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## Environment - Switzerland

### Sustainable Development in Federal and Cantonal Law

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The terms 'sustainability' and 'sustainable development' commonly refer to the long-term use of natural resources with the aim of satisfying not only today's needs, but also those of future generations. As well as this concept of fairness between the generations, sustainability also implies that social, economic and environmental objectives are held to be of equal importance. Sustainable development may be achieved only by resolving the obvious conflicts which exist between these objectives.<sup>(1)</sup>

Several documents of public international law mention sustainability. Regardless of whether such provisions are intended as guidelines or legally binding obligations, Swiss law provides for a basis for the implementation of sustainable development. In addition, sustainability assessments allow the relevant authorities to assess whether particular projects meet certain requirements.

The Federal Constitution refers to the principle of sustainable development at several points. Article 2 requires that the Swiss Federation foster the sustainable development of the nation. This provision is a general guideline for the authorities rather than a rule that can be directly applied to particular matters. Similarly, Article 73 states that, as a long-term objective, the Swiss Federation and the cantons aim for a balanced relationship between the natural environment and its use by humankind. Again, as this provision sets out a general goal, it is difficult to assert specific rights on this basis. Article 104 requires that the Swiss Federation ensure that agricultural production is sustainable. Even though this provision is more specific than those in Articles 2 and 73, legal doctrine has established that it identifies a general goal and does not grant enforceable rights.<sup>(2)</sup>

A number of cantonal constitutions also refer to the principle of sustainable development. The constitution of the canton of Zurich, for instance, commits the canton and municipalities to ecologically, economically and socially sustainable development (Article 6(2)) and requires them to carry out public tasks effectively, economically and sustainably (Article 95(2)). Both provisions identify sustainability as one goal among others; none of the goals has priority. Therefore, the authorities may act according to their discretion and specific rights may not be asserted on the basis of such provisions. Article 102(3) of the constitution entitles the canton and municipalities to support the use of sustainable technologies, but this provision is an authorization, not an obligation - it does not grant specific rights. As at federal level, the cantonal constitution's provision regarding sustainable agriculture is a general goal (Article 108).

These examples show that many constitutional provisions support the principle of sustainable development. However, such provisions are general guidelines for the authorities and do not grant specific, enforceable rights to individuals.

In 2002 the federal government defined a strategy to consider the principle of sustainable development in all areas of policy. It provides that all concepts, projects, programmes and statutes must take this principle into consideration. The government's tool for doing so is the sustainability assessment. The sustainability assessment is not a complex procedure, but a method of assessing and improving certain projects at a political level. It assesses their social, economic and environmental impacts and tries to resolve problems caused by the conflicting objectives involved.

The Federal Road Office has introduced an assessment of road infrastructure projects based on sustainability indicators; it involves the consideration of around 40 factors, some relating to cost. The factors cover the social, economic and environmental aspects of the project. The result of the method is not a single decision, but several partial results relating to various aspects of the project. It is up to the authorities or the political process to arrive at a final assessment.

Such approaches do not guarantee that the principle of sustainable development is followed. However, they

provide assistance in finding solutions which give this principle as much consideration as possible.

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## Endnotes

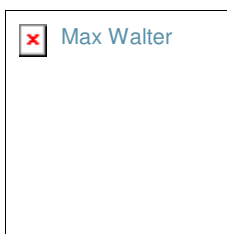
(1) Thomas von Stokar, *Vom Konzept der nachhaltigen Entwicklung zur Nachhaltigkeitsbeurteilung*, URP/DEP 20 (2006), Volume 1, pages 527 *et seq.*

(2) Alexandre Flückiger, *Le Développement Durable en Droit Constitutionnel Suisse*, URP/DEP 20 (2006) Volume 1, pages 471 *et seq.*

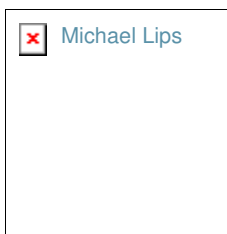
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