

# **LOCALMULTIDEM**

Multicultural Democracy and Immigrants' Social Capital in Europe:  
Participation, Organizational Networks, and Public Policies at the Local Level

## **Workpackage 1: Institutional POS Indicators**

University of Geneva

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## **COUNTRY and CITY**

Switzerland, Geneva<sup>1</sup>

## **INTRODUCTION**

The main objective of this report is to give an insight on the institutional political opportunity structure in Geneva for immigrants and more specifically for the two studied groups: Italians and Kosovars. Indeed, the POS may vary according to the origin of immigrants especially for what concerns conditions of entry and stay in Switzerland. Before the description of the single indicators of the POS, we will briefly outline the distribution of competences between the national and the cantonal level in the field of immigration, citizenship and integration.

The Swiss executive federalism implies that many national laws and policies are implemented at the cantonal level and that the cantons have a high autonomy in the implementation. Entry and settlement in Switzerland is a national competence. The Federal Office for Migration is responsible for all concerns related to foreigners (entry and stay) and asylum. Thus the conditions of entry and stay do not vary between cantons. Switzerland's immigration policy is based on the distinction between EEA and non-EEA nationals. Indeed, since the bilateral agreements between EU countries and Switzerland in June 2002 conditions of entry and stay are more favorable for EEA nationals. EEA nationals will progressively be considered, except for political rights and access to certain professions, as nationals.

Thus different conditions apply for EEA and non-EEA nationals in terms of entry and stay. Third country nationals are admitted only in a limited number and only if well qualified unless they are family members of nationals/foreign residents in Switzerland. The required conditions for obtaining a short-term permit are thus more restrictive for non-EEA nationals. Permits in Switzerland can be divided into two main categories: settlement permits (long term) and stay permits (short-term)<sup>2</sup>. All short-term permits are causal permits. This type of permit is granted for a specific motive (work, family reunion, asylum etc.) and is withdrawn when the motive on which the decision of according the permit was based disappears. For instance, a B permit for family reunion will not in principle be renewed in case of divorce. Long-term permits are delivered almost automatically after a given length of stay in Switzerland (the length of stay required for obtaining a long-term permit depends mainly on the origin of immigrants, that is between EEA and non-EEA nationals). This permit is delivered independently from the initial motive of presence in Switzerland and can be revoked only in case of public security threat. The conditions of entry and stay of non-EEA nationals is ruled

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<sup>1</sup> This report has been prepared by Nina Eggert and Miruna Morariu, researchers in the Swiss LOCALMULTIDEM team.

<sup>2</sup> There are different types of short-term permits. The B permit is issued for work, family reunion, studies, humanitarian reasons (refugees). The required conditions to obtain a B permit depend not only on the origin of the immigrant but also on the type of B permit. The duration of a B permit is of one or five years according to the type. The L permit is a short-term work permit. Its duration goes from minimum four months to two years. This permit is granted to EEA nationals coming to Switzerland for searching a job or for short time work contracts. Finally the N permit (asylum seekers waiting for a decision) and the F permit (for provisionally admitted foreigners) have a one year duration but can be renewed every year. The most delivered short-term permit is the B permit, thus most of the indicators will be scored on the basis of the condition required for a B permit.

by the Law on Entry and Stay of Foreigners in Switzerland, whereas the conditions for EEA nationals are ruled by the Agreement on Free Movement of People from 2002.

Communes and cantons are primarily responsible for naturalizations. The federal law on Acquisition and Loss of Swiss Nationality (LN) gives only general orientations on the required conditions for naturalizations. The communes and the cantons can set their own requirements in terms of length of stay, economic resources, language knowledge and integration. Thus, the Swiss citizenship is a three level citizenship: one needs to obtain the national citizenship, the cantonal and the local one. The high autonomy of the communes and the cantons in the field of naturalizations creates inequalities in terms of access to Swiss citizenship from one canton to the other.

Although Switzerland has been an immigration country for over 60 years, Swiss policies on integration are introduced only in 2000 on the federal level. Until 2000, the Swiss immigration policy was based on the assumption that immigrants would come to the country for a limited time period and then return to their homelands. The immigration issue has until the end of the 1980s been characterized by an antagonism between two main actors: the economy, claiming for open borders in order to fill the need for workforce, and the xenophobic milieu claiming for more restrictive conditions of entry on the territory, using in a large extent the instruments of direct democracy (Mahnig 2005). One of the reason for the late awareness of national authorities about the settlement of immigrants and the need for an integration policy can be related in part to the conflict between these two main actors, as the federal authorities were more reacting to the demands of these two mains actors, without developing a coherent immigration and immigrant policy. Another reason could also be the fact that integration issues were always a competence of the cantons and the local entities (Niederberger 2005). The concept of integration has been mentioned in the federal law only in the new law on foreigners. Naturalization is still considered as the last step in the integration process, and until recently candidates for naturalization were expected to be assimilated to the Swiss culture. The law on nationality today requires integration in the Swiss community, but the text remains vague on the definition of the concept. This change in the law came along with the adoption of the ordinance on integration in 2000. According to this, policies of integration are left to the cantons that are implementing and adopting it to their specific contexts. At the national level, only broad objectives are defined. Some integration projects are then founded by the confederation according to these objectives, but also to the extent that cantons, communities or third parties also make appropriate contributions.

Immigration in Switzerland has changed in the last years. Indeed, the first waves of immigration after WWII were mainly composed of guest workers from south European countries: Italy, Spain and Portugal. Immigration was rather homogeneous in terms of national origin of immigrants. Nowadays, Switzerland, as other European countries face a more heterogeneous immigration in terms of national origin. Indeed, in 2005 foreigners from 188 different nationalities were living in Switzerland (ODM 2006). The most important source of immigration are European countries (59% of foreigners living in Switzerland), which can be related to the bilateral agreements between Switzerland and European countries on free movement of people. Italians still constitute the most important national group in Switzerland. Immigration from non-European countries has also increased and the most important national groups are Turks, nationals from Former Yugoslavia, Sri Lanka and Brazil. If European immigrants are mainly high-qualified workers, the main reason for immigration for non Europeans is family reunion (Turks, Brazilians and nationals from Former Yugoslavia) and humanitarian (Sri Lanka) (ODM 2006). Finally, illegal immigration is also increasing,

with immigrants coming mainly from South and Central America and Africa. But no precise figures are available on illegal immigration (Longchamp et al. 2005).

The debate on immigration has long focused on conditions of entry and stay on the territory, integration became a central issue only recently. A new law on immigration and asylum has been adopted by referendum in 2006, which will enter progressively into force starting from January 2008 and will replace the existing Law on Residence and Settlement of Foreign Nationals. The new law reinforces the distinction between EEA and non-EEA immigrants with the aim of favoring immigration of high-qualified workers. Indeed, EEA immigrants will be granted the same conditions of access to the labor market as Swiss citizens, non-EEA immigrants will be granted access to the labor market only if highly qualified. Whereas there has been a free movement of persons between Switzerland and the EU since 2002 (with transitional periods until 2014), limitations apply to all non-EU states. The new law introduces for the first time the concept of integration (so far only an ordinance adopted in 2000 was mentioning integration). Indeed, in the new law the principles and objectives of the integration of foreign nationals are extensively laid down in law. Finally, this law is also reinforcing means for limitation of illegal immigration. Crime and abuse of the legislation concerning foreign nationals will be punished more severely. Particular measures are stipulated against illicit labor and marriages of convenience. In sum, conditions of entry and stay are will be more restrictive than before for non-EEA nationals.

