ISSN: 1813-4890

A Study on the Right to Interpretation and Translation for Participants in Foreign-Related Criminal Cases

Xiaoyi Zi *

China University of Political Science and Law, Beijing 100080, China

Abstract

In the context of globalization, the right to interpretation and translation in foreign-related criminal proceedings functions as an important institutional guarantee for ensuring that participants in proceedings can effectively exercise their rights, safeguarding procedural fairness, and maintaining judicial credibility. Its legal basis derives from international human rights law, the Constitution of China, and the Criminal Procedure Law, and has been further refined through judicial interpretations and policy documents. At present, China still faces deficiencies in the qualification thresholds and professional standards for judicial interpreters and translators, the definition of their rights and responsibilities, their participation in proceedings, and the remedies available for rights violations. These deficiencies are mainly reflected in inconsistent admission standards, insufficient professional protection, irregular procedures, and inadequate avenues for relief. To improve the system, it is advisable to establish a unified qualification and certification system and a national talent pool, refine rules on rights, obligations, and liability for misconduct, develop a mechanism of graded information disclosure and strict confidentiality, promote independent appointment and cross-supervision at different procedural stages, standardize remuneration standards, and construct diversified remedies such as independent review, reasonable replacement of interpreters, and mandatory audio-video recording. Drawing on mature practices in the European Union, the United States, Canada, and other jurisdictions, China should ensure the professionalization, standardization, and traceability of language services in foreign-related cases, thereby comprehensively enhancing its foreign-related rule-of-law capacity and international judicial image.

Keywords

Foreign-related criminal proceedings; judicial interpretation and translation; right to interpretation and translation.

1. Introduction

Against the backdrop of deepening globalization, foreign-related criminal proceedings have become an important component of China’s judicial work. The Third Plenary Session of the Twentieth Central Committee of the Communist Party of China clearly called for accelerating the construction of a foreign-related rule-of-law system commensurate with China’s international status and for comprehensively improving foreign-related rule-of-law capacity. Language service guarantees should be regarded as an important foundation for improving the handling of foreign-related cases. In November 2024, at the first national conference on foreign-related procuratorial work, the Supreme People’s Procuratorate emphasized the need to handle every foreign-related case with high quality and efficiency and to equally protect the lawful rights and interests of both Chinese and foreign parties in accordance with law[1]. In foreign-related criminal proceedings, language barriers are one of the key factors restricting the smooth handling of cases. Translation and interpretation directly affect the effective realization of the parties’ procedural rights, the ascertainment of case facts, and the accurate application

ISSN: 1813-4890

of law. Translation and interpretation in foreign-related criminal proceedings are not only a basic guarantee of procedural fairness, but also an important window through which the state's judicial image is maintained and China's judicial civilization is displayed.

2. The Legal Basis and Significance of the Right to Interpretation and Translation for Participants in Foreign-Related Criminal Cases

The legal basis of the right to interpretation and translation for participants in foreign-related cases derives from international human rights law and from explicit provisions in China's Constitution and laws, and it is further refined through judicial interpretations and policy documents. At the same time, this right reflects core jurisprudential principles such as due process, equality in litigation, and human rights protection. Its content covers multiple aspects, including the scope of application, the duty to provide safeguards, quality-related remedies, and the independence of interpreters and translators. This system is not only an important condition for achieving justice in individual cases, but also a foundational guarantee for maintaining China's judicial credibility and international rule-of-law image.

