Third communication
in accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements
by the Verein KlimaSeniorinnen Schweiz

Verein KlimaSeniorinnen Schweiz and Others v. Switzerland
Grand Chamber judgment of 9 April 2024
Application no. 53600/20[1]

[1] *Verein KlimaSeniorinnen Schweiz and Others v Switzerland* [GC], no. 53600/20 (link).

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1. Introduction

1. *Verein KlimaSeniorinnen Schweiz* is the first applicant (**"Applicant Association"**) in the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (**"KlimaSeniorinnen"**). In its judgment of 9th of April 2024, the Grand Chamber of the European Court of Human Rights (**"ECtHR"**) held that the Respondent had failed to comply with its duties under the Convention, because Swiss authorities had not acted in time and in an appropriate way to devise, develop and implement relevant legislation and measures to mitigate the effects of climate change.

2. The States' substantive main duty under the Convention regarding climate change mitigation, as defined by the Court, is the obligation to define a timeline for achieving carbon neutrality, based on a 1.5°C-aligned fair carbon budget. This obligation has remained unfulfilled to this day and now even more demands immediate and decisive action.

3. For the sake of clarity, this submission first provides an overview of the proceedings already conducted before the Committee of Ministers. It sets out the key arguments put forward by the parties, which remain unchanged to this day. The Applicant Association maintains its position in full.

2. Overview of the proceedings before the Committee of Ministers with a focus on key arguments

2.1. The Respondent's Action Report

4. In its Action Report dated 27th of September 2024[2] (**"Action Report"**), the Respondent claimed that the execution of the judgment has been completed, thus justifying the closure of supervision of the case. The Respondent explained the absence of a CO_2 budget in its Action Report by referencing a lack of agreed methodology and "similar approach to establishing a CO_2 budget"[3] – as it did during the court proceedings,[4] and despite the fact that the Court, assessing these arguments, observed that the Respondent's failure to quantify a CO_2

[2] Bilan d'Action, Communication from Switzerland concerning the case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (Application No. 53600/20) (link).

[3] Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) in the case of Verein KlimaSeniorinnen and Others v. Switzerland (Application No. 53600/20) (link), section 4.3.1, hereafter: Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025)

[4] See Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), section 4.2.2.

budget constituted a "critical lacuna," amounting to a violation of Article 8 of the Convention (KlimaSeniorinnen, § 573).[5]

2.2. The Applicant Association's first Rule 9 communication

5. The Applicant Association issued its first communication in accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements on 17th of January 2025[6] (**"first Rule 9 communication"**). The Applicant Association acknowledged that the regulatory gap for the period 2025–2030 has been closed.[7]

6. However, the Applicant Association then provided a detailed explanation as to why the conclusions presented in the Respondent's Action Report – apart from this point – remain contrary to the judgment of the ECtHR. Specifically, the Applicant Association provided detailed reasoning explaining why the Respondent's "similar approach to establishing a CO_2 budget" contradicts the ECtHR judgment.[8] In particular, this is because the 660 million tonnes of CO_2 equivalent calculated by the Respondent merely reflect the emissions Switzerland plans to emit under its (unchanged) climate strategy – they are thus respondent-driven projections based on the Respondent's plans, rather than an allocation derived from the global CO_2 budget consistent with the 1.5°C limit, as required by the Court (see hereto also below, para. 36 ff.).[9]

7. To reinforce this argument and to provide a quantification of Switzerland's carbon budget, the Applicant Association submitted to the Committee of Ministers an Expert Report on the Respondent's national CO_2 budget (Dr. Setu Pelz, Dr. Yann Robiou du Pont, Dr. Zebedee Nicholls, "Estimates of fair share carbon budgets for Switzerland", 13 January 2025, **"Expert Report"**, first Rule 9 communication, Annex II[10]). The Expert Report used the methodological approaches that were established by the European Scientific Advisory Board on Climate Change (**"ESABCC"**) in its "Scientific Advice for the determination of

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5 See Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), section 4.2.3.
6 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3).
7 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), para. 16.
8 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), sections 2 and 4.
9 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), para. 22 and Annex I, section 3.1.
10 SETU PELZ/YANN ROBIOU DU PONT/ZEBEDEE NICHOLLS, "Estimates of fair share carbon budgets for Switzerland", 13 January 2025 (link).

an EU-wide 2040 climate target and a greenhouse gas (**"GHG"**) budget for 2030–2050" (**"ESABCC Report"**) in June 2023[11] to allocate the remaining 1.5°C-aligned global CO_2 budget. With the Expert Report, the Applicant Association demonstrated that the Respondent's projected emissions for the period 2023 to 2050 significantly exceed even the most generous national CO_2 budget that could be derived from the allocation of the global 1.5°C-compatible CO_2 budget (260 million tonnes of CO_2 for a 50% probability of staying within the 1.5°C limit).[12]

8. The Applicant Association then summarized its position as follows: To comply with the Court's judgment, the Respondent is still required to

   – timely (KlimaSeniorinnen, §550(e)) calculate the national CO_2 budget relative to the remaining global CO_2 budget (KlimaSeniorinnen, §550(a)) to stay within the 1.5°C limit (KlimaSeniorinnen, §§106, 436), based on the best available science (KlimaSeniorinnen, §550(e)), and taking into account the principles of the international climate regime (KlimaSeniorinnen, §§ 442, 545 and 571) (**step 1**);
   – publicly disclose the national CO_2 budget calculation (KlimaSeniorinnen, §554; **step 2**);
   – based on the national CO_2 budget, undertake a timely and appropriate (KlimaSeniorinnen, §550(e)) revision of the target timeline for achieving carbon neutrality including intermediate targets by sectors or other relevant methodologies (KlimaSeniorinnen, §§550(a), 550(b)) (**step 3.1**) and
   – adopt concrete measures (**step 3.2**) in domestic law designed to effectively achieve those targets to ensure alignment with the remaining national CO_2 budget (KlimaSeniorinnen, §§555 and 567).[13]

9. Finally, in particular and *inter alia*, the Applicant Association respectfully recommended that the Committee of Ministers

   – *Requests* Switzerland to "take immediate action" (§549) to quantify a national carbon budget that represents Switzerland's fair share of the remaining global carbon budget for limiting global temperature rise to 1.5°C, based on the best available science and taking into account the

11 European Scientific Advisory Board on Climate Change, "Scientific Advice for the determination of an EU-wide 2040 climate target and a greenhouse gas budget for 2030–2050", 15 June 2023 (link).
12 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), para. 36.
13 Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), para. 26.

principles of the international climate regime (e.g. as done in the report based on ESABCC methodology), and to report on this quantification to the Committee of Ministers in time for its September 2025 Human Rights meeting;

– *Requests* Switzerland, with the greatest urgency and on the basis of the remaining national carbon budget identified above, to start the democratic process for revising domestic climate legislation to align with its GHG limitations.

