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COUNTRY REPORT: LIECHTENSTEIN

Martina Sochin D'Elia

Revised and updated December 2013



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European University Institute, Florence
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Country Report: Liechtenstein

Martina Sochin D'Elia

1. Introduction

Over the past sixty years the Principality of Liechtenstein has undergone enormous economic change. Since the 1940s it has followed a path of continuous development from an agrarian state to one based on industry and services. The marked economic growth which took off at the beginning of the postwar period increased the demand for labour and this could only be met from outside the country. Without foreign workers the 'Liechtenstein Economic Miracle' would not have been possible in the literally dried-up labour market of the postwar years (Merki 2007). The proportion of foreigners in the population rose steadily every year from 16.1 percent in 1941 to around one-third, a level which has remained fairly stable since the 1970s. The highest proportion recorded to date was in 1995, at 39.1 per cent (Marxer 2013: 35-38); in 2012 the figure was 33.5 per cent (Amt für Statistik 2013a).

It would be wrong, however, to attribute the high proportion of foreigners solely to the economic attractiveness of the country. Another cause is to be found in the country's restrictive naturalisation rules. In recent years and decades, Liechtenstein's main response to the constantly rising proportion of foreigners has been the passing of rules to limit immigration. Liberalisation of naturalisation has been very much secondary.

2. Historical background

2.1 Different evolution of concepts of local and national citizenship

Until 1806 Liechtenstein was part of the Holy Roman Empire. State power was exercised by the respective overlords, who from 1699 (Lordship of Schellenberg) and 1712 (Counts of Vaduz) were the princes of Liechtenstein. At that time, the concept of national citizenship was unknown. It was preceded until the collapse of the Holy Roman Empire by the status of 'subject'. In Liechtenstein, the subjects were until 1808 the bondsmen of the feudal lord, who decided who should be admitted to the state and/or into the league of bondsmen. Anyone wishing to enter or leave the country would have to pay a certain sum of money to the feudal lord. Up to the early 19th century, the Liechtenstein overlords tried as far as possible to prevent subjects from leaving the country, as power and influence depended on how many subjects one had (Biedermann 2012:25-26).

Up to the early 19th century, the sum payable for entry into the league of bondsmen was relatively small compared with that demanded by the village cooperatives for acquisition of usage rights. In addition, the stronger population growth which set in from the 18th century led to access to these rights being made more difficult by demands for even higher entry fees. Upon marriage, women also had to be bought into these usage rights - or into the local citizenship which accompanied them - by their husbands, as they (the women) automatically lost their affiliation with their previous village cooperative as soon as they married. The level of the entry fee which had to be paid for a wife to be bought into the village cooperative and/or the later local citizenship varied. Far more had to be paid for a 'foreign' wife than for one from another Liechtenstein community. Scarcity of resources was one of the reasons for the village cooperatives and later for the local communities to restrict the number of new citizens. Another reason was the traditional and still operative *ius sanguinis*, because the latter meant that cooperative and/or citizenship rights were passed on by a father to his children. When a man bought his way into the village cooperative or community, the latter could be taking on not just single persons but whole families and their descendants. Thus the unwritten legal tradition of the *ius sanguinis* supported the restrictive entry practices of the village cooperatives and later local communities of that time.¹

Members of the league of subjects or of the state were therefore not automatically also members of the village cooperatives or (citizens) of the local communities which began to arise from 1809 onwards. It was not until 1864 that national citizenship and local citizenship were brought together. Since that time every Liechtenstein citizen has been at the same time a citizen of a Liechtenstein community/municipality. Before 1864, those possessing Liechtenstein citizenship but lacking membership of a local community were known as the so-called *Hintersassen*. Due to their lack of local usage rights, *Hintersassen* were on the lowest rung of the social ladder, often living close to mere subsistence level (Biedermann 2012: 30).

After the dissolution of the Holy Roman Empire, Liechtenstein belonged at first (from 1806) to the Rhenish League, and subsequently (from 1815) to the German Confederation. Although Liechtenstein had thus acquired national sovereignty, legislative reform followed the Austrian model - a consequence of the Austrian-Moravian ancestry of the princely house,

¹ A form of this continued until the recent past. Until 1996, a Liechtenstein woman marrying a Liechtenstein man from another municipality automatically lost her previous (local) citizenship (Biedermann 2012: 27; 35-36; 39).

the proximity of the princely family to the House of Habsburg, and the fact that the Liechtenstein princely administration was concentrated in Vienna. The Allgemeine Bürgerliche Gesetzbuch (ABGB - General Civil Code), introduced in Austria in 1811, was thus also adopted in Liechtenstein the following year (Biedermann 2012: 68). As Ralph Wagner writes, it was the foundation of modern citizenship law in Liechtenstein (1997:8-9). In the 1812 ABGB, the existing traditional *ius sanguinis* was retained and legally entrenched. What was new was that Liechtenstein citizenship could now be acquired by entering the civil service, by securing a job which required Liechtenstein residence, or by virtue of having lived in Liechtenstein for a minimum of ten years without interruption. But, as before, approval by the prince or by the court chancellery in Vienna was a *sine qua non* condition for acquisition of national citizenship. In the 1812 ABGB, the term 'subject' was replaced by that of 'citizen'.²

The Municipal Law of 1842 and the 1843 decree on the acquisition of Liechtenstein citizenship regulated other important aspects of Liechtenstein citizenship. They determined that local citizenship would confer rights of co-ownership and usage of the assets of the community and of all its privileges. As Klaus Biedermann explains, this emphasised the traditional membership nature of local citizenship which is necessary for the exercise of usage and voting rights in the community (2012: 92). One became a local citizen either through descent i.e. children of a local citizen also acquired citizenship, or through the purchase of a house in a community. In addition, there was the possibility of a formal acquisition of local citizenship, which was not in law automatically subject to the payment of a fee, though this was in practice generally demanded by the communities. Ultimately, it was the community assembly, i.e. those citizens entitled to vote, which decided on admittance to local citizenship. Another innovation was that all conferrals of local citizenship had to be confirmed by the High Office in Vaduz i.e. *de facto* by the princely administration. In this respect, the state received not only a supervisory function in relation to the local communities, but at the same time the possibility of preventing citizenship being granted by them.

