

Minorities and immigration

– frameworks of exclusion and inclusion
in Åland and South Tyrol compared

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Preface

There is by now a long tradition in the report series of the Åland Islands Peace Institute to compare different self-government solutions. Among the earlier studies we may mention the very first report on Gibraltar, Kaliningrad and Jerusalem (2007) and the more EU-oriented Constitutions, Autonomies and the EU (2008). Another recurring theme in the report series has been that of identity in autonomous regions. Reports on immigrant integration (Immigrant Integration on Åland, 2007) and attitudes towards migrants (Strangers by degrees, 2009) have been coupled with analyses of the legal frameworks of integration, minority protection and identity formation (See e.g. Översikt av lagstiftning och policy gällande integrationen av inflyttade i Finland och på Åland, 2009; Successful Examples of Minority Governance - The Cases of the Åland Islands and South Tyrol, 2011). Young researchers have been deepening our insights and understandings about the eternal processes of our relation to the surrounding society, as such processes are influenced by a number of defining factors such as legal requirements, socioeconomic circumstances, political culture and deepened globalization. The present report is a welcome addition to this long tradition of critical examination. At times when nationalism and intolerance are on the increase around the world, it is all the more important that constructive examples of minority accommodation and territorial government, such as South Tyrol and the Åland Islands, are looked at also from the perspective of the ability of such arrangements to adapt and to re-conceptualize themselves in response to changing circumstances while keeping non-violence, human dignity and empowerment as well as democratic values at the heart of such projects.

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Abstract

This paper investigates into frameworks of inclusion and exclusion of immigrants in two autonomous territories traditionally inhabited by national minorities, namely South Tyrol (I) and the Åland Islands (FIN).

The study examines two important legal areas, namely social services and right to vote, as well as rhetorical positions adopted by the provincial governing parties. Research that reveals prevalent social attitudes of members of the national minority as well as of the immigrant population towards each other is also reviewed and discussed.

The paper reveals the complexities connected with the integration of immigrants in southern and northern Europe respectively. Negotiating community membership in autonomous regions, as will be revealed, is fraught with internal contradictions that are not easily overcome.

1. Introduction

Questions such as “Who are we?” and “Who belongs to us?”¹ have been at the focus in territories traditionally inhabited by ethno-national minorities, or nations without a state, and have so far mostly been discussed in relation or in contrast to the state the minority lives in, and thus to the national culture and identities. Similarly to nation states, also territories inhabited by minorities have experienced in the last decades an influx of international migrants. Consequently, immigration alters the population of those regions and adds further linguistic, religious and cultural diversity to the historical minority populations. Thus frameworks for belonging are now discussed and negotiated also in the light of this new diversity: How do immigrants become part of the national minority community? And what are the criteria for exclusion or inclusion?

The aim of this paper is to contribute to research on changing frameworks for inclusion and exclusion by shedding light on the state of affairs in two special European regions, namely South Tyrol in Italy and the Åland Islands in Finland. As border regions, and as regions with autonomous legislative competences South Tyrol and the Åland Islands have not only a strong regional identity and a solid autonomy in common, but also a number of other factors. Both regions have experienced a significant influx of migrants in the last years, adding an additional layer of cultural, religious and linguistic diversity to populations of persons speaking a minority language. Thus the questions to be answered are whether newcomers, irrespective of whether

1 R. Bauböck, “International Migration and Liberal Democracies. The Challenge of Integration.”¹⁷ IWE - Working Paper Series, 2001.

they are internal² or international migrants³ are accepted as members of the community in South Tyrol and on Åland, and what the criteria for membership are.

On a national level, citizenship is formally the mechanism by which membership in the national community is regulated. Although both Åland and South Tyrol enjoy strong territorial autonomy, national citizenship remains the exclusive competence of the respective nation state. Instead, these territories rely on complementary areas and policies to form their communities as will be shown below.

The paper starts with an introductory contextualisation of the two regions in relation to their demographic development to show that both minority regions have experienced a significant demographic change of their populations in the last ten to twenty years. The second part of the paper analyses the access of immigrants to social services and political participation. These two policy fields have been chosen to show how the minority uses the legislative framework at its disposal to facilitate or restrict immigrants' participation in the wider minority society.

The third part of the paper moves to an analysis of attitudes and positions – at the level of

2 Internal migrants refers to persons that are moving from the same nation state to the autonomous region. In the case of the Åland Islands we mean Finnish citizens moving to Åland from other parts of Finland, while in the case of South Tyrol, by internal migrants, we mean Italian citizens moving to South Tyrol from other parts of Italy.