2.1. The Legal Basis of the Right to Interpretation and Translation for Participants in Foreign-Related Criminal Cases

International human rights law and standards governing international judicial activities expressly recognize the right to interpretation and translation for participants in foreign-related cases. Article 14(3) of the International Covenant on Civil and Political Rights provides that where a defendant does not understand or cannot speak the language used in court, he or she has the right to the free assistance of an interpreter. This provision embodies the principle of procedural fairness and the spirit of linguistic equality that are widely recognized by the international community. Similar principles are also reflected in Article 6(3) of the European Convention on Human Rights, which provides that an accused person has the right to the free assistance of an interpreter and requires that the quality of interpretation be sufficient to ensure effective participation in the proceedings[2]. In Guesdon v. France[3], the European Court of Human Rights further held that the right to interpretation does not apply only to defendants who have no understanding at all of the language of the proceedings, but should also apply where a defendant faces substantial difficulties in comprehension or expression. In addition, Article 36 of the Vienna Convention on Consular Relations requires that where a foreign national is detained, he or she should be informed of the relevant rights in a language he or she understands and be allowed to communicate with consular authorities. In practice, this system necessarily requires the provision of necessary translation and interpretation support.

In domestic law, the right to interpretation and translation is supported by both constitutional and statutory norms. Article 134 of the Constitution of the People's Republic of China expressly provides that state organs shall provide translation for participants in proceedings who do not understand the spoken or written language commonly used in the locality. This establishes, at the level of the fundamental law, the state's obligation to provide such institutional protection. Article 9 of the Criminal Procedure Law establishes the principle and requirements of language assistance and serves as the direct legal basis for the right to interpretation and translation in foreign-related criminal proceedings. It applies throughout the entire process of investigation, prosecution, trial, and even penalty enforcement. At the same time, supporting judicial interpretations and law-enforcement norms provide operational pathways for implementing the system. For example, Article 91 of the Interpretation of the Supreme People's Court on the Application of the Criminal Procedure Law of the People's Republic of China expressly requires that foreign defendants who do not understand Chinese be provided with faithful and complete interpretation and translation, and prohibits unauthorized additions or omissions. Article 127 of the Provisions on the Procedures for Handling Criminal Cases by Public Security Organs emphasizes that interpreters and translators in foreign-related cases must possess both language competence and an understanding of legal terminology, and must strictly comply with case confidentiality requirements. At the policy level, the Third Plenary Session of the Twentieth Central Committee of the Communist Party of China called for accelerating the construction of a foreign-related rule-of-law system commensurate with China's international status. The 2024 national conference on foreign-related procuratorial work further made clear that every foreign-related case should be handled with high quality and efficiency and that the lawful rights and interests of both Chinese and foreign parties should be equally protected in accordance with law. These policy statements provide an institutional foundation and directional guidance for the long-term development of the right to interpretation and translation.

2.2. The Significance of the Right to Interpretation and Translation for Participants in Foreign-Related Criminal Cases

In foreign-related criminal proceedings, the right to interpretation and translation is an important institutional arrangement for ensuring that participants in proceedings can effectively exercise both procedural and substantive rights. It is a direct embodiment of the principles of due process and equality in litigation, and it is also an important component of human rights protection in a modern rule-of-law system. Language is the basis of legal communication and procedural participation. Whether a party can accurately understand procedural information and effectively express his or her procedural position directly affects the fairness of fact-finding, evidence analysis, and legal application[4]. In this sense, the extent to which the right to interpretation and translation is realized affects not only the just adjudication of individual cases, but also the level of a country's judicial civilization and rule-of-law progress.

First, protecting the right to interpretation and translation is a basic requirement for implementing the principle of due process. Due process, as one of the core concepts of modern rule of law, requires the judicial process to be fair and open, and requires that parties be given sufficient opportunities to participate and defend themselves. Due process requires not only formal completeness of procedure, but also the genuine realization of the rights to participation, information, and defense in substance. In foreign-related criminal cases, if a party cannot understand the content of the accusation, witness statements, or questioning by judicial authorities because of a language barrier, he or she cannot effectively exercise the right of defense, and "presence" in the proceedings loses its substantive meaning[5]. The essence of due process lies in placing the defendant and the prosecution in a balanced procedural position, while language barriers structurally undermine this balance. In R v. Iqbal Begum in the United Kingdom, the defendant, due to language difficulties[6], was assisted during police questioning by her husband as an interpreter. However, the interpreter had no professional qualifications and had a potential interest relationship with the defendant, resulting in key mistranslations and omissions during the interrogation. This not only prevented the defendant from accurately understanding the accusation and the purpose of the questioning, but also deprived her of the opportunity to give informed responses and mount an effective defense. The Court of Appeal accordingly held that, in serious criminal charges, the use of an interpreter lacking independence and professional competence fundamentally undermines the fairness of the proceedings, and it ruled that the relevant confession should be excluded because it lacked voluntariness and reliability. This case shows that in criminal proceedings, failure to provide independent and qualified language services to a party who does not understand the local language may directly shake the foundation of conviction and undermine due process and the principle of a fair trial.

