

# Interpreter-mediated paternalistic interaction in a court-centered judicial system: a case study of interpreting in a Belgian *correctional* court.

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## Abstract

The purpose of this paper is to investigate an interpreter's handling of a peculiar participation framework used in a Belgian criminal court, i.e. the paternalistic framework (following Bates *et al.* 2002), where the defendant is the topic of the interaction, but is mostly treated as an unaddressed recipient. One interpreter-mediated trial with asymmetrical interpreting needs was recorded, transcribed and analysed. It appeared that the paternalistic participation framework prompts a series of strategies by the interpreter, which ultimately leads her to disregard major aspects of the code of ethics she is expected to abide by. First, the interpreter sets up a separate participation framework with the defendant as an addressee of the interpretation (called the 'interpreter's dyad'). The court's interaction is systematically presented according to the deictic framework of the dyad. The interpreter also regularly adopts footing as a principal, plausibly as a result of her functioning in her own dyad. Paradoxically, even though she operates in an asymmetrical interpreting context, where interpretation is only required for the benefit of the defendant, she also regularly interprets for the court, most probably to protect the defendant in cases of strong disalignment between the judge and the defendant.

## 1. Introduction

Since the 1990s and, in particular, the ground-breaking work by Cecilia Wadensjö (Wadensjö 1998), various aspects of the communicative *pas de trois* in which the dialogue interpreter is engaged, have been described in detail: interpreter footing (Wadensjö 1995), turn taking (Roy 1996), face work (Mason & Stewart 2001, Jacobsen 2008), etc. The research has shown that *conduit*-models clearly fail to provide accurate descriptions of interpreting. Interpreters do more than transfer speaker-controlled meaning to another language. They play a role in the interaction and co-construct meaning.

The focus of most of the research has been on standard triadic interactions with two primary speakers and an interpreter, where short consecutive interpreting is practised from and into both languages. Several studies report the presence and intervention of other speakers during interpreter-mediated conversations (Mason 2008; Nakane 2014), but no study addresses the issue directly, with the exception of Angermeyer (2005a) and (2015).

In the research on legal and courtroom interpreting, this bias can also be observed and is probably responsible for the selective view that is offered of the interpreting profession in that particular context: legal systems with oral and adversarial proceedings, such as New Zealand (Fenton 1997), the United States (Berk-Seligson 1990; Angermeyer 2005b, Mikkelsen 2008 *inter alia*) and Australia (Hale 2004) are clearly privileged. In countries with mainly written and inquisitorial proceedings, such as Denmark (Jacobsen 2008), Poland (Bednarek 2014) and Belgium (Gallez & Maryns 2014), the research concentrates on procedural stages where triadic interaction is found. One important exception is Gallez & Reynders (2015), who focus on the monological part of an assize process held in Belgium. Though triadic interaction is probably the most prototypical form of interpreter-mediated interaction and probably also the least complex to describe, the one-sided focus on triadic instances has kept other configurations out of sight.

The Belgian legal system, with the exception of Assize Courts, favours inquisitorial proceedings, in which interaction between the parties is kept to a strict minimum. Cases are handled according to a set of conventions favouring long uninterrupted turns by the prosecutor, the solicitor and the judge, in which they all speak about the defendant, rather than address the defendant directly. This type of interaction has been called "paternalistic" in the medical field (Bates *et al.* 2002). In a fair share of cases in which interpreting is requested, it is provided only to the defendant, as the other parties involved in the case master the language the defendant speaks. The participation frameworks imposed by the rules of procedure and the asymmetric language regime put interpreters in a situation

which is very dissimilar to situations described in the literature on court interpreting. Interpreters interact in specific, undocumented ways with these working conditions. The purpose of this paper is to investigate an interpreter's handling of the participation frameworks and of the asymmetric language regime. It will appear that the strategic choices she makes with regard to the interpreting mode and her own footing and the rhetorical moves she is the target of all interact to reinforce the paternalistic nature of the hearing and force her into breaching important ethical principles governing court interpreting both in Belgium but also internationally.

The structure of the paper is as follows. In Section 2, we will describe the functioning of a Belgian Correctional court highlighting its paternalistic properties, we will describe in detail the procedure candidate court interpreters go through to become a sworn interpreter for Belgian courts and disclose relevant information regarding the interpreter who is at work in the case at hand. Section 3 provides an outline of the case and the basic data for the study. In Section 4 we analyse the interpreter's handling of the case, which will be discussed in Section 5. Conclusions are drawn in Section 6.

## 2. The Belgian correctional court: procedures and role of interpreting

### 2.1. Procedures

The Belgian judiciary is organised following four branches of law: social, commercial, civil and criminal law. Civil and criminal cases are handled by different chambers of the so-called Court of first instance. The case analysed in Section 4 is a criminal case brought before the so-called Correctional chamber of the Court of first instance in Bruges. In Belgium, criminal cases may be ruled by police courts, if the case is related to traffic, by correctional chambers of the Court of first instance, if the offence is punishable with a prison sentence between 8 days and 5 years, and by the Assize Court, if the offence is punishable with a prison sentence of more than 5 years. In the Bruges region, according to the Law of 1935 on the use of language in the judicial system, trials must be held in Dutch. If the suspect is French-speaking, he or she can ask for the trial to be transferred to a French-speaking *arrondissement*. In any other case, interpreting is provided.

A criminal case consists of a pre-trial phase and the trial. The pre-trial phase is inquisitorial: investigations are ordered and supervised by a magistrate and are mostly secret. At the end of the pre-trial phase, this magistrate presents a written file, which will be the basis of the trial phase, if the case reaches that stage. In theory, the trial itself is adversarial, as it allows parties to challenge the evidence presented in the investigation file, calling witnesses, questioning the defendant, etc. However, as pointed out by Traest (2002), the work load of correctional courts and the heavy reliance by judges on the pre-trial phase significantly reduce the adversarial character of the proceedings.

