

The constitutional framework: Articles 4, 8, 18, 70 and 175

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The Federal Constitution of 1999 treats language in five provisions that belong together. Article 4 names the national languages. Article 8 paragraph 2 prohibits discrimination on grounds of language. Article 18 guarantees the freedom of language. Article 70 determines the official languages of the Confederation, leaves the choice of official languages within the cantons to the cantons and assigns duties of promotion. Article 175 paragraph 4 requires that the language regions be appropriately represented in the Federal Council. Read together, these provisions create a layered system in which the national community, the individual and the federal authorities each have their own position.

1 National languages and official languages

Article 4 states: "The national languages are German, French, Italian and Romansh." The Italian text reads: "Le lingue nazionali sono il tedesco, il francese, l'italiano e il romancio."¹ The provision has mainly a declaratory and identity-forming function. It describes Switzerland as a country of four languages and binds the authorities to treat these four languages as part of the national heritage. It confers no individual right to use a particular language before a particular authority. That right follows from Article 70 and from the Languages Act.

Article 70 paragraph 1 is the operative rule for the Confederation: "The official languages of the Confederation are German, French and Italian. Romansh is also an official language of the Confederation when communicating with persons who speak Romansh." The Italian version is: "Le lingue ufficiali della Confederazione sono il tedesco, il francese e l'italiano. Il romancio è lingua ufficiale nei rapporti con le persone di lingua romancia."² Italian is therefore a full official language of the federal state. Every federal authority must be able to receive and answer

communications in Italian, every federal enactment must exist in Italian, and every person may use Italian in dealings with the Confederation. These consequences are spelled out in the Languages Act. Their constitutional basis is the equality of the three official languages in paragraph 1.

2 The cantons and the territorial principle

Article 70 paragraph 2 gives the cantons the power to decide on their own official languages. To preserve harmony between linguistic communities, they must respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities.³ This is the constitutional expression of the territorial principle, which Lüdi describes as the first of the three dimensions of Swiss multilingualism: each linguistic region normally has a single official language, and the country as a whole is multilingual because it combines such regions.⁴

For Ticino the territorial principle has a clear content. Article 1 of the Constitution of the Republic and Canton of Ticino of 14 December 1997 declares: "Il Cantone Ticino è una repubblica democratica di cultura e lingua italiana", a democratic republic of Italian culture and language.⁵ The cantonal constitution contains no separate article on the official language because the Italian character of the canton is part of its definition. Cantonal legislation, the proceedings of the Grand Council, the decisions of the Council of State, the cantonal courts, the land register and the commercial register all operate in Italian. In the Grisons, the only trilingual canton, Italian is one of three cantonal official languages, alongside German and Romansh, and the communes of the Italian-speaking valleys use Italian as their official language.⁶ Article 70 paragraph 2 therefore protects Italian in its historical territory, while Article 70 paragraph 1 protects it in the federal institutions.

3 Notes

1. Federal Constitution, SR 101, Art. 4, English and Italian texts at <https://www.droit-bilingue.ch/en-it/1/10/101-4-7.html>. ↩
2. Federal Constitution, Art. 70 para. 1, <https://www.droit-bilingue.ch/en-it/1/10/101-70-82.html>. ↩
3. Federal Constitution, Art. 70 para. 2 (above). ↩
4. Lüdi, "Plurilinguismo" (above). ↩
5. Costituzione della Repubblica e Cantone Ticino del 14 dicembre 1997, Art. 1, Raccolta delle leggi del Cantone Ticino,

<https://m3.ti.ch/CAN/RLeggi/public/index.php/raccolta-leggi/legge/num/1>. ↩

6. Constitution of the Canton of the Grisons of 14 September 2003, SR 131.226, Art. 3 (para. 1: German, Romansh and Italian are the equivalent national and official languages of the canton; para. 3: the communes determine their official and school languages in cooperation with the canton), <https://www.droit-bilingue.ch/de-it/1/13/131.226-3-6.html>.
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