

Switzerland

Switzerland is a country of immigration. Despite early labor migration across national borders, this fact has for a long time not been recognized. Already at the end of the 19th and the beginning of the 20th century, immigration to Switzerland gained in importance as a result of industrialization. This period was marked by a liberal migration policy. At the outbreak of the First World War, however, the political climate changed and measures were introduced to control immigration. With the strong economic upswing following the Second World War, the targeted recruitment of labor began, a phenomenon which especially marked the second half of the 20th century. Not only the needs of the labor market but also xenophobic opinions influenced immigration policy, which increasingly assumed restrictive features. At the same time the situation of the foreign resident population in Switzerland was improved and a gradual inclusion of immigrants in the welfare system took place.

Background Information

Capital: Bern

Official languages: German, French, Italian, Rhaeto-Romance

Area: 41,284 km²

Permanent resident population (end of 2011): 7,952,555

Population density (2007): 246.9 inhabitants per km²

Population growth (2010): 1,0%

Permanent foreign resident population (2011): 1,814,755

Economically active population (2011): 4,719,000

Percentage of foreign employees amongst gainfully employed (2011): 28,2%

Unemployment rate (2011): 3,6%

Religions (2010): Roman Catholic (38.8%), Evangelical Reformed (30.9%), Islamic communities (4.5%), undenominational (20.1%)



The end of the 20th century and the beginning of the 21st century have been marked by different developments in the area of migration policy. In order to regulate migration, a dual admission system was created which privileges immigration from European Union (EU) countries and countries of the European Free Trade Association (EFTA). With the increase in the number of asylum applications, the asylum sector also took on increasing importance and was marked by a policy of restrictive closure. In addition, regulations for controlling illegal migration came into effect. The topic of integration also rose to become the focal point of different legal measures and the financial support for promoting integration was considerably increased.

Historical Development of Migration

The origin of the confederation goes back many centuries but only with the constitution of 1848 was the Swiss Confederation founded. The confederation period and the early stages of the federal state were mainly marked by emigration. Since the 16th century, it was mainly military migration, in particular mercenary service in any number of European states, that offered employment opportunities. Other forms of migration were at the time still relatively insignificant.¹

Beginning in the 18th century, settlement migration came to the forefront. Unlike military emigration, this form of emi-

gration was not limited to Europe. In addition to countries such as Russia, Prussia and Spain, emigrants also headed for overseas destinations, in the majority of cases America. In the early 20th century, this strong overseas emigration declined sharply. It recorded its last peak after the First World War.²

In the course of industrialization, especially during the rapid economic development at the end of the 19th century, the foreign population within Switzerland grew significantly. Immigration took place mainly from neighboring countries. But this came to an abrupt halt at the beginning of the First World War in 1914. In the interwar years the number of foreign women and men in Switzerland declined significantly (cf. Fig. 1).³

ment continued to predominate. But family reunification no longer attained the peak values of the 1990s. At the same time, economically induced migration has grown sharply since 2002 in connection with the gradual introduction of freedom of movement for citizens from EU and EFTA countries. Since 2006, taking up gainful employment has been the most frequent reason for immigration. With 78,537 entries in 2008 this reached a peak. Compared with this, other forms of immigration⁵ were clearly lower. In 2010 total immigration came to 224,444 foreigners, including 15,105 asylum seekers. Added to this was an influx of 22,283 Swiss citizens from abroad.⁶

Although very little statistical data on emigration are collected in Switzerland, the scope of emigration is not insignificant. In 2010 96,839 instances of emigration were recorded. This figure also includes 26,311 Swiss citizens who left their home country that year. Not taken into account, on the other hand, are the departures from Switzerland of individuals belonging to the temporary foreign population (71,675) nor those of individuals from the asylum sector (13,557).⁷ Thus, taken together the statistics recorded the emigration of 182,071 individuals in 2010.⁸

Migration Policy

The Liberal Migration Policy of the Young Federal State

With the founding of the Swiss federal state in 1848, a phase of liberal migration policy began. The Swiss gained the right to settle anywhere in the country. In order to control cross-border migration, Switzerland concluded treaties on establishment with 21 countries up until 1914.⁹ Every citizen of the contracting states was granted freedom of movement based on the principle of

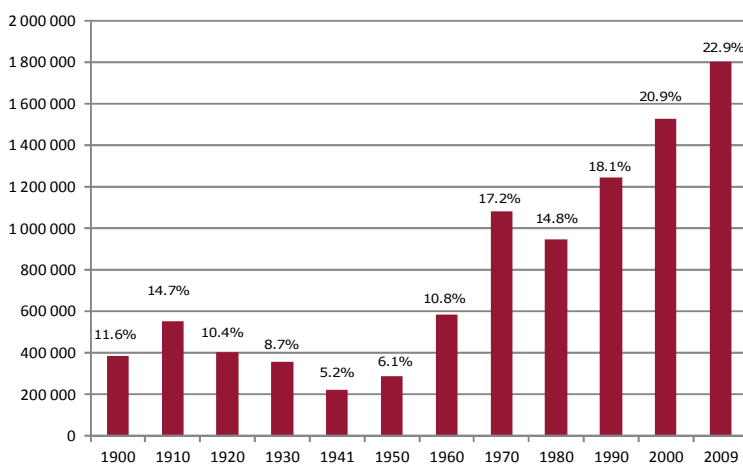
reciprocity. Although these treaties initially were meant to ensure in particular the legal safeguarding of the status of Swiss emigrants, they ultimately created the legal framework for the immigration of foreigners which began in the 20th century.¹⁰

