

The guillotine clause and the logic of parallelism

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The seven agreements of the Bilaterals I are linked by a provision known as the guillotine clause. Each of them provides that it shall cease to apply six months after the receipt of notification of non-renewal or termination of any one of them. The free movement agreement contains the clause in Article 25 paragraph 4, while the other six agreements contain parallel provisions.¹ The Union insisted on the clause in 1999 because it wanted to ensure that Switzerland could not keep the agreements that served its interests, such as the opening of air transport and public procurement, while dropping the free movement of persons that the Union regarded as the counterpart.

The guillotine clause turns any challenge to free movement into a challenge to the whole package. This is why the popular initiatives that sought to limit immigration have always been debated as European questions. The initiative "against mass immigration", accepted on 9 February 2014, required the Confederation to renegotiate the free movement agreement within three years. Its implementation in 2016 avoided quotas and introduced a job reporting obligation compatible with the agreement, which Part H, Chapter II has described.² The limitation initiative, which would have required the termination of the free movement agreement, was rejected on 27 September 2020 by about 62 per cent of the voters.³

The logic of parallelism has a second dimension that matters for this chapter. When the Union suspended Switzerland's full association with Horizon 2020 and Erasmus+ after the vote of February 2014, it signalled that participation in Union programmes depended on the free movement of persons, although no legal clause required this. The research community of Basel thus learned early that a vote on immigration can have consequences for laboratory budgets and student exchanges.⁴

1 Notes

1. Art. 25 para. 4 AFMP (SR 0.142.112.681) and corresponding provisions in the other six agreements of the Bilaterals I. To be verified. ↩
2. Art. 121a of the Federal Constitution (SR 101), adopted on 9 February 2014; implementation through the amendment of 16 December 2016 to the Foreign Nationals and Integration Act. See Part H, Chapter II. Cross-reference. ↩
3. Popular vote of 27 September 2020 on the popular initiative "for moderate immigration (limitation initiative)", rejected by about 61.7 per cent. Figures to be verified. ↩
4. On the partial association of Switzerland to Horizon 2020 from 2014 to 2016 and the full association from 2017 after the ratification of the Croatia protocol, and on the non-association to Erasmus+ since 2014, see the publications of the State Secretariat for Education, Research and Innovation (SERI). To be verified. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/basel-the-guillotine-clause-and-the-logic-of-parallelism