



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Département fédéral de justice et police DFJP

Office fédéral de la justice OFJ

Updating Swiss Federal Legislation

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Jean-Christophe Geiser
Avocat
Office fédéral de la justice
CH - 3003 Berne
jean-christophe.geiser@bj.admin.ch



Presentation summary

1. Publication of Swiss federal legislation
2. Some statistics
3. The project to formally update Swiss federal legislation
4. Similar projects at cantonal level
5. When will there be a substantive update?



Publication of Swiss federal legislation

The Confederation has three official organs of publicity in the legislative domain :

- the Federal Gazette (BBI) ;
- the Official Compilation of Federal Legislation (AS) ;
- the Classified Compilation of Federal Legislation (SR).

According to the stage of the procedure or the nature of the enactment, the bill or the enactment will be published either in one publication only, or successively in all three.

In addition to the printed version, a electronic version is provide online.



Publication in the Federal Gazette (BBI)

Used in particular for:

- legislative bills and constitutional provisions, and the dispatches (reports on new legislation) prepared by the government
- legislative bills and constitutional provisions, and the reports prepared by the parliamentary committees
- acts adopted by parliament
- amendments to the Federal Constitution adopted by Parliament
- federal decrees approving international treaties subject to a referendum



Publication in the Official Compilation (AS) I

- Publication of all enactments before they come into force
- Publication in a chronological order
- Publication that has binding effect with negative legal force (presumed knowledge of the law)



Publication in the Official Compilation (AS) II

Used in particular for:

- constitutional provisions;
- federal acts;
- government ordinances;
- other enactments issued by federal authorities or by public or private organisations or entities;
- federal decrees subject to a referendum;
- federal decrees approving international treaties;
- international treaties that are subject to or which have been submitted to a referendum;
- other international treaties that contain legal rules or which authorise enactment of such rules.



Classified Compilation (SR)

- The SR is a consolidated collection, classified according to subject matter of enactments that have been published in the AS and which are in force.
- The SR, in contrast to the AS, does not have mandatory effect with negative legal force; it is a very valuable work tool.
- Several months can pass between publication of an enactment in the AS and publication in the SR. For this reason, the SR is never completely "up to date".
- However the electronic versions of the SR and the AS are updated almost every week.
- The SR is divided into two sections: domestic law and international law.



Domestic section of the SR

Classification according to subject matter:

- 1 State – People – Authorities
- 2 Private law – Administration of civil justice – Enforcement
- 3 Criminal law – Administration of criminal justice – Enforcement
- 4 Education – Science – Culture
- 5 National defence
- 6 Finance
- 7 Public works – Energy – Transport and communications
- 8 Health – Employment – Social security
- 9 Economy – Technical cooperation



International section of the SR

Classification according to subject matter:

- 0.1 General public international Law
- 0.2 Private law – Administration of civil justice – Enforcement
- 0.3 Criminal law – Mutual assistance
- 0.4 Education – Science – Culture
- 0.5 War and neutrality
- 0.6 Finance
- 0.7 Public works – Energy – Transport and communications
- 0.8 Health – Employment – Social security
- 0.9 Economy – Technical cooperation



Classification according to subject matter in the SR: an example

3 Criminal law – Administration of criminal justice – enforcement

31 Ordinary criminal law

311 Swiss Criminal Code

311.0 Swiss Criminal Code of 21 December 1937

311.01 Ordinance of 19 September 2006 on the Criminal Code and the Military Criminal Code

311.1 Federal Act of 20 June 2003 on the Criminal Law applicable to Minors

311.2 Victim support

→ 312.5

→ 312.51

311.312 Distribution of confiscated assets

→ 312.4

311.955 Money laundering

→ 955.0

→ 955.23

312 Criminal procedure

312.0 Federal Act of 15 June 1934 on the Administration of Criminal Justice

312.025 Ordinance of 22 October 2003 on Federal Criminal Procedural Costs



The enactments contained in the Classified Compilation (as of 10.09.2007)

Type of enactment	Number
Enactment subject to mandatory referendum	2
Enactment subject to optional referendum	340
Parliamentary ordinance	13
Simple federal decree (Enactment issued by Parliament)	40
Government ordinance	971
Ordinance issued by a department (ministry)	396
Ordinance issued by a federal office	124
Enactment issued by an autonomous body	52
Enactment under bilateral international law	1685
Enactment under multilateral international law	801
Other enactments	113
Total	4537

