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## 5 The case of Switzerland

*Gianni D'Amato*

### 1 Introduction

A small country located at the crossroads of Northern and Southern Europe, Switzerland is renowned for its neutrality and peaceful attitudes, its ethnic and linguistic diversity and a decentralised government that makes most laws at the canton level.<sup>1</sup> Yet there is good reason for control and integration policies to figure large. This federalist country has been challenged since its birth – in the aftermath of the successful liberal Revolution of 1848 – by centrifugal forces at the religious, regional, political, social and ideological levels. Certain foreign scholars, puzzled by Switzerland's apparent enduring stability (and overlooking a history of violent and disruptive conflicts from the civil war of 1847 until the social unrest of the 1930s), identify the source of this solidarity in the clever management of a multicultural country through its federal institutions (Schnapper 1997). Some see Switzerland as a 'paradigmatic case of political integration', the result of the state's subsidiary structure that supports both strong municipal autonomy and a comparatively high participation rate of the (male) constituency in the polity (Deutsch 1976). Others see the source of the country's stability in the successful creation of a strong national identity, which helped overcome the social distrust that arose during rapid industrialisation and was based on the country's small size and the idea that Switzerland was under permanent threat of powerful neighbouring countries, i.e. *Überfremdung* (Kohler 1994; Tanner 1998).

The fear of being demographically and culturally overrun by foreigners notwithstanding, Switzerland had one of the highest immigration rates on the continent during the twentieth century. According to the 2000 census, 22.4 per cent of the 7.4 million people comprising the total population are foreign born, and 20.5 percent, or nearly 1.5 million, are foreigners (defined here as persons with a foreign nationality). In relative terms, the number is twice as high as foreigners counted in the United States and considerably higher than those in Canada, two classic countries of immigration. In contrast to its internal pluralistic character, however, Switzerland does not consider itself as a country of immigration; it denied existence of an immigrant policy at the federal level before the 1990s (Mahnig & Wimmer 2003). This policy of prevention influenced the country's decision

not to admit any Jewish refugees after 1933, and also affected the implementation of a guest worker rotation model after the oil crisis of 1973.<sup>2</sup> Another paradox concerns the handling of admission and integration issues at the political level. Just after World War II, Switzerland was a popular destination for guest workers seeking employment in France, Germany and Italy. In the second half of the twentieth century, however, it became a home to Eastern European dissidents, Yugoslavian refugees and asylum seekers from the Middle East, Asia and Africa. In complete absence of those social hardships encountered in its neighbouring countries (high unemployment rates among migrants, ethnic and social segregation, social unrest, etc.), the immigration issue has been a contentious topic since the 1960s, winning priority over the political agenda at certain points in time.

These inconsistencies can be explained through careful analysis of how immigration and integration policies evolved in Switzerland. As such, section two of this chapter describes the process of immigration and integration during the twentieth century by way of a brief historical overview and demographic data. Section three highlights the importance of various stakeholders who influence migration policies at the different cantonal levels. This section also looks at external factors that may have affected the creation of this policy, showing how the political opportunity structures in Switzerland – influenced by federalism, municipal autonomy and a consensus-oriented political culture – impacted the formulation of immigration policies as much as various external challenges (foreign governments, the European Union) did. This chapter's conclusion discusses the different factors that may have influenced the outcome of Switzerland's particular immigration and integration policy.

## **2 Immigration and immigrant policies in historical perspective**

Switzerland's reputation as an ideal place for exiles dates back to the sixteenth century, when the Huguenots of France were welcome as religious refugees and found their place among the cultural, political and entrepreneurial elite of Switzerland. But the modern transformation of Switzerland into a country of immigration – as it is known today – took place during its accelerated industrial take-off in the second half of the nineteenth century (Holmes 1988; Romano 1996). In contrast to its rural image, the Swiss Confederation is a European forerunner in various branches of modern mechanical and chemical industries, and has had an enormous need to invest in knowledge and infrastructures. While many rural inhabitants were leaving the country to make their living as peasants in the New World, many German intellectuals fleeing from the failed liberal revolutions of 1848-1849 found their place at the local universities. Italian craftsmen and

workers also were recruited at the end of the nineteenth and early twentieth centuries, mainly in the construction business and the railroad sector.

During the late nineteenth and early twentieth centuries, the size of the foreign population in Swiss cities increased: 41 per cent of people in Geneva, 28 per cent in Basel, and 29 per cent in Zurich were born outside Switzerland. Nationwide, Germans outnumbered the Italians and the French (Efionayi-Mäder, Niederberger & Wanner 2005). Moreover, the proportion of foreigners in the total population increased from 3 per cent in 1850 to 14.7 per cent on the eve of World War I, mostly from neighbouring countries. During the two world wars, however, the foreign population decreased significantly. By 1941, Switzerland's foreign population had dropped to 5.2 per cent (Arlettaz 1985).

In the liberal period preceding World War I, immigration was largely the responsibility of the cantons, whose laws had to conform to bilateral agreements signed between Switzerland and other European states. Like other agreements from this period concerning free circulation in Europe, the Swiss agreements remained open to immigrants out of a need to ensure Swiss citizens their also being easily able to emigrate to find work. However, after a first campaign against the presence of aliens in Switzerland during World War I, a new article to the Constitution appeared in 1925. The article gave the federal government the power to address immigration issues at the national level, thus providing legal basis for the existence of the federal alien's police and the Law on Residence and Settlement of Foreigners, which came into force in 1931 (Garrido 1990). This law allowed the new police, the *Fremdenpolizei*, to implement the immigration policy at discretion, although at the time their aim was maintaining national identity rather than regulating migration. Essentially, the authorities had to factor into their decisions the country's moral and economic interests as well as of *Grad der Überfremdung*, or the 'degree of over-foreignisation'. Nationwide political consensus to ensure cultural purity in Switzerland prevented the drafting of any consistent immigrant policy until very recently. Foreigners, in principle, had to leave the country and were not allowed to settle permanently.

### 2.1 *Post-war labour migration*

Shortly after World War II, the economic demands of neighbouring countries engaged in economic recovery stimulated rapid growth of the Swiss economy. In the context of the post-war economic boom, Switzerland signed a 1948 agreement with the Italian government in order to be able to recruit Italian guest workers. The workers were mainly employed in the construction sector but also in textile and machine factories. A steady flow of foreign workers immigrated to Switzerland. Their numbers increased from 285,000 in 1950 (6.1 per cent of the total population) to 585,000

(10.8 per cent) in 1960 and to 1,080,000 (17.2 per cent) in 1970. Predominantly Italian during the 1950s, the composition diversified in the 1960s. By 1970, though over 50 per cent were still Italian, about 20 per cent were natives of Germany, France and Austria, while 10 per cent were Spaniards and 4 per cent were Yugoslavs, Portuguese and Turks (Mahnig & Piguet 2003). Initially, these immigrants with temporary seasonal permits were entitled to stay for one year, though their contracts could be prolonged, which frequently happened. A similar agreement with Spain was signed in 1961.

To ensure the workers did not settle permanently and could be sent home, the period of residence required for obtaining a permanent residence permit was increased from five to ten years and restrictive conditions on family reunion were adopted. This policy was called the 'rotation model' because it meant that new workers could be brought in as others returned home. While the economy boomed throughout the 1960s, the Swiss government's guest worker system became less tightly controlled. As Switzerland faced increasing pressure from Italy to introduce more generous family reunification laws, the number of Italian workers willing to come to Switzerland decreased, while other destinations, such as Germany, became more attractive after the signing of the Roman Treaty; also, the internal economic boom and development started a wave of internal migration, particularly to destinations in Northern Italy.

It was also at this time that the Organisation for European Economic Co-operation (OEEC) introduced standards for family reunification. Other international guiding bodies, such as the International Labour Organization (ILO), also pressured the Swiss government into adopting more 'humane' family reunification policies. In response, the government began replacing its rotation system with an integration-oriented scheme that facilitated family reunification, made foreign workers more eligible for promotions and attempted to end labour market segmentation (Niederberger 2004).

Following the 1973 oil crisis, many workers became superfluous, thus having to leave the country because they lacked adequate unemployment insurance. This allowed Switzerland to 'export' its unemployed guest workers without renewing their resident permits (Katzenstein 1987). The total percentage of the foreign population fell from 17.2 per cent in 1970 to 14.8 per cent in 1980. But as the economy recovered, new guest workers arrived not only from Italy, but also from Spain, Portugal and Turkey. Their part of the population increased from 14.8 per cent (945,000 persons) in 1980 to 18.1 per cent (1,245,000 persons) in 1990 and 22.4 per cent in 2000 (nearly 1.5 million people) (Mahnig & Piguet 2003).

