



Schweizerische Eidgenossenschaft  
Swiss Confederation  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Justice and Police FDJP

**Federal Office of Justice (FOJ)**

Representation of Switzerland before the ECHR, the CAT, the CEDAW,  
the CERD and the CRC

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Our reference: : F.2021/3  
**Bern, 5 December 2022**

## **Application No. 53600/20 – Verein KlimaSeniorinnen Schweiz and Others v. Switzerland**

### **Statement of Facts**

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#### **A. Background**

On 26 November 2020, the association Verein KlimaSeniorinnen Schweiz and others (hereinafter: “the Applicants”) filed an application with the European Court of Human Rights (ECHR) against Switzerland, a party to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (hereinafter: “the Convention”; SR 0.101) for its contribution to global warming, which was alleged to have an impact on their living and health conditions.

In essence, the Applicants criticise Switzerland for failing to set climate targets that are consistent with international climate law and the best available scientific knowledge and for failing to implement and enforce the measures necessary to achieve its inadequate 2020 target. The Applicants further complain that the Swiss courts have not recognised that the members of the association have an interest worthy of protection within the meaning of Article 25a of the Federal Act of 20 December 1968 on Administrative Procedure (APA)<sup>1</sup>. According to the Applicants, Switzerland has thus violated Article 6 para. 1 (access to a court) and Article 13 (effective remedy) of the Convention, as well as Articles 2 and 8.

The Statement of Facts below comprises two phases, namely the first covering the period up to the decision of the Federal Administrative Court of 27 November 2018 (A-2992/2017) and, where relevant, up to the decision of the Federal Supreme Court of 5 May 2020 (SCD 146 I 145). The second phase comprises developments that have occurred to date since that time, which the courts have not had the opportunity to examine.

#### **B. Statement of Facts**

##### **1. First phase**

- 1.1. On 25 November 2016, the Applicants filed with the Federal Council, the Federal Department of the Environment, Transport, Energy and Communications (DETEC), the Federal Office for the Environment (FOEN) and the Federal Office of Energy (SFOE) an application pursuant to Article 25a APA (see Annex 14 to the Application) for cessation of omissions in climate protection. By decision of 25 April 2017, DETEC declined to deal with the substance of the Application (see Annex 15 to the Application). On 26 May 2017, the Applicants filed an appeal against this decision with the Federal Administrative Court (FAC).

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1 SR 172.021



In its decision of 27 November 2018 (cf. Annex 17 to the Application), the Federal Administrative Court held that women over the age of 75 are not the only population group affected by the consequences of climate change, as they affect people, animals and plants in the same way, even if not everyone is affected in the same way. In particular, it states that diverse effects vary among different population groups in terms of economic and health impacts, citing as examples the health burden that heat waves would place on people living in cities and agglomerations due to the formation of heat islands and the fact that they could equally put infants and small children at risk as well because of their susceptibility to dehydration, and heat-related high ozone levels, which could lead to respiratory problems and reduced lung function. It also argues that the changed geographic range of carriers of disease such as ticks and mosquitoes will newly affect parts of the population which had previously not been exposed to such risks. Climate change, and in particular the associated change of average temperature and average amounts of precipitation also impact forestry, agriculture, winter tourism, water management and the occurrence of natural perils (landslides, risk of flooding, etc.)<sup>2</sup>.

In its decision of 5 May 2020 (cf. Annex 19 to the Application), the Federal Supreme Court recalled that Article 25a APA does not constitute a legal basis for bringing an *actio popularis* and that in order to bring such an action, citizens must be suffering prejudice to their rights by the actions or omissions of the authorities. In this regard, it notes that the existence of rights under Article 25a APA presupposes that the person making the request is affected to a certain extent in his or her personal legal sphere, which is not the case for the Applicants or for the rest of the population. According to the Federal Supreme Court, the Applicants' (fundamental) rights have not been affected with the required intensity as a result of the omissions of which they accuse the Swiss authorities. Indeed, based on a 2018 report by the Intergovernmental Panel on Climate Change (hereinafter: the IPCC Report), the Federal Supreme Court explains that the thresholds established by the Paris Climate Agreement (well below 2 °C) will not be reached in any event before 2040<sup>3</sup>.

1.2. The climate change and policy situation up to the time of the two federal decisions is as follows:

1.2.1. National climate legislation up to the end of 2020

Switzerland is developing its climate legislation in line with its international commitments. Under the Kyoto Protocol, the CO<sub>2</sub> Act<sup>4</sup> stipulated that Switzerland's greenhouse gas emissions should be reduced by 20% by 2020 compared with 1990 levels (*national target*). This equated to an average reduction of 15.8% for the period 2013 to 2020, corresponding to Switzerland's international target for the second commitment period under the Kyoto Protocol (*international target*).

The Federal Council set its 2020 target in light of the scientific basis available at the time. The 2007 Fourth Report of the Intergovernmental Panel on Climate Change (IPCC)<sup>5</sup> noted that the concentration of greenhouse gases in the atmosphere must be stabilised at a level of 445-490 ppm CO<sub>2</sub> equivalent to avoid dangerous climate change. In this way, it should be possible to limit the rise in temperature to 2 or even 2.4 degrees Celsius compared to the pre-industrial period. In order to achieve this target, the population change curve would require a reduction in global greenhouse gas emissions of 5.8 t to no more than 1 to 1.5 t CO<sub>2</sub> equivalent per capita. Such an objective

<sup>2</sup> Decision A-2992/2017, sec. 7.4.2 and 7.4.3.

<sup>3</sup> SCD 146 I 145, consid. 5.3.

