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from

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on

THE SWISS PARLIAMENT AS A PLURILINGUAL FORUM

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"Switzerland (was) born of a common will to share the same destiny: each federal parliamentarian has a clear duty to endeavour to understand the language, the culture, the attitudes of others, wherever they may come from. ... [This] assumes that the members are able to overcome linguistic barriers in face-to-face discussions"¹.

The Swiss Parliament as a plurilingual forum

Philippe SCHWAB, Secretary General of the Federal Assembly of the Swiss Confederation

1. Switzerland's linguistic diversity

Switzerland is a nation of many languages. Plurilingualism is an integral part of Switzerland's identity and is a key element of the national culture. It is a result of the way in which the Confederation has developed historically.

The country was not created in a process of unification, but through an aggregation of states, known as cantons, which were originally sovereign but which became progressively bound to one another in a federal structure. To use the German term, Switzerland is a "Willensnation", in other words "a nation born of the desire to live together". In contrast to its immediate neighbours – France, Germany and Italy –, Switzerland does not derive its identity from a community of homogeneous origin with a common language and culture, but from the co-existence of several languages, cultures and religions.

Different peoples and languages, both Germanic and Latin in origin, were present on Switzerland's territory before the Middle Ages. The boundaries between the Alemanni and the Burgundians have remained remarkably stable over the centuries and up to the present day, generating "a difference in character and customs so marked as to appear to be two strains of civilisation"².

Of the twenty-six cantons that make up Switzerland today, twenty-two have only one official language: in seventeen, this is German³, in four it is French⁴ and in just one, Italian⁵. Three cantons are bilingual in French and German⁶ and one canton is trilingual in Romansh, German and Italian⁷. This demonstrates that the linguistic zones do not correspond to

¹ Opinion of the National Council Bureau of 16.11.2007 on the Leuenberger motion 07.3355 (simultaneous interpretation at committee meetings).

² A. SIEGFRIED, *La Suisse démocratie-témoin*, "A la Baconnière" edition, Neuchâtel, 1948, p. 43.

³ These are the cantons of Zurich, Lucerne, Uri, Schwyz, Obwalden and Nidwalden, Glarus, Zug, Solothurn, Basel-Stadt and Basel-Land, Schaffhausen, Appenzell Innerrhoden and Appenzell Ausserrhoden, St Gallen, Aargau and Thurgau.

⁴ Cantons of Vaud, Neuchâtel, Geneva and Jura.

⁵ Canton Ticino.

⁶ Cantons of Bern, Fribourg and Valais.

⁷ Canton of Graubünden.

geographical or political regions. Nor are they determined by religious borders or economic factors.

At an institutional level, plurilingualism made a late arrival in the shape of the Federal Constitution of 1848. This enshrined German, French and Italian as the languages of the Confederation. Romansh⁸ was added to the list almost a century later, in 1938.

The country's linguistic diversity is established in the preamble and in various articles of the current Constitution, which dates from 1999⁹. The preamble specifically reminds us that the Swiss People and cantons are "determined to live together with mutual consideration and respect for their diversity". Article 69 paragraph 3 calls on the Confederation to "take account of the cultural and linguistic diversity of the country".

More specifically, the Constitution makes a distinction between national languages and official languages: German, French, Italian and Romansh are Switzerland's national languages (Art. 4, Federal Constitution), but only the first three have the status of official languages at federal level (Art. 70 para. 1, Federal Constitution; Art. 5 para. 1, Languages Act¹⁰); Romansh is an official language only in dealings with people who speak that language (i.e. a semi-official language)¹¹. The three official languages are completely equal in status, even where they are spoken only by a minority.

The legislation also establishes the right of a citizen to address the federal authorities in any of the official languages and to receive a response in the language that they have used (Art. 6 paras. 1 and 2, Languages Act); however, this provision applies if they use only one of the three official languages.

Linguistic equality demands that every law enacted by parliament be published in each of the three official languages¹², and this simultaneously (Art. 10, Languages Act and Art. 14 para. 1 Publications Act¹³). Texts of special importance and documents relating to popular votes and federal elections are also published in Romansh (Art. 11, Languages Act).

The legislation also imposes equal status on the linguistic versions of any legislative text: in the event of any contradiction among the three official languages, the three versions are equally binding (Art. 14 para. 1, Publications Act). Thus none of the three languages takes precedence over the others; in the event of any doubt, the case law holds that the version applies that corresponds most closely to the aim of the legislation or the intention of parliament.