The proceedings of Correctional courts are court-centred: judges allocate turns and actively manage the interaction. Parties do not confront one another directly, but challenge each other's views through the judge. The case unfolds according to a scenario established in the Belgian code of criminal proceedings, translated as follows by Pesquié (2002):

"The *procureur du Roi*, the *partie civile* and his counsel will set out the case; statements and reports, if they were made, will be read by the clerk; witnesses for and against will be heard if need be and the complaints put forward and judged; evidence to convict or discharge will be put to the witnesses and the parties; the accused will be interrogated; the accused and the civilly liable persons will state their case; the *procureur du Roi* will summarize the case and give his conclusions; the accused and persons civilly liable will have the opportunity to reply. Judgment is given in the same hearing or, at the latest, during the hearing that follows the one that concluded the proceedings." (Pesquié 2002:113)

These rules of procedure make for a fairly static case, with predominantly monologic discourse directed at the judge. The only instances of real interaction occur when the judge questions witnesses or the defendant or reacts to statements made by the prosecutor or the defendant's counsel.

In terms of Goffman's (1981) participation framework, the court's setting presents similarities with the "paternalistic interview style" identified by Bates *et al.* (2002). In a "paternalistic interview style", the person who is the topic of conversation is a bystander in the interaction. Typical examples of the

paternalistic interview style, as described by Bates *et al.* (2002), are found in medical contexts involving a doctor, a child patient and one of the parents. In most of the interactions recorded by Bates *et al.* (2002), the participation framework involves the doctor and the parent as active participants, while the child, whose health is being discussed, is only a bystander: s/he is a witness of the interaction, but takes no part in it. The same is found in the Correctional court's proceedings: defendants are the main topic of conversation, but their involvement in the interaction is minimal. On one occasion only are they ratified as addressees: after the presentation of the evidence, the law stipulates that judges question the defendants directly. The latter are then authorised to act as principals in the interaction. At all other stages, the defendants' points of view are presented by their legal counsels. In most cases, just before they reach a verdict, judges will ask defendants whether they have anything to add to their counsels' pleas, in which case defendants may again act as principals. The rest of the time, defendants do not participate in the interaction. It may be discussed whether their main role is that of bystanders or of unaddressed recipients, in Goffman's (1981) terms. The former are individuals that happen to be present at an interaction, overhearing it, but who are not ratified as participants; the latter are ratified participants, expected by the speaker to attend to the interaction, without being addressed directly. The defendant's role in a Correctional court fits better with the latter description: defendants are expected to attend to the court's proceedings and are provided an interpreter, not only to interact directly with the court, but also to be able to follow the proceedings.

## 2.2. Court interpreters in Belgium

Court interpreters in Belgium are officially called "sworn" interpreters, as they have to take an oath in order to be allowed to interpret for the court. There is no straightforward or uniform procedure to become a sworn interpreter in Belgium. Belgium does not have any statutory framework to define the legal status of sworn interpreters, their terms of appointment or the procedure for swearing them in. Each of the country's 27 judicial arrondissements observes its own procedures for administering the oath to translators and interpreters. Moreover, in blatant breach of EU legislation, Belgium does not maintain a national register of sworn interpreters. In each arrondissement, the court of first instance maintains its own list of translators and interpreters whose oath is recognised in that territory. As the case at hand focuses on a criminal case heard at the correctional court in Bruges, we will outline the procedure applied in Bruges.

An interpreter wishing to acquire sworn status must apply to the court of first instance in the judicial arrondissement where he or she resides. The applicant must be 21 years of age or over; be a citizen or legal resident of an EU member state; and must have no criminal record. To their applications, candidates must append copies of their certificates and diploma and any other documents proving they have a proper command of the language(s) for which they seek sworn status. Often, it is sufficient for candidates to sign a declaration that they are native speakers of a particular language. Linguistic skills are not tested. There are no further requirements as regards diplomas: candidates are not required to prove that they have taken interpreting classes or have legal knowledge of any kind<sup>i</sup>. The situation very much resembles the state of court interpreting in Italy, described in Garwood (2012). Having submitted their application, candidates undergo a criminal record check by the local police. If the outcome is positive, the application is submitted to a general session of the Court, which can either accept or reject it. In case the application is accepted, candidates are invited to attend a public session of the Court to swear the following oath: *Ik zweer getrouwelijk de gezegden te vertolken, welke aan personen die verschillende talen spreken, moeten overgezegd worden.* [translation: 'I swear that I shall interpret faithfully those utterances that must be repeated for persons who speak different languages']. Having sworn the oath, candidates sign a declaration in the civil registry of the Court and are issued with a copy of their oath. Their names are herewith added to the list of sworn translators/interpreters of the court of first instance. Note that the court does not distinguish between translators and interpreters: candidates apply for both statuses at once and it is up to them to decide whether they wish to become active interpreters.

Sworn interpreters must abide by a code of ethics the court imposes on them. The code of ethics consists of ten articles regulating the recommended general and professional conduct, independence and impartiality, trustworthiness and confidentiality. With regard to the interpreting activity, interpreters are required to assess their competence for a particular task and to interpret completely and accurately. More specifically, they must include in their interpretation any insulting vocabulary used by

the speakers and render non-verbal properties of the source texts, such as intonation and emotions of the speaker. They should not embellish the source text nor omit any part of it, even when they are aware that what the speaker says is mistaken or untruthful. On all these points, the Belgian code of ethics is quite similar to the ethical rules applied in other countries. There is one noticeable difference, however: the Belgian code of ethics does not explicitly require interpreters to abide by the first-person rule, i.e. to adopt the speaker's deixis. The Belgian case is thus an exception to a rule that is claimed to be universal by some (Christensen 2008). It may be argued that the first-person principle is subsumed under the accuracy requirement, as Mikkelsen (2000) suggests, but the fact that in many codes an explicit reference to the first-person principle is made, in addition to the accuracy requirement, suggests that the status of both principles is different. In the United States, for instance, the first-person principle is explicitly stated, not for the purpose of accuracy, but because the verbatim transcripts of the trials may only be drafted in English. To represent witnesses' statements made in any language other than English (Angermeyer 2005b), the verbatim transcript is therefore based on the interpretation, which is, in turn, expected to reflect the statements from the point of view of those who made them. Being much less adversarial than its American counterpart, the Belgian judicial system does not keep verbatim records of trials, which might explain why an explicit instruction about the use of first person reference is absent from the code of ethics.