In the late 1970s, the government gave seasonal workers many of the same rights as guest workers who had come on longer contracts, namely the ability to transform their seasonal permits into permanent residency and to bring their families. Since the number of seasonal permits issued

did not decrease – they numbered at 130,000 per year on average between 1985 and 1995 – these permits became a gateway for permanent immigration and a means to supply cheap labour sectors of the economy, which would otherwise not have been able to survive given Switzerland's high wages. A 1982 reform of the Alien's Law was thought to regulate the transformation of permits heuristically and give permanent residents a firm hope to stay in the country. But the successful referendum of the Swiss Democrats (SD), a radical right-wing fringe party accepted by a slight majority of the population, put an end to the reform of immigration and migrant settlement laws. Seasonal permits were therefore still available until 2002.

By the time the worldwide recession of the early 1990s reached Switzerland, the unskilled and aging guest workers suffered high rates of unemployment and found it very difficult to find new jobs. This situation led to an unprecedented level of structural unemployment and poverty, one that Switzerland had not experienced in prior decades. Switzerland's larger cities, which, according to the subsidiary logic of the Swiss federal system, had to organise the welfare and find solutions, urged the federal government to act and support extended integration patterns towards immigrant workers (D'Amato & Gerber 2005). A new admission policy was needed to combine the evolving needs of a new economy with those of migration control.

## 2.2 *Asylum policy*

After World War II, the Swiss government recognised that its authorities had been responsible for denying admission to many Jewish refugees. The government stressed its willingness to uphold the country's humanitarian tradition and, in 1955, signed the Geneva Convention Relating to the Status of Refugees of 1951. During the next two decades, the country adopted a liberal policy, offering asylum to refugees from communist countries in Eastern Europe. In 1956, 14,000 Hungarians were allowed to settle permanently after their country's uprising against Soviet troops and, in 1968, 12,000 Czechoslovakian nationals arrived in Switzerland (Efionayi-Mäder 2003).

These people, who were often well educated, had little difficulty obtaining refugee status. The government and the public gave them a warm welcome, which is not surprising given the strong anti-communist sentiments at this time. In the mid-1970s, the arrival of a few hundred Chilean dissidents who fled Pinochet's regime ignited controversial debates about their asylum eligibility. Between 1979 and 1982, Switzerland offered protection to approximately 8,000 Vietnamese and Cambodian 'boat people',<sup>3</sup> who were accepted on the basis of yearly quotas. Their subsequent integration

process was more difficult than that of any previous refugee group (Parini & Gianni 1997, 2005).

All these events prompted the creation of a new federal asylum policy in 1981, which codified the country's relatively generous practices. It defined the rules of the refugee status determination procedure and gave the Confederation policymaking power, while clearly giving the cantons the responsibility of implementing these policies. In domains such as welfare, education and repatriation, the power of the cantons in making refugee-related decisions was significant. As a result, there were major policy differences between the cantons.

After 1981, two trends emerged. Firstly, the number of applications, which had been steady at about 1,000 per year during the 1970s, increased exponentially. Secondly, most of the refugees – except for a large number from Poland in 1982 – came from other parts of the world: Turkey, Sri Lanka, the Middle East, Africa and Asia. Unlike the anti-communist dissidents, they were not always professional or university-educated. Some came from rural areas, some had not even finished primary school, while others had university degrees unrecognised in Europe. In addition, a weak economy made it difficult for these non-European refugees to find work. As more people from outside Europe filed applications, in the mid-1980s, asylum had become a sensitive subject. In public debates, refugees were called 'asylum seekers' or the derogatory term 'asylants' to indicate they did not deserve refugee status. Since the 1981 law's subsequent revisions created stricter procedures, the government gradually started accepting fewer asylum requests, even from people fleeing civil wars and violence. As a rough indicator of this trend, positive answers to applications averaged at 86 per cent between 1975 and 1979. This number dropped to an average of 47 per cent between 1980 and 1984, and again to an average of 6 per cent between 1985 and 1990 (Efionayi-Mäder et al. 2005).

### **3 Immigration policies and policymaking**

Since immigration and integration policies in Switzerland are intrinsically bound, this section will first present the main actors of policymaking and then discuss the recent changes in admission, asylum, integration and naturalisation policies.

#### *3.1 The actors of policymaking*

Until 2005, two federal offices within the Federal Department of Justice and Police dealt with 'foreigners' living in Switzerland: the Federal Office for Refugees (FOR) and the Federal Office for Immigration, Integration and Emigration (IMES). The first office was introduced in 1991 in reaction

to the influx of asylum seekers since the 1980s. The second federal office was founded in the year 2000, albeit with beginnings dating back to the implementation of the Law on Residence and Settlement of Foreigners of 1931. Its main task was to prevent the 'over-foreignisation' of Switzerland and to enforce insertion policies for foreigners. These two federal offices became one entity, when merged into the Federal Office for Migration (FOM) on 1 January 2005. One branch in the new FOM continues to be responsible for implementation of Swiss asylum policy. Another picks up where IMES left off, implementing the admission policy, which includes the enforcement of laws regarding residence in Switzerland (immigration and residence section) and assessing labour market needs (labour market section). The changes within the organisational structure of the federal office reflect the will to implement a coherent policy on foreigners, comprising admission, stay and integration (Efionayi-Mäder, Lavenex, Niederberger, Wanner & Wichmann 2003).

The State Secretariat for Economic Affairs (SECO), which is a part of the Federal Department of Economic Affairs (DEA), is the government agency responsible for questions about economics and labour. SECO has influenced Swiss labour migration policy since 1945 by determining the qualitative and quantitative needs of the market.

At the federal level, there are three important permanent commissions, namely the Federal Commission for Foreigners (FCF), the Federal Commission against Racism (FCR) and the Federal Commission for Refugees (CFR). The FCF was set up as an expert commission of the Swiss Federal Council in 1970; it reports directly to the Federal Department of Justice and Police.

The FCF's central concern is the integration of foreigners. Since 2001, funds have been available for projects promoting integration. At present, the FCF comprises 28 members, two of whom hold observer status. The members are representatives of various foreigners' organisations, municipalities, communities, cantons, employers and employees and churches, or have a professional background in implementing integration policies. The FCF assists in promoting the creation of educational and vocational opportunities for foreigners and in the recognition of professional training in cooperation with the relevant cantonal authorities; it participates in the international exchange of views and experience; it mediates between organisations that are active in the field of cooperation and the federal authorities; it publishes opinions and recommendations regarding general issues of migration; and, moreover, it is consulted on questions of migration during legislative proceedings.

In 2008, the FCF and the CFR were merged into one commission, the Federal Commission on Migration (FCM). Both the FCM and the FCR hold meetings on a quarterly basis. They organise joint events, such as the national conference on the revision of the law on naturalisation. The



Federal Commission Against Racism is part of the Federal Department of Home Affairs (DHA). Within the DHA, there is the Service de Lutte contre le Racisme, an interlocutor that coordinates the activities of various actors participating in the fight against racism. Amongst other activities, it administers a fund for anti-racism projects. The CFR is an advisory body to the government and to the ministries working on refugee issues.

All these commissions form an important interest group in the consultation of new laws, insofar as Switzerland leaves a significant part of decision-making to institutions of direct democracy. In particular, in the area of migration policy, political processes and policymaking are dominated by pre-parliamentarian negotiations and direct democracy, while Parliament plays a secondary role (Mahnig 1996). Significantly, the two levels of policymaking and political process are also characterised by different political styles (Neidhart 1970). While in pre-parliamentarian negotiations the compromise is the final objective of the consultation process, in which expert commissions can play a decisive role, the arena of direct democracy is mainly determined by confrontational attitudes and divisive outcomes.

At the federal level, Switzerland's most important political parties are the 'centrist block' composed of the Christian Democrats (CVP), the Swiss People's Party (SVP), the Liberal-Democratic Party (FDP) and the left-wing parties, namely the Social Democrats (SPS) and the Green Party (GP). With the exception of the GP, all parties are members of the government. The SVP is an important stakeholder in the debates on migration and asylum policy. Formerly the party of artisans and peasants, it changed into a radical modern populist party once the charismatic lawyer and entrepreneur Christoph Blocher took over its Zurich branch in the late 1970s. The SVP supported a popular initiative aiming to reduce the number of residents illegally residing in Switzerland and was in charge of an initiative taken against 'asylum abuse'. In Zurich, the party launched an initiative demanding that all requests for naturalisation be subject to popular referendum.