Main Swiss Laws on immigration:

RS 142.20 Law on Residence and Settlement of Foreign Nationals (LSEE), 1931, will be replaced from 2008 by Law on Foreigners (Letr)

RS 823.21 Ordinance on the Limitation of the Number of Foreigners (OLE), 1986

RS 141.203 Ordinance on Introduction of Free Movement of People (OLCP), 2002

RS 142.205 Ordinance on Integration of Foreigners (OIE), 2000

RS 141.0 Law on Acquisition and Loss of Swiss Nationality (LN), 1952

RS 142.31 Law on Asylum (LASI), 1998

# **INSTITUTIONAL POS INDICATORS**

## **I – INDIVIDUAL RIGHTS**

### **1. ACCESS TO THE COMMUNITY**

#### **a) Short-term permits**

<b>1. Automatic acquisition of the permit if mother or father of a national minor child</b>
None of the short term permits (N, F, L, B) can be delivered automatically to the father or the mother of a national minor child. These permits are causal permits, thus there is no possible automatic acquisition. A minor can be national, only if one of the parents is a national.
<b>Score(s):</b> <b>General score: -1</b> <b>Kosovars:-1</b> <b>Italians:-1</b>
<b>2. Automatic acquisition of the permit if marriage with a national</b>
In case of marriage with a national, foreigners obtain a B permit for family reunion automatically. The permit will be withdrawn if the marriage is dissolved before three years. No distinction is made between EEA nationals and non-EEA nationals. For the other permits (N, F, L) there is no possibility of automatic acquisition as these are causal permits.
<b>Score(s):</b> <b>General score: 1</b> <b>Kosovars:1</b> <b>Italians: 1</b>
<b>3. Economic resources requirement</b>
In general no economic resource requirements are attached to the issue of short term permits (F, N, L) in Switzerland. As B permits are usually granted for work, there are no economic resource requirements either. In the case of a B permit delivered for family reunion there are some economic requirements (see indicator 20). The few exceptions are: <ul style="list-style-type: none"><li>• L permit: The L permit can be delivered to EEA nationals for a four months period for job seeking; in this case there are economic resource requirements, that is sufficient financial means not to have to apply for social assistance benefits during their stay. Financial means shall be considered sufficient if they exceed the amount below which nationals, having regard to their personal situation and, where appropriate, that of their family, can claim social security benefits. Where that condition cannot be applied, the applicant's financial means shall be regarded as sufficient if they are greater than the level of the minimum social security pension paid by the host state.</li><li>• B permit for student: The authorization is delivered if the student is able to attend the lessons, can prove economic resources for his entire study time (sufficient economic resources are of 30 CHF per day / directives OFE 214) and if his departure from Switzerland at the end of the studies seems guaranteed. Nevertheless, the two above mentioned cases remain quite marginal; the B permit (for work) is the most delivered one. No distinction is made between EEA and non-EEA nationals. Thus, the score is based on the conditions for the B permit.</li></ul>

<p><b>Score(s):</b>  <b>General score: 1</b>  <b>Kosovars: 1</b> (except family reunion:-1; see indicator 20)  <b>Italians: 1</b></p>
<p><b>4. Link between work regime and permit regime</b></p> <p>L permit: obligation to have a contract to stay on the territory. This permit is delivered only to UE and EEA nationals, as non-UE/EEA nationals are practically excluded from the Swiss labor market. Indeed the Swiss law on foreigners states the priority of Swiss citizens and residents this includes UE/EFTA nationals. Thus, an L permit will hardly be delivered to non UE/EEA nationals, but there are a few exceptions:</p> <ul style="list-style-type: none"> <li>- Short time activity for education purposes</li> <li>- Highly qualified person when particular motives justify an exception</li> <li>- Au pair employees from the U.S.A, Canada, New Zealand and Australia</li> <li>- Artistic activities</li> </ul> <p>Third country nationals will obtain a short-term work permit only if the employee is able to prove that no Swiss citizen or resident (including EEA nationals) is able or willing to hold the position. This permit can be delivered for a maximum of four months to UE/EEA nationals to search for a job. And it can be renewed for one more year (maximum length 24 months) if the work contract is renewed.</p> <p>Until 1992, Ex-Yugoslavians were eligible for short-term work permits, as the region was considered as a traditional recruitment region.</p> <p>The same conditions apply for the B permit. Foreigners need to have a contract before entering the territory. The access to a contract is much easier for EEA nationals than for non-EEA nationals as the Swiss law on foreigners states the priority of Swiss citizens and residents. To obtain a B permit for a non-EEA national, an employer will have to prove that no Swiss citizen or resident is able or willing to hold the position.</p> <p>As mentioned above B permit are mainly issued for work. The duration of the permit is of the same duration as the work contract.</p>
<p><b>Score(s):</b>  <b>General score: 1</b>  <b>Kosovars: -1</b>  <b>Italians: 1</b></p>
<p><b>5. Grounds for withdrawal:</b></p> <ol style="list-style-type: none"> <li>a. proven fraud in the acquisition of permit</li> <li>b. sentence for serious crimes</li> <li>c. actual and serious threat to public policy or national security</li> <li>d. sufficient level of resources</li> </ol>
<p>Grounds for withdrawal includes all grounds outlined above, but it includes also other grounds. Indeed, being mainly causal permits, short-term permits can be withdrawn as soon as the condition for which the permit has been delivered disappears.</p> <p>Unemployment applies as a ground for withdrawal only for non-EEA nationals. EEA nationals can remain on the Swiss territory and search for a job under the condition of sufficient financial means (see indicator 3).</p> <p>As all other permits, in case the motive on which was based/accorded the authorization of permit is not applicable any more, the permit will not be renewed.</p>
<p><b>Score(s):</b>  <b>General score: -1</b>  <b>Kosovars:-1</b>  <b>Italians: -1</b></p>

**b) Long-term residence permits (duration of validity: ≥ 5 years)**

<b>6. Automatic acquisition of the permit if mother or father of a national minor child</b>
In Switzerland due to jus sanguinis a child is automatically national in case one of his parent at least hold Swiss citizenship (if parents are married). In case the parents of the child are not married the child holds the mother's citizenship. So regarding the permits, this goes the same way. Only a marriage with a national or a foreigner that holds a long-term permit allows to have a long term residence permit and after that to apply for naturalization.
<b>Score(s):</b> <b>General score: -1</b> <b>Kosovars: -1</b> <b>Italians : -1</b>
<b>7. Automatic acquisition of the permit if marriage with a national</b>
In case of marriage with a national, acquisition of C permit after 5 years under the condition of a regular and uninterrupted stay. (art. 7 al. 1 LSEE) No distinction between EEA nationals and Non EEA nationals
<b>Score(s):</b> <b>General score: -1</b> <b>Kosovars:-1</b> <b>Italians:-1</b>
<b>8. Required minimum time of habitual residence</b>
For EEA nationals: After 5 years starting from the acquisition of the stay permit B under the condition of a regular and uninterrupted stay.  For non EEA nationals: After 10 years starting from the acquisition of the stay permit B under the condition of a regular and uninterrupted stay. Under certain conditions it can be accorded after 5 years: for refugees, partner of national or established immigrants and for nationals from states with which Switzerland concluded an establishment treaty (UE/USA).
<b>Score(s):</b> <b>General score: 0</b> <b>Kosovars: -1</b> <b>Italians: 0</b>
<b>9. Economic resources requirement</b>
No requirement regarding economic resources but being in a large measure and in a permanent way at the benefice of social assistance constitute an expulsion motive art 10 al I d LSEE, art 66 al b Letr)
<b>Score(s):</b> <b>General score: 0</b> <b>Kosovars:0</b> <b>Italians: 0</b>
<b>10. Percentage if given permits- National level</b>
<b>-Over the total number of applications:</b> Data on given permits compared to the number of applications are not available

**Score: NA**

**11. Grounds for withdrawal:**

- a. proven fraud in the acquisition of the permit
- b. sentence for serious crimes
- c. actual and serious threat to public policy or national security
- d. sufficient level of resources

The c permit can be withdrawn

- if sentenced for crime or offence (threat to public order)
- if its acquisition has been done by proven fraud.
- if More than 6 month spend abroad without informing the authorities.

No distinction between EEA and non-EEA nationals.

