

Communication failure in court interpreting within a linguosemiotic approach: a mismatch of expectations

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Abstract—This article analyzes interpreting of spoken court discourse with a focus on communication failures and their origins. Previous research shows that connection between communication failure and the judiciary's view on interpreter's role makes a noticeable impact on how legal experts evaluate translation and interpreter's credibility. This article presents, therefore, a holistic view on the sources of misunderstandings between the interlocutors in the legal context. This paper addresses a few major questions: Does communication failure always mean that there has been inaccurate interpreting and vice versa? What possibilities do interpreters have to anticipate and to prevent communication breakdown? This paper draws upon a schematic representation of several stages of interpreter-mediated court dialog where communication failure might originate and outlines that some of communication failures lay outside interpreter's domain, whereas others arise within his field of expertise. The study is conducted within the framework of linguistic semiotics and the paper discusses possible reasons for interpreting-conditioned communication failures in relation to five semiotic dimensions of the language – perceptics, semantics, syntactics, denotatics and pragmatics.

Keywords—court interpreting, communication failure, interactional linguistics, linguosemiotics, legal discourse, translation.

I. INTRODUCTION

There are many aspects of how interpreting during a court session can have an impact on the judiciary and the private individuals involved in the legal process. In this article we draw upon a distinction made by Ruth Morris and refer to the act of oral translation between languages as 'interpreting', and the act of making sense of signs and texts as 'interpretation' [1, p.25], however, we understand that this distinction is a necessary fiction in a sense that the act of interpreting is always an act of interpretation.

Perception and assessment of interpreting are often intertwined with the role of the interpreter seen from the perspective of the judiciary. Great significance is taken on their expectations of interpreting to be a "verbatim" transcoding, as well as absence of misunderstandings between the parties is considered an attribute of oral translation of high quality. This study is therefore focused

on communication failure that indicates misunderstanding between the parties involved, and its' possible origins in the context of interpreter-mediated communication in national courts of law. This article concerns legal interpreting in Sweden – i.e. oral translation between Swedish and Russian languages in public law courts.

Whenever a party or a legal representative doesn't share the same language with the courtroom, an interpreter is naturally seen as a vital link in the process of legal interaction and is expected to contribute by delivering results that allow legal communication to move forward. Despite the apparent appeal of this thought, an interpreter's performance does not and cannot always be equal to the result of mutual understanding. Having been noted repeatedly in the research literature on interpreting, an understanding of interpreting among non-professionals is often based on a fundamental misconception of both how interpreting is done and of how communication works [1], [2], [3]. To make fair conclusions it is therefore of great importance to pay attention to the fact that good interpreting hinges not only on linguistic content but also on social, cultural and psychological variables.

Hence it is important to examine the nature of communication failure in spoken court discourse in terms of where it originates from, whether incongruities in oral translation can result in both communication success and communication failure, whether some types of miscommunication can be anticipated by the interpreter and whether every communication breakdown can be prevented if thought of in advance. This article deals with the issue of communication failure within the framework of integrative model of interpreting along with the anthropocentric paradigm and within a linguosemiotic approach.

II. MATERIALS AND METHODS

The research is based on a literature study and the analysis of tape-recorded data from court hearings held in Sweden courts in during 2018. The data is presented in the form of digital audio records of witness' or defendant's testimony with two-way consecutive interpreting between Russian and Swedish. The records were granted by the court archives upon request sent to 9 District courts across

Sweden and have then been transcribed and analyzed according to a hermeneutic approach. To facilitate the study, the records have been transcribed in compliance with the authors' analytic perspective and needs. According to the accepted transcription system only speech and pauses are reflected, where “/” conveys short pauses, “//” – long pauses, and “[...]” indicates simultaneous speaking.

This study examines linguistic performance of a number of Russian-speaking interpreters in relation to communication failures in 23 different law cases. There are two categories of qualified interpreters in Sweden: authorized interpreters (with or without special authorization) and trained interpreters. Nevertheless, untrained interpreters are more often hired to interpret in court in a non-Russian language. The majority of interpreters in given cases are authorized, which means that they have passed an advanced professional examination and are subject to supervision of Swedish Legal, Financial and Administrative Services Agency (Kammarkollegiet). The rest are authorized interpreters having received special authorization as court interpreters (here referred to as “court interpreters”). In some few cases of the study, interpreting is performed by trained interpreters who have completed a program organized by a Higher Education Institution or supported by the Swedish National Agency for Higher Vocational Education (Myndigheten för yrkeshögskolan) but who does not have any authorization or special competence.

III. RESULTS

The findings of the study show interesting tendencies in the dynamics of interpreter-mediated court communication and might indicate some problem-related areas that are often left unseen by the non-professionals (i.e. the judiciary or private individuals). A mismatch of expectations regarding the role of the interpreter is crucial to assessing the quality of oral translation. Although an ideal interpreter is determined as “faithful renderer of the other’s utterance”, the judiciary often expects him to be not just a “message converter”, but a “message clarifier”. Such a starting point inevitably leads to communicational failure in cases where the source message is ambiguous due to the language features or is intentionally unclear or incomprehensible. Another factor that gives rise to communication failure is a mismatch between the vocabularies used by the amateur speaker as opposed to the legal representative.

Therefore, it is important to outline that some of misunderstandings arise at the stages of communication outside interpreter’s domain, whereas only a few lie within his competence and authority.