With regard to the actual interpreting practice during trials, it should be noted that, when they feel that they can understand the language the defendant uses, judges usually confine the interpreter to working for the defendant exclusively. In practice, this means that an asymmetric language regime is nearly systematically applied whenever the defendant speaks English or French, in which the interpreters only interpret into the language of the defendant, which is mostly not their A-language.

Clearly, the combination of lack of formal interpreter training in court interpreting, paternalistic interaction, court-centeredness and asymmetric interpreting poses specific challenges both to the interpreter and the participants. We shall see that the specific interaction framework of the court puts the interpreter in a very peculiar position, which forces her to make strategic choices that eventually backfire at her. On the one hand, the court's paternalistic mind frame is so strong that it spills over into the interpreter-mediated interactions with defendants, reducing defendants to the role of unaddressed recipients, where they should be addressees. On the other hand, the judge's overt use of a powerful interaction management style causes the interpreter to breach crucial principle of the code of ethics she is expected to abide by.

### 3. The data of the present study

The data used in the present study are drawn from a recorded hearing at the Correctional court in Bruges (Belgium) in the first months of 2014. The case at hand concerns two French suspects found in possession of an illegal quantity of hard drugs. Their cases are heard separately but in succession. The first suspect speaks French and requested interpreting into that language. The second suspect speaks French and Arabic and requested interpreting into Arabic. We will focus on the first suspect's hearing exclusively. The interpreter who works for the French defendant is a trained interpreter, though not specifically trained in court interpreting, with more than 10 years of experience in the field. As is usual with a French-speaking defendant, she works almost exclusively for the defendant, as the other participants all understand French, but are not allowed to actively use it.

The data were described according to the conventions defined in Jefferson (2004). In order to account for the interpreting mode, we decided to derogate on one particular point from Jefferson's conventions, i.e. the numbering of the transcript lines. Interpreter's lines are given a primed number whenever the interpreter performs simultaneous (whispered) interpreting. When the interpreter interprets in consecutive mode, the lines are numbered normally. In excerpt (1), for instance, the interpreter's (I) consecutive intervention in 205 has received a line number of its own. Her intervention in 207' and 208', on the other hand, has been given primed numbers, because she interprets simultaneously with the speaker. The square brackets signal the starting point of the overlap between the speaker and the interpreter. For the sake of clarity, the English glosses have not been numbered.

(1)  
205 J en ze woont daar all:een  
'and she lives there all by herself'

- 206 I °vous y habitez seul°  
'do you live there all by yourself'
- 207 P oui  
'yes'
- 208 J en (.) hebt ge nog >[familie vrienden euh zussen of broers↑< behalve uw  
'and (.) do you have other relatives friends er sisters or brothers other than your
- 208' I [vous avez encore de:euh de la fam,ille frères sœurs  
'do you have other relatives brothers sisters'
- 209 J ou:ders die dat geld gestort hebben↑  
'parents who wired the money'
- 209' I sauf vos parents↑  
'besides your parents'

The hearing is part of a series of hearings concerning one and the same case. Cases can indeed easily be spread out over different hearings and it is common practice in Belgian courts to at least adjourn the ruling itself to a later date. The recorded hearing starts with the prosecutor (*Procureur du Roi*) summarizing the case and ends with the adjournment of the verdict by the judge. The hearing lasts for 28 minutes and unfolds along traditional paths.

The prosecutor initiates the hearing with a summary of the facts and statements of the case and ends after 11 ½ minutes with a proposal for punishment (lines 42-43). Then the first defendant's counsel takes the floor for 6 minutes (lines 48-130), reaching a different conclusion. The counsel's turn ends when the judge recalls a procedural issue. After a brief exchange which is cut off by the judge, the judge offers the defendant the floor and subsequently starts questioning her (135-224). Finally, she announces the adjournment and has a brief exchange with the defendant's counsel before closing the hearing (line 241).

All participants, with the exception of the interpreter and the defendant, speak Dutch. The defendant speaks French and the interpreter both French and Dutch. Interpretation is provided to the defendant only, as all other parties understand French. There is ample evidence of the judge reacting adequately to statements made by the defendant in French. On four occasions, however, one or several turns of the defendant are interpreted from French into Dutch. This sudden change in interpreting strategy will be shown in the Section 5 to be partly due to rhetorical moves made by the judge.

The participants rhetorical goals are fairly straightforward: the prosecutor seeks to convince the judge that the defendant should be punished with a prison sentence for possession of drugs. Although the sale of drugs is not part of the indictment, she stresses that the quantities of heroin and cocaine found are too important to be merely meant for personal use and that, considering her very limited financial resources, the defendant invested an unusually large amount of money in the purchase of drugs. The defendant's counsel argues, instead, that the drugs were purchased for personal use. The unusually large quantities she purchased are due to the season: during the Christmas holidays the defendant finds it more difficult to travel to Belgium. Her cooperation with the police, her clean criminal record, the fact that she is clean of heroin, though still on a methadone programme and that she is looking for a job justify in her view a suspended sentence. Finally, the judge's rhetorical goals appear most clearly while she questions the defendant: on the one hand, she seeks to have the defendant admit that it is unusual for someone with a low income and following a methadone programme to be in the possession of so much heroin. On the other hand, she tries to warn the defendant that if she were ever to commit a drug related offence again in Belgium, the suspension of the sentence would cease and she would immediately be taken to prison.

During most of the case, the interaction format is paternalistic: participants discuss the defendant's case using 3<sup>rd</sup> person items to refer to the latter. In excerpt 2, for instance the prosecutor (MP for *ministère public*) refers to the defendants<sup>ii</sup>, using the lexical expression *de beklaagden* ('the accused').

(2)  
1 MP de beklaagden dienen [zich voor de rechtbank te verantwoorden (.) wegens (.)  
'the accused need to answer before the court for'

This paternalistic framework bears a close resemblance to some of the cases discussed in Angermeyer (2005a) and (2015), where witnesses are questioned about facts that concern the defendant. In our case, the paternalistic format even spills over into interaction with the defendant. For instance, at one point of his plea, the defendant's counsel seeks confirmation by the defendant, but maintains the third person to refer to her, as shown in excerpt (3), where A refers to the defendant's counsel (*avocat*):

(3)  
110 A ze mag mij verbeteren als het niet juist is↑  
'she may correct me if that is wrong'

It is crucial to understand that this utterance is not directed at the interpreter. The interpreter's role as an addressee in interaction is well-documented in the literature on dialogue interpreting (Wadensjö 1998; Bot 2005), including in a court's context (Berk-Seligson 1990; Nicholson & Martinsen 1997; Christensen 2008), but excerpt (2) illustrates a different case: the counsel does not change the paternalistic framework: she maintains the judge as an addressee, while giving the defendant the (admittedly purely rhetorical) opportunity to deny. It is clear however that the defendant is not expected to keep the turn afterwards.