2.3. Reply by the Respondent

10. On 30th of January 2025, the Respondent issued its reply (**"Reply"**)[14] to the Applicant Association's first Rule 9 communication. The Respondent particularly referred to its announcement on 29th of January 2025, of the second Nationally Determined Contribution for the period of 2031–2035. The Respondent did not address the fundamental distinction between domestic emissions projections – and the approach required by science and the Court's judgment that allocates a fair national share of the remaining global 1.5°C-compatible CO_2 budget. Nor did it respond to the Expert Report.

2.4. The Applicant Association's second Rule 9 communication

11. The Applicant Association answered with its second communication in accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements on 9th of February 2025[15] (**"second Rule 9 communication"**). It pointed out – and substantiated in detail – that, contrary to the Respondent's position, adhering to the requirements of the Paris Agreement is not sufficient to comply with the human rights obligations in mitigating climate change as defined by the ECtHR.[16] It further argued that the Respondent's Nationally Determined Contributions (NDCs) cannot be considered a "quantification" within the meaning of the Court's judgment,[17] and that the Respondent's

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14 Reply from the authorities (30/01/2025) following communications from NGOs (DH-DD(2025)100, DH-DD(2025)101 and DH-DD(2025)102) (17/01/2025) in the case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (Application No. 53600/20) (link).

15 Communication from an NGO (Verein KlimaSeniorinnen) (10/02/2025) in the case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (Application No. 53600/20) (link), hereafter: Communication from an NGO (Verein KlimaSeniorinnen) (10/02/2025).

16 Communication from an NGO (Verein KlimaSeniorinnen) (10/02/2025) (Fn. 15), section 2.

17 Communication from an NGO (Verein KlimaSeniorinnen) (10/02/2025) (Fn. 15), section 4.

emission reduction pathway – including its second NDC – remains insufficient to meet its human rights obligation to mitigate climate change as defined by the ECtHR.[18]

3. The Ministers' Deputies' examination of the execution of the KlimaSeniorinnen judgment

12. At its 1521st meeting from 4-6th of March 2025, the Ministers' Deputies examined the execution of the KlimaSeniorinnen judgment for the first time. On 6th of March 2025, they adopted the decisions CM/Del/Dec(2025)1521/H46-30[19] (**"CM decisions"**). The CM decisions refer to the Notes on the Agenda CM/Notes/1521/H46-30 dated 6th of March 2025,[20] entailing an analysis of the Secretariat (**"Notes on the Agenda"**).

13. The CM decision recalled that the Court identified three types of measures to be addressed in relation to the State's positive obligation to ensure effective protection from the serious adverse effects of climate change, namely

- measures capable of mitigating the existing and potentially irreversible, future effects of climate change;
- adaptation measures aimed at alleviating the most severe or imminent consequences of climate change; and
- procedural safeguards in connection with both types of measures.

14. As regards mitigation measures, the Ministers' Deputies invited the Respondent

- to provide further information on the implementation measures on the federal and cantonal level, in particular as regards progress in the development of the draft CO_2 ordinance (see hereto below, section 4.2.1);
- to further demonstrate that the methodology used to devise, develop and implement the relevant legislative and administrative framework responds to the Convention requirements as detailed by the Court and relies on a quantification, through a carbon budget or otherwise, of national GHG emissions limitations; in so doing, encouraged the authorities to use the questions set out by the Secretariat in the Notes on the agenda, including on any national mechanism to monitor and assess the mitigating measures

18 Communication from an NGO (Verein KlimaSeniorinnen) (10/02/2025) (Fn. 15), section 5.
19 Ministers' Deputies, Decisions CM/Del/Dec(2025)1521/H46-30, 6 March 2025 (link).
20 Ministers' Deputies, Notes on the Agenda, CM/Notes/1521/H46-30, 6 March 2025 (link), hereafter: Ministers' Deputies, Notes on the Agenda.

(see hereto below, sections 4.2.2, 4.2.3, 4.2.4, and 4.2.5).[21]

15. As regards adaptation measures, the Ministers' Deputies invited the Respondent to update the Committee on progress on existing developments and on concrete measures being taken to alleviate the most severe or imminent consequences of climate change in Switzerland, including any particular needs for protection, especially for persons in vulnerable situation (see hereto below, section 4.3).

16. As regards procedural safeguards, the Ministers' Deputies invited the Respondent to provide concrete examples showing their effectiveness in practice in the field of climate change (see hereto below, section 4.4).

17. Concerning associations' right of access to a court in climate-change litigation and keeping in mind the direct applicability of the Convention in Switzerland, the Ministers' Deputies invited the Respondent to update the Committee on the evolution of domestic case-law, regarding both the standing of associations to bring climate change-related cases and on courts' assessments of the merits of such cases (see hereto below, section 4.5).

4. The Respondent's Additional Information to the Committee of Ministers – and the Applicant Association's response in light of the Court's judgment

4.1. Introduction

18. In its submission titled "Additional Information," dated 23rd of June 2025 (**"Additional Information"**)[22], the Respondent provided a response to the

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21 The questions set out by the Secretariat are as follows: "It would be particularly interesting to receive information on the following points: is the roadmap for reducing greenhouse gas emissions firmly rooted in a quantification of national greenhouse gas emissions limitations; and what is the process to update the targets with due diligence, and to monitor compliance with the targets?

In this respect, it is noted that the NGOs, in their communications, have a significantly lower evaluation of the remaining carbon budget, which according to them would be exhausted by 2032 if Switzerland pursues its current emissions trajectory.