Within the framework of linguistic semiotics which maintains that language is a special type of sign system and the meaning of a whole is not just a sum of its’ elements, it is customary to single out a few dimensions, primarily controlled by the interpreter. The results of the study are consequently presented according to these semiotic dimensions of the language.

A. *Perceptics*

In the context of court interpreting, conditions of the communication such as audibility, noise and interference,

dialect differences, speech defects, voice volume, intonation, etc., play important role in the process of live speech recognition. Hence, all these factors can become a source of misunderstandings between the speech originator and the interpreter. Another reason for communication failure to occur can be interlanguage paronyms (example 2). Proper nouns, in contrast to common nouns, are also more likely to cause a communication failure.

B. *Semantics*

Lexicon on a solely semantic level, constrained by the context of legal discourse, rarely causes problems in both interpretation of the meaning and producing an adequate one for professional authorized or court interpreters. However, producing accurate interpreting might become much more challenging when semantics, built on conventional and predictable meanings, is combined with less predictable pragmatics and denotatics (which in this study is understood as contextual relation between a sign and a signifier). In that regard, it is necessary to make a distinction between common and legal vocabularies.

As the study shows, it is more likely that communication failure with origin in semantics of common vocabulary forms on the first procedural stage of interpreted communication, i.e. at the interpreter’s end. Consequently, communication failure with origin in semantics of legal vocabulary forms on the second stage, i.e. at the judiciary’s end (if the legal term lacks accuracy and recurrence) or at the private individual’s end (if the legal term is unknown to the receiver).

C. *Syntactics*

The analysis of the language material shows that communicational failures are most likely to arise in cases of syntactical homonymy, when syntactical collocation is affected and under the circumstances of a sudden change from one signified to another while still using the same sign. Not giving any explicit signal about this sudden shift between the objects of the sign’s denotation is common for the speaker; it impacts above all the stage of interpreter’s meaning-making process and thus leaves him unaware of the possible communication failure.

D. *Denotatics*

The denotative level of meaning in this study refers to a specific meaning of a sign given a situational context as opposed to more general meaning of the sign provided by semantics. The differences of meaning-making between the speaker and interpreter can often cause communication failure because of the difficulty to recognize the true signified. In particular, failure-prone semic acts are determined by a sudden shift between different signified while using the same sign. In utterances where a previous connection was made between a sign and a signified against the background of actual communication act, not having expressed the shift between the signified either by explicit or implicit means of the language or other nonverbal signals makes it impossible for the interpreter to carry out adequate meaning-making.

The communication failure can sometimes be anticipated by the interpreter but cannot be prevented due to restrictions

in terms of translation ethics: not to change, not to omit and not to add anything to the original message [4]. In other words, the interpreter knows what is “meant” by the use of a specific sign in a given context, but professional guidelines prohibit him to make any changes on its’ formal elements and he is often obliged to “pass on” the obvious divergence between the speech sign’s meaning and form to the receiver which might lead to communication failure.

E. Pragmatics

Oral rendition of spontaneous speaking places higher demands on interpreter’s pragmatic competence due to the whole complex of linguistic, paralinguistic and extra-linguistic means of speech used (intonation, facial expressions, gestures, situational conditionality) which gives an oral utterance an implicit semantic background in comparison with written language where it might be omitted or expressed only by lexico-syntactic means.

All non-verbal communication means at the speakers and listeners disposal make the pragmatic force intended by the speaker less predictable and certain for the interpreter. Oral speech and its inherent semiosis of structural elements are also characterized by simultaneity, irreversibility in time and incompleteness. The oral mode of translating is therefore vulnerable for incongruities in maintaining the pragmatic force of original utterance. It is often a question of weighing between translations that either comes closest to semantically mirroring what was said with a minimized change to the form or mediating intended effect (both “instrumental” and “emotional”) on the listeners at the cost of verbatim accuracy.

IV. DISCUSSION

It is clear that the phenomenon of communication failure is a complex matter. In line with the dialog paradigm, introduced to the field of public service interpreting for several decades ago, interpreting in courts of law is understood as a “form of interaction that happens between people and in specific situations” [3] rather than being perceived as primarily a question of transmitting information from one language to another. The act of interpreting in the courtroom is not an isolated operation, it has a dual substance: on one hand, it is a part of a communication act and should, therefore, be studied within the framework of communication theories and conversational analysis, but, on the other it is also the act of transition from one sign system to another one (from source language to the target language) and is, therefore, to be treated within linguistic semiotics and translation theory. The complex tissue made of two different sides of the subject is crucial to not only understanding the essence of interpreting but is also vital to assess the quality and accuracy of interpreting and defining the role of the interpreter in legal proceedings.

In interpreter-mediated intercultural interactions in courts of law there are at least three parties [5]:

- two or more primary interlocutors who want to engage in communication but who cannot converse in a mutually intelligible language (including the judiciary),

- and the interpreter(s) who constructs the so-called language bridge between them.

An important factor in regard to communication failure is expectations of the judiciary which are often based on common misconceptions of how interpreting and communication work and a peculiar view on interpreter's role. It is also influenced by the specifics of the institutional discourse they are used to (clarity, objectivity, defined terminology, logic, chronology, coherence, etc.).

