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**Fast-Tracking Full Citizenship
in the Context of the Swiss Integration
Stage Model**

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Fast-Tracking Full Citizenship in the Context of the Swiss Integration Stage Model

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Abstract

In 2014, the Federal Assembly adopted the new Swiss Citizenship Act, which will enter into force on the 1st of January 2018. One of the missions of this Act is to align the pre-conditions for Swiss Citizenship with the *Swiss integration stage model*, a controversial move by the Federal Assembly that tightens the rules for access to citizenship and consequently narrows the space of cantonal policy. Under the new rule, only permanent residents (C-permit holders) would be entitled to Swiss citizenship. Consequently, the examination of the integration achievements of all foreigners who wish to naturalize in Switzerland has been intensified in an “ex ante” optic, due to the prerequisite of the C-permit. As the requirement of the early grant of the C-permit falls within the jurisdiction of the 26 cantons, the new rule will hardly obtain the desired result of harmonizing the path to Swiss citizenship. With reference to the two keywords of Swiss integration policy, *requiring and promoting*, which state the requirements and individual responsibilities of a foreign person with regard to integration and the promotion of equal opportunities, this article gives a first impression of the cantonal *requirements* for obtaining the C-permit in the case of successful integration. Further, it gives an overview of integration *promotion* factors, such as the right to a long-term stay, political rights, and the right to family reunification, all of which are connected to the legal status of the C-permit and can determine the extent to which the path to citizenship remains open. It critically assesses the division of competence - national/cantonal - in the framework of integration policy and citizenship rights, concluding that the attempted “uploading” of the issue has resulted in strengthening rather than weakening the cantonal layer of citizenship governance.

Keywords

Switzerland, Citizenship, Cantonal legal diversity, Integration, Permanent residence permit

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Introduction

As early as 1962, the law professor Jean-François Aubert argued that a permanent residence permit should “incorporate” foreign persons into the host society.¹ This incorporation should be understood as foreigners finding themselves settled and secure in a host state.² With the entry into force of the new Swiss Citizenship Act on the 1st of January 2018, the procedure for obtaining a permanent residence permit (C-permit) will gain new importance, as this type of permit will be the new legal requirement for becoming naturalized in Switzerland.³ Proposed by the Federal Council and accepted by the Federal Assembly in 2014, the permanent residence permit requirement was intended to make the legal pathway of a foreign person in Switzerland more coherent. This requirement was considered the next logical step with regard to the different permits under the Swiss Foreign Nationals Act. The understanding that naturalization should be the final step of a successful integration process into Switzerland is - on its face - strengthened by this legal change.⁴

Connected to the total revision of the Swiss Citizenship Act and the new requirement of the permanent residence permit is the partial revision of the Foreign Nationals Act (newly entitled the Foreign Nationals and Integration Act but not yet in force⁵). With the entry into force of the Foreign Nationals and Integration Act, Swiss legislation will introduce the so-called *integration stage model*⁶ (or the idea of step-by-step integration) for a foreign person. The idea behind the integration stage model is the incremental upgrading of one’s legal status, often combined with integration exams. As a result, a foreign person could be confronted with multiple verifications of his/her integration behavior before he/she receives the nationality of the State. Additionally, good integration is mostly examined through a verification of a person’s socio-cultural competences (e.g., knowledge of a national language, activities within the host society, lack of criminal record) and economic circumstances (e.g., financial situation, independence from social aid).⁷ Viewed through this lens, the integration stage model initiates an integration process that is ‘legally’ longer, requiring several integration exams (and similar) in Switzerland, because only a few foreign nationals automatically obtain a permanent residence permit upon entering the country.⁸ Looking at the different permit types under Swiss migration law, and depending on a person’s nationality, different legal rules are applied in cases of individuals’ entry and stay. In short, regardless of the different legal treatments of EU/EFTA nationals and third country nationals (the “two circles” model), in the case of entry into Switzerland, both categories of persons and refugees start their legal stays in Switzerland with a residence permit (B-permit) within the integration stage model.⁹

¹ Cf. AUBERT Jean-François, Le statut des étrangers en Suisse, Zeitschrift für Schweizerisches Recht, Neue Folge Band 77, p. 232.

² Cf. GUILD Elsbeth, MINDERHOUD Paul (eds.), Security of Residence and Expulsion, Protection of Aliens in Europe, Brill, Nijhoff, 2001; GROENENDIJK Kees, GUILD Elspeth, DOGAN Halil, Security of Residence of long-term Migrants, A comparative study of law and practice in European countries, Council of Europe, Strasbourg, 1998.

³ Cf. Art. 12 Bundesgesetz über das Schweizer Bürgerrecht (Bürgerrechtsgesetz, nBüG), 20.06.2014, BBl 2014 5133.

⁴ Cf. KURT Stefanie, Nouvelles exigences en matière d’intégration des étrangers, in: plaidoyer 4/2017, p. 20-24, p. 24.

⁵ Cf. BBl 2016 8899.

⁶ Cf. The *integration stage model* is called *Stufenmodell Integration* in German and *le modèle d’intégration graduel* in French.

⁷ Cf. KURT Stefanie, ZUBER Valentin, Les droits politiques octroyés dans les cantons et la nouvelle loi sur la nationalité suisse, Jusletter 6.03.2015; CAMPISI Laura, Die rechtliche Erfassung der Integration im schweizerischen Migrationsrecht, Zwischen rechtlichen Vorgaben und innenpolitischen Realitäten, Dike Verlag AG, Zurich, St. Gallen, 2014.

⁸ Cf. Professors at a University or at a University of applied science, as well as their family members: EJPD, SEM, Weisungen und Erläuterungen Ausländerbereich (Weisungen AuG), Überarbeitete und vereinheitlichte Fassung, Oktober 2013, Bern (status as of 3.07.2017), p. 73.

⁹ For an overview of the Swiss migration law in English: THURNHERR Daniela, Migration Law in Switzerland: An Overview, Journal of Migration and Social Integration 2 (2017), 1, p. 41-61. In German: CARONI Martina, GRASDORF-MEYER Tobias, OTT Lisa, SCHEIBER Nicole, Migrationsrecht, 3. stark überarbeitete Auflage, Stämpfli Verlag AG, Bern 2014.

Consequently, a foreign person in Switzerland, depending on their legal entry status, has to wait for a longer period to achieve the legal status required for Swiss nationality. Finally, individual cases, such as vulnerable persons (e.g., elderly persons, illiterate persons, low-skilled migrants), might face difficulties fulfilling the “embedded” integration criteria, which are biased against the granting of permanent residence permits.¹⁰

However, research regarding the legal status required for naturalization in a European state is limited.¹¹ Regarding Switzerland, an initial study – with findings about migration policy in the cantons – was published in 2011.¹² Switzerland, as a federal State, has delegated the competence to grant permanent residence permits to the cantonal level¹³, even if national legislation imposes the relevant criteria. The study from 2011 shows that the cantons interpret the integration criteria of a foreign person differently with regard to the early granting of the permanent residence permit. Consequently, there are 26 different practices regarding the early granting of a C-permit.¹⁴ Depending on the canton, the foreign person is required to meet different criteria to obtain a permanent residence permit. This diversity has an important impact on the legal integration pathway of a foreign person because the C-permit, compared to other less favorable legal statuses in Switzerland, grants the right to a long-term stay without conditions, sometimes grants cantonal political rights, and grants the right to family reunification. These elements are important for the *promoting* side of the state’s integration because they grant stronger rights and more legal possibilities for political, societal and economic participation compared to, for example, the previous regular residence permit (B-permit) within the integration stage model. Additionally, the cantonal authorities can use integration instruments, such as integration agreements¹⁵ or integration recommendations¹⁶ to *promote* or to fast-track a foreigner’s integration. Finally, the definition of the C-permit itself indicates that a foreign person plans to stay in Switzerland for a longer time.