Article 6(1) of the European Convention on Human Rights provides that in the determination of civil rights and obligations or any criminal charge, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. This provision establishes the right to a fair trial as a core guarantee of procedural justice. Among its components, the principle of equality of arms is regarded as indispensable. It requires that the parties to proceedings maintain a substantively balanced position in evidence collection, cross-examination, debate, and other procedural stages[7]. At the same time, a fair trial requires that, in adversarial proceedings, both sides be given a genuine opportunity to exercise their right to argument on an equal basis. This means that the core of procedural fairness lies not merely in formal access to proceedings, but also in substantively eliminating procedural obstacles that may place one party at a disadvantage. In a multilingual judicial environment, language difference is precisely one of the factors that may create such structural disadvantage. If a party cannot promptly and accurately understand the content of the trial, he or she may be inherently disadvantaged in the speed of information reception, opportunities for questioning, comprehension of evidence, and immediate defensive response. This undermines the balanced confrontation pursued by the principle of equality of arms. Therefore, in this context, the right to interpretation and translation is not merely a threshold condition for a party's entry into the proceedings, but also a key link in maintaining equality in litigation and preventing one side from being weakened in adversarial proceedings. As the European Court of Human Rights held in Cuscani v. United Kingdom[8], where a person on trial cannot understand the judge's questions because of a language barrier and cannot respond immediately, his opportunity to participate in the proceedings on an equal basis is substantively deprived, which constitutes a violation of the right to a fair trial. This case demonstrates that the existence and protection of the right to interpretation and translation are not independent of the right to a fair trial, but are instead its direct extension and concretization in multilingual contexts. Only by removing language barriers for the parties and ensuring balanced adversarial conditions can the principle of equality of arms and the right to a fair trial be realized in practice.

The full realization of the right to interpretation and translation is also a precondition for transforming the right of confrontation into substantive participation. In criminal proceedings, the core of the right of confrontation lies in enabling a party to face and question the person who has made adverse statements, thereby testing the truthfulness and reliability of those statements. Whether in the common law system, which emphasizes in-court cross-examination, or in the civil law system, which allows organized dialogue at the investigation or trial stage, the right of confrontation is regarded as an important component of defensive rights. Only through independent, qualified, and faithful interpretation can witness testimony and courtroom dialogue be accurately conveyed, enabling the defendant to promptly grasp information during questioning and cross-examination, raise challenges, and clarify facts. In foreign-related criminal cases, the smooth operation of confrontation procedures presupposes that the party can accurately and completely understand witness statements and courtroom exchanges, and this presupposition depends on high-quality language services. Without qualified, independent, and faithful interpreters, a defendant may formally obtain an opportunity for face-to-face confrontation but still be unable, because of language barriers[8], to grasp the content of testimony or effectively challenge adverse evidence. As a result, the right of confrontation would become a mere formality. It can therefore be seen that the right to interpretation and translation is not only an important extension of the defendant's right to information and right of defense, but also a necessary condition for ensuring that the right of confrontation can be effectively implemented. Only when the right to interpretation and translation is fully guaranteed can confrontation procedures perform their proper functions of

ISSN: 1813-4890

revealing evidentiary defects, balancing prosecutorial evidence, and realizing procedural fairness.

