sometimes there is a reasonable explanation, but if the interviewer does not review this it will appear as a contradiction in the decision.

### ***4.3 Language competency***

Interpreters have very different levels of language competency. For some languages, such as Somali, just one interpreter is available in the whole country. Sometimes these interpreters are not fluent in Hungarian and it can be very difficult for the interviewer to understand them precisely. In these cases, if the interpreter or the interviewer is not sufficiently precise, important parts can be left out from the record.

Even if the interpreter speaks the literary language properly, there is often lack of knowledge on specific or legal terminology. Since the asylum seekers rarely have a strong educational background, it is hard to explain to them the rules and legal provision even if the translator is familiar with the procedure and terminology.

In some cases asylum seekers speak a specific dialect which can be very different from the language used by the translator. These problems occur mostly with African asylum seekers who speak French or English. The OIN usually uses interpreters who speak standard English or French, but cannot understand for example Pidgin English. English or French interpreters who study language philology at a university have trouble with the legal terminology and dialects as there is no course

or training for these special cases before they start to interpret.

Afghan interpreters usually speak Farsi and Pashtu as well, but only one of them is their native language. There are periodic complaints that the interpreter does not speak their non-native language properly. There were some specific complaints that the interpreter wrongly translated a phrase, because in the interpreter's native language the meaning is slightly different.

If the asylum seeker does not signal that there is a problem, in most cases the interpreters will not admit that they do not understand the asylum seeker or they cannot translate precisely what was said. In some cases they even avoid translating by explaining to the interviewer that the asylum seeker repeated what was told before or he/she was just telling insignificant incomprehensible things.

In requests for court review the most common reason is that the interpreter did not understand completely what was told and the written record is not containing everything what was said or there are mistakes in the written record.

Solution:

The OIN should, when hiring a new interpreter, make sure that she/he has a good command of spoken language as well as the legal terminology. Although it is more difficult to find an interpreter who speaks the asylum seekers' dialect, this can ease and speed up the procedure.

#### ***4.4 Intercultural skills***

It can be very useful if the interviewer and the interpreter are familiar with the culture that the asylum seeker is coming from. A simple word or non-verbal sign can ruin the comfortable situation if it is rude in the asylum seeker's society. For example pointing at the person who you are talking to in most Arab societies is improper.

Most of the asylum seekers are afraid of people in uniform because it reminds them to prison experiences or harassment. It is not advisable to wear clothing similar to uniform or jewellery with religious or other signs.

For languages where just one interpreter is available it may cause a problem when a male interpreter is interpreting for a woman or vice versa. For example for a homosexual man from a Muslim society might be very uncomfortable to talk about his sexual orientation in front of a male interpreter or interviewer. In one case, a man who previously converted from Islam to Christianity did not want to talk about his new religion in front of an interpreter known to be a practising Muslim. In these cases it is up to the officer if he/she allows them a new interpreter.

Solution:

Interpreters should receive proper training in intercultural communication skills, with special emphasis on countries/regions where most asylum seekers come from.

#### ***4.5 Accurate translation without judgement or adding any kind of information***

Some interpreters have private conversation with the interviewer during the interview. This can be very frustrating for the asylum seeker who is often afraid of any official person. If he/she does not understand the conversation, he/she does not know if the interpreter is translating his/her words or

is adding something what he did not say or just has a private conversation with the officer.

It is really dangerous when an interpreter acts as a source of country of origin information, as a sociologist, or as an anthropologist. Some interpreters want to help the asylum seeker by completing his statements. Overzealous interpreters even tell asylum seekers what to say and what to hide.

Some interpreters who are of the same ethnicity as the asylum seeker provide additional information about the community, culture or even evaluate whether what the asylum seeker told could be true or not. Some interviewers stop the interpreter providing this kind of additional information. However, there are some interviewers who even ask the interpreters to express their opinion about the situation or customs in the country. This is highly inappropriate as the interpreter is not a source of country of origin information, they often left the country several years ago, and might also be refugees or asylum seekers just like the interviewee. In some exceptional cases the interviewer even asks the interpreter to determine if the asylum seeker is really from that tribe or ethnic group he tells he is from. This is absolutely unacceptable from a due procedure point of view.