The more typical form of 3<sup>rd</sup> person reference in interaction with the defendant is also found: while questioning the defendant, the judge constantly changes the participation framework, addressing both the interpreter and the defendant successively. Crucially, she does so at major turning points in the interaction. The first switch from a defendant-oriented to an interpreter-oriented framework occurs when the defendant (P) finally seems to admit that she used drugs and methadone simultaneously. The judge (J) then asks for clarification, as shown in excerpt (4).

(4)  
167 P j'avais déjà mon traitement de méthadone↑ (.) simplement↑  
'I already had my methadone treatment however'  
168 J >ze had al wat↑<  
'she had what'

It is unclear whether the request for clarification is motivated by a failure to hear or understand what the defendant said. However, as there are no other indications that the defendant cannot be heard during her trial, this hypothesis seems unlikely. It is more likely that the judge seeks confirmation of the fact that she achieved one of her rhetorical goals, i.e. have the defendant confess that she used both substances simultaneously.

The second switch to the interpreter-oriented framework coincides with a major topic shift within the questioning phase, as illustrated in excerpt (5). After issuing a severe warning to the defendant about what will happen if she is caught once more buying drugs in Belgium, she turns to the interpreter (line 189) to collect personal information about the defendant. The interpreter's turns have been removed from this exchange as they will be discussed separately.

(5)  
187 J he↓ (.) ge hebt het gezien ge vliegt dan de gevangenis in en het openbaar  
'right as you noticed you'll be put in jail and the prosecutor's'  
188 J ministerie vraagt nu wel EEN J:AAR HE  
'office is now requesting a one year sentence'  
189 P (xxx) je n'arrivera pas ça sera pire (.) euh tu vois  
'(xxx) I won't be able it will be worse (.) you see'  
190 J en wat doet ze nu↑

'and what does she do now (for a living)'

Other abrupt changes in the participation framework occur at the judge's sole initiative towards the end of the hearing. Each instance shows that the judge uses her institutional power to impose different participation frameworks onto the other participants, in particular onto the defendant and the interpreter. Actually, the judge's successive moves seem to suggest that she instrumentalises the interpreter to a certain extent to achieve her rhetorical goals. In both (4) and (5), she forces the interpreter into the role of the addressee right after she closes her argument, as if to give the defendant time to think over what she just said or was told.

There are a few instances of standard exchanges between the judge and the defendant, in which the judge uses 2<sup>nd</sup> person reference. One of these instances is illustrated in excerpt (6). Again the interpreter's turn have been left out (*inter alia* line 206), as they will be discussed separately. Note the shift from 3<sup>rd</sup> person reference in line 204 to 2<sup>nd</sup> person reference in line 207.

- (6)
- 205 J en ze woont daar all:een  
'and she lives there all by herself'
- 207 P oui  
'yes'
- 208 J en (.) hebt ge nog >[familie vrienden euh zussen of broers↑< behalve uw  
'and (.) do you have other relatives friends er sisters or brothers other than you
- 209 J ou:ders die dat geld gestort hebben↑  
'parents who wired the money'
- 210 P oui j'ai encore euh (.) un frère et une sœur↑  
'yes I have er (.) a brother and a sister'

As regards the interpreter, we can safely conclude that she operates in a challenging context for several reasons. Firstly, the participation frameworks evolve rapidly and without prior warning at the sole initiative of the judge. Secondly, the combination of a paternalistic framework and interpreting creates a conflict regarding the interaction status of the defendant: according to the framework, she is not to be involved in the interaction as an addressee. On the other hand, as only the defendant listens to the interpretation, she is the only possible addressee of the interpreter. As Angermeyer (2005a) and (2015) have shown, the interpreter faces a dilemma in cases like these: either maintain the paternalistic framework and speak without a clearly defined addressee, or involve the defendant as an addressee and create a new participation framework consisting of herself and the defendant, and which co-exists with the court's paternalistic framework. Finally, the linguistic arrangements burden the interpreter: on the one hand, as the speakers and addressees in the court's paternalistic interaction share the same language, they can happily ignore the interpreter's presence and interests. With a few exceptions, there is no time for consecutive interpreting: the interpreter is forced to practice whispered interpreting in mostly very unrewarding circumstances (Gallez & Maryns 2014). On the other hand, in the few instances where a classic triadic interaction would have been possible, i.e. instances where the judge questions the defendant as an addressee, no interpretation is carried out for the judge. The interpreter rather operates in a sort of semi-triadic context in which she only whispers the turns of the judge.

#### 4. Interpreter's handling of the hearing

In the previous section we argued that due to the paternalistic nature of the court's hearing and the asymmetric interpreting regime, the court's participation framework virtually splits in two sub-frameworks: the main framework of the court and the framework shared by the defendant and the interpreter. This virtual split materializes through the interpreter's performance: we will successively discuss a series of features that show that the interpreter actually opts to operate in a separate dyad with the defendant and the deontological consequences this has.

#### 4.1. The interpreter's dyad

From the onset, the interpreter sets up a participation framework of her own, converting all 3<sup>rd</sup> person references for the defendant into 2<sup>nd</sup> person references. This is illustrated in excerpt (7), which is an extension of excerpt (1), discussed in Section 3. The interpreter's output is signalled with a primed number and the label 'I'.