With regard to the upcoming legal changes at the federal level and the subsequent changes at the cantonal level, there are several pertinent questions to address. Answering these questions should provide a better understanding of the future challenges facing Swiss integration policy:

- What is the understanding of the “integration stage model” in Switzerland?
- What are the current legal elements of *requiring* and *promoting* implemented by the early granting of the C-permit on the cantonal level?
- What are the effects regarding the legal pathway to citizenship of a foreign person within the future integration stage model in Switzerland?

¹⁰ Cf. KURT Stefanie, Nouvelles exigences en matière d’intégration des étrangers, in: plaidoyer 4/2017, p. 20-24, p. 24.

¹¹ Cf. e.g. VINK Maarten Peter, Citizenship and Legal Statuses, Paper for the “Conference on the Integration of Migrants and Refugees”, EUI Forum on Migration, Citizenship and Demography. European University Institute, Florence, 29-30 September 2016, <http://www.eui.eu/Projects/TheForum/Documents/Keynote-lecture-citizenship-and-legal-statuses.pdf> (19.06.2017).

¹² Cf. WICHMANN Nicole et al., Gestaltungsräume im Föderalismus: Die Migrationspolitik in den Kantonen, Bern, 2011, p. 67f. Further, see MANATSCHAL Anita, Kantonale Integrationspolitik im Vergleich. Eine Untersuchung der Determinanten und Auswirkungen subnationaler Politikvielfalt, Nomos Verlagsgesellschaft, Baden-Baden, 2013.

¹³ Cf. Art. 30 II, Art. 99 FNA and Art. 60ff. Verordnung über Zulassung, Aufenthalt und Erwerbstätigkeit of 24 October 2007 (VZAE).

¹⁴ Cf. WICHMANN Nicole et al., Gestaltungsräume im Föderalismus: Die Migrationspolitik in den Kantonen, Bern, 2011, p. 67f.

¹⁵ Cf. Canton Bern, art. 11 para. 3 IntG; Canton Basel-Stadt, §5 Abs. 3 Gesetz über die Integration der Migrationsbevölkerung (Integrationsgesetz).

¹⁶ Cf. Integration recommendations are a new set of instruments that can be applied to foreigners who are entitled to enter and reside in Switzerland (e.g. EU-/EFTA nationals). Art. 58b National Foreigners and Integration Act, BBl 2016 8899.

This article begins by introducing the concept of the integration stage model. Second, the article offers an overview of cantonal legislation regarding the permanent residence permit, subdivided into the elements of the *required and promoted* integration. Following empirical work, including collection and analysis of information and fact sheets (on the cantonal websites) regarding the (early) granting of the permanent residence permit, the paper identifies language requirements, family-related questions, civic knowledge and cultural integration, the existence of a good moral character, and economic resources as key “*requirements*” for the type of integration that fast-tracks citizenship. The third section focuses on the integration- *promoting* elements that are connected with the permanent residence permit within the legal pathway to citizenship. The article concludes by contextualizing these elements within Swiss integration policy and also offers some critical remarks.

1. Between *requiring* and *promoting*: the integration stage model

Foreigners wishing to enter or reside in Switzerland may be granted an entry visa or residence permit that provides them with a specific legal status in the territory.¹⁷ Switzerland, as a non-EU-Member State, distinguishes among different legal statuses for foreigners. An important legal distinction is made between nationals of EU/EFTA Member States and nationals from third countries (the “two circles” model). This difference is not necessarily a difference in the type of permit people receive but rather in how they receive the permit and the criteria they must satisfy to be granted a permit. Therefore, different permits with different rights and obligations exist. In some cases, the legislation proposes an examination of the prospect integration potential of a person at the time of his/her first entry.¹⁸ The requirement of demonstrating the ability to integrate in the future is often observed in cases of third country nationals who are applying for a (work) permit¹⁹ or who are applying for family reunification²⁰. The use of such integration requirements before someone can enter Switzerland aims to ensure that the person concerned has the capacity to integrate into society.²¹ In addition to the examination of the integration potential of an immigrant before he/she enters the country, similar proof of fulfilling the integration criteria is often required to extend someone’s permit during their stay in the country. Furthermore, the Swiss cantons often use the instrument of civic integration obligations (or integration contracts) with the threat of sanctions.²²

The Federal Assembly has now introduced the concept of the integration stage model at the legal level. Influenced by the total revision of the Swiss Citizenship Act and connected to the implementation of the new constitutional provisions on immigration, art. 121a of the Federal

¹⁷ Cf. Art. 5 Federal Act on Foreign Nationals (Foreign Nationals Act; FNA) of December 16th 2006 (English is not an official language in Switzerland; translation without legal force). In the following, the Foreign Nationals Act is abbreviated as FNA.

¹⁸ Cf. Switzerland, the Federal Council proposed to introduce, in connection with family reunification, the criterion of language skills (proof of proficiency in one of the national languages or registration for a language course) before entry into Switzerland, Erläuternder Bericht zur Vernehmlassung zur Änderung des Ausländergesetzes (Integration), 23.11.2011, p. 33; The Federal Council decided to delete this proposal after the consultation procedure, BBl 2013 2397, 2409-2410. Compare Germany: § 30 Ehegattennachzug Aufenthaltsgesetz, BGBl. I S. 1386), but CJUE, C-138/13 (Dogan). See further CHIH-WEI Chang, Migration und Integration, Der Integrationsprozess der Migranten unter dem Blickwinkel des Grundgesetzes für die Bundesrepublik Deutschland und der Verfassung der Republik China auf Taiwan, Herbert Utz Verlag, 2016, p. 165f.

¹⁹ Cf. For Switzerland, see article 23 para. 2 FNA.

²⁰ Cf. For Switzerland, see the legislation project for the new Foreign Nationals and Integration Act, BBl 2013 2397, BBl 2016 2821; For the European Union, see Court of Justice of the European Union, C-153/14 – K and A.

²¹ Cf. Art. 121a para. 3 Federal Constitution of the Swiss Confederation of 18 April 1999, 101; cf. for the European Union: art. 79 (4) Treaty on the Functioning of the European Union.

²² Cf. BBl 2013 2397, BBl 2016 2821; Canton Bern, art. 11 para. 3 IntG; Canton Basel-Stadt, §5 Abs. 3 Gesetz über die Integration der Migrationsbevölkerung (Integrationsgesetz); In this context: CJUE, C-579/13 – P and S.

Constitution (limitation of immigration)²³, the integration stage model, which attributes more rights to foreigners who are recognized as better integrated²⁴, will frame the integration process of a foreign person in Switzerland. Connected to this integration stage model are the keywords *requiring* and *promoting*²⁵ (*Fördern* and *Fordern*; *encourager* and *exiger*)²⁶ of the Swiss integration policy. These two keywords are understood, on the one hand, *to promote* equal opportunities and the potential of the entire resident population and, on the other hand, *to require* individual responsibility on the part of a foreign person with regard to integration.²⁷ Analogous and similar to the integration criteria in art. 12 of the new Swiss Citizenship²⁸, the Foreign Nationals and Integration Act will implement integration criteria pertaining to the granting or the prolongation of a permit. Art. 58a of the Foreign Nationals and Integration Act states that the responsible authorities shall examine integration on the basis of respect for public security and order, respect for the values of the Swiss constitution, competences in one of the national languages, and the will to participate in economic life or in education.²⁹ If a permanent residence holder does not fulfill these integration criteria, the authorities will have the option to withdraw the C-permit and to replace it with a resident permit (B-permit).³⁰ Further, even after 15 years, it will also newly be possible to revoke permanent residence in cases of ongoing social benefits³¹. Consequently, only *integrated* foreigners³² should receive and retain permanent residence permits, which will be the new legal requirement for Swiss Citizenship. Currently, the legal principles governing the granting of the permanent residence permit are inscribed in the Federal Act on Foreign Nationals. In general, the legal status of permanent residence is granted for an unlimited duration and without conditions.³³ Art. 34 para 2. of the FNA states that “foreign nationals may be granted a permanent residence permit if they have resided in Switzerland for a minimum of ten years in total on the basis with a short stay or residence permit and have held a residence permit without interruption for the last five years and there are no grounds for revocation in terms of art. 62³⁴”. These criteria must be fulfilled cumulatively. Further, the State Secretariat for Migration (SEM) determines the earliest date on

²³ Cf. BBl 2016 3007; BBl 2016 3079. Art. 121a Cst. is the first article in the Swiss constitution that mentions the word integration in the context of migration.