Finally, when supervising the execution of cases which relate to complex or structural problems, it is frequently the Committee's practice to invite the States concerned to establish effective national mechanisms to ensure, in accordance with the principle of subsidiarity, non-repetition of similar violations. Since as underlined by the government and the Court, global warming and climate change pose unprecedented questions and challenges, characterised by a high degree of complexity (§§ 351 and 654 of the judgment), and given the technical complexity of assessing the effectiveness of mitigation measures, the authorities may wish to indicate whether there is a body or mechanism at national level (such as an independent expert body or committee) with the capacity and authority to monitor and assess the mitigating measures implemented by the authorities." Ministers' Deputies, Notes on the Agenda (Fn. 20).

22 Communication des autorités (24/06/2025) relative à l'affaire Verein KlimaSeniorinnen Schweiz et autres c. Suisse (requête n° 53600/20) [DH-DD(2025)712] (link).

questions raised by the Ministers' Deputies. The Respondent considers this submission to complement the Action Report dated 27th of September 2024, which it expressly upholds. It further maintains that Switzerland continues to fulfil its obligations under Article 46(1) of the Convention (Section 6).

19. The Applicant Association firmly rejects this position. As demonstrated below, the Respondent has failed to meaningfully comply with the Ministers' Deputies' invitation and continues to violate the Applicant Association's human rights, as established by the Court.

4.2. Mitigation measures

4.2.1. Implementation of legislative commitments

20. The Ministers' Deputies invited the Respondent to provide further information on the implementation measures on the federal and cantonal level, in particular as regards progress in the development of the draft CO_2 ordinance (para. 14). This request was made in light of the deficiencies identified by the Court concerning the implementation of legislative commitments.[23] In essence, the key question here is whether the Respondent is on track to meet its own – albeit inadequate – climate targets.

21. This refers to the Court's requirement to act in good time and in an appropriate and consistent manner in devising and implementing relevant legislation and measures (KlimaSeniorinnen, §550(e)) and to effectively protect the individuals from the adverse effects of climate change on their life and health (§567). It also takes into account the Court's critique that the Climate Act[24] sets the 2040 and 2050 climate targets but lacks concrete measures for achieving them (KlimaSeniorinnen, §§565, 567). The Court holds that mere legislative commitment to adopt concrete measures "in good time" is insufficient to guarantee effective protection (KlimaSeniorinnen, §567). The Court further criticized that concrete measures are to be adopted under the 2011 CO_2 Act[25], noting that, in its current form, it cannot be considered as providing for a sufficient regulatory framework (KlimaSeniorinnen, §§565, 567).[26]

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23 Ministers' Deputies, Notes on the Agenda (Fn. 20).

24 Federal Act on Climate Protection Targets, Innovation and Strengthening Energy Security, SR 814.310 (**"Climate Act"**).

25 Federal Act on the Reduction of CO_2 Emissions (**"CO_2 Act"**), SR 641.71.

26 See Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3) paras. 11 and 16.

22. The Respondent's Additional Information on implementation measures demonstrates that it continues to fail to remedy the violation of Article 8 of the Convention. The Additional Information show in particular, regarding the **2040 and 2050 climate targets**, that

- the Climate Act still sets the 2040 and 2050 climate targets and but lacks concrete measures for achieving them;
- the Climate Act still entails a mere legislative commitment to adopt concrete measures "in good time" (cf. Art. 11(1) Climate Act) which is, as the Court held, insufficient to guarantee effective protection;
- concrete measures are still to be adopted under the 2011 CO_2 Act (cf. Art. 11(2) Climate Act). Notably, changes that have been made to the CO_2 Act with respect to the concrete measures taken since the adoption of the judgment will not lead to the necessary decrease in emissions, which is why it still cannot be considered as providing for a sufficient regulatory framework (see paras. 21 and 23).

23. With regard to the concrete measures implemented to achieve the **2030 climate target**, the Court was unable to specifically assess these measures in light of the requirement to provide effective protection, due to the existing regulatory gap (para. 21). However, there are serious doubts as to whether the measures taken for the period up to 2030 as presented in the Additional Information are sufficient in light of the Court's requirements. In particular,

- they are primarily adopted under the 2011 CO_2 Act which has been deemed insufficient by the Court (para. 21);
- there are serious doubts as to whether the measures taken on the territory of Switzerland are sufficient to achieve the alleged 37% (*correctly:* 34%[27]) reduction by 2030; for example:
    - GHG–intensive sectors such as agriculture and finance remain largely unregulated.[28] In the financial sector, the only new measure is a reporting obligation regarding climate-related financial risks. However, there is still no requirement to align financial flows with a

[27] Art. 2a Ordinance of 30 November 2012 for the Reduction of CO_2 Emissions (CO_2 Ordinance), SR 641.711: "La réduction des émissions de gaz à effet de serre pour atteindre les objectifs fixés à l'art. 3, al. 1, de la loi sur le CO_2 est réalisée au moins aux deux tiers par des mesures prises en Suisse", whereas 2/3 from 50% = 33,33%.

[28] *Verein KlimaSeniorinnen and Others v. Switzerland*, Applicants, Observations on the facts, admissibility and the merits, 2 December 2022, para. 53 (link).

climate-compatible emissions pathway (Art. 40*d* CO_2 Act);[29]

- although the majority of GHG emissions attributable to Switzerland occur abroad, consumption-based emissions continue to be ignored[30] – contrary to the Court's judgment in KlimaSeniorinnen (§280[31]);
- no new levies – such as on fossil motor fuels – have been introduced, nor have existing ones (on fossil thermal fuels) been increased; this is despite the fact that the transport sector has reduced its emissions by only 7%[32] since 1990 and is expected – under Article 3(b) of the CO_2 Ordinance – to reduce them by 25% by 2030. Switzerland has not demonstrated how it intends to effectively achieve even such a modest reduction in transport-related emissions. Notably, there is a shift away from the subsidization of electric vehicles. In 2024, only 4.2% of the total vehicle fleet was electric[33], while the share of new registrations declined by 12% compared to 2023;[34]
- the building programme – so far the most effective measure to cut emissions within Switzerland – cited by the Respondent is currently subject to significant budget cuts;[35]