Control of Immigration in the Interwar Years

Since the First World War these treaties on establishment have constantly been downgraded. In 1917 the 'Regulation on Border Police and the Control of Foreigners' (Verordnung über die Grenzpolizei und die Kontrolle der Ausländer) established the law on aliens, which was intended to enable effective border controls. As a result, entitlement to admission and establishment could no longer be derived from the international treaties. These developments initiated a restrictive immigration policy.

In 1931 the 'Swiss Federal Law on the Temporary and Permanent Residence of Foreign Nationals' (Bundesgesetz über Aufenthalt und Niederlassung der Ausländer - ANAG) came into effect. Until 2008 this act formed the legal basis of

Figure 1: Foreign resident population in Switzerland (1900-2009) and percentage of the total population



Source: Federal Statistical Office (BFS) - Foreigners in Switzerland, VZ (1900-1990), ESPOP, PETRA (2000-2009)

During the rapid economic upswing after the Second World War, the recruitment of foreign labor was massively promoted and immigration to Switzerland reached previously unknown levels. While the percentage of female and male foreigners in the entire resident population stood at 6.1% in 1950, by 1970 it had increased to 17.2%. In absolute numbers the size of the foreign population exceeded the one million mark (cf. Fig. 1). In the wake of the economic crisis of the 1970s, however, many foreigners left the country.

A new economic upswing starting in the mid-1980s triggered cross-border immigration once again. Despite a downswing in the economy in the 1990s, the growth in the foreign population continued. Newly arrived immigrants during this period came most often for the reason of with family reunification in Switzerland. At the same time, the number of asylum seekers clearly increased (cf. 'Refuge and Asylum').⁴

Current Development of Migration

Between 2000 and 2010, those immigrants who entered Switzerland for the purpose of family reunification or employ-

Swiss policy on aliens. As a result of this law, three residential categories were established for foreigners: seasonal workers, one-year residents, and long-stay residents. In contrast to the situation in other countries, the work permit was an essential part of the residence permit. A residence permit was only granted to a foreigner if no domestic workers were available.¹¹

Open Immigration Policy and the Restrictive Policy on Foreigners after the Second World War

After the Second World War, the Swiss economy experienced a rapid upswing and became heavily reliant on new laborers. At the same time, fear of a recession was considerable. Immigration policy was intended, on the one hand, to ensure the recruitment of a sufficient number of foreign workers while, on the other, it was aimed at preventing their permanent establishment in Switzerland. Consequently, from the standpoint of immigration policy the idea of a so-called 'rotation model' was pursued. Foreign workers who had been recruited were accordingly only granted a temporary residence permit. The restriction on the length of stay was also meant to counteract 'foreign infiltration' (Überfremdung)¹², which was felt to be a threat, since it was assumed that female and male foreigners who only resided in Switzerland temporarily would have less influence on 'Swiss culture' than long-term residents.¹³

As part of this rotation policy, many 'guest workers' were recruited. At the centre was the recruitment agreement concluded with Italy in 1948. But there was also recruitment from other countries such as the Federal Republic of Germany, Yugoslavia, Austria and later Spain.¹⁴

Restrictive Immigration Policy and Internal Opening

Although Switzerland was still economically dependent on workers from abroad, beginning in the mid-1960s more stringent immigration requirements were intended to slow down the rate of labor migration. This turning point in immigration policy resulted on the one hand from the growing criticism of the rotation model from those voices that were afraid of an 'overheating of the economy' and, on the other, from the pressure on Swiss policy exerted by increasing xenophobia in the Swiss population.

But criticism of Swiss policy also came from outside the country. Under pressure from Italy, the recruitment agreement between Switzerland and Italy was renewed in 1964, thus establishing better general conditions for Italian 'guest workers'. The agreement initiated a policy designed to improve the situation of the foreign population within Switzerland.¹⁵

With the more and more restrictive immigration policy and the beginning of a more open internal policy, the rotation model was finally abandoned in the 1960s. Despite these developments, xenophobic voices gained in strength and the referendum on the 'Schwarzenbach initiative' (1970) and the initiative 'against the foreign infiltration and overpopulation of Switzerland' (1974) came about. These demanded a drastic reduction in the size of the foreign population in Switzerland.

Both initiatives did indeed fail but in the face of the existing social tensions, the government took further measures to reduce labor migration. These failed, however, to produce the hoped-for results, and only during the oil price crisis of the early 1970s did the size of the foreign population decline.