In the research literature on interpreting different roles have been proposed and practiced [6], [7], [8], [9]. It is acknowledged that although court interpreter (as public service interpreter) is frequently regarded as a “non-person” and expected to contribute nothing personal to the interaction, there are some aspects of an interpreter’s role that do not fit that of a non-person. Sandra Beatriz Hale has identified five different roles prescribed or adopted by the interpreter in different settings:

- advocate for minority language speaker, including cultural brokerage or mediation;
- advocate for the institution or the service provider;
- gatekeeper (i.e. filtering and editing information);
- facilitator of communication;
- faithful renderer of others’ utterances [10].

Of course, the ideal would be if interpreter in a legal setting would only adopt the latter one, but it is not always clear to what extent this also excludes any of the other roles [11]. In Sweden the role and the duties of the professional interpreter in institutional contexts are governed in a document from the Swedish Legal, Financial and Administrative Services Agency (Kammarkollegiet) [12], which means that a professional interpreter is well informed about his or her domain and mandate.

At the same time it is obvious that the judiciary expects the interpreter to be both gatekeeper and mediator of meaning (in other words, to take responsibility for “everything to make sense, to be relevant and possible to comprehend”). There is also a conflict of expectations between those of the interpreters, who presume other communication participants to be understood with the guidelines of their assignment and their mandate, and those of the judiciary, who subconsciously await the interpreter not only to provide the means for communication but also to eliminate any type of misunderstandings, that is to say communication failures.

At the same time, the dialog perspective implies that the act of interpreting is a collaborative process (i.e. not only the work of the interpreter) [11] and that the result depends on the competence of all participants, not only on the interpreter's performance. Thus, this dichotomy predetermines the same dual approach to the phenomenon of communication failures, based on the idea of discourse-oriented rather than text-oriented conversation analysis and the concept of integrative translation model. Interdisciplinary methods in science of translation (integrative approach) are widely covered by A.M. Polikarpov in his scientific works and reviews of M. Snell-Hornby, D.Mracek and H.Kalvekämper [13],

C. Alvstad, A. Hild, E. Tiselius, S.B. Cuellar, J. F. Duarte, A. Assis Rosa, and T. Seruya.

The phenomenon of communication failures has been widely studied in conversational analysis. Although communication presumes a cooperative system of resource management – a set of conventions or rules to help us progress in interaction, – nonfulfillment of these rules interrupts conversation flow and misunderstandings are then bound to happen. A pioneer of speech act theory, John L. Austin described different types of communication failures connected to pragmatics, his detailed classification included so-called “misfires” and “abuses”. In this study we broaden the concept of communication failure to cover more than primarily fulfilling the intentions of the speaker to embody “an obstacle that in any way disrupts the flow or progress of communication between the parties”.

Within this dual paradigm we can propose to divide the communication process into several stages in line with wherefrom communication failure might originate:

1. Sender’s message synthesis by verbal means of the source language and other non-verbal means of communication;
2. Interpreter’s perception of the verbal message;
3. Interpreter’s meaning-making and comprehension of the verbal message combined with other non-verbal means of communication;
4. Interpreter’s message synthesis by verbal means of the target language;
5. Recipient’s perception of the verbal translation of the original message;
6. Recipient’s meaning-making and comprehension of the verbal translation of the original message;
7. Recipient’s collocation of the verbal translation of the message with non-verbal or partially verbal signs (direct communication between the sender and recipient, in other words, stages “1+6”).

As the list shows, some phases of the interpreter-mediated communication lay within the interpreter’s realm, while others lay outside of it. Various models of translation proposed in academic literature don’t offer a consensus on the nomenclature of elements of the translation process, however, they all outline two common components – understanding the original utterance in the source language and forming a corresponding utterance in the target language. Both elements represent a process of transition from one communication code, – language – to another one. These are interpreter’s ultimate domains since changing between verbal codes is his primordial assignment. These phases are also directly related to interpreter’s mental and verbal processes resulting in the synthesis of the message in the target language and are marked in the list above under the numbers 2, 3 and 4.

Interpreting starts with interpretation. But before the message gets to be the object of interpretation it is the object to perception. Some scholars [14] mark out the additional dimension of semiotics – perceptics, – but because perceptics is not commonly distinguished, it is not out of

place to stress how extremely relevant this dimension is with respect for translation of orally perceived live speech. Hence in this paper the perceptics allocates initial phase of interpreter’s domain in the communication process and is analyzed in 4.2 since misconception related to perceiving oral speech will inevitably lead to interpreting errors in all other dimensions.

The next step in transition between languages is interpretation of the meaning of the message, its “decoding”. In 4.3 and 4.4 the paper presents analysis of communication failures formed at different stages of communication with particular attention to the genesis of communication failures in accordance with the linguosemiotic approach. Let us now examine every communication phase more closely.

1) Sender’s message synthesis by verbal means and other non-verbal means of communication

This first stage represents the primary semiosis in terms of forming a message and attempting to convey meanings and intentions. The content of the originator’s speech is likely to make sense to the public only if at least two preconditions [15] are met:

- the speech originator’s assumptions about the scope of motivation and mental capacity of the audience do not misfire, i.e. the originator has managed to properly identify motives and expectations of the audience;
- the speech originator is flexible enough to adapt himself and his speech to the projected reasonable wants of the actual audience.

Having entered the discursive community and wearing the mask of an expert, the legal representative not only adopts a language other than ordinary people use, but he also plunges into a completely different way of comprehending and interpreting elements of the legal field. With the knowledge of special terminology, he immerses himself in it and creates a specific field of interpretation, different from that in which a simple native speaker resides. The terms used by him (“rättskapacitet”, “lagföra”, “vinna laga kraft”, “nödvärnsexcess”) require this special knowledge in order to correctly interpret them. A person outside the legal discursive community cannot correctly disclose the content of the utterance even provided a relevant interpretation context [16].