In contrast to local citizenship, which was awarded in a restrictive manner by the communities, foreigners were able to acquire Liechtenstein citizenship relatively easily before the 1864 revision of the law. They were required to have lived in Liechtenstein for ten years and also had to take an oath of allegiance, as well as submitting relevant documents and references to the High Office - such as a birth certificate, testimonials on their prior conduct and their prior employment, and proof of their financial assets. The princely administration did not charge applicants a fee, in contrast to the local communities, where there was the issue of usage rights (Biedermann 2012: 102-103).

2.2. 1864 as a caesura in relation to Liechtenstein citizenship

The new Municipal Law which came into effect in 1864, superseding that of 1842, was preceded by public controversy. The proposed treatment and improvement in the legal status of the *Hintersassen* was not accepted by the representatives of the communities. The commission which had drafted the Municipal Law took it as a matter of principle that the category of *Hintersassen* had to be abolished. It was to be made easier for the *Hintersassen* to be elevated to the citizen class. Opposition to this proposal came from the established members of the communities who intended to preserve their existing property rights and therefore rejected the idea of accepting the *Hintersassen* as citizens of their communities. The

² Cf. Allgemeines Bürgerliches Gesetzbuch von 1812 (Biedermann 2012: 68).

parliament elected in 1862³ finally approved - though not unanimously - the right of the *Hintersassen* to acquire local citizenship. However, the *Hintersassen* could only do so if they paid an 'entry charge'. Only a minority of the *Hintersassen* families were in a position to raise the necessary monies.

Simultaneously with the new municipal law, which governed local citizenship, the law on the acquisition and loss of national citizenship was also passed. This replaced all previously applicable rules on the acquisition and loss of Liechtenstein citizenship. By far the most important innovation of the 1864 Citizenship Law was the connection made between national and local citizenship. From then on, every citizen of Liechtenstein had to be at the same time a citizen of a Liechtenstein community. The 1864 reform of citizenship also contained a component relating to gender, in that it established as a point of law that women coming from another country and marrying a man from Liechtenstein would automatically acquire Liechtenstein citizenship (Biedermann 2012: 132). At the same time, Article 12 of the Citizenship Law determined that Liechtenstein women who married a foreigner would lose their Liechtenstein citizenship on their wedding day i.e. they would be denaturalised.⁴ However, unmarried women could pass their citizenship on to any children they had out of wedlock. This provision had also been agreed - by a majority - by the 1864 parliament (Biedermann 2012: 127-128).

As before, citizenship could be granted only after various supporting documents - including proof of assets and employment - had been submitted to the Liechtenstein authorities. However, as a result of the linking of national and local citizenship, an application for the granting of Liechtenstein citizenship now brought with it an assurance that the applicant would also acquire citizenship rights in a local community. It was also necessary to submit the certificate of discharge from the previous community, as the Liechtenstein authorities were not prepared to accept dual citizenship. Unlike the local communities, the state charged no fee for citizenship, but adult males were required to take an oath of allegiance to the state.

In linking together two forms of citizenship - national and local citizenship - which had previously evolved separately, the citizenship reform law of 1864 represented a caesura in relation to Liechtenstein citizenship. But precisely this meant that in practice the reform created the potential for conflict, as the state and the communities now stood opposed to one another with their differing concepts of citizenship. The improvements provided for by the 1864 reform of citizenship - such as the easier access of *Hintersassen* to citizenship - were not accepted in the communities. The communities found it difficult to recognise former *Hintersassen* as fully-entitled citizens and grant them usage rights. In some cases, they demanded excessive entry fees as a way of trying to prevent the admission of new citizens with usage rights. This led again and again to disputes between the communities and the government, which, as the supervisory authority, was able to reprimand the communities (Biedermann 2012: 132, 136). Although the 1864 reforms had ushered in major changes to Liechtenstein citizenship law, they had no effect in practice on the awarding of citizenship. The restrictive practices of the communities, which as before sought to safeguard their usage rights, simply continued. But the fact that local and national citizenships were now linked and that acquisition of citizenship in a Liechtenstein community was the precondition for receiving Liechtenstein citizenship now meant that the communities were the 'eye of the needle' through which applicants must pass in order to acquire national citizenship. The

³ The constitution of 1862 turned the Liechtenstein parliament into a genuine representative body (Vogt 2013: 485).

⁴ Cf. LGBL. [Liechtenstein Law Gazette] 1864, No. 3, law of 28. March 1864 on the acquisition and loss of Liechtenstein nationality, Art. 12. On the loss of citizenship as a means of regulating the percentage of foreigners see also Sochin D'Elia (2012a).

communities did not abandon their restrictive attitude until the end of the 1870s, at a time when wealthy persons had increasingly begun to seek naturalisation in Liechtenstein. This provided a new and lucrative source of income for the communities, which demanded high - and in some cases exorbitant - fees for granting citizenship (Argast 2012:49).

2.3. *'Bought citizenships' 1920 to 1955*

Whereas up to 1920 it was only the communities which charged a so-called 'citizenship tax' for the conferral of local citizenship, from 1920 onwards a fee was also charged by the state. This gave birth to a peculiar form of acquisition of citizenship in Liechtenstein - the so-called 'Finanzeinbürgerung' (bought citizenship). Between 1920 and 1955, bought citizenships represented the majority of all naturalisations. The instrument of *Finanzeinbürgerung* allowed foreigners to buy Liechtenstein citizenship for themselves. There was no precondition, either that they were resident in Liechtenstein, or that they had family connections there. On the contrary, the lack of a place of residence in Liechtenstein was not only tolerated by both the local communities and the state, but was expressly desired by them. There was no demand that foreigners who had acquired Liechtenstein citizenship in this way integrate themselves into Liechtenstein society; on the contrary, such integration tended to be viewed negatively (Schwalbach 2012: 12-14).

The summer 1920 revision of the 1864 citizenship law included two major amendments. Firstly, the Liechtenstein government was able from then on, 'in cases worthy of special consideration'⁵, to dispense with proof of discharge from the previous home country/community when granting Liechtenstein citizenship. In practice this meant quite specifically that in certain cases dual citizenship was permitted. The second amendment - one which clearly had an impact on the 'bought citizenships' - determined that future acquisition of Liechtenstein citizenship would be subject to a fee charged by the state, in addition to the fee payable to the communities, with the state charge being at least 20 per cent of the level of the community charge.