3 International migrants refers to persons moving to the autonomous region from another EU country than that which the autonomous region is situated in, or from another non-EU country. There is a legal difference between migrants from EU countries, who are EU citizens, and migrants from outside the EU who lack EU citizenship. In the following, the latter group will be referred to as third country nationals.

the political elite, and in particular the governing party, on the basis of electoral programs as well as thematic documents on immigration by the parties, at the level of the population, the national⁴ minority population vis-à-vis immigrants and at the immigrant population vis-à-vis the minority population.

The paper concludes with a comparison of differences and commonalities in framing exclusion and inclusion in South Tyrol and Åland, linking it to a more general discussion on the nexus between immigration and the protection of national minorities.

South Tyrol and Åland have been selected as case studies for this paper on the merits of their relative similarity. According to Markku Suksi, who has compared the entrenchment of various autonomy arrangements in Europe and beyond, South Tyrol and Åland may both be regarded as autonomies proper, relying on a definition which requires a constitutional delegation for exclusive law-making powers in certain areas to the region.⁵ Unlike other Italian special regions, the autonomy of South Tyrol is protected by a treaty-based entrenchment, in addition to a constitutional entrenchment (what Suksi refers to as general entrenchment), and the required reaction of the regional legislative assembly before amendments to the autonomy statute may take place (what Suksi calls regional entrenchment). The extensive entrenchment of the South Tyrol autonomy on multiple levels is relatively similar to that of the status of the Åland Islands, which, inter alia on the basis of the League of Nations' settlement of 1921, is entrenched internationally. Secondly, after examining 48 cases of territo-

4 For South Tyrol also the term "autochthonous" is used to refer to the traditional and long-standing population of the territory.

5 M. Suksi, "On the Entrenchment of Autonomy", in M. Suksi (ed.), *Autonomy: Applications and Implications*, Kluwer Law International, The Hague, 1998, Ch. X, pp. 151 – 171.

rial autonomies across the world, Maria Ackrén picked South Tyrol and Åland for comparison in a matched pairs study that discusses what kind of conflict solving mechanism that have been most fruitful concerning these cases. In the study, which was published as a report by the Åland Islands Peace Institute in 2011, Ackrén contrasts the historical background of each region, the characteristics of each case from the perspectives of partition, institutional design and consociationalism, as well as the structure and function of autonomy in each case. She notes that the South Tyrol case is more complex in nature than the Åland case, containing a consociational feature of institutional design to accommodate the three different language groups (German, Italian and Ladin) that have inhabited the region during most part of the 20th century.⁶

1.1 Demographic development in Åland and South Tyrol

The population density of the Åland Islands is about 18 inhabitants per square kilometre and the population of the islands is according to the latest statistical data 28.502.⁷ The large majority, 89% of the population, is Swedish-speaking. The population is thus linguistically relatively homogeneous, but language diversity nevertheless exists on the islands. Among the group of persons who report another mother tongue than Swedish, there are over 50 different languages represented. Mostly these languages only have a few or even only one native speaker living on the

islands, with the exception of Finnish-speakers, who make up 5% of the total population. The percentage of Finnish-speakers on the islands has not changed substantially during the course of the 90 year long history of the autonomy of the Åland Islands. The percentage as well as the absolute number of persons speaking other languages has, however, been increasing steadily during the last decade, while the percentage of Swedish-speakers of the whole population has decreased. The 2012 official population statistics reported that around 15% of the inhabitants of Åland had immigrated to the islands from a reported 91 different countries of origin, besides mainland Finland. While most of the international immigrants are from Sweden, around 6% of the population have immigrated from outside the Nordic countries (around 1.700 persons). The Baltic states and Romania are common EU-countries of origin, while Russia, Thailand, Iran, and the Philippines are the main countries of origin outside the EU.