At this stage it is up to the speech originator to use linguistic dimensions of semiotics (i.e. semantics, syntactics, denotatics and pragmatics) as well as non-verbal codes to produce a speech act. This is a stage that lies outside interpreter’s domain because he has no power over the process of encoding the meaning or choosing linguistic and other non-verbal means of conveying it. Any outcome based on poor choices at this stage results in communication failure, “programmed” by the sender of the message.

2) Interpreter’s perception of the verbal message

Perceptics considers that the relationship between the sign exponent and its conceptual content is established not directly but through a medium of acoustic-motor images which are then identified through neuro-physiological conformity [14]. Three hierarchically ordered levels are distinguished: word, syllable and sound. It has been

experimentally proven that in the perception of speech the word plays the dominant role (or even a combination of words), whereas the sound receives a phonemic interpretation depending on the signs extracted from the syllable and verbal context [17, p.202].

Live perception of oral speech is therefore strongly influenced by conditions of the communication such as audibility, interference, dialect differences, speech defects, voice volume, intonation, etc. Hence, all these factors can become a source of misunderstanding between the speech originator and the interpreter. Although interpreter does not make a conscious choice of “not hearing” or “mishearing” something, it will most likely lead to a communication failure.

Proper nouns, in contrast to common nouns, are more likely to cause communication failure because their acoustic-motor images are not as easily identified and confirmed in the mind of the interpreter. In the first example (1) the interpreter is firstly confronted with unfamiliar sequence of sounds; he automatically reacts by requesting a repeat and is still raddled by this when rendering the noun in Swedish, which is marked by the repetition of this name before rendering the whole utterance and by the rising intonation in the end:

- (1) *Def-nt: ee / ee / eem / ee pervogo aprelya ya priletel so svoim / so svoim znakomym s / s eee sparovshmitm*
Interp.: // e / kak yego zovut?
Def-nt: e / Parvo Schmidt
Interp.: Parvo Schmidt / ää / så den första april / så kom jag då / ää / med min / ää / gamla bekant / Parvo / Schmidt ?

Another reason for communication failure to occur can be interlanguage paronyms:

- (2) *Prosec.: menar du // att det inte är ditt badrum då / eller ? //*
Interp.: vy imeyete v vidu / chto / eto ne vasha ? (vannaya)
Prosec.: på sidan // 23 / så / ser vi ett draperi / där
Interp.: na 23 stranitse / tam vidno / drapirovku

This example (2) shows how paradigmatic connections become activated and outweigh the syntagmatic connection, i.e. the pressure of the sound form prevails over the context. The interpreter activates her thesaurus and extracts the Russian word “drapirovku” from her memory only because of its acoustic proximity to the original word “draperi”. Despite the fact that the more suitable equivalent would be “shtora” or “zanaveska” (curtain), this does not lead to error in the subject correlation, i.e. the recipient is thinking about the same object because of to the context of this inquiry. Thus, the distortion of the true meaning of the sign under the pressure of sound similarities, in this case, is less noticeable and gives only a subtle effect of estranging in the target language without leading to a communication failure.

- 3) *Interpreter’s meaning-making and comprehension of the verbal message combined with other non-verbal means of communication*

Next phase is a process of decoding the message and extracting its’ meaning as well as comprehension of intentions of the sender. This complicated stage involves

discussion on what constitutes a “meaning” and evaluation of its’ different components. Here we adopt a linguistic semiotic approach. Although a general question of what makes up “meaning” remains a controversial issue, it is indisputable that it is more than just a sum of the components of the utterance. It is an interplay of all those semiotic dimensions of a sign (semantics, syntactics, denotatics and pragmatics) supplemented with interpreter’s linguistic personality and knowledge of realia, cultural phenomena as well as differences between cultures. An area of special interest of this study is dimensional genesis of communication failure.

The analysis of the audio recordings brings to light those semiotic dimensions that can give birth to misunderstandings but also explores situations where incongruity does not affect communication negatively. Sometimes communication failure originates in several dimensions at once, which makes it difficult for the interpreter both to foresee and to prevent it.

B. Semantics

A prominent feature of court interpreting is that semantics is highly important for the judiciary. The semantic level of legal discourse is, first of all, understood against a broader context, i.e. background of law and order, for example, within a divorce procedure a Russian word “brak” is understood as “wedlock” instead of “spoilage” or “defect” and is translated as “äktenskap” instead of “felaktig”. Since court interpreters have been additionally tested by Kammarkollegiet and certified as having the specific expertise required for interpreting in the legal system, they have rich active and passive vocabularies and are well equipped to make thorough interpretation of the lexical meaning in the source language and to produce its adequate oral translation. In that regard, it is necessary to examine communication failures bound to common and respectively legal vocabularies.

Communication failure on the basis of common vocabulary might arise between the message sender and interpreter when the latter is confronted with the unfamiliar lexicon, particularly far beyond legal vocabulary. For example, special terminology from other domains than law: technical lexicon, e.g. “stötffångare” and “stötdämpare” (which literally means “the catcher of shocks” or “bumper” and “the damper of shocks” or “spring-damper”); or narrow vocabularies on other topics: traditional medicine, e.g. “bobrovaja struja” (“bävergäll” or “castoreum” believed to stop hiccups, increase power and act as contraceptive).

