

English as the language of documentation

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

English has become the dominant language of financial documentation in Lugano, as in all international financial centres. Investment fund prospectuses, structured product term sheets, ISDA and GMRA master agreements, trade finance documents under the rules of the International Chamber of Commerce and commodity contracts under GAFTA or FOSFA terms are written in English. Swiss law accommodates this. The Financial Services Ordinance allows the key information document in English, and Swiss prospectus law has long accepted English as a language of prospectuses.¹ English legal terms, however, carry common law concepts. Their use in a contract governed by Swiss law raises the same problem as Italian terms. A "trust" in a Swiss-law document, a "floating charge" or "consideration" have no direct Swiss equivalent. The safest course for Swiss-law documents in English is to use the official English translations of Swiss statutes as a terminological guide, while remembering that these translations have no legal force, and to refer to the Swiss provisions where precision matters.

English and Italian coexist in Lugano. English documents are signed by Italian clients who read them with the help of their advisers, and Italian documents are prepared for clients who prefer their mother tongue. The risk lies at the interface, where an English master agreement is explained to an Italian client in Italian, using Italian terms that reflect neither the English concepts nor the Swiss governing law. Here the trilingual competence of Lugano's professionals is decisive, because they can identify the concept behind each word in three languages and two legal orders.

1 Law firms and fiduciaries

Lugano's law firms and fiduciaries mirror the banks' language structure. The cantonal bar is Italian-speaking and cantonal proceedings are conducted in Italian. Most lawyers studied law in Switzerland at the

universities of Zurich, Bern, Fribourg, Geneva, Lausanne or Neuchâtel and thus in German or French, or in Italy. The Università della Svizzera italiana in Lugano offers a Master of Arts in Law since 2014, but most practitioners received their legal training in another language.² The result is a professional class that thinks in Swiss legal concepts, writes in Italian and has learned its law in German or French. This combination is the precise competence that crossborder work requires. Italian law firms with offices in Lugano and Ticinese firms with Milan correspondents cultivate the same competence from the other side.

Fiduciaries, many of whom serve Italian clients and Italian companies, often employ accountants trained in Italy who prepare Italian tax returns, Italian monitoring forms and Italian corporate documents alongside Swiss bookkeeping and tax returns. Their working vocabulary therefore mixes the two systems daily. The cantonal authorization for fiduciaries, which covers the *fiduciario commercialista* and the *fiduciario immobiliare*, presupposes knowledge of Swiss law. The cantonal examinations are held in Italian.³

In figures. Language and law in Lugano: Italian is the main language of about 8 % of the Swiss population (11 % in 1970); 45 % of employed persons in Switzerland use more than one language at work every week; English is used at work by about one employed person in five; TERMDAT contains about 400,000 terminological entries in five languages.⁴

2 Notes

1. FinSO, Art. 89(b) (above). 46, sometimes cited for it, only empowers the Federal Council to regulate format and content, <https://www.droit-bilingue.ch/de-it/9/95/950.1-46-49.html>. ↩
2. Università della Svizzera italiana, Master of Arts in Law, introduced in 2014. See Chapter I.III. ↩
3. Canton of Ticino, "Fiduciari" (above). The cantonal examinations for fiduciaries are held in Italian. ↩
4. FSO, "Lingue" (above); Federal Chancellery, "TERMDAT" (above). ↩

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