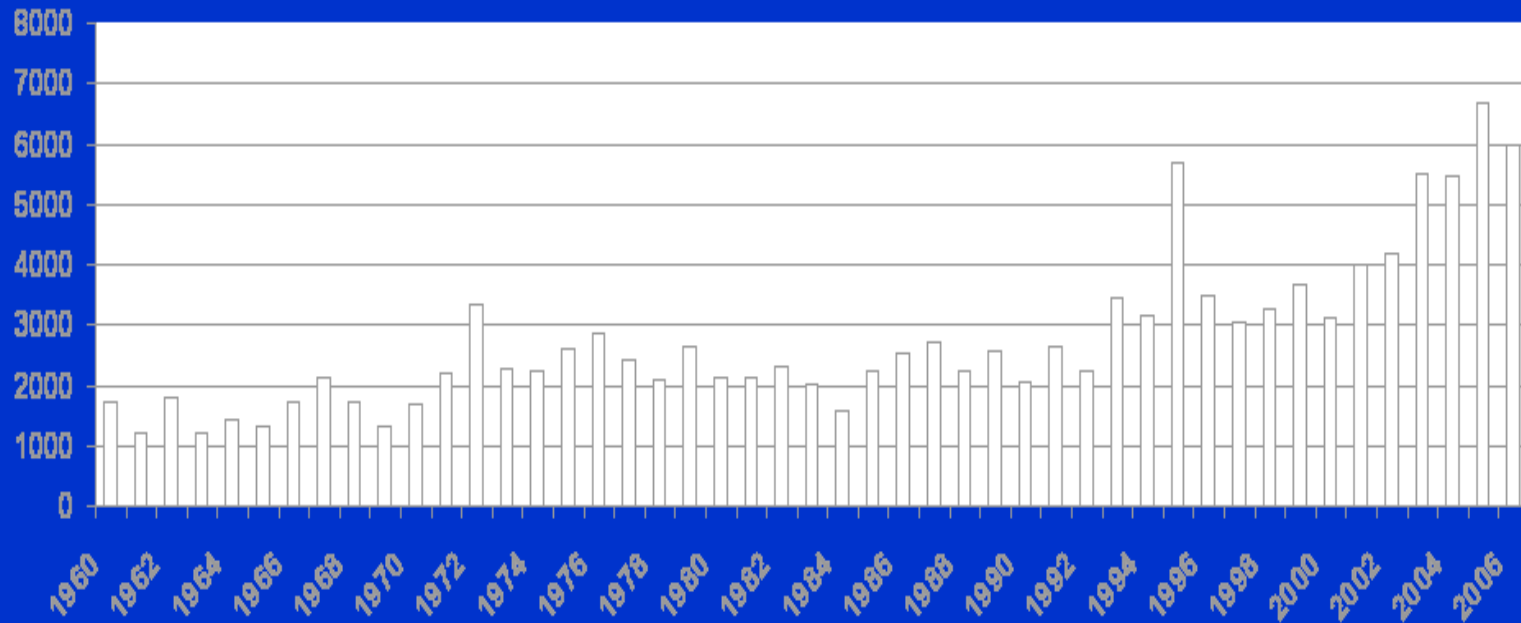


Number of pages in the Classified Compilation of Federal Legislation (as of 10.09.2007)

<i>Date</i>	<i>Number of pages updated</i>	<i>Total number of pages</i>	
		<i>National law</i>	<i>International law</i>
December 1990		19'155	
December 1991		19'336	
December 1992		19'568	
01.09.2000	3'780		
01.11.2001	3'396		
01.12.2002	3'516		
01.12.2003	4'160		
01.12.2004	3'470	25'590	28'368
01.12.2005	5'092	25'958	29'229
01.12.2006	5'966	26'990	30'214
01.09.2007	7'710	27'688	30'800

