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## A stamp of approval, or is it?

The Swiss electorate have said yes to partnership with the European Union. However, future bilateral ties with the EU remain less clear. A number of sticking points regarding a new framework agreement have cast a shadow over Swiss-EU relations.

THEODORA PETER

The most significant EU-related popular vote in recent years took place on 27 September. Its outcome left no room for doubt, with 61.7 per cent of the electorate rejecting the “limitation initiative” proposed by the SVP in place of freedom of movement with the European Union (EU). The “no” vote was therefore a resounding “yes” to continuing the bilateral relationship with the EU. The majority of voters did not want to jeopardise the status quo with their biggest trading partner. An end to freedom of movement with the EU would have annulled the other bilateral

was the only border canton to support the initiative. Just six years ago, a majority of cantons and voters approved the SVP’s “Stop mass immigration” initiative calling for restrictions on immigration. On that occasion, the Swiss parliament skirted around the issue, thus ensuring freedom of movement remained intact. To the SVP’s displeasure, parliament simply granted “national priority” in relation to vacant job positions, in other words people living in Switzerland have priority over applicants from abroad in sectors with above-average unemployment.

### The sensitive issue of sovereignty

Bloodied but unbowed, the SVP are already looking forward to the next round of their campaign against the EU and its “foreign judges”. They are now targeting the institutional framework agreement through which Switzerland and the EU aim to establish a new basis for their bilateral relations. A draft proposal has been on the table since 2018 (see “Swiss Review” 2/2019). The SVP are not alone in opposing the new framework agreement either. Most of the other parties across the political spectrum view the outcome of the negotiations with scepticism or have even rejected the agreement outright.

The most sensitive issue is marrying Swiss sovereignty with the role of the European Court of Justice. The current draft agreement allows for an independent arbitration panel to mediate between Berne and Brussels in



Dramatic motifs on both sides of the “limitation initiative” argument – the referendum ended in a chastening defeat for new SVP president Marco Chiesa.

Photo: Keystone

agreements (guillotine clause). The emphatic referendum result was a painful defeat for Switzerland’s biggest party – on its key issue no less.

It came as cold comfort to Ticinese National Councillor and new SVP president Marco Chiesa that Ticino

the event of differences. However, where questions of EU law are concerned, which would be the case with most issues under contention, the panel would be bound by rulings from the Court of Justice.

CVP president Gerhard Pfister sees the role of the European Court of Justice in relation to the framework

agreement as “toxic”. It is not acceptable to have a “unilaterally European court deciding on matters arising from the relationship between the EU and a non-EU member state”, argued Pfister in a newspaper interview. The centrist politician is particularly concerned that the Court of Justice could force Switzerland to adopt the Citi-

By Max Spring, the “Swiss Review” cartoonist

zens’ Rights Directive, which would make it easier for EU citizens to access welfare benefits in Switzerland. However, the Directive is not explicitly mentioned in the framework agreement.

Employee organisations oppose the agreement because of concerns over wage protection. They want Swit-

zerland to be able to protect itself from wage dumping – as is currently the case through the accompanying measures. The Trade Union Federation is also sceptical of the European Court of Justice, whose rulings in recent years have weakened collective labour law, e.g. in relation to collective labour agreements and the right to strike.

### The Federal Council wants to renegotiate

Only the Green Liberals, the BDP and the FDP – of which Federal Councillor and foreign minister Ignazio Cassis is a member – approve of the framework agreement. However, support from the Liberals is also starting to wane. Former FDP Federal Councillor Johann Schneider-Ammann recently spoke out against a loss of sovereignty in an interview with the “Neue Zürcher Zeitung”. The balance between national sovereignty and access to the EU internal market has been overlooked in the draft framework agreement, “to Switzerland’s detriment”, argues the former economics minister. The “de facto subordination” of the arbitration panel to the European Court of Justice would be a step too far.

The government has already indicated that it intends to hold further negotiations with the EU regarding the “unresolved issues”, including the Citizens’ Rights Directive and wage protection. The Federal Council nominated a new chief negotiator in mid-October. State secretary Livia Leu, the former Swiss ambassador in Paris, is already the fifth leading diplomat to take over the complex EU dossier. The



## New welfare initiative as an accompanying measure

Older unemployed who fail to find a new job will now receive a bridging pension until retirement. The new welfare benefit is for people who have become jobless aged 60 or over and who have lost their entitlement to unemployment benefit, having failed to find alternative employment. It spans the period until a person is eligible to receive the normal state pension. This new welfare initiative will help around 3,400 people avoid the poverty trap. The federal government has earmarked some 150 million francs a year for this purpose.



The Federal Council first floated the idea of a bridging pension last year as a domestic policy measure to promote freedom of movement. Many voters over the age of 50 voted for the SVP's "Stop mass immigration" initiative in 2014 because they feared being squeezed out of the job market by an influx of foreign labour. The Federal Council saw the new welfare initiative as a way to allay these fears. Initially, the scheme was more generous in scope and would have benefited around 4,600 people. Parliament subsequently cut the number of potential recipients and introduced a benefits cap. The SVP rejected the bridging measure in principle. Opponents of the new scheme said that it could have the unwanted effect of giving companies an excuse to lay off older employees. However, critics were unable to collect enough signatures for a referendum. (TP)



The framework deal's effect on wages and job security remains a contentious issue. Photo: Keystone

Federal Council hopes that she will add fresh impetus to break the current impasse. At the time of going to press, the negotiation parameters on the Swiss side had yet to be defined.

## Growing impatience in Brussels

Brussels is becoming increasingly confused by Switzerland's wavering. Following the outcome of the referendum, the EU had assumed there were no more obstacles to signing what was, at least from the Brussels perspective, a fully negotiated framework agreement. On the day of the referendum, European Commission President Ursula von der Leyen stressed that, while the EU was prepared to work on "clarifications", it also expected the Federal Council to move "swiftly" towards ratifying the agreement. Nonetheless, it is possible that backroom dealings are still ongoing to help the Federal Council make the agreement acceptable to the majority. After a parliamentary

vote, the final word will lie with the people.

The current bilateral agreements remain in force until the new framework agreement is signed. However, the EU could refuse to extend these agreements – this, for example, would have serious consequences for the Swiss medical technology industry, which stands to lose direct access to the single market. Swiss involvement in the EU research programme Horizon Europe could also be affected. However, Switzerland has an ace up its sleeve. At the end of 2019, parliament blocked the additional 1.3-billion-franc "cohesion" payment that had been earmarked to help structurally disadvantaged EU member states. Evidently, a few relationship issues need to be ironed out before Berne and Brussels enter into their new partnership agreement.

This article reflects the situation at the time of going to press in mid-October.