- (7)
- |    |    |   |
|----|----|---|
| 1  | MP | <b>de beklaagden</b> dienen [zich voor de rechtbank te verantwoorden (.) wegens (.)<br><b>'the accused</b> need to answer before the court for' |
| 1' | I  | [donc <b>vous</b> devez comparaître devant le tribunal↑ (.)<br><b>'so you</b> must appear before the court'                                     |

In French, *vous* can either be a polite form of 2<sup>nd</sup> person address for one or several people or an ordinary 2<sup>nd</sup> person plural. As pointed out before, the public prosecutor refers in 3<sup>rd</sup> person to both the defendants. In theory, the interpreter's 2<sup>nd</sup> person form could be used for both the defendants, but as the other defendant is assisted by another interpreter, it is more likely that the interpreter in excerpt (5) addresses the first defendant only. Whichever is the case, the crucial feature of the interpreter's intervention is that she transforms the court's paternalistic participation framework into a standard dialogic one, addressing the defendant(s) directly and she does so throughout the entire hearing. She thus creates a separate dyad between herself and the defendant as an addressee.

The transformation of the participation framework in itself is not so unusual : the literature on dialogue interpreting mentions a series of similar cases, where interpreters convert participation frameworks involving them as addressees into normative frameworks (Wadensjö 2004; Bot 2005; Chang & Wu 2009, Nakane 2014, Gallez & Maryns 2015). In Angermeyer (2005a) and (2015), cases are reported where interpreters transform the participation framework in exactly the same way, when the defendant, for whom they are interpreting, is an unaddressed recipient of the interaction. Angermeyer argues that they do so because they seek to fulfil the expectations of lay participants in the framework. However, in the cases discussed, the interpreter explicitly signals the new participation framework by means of an introductory clause signalling reported speech.

According to the sworn interpreters we interviewed, the transformation of the participation framework is standard practice in Belgian courts. Interpreters do not see a particular reason why they proceed in such a way, other than "it has always been like that". Corroborating evidence of this widespread practice can be found in Gallez & Reynders (2015), where an interpreter in an Assize court seems to apply the same strategy.

Further evidence of the interpreter's creation of a separate dyad can be found in the way the world outside the dyad is represented. Unsurprisingly, the court's interaction is "displayed" (Wadensjö 1998) rather than "replayed": the court's deixis is replaced by the interpreter's dyad deixis: 1<sup>st</sup> and 2<sup>nd</sup> person references are rendered in 3<sup>rd</sup> person, as in excerpt (8):

- (8)
- |      |   |  |
|------|---|--|
| 118  | A | euhm <b>ik zou u willen vragen</b> <om in uw vonnis> ook de teruggave van die<br>'I'd also like to ask you to order in your ruling the restitution of the' |
| 118' | I | <b>&lt;elle demande&gt;</b> (.) <donc<br>'so she asks  |
| 119  | A | borgsom te willen bevelen (.) euh mijn cliënte is op elke zitting aanwezig<br>'bail my client attended all hearings'                                       |
| 119' | I | <b>à madame le juge&gt;</b> de:euh (.) d'ordonner la restitution, de cette caution puisque<br>'the judge to order the restitution of the bail'             |

On several occasions, the interpreter uses reported speech (indirect representation in Bot's (2005) terms), especially when a brief exchange takes place between the participants of the court's interaction. This is illustrated in excerpt (9), where the defendant's counsel replies to a comment made by the judge:

(9)

- 232 J [...] 't is da da bezw:arend is↓  
'that is what is incriminating'
- 232' I [...] c'est en fait cela  
'that is actually'
- 233 A het is wel zo mevrouw de voorzitter (.) het is natuurlijk wel zo dat de prijs van  
'it is also true your honour it is also true that when heroin prices'
- 233' I qu'elle considère comme étant un délit grave **votre avocat dit qu'**ici c'est  
'what she considers a serious offence **your counsel says that** this is'

Under the Belgian code of ethics for court interpreters, there is no need to adopt the speaker's deixis. However, it should be reminded that this is a trained interpreter who, at some point of her training, must have been taught the first-person principle. The strategy she applies here can hardly be considered typical of an untrained interpreter, as is sometimes claimed (Pöchhacker 2004). It cannot be explained either by some sort of speech community identification between the interpreter and the defendant, as is claimed by others (Anderson 2002; Dubslaff & Martinsen 2005), because the interpreter is a native speaker of Dutch and performing retour interpretation for the defendant. It is probably not due either to the interpreter's assumed uneasiness in assuming the voice of powerful participants, as claimed by Ng (2013), as excerpt (9) illustrates a case where an utterance of the defendant's counsel is tagged with a reported speech prefix. Though probably more powerful than the defendant, the counsel is clearly not the powerful voice in court. Rather, the interpreter's aim seems to draw a clear demarcation line between the dyad she sets up with the defendant and the participation framework of the court.

The interpreter also describes events that are taking place. For instance, when the defendant's counsel deposits documents proving that the defendant is actively seeking a job, the interpreter describes the scene, as is shown in excerpt (10), lines 80 and 81:

- (10)
- 77 A ze heeft mij vandaag een bundeltje meegebracht met sollicitaties die zij heeft  
'today she's given me a file with job applications she has'
- 77' I d'un emploi (.hhh) aujourd'h:ui vous avez donné des documents à votre avocat  
'of a job today you gave documents to your counsel'
- 78 A gedaan ik zal dat neerleggen  
'undertaken I shall deposit that'
- 78' I qui démontrent que vous av:ez <postul :é> euh que vous recherchez  
'proving that you applied that you're actively seeking'
- 79 I activement un emploi↑  
'a job'

*(Counsel deposits documents and has a brief exchange with the judge and the registrar)*

- 80 I **donc (.) elle dépose ces documents-là↑ donc pour prouv:er (.) euh (.) que vous**  
'so she deposits those documents so to prove that you'
- 81 I **êtes en train de rechercher un emploi↑**  
'are seeking job'

Actually, the utterance in 80 and 81 is functionally ambivalent. It could be interpreted as an addition made by the interpreter acting as a principal, a role that will be highlighted in the next section. However, it also partially overlaps semantically with what the defendant's counsel has just said. However it is to be analysed, the linguistic evidence points to the fact that the interpreter presents the court as alien to her own deixis: the use of the distal suffix *-là* ('there') at the end of the noun *documents*, on the one hand, and the use of the recapitulating *donc* ('so') both situate the court outside of the interpreter's deixis.