With the economic upswing in the 1980s, immigration again reached the levels of the 1950s and 1960s. At the same time, the situation of the foreign population in Switzerland changed. An increasing percentage of immigrants now had a permanent residence permit. In addition, female and male foreigners were gradually given access to welfare state benefits. Under these conditions, a significant portion of the foreign population were not forced to leave Switzerland during the economic downturn of the 1990s.¹⁶

New Paths to the Preferential Treatment of Immigration from EU and EFTA Countries

Beginning in 1991, immigration policy was based on the 'Three-Circle Model', which regulated the admission of migrants into the country based on their country of origin. People from EU and EFTA countries belonged to the 'First Circle'. These individuals were granted facilitated opportunities for immigration. The 'Second Circle' was composed of countries for which 'cultural proximity' to Switzerland, solid trade and migration relations as well as compliance with human rights had been ascertained (e.g., Canada, the U.S., as well as central and eastern European countries). The immigration of individuals from these countries was, however, restricted as part of a policy of limitation. Migration from other countries (the 'Third Circle') was unwanted and was only granted to highly skilled workers in exceptional cases.

The criterion of 'cultural proximity' points to the debate concerning 'cultural infiltration', since at that time especially the 'cultural distance' of foreigners was seen as a threat to 'Swiss distinctiveness' (Schweizer Eigenart). Criticism of this model, which was finally abandoned in 1998, was directed at this criterion. A dual admission system followed, which continued to privilege migration from the EU and EFTA region while restricting immigration from other countries. The new 'Federal Act on Foreign Nationals' (Bundesgesetz über die Ausländerinnen und Ausländer; German acronym: AuG), which came into effect in 2008, confirmed this dual admission system. Since then, migration from third countries has been limited to highly skilled workers and to family reunification.¹⁷

In addition, various efforts were made to deepen the relations between Switzerland and the European Community (EC) or the EU. In 1992 Swiss voters rejected, however, membership in the European Economic Area (EEA). As a consequence, the application for the opening of negotiations for membership in the EC was frozen. In order nonetheless to ensure participation in the European domestic market, Switzerland negotiated sectoral agreements with the EC. In 2000 Swiss voters approved 'Bilateral Agreement I'. With this, the agreement on the freedom of movement of citizens from EU-15 and EFTA countries came into effect in 2002.

In 2004 Switzerland and the EU concluded the 'Bilateral Agreement II'. Finally, in 2005 Swiss voters approved the Schengen and Dublin association agreements as well as the

extension of freedom of movement to those ten new member states that had joined the EU in 2004. In 2009 the extension of the agreement on freedom of movement to Bulgaria and Romania was approved in a referendum.¹⁸

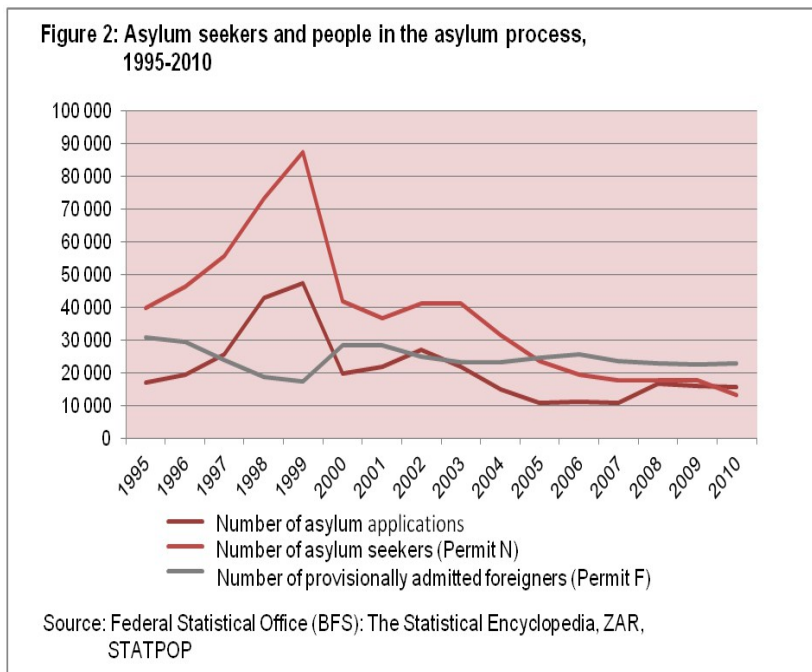
Refuge and Asylum

In connection with the subjects of refuge and asylum, frequent reference is made to the humanitarian tradition of Switzerland, which was demonstrated particularly in the taking in of Huguenots in the 17th century and of political refugees from throughout Europe in the 18th and 19th centuries. Tendencies to closure are, however, also a part of Swiss asylum policy. This becomes clear in light of the closing of Swiss borders in 1942 to Jewish refugees as well as with respect to the restrictive character of more recent asylum policy.¹⁹

This development coincided with the entry into effect of Switzerland's first asylum law in 1981. This liberal asylum law underwent several adjustments in subsequent years. Particularly the revision of 1990 introduced a significantly more restrictive asylum policy. But in the same decade, the conflicts in the former Yugoslavia triggered new waves of refugees, and a sharp increase in the number of applications for asylum followed. They reached a peak of 41,600 in 1991. Another peak of 46,000 applications for asylum was reached in 1999. However, since the end of the Kosovo conflict, the level of asylum immigration has declined (cf. Fig. 2).²¹