3. Practical Problems Concerning the Right to Interpretation and Translation for Participants in Foreign-Related Cases in China

3.1. The Lack of Qualification Thresholds and Professional Standards for Interpreters and Translators

In the handling of foreign-related cases, the professional competence of judicial interpreters and translators is the foundation for effectively implementing the right to interpretation and translation. However, from the level of the existing legal system to actual operation, China lacks clear and unified provisions on the admission conditions and professional standards for interpreters and translators. This has created structural shortcomings in this area. The core function of protecting the right to interpretation and translation is to ensure that participants in proceedings can accurately understand the charges, procedural rights, and legal consequences. Therefore, interpreters and translators must not only possess fluent bilingual or multilingual expression skills, but also master criminal legal terminology, trial procedures, rules of evidence, and other specialized knowledge. Certain qualification certificates in the existing language-service industry, such as the China Accreditation Test for Translators and Interpreters and the Shanghai Interpretation Accreditation, can measure language competence, but they do not necessarily cover the professional requirements of the criminal legal field. At the same time, China’s Criminal Procedure Law only provides in principle that translation should be provided for participants in proceedings who do not understand the language used in court. It does not refine the admission conditions, professional competence requirements, legal knowledge background, professional ethics, or continuing training mechanisms for interpreters and translators.

By contrast, some jurisdictions with more developed judicial systems have established strict admission and management systems for judicial interpreters and translators in criminal proceedings. For example, the European Union adopted the Directive on the Right to Interpretation and Translation in Criminal Proceedings in 2010, requiring Member States to establish national registers of qualified legal interpreters and translators. Interpreters and translators must pass assessments covering both language competence and knowledge of criminal law, and must participate in continuing professional education[9]. Where a party challenges the quality of interpretation or translation, the court must promptly assess the issue and replace the interpreter or translator when necessary. In the United States, the Federal Court Interpreter Certification Examination implements mandatory certification for commonly used languages such as English and Spanish. Candidates must pass rigorous written and oral examinations involving courtroom procedures, evidentiary terminology, and simultaneous interpretation skills before they can be included in rosters available to federal courts. These systems not only achieve the unification and standardization of interpreter and translator qualifications, but also enhance the stability and controllability of criminal interpretation through registration management and quality supervision.

3.2. The Ambiguous Definition of the Rights and Responsibilities of Interpreters and Translators

In foreign-related criminal cases, judicial interpreters and translators play an auxiliary role in facilitating the smooth progress of proceedings, while also holding the legal status of participants in criminal proceedings because of their direct involvement in case activities. The accuracy of their oral interpretation and written translation directly affects the authenticity, completeness, and legal effect of procedural materials such as interrogation records, trial transcripts, and witness-examination records, and it plays an irreplaceable role in achieving substantive justice[10]. In theory, such personnel should not only enjoy professional protections commensurate with their duties, but should also perform the obligations imposed by law and bear corresponding responsibility when they violate relevant rules. However, judging from existing legislative arrangements and judicial practice, the system concerning the rights and obligations of interpreters and translators remains inadequate, and the implementation of relevant rules is not fully effective.

On the one hand, existing legal norms contain obvious institutional gaps in the protection of professional rights and interests[11]. Neither the Criminal Procedure Law nor the supporting judicial interpretations issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and other authorities clearly and systematically provides for the rights of judicial interpreters and translators to have preparation time, obtain necessary case information, review relevant materials, and receive necessary legal explanations when performing their duties. In practice, the common phenomenon of "arrive and interpret immediately" means that interpreters and translators often cannot understand the basic facts of the case in advance or grasp relevant specialized terminology. This lack of preparation inevitably affects the quality of interpretation and translation, and objectively weakens the professional motivation of interpreters and translators.

On the other hand, there are cases in practice where the same interpreter provides language services across different procedural stages, or even simultaneously serves multiple defendants in a joint-crime case. Such overlapping work across stages and parties not only reflects the practical shortage of interpreters for certain languages, but may also affect the interpreter's position and create risks to the neutrality of the translation. It may also give rise to collusion, information leakage, improper judicial interference, and other problems, thereby posing a substantive threat to the legality and fairness of the adjudication. Finally, the mechanism for pursuing liability for violations is largely hollowed out. Although Article 305 of the Criminal Law regulates intentional false translation under the crime of perjury, the lack of supporting procedural rules and evidentiary standards, together with the highly concealed nature of such misconduct, has made application of this provision difficult and has prevented it from producing its intended deterrent effect.

