

When health policy becomes a question of power

by Ralph Studer*



Ralph Studer.
(Picture ma)

Mandatory vaccinations, liability issues and new technologies are causing unease across Switzerland. Whilst cantons are tightening their health laws and the federal government is revising the Epidemics Act, concerns are growing that state intervention could go too far. Initial consultations have led to restrictions on the state's scope for intervention.

The key question remains: where does health protection end and state overreach begin? The current cantonal legislative revisions highlight just how contentious this issue has become.

Focus on cantonal revisions

Health laws are currently being revised in several cantons. St. Gallen, particularly, has demonstrated with its comprehensive revision just how broadly existing federal regulations can be interpreted (see box). Article 22 of the *Epidemics Act* (EpG) permits compulsory vaccination for certain groups. However, the terms used are so open-ended that their possible interpretation remains unclear.

This lack of clarity comes at a time when the population is highly sensitive to state intervention following the Covid-19 pandemic. Many perceive that decisions could be being prepared here that deeply encroach on personal integrity. It is precisely here that questions of personal freedom and state power become particularly apparent.

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"My body! My choice! No compulsory vaccination!"
(Screenshot ma)

Article 22 EpG: A key provision

Article 22 EpG allows cantons to impose vaccination mandates on "at-risk" or "exposed" groups. But what does that mean in concrete terms? The terms are only vaguely defined. Some cantons have already introduced vaccination mandates, in some cases with heavy fines or even the threat of imprisonment for refusal. Critics see this as a breach of the principle of proportionality and of fundamental rights such as physical integrity and personal freedom. National Councillor *Rémy Wyssmann* is therefore calling for the deletion of Article 22 EpG in *Motion 26.3120*, arguing that the decision to be vaccinated must remain a personal one.¹

Federal differences

A look at the cantons reveals just how differently Article 22 of the EpG is already being interpreted today. Switzerland traditionally has differing legal regulations across its cantons. This is particularly evident when it comes to compulsory vaccination. Some cantons have none at all. Others have one, but without sanctions. Still others (such as Zurich) want to introduce criminal provisions with fines of up to 50,000 Swiss francs.

These differences simultaneously raise the question of how far cantonal intervention may go. And this is precisely where the legal problem begins.

Legal and political areas of tension

Federal law deliberately does not provide for penalties for vaccine refusal in the EpG. This was a

deliberate political choice. If cantons nevertheless introduce fines or substitute custodial sentences, the question arises: is this even permissible? This is where the principle of legality comes into play. This clearly means that no penalty may be imposed without a clear legal basis. If the federal law does not provide for a penalty, but a canton introduces one, this is legally questionable.

A recent example shows that this uncertainty has long since reached the political arena: on 2 March 2026, a cantonal petition was submitted in St. Gallen. It calls for the federal government to remove all provisions regarding compulsory vaccination from the EpG. The initiators of the cantonal petition warn that the cantonal constitution cannot fulfil its protective function in favour of its citizens and their physical integrity as long as federal law permits compulsory vaccination at all.

Vague wording and unanswered questions

As many terms, as mentioned, are only vaguely defined, the cantonal government itself decides who falls under them. One is reminded of the Covid era: broadly interpretable wording quickly led to far-reaching measures. They lack the necessary legal certainty.

The ongoing partial revision of the EpG is further intensifying the debate. Whilst certain politicians want to scrap compulsory vaccination altogether, others wish to enshrine mRNA vaccines in the *National Immunisation Plan*. At the same time, many criticise the fact that key issues from the COVID-19 era have still not been addressed – such as the effectiveness of the measures, the data available or the testing strategy.

New technologies and the precautionary principle

In parallel, the debate is increasingly shifting to the technological level. Many people are asking whether a new technology with unclear long-term effects should form the basis for a compulsory vaccination scheme. International organisations such as the *World Health Organisation* (WHO) are also backing mRNA vaccines.