After the turn of the millennium, additional reforms aimed at reducing the attractiveness of Switzerland as a country of asylum as well as the expenditures and the duration of legal procedures in the asylum sector. Thus, individuals whose application for asylum is not taken up for review have been excluded from social assistance since 2004. The revision of the asylum law approved in 2006 put through additional tightening measures. Thus, for example, in the absence of identity papers an application for asylum is no longer taken up for review as long as the lack of documents remains unfounded and the refugee status of an individual cannot be proved. In addition, the maximum duration of preparatory custody (prior to repatriation) and detention pending deportation have been increased (from three to six months or from nine to 18 months, respectively), and coercive detention of up to 18 months has been introduced. As of 2008, individuals with a legally binding rejected decision on asylum are excluded from social assistance and are only eligible for emergency assistance (Nothilfe).²²

Moreover, the coming into effect of the Dublin association agreement of 2008 between the European Community and the Swiss Confederation was decisive in changing Swiss asylum policy. Since then, Switzerland has been entitled to hand over asylum seekers to the responsible Dublin countries.²³



In 1955 the Geneva Convention on Refugees came into effect in Switzerland and formed from then on the basis of Swiss asylum policy. Subsequently, the East-West conflict marked the practice of taking in refugees. Switzerland provided refuge above all for those who were fleeing communist regimes. This was true in 1956 of Hungarian, in 1963 of Tibetan and in 1968 of Czechoslovakian refugees.²⁰

Beginning in the 1970s the UN High Commissioner for Refugees (UNHCR) began to organize contingents of refugees and distribute them among host countries. Switzerland took on such a contingent for the first time in 1972 when it accepted refugees from Uganda. The willingness to take in contingent refugees, however, was already declining when Chilean refugees were taken in in 1973. In the following years, Switzerland took in fewer and fewer contingent refugees and finally completely refused to accept contingents from the UNHCR.

Irregular Migration

Only toward the end of the 20th century and especially since the turn of the century has attention increasingly been focused on the presence in the country of people who lack a residence permit, the so-called sans-papiers, and taken on importance in Swiss migration policy. Since that time, especially the options for controlling illegal migration have been at the forefront of efforts relating to migration policy.²⁴

Above all, Switzerland's dual admission system, its restrictive asylum policy, and the Schengen and Dublin association agreements have had repercussions on the phenomenon of irregular migration. Thus, since the coming into effect of the agreement on freedom of movement, a clear decline can be seen in the number of citizens of the EU and EFTA who lack a valid residence permit. The great majority of sans-papiers are citizens of third countries, since legal immigration is in

their case usually impossible. Furthermore, it is assumed in the context of the restrictive asylum policy that, on the one hand, the number of people who have been eliminated from the asylum process and who are then irregular residents has increased and, on the other hand, that many individuals seeking asylum immediately opt in favor of illegal residence.²⁵

Increased control of irregular migration is strived for through the Schengen association agreement, the 'Federal Act on Illegal Employment' (Bundesgesetz gegen die Schwarzarbeit) and various other regulations of the AuG. Thus, for example, there are more frequent checks on individuals within the country and in the labor market as well as sharper sanctions intended to alleviate irregular residence.²⁶

Despite these efforts to control various forms of irregular migration, it is probable that in Switzerland, too, the presence of individuals who lack a residence permit is strongly dependent on the needs of the labor market. Sans-papiers find employment in industries such as gastronomy, the hotel business, the building trade, in agriculture as well as in the housekeeping and nursing sector.²⁷

Citizenship

In Switzerland citizenship is based on the jus sanguinis principle. Individuals whose parents have Swiss citizenship are accordingly also entitled to Swiss citizenship. Although there have been efforts in Switzerland to introduce jus soli, at the beginning of the 20th century, for example, to this day a corresponding legal reform has not occurred. Birth in Swiss territory therefore does not entitle one to the acquisition of Swiss citizenship. Female and male foreigners must consequently pass through a naturalization procedure. In Switzerland this procedure is especially marked by the federal system, since in order to become a Swiss citizen citizenship must be granted by a specific community, a canton and by approval of the federal government.

In the first years following the establishment of the Swiss Confederation, all individuals who possessed citizenship in a canton were considered Swiss citizens. Only as of 1876 did naturalization require approval by the federal government. Since that time, the federal government determines the minimum requirements for naturalization, while the cantons may prescribe additional requirements. In addition, cantonal legislation defines the leeway communities may have in granting communal citizenship. Depending on the design of the particular community's naturalization policy as well as that of the canton, different requirements for attaining citizenship may result. The three-step naturalization procedure forms even today the basis for ordinary naturalization and leads to considerable regional variations.