<sup>4</sup> SR 641.71

<sup>5</sup> [Fourth Assessment Report — IPCC \(full version in English only\)](#)

would require a reduction in greenhouse gas emissions of at least 50-85% globally and a reduction of 80-95% in industrialised countries by 2050 compared to 1990. The industrialised countries were therefore required to reduce their emissions by 25-40% by 2020 compared to 1990. The Federal Council has proposed a target of minus 20% by 2020 compared to 1990. In doing so, it drew on the objectives of Switzerland's main trading partners, the EU countries. At that time, the EU also had a target of minus 20% by 2020. The Federal Council was aware that greater reduction efforts on the part of industrialised countries were needed in order to stabilise the atmospheric concentration of greenhouse gases at an acceptable level, but wanted to retain the option of raising the reduction target to at least 30% by 2020 compared to 1990, depending on developments in international negotiations. Parliament has finally confirmed these objectives. Subsequently, however, it renounced the intention to increase the reduction target from 20 to 30%.

Until the end of 2020, climate legislation provided for the following instruments:

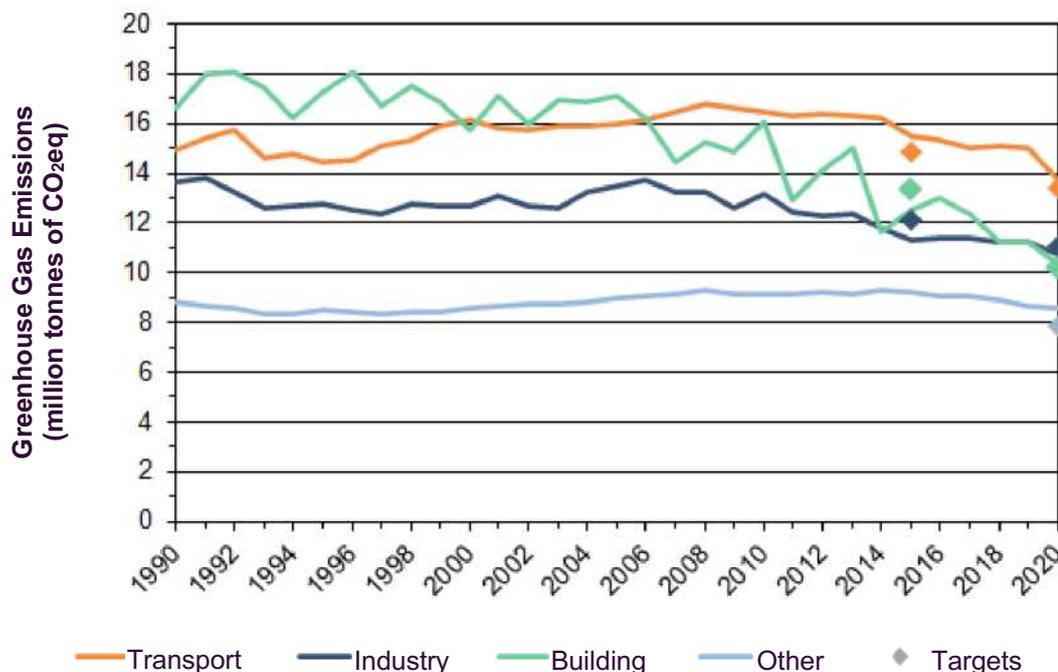
- Levy of an incentive tax (**CO<sub>2</sub> levy**) on fossil fuels of CHF 12 per tonne CO<sub>2</sub>, initially set at CHF 96 per tonne CO<sub>2</sub> as of 1 January 2018;
  - o allocation of a maximum of 450 million francs per year to the Federal and Cantonal **Building Programme** and a maximum of 25 million francs to the **Technology Fund**, i.e. almost a third of the revenue from the levy;
  - o proportional redistribution of the remaining two thirds **to households and businesses**;
- participation of all installations with high greenhouse gas emissions that are active within the meaning of Annex 6 of the CO<sub>2</sub> Ordinance<sup>6</sup> in the **Emissions Trading Scheme** (ETS); Since 1 January 2020, the ETS has been linked to the EU trading system;
- conclusion of a **reduction obligation** for small and medium-sized installations that operate in accordance with Annex 7 of the CO<sub>2</sub> Ordinance and are not included in the ETS; these installations are thus exempt from the CO<sub>2</sub> levy;
- **CO<sub>2</sub> requirements for new vehicles**, which are being regularly tightened in line with EU requirements; as from 2020, limiting passenger cars to a maximum of 95 g CO<sub>2</sub> per km and target of 147 g CO<sub>2</sub> per km on average for vans and light articulated vehicles;
- **obligation** on the part of **importers of fossil fuels to offset** a certain proportion of CO<sub>2</sub> emissions from transport; such offset shall not exceed five cents per litre of fuel;
- **sectoral agreement** between the Confederation and the Association of Waste Treatment Plants for the period 2010 to 2020 with the aim of reducing emissions from waste incineration;
- coordination by the Confederation of measures **to adapt to climate change** and provision of the necessary basis for such measures;
- **Climate Programme – training and communication** developed with the aim of supplementing and strengthening the measures of the CO<sub>2</sub> Act and supporting climate protection activities; the programme focuses on initial and continuing education, as well as information and advice for cities and municipalities.