By comparison, some foreign countries and regions have established more detailed and mature systems regulating the rights and responsibilities of judicial interpreters. For example, Title 28 of the United States Code, in its provisions concerning court interpreters, sets out interpreter qualifications, working rights, professional obligations, and disciplinary accountability mechanisms. It is supplemented by codes of professional ethics for judicial interpreters, which provide concrete and enforceable standards on neutrality, confidentiality, and faithful interpretation. The European Union's Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings also establishes uniform rules on professional safeguards, independence requirements, and procedures for replacing interpreters in cases of misconduct or inadequate performance[12].

3.3. Irregular Participation of Interpreters and Translators in Proceedings

In the practice of foreign-related criminal proceedings, the lack of uniform norms governing the participation of interpreters and translators has long been an important problem affecting procedural fairness. Although the Criminal Procedure Law and relevant judicial interpretations touch upon the legal status, basic requirements, and recusal rules applicable to interpreters and translators, these provisions are mostly principled clauses. They do not provide detailed and operable procedural guidance tailored to the special features of foreign-related cases.

On the one hand, the current system does not clearly specify whether interpreters and translators have the right to understand the case before performing their duties, nor does it

ISSN: 1813-4890

define the scope and channels of such prior access to information. Foreign-related criminal cases often involve complex background facts, transnational evidence, and cultural differences. If interpreters and translators cannot obtain necessary case information before performing their duties[13], their understanding of legal terminology and factual statements may be partial or distorted, affecting the parties' right of expression and right of defense. At the same time, if the scope of case information disclosure is excessively expanded, it may create risks of leakage. How to strike a balance between accurate performance of duties and protection of case confidentiality requires clear institutional design.

On the other hand, the standards for calculating and paying interpretation and translation fees are not unified, which affects the professional stability and work motivation of interpreters and translators. At present, when courts and procuratorial organs in different localities engage interpreters and translators for foreign-related criminal cases, they usually rely on local fiscal arrangements or budget standards of the case-handling authority. This results in significant remuneration differences for equivalent work across different regions. Meanwhile, there are also differences in practice concerning the scope of application of interpretation and translation in foreign-related cases. First, there are differences in determining the necessity of translation. For persons who understand China's spoken or written language, courts in different localities adopt different approaches: some require a written declaration of language ability, while others only record the matter in transcripts. Second, there are differences in the authority to appoint interpreters and translators. Criminal suspects and defendants generally may not select interpreters by themselves, in order to maintain procedural neutrality[14], whereas victims and witnesses are often allowed to bring their own interpreters. This differentiated arrangement lacks support in written law and may generate disputes over procedural justice. Third, in practice, staff members of judicial organs sometimes temporarily undertake interpretation tasks. This mainly includes case-handling personnel with relatively high foreign-language ability translating by themselves, or other internal personnel of judicial organs temporarily serving as interpreters. Such practices often fail to meet the requirements of neutrality and recusal.

In addition, China currently lacks clear prohibitive or permissive rules on whether the same interpreter may provide language services at different procedural stages or for different parties in the same case. This has resulted in significant regional differences in practice. In some localities, due to shortages of interpretation resources, the same interpreter is allowed to serve the same party across procedural stages or provide services to different parties[15]. However, this practice carries inherent risks to procedural fairness. Cross-stage interpretation may expose the interpreter to more case details, while interpreting for different parties may cause information leakage or positional bias.