South Tyrol is, in contrast to the Åland Islands, with 70 inhabitants per square kilometre and a total population of 504.643⁸ much more densely populated. Moreover, it is characterized by the presence of three distinct linguistic groups: 65.3% of the South Tyrolean population declared in the last census to be German speaking, 26.5% Italian speaking and 4.2% Ladin speaking.⁹ Different from Åland, where the population remained relatively stable in the last 90 years, the population of South Tyrol has changed significantly since the annexation of the territory by the Italian state in 1920.¹⁰ In 1910, at the last Austrian

6 M. Ackrén, *Successful Examples of Minority Governance – The Cases of the Åland Islands and South Tyrol*, Report from the Åland Islands Peace Institute, No. 1, 2011, at p. 7. See also her previous work, M. Ackrén, *Conditions for Different Autonomy Regimes in the World – A Fuzzy-Set Application*, Åbo, Åbo Akademi University Press, 2009

7 Statistics from Statistics and Research Åland, available at http://www.asub.ax/archive.con?iPage=12&art_id=1383.

8 ASTAT Nr. 1, 1/2013. 15. Volks- und Wohnungszählung 2011.

9 ASTAT Nr. 38, 6/2012. Volkszählung 2011.

10 "... the territory [...] was ceded to Italy and completed with the annexation in October 1920..." , E. Lantschner, "History of the conflict and its settlement" in J. Woelk, F. Palermo and J. Marko, *Tolerance through Law. Self-Governance and Group Rights in South Tyrol*,

census, 223.913 persons were living in South Tyrol and 89% of them were German speakers. At that time 7.339 persons or 2.9% of the population were Italian speakers, 9.429 persons (3.8%) Ladin speakers and 10.770 (4.3%) did not declare to belong to one of the three linguistic groups. Already in 1920 the Italian speaking population amounted to 10.6% (27.048 in absolute terms) and it reached its peak in 1961 with 34.3% (128.271 in absolute terms) of the population due to the active migration policy of the previous fascist government as a means to italianize the province.¹¹ Thus immigration from other Italian regions has been a very sensitive issue in the territory ever since, and the introduction of a consociational system of power-sharing is one of the results of the fear to be overwhelmed by an Italian speaking population.

However, immigration from other Italian regions is not very strong anymore, but due to the flourishing labour market and the good economic situation from 1990 onwards, immigrants especially from the former Yugoslavia, North Africa, and more recently from Latin America, settled in South Tyrol.¹² In 2012 42.522 immigrants (8.3% of the South Tyrolean population) from 136 countries have been registered in the province: one third of them are from EU countries, one third from other European countries (especially the Former Yugoslavia and Albania), 17% from Asia, 12.6% from Africa and ~4.5% from America. Apart from the autochthonous German, Italian and Ladin speakers, the largest groups residing in South Tyrol are persons from Albania (~ 5.500), from Germany (~4.500), Morocco (~3.600) and Pakistan (3.240).¹³

As shown by this overview of the population development in the two regions, both regions have experienced a significant influx of further cultural, linguistic and religious diversity stemming from immigration. Thus the minority community in both regions is faced with population shifts that spur the need to re-define identities and membership in the minority community.

Leiden, Boston, Martinus Nijhoff Publishers, 2008, p. 3-16.

11 ASTAT 2008.

12 R. Medda-Windischer and R. Girardi (eds.), *Jahresbericht über Einwanderung in Südtirol*, EURAC, Bozen 2011, 16.

13 ASTAT Nr. 71, 09/2013.

2. Legislation and policies – balancing exclusion and inclusion in the autonomous borderland

In the present section we shall examine policies concerning social welfare and the right to vote on Åland and in South Tyrol. These regions are borderlands in the geographic sense, being minority areas bordering a kin-state, but they are also autonomous borderlands in the cultural identity sense, i.e. in constant negotiation between various identities, as argued by Bogdan State.¹⁴

2.1 Åland

Access to social services

Finland is, together with the other Nordic countries, known for a comprehensive welfare model, which extends to those who are legally and permanently resident.¹⁵ The requirement of legal residence excludes immigrants that do not hold a legal residence permit, while the requirement of permanency of residence excludes foreign students and others deemed to be living in Finland only on a temporary basis. In the Finnish constitution, which also applies to the Åland Islands, the right to social security is esta-

lished in section 19.¹⁶ This constitutional provision, stipulates the right to receive indispensable subsistence and care for those who cannot obtain the means necessary for a life of dignity. It further specifies a right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as the birth of a child or the loss of a provider. The obligations that follow for public authorities from this provision encompass duties to guarantee adequate social, health and medical services, to promote the health of the population, support families, and the right of everyone to housing and the opportunity to arrange their own housing.