Lastly, the Constitution also introduces a principle of linguistic territoriality,¹⁴ which grants each language its own region. The Constitution requires that the traditional boundaries of the linguistic regions be preserved and guarantees their homogeneity; it also calls for the

⁸ Romansh is a Romance language comprising five idioms, each of which is spoken in a distinct geographical area and has a different grammar and vocabulary.

⁹ Federal Constitution of the Swiss Confederation of 18.4.1999 (SR 101).

¹⁰ Federal Act of 5 October 2007 on the National Languages and Understanding between the Linguistic Communities (Languages Act) of 5.10.2007 (SR 441.1).

¹¹ For example, the Federal Supreme Court issues a judgment in Romansh if it is hearing an appeal that a commune or person has filed in that language.

¹² There are certain exceptions, in particular for texts based on international law that are highly technical in nature, which are drafted in the language normally spoken by the users concerned, in most cases English.

¹³ Federal Act on the Compilations of Federal Legislation and the Federal Gazette (Publications Act) of 18.6.2004 (SR 170.512).

¹⁴ The principle of the territoriality of languages may come into conflict with the principle of freedom of language (Art. 18, Federal Constitution), which guarantees that anyone, regardless of nationality, has the right to use their own language in dealing with others, particularly in professional and private matters. Art. 8 para. 2, Federal Constitution also prohibits any discrimination against persons on grounds of language.

protection of minority national languages in certain regions and the preservation of harmony between the linguistic communities.

In statistical terms, German is the language of a substantial majority of the Swiss population, while French is the largest minority language: around 65% of the population speak German as their first language, 23% speak French, 8% Italian and 0.5% Romansh. In addition, numerous foreign languages are spoken. It is interesting to note that the numbers of people speaking either English, Portuguese, Albanian, Serbo-Croat or Turkish are now greater than the number of people who speak Romansh.

2. Plurilingualism in parliament

Plurilingualism is reflected in the way that the Swiss parliament works (Sec. 2.1) and in its organisation (Sec. 2.2) and is seen throughout the legislative process (Sec. 2.3).

Currently, the two chambers of parliament have 175 German-speaking members (71%), 57 French-speaking members (23%), 11 Italian-speaking members (5%) and 3 Romansh-speaking members (1%), which roughly corresponds to the breakdown of the official language communities among the resident population¹⁵. For the plurilingual cantons, there is no constitutional guarantee that they must have a member of parliament to represent each of their language communities: thus the bilingual canton of Bern is represented in the federal parliament only by German-speaking members¹⁶.

2.1. Plurilingualism and parliamentary procedures

The four national languages have an equal status and equal rights as far as their use in parliamentary debates in the two chambers is concerned. This means that members can speak in the chambers and in the committees in the national language of their choice (Art. 8 para. 1 Languages Act). This rule also applies to the federal councillors (cabinet ministers) when they speak¹⁷. In view of the low numbers of Italian and Romansh-speaking members, the majority of debates are held in German and French; Italian is not often heard and speeches in Romansh are very rare indeed.

Generally speaking, members use the language of the constituency that has elected them. Usually this is their mother tongue, but not always. Indeed, some German-speakers represent French-speaking cantons and they speak in French when in parliament. Occasionally members are elected whose mother tongue is not a national language; a current example is a member who is originally from Slovakia, but who speaks German in parliament. Certain members are truly bilingual or even trilingual – though they are an increasingly rare breed – and switch from one language to the other depending on the audience and the subject being discussed. One Italian-speaking member of the Council of States is in the habit of saying that he speaks Italian in parliament when he is addressing his constituents, French when he wants everyone to listen to him and German when he wants everyone to understand.

¹⁵ The exact figures are as follows: National Council: 142 German speakers, 47 French speakers, 9 Italian speakers and 2 Romansh speakers, making a total of 200 members; Council of States: 33 German speakers, 10 French speakers, 2 Italian speakers and 1 Romansh speaker, making a total of 46 members.

¹⁶ On 16.9.2013 and 20.3.2014, the National Council and then the Council of States rejected an initiative filed by the canton of Bern calling for an amendment to the Constitution to guarantee that linguistic minorities in plurilingual cantons were represented in the National Council (Cantonal Initiative 12.341 from the canton of Bern, dated 7.6.2012).

