

Factsheet

26.05.2021

Mandate to review options for the autonomous elimination of regulatory differences between Swiss and EU law

Background

The first bilateral agreements between the EU and Switzerland were concluded in the 1970s. The two treaty packages, 'Bilaterals I' and 'Bilaterals II', date back some twenty years. In particular, the market access agreements (Bilaterals I) - with the exception of the Air Transport Agreement - are designed as static treaties, i.e. they do not contain any automatic or dynamic adjustment mechanism. If they are to be amended, this requires the agreement of both contracting parties.

Legal differences

Since these agreements were concluded, the law in both the EU and Switzerland has evolved and the rules have diverged to some extent. The differences that have arisen are one of the reasons why the EU felt the need for an institutional framework with dynamic adoption of the law by Switzerland.

Legal differences may also be undesirable from a Swiss perspective. They can make cross-border cooperation more difficult and can also be an obstacle to business.

Review mandate

The Swiss regulations affected by the bilateral agreements are to be analysed and the differences that have arisen in relation to current EU law are to be identified. On this basis, it will then be examined where autonomous legal development is possible and expedient in order to reduce areas of friction and thus also help to ensure a stable relationship with the EU.

The Federal Council has instructed the FDJP, which includes the Federal Office of Justice, which has overarching responsibility for national legislation, to work with other departments to examine the possibility of a reform package and to present it with an analysis of the position. The main focus will be on the market access agreements (Bilaterals I), i.e. free movement of persons, agriculture, land and air transport, and the removal of technical barriers to trade.

The entire process is to take place within the framework of autonomous, i.e. national, procedures. It is important that the potential reforms are discussed with the cantons and social partners following the analysis. Within this framework, solutions are to be devised that are in Switzerland's interest and therefore viable in terms of domestic policy. Specific options for implementation must also be assessed and decisions taken in the light of their expediency with regard to European policy.