4. Pathways for Improving the Protection of the Right to Interpretation and Translation for Participants in Foreign-Related Cases in China

4.1. Improving the Qualification and Certification System for Judicial Interpreters and Translators

To improve the quality of interpretation and translation in foreign-related cases from the source, China should establish a unified qualification and certification system for judicial interpreters and translators, drawing on the experience of the European Union and the United States. The EU Directive on the Right to Interpretation and Translation in Criminal Proceedings requires Member States to establish national registers of qualified interpreters and translators, supporting quality supervision and training mechanisms, and measures to ensure that interpreters and translators are familiar with legal terminology. Title 28 of the United States Code, in its provisions on court interpreters, establishes a tiered certification system through the Federal Court Interpreter Certification Examination administered by the Administrative Office of the United States Courts[16]. This examination mainly covers English and Spanish and tests both formal and informal expression. It also includes legal terminology, and its content must accurately reflect the real forms and substance of interpretation functions in federal court practice, with the aim of selecting personnel capable of undertaking professional legal interpretation work.

China may consider building a diversified national certification and filing system for judicial interpreters and translators by relying on the existing legal professional qualification system and language-proficiency assessment system. At the national level, unified qualification standards and evaluation rules should be formulated. The specific assessment work may be entrusted to authoritative professional institutions, language examination centers, higher education institutions, and industry associations, which can jointly conduct qualification evaluations according to different languages and fields of practice[17]. The evaluation content may include language competence in listening, speaking, reading, and writing, knowledge of law and procedure, professional ethics, and confidentiality awareness. This would ensure that selected personnel possess solid language skills and can accurately understand and convey legal information.

On this basis, interpreters and translators may be categorized through tiered certification and specialization by professional field. High-level interpreters and translators may be certified to handle major criminal, civil, and commercial cases, while ordinary interpreters and translators may be certified for general cases. Specialized talent pools should also be established by case type, including criminal cases, civil and commercial cases, intellectual property cases, and international trade cases, so as to achieve precise matching between case needs and professional background. To prevent conflicts of interest and quality risks, a pretrial qualification review and filing procedure for interpreters and translators should also be established before a case enters trial. This procedure should comprehensively examine the person's qualification certificates, practice record, and potential relationship risks. At the same time, China should implement continuing education and annual assessment mechanisms, requiring interpreters and translators to regularly participate in training on new legal rules and professional knowledge and to undergo competence evaluations. Those who fail to meet the standards should have their qualifications suspended or revoked, thereby ensuring the dynamic improvement of the overall quality of the profession.

4.2. Constructing a Standardized Framework of Rights and Responsibilities for Interpreters and Translators

With respect to the regulation of interpreters and translators and remedies for rights violations, Article 305 of China's Criminal Law provides for criminal liability for intentional false translation. However, application of this provision presupposes a clear mechanism for identifying false translation. In reality, standards for evaluating translation quality, a certification system for translated foreign-related evidence, and a supervision system have not yet been established. This not only makes false translation difficult to detect, but also leads to unclear remedies and weak accountability when quality deviations occur.

To promote the standardization of interpretation and translation in foreign-related criminal proceedings, institutional construction, working mechanisms, quality supervision, and resource support must be advanced in a coordinated manner. At the institutional level, in light of the overall development needs of foreign-related rule of law, China may take a future amendment of the Criminal Procedure Law as an opportunity to create an independent chapter on foreign-related criminal proceedings. This chapter should expressly provide for the scope of application, basic standards, rights and obligations of interpreters and translators, and principles of supervision and remedies concerning interpretation and translation in foreign-related criminal proceedings, thereby offering unified legal guidance for case-handling authorities and language professionals.

At the mechanism level, relevant departments should jointly formulate highly operable rules for interpretation and translation in foreign-related criminal cases. These rules should cover the determination of the foreign-related nature of a case, the scope and procedure of translation and interpretation, qualification requirements, rights and obligations, supervision and review, and translation of overseas evidence. They should form a working system in which different stages are smoothly connected and enforcement standards are unified. In terms of supervision[18], whole-process oversight over the quality and effectiveness of foreign-related interpretation and translation should be strengthened, with special attention to the protection of the language rights of prosecuted foreign nationals. Expert review or a dual-translation mechanism may be introduced, and the entire interpretation process may be recorded by audio and video to facilitate later verification. Interpreters and translators who violate laws or regulations should bear civil, administrative, or even criminal liability depending on the circumstances and consequences. Where a party's rights are infringed because of interpretation or translation problems, timely corrections should be made.