When translation to the target language doesn’t “deliver” same clarity and recurrence to the legal term it might trigger communication failure at the second procedural stage of the interpreted communication, at the receiver’s end. This so-called lexicon misunderstanding might be caused by objective differences between legal philosophy, laws and regulations, law enforcement and justice systems and the structure of criminal society in Sweden as opposed to Russian-speaking countries. For example, there is no consensus on whether “net sostava prestuplenija” should be understood and interpreted as either one of the two Swedish terms “brottet ej styrkt” or “handlingen ej brott”, using Latin “i frånvaro av corpus delicti” or through a description “utan

det varav gärningen består” (analogously to German “Tatbestand”). All of the alternatives above have different connotations in Swedish but none of them is completely equivalent to the Russian term. In a similar manner various versions have been used to translate terms as “avtoritet”, “vor v zakone”, “brigada”, “silovik” etc.

The properties and characteristics of discourse depend on the speaker’s involvement in the discursive community, which is determined by the commonness of communicative goals, terminology, general level of competence in a certain field of expertise, understanding of information exchange mechanisms and its genre organization, as well as a special institutional type of thinking [16]. In the legal discourse a distinction is made between “discourse of the expert community” and “discourse of the non-expert community”. Unlike the products of the discursive activities of the legal speaker, the texts of the non-legal speaker reflect ideas, knowledge and stereotypes based on his everyday experience and dominating in the social community in which he belongs. In other words, such a person relies on the ordinary interpretation of legal vocabulary, he doesn’t share the judiciary’s context of interpreting elements of the legal field, and he can’t therefore correctly disclose or use the content of legal vocabulary. As a result, communication failure might occur when a non-legal speaker unknowingly or unintentionally uses the wrong or misleading term and therefore the equivalent given in the target language by the interpreter is considered to be unsatisfactory in the eye of the legal professionals.

However, semantics offers only a set of hypothetical meanings of a word, word combination or a phrase. The actualization of the meaning is built on contextual relation between a sign and signifier and it might become much more challenging to produce accurate interpreting when semantics meet less predictable dimensions such as pragmatics and denotatics.

C. Syntactics

As the use of signs in semic acts is not isolated, a mandatory aspect of the meaning-making process is understanding the connection between components of the utterance its compatibility with one another. Success in the analysis of this dimension requires good knowledge on:

- selecting from a series of multi-valued correspondences of the elements in the inactual mode and combining phrase elements into actualized components of a syntagma;
- information packaging represented by the topic-comment structure;
- coherence of the text.

Communicational failures are most likely to arise in cases of syntactical homonymy. When the utterance becomes ambiguous due to its syntax, it is generally impossible to maintain the ambiguity in the target language due to typological differences between grammatical systems of the languages.

Another example (3) of communication failure is when syntactical collocation is affected:

(3) *Def-nt: to yest' / zhidkost' nel'z'ya vynocit' v aeroport // poetomu / poetomu ya poschital chto u menya / mogli by poprosit' vybrosit' s soboy v aeroport [ya ne mog zanosit' eto vse]*

Interp.: chto yeshche raz?

Def-nt: nu to yest' zhidkost' nel'z'ya v aeroport zanosit' / (poetomu votak)

Interp.: man får inte komma in / med / vätskor ää

Semantics of the prefix “vy-” (“out of”) contradicts the semantics of the proposition and case management of the word form “v aeroport” (“to the airport”). It confuses the interpreter who then asks the speaker to come again.

The next excerpt (4) illustrates that as far as the change from one denoted subject to another denoted between syntactically equal verbs “uspokoilis” and “pokushali” is obvious for the speaker (both verbs in 3-rd person plural form, which by itself doesn’t contain any information on whom the agents really are), this change has remained solely in the speaker’s mind. The lack of explicit indication of the new actor in relation to the adjacent verb “uspokoilis” kept interpreter from picking up on this change which led to communication failure and an afterward “others-correction” [5] in form of defendants refutation “eto ne ya” and specification “deti kushali”:

(4) *Def-nt: Nu / v obshchem / posle etogo / nachalos' / i // kakoy-to vremya / uspokoilis' tam // pokushali / kto*

Interp.: Och efter det / vi kanske lugnade ner / lite grann / så vi åt / mat

Def-nt: Da // eto ne ya / kushal // deti kushali

Interp.: Inte jag / det är barnen

One of the major advantages of the human brain in terms of language acquisition is the learning of non-adjacent dependencies in syntax, and for the purpose of processing the non-adjacent dependencies online memory resources are central as information has to be maintained across intervening material. Thanks to that ability the interpreter is capable to track the actual connections between the components of the utterance and remove redundant elements that violate the coherence of the text in the meaning-making process:

(5) *Def-nt: zdes' nemnozhko / kak / govorit prokuror chto // to yest' ya govoryu chto / kak nemnozhko polupravda pokazana / chto // govoritsya chto kogda zakanchivayetsya / kamera / zakanchivayetsya magazin / [no eto]*

Interp.: [ää och]

Def-nt: [sovsem ne pravda]

Interp.: [ää och] och då / det är därför jag lämna / kvar asså varorna / i butiken / och ää / det ä det som åklagaren / berättat om utgångarna / ää / det är liksom / lite / halvsant va asså / att / ää / det är halvsanning / för att man dels / gå ut men // dels går in igen

In that regard, ungrammaticalities, paratactic constructions and formally correct grammatical structures with no comprehensive meaning tend to interrupt extraction of implicit information by the interpreter and might lead to the deviant understanding of the meaning originally intended by the speaker.

