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People's rights versus personal rights

For four years or so, naturalisation has been a recurring subject of debate in our country. On 9 July the Federal Court re-opened the discussion by upholding the appeal brought by five individuals whose application for naturalisation had been turned down by their community. The Supreme Court ruled that the rejection, by the community of Emmen, of applications for Swiss citizenship by 48 individuals resident in the Lucerne community (all originally from the Balkans) was arbitrary and hence unconstitutional. The five judges unanimously agreed that putting citizenship applications to the popular vote violated the applicants' rights to be given the reasons for refusal and encouraged discrimination. The Federal Court also rejected as unconstitutional the proposal by the SVP to introduce a citizenship vote in Zurich. Fifteen cantons rule on citizenship either through the legislative, popular vote or a vote taken at the community assembly (the Federal Court issued no ruling on the latter procedure). The court pronounced that naturalisation should be a purely administrative decision and be granted if the candidate meets the requirements. While it did not say that people have a right to naturalisation, it declared that candidates are entitled to a hearing and to non-discriminatory treatment.

Professors of law on both sides of the argument launched themselves into the debate. And the SVP got onto its high horse, claiming that the Federal Court had made a political decision which put the state before direct democracy. The SVP announced that it would launch an initiative against the judgement.



Isabelle Eichenberger

The majority rules, but has no right to discriminate.

This is the verdict of the court, which in its role as arbitrator has cast doubt on the practice of naturalisation by direct democracy.

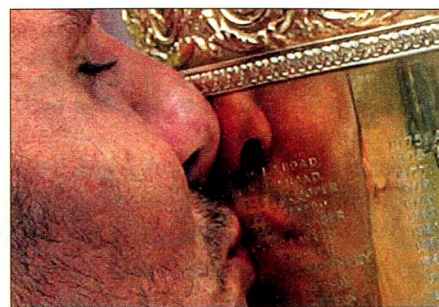
Coincidence? Just a hundred days before the parliamentary elections, the court in Lausanne has turned the spotlight on human rights and delivered

a key election issue – the dissipation of the Swiss nationality – into the hands of the SVP. Election issue or not, central Switzerland reacted angrily to statements on the complex question of identity, while western Switzerland found it difficult to comprehend all the fuss. Solothurn writer Peter Bichsel noted that German- and French-speaking Swiss lived in two distinct countries: one founded in 1291 and the other in 1848 in the spirit of the French revolution, which regards personal freedom as integral to human rights.

The future will show whether we are faced with the threat of a new "Sonderbundskrieg" or "special alliance war". But the actual statistics show a different story. According to the Federal Office for Migration, Integration and Emigration, the number of persons being granted naturalisation is four times as many as ten years ago. Experts ascribe this trend to the reduced (i.e. less costly) requirements imposed by cantons, and primarily to the introduction in the mid-1990s of entitlement to dual citizenship. However, this entitlement (which applies to some 70 percent of Swiss Abroad) is not to everyone's taste, and this summer even saw a proposal from the SVP ranks to revoke the provision. The idea will very likely add fuel to the fire rather than cast oil on the troubled waters of the debate.

Isabelle Eichenberger

Translated from German.



FOCUS

Sport or the battle for the Swiss image **4**

POLITICS

Goodbye, Federal Councillor Kaspar Villiger! **8**

OSA NEWS

Congress: banks are not charitable institutions **11**

OFFICIAL NEWS

New unemployment insurance law in force **14**

MAILBAG

18

NEWS IN BRIEF

19



Sport and patriotism are often closely linked: Swiss tennis ace Roger Federer in front of the Swiss flag after his victory against Australia's Mark Philippoussis at Wimbledon on 6 July.

TITLE PICTURE: Keystone Press

SWISS REVIEW

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