**Score(s):**

**General score: 0**

**Kosovars:0**

**Italians:0**

**12. Expulsion precluded**

- a. after 20 years of residence as a long-term residence permit holder
- b. in case of minors
- c. residents born in the host country or admitted before they were 10, once they have reached the age of 18

Not mentioned in the law

**Score(s):**

**General score: -1**

**Kosovars:-1**

**Italians:-1**

**c) Access to nationality**

**13. Eligibility for second and third generation immigrants (*jus soli*)**

At the federal level:

2<sup>nd</sup> and 3<sup>rd</sup> generation of migrants have to follow the procedure as it is for the first generation of immigrants. The only difference is that the years of residence between 10 and 20 years old double count. In that sense this procedure is called “facilitated naturalization” to contrast with the ordinary procedure which is even longer. The migrant has to conform to the Swiss law, to be integrated in Switzerland and not to be a threat to public security. The same conditions apply to both EEA and non-EEA nationals.

At the cantonal level- Geneva:

In addition of the federal conditions, there are cantonal criteria. (Art 11 Ln at)

Effective residence of 2 years in the canton of Geneva, of which 12 months before asking for naturalization.

**Scores:**

**General score: -1**

**Kosovars:-1**

**Italians: -1**

#### 14. Marriage with a national

In case of marriage with a national, the procedure for naturalization is easier and faster than the normal procedure. The conditions are: to live in Switzerland for 5 years in total, to reside there effectively for 1 year ( foreign residents in Switzerland are allowed to live abroad for a maximum of two years, provided they inform the administration. In the case of foreign resident who had lived abroad for some time, he has to be back in Switzerland for at least one year before applying) and to live in marital community for 3 years with a national. The same conditions apply to both EEA and non-EEA nationals.

Geneva:

No specific cantonal or communal requirements, the same applies as at the national level.

**Scores:**

**General score: 0**

**Kosovars :0**

**Italians : 0**

#### 15. Required minimum time of habitual residence

An immigrant who wants to obtain Swiss citizenship has to satisfy conditions at the national level and at the local level.

At the federal level: (art 15. LN al 1 and 2)

12 years of residence in Switzerland, at least 3 in the last 5 years before asking for citizenship. However, time spent in Switzerland between 10 and 20 years old double count, so that the minimum time residence is in that case of only 6 years. The same conditions apply for EEA nationals and for non-EEA nationals.

At the cantonal level – Geneva

Art 11 Lnat

In addition of the federal conditions, there are cantonal criteria.

Effective residence of 2 years in the canton of Geneva, of which 12 months before asking for naturalization.

**Scores:**

**General score: -1**

**Kosovars:-1**

**Italians:-1**

#### 16. Economic resources requirement

At the federal level under the conditions for naturalization no mention of economic resources.

At the cantonal level:

art. 12 Lnat

to have an economic situation enabling him/her to provide for his/her needs and of the members of the family at this charge (sufficient resources). Not to be by one's fault or by abuse at the benefice of welfare assistance.

**Scores:**

**General score: 0**

**Kosovars:0**

<b>Italians:0</b>
<b>17. Percentage of approved naturalizations</b>
<b>-Over the total number of applications:</b> At the national level there is no data on the number of applications. Only approved naturalizations are registered.
<b>Scores: NA</b>
<b>18. Grounds for withdrawing status</b>
a. proven fraud in the acquisition of citizenship b. actual and serious threat to public policy or national security
The federal authority can withdraw the Swiss nationality (in accordance with the cantonal level) within 5 years starting from the date of acquisition for those who obtained Swiss nationality by fraud. art 41 LN. The withdrawal of nationality can also be extended to members of a family that obtained Swiss nationality due to collective naturalization. The nationality can also be withdrawn for threat to public and national security.  At the cantonal level (Geneva) this modality is also specified in the art 37 Lnat. Moreover the art 38 Lnat states that federal authority can withdraw the Swiss citizenship to bi-nationals if he/she has behaved in a way that could endanger Swiss interests and reputation
<b>Scores:</b> <b>General score: 0</b> <b>Kosovars:0</b> <b>Italians: 0</b>

## 2. FAMILY REUNION

<b>19. Eligibility for legal residents</b>
Immigrants coming to Switzerland for family reunion are granted a B permit for family reunion. This is an annual stay authorization giving the possibility to a migrant person to come and join a member of his family in Switzerland. To be eligible to family reunion residents in Switzerland need to hold a C (residence) or B permit (if the holder is an EEA-national). For EEA nationals the right to family reunion is more favorable because family reunion encompasses: children less than 21 years old or at charge, grand children, parents and grand parents at charge. (art 3 al Ic bis OLE, art 41 Letr). For non-EEA nationals it concerns only spouses and minor child. (art 17 LSEE and 42-43 Letr). It is foreseen to extend the right to family reunion to B non-EEA nationals permit holders. In the meantime, B permit holders have to satisfy further requirements for to be eligible for family reunion. B permit holder that wants to make his family join him has to have a stable work place, to have an accommodation that is decent for all the family, sufficient economic resources, and that the child care is guaranteed.  Conditions for holders of the following permits:  <b>C permit</b> The spouse of a long-term (C permit) holder receives an authorization of stay (B permit) as long as the conjugal life lasts, and receives a long-term permit after 5 years of regular stay in Switzerland. Children less than 18 years old receive an authorization of residence (C permit) as long as they live with their parents, and under the condition that at least one of the parents

<p>has a residence permit (art 7 LSEE).</p> <p>The very recent law modification (Letr accepted by popular vote in 2006) will modify these conditions and will limit the possibility of family reunion to children who are less than 14 years old (art 42 Letr).</p> <p><b>B permit (work)</b>  -Non EU/AELE</p> <p>The family of a person holding a stay permit (B) can be authorized to stay and work in Switzerland under the conditions of a sufficient income and adequate accommodation (art 38 aloe). This disposition only applies to spouses and children less than 18 years old.</p> <p>-UE/AELE</p> <p>Family reunion possibilities are enlarged to children until 21 years old and to parents and children at charge.</p>
<p><b>Scores:</b>  <b>General score: 1</b>  <b>Kosovars: 1</b>  <b>Italians: 1</b></p>
<p><b>20. Economic resources requirement</b></p>
<p>For long-term permit holders as well as for EEA-nationals short-term permit holders (B permit), there are no economic resource requirements for family reunion.  Non-EEA-nationals holding a short-term permit have to satisfy further conditions: a stable work place, decent accommodation for all the family, sufficient economic resources, guaranteed childcare.</p>
<p><b>Scores:</b>  <b>General score: 1</b>  <b>Kosovars: -1</b>  <b>Italians: 1</b></p>
<p><b>21. Duration of validity of permit</b></p>
<p>The B permit for family reunion is a one-year renewable permit. The duration is fixed regardless of the sponsors' permit.</p>
<p><b>Scores:</b>  <b>General score: -1</b>  <b>Kosovars:-1</b>  <b>Italians:-1</b></p>
<p><b>22. Grounds for withdrawing or refusing to renew status</b></p>
<p>The stay authorization ends with the end of family life community. But if the person is married with a Swiss national, the authorization has the same duration as the marriage. In the case the person is married to a foreigner who holds a short term (B) or long-term (C) permit, the authorization of stay lasts as long as the community life. (art 17 LSEE). The new Law on Foreigners (Letr) does not make this differentiation and sates that for family reunion the existence of a common housing (art 42 ss. Letr) whatever is the nationality of the spouses.</p> <p>The authorization can be renewed under very restrictive conditions despite the break-up of the family relationship, in cases of domestic violence for example.</p>
<p><b>Scores:</b>  <b>General score: 0</b>  <b>Kosovars:0</b>  <b>Italians:0</b></p>

<b>23. Right to autonomous residence permit for partners</b>
After 5 years of community life spouses have the right to autonomous residence in Switzerland. No distinction is made between EEA nationals and non-EEA nationals.
<b>Scores:</b> <b>General score: 0</b> <b>Kosovars: 0</b> <b>Italians: 0</b>
<b>23bis. Right to autonomous residence permit for children</b>
No mention of autonomous residence for children. But children can acquire automatically a stay or residence permit.
<b>Scores:</b> <b>General score: 1</b> <b>Kosovars:1</b> <b>Italians:1</b>
<b>24. Percentage of entrances in the territory through family reunion</b>
Data concerning the % over the total number of applications is not available.
<b>Scores: NA</b>

### 3. SOCIAL AND ECONOMIC RIGHTS

#### a) Labour market access

Switzerland has a dual system for granting foreign nationals access to the Swiss labor market. Persons from EU or EFTA member states, regardless of their qualifications, are granted easy access to the Swiss labour market under the Agreement on the Free movement of persons (ALCP). By decree of the Federal Council, workers from all other states—third states, as they are referred to—are admitted in limited numbers to the labor market in Switzerland, if their skills are urgently required and they are well qualified.