Finally, the existence of an interpreter's dyad is also confirmed by the way the interpreting proceeds in some of the few cases where the defendant's replies are interpreted. This occurs on four different

occasions during the exchange with the judge. The fact that they are interpreted is surprising *per se*, as no participant in the courtroom needs interpretation to be able to understand the defendant, but the circumstances leading the interpreter to interpret for the court are revelatory. Two of the instances can be explained fairly straightforwardly: they occur in the context of the judge's rhetorical moves discussed in Section 3. On two different occasions, the judge specifically addresses the interpreter, first to ask for clarification, which the interpreter gives, and then to collect personal information about the defendant. In both contexts, the interpreter appears to feel compelled to interpret the defendant's replies in order to conform to the framework imposed by the judge.

The other instances occur in contexts where the judge does not address the interpreter and where there is no apparent need to interpret the defendant's replies. The first instance is a very brief interpretation turn occurring after a first confrontation between the judge and the defendant. The turn that starts in line 151 of excerpt (11) is the second turn in a row in which the judge addresses the defendant directly (*ge* in 151 being a Flemish equivalent of 'you'), thus effectively putting an end to the paternalistic framework applied up to that moment. In this turn, the judge overtly and strongly disaligns with the defendant's reaction to her first turn, as illustrated in lines 153' and 154 (*kom aan hé* 'come on'):

(11)			
151	J	<400 EU:RO> (.) en ge moet de <u>f:eesten</u> nog doorm:aken↓ (.) en ge moet al leven	
		'400 euros and that was before the Christmas season and you already have to'	
151'	I	400 euros↑ (.) vous avez acheté pour 400 euros↑ (.) et tu dois encore	
		'400 euros and you bought for 400 euros and you still have to'	
152	J	van maar <van maar 700 euro↓>	<u>kom:aan he mevrouw↓</u>
		'live of 700 euros only	come on lady'
152'	I	passer les fêtes et vous n'avez qu'un revenu minimum d'insertion de 700	
		'spend the holidays et you only have a social benefit of 700'	
153	P	mon ami il a aussi un <sal:aire hein> (.) il travaille auprès euh	
		'my boyfriend also earns a living right he works at er	
153'	I	euros par mois	<b>haar vriend heeft ook een loon</b>
		'euros per month	her boyfriend also earns a living
154	I	<b>zegt ze↓</b> (.) <b>hij werkt↓</b>	
		she says he works	

The interpreter's reaction shown in bold in line 153' is remarkable: she interprets the defendant's reply, even though neither the judge nor anyone else in the courtroom needs interpreting and she uses third person items to refer to the defendant: *haar* ('her') and *ze* ('she'). In addressing the judge, she thus applies the paternalistic framework of most of the hearing. This by all interpreting standards inexplicable move by the interpreter can however be understood if we analyse it as an attempt to roll back the judge's attempt to impose a semi-triadic participation framework. The seemingly useless act of interpreting itself cuts off direct communication between the defendant and the judge. The use of 3<sup>rd</sup> person reference restores the court's paternalistic participation framework as separate from the interpreter's dyad. Angermeyer (2015) reports that one of the contexts in which 3<sup>rd</sup> person reference seems to occur is in case of a "litigant's confrontational stance" (p. 94), but he explicitly restricts this observation to cases where the interpreter interprets into a language which is not the language of the court. In excerpt (11), the interpreter uses Dutch, which is the language of the court.

It is no coincidence that the move made by the interpreter occurs just after a strong disaligning comment by the judge. This is indeed also characteristic of the second instance, shown in excerpt (12), line 177.

(12)			
175	J	ja maar hoe >komt het [dan dat ge nog altijd op (xx) milligram methadon zit↑<	
		'yeah but how come you are still on (xx) milligrams of methadone'	
175'	I	[comment ça se fait que vous avez encore toujours	
		'how come you still need'	

- 176 I besoin de:euh (xx) de méthadone↑ (.) actuellement↓  
'er (xx) methadone nowadays'
- 177 P <bein al:ors euh> je vais commencer à le baisser, puisque tout se passe bien  
'well I am going to start reducing it since things are going well'
- 178 I **ze gaat dat beginnen afbouwen want het gaat goed**↓  
'she is going to start reducing it because things are going well'

Again the judge expresses strong disalignment, starting her turn in 175 with *ja maar* ('yeah but') and requesting an explanation for the apparently contradictory statements made by the defendant about her drug and methadone use. The defendant evades the question in her reply, which is subsequently interpreted in 177. There is no objective need for interpreting at that moment. Again, the interpreter's aim seems to be to disrupt the semi-triadic participation framework imposed by the judge.

Although we did not interview the interpreter neither as to what motivated her to start interpreting the defendant's turns on these two occasions nor as to the way in which she carries out the interpretation, it seems plausible that (11) and (12) illustrate attempts to restore a clear distinction between two interaction frameworks: the court's framework and her personal dyad with the defendant. In a way, she verbally interposes herself between the judge and the defendant. As she does so specifically in cases where the former expresses strong disalignment with the latter, her intervention may be interpreted as a protective move: interpreting at this stage clearly runs counter the judge's interests.

#### 4.2. Interpreter's footing

Within the new participation framework she herself sets up, the interpreter is exposed to a greater risk regarding her own footing in the interaction. As amply demonstrated in the literature, interpreters are expected by the institutions that hire them to act as animators (Wadensjö 1998), i.e. expressing the views and thoughts of someone else. Except in some cases, such as requests for clarification, brokering culture-specific concepts, they are not allowed to act as principals and express their own views and thoughts. There is ample evidence, however, that interpreters also occasionally adopt a principal's position outside areas where they are allowed to do so.

In the previous section, we pointed out that the interpreter systematically uses 3<sup>rd</sup> person items to refer to the participation framework the addressee is not part of: when addressing the defendant, she uses 3<sup>rd</sup> person reference for the court (excerpts 8 and 10); when addressing the judge, she does the same to refer to the defendant (excerpts 11 and 12). The systematic use of 3<sup>rd</sup> person reference suggests that the interpreter does not act as an animator. Unlike Wadensjö (2004), we will not analyse her footing as that of a principal either, because, as far as the content of the turns is concerned, there is little that changes from the source turn to the interpreter's turn, except the deictic reference framework. In excerpt (9), the relation is somewhat more complicated, as the interpreter seems to add a turn of her own, seemingly describing the scene as a principal. However, as we pointed out, this turn could also be understood as a repetition of her interpretation of the counsel's turn.