29 Ibid, para. 50.
30 Ibid, para. 49.
31 KlimaSeniorinnen, Partly Concurring Partly Dissenting Opinion of Judge Eicke, §4.
32 Federal Office for the Environment, Statistique 2024 sur le CO_2: les émissions des combustibles et des carburants ont encore diminué, 10 July 2025 (link).
33 Federal Statistical Office, Road vehicles - Stock, level of motorisation, 2024 (link).
34 Federal Statistical Office, Road vehicles - New registrations, 2024 (link).
35 The Federal Council, Le Conseil fédéral modifie les grandes lignes du programme d'allégement budgétaire 2027 et adopte le budget 2026, 25 June 2025 (link): "Politique climatique: le Conseil fédéral ne peut pas réduire le volume d'allégement induit par cette mesure. À la demande des cantons, le Département fédéral de l'environnement, des transports, de l'énergie et de la communication examine actuellement, en collaboration avec la Conférence des directeurs cantonaux de l'énergie, si et comment il est possible de remanier les différents programmes d'encouragement (par ex. le programme d'impulsion) afin de faire un pas en direction des cantons, qui s'opposent à la suppression du Programme Bâtiments."

- the overall GHG emissions increased in 2023[36];

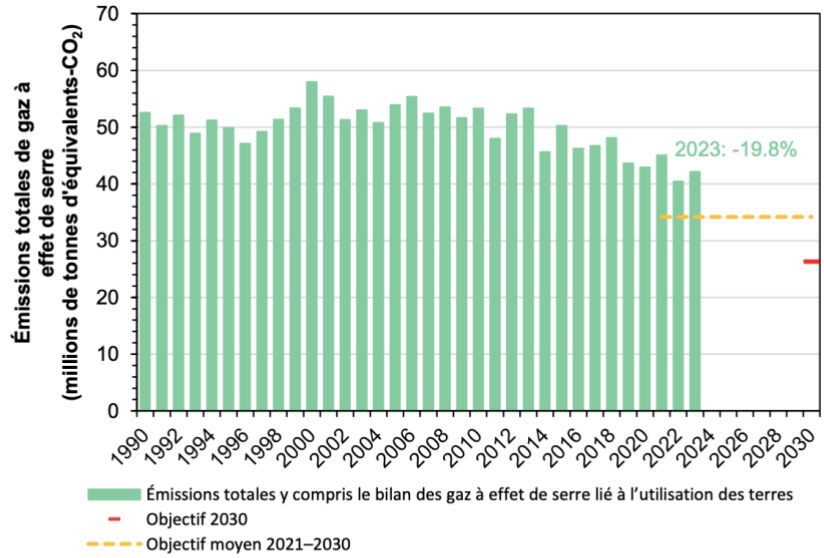

Figure 5 : Évolution des émissions totales de gaz à effet de serre de la Suisse selon la loi sur le CO_2 et l'Accord de Paris (y compris le bilan des gaz à effet de serre lié à l'utilisation des terres). Est également indiquée la réduction en pourcentage par rapport à 1990 pour l'année la plus récente. La ligne rouge indique la valeur cible pour l'année 2030 (d'au moins moins 50 % par rapport aux émissions totales de gaz à effet de serre en 1990). En outre, la Suisse s'est engagée à réduire ses émissions d'au moins 35 % en moyenne entre 2021 et 2030 par rapport à 1990 (ligne orange en pointillés). Les attestations internationales, qui sont également pris en compte pour l'examen des objectifs, ne sont pas représentés ici.

Source: Federal Office fort he Environment, Émissions de gaz à effet de serre visées par la loi sur le CO2 et l'Accord de Paris, July 2025, p. 13 (link).

- there is uncertainty as to whether the measures taken abroad (allegedly 13%, *correctly* 16%) will effectively lead to emissions reductions (availability, credibility, and verifiability of internationally transferred mitigation outcomes under Article 6 of the Paris Agreement);
- emission reduction measures taken abroad may only be considered part of a State's fair share if achieving that share through domestic measures alone is not feasible, as evidenced by the Expert Report submitted by the Applicant Association;[37] however, the findings of the Expert Report make clear that the planned 50% emissions reduction falls significantly short of constituting a fair share;[38]
- there is no independent scientific analysis confirming that the combined

36 Federal Office for the Environment, Émissions de gaz à effet de serre visées par la loi sur le CO_2 et l'Accord de Paris, July 2025, p. 13 (link).

37 See Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), paras. 32 and 34 and Annex II, p. 21 f.

38 See Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), paras. 34 ff. and Annex II.

measures will actually lead to a 50% reduction; there is thus no evidence that the climate target 2030 will effectively be met;

– there is a risk that the Federal Council is counting on increasing the share of foreign emission reductions shortly before 2030 (Art. 3(2) CO_2 Act) in order to formally meet Switzerland's climate targets, thereby failing to pursue the necessary domestic measures with the required resolve.

24. The measures adopted at the cantonal level are part of the overall measures taken to reach the national climate targets. However, the cantons are not responsible for the Respondent to meet its own climate targets. In the Swiss federal system, the main responsibility in climate matters is with the federation.[39] Notably, the (federal) CO_2 Act holds that "the reduction targets should in the first instance be achieved through measures under this Act" (Art. 4(1) CO_2 Act).

25. The cantons play an important role in the building sector due to the delegation of this competence; however, this is still a measure rooted in federal climate policy (Art. 9 CO_2 Act), and the cantons act under the supervision of the federation and with the aim of achieving the federal climate targets.

26. Furthermore, cantons should design and apply cantonal law in such a way as to "contribute" to achieving the objectives of the Climate Act (Art. 12(1) Climate Act). The obligation for cantons to "contribute" to the federal climate targets (Art. 12(1) Climate Act), however, is vague and not quantifiable in terms of emission reductions and, moreover, limited to a mere "contribution" rather than requiring those provisions to exceed or fully ensure the attainment of the climate targets.

