

# De factuur, la facture, die rechnung, the invoice, la factura, ...

Contrary to what one might think, it is not the language of the addressee, but the location of the sender that determines the language in which an invoice has to be drawn up. This language choice is expressly prescribed in article 52 of the coordinated law on language use in administrative matters (Royal Decree of 18 July 1966) and was confirmed in the Flemish September Decree of 1973. These rules apply to invoices, but only if (and to the extent that) an invoice is made obligatory.

Concretely, this means that the obligatory mentions on an invoice have to be in Dutch if the invoice is issued from a place of business in Flanders. If the place of business is located in Brussels, one has the choice between French and Dutch. In this context, the "place of business" refers to the place from which the commercial activity is actually exercised. In principle, the registered office or the nationality of the company are irrelevant.

If an invoice is drawn up in the "wrong" language, it can still be replaced (within one month) by an identical invoice in the right one. The company can also be formally notified to do so, from which point a period of one month also runs. If this period is not respected, any interested party can ask the Justice of the Peace to order a translation.

The law provides for a strict sanction if there is no replacement: an invoice that was drawn up in a language other than the legally-prescribed language is invalid. Because rules of public order (language legislation) are involved, the invalidity is also absolute. This means that the judge can invoke the invalidity of the invoices, even if no one demanded this invalidity. In practice, this can have important consequences for the probative value of the invoice, but also for any late-payment interest.

However, the scope of application of these provisions in practice must be put into perspective. Obviously, none of these problems arise if the debtor simply pays the invoice, even if it is drawn up in a "wrong" language. Many companies therefore simply draw up their invoices in the language chosen by their clientele. Indeed, in many cases the limited risks associated with this strikingly strict rule do not outweigh the opposite preference of the debtor of the invoice.

Some companies play it safe legally by drawing up multilingual invoices. On such an invoice at least all of the obligatory provisions are given in the customer's language and in the legally-imposed language. Another possibility consists of joining to each invoice a full translation in the

other language. In this last hypothesis, it can be pointed out that the invoice in the legally obligatory language is the official one.

These ways of proceeding can be logically and consistently applied, but sometimes are also worth recommending for companies that are expecting a dispute with a defaulter.

For more information on this specific subject, please contact Joost van Riel (the author) and Gwen Bevers (the author & head of department).

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Mechelsesteenweg 127A, b1 - 2018 Antwerp

t. +32 3 260 98 60 | +32 2 790 44 44

Regentschapsstraat 58 PO box 8 - 1000 Brussels

[info@schoups.be](mailto:info@schoups.be)

[www.schoups.com](http://www.schoups.com)