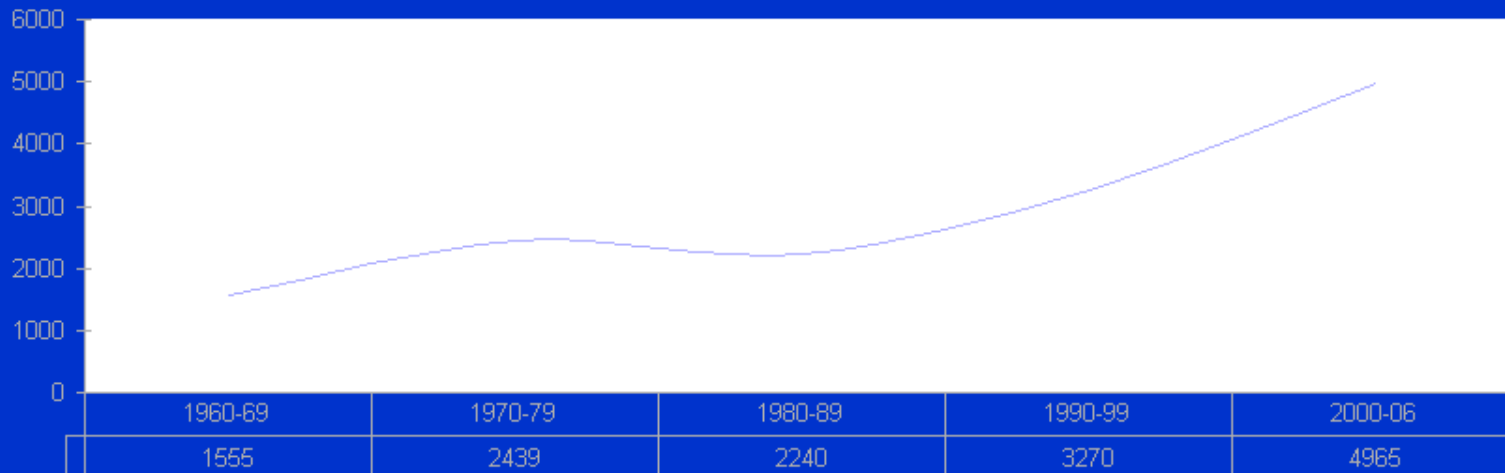


Number of pages published each year in the Official Compilation of Federal Legislation





Trends in the Number of pages published in the Official Compilation of Federal Legislation





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Project to formally update Swiss federal law



The concept of formal updating

- Origin: in 2005, parliament instructed the government to examine all the acts and ordinances.
- Aim : repeal obsolete enactments, shorten existing texts, simplify the collection of legislative enactments, avoid repetition (horizontal and vertical) and contradictions.
- Scope :
 - acts published in the domestic law part of the SR
 - bilateral international treaties (including those not published in the SR) that were of limited duration or which dealt with a specific project that has been completed.



The practical procedure for the project

- The Federal Chancellery (government staff office) was made responsible for the project.
- Pragmatic approach, in order to avoid expending too many working hours.
- The examination has been carried out on the basis of a standard checklist based on the SR.
- Staff from all the offices of the federal administration have identified the provisions to be repealed or amended.
- Results have been recorded on an IT support system according to a precise procedure.
- For the decisions that must be made by Parliament, the government submitted a legislative bill and report to Parliament on 22 August 2007; the bill has been adapted by Parliament on March 2008.



Results of the formal updating project

Laws and federal decrees (enactments issued by Parliament):

- 31 enactments can be repealed
- In addition, 145 articles can be repealed or amended in 55 enactments.

Ordinances of the government or its departments:

- 168 enactments can be repealed in their entirety
- In addition, 214 articles can be repealed in 106 enactments.

The federal decrees approving international treaties, some of which have been published in the SR, can for the most part be removed from there, without however being formally repealed. The domestic law section of the SR is therefore being reduced by 38 supplementary enactments.

In total, it will be possible to repeal 237 enactments from the around 2000 acts from the domestic law section of the SR that have been reviewed (around 11%), and to amend 161 (around 8%).



Examples of the repeal of enactments subject to a referendum I

- **Federal Act of 20 December 1962 on the Payment of an Allowance to Persons in receipt of a Pension from the Federal Employee Pension Funds (SR 172.222.3)**

This federal act has been implemented. It can be repealed.



Examples of the repeal of enactments subject to a referendum II

- **Federal Decree of 23 December 1959 permitting an Extraordinary Subsidy for the Construction of the New Building at the Hard-Winterthur Vocational School (SR 412.193)**

This federal decree has been implemented. It can be repealed.



Examples of the repeal of enactments subject to a referendum III

- **Federal Act of 9 October 1992 on the Increase in Customs Duties on Fuels (SR 632.112.710)**

This Act, which amended other enactments, no longer has any legal effect. It can be repealed.



Examples of the repeal of enactments subject to a referendum IV

- **Federal Decree of 13 June 1957 on Extraordinary Aid to Swiss Abroad and Repatriated Victims of the 1939 to 1945 War (SR 983.1)**

There are no longer any cases where this federal decree could apply. It no longer serves any purpose, so it can be repealed.