Some interpreters give suggestions to asylum seekers what to tell and what to hide.

Solution:

It would be useful if the officer informed the interpreter about his role that his task is to interpret what is told without having any other conversation with any of the party. The interviewer should prevent the interpreter from evaluating the asylum seeker's statements.

#### ***4.6 Interviewers' and interpreters' behaviour during the interview***

There are basic, unwritten rules which must be kept if the authority wants the asylum seeker to feel comfortable, trust them and feel free to tell his whole story. If the interviewer or an interpreter is often late, does not introduce him/herself to the asylum seeker, does not explain the procedure of the interview, is not concentrated, often interrupts the asylum seeker, it shows that he/she is not realising his/her task and the importance of his/her work. In these cases the written record can be just as false as when an interpreter does not have the sufficient knowledge for translating. It is also important to be and act impartial. In no way it is acceptable to show hostility by nonverbal signs or comments. They are not allowed to have private conversation with any of the interviewer or the asylum seeker or express emotions, doubt or approval at the asylum seeker's statements. Sometimes we heard comments from former refugees working now as interpreters such as "Yes that is true. He is really from that area, I see. He is familiar with the situation, it really happened like that." When this happens, the interviewer should immediately instruct the interpreter not to comment on what is said.

The interviewer's behaviour is also important. If the interviewer is nervous, negligent or eager to finish the interview as quickly as possible, the asylum seeker will react in a similar way. Additionally, if he/she is afraid, nervous, and insecure or feels uncomfortable and unable to concentrate, it will have a negative effect on his/her diction and memory.

In addition, even if the interviewer is concentrated and helpful while recording what was said and listening to the asylum seeker and the interpreter at the same time, he/she can miss important details.

Sometimes, in complex cases the interview takes more than four hours. As the interviewer usually

does not have time for another interview, he/she insists on finishing on the same day with an exhausted asylum seeker and interpreter.

Interviewers should write down in the written record everything that the asylum seeker finds important. Still, some of the interviewers tell to the asylum seekers to state only the most serious and most recent problems and that they are not interested in their life stories or parents' problems which occurred years ago.

The interviewers should accept that nobody can remember every single detail. For example even if there are different dates or numbers given for the same occasion, it is not necessarily a contradiction. It can happen that the asylum seeker simply cannot remember the exact date or number. In some cases the asylum seeker does not have any problem with the interpreter; he/she is just unable to speak about certain occasions. Before determining him/her as not credible, it would be advisable to consult with a psychiatrist specialised in working with traumatised persons to determine whether the cause is trauma experienced previously. The interpreter's behaviour has a huge role in determining the correct reason for these apparent contradictions. They cannot be expected to be psychiatrists or experts on children, but the interviewer can prepare them for an extraordinary situation and ask them to be more patient, speak slowly, use simple phrases.

**Solution:**

An attempt to gain the asylum seekers trust is not a problem, it even can help him/her to open up and be more honest.

If the case is complicated the officers should hold breaks during the interview or even postpone it to another day.

If there are signs that the asylum seeker is traumatized, the interviewer should consult a specialized psychiatrist before the interview. For example in cases where the asylum seeker is mentally disabled, the officer should consult a psychiatrist about the seriousness of his/her illness and whether or not the asylum seeker is able to express him or herself, how long he/she can collaborate and focus on one thing, if he/she has special needs and which medications he/she needs during the day.

#### ***4.7 Translating the decision***

The officer announces with the help of an interpreter just the summary of the decision. The written example given to the asylum seeker is in Hungarian. According to recent practices, the interpreter is not even physically present, but only connected via the internet. The software used is not satisfactory since there is often a connection failure or the picture or the voice disappears. In these cases the cheapest and nearest interpreter is hired, who has even less experience than those frequently used. It once happened that the legal representative had to stop the announcement of the decision because the interpreter could not interpret properly a single sentence. This computer system is likely to be used at interviews as it is cheaper than an interpreter being present. In our opinion, without an interpreter present at the interview, it is impossible to make a correct assessment. Additionally, interpreting via the internet will never allow the asylum seeker to have confidence and it is uncomfortable for both the officer and for the asylum seeker.

