

The legal framework of language use

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Language in Switzerland is governed by a federal framework that leaves most practical decisions to the cantons. The Federal Constitution recognises German, French, Italian and Romansh as national languages and guarantees the freedom of language as a fundamental right. Article 70 declares German, French and Italian to be the official languages of the Confederation, with Romansh as an official language in relations with Romansh speakers, while leaving it to the cantons to determine their own official languages.¹ When doing so, the cantons must respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities. This territoriality principle has been the foundation of Swiss linguistic peace for more than a century, since it gives each language a secure territory in which its speakers need not fear assimilation.

The Federal Act on National Languages and Understanding between the Linguistic Communities of 5 October 2007, commonly called the Languages Act, translated these constitutional principles into ordinary legislation. It entered into force on 1 January 2010, together with an implementing ordinance.² The Act regulates the use of the official languages by the federal authorities, promotes the understanding between linguistic communities and supports multilingual cantons as well as the Italian and Romansh languages. It requires the federal administration to recruit staff in proportions that reflect the linguistic communities of the country and lays down targets for the representation of these communities.³ For Basel, the Act matters above all through the principle it embodies: linguistic diversity is treated as a public task, which the state supports with money, institutions and rules.

The official language of the canton of Basel-Stadt and of its municipalities, the city of Basel itself and the two municipalities of Riehen and Bettingen, is German. The cantonal constitution of 2005 and the cantonal legislation on the courts and the administration proceed from this premise, which has

never been seriously disputed in a canton whose territory lies entirely within the German-speaking area.⁴ Basel-Stadt nevertheless has a long tradition of communication in other languages. Cantonal authorities publish information for residents in English, French, Italian, Turkish and other languages, while the cantonal office responsible for integration offers its services in numerous languages. The legally binding version of a decision, however, remains the German one.

The Swiss legal order also attaches particular importance to the equality of its official language versions. Federal acts are published simultaneously in German, French and Italian, each of these versions being equally authoritative.⁵ A lawyer interpreting a provision of the Code of Obligations or of the Financial Services Act may therefore consult the French and Italian versions when the German text is ambiguous, as the Federal Supreme Court regularly does. For the international practitioner, this method has a practical consequence: the French version of a Swiss statute often offers a closer bridge to the terminology of international finance than the German one, because French and English share a large stock of legal vocabulary. English translations of federal law exist for many important acts, but they have no legal force.⁶

1 Notes

1. Federal Constitution of the Swiss Confederation of 18 April 1999 (SR 101), Art. 4 (national languages), Art. 18 (freedom of language) and Art. 70 (official languages; para. 2 on the cantons' competence and the respect for the traditional territorial distribution of languages). ↩
2. Federal Act on the National Languages and Understanding between the Linguistic Communities (Languages Act, SpG) of 5 October 2007 (SR 441.1), in force since 1 January 2010; Languages Ordinance (SpV) of 4 June 2010 (SR 441.11). To be verified. ↩
3. Languages Act, Art. 20 (language skills of federal staff); Languages Ordinance, Art. 7 (target values for the representation of linguistic communities in the federal administration). Status to be verified. ↩
4. Constitution of the Canton of Basel-Stadt of 23 March 2005 (SG 111.100); cantonal legislation on the organisation of the courts (Gerichtsorganisationsgesetz) and on administrative procedure. The precise provisions designating German as the official language are to be verified. ↩
5. Federal Act on Compilations of Federal Legislation and the Federal Gazette (Publications Act, PublG) of 18 June 2004 (SR 170.512), Art. 14; on the equal authority of the language versions and its consequences

for interpretation, see the case law of the Federal Supreme Court, e.g. BGE 134 V 1. To be verified. ↩

6. English translations of federal legislation published by the Federal Chancellery on fedlex.admin.ch carry the notice that they are provided for information purposes only and have no legal force. To be verified. ↩

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