Residence permits for migrants to Åland are granted by the Finnish Immigration Service¹⁷ in co-operation with the Åland police authority and the Åland labour market and study service authority.¹⁸ The differences in for example legislation on social security between Åland and other parts of Finland are relatively minor. In the area of social security, several national laws have been formally incorporated by the autonomous provincial legislative assembly. On Åland, the responsibility for arranging social services is largely divided between the municipalities and the autonomous province. An exploratory study from the Åland Islands Peace Institute of immigrant integration on Åland noted that immigrants are not aware of their rights when it comes to social security,¹⁹ which was also pointed out by Granholm in her later study of the legislation and policy on immigrant

14 The concept of autonomous borderland was developed by Bogdan State and builds on Kaplan's discussion of borderlands and identity in "Territorial Identities and Geographic Scale" in G. Herb (ed.) *Nested Identities*, Rowman and Littlefield, 1999, pp. 31 – 52. See State, 2009, at pp. 29 – 30.

15 This residence requirement is based on and requires interpretation of the stipulations in a special law on the application of the legislation on residence-based social security, see *Lag om tillämpning av lagstiftningen om bosättningsbaserad social trygghet* 30.12.1993/1573, 2nd Chapter, § 3.

16 The Constitution of Finland, 731/1999.

17 See the Finnish Immigration Service homepage, www.migri.fi.

18 The legal underpinnings for this co-operation have been subject to some controversy according to Petra Granholm, pp. 53-54.

19 B. State, *Immigrant Integration on Åland – an exploratory study*, Report from the Åland Islands Peace Institute, No. 2, 2007, at p. 31.

integration in Finland and on Åland.²⁰ According to Granholm, immigrants report having felt juggled between various responsible authorities in Mariehamn, leaving them with a suspicion that not even the responsible authorities in question know exactly what rules apply to immigrants. The lack of comprehensive information about the social services they are entitled to, places immigrants, particularly those who do not speak Swedish, in a disadvantaged and vulnerable position. Since 2009, the Åland Multicultural Association, an organisation devoted to facilitate the integration of immigrants to the islands, among other actors, has called for a central information point for immigrants. Though such a central information point is still lacking, the Åland Government has during the last couple of years put some effort into trying to improve the situation. Since 2011, the government has employed a person responsible for the coordination of integration efforts in the province. One of the tasks of this co-ordinator has been to gather and publish information directed towards immigrants. A brochure specifically directed towards immigrants is now available in several different languages, which includes information about residence permits, social security, schools and language courses, among other things.²¹ Another major development is the adoption in 2012 of the long sought after provincial law on the promotion of integration, which ente-

red into force in 2013.²² While these are important steps in making information, and thus social services, more readily accessible to immigrants, continuous efforts are needed to keep the published information updated and perhaps even more importantly, to educate and update public servants on the rights of immigrants.

The flow of information between authorities on Åland and immigrants without proficient Swedish has for long been disturbed by the fact that the provincial or municipal authorities since the creation of the autonomy regime have operated under the ideal of official unilingualism. The public education system in Åland, for example, has traditionally not provided for mother tongue tuition or education in other languages than Swedish. When the Åland discrimination ombudsman²³ in 2007 issued information brochures about the agency in Swedish, Finnish and English to all households on Åland, the head of the provincial government saw a need to remind the ombudsman that public information should be published only in Swedish.²⁴ While the deve-

20 P. Granholm, Översikt av lagstiftning och policy gällande integrationen av inflyttade i Finland och på Åland, Rapport från Ålands fredsInstitut, No. 2, 2009, at p. 28.

21 This brochure has been issued in cooperation with the Adult Education Centre and as a result of an EU-financed project called Integration.ax. These are available from the website <http://www.mariehamn.ax/daghemskola/medis/integrationax/>.

22 The new law adopted by the provincial legislative assembly on the promotion of integration, Landskapslag om främjande av integration, No. 74, 2012, is available here: http://www.regeringen.ax/.composer/upload/modules/lagar/afs2012_nr74.pdf.

23 Finland has an Ombudsman for Equality, which supervises compliance with the national Act on the Equality between Women and Men and the prohibition of discrimination. Åland has its own Equality Act, which is supervised by the Åland discrimination ombudsman. See Landskapslag om förhindrande av diskriminering i landskapet Åland, ÅFS 66/2005 and Landskapslag om diskrimineringsombudsmannen ÅSF 67/2005.