27. The examples of the cantons of Basel and St. Gallen, cited by the Respondent, demonstrate that cantons are permitted to set their own climate targets, including more ambitious ones. However, it is wrong that they are "generally free to define their own measures", as the Respondent alleges. Their ability to adopt additional cantonal measures to achieve possible more ambitious cantonal climate targets is constrained by the extensive federal competence. The cantons are responsible for all areas not assigned to the Confederation (Art. 3 of the Swiss Constitution). In the event of a conflict of competence or norm between federal law and cantonal law, federal law takes precedence over

[39] See CHARLOTTE E. BLATTNER, Kantonaler Klimaschutz: Übungsfall im öffentlichen Recht, 5 ius.full 126-146 (2022).

any conflicting cantonal law (Art. 49(1) of the Swiss Constitution). Against this background, for instance, it is argued that cantons are not permitted to introduce a cantonal CO_2 levy on fossil thermal fuels.[40] Moreover, more ambitious cantonal climate targets would only be remedying the inadequate national climate targets if their climate strategies were designed in such a way that, taken together, they exceed the ambition of the national targets which, however, the Respondent does not assert to be the case. It should also be mentioned, as an example, that the cantonal government of the Canton of Zurich, citing the federal climate targets, recently announced its rejection of more ambitious cantonal climate goals. This illustrates how the federal targets can, in some cases, potentially have the effect of slowing down more progressive efforts at the cantonal level.[41]

28. Importantly, the effectiveness of the measures, be it at federal or at cantonal level, can only be comprehensively evaluated once a carbon budget has been calculated and the climate targets have been adjusted accordingly, as these provide the necessary benchmark against which progress and adequacy can be measured. This has also been recognized in the Ministers' Deputies' Notes on the Agenda.[42]

29. Accordingly, the Applicant Association reiterates that any revision of Swiss climate policy – whether at the federal or cantonal level – even if the revised measures would suffice to meet the self-imposed targets, does not absolve the Respondent from the obligation to calculate a CO_2 budget and establish a corresponding timeline (see above para. 8, step 1 and 3.1). The concrete measures then have to be adjusted to ensure they are aligned with the remaining national CO_2 budget and the updated target timeline (see above para. 8, step 3.2).

30. To that regard, the Applicant Association also emphasizes that the cantons are not responsible for defining or ensuring compliance with an overall national carbon budget. It remains the responsibility of the federation to set national emissions targets and ensure that Switzerland adheres to its carbon budget.

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40 Ibid.

41 Canton of Zurich, Kantonale Volksabstimmung, 28 September 2025 (link), p. 8.

42 Ministers' Deputies, Notes on the Agenda (Fn. 20): "In particular, the Court was not convinced that an effective regulatory framework concerning climate change could be put in place without quantifying (**upstream**), through a carbon budget or otherwise, national greenhouse gas emissions limitations." (emphasis added).

4.2.2. Quantification of national GHG emissions limitations

4.2.2.1. The Respondent failed to act upon the Minister Deputies' invitation to explain that the methodology used complies with the Convention requirements

31. The Ministers' Deputies invited the Respondent to demonstrate that the methodology used to devise, develop and implement the relevant legislative and administrative framework responds to the Convention requirements as detailed by the Court and relies on a quantification, through a carbon budget or otherwise, of national GHG emissions limitations; in so doing, encouraged the authorities to use the questions set out by the Secretariat in the Notes on the agenda, including on any national mechanism to monitor and assess the mitigating measures.[43]

32. The Respondent, however, has not provided <u>any</u> explanation as to why, in its view, the methodology it applies – specifically its approach to not take the remaining global CO_2 budget into account – would be sufficient to meet its human rights obligations under the Convention as detailed by the Court. Accordingly, the Respondent has failed to act upon the Minister Deputies' invitation to explain that the methodology used complies with the Convention requirements, as set out in the Committee's decision.

33. Moreover, the Applicant Association observes that the Respondent entirely omits any discussion of the budget calculation contained in the Expert Report – even though it was explicitly invited to address it in the questions set out in the Notes on the Agenda by the Secretariat.

4.2.2.2. The Respondent <u>again</u> justifies the absence of a CO_2 budget with its approach of merely demonstrating projected emissions

34. In substance, the Applicant Association notes that the Respondent continues to rely on the same approach – namely, its "similar approach to establishing a CO_2 budget", now rebranded as an "implicit carbon budget" – which has already been rejected by the Court. The only difference is that the Respondent now provides a <u>more detailed explanation of this very same approach that remains fundamentally flawed</u> (Additional Information, p. 5 ff.). Accordingly, there is also no change to the extent of the projected emissions.

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43 See footnote 21.

35. Against this background, the Applicant Association therefore, in principle, refers to the statements made in its first and second Rule 9 communications. They would also like to draw attention to the content of a recently published article titled "KlimaSeniorinnen Judgment: Human rights obligation of Switzerland to quantify its fair share of the remaining global carbon budget"[44] (an unofficial English translation is provided in **Annex I**). The Applicant Association further submits that the CM decision confirmed that the methodology used to devise, develop and implement the relevant legislative and administrative framework – including the quantification of national GHG emissions limitations, through a carbon budget or otherwise – must comply with the Convention requirements as detailed by the Court. It follows that also in the view of the Ministers' Deputies, the CO_2 budget must not be based on an arbitrary approach or figure. Rather, it must comply with the requirements set out by the Court. This, in turn, requires that a fair national CO_2 budget must be derived in relation to the global CO_2 budget.

36. It should be reiterated that allocating national CO_2 budgets that correspond to the remaining global CO_2 budget is scientifically required for several reasons:
    - The Earth's atmosphere responds to total cumulative emissions (KlimaSeniorinnen, § 110), not to individual national plans.
    - It aligns with the global carbon budget constraint. The 1.5°C target – or any temperature goal – corresponds to a specific, finite global carbon budget (as defined by the Intergovernmental Panel on Climate Change **"IPCC"**), which must not be exceeded to retain a likely chance of limiting warming to that level (KlimaSeniorinnen, §§ 110, 571).
    - An approach, by contrast, that is based on domestic policies or intentions, does not guarantee that the total global budget will be respected – meaning it can lead to significant over-allocation.
    - Thus, only emission limits that are derived from the remaining global CO_2 budget can ensure that each country's emissions are aligned with the physical limits required to stay within the 1.5°C threshold.

37. Such an approach to allocating carbon budgets is also legally required:
    - The Court clearly took into consideration the global carbon budget

[44] BÄHR CORDELIA CHRISTIANE, KlimaSeniorinnen-Urteil: Menschenrechtliche Pflicht der Schweiz, ihren fairen Anteil am global verbleibenden CO2-Budget zu quantifizieren, URP 2025 S. 114–126 (link).

constraint (KlimaSeniorinnen, §§ 110, 550(a), 570 ff.).

