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# Multilingual legislation and plain language: A corpus-based study of Swiss federal acts in Italian

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## Background

In Switzerland, federal legislation is issued simultaneously and integrally in the three official languages, i.e. German, French and Italian. Once published, all language versions are considered to be equally authentic. However, federal legislation is almost always drafted in German and to a lesser extent in French, or is co-drafted in these two languages, and then translated into Italian; only around 1% of legislation is drafted in Italian (Zwicky and Kübler 2018: 17–21) because of its position as an ‘official minority language’ (Canavese 2021). Translation is therefore essential to multilingual law-making.

This thesis sheds light on Swiss legislative Italian, a relatively underexplored language variety whose status has significantly evolved over the last few decades. For previous, mostly qualitative studies that are also mostly monolingual in the sense that they mainly focus on one single official language without comparing it to the other official versions, see Borghi (2005); Egger, Ferrari and Lala (2013); Egger (2019); and Ferrari, Lala and Pecorari (2022). The focus is on the so-called ‘third language regime’ (Pini 2017), which spans from 1974 to the present day. In 1974, Italian was put – at least in law – on an equal footing to the other two official languages, and since then the translation sector of the Federal Administration has been reorganised and the number of Italophone translators has increased considerably. Several measures have been adopted to guarantee higher quality institutional and legal texts, including guidelines and seminars for legal drafters and translators. Finally, the idea that ‘[t]he federal authorities shall endeavour to ensure that their language is appropriate, clear and comprehensible’ was enshrined in the law in 2007 (art. 7, para. 1, Languages Act).

Under this 2007 legislation, clarity is a precondition in Swiss institutional communication (Canavese 2022a). Switzerland has a long-standing tradition of plain language (Flückiger and Delley 2006: 136–138), as shown, for instance, by the principle of ‘popular law’, introduced at the beginning of the 20th century by the founding father of the Swiss Civil Code, Eugen Huber (1914). This principle states that legislation should be accessible to every citizen, including laypeople. However, little empirical evidence is available to date to verify whether clarity is not only *de jure*, but also *de facto*.

Combining research into translation dynamics and clarity is a particularly compelling undertaking. The hypothesis that translation can be a ‘catalyst’ for clear legislation has been formulated on many occasions (see e.g. Burr 2000; Schnyder 2001; Schubarth 2001; Flückiger 2005; Egger and Ferrari 2016). Small-scale empirical studies have provided evidence for this hypothesis on the lexical level (Felici and Mori 2019; Canavese 2022b) and syntactic level (Canavese and Mori 2021).

This thesis draws upon that foundation and sets out to answer three main research questions:

1. RQ1: Is 'clarity' a feature of Swiss legal Italian?
2. RQ2: How has the level of clarity evolved throughout the third language regime?
3. RQ3: What is the impact of translation into Italian on the level of clarity of Italian-language legislation?

## Methodology

To answer these three research questions, I adopted current research methodologies drawn from the field of corpus-based legal and institutional translation studies and linguistics. First, I compiled LEX.CH.IT, an *ad hoc* corpus of Swiss legislation in Italian that comprises all federal acts enacted between 1974 and 2018, for a total of 366 texts and over 1.1 million tokens (Canavese 2019). I also built a trilingual aligned sample of 17 texts and approximately 30,000 words per language.

The study design was based on Piemontese's definition of clarity as the sum of 'readability' and 'comprehensibility' (1996: 79–122). Readability is a quantitative measure that describes the surface of a text, in terms of *lexical* and *syntactic* complexity. I assessed this factor in the first phase of my study through an NLP-informed linguistic profiling of LEX.CH.IT. This profiling made it possible to carry out automatic annotations of the corpus, such as in terms of part-of-speech distribution and syntactic dependency parsing. I also carried out comparisons with other corpora of translated and non-translated legislation in Italian, in keeping with the long-standing tradition in translation studies of contrasting translated and original texts (Chesterman 2004: 39–47). More specifically, I used the corpora compiled for the Eurolect Observatory Project (EOP, Mori 2018, 2019), comprised of European Union (EU) and Italian legislation. This first stage, which relied primarily on quantitative analyses, allowed me to answer RQ1 and RQ2.