As Nicole Schwalbach notes, after 1920 'bought citizenships' became a major pillar of Liechtenstein economic policy and especially of the community budgets. Between 1920 and 1955, a total of 594 persons acquired Liechtenstein citizenship in this way (Schwalbach: 198). It is possible to assess the economic importance of this. In 1937, for example, 'bought citizenships' accounted for 12.3 per cent of public revenue (Ritter 2001: 34). This income represented a significant share of the cost of developing and expanding basic infrastructure and made a major contribution to economic stability (Schwalbach: 198). This led some writers to describe the Liechtenstein practice of 'bought citizenship' as a 'materialising' of citizenship (Wagner 1997: 23) and a 'commercialisation of sovereignty' (Merki 2007: 20).

It is no surprise, therefore, that the main precondition for receipt of citizenship was the level of wealth of the applicant. Only those who had an exceptionally high income or considerable assets had any prospect of securing naturalisation. Over the years, the minimum financial requirements set by the state and the communities in 1920 increased constantly. In 1934, for example, the sums demanded per applicant were 15,000 Swiss francs for the community and 7,500 francs for the state (Schwalbach 2012: 36; 44-46; 66). By 1938 these had risen to 25,000 francs per person to the community and 12,500 francs to the state. To repeat, these sums were per person; the payments also had to be made for any children. Citizenship acquired via *Finanzeinbürgerung* gave recipients no usage rights in the

⁵ Cf. LGBl 1920, No. 9, law of 27. July 1920 which created a supplementary rule to § 3 of the law of 28 March 1864, LGBl. 1864 No. 3 on the acquisition and loss of Liechtenstein citizenship and added new rules to § 7 of this law.

communities. Citizenship was, however - as with 'normally acquired' citizenship - also automatically passed on via the paternal line to a couple's children. This was why, in 1938, the parliament decreed that future citizenships should only be granted to persons who were 50 years old or older, it being assumed that such persons had already completed their family planning and that this measure would keep in check the number of new naturalisations (Schwalbach 2012: 72).⁶

The motives of those seeking to buy Liechtenstein citizenship varied, ranging from securing their wealth to preserving their title of nobility to saving their lives. From the 1930s on there was an increase in the number of Jewish applicants for citizenship: people hoping that a Liechtenstein passport would enable them to escape overseas. As a rule, Liechtenstein citizenship represented an interim solution for such applicants. In many cases, the newly naturalised persons quickly relinquished their citizenship - sometimes in the same year - after the Liechtenstein passport had served its purpose (Schwalbach 2012: 96-98).

Both at home and abroad the instrument of *Finanzeinbürgerung* was not thought uncontroversial. The issue of 'bought citizenships' repeatedly led to in-depth debates in the Liechtenstein parliament in respect to both their legality and the precise details of their design (Schwalbach 2012: 64, 88, 94). Nonetheless, this kind of citizenship was viewed in Liechtenstein during times of economic hardship as a proven means of generating income. Despite all the debates and the constantly increasing tightening up of the rules, bought citizenships were never seriously challenged.

In other countries, however - especially in Switzerland, but also in Germany - this Liechtenstein naturalisation practice was viewed critically. From the 1930s on, Switzerland openly criticised not only the admission rules, but also the applicants themselves (Marxer 2013: 36). Strong criticism was levelled in particular at the lack of residency in Liechtenstein as a precondition for naturalisation. Pressure from outside the country finally led in 1934 to a revision of naturalisation law. The new law made naturalisation conditional on a minimum three-year residency. However, the relevant paragraph contained an addendum to the effect - as earlier - that this condition could be set aside 'in cases deserving special consideration'.⁷ The result was that Liechtenstein had met the Swiss and German demands for a residency rule, but had kept open its options for continuing the *Finanzeinbürgerungen* (Schwalbach 2012: 54-58). In practice, the prescribed three-year residency condition was never imposed. The Swiss authorities repeatedly voiced the criticism that the supposed exception clause in reality represented the norm and threatened to revise the Liechtenstein-Swiss Immigration Police Agreement. In addition, in 1938 Switzerland demanded to have a say in those Liechtenstein naturalisations where the applicants had not been resident for at least two years in Liechtenstein (Schwalbach 2012: 71, 76). Liechtenstein and Switzerland finally reached agreement on the matter in 1941, when the two countries concluded a new Immigration Police Agreement. The agreement provided for the free movement of persons between Switzerland and Liechtenstein. This gave Liechtenstein citizens free access to the Swiss labour market, bringing with it sustained relief to the fraught economic situation in Liechtenstein. In return, Liechtenstein allowed the Swiss authorities to check naturalisations, thus relinquishing in practice - as Nicole Schwalbach writes - its independent right of decision-making, a right which belongs to a sovereign state as a matter of principle on issues pertaining to naturalisation (2012: 102).

Switzerland may have demanded a say after 1938 when it came to Liechtenstein 'bought citizenships'. As we have seen, this was granted to Swiss authorities from 1941 on with the signing of the new Immigration Police Agreement. However, Switzerland simultaneously reserved itself the right to pass on to Liechtenstein cases of foreigners resident

⁶ Cf. Schwalbach, *Bürgerrecht als Wirtschaftsfaktor*, 72.

⁷ Cf. LGBL 1934, No. 1, law of 4 January 1934 on the acquisition and loss of citizenship, § 6.

in Switzerland and seeking Swiss citizenship - cases which were of interest to Switzerland from a taxation point of view - and thus circumvent Swiss naturalisation law and its practice. Switzerland was thus able, via the 'back door' of Liechtenstein, to sidestep not only its own restrictive citizenship policy but also the freedom of movement agreement with Liechtenstein which remained in place until 1981 (Schwalbach 2012: 129-130).

The practice of *Finanzeinbürgerung* came to an end in 1955 after the judgement of the International Court of Justice in the *Nottebohm* case which denied any duty for Guatemala to recognize the diplomatic protection in case Liechtenstein citizenship was given without living in Liechtenstein itself (Roland Marxer 2013: 653). In the wake of the *Nottebohm* case, the Liechtenstein princely house also withdrew its support for bought citizenship. The 1960 revision of the Citizenship Law made it compulsory for citizenship applicants to be resident in Liechtenstein (Schwalbach 2012: 168, 172). As Nicole Schwalbach noted, the practice of *Finanzeinbürgerung* in this systematic form and over such a long period was a phenomenon special to Liechtenstein (2012: 203).