²⁴ Cf. BBl 2013 2397, 2405.

²⁵ For the structure of this article, the order of the keywords of the Swiss integration policy was changed. The translation, respecting the order of the keywords, is *promoting* and *requiring*.

²⁶ Cf. Art. 4 FNA.

²⁷ Cf. EJPD, Erläuternder Bericht, Anpassung der Vorlage zur Änderung des Ausländergesetzes (Integration ; 13.030) an Art. 121a BV und an fünf parlamentarische Initiative, Februar 2015, p. 11. E.g. A foreign person risks sanctions in cases of an integration deficit or disrespect of integration agreements (e.g. withdrawal or nonrenewal of the permit). Integration agreements are a promoting integration instrument in such a context.

²⁸ Cf. BBl 2014 5133. The integration criteria are respect for public security and order; respect for the values of the Federal Constitution; the capacity to speak and write in one of the Swiss national languages in daily life; effective participation in the labor market or in education; and promoting and supporting the integration of the husband, partner and children. The cantons can provide further integration criteria.

²⁹ Cf. BBl 2016 8899, p. 8905.

³⁰ Cf. Art. 63 para. 2 Foreign Nationals and Integration Act, BBl 2016 8899, p. 8906.

³¹ Cf. Art. 63 para. 2 Foreign Nationals and Integration Act, BBl 2016 8899, p. 8906.

³² The Federal council will no longer distinguish between successfully and well integrated foreigners. If the integration criteria are fulfilled, a foreigner should be considered as integrated, BBl 2013 2397, p. 2417.

³³ Cf. Art. 34 para. 1 FNA.

³⁴ Translation provided by the State Secretary for Migration. Art. 62 FNA Revocation of permits and other rulings: The competent authority may revoke permits, with the exception of the permanent residence permit, and other rulings under this Act if the foreign national or their representative in the permit procedure (a) makes false statements or conceals material facts; (b) has been given a long custodial sentence or has been made subject to a criminal measure in terms of Article 64 or Article 61 of the Criminal Code; (c) has seriously or repeatedly violated or represents a threat to public security and order in Switzerland or abroad or represents a threat to internal or external security; (d) fails to fulfil an obligation linked to the decision; or (e) a person they must care for is dependent on social assistance.

which the responsible cantonal authority can grant a permanent residence permit. Aside from these rules, there are some particular prescriptions. On the basis of legal settlement treaties, reciprocal agreements, and declarations of the Federal Council, some foreigners are entitled, under the conditions that there are no grounds for revocation by art. 62 or art. 63 FNA, to receive permanent residence after five years. This is the case for nationals from Belgium, Germany, Denmark, France, Liechtenstein, Greece, Italy, the Netherlands, Austria, Portugal, Spain, Finland, the United Kingdom, Ireland, Iceland, Luxemburg, Norway, Sweden, the United States of America, Canada, Andorra, Monaco, San Marino, and the Vatican City.³⁵ The existing settlement treaties do not provide, by themselves, an entitlement to the granting of permanent residence, but it is given by additional agreements.³⁶ Nevertheless, the permanent residence permit is not granted automatically but rather after an examination of the length of stay and the revocation grounds of art. 61 and art. 62 of FNA as well as art. 60, 61 and 80 of VZAE.^{37, 38} In addition to the ordinary issuance of a permanent residence permit, it is possible to grant this legal status in advance, namely after five years in the case of a successful integration. In this context, successfully integrated means “in particular if the persons concerned have good knowledge of a national language after an uninterrupted period of stay on the basis of a residence permit”³⁹. In such a case, the applicant submits his/her demand on the cantonal level, and if there is a positive answer, the application will be transferred to the SEM for examination. An applicant must fulfill certain criteria before submitting a request for a permanent residence permit: he/she must respect the legal order and the values of the Swiss constitution, speak at least at level A2 of the Common European Framework of Reference for Languages (CEFR), demonstrate the will to participate in economic life or the acquisition of knowledge,⁴⁰ and finally, uninterruptedly possess a residence permit for the last five years. The calculation of the period of stay does not include earlier visits (e.g., study, medical treatment) in Switzerland. In exceptional cases, periods of stay for training and education will be credited if the applicant uninterruptedly held a residence permit for the last two years.⁴¹ Further, the integration behavior of family members who are older than 12 years will be included in the procedure.⁴² Lastly, there is the option to grant a permanent residence permit after a short qualifying period if there is good cause.⁴³ Not considered as good causes are economic reasons, such as the foundation of a company or the creation of new jobs, tax-related issues, or the acquisition of property; a planned marriage does not qualify as a good cause. Additionally, the school enrolment of children is not a qualifying reason.⁴⁴

Along with these legal integration requirements, the *promoting* side of the integration stage model is connected to the possession of a specific legal permit. As the integration stage model entails the idea that more rights are attributed to foreigners who are better integrated, the possession of a

³⁵ Cf. SEM, Weisungen und Erläuterungen Ausländerbereich (Weisungen AuG), Überarbeitete und vereinheitlichte Fassung, Oktober 2013, Bern (status as of 3.07.2017), p. 75, 76.

³⁶ Cf. Judgement of the Federal Tribunal 120 Ib 360, cons. 2b, p. 364, judgement 2A.395/2005, 22 November 2005, cons. 2.3.

³⁷ Verordnung über Zulassung, Aufenthalt und Erwerbstätigkeit, 24 October 2006, (VZAE), 142.201.

³⁸ Further Judgement of the Federal Tribunal 120 Ib 360.

³⁹ Art. 34 para. 4 FNA, Art. 62 VZAE, Art. 3 VIntA (Verordnung über die Integration von Ausländerinnen und Ausländer, 24 October 2007, (VIntA), 142.205.

⁴⁰ Art. 62 VZAE.

⁴¹ Art. 34 para. 5 FNA.

⁴² Cf. Art. 62 para. 2 VZAE.

⁴³ Art. 34 para. 3 FNA.

⁴⁴ Art. 6 para. 2 VZAE.

particular legal status gives more rights than does the previous legal status.⁴⁵ These elements are particularly visible with regard to political, societal and economic participation. Subsequently, the permanent residence permit has a so-called *passive integration effect* because legal status itself is a condition for participation. In such a context, the permanent residence permit must be seen as a part of the legal integration process within the State. It is an intermediate legal status⁴⁶ on the way to full citizenship; it gives more rights than a regular (first entry) permit but fewer rights than full citizenship.⁴⁷

In summary, the Swiss permanent residence permit will play an important legal and political role in the matter of integration. For instance, the different (legal) categories of foreigners under Swiss legislation, such as the distinction between European Union Citizens and, partially, third country nationals, form a system of inequality based on the origin and nationality of a person, respectively.⁴⁸ Although the Agreement on the Free Movement of Persons Switzerland -EU/EFTA (AFMP) does not indicate rules for the permanent residence permit, certain categories of nationals profit from settlement treaties and their appendices. Additionally, certain nationals profit from having more rights than other nationals. Following the logic of the integration stage model, the Federal Council wanted to introduce the entitlement to grant the permanent residence permit under certain conditions, but the national council rejected this proposal.⁴⁹ In general, the permanent residence permit is not granted automatically with the first entry, even if the person intends to stay in Switzerland for a long time⁵⁰. However, there is one important exception under the current legislation: Ordinary and extraordinary professors who are teaching at one of the *Swiss Universities*, at one of the *ETHs*, at one of the *University of applied sciences* or at the *Institut Universitaire des Hautes Etudes Internationales* automatically receive permanent resident permits upon arrival, as do their family members.⁵¹ The justification is that professors are appointed unlimited tenure in their positions at the Universities. Further, this practice is based on a longtime and consistent practice of the authorities.⁵²

In conclusion, there is no right to obtain a permanent residence permit, unless one falls under an exception in the legislation. This is the case for family members, including those within civil unions, of Swiss nationals and persons already possessing a permanent residence permit, as well as certain nationals. They are entitled, under certain conditions, to be granted a permanent residence

⁴⁵ Cf. BBl 2013 2397, 2405.