4.3. Improving Standardized Procedures for the Performance of Duties by Interpreters and Translators

In response to the current uncertainty over whether interpreters and translators have the right to understand the case in advance and the unclear scope of such understanding, operational rules should establish a dual system of graded information disclosure and strict confidentiality. Specifically, on the one hand, interpreters and translators should have the right, before accepting an assignment, to obtain necessary case information directly related to the content to be interpreted or translated, including the cause of action, basic information about persons involved, the procedural stage, the language type expected to be used, and the relevant professional field. On the other hand, to prevent arbitrary information disclosure, the case-handling authority should delimit the scope of materials requiring translation, rather than allowing interpreters and translators to browse the entire case file or unscreened evidentiary materials on their own[19]. This arrangement can ensure that interpreters and translators are adequately prepared and understand the context of the case, while limiting their access to sensitive information unrelated to the translation task.

In terms of confidentiality rules, China may draw on the Rules of Professional Conduct for Court Interpreters in Ontario, Canada. These rules prohibit interpreters from giving advice to witnesses or parties or engaging in any activity that may be construed as the practice of law when performing their duties, thereby ensuring neutrality and objectivity throughout the interpretation process. At the same time, confidentiality obligations should be strengthened. Interpreters and translators must strictly protect not only information that is legally required to be confidential or privileged, but also any case-related information, even where it is not legally privileged. They must not publicly discuss, report, or comment on such information, nor may they discuss any aspect of the case with parties, witnesses, or jurors.

With respect to the selection and recusal of interpreters and translators, prohibitive rules should be refined. It should be made clear that the same interpreter may not provide services for the same party across procedural stages in the same case, nor may the same interpreter provide services for different parties in the same case, so as to prevent conflicts of interest and information leakage. To ensure rigorous implementation, a mechanism of independent appointment at each stage may be established. That is, interpreters at the investigation, prosecution, and trial stages should be independently selected by different allocation units, thereby preventing an interpreter from developing a sustained position over multiple procedural stages or from being influenced by prior interpretation and producing continuous bias[20]. At the same time, a cross-supervision mechanism should be introduced. Interpretation records, translated texts, and audio recordings from the previous stage should be reviewed or checked by a different interpreter at the next stage. Errors and omissions can be identified and corrected by comparing the translation with the original-language record, thereby forming a closed-loop quality-control mechanism within the procedure.

In addition, where the shortage of resources makes it necessary, under exceptional circumstances, to use the same interpreter at different stages, a strict exceptional filing and higher-level approval system should be established. In such circumstances, a cross-supervision model may be activated, under which another qualified interpreter sits in and records the process while the interpreter performs the task, so as to conduct real-time supervision and necessary correction. The entire process should also be supported by full audio-video recording, ensuring that each stage of language conversion has a complete and traceable evidentiary chain. Finally, with respect to remuneration, relevant authorities should unify fee standards, settlement cycles, and payment procedures nationwide, so as to protect the lawful remuneration and professional motivation of interpreters and translators.

5. Conclusion

The right to interpretation and translation is an essential safeguard of procedural fairness in foreign-related criminal proceedings. Its purpose is not merely to remove language barriers, but to ensure that participants can understand accusations, receive procedural information, communicate with counsel, challenge evidence, and express their views effectively. The realization of this right is therefore closely connected with the rights to information, defense, confrontation, and effective participation.

China has established a basic legal framework for providing interpretation and translation to participants who do not understand the language used in proceedings. However, the current system still faces several practical weaknesses, including inconsistent qualification standards, unclear professional rights and responsibilities, irregular appointment procedures, insufficient quality supervision, and limited remedies for inaccurate interpretation or translation. The formal provision of language assistance does not necessarily ensure substantive protection. What matters is whether such assistance is timely, complete, accurate, independent, and sufficient to support meaningful participation.