The access requirements are listed in the Regulation on Limiting the Number of Foreign Nationals (OLE) and described in more detail in the Directives and Commentary on the Residence and Permanent Settlement of Foreign Nationals (Directives OFE).

A well-qualified person is someone who has a degree from a university or a technical college and several years' work experience. Depending on the profession or specialization of the candidate, the person may also be admitted if they have particular training and several years' of work experience.

#### - *Short-term permits*

<b>25 . Access to employment</b>
Access to employment depends not only on the origin but also on the type of short-term permit. The dual system for access to the labor-market makes a clear difference between

EEA nationals and non-EEA nationals.

B and L permits are submitted to quotas. The federal government decides of a ceiling for each canton according to its need in labor force. L permits are granted in priority to EEA nationals but in the limits of the defined ceilings. Non EEA nationals will gain access to the labor market only to the extent they are highly qualified and that the employer can prove that despite considerable efforts no suitable Swiss national or citizen from an EU or EFTA member state could be found to fill a vacancy. This applies also for B permits. Furthermore, holders of B and L permits need an authorization for any change of employer or profession.

Asylum seekers and provisionally admitted foreigners (F and N permits) are not allowed to work within the 3 first months after arrival in the country. The three months can be extended for asylum seekers as long as no decision has been taken regarding their status. When holders of these permits are granted access to the labor market, the priority of residents and EEA nationals remains. Furthermore, the access to the labor market is limited to some sectors.

At the national level, only settlement permit holders (C permit) have access to the public sector. In Geneva, B permit holders have access to the public sector. But, in practice, this will be limited to B permits no submitted to quotas (humanitarian, family reunion) as for B permits submitted to quotas, the employer will still have to prove that no resident has been found to fill the vacancy.

**Scores:**

**General score: 1**

**Kosovars:-1**

**Italians : 1**

**26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay**

The termination of a work contract can be a reason to revoke an L permit, but only for non-EEA nationals. In case of unemployment of more than 12 months, a B permit can be renewed for one year instead of five.

**Scores:**

**General score: 1**

**Kosovars:1**

**Italians:1**

- *Long-term residence permits (duration of validity:  $\geq 5$  years)*

**27. Access to employment**

Permit C holders are allowed to work and to have an independent activity. They do not need an authorization to change their workplace or profession and can have any activity they want except those explicitly restraint to Swiss citizens (art 3 al 10 LSEE)

**Scores:**

**General score: 1**

**Kosovars:1**

**Italians:1**

**28. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay**

No, but this permit can be not renewed if he/she is in a permanent way and in large measure at the social welfare assistance.

**Score:**

**General score: 0**

**Kosovars:0**

**Italians:0**

**b) Welfare state access**

- *Illegal immigrants*

**29. Access to social security, social assistance and healthcare for illegal immigrants**

The federal court confirmed the right to social security independently of the status. Thus illegal immigrants have access to social security.

The health insurance is dependent on the place of residence. As the civil code defines the domicile as the place where one resides with the aim to settle, an illegal immigrant can have its residence in Switzerland and have a health insurance. Insurance companies have to insure illegal immigrants and can be sanctioned if they refuse to do so. Indeed, health insurance is partly private in Switzerland. The insurance is compulsory for any person residing in Switzerland, but they are insured by private companies.

AVS/AI: pension and invalidity. Any person having a job should pay the contribution regardless of his/hers administrative status. Employed illegal immigrants should pay the contribution and are entitled to the benefits under the condition that they contributed for at least a year.

Accident insurance (compensation) and LPP: any worker has to contribute and is entitled to the benefits regardless of his/hers status. If an employer does not fulfill this requirement, an auxiliary fund will pay the benefits and prosecute the employer.

Unemployment: as for other social security any person who works has to contribute. But no benefits for illegal immigrants. Unemployment is only paid if the person can be posted, which is not the case of illegal immigrants, having no work permit.

Family assistance can also be paid regardless to the status.

But illegal immigrants do not subscribe to these insurances, as this will mean leaving illegality and return.

**Scores:**

**General score: 0**

**Kosovars: 0**

**Italians: 0**

- *Short-term permits*

**30. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support
- b. minimum housing support
- c. family and child benefits
- d. assistance in case of illness
- e. pregnancy and maternity care
- f. long-term care

The access to social security depends not only on the type of permit but also on the origin of immigrants. EEA nationals are granted equal access to social security with nationals. Indeed, the agreement on free movement of people states the equality of treatment between nationals and EEA nationals. In this regard, all the subscriptions paid in the different member States

can be exported. Family and child benefits are ruled by the federal law (LAF). No distinction is made between nationalities.

Non-EEA nationals are granted short-term permits under the condition of a work contract (except for family reunion). Having a work contract they contribute to all insurances and have access to all benefits, except unemployment if because of the remained duration of the permit they can't be placed in a new job.

**Scores:**

**General score: 1**

**Kosovars: -1**

**Italians: 1**

- *Long-term residence permits*

**31. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support
- b. minimum housing support
- c. family and child benefits
- d. assistance in case of illness
- e. pregnancy and maternity care
- f. long-term care

Illness insurance is compulsory for every person who reside or work in Switzerland (art 3 Lamal). Moreover having an illness insurance is a condition for receiving a work authorization (art 9 OLE). Generally people with limited economic means are entitled to a subvention. (art 65 Lamal)

Long-term permit (C) holders are treated at the same conditions as nationals. Only some specific remarks have to be made.

Access to the "AI" and AVS allowances if resident in Switzerland and at the time to benefit of the assistance he/she has or to have contributed to this insurance for at least 1 year or to sum up 10 years of stay in Switzerland.

Minimum income support is available for C permit holders but this may have consequences on the authorization of stay in Switzerland (because being in a large measure and in a permanent way at the benefice of social assistance constitute an expulsion motive art 10 al I d LSEE, art 66 al b Letr). No distinction is made between EEA and non EEA nationals.

**Scores:**

**General score: 0**

**Kosovars:0**

**Italians:0**

#### 4. ANTI-DISCRIMINATION RIGHTS

##### 32. Legislation against ethnic discriminations

A Federal commission against racism was created in 1995 following the convention against all kinds of racial discrimination that is effective since 1994. Since the 1<sup>st</sup> of January 1995 a penal anti racism norm (art 261bis of the Swiss Penal Code) entered into force. Based on this penal norm the Federal commission against racism has inventoried 308 judgments related to this 261bis norm between 1995 and the end of 2003.

An inventory of the committed and judged offences reveal that they are mainly constituted of written aggressions (32%) and verbal aggressions (25%), finally 10% for diffusion of racist material. Only 3% are violent actions by gesture or comical expressions and 3 % for refusing a loan.

The art 261bis of the penal code only considers public acts and acts threatening social peace, in other words acts that are publicly negating the right to equality. They cover incitement to racial hatred and discrimination, as well as ideology spreading. Spreading actions or organization of actions, discrimination against a person or a group in a way that affects human dignity, refusal of delivering a service.

##### Scores:

**General score: 1**

**Kosovars:1**

**Italians:1**

##### 33. Type of sanction in case of racially discriminatory hiring

The law against racism in Switzerland foresees fines and imprisonment possibility up to 2 years. But so far, no one has been sentenced to prison, only to fines.

##### Scores:

**General score: 0**

**Kosovars:0**

**Italians:0**

##### 34. Public structures dealing with ethnic discriminations

Federal commission against racism. Created in 1995 this commission has only a consultative and study role.