⁴⁶ ARCARAZO Diego Acosta, Civic Citizenship Reintroduced? The Long-Term Residence Directive as a Post-National Form of Membership, in: European Law Journal, Vol. 21, No. 2, March 2015, pp. 200-219. ARCARAZO talks regarding to the Long-Term Residence Directive of a subsidiary form of EU citizenship.

⁴⁷ In this context, consider the concept of denizenship as a legal form of inclusion, cf. HAMMAR Tomas, Democracy and the Nation State - Aliens, Denizens and Citizens in a World of International Migration, Avebury 1990, p. 12ff; BAST Jürgen, Denizenship als rechtliche Form der Inklusion in eine Einwanderungsgesellschaft, in: Zeitschrift für Ausländerrecht und Ausländerpolitik (ZAR), 10/2013, p. 353-357, p. 355., FARGAHI Babak, Eine Heimat für Ausländer? Rechtliche Überlegungen zu Sicherheit und Verlust des Aufenthaltsrechts anhand der Situation von Ausländern der zweiten Generation, in: Jusletter 16. März 2016, p. 16.

⁴⁸ Cf. MOORIS Lydia, Managing Contradiction: Civic Stratification and Migrant's Rights, in: International Migration Review, 2003 37(1), p. 74-100, p. 79.

⁴⁹ Cf. BBl 2013 2397; Parliamentary discussion available at www.parlament.ch (13.030 Ausländergesetz. Änderung. Integration)

⁵⁰ Cf. SEM, Weisungen und Erläuterungen Ausländerbereich (Weisungen AuG), Überarbeitete und vereinheitlichte Fassung, Oktober 2013, Bern (status as of 3.07.2017), p. 74.

⁵¹ The SEM must confirm this decision. Art. 3 let. 3 Verordnung des EJPD über die dem Zustimmungsverfahren unterliegenden ausländerrechtlichen Bewilligungen und Vorentscheide vom 13. August 2015, 142.201.1.

⁵² Cf. Interpellation, NR Schneider-Schneider, 12.3836, Gleichbehandlung bei der Erteilung von Aufenthalts- und Niederlassungsbewilligungen für ausländische Spitzenforscher, 27.09.2012. Answer of the Federal Council, 21.11.2012.

permit after a law-abiding and uninterrupted period of stay of five years.⁵³ All other foreign persons need to request a permanent residence permit and consequently pass through a more intense integration exam. This uneven access to the permanent residence permit might hinder the achievement of full citizenship in certain cases. In summary, the early granting of a permanent residence permit concerns mostly third country nationals. This means that this particular category of persons is confronted with cantonal diversity, discussed in the following section.

2. Requiring: the early granting of a permanent residence permit

The different cantonal laws, regulations, information sheets and/or questionnaires examined in this study's document collection process show great diversity at the cantonal level.⁵⁴ Some cantons provide precise fact sheets for applicants⁵⁵, other cantons offer scant and unsatisfactorily accessible information⁵⁶. This is the case despite the requirement that the Confederation, the cantons and the communes must provide appropriate information about their living and employment conditions and about the rights and obligations of foreign nationals.⁵⁷ The accessibility of information is one of the key elements of the legal integration process.⁵⁸ Without accurate information in the form of fact sheets or handouts, for example, accessible online or in a printed form, an obstacle is created for foreign nationals wishing to inform themselves about the possibility of upgrading their legal status. The following section offers a first overview of cantonal particularities related to the early granting of a permanent residence permit in the case of successful integration after five years. Some sections refer further to the ordinary granting of the C-permit. Differences are shown among cantonal requirements for the early granting of a permanent residence permit.

2.1.1 Language skills

Federal legislation requires that applicants for early granting of permanent residence permits achieve a minimum of level A2 of the Common European Framework of References for Languages (CEFR). The tested language should be the one of the place of residence, with the exception of other national languages that can be considered in the case of well-founded arguments.⁵⁹ The SEM states that the applicant's knowledge of the language should be proven by an official certificate or the equivalent from a recognized testing center. Couples and spouses must both document their level A2 CEFR of the required language. Foreign nationals who attended the obligatory Swiss school, or those who have at least a Swiss secondary high school II degree, are not asked to prove their language level.⁶⁰

Most of the cantons repeat the federal requirements in their factsheets or questionnaires, although some of the cantons specify if the level A2 CEFR is needed in oral and/or in written form. The

⁵³ Cf. Art. 42 para. 3 and art. 43 para. 2 FNA.

⁵⁴ The collection of cantonal regulations regarding the granting of the C-permit is part of the project IP14 Unity and Diversity in Cohesion: Immigration, Citizenship and Federalism of the National Center of Competence in Research – The Migration-Mobility Nexus. All information is available at the following link: <http://nccr-onthemove.ch/research/projects/repository/>.

⁵⁵ Good examples are the Cantons Aargau, Basel-Landschaft, Geneva, Glarus, Luzern, Schwyz, Vaud and Zurich (non-exhaustive).

⁵⁶ Cf. Cantons Appenzell Ausserrhoden and Wallis (non-exhaustive).

⁵⁷ Cf. Art. 56 FNA.

⁵⁸ Cf. Art. 57 para. 1 National Foreigners and Integration Act, BBl 2016 8899, p. 8904; KURT Stefanie, Keine Integration ohne Information, Blog NCCR on the move, 2 June 2017.

⁵⁹ Cf. Art. 62 para. 1 let.b VZAE.

⁶⁰ Cf. Anhang I zu IV / 2.2 und 2.3.4 von EJPD, SEM, IV. Integration, Version 01.01.09 (as it is on 01.01.2015).

canton St. Gallen requires the language level A2 CEFR in both oral and written form⁶¹, which differs from the canton Schwyz, which demands the level A2 CEFR only in written form⁶². Because the federal legislation only states minimal requirements regarding language knowledge, some cantons have higher and more specific demands. The cantons Glarus and Zurich ask applicants to fulfill the level B1 CEFR in oral and written form.⁶³ The canton Glarus specifies further that for children up to 12 years old, a school confirmation of their level of language is needed.⁶⁴ The canton Zug demands a level B1 CEFR in speaking and a level A2 CEFR in writing.⁶⁵ It is interesting that on its website, the canton Graubünden only requires a “very good knowledge” of a language⁶⁶, but it specifies on its factsheet that the level A2 CEFR is required.⁶⁷ Lastly, the canton Zurich exempts persons older than 75 years, but only in the case of the ordinary granting of a permanent residence permit, from providing proof of meeting the language requirement.⁶⁸

2.1.2 Family-related questions

Family-related questions are also included in the examination of successful integration. This requirement is not evident in all cantons in the same manner. As federal legislation requires consideration of the integration of family members who are older than 12 years, the cantons have different methods of verifying this. In general, the cantons’ integration questions draw attention to the family’s life in general and to the relationship within the couple or between the spouses and their children. Further, some cantons ask for a school report about the integration behavior of the child.