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<sup>6</sup> SR 641.771

These measures, together with measures taken in other areas, in particular agriculture and energy, should enable Switzerland to reduce its emissions by 20% by 2020 compared to 1990 levels. The Greenhouse Gas Inventory 2020 shows that Switzerland narrowly missed this target: In 2020, greenhouse gas emissions were around 19% below 1990 levels. Due to the mild winter, emissions from buildings were particularly low in 2020. Measures to contain the coronavirus pandemic have also contributed to a reduction in transport-related emissions. However, only the industrial sector has achieved this objective. Emissions from the construction, transportation and non-construction sectors were above target levels. On average over the period 2013 and 2020, Switzerland reduced its greenhouse gas emissions by around 11% compared to 1990. It met its international target for the second commitment period of the Kyoto Protocol (average of -15.8%) by taking into account additional contributions, including the CO<sub>2</sub> absorption capacity of Swiss forests and Swiss wood products, as well as emission reductions from projects abroad<sup>7</sup>.

The graph below shows the trends in greenhouse gas emissions between 1990 and 2020, broken down by sector. It also specifies the target values for the various sectors for 2020.



**Illustration 1: Trends in greenhouse gas emissions between 1990 and 2020 by sector**

### 1.2.2. Adapting to the impacts of climate change

The Federal Council recognised the need to adapt to the consequences of climate change at an early stage and adopted a national strategy in 2012<sup>8</sup>. The Federal Council sets adaptation targets, identifies key cross-sectoral risks related to climate change and outlines adaptation opportunities. Thermal stress is one of the major risks identified. The adaptation strategy is federal. It aims to integrate management of climate change into its sectoral policies. The cantons, cities and municipalities do not have specific obligations, but many measures fall within their competence. Pursuant to the CO<sub>2</sub> Act, the Confederation is required, as a primary matter, to perform a coordinating function and provide the basis for measures.

<sup>7</sup> [Review of the 2020 target \(for the period 2013-2020\) \(admin.ch\)](#)

<sup>8</sup> Swiss Confederation (2012); [Adaptation to climate change in Switzerland: Strategy of the Federal Council \(admin.ch\)](#)

The Federal Council has compiled federal measures to implement the adaptation strategy into action plans. The first, covering the period from 2014 to 2019, contains 63 measures to be taken by the federal authorities concerned<sup>9</sup>, including the measures “sh1 Information and recommendations on heat wave protection” of the Federal Office of Public Health (FOPH) and “dt4 Information and awareness-raising for planners” of the Federal Office for Spatial Planning (ARE). In 2017, on behalf of the FOPH, the Swiss Institute for Tropical and Public Health (Swiss TPH) published the “Heat Measurements Toolkit: A catalogue of measures for the prevention of heat-related health risks” for the cantonal and communal authorities (implementation of the measure dt4)<sup>10</sup>. In 2018, the FOEN and the ARE published the report “When the city overheats: Basis for Climate Change Adapted Urban Development” with the aim of reducing heat islands in populated areas (implementation of measure dt4)<sup>11</sup>.

In 2013, the Confederation launched the pilot programme “Adaptation to Climate Change” with the aim of supporting the implementation of the adaptation strategy at the local and regional levels<sup>12</sup>. 31 projects were carried out during the first phase of the programme, including the project “Effect of heatwaves on mortality and possible adaptation measures”, which analyses the effectiveness of the measures taken by the cantons (see infra). In Sion, a pilot project involved redeveloping public space to better adapt to heat.

Between 2010 and 2017, the FOEN analysed the risks and opportunities of climate change for Switzerland with the aim of planning adaptation measures and developing the required strategy. It produced a Switzerland-wide synthesis of the results of eight regional case studies<sup>13</sup>. The analysis confirmed that increased heat stress and the resulting damage to human health are among the main risks of climate change in Switzerland.

The National Centre for Climate Services (NCCS) was founded in late 2015<sup>14</sup>. It is a federal network whose objective is to coordinate the development, sharing and dissemination of climate services. The CH2018 Climate Scenarios<sup>15</sup> and the Hydro-CH2018 Hydrological Scenarios<sup>16</sup> were developed and published under the auspices of the NCCS. They provide an important basis for targeting adaptation measures and strategies.

In response to the hot summer of 2003, the Federal Office of Meteorology and Climatology (MeteoSwiss) has been issuing heatwave warnings since 2005. This warning system was reviewed in 2020 and adapted to new scientific knowledge on the relationship between heat stress and mortality. Since 2005, the FOPH has been issuing recommendations to the cantons, the public health system and the general public on how to deal with heat waves; it updates these regularly<sup>17</sup>.

The cantons are responsible for the protection of the population during periods of high temperatures. The cantons of Geneva, Vaud, Valais, Fribourg, Neuchâtel and Ticino have drawn up action plans that they can activate before the start of a heatwave. The other cantons also take measures where necessary, but have not developed a specific plan. The effectiveness of these measures was demonstrated in a study commissioned by the FOPH<sup>18</sup>.

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<sup>9</sup> Swiss Confederation (2014); [Climate Change Adaptation in Switzerland – Action Plan 2014–2019 \(admin.ch\)](#)

<sup>10</sup> Mr S. Ragetti and Mr Rössli (updated version 2021); [FOPH Toolbox against heat.pdf \(imad-qe.ch\)](#)

<sup>11</sup> FOEN (2018), [When the city overheats \(admin.ch\)](#)

<sup>12</sup> [Pilot programme “Adaptation to climate change” \(admin.ch\)](#)

<sup>13</sup> [Climate-related risks and opportunities \(admin.ch\)](#)

<sup>14</sup> [National Centre for Climate Services NCCS \(admin.ch\)](#)

<sup>15</sup> [Swiss Climate Scenarios \(admin.ch\)](#)

<sup>16</sup> [Hydrological scenarios - Hydro-CH2018 \(admin.ch\)](#)

<sup>17</sup> [Heat \(admin.ch\)](#)

<sup>18</sup> [Effects of Heat on Health in Switzerland \(admin.ch\)](#)