2.4 Revision of Citizenship Law 1960

There has been an in-depth debate of naturalisation in the Liechtenstein Parliament as early as 1948. For the first time, the possibility of making naturalisation easier for foreigners who had lived for many years in Liechtenstein was touched upon. In practice, this would have meant lowering the high charges for acquiring citizenship for such applicants. This idea - a reduction in the cost of naturalisation for citizens who had been resident in the country for generations - was then included by the government in a draft for a proposed revision of the Citizenship Law. But the government draft still sought to retain the *Finanzeinbürgerung*. In 1950, bought citizenships were still taken for granted in Liechtenstein. The state was merely signalling its readiness to dispense with the state charge for naturalisation. The autonomy of the communities was not questioned in the 1950 draft; they would continue to be allowed to set their community charges for themselves (Marxer 2012: 46, 51-52).

The 1950 proposals for a revision of the Citizenship Law were not pursued. This did not mean, however, that the debate over the issue of naturalisation was over. Between 1950 and 1960 the proportion of foreigners in the Liechtenstein population rose from 20 to 25 per cent, leading to public fears of so-called 'Überfremdung' (a perception that there are too many foreigners or that the influence of foreigners is too great, perhaps threatening traditional values and practices). In 1956, a majority in parliament expressed the view that Liechtenstein would only be able to deal with the feared problem of 'Überfremdung' if it were made much easier for foreigners who had lived in the country for a long time - and preferably also had family connections there - to acquire citizenship. They were also specifically thinking of those Liechtenstein women who had married a foreigner and who, in accordance with the 1864 law, had been forced as a result to give up their Liechtenstein citizenship. Immigration police practice during the 1940s and 1950s was to refuse family permits for foreigners as a matter of principle - even to those men who had married a Liechtenstein woman. In practice, this meant the indirect expulsion of the couple - or the whole family - from Liechtenstein. Whereas the government saw in this measure an appropriate and acceptable means of combatting the 'Überfremdung' which was perceived as problematical, in 1956 the parliament's view was that this problem could only be resolved by allowing naturalisation for those foreigners who were long time residents or who had family connections in Liechtenstein (Marxer 2012: 54, 65).

As Veronika Marxer states, the effect of the 1960 revision on the integration of foreigners through naturalisation was rather modest (2012: 71). There was no thought either

of abolishing the rule whereby women lost their citizenship upon marriage to a foreigner, nor of the introduction of facilitated naturalisation for the children of former Liechtenstein female citizens - and certainly no thought of making naturalisation easier for those foreigners who had no family connection to Liechtenstein. Given that over the period from 1946 to 1974 more than 50 per cent of all Liechtenstein women had married a foreigner, the number of those denied facilitated naturalisation was correspondingly high.⁸

In its refusal to introduce legislation that would give rights to naturalisation, the Citizenship Law held to the sovereignty of the communities in respect of citizenship. Nonetheless, the Citizenship Law reform of 1960 did represent a break with the existing legal tradition and a final end - now inscribed in law - to the *Finanzeinbürgerungen*, in that the minimum residency period was raised from three to five years and declared to be binding (Argast 2012: 71). For Liechtenstein women marrying foreigners, the 1960 revision represented a marginal improvement, as it provided the retention of Liechtenstein citizenship for those who had become stateless through marriage.⁹ According to Veronika Marxer, the 1960 revision basically failed to reflect the unequal position of women in Liechtenstein citizenship law. It had not been possible at that time to imagine women having an individual right to citizenship i.e. one not dependent on their husband - except under extreme circumstances, such as statelessness (2012: 71-72).

From the middle of the 1960s on, there was a fundamental change in the practice of naturalisation. The number of 'ordinary' naturalisations of foreigners who were long term residents increased significantly. This was neither due to the 1960 citizenship reforms nor to a possible change of attitude in the general population towards naturalisation. The main catalyst for the greater openness to naturalisation in the communities was the new Social Welfare Law which came into effect in March 1967, replacing the old Poor Law of 1869. The new ruling - that provided that poor citizens would no longer be supported by the communities alone, and that the latter could count on the help of the state in this matter - removed a major cause of the communities' reluctance to approve naturalisations. With the coming into force of the new Social Welfare Law, the significance of the 'home' community under the old Poor Law was lost and the economic importance of local citizenship was thereby reduced (Argast 2012: 72).

2.5 Equal rights for Liechtenstein women in relation to citizenship from 1970

Renewed impetus was given to the long-running debate on Liechtenstein naturalisation policy by a proposal submitted to the parliament by MP Herbert Kindle in 1971, in which he called for increased naturalisation of foreigners who had been resident for many years in the country.¹⁰ The foreign component of the population had grown from 25 to 33 per cent between 1960 and 1970, leading again to public fears of 'Überfremdung'. Herbert Kindle represented the interests of industry in parliament and saw that allowing long term foreign residents to acquire Liechtenstein citizenship could be a means of increasing industry's room for maneuver in recruiting foreign workers.¹¹ The majority view in parliament, however, was that facilitated naturalisation of foreigners would not be possible unless and until other, more

⁸ On the marriage habits of Liechtensteiner men and women see Sochin D'Elia (2012a: 75-84).

⁹ Liechtenstein was one of the last countries in Europe to introduce these provisions to protect people from statelessness. That this rule was not merely a dead letter is shown by cases of Liechtenstein women who had become stateless through marriage, see Sochin D'Elia (2012a: 97-98) and Sochin D'Elia (2012b: 351-361).

¹⁰ Cf. Proceedings of the Liechtenstein parliament of 25 November 1971, proposal concerning the naturalisation of longterm foreigners, 649.

¹¹ Liechtenstein had decided in 1970 to limit the foreign share of the population to one third (the so-called 'Drittelsgrenze'). Increased naturalisation of foreigners would have created more room for maneuver and enabled a new influx of foreigners as vehemently demanded by industry.

urgent, citizenship issues were dealt with. These were, on the one hand, the enforced loss of citizenship (and effective expulsion) of Liechtenstein women who married a foreigner, and on the other the problem of the so-called ‘Auswärtigen’ (‘outsiders’) - people who were living in a different Liechtenstein community from the one in which they had local citizenship rights. This led to them being disadvantaged in certain respects; for example, they were not allowed to take part in local decision-making - such as voting on a citizenship application or on issues of local usage rights. A first step towards achieving formal equivalence on citizenship for Liechtenstein women was taken in 1974, with the implementation of the ‘Liechtensteinerin bleiben’ proposal (‘remain a Liechtenstein citizen’ (as a woman)) (Sochin D’Elia 2012a: 120-129). This removed the automatic loss of Liechtenstein citizenship for women marrying a foreigner - who could now remain Liechtenstein citizens.