The canton Luzern makes an interesting request in its questionnaire, asking for information about the child care situation of the family. The canton asks how many days a third party (e.g., relative, neighbor, day nanny, day-care center) takes care of the children.⁶⁹ It is difficult to interpret this question regarding the integration behavior of the applicant. Evaluating an integration as positive or negative depends on the embedded concept and understanding of family. A conservative interpretation, as opposed to a more progressive understanding, would see this canton as favoring a traditional family model. Thus, external childcare can subjectively be seen as either a strong support of integration, or not. The circumstance that dual working parents are less likely to be dependent on social assistance should be considered. Further, children who are at a day-care center learn the local language (and local behaviors) faster than those who stay at home without regular contact with the resident society. It is not clear how these possibilities are included in canton Luzern’s integration assessment process.

⁶¹ Cf. Canton St. Gallen, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglied der EU-17/EFTA sind).

⁶² Cf. Canton Schwyz, Merkblatt Erteilung der Niederlassungsbewilligung (1).

⁶³ Cf. Canton Glarus, Abteilung Migration des Kantons Glarus, Erteilung der Niederlassungsbewilligung; Canton Zurich, Migrationsamt des Kantons Zurich, Weisungen/Praxis, Erteilung der Niederlassungsbewilligung.

⁶⁴ Cf. Canton Glarus, Abteilung Migration des Kantons Glarus, Erteilung der Niederlassungsbewilligung.

⁶⁵ Cf. Canton Zug, Sicherheitsdirektion Amt für Migration, Merkblatt der Niederlassungsbewilligung.

⁶⁶ Cf. <https://www.gr.ch/DE/institutionen/verwaltung/djsg/afm/dienstleistungen/Fremdenpolizei/Seiten/Niederlassung1.aspx> (19.06.2017).

⁶⁷ Cf. https://www.gr.ch/DE/institutionen/verwaltung/djsg/afm/Dokumentenliste%20APZ/209-Merkblatt%20Erteilung%20Niederlassungsbewilligung_DE.pdf (19.06.2017).

⁶⁸ Cf. Canton Zurich, Migrationsamt des Kantons Zurich, Weisungen/Praxis, Erteilung der Niederlassungsbewilligung.

⁶⁹ Cf. Canton Luzern, Zusatzformular zu Formular 4 für alle Personen ohne gesetzlichen Anspruch auf Niederlassungsbewilligung.

There are several cantons that ask for a school or education confirmation with remarks about the child's integration. This is the case in the cantons Glarus, Obwalden, St. Gallen, Schaffhausen, Thurgau and Zurich. These cantons ask specifically for a confirmation about the behavior and integration in school of children under 12 years old, and some include an assessment of the child's level of knowledge of the local language.⁷⁰ The cantons Bern, Basel-Landschaft, Basel-Stadt, Schwyz and Zug demand only a confirmation of the school and/or educational institute.⁷¹ The canton Basel-Landschaft requests information about the child's language level and personal behavior in the school class.⁷² Lastly, several cantons ask for a confirmation (mostly by applicant signature) that the intention to live together and to maintain marriage is held by the couple or spouses.⁷³

2.1.3 Good moral character

Federal legislation codifies successful integration as respect for the rule of law and the values of the Swiss constitution.⁷⁴ Proof of good moral character is mainly obtained through a police background check. There are cantonal differences in the period of validity of the police report and the age at which a foreign person has to submit it. Generally, the majority of cantons demand submission of any criminal records. The cantons Bern and Jura specify that only persons over 18 years old must submit a background check.⁷⁵ The practice is different in the canton Schaffhausen, which demands an extract of the police report for persons over 15 years old in the case of an ordinary request for a permanent residence permit after a stay of 10 years.⁷⁶ The canton Zurich goes even further, requesting an extract of the police report for children older than 12 years and a confirmation by the parents that there are no criminal procedures pending.⁷⁷ Regarding the period of validity, only the cantons Bern, St. Gallen, Schaffhausen, and Schwyz request that the extract of the police report should not be older than one month.⁷⁸ Lastly, some cantons demand that there be no negative existing reports by the authorities about the behavior of the applicant. The canton Obwalden asks for permission to search in official documents and reports to make sure that the applicant is of good

⁷⁰ Cf. Canton Glarus, Erteilung der Niederlassungsbewilligung, p. 7, Canton Obwalden, Gesuch um vorzeitige Erteilung der Niederlassungsbewilligung bei erfolgreicher Integration (Formular B2); Canton St. Gallen, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglied der EU-17/EFTA sind); Canton Schaffhausen, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglieder der EU/EFTA sind); Canton Thurgau, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglieder der EU/EFTA sind); Canton Zurich, Migrationsamt des Kantons Zurich, Weisungen/Praxis, Erteilung der Niederlassungsbewilligung, p. 6.

⁷¹ Cf. Canton Bern, Polizei- und Militärdirektion des Kantons Bern, Merkblatt, Vorzeitige Erteilung der Niederlassungsbewilligung; canton Basel-Landschaft, Sicherheitsdirektion, Amt für Migration, Vorzeitige Erteilung der Niederlassungsbewilligung bei erfolgreicher Integration; Canton Basel-Stadt, Bevölkerungsdienste und Migration, Einreise und Aufenthalt, <http://www.bdm.bs.ch/Wohnen/Einreise-und-Aufenthalt.html> (19.06.2017); Canton Schwyz, Merkblatt Erteilung der Niederlassungsbewilligung (1); Canton Zug, Merkblatt Erteilung Niederlassungsbewilligung.

⁷² Cf. Canton Basel-Landschaft, Sicherheitsdirektion, Amt für Migration, Vorzeitige Erteilung der Niederlassungsbewilligung bei erfolgreicher Integration.

⁷³ Cf. Canton Luzern, Amt für Migration, Aufenthalt, https://migration.lu.ch/-/media/Migration/Dokumente/Formulare/form_4.pdf?la=de-CH (19.06.2017); Canton Basel-Landschaft, Gesuch um Erteilung der Niederlassungsbewilligung.

⁷⁴ Cf. Art. 34 para. 4 FNA, art. 62 para. 1 let. a VZAE.

⁷⁵ Cf. Canton Jura, Demande de permis C anticipé; cf. Canton Bern, Merkblatt Vorzeitige Erteilung der Niederlassungsbewilligung.

⁷⁶ Cf. Canton Schaffhausen, Gesuch Niederlassungsbewilligung (B3).

⁷⁷ Canton Zurich, Migrationsamt des Kantons Zurich, Weisungen/Praxis, Erteilung der Niederlassungsbewilligung.