Examples of the repeal of enactments subject to a referendum V

- **Federal Decree of 20 September 1957 on Advance Payments to the Swiss Victims of National Socialist Persecution (SR 983.2)**

There are no longer any cases where this federal decree could apply. It no longer serves any purpose, so it can be repealed.



Example of the repeal of certain legal provisions: the Federal Act on Lotteries and Commercial Gambling

- Act dating from 1926, never revised.
- The provisions relating to lottery loans (obligations relating to a lottery): an obsolete institution which has not been used for more than 40 years.
- 20 of the 56 Articles of the Act can be repealed.
- In the Ordinance on lotteries, 25 of 49 articles can be repealed.



Loi fédérale relative à la mise à jour formelle du droit fédéral

du 20 mars 2008

*L'Assemblée fédérale de la Confédération suisse,
vu le message du Conseil fédéral du 22 août 2007¹,
arrête:*

I

Sont abrogés:

1. le statut des fonctionnaires du 30 juin 1927²;
2. l'arrêté fédéral du 23 juin 1988 concernant le versement au personnel fédéral d'une allocation extraordinaire en 1988³;
3. la loi fédérale du 20 décembre 1962 concernant le versement d'une allocation aux bénéficiaires de rentes des caisses d'assurance du personnel de la Confédération⁴;
4. l'arrêté fédéral du 5 octobre 1979 octroyant une contribution extraordinaire pour la construction des nouveaux bâtiments du Technicum ETS d'arboriculture, de viticulture et d'horticulture de Wädenswil (Centre de formation comprenant les niveaux technicum ETS, école spéciale et cours professionnels)⁵;
5. l'arrêté fédéral du 23 décembre 1959 allouant une subvention extraordinaire pour la construction du nouveau bâtiment de l'École professionnelle du Hard-Winterthour⁶;
6. l'arrêté fédéral du 21 juin 1902 qui complète l'arrêté du 27 juin 1890 créant un musée national⁷;
7. la loi fédérale du 9 octobre 1992 concernant l'augmentation des droits d'entrée sur les carburants⁸;
8. la loi fédérale du 23 juin 1944 sur la concession des distilleries domestiques⁹;

¹ FF 2007 5789

² RS 1 459; RO 1958 1483, 1997 2465, 2000 411 1853, 2001 894 2197 3292

³ RO 1988 1588

⁴ RO 1963 271

⁵ RO 1980 186

⁶ RO 1960 1032

⁷ RS 4 238

⁸ RO 1993 955

⁹ RS 6 933; RO 1969 787



Cantonal examples I

Canton Graubünden

- 1996-2000
- Systematic formal and material review, in order to:
 - eliminate the unnecessary or repetitive provisions,
 - reduce the detail in certain provisions in order to increase the level of discretion available to implementing authorities,
 - regroup certain provisions.
- Results:
 - 643 enactments examined,
 - 17 cantonal acts and 25 ordinances of the Cantonal Parliament repealed or revised,
 - 68 ordinances repealed, 92 revised.



Cantonal examples II

Canton Ticino

- 2001-2005
- Objectives: the repeal of obsolete, superfluous or contradictory legal provisions and the simplification of the regulations.
- The main aim was to reduce to a strict minimum provisions regulating organisational or procedural matters.
- Results:
 - 90 enactments repealed completely,
 - 126 enactments amended,
 - from a total of 715.



Cantonal examples III

Canton Zurich

In 1998, the Cantonal Parliament in Zurich instructed the government to examine the necessity and the effectiveness of all cantonal enactments.

- Aims:
- to give more freedom to individuals ;
 - to limit to what is strictly necessary the provisions regulating issues of organisation or de procedure ;
 - to increase the latitude available to the administration so that it can work more efficiently ;
 - to create legislation that can adapt rapidly to changes in circumstances ;
 - to reinforce the autonomy of the communes and permit decentralised solutions and
 - to introduce procedural instruments that guarantee the quality of the legislation and of the application of the law.



The legislative enactments have been allocated to four groups :

- Group A: enactments not requiring any amendment (45 %);
- Group B: enactments under revision or for which revision has been planned for the near future(20 %);
- Group C: enactments requiring revision that can be carried out without too many complications (10 %);
- Group D: enactments where amendment required a certain administrative investment or which are impossible to amend in the near future (20 %); these enactments have been classified according to the level of urgency of their revision.

A last group was also identified: enactments which, although still in force have lost all real relevance (5 %). They have been removed from the loose-leaf edition.

In 2003, the government submitted a bill to parliament to repeal fifteen decrees and to adopt three new ones; within its own competencies, it has also repealed fourteen enactments and has amended ten.