24 To be fair, an action program adopted by the 2007 Åland government set out to see over the information available to adult migrants about the Åland society, and to ensure that such information would be available in Swedish and the most common other home

lopments mentioned above signal a greater acceptance of a need to use languages other than Swedish, the Swedish language remains fundamental to Ålandic identity. In the provincial government's program for promoting integration until 2015, access to the Swedish language is listed as the first area of focus.²⁵ Swedish language courses for non-Swedish speaking immigrants are today directed primarily at unemployed immigrants and arranged by the Adult Education Centre on the basis of an agreement with the Åland Government.²⁶

The right to vote

Demands for restrictions on the right to vote of new-comers on Åland have been present since the early beginning of the modern Åland regime. There are indications that Åland authorities may have been lobbying for an Ålandic regional citizenship connected to the right to acquire land on the islands and the right to vote in the provincial elections already in connection with the drafting of the first autonomy act in 1919 – 1920.²⁷ The first autonomy act adopted by the Finnish parliament nevertheless did not contain the concept of right of domicile (regional citizenship) and was also completely rejected by the leading Ålandic political elite at the time.

languages. See Granholm, 2009, p. 13.

25 Landskapsregeringens program för integrationsfrämjande 2012-2015, Antaget av Ålands landskapsregering 7.2.2013, at p. 6.

26 Granholm, 2009, at pp. 28-30.

27 That such lobbying had taken place before 30 April 1920 is indicated by the following remark in relation to a speech that Carl Björkman is said to have delivered that date, in Martin Isaksson's biography of Carl Björkman. See M. Isaksson, Carl Björkman – Ålands första lantråd, Borgå, Tryckeri och tidnings Ab, 1988, at p. 132: "Huvudanmärkningen riktades mot riksdagens negativa attityder till önskan att uppställa en egen åländsk hemortsrätt som grund för jordförvärv och rösträtt."

The dispute over Åland was then forwarded to the Council of the League of Nations, as is well known. The Council considered the introduction of "restrictions, within reasonable limits, of the exercise of the franchise by new comers" necessary to ensure the interests of the world, the future of cordial relations between Finland and Sweden, and the prosperity and happiness of the Åland Islands, when it decided on the 24th of June 1921 that Finland's sovereignty of the Åland islands should be recognized.²⁸ Finland and Sweden subsequently agreed that: "Immigrants into the Aaland archipelago who enjoy rights of citizenship in Finland shall only acquire the communal and provincial franchise in the Islands after five years of legal domicile".²⁹ This principle was incorporated into the autonomy regime through the so-called Guarantee Act in 1922 and is reflected in the contemporary legal framework, which ties both an unrestricted right to acquire land and participatory rights in provincial and municipal elections to the regional citizenship.³⁰ The development of the legislative framework surrounding the Ålandic right of domicile may be characterized partly as a response to perceived threats, and partly as a quest to create a more predictable and transparent system.³¹

28 Decision of the Council of League of Nations on the Åland Islands of 24 June 1921, published in League of Nations Official Journal in September 1921, at p. 697.

29 Minutes of the seventh meeting of the Council of the League of Nations, 27 June 1921, Official Journal, at p. 701.

30 The so-called right of domicile. Restrictions on the right to own property on the islands were, like the restrictions on the right to vote, introduced by the League of Nations decision in 1921.

31 For example, after the end of the WW II, restrictions on the right of establishment for persons without right of domicile and for juridical persons are said to have been requested by the Ålanders as a response to plans to move 5000 Finnish-speaking workers to set

Under the current framework, the Ålandic right of domicile is extended to children who possess Finnish citizenship and who are settled in the province, if the father or the mother has the right of domicile.³² On application, right of domicile shall be granted by the Government of Åland to Finnish citizens who have moved into the province, after five years of legal domicile, and have a satisfactory knowledge of Swedish.³³ If there is uncertainty about whether an applicant fulfils the language requirement, the provincial government may request documentation that supports the applicant's language abilities.³⁴ The Government of Åland may decide not to grant the right of domicile to an applicant who otherwise fulfils the aforementioned criteria, if there are substantial reasons for doing so. Likewise, the government may for special reasons decide to grant right of domicile to an applicant who has moved into the province, but who does not fulfil the five years residence requirement or the language requirement. The right of domicile

up a shipyard in Åland to produce the ships required by the Soviet Union in war damages according to G. Jansson, "Sammanfattande kommentar", in S. Spiliopoulou Åkermark (ed.), *Den åländska hembygdsrätten*, Ålands lagting & Ålands fredsinstitut, 2007, at pp. 133 – 134. The gradual modernisation of the framework surrounding the right to acquire and hold real property on the Åland islands is an example of how an urge for a more predictable and transparent system fuelled reforms.