There are several instances, where the interpreter acts as a real principal, adding information on her own initiative and in defiance of the code of ethics she is expected to abide by. For instance, already at the end of the prosecutor's turn, shown in excerpt (13), the interpreter draws an inference about the accusations based on the prosecutor's request (end of line 44 and line 45).

- (13)
- 43 MP [...] een verbeurdverklaring (.) van de in beslag genomen gelden↓  
'a forfeiture of the seized money'
- 43' I demandant un (.) emprisonnement <de (.) un an> une amende (.) e:t la  
'request a one year's prison sentence a fine and the'
- 44 I confiscation de l'argent↑ euh (.) donc (.) du profit euh **apparemment donc on**  
'forfeiture of the money so of the profits er **so apparently you are**'
- 45 I **vous impute d'avoir eu:h vendu également des stupéfiants**↑

**'accused of having sold drugs too'**

- 46 P moi j'ai vendu↑  
'did I sell'
- 47 I je sais pas quelles sont les accusations  
'I don't know what the accusations are'

The utterance in 44-45 has no direct connection with the prosecutor's utterances. It is based on an assumption the interpreter makes while hearing the prosecutor request the court to forfeit the money found on the defendant. This assumption is wrong, since the defendant is only accused of possession of drugs and not of selling drugs. The interpreter signals her inferential reasoning using the evidential adverb *apparemment* ('apparently'). Her role as a principal is immediately picked up by the defendant who reacts with a rhetorical question possibly expressing indignation at what she considers to be a false accusation. The interpreter then retracts her previous claim in 47, acting again as a principal.

In total, there are 7 instances during the hearing where the interpreter adopts the principal's role. Interestingly, they seem to occur quite systematically at the end of long turns. Excerpt (13), for instance, is situated at the end of the prosecutor's turn; another intervention occurs at the end of the counsel's turn. The ambiguous case in excerpt (10) occurs when the counsel interrupts her turn to deposit documents.

Excerpt (13) illustrates a case where the interpreter can safely be assumed to be brokering cultural knowledge for the defendant. In another case, the interpreter acts as a principal telling the defendant to sit down, which again is evidence of cultural (or procedural) brokering. This is, however, not always the case. In excerpt (14), for instance, she acts twice as a principal in order to protect the defendant against incriminating herself (capital letters used to indicate utterances made in loud voice):

- (14)
- 159 J 25 gram voor de feesten met methadon (.) het verwondert me dat ge hier st:aat  
'25 grams for the holidays with methadone I am surprised you are here'
- 159' I 25 grammes pour les fêtes plus le méthadone  
'25 grams for the holidays plus methadone'
- 160 P <pas plus le méthadone,> [j'aurais pas mélangé hein j'aurais pas eu:h  
'not plus methadone I would never mix you know I wouldn't er'
- 161 A [dat was waarschijnlijk ter vervanging van de drugs  
'that was probably to replace the drugs'
- 162 I **vous n'avez pas pris les deux en même temps**↑  
'you didn't take the two (substances) at the same time'
- 163 P non non  
'no no'
- 164 J ja maar hoe komt dat dan (.) da ge bijstand nodig had da ge zo'n  
'yeah but how come you needed assistance how come you'
- 164' I mais comment ça se fait en fait que vous êtes  
'but how come you are'
- 165 J ontweningsverschijnselen toonde als ge toch (.) <maar heel weinig heroïne  
'suffered withdrawal symptoms if it was only very small amounts of heroin'
- 165' I adonnée, que avez eu besoin d'une assistance médicale↑ (.) si vous n'étais  
'addicted that you needed medical assistance if you was only'
- 166 pakte↑>  
'you took'
- 166' I <qu'une consommatrice occasionnelle↑>  
'an occasional consumer'

- 167 P j'avais déjà mon traitement de méthadone↑ (.) simplement↑  
'I was already on my methadone programme however'
- 168 J >ze had al wat↑<  
'she was already on what'
- 169 I ZE WAS REEDS IN BEHANDELING MET METHADON MAAR IK DENK DUS DAT ZE  
'she was already on a methadone programme but I think that she'
- 170 I **BEDOELT DAT ZE HAAR METHADON NAM ALS ZE GEEN DRUGS NAM EN**  
'means that she took the methadone when she wasn't' taking drugs and'
- 171 I **OMGEKEERD, WAARDOOR DAT ZE WEL ONTWENNINGSVERSCIJNSELEN HAD**  
'the other way around so she suffered withdrawal symptoms'
- 172 I **OMDAT ZE OOK GEEN [METHADON**  
'because she didn't ... methadone' <sup>iii</sup>

It should be recalled that this is the part of the exchange between the judge and the interpreter, where, although the selling of drugs is not formally part of the indictment, the former tries to get the latter to confess that she did not buy heroin for her own consumption, but also to sell it to other addicts. Just before the start of excerpt (13) she therefore underlines the quantities that were bought and the important amounts of money spent on the drugs, especially compared to the defendant's income. The defendant then tries to minimize both the quantities and the financial impact saying her boyfriend also has an income. In the next move, the judge then argues that it is unlikely she could have consumed such quantities of heroin in combination with the methadone she already took. The defendant then denies she combined heroin and methadone. At that point, both the defendant's counsel and the interpreter step in to prepare a plausible alternative scenario in which the defendant took methadone and heroin alternatively. The interpreter first seeks confirmation of this scenario from the defendant in 162 and when asked for clarification by the judge in 168, delivers the scenario she believes the defendant has in mind (169-172). She thereby also cancels her interpretation (first half of 169) of the defendant's last turn that seemingly confirmed the scenario upheld by the judge.

The interpreter's turns in 162 and 169-172 cannot be accounted for within the generally accepted rules governing interpreters acting as principals. 162 is a request for clarification, but not of the sort that would be allowed by any code of ethics, as it does not concern the content of the defendant's turn. It directly relates to the facts of the case, which are being co-constructed by the defendant and the interpreter. In lines 169-172, the first utterance can be understood as a reaction prompted by the judge, who addresses the interpreter directly as a principal in 168. Acting as a principal is accepted practice in these circumstances and falls within the scope of the code of ethics. However, the rest of the term is a case of inferential reasoning by the interpreter in a clear attempt to cancel the interpretation of the defendant's turn in order to protect the defendant's interests.