### 1.2.3. Nationally determined contribution and targets for 2030 and 2050

On 27 February 2015, Switzerland was the first country to announce its nationally determined contribution: It has committed to reducing its greenhouse gas emissions by 50% by 2030 compared to 1990, which represents an average reduction of 35% over the period from 2021 to 2030<sup>19</sup>. It has set an indicative reduction target of 70-85% by 2050. In the explanations provided, it indicated that it wanted to achieve its 2030 target through measures both domestically and internationally and that this target would apply subject to the approval of Parliament. To define its reduction rate, Switzerland relied on the scientific bases of that time, contained in the Fifth IPCC Report of 2014<sup>20</sup>. It noted in particular that its commitment to reduce emissions by 50% by 2030 compared to 1990 would put it on a path which is consistent with the recommendations of the IPCC report, namely to reduce global emissions by 40 to 70% by 2050 compared to 2010.

In its public statements, Switzerland has also announced its acceptance of an equitable contribution, which, according to it, covers various aspects: In its view, one indicator alone was not enough to reflect equity or a fair distribution of countries' efforts at the global level. It added that the changing circumstances in a given country should be taken into account when thinking about equity. It stated that a country's responsibility is reflected in its past, current and future greenhouse gas emissions. It noted that Switzerland's responsibility for greenhouse gas emissions was limited, accounting for only about 0.1% of global emissions at the time and that its per capita emissions were in line with the international average. It argued that its contribution to global warming was further diminishing as a result of the measures it was taking domestically. It reiterated that it had a low level of historical emissions (some 0.2% since 1990). It concluded that equity required honouring past efforts and the pioneering role played by some States. It stated that its emission abatement costs were high due to the limited availability of effective and low-cost short-term measures. It pointed out that its power generation was virtually decarbonised and that it had almost no heavy industry. It saw the potential to reduce emissions mainly in the construction and transport sectors, but with time required to realise this potential.

### 1.2.4. Ratification of the Paris Agreement and complete revision of the CO<sub>2</sub> Act

By ratifying the Paris Agreement on 6 October 2017, Switzerland made a final commitment to halve its greenhouse gas emissions by 2030 and to reduce them by an annual average of 35% over the period from 2021 to 2030 compared to 1990. Parliament has endorsed these objectives<sup>21</sup>. In order to implement this international commitment and to comply with Article 3 paragraph 5 of the CO<sub>2</sub> Act, the Federal Council submitted to Parliament the dispatch of 1 December 2017 on the complete revision of the CO<sub>2</sub> Act for the period after 2020, with a view to setting targets and measures up to 2030<sup>22</sup>. In its explanatory memorandum, the Federal Council referred to its close relationship with the EU. It noted the following situation: The objective is also oriented towards the EU, Switzerland's most important trading partner. Despite this proximity to Europe, however, the starting position is different. In contrast to the EU, Switzerland produces hardly any fossil-based electricity and has a significantly smaller share of emissions-intensive industry. In the EU, on the other hand, there is still great potential for

<sup>19</sup> [Switzerland targets 50% reduction in greenhouse gas emissions by 2030 \(admin.ch\)](#)

<sup>20</sup> [Publications — IPCC\(Fifth Assessment Report\)](#)

<sup>21</sup> BBI 2017 4017

<sup>22</sup> BBI 2018 229

cost-effective CO<sub>2</sub> reduction. Switzerland, on the other hand, has a large share of grey emissions in international comparison, which is why it seems appropriate to set an overall reduction target higher than that of the EU (50% instead of 40% in the EU), but also to allow, in contrast to the EU, additional measures that can be implemented abroad.” Parliament adopted the draft on 25 September 2020. It was rejected at the ballot box on 13 June 2021 (for more details, see “Second Phase”).

#### 1.2.5. Extension of the current CO<sub>2</sub> Act until the end of 2021

Parliamentary deliberations on the comprehensive revision of the CO<sub>2</sub> Act have been delayed. In December 2019, prompted by a parliamentary initiative<sup>23</sup>, Parliament decided to partially revise the CO<sub>2</sub> Act<sup>24</sup> in order to extend the time-limited measures and set a reduction target for 2021. By 2021, Switzerland’s greenhouse gas emissions were to be reduced by 1.5% compared to 1990. The 2021 target was the legal basis for determining the offset rate applicable to importers of fuels and the level of increase in the CO<sub>2</sub> levy. The offset rate defines the proportion of transport-related emissions that must be offset internally.

Due to the failure to meet the interim target for fossil fuels under Article 94 paragraph 1 letter d of the CO<sub>2</sub> Ordinance, the CO<sub>2</sub> levy was increased in 2022 to the statutory maximum of 120 francs per tonne CO<sub>2</sub>.

#### 1.2.6. Zero net emissions target and Switzerland’s long-term climate strategy

On 28 August 2019, the Federal Council decided that, from 2050, Switzerland must not emit more greenhouse gases than natural sinks can absorb and stored by technical installations (net-zero emissions target)<sup>25</sup>. The need to reduce greenhouse gas emissions to net zero is based on the science provided by the IPCC in autumn 2018 in a special report on global warming of 1.5 degrees<sup>26</sup>. This scientific basis also forms the basis for Switzerland’s climate policy objectives and *Switzerland’s long-term climate strategy*, which the Federal Council asked DETEC (FOEN) to develop on 28 August 2019. The Strategy was adopted on 27 January 2021 and deposited with the Secretariat of the United Nations Climate Change Conference (for details see “Second phase”).