However, these are controversial. The newer the technology, the greater the need for transparency, information and voluntary participation. The precautionary principle demands particular care where risks are unclear. If it applies to food, critics argue, it must apply even more to

Compulsory vaccination scrapped by the St. Gallen government – Cantonal Council takes up the issue

(CH-S) From September 2025 to January 2026, voters in the canton of St. Gallen were invited to give their views on the comprehensive revision of the Health Act – a consultation process took place, an important procedure in Switzerland designed to gather the views of the public. The canton proposed that the revised law should grant it the power to introduce compulsory vaccination in the event of a “significant risk” and for “specific population groups”. Failure to comply with the vaccination requirement would be punishable by a fine of up to 20,000 Swiss francs.

This proposal met with widespread opposition from the public – 2500 negative comments were received and a widely publicised demonstration against it took place. Criticism was also voiced by lawyer Andrea Staubli of ABF Switzerland: Who defines the “significant risk” and the “specific population groups”? There is a great deal of leeway here.¹

Due to the massive protests, the government of the canton of St. Gallen has decided against introducing a vaccination mandate – the draft bill is now before the cantonal council for deliberation.

¹ <https://swiss-standpoint.ch/news-detailansicht-de-schweiz/impfpflicht-mit-strafoandrohung-geplant.html>

treatments involving humans. As there is still little long-term experience with mRNA vaccines, the threshold for state intervention must be correspondingly high.

Liability and transparency

However, it is not only the technology itself that is causing debate, but also the question of who is liable in the event of harm. Article 70 of the EpG allows the federal government to assume the manufacturers’ liability in full or in part.

Critics see this as a massive problem: the risk is no longer borne by the manufacturer, but by the state and thus the population. A particular criticism is that this creates perverse incentives: if a company knows it will not be liable in the event of harm, the pressure to scrutinise matters particularly carefully, provide transparent information or disclose potential risks is reduced. In light of these issues, *Motion 26.3128* calls for the complete deletion of Article 70 of the EpG.²

Several recent court rulings also demonstrate just how contentious the issue is. Three judgments by the Federal Administrative Court on

10 February 2026 compelled the *Federal Office of Public Health* (FOPH) to disclose the redacted contracts with *Moderna* and *Novavax*. The *Aktionsbündnis freie Schweiz* (ABF Switzerland)³ had these contracts, now unredacted, reviewed by independent specialist lawyers. Conclusion: the contracts were one-sidedly in favour of the manufacturers. The federal government, on the other hand, assumed a large share of the risk, whilst the manufacturers had few obligations. Critics are therefore calling for full transparency to prevent future procurement failures and to regain trust.

The Wyssmann motion and the call for a halt

This political uncertainty is also reflected in current political initiatives. In a further *Motion 26.3032*, National Councillor Wyssmann calls for the approval of all mRNA vaccines to be temporarily halted until *Swissmedic* can demonstrate that they have been tested in accordance with previously established standards.⁴ Wyssmann argues that the procedures to date have been rushed too much. At the same time, the *Social Security and Health Committee of the Council of States* (SGK-S) is conducting an in-depth review of compulsory vaccination.

However, the debate does not end at the national border. International agreements such as the WHO treaties (*International Health Regulations and the Pandemic Treaty*) set additional framework conditions that may also shape Swiss legislation in the long term. National and international developments overlap, which is why the need for information and guidance is growing.

Before new technologies become mandatory or encroach significantly on fundamental rights, there must be political and legal clarity that enjoys the public's trust.

Source: <https://www.zukunft-ch.ch/wenn-gesundheitspolitik-zur-machtfrage-wird/>, 22 May 2026

(Translation "Swiss Standpoint")

(This article is a summary of the daily programme "Compulsory vaccination and new developments: guidance on health issues") by "Radio Maria", 15 May 2026. You can re-listen to the programme.⁵)

¹ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20263120>

² <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20263128>

³ <https://abfschweiz.ch/>

⁴ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20263032>

⁵ <https://radiomaria.ch/index.php/podcasts/>