However, when ungrammaticalities appear in interpreter’s speech due to performance failures rather than

competence failures, the judiciary is more inclined to disregard of them. The meaning-making of the utterance in target language doesn't seem to be disrupted by such type of grammatical incongruities.

D. Denotatics

The denotative level of meaning in this study refers to a specific meaning of a sign given a situational context as opposed to the more general meaning of the sign provided by semantics. Denotatics is determined by making reference to semantics (through a somehow limited variety of meanings) and other backgrounds such as knowledge of the culturally-based codes, various associative meanings (connotations), particular circumstances of the situation and discourse and marks a more contextual relationship between signs and meanings. In that sense semantics is seen as a rather static dimension with conventional elements (the multiplicity of meanings that are represented in the dictionary), whereas denotation is understood as the more dynamic dimension with the need of continuous integration of additional meanings of both verbal and non-verbal nature.

Examples 4 and 6 illustrate also that the differences of meaning-making between the speaker and interpreter can often cause communication failure because it can be hard for the interpreter to recognize the true signified. A sudden shift between different signified in the sender's mind while still using the same lexical sign is shown in example 6. Against the background of a previously determined relation between the word "nabor" (kit, set, collection) and "a box with spanners" (in the context of the utterance) the interpreter chose to interpret it into Swedish throughout the text as "förpackning" ("packing", "wrapping" or "box"), which primarily refers to "a box". When defendant said that he'd opened "nabor" and that his friend then grabbed "nabor" out of his hands, the interpreter had no reason to anticipate a change from one object in the real world ("a box with spanners"), denoted by the first use of the word "nabor" to another one – namely "spanners without a box", denoted by the second use of the same word "nabor" and interpreted both as "förpackning" which indicated that "the box was taken out of the defendant's hands". When the defendant continued and said that he then placed "korobku" ("the box") back on its shelf, the interpreter had to go back to the previous line and correct her initial rendition, outlining that "the kit was taken out of the box" and that "the box itself was put back on its shelf":

- (6) *Def-nt: my smotreli yeshche vot eti raznyye klyuchi i mne ponravilsya etot byl odin nabor na kotoryy ya smotrel otkryl yego khotel posotret' skol'ko tam klyuchey*
Interp.: och // innan vi / gick ut / så tittade vi på olika varor / jag tittade på olika nyklar och // öppnade en förpackning / bara för att kolla / hur många / nyklar / som fanns i förpackningen
Def-nt: i tak kak // umm / ya posmotrel chto tam tol'ko chetyre klyucha ya khotel yeye zakryt' Viktor skazal sho podozhdi sekundochku ya khochu posotret' i vyrval u menya nu zabral etot nabor ee u menya s ruk

Interp.: det var bara fyra stycken nyklar / och / jag ville // stänga förpackningen / men / Viktor sa vänta / låt mig också titta / och / han tog / förpackningen från // mina händer

Def-nt: nu i ya postavil korobku na mesto

Interp.: // ä / han tog varan från mina händer / och då ställde jag förpackningen på plats

Nothing in the semantics of the word "nabor" indicated that within one cue it referred to two different signified. Only interpreter's mental calculations on the basis of the described situation parallel to the process of translation helped her define the true meaning of these two different actualizations of the same sign. Not having expressed the shift between the two different signified either by explicit or implicit language means or other nonverbal signals makes it impossible for the interpreter to carry out adequate meaning-making and further translation into the target language.

Having said that, communication failure might also be anticipated by the interpreter. At the same time it cannot often be prevented due to restrictions in terms of interpreter ethics: not to change, not to omit and not to add anything to the original message [4]. In other words, the interpreter knows "what is meant" by the use of a specific sign in a given context, but professional guidelines prohibit him to make any changes on its' formal elements. Hence he is obligated to "pass on" the obvious divergence between the meaning of the speech sign and its form to the receiver which might lead to a communication failure.

- (7) *Def-nt: i // vot tam ya /ostavil sigarety / potomu chto ya ponyal / chto // mne nel'zya pokupat' / tovar / potomu chto tam yego mogut / u menya na tamozhennom kontrole*

Interp.: ää / och där lämna jag sigarett / jag förstog att // ää / att ää / jag kan inte köpa det här för att // dem / jag kan bli stoppad i tull / ää / tullfiltret / och och / (man kommer) kommer att / ta ifrån mig

In the example above the defendant says "customs control", although leaning on the wider context of alcohol and cigarette purchase at the airport during a transit flight one might conclude that the actions described by the defendant can only be taken at a "security check" or "preflight inspection", because neither cigarettes nor alcohol in the quantity that the defendant was going to buy, are a subject to customs declaration. Confused by the discrepancy between the lexical form and what it denotes, after a short pause the interpreter makes a choice in favor of the verbatim translation "tullfiltret" (customs filter), although this verbal representation of the signified has no recurrence in Swedish. It is difficult to establish whether this was a conscious choice to convey a formal discrepancy between the content and its linguistic embodiment and to encourage the listener to ask for the clarification of the meaning, or if it was a result of a time-pressured choice of the equivalent in Swedish.