In conclusion, both the creation and hard-fought maintenance of the interpreter's dyad and the interpreter's acting as a principal seem to be instrumental in protecting the defendant against a powerful court. In (13), the inferential reasoning can be understood as a cultural brokering intended to empower the defendant by making her more aware of the ins and outs of the judicial procedure. In (14), the interpreter successfully takes advantage of a turn allocation by the judge to cancel a self-incriminating utterance by the defendant.

## 5. Discussion

It is customary in analyses of interpreter-mediated court cases to speculate on the possible consequences of the interpreter's conduct in the framework of the case. The creation of a separate dyad between the interpreter and the defendant clearly gives the latter a distorted image of the nature of the court's interaction and the procedure as a whole. Treating the defendant as a direct addressee, the interpreter presents the procedure as more adversarial and less court-centred than it actually is. This probably does not change either the course or the outcome of the trial in any way, as the defendant's role is very limited in the case. However, we have also seen that the dyad is used in more subtle ways to influence the course of the interaction: when the judge expresses disbelief or issues warnings in direct interaction with the defendant, the interpreter struggles to restore the divide between

her own dyad and the court's participation framework. This undoubtedly has an impact on the case, as it is likely to discourage further direct interaction between the judge and the defendant.

On the other hand, the creation of a dyad is likely to affect the interpreter's conduct and, more in particular, increases the likelihood that the interpreter acts as a principal. Indeed, as she never presents the source utterances from the court's deictic framework, but from the dyad's, the interpreter never acts as a proper animator. From there, the transition to a full-fledged principal role is fairly straightforward. It is clear that the interpreter intends her role as a principal to benefit the defendant, whether she addresses the defendant, brokering cultural and procedural knowledge, or the judge, canceling a possible self-incrimination by the defendant. The first case is unsuccessful as she extends wrong information to the defendant. In the second case, the interpreter manages to steer the judge away from the self-incriminating claim by the defendant. The methadone, however, is not dropped as a topic of conversation.

In sum, by the way she handles her interpreting assignment, the interpreter does have an impact on how the trial unfolds. It is true that she breaches crucial provisions of the code of ethics, but the judge does not seem to care, as she does not reprimand her one single time during the trial and may even, to a certain extent, be held responsible for eliciting the interpreter's conduct during the trial.

## 6. Conclusions

The aim of the present paper was not to call the interpreter's professionalism into question. Rather, we wanted to show how a trained and experienced sworn interpreter performs in a challenging context of paternalistic interaction and asymmetric interpreting needs. It appeared that, in reaction to the paternalistic participation framework upheld by the court, the interpreter chooses to set up a parallel participation framework between herself and the defendant as an addressee. As this participation framework only includes two persons, we christened it the "interpreter's dyad". It is difficult to assess to what extent the court's framework actually contributes to the creation of the dyad, but the dyad has been seen to originate in other paternalistic trials we observed. It thus seems at the least to be a fairly regular by-product of paternalistic interaction.

While interpreting, the interpreter represents the court's interaction based on the deictic framework of the dyad. She also regularly adopts the role of principal within the dyad, brokering procedural knowledge for the defendant. We hypothesised that the creation of the dyad with its own deictic framework facilitates the transition towards a principal status in the dyadic interaction. The interpreter also acts as a principal in interaction with the court in an attempt to cancel a possibly self-incriminating statement by the defendant.

With regard to the asymmetric interpreting needs, we indeed observe that the interpreter mostly only works for the defendant. However, on some occasions, she does also interpret the defendant's utterances for the judge. In only one case, she seems to be instructed to interpret by the judge herself, but in all other cases, her interpretation for the court is unasked for. As these instances appear to coincide with contexts of strong disalignment in interactions between the judge and the defendant, we hypothesised that the unneeded interpretation is a way of protecting the defendant by trying to restore the court's usual paternalistic participation framework. The fact that the interpreter uses third-person pronouns in these cases to refer to the defendant confirms this view.

It seems that, in all, the interpreter's moves can be analysed as unduly protective with regard to the defendant. The motives for this display of solidarity are unknown, but the way in which the interpretation is carried out may have an impact: creating a dyad with the defendant is likely to tighten the relationship between the interpreter and the defendant. Obviously, much more research is needed into interpreters' performances in paternalistic courts to confirm these preliminary findings.

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<sup>i</sup> The above procedure is that followed for swearing in interpreters or translators in the judicial arrondissements of Bruges, Ghent and Leuven. Other arrondissements' procedures can vary considerably. In the judicial arrondissements of Mechelen, Turnhout and Antwerp, for instance, candidates are required to take a language test and to take a particular course of study. In these arrondissements, the swearing-in procedure is as follows. The candidate seeking sworn status enrolls in the Legal Translation and Interpreting course offered by KU Leuven. Before beginning this course, applicants must take a test in written and spoken Dutch. Only those who pass that test will be admitted to the course. The course itself takes five months and is made up of a number of modules such as legal training and legal terminology. At the end of the course, the student is examined in all modules. Only if he or she passes each of the examinations, a certificate in legal translation and/or interpreting is awarded. His or her name will then be forwarded to the public prosecutor for an administrative inquiry. He or she is then invited to take the oath at the court of first instance; his or her name will subsequently be placed on the list of sworn translators or interpreters. There are still other arrondissements in the country that arrange language tests for sworn translators and interpreters in partnership with the Belgian Chamber of Translators and Interpreters (BKVT/CBTI). The candidate sends his/her application to the court of first instance and will then be invited to take an examination at the offices of the BKVT in Brussels. Held twice a year, this examination consists of the written translation of a legal text. Successful candidates are given an attestation with which they can present themselves at the court of first instance to be sworn in.

<sup>ii</sup> It is useful to recall that there are two defendants in the case. With the exception of the prosecutor who requests punishment for both of the defendants in one single intervention, the defendants' cases are handled one after the other.

<sup>iii</sup> The interpreter is interrupted at this point by the defendant. She does not pronounce the verb which comes at the end of Dutch subordinate clauses. As word order differs between Dutch and English, the English gloss cannot run exactly parallel to the Dutch reply: we therefore left the theoretical position of the verb in the middle of the English clause vacuous.