– The Court accepted that a fair national CO_2 budget must be derived from the remaining global budget – not simply from domestic political or economic convenience (KlimaSeniorinnen, §§ 110, 570 ff.). This fact was already indicated by the Court's Questions to the Parties ahead of the hearing (emphasis added):

> *"1. If the scientific premise of the Intergovernmental Panel on Climate Change (hereinafter: "IPCC") is accepted that in order to limit global warming to 1.5°C/well below 2°C compared to pre-industrial levels (see the Paris Agreement), humanity needs to remain within a global GHG/carbon budget (within the high and low range assessed by the IPCC; see AR6 [(Sixth Assessment Report)] Climate Change 2022: Mitigation of Climate Change, Summary for policymakers, B.1.3),* ***and that consequently such an overall budget would need to be converted into respective national carbon budgets:***
>
> *(a) Has the respondent State adopted an overall national carbon budget for the period leading to net neutrality; and if so, on what basis has such a budget been calculated?*
>
> *(b) How should each State party's "fair share" be assessed in terms of the national carbon budget, adequate reductions to historical GHG emission levels in the next several decades, and pursuant to any other relevant scientific, legal or equitable considerations?*
>
> *[...]."*[45]

– Any national carbon budget that fails to correspond to the global carbon budget is fundamentally detached from the aim to limit global temperature rise. It is not capable of mitigating the existing and potentially irreversible future effects of climate change and thus fails to effectively protect the rights enshrined in the Convention (KlimaSeniorinnen, §545).[46]

38. Accordingly, only a national CO_2 budget that corresponds to the global CO_2 budget can be regarded as an effective means of protecting human rights, as required by the Court.

39. For a detailed and context-setting commentary on the Respondents Additional Information, the Applicant Association refers to the "Statement on the Approach Used by Switzerland to Calculate its 'Implicit Carbon Budget' in its

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45 Verein KlimaSeniorinnen and Others v. Switzerland [GC], Questions to the Parties of 16 March 2023 (link).

46 See also Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3), Annex I, section 3.1.

Additional Information" prepared by Professor Joeri Rogelj and Dr. Setu Pelz and dated July 18, 2025 (**Annex II**).

4.2.2.3. The Respondents' repeated reference to global pathways modelled by the IPCC proves futile

40. The Respondent further again attempts to justify the claim that it has implemented the judgment referencing global pathways modelled by the IPCC that provide a greater than 50% chance of limiting warming to 1.5°C (Additional Information, p. 7).

41. The Applicant Association hereto first notes again that the Federal Council's claim that its emission reduction pathway is "in line with the recommendations of the IPCC" is false and lacks any scientific basis. The IPCC presents global emission pathways and does not make any recommendations regarding national emission reduction pathways.

42. Second, the Applicant Association reiterates that the Respondent's emission reduction pathway remains insufficient to meet the human rights obligation to mitigate climate change as defined by the Court.[47] The lack of quantified national GHG limitations (KlimaSeniorinnen, §550a) continues.[48] Simply following the global pathway does not satisfy the requirements of the KlimaSeniorinnen judgment. This is evidenced by the fact that Switzerland had a 2050 net-zero target in line with the IPCC's global emission reduction pathways and yet was still found in breach of Article 8 ECHR. This is because the IPCC's global emission reduction pathways represent a global average emission reduction trajectory, not "fair share" pathways tailored for specific states like the Respondent.[49]

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47 Ibid, paras. 8 ff., 20, 28

48 Ibid, paras. 22 ff.

49 Verein KlimaSeniorinnen and Others v. Switzerland, Applicants, Response to the Respondent's written answers to the questions communicated by the Court to the parties on 16 March 2023, 27 April 2023, p. 9 f. (link); Climate Litigation Network, "The Human Rights Obligation to Quantify a Fair Share 1.5°C-Aligned Carbon Budget: A Close Analysis of the KlimaSeniorinnen Judgment" 16 January 16, p. 14 ff., Annex I to the Communication from an NGO (Verein KlimaSeniorinnen) (17/01/2025) (Fn. 3).

4.2.2.4. The Respondent explicitly acknowledges that its climate strategy is not based on fair share considerations

43. The Respondent explicitly acknowledges that its climate strategy is not based on fair share considerations at all (Additional Information, p. 7 f.). It explains that
    - Switzerland's Climate Strategy to achieve the goal of net-zero emissions by 2050 is largely based on the Energy Perspectives 2050+ (EP 2050+);
    - the EP 2050+ focus on technical and economic scenarios that allow Switzerland to meet the goal of net-zero emissions by 2050 in absolute terms (meaning in terms of the overall quantity of emissions, without reference to equity considerations); whereas the EP 2050+ confirmed that the goal of net-zero emissions by 2050 is technologically feasible and can be achieved at a reasonable cost;
    - the aim of the EP 2050+ was not to assess whether Switzerland's targets constitute a 'fair share' of the global emissions reduction effort.
44. The Respondent's admission that its climate strategy is not based on fair share considerations is not offset by its references to equity in Switzerland's first and second NDCs. As the Respondent explicitly stated, these NDCs are based on the aforementioned trajectory (Additional Information, p. 9) and are therefore likewise not grounded in fair share principles. Consequently, the references to equity in Switzerland's NDCs appear to serve merely as a pretext.

4.2.3. Target timeline

45. The Ministers' Deputies invited the Respondent to also answer the following question set out in the Notes on the Agenda, namely, "is the roadmap for reducing GHG emissions firmly rooted in a quantification of national GHG emissions limitations?" (emphasis added).
46. This goes back to the requirement in the Court's judgment to, based on the national CO_2 budget, undertake a revision of the target timeline for achieving carbon neutrality including intermediate targets by sectors or other relevant methodologies (KlimaSeniorinnen, §§550(a), 550(b); and see above, para. 8, step 3.1)
47. The Respondent confirmed in its Additional Information that Switzerland's roadmap is not rooted in a quantification of national GHG emissions limitations, as required by the Court. On the contrary, the Respondent acknowledged that

Switzerland's so-called "implicit budget" (para. 34 ff.) is derived from a predefined roadmap (paras. 43 ff.), rather than from the remaining global carbon budget — let alone a fair allocation of that budget.