E. Pragmatics

Among linguists there is no single opinion on the question of defining the content of the pragmatic dimension of semiosis. It is often described as "the subfield of semiotics that studies the ways in which context contributes

to meaning” and encompasses not the knowledge of the speaker and listener, any pre-existing knowledge about those involved, the inferred intent of the speaker, psychological aspects of communication and other factors that distinguish one communicative event from another and make it unique. Reasoning from the fact that goals, practical results of communication and the values of communicants are placed in the center of pragmatics, we single out instrumental sub-dimension, which is respectively responsible for the “operational nature” of speech acts, the achievement of goals and the implementation of the communicative function, as well as emotive sub-dimension, which stands for the connection between the sign exponents and the state of the subjects' emotional sphere. Following example (8) illustrates interpreter's skills in good understanding of the instrumental purpose of the utterance, - to impugn the prosecutor's statement, and this is why “nu konechno” which usually means affirmation (“of course”) is translated with “nej” (“no”). But at the same time it lacks reflection of the defendant's emotional state, expressed by exclamation in “nu konechno” (“but of course no”) to sound even more convincing about not knowing wherefrom the bruises on the victim came:

(8) *Prosec.: och du har ingen förklaring till hur de har uppkommit då heller / [om jag förstår dig rätt]
Interpr.r.: [to yest'] / i vy ob'yasnit' ne mozhete / otkuda oni [vzyalis']
Def-nt: [nu konechno !]
Interpr.: nej*

4) *Interpreter's message synthesis by verbal means of the target language*

This is another stage where the interpreter has sole authority to impact communication's outcome by choosing the means of constructing the utterance in the target language. Although professional interpreter has the skills to make an adequate and equivalent translation, there are some restrictions to be respected. Interpreting is understood relationally and contextually and has to be seen to the background of norms and institutional rules that determine the conditions for interpreting [3]. As already mentioned, there are boundaries to interpreter's choice of linguistic means of rendering the utterance in the target language. This means that even if the unfavorable result can be predicted, possibilities to change some “defect” component of the original utterance are strictly limited by the codes of ethics and professional guidelines for authorized interpreters.

5) *Recipient's perception of the verbal translation of the original message*

As mentioned earlier in the article, perception is influenced by physical conditions of the communication such as bad or good audibility, different types and sources of interference, dialectal differences between the speaker and the listener, speech defects, etc. Based on these conditions, interpreter's responsibility is to provide a well audible and articulated rendition of the utterance. The interpreter, however, has no other power over receiver's perception at this stage. At the same time, he should always monitor both verbal and non-verbal reaction of the recipient to be able to understand if there has been a communication failure and if correction is needed. Example 9 illustrates how the interpreter as if wedged into the defendant's speech,

replaces the initial unsuccessful choice of translation Russian “ruchnaya klad” (“hand luggage”) by the German “handgepäck” with the Swedish equivalent “handbagage”:

(9) *Defendant: to yest' u menya ne bylo bagazha s soboy / byla tol'ko ruchnaya klad'
Interpreter: ää / jag hade inget bagage med mig / jag hade bara / handgepäck
Defendant: i yesli by ya kupil / [kupil]
Interpreter: [handbagage]*

6) *Recipient's meaning-making of the verbal translation of the message*

This stage is determined by the receiver's ability to extract the meaning of the utterance without missing on any semiotic dimension of the meaning-making component. Even more important is that every such component will be refracted into a final “meaning” through a prism of receiver's background knowledge, his scope of motivation, mental capacity, wants and motives. The interpreter, however, has no power over the receiver's meaning-making process at this stage.

7) *Recipient's collocation of the verbal translation and other non-verbal signs*

In court interpreting there are two different channels of communication used simultaneously. While using the interpreter as a prime channel for verbal communication, in some degree both speech originator and the receiver of the message can be directly engaged at stages 1, 5 and 7 (to the extent of their linguistic knowledge in the relevant language). This is a stage where misunderstandings can arise at the receiver's end due to incongruities between information sent through these two separate channels, although this is clearly outside interpreter's domain.

V. CONCLUSION

This scheme and set of examples confirm the thesis that the meaning of the message does not exist in a pure form to be translated by the interpreter, “but is constructed — or co-constructed — by the participants of the interaction” [18, p.114]. It is therefore important to point out that the “result” of the interpreter-mediated communication is not equal to “interpreter's performance”. When applied to bilingual court hearings, communication breakdown can be caused by a mismatch between the expectations held by the legal practitioners on one side and variety of mental and verbal mechanisms as well as professional guidelines that govern interpreter's performance and therefore determine the result of communication.

A recent study on court interpreting from Sweden [11] brings to light how challenging it is for the judges and lawyers to have to communicate through an interpreter, when being interviewed by the researchers they describe that “it is difficult to know how good is the interpreter since we do not know the language ourselves”, and that this makes it difficult to know “how something is being interpreted and how correct it is being interpreted”. When confronted with a misunderstanding in interpreter-mediated court talk it is, therefore, challenging for the judiciary to trace its origin. In other words, they are most likely to assume that communication failure is determined by the change of sign systems (i.e. languages), and not by other

aspects described in 4.1., 4.5., 4.6. and 4.7. To put it differently – the judiciary experience linguistic obstacle as an only relevant obstacle for communication success, and when an interpreter is engaged the presumption is that once the language hindrance is resolved, “making sense” cannot be disrupted with little regard for the “imperfection” of the original utterance.