The 'Law on Swiss citizenship' (Bundesgesetz über Erwerb und Verlust des Schweizer Bürgerrechts; German acronym: BÜG) of 1952 introduced high minimum requirements for naturalization. This law with its various adjustments is still in effect and governs the acquisition and loss of Swiss citizenship. At the same time, the law distinguishes between ordinary naturalization, facilitated naturalization and re-naturalization. Ordinary naturalization requires inter alia that the in-

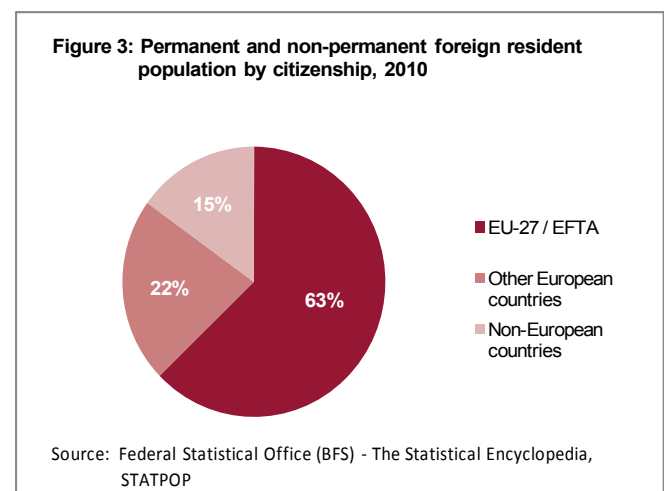
dividual in question be integrated into the Swiss context and be familiar with Swiss habits, customs and traditions. A minimum period of permanent residence of 12 years also applies, in which case any years spent in Switzerland between 10 and 20 years of age are counted double. Unlike in the 19th century, naturalization is no longer considered to be the starting point but rather the culmination of successful integration.²⁸

A simplified procedure applies in cases of so-called facilitated naturalization or re-naturalization. Especially women who had lost their Swiss citizenship through marriage with a foreigner made use of re-naturalization.²⁹ Only since the coming into effect of the Swiss citizenship law of 1952 are they able in this case to retain their Swiss citizenship. Since 1952 those children whose mothers had previously lost their Swiss citizenship because of marriage with a foreigner have benefited from this facilitated naturalization procedure. Only in 1992 did the amendment of the law introduce facilitated naturalization for the spouses of Swiss citizens. Since that time, dual nationality has been permitted without restrictions. Efforts to introduce simplified naturalization for 2nd and 3rd generation foreigners have failed.³⁰

Compared with other countries, Switzerland generally records only a small number of naturalizations. In the last decade this number increased, however, from 28,700 naturalizations in 2000 to a peak of 46,711 naturalizations in 2006. With 39,314 naturalizations in 2010, the number of naturalizations remained at a high level by Swiss standards.³¹

The Immigrant Population

Compared to the rest of Europe, the Swiss population shows a high percentage of foreigners. In 2009 this percentage was 22.9% (cf. Fig. 1). At the same time, most of the foreign population have a permanent residence permit.³²



The greater part of the foreign resident population is composed of citizens of EU or EFTA countries (cf. Fig. 3). Individuals who do not belong to this group usually come from another European country. The largest group within the permanent foreign resident population consists of Italians (cf. Fig.

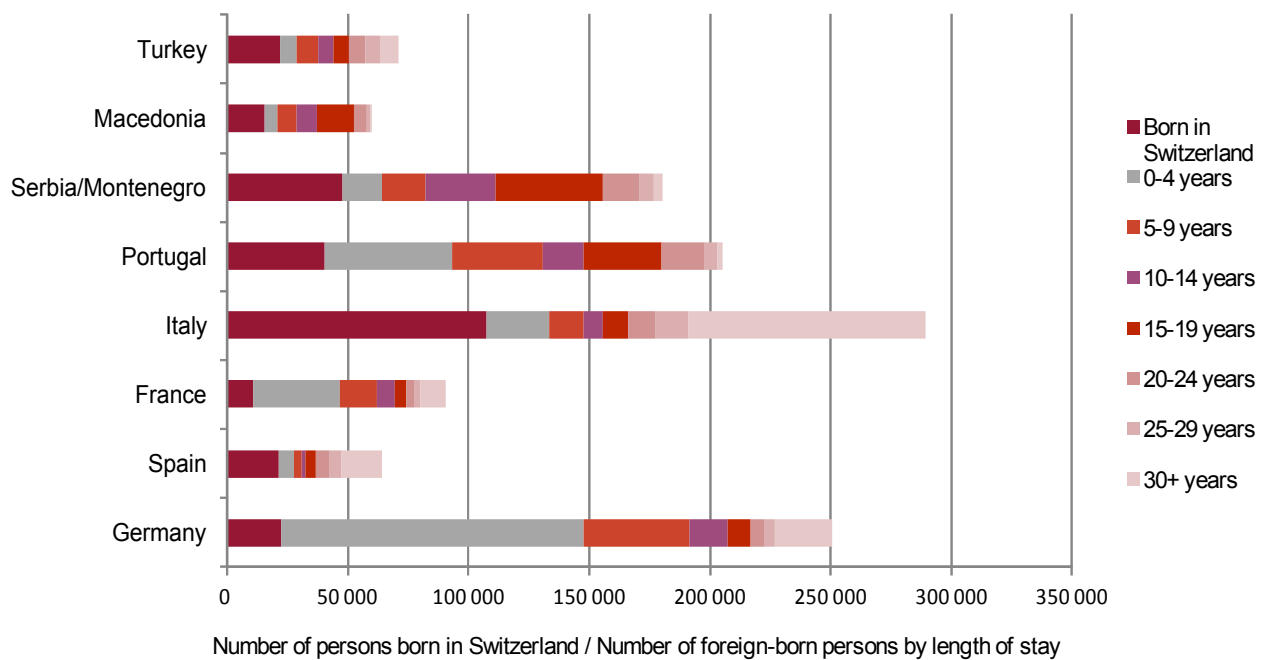
4). Italians represent the largest percentage of foreigners who have been residing for at least 30 years in Switzerland.