## 2. **Second phase**

2.1. The climate change and policy situation since the two federal decisions is as follows:

#### 2.1.1. Complete revision of the CO<sub>2</sub> Act (rejected by popular vote on 13 June 2021); Extension of the CO<sub>2</sub> Act until the end of 2024

Parliament adopted the new CO<sub>2</sub> Act on 25 September 2020. It implemented Switzerland’s international commitments under the Paris Agreement and included climate policy objectives and measures that would apply until 2030. The aim was to incorporate into national legislation the internationally agreed targets set in 2017 (minus 50% emissions by 2030 and minus 35% for the period from 2021 to 2030, in each case compared to 1990). Parliament had endorsed these objectives at the time of approving the Paris Agreement. It then needed to make a statement

<sup>23</sup> 17.405 iv. pa. Burkart, [Renew temporary tax relief for natural gas, liquid gas and biofuels](#)

<sup>24</sup> BBI 2019 8183

<sup>25</sup> [Federal Council aims for a climate-neutral Switzerland by 2050 \(admin.ch\)](#)

<sup>26</sup> IPCC (2018); [IPCC-Special-Report-1.5-SPM en.pdf](#)

on minority proposals setting more ambitious objectives, or less ambitious objectives, which it had rejected.

The comprehensive revision of the CO<sub>2</sub> Act was to come into force on 1 January 2022 and proposed the following measures:

- renewal of the CO<sub>2</sub> levy that has been imposed on fossil fuels such as heating oil, natural gas and coal since 2008, to a maximum of CHF 210 per tonne of CO<sub>2</sub>;
- introduction of a tax on air tickets of between 30 and 120 francs, depending on the distance and the class in which the person travels; a tax on business and private flights was also introduced;
- renewal of the commitment to reduce CO<sub>2</sub> emissions for companies and extension of this instrument to all companies; in return, companies were to be exempted from the CO<sub>2</sub> levy;
- continuation of the ETS, coupled with the EU trading scheme, for companies emitting large amounts of CO<sub>2</sub>; in return, these companies were to be exempted from the CO<sub>2</sub> levy.
- establishment of a Climate Fund financed on the basis of the polluter-pays principle and as a continuation of the Federal and Cantonal Building Programme and the current Technology Fund; the Climate Fund also had the ambition of promoting climate-friendly investments, supporting innovative businesses and providing financial assistance to support measures to protect against the dangers of climate change;
- renewal and extension of the obligation to offset emissions for importers of thermal fuels and admissibility of domestic and foreign abatement measures;
- Renewal and lowering of emission targets for new vehicles (passenger and delivery vehicles, lorries) in coordination with EU requirements;
- setting upper limits for CO<sub>2</sub> exhausts for old and new buildings.

Part of the economy and young people committed to climate action won a referendum against the law. On 13 June 2021, Swiss citizens rejected the complete revision of the law at the ballot box, raising the risk of a regulatory gap in at least one area. The CO<sub>2</sub> Act is not time-limited, but the fact that the new version of the Act could not come into force would have left Switzerland without a national reduction target after 2021 and thus without a reference to the obligation to offset CO<sub>2</sub> emissions and the tax exemption related to the reduction obligation, which is limited to 2021.

In order to avoid any gaps, Parliament decided on 17 December 2021 to extend the obligation to offset emissions and the tax exemption associated with the reduction obligation and to maintain the current reduction target until the end of 2024. This partial revision of the CO<sub>2</sub> Act is the result of a parliamentary initiative by the Environment, Spatial Planning and Energy Committees of the National Council (ESPEC-N)<sup>27</sup>. The reduction target for the years 2021 to 2024 is 1.5% per year compared to 1990, although from 2022 no more than 25% of this reduction can be achieved by measures implemented abroad.

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<sup>27</sup> 21.477 iv. pa. ESPEC-N. [Extension of the CO<sub>2</sub> Act's reduction target \(parliament.ch\)](#)

This target is not directly linked to the target of minus 20% by 2020; it applies autonomously. This is the reduction potential that can be exploited in the light of technological progress by extending existing measures in Switzerland and supporting new climate protection projects abroad. This target also serves as a reference for determining the level of offset for CO<sub>2</sub> emissions, which the Federal Council can now align with the development of transport-related emissions. The partial revision also extends the emission-reduction obligation of companies exempt from the CO<sub>2</sub> levy until 2024 in accordance with a standardised procedure.

#### 2.1.2. Federal Council Dispatch on the revision of the CO<sub>2</sub> Act for the period after 2024

After the rejection of the complete revision, the Federal Council wanted to quickly start work on a new draft implementing Switzerland's commitments under the Paris Agreement. On 17 September 2021, it defined the next steps for climate policy<sup>28</sup>. This was based on an analysis of the result of the vote, which showed that the fear of rising costs and in particular the possible increase in the price of petrol had led to the rejection. The Federal Council instructed DETEC to prepare a preliminary draft by the end of 2021 that takes account of the results of the vote and ensures the broadest possible consensus on future climate policy. The aim was to focus on measures that enable people to reduce their CO<sub>2</sub> emissions on a daily basis and that support ongoing efforts in the various sectors. The Federal Council has set the following criteria for legislative work.

- The project was to be based on the current CO<sub>2</sub> Act. The aim was to retain the existing instruments.
- The project was not to propose new taxes. Funds from different climate policy instruments were expected to benefit the sectors from which they originate.
- Different financial incentives had to be created in order to avoid inappropriate investments and to strengthen ongoing developments.
- Additional support measures were to accompany the efforts of the population and the sectors concerned.
- Blending percentages for sustainable fuels were to be introduced in the aviation sector. In addition, consideration was to be given to whether the introduction of a minimum percentage of sustainable fuels should be accompanied by financial support or incentives for airlines.