With no formal methods to validate the quality of interpreting in the context of the law court, the judiciary appears, however, to observe some signs that they use as an indicator for the quality assessment of their own, an example of that is when communication is being interrupted by a misunderstanding. Thus, interpreter’s linguistic performance and his output become crucial to the process of assessing his competence and level of proficiency in a given situation. It is therefore central for all participants to know essential prerequisites of communication success and to cooperate in the process of meaning-making in order to produce sufficient communication outcome.

The results of the study display that professional interpreters tend to have more control over dimensions governed by “conventional” content so that semantics and syntax which are constituted by a predetermined variety of meanings and linguistic norms and rules are less likely to cause to a communication failure. Moreover, it is also easier to foresee and to prepare for the difficulties originated in these dimensions.

On the other hand, both denotatics and pragmatics are less “conventional” due to their occasional and individual nature, as well as a broader variety of factors contributing to constituting a meaning in these dimensions. These dimensions alone can pose a difficulty in the meaning-making process for a professional interpreter. Another level of complexity is presented by cases of cross-dimensional misunderstandings which are even more difficult to foresee, analyze under time pressure and repair afterwards.

Hence, mutual understanding of the genesis of communication failures in court interaction would provide every profession involved in legal hearings with a better ground for successful communication.

REFERENCES

- [1] R. Morris, “The Moral Dilemmas of Court Interpreting,” in *The Translator*, vol.1, no. 1, pp. 25-46, 1995. 10.1080/13556509.1995.10798948.
- [2] S. Berk-Seligson, “The Bilingual Courtroom: Court Interpreters in the Judicial Process. Language and legal discourse”, University of Chicago Press, 1990, 299 p.
- [3] C. Wadensjö, “Interpreting as Interaction”, Longman, London, 1998.
- [4] “Guidelines on interpreting code ”God tolksed” from Mars”, Stockholm, Kammarkollegiet, 2019, p. 3. URL: https://www.kammarkollegiet.se/download/18.27f1fe4c168c1d817515205f/1551777027993/God_tolksed_mars2019.pdf
- [5] M. Zambrano-Paff, “The Impact of Interpreters’ Linguistic choices in Bilingual Hearings,” in *Selected Proceedings of the 13th Hispanic Linguistics Symposium*, ed. Luis A. Ortiz-Lopez, pp. 190-202, 2001.
- [6] C. Angelelli, “Medical Interpreting and Cross-Cultural Communication”, Cambridge: Cambridge University Press, 2004.
- [7] I. Fioretos, K. Gustafsson, and E. Norström, “Tolkade möten. Tolkningens betydelse för rättssäkerhet och integration”, Studentlitteratur: Lund, 2014.
- [8] M. Inghilleri, “Habitus, Field and Discourse: Interpreting as a Socially Situated Activity”, in *Target*, vol. 15 (2), pp. 243 – 268, 2003.
- [9] B. Jacobsen, “The Community Interpreter: A Question of Role”, *Hermes: Journal of Language and Communication Studies*, vol. 42, pp. 155–166, 2009.
- [10] S.B. Hale, “Controversies over the Role of the Court Interpreter,” *Crossing Borders in Community Interpreting: Definitions and Dilemmas*, Carmen Valero-Garcés & Anne Martin (eds), John Benjamins Publishing, Amsterdam, 2008, pp. 99–121.
- [11] G. Carstensen, and L. Dahlberg, “Court Interpreting as Emotional Work: A Pilot Study in Swedish Law Courts”, in *No Foundations: An Interdisciplinary Journal of Law and Justice*, no 14, p. 48, 2017.
- [12] “Interpreter regulations ,Kammarkollegiets tolkföreskrifter”, 1 January 2017. URL: [https://www.kammarkollegiet.se/download/18.7e040f53167c64b3cd37ba4e/1551777042089/Tolkforeskrifter_2017_\(kamfs_2016_4\).pdf](https://www.kammarkollegiet.se/download/18.7e040f53167c64b3cd37ba4e/1551777042089/Tolkforeskrifter_2017_(kamfs_2016_4).pdf)
- [13] A.M. Polikarpov, “Integrative Translation Studies: Origin and Main Ideas”, in *Vestnik Volgogradskogo gosudarstvennogo universiteta. Seriya 2. Yazykoznanie [Science Journal of Volgograd State University. Linguistics]*, vol. 16, no. 3, pp. 6-17, 2017. DOI: <https://doi.org/10.15688/jvolsu2.2017.3.1>
- [14] S.N. Syrovatkin, “Translation theory in the aspect of functional linguosemiotics”, Kalinin, 1978, 84 p.
- [15] S. Korolev, “Misfires of Cross-Cultural Legal Communication in the Perspective of J.Austin and J.Landshaw Austin,” in *Comparative Legilinguistics*, Uniwersytet im. Adama Mickiewicza w Poznaniu, no. 4, pp.29-37, 2010.
- [16] O. Krapivkina, “Two sides of discourse - two incarnations of the subject,” in *Siberian Journal of Philology*, no. 1, pp. 137-143, 2016.
- [17] Y.S. Stepanov, “Basics of general linguistics”, 3rd edition, M.: Book house “LIBROCOM”, 2010.
- [18] C. Wadensjö, “Dialogue Interpreting and the Distribution of Responsibility”, in *HJLCB*, vol. 8, no. 14, pp. 111-129, 1995. URL: <https://doi.org/10.7146/hjlc.v8i14.25098>