German citizens constitute the second largest group within the permanent foreign resident population, followed by citizens from Portugal and 'Serbia and Montenegro' (cf. Fig. 4). By comparison, there are more German citizens in the population who have already been residing for 30 years or longer in Switzerland, but at the same time there is an especially high number of Germans who have only immigrated to Switzerland in recent years.³³

land, voting rights for female and male foreigners have been introduced at the communal level and in part also at the cantonal level.³⁴

As far as labor market integration is concerned, differences may be found with respect to employment, professional status, wage levels and the rate of unemployment. Compared with Swiss citizens, the foreign population shows a greater percentage of people who lack a post-compulsory school education. In addition, immigrants are more frequently found in industries characterized by a low level of wages and

Figure 4: Permanent foreign resident population by selected nationality, place of birth and length of stay in Switzerland, 2009



* Statistics do not break down their data for the newly established states Serbia and Montenegro yet.

Source: Federal Statistical Office (BFS), PETRA

Integration

Social Stakeholding and Participation

The opportunities of the foreign population for having a stake in and participating in different areas of society differ in part from those of Swiss citizens. Different rights, such as the right to vote at the national level, are accorded exclusively to Swiss citizens. Nevertheless, because of federalism sizable differences exist at the local level as far as the awarding of rights to political participation is concerned. Thus, in some regions, in particular in the French-speaking part of Switzer-

greater dependency on economic conditions. On the whole, female and male foreigners in Switzerland are affected to a significantly greater extent by poverty and unemployment. This is true particularly of people from southern and south-east Europe, above all those who have already resided in Switzerland for many years. Contrasting with this is the situation of new, highly qualified immigrants from northern, central and western Europe, who are strongly represented in leadership positions and in academic professions. In contrast to highly qualified people from the Balkan region, Turkey and non-European countries, they are usually unaffected by occupational disqualification. At the same time, they show a low rate of poverty and unemployment.³⁵

A look at the educational situation shows that young people in Switzerland are not equally represented in the various forms of post-compulsory education. Most foreign young people undergo an apprenticeship. In sixth form grammar schools (leading to the Maturität or higher education entrance qualification) and in tertiary training courses, they are clearly underrepresented. This is especially true of young people of Portuguese nationality and citizens from southeast European countries. In basic apprenticeships and pre-vocational training courses³⁶ they are, by contrast, heavily represented. At the same time there is a very significant connection between an individual's socioeconomic status, their parents' level of education and the educational success of foreign school students. Nonetheless, young people of the second generation of foreigners generally attain a higher level of education than their parents.³⁷

Integration Policy

In Switzerland, as far as the integration of the foreign population is concerned, up until the end of the 20th century a policy of 'laissez-faire' was practiced. Social participation was expected to be ensured primarily via the labor market and the educational system. In addition, a gradual integration of the foreign population into the Swiss welfare system took place. The latter, along with the fact that immigration was not a temporary phenomenon and that the foreign population permanently established itself in Switzerland, meant that the issue of a systematic policy of integration took on increased importance.³⁸

The 'Federal Act on Foreign Nationals' (AuG) which has been in force since 1 January 2008 finally created the basis for a nationwide Swiss policy of integration. It replaced the 'Swiss Federal Law on the Temporary and Permanent Residence of Foreign Nationals' (Bundesgesetz über Aufenthalt und Niederlassung der Ausländer; German acronym: ANAG) and embodied in law the concept of 'integration', while nonetheless foregoing a practical definition of the concept. The aim of the policy of integration is, among other things, that the foreign population should have equal access to and a stake in the economic, social and cultural life of Switzerland. At the same time, female and male foreigners are expected to contribute their share to integration in keeping with the principle of 'promoting and demanding' (Fördern und Fordern).

The AuG stipulates also taking into account the 'integration potential' of an individual when the admissions decision is being made. In granting a permanent residence permit as well as in making decisions concerning the continued stay of the individual, particularly in cases of repatriation and deportation as well as in cases where entry is refused, a person's level of integration should be taken into account. The law also contains provisions on the conclusion of so-called integration agreements in the framework of which the renewal of a residence permit is contingent on certain conditions being fulfilled, such as attendance at a language or integration course. Exempted from the conclusion of an integration agreement are citizens of an EU or EFTA country. According to AuG, the federal government, the cantons and

the communities also have to fulfill a duty to inform. On the one hand, they are required to inform female and male foreigners of their rights and responsibilities as well as of the living and working conditions in Switzerland. On the other hand, they must inform the entire population concerning migration policy and the situation of the foreign population.