Comprehensibility is a qualitative measure that describes the deep structure of a text, its logical organisation, cohesion, coherence and appropriateness for the target readership. This was the object of the second stage, in which manual annotation of the trilingual sample was carried out using MAXQDA. This qualitative data analysis tool made it possible to apply a personalised coding framework to analyse the trilingual sample and identify relevant trends. The aim was to investigate *textuality*, i.e. how changes in information structure, cohesive devices and word order can improve comprehensibility, and *translation*, i.e. how 'translation shifts' (Gambier 2010) can reformulate the same legal content by resorting to

more or less comprehensible structures. This stage made it possible to refine the preliminary answers to RQ1 and RQ2 and to answer RQ3.

The analyses are based on a review of the main guidelines on clear legal and institutional Italian (e.g. Fioritto 1997; Cortelazzo and Pellegrino 2003; Franceschini and Gigli 2003; Raso 2005), previous studies that assess the readability of legal and institutional texts in other Italophone contexts (e.g. Piemontese 2000; Venturi 2012; Brunato 2014) and the comprehensibility of Swiss legislation in German (Höfler 2016, 2017, 2019), as well as seminal works on translation techniques (e.g. Chesterman 2016: 89–109; Pym 2016) and in the field of specialised translation (Scarpa 2008: 144–152) and legal translation (Šarčević 2000).

### RQ1: ‘Clarity’ as a feature of Swiss legal Italian

Clarity appears to be a feature of Swiss legislation in Italian, as shown by the number of variables on a lexical, syntactic and textual level. In terms of lexis, Swiss legal Italian corresponds to modern vocabulary. Around two-thirds of the vocabulary of LEX.CH.IT is part of the *Basic Italian Vocabulary* (De Mauro 2016) and a number of archaic, difficult or formal-register words and expressions typically used in legal language display low frequencies (see also Canavese 2022b).

As for syntactic complexity, federal acts are made up of easy-to-process sentences. For example, they are characterised by a low use of complex subordination with recursively embedded clauses. Moreover, Swiss legislation resorts sparingly to the nominal style and the subjunctive mood, and the syntactic tree and the dependency links display a low degree of complexity.

The Gulpease index (Lucisano and Piemontese 1988), a traditional readability formula comparable e.g. to the Flesch index, confirms these results, indicating that Swiss federal legislation is readable for about two-thirds of the adult Italian-speaking Swiss population.

From a textual perspective, the acts analysed display a good level of coherence (see also Canavese 2023). The information structure of the legal utterance and the thematic progression ensure the semantic development of the text by integrating *new* information to *given* information that is already known to the reader. The adverbial elements (expressing conditions, purposes, time, means, etc.) rarely compromise comprehensibility by breaking the adjacency of the main arguments. Instead, their positioning within the utterance assists the reader’s process of mental representation.

Comparing LEX.CH.IT to the EOP corpora reveals that in Swiss and EU legislation, which both feature translation-mediated multilingualism, linguistic complexity is lower than in implementing laws and Italian domestic legislation, which are characterised by monolingual drafting (Canavese 2022b; Canavese and Mori 2021).

## RQ2: Diachronic evolution of clarity

The data show that Swiss legal Italian has been subject to two main opposing evolutionary trends. On the one hand, it has undergone linguistic simplification. This trend is visible, for instance, in the decreasing frequency of several formal, and mostly archaic, connectives (e.g. *giusta, ove, qualora, all'uopo, siffatto*). It is also visible on the textual level, where the Italian version of Swiss legislation has gained in autonomy. For instance, the word order in Italian of acts from the 1970s and 1980s still remained close to the German version, whereas more recent legislation exhibits greater constituent mobility, thus responding better to canonical uses in the target language and, at the same time, improving clarity. This can be interpreted as the result of improved processes, an increased number of federal translators and a greater professionalisation of translation.

On the other hand, a complexification trend can also be discerned. The thesis argues that this trend is more a reflection of other extralinguistic tendencies – in particular, the technicalisation of legal subject matters – rather than an intention to bureaucratised the language of law. The most visible trait is the more abundant recourse to nominal style, which leads to higher information density in more recent legislative texts.

Aside from these two trends, other variables do not display any statistically significant diachronic evolution. For example, the average sentence length remained stable throughout the three periods, demonstrating that syntactic simplicity is, all in all, a distinctive feature of Swiss legislation in Italian.