¹⁷ This principle also applies to federal judicial authorities, where each judge uses his or her own language in court deliberations. In contentious matters, decisions and judgments are issued in an official language, normally that of the decision being contested (see Art. 33a of the Administrative Procedure Act of 20.12.1968 [SR 172.021] and Art. 54 of the Federal Supreme Court Act of 17.6.2005 [SR 173.110]).

In the National Council, debates are translated simultaneously into and from the three official languages (Art. 37 para. 2, National Council Standing Orders¹⁸); translation into Romansh is only provided if requested beforehand. Verbal reports from the committees are usually presented in two languages, German and French or Italian (Art. 19 para. 1, National Council Standing Orders). Unless the matter in question is of major concern or particularly complex, the rapporteurs complement each other and do not repeat parts already dealt with in another language (Art. 19 para. 2, National Council Standing Orders). The Council President chairs the session in his or her mother tongue; important statements and points of order made verbally are translated directly into a second official language by an interpreter provided by the Council Bureau (Art. 37 para. 1, National Council Standing Orders). When allowing members to speak, the President ensures that each language and point of view is awarded a fair share of speaking time (Art. 41 para. 3, National Council Standing Orders).

In the Council of States, there are no express rules on the use of languages. In contrast to the National Council, the upper chamber does not offer simultaneous translation of its debates: members have rejected calls for interpreters on several occasions because citizens expect members of the Council of States to be able to understand the debates in at least one other national language. Documents are distributed in German and French, but the verbal committee reports are usually presented in one language.

The preparatory committees of both the National Council and the Council of States work to the same system. On the other hand, committee discussions are not translated simultaneously. Parliament has always refused to allow interpreters into the committee rooms, commonly citing reasons of costs and infrastructure¹⁹. More recently, it has made it a matter of principle. In its response to a motion tabled in 2007 and signed by more than sixty members, the National Council Bureau stated that "Switzerland (was) born of a common will to share the same destiny: each federal parliamentarian has a clear duty to endeavour to understand the language, the culture, the attitudes of others, wherever they may come from. ... [This] assumes that the members are able to overcome linguistic barriers in face-to-face discussions"²⁰. The motion was dismissed without further ado and no member of parliament has shown any inclination to raise the question again.

In principle, all documents, reports and drafts of legislative acts dealt with by committees and in the plenary sessions are made available simultaneously in German, French and Italian (Art. 8 para. 2, Languages Act), either online or in printed form. Other documents are made available in at least two official languages, normally German and French (Art. 46 para. 3, Parliament Act²¹); in exceptional cases, where a document is requested by a committee at short notice, or is particularly voluminous, it is not always provided simultaneously in two languages, and the translation may arrive a little later²².

At committee presentations, visual aids are generally provided in a language other than that of the presenter, if this can reasonably be expected.

Members may submit their written proposals in the national language of their choice. Amendments to items discussed in the councils are translated immediately into German and French and circulated at the same time; other texts – motions, postulates, interpellations or

¹⁸National Council Standing Orders (RCN), du 3.10.2003 (SR 171.13).

¹⁹Opinion of the National Council Bureau of 18.2.2000 on the Zisyadis motion 99.3585 (simultaneous interpretation at all committee meetings).

²⁰Opinion of the National Council Bureau of 16.11.2007 on the Leuenberger motion 07.3355 (simultaneous interpretation at committee meetings).

²¹Federal Act on the Federal Assembly (Parliament Act, ParlA) of 13.12.2002 (SR 171.10).

²²Opinion of the National Council Bureau of 4.5.2012 on the Reynard interpellation 12.3161 (Respect for linguistic minorities on committees).

parliamentary initiatives – are translated as and when possible into German, French and Italian, then circulated. The publications, parliament databases and navigation software are generally made available in at least two national languages (parliamentary sessions perspectives, etc.), though more commonly they are issued in three languages (Federal Assembly guides, memoranda for parliamentarians, notices and biographical portraits, press releases, etc.), or sometimes even in four languages (Official Bulletin, website, etc.). Certain documents, also intended for third parties, may also be produced in other languages (in particular English).

2.2. *Plurilingualism and the organs of parliament*

The national languages also influence the composition of the various organs of parliament. Thus the presiding college of the chambers must be composed in a way that takes appropriate account of the strength of the parliamentary groups and the official languages (Art. 6 para. 2, National Council Standing Orders): last year, the president of the National Council was a German speaker and her counterpart in the Council of States was an Italian speaker. This year, both presidents are German speakers; in all likelihood, the presidents of the National Council and the Council of States will be French-speaking next year. As a general rule, when one president is a German speaker, at least one of his or her vice-presidents is French-speaking and vice-versa.