These new integration policy provisions introduced by the AuG raise various questions. Thus, it remains unclear what precisely is meant by 'integration' and how a person's 'level of integration' can be measured. A lack of clarity also obtains concerning the practical use and configuration of obligatory integration measures. In addition, with reference to the integration agreements, the unequal treatment of EU/EFTA and third-country citizens has also been criticized. On the whole, the guidelines of the federal government allow for a good deal of leeway and thus a key role is assigned to the cantons in the implementation of integration policy.³⁹

Current Developments and Future Challenges

Switzerland's direct democratic system offers Swiss citizens unique opportunities for political participation. As history has shown, these are also of particular importance for the development of Swiss migration policy. At the same time two referenda have recently caused considerable sensation.

On 29 November 2009, Swiss voters approved the initiative 'Against the Construction of Minarets', although the parliament and the Federal Council (Bundesrat) recommended the rejection of the initiative, since it stands in contradiction to the federal constitution and violates contractually guaranteed human rights.⁴⁰

An additional sensation was caused by the initiative 'for the deportation of criminal foreigners'. This provides for automatically withdrawing the right of abode for female and male foreigners in cases where they have committed certain criminal offenses or where an abuse in obtaining social benefits has been ascertained. Again the parliament and the Bundesrat recommended that the initiative be rejected and presented Swiss voters with an alternative draft. The latter incorporated the basic idea behind the initiative but was intended, unlike the initiative itself, not to conflict with the basic principles of the constitution and international law. In the referendum of 28 November 2010, Swiss voters nonetheless approved the 'Deportation Initiative' and rejected the alternative draft of the bill. The decision concerning how the initiative should be implemented in detail is pending.⁴¹

The exercise of direct democratic rights has in the referenda cited above led to a conflict between democracy and the rule of law. How this conflict is dealt with in the future can have decisive implications for the development of Swiss migration policy.

Fundamentally, especially the developments related to Switzerland's relations with the EU are decisive in future Swiss migration policy. Furthermore, different legislative projects are currently underway. Thus, among other things, the revision of the asylum law, the partial revision of the 'Federal Act on Foreign Nationals' and the complete revision of the 'Law on Swiss Citizenship' (BüG) await. In the case of the

asylum law, the aim is in particular to shorten the length of the procedure. The stated aim is basically the weakening of Switzerland's attractiveness as an asylum destination and the 'battle' against the abuse of asylum. In the case of the revisions of the AuG and the BÜG, the focus is mainly on adjustments related to the anchoring of the integration principle in legal provisions. Thus, the aim is to make integration according to the principle of 'promote and demand' more binding and to make the granting of residence permits as well as naturalization more strongly bound than previously to an individual's 'level of integration'.⁴²