Future reform should transform interpretation and translation from an auxiliary service into a standardized procedural guarantee. China should establish unified qualification and registration standards for judicial interpreters and translators, clarify their duties, ethical obligations, professional rights, and legal liabilities, and improve rules concerning appointment, recusal, confidentiality, remuneration, and access to necessary case information. Quality-control mechanisms should also be strengthened through audio-video recording, independent review, replacement procedures, and effective channels for objection and relief.At the same time, institutional reform should take account of China's judicial structure, regional differences, and the unequal distribution of language professionals. By combining national standards, professional certification, procedural supervision, and appropriate technological support, China can gradually build a more professional, standardized, and reviewable system.

References

[1] Zhao, J. W. (2005). The provisions on the right to a fair trial in Article 14 of the International Covenant on Civil and Political Rights. Chinese Journal of Law, 5, 138.

[2] European Court of Human Rights. (n.d.). Guide on Article 6 of the European Convention on Human Rights: Right to a Fair Trial (Criminal Limb) [Online guide].

ISSN: 1813-4890

[3] Human Rights Committee. (1986). Dominique Guesdon v. France (Communication No. 219/1986) [Case decision].

[4] Chen, G. Z. (2025). Several issues concerning the improvement of foreign-related criminal proceedings. Law Science, 2, 110.

[5] Wan, Y., & Lin, X. F. (2006). The "imperial" principle of modern criminal procedure law: A restatement of the principle of legality in procedure. Contemporary Law Review, 1, 29.

[6] Court of Appeal of England and Wales. (1991). R v. Iqbal Begum (93 Cr App R 96) [Case judgment].

[7] Wang, X. M., & Chen, L. (2014). On the principle of "equality of arms" in international criminal defense. Criminal Law Review, 2, 391.

[8] European Court of Human Rights. (2002, September 24). Cuscani v. United Kingdom (Application No. 32771/96) [Case judgment].

[9] Yi, Y. Y. (2010). The "eyeball-to-eyeball" right: A comparative study of the right of confrontation. Comparative Law Research, 1, 56.

[10] Cai, Y. J., & Li, Y. M. (2023). On the improvement of China's system of the right of confrontation. Jiangxi Social Sciences, 12, 147.

[11] Zeng, X. L., & Liu, Y. (2025). The current situation and optimization of litigation translation in foreign-related criminal cases. People's Procuratorial Semimonthly, 3, 55.

[12] European Parliament & Council of the European Union. (2010, October 20). Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the Right to Interpretation and Translation in Criminal Proceedings. https://eur-lex.europa.eu/legal-content/ EN/ TXT / ?uri=CELEX%3A32010L0064

[13] Zhang, X. (2025, July 3). Promoting the standardized construction of foreign-related criminal translation. Procuratorial Daily (Theory Edition).

[14] Aliverti, A., & Seoighe, R. (2017). Lost in translation? Examining the role of court interpreters in cases involving foreign national defendants in England and Wales. New Criminal Law Review: An International and Interdisciplinary Journal, 20(1), 130–156.

[15] United States Congress. Court Interpreters Act, 28 U.S.C. § 1827.

[16] Administrative Office of the U.S. Courts. (n.d.). Federal Court Interpreter Certification Examination (FCICE). https://www.uscourts.gov/services-forms/federal-court-interpreters

[17] Dai, J. J. (2025). The justification, dilemmas, and responses concerning the right to translation assistance in foreign-related cases. Journal of Zhejiang Gongshang University, 3, 49.

[18] United States Congress. Court Interpreters Act, 28 U.S.C. § 1827.

[19] Ontario Ministry of the Attorney General. (n.d.). Professional Code of Ethics for Court Interpreters. https://www.attorneygeneral.jus.gov.on.ca/english/courts/interpreters/

[20] Maniar, A. (2013). Court interpreters. Socialist Lawyer, 64, 12–13.