Trade unions and employer's representatives also play a role in the formulation of Swiss immigration policy. They exert their influence both in a formal manner, via the consultation procedure, and informally, by determining the quota of foreigners allowed into Switzerland. Due to the state's federal structure, the cantons are very influential actors in the formulation of governmental policies as well. The cantons' sphere of authority, when it comes to policies affecting foreigners, includes the alien's police and is focused on determining the needs of the labour market. Furthermore, the cantons are responsible for the implementation of integration measures. As the Confederation does not have a federal police, the cantons are responsible for maintaining public order and enforcing decisions involving repatriation. Thus, it is through their competence and experience in implementing measures concerning asylum seekers that the cantons contribute significantly to the formulation of Swiss policy in this area. The Conference of Cantonal

Ministers of Justice and Police (CCMJP) has become increasingly vocal on its position on questions of interior security (e.g. concerning crimes committed by foreigners) and asylum.

Cooperation with the municipalities is important as the municipalities are responsible for the accommodation of asylum seekers and refugees, and must pay for costs associated with the social welfare of regular immigrants. Their point of view is that their concerns are not sufficiently taken into consideration in the formulation and implementation of asylum and immigration policies. Larger cities, notably Zurich, have recently launched spontaneous initiatives on the asylum issue inciting major debate. Smaller municipalities have also been in the headlines recently: one municipality refused to accommodate the requested number of asylum seekers; others have banned access to public areas such as schools, playgrounds and soccer fields.

NGOs also play a role in implementing Swiss asylum policy. They offer social counselling and legal advice to asylum seekers. The Swiss Refugee Council (the Schweizerische Flüchtlingshilfe, known as the SFH) is an umbrella organisation of Swiss asylum organisations that seeks to exert influence on political decision-making by publishing position papers on various asylum-related questions.

Other NGOs in the asylum field include charity organisations Caritas and Swiss Interchurch Aid (HEKS) and the Swiss Red Cross. March 2001 saw creation of the Forum pour l'Integration des Migrants et des Migrants (FIMM Suisse). Composed of 330 representatives, FIMM is the umbrella organisation of all foreigners' associations in Switzerland. It organises public debates on issues concerning foreigners in Switzerland (e.g. Schengen agreements), collaborates with the federal authorities (FOM, FCM) and participates in the consultation procedure. It is partially financed by the FCM.

### 3.2 *Recent changes in immigration policies*

The following paragraphs describe how the different interest groups consult with the federal administration during the policymaking process in Parliament and, not least of all, through the means provided by direct democracy.

There have been two major changes in the last few years regarding regular immigration. First, June 2002 saw entry into force of the Bilateral Agreement on the Free Movement of Persons between Switzerland and the EU member states. Second came an admission policy applicable to third-country nationals that would prove more restrictive than the policy Switzerland had pursued thus far, resulting in admitting 'only urgently required qualified workers' from outside the EU/EFTA area. At present, work permits are only issued to executives, specialists and other highly

qualified workers from outside the EU/EFTA area if no Swiss or EU national meets the requirements. When issuing residence permits, the authorities further consider candidates' professional qualifications, their ability to adapt to professional requirements, language skills and age. If a person meets the criteria established in these areas, he or she should, in theory, be able to achieve sustainable integration into the Swiss labour market and the social environment (Efionayi-Mäder et al. 2003).

In 2005, the draft for a new Alien's Law was under discussion in both chambers of Parliament. At the end of 2006, it was passed despite a referendum that wanted to prevent the introduction of a two-class admission system between EU and non-EU immigrants. During the hearings, it became evident that this bill would cause sharply polarised campaigns, not to mention that the last attempt, in 1982, to reform the Alien's Law had been doomed to failure. At the time, the reform was only supported by the CVP and the FDP, while the SVP did not want to introduce any improvement for third-country nationals, denying them the opportunity of family reunification. The political left – notably, the SPS, the GP and the unions – criticised the discriminatory partitioning of foreigners into two categories, which vividly evoked old initiatives that had been rejected by the population. When finally presented in Parliament, the bill was challenged by left and right parties for different reasons: the former beseeching equal treatment of all foreigners; the latter seeking more effective combat of abuses to foreigners' laws and the abolishment of prospects for family reunification.

A few representatives from the political right were particularly irritated that the Swiss National Council (the Nationalrat, which represents the people) had passed a special regulation concerning undocumented migrants who had resided illegally in the country for over four years. The regulation specified that these *sans-papiers* should, for humanitarian reasons, have the opportunity to request their residence be legally authorised in the near future. Curiously enough, no irritation was caused by a simultaneously proposed, albeit unsuccessful, motion by an SVP MP promoting the hiring of unqualified third-country nationals as seasonal workers in branches of the economy such as the farming, tourism and construction industries. From then on, the allocation of a residence permit would be contingent on attending integration courses that were, against the SVP's will, subsidised by the federal government. The National Council also passed clauses against migrants partaking in marriages of convenience, smugglers and illegal migrants, and introduced carrier sanctions at Swiss airports on all airlines transporting passengers without valid papers.

The Alien's Law was ratified by the National Council with support from the CVP and the FDP. The SPS also approved this bill, mostly not to hinder further negotiations and to prevent a more restrictive interpretation from emerging. The GP and the SVP refused to support the law for

opposite reasons: the former out of human rights concerns; the latter because the bill was not strict enough to fight abuses. In December 2003, the new Federal Council thus elected a council member to be responsible for migration issues, Minister of Justice Christoph Blocher (SVP) who would present a more restrictive version of the bill in the Swiss Council of States.

The Council of States, Parliament's second chamber representing the cantons, voted for a more severe interpretation of the bill. Led by a CVP-FDP majority, the Council of States cancelled all mandatory provisions in the Alien's Law. Persons with a residence permit would no longer be allowed automatic family reunification; permission for this would remain at the discretion of the cantons. A special regulation concerning *sans papiers* was also abolished, as Blocher argued that, with the exception hardship cases, all illegal immigrants should leave the country. Impeded thus were both laws, that concerning family reunification and that pertaining to regularising *sans papiers*. To facilitate the integration of young persons reunited with their families, however, the age at which a permanent residence permit could be claimed was lowered from fourteen to twelve.

In the second reading, the National Council joined in the interpretation of the Council of States, also abolishing the article allowing a limited number of unqualified persons to enter the country. The SPS-GP parliamentary party announced a referendum against this bill, which was supported by migrant associations, notably the umbrella organisation FIMM. The erstwhile FCF published a report expressing concern about the severe interpretation of integration measures. Together with the revised Asylum Law, the bill was submitted to a referendum that was won by the government in September 2006. The more restrictive law passed all procedures and took effect in 2008.

In quantitative terms, the new bill – like the old law – paves a path for authorities to pursue a more permissive or more restrictive admission policy as necessary. The decisive factors for determining Switzerland's quotas of admittees from outside the EU/EFTA are the current economic situation and the need for labour in certain segments of the market. The authorities will continue to be able to adopt a quota for third-country nationals (*Kontingentierung*).

The policy's basic principle is that admission must serve the interest of the entire economy, not on the basis of particular interests. As such, professional qualifications and the ability to integrate should play decisive roles. Moreover, admission must take Switzerland's social and demographic needs into account. In contrast to regulations present in the old Alien's Law, a controlled opening of the market to self-employed people is foreseen in the law if the activity is likely to stimulate competition. Increased competition should promote the efficiency of the economy and, in the long run, guarantee the international competitiveness of Swiss companies. When labour market needs were reassessed in the 1990s, post-war migration

policy was identified as one of the main reasons for reduced investments and a decline of Swiss competitiveness in various new industrial branches (Blattner & Sheldon 1989; Sheldon 1998).

On the one hand, the new Alien's Law constitutes a higher barrier for nationals of non-EU/EFTA states to enter Switzerland. On the other hand, the situation for foreigners who lawfully and permanently reside in Switzerland will be improved through better opportunities to change occupations, jobs or cantons. The subsequent immigration of families of short-term residents and students is also to be permitted, provided that residential and financial requirements be satisfied. These measures facilitate integration, simplify procedures for the employers and authorities and ensure uniform application of the law. In the aforementioned areas, the law aims to harmonise the rules applicable to third-country nationals with those applicable to EU/EFTA nationals (Efonayi-Mäder et al. 2003).

### 3.3 *Recent changes in asylum policies*

As elsewhere in Western Europe, asylum migration increasingly gained importance during the 1980s. Labour migration seeped into the public discourse since its issues had manifold moral, political and judicial implications. Although asylum recognition rates decreased in the 1990s, many asylum seekers were able to remain in Switzerland under subsidiary protection or for humanitarian reasons. While their rights were restricted during a period of time that was regulated by the canton – their access to the labour market and welfare were limited and family reunification was forbidden – most of those granted protection were later able to settle permanently. In the 1990s, war in the former Yugoslavia prompted a massive influx of asylum seekers from Bosnia and Kosovo, many of whom had family ties in Switzerland from labour migration that began in the 1960s. Between 1990 and 2002, Switzerland received 146,587 asylum applications from the war-torn Balkans. According to the Swiss Federal Office for Migration, some 10,000 persons were granted asylum, and 62,000 received temporary or subsidiary protection over the course of several years (Kaya 2005).

The Swiss public became concerned about the increasing number of asylum applications, largely because the economy was in recession and unemployment was on the rise. Thus, the federal government adopted administrative and legal measures to speed up the processing of applications and the implementation of decisions. And after numerous partial revisions, a completely revised Asylum Law came into force in 1999. Among the many changes making it more restrictive, this law introduced new grounds for non-admission to the regular asylum procedure. This meant that applicants who stayed in the country illegally prior to their request or who did not submit travel or identity documents would generally be refused asylum. On the other hand – and as a concession to humanitarian arguments – the

law now allowed temporary collective protection of war refugees, giving Kosovars and Bosnians temporary admission.

Most asylum seekers from Bosnia and Kosovo had to leave Switzerland after the conflicts ended in 1995 and 1999, respectively. Those who returned home, including some who waited several years to do so, benefited from a return programme consisting of financial support, building materials and assistance for their home communities. An estimated 40,000 to 60,000 persons from Bosnia and Serbia and Montenegro returned home, either with or without aid from the Swiss government, while approximately 10,000 with refugee status from the former Yugoslavia stayed. No reliable figures are available for the number of asylum seekers from Bosnia and Kosovo who remained in the country illegally (Efnay-Mäder et al. 2005).

Despite the steady decrease in asylum requests – in 2003 the number of requests fell nearly 20 per cent from the prior year, or 20,806 in absolute numbers – the SVP continued to battle asylum inflows. Since their initiative against asylum abuses did not pass the ballot in 2002 (they lost with the narrowest result in Swiss history: 49.9 per cent), the party tried to detect new fields of operation. As a moral winner, the SVP demanded a new asylum initiative in June 2003, seeing as it did not expect any revolutionary improvements from the parliamentary revision. This initiative by SVP chairman Blocher, also still MP at the time, provoked the other parties. They condemned SVP procedures as being a form of ‘blackmailing’, not to mention pure election campaign strategy. The other parties responded with a revision of the Asylum Law, expressing the will to transfer competences for asylum matters completely to the federal level. Another idea was to exclude uncooperative and liable asylum seekers at the beginning of the asylum procedure as well as those who stayed in the country illegally. They were to be punished with a prison sentence or expulsion (NZZ 11 June 2003, 15 September 2003).<sup>4</sup>

In reaction to the unexpected success of the SVP’s initiative against abuses, the Political Institutions Committee of the National Council decided against revising the Alien’s Law first, and the Asylum Law second, as had been originally intended. They wanted to take both revisions to the vote simultaneously. Meanwhile, the SVP had plans to bring forward a revision of the Asylum Law, though with no success (NZZ 10 January 2003).

The government realistically interpreted the population’s sceptical attitude towards their asylum policy, yet the decreasing number of asylum requests no longer supported this interpretation de facto. Support from the people was to be regained by means of a new asylum law. Therefore, asylum seekers whose request could not be accommodated in the future would be treated as illegal foreigners without any rights to claim social welfare benefits. They were transferred to the less attractive though constitutionally

protected emergency aid, which is submitted to continuous administrative controls. From this procedure, the government anticipated additional annual savings of approximately 77 million CHF, as well as an increase in the number of repatriations and Switzerland's loss of attraction as a destination country. However, only a few years before had the cantons and cities refused to support a similar measure, fearing the impact it would have on their housing costs (cantons and municipalities are responsible for emergency aid) (*NZZ* 13 February 2003, 14 February 2003, 5 April 2003). But with the SVP's electoral success, the mood in Parliament shifted, producing a more restrictive policy.

The National Council affirmed the third-country regulations with a strong majority and support of the centre-right parties. Consequently, Switzerland would stop accepting asylum requests in the future if an applicant had already received a negative response in an EU or EES country. It also approved the concept of humanitarian admission. Neither the SVP's proposal favouring stricter admission requirements nor those of the social democrats and the ecologists that privileged more unconstrained measures, however, were taken into account. Hence, the humanitarian admission program would be granted only in cases where expulsion was not allowed for humanitarian reasons and the person in question was in a state of serious need. Further on, the admission programme foresaw the right to reunify the families under certain conditions and also granted a facilitated access to the labour market.

In the final vote, the National Council accepted the revision of the Asylum Law with 98 to 49 votes and 30 abstentions. CVP and FDP favoured the bill without any exception; the GP was just as opposed to it. Two thirds of the SPS members in the National Council were also in favour of the revision. The majority of the SVP was against it; and most abstentions also came from this party (*NZZ* 31 August 2004).

However, Blocher, at that time elected by Parliament as a new Federal Councillor, was dissatisfied with approved changes of the National Council and introduced modification requests concerning consultation of the Council of States. The Minister of Justice pleaded for various measures including: tightening the eviction order, expanding territorial bans, introducing short-term arrests, tightening decisions concerning *sans-papiers*, abolishing humanitarian admission and collecting charges should asylum seekers request to reevaluate admission procedures. When consulted, the cantons welcomed these innovations, with coercive measures encountering especially wide consensus. Notably, the cantons agreed less with the financial consequences of a system change, particularly regarding humanitarian assistance. While welfare organisations, the UNHCR, churches, the SPS, the GP and five cantons voiced fundamental doubts about this revision, the FDP and the CVP by and large supported the change, even if they had reservations about some paragraphs. The SVP supported Blocher's

suggestions unflinchingly, while wishing for stricter measures still. At the end of August, the Federal Council had endorsed Blocher's argumentation in toto, but refused to support the expansion of eviction orders or the abolishment of humanitarian admission (*NZZ* 1 July 2004, 21 July 2004 (argumentation of the churches), 22 July 2004 (argumentation of local authorities association), 28 July 2004 (argumentation of the UNHCR), 6 August 2004 (argumentation of cantons)).

The Council of States did not disappoint the Federal Council or the cantons when their turn came, speaking out for a sharper asylum law in the spring 2005 debate (*NZZ* 18 March 2005). However, the fact that Blocher had proposed his amendments in an accelerated proceeding caused resentment to prevail. A rejection request from SPS member of the Council of States Simonetta Sommaruga, asking for an examination of the amendments' conformity with requirements of the Constitution and international law, did not stand a chance. In reaction, Blocher stated that none of his suggestions so far were rejected by either the Federal Council or internal experts on the charge that they contradicted international law. Finally, the political institution committee's decision corresponded to the cantons' desire for stricter interpretation of the Asylum Law, asking for a coercive detention, which could be expanded up to two years. Switzerland was the only state in Europe to reject the new status of humanitarian admission because of the automatic family reunification programme originally included in its proposal. For hardship cases, the Council of States wanted to apply provisional admission. Thus, the cantons could grant labour market access to persons whose return was inadmissible, unreasonable or impossible and, moreover, who were socially integrated. However, if at the beginning of the asylum process no passport or identity card could be submitted to the authorities, but only a document such as a birth certificate or a driver's license, any asylum requests by the applicant would no longer be considered. If persecution in the country of origin could be convincingly proven, the asylum proceeding would remain open. This last point was criticised by the political left and some members of central-right parties as being disproportionate and unconstitutional. The left also resisted – in vain – the freezing of social welfare assistance to rejected asylum seekers. The new law foresaw only emergency support for this group, which anyway could always be denied to uncooperative asylum seekers (*NZZ* 18 March 2005).

Federal Councillor Blocher's argumentation passed the Council of States and the second reading in the National Council with a large majority. Daily newspaper *Neue Zürcher Zeitung* (*NZZ*) noted with astonishment how unanimously all centre-right parties stood behind Bundesrat Blocher and expressed surprise over the fact that no further suggestions were introduced in the formulation of a future migration policy. This seemed to prove



how much the mood had changed after Christoph Blocher had taken over the justice department. Today bills are passed with large majorities whereas a few years ago they would have caused even doubt and refusal in the political centre-right camp. The left, the charitable organizations and the churches have not reacted to these changes and, furthermore, practically oppose all changes in the whole country instead of focusing on some really problematic reinforcement of the law. (NZZ 28 September 2005, translated by the author)

Together with the Alien's Law, the Asylum Law was submitted to a popular referendum and passed the ballot with a 3-to-1 vote in September 2006, subsequently coming into operation 2008.

### 3.4 *Recent changes in integration policies*

When the Swiss government dropped its rotation policy in the early 1960s, it recognised that the only alternative could be a policy of integration. However, the belief – both then and now – is that integration takes place naturally, on the labour market and at schools, as well as in associations, labour unions, clubs, churches, neighbourhoods and through other informal networks (Niederberger 2004). Since the 1970s, the Confederation's main integration policy has been aiming to improve the legal status of immigrants, reuniting families more quickly and granting immigrants a more secure status. To facilitate the integration of foreigners and to respond to the public's concerns about them, in 1970, the government established the Federal FCF, now known as the FCM (see section 3.1). Promoting the co-existence of foreign and native populations, the commission brings together municipalities, communities, cantons, foreigners' organisations, employers and employees and churches. The FCM cooperates with cantonal and communal authorities, immigrant services and immigration actors, such as charities and economic associations. It also publishes opinions and recommendations regarding general issues on migration and provides testimony for political debates on migration-related policy.

After strong lobbying by cities during the economic crisis of the 1990s, the Swiss alien policy adapted to the new reality, considering the integration of foreigners a prerequisite for achieving a politically and socially sustainable immigration policy. 'Integration' here referred to the participation of foreigners in economic, social and cultural life. The integration article in the old Alien's Law, passed in 1999, paved the way for a more proactive federal integration policy; it also strengthened the former FCF's role. Since 2001, the government has spent an annual 10-12 million CHF (€ 6-€ 7 million) to support integration projects, including language and integration courses and training for integration leaders. Cantons and larger municipalities also have their own integration and intercultural cooperation committees

and offices, which offer language and integration courses. In many communities, foreigners participate on school boards and, in some cases, the municipal government. With the support of consulates and the local education department, larger communities offer courses in immigrant children's native languages and cultures. While churches prove to be among the major institutions promoting coexistence of the Swiss and the foreign population, other non-governmental organisations have become more interested in the process as well.

The aforementioned new Alien's Law of 2008 foresees that candidates for immigration fulfil certain criteria to facilitate their integration. This restrictive component corresponds in its content to the criterion of highly qualified immigration. Level of education and professional qualifications are thought to improve the integration of foreigners and guarantee their vocational reintegration in cases of unemployment. The restriction aims to avoid repeating past errors, e.g. granting temporary work permits to low-qualified seasonal workers. In fact, the new Alien's Law abolishes the status of seasonal workers. Furthermore, it explicitly foresees that it is the immigrant's duty to make every effort necessary to facilitate his or her own integration. Permanent residents and their families are required to integrate on both professional and social levels (Efnayy-Mäder et al. 2003).

The Swiss government has a budget available to fund projects that promote integration. New instruments have been adopted to coordinate measures at the federal and cantonal levels. Cantons have had to establish integration offices and launch projects that promote linguistic, professional and other forms of integration. A first round of projects to promote integration has already been implemented.

### 3.5 *Recent changes in naturalisation policies*

Persons who have resided in Switzerland for twelve years – those spent between the completed tenth and twentieth years are counted double for this purpose – may apply for naturalisation. The Federal Office for Migration examines whether applicants are integrated into 'the Swiss way of life', are familiar with Swiss customs and traditions, comply with Swiss laws and do not endanger Switzerland's internal or external security. In particular, this examination is based on cantonal and communal reports. If the requirements provided by the federal law are satisfied, applicants are entitled to obtain a federal naturalisation permit from the Federal Office for Migration (Wanner & D'Amato 2003).

Naturalisation proceeds in three stages. The federal naturalisation permit is thus seen merely as the Confederation's green light for acquisition of Swiss nationality. The cantons and communities have their own, additional residence requirements that applicants must satisfy once federal preconditions are satisfied. Once the federal naturalisation permit is obtained, only

those applicants naturalised by their communities and cantons acquire Swiss citizenship. As a general rule, there is no legally protected right to being naturalised by a community and a canton. The cantons' criteria, as well as the way in which they decide who gets citizenship, vary greatly. For example, in Nidwalden, applicants must have spent the entire twelve-year period in the canton. In Geneva, two years of residence are sufficient and candidates having moved from other cantons fulfil the federal preconditions. The requirements at the communal level can vary greatly as well.

In three referenda passed over the last twenty years (1983, 1994, 2004), Swiss voters and the majority of the cantons rejected laws that would have made it easier for the children of immigrants to become naturalised. The law submitted to a referendum in 2004 would have allowed the Swiss-born grandchild of a foreign resident to gain Swiss citizenship automatically at birth. The main reason for this new provision was that automatic naturalisation would have eliminated the community's decision-making role, which many Swiss considered an important step in the political process. Over the last 50 years, naturalisation rates have stayed lower than federal authorities have desired probably because many immigrants decided to return to their home countries after working in Switzerland. In 1992, dual citizenship became permitted. Between 1991 and 2001, the number of naturalisations increased from 8,757 to 37,070. Nationals from the former Yugoslavia, mostly from Kosovo and Bosnia, were the quickest to naturalise, having little interest in returning to the unstable political situation in their home country. Also, having Swiss citizenship would mean they could never be forced to return. Yet, citizenship is not always necessary for voting in local elections. In several French-speaking cantons, foreigners who have lived in the canton for many years have the right to vote at the municipal level and, in a few cantons, even on cantonal matters. The 2004 introduction of this legal innovation led to hotly debated controversy on the significance of citizenship.

As already mentioned, in 2002, Swiss Parliament debated the revision of the citizenship law for a third time. In the detailed consultation process, there were violent criticisms of suggestions presented by the Federal Council and the CVP to shorten the minimum residence requirements. The SPS and the GP claimed a reduction of six years, while the SVP and a majority of the FDP wanted to maintain the present twelve years. When it came to regulations to facilitate naturalisation of the second generation, the SVP demanded severer legislation. The party was of the opinion that only those born in the country should profit from easier access to citizenship, as opposed to young people who had only spent over half their school life in Switzerland. The National Council rejected this proposal. Though the SVP rejected it, the SPS, the liberal FDP, the CVP and the GP all supported the Federal Council's new regulation to introduce a facilitated naturalisation.

When the discussion shifted to whether or not citizenship should automatically be given to children of the third generation (introducing the principle of *jus soli*), the debate became strongly polarised. Such a legal innovation was categorically rejected by the SVP. On the other hand, the CVP and the FDP were reluctant to limit the rights of parents in this manner. The FDP thus wished to make the right to naturalise contingent to a request by both parents. In the end, the CVP's proposal found much support through the argument that parents could renounce their child's citizenship at birth, and that the child was free to revoke the decision upon reaching the age of majority. Against the acrimonious resistance of the SVP, the National Council also approved the right to protest for those whose request was rejected in municipalities without reason. At the end of the consultations, the SVP announced their wish to initiate a referendum against this revision (*NZZ* 17 September 2002).

Shortly after this debate, discussion about granting easier access to citizenship was influenced by a Federal Tribunal decision in Lausanne. The judges deemed the concession of citizenship for reasons of origin or religion unconstitutional because it violated the principle of non-discrimination and thereby ordered municipalities to adopt a procedure that did not contradict the Constitution. In their written justification, the judges declared that no immigrant had an automatic right to be naturalised, but that in certain municipalities voting on applicants was an administrative function since the status of inhabitants was being decided upon. This type of function would require authorities and the population, both, to respect the prohibition of discrimination (*NZZ* 10 July 2003, 25 July 2003).

Many experts and the political left voiced support for this judgment. The political centre expressed consternation about such a verdict only a few weeks before the general elections. The SVP protested vociferously against the limitation of sovereignty and municipal autonomy, which, in their eyes, gave the impression of a partisan decision. This question became a major topic in the 2003 election campaign, criticising all those judges who act against the will of the people. A party convention held a few days before the elections launched a political initiative demanding that naturalisations be made at the discretion of the people. In the opinion of the SVP, naturalisations were political, rather than administrative acts.

Both chambers of Parliament passed the bill with practically no alterations. In the final round, only the SVP voted unanimously against the new regulations, disapproving of easier access for the second generation, *jus soli* for the third generation and the right to judicial complaints for rejections. The latter point was also supported by a large minority of the FDP.

On 26 September 2004, the referendum took place. Advocates of the change, the CVP, the SPS and the liberal FDP offered only little propaganda, underestimating its importance in support of the SVP campaign. Demoscopic analysis let them presume that they would win the

referendum. And yet, the winds changed just days before voting day. Support from employers' associations and unions was not powerful enough. Then newly elected Federal Councillor Blocher should have supported the bill since it came from his ministry, though he sabotaged it during his campaign and imparted only technical information about the new provisions to a restricted audience.

With a rather high referendum attendance (54 per cent voting rate), the majority of the people and the cantons rejected the reform on the citizenship law. The introduction of a facilitated naturalisation was refused by a majority of 57 per cent, as was automatic naturalisation of the third generation at birth by 51.6 per cent. Interestingly, the rollback closely compared to the referendum of 1994: with the exception of Basel-City, all other Swiss-German cantons that had approved a more liberal application of the naturalisation law ten years earlier had now switched camps (*NZZ* 27 September 2004). There are two explanations for this rollback: the parties that had favoured this issue in Parliament (SPS, CVP, FDP) did not commit themselves to defending facilitated access to citizenship during the voting campaign. Spellbound by promising polls, they were surprised by how easily and successfully the SVP, in the last few weeks before voting, were able to mobilise fear with the question of granting valued citizenship to non-deserving young immigrants. They defined an automatic acquisition of nationality as a devaluation of Swiss citizenship and objected to the weakening of local popular sovereignty that it implied (Kaya 2005). And this time, the reformed law was not backed by the responsible department and its staff, which formerly had envisioned this change.

## 4 Analysis of the policymaking process

In order to understand the Swiss policymaking process, three distinct features of the national polity must be taken into consideration: the federal structure of the state; the financial and political autonomy of municipalities; and a tool of intervention secured by the consociational negotiations of interest groups and the participation of the people through direct democracy.

### 4.1 *Federalism*

It is primarily through the institutions of federalism that Switzerland succeeded in accommodating its cultural and religious diversity. The country is a confederation of 23 cantons, which have a large measure of autonomy in regards to education policy, police and taxes. According to this principle, the Swiss Parliament functions on two levels: the National Council and the Council of States. New laws must be passed by both chambers,

but can be immediately vetoed by a popular referendum with 50,000 signatures.

The mechanisms of decision-making in Switzerland are complex. The Swiss population does not directly elect the members of the government, i.e. the Federal Council, as it does at the cantonal level; at the federal level, election of the government is the prerogative of the Parliament. The seven members of the Federal Council are elected for four years. In the Swiss political system, Parliament cannot give and withdraw a vote of confidence to the Federal Council. This gives the government a certain amount of autonomy with regard to the Parliament. However, the autonomy of the government is restricted by the two instruments of Swiss direct democracy: the referendum and the popular initiative. The popular initiative gives citizens the right to seek a decision on an amendment they want integrated into the Constitution. For such an initiative to be organised, the signatures of 100,000 voters must be collected within eighteen months. Federal laws are subject to an optional referendum: in this case, a popular ballot is cast if 50,000 citizens request such an action. The signatures must be collected within 100 days of a decree's publication. The referendum is similar to a veto. For such a plebiscite to pass, the majority of the population's votes and those of nine cantons is required. At the cantonal and municipal levels, voters can also launch initiatives. Cantonal laws are subject to the optional referendum.

When it comes to the admission and integration of migrants, federalism plays an important role in many domains. They include, among others, the field of education, which is presented here as a paradigmatic case (religious matters or the quest for political rights would also have served this purpose). Switzerland's educational system is organised through the cantons, which desire immigrants to adopt the dominant cantonal language and culture. During the 1970s, cantonal education systems had difficulty accommodating the differing social and cultural situations and thus could not guarantee equal educational opportunities (Schuh 1987). A lot of discrepancy in the quality of curricula across schools continues to persist, even if the federal education authorities, known as the Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK), regularly publish recommendations for the better integration of immigrant children (EDK 1972, 1976, 1982, 1985, 1991, 1993, 1995a, 1995b, 2003). Some cantons, more than others, support immigrant children and promote their integration at school by investing more resources in local schools and introducing institution-wide changes such as team-teaching and intercultural programmes that favour the insertion of children with a migrant background (Truniger 2002b). Not all cantons implement these recommendations and, in fact, several tend towards discriminatory practices. Contrasting cantonal responses roughly correspond to linguistic as well as political cleavages. In German-speaking cantons one can generally observe a tendency to set up institutions

specifically for immigrant children, with the exception of those urban cantons possessing necessary tools to support their school bodies without enforcing segregation (Truniger 2002a), whereas in French- and Italian-speaking areas, the response has been to integrate all children into mainstream institutions.

In this analysis, the cantonal level merits special attention, as Switzerland's highly federalised institutional system is characterised by vertical segmentation and horizontal fragmentation that allows both institutions and cantonal parties a high degree of organisational and political autonomy. As witnessed with voting, cantons can use their autonomy to experiment with various approaches in migrant-related political fields and to try to influence decision-making at the federal level. The Council of States makes it necessary for federal authorities to secure the loyalty of the cantons and to make sure that strong cantonal political entrepreneurs do not withdraw from the consensus. If the perception the cantons hold internally changes, the federal level must thus adapt. But only until recently, when the general mood became anti-immigrant, the example of the autonomous educational system had made it clear that cantons have enough space to manoeuvre and need not share a common approach to all fields related to migrants.

#### 4.2 *Municipal autonomy*

Strong trade and political fragmentation explain why Switzerland has a relatively robust urban network. Moreover, municipal autonomy is a key factor when it comes to questions of citizenship and, paradoxically, of nationhood. As already mentioned, there are three stages in the naturalisation process: citizenship within the municipality, then the canton and finally at the Swiss federal state.

There is great variety in naturalisation practices at the local level, particularly between the German- and French-speaking cantons. While the French have more formalised procedures, many German cantons endorse the romantic principle of adherence and political participation. The question of who is allowed to acquire citizenship can easily be turned into a question of preferential treatment and prejudice. Newspaper stories have reported that in several small German-speaking towns, applicants recognised as having Eastern European and Asian origins were prevented from naturalising (Ehrenzeller & Good 2003; Leuthold & Aeberhard 2002). So even if the country was founded on the idea of political contract, naturalisation is to a large extent based on local ethnicity.

Furthermore, since the decision by the Federal Tribunal<sup>5</sup> on 9 July 2003 (reference 1P.228-2000), which declared public votes on naturalisation in certain municipalities unconstitutional, a new debate has emerged on the role of judicial authority. It is largely a debate between those who favour

the rule of law and those who interpret access to citizenship as a political and sovereign act of the citizenry. The Political Institution Committee of the Council of States has supported the Federal Tribunal in their reaction to the right of municipalities to submit the requests of candidates for naturalisation to the people in order to respect the autonomy of cantons and municipalities, as recognised in the Federal Constitution. This judgement was quite exceptional and can be read as an indicator of tension between Federal Tribunal and Parliament, between the opportunities and limits of the rule of law as much as those of people's rights within a direct democracy.

#### 4.3 *Consociationalism and direct democracy*

Consociationalism and direct democracy are more important for understanding Switzerland's integration politics than integration policies. But, as Mahnig and Wimmer (2003) stated in their lucid article, these two characteristics of the Swiss political system are responsible for the country's intense politicisation of migration issues and the exclusion of migrants from political participation. Consociationalism refers to the proportional representation of different minorities (e.g. linguistic, political, religious) in the federal institutions and reaching compromise between political forces that goes beyond the search for simple majorities (Linder 1998). All members of the government as well as the higher administration are proportionately chosen according to their party affiliation (based on a 'magic formula') and their linguistic and regional origins. Swiss politics is characterised by a permanent process of compromise-building between these groups. Another important means to influence the political decision-making process is the consultation procedure, the phase in legislative preparation when draft acts by the Confederation are evaluated by the cantons, parties, associations and sometimes also by other interested circles throughout Switzerland, in order to ascertain the likelihood of their acceptance and implementation. Persons not invited to take part in the consultation procedure can also state their views on a proposal. All views and possible objections are evaluated with a view to the vetoing power of those who reject a reform. The Federal Council then passes the main points of its proposal on to Parliament, and debates the draft act in light of the outcomes of this consultation.

Direct democracy gives social groups some opportunities to participate directly in the political process through the aforementioned popular initiative and referendum. These are operative at the federal as well as local levels. According to some observers, the instruments of direct democracy were what allowed the consociational system to emerge, because all laws voted in Parliament can be submitted to a referendum and therefore need the support of large alliances within the political elite (Neidhart 1970).



These two main characteristics of the political system provoke major politicisation of the migrant issue and the exclusion of immigrants from political participation (Mahnig & Wimmer 2003). Because of the long negotiations and decision-making process in a consociational democracy, this system involved extended periods of indecision with regard to immigration issues. Since interests in the political field of migration are so divergent, it is difficult for the parties to come to an agreement easily. Second, the instruments of direct democracy have forced the political elite to negotiate the concept of 'over-foreignisation' with populist challengers. Immigration policies that had permitted the various actors to agree to accommodate the economic needs of the country became one of the most contested and controversial issues since the 1960s, when radical right-wing populist parties started to gain public support claiming that Switzerland was becoming 'over-foreignised' by ever-increasing immigrants. Using the tools of direct democracy, these xenophobic movements succeeded in vetoing liberal government reforms and put their parties under pressure through the launching of eight popular initiatives and several referenda to curb the presence of foreigners. Although none of these initiatives passed, they have consistently influenced the migration policy agenda and public opinion on immigration issues urging the Swiss government to adopt more restrictive admission policies (Niederberger 2004).

Recently challenging the federal government is one political entrepreneur whose anti-immigrant agenda is built upon a political campaign focused on the costs of immigration, control, security and restriction. The SVP, formerly a moderate peasants' party that transformed in the early 1990s into a radical right-wing populist political organisation, won the biggest share of parliamentary votes in the 2003 general elections. This upset the traditional consociational system that, since 1959, evenly distributed power among what were then the four leading political parties and in which the SVP before had only access to one seat. Following the elections in December 2003, as leader of the SVP, Blocher gained for the first time a second seat in the government and became Minister of Justice and Police, which also put him in charge of migration and asylum. Thus far, the government approved several of the Minister's proposals to deal with illegal migration, undocumented workers, asylum law abuses and unsatisfactory international cooperation concerning the readmission of rejected asylum seekers.

In the 2007 electoral campaign, immigrants were once again blamed for social disorder, crime, youth violence and welfare abuses. World-wide attention fell on the SVP posters accompanying the launch of their initiative to deport criminal immigrants; they depicted a white sheep throwing a black one out of country. *The New York Times* reported how the campaign's 'subliminal message is that the influx of foreigners has somehow

polluted Swiss society, straining the social welfare system and threatening the very identity of the country' (*The New York Times* 8 October 2007).

The end of the parliamentary election campaign was – unusual for Switzerland – heavily focused on Blocher as a public figure. Usually, members of the Federal Council tend to moderate themselves when it comes to election. But Blocher was different: he wanted his position in the Federal Council to be strengthened through a greater representation of the SVP in Parliament. The strategy worked and the seasoned party's campaign focused on their charismatic leader's success in the election on 21 October. The SVP won nearly 30 per cent of the votes, thus displacing the SPS and the FDP to the second row.

A strengthened presence in the Federal Council since 2003 has put the SVP in a win-win situation. The party can set the agenda for parliamentary debate and, if they fail, launch a veto against any reform they oppose through a referendum. The tools of direct democracy enable the party to highlight issues in ways that Parliament cannot constrain. But even if wearing both hats – i.e. the government and the opposition – was rewarded by a large minority of the electorate, MPs increasingly came to oppose Blocher's dysfunctional role. Blocher refused to play the game of consensus within a consociational government. His failure to integrate into the federal government compelled Parliament to remove him and vote in moderate SVP representative Evelyn Widmer-Schlumpf as a new member of the Federal Council in December 2007. This was a clear demonstration of disapproval of Blocher and his party's populist, anti-parliamentarian strategy and style.

The opportunities direct democracy offers for intervention within the political system make it quite likely that the SVP will enforce its oppositional role in the future by exploiting migration policy as a major issue, seeing as controversial questions can never be constrained to Parliament alone. Other European countries may be able to adopt policies 'behind closed doors' to extend political and social rights to migrants, but this is nearly impossible in Switzerland (Guiraudon 2000). However, such a right-wing strategy, no matter how determined its proponents, may not always find popular support. An important point of reference is the SVP's defeat in the 1 June 2008 vote. This vote on 'democratic naturalisations' focused on the SVP's intention to, through popular initiative, abolish the rule of law in acquiring Swiss citizenship, thus reinforcing the power of the municipalities to take even arbitrary decisions. Ultimate failure here proved that even a strong, resolute party cannot always gain support, especially if their arguments threaten the sense of fair and equal access to rights.

## 5 Concluding remarks

For a long time, from World War II until the late 1990s, the labour market's economic demands influenced Switzerland's admission policy without taking the quest for integration into account. Admission policies were focused on a rotation model that fuelled the economy with labour without necessarily introducing any integration provisions for migrants who came to stay; after all, immigrants were not conceived as a potential part of the population. This utilitarian policy seemed to fit best with proclaimed needs that the country be free of foreign cultural influences, as was recorded, for example, in the Alien's Law of 1931 – a law that reflected the xenophobia of the 1920s. Since the 1970s, migrants' length of stay in Switzerland and their own changing attitudes and expectations, along with the evolving needs of the economy and the school system, have made shifting towards a more inclusive migration policy inevitable. But the alliance between the government and the regional economic and supranational human rights interests who laboured to include a foreign workforce through legislative reforms were continuously forced to deal with a xenophobic radical movement. While politically isolated, this movement could use opportunity structures to leverage government decision-making through a referendum. This policy was generally favoured by a minimal welfare state, particularly one addressing immigrants who, up until the 1970s, had been excluded from solidarity networks and were thus exposed to social risks upon return 'home'.

The paradigm shift occurred in the 1980s after the oil crisis, where it became clear that the migrants who did not return to their country of origin would stay in Switzerland. The introduction of unemployment insurance and the inauguration of a larger welfare system also protected labour migrants and introduced them to social citizenship. But the 1980s were also when asylum emerged as a metaphor for unwanted migration. The government reacted to the new challenge with a two-tiered approach. First came new severity on the asylum issue and enforcement of a policy that deterred illegitimate immigration. Following that was the introduction of legislative-level reforms that favoured integration for desired labour migration. This debate seems to have ended with the new Alien's and Asylum Law that passed 2006 popular approval and came into force in 2008.

Federalism, municipal autonomy, consociationalism and direct democracy offer a framework in which many actors and stakeholders attempt to influence the decision-making process. This form of multi-level governance has long prevented Switzerland from matching its policy to inclusive European standards of social rights (and to the new economic needs Switzerland has had to compete with). Still, in recent years it nevertheless permitted its guiding principles to converge with those of its important European partners. Since the signing of the Bilateral Agreement, obvious

points of convergence between Switzerland and the EU on issues concerning immigration and migration policies will no doubt multiply in the future. But the spectre of ‘over-foreignisation’ will probably prevent Switzerland – at least at the federal level – to join a liberal citizenship policy shared by its European partners. Switzerland’s cultural inhibitions are too strong to open its institutions of – at least symbolically – highly valued citizenship to allegedly undeserving immigrants. But who’s to say that, in the evolution of political processes, late runners can’t one day become European forerunners, especially in a field as volatile as migration and citizenship issues?

## Notes

- 1 Migration and integration policies are matters of cantonal sovereignty to a certain degree.
- 2 According to the rotation scheme, migrants entered the country for a period of one to two years and were then supposed to return home to make room for other guest workers.
- 3 ‘Boat people’ refers to the mass departure of Vietnamese and Cambodians in the 1970s who were escaping newly installed communist regimes and seeking refuge in Western countries.
- 4 *Neue Zürcher Zeitung* (NZZ) is a high-quality newspaper based in Zurich.
- 5 The most supreme in Switzerland is the Federal Court.

## References

- Arletta, G. (1985), ‘Démographie et identité nationale (1850-1914): La Suisse et “La question des étrangers”’, *Etudes et sources* 11: 83-174.
- Blattner, N. & G. Sheldon (1989), ‘Foreign labour, growth and productivity: The case of Switzerland’, in I. Gordon & A. P. Thirlwall (eds.), *European Factor Mobility: Trends and Consequences. Proceedings of the Conference of the Confederation of European Economic Associations*, 148-165. Houndmills: Macmillan.
- D’Amato, G. & B. Gerber (eds.) (2005), *Herausforderung Integration: Städtische Migrationspolitik in der Schweiz und in Europa*. Zürich: Seismo.
- Deutsch, K. W. (1976), *Die Schweiz als ein paradigmatischer Fall politischer Integration*. Bern: Haupt.
- Efionayi-Mäder, D. (2003), ‘Asylpolitik der Schweiz 1950-2000’, *Asyl* 18 (3): 3-9.
- Efionayi-Mäder, D., S. Lavenex, J.M. Niederberger, P. Wanner & N. Wichmann (2003), ‘Switzerland’, in J. Niessen & Y. Schibel (eds.), *EU and US Approaches to the Management of Immigration: Comparative Perspectives*, 491-519. Brussels: Migration Policy Group.
- Efionayi-Mäder, D., J.M. Niederberger & P. Wanner (2005), *Switzerland Faces Common European Challenges*. New York: Migration Information Source/MPI.
- Ehrenzeller, B. & P.-L. Good (2003), *Rechtsgutachten zu Handen des Gemeinderates von Emmen betreffend das Einbürgerungsverfahren in der Gemeinde Emmen*. St. Gallen.
- Freeman, G.P. (1995), ‘Modes of immigration politics in liberal democratic states’, *International Migration Review* 29 (4): 881-913.

- Garrido, A. (1990), 'Les années vingt et la première initiative xénophobe en Suisse', in H.U. Jost (ed.), *Racisme et xénophobies: Colloque à l'Université de Lausanne, 37-45*. Lausanne: Université de Lausanne, Section d'histoire.
- Guiraudon, V. (2000), *Les politiques d'immigration en Europe: Allemagne, France, Pays-Bas. Paris etc.*: L'Harmattan.
- Holmes, M. (1988), *Forgotten Migrants: Foreign Workers in Switzerland before World War I*. Rutherford: Fairleigh Dickinson University Press.
- Katzenstein, P.J. (1987), *Corporatism and Change: Austria, Switzerland and the Politics of Industry*. Ithaca: Cornell University Press.
- Kaya, B. (2005), 'Switzerland', in J. Niessen, Y. Schibel & C. Thompson (eds.), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue*, 383-398. Brussels: Migration Policy Group.
- Kohler, G. (1994), 'Demokratie, Integration, Gemeinschaft: Thesen im Vorfeld einer Einwanderungsgesetzdiskussion', in Schweizerischer Arbeitskreis für ethische Forschung (eds.), *Migration: Und wo bleibt das Ethische?*, 17-34. Zurich: Schweizerischer Arbeitskreis für ethische Forschung.
- Leuthold, R. & C. Aeberhard (2002), 'Der Fall Emmen', *Das Magazin* 20: 18-31.
- Linder, W. (1998), *Swiss Democracy: Possible Solutions to Conflict in Multicultural Societies*. Houndmills: Macmillan.
- Mahnig, H. & E. Piguet (2003), 'La politique suisse d'immigration de 1948 à 1998: Évolution et effets', in H.-R. Wicker, R. Fibbi & W. Haug (eds.), *Les migrations et la Suisse: Résultats du Programme national de recherche 'Migrations et relations interculturelles'*, 63-103. Zurich: Seismo.
- Mahnig, H. & A. Wimmer (2003), 'Integration without immigrant policy: The case of Switzerland', in F. Heckmann & D. Schnapper (eds.), *The Integration of Immigrants in European Societies: National Differences and Trends of Convergence*, 135-164. Stuttgart: Lucius & Lucius.
- Moser, U. & S. Berweger (2003), *Lehrplan und Leistungen: Thematischer Bericht der Erhebung PISA 2000*. Neuchâtel: Bundesamt für Statistik.
- Niederberger, J.M. (2004), *Ausgrenzen, Assimilieren, Integrieren: Die Entwicklung einer schweizerischen Integrationspolitik*. Zurich: Seismo.
- Neidhart, L. (1970), *Plebizit und pluralitäre Demokratie: Eine Analyse der Funktion des schweizerischen Gesetzesreferendums*. Bern: Francke.
- OECD (2004), *Learning for Tomorrow's World: First Results from PISA 2003*. Paris: OECD.
- Parini, L. & M. Gianni (2005), 'Enjeux et modifications de la politique d'asile en Suisse de 1956 à nos jours', in H. Mahnig (ed.), *Histoire de la politique de migration, d'asile et d'intégration en Suisse depuis 1948*, 189-252. Zurich: Seismo.
- Parini, L. & M. Gianni (1997), 'La tension entre précarité et intégration: Politique à l'égard des migrants en Suisse', in F. Lorcerie (ed.), *Politiques publiques et droit*, Paris: Ed. LGDJ.
- Romano, G. (1996), 'Zeit der Krise – Krise der Zeit: Identität, Überfremdung und verschlüsselte Zeitstrukturen', in A. Ernst & E. Wigger (eds.), *Die neue Schweiz? Eine Gesellschaft zwischen Integration und Polarisierung (1910-1930)*, 41-77. Zurich: Chronos.
- Rossier, C.Z. (ed.) (2005), *PISA 2003: Kompetenzen für die Zukunft: Zweiter nationaler Bericht*. Neuchâtel: Bundesamt für Statistik.
- Schnapper, D. (1997), 'Citoyenneté et reconnaissance des hommes et des cultures', in J. Hainard & R. Kaehr (eds.), *Dire les autres: Réflexions et pratiques ethnologiques. Textes offerts à Pierre Centlivres*, 139-148. Lausanne: Payot.
- Schuh, S. (1987), 'Luciano und die Höhle der Elefanten: Selektionsdruck im Spannungsfeld zwischen zwei Welten', in A. Gretler, R. Gurny, A. Perret-Clermont & E. Poggia (eds.),

- Fremde Heimat: Soziokulturelle und sprachliche Probleme von Fremdarbeiterkindern*, 223-239. Cousset: Delval.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (2003), *Aktionsplan 'PISA 2000' – Folgemassnahmen*. Bern: EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1995a), *Empfehlungen und Beschlüsse*. Bern: EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1995b), *Erklärung zur Förderung des zweisprachigen Unterrichts in der Schweiz, vom 2. März 1995*. Bern: EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1993), *Interkulturelle Pädagogik in der Schweiz: Sonderfall oder Schulalltag?: Zusammenstellung der Tagungsbeiträge: EDK-Convegno, Emmetten, 1992*. Bern: EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1991), *Empfehlungen zur Schulung der fremdsprachigen Kinder, vom 24./25. Oktober 1991*. Bern:
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1985), *Empfehlungen zur Schulung der fremdsprachigen Kinder, vom 24. Oktober 1985*. Bern: EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1982), *Ausländerkinder in unseren Schulen: Nach wie vor ein Problem?* Genf: Sekretariat EDK.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1976), *Grundsätze zur Schulung der Gastarbeiterkinder: Ergänzung vom 14. Mai 1976*. Bern: Schweizerische Konferenz der kantonalen Erziehungsdirektoren.
- Schweizerische Konferenz der kantonalen Erziehungsdirektoren (EDK) (1972), *Grundsätze zur Schulung der Gastarbeiterkinder, vom 2. November 1972*. Bern: Schweizerische Konferenz der kantonalen Erziehungsdirektoren.
- Sheldon, G. (1998), *The Effect of Foreign Labor on Relative Wages and Growth in Switzerland*. Basel: Labor Market and Industrial Organization Research Unit (FAI).
- Tanner, J. (1998), 'Nationalmythos, Überfremdungsängste und Minderheitenpolitik in der Schweiz', in S. Prodolliet (ed.), *Blickwechsel: Die multikulturelle Schweiz an der Schwelle zum 21. Jahrhundert*, 83-94. Luzern: Caritas-Verlag.
- Truniger, M. (2002a), *Qualität in multikulturellen Schulen, QUIMS: Schlussbericht der Projektleitung über die zweite Phase (1999 bis 2001)*. Zurich: QUIMS.
- Truniger, M. (2002b), *Schulung der fremdsprachigen Kinder und interkulturelle Pädagogik: Überprüfung der Umsetzung der Empfehlungen (Schuljahre 1999/2000 und 2000/01): Bericht zuhanden des Bildungsrats*. Zurich: QUIMS.
- Wanner, P. & G. D'Amato (2003), *Naturalisation en Suisse: Le rôle des changements législatifs sur la demande de naturalisation. Rapport*. Zurich: Avenir suisse.