##### Scores:

**General score: 0**

**Kosovars:0**

**Italians:0**

#### 4. POLITICAL RIGHTS

For the Geneva case:

In this part the considered local level is the Canton of Geneva and consequently the sub local structure is constituted by the 45 communes of the canton.

##### 35. Right to vote in local elections

Only a few cantons and communes have granted the right to vote to immigrants in Switzerland. In the canton of Geneva the right to vote in local elections for foreigners is only accorded at the communal level since April 2005 (popular initiative accepted by 52.3% of

voters) for foreigners who have been living legally in Switzerland for 8 years and have domicile in one of the 45 commune of the canton for at least 3 month. No distinction is made between nationalities regarding the right to vote. No right to vote at the cantonal level.

**Scores:**

**General score: -1 (because local level is the canton)**

**Kosovars:-1**

**Italians:-1**

**36. right to stand for local elections**

No right to stand for local elections (cantonal level). This right has also been denied at the communal level (47.22% voted in favour of this possibility for migrants).

**Scores:**

**General score: -1**

**Kosovars:-1**

**Italians:-1**

## **II – CULTURAL/GROUP RIGHTS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

**37. Cultural requirements for obtaining short-term permits**

No cultural requirement for applying for a short-term permit. The person has to satisfy the conditions related to the purpose of his stay in Switzerland.

**Scores:**

**General score: 1**

**Kosovars:1**

**Italians:1**

**38. Cultural requirements for obtaining long-term residence permits**

None.

**Scores:**

**General score: 1**

**Kosovars:1**

**Italians:1**

**39. Cultural requirements for naturalization**

The federal law on acquisition and loss of Swiss nationality (LN) lists the requirements the candidate should meet for naturalizing. These conditions are almost all related to cultural requirements. The candidate should be integrated to the Swiss community, to be accustomed to the Swiss way of life and conform the Swiss law. Implicitly the length of stay in Switzerland (12 years of residence) might also be an additional guarantee of cultural integration.

At the cantonal level (Geneva), the Geneva's nationality law (Lnat) states that the cultural requirements the candidate has to meet are: ties with the canton that can testify of his adaptation to the Geneva's way of life, not have been sentenced that show disregard to law, have a good reputation, to be integrated to the Swiss community and respect the individual rights declaration of the constitution of may 1847.

The command of French language is not an explicit requirement in the law, in the canton of Geneva no test of language is practiced but an interview is carried out with the candidate.

Cultural requirement for naturalization are rarely defined precisely at the local level, which gives a large breathing space to the administration. But the canton of Geneva has high rates of naturalization comparatively to other cantons in Switzerland.

**Scores:**  
**General score: 0**  
**Kosovars:0**  
**Italians:0**

## 2. LANGUAGE PROGRAMS

### 40. Language programs for immigrant adults

At the cantonal level, free of charge French lessons are organised for parents in the afternoon or in the evening. This opportunity is opened to parents who have children at the compulsory programme schooling in Geneva. These lessons exist since 1966 and today around 1100 parents attend these lessons. They are organised by public schools.

Language programs for immigrant adults are also dispensed by associations (private initiative) but they are not free of charge (but the fees are not very high – less than 100 CHF).

**Score: 0**

### 41. Language programs for immigrant children

At the cantonal level in Geneva since 1963 are implemented French lessons for pupils that have just arrived. Since 1968 the concept of « welcome classes » emerged which constitutes the first public initiative in order to favour integration. The goal is to teach the basics of French language to immigrants pupils. In this programme are of course numbered French lessons but also maths, physical education, English, mother tongue language, and German. After a period varying from one pupil to another, the students are transferred to ordinary classes. This system is applied for pupils from 12 to 19 years old.

Moreover there are possibilities of French support lessons during the summer vacation. All these possibilities are financed by the Department of public instruction of the State of Geneva.

For pupils of the primary level (6 to 12 years old) the principle of total immersion is practiced but pupils with an immigrant background attend lessons in welcome classes several hours per week (included in the compulsory programme school) in order to have support in French language acquisition.

**Score: 1**

### 3. SCHOOLING

<b>42. Possibility of public funding for Muslim private owned schools (full-time schools)</b>
No possibility of public funding for Muslim private owned schools or for any kind of denominational private owned school. Moreover there is no Muslim private owned school in Geneva.
<b>Score: 0</b>
<b>43. (if there is a possibility) Number of public-funded Muslim schools (full-time schools)</b>
Not applicable
<b>Score: IR</b>
<b>44. Possibility of public funding for other minority group private-owned schools (full-time schools)</b>
No possibility of public funding for any kind of private owned schools. Private schools have their own funding but have to receive an authorisation of exploitation from the local authorities.
<b>Score: 0</b>
<b>45. (if there is a possibility) Number of public-funded minority group schools (full-time schools)</b>
Not applicable
<b>Score: -1</b>
<b>46. Cultural/language courses for pupils of minority groups inside public schools</b>
The canton of Geneva through the Department of public instruction (education is of the competence of the cantons in Switzerland) is financing since 1968 a system of lessons for immigrant pupils who do not speak French and are integrated in “welcome classes” where they attend language courses (of origin), intensive French lessons among other disciplines. This constitute a compulsory program for them all. This opportunity is offered under the condition of the presence of at least 10 pupils of the same origin language in the system. This system is a method where bridges are made between the French language and the origin language of the child (2 hours per week).
In parallel cultural and language courses for pupils of minority groups are offered by the consulate of the countries of origin.
<b>Score: 1</b>
<b>47. Changes on public schools’ curriculum to take into account the cultural diversity of society</b>
As it has been mentioned above, education is of competence of the cantons in Switzerland. That is why the situation may vary among cantons. The current Geneva’s public schools’ curriculum do not integrate into the official plan programme the multiculturalism and diversity present on the national territory. But the official curriculum is broadly defined and leaves teachers free to adapt or integrate this kind of dimensions into their teaching plan. So, depending on teachers in Geography lessons cultural diversity is sometimes put forward.
But in the case of welcome classes structures for immigrants who do not speak French cultural diversity is put forward. Moreover, in continuing education for teachers such a sensitisation at the diversity of cultures and nationalities is part of the official pedagogic programme.
<b>Score: -1</b>

#### 4. RELIGION

<b>48. Religious education in public schools</b>
Because of the religious neutrality of the canton of Geneva, there is no religious education in public schools.
<b>Score: 0</b>
<b>49. Islamic religious signs in the public sector</b>
The canton of Geneva has as institutionalised the concept of the strict separation between church and state. In 1995 the Department of public instruction of the canton declared, in order to make easier the integration of the concerned people, that Muslim students are allowed to wear the headscarf in school lessons, but since 1996 the teachers or even other state representatives (civil servant) are not allowed to wear distinctive religious signs. The same goes for crucifix and other religious symbols in public spaces.
<b>Score: 0</b>
<b>50. Islamic religious signs in the private sector</b>
No specific measure is specified in public law. It is at the discretion of the different firms Regarding the private sector, as for private schools which can be confessional, religious signs are allowed.
<b>Score: 0</b>
<b>51. Islamic breaks for praying</b>
No public regulation regarding Islamic breaks for praying, but the laic rules applied in the canton of Geneva should also apply in this case. Not allowed. In the private sector this depends on a negotiation with the employer. Case by case regulation. Not well tolerated in practice.
<b>Score: 0</b>
<b>52. Cemeteries and burial according to Islamic rite</b>
<p>The actual status of cemeteries in the canton of Geneva are municipals and laics, as stated in the law of 1876 (cemeteries law), which does not allow the creation of private and confessional cemeteries. Faced to the claims from Jewish and Muslim communities, the State council of Geneva is preparing a project of law which is more adaptable than the strict actual law of non-religious nature of cemeteries. This project is in debate from long time ago.</p> <p>The new law states again the municipality of cemeteries (which is therefore accessible to all those who want to) but add a new possibility: the creation of private confessional cemeteries, which will be distinct from traditional municipal cemeteries.</p> <p>For doing so, no subvention will be accorded and the state council allow only one cemetery per religion.</p> <p>That was the theoretical side. In practice confessional cemeteries already exist in the canton of Geneva. Regarding Jewish cemeteries, there is one since 1929. He is located partly on French territory and partly in Switzerland. This was done to conform to the Geneva's</p>

legislation: graves are in France and the entrance and Switzerland.