What had not changed, however, was the rule which prevented them from handing on their citizenship to their children i.e. the patriarchal tradition was retained. Children of a marriage between a Liechtenstein woman and a foreigner remained foreigners.

In the years preceding the 1974 decision, when the ‘Liechtensteinerin bleiben’ proposal and facilitated naturalisation were under discussion, there were two popular votes, in 1971 and 1973, on introducing female suffrage - both of which failed (Marxer 1994: 169-209). In addition to various other reasons why female suffrage was still denied in Liechtenstein in the early 1970s was the fact that women from other countries who married a Liechtenstein man did automatically acquire Liechtenstein citizenship. The opponents of female suffrage were against granting them automatic voting rights as well. Had they acquired automatic voting rights, they would have been in a privileged position compared with the so-called ‘outsiders’. It was this factor which had bedevilled the 1971 and 1973 referendums on female suffrage and made it a matter of urgency for an appropriate amendment to citizenship law to be introduced before any new referendum on the issue. In April 1984 - just a few months before a new referendum on female suffrage was to be held - the automatic acquisition of citizenship for foreign women marrying a Liechtenstein male, which had been the norm until then, was abolished. At the same time, the possibility of a facilitated naturalisation for such women was created in the form of a legal right to acquire Liechtenstein citizenship if they could prove uninterrupted residency for a minimum of 12 years (with years of marriage counting double) and if they were prepared to relinquish their original citizenship (Marxer 2012: 137).¹² In July 1984, female suffrage was finally adopted in Liechtenstein with a slim majority of 51.3 per cent of the votes.

Since the implementation of the ‘Liechtensteinerin bleiben’ proposal in 1974, Liechtenstein women could, as already mentioned, retain their citizenship even when marrying a foreigner. But they could still not pass it on to their children. Such children were referred to at the time as ‘foreign children of Liechtenstein mothers’. The lack of Liechtenstein citizenship meant that in certain circumstances such children could be seriously disadvantaged - for example, when looking for a job.

After the 1984 introduction of female suffrage, the political parties in Liechtenstein declared that the integration of these children into Liechtenstein society by granting them full citizenship had become urgent. Thus, in spring 1985, members of parliament submitted a motion calling upon the government to draft a change in the law which would allow facilitated naturalisation for these children. The draft legislation drawn up by the government was finally submitted to a popular vote in 1986 and approved by a majority of 52 per cent, giving the ‘foreign children of Liechtenstein mothers’ a right to facilitated naturalisation. In practice, this meant satisfying a residency condition of 30 years continuous residence (with the years up to age 20 counting double) before they could apply for naturalisation. In addition

¹² On the referendums on the introduction of female suffrage and the related introduction of a qualifying period for foreign women see Sochin D’Elia (2012: 102-118).

to the residency clause they also had to relinquish their previous citizenship. There had been a clear rejection of the idea of dual citizenship. By comparison with other European countries this solution remained restrictive: not only were women still prevented from passing on their citizenship to their children, but the ban on dual citizenship and the lack of usage rights in the local communities represented further restrictive provisions.

The successful introduction of facilitated naturalisation for their children in 1986 meant that the mothers concerned had achieved one of their goals. But the children were still unable to claim Liechtenstein citizenship as their birthright. It took another ten years before this demand was finally accepted, despite the fact that equal rights for men and women had been incorporated into the Liechtenstein constitution in 1992. It was to be another four years before the children of Liechtenstein women were granted citizenship automatically, by birth, in 1996 - since when they are also permitted to have dual citizenship (Sochin D'Elia 2012a: 119-133).¹³ One consequence was that the proportion of foreigners in the Liechtenstein population fell from 39.1 per cent in 1995 to 34.3 per cent in 1997 (Marxer 2012: 167). The 1996 revision of the Citizenship Law created equal rights for all foreign partners, both male and female. Therefore it included the possibility of facilitated naturalisation for foreign men who married a Liechtenstein woman. In contrast to the provision for children of marriages between a citizen of Liechtenstein and foreigners married to a Liechtenstein woman or man and wishing to acquire Liechtenstein citizenship had to give up their native citizenship (Marxer 2012: 170).

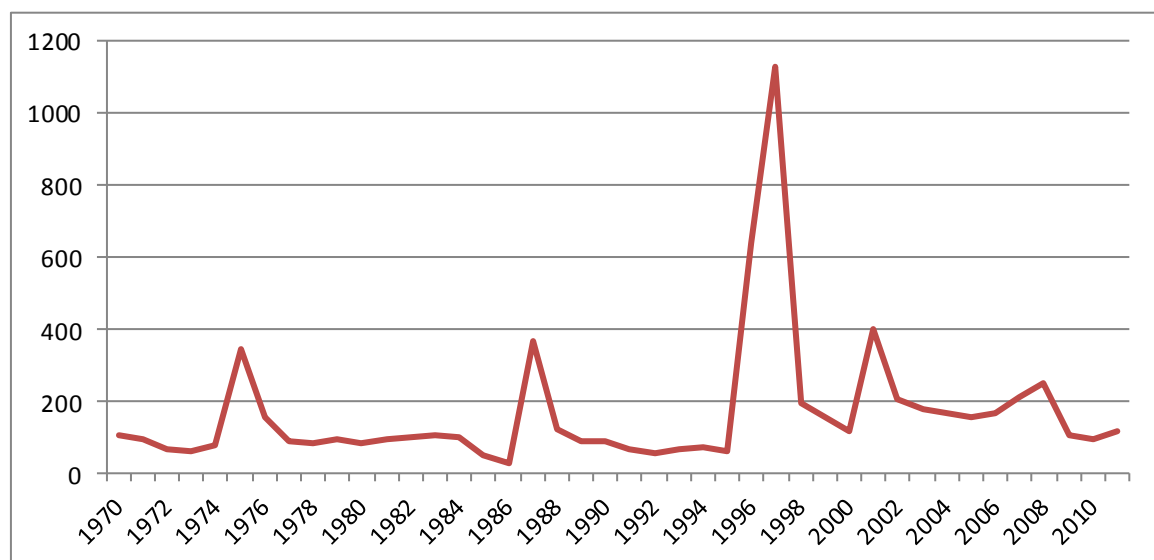
2.6 Revision of the Citizenship Law in 2000

At the beginning of the 1990s, against the background of the granting of equal rights to both men and women in relation to citizenship, the Liechtenstein parliament realised that it was now time to have another look at the issue of facilitated naturalisation for the so-called 'long-time foreigners'. In September 1994, members of the parliament submitted a proposal designed to make it easier for foreigners who had been living in Liechtenstein for a long time to acquire citizenship. As both male and female Liechtenstein citizens now shared equal rights, both politically and legally, the path to facilitated naturalisation for foreigners who had been living in Liechtenstein for decades had become clear.

Since 2000, foreigners who have been resident in Liechtenstein for at least 30 years (with the years up to the age of 20 counting double) have a legal right to facilitated naturalisation. In addition to the prescribed period of residency, they must also be prepared to give up their native citizenship (Marxer 2012: 172, 180-181). The new rules mean that applicants for citizenship no longer have to be approved in a local referendum.

Since 2000, the 'long-time foreigners' have been making very good use of the newly created naturalisation option. As a result, the importance of the local citizens' assembly as the route to naturalisation waned (Marxer 2012: 188, 199-200). The graph below shows a slight increase in the number of naturalisations in 2008. Another revision of the Citizenship Law in that year introduced the requirement for applicants to demonstrate adequate knowledge of German and a basic knowledge of the law and political structure of Liechtenstein. The increase in the number of naturalisations in 2008 suggests that there was a boost in the number of applications shortly before the new requirement was introduced.

¹³ The 1996 law continued to disadvantage those 'foreign children of Liechtenstein mothers' who were already over the age of 20 at the time the law came into force. They still had to satisfy the residency requirement and were obliged to give up their former citizenship. In 1997, a judgement by the Stare Court declared this to be unconstitutional. Cf. Staatsgerichtshof als Verfassungsgerichtshof [State Court as Constitutional Court], U 24. April 1997, StGH 1996/36, in: Liechtensteinische Juristenzeitung, 18 (1997), 211-218.

Graph 1: Number of naturalisations of persons resident in Liechtenstein 1970-2011

Source: Amt für Statistik (ed.) (2012).

The graph clearly shows the various ‘waves’ of naturalisation which followed the amendments to the Citizenship Law in 1974, 1986, 1996/97 and 2000.

2.7 Recent developments in citizenship law since 2008

In 2006, parliamentary representatives of the VU (Patriotic Union) party presented a motion calling for the drafting of legislation which would provide the basis for the integration of foreigners with a mother tongue other than the official language, German. The presenters of the motion took as their model the approach to integration being pursued at the time by the Swiss city of Basel which contained the maxim: ‘Fordern und Fördern’ (‘demand and support’). In addition to evidence of an adequate knowledge of German as a precondition for a permanent residence permit, acquisition of citizenship would also be tied to proof that the applicant was making serious efforts to integrate into Liechtenstein society. This implied that knowledge of Liechtenstein law, culture and history should be added to the language requirement. Reservations about this motion - specifically the view that Liechtenstein’s naturalisation rules should be liberalized and not tightened - came only from the Green-Liberal ‘Freie Liste’ (Free List) party (Marxer 2012: 192-194).

The draft legislation presented by the government in June 2008 thus provided for the introduction of both language skills and knowledge of civics as new criteria for naturalisation. These twin demands of the government proposal represented a clear tightening of the naturalisation rules. The 30-year residency criterion for a right to naturalisation and the mandatory relinquishment of an applicant’s previous citizenship remained. In September 2008, the Liechtenstein parliament voted to accept the new integration rules contained in the government’s proposal. A majority of the parliamentarians viewed the giving up of an applicant’s prior citizenship as indispensable; only this would guarantee ‘proper’ integration into the Liechtenstein state. Likewise, there was to be no lowering of a residency threshold which was high in comparison with other countries.

In the debate in parliament, there were also discussions about the ‘normal’ naturalisation procedure via the popular vote in the communities - a procedure which had

been repeatedly criticised by the European Commission against Racism and Intolerance, as also in Switzerland. On the occasion of the debate on amendments to the Citizenship Law, the Free List party had therefore demanded that a right of appeal be introduced and that the normal naturalisation procedure be adapted to meet international standards. In a national referendum in June 2008, Swiss voters had approved an attempt to remove the established right of appeal in naturalisation applications (Marxer 2012: 194-199, Sochin D'Elia 2012b: 199). To this day there remains no such right of appeal in Liechtenstein. The local referendums on naturalisation applications were retained, though the introduction of facilitated naturalisation means that the former have waned in importance.

3. Current citizenship regime

3.1 Main modes of acquisition of Liechtenstein citizenship

The Law of 4 January, 1934 on the Acquisition and Loss of Citizenship (abbreviated to: Bürgerrechtsgesetz, BüG), LBGl. 1960 No. 23 (National Law Gazette), fundamentally altered by the law of 17 September 2008 on amendments to the Law on the Acquisition and Loss of Citizenship, distinguishes between two mechanisms for acquiring Liechtenstein citizenship: these are acquisition by law and acquisition by naturalisation. Acquisition by naturalisation is by either the ordinary or facilitated procedure. With the exception of the members of the princely family, every national citizen must also be a citizen of a municipality.¹⁴

Acquisition by law

Liechtenstein applies the basic principle of *ius sanguinis*. Until 1996, this was a pure *ius sanguinis a patre* i.e. citizenship could be passed on only through the paternal line. Citizenship via the maternal line was only possible for children of single mothers. Since the granting of equal rights for both men and women in 1996, Liechtenstein has practised *ius sanguinis a patre et a matre*.

Every child born to a Liechtenstein mother or father automatically acquires Liechtenstein citizenship at birth. Children born to a Liechtenstein father out of wedlock acquire citizenship retrospectively by birth. Children whose Liechtenstein parents do not live in Liechtenstein itself, but in another country, also become Liechtenstein citizens automatically by birth. Since equal rights for men and women were conferred in 1996, the children of Liechtenstein parents are permitted to have dual citizenship, where this is acquired by descent.

Adopted children and foundlings automatically acquire Liechtenstein citizenship.

Acquisition by naturalisation

Liechtenstein citizenship can be acquired in different ways. In the case of the *facilitated procedure*, this is via marriage to a Liechtenstein man or woman, evidence of having lived in Liechtenstein for 30 years (the years up to age 20 counting double), or in the case of statelessness.

¹⁴ On municipal citizenship cf. Art. 14 ff. of the Municipal Law of 20. March 1996, LBGl. 1996 No. 76.

As long as a foreign husband or wife of a Liechtenstein citizen satisfies the following conditions, they have a legal claim to acquire both Liechtenstein citizenship and the local citizenship of the Liechtenstein marriage partner. The conditions include a minimum residency period of 10 years, with the years after marriage counting double. Thus, a foreigner who has been married to a Liechtenstein citizen for at least five years, with both partners living in Liechtenstein, can acquire citizenship via the facilitated procedure. A further and indispensable precondition is renunciation of the previous citizenship. In contrast to acquisition of citizenship by birth, Liechtenstein law does not allow dual citizenship in cases of acquisition by naturalisation. In the latter case, the applicant must submit documentary evidence of renunciation of former citizenship before Liechtenstein citizenship can be granted. However, Liechtenstein does accept dual citizenship in cases where renunciation of original or former citizenship is not possible in a particular country.

Facilitated naturalisation i.e. the legal right to acquire Liechtenstein citizenship after fulfilling the 30-year residency condition, has been part of Liechtenstein law since 2000. The voters accepted the draft law by a majority of only 15 votes in June 2000. Since then, the 'longterm' foreigners no longer have to take the path to citizenship via a popular vote in the municipality where they live, but can have themselves naturalised by an administrative act of the government. The years up to the age of 20 count double. This provision aims to make it possible for second generation immigrants to acquire Liechtenstein citizenship before they reach majority. Whereas children of Liechtenstein-foreign parents can have dual or even multiple citizenship, applicants using solely the residence qualification are forced to give up their old passport. Such applicants are granted local citizenship in the municipality in which they had their most recent normal place of residence.

A legal right to be accepted into national and local citizenship also applies to applicants who are stateless. However the right is conditional on their having been born in Liechtenstein and on having been stateless from birth and/or have been living in Liechtenstein for at least five years.

In contrast to the facilitated procedures, which were only recently included in Liechtenstein citizenship law, the *normal procedure* is the traditional variant.

As has been previously mentioned, local/municipal citizenship and national citizenship are linked to each other. Thus, in order to acquire Liechtenstein (national) citizenship, applicants using the normal procedure must even now be accepted first as a citizen of a Liechtenstein municipality. The municipalities still retain the power to grant a foreigner local citizenship rights - or refuse them. The application process in the normal procedure is as follows: the applicant submits the required documents to the government, which informs the relevant municipality of the application and at the same time asks it to arrange a municipal ballot. If the ballot is positive and the municipality agrees to award citizenship, the government continues with the procedure (Wagner 1997: 158-159).

In practice, it is clear that the popular ballot in a municipality represents an obstacle which should by no means be underestimated. In many cases applicants have been and continue to be assessed according to the level of their participation in the life of the community - such as membership of clubs and the like. Applicants who can be seen to play an active role in the community have a much better chance of being accepted. It is no surprise, therefore, that since the introduction in 2000 of the facilitated administrative procedure for longterm residents, the number of naturalisations has increased by leaps and bounds. Between 1970 and 1986 there was an average of between 20 and 45 naturalisations per year using the normal procedure. As more and more categories of people acquired a legal right to citizenship (1986 introduction of the facilitated procedure for 'foreign children of Liechtenstein mothers', 1996/97 legal entitlement for 'foreign children of Liechtenstein mothers', 2000 legal entitlement after 30-year residency), fewer and fewer people applied for citizenship using the

normal procedure (Amt für Statistik 2013b, Marxer 2012: 134, 152, 171, 188), which is now of little or no importance. In any case, at the latest since the introduction in 2000 of the legal right to acquire citizenship based on longterm residence the chances of being accepted in a local community via a popular vote - and thus also acquiring national citizenship - have fallen markedly. We may surmise that the residents who cast their votes in the local referendum expect applicants to meet the 30-year residency criterion and have thus become (even) more hesitant to grant citizenship through the normal procedure, even though the law on the normal route to citizenship demands only a 10-year residency period. In 2012, a total of 119 people acquired Liechtenstein citizenship. By far the largest proportion of naturalisations were via the legal entitlement as a result of longterm residency (78.2 per cent). 18.5 per cent of naturalisations were of marriage partners of Liechtenstein citizens. There was only one single naturalisation (0.8 per cent) using the normal procedure and the popular vote.¹⁵

In 2008, the passing of a language and civics test was introduced as a mandatory condition for acquisition of citizenship - regardless of whether naturalisation was via the facilitated or normal procedure. Every applicant had to submit a language diploma showing knowledge of German to level B1 of the Common European Reference Framework. If the applicant has completed the full mandatory term of schooling in Liechtenstein and/or has completed a course of vocational training according to the Law on Vocational Training, there is no need to submit a language diploma.¹⁶

Citizenship applicants have the opportunity to sit the civics test four times a year. They are required to correctly answer 18 of the 27 multiple-choice questions. In recent years, the majority of those sitting the test achieved the required standard.¹⁷ As with the language test, any applicant who has successfully completed the mandatory course of schooling or who has a leaving certificate from a course of vocational training in accordance with the relevant law does not need to sit the civics test.

3.2. Main modes of loss of Liechtenstein citizenship

Just as national Liechtenstein citizenship can only be acquired together with local citizenship in a Liechtenstein municipality, loss of national citizenship automatically brings with it loss of local citizenship.

Loss by voluntary renunciation

Liechtenstein citizens have the option of renouncing their right to citizenship as long as they are able to prove that they have already acquired - or been promised - citizenship of another country. If a Liechtenstein citizen explicitly renounces his or her citizenship, that person's underage children also forfeit their citizenship.

