

Three authentic texts: equal authority and its consequences

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

The rule that the three language versions of federal enactments are equally binding is the legal core of the equality of Italian. It means that Swiss federal law has no original text. The German version, in which most federal acts are drafted, has no higher rank than the Italian version, which is usually produced by translation. A court, an authority or a private person who applies a federal statute in Italian applies the statute, and a divergence between the versions is a problem of interpretation to be solved by the methods of interpretation. No version prevails automatically.

1 The Publications Act

Article 14 paragraph 1 of the Publications Act states that publication is effected simultaneously in the official languages German, French and Italian and that, in the case of enactments, the three versions are equally binding. In Italian: "Per gli atti normativi, ciascuna delle tre versioni è vincolante."¹ The remaining paragraphs of Article 14 define exceptions and additions. Under paragraph 2 the Federal Council may decide that texts published by reference, and certain other texts, are not published in all three official languages, or in no official language at all, if the provisions they contain do not directly bind the persons concerned or if those persons use the texts only in their original language. Under paragraph 3 the Federal Chancellery may decide that decrees and announcements of purely local significance are published only in the official language of the persons concerned. Paragraph 4 refers to the legislation on consultation procedures for the translation of consultation documents. Paragraph 5 refers to the Languages Act for publications in Romansh. Paragraph 6 allows texts of particular importance or international interest to be published also in other languages, in particular English.²

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Two consequences follow for the financial centre. First, English versions of Swiss financial market legislation, which the Confederation and FINMA publish for the convenience of international users, have no legal force. Paragraph 6 permits them as additional publications, but only the German, French and Italian versions are binding. A foreign bank or an Italian client who relies on the English text of the Financial Services Act relies on an aid to understanding. Second, the exception in paragraph 2 can matter for technical standards incorporated by reference, such as international accounting or technical norms, which may be available only in English or in the language of the issuing body. The practitioner who meets a reference to such a standard in an ordinance should check whether the standard itself exists in Italian before assuming that it does.

Article 15 of the Publications Act determines which publication is authoritative. Since an amendment in force on 1 January 2016, the version of federal enactments published in the Official Compilation, and more precisely the version published on the electronic publication platform, is authoritative.³ The consolidated version in the Classified Compilation, which most practitioners consult on Fedlex, is not itself the authoritative text. For Italian this means that the authoritative version of a federal statute is the Italian text in the *Raccolta ufficiale delle leggi federali* (RU) as published online, and the *Raccolta sistematica* (RS) serves as a consolidated working tool.

2 Notes

1. PubIA, Art. 14 para. 1, <https://www.droit-bilingue.ch/en-it/1/17/170.512-14-19.html>. ↩
2. PubIA, Art. 14 paras. 2–6 (above). ↩
3. PubIA, Art. 15, as amended by the Federal Act of 26 September 2014, in force since 1 January 2016 (AS 2015 3977), <https://www.droit-bilingue.ch/en-it/1/17/170.512-15-21.html>. ↩

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