Regarding Muslim cemeteries, there is a “carré confessionnel”, which is a separate space within the municipal cemetery and has been created in 1979. This case was an exception.

**Score: 0**

**53 Local public budget for mosques (building and managing)**

Even if mosques have been recognised as associations of public interest, governmental authorities do not support financially mosques or other place of worship. (Constitution of the Canton of Geneva, art 164 al 2)

**Score: 0**

**5. MEDIA**

**54. Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)**

None

**Score: -1**

**55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population**

None, neither at the national nor at the cantonal level.

From 1964 to 1984, the Swiss Television and the Italian television co-produced a program for Italians in Switzerland. The program was transmitted on the three regional channels of the Swiss Television. “Un’ora per voi” was a program in Italian for Italian immigrants and gave news about politics, culture, entertainment etc. about both countries. The aim of the program was to inform Italians about the host country but also to maintain the links to their home country. The program ended 1985.

There is no similar program in Switzerland for other minority groups. But the question whether the public broadcasting should produce such programs has become an issue again recently. Indeed, a member of the Swiss parliament launched a project for a similar program for Albanians (mainly Kosovars in Switzerland). The project foresees a program in Albanese that would inform Kosovars about Switzerland and their home country in co-production with a home country producer. So far, the project didn’t find any funding.

**Score: -1**

**6. LABOUR MARKET: GROUP RIGHTS**

**56. Affirmative actions for ethnic minorities in the private sector**

None

**Score:-1**

**57. Affirmative actions for ethnic minorities in the public sector**

None

**Score:-1**

**58. Measures to further the integration of foreigners into the labour market**

No specific measure has been implemented so far.

But an experiment has been proposed by the Office of Foreigners integration in collaboration with the retailer “Migros”, one of the most important private employer in the canton of Geneva, the SIG which provides water, gaz and electricity to the canton and the commune of Vernier, the second most populated commune of the canton. The goal is to sensitise employers to the danger of discrimination.

For a 3 month period these 3 employers committed to experiment anonymous cv’s. The name, address, gender and photo of the candidate will not appear any more for applications within this period. The goal was to fight immigrants segregation but these method is also looking for fighting discrimination based on age, gender. After these 3 months these method of recruitment has not be pursued.

**Score:-1(no implementation and not targeted to immigrants)**

**III - GENERAL POS**

For the Geneva case:

In this part the considered local level is the Canton of Geneva and consequently the sub local structure is constituted by the 45 communes of the canton.

**1. CONFIGURATION OF POWERS****59. Degree of federalism and decentralization**

Switzerland is a federalist country and highly decentralized. Index of federalism: 5.0

**Score: 1**

**60. Decentralization at the local level: sub-local public structures (at the level of district, neighborhood) with political powers**

Swiss federalism gives broad autonomy to swiss cantons. Each canton has a proper constitution and political rights may vary from one canton to another, and even from one commune to another. Cantons have important prerogatives regarding education, health, welfare, judiciary organisation, police or transports.

The Republic and canton of Geneva comprises 45 sub-local structures called communes. All these communes have as the canton their own elected administrative and legislative authorities.

**Score:1**

**61. Power distribution in the city**

Balance of powers between the executive and the legislative.

As we mentioned in the introduction we will consider the Geneva cantonal level as the local level (which corresponds in other countries at the regional level), as in the field of integration the canton has the main competence. The legislative power in the canton is called the High Council (Grand Conseil) constituted by 100 deputies elected for 4 years. These deputies vote budget, control the expenses, re-examine refused naturalisation. The executive power in the

canton is the State Council (Conseil d'Etat) which is constituted by 7 councillors in charge of the implementation of laws and rules voted by the legislative power. The executive has also the possibility to propose and present projects of law to the legislative authority and implement laws. Decisions obeys on consensus and the power is collegially exert.

### 62. Electoral systems – Local level

The deputies of the High council (Geneva's parliament) are elected for 4 years by citizens according to proportional representation limited by a 7% quorum. The age of eligibility is of 18 years old.

**Score: 1**

### 63. Party systems in the city

Multiparty system in the canton of Geneva, as in Switzerland as a whole.

### 64. Party(ies) in the city (one party/a coalition of parties)

In the canton of Geneva several political parties are in power because of the collegial system of the executive power. But decisions are built on consensus. At the parliamentary level of the canton as the proportional representation rule the election, several parties are cohabiting. But we can not properly speak of a coalition because the cohabitation is between parties which are not from the same political camp.

**Score:** Coalition of parties: collegial

### 65. Party(ies) in power – National level

The Swiss government consists of seven members of the Federal Council. From 1959 to 2003 the government had always the same party composition that reflected the strength of the parties in the parliament, which was called the Magic Formula. The government was composed of 2 socialists, 2 Christian democrats, 2 Radicals (center right), 1 UDC (right, agrarian party with a radical right branch). In the 1990, the electoral success of the UDC (especially its radical right branch) challenged the Magic Formula. The government composition changed in 2003. The Christian Democrats, who became the fourth national party lost one seat in favor of the UDC. Thus the parties in power are : UDC (2), Socialists (2), Radicals (2) and Christian Democrat (1).

### 66. Party(ies) in power – Local level

Parties represented at the executive authority of the canton (State Council) are:

	Positioning	1997-2001	2001-2005	2005-2009
Socialist party	Left	2	2	2
Christian democrat party	Centre	1	2	1
Green party	Left	1	1	2
Radical party	Centre right	2	0	1
Liberal party	right	1	2	1
Total		7	7	7

Source: OCSTAT, élections du Conseil d'Etat

## 2. PARTICIPATION MECHANISMS

### 67. Referenda (Local level)

In Switzerland at the three levels (federal, cantonal and communal) the referendum is binding. There are different types of referenda, facultative (federal legislation) and compulsory referenda (any constitutional change, international treaties). See indicator 68.

**Score: 1**

### 68. Who can initiate the referendum? (Local level) canton of Geneva

All Geneva's citizens of 18 years old and more have the right to vote, to elect their representatives at the Parliament, at the State Council, at the Administrative Council and the magistrates at the judicial power, to pronounce themselves against or in favour of a legislative text (referendum) and to propose the drafting or the elaboration of a bill (initiative).

In the canton of Geneva, referendum<sup>3</sup> can be held against a law voted by the High Council under the condition 7000 signatures of swiss citizens are collected within 40 days since the official law publication. Regarding the popular initiative at the cantonal level (and even at the communal level<sup>4</sup>) the right to propose projects of law by citizens (cantonal initiatives) exists. This means that if citizens want a new law they have to collect 10'000 signatures of residents who have voting rights within 4 months and the initiative can be submitted to the high council of the canton of Geneva.

**Score: 1**

### 69. Number of (consultative or binding) referenda held over the past 10 years (Local level)

Number of referendums at the cantonal level – Geneva

Years	Number of referendums
1996	8
1997	2
1998	8
1999	7
2000	8

<sup>3</sup> At the sub local level\_ Moreover, foreigners who reside in Switzerland from 8 years at least within at least 3 months in the canton have also the right to vote at the communal level (since 24 april 2005, but are not eligible).

<sup>4</sup> but conditions that apply are different from the cantonal level. A communal initiative can be initiate both by citizens and by foreigners that reside in Switzerland from 8 years within 3 months in the commune. The number of signatures required depends on the size of the commune. For instance, 30% of voters if 500 inhabitants at most, 20% for communes of 501 to 5000 voters, 10% for communes from 5001 to 30000 voters. Geneva city requires 4000 voters to valid the initiative.

2001	6
2002	9
2003	2
2004	6
2005	9
2006	3
TOTAL	68

Source: <http://c2d.unige.ch/>, Research Centre on Direct Democracy.

In ten years (1996 to 2006) 68 referendums have been held at the cantonal level. Almost half of them were held by citizens, 20 concern compulsory referendum which is required for changes of the constitution.

At the cantonal level, citizens can contest a law voted by the legislative authority by holding a referendum which requires to gather within 40 days after the law publication 7000 signatures of residents who are entitled to vote.

**Score: 1**

#### **70. Citizen Assemblies**

No citizen assembly

**Score: -1**

#### **71. Powers of citizen assemblies (local level)**

None

**Score: -1**

#### **72. Involvement of civil society organizations (associations, foundations, interest groups...) in the definition of local policies**

Involvement of civil society organizations is not explicitly formalised or taken into account in the definition of local policies, but civil society organisations can be involved in the pre parliamentary phase in search of consensus in order to avoid the launch of a referendum.

**Score: 0**

#### **73. Involvement of civil society organizations (associations, foundations, interest groups...) in the implementation of local policies**

Involvement of the civil society organisations in the implementation of local policies is not formally established and generally this involvement is not frequent and depends on the fields of activity. For instance, in the field of integration of immigrants, associations are active especially in what concerns the registration of illegal immigrant's children to school.

**Score: 0**

#### **74. Pluralism of the participation system in the city**

Pluralist system.

**Score: 1**

#### **75. Is there a specific department in the local council devoted to promote citizen participation?**

The Department of institutions is not specifically devoted to promote citizen participation but

is charged among other things of elections and votations. No specific policy is devoted to promote citizen participation.

**Score: -1**

**76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?**

Apart from the right of initiative and referendum (indicator 67) there is no specific local legislation that regulates how citizens can influence the decision making process.

**Score: 1**

**77. Number of local-council-owned buildings granted to associations as meeting spaces  
Raw number per 1,000 inhabitants**

Not available

**78. Average percentage of local budget devoted to subsidize associations in general (1995-2005)  
Raw percentages**

The average percentage devoted to subsidize associations in general is of 0.35% of the local total budget.

**79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?**

For the Geneva case we consider the local level as the canton of Geneva. In consequence the sub local level is constituted by the communes. There is a communal Parliament and government elected by the citizens.

**Score: 0**

#### **IV – SPECIFIC POS (related to immigration and ethnic relations)**

##### **80. Main responsibility for immigrants integration policy**

Local government (canton) has the responsibility for immigrants integration policies. The Federal ordinance on immigrants' integration (13th September 2000), states that every canton has to create a structure to manage integration in the canton.

In June 2001 Geneva's cantonal law on immigrants' integration states the creation of a cantonal structure in charge of promoting integration: The Office of foreigners' integration<sup>5</sup>, the Interdepartmental Group<sup>6</sup> for integration and the Consultative Commission on integration<sup>7</sup>.

The confederation finances integration projects at the local level, but the financing is

<sup>5</sup>« Bureau de l'intégration des étrangers “ in French.

<sup>6</sup> Groupe Interdépartemental de l'intégration.

<sup>7</sup> Commission consultative de l'intégration.

coordinated at the local level. The canton has its own budget for financing projects as well.

**Score: 1**

**81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)**

At the local level, the office in charge of integration has as task to inform and give advice to immigrants. A documentation centre regarding past associations' integration projects, migrations history and measures of integrations in Switzerland and in the neighbouring countries has been created. But the documentation centre is not active any more.

The main way for the office in charge of the integration at the local level is to reorient immigrants to the right interlocutor. Their aim is to use the existing networks of associations which can provide the appropriate information regarding the field of wealth, family, discrimination. The website of the office do not provide all the information about the activities of the office in the field of integration. In the canton of Geneva the integration is based on civil society structures such as associations. Before the law, number of associations acted on this field and the canton's institutions count on a partnership basis for the "implementation" of integration public policies.

**Score: 0**

**82. Which institution (s) has(ve) the leading role in the field of immigrants ' integration? – Local Level**

The institutions which have the leading role in the field of immigrants' integration at the cantonal level are:

- The office of foreigners integration, which is in respect to the national level the cantonal office responding for integration policies.
- The Interdepartmental Group for integration, composed by civil servants of the state of Geneva
- Consultative Commission on integration, composed by representatives from Geneva's communes, social partners, foreigner's associations and associations devoted to foreigner's integration.

All these institutions are part of the Department of Institutions which is supervised by a State Councillor.

**Score: a specialized service**

**83. Policies related to immigrants ' integration at the local level**

Practically there is no public policy of immigrants' integration. This means that no construct measure, known by all actors in the field has been implemented. In practice the official cantonal institutions have worked so far by trial and error. And at the moment of writing the office is in complete reorganisation due to an evaluation report. That said, we can list some of their activities at the cantonal level so far.

The main policy in the field of integration in the canton of Geneva aims, as the law states, at

sensitising Swiss citizens to the diversity of the canton, promoting foreigners participation in all aspects of public life. The law on foreigners integration from June 2001 aims principally to a sensibilisation policy through information, training lessons given in the diverse public administrations such as the police for instance, intercultural mediation ( in case of conflicts due to cultural diversity in the neighbourhood, in the education field, at work...), through publications.

In theory the approach of integration is to implement the policy through associations and civil society. But concretely this process is at the very beginning.

**Score: 0**

**84. Is there a specific department in the local council devoted to immigrants' integration policies**

The Department of institutions to which is devoted the charge of immigrants' integration policies, naturalizations, elections among others.

**Score: 1**

**85. Percentage of total local budget devoted to immigrants' integration policies (raw percentage)**

The total cantonal budget of integration for 2007 is 2.5 million swiss francs which is appropriate as follows:

- 1.1 million for the operating budget of the office of immigrants' integration
- 80'000 for projects funding
- 1 million for permanent structure funding for associations on the field, which have a partnership convention with the public authorities
- the remaining amount is devoted to general expenses.

In 2007 the percentage of total local budget devoted to immigrants' integration policies is of 3.5%.

Source:Département de finances, budget de fonctionnement Etat de Genève et départements 2007-[http://etat.geneve.ch/df/finances/faq\\_finances.jsp?id=2972&id1=595](http://etat.geneve.ch/df/finances/faq_finances.jsp?id=2972&id1=595)

**Raw percentage=3.5%**

**86. Existence of a council/board/assembly that represents immigrants/minority groups**

In theory the cantonal law on foreigners' integration planned such an assembly. That is why, among the Consultative Commission of foreigners 4 representatives of foreigners associations are elected at the occasion of what is called "Les Assises de l'intégration". The objective of this ceremony is to determine the axis on which the Office of foreigners' integration will work (determine priorities, means...). But in practice this commission is criticized regarding its representation value (4 immigrant association representatives on 15 members).

**Score: 1**

**87. Involvement of minority/immigrant organizations in the definition of local policies**

In may 2004 an initiative resulting from the 4 members (immigrants) elected to the

Consultative commission on integration (CCI) set up a group called “plateforme sur l integration”. This structure is devoted to create a direct communication with the field of immigration. This is an independent structure, not integrated by the law in the field of integration. Its structure encompasses the 4 elected members of the CCI, other representatives of immigrant associations and immigrants as physical members. This structure is devoted to give the inputs from the field in order to orient and help the implementation of the cantonal policy of integration. But this structure is at this period not very active because of internal structural conflicts.

**Score:0**

**88. Involvement of minority/immigrant organizations in the implementation of local policies**

The BIE signed partnership conventions with associations of immigrants. As the organisations were present on the field largely before the intervention and creation of the BIE, the official policy is to try to coordinate and use this base of experience for implementing integration policies. But in practice this kind of procedure is in embryonic stages. Moreover, Immigrant organizations as well as all other type of voluntary organizations can be involved in the implementation of local policies through financing of projects aiming at promoting and favouring integration at the local level. On that basis, no distinction is made between autochthonous and immigrant organizations. The scope of the organization (specialized in immigration issues, playing a role in immigration issues) is of no importance. these organizations are funded only on a project basis. (see indicator 93 and 94)

**Score:0**

**89. Involvement of organizations specialized in immigration/integration issues in the definition of local policies**

Indicators from 89 to 92 see indicators 87 and 88.

**Score:0**

**90. Involvement of organizations specialized in immigration/integration issues in the implementation of local policies**

Indicators from 89 to 92 see indicators 87 and 88.

**Score:0**

**91. Involvement of organizations playing a relevant role for immigrants’ integration in the definition of local policies**

Indicators from 89 to 92 see indicators 87 and 88.

**Score:0**

**92. Involvement of organizations playing a relevant role for immigrants’ integration in the implementation of local policies**

Indicators from 89 to 92 see indicators 87 and 88.

**Score:0**

**93. Percentage of local budget devoted to subsidizing minority/immigrants organizations (raw percentage)**

There is no specific budget for minority/immigrants organization. The office for foreigners’ integration (BIE) has an annual budget to subsidize any private or associations for projects aiming at favoring the integration at the cantonal level. This found contribute to finance projects but not operating charges for associations.

The budget is of 80'000 CHF for projects funding, which represents 3.2% of the local budget of integration at the cantonal level.

**Score:0**

**94. Requirements to be able to apply for subsidies**

The Office of foreigners' integration (cantonal level) are only granted to associations on a project basis. A project receives a subvention under the conditions that the main problematic theme is integration of immigrants residing in the canton of Geneva. The maximum subvention is of 5000 swiss francs by project. But in practice this condition is more adaptable. The project has to be presented at the Office enumerating the context, the reasons of undertaken such actions, which is the migrant public targeted, which are the objectives of the project and indicate the measures or indicators to assess the outcomes of the project.

There is a national programme as well which finance projects promoting the integration. This programme depended on the Federal Office of Migrations (national level). This budget is of 14 millions of swiss francs. Conditions for obtaining such fund are: The project has to be organised around priority themes defined every 4 years by the Federal Office of Migrations. These are: promoting the comprehension (language lessons oriented on daily life), Opening the institutions to all groups of population, make easier cohabitation between populations, develop centres of competencies, innovation and quality norms. The field has to be sent to the cantonal office which gives a notice to the federal office regarding the relevance and the importance of the submitted project for the cantonal situation.<sup>8</sup> It is important to notice that no distinction is made between autochthonous and immigrant organizations. The scope of the organization (specialized in immigration issues, playing a role in immigration issues) is of no importance for applying for funding.

**Score: 1, no requirement other than those for autochthonous**

**95. Party arrangements to favor the presence of persons with ethnic minority background in the leadership of the party – Local level**

None

**Score: -1**

**96. Party arrangements to favor the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level**

None

**Score: -1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections**

**Mean over the 10 past years (raw percentage)**

National council, national results (%)				
	1995	1999	2003	2007

<sup>8</sup> There is also another state structure :The Welcome Centre which has a service, entrusted by the Geneva authorities to assist the international NGOs, whose mission is of an international nature, and who wish to establish themselves in the region. In this structure is the NGO service which is charged of funding of associations related to the international Geneva promotion.

UDC (Extreme-right)	14.9	22.5	26.7	29.0
DS (Extreme right)	3.1	1.8	1.0	0.5
PSL (Extreme right)	4.0	0.9	0.2	0.1
Lega (Extreme right)	0.9	0.9	0.4	0.5
Other	77.1	73.9	71.7	69.9
Share of extreme right	22.9	26.1	28.3	30.1
Total	100.0	100.0	100.0	100.0

Source: OFS, Statistique des élections au Conseil National

Extreme-right average over past 10 years: 26.9%

**Score: -1**

**98.Share of radical right and anti-immigrant parties in the electoral vote – Local level: general elections**  
**Mean over the 10 past years (raw percentage)**

National council, Geneva (canton) results (%)				
	1995	1999	2003	2007
UDC (Extreme-right)	-	7.5	18.3	21.1
DS (extreme right)	2.4	-	-	-
PSL (extreme right)	-	-	-	-
Lega (extreme right)	-	-	-	-
Other	97.6	92.5	81.7	78.9
Share of extreme right (%)	2.4	7.5	18.3	21.1
Total	100.0	100.0	100.0	100.0

Source:OFS, Statistique des élections au Conseil National

Extreme-right average over past 10 years: 12.3%

**Score: 0**

**99.Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council)**  
**Mean over the 10 past years (raw percentage)**

Elections of the City council of Geneva – allocation of seats (% of votes)				
	1993	1997	2001	2005
UDC	0	0	10 (10.4%)	11 (9.6%)
Mouvement citoyen	0	0	0	9 (7.7%)
Other	100	100	90 (89.6%)	80 (82.7%)
Share of extreme right (%)	0	0	10.4%	17.3%
Total	100	100	100 (100%)	100 (100%)

Source: OCSTAT, Elections du Grand Conseil

Extreme-right average over past 10 years: 6.9%
<b>Score : 0</b>

## **GENERAL CONCLUDING COMMENTS**

In this report we gave an overview of the POS in Switzerland and in Geneva and the indicators suggest a rather closed opportunity structure for immigrants.

The access to the community at the individual level is rather closed. The conditions of entry and stay on the Swiss territory are very restrictive. Nevertheless, EEA nationals and non-EEA nationals face totally different conditions. EEA nationals are granted an open access to the country and to the labor market. Furthermore, with the progressive implementation of the agreement of free movement of people between EU countries and Switzerland, EU citizens will be granted equal access to the labor market as Swiss citizens. By contrast, only a limited number of non-EEA nationals are admitted. But once an immigrant is admitted and is granted a stay permit the access to settlement permits is almost automatic, depending on the length of stay and on economic resources. The distinction between EEA and non-EEA nationals does not apply to settlement permits.

Concerning cultural group rights, Switzerland and Geneva do not follow a multiculturalist approach.

In 2005 the immigrant population in the canton of Geneva represent 38.7%<sup>9</sup> of the total population of the canton, this represents the highest rate of foreign population in Switzerland (the national percentage is 21.9% for the same period)<sup>10</sup>. Despite these characteristics of diversity in nationalities and the high percentage of immigrant population in the canton, the authorities slow to act in setting up structures for integration. The cantonal law on immigrants' integration of Geneva which entered into force on June 28 2001 comes from a double pressure.

Firstly the impulse came from a national dynamic due to a new article of law in 1999<sup>11</sup> which put forward the necessity of a foreigners integration policy and dynamize its implementation at the local level. Secondly the law comes from the pressure of associations active in the field of integration in Geneva. Indeed, associations on the field proposed a law on integration and this project of law has been rewrote and adopted in a hurry. Due to this cantonal law the office of foreigners integration has been created in February 2002.

The law states a controlling of the law itself and of its implementation. In this regard the first assessment of the cantonal law on immigrants integration has been carried out 4 years after this law entered into force (July 2005). This assessment revealed no clear global vision of integration in the canton although the structures defined by the law. Moreover it bring to light the dysfunction of the activities of the office. Properly said no public policy of integration is implemented in the canton of Geneva so far. This means that no constructed approach known

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<sup>9</sup> Source : OCSTAT, « Population résidante du canton de Genève », 22.02.07.

<sup>10</sup> Source: OFS, «La population étrangère en Suisse», Edition 2006.

<sup>11</sup> New article of law (art25a) of the «Loi sur le séjour et l'établissement des étrangers » of 1931.

by all actors concerned is practiced. The office intended to have a partnership with the associations on the field but this process is at the very beginning. The policy in the field is mainly a process by trial and error.

Moreover it is important to highlight that although the office is a pretty young structure 4 delegates come one after the other at the head of the office in less than 6 years of existence. One might think that it is a sign of trouble of the institution and that in these conditions no global vision of the activities is possible. At the time of writing the office is in complete reorganisation and redefinition of goals and strategies.

To conclude, we can say that however the important immigrant population in Geneva, this canton is not a leader in the development of integration policy in Switzerland. The cantonal law related to integration enters into force in 2001 but in a defensive and late position.

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