

Switzerland's European policy after the election year – same positions, new urgency

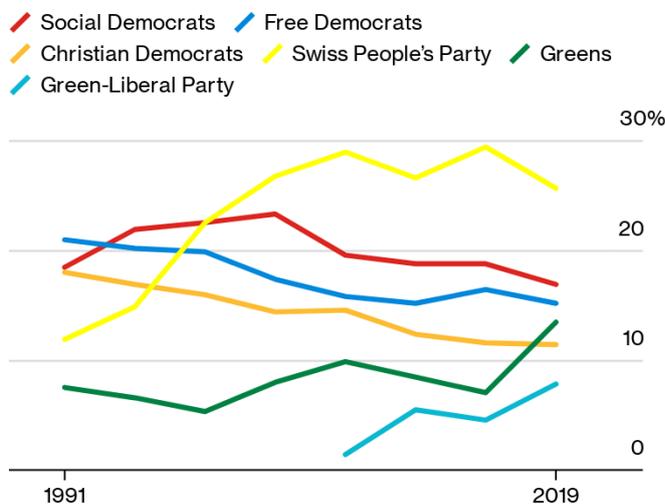
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Since summer 2019, the Swiss federal elections have been repeatedly used to justify the hesitation of the Swiss government to present a plan on how to proceed with the Swiss-EU framework agreement. Now that the elections are over, we know as much as before: notwithstanding the electoral shifts, the domestic controversies that make a ratification difficult remain the same. A clarification of Switzerland's vision for its relationship to the EU is still urgently needed.

The results of the elections to the Swiss federal parliament in October were hard to digest for the governmental parties. Not only the social democrats had to face losses, the Christian Democrats (whose voter share has been declining for years) also lost and, most importantly, the populist right had to face a loss of voter support for only the second time in two decades. The winners were parties with the adjective "green" in their name: [the left-wing Green Party and the Green Liberal Party at the centre of the political spectrum](#). The win can be explained by the most important topic in the electoral campaign – climate change. By contrast, European policy was hardly discussed during the campaign.

Relative Strength

The SVP's lead diminished while the Greens had their best result ever



Source: Swiss Federal Statistics Office
Note: Vote for lower house of parliament

Bloomberg

New parliament with the same controversies

For Switzerland's European policy, and most importantly, for the controversies on the [framework agreement](#), the electoral shifts did not bring significant changes. The agreement should formalise Switzerland's access to the EU market, providing an institutional roof for five existing and all future market access agreements. Negotiations were concluded in November 2018, but the Swiss government has not yet signed the agreement, because it fears that the agreement would not be ratified in the parliament or, ultimately, in a referendum.

The main controversies regarding the agreement in Switzerland concern labour market regulations, namely control and sanctioning measures against wage-dumping. These are called 'flanking' measures, because they were introduced to accompany the introduction of the free movement of persons principle. The framework agreement would weaken parts of these measures. In addition, the enhancement of social security rights for EU citizens related to the citizenship directive, and state aid provisions, are controversial.

The biggest winner in the October 2019 elections, the Green Party, opposes the framework agreement for the same reasons as the Social Democrats, who lost seats: they oppose the weakening of the flanking measures. Among the important centrist parties (Liberal Party/Free Democrats FDP, Christian Democrats CVP and Green Liberals GLP), only the Green Liberals clearly advocate the current framework agreement.

As for the disputed issues of the citizenship directive and state aid, legal scholars convincingly argue that these issues will be decided only with the next amendment to the free movement of persons agreement and the negotiation of a new free trade agreement, respectively. In the case of the citizenship directive, it is legally disputed as to whether the directive is partly or at all relevant to the Swiss-EU agreement on the free movement of persons. The same applies to state aid provisions: the EU wants rules that are more similar to its own, but the joint declaration by Switzerland and the EU only says that the free trade agreement of 1972 needs to be updated. It is a success for the Swiss negotiators that the framework agreement does not create obligations in relation to the citizenship directive and does not cover the free trade agreement. But the framework agreement does not remove them from the agenda and they still influence the domestic debate in Switzerland.

By contrast, there is no doubt that the framework agreement would bring practical disadvantages and only theoretical improvements in the protection of Swiss salaries. Switzerland is an important [destination country for posted workers](#). While they account for less than one per cent of Switzerland's workforce, their share is significant in some border regions (mainly Ticino, Geneva, Basel area, Jura) and in some economic sectors (mainly construction). Because of the huge wage differences between Switzerland and the countries of origin of the posted workers, the tight control of the working conditions of posted workers aimed at preventing wage-dumping was an important reason for the Left and trade unions to accept the free movement of persons in the first place.

In respect of these controversies, the government faces the same situation as before the election. And it has remained the same itself. [Notwithstanding the electoral shifts, all the members of the Federal Council, the Swiss government, were re-elected by the new parliament on 11th December.](#) The only minister who had to fear election day at all was [Ignazio Cassis](#), member of the Liberal Party, head of the department for foreign affairs and responsible for the relationship with the EU. His seat had been unsuccessfully challenged by [Regula Rytz](#), president of the Green Party.

Only days after Cassis' re-election, various parliamentarians made it clear that he owed his re-election more to Swiss political traditions [than to his achievements as foreign minister](#), which have been widely criticised because of his confusing communication regarding the framework agreement. The positions of the Green candidate Rytz were far too left-wing for her to be able to find an absolute majority in a situation in which all acting ministers were standing for re-election. In the whole of Swiss political history since 1848, acting ministers have failed to be re-elected only four times. Cassis is a Liberal and was elected in 2017 as the first Italian-speaking minister in 18 years, satisfying an unwritten rule that all regions and language groups have to be represented in Swiss political institutions, including the government.

The importance of convincing government leadership

What can we thus expect from 2020, with the new parliament, the old government, and the unsigned framework agreement still on the table? What we cannot expect is any quick action. But we must expect from the government better communication and a more active leadership, as this is the only way out of the current impasse.

While one must admit that 'selling' the framework agreement to the Swiss parliament and voters is a difficult task, the record of the Swiss government and its current foreign minister is mixed. While the current agreement contains significant concessions by the EU to the Swiss, for which Swiss negotiators are rarely given enough credit at home, the government's record in explaining the agreement at home looks worse. And this is a problem, as a look back at history shows.

Government leadership is crucial to tackling such a divisive issue. Lack of coherent government leadership was among the main reasons why the government lost the referendum on accession to the European Economic Area (EEA) in 1992 by a tiny share of the vote. This experience is also the reason why the government did not dare to sign the framework agreement as it currently stands one year ago, fearing a defeat in parliament that would delay the process for years. Instead, it launched broad consultations with all interested domestic political actors and, based on the insights gained, promised to decide its next steps, both in domestic politics and at the European level.

A domestic political compromise is necessary

The task is difficult, but not irresolvable. What is important is to define it correctly and to start searching for compromises, first and foremost at the domestic level. While Swiss diplomats can and

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probably should continue to talk to their EU counterparts, politicians should focus on the domestic arena.

The cost of the hesitancy with the framework agreements is rising. The EU is currently refusing to update the Swiss-EU agreement on technical barriers to trade in light of the entry into force of its new regulations on medical devices in May 2020. This has happened before, but this time, [small enterprises in the medical industry](#) have announced that they are moving their production to an EU country, because they cannot afford double conformity assessments. It is not a good sign if people stop believing that the government will solve the problem in due time. But the lack of faith is understandable, as the EU's request for a framework agreement was first formulated in 2010, and negotiations lasted from 2014 to 2018.

Thus, the government should not rely on the small probability that the EU will make further concessions on the framework agreement. If it does, all the better for Switzerland. But with Brexit most probably accelerating after Boris Johnson's victory in the United Kingdom, the EU will continue to treat Switzerland as a matter of little urgency, and it will remain reluctant to make compromises on fundamental principles such as anti-discrimination and the free movement of persons and services. All the more so as, although there is now a new EU Commission, the persons responsible for negotiations with Switzerland have remained the same.

Proposals for compromises at the domestic level exist; for example, those made by the [foraus think tank](#) or recent statements by [leading Swiss expert on European law Astrid Epiney](#). There are ways to replace parts of the anti-wage-dumping regulations with measures that would not violate the EU's idea of the free movement of persons principle but which would still protect Swiss salaries. These proposals now need to be debated. The task of the government is to lead this debate and manoeuvre the left and centrist parties into a negotiation mode, in order to build a broad coalition in support of a framework agreement. This may need political concessions to the left, as was the case in the process leading to the approval of the most important market access agreements, including the free movement of persons agreement, in 2001.

Prospects for a new coalition in favour of the framework agreement

First steps in the right direction have been taken since spring 2019. Under the leadership of Justice Minister Karin Keller-Sutter and in reaction to policies supporting older employees, the relationship between the government and the trade unions has started to normalise. The liberal Keller-Sutter frankly admits that she is seeking to rebuild the coalition of trade unions and the economy which in the past repeatedly secured a positive popular result for agreements with the EU at the polls.

The test for the renewed coalition comes in May 2020: Swiss voters will decide on the Swiss People's Party's [initiative to abrogate the free movement of persons agreement](#), which has been rejected by both government and parliament, because it would put at risk Switzerland's access to the

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EU market as a whole. Empirical research shows that [voters can be expected to support the government, if it earns their trust](#). The government thus must not only rebuild the coalition and seek compromises but defend its own European policy and its broader strategy - which includes the framework agreement - and communicate this unambiguously. Perhaps the [new information material](#) on Swiss-EU relations published by the foreign ministry in November 2019 is a sign that the federal administration is working on that too.

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