**Solution:**

It would be of great help for asylum seekers if every officer translated the whole decision not just a summary of it. A written translation of a summarized decision would also help when appealing the decision. The interpreter should be present at the OIN at least when an interview is held.

#### **4.8 Recognised refugees**

When announcing a positive decision, the officer usually explains only in brief the further obligations and rights for the refugee, but he/she gets detailed, complex information, when he/she reaches the integration camp. For less often used languages, or when the interpreter is not available, the social workers use English because in most cases there are refugees who speak English and can translate for those who do not.

Solution:

When announcing a positive decision, the OIN should provide the refugees with more detailed information and the social workers could explain their rights in a slower and more thoughtful way because they usually get too much information all at once when arriving at the “integration camp” (a pre-integration facility for recognized refugees) and they often forget important details.

#### **5. Interpreting in other procedures**

For the claimant present at the OIN, when announcing the decision on a visa or other residence permit claims, the decision is told with the help of an interpreter according to the legal provisions applicable to third country nationals. The resolution and the court’s decision shall also be conveyed verbally to the client in his/her native language or in another language he/she understands. In other cases the decision shall be delivered by post. If the client's whereabouts are unknown, the resolution or ruling shall be conveyed by way of a posted notice.<sup>10</sup> In practice this means that if the claimant is not present at the OIN, he/she will get the written decision by post in Hungarian.

In extraordinary situations it can happen that the claimant does not even know that he/she got a decision. In one case, where a claimant asked a lawyer from the HHC to translate a document that arrived by post from the OIN, it turned out that it was a negative decision for her residence permit claim, because she did not provide some documents. As she did not ask for help immediately, the decision came into force because she missed the appeal period. She thought it was not the decision because she expected that the OIN will announce the decision with the help of the translator.

Solution:

It would be very useful if the OIN translated at least the decisions on visa or residence permit claims or arrange an oral announcement with a help of a translator.

At alien policing cases there were even situations where other foreigners were usually asked to interpret. For example two years ago a large number of foreigners arrived from Kosovo and Serbia and some of them were under alien policing procedure. When the professional interpreters were not available for Serbian speaking foreigners, the OIN asked an ethnic Hungarian person from Vojvodina (Serbia) who spoke Serbian and who was also under an OIN procedure to translate. The professionalism of this solution is highly questionable. It caused the same problems as explained before and led to tensions between the foreigners. Some of them even refused to give statements because they felt that the “interpreter” was working in favour of some other foreigners.

Solution:

The OIN should always use professional interpreters.

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<sup>10</sup> Act on Third-Country Nationals, Section 89.

## **6. Summary of the recommendations**

1. UNHCR guidelines about interpretation should be given more importance in the Hungarian asylum procedure.
2. The OIN should not use other asylum seekers or foreigners who also have an ongoing procedure as interpreters in any of the cases.
3. The exact role of the interpreters should be clearly explained to them.
4. It would be a great leap towards a better standard of written records if these common problems were solved and there would be special requirements for the interpreters dealing with foreigners.
5. The OIN should check the new interpreters for their command of standard and legal language.
6. The officer should explain in detail the rights and obligations of the foreigners before starting the interview. He/she should explain the procedure for the interpreter as well and provide him/her with necessary information about the foreigner.
7. The interviewers should encourage the foreigners to express their doubts if they notice misinterpretation. The interpreters should be trained to admit if they misinterpret something or are unable to interpret a phrase or even interpret a dialect. Admittance shows their professionalism not their weakness.
8. OIN interviewers should dedicate enough time to the interviews, make necessary pauses during the interview and if necessary continue the interview the next day. The asylum seekers should not feel the time pressure during the interview.
9. Interviews should be conducted in a sensible manner when it concerns vulnerable asylum seekers and in case of a traumatized asylum seeker the psychologist's opinion on his/her situation should be sought in advance of the interview.
10. The decisions issued by the OIN should be translated into the language that the asylum seeker understands in writing as well.
11. The frequently used interpreters should regularly participate at trainings organised specially for interpreters working with foreigners.
12. In other than asylum cases the OIN should at least provide an interpreter for announcing the decisions.