On 17 December 2021, the Federal Council launched the consultation process on the revised CO<sub>2</sub> Act for the period after 2024<sup>29</sup>. The consultation closed on 4 April 2022. On 16 September 2022, the Federal Council adopted the dispatch on the revision of the CO<sub>2</sub> Act for the period after 2024<sup>30</sup>. The project is based on the criteria set out above and provides for the following measures:

- continuation of the CO<sub>2</sub> levy up to a maximum of CHF 120 per tonne CO<sub>2</sub>; an increase in the partial allocation for climate protection measures over a specific period up to a maximum of half of the revenue from the levy;
- the use of the funds allocated under the Buildings Programme, the Technology Fund, the promotion of geothermal energy and, as a new measure,

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<sup>28</sup> [Climate policy: Federal Council lays the groundwork for a new bill \(admin.ch\)](#)

<sup>29</sup> [Climate policy: Federal Council submits revised CO<sub>2</sub> Act for consultation \(admin.ch\)](#)

<sup>30</sup> BBI 2022 2651

- support for biogas plants and encouragement of municipal energy planning;
- reduction of CO<sub>2</sub> emission targets for new vehicles in coordination with EU requirements; introduction of CO<sub>2</sub> emission targets for lorries;
- encouragement of the expansion of the charging infrastructure for electric vehicles; as of 2026, abolition of mineral oil tax relief for public transport buses; investment of the additional revenues generated in electric or hydrogen buses; encouragement of the provision of cross-border rail transport, including night trains;
- extension until 2030 of the service-related exemption from the heavy goods vehicle charge for electric and hydrogen heavy vehicles;
- introduction of an obligation to blend renewable fuels with conventional aviation fuels, in coordination with EU legislation; financial support for companies setting up pilot plants for the production of renewable synthetic aviation fuels;
- increase to 90% of the maximum share of emissions to be offset by importers of petrol and diesel (offsetting measures in Switzerland and abroad); retention of the maximum surcharge of 5 cents per litre that importers may pass on to consumers; introduction of an obligation to release renewable fuels for consumption; Extension of mineral oil tax relief for renewable fuels until 2030;
- extension of the possibility of exemption from the CO<sub>2</sub> levy for all companies in return for a reduction commitment; obligation to submit a decarbonisation plan for companies exempt from the tax; the continuation of the ETS coupled with the EU trading scheme for companies emitting large amounts of CO<sub>2</sub>;
- obligation for financial market supervisory authorities to report on risks related to climate change.

These measures, together with technological progress and the momentum in various sectors (e.g. electromobility), should enable Switzerland to maintain its target of reducing emissions by less than 50% by 2030. In its dispatch, the Federal Council estimates that the measures implemented in Switzerland should lead to a reduction in emissions of around 34%<sup>31</sup>. Other reduction measures may be implemented abroad. The bill is currently being debated in Parliament.

### 2.1.3. Glacier Initiative and Direct counter-proposal of the Federal Council

The popular initiative “For a Healthy Climate (Glacier Initiative)” was submitted on 27 November 2019 with 113,125 signatures by the Swiss Climate Protection Association. It provides for a new constitutional article on climate policy (Art. 74a of the Federal Constitution), according to which, from 2050, Switzerland must not emit more greenhouse gases than can be absorbed sustainably by safe greenhouse gas sinks. From that date, Switzerland also may not put into circulation any motor or fossil fuel, with exceptions only for applications for which there are no technical alternatives.

With its decision of 28 August 2019 to achieve a balanced climate balance for all greenhouse gas emissions (net zero emissions) by 2050, the Federal Council

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<sup>31</sup> *Ibid*

is pursuing the same objective as the initiative. It welcomes the ambition under the initiative to enshrine this objective in the Constitution. In its view, however, the initiative went too far on some points, which is why it made a direct counter-proposal on 11 August 2021<sup>32</sup>, replacing the ban on fossil fuels with an obligation to reduce their consumption. The military, police and rescue services will be able to use fossil fuels if necessary during their operations. Exceptions will also be possible if alternative technologies are not available in sufficient quantities or at economically viable costs. In addition to social acceptability, account must be taken of the special situation of mountain and peripheral areas, which are generally less well served by public transport. In Switzerland, the potential for the sustainable storage CO<sub>2</sub> in sinks (e.g. forests, soils, geological deposits) is limited due to technical, economic, ecological and social conditions. The Federal Council therefore leaves open the question of whether the remaining fossil-fuel emissions in 2050 will have to be offset in Switzerland or abroad.

#### 2.1.4. Indirect counter-proposal to the Glacier Initiative

Parliament has chosen to oppose an indirect counter-proposal to the glacier initiative. On 12 October 2021, ESPEC-N submitted a parliamentary initiative to that effect<sup>33</sup>. Parliament adopted the Federal Act on Climate Protection Targets, Innovation and Enhancing Energy Security on 30 September 2022<sup>34</sup>. The law prescribes the goal of “net zero emissions” by 2050. It includes an intermediate target for 2040 (75% reduction from 1990) and for the years 2031-2040 (minus 64% on average) and 2041-2050 (minus 89% on average). It also sets indicative emission reductions for the construction, transport and industrial sectors for the years 2040 and 2050. It requires the Confederation to ensure that the Swiss financial centre makes an effective contribution to low-emission, climate-resilient development. The Confederation and the cantons shall ensure that the measures required for adaptation to the effects of climate change are taken in Switzerland. In short, the indirect counter-proposal incorporates the three objectives of the Paris Agreement.