4.2.4. Regular revision and update of climate targets

48. The Ministers' Deputies invited the Respondent to also answer the following question set out in the Notes on the Agenda, namely, "what is the process to update the targets with due diligence?"

49. The Applicant Association notes that, under Article 40(1) of the CO_2 Act, the Federal Council is required to periodically evaluate the effectiveness of existing measures and assess the need for additional action.

50. The Federal Council, however, is only subject to a reporting obligation and is not legally required to submit proposals for updated reduction targets or measures to the Federal Assembly. However, due diligence requires more than just evaluation and reporting – it requires a clear, accountable process for action, which is lacking in the current legal framework.

51. Furthermore, there is no independent expert body or committee at the national level with the authority and capacity to monitor and assess the effectiveness of the mitigation measures implemented by the authorities (see below). This lack of institutional oversight weakens accountability and may lead to insufficient scrutiny of governmental action – or inaction.

4.2.5. Monitoring and assessing the mitigating measures implemented by the authorities

52. The Ministers' Deputies invited the Respondent to also answer the following question set out in the Notes on the Agenda, namely, "the authorities may wish to indicate whether there is a body or mechanism at national level (such as an independent expert body or committee) with the capacity and authority to monitor and assess the mitigating measures implemented by the authorities."

53. The Respondent notes that the Advisory Body on Climate Change (OcCC) was an external committee of experts with formal competence to evaluate the measures and targets of Swiss climate policy. However, the OcCC's mandate ended in 2021.

54. Although the Respondent alleges that its mandate ended to "avoid duplication", no body or institution replaced the OcCC.

- ProClim does not have the competence and mandate to evaluate the measures and targets of Swiss climate policy. ProClim describes its "mission" as follows: ProClim "produces scientifically based and socially relevant content on climate change" and "ProClim contributes the latest scientific findings and options for action relating to climate change in a useful form for political and public discussion in Switzerland, thus encouraging evidence-based decision making with regard to new solutions in the area of climate protection and climate adaptation."[50]
- The NCCS provides services regarding adaptation measures.[51]
- The parliamentary group on climate is merely an informal alliance.

55. The Applicant Association thus submits that there is no body or mechanism at national level such as an independent expert body or committee with the capacity and authority to monitor and assess the mitigating measures implemented by the authorities.

4.3. Adaptation measures

56. The Court held that adaptation measures must be established and effectively implemented in accordance with the best available scientific evidence, and in a manner consistent with the overall structure of the State's positive obligations in this context (KlimaSenorinnen, § 552). In particular, States have a positive duty to adopt an adequate legislative and administrative framework aimed at the effective protection of human life and health. This includes the adoption of regulations tailored to the specific risks involved (KlimaSenorinnen, §§552 and 538(a)).

57. The Ministers' Deputies invited the Respondent to update the Committee on progress on existing developments and on concrete measures being taken to alleviate the most severe or imminent consequences of climate change in Switzerland, including any particular needs for protection, especially for persons in vulnerable situation.

58. This is all the more urgent, as every heatwave claims the lives of hundreds to thousands of people due to heat, including in Switzerland. The recent June 2025 heatwave has once again demonstrated this, with an estimated 2,305

50 ProClim, About Us (link).
51 NCCS, Mandate and Goals (link).

excess deaths across 12 European cities caused by extreme temperatures.[52] To this day, the number of expected excess deaths has approximately tripled due to human-induced climate change.[53]

59. In its Additional Information, however, the Respondent does not provide any information on concrete federal or cantonal measures being taken to alleviate the most severe or imminent consequences of climate change in Switzerland, especially for persons in vulnerable situations. Accordingly, the Respondent has failed to act upon the Minister Deputies' invitation.

60. The Applicant Association awaits with great interest the announced revised federal adaptation strategy including a new federal action plan. From today's perspective, also taking into account the "Cantonal Report 2022 – Adaptation to Climate Change" cited by the Respondent, the Applicant Association has serious doubts as to whether the existing adaptation measures are sufficient in scope, speed, and effectiveness to adequately address the specific risks involved, particularly with regard to the protection of vulnerable populations.

61. The "Cantonal Report 2022 – Adaptation to Climate Change" shows that the primary adaptation measures taken to reduce the health impacts of heat consist of public information and awareness-raising efforts (section 3.8). The Applicant Association submits that the protection of life and physical integrity under the ECHR requires more than basic informational measures, especially in light of the concrete and escalating risks posed by climate change to vulnerable populations. It entails a duty to act in a coordinated manner, grounded in scientific knowledge and tailored to the differentiated risks faced by vulnerable populations (KlimaSenorinnen, §§552 and 538(a)). In the absence of a robust and forward-looking adaptation framework, the Respondent risks falling short of these obligations.

62. While the measures outlined in the spatial planning adaptation strategy ("Cantonal Report 2022 – Adaptation to Climate Change", section 3.10) demonstrate an awareness of key climate risks, they appear largely procedural and preparatory in nature. The emphasis is on integrating adaptation into planning tools and producing climate maps. However, it remains unclear to what extent these measures have led to binding, enforceable changes or

52 Imperial Grantham Institute, Institute reports and analytical notes, Climate change tripled heat-related deaths in early summer European heatwave, 2025, p. 6 (link).

53 Ibid.

concrete, large-scale implementation that effectively reduces climate risks and vulnerability. This is all the more since these measures are often limited to individual cantons, with no guarantee of nationwide coherence or minimum standards. Yet, Switzerland as a whole must adapt, and a coordinated federal approach is essential – not only for climate resilience but also to safeguard human rights as required by the Court.