⁷⁸ Cf. Canton Bern, Merkblatt Vorzeitige Erteilung der Niederlassungsbewilligung; Canton St. Gallen, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglied der EU-17/EFTA sind); Canton Schaffhausen, Gesuch Niederlassungsbewilligung (B3); Canton Schwyz, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung.

moral character.⁷⁹ The information sheet of the canton Thurgau mentions that there should be no existing reports of activities against the public order. Surprisingly, there is no specific request for the submission of a background check.⁸⁰ The same is true in the canton Zug.⁸¹

2.1.4 Economic resources

Another important factor with regard to the integration behavior of a foreign person is the verification of economic independence. Federal legislation states that the applicant must show the will to participate in economic life or in education.⁸² Economic resources can be proved in different ways. Firstly, the authorities may ask for a copy of the work contract, copies of wage statements and/or a confirmation by the employer of permanent employment. Secondly, the authorities can ask for an extract from the debt collection register, which states whether the applicant has unpaid debts or enforcements. Thirdly, the proof of economic independence can also be made through the presentation of sufficient personal resources and/or property. Lastly, the confirmation of paid taxes can further be seen as an integration element if the foreign person has no tax debts. In summary, different instruments are used to verify the economic aspect of a successful integration. The directive by the SEM states that economic resources should be assessed using a copy of a work contract or evidence of sufficient personal resources. In case of minor children and youth, proof of participation in education should be provided with a certificate from the school or the education institute.⁸³

The cantonal overview illustrates that the majority of the cantons demand at least a copy of a work contract and/or a confirmation from the employer and an extract from the debt collection register. Regarding children, a confirmation from the school or the educational institute is required. It is interesting to note certain particularities, such as how far back in time the proof of economic resources should go. The cantons Bern and Zurich demand proof of work, including confirmation and certificates of employment, over the past five years. The applicant must submit confirmation that he/she has not received social aid for the last years. He/she has to submit an extract from the debt collection register for the last five years in the canton Bern, and for the last three years in the canton Zurich.⁸⁴ The canton Glarus has a similar strategy, demanding proof of on-going and uninterrupted employment for the previous five years. Further, the applicant must prove that he/she has not received social aid for the entire length of his or her stay in Switzerland.⁸⁵ Less restrictive is the practice of the canton Obwalden, which only asks for independence from social aid for the last two years, including proof of reimbursement in the case of received social aid.⁸⁶ Another important proof of economic resources is the extract from the debt collection register. Several cantons, such as the cantons Nidwalden, Schaffhausen, and Schwyz, demand this excerpt covering the last five

⁷⁹ Cf. Canton Obwalden, Merkblatt 11 vorzeitige Erteilung einer Niederlassungsbewilligung bei erfolgreicher Integration für Angehörige von Staaten, die nicht Mitglied der EG/EFTA sind.

⁸⁰ Cf. Canton Thurgau, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung (Angehörige von Staaten, die nicht Mitglieder der EU/EFTA sind); Canton Thurgau, Gesuch Ausländerbewilligung.

⁸¹ Cf. Canton Zug, Gesuch um Erteilung der Niederlassungsbewilligung.

⁸² Cf. Art. 34 para. 4 FNA, art. 62 para. 1 let. c VZAE.

⁸³ Cf. SEM, IV. Integration, Anhang 1 zu IV / 2.2 und 2.3.4.

⁸⁴ Cf. Canton Bern, Polizei- und Militärdirektion des Kantons Bern, Merkblatt, Vorzeitige Erteilung der Niederlassungsbewilligung., Canton Zurich, Erteilung der Niederlassungsbewilligung.

⁸⁵ Cf. Canton Glarus, Erteilung der Niederlassungsbewilligung.

⁸⁶ Cf. Canton Obwalden, Merkblatt 11 vorzeitige Erteilung einer Niederlassungsbewilligung bei erfolgreicher Integration für Angehörige von Staaten, die nicht Mitglied der EG/EFTA sind.

years.⁸⁷ The cantons Schwyz and Zurich further demand proof of employment over the last five years through job references and confirmations.⁸⁸ Different still is the canton Basel-Landschaft, which demands on-going, uninterrupted employment for the last three years.⁸⁹

2.1.5 Civic knowledge and cultural integration aspects

The early granting of a permanent residence permit requires a successful integration. The main aspects of this integration, according to art. 62 VZAE, are respect for the rule of law and the values of the Swiss constitution, knowledge of the local language, and the will to participate in economic life or in education. Consequently, federal law does not question specific integration behaviors regarding civic knowledge and cultural integration. Nevertheless, some cantons request proof of civic and cultural integration. The cantons Bern and Obwalden demand a personal letter containing proof of economical and societal participation. The proof of societal activities can be satisfied through, for example, membership in an association.⁹⁰ The cantons Glarus and Obwalden mention in their documents that active participation in a local institution, for example, a fire brigade, association, or art or culture club, can carry more weight regarding the fulfillment of a successful integration.⁹¹ This procedure for verifying civic and cultural integration is comparable to the requirement of the canton Graubünden.⁹² The cantons Jura and Schwyz also require a letter describing one's personal motivation for seeking permanent residence.⁹³

2.2 Uneven cantonal practices of fast-tracking full citizenship

Given the lack of knowledge of the factual cantonal practices regarding the examination of integration behavior⁹⁴, we can identify legal variations among cantons. It is important that examinations of the integration criteria consider the general and particular situation of a foreigner.⁹⁵ A first important integration element is the language requirement. Under the new Citizenship Act, which will enter into force on 1st January 2018, applicants must at least prove level B1 CEFR proficiency for their oral knowledge and level A2 CEFR for their writing competence in one of the national and local languages, respectively.⁹⁶ Consequently, an applicant who successfully receives an early grant of a C-permit in certain cantons already possesses the required language level for Swiss citizenship. Thus, when seeking the early granting of a permanent residence permit, there is an option to have already been certified at a higher language level, as required by federal legislation. However, a higher required level of language knowledge can also be an obstacle for those who have difficulties learning languages due to physical or mental restrictions. These individuals might never have the opportunity to receive a permanent residence permit and thus have

⁸⁷ Cf. Canton Nidwalden, http://www.nw.ch/de/online/main/dienstleistungen/?dienst_id=1766 (19.06.2017); Canton Nidwalden, Gesuch Niederlassungsbewilligung (B3); canton Schwyz, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung.

⁸⁸ Cf. Canton Schwyz, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung; Canton Zurich, Erteilung der Niederlassungsbewilligung.

⁸⁹ Cf. Canton Basel Landschaft, Vorzeitige Erteilung der Niederlassungsbewilligung bei erfolgreicher Integration.

⁹⁰ Cf. Canton Bern, Polizei- und Militärdirektion des Kantons Bern, Merkblatt, Vorzeitige Erteilung der Niederlassungsbewilligung.

⁹¹ Cf. Canton Glarus, Erteilung der Niederlassungsbewilligung; canton Obwalden, Gesuch um vorzeitige Erteilung der Niederlassungsbewilligung bei erfolgreicher Integration (Formular B2).

⁹² Cf. Canton Graubünden,

<https://www.gr.ch/DE/institutionen/verwaltung/djsg/afm/dienstleistungen/Fremdenpolizei/Seiten/Niederlassung1.aspx> (19.06.2017).

⁹³ Cf. Canton Jura, Demande de permis C anticipé, <https://www.jura.ch/DIN/SPOP/Police-des-etrangers.html> (19.06.2017); Canton Schwyz, Merkblatt vorzeitige Erteilung der Niederlassungsbewilligung.

⁹⁴ Cf. Some Cantons refer in their fact- and/or information sheet to their practices, e.g. Canton Schwyz, Merkblatt Erteilung der Niederlassungsbewilligung (1).

⁹⁵ Cf. Judgement of the Swiss Federal Administration Court, C-6067/2012, 20.09.2013, para. 6.5.

⁹⁶ Cf. Art. 6 Verordnung über das Schweizer Bürgerrecht (Bürgerrechtsverordnung, BüV), 17.06.2016, AS 2016 2577.

no access to Swiss citizenship. Therefore, an exemption rule, as seen in the canton Zurich, that persons older than 75 years do not need to prove their language level when seeking the regular granting of a permanent residence permit, can thus help some people clear bureaucratic hurdles.⁹⁷ However, the language requirement will return in regard to the integration exam to obtain Swiss Citizenship, even if the new Citizenship Act codifies exemptions.⁹⁸ Further, we find cantonal differences related to family-related questions. These questions are important to verify the integration grade of a family. Therefore, some cantons ask for more precise and more comprehensive information than other cantons. It seems that reports from schools or educational institutes are especially important regarding children's integration behaviors, as these are a widespread cantonal instrument. As we have seen, proof of good moral character is mainly made through submission of a police report. It appears that one of the main points and most extensive aspects of providing proof of integration is the economic behavior of a foreign person. Even if the cantons have a limited range of options for proving economic resources, the intensity (e.g., numbers of required documents) is varied. Some cantons ask for less evidence of the applicant's integration behavior (e.g., fewer documents) than other cantons. Lastly, the civic knowledge and cultural integration aspects seem not to be implemented by the majority of the cantons.

