

Making federal law in Italian

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The equality of the three versions would be an empty promise without an apparatus that produces the Italian text. That apparatus consists of the language services of the federal administration, coordinated by the Central Language Services of the Federal Chancellery. Under the Language Services Ordinance of 14 November 2012, the Central Language Services comprise one unit each for German, French, Italian, Romansh and English and a terminology unit, each headed by a person responsible for it.¹ The Italian unit of the Federal Chancellery is responsible for the Italian version of all texts published in the Official Compilation or the Federal Gazette, coordinates their preparation and also acts as the Italian language service of the Federal Assembly. Each department has at least one central unit for Italian of its own. The departmental units translate and revise the texts of their department, including, as a rule, the parliamentary procedural requests assigned to it and the replies of the Federal Council.²

The process differs from simple translation in an important respect. A federal statute passes through several stages: the preliminary draft for consultation, the draft of the Federal Council annexed to the dispatch, the deliberations of the two chambers, the final vote and the publication. At each stage the Italian version must be adapted to the changes made in the German or French text. Since the 1990s the Confederation has made efforts to involve the Italian and French language services at an early stage, so that the translators can identify ambiguities in the original text while it is still being drafted. This method, often called co-drafting, treats the translator as a participant in the legislative process who can improve the quality of all versions.³ Before the final vote in Parliament, the Drafting Committee of the Federal Assembly, which works in subcommittees for each official language, verifies the texts and ensures that the three versions agree in substance.⁴

1 TERMDAT and the terminology of Swiss law

Consistent terminology is the second condition of equivalent texts. TERMDAT, the terminology database of the federal administration, is maintained by the terminology section of the Central Language Services. It contains Swiss legal and administrative terminology in the four national languages and English, covers fields from agriculture to finance and transport, and includes the official names and abbreviations of authorities, institutions and enactments. It is accessible free of charge to the public. Several plurilingual cantons, Bern, Fribourg, Graubünden and Valais, contribute entries through a coordinating body called CoTerm.⁵ Article 20 paragraph 3 of the Languages Act obliges the Confederation and the cantons to make their terminology databases available to each other free of charge.⁶

For the practitioner in Lugano TERMDAT is the first reference when an Italian term of Swiss law must be matched with its German or French equivalent. It shows, for instance, that the Swiss Italian term for the German *Aktiengesellschaft* is *società anonima*, the term used in the Swiss Code of Obligations, whereas Italian law uses *società per azioni*. It gives the official Italian titles and abbreviations of federal acts, which differ from the German ones: the Banking Act is the *legge sulle banche* (LBCR), the Financial Services Act the *legge sui servizi finanziari* (LSerFi), the Financial Institutions Act the *legge sugli istituti finanziari* (LIrFi) and the Anti-Money Laundering Act the *legge sul riciclaggio di denaro* (LRD).⁷ These differences between Swiss Italian legal terminology and the terminology of the Italian Republic are the subject of Chapter J.III.

For the practitioner. - Treat the German, French and Italian versions of a federal enactment as equally binding (Art. 14 para. 1 PubIA). English versions published by the Confederation or FINMA are not binding. - Where the meaning of a provision is doubtful, compare all three versions before advising. A divergence is an argument for interpretation by system, purpose and history, and the Italian version may be decisive (BGE 127 III 548). - Cite the authoritative version published in the Official Compilation (Art. 15 PubIA). The consolidated text in the Classified Compilation is a working tool. - Use TERMDAT for the official Italian titles, abbreviations and terms of Swiss law, and do not substitute terms of Italian law. - Follow the case law in all official languages. A precedent does not lose its authority because it was written in German or French (BGE 134 III 534).

2 Notes

1. Ordinance of 14 November 2012 on the Language Services of the Federal Administration (Language Services Ordinance, LSO; in Italian *Ordinanza sui servizi linguistici*, OS Ling), SR 172.081, Art. 3, <https://www.droit-bilingue.ch/de-it/1/17/172.081-3-6.html>; Ordinance of 29 October 2008 on the Organisation of the Federal Chancellery, SR 172.210.10, Art. 3, <https://www.droit-bilingue.ch/de-it/1/17/172.210.10-3-6.html>. ↩
2. Language Services Ordinance (above), Art. 4, 10 and 12, <https://www.droit-bilingue.ch/de-it/1/17/172.081-4-7.html>, <https://www.droit-bilingue.ch/de-it/1/17/172.081-10-13.html> and <https://www.droit-bilingue.ch/de-it/1/17/172.081-12-15.html>. ↩
3. On co-drafting (*corédaction*, *Koredaktion*) in the Swiss federal legislative process see Federal Chancellery, *Gesetzestechnische Richtlinien des Bundes* (GTR), and the journal *LeGes*. ↩
4. Federal Act of 13 December 2002 on the Federal Assembly (Parliament Act, *ParlA*), SR 171.10, Art. 56 para. 2 (three subcommittees corresponding to the official languages) and Art. 57 para. 2 (agreement of the versions in the three official languages), <https://www.droit-bilingue.ch/de-it/1/17/171.10-56-66.html> and <https://www.droit-bilingue.ch/de-it/1/17/171.10-57-67.html>; Ordinance of the Federal Assembly of 3 October 2003 on the Drafting Committee, SR 171.105, <https://www.droit-bilingue.ch/de-it/1/17/171.105-index.html>. ↩
5. Federal Chancellery, "TERMDAT", <https://www.bk.admin.ch/bk/it/home/documentazione/lingue/term-dat.html>; the database is at <https://www.term-dat.bk.admin.ch/>. ↩
6. *LangA*, Art. 20 para. 3 (above). ↩

7. Italian titles and abbreviations as given in the Italian versions: Legge federale dell'8 novembre 1934 sulle banche e le casse di risparmio (LBCR), SR 952.0; Legge federale del 15 giugno 2018 sui servizi finanziari (LSerFi), SR 950.1; Legge federale del 15 giugno 2018 sugli istituti finanziari (LIsFi), SR 954.1; Legge federale del 10 ottobre 1997 relativa alla lotta contro il riciclaggio di denaro e il finanziamento del terrorismo (LRD), SR 955.0; see <https://www.droit-bilingue.ch/de-it/9/95/952.0-index.html>, <https://www.droit-bilingue.ch/de-it/9/95/950.1-index.html>, <https://www.droit-bilingue.ch/de-it/9/95/954.1-index.html> and <https://www.droit-bilingue.ch/de-it/9/95/955.0-index.html>. On società anonima see Swiss Code of Obligations, SR 220, Art. 620 ff. in the Italian version. ↩

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