The Parliament Act also requires the official languages to be taken into account in the composition of parliamentary committees and of their presiding colleges (Art. 43 para. 3, ParlA).

It is also interesting that until the 1960s, language determined where the parliamentarians sat in the National Council chamber: French-speaking and Italian-speaking members sat to the left of the President and the German speakers occupied the other seats. This tradition eventually gave way to a system of grouping members according to their political allegiances.

Linguistic criteria also apply to the election by parliament of the members of the Federal Council (the government). The Constitution requires the "language regions of the country [to be] equitably represented" in the government (Art. 175 para. 4, Federal Constitution), traditionally reserving two seats for representatives of the Latin-language minorities²³. However, the criterion of belonging to a specific linguistic community has never been precisely defined and sometimes there are problems of interpretation.

Finally, the allocation of positions according to linguistic criteria also applies in the Federal Administration in general, and in the Parliamentary Services in particular. The Federal Act on the Personnel of the Swiss Confederation calls for the national linguistic communities to be fairly represented within the Administration (Art. 4 para. 2 let. e, Federal Personnel Act²⁴). Currently, the parliamentary administration, when all positions are taken together, is 67% German-speaking, 25% French-speaking, 7% Italian-speaking and 1% Romansh-speaking. These figures are close to the demographic percentages found among the Swiss population and in parliament. In the senior management positions in the parliamentary administration, linguistic minorities are even slightly over-represented, without this being the result of a specific policy. Within the administration, each employee can communicate in the official

²³For elections to the Federal Supreme Court, the Constitution does not impose similar requirements, but the principle is observed in practice.

²⁴Federal Personnel Act of 24.3.2000 (SR 172.220.1).

language of their choice: conversations are often in a mix of several languages and dialects are frequently used in the parliamentary administration.

2.3. *Plurilingualism and legislative procedures*

As mentioned above, all legal texts must be adopted by a majority of both chambers and must be published at the same time in each of the three official languages. This requirement means that the legislative process must be organised so that the texts progress in parallel, but without delaying the final decision.

At the start of the parliamentary procedure, the government presents drafts to parliament in the three languages. At this stage, the drafts have already been the subject of intense preparations at departmental (ministerial) level, involving specialists on the subject matter and translator-linguists. At the preparatory committee stage, the German and French texts serve as the basis for parliamentary discussions. This also applies during the debates in plenary session: the chambers work with synoptic tables, which are constantly amended in German and French as the details of the individual articles are discussed. Proposals for amendments are given to the members in these two languages. At each stage in the parliamentary process, modifications are entered into the different language versions, which progress in parallel (the formal joint drafting process). The Italian texts are adapted and revised internally as the process goes back and forth, but do not form part of the discussions held in the Councils.

Once the drafts have been debated in the two chambers, the laws are checked one final time by the Parliamentary Drafting Committee. This committee decides on the definitive version of the three texts before they are put to a final vote in the two chambers. The drafting committee ensures that the texts are intelligible and concise. They also make sure that they conform to the will of the legislature and they check that the three official language versions accord with each other, making terminological, stylistic or syntactic modifications.

The Drafting Committee is a joint committee for both chambers. It comprises parliamentarians who are native German, French and Italian speakers, who meet in three sub-committees. These sub-committees are assisted by specialists from the Parliamentary Services and also call on the assistance of other experts from the Administration. In addition, they can consult with the rapporteurs from the committees that have examined the draft.

The Drafting Committee is not permitted to make fundamental changes. If it notices serious omissions, vagueness or contradictions, it notifies the presidents of the chambers. If, after the final vote, it is found that an act contains formal errors or that it is not in line with the results of the parliamentary debates, the Drafting Committee orders the required corrections to be made before the text is published in the Official Compilation of Federal Legislation. These modifications are indicated in the text. After an act is published in the Official Compilation, the Drafting Committee can only order the correction of obvious or trivial errors.

2.4 *Digression: sessions outside Bern*

The Swiss Parliament has its seat in Bern, the federal capital, which is located in the German-speaking part of Switzerland. Since the establishment of the modern federal state in 1848, parliament has convened three times outside Bern, on each occasion in a different linguistic region of the country: in 1993 in the French-speaking region (Geneva), in 2001 in the Italian-speaking region (Lugano) and in 2006 in the Romansh part (Flims). Although these three "extra-mural" sessions were primarily required because renovations were being made to the parliament building, the choice of organising them in other regions of the country was made with the aim of raising members' awareness of the realities of the minority

linguistic communities. By meeting in each of the linguistic regions, parliament visibly demonstrated its commitment to the national languages.