In summary, although the factual cantonal practices in interpreting and weighting the integration criteria are beyond the scope of this first legal overview, we can state that the differences have an impact on the legal pathway of a foreigner. The integration criteria, or the proof of integration and the accessibility of information when seeking an early permanent residence permit, can be different from one canton to another, depending on the canton in which the applicant resides. Further, we have to consider that in certain cases, foreign persons do not have the option to choose their canton of residence, especially in the case of refugees and provisionally admitted persons.⁹⁹ Depending on the place of residence, a foreign person could be more challenged by the integration exam in one canton than in another. Thus, cantonal differences may create either an obstacle or an opportunity for an applicant, depending on their individual competences and their place of residence.

3. Promoting: Elements of integration

The integration exam is not only apparent during the process of granting a permanent residence permit. Moreover, legal status itself can be interpreted as a promoter of integration because it gives, on the federal level and in certain cantons, more rights than a regular residence permit. This idea has to be understood as a reciprocal process. If a foreigner obtains a permanent residence permit, that document, with respect to his legal status, should give him more rights, according to the definition of the integration stage model by the Federal Assembly and the Federal Council.¹⁰⁰ Accordingly, the legal status of the permanent residence permit promotes societal, political and economic participation. The following section will illustrate, in broad strokes, key elements that are related to the permanent residence permit compared to other "subordinated" permits within the logic of the integration stage model.

⁹⁷ Cf. Canton Zurich, Erteilung der Niederlassungsbewilligung.

⁹⁸ Art. 12 para. 2 BÜG, BBL 2014 5133, Art. 9 BÜV, AS 2016 2577.

⁹⁹ Cf. Art. 60 Asylum Act of 26.06.1998 (Status as of 1 October 2015), 142.31, Art. 85 para. 3 and 5 FNA, see further: AUER Daniel, Language Roulette – The Effect of Random Placement on Refugees' Labour Market Integration, in: Journal of Ethnic and Migration Studies, 2017, p. 1-22, doi: <http://dx.doi.org/10.1080/1369183X.2017.1304208>.

¹⁰⁰ Cf. BBL 2011 2825, p. 2829, BBL 2016 8899.

3.1 Political participation

The possibility of, and the right to, political participation are crucial, especially in a system of direct democracy such as Switzerland. Different forms of political participation are evident: firstly, the right to vote as well as the right to give an opinion about a vote (e.g., referendum, popular initiative); secondly, the right to participate in decision-making and to participate in the direct democracy (e.g., to support a referendum or a popular initiative with a signature); thirdly, the active right to vote to elect candidates who are running for a political position; and lastly, the passive right to vote (e.g., the right to run for a political position and the right to be elected). All these forms of political participation are important in regard to integration questions. The opportunity for political (and societal) participation is not only essential in regard to decisions that affect only the foreign population, it also dynamically incorporates long-term residents because it gives them the right to play an active role in Switzerland's direct democracy.¹⁰¹ The Swiss Constitution states in art. 136 para. 1 that "all Swiss citizens over the age of eighteen, unless they lack legal capacity due to mental illness or mental incapacity, have political rights in federal matters". Consequently, only Swiss citizens have the right to political participation on the federal level, and only the Confederation is entitled to regulate the exercise of political rights in federal matters.¹⁰² Thus, the cantons have the authority to regulate the exercise of political rights at the cantonal and communal levels.¹⁰³

For foreigners, the right to vote on cantonal matters, but not the right to be elected, is established in the cantons of Jura and Neuchâtel. The active and passive right to vote in the communes within the entire canton is noted in the cantons of Neuchâtel, Jura, Vaud and Fribourg. Finally, certain rights to vote in the communes are found in the canton of Geneva.¹⁰⁴ The granting of those rights is, in certain cases but not exclusively, connected to the possession of the permanent residence permit. Art. 48 of the Constitution of the canton Fribourg gives, to foreigners who possess a permanent residence permit and who have resided for a minimum five years in the canton, the right to vote and the right to be elected on the communal - but not the cantonal - level.¹⁰⁵ The idea behind linking political participation with a permanent residence permit is to ensure that the legal stay of a foreign person has lasted for a certain period of time. Granting of the C-permit is only possible after ten years, as a general rule, or after five years, for other reasons.¹⁰⁶ In all these cases, a foreign person must have already resided legally and uninterrupted for at least 5 years in Switzerland.¹⁰⁷ The right to vote and the right to be elected are automatically given in these cases due to the foreigner's inscription in the register of voters, which is made by the residential municipality.¹⁰⁸ The Constitution of the canton Neuchâtel states in art. 37 that foreigners and stateless persons are entitled to vote in cantonal matters if they possess a permanent residence permit and have resided in the canton for a minimum of five years.¹⁰⁹ Therefore, foreigners are entitled to the right to vote but

¹⁰¹ Cf. The promoting of integration by the grant of the Swiss nationality, see HAINMUELLER Jens, HANGARTNER Dominik, PIETRANTUONO Giuseppe, Naturalization Fosters the Long-Term Political Integration of Immigrants, in: Proceedings of the National Academy of Sciences of the United States of America, Volume 112 no. 4, doi: 10.1073/pnas.1418794112.

¹⁰² Art. 39 para. 1 Swiss Constitution.

¹⁰³ Art. 39 para. 1 Swiss Constitution.

¹⁰⁴ Cf. <https://www.ekm.admin.ch/ekm/de/home/buergerrecht---citoyennete/Citoy/stimmrecht.html> (19.06.2017).

¹⁰⁵ Cf. Art. 48 Constitution Canton Fribourg, 16.05.2004.

¹⁰⁶ Cf. See chapter 2 in this Working paper.

¹⁰⁷ Cf. *Freiburger Zeitschrift für Rechtsprechung*, Sondernummer, Die neue Freiburgische Verfassung, Redaktion FZR, Sekretariat des Verfassungsrats (edit.), Freiburg 2005, p. 196.

¹⁰⁸ Cf. Canton Fribourg, Art. 2a Gesetz über die Ausübung der politischen Rechte, 06.04.2001.

¹⁰⁹ Cf. Canton Neuchâtel, Art. 37 Constitution canton Neuchâtel, 24.09.2000.

not the right to be elected (no passive right to vote). Only the canton of Jura has a similar rule. This canton does not link the right to vote to a specific legal status, but it demands a length of stay of 10 years in Switzerland and 1 year in the canton for the right to vote in cantonal matters, with the exception of constitutional issues. Additionally, to have the right to vote in local matters, the foreign person must reside for a minimum of 30 days in the municipality.¹¹⁰ Even if the canton Jura does not demand the possession of a permanent residence permit, the legal required length of stay of 10 years indicates that long-term residents shall be granted the right to vote. Finally, the permanent residence permit can grant the right of political participation in ecclesial matters. The canton Glarus grants the right to vote and the right to be elected in ecclesial matters to evangelical-protestant foreign persons who possess a C-permit.¹¹¹ The canton Thurgau automatically grants the right to vote to Protestants – but not Catholics – who possess a permanent resident permit. Qualified foreigners without a permanent resident permit but who reside in the canton Thurgau may ask for the right to vote within the Protestant church.¹¹² Lastly, religious communities in the canton Zug have the option to grant the right to vote to foreigners who possess a C-permit.¹¹³

3.2 Family reunification

It is not only political participation rights that are connected to the permanent residence permit. Foreign persons who possess a permanent residence permit are entitled to a family reunification for their spouse and their children younger than 18 years of age, if they live together.¹¹⁴ This differs for foreigners who possess only a regular residence permit (B-permit): they may be granted the right to family reunification if they live with the permit holder, if there is suitable housing available and if they do not depend on social assistance.¹¹⁵ Consequently, the legal rules for family reunification are different depending on the individual's legal status, even if there are exemptions for EU/EFTA nationals¹¹⁶, refugees¹¹⁷ and temporary admitted persons¹¹⁸.