A final class of variables concerns phenomena that do display a diachronic evolution, but are not able to be interpreted unambiguously as either simplification or complexification. The overall increase in anglicisms is a case in point (Canavese 2020). This can be seen as a sign of modernisation and is in line with recent trends in general language (Lubello 2014: 65–69). At the same time, anglicisms are mainly terms from highly specialised fields, such as finance, and they contribute to a greater technicality. However, they are almost always systematically explained. Consequently, their use does not necessarily have an impact on clarity. Another aspect that is difficult to frame is the more systematic use of the canonical subject-verb-object (SVO) order in recent legislation. A qualitative analysis of non-SVO sentences, however, showed that the anticipation of objects or the postposition of subjects is mostly determined by textual reasons, such as maintaining topic continuity (Canavese 2022c).

## RQ3: Influence of translation on clarity

Regarding the third research question, the ‘translation filter’ and, more generally, legislative multilingualism turned out to have a positive impact on the quality of

translated legislation. In fact, translation is often an occasion to rephrase provisions by adopting more comprehensible wording.

Italian displays a certain autonomy in rearranging constituents by adhering to its own syntactic and stylistic rules. These syntactic transpositions (as defined by Newmark 1988, but see also Vinay and Darbelnet 1958) can also involve a different verb diathesis, typically from the passive to the active voice, or a reduction of the information density, by transposing noun phrases of the source text to verbal solutions in the target language.

In some cases, the shift from one language to another is not limited to grammar but can also involve a change in perspective (Pym 2016). The same provision may be presented from the point of view of the authority in one language and that of the citizen in another. The focus can sometimes shift from the action to the result thereof, or from the individual to the collective dimension. This leads to an invaluable richness of multilingual legislation, which can be leveraged to understand the actual meaning of the provision.

Translation can also improve clarity through ‘explicitation’ and ‘implication’ (Baker 1996; see also the concepts of amplification/diffusion and reduction/condensation in Malone 1988). Explicitation can help express the semantic content of the provision more precisely, prevent incorrect inferences, clarify potential ambiguities, resolve slightly ambiguous anaphora and make intersentential links clear through the addition of connectives; implication involves streamlining the wording by eliminating redundancies and superfluous elements.

These ‘positive effects’ counterbalance the ‘negative effects’ of calques and unnatural expressions that are sometimes present in translated texts. Calques represent the main negative impact of translation on clarity. They are overly literal translations that often result in unidiomatic or infrequent expressions, such as unusual noun-verb collocations, antepositions of the adjective modifying a noun or unconventional comma uses; in the case of Swiss legislation, calques typically mimic the German model. In addition to actual calques, a number of minor language flaws were identified. Their origin is more uncertain and they are not necessarily related to the influence of the source text.

Finally, instances of divergence between language versions are rare. In the manually annotated sample, only four such cases were found. The rarity of divergences indicates that translation is more often an aid than a barrier to precision.

## Conclusions

This thesis offers significant academic, practical and possibly also political implications.

In terms of the academic impact, it contributes to the advancement of legal and institutional translation studies. It involved the creation of a corpus of an

under-resourced language variety that can be reused by other researchers. It also laid the foundation for comparisons with other multilingual and monolingual contexts. Finally, it put forward the need to triangulate the corpus-based results that were obtained; experimental methods may be used to test the reception of potential target readers, and gathering data on the production context and the actors involved may allow us to gain a deeper understanding of existing challenges in institutional practices, which may help explain certain linguistic configurations.

In terms of practical outcomes, besides emphasising the benefits of legislative multilingualism, this thesis also highlighted potential pitfalls and room for improvement, for example when it comes to calques. These findings build bridges between academic research and the practice of institutional drafting and translation, as they can immediately be applied to the field.

Finally, from a political perspective, this thesis supports the idea of moving beyond the view of Swiss Italian as a marginal variety, whose translation-mediated existence is prescribed by law to meet the needs of a minority. Instead, it stresses its capacity to offer potential pathways for more accessible drafting. It is a powerful message, considering that translation is sometimes perceived as a burden at the management level due to the time and costs it involves. This kind of negative discourse has gained traction recently with the advancement of artificial intelligence and machine translation technologies, and the potential savings they can generate. As this thesis demonstrates, high-quality translation can, in fact, provide a prime opportunity to enhance the overall clarity of legislation.

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