

The constitutional and statutory frame of language

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The legal framework within which English operates in Switzerland rests on three principles. The first is freedom of language, which Article 18 of the Federal Constitution guarantees as a fundamental right and which protects the use of any language, including English, in private relations. Companies, associations and individuals may therefore choose English as the language of their contracts, their internal communication and their publications without any restriction other than the protection of consumers and employees in specific statutes.¹

The second principle is the territoriality of official languages. Article 70 of the Federal Constitution declares German, French and Italian the official languages of the Confederation and Romansh an official language in dealings with persons of that language. The cantons determine their own official languages with regard to the traditional territorial distribution of languages. The Federal Act on the National Languages and Understanding between the Linguistic Communities of 2007, usually called the Languages Act, adds detailed rules for federal authorities and promotes exchanges between the language regions. Neither text gives English any role, although the Languages Act and its ordinance have to accommodate the reality that federal offices increasingly publish information in English for an international audience.²

The third principle concerns proceedings before authorities and courts. Parties must address the authorities in an official language, which is also the language in which decisions are issued. This rule explains why the opening of Swiss courts to English, which is discussed later in this chapter, required express statutory provisions and could not be achieved by practice alone. It also explains why Swiss authorities often publish English versions of their texts with the warning that only the versions in the official languages are legally binding.³

In Basel-Stadt, the cantonal constitution of 2005 declares German the official language of the canton. The canton nonetheless cultivates its international image through publications in English, French and other languages. Its economic promotion agency addresses foreign companies and their employees mainly in English. The tension between a monolingual official order and a plurilingual economic reality runs through the whole of this chapter.⁴

1 Notes

1. Art. 18 of the Federal Constitution (SR 101). On the scope of freedom of language in private relations, see the commentaries on Art. 18 BV, for example in the Basler Kommentar or the St. Galler Kommentar to the Federal Constitution. To be verified. ↩
2. Art. 70 of the Federal Constitution; Federal Act on the National Languages and Understanding between the Linguistic Communities of 5 October 2007 (Languages Act, SpG, SR 441.1) and the Languages Ordinance (SpV, SR 441.11). To be verified. ↩
3. On the language of proceedings, see for example Art. 129 of the Swiss Civil Procedure Code (ZPO, SR 272), Art. 54 of the Federal Supreme Court Act (BGG, SR 173.110) and Art. 33a of the Federal Act on Administrative Procedure (VwVG, SR 172.021). To be verified. ↩
4. § 76 of the Constitution of the Canton of Basel-Stadt of 23 March 2005 (SG 111.100). On the cantonal economic promotion and its welcome services for international companies and their staff, see the website of the Standortförderung Basel-Stadt and of Basel Area Business & Innovation. To be verified. ↩

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