3. A few considerations by way of conclusion

Parliamentary plurilingualism is an asset. It allows a range of parties to participate in the decision-making process, it legitimates the decisions of parliament, and it contributes actively to national cohesion. It is an undeniable bonus and balancing factor.

On the other hand, plurilingualism is a considerable challenge when it comes to the administration of parliament. It necessitates major investment in terms of staff, infrastructure and documentary resources. Managing a multilingual administration requires a great deal of effort at every level, and not simply in relation to interpreting and translating. Basically the entire administrative apparatus must be able to act – and react – in several languages. This involves the entire staff: from guides to security guards, from restaurant staff and administrative personnel to case officers, IT specialists and the Secretary General.

The Parliamentary Services staff have to have two separate skill sets: they have to be highly competent in their own specialist subjects (law, finance, IT, etc.), but must also have a good command of the national languages. To be clear, this does not mean mastering several national languages to a level of perfect fluency, but being able to understand and be understood in other languages (functional plurilingualism). Every employee of the Parliamentary Services must be able to speak and write in a second official language. At management level, staff should have sound active knowledge of at least a second official language and a passive knowledge of a third official language (not counting English).

These requirements sometimes seriously complicate the recruitment process: a candidate may be an excellent lawyer or a brilliant computer specialist but lack the required language skills. Moreover, in recent years, the Swiss have tended to learn other foreign languages, primarily English, rather than another national language (especially Italian). This phenomenon is not confined to parliamentary staff; it affects a good number of parliamentarians, some of whom now even claim to use English as a *lingua franca*. This is why the Parliamentary Services also funds courses in language proficiency for members of parliament who request help.

Box

The Swiss are happy to claim their place as one of Europe's multilingual countries. With an average of 2.0 languages, the adult Swiss population ranks third behind the people of Luxembourg (3.0) and the Dutch (2.2) [figures from 2008]²⁵. By comparison, the average in the European Union is around 1.1 languages.

Plurilingualism is also a burden in financial terms and when it comes to time management. Producing documents in several languages, checking translations, revising and harmonising texts are complex processes that require a large number of staff and a lot of time. However, a growing number of parliamentary tasks are matters of urgency. Due to a lack of funding or of time, it may be tempting to neglect the linguistic aspects and make do with one language only, that of the majority ...

However, plurilingualism acts as a guarantee for the quality of the legislative process. The collaboration between lawyers and linguists in several languages, along with the exchanges between parliamentarians, often makes legislative texts clearer. Comments made by

²⁵I. WERLEN, *Sprachkompetenzen der erwachsenen Bevölkerung in der Schweiz*, Final Report, National Research Programme, "Diversité des langues et compétences linguistiques en Suisse", University of Bern, 2008.

translators frequently lead to improvements in the initial text. Each language conveys a culture and a world view that is not always easy to express in another language. Each language has its own spirit: Italian its musicality, German its authority and French its clarity. Was it not Charles V (1500-1558), the Holy Roman Emperor, who said that he spoke Italian with musicians, German with lackeys and French with ladies (as well as addressing God in Latin and his troops in Spanish)²⁶? Which means that plurilingualism requires us to find simple formulations that can easily be transposed into another language. This in turn requires us to "consider well the rules to be made and ensure that the words to say it come more easily"²⁷. Although a degree of lyricism may indeed be lost, the text gains considerably in intelligibility, which is a plus for the citizen: it sometimes happens that the Italian version of a German text provides the answer in French to an apparently insoluble problem.

Finally, plurilingualism requires us to seek a delicate balance between the right of members to speak in their own language and to have the information that they require on the one hand, and the need for effective and efficient parliamentary procedures on the other.

Finding that balance is not only a matter of resources and common sense, but above all of political will.

²⁶Quoted by D.CAMERON, "Review: The Last Lingua Franca by Nicholas Ostler", *The Guardian*, London, 4.12.2010. This quotation, presumably apocryphal, varies from country to country.

²⁷ P. SCYBOZ, "The Fribourg Constitution of 16 May 2004 », in : *Bulletin de législation*, n° 2005/1, Institut du fédéralisme de l'Université de Fribourg, Helbing & Lichtenhahn, p. XXVII.