3.3 Mobility and access to the labor market

Permanent residence permit holders have almost full mobility within Switzerland, as stipulated in art. 37 para. 3 FNA, which states that “persons with a permanent residence permit are entitled to move to another canton, provided there are no grounds for revocation in terms of art. 62”. If we put this in the context of other existing Swiss permits, such as the regular residence permit (B-permit), which is actually the previous type of legal permit for a foreigner, we see that a permanent residence permit grants more rights of inter-cantonal mobility.¹¹⁹ Holders of a regular residence permit are also entitled to move to another canton, but not in the case of being unemployed nor in the case of grounds of revocation in terms of art. 62 FNA. The distinction is therefore made based on the economic integration behavior of the person. Also, regarding access to the labor market,

¹¹⁰ Cf. Canton Jura, art. 3 Loi sur les droits politiques, 26.10.1978.

¹¹¹ Cf. Canton Glarus, art. 14 Verfassung der Evangelisch-Reformierten Landeskirche des Kantons Glarus, 27.06.1990, GS IV A/1/4.

¹¹² Cf. Canton Thurgau, § 2 Verordnung des Evangelischen Kirchenrates des Kantons Thurgau zum kirchlichen Stimm- und Wahlrecht, 20.08.2003, RB 187.153.

¹¹³ Cf. Canton Zug, § 133 Gesetz über die Organisation und die Verwaltung der Gemeinden (Gemeindegesetz), 04.09.1980, BGS 171.1.

¹¹⁴ Cf. Art. 43 para. 1 FNA.

¹¹⁵ Cf. Art. 44 FNA.

¹¹⁶ Cf. Art. 7 let. d Abkommen zwischen der Schweizerischen Eidgenossenschaft einerseits und der Europäischen Gemeinschaft und ihren Mitgliedsstaaten andererseits über die Freizügigkeit, 21.06.1999, 0.142.112.681 (Agreement on the Free Movement of Persons).

¹¹⁷ Cf. Art. 51 AsylA.

¹¹⁸ Cf. Art. 85 para 7. FNA.

¹¹⁹ Cf. Art. 37 para. 1 and 2 FNA.

differences are visible. Persons who possess a permanent residence permit can be self-employed or be engaged in salaried employment in Switzerland.¹²⁰ This is different from the situation for residence permit holders, who may be authorized to become self-employed if the requirements of art. 19 let. a and b FNA are fulfilled.¹²¹

Concluding remarks

Though not an exhaustive analysis, this initial overview of the elements of *requiring* and *promoting*, as implemented by the requirements for the early granting of a permanent residence permit, illustrates the complexity of the current Swiss integration policy and the connection between citizenship and legal status within the integration stage model. With the total revision of the Citizenship Act in 2014, a first movement towards the integration stage model was made in the legislation. Subsequently, the new Foreign Nationals and Integration Act was aligned to the logic of the integration stage model. These current transformations of the integration policy aim at a strengthened legal pathway and integration system.¹²² The new legal rules will shape, through integration criteria and integration measures, the legal pathway of a foreign person. The foreigner's rise in legal status and rights, and/or compliance with duties, are connected with legal status and embedded in the integration policy of *requiring* and *promoting* within the new integration stage model. In such a context, the legal pathways to the granting of the (early) permanent residence permit are, in general, different depending on the nationality and origin (and even the profession) of a foreign person. Because the permanent residence permit is generally not granted automatically, the importance of the verifications of *integrated* and *non-integrated* are underlined. Only if the label (well) *integrated* fits, shall a foreigner be entitled to an (early) permanent residence permit. As a result, a foreigner could be confronted with multiple verifications of her/his integration behavior before she/he receives the nationality of the State (e.g., upon entry, upon extension of residence permit, and upon naturalization).¹²³ Consequently, the new requirement of the possession of a permanent residence permit can be seen as an intermediate examination of the integration behavior of a foreign person, and without passing this step, a foreign person will never be naturalized in Switzerland. Such a system will be strengthened due to the entry into force of the new Swiss Citizenship Act on the federal level, as the prerequisite integration condition, in the form of the permanent residence, will be different.¹²⁴ Thus, the uneven (primary) access to the permanent residence permit might hinder the achievement of full citizenship. Looking more closely at the legal *requirements* for obtaining the early permanent residence permit, our research explains why there is cantonal variation to a certain extent. Even if the Foreign Nationals and Integration Act will implement integration criteria, the cantonal practices will remain diverse, and thus diversity might lead to unequal treatment. Regarding the *promoting integration* aspects of the permanent residence permit, we can identify different possible integration-promoting factors, such as the right to political participation in some cantons, the right to family reunification, the rights to inter-cantonal mobility,

¹²⁰ Cf. Art. 38 para. 4 FNA.

¹²¹ Cf. Art. 38 para. 3 FNA. Art. 19 let. a and b FNA state: "Foreign nationals may be admitted to work on a self-employed basis if this in the interests of the economy as a whole; the necessary financial and operation requirements are fulfilled (...)."

¹²² Cf. see in this context PIÑEIRO Esteban, *Integration und Abwehr. Genealogie der schweizerischen Ausländerintegration*, Seismo, Zurich, 2015.

¹²³ Cf. CAMPISI Laura, *Die rechtliche Erfassung der Integration im schweizerischen Migrationsrecht, Zwischen rechtlichen Vorgaben und innenpolitischen Realitäten*, Dike Verlag AG, Zurich, St. Gall, 2014; KURT Stefanie, ZUBER Valentin, *Les droits politiques octroyés dans les cantons et la nouvelle loi sur la nationalité suisse*, Jusletter 6.03.2015.

¹²⁴ Cf. See the case of Sweden, which also introduced the criterion of the permanent residence permit. The introduction of this legal status was seen as a tightening, MIDTBØEN Arnfinn H, *Citizenship, integration and the quest for social cohesion: nationality reform in the Scandinavian countries*, *Comparative Migration Studies*, 2015, 3:3, DOI 10.1007/s40878-015-0002-y.

hurdle-free access to the labor market, and sometimes political rights. Compared to the other existing legal statuses in Switzerland, which receive, in general, fewer rights than do permanent residents (or are even untitled), permanent residents are often legally entitled to these rights. This effect will be strengthened with the implementation of the integration stage model. Consequently, foreigners will have access, through the intermediary step of early permanent citizenship, to a panoply of mobility rights, even without enjoying or qualifying (yet) for full citizenship. The Swiss fast-track to citizenship shows a clear bias towards political rights, with the exception of the right to family reunification for foreigners as a means of integration.

This article analyzed how the Swiss integration stage model fast-tracks or slows down legal pathways to early permanent residence permits, the C-permit, and eventually, citizenship. It found that cantonal diversity in integration requirements and promotion of integration might be the key factor in different timelines of accessing citizenship for third country nationals. Secondly, it may show that the integration stage model risks excluding certain categories of migrants who, for several reasons, might not have the capacity to fulfill the legal integration criteria. Consequently, these foreign persons will not “pass” every integration exam on the pathway to full citizenship.¹²⁵

¹²⁵ Cf. KURT Stefanie, *Nouvelles exigences en matière d’intégration des étrangers*, in: *plaidoyer* 4/2017, p. 20-24, p. 24. Because the political and legal discussion of the implementation of the integration stage model is not yet finished, the resulting impacts on legislation, and ultimately on the legal pathway for the concerned foreign person, remain to be seen.