Notes

- ¹ Hoffmann-Nowotny (1985), Wyler (1923).
- ² Ritzmann (2011).
- ³ Arlettaz/Burkart (1990), Arlettaz (1985), Bundesamt für Statistik BFS (1992), Hoffmann-Nowotny (1985), Wyler (1923).
- ⁴ Bundesamt für Statistik (1992), Hoffmann-Nowotny (1985), Piguet (2006).
- ⁵ Official statistics include the following categories with regard to reasons for immigration: Employment, family reunification, education, pensioners, recognized refugees, and cases of hardship (cf. Swiss Federal Statistical Office: The Statistical Encyclopedia).
- ⁶ Swiss Federal Statistical Office: The Statistical Encyclopedia.
- ⁷ Official statistics distinguish between the permanent and the temporary resident population as well as the asylum sector. The permanent resident population comprises Swiss citizens, long-stay residents (permanent residence permit, Permit C/settlement permit), resident foreign nationals (right to reside in Switzerland for at least one year, Permit B/residence permit and Permit Ci/residence permit with gainful employment), and short-term residents (right to stay in Switzerland for at least 12 months, Permit L/short-term residence permit). Since 2010, the definition of the permanent resident population also includes persons in the asylum process with a total period of residence of at least 12 months. Not included in the permanent resident population are those persons who possess a short-term residence permit that is valid for less than 12 months (Permit L/short-term residence permit). The 'seasonal resident status' (Saisonnierstatut) was abolished in 1991 for persons from non-EC countries and in 2002 for EU and EFTA citizens. The asylum sector comprises asylum seekers (Permit N) and provisionally admitted foreigners (Permit F) (cf. www.bfm.admin.ch; www.bfs.admin.ch).
- ⁸ Carrel (2011), Swiss Federal Statistical Office: The Statistical Encyclopedia.
- ⁹ A list of existing treaties on establishment can be found here: http://www.bfm.admin.ch/content/dam/data/migration/rechtsgrundlagen/weisungen_und_kreisschreiben/weisungen_auslaenderbereich/rechtsgrundlagen/0-anh1-niederlassungsvertraege-d.pdf (accessed: 3-30-12)
- ¹⁰ Eriksson (1984), Hoffmann-Nowotny (1985).
- ¹¹ Eriksson (1984), Hoffmann-Nowotny (1985).
- ¹² The term 'foreign infiltration' (Überfremdung) is used to express a strong influence of foreigners on Swiss culture and distinctiveness (Schweizer Eigenart) (cf. Piguet 2006).
- ¹³ Eriksson (1984), Hoffmann-Nowotny (1985).
- ¹⁴ Hoffmann-Nowotny (1985), Piguet (2006).
- ¹⁵ Piguet (2006).
- ¹⁶ D'Amato (2001), Piguet (2006).
- ¹⁷ Piguet (2006), Federal Authorities of the Swiss Confederation.
- ¹⁸ Swiss Integration Office EDA/EVD, Swiss Federal Chancellery, Swiss Federal Office for Migration.
- ¹⁹ Parini (1997).
- ²⁰ Swiss Integration Office EDA/EVD, Swiss Federal Chancellery, Swiss Federal Office for Migration.
- ²¹ Swiss Federal Statistical Office: The Statistical Encyclopedia, Piguet (2006).
- ²² Swiss Federal Office for Migration, Efonayi-Mäder et al. (2011), Swiss Federal Commission for Questions on Migration. *Emergency assistance (Nothilfe)*: According to the Federal Constitution (Art. 12) all persons in Switzerland have a 'right to assistance in states of emergency'. Persons in such an emergency situation can apply for emergency assistance if they do not draw on other social welfare benefits provided by the State. Emergency assistance provides a minimum of aid to ensure the survival of a person. The design of emergency assistance is based on cantonal law. Therefore, requirements for and benefits of emergency assistance differ significantly from canton to canton (cf. article 12 of the Swiss Federal Constitution; articles 80-84 of the Swiss Asylum Law; Achermann 2009; Efonayi-Mäder et al. 2010). Since 1986 *detention pending deportation* (Ausschaffungshaft) is tied to the so-called administrative detention. This form of detention does not serve the investigation or punishment of a criminal offense in terms of the Swiss Penal Code. Instead, administrative detention is about guaranteeing the deportation or repatriation of a foreigner and hindering their escaping and hiding. There are three types of administrative detention: preparatory custody, detention pending deportation, and coercive detention.
- ²³ Hruschka (2011).
- ²⁴ Swiss Federal Department of Foreign Affairs EDA, Efonayi-Mäder et al. (2010), D'Amato et al. (2005), Swiss Coordination Unit against the Trafficking in Persons and Smuggling of Migrants KSMM.
- ²⁵ Efonayi-Mäder et al. (2010).
- ²⁶ Swiss Federal Department of Foreign Affairs EDA, Efonayi-Mäder et al. (2010), D'Amato et al. (2005), Swiss Coordination Unit against the Trafficking in Persons and Smuggling of Migrants KSMM.
- ²⁷ Efonayi-Mäder et al. (2010), Longchamp et al. (2005).
- ²⁸ Arlettaz/Burkart (1990), D'Amato (2001), Eidgenössische Kommission für Migrationsfragen EKM.
- ²⁹ In the case of a female foreigner marrying a male Swiss citizen she was automatically granted Swiss citizenship. Since the revision of the law in 1992 this is no longer the case.
- ³⁰ Achermann et al. (2010), Arlettaz/Burkart (1990), Swiss Federal Commission for Questions on Migration EKM.
- ³¹ Swiss Federal Statistical Office: The Statistical Encyclopedia, Bundesamt für Statistik BFS (2010), Swiss Federal Commission for Questions on Migration EKM.

³² Swiss Federal Statistical Office: The Statistical Encyclopedia.

³³ Swiss Federal Statistical Office: The Statistical Encyclopedia, Bundesamt für Statistik (2008).

³⁴ Arn/Mordasini (2006).

³⁵ Swiss Federal Statistical Office: The Statistical Encyclopedia, Bundesamt für Statistik (2008).

³⁶ *Pre-vocational training courses* (Vorlehre) are designed to provide basic professional qualifications. They last one year and are recommended to those adolescents whose prior training does not yet meet the entrance requirements for their chosen apprenticeship. An *elementary apprenticeship* (Anlehre) generally lasts two years and is recommended to youths who would presumably encounter difficulties within a regular apprenticeship. Neither of these awarded degrees are equivalent to the degree awarded for a *regular* apprenticeship.

³⁷ Federal Office for Statistics: The Statistical Encyclopedia, Bundesamt für Statistik (2008), Bolzman et al. (2003), Organisation für wirtschaftliche Zusammenarbeit und Entwicklung OECD (2001).

³⁸ Hoffmann-Nowotny (1985), Piñeiro et al. (2009), Swiss Federal Commission for Questions on Migration EKM.

³⁹ Swiss Federal Commission for Questions on Migration EKM, Menet/Wichmann (forthcoming), Prodoliet (2006), Tripartite Agglomerationskonferenz TAK (2008), Wichmann et al. (2011).

⁴⁰ Swiss Federal Chancellery, Swiss Federal Office for Migration BFM.

⁴¹ Swiss Federal Chancellery, Swiss Federal Office for Migration BFM.

⁴² Swiss Federal Office for Migration BFM, Piguet (2006).

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