Loss by deprivation of citizenship

¹⁵ Cf. <http://www.llv.li/amtstellen/llv-as-bevoelkerung/llv-as-bevoelkerung-einbuengerungsstatistik.htm> (6 November 2013).

¹⁶ Cf. LGBl. 2008 No. 306, law of 17 September 2008 on the amendment to the law on the acquisition and loss of citizenship]; LGBl. 2010 No. 33, act of 9 February 2010 on the amendment to the act relating to evidence required for citizenship.

¹⁷ Sincere thanks to Claudia Lins of the Office for foreigners and passports for compiling these statistics.

The Liechtenstein authorities are allowed to deprive a Liechtenstein national of his or her Liechtenstein citizenship within a maximum of five years of them having acquired it. This can happen, for example, if, after citizenship has been granted, it is discovered that the person does not after all meet the prescribed conditions for acquiring citizenship. Only in the event of a risk of the person becoming stateless is this form of deprivation of citizenship not allowed.

If citizenship has been acquired on the basis of false information or by deceit, it can be withdrawn at any time.

Multiple nationalities

As already stated, relinquishment of original or previous citizenship is a precondition for acquisition of Liechtenstein citizenship. This provision applies, regardless of whether citizenship has been acquired by virtue of the legal entitlement for longterm foreigners, the entitlement resulting from marriage to a Liechtenstein citizen, or through the normal procedure i.e. by local referendum. Despite this, the 2010 census shows that around a fifth of all Liechtenstein citizens resident in the country have dual or multiple citizenship i.e. have claim to at least one other citizenship in addition to that of Liechtenstein (Amt für Statistik 2011).¹⁸ A basic reason for this high percentage of persons with dual citizenship is simply the fact that Liechtenstein allows it, where this occurs by birth. Thus, most children of bi-national marriages have dual citizenship - except where the other state has legal exclusions. In respect of dual citizenship, Liechtenstein has what are termed 'asymmetric' rules. While the retention of original citizenship is not permitted when a person becomes a Liechtenstein national, citizens of Liechtenstein who acquire citizenship in another country may retain their Liechtenstein citizenship and thus become dual citizens - as long as the other state allows this.¹⁹

4. Current political debates

Discussions on citizenship legislation were and continue to be closely linked to debates about regulating the number of foreigners in the country. Citizenship legislation and/or past reforms of citizenship rules always had a direct effect on the percentage of foreigners which, for example - as we have seen - fell by almost five percentage points (from 39.1 to 34.3 per cent) between 1995 and 1997 as a result of the equal rights legislation. The high proportion of foreigners in the population - around a third - provides an ever-present reason for debating the citizenship rules.

After the most recent reform of citizenship law in 2008 tightened the citizenship rules, possible moves towards liberalisation have at least been contemplated in recent times.

In the run-up to the 2012 national holiday, Prince Hans-Adam II stated that 'a liberal naturalisation practice'²⁰ would be a possible means of maintaining a constant proportion of foreigners in the population even with immigration. In his address on the occasion of the national holiday, Prince Alois (hereditary prince) corroborated this statement and affirmed his support for a relaxation of the citizenship rules.²¹ The proposal was supported by the then

¹⁸ To these must be added an unknown number of children born to expatriate Liechtenstein parents and living abroad and/or children of a Liechtenstein mother or father, such children possibly having dual or multiple citizenship.

¹⁹ On dual citizenship in Liechtenstein cf. Sochin D'Elia (2012c).

²⁰ Cf. Martin Hasler, Landesfürst: 'Offenheit war immer eine Stärke unseres Landes', in: Liechtensteiner Volksblatt, 9 August 2012.

²¹ Cf. address by Prince Alois on the occasion of the 2012 national holiday, published in: Liechtensteiner Vaterland, 16 August 2012.

government, which was in office until spring 2013. Both the head of government at the time, Klaus Tschüscher, and his Minister of the Interior Hugo Quaderer made clear statements to the effect that thought must be given to liberalising the restrictive naturalisation practices of the country.²²

There are differing ways in which a more liberal naturalisation praxis could be achieved. Two main versions - or a combination of both - are imaginable as suitable options for Liechtenstein. On the one hand, there could be a lowering of the 30-year residency rule for entitlement to facilitated naturalisation; and on the other, permission to retain one's former citizenship when becoming a Liechtenstein citizen.

As the parliamentary debates in 1996, 2000 and 2008 have shown, however, both requirements – long term residency and renunciation of former citizenship - have so far retained their hold on Liechtenstein naturalisation law. Whilst the Free List²³ has repeatedly spoken out for a lowering of the residency threshold and has been critical of the requirement to renounce one's former citizenship, most of the other parliamentarians - including the responsible Ministers of the Interior - did not share these views.²⁴ Renunciation of former citizenship was viewed in the respective debates as being an expression of a commitment to Liechtenstein and as proof of a sense of identity with the country. A similar attitude has been taken towards the 30-year residency clause; ability to meet this requirement was reckoned as proof of a person's integration into Liechtenstein society.

5. Conclusion

Responsibility for Liechtenstein's high proportion of resident foreigners - high by comparison with the rest of Europe - lies at least partly with the country itself. It is Liechtenstein's economic prosperity and its related active recruitment of foreign workers since the end of WWII that has led to the current high proportion of foreign residents, at around one-third of the total population.

At the same time, Liechtenstein has so far made little effort to integrate the resident foreign population into the state both politically and in terms of citizenship. It is true that in recent decades Liechtenstein's naturalisation legislation has been repeatedly liberalised. However, it still remains one of the most restrictive in Europe. The citizenship reforms which were introduced in the second half of the 20th century were primarily aimed at securing the integration, as formal citizens, of people who were already 'Liechtensteiners' in the broader sense as a consequence of their family relationships. It is only since 2000 that foreigners who have no family connection to Liechtenstein enjoy a path to citizenship that is not exposed to the arbitrariness of the municipal vote.

²² Cf. Holger Franke, Regierung signalisiert Zustimmung für mehr kontrollierte Zuwanderung in: Liechtensteiner Volksblatt, 16 August 2012.

²³ In the relevant years between 1996 and 2008, the Free List party occupied between one and three parliamentary seats out of a total of 25.

²⁴ Cf. Proceedings of parliament of 20 June 1996, 1328-1349; 16 December 1999, 2236-2257; 27 Juni 2008, 1533-1555; and 17 September 2008, 1760-1784.

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