63. Furthermore, adaptation measures like public information and awareness-raising efforts appear to be primarily short-term in nature and limited in their scope. However, there is a notable absence of a comprehensive long-term adaptation strategy that sets out how climate-related risks – such as extreme heat, expected to intensify significantly – will be mitigated in a manner tailored to the specific risks. For example, there is no clear indication of how living spaces (e.g. private homes, nursing homes, public facilities, even hospitals) will be adapted or cooled in the face of rising temperatures, nor how urban planning, housing policy, or social protection will evolve to meet such challenges. This reflects a serious gap in long-term planning, particularly in the domain of spatial planning and infrastructure resilience. Given that infrastructure changes are typically slow-moving and require years of planning, financing, and implementation, it is all the more urgent to act without delay. Failure to do so risks locking in outdated, maladaptive structures that are not fit for a warming climate — thereby severely limiting future adaptive capacity and increasing vulnerability over time.[54]

64. Accordingly, Switzerland has failed to demonstrate that it has ensured effective protection against foreseeable and specific climate risks through a comprehensive and enforceable adaptation framework based on the best available evidence, and thus falls short of fulfilling its positive obligations under Article 8 ECHR.

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[54] See also ibid: "Heat action plans and early warning systems that reduce heat-related deaths are increasingly being implemented across the region, which is encouraging. **However, there remains an urgent need for an accelerated roll-out of further adaptation measures** in light of increasing vulnerability driven by the intersecting trends of climate change, ageing population, and urbanisation. Cities and urban centres are hot-spots for heat risks, so **urban planning needs to focus on measures to reduce the urban heat island effect, such as increasing cooling green and blue spaces and improving the insulation of homes**. More punctual coping measures such as formalised support systems and cooling centres can offer immediate respite from extreme heat to the most vulnerable" (emphasis added).

4.4. Procedural safeguards

65. The Ministers' Deputies invited the Respondent to provide concrete examples showing the effectiveness of procedural safeguards in practice in the field of climate change.

66. In its Additional Information, the Respondent outlines Switzerland's framework for public participation, emphasizing how the population, civil society, and other stakeholders are involved in the development of climate policy.

67. However, this involvement does not in itself constitute evidence of the effectiveness of the procedural safeguards, as it does not demonstrate whether and how public input has a tangible impact on decision-making or leads to meaningful adjustments in climate policy. Accordingly, the Respondent has failed to act upon the Minister Deputies' invitation.

68. Moreover and importantly, as the Applicant Association demonstrated already during the Court proceedings,[55] the participatory process did not include any studies or information on a 1.5°C-compatible climate strategy to date. *De facto*, therefore, the public was, to this day, excluded or at least misled in the climate-related decision-making process.

4.5. Access to justice

69. Concerning associations' right of access to a court in climate-change litigation and keeping in mind the direct applicability of the Convention in Switzerland, the Ministers' Deputies invited the Respondent to update the Committee on the evolution of domestic case-law, regarding both the standing of associations to bring climate change-related cases and on courts' assessments of the merits of such cases.

70. In its Additional Information, the Respondent refers to the ongoing case of Unit Terre et al. v. Swiss Department for the Environment, brought in March 2024 by nine Swiss farmers and five farming associations. The petitioners sought increased governmental action to mitigate drought impacts in light of their human and constitutional rights, including those protected under the Swiss Constitution and the ECHR. On 20 September 2024, the Federal Department for the Environment, Transport, Energy, and Communications (DETEC)

[55] Verein KlimaSeniorinnen and Others v. Switzerland, Applicants, Response to the Respondent's written answers (Fn. 49), paras. 24 ff. (link).

rejected the request on standing grounds.[56] The Respondent confirms that the applicants have appealed to the Federal Administrative Court, where the case remains pending.

71. Notably, the Respondent does not claim that DETEC assessed the request in light of the *KlimaSeniorinnen* judgment or applied the criteria established by the Court. On the contrary, DETEC explicitly relied on the Federal Council's communication of 28 August 2024, in which the Federal Council openly rejected the ECtHR's recognition of associational standing in climate matters as affirmed in *KlimaSeniorinnen*.

72. This illustrates that the Swiss authorities have neither implemented nor acknowledged the Court's jurisprudence on access to justice in the context of climate change litigation, as explicitly requested by the Committee of Ministers

5. Recommendations by the Applicant Association to the Committee of Ministers

73. Bearing in mind the arguments set out above, the Applicant Association respectfully recommends that the Committee of Ministers:

- *Reject* Switzerland's request to conclude supervision;
- *Express concern* with the response by Switzerland, which fails to adequately address the Ministers Deputies' questions, does not engage with the core findings of the Court, and fails to set out the measures necessary to implement the judgment;
- *Regrets* that Switzerland has failed to "demonstrate that the methodology used to devise, develop and implement the relevant legislative and administrative framework responds to the Convention requirements as detailed by the Court and relies on a quantification, through a carbon budget or otherwise, of national greenhouse gas emissions limitations", as decided by the CMDH;
- *Reaffirm* the necessity of ensuring, first, a quantified national carbon budget, upon which Switzerland's climate regulatory framework is revised so that its reduction targets comply with its quantified national carbon budget, determined in compliance with Article 8 of the Convention as applied by the Court;
- *Urge* Switzerland to develop adequate implementation measures for the

[56] DETEC, decision of 20 September 2024 (link).

pathway to net-zero and beyond, and to submit scientific evidence demonstrating that the climate targets can realistically be achieved with the proposed measures;

- *Urge* Switzerland to strengthen the process to update climate targets and measures with due diligence;
- *Urge* Switzerland to implement a body or mechanism at national level (such as an independent expert body or committee) with the capacity and authority to guide, monitor and assess the mitigating measures implemented by the authorities;
- *Request* detailed information on the concrete adaptation measures currently being taken to alleviate the most severe or imminent consequences of climate change in Switzerland, including a comprehensive overview of cantonal measures, with particular attention to persons in vulnerable situations; *request* the submission of a comprehensive long-term adaptation strategy, covering both federal and cantonal levels, that outlines how vulnerable populations will be protected and supported in the face of increasing climate-related risks beyond the short term; *request* scientific evidence demonstrating the effectiveness of both existing and planned adaptation measures, particularly in relation to the protection of persons in vulnerable situations over the medium and long term;
- *Request* that the authorities provide concrete examples demonstrating the effectiveness of procedural safeguards in practice in the field of climate change;
- *Request* that the authorities provide concrete examples demonstrating that they are protecting the rights of associations' access to courts in climate-change litigation in line with the Court's judgment, and
- *Decide* to resume examination of the case in March 2026 at the latest, and at least twice a year going forward.

Zurich, Lausanne, 18th of July 2025

Yours faithfully,

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