As the first concrete measures, the proposal provides for a total of CHF 3.2 billion for the replacement of fossil-fuel heating systems (CHF 2 billion over ten years), energy retrofits and the promotion of new technologies (CHF 1.2 billion over six years). The Confederation may also cover the risks associated with investments in public infrastructure that are required to achieve the net-zero target (e.g. for district heating networks). The proposal thus allows for the expansion of public infrastructure within the stated objective. In addition, it creates a role model for the Confederation and the cantons: the central federal government must have met the net zero emission target by 2040. All other measures will have to be covered by special legislation, primarily the CO<sub>2</sub> Act. The project specifies the timetable to be adhered to.

The objectives and intermediate targets of the indirect counter-proposal are compatible with the Federal Council’s Climate Strategy 2050<sup>35</sup>, which it approved on 27 January 2021, a few months before the publication of the Sixth IPCC Report<sup>36</sup>. This strategy

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<sup>32</sup> 21.055 Federal Council Dispatch of 11 August 2021 on the popular initiative for a healthy climate (Glacier Initiative) and the direct counter-proposal (Federal Decree on Climate Policy); BBI 2021 1972.

<sup>33</sup> 21,501 iv. pa. ESPEC “Indirect counter-proposal to the Glacier Initiative. Net zero greenhouse gas emissions by 2050”

<sup>34</sup> BBI 2022 2403

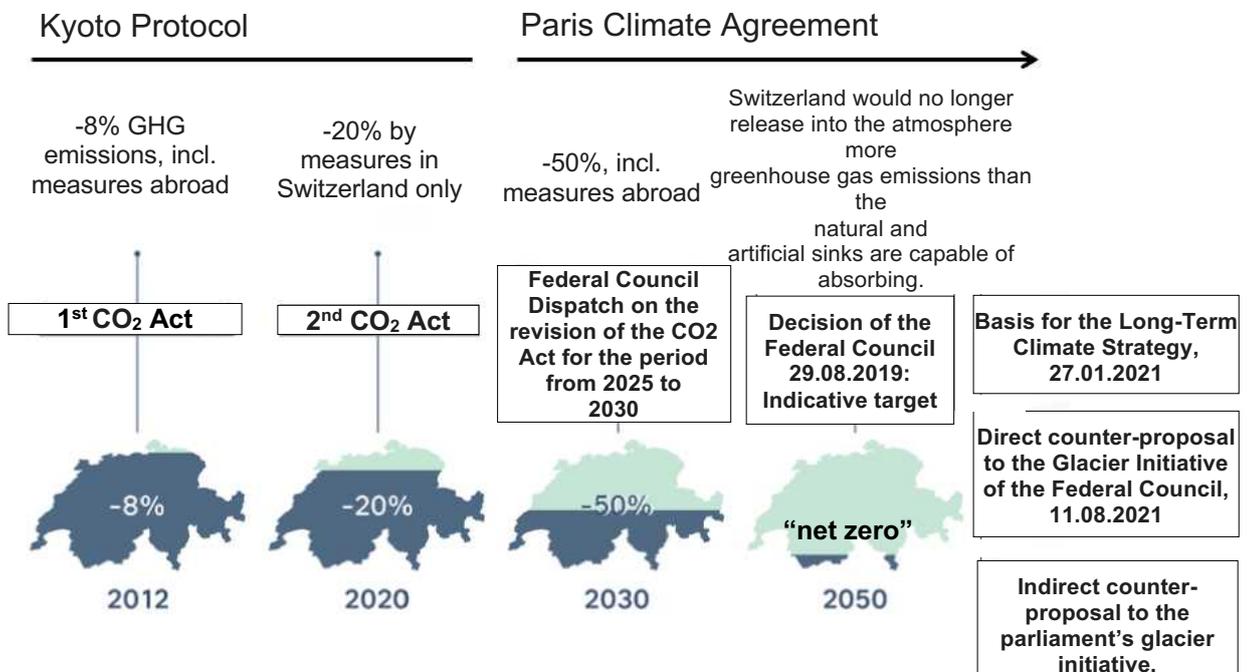
<sup>35</sup> [Long-term Climate Strategy to 2050 \(admin.ch\)](https://www.admin.ch)

<sup>36</sup> IPCC (2021); <https://www.ipcc.ch/languages-2/english/>

is based in particular on the Energy Outlook 2050+ published by the Swiss Federal Office of Energy in autumn 2020<sup>37</sup>. By adopting it, Switzerland complied one month late with one of its commitments under the Paris Agreement, which requires states to submit their long-term climate strategies to the relevant United Nations Secretariat by the end of 2020. The strategy shows that Switzerland can reduce its greenhouse gas emissions by almost 90% by 2050. The construction and transport sectors will be able to become emission-free by 2050 and industrial energy-related emissions will also be virtually eliminated by 2050. Sustainable renewable fuels and new propulsion technologies will create potential for reducing emissions in aviation. A reduction in emissions of at least 40% compared to 1990 is possible in the agri-food sector. According to the Long-Term Climate Strategy, some 12 million tonnes of CO<sub>2</sub> equivalent will remain in the industrial, waste recovery and agricultural sectors in 2050. These almost unavoidable emissions will have to be offset by *carbon capture and storage (CCS)* and *negative emission technologies (NET)*. On 18 May 2022, the Federal Council adopted a report setting out the measures and framework conditions for developing CCS and NETs on the required scale by 2050<sup>38</sup>.

The authors of the glacier initiative, reacting to the adoption of the indirect counter-proposal, withdrew their text with conditions<sup>39</sup>. The Committee stressed that it saw the indirect counter-proposal as a milestone in climate policy and as a faster means of achieving the desired goal than the initiative itself. The adopted draft is subject to a referendum. The political party Swiss People's Party (SVP) has already announced its intention to launch a referendum against the counter-proposal. If the referendum is launched and successful, the popular vote is expected to take place in the summer of 2023 or spring of 2024.

The illustration below summarises the objectives of Switzerland's climate policy and the applicable legal bases.



**Illustration 2: Overview of Switzerland's climate policy objectives**

<sup>37</sup> [Energy Perspectives 2050+ \(admin.ch\)](#)

<sup>38</sup> [Climate change: The Federal Council adopts the report on the development of negative emission technologies \(admin.ch\)](#)

<sup>39</sup> [The committees will soon be able to conditionally withdraw their popular initiatives \(admin.ch\)](#)

### 2.1.5. Adapting to the effects of climate change

In 2018, the Confederation published new regional climate scenarios for Switzerland<sup>40</sup>. Together with the Climate-Related Risks and Opportunities Report<sup>41</sup>, they form the basis for Switzerland's 2<sup>nd</sup> Adaptation Plan to Climate Change, which was adopted by the Federal Council in August 2020<sup>42</sup>. The action plan, which includes 75 measures at the federal level, covers the period from 2020 to 2025. It includes a new measure entitled "Thermal Stress Prevention" (PA2.sh4.1), which complements the measures in the first action plan to protect the population from heat. Within the framework of existing processes, this measure provides for the assessment of the adequacy of the provisions on the protection of workers' health contained in Ordinance 3 of the Labour Act<sup>43</sup> or the need for additional measures on the management of extreme heatwaves.

The second phase of the pilot programme "Adaptation to Climate Change" will end in 2023<sup>44</sup>. Of the 50 pilot projects conducted between 2019 and 2021, 15 are dedicated to the elimination of heat islands in populated areas. One of them analysed the effect of spatial and socio-demographic factors on heat-related health risks.

In 2022, the Confederation launched work on a review and possible overhaul of the climate risk analysis with the aim of updating the adaptation strategy and developing a third action plan for the period after 2025. It will take into account new scientific bases, such as the Swiss Climate Scenarios CH2018<sup>45</sup>, the Hydrological Scenarios HydroCH2018<sup>46</sup> and the Sixth IPCC Report<sup>47</sup>. The analysis will identify areas and population groups that are particularly vulnerable to climate change risks, so that adaptation measures can be better targeted.

In 2021, the NCCS published the public call for proposals for the NCCS-Impacts research programme<sup>48</sup>. The aim of this project is to study the impact of climate change on Switzerland, in support of the latest scientific bases. It consists of six modules, including one on human and animal health impacts.

### 2.1.6. International developments

On 9 December 2020, Switzerland announced its new nationally set target for reducing its greenhouse gas emissions by at least 50% compared to 1990 levels by 2030. Compared to the target announced in 2015, the 2020 target is characterised by the following: the reduction target has been reduced from minus 50% to at least minus 50% and the indicative reduction target of minus 70 to minus 85% by 2050 has been complemented by the target of greenhouse gas neutrality by 2050<sup>49</sup>. Switzerland informed the parties that the complete revision of the CO<sub>2</sub> Act had been rejected at the ballot box (13 June 2021), which had provided for the reduction of emissions in Switzerland from minus 60% to minus 75% and the offsetting of emissions from the manufacture of products imported and consumed in Switzerland by additional measures abroad. In announcing its new target, Switzerland stressed that the underlying legislation is subject to an optional referendum and will only become effective if citizens accept it in a vote.

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<sup>40</sup> [Swiss Climate Scenarios \(admin.ch\)](#)

<sup>41</sup> [Climate-related risks and opportunities \(admin.ch\)](#)

<sup>42</sup> Swiss Confederation (2020); [Adaptation to climate change in Switzerland. Action Plan 2020-2025 \(admin.ch\)](#)

<sup>43</sup> SR 822.113

<sup>44</sup> [Pilot programme "Adaptation to climate change" \(admin.ch\)](#)

<sup>45</sup> See footnote at bottom of page 40.

<sup>46</sup> See footnote at bottom of page 16.

<sup>47</sup> IPCC (2021) link? [French — IPCC](#) (6th Assessment Report)

<sup>48</sup> [NCCS-Impacts \(admin.ch\)](#)

<sup>49</sup> [Climate protection: five years after the Paris Agreement \(admin.ch\)](#)

Following the rejection of the CO<sub>2</sub> Act, Switzerland confirmed on 17 December 2021 the change of its target to at least 50% by 2030, as well as its indicative climate neutrality target for 2050, and modified its explanations on how it still intends to achieve its targets<sup>50</sup>. Switzerland reiterated its thoughts on an equitable distribution of efforts to combat climate change. It recalled that its greenhouse gas emissions accounted for about 0.1% of global emissions and that Switzerland's per capita emissions (2020: 5.04 tonnes of CO<sub>2</sub> equivalent per capita in 2020) were below the international average. It explained that it was therefore disproportionately costly for it to further reduce its emissions.

On 3 November 2022, Switzerland adopted the decision taken at the Third Meeting of the Parties to the Paris Agreement in Glasgow to review its climate target and take reinforcement measures. It has informed the parties regarding the latest decisions of the Federal Council and Parliament, in particular regarding the 2050 climate neutrality targets in the building, transport and industry sectors, which significantly strengthen Switzerland's efforts to achieve its climate target. It has furthermore made clear that the measures planned in the event of a war-related energy shortage in Ukraine would not lead to an increase in Switzerland's emissions.

It follows from the above that Switzerland has fulfilled and continues to fulfil its commitments under the Paris Agreement.

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<sup>50</sup> [Climate policy: Federal Council submits revised CO<sub>2</sub> Act for consultation \(admin.ch\)](#)