32 Autonomy Act, 16.8.1991/1144, at para. 6:2.

33 Autonomy Act, 16.8.1991/1144, at para. 7.

34 Landskapslag (1993:2) om åländsk hembygdsrätt, 3 §. The law on the right of domicile gives a broad margin of appreciation to the Åland provincial Government to determine what level of Swedish proficiency is required, but very detailed language requirement criteria are on the other hand included in the Finnish citizenship legislation. See Medborgarskapslag 16.5.2003/359, 17 §.

is lost if one loses one's Finnish citizenship.³⁵ It is also lost if one resides permanently outside of Åland for five years.³⁶ As mentioned above, the Ålandic right of domicile was originally tied to participatory rights in both provincial and municipal elections.³⁷ With respect to provincial elections (i.e. elections for the Åland Parliament), the right of domicile is still a precondition. It follows that participation in the provincial elections is open only to persons who possess Finnish citizenship and the Ålandic right of domicile.

Participation in the municipal elections is by contrast no longer dependent upon Finnish citizenship. The opening up of the municipal elections to all residents happened quickly, and in connection with the accession of Finland and the Åland islands to the European Union (EU).³⁸ Within the framework of Nordic coo-

35 Autonomy Act, 16.8.1991/1144, at para. 8.

36 Provincial Act on the Ålandic Right of Domicile, 1993:2, at para. 4.

37 Autonomy Act, 16.8.1991/1144, at para. 9.

38 The accession of Åland to the EU was subject to a particular referendum on the islands. In the negotiations leading up to the accession agreement, authorities on Åland were concerned with guarantees for the preservation of some special features of the Åland autonomy, such as that of the right of domicile, within the framework of EU law. The results are visible in Protocol No 2 on the Åland Islands, of the Treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, of 16th of May, 1994, (94/C 241/07). The protocol guarantees that certain restrictions on the right of natural persons who do not enjoy regional citizenship in Åland, and for legal persons, to acquire and hold real property on the Åland islands would remain applicable, as would restrictions on the right of establishment and the right to provide services by natural persons who do not enjoy regional citizenship, or by legal persons.

peration, the municipal franchise in all Nordic countries had been opened up to citizens of the other Nordic states already during the 1980's. In connection with the latest reform of the autonomy act of Åland in the early 1990's, the franchise and eligibility in municipal elections was extended to Finnish citizens without right of domicile, as well as to Danish, Icelandic, Norwegian and Swedish citizens.³⁹ The above mentioned nationalities could subsequently take part in municipal elections on Åland provided that they had been legally resident in Åland for at least three years prior to the election year. Just after this, anticipating the accession of Finland and the Åland Islands to the EU, the Autonomy Act was revised again to allow participation in municipal election to be opened up also to citizens of other states than the Nordic states. In 1997 the electoral legislation was changed so that participation in municipal elections became open also to all non-Nordic citizens, subject only to the three year requirement of residence on Åland, which since 2007 has been shortened to one year. Åland (as well as Finland and Sweden) has thus extended the municipal franchise not only to other EU citizens, as required by the

These limited derogations from inter alia the freedom of movement guaranteed in the EU treaties are justified in the Åland protocol simply by reference to the special status that the Åland islands enjoy under international law, but were proposed originally among a range of other clauses by the Åland authorities. On the negotiations leading up to the Åland protocol, and the initial demands from the Åland authorities on the question, see N. Fagerlund, *Ålands folkrättsliga status och EG*, Meddelanden från Ålands Högskola, Nr. 3, 1993, at pp. 141 – 150. On the implications of the Åland Protocol on the Åland minority protection regime see A.-L. Sjölund, "Ålandsprotokollet och EG-rättens icke-diskrimineringsprincip", *Rapport från Ålands fredsinstitut*, Nr. 2 – 2008.

39 Autonomy Act, 16.8.1991/1144, at para. 67.

Council Directives on the right of EU citizens to participate in municipal elections in the country where they reside⁴⁰, but also to third country nationals.

The nature of the right of domicile, and particularly its link to Finnish citizenship, is a contested subject on Åland. In 2009, a provincial parliamentary committee with representatives of all the political parties on Åland recommended that the right to domicile should be freed from the requirement of Finnish citizenship.⁴¹ Since then, another provincial parliamentary committee has advanced proposals for a reformation of the current autonomy act and system.⁴² While it does not mention the desire to unlink the right of domicile from Finnish citizenship explicitly, it proposes a more flexible autonomy act, which would allow the Åland parliament to take over competences from the state on its own initiative. Arguably, such a framework would make possible the changes to the right to domicile proposed previously. The latter initiative in turn led the Finnish Ministry of Justice to appoint a preparatory working group to map the working of

40 Council Directive 94/80/EC of 19 December 1994. The aforementioned Directive was amended by Directive 96/30 pursuant to the accession of Austria, Finland and Sweden, in which the Council in the preamble explicitly stated the applicability of Directive 94/80/EC to the Åland Islands, "where Finnish nationals who do not enjoy regional citizenship of those islands and nationals of the other Member States of the Union are subject to the same condition relating to the period of residence for the exercise of the right to vote and to stand as candidates in municipal elections".

41 Betänkande från den parlamentariska kommittén för hembygdsrätt, jordförvärv och näringsrätt, *Åländsk utredningsserie* 2009:4.

42 Betänkande från parlamentariska kommittén om förslag till reformering av självstyrelsesystemet och självstyrelselagen, *Åländsk utredningsserie*, 2010:2.

the Åland autonomy and possible needs for developing the autonomy act.⁴³ The goal for the initiated reform of the autonomy act that is underway is to have a new autonomy act by 2022, at the 100-year anniversary of the Åland autonomy. It thus remains to be seen what the next decade will bring, in terms of the development of the Ålandic right of domicile and of the Åland autonomy as a whole.

Conclusion for Åland

Residence and Swedish language proficiency form the two most important criteria for basic community membership on Åland, while the right of domicile and Finnish citizenship are required for attaining full political participatory rights.

2.2 South Tyrol

Access to social services

Although the South Tyrolean welfare system is not equally known for its generosity as the Nordic welfare systems, within Italy it is one of the most advanced: The Autonomy Statute grants South Tyrol primary legislative competences in public assistance and welfare⁴⁴ as well as social housing.⁴⁵ Based on those primary legislative competences the welfare system, and in particular access and content of social services have been modified and adapted to the national, but in particular to the European framework several times, and currently a dense and complex network of provincial laws and regulations is in place. Additionally, the Italian constitutional reform of 2001 transposed the full responsibility of

the complete social policy to all Italian regions, and South Tyrol as an autonomous province is, due to the special autonomous status, equal to a region. That means that since 2001 South Tyrol received, through this constitutional reform, also the full competence on each aspect of immigrant integration, leaving to the Italian state only the competences in the field of immigration (access to the country, asylum, citizenship).

While immigrants are regularly accused by the main opposition party Die Freiheitlichen (a right wing party mainly of the German language group) of coming to South Tyrol only to abuse the South Tyrolean welfare system, in fact, as we shall see below, access to social services is highly restricted. Access to the welfare system in general depends on the type of residence permit, which is granted by the Italian state to the immigrant, and in particular on the length of residence in South Tyrol. Each person, irrespective of the country of origin (and thus also Italian citizens) who can prove to have been permanently residing⁴⁶ in South Tyrol for the last 6 months is eligible for a guaranteed minimum income. Nevertheless, the guaranteed minimum income can be requested for a full year only by Italian citizens, EU citizens and those migrants with a

43 The working group has just recently released its report, see Ålands självstyrelse i utveckling, Justitieministeriets Publikation 4/2013, Betänkanden och utlåtanden, 24.01.2013.

44 Autonomy Statute DRP Nr. 670, 31.08.1972, Art. 8, Nr. 25.

45 Autonomy Statute, Art. 8, Nr. 10.

46 A difference is made between legal residence and permanent residence. Legal residence means the primary domicile registered in the municipality, whereas permanent residence means that a person has been physically permanent in the region. This is usually proven by the job the person has. However, permanent residence is very difficult to prove for third country nationals, and in particular if they are either not working on a regular basis, or for persons not working at all, such as women that came to South Tyrol through family reunion. Permanent residence is nearly impossible to prove for homeless persons. Those persons having difficulty to prove permanent residence thus often try to prove it by frequenting a library or a canteen or a religious institution on a daily basis.

long term residence permit (Permesso di soggiorno CE per per soggiornanti di lungo periodo) – a type of residence permit that is granted only after five years of legal residence in Italy. Immigrants with a simple residence permit (permesso di soggiorno - per motivi di lavoro) additionally to the permanent residence need also to have a legal residence and can request the minimum income in South Tyrol only for two months a year. Thus the guaranteed minimum income is not easily accessible, and in particular for persons who are third country nationals it is connected to a number of statutory requirements, as shown above. Thus, it is hardly a sustainable argument that immigration to South Tyrol takes place for the sake of a guaranteed minimum income.

Access to other benefits from the social welfare system, such as social housing, is even more restricted: The “Law for the integration of foreign citizens” (Provincial Law no. 12, 28.12.2011) determines that third country nationals are granted access to social housing only if they have been legally residing in South Tyrol for the last five years without interruption. Several aspects of this law, and also this restriction of a residence of five years have been declared at the beginning of 2013 to contradict the Charter of Fundamental Rights of the European Union and Art. 3 of the Italian Constitution (equality principle).⁴⁷ It

47 Constitutional Court, Decision Nr. 2/2013, 14 .01.2013. For a more detailed discussion see: Alessandro Pallaoro and Micaela Colletti, “Nuove’ minoranze in Alto Adige/Südtirol: impatto sugli strumenti a tutela delle ‘vecchie’ minoranze” in Roberta Medda-Windscher and Andrea Carlà (eds), *Migrationspolitik und Territoriale Autonomie*, EURAC, Bozen 2013, pp. 115 – 159; and Roberta Medda-Windischer, *Migration and old minorities in South Tyrol: Beyond a ‘NIMBY’ approach?*, in Roberta Medda-Windischer and Andrea Carlà, *Migration in Autonomous Territories. The case of South Tyrol and Catalonia*, Brill, 2014.

is now again in the hands of the provincial government to change the “Law for the integration of foreign citizens”, but since this restriction of five years residence is also part of a number of other laws, such as the one on social housing, a large amount of laws would need to be changed. Since the term of the government has terminated in autumn 2013,⁴⁸ the re-assessment of such criteria has been postponed to the new legislative term.

Social housing is additionally regulated according to the principle of proportional representation of the autochthonous linguistic groups, thus 65% of the annual quota is reserved for the German language group, 25% to the Italian and 5% to the Ladin.⁴⁹ In 2008 an amendment has been introduced (through the Provincial Law No. 9/2008) adjusting the distribution of the amount for social housing to the proportional representation: Third country nationals are not, as it was until 2008, evaluated only in accordance to their needs, but a fourth category has been introduced respecting also the proportion of the immigrant population within the South Tyrolean society, thus adding the “immigrant quota” to the quota for the German, Italian and Ladin language group. This has led to the rejection of a number of requests of persons who were assisted because the share of the allocated quota was finished and consequently to a number of complaints against the Institute for social housing. In particular the case *Kamberaj vs. IPES* (Istituto per l’edilizia sociale dell’Alto Adige - Institute for Social Housing) got increasing attention because it reached the European Court of Justice (case C-571/10), which, however, did not find a direct violation of the Long term residents directive⁵⁰ granting

48 Following the elections on 27 October 2013, a new government took up its work in January 2014.

49 Autonomy Statute, Art. 15.

50 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country

equal treatment to persons with a permanent residence permit, but referred in their opinion to the possibility of the nation states, thus Italy and not South Tyrol, to introduce core benefits, for which exemptions of equal treatment can be introduced and justified. Thus it is now again the court in Bozen/Bolzano that needs to define, if social housing falls under the core competences of social welfare in Italy or not.

Although the case did so far not have a significant legal consequence, it raised a lot of interest in South Tyrol in particular due to the campaign led by Die Freiheitlichen, claiming that immigrants get much more of the amount reserved for social housing than the German, Italian and Ladin speaking population. According to the available statistical information, in 2012 21% of the amount allocated for social housing was given to members of the Italian linguistic group, 40% to members of the German linguistic group and 0.99% to members of the Ladin group. Another 3% was given to EU-nationals and 34% of the social housing subsidy was provided to third country nationals. As the Institute for social housing has explained, this is so because the requests and needs were much higher among third country nationals due to lower income, bigger families, and in particular due to the fact that a large share of the autochthonous/traditional population owns houses and is not in need of renting at all.⁵¹

The right to vote

The right to vote at the provincial level is regulated through the Autonomy Statute, and thus the regulation differs from other regions. In order to be able to participate in the provincial elections in South Tyrol, and thus to vote for the provin-

nationals who are long-term residents.

51 Koordinierungsstelle für Einwanderung, Abtl. 19 Arbeit, Autonome Provinz Bozen – Südtirol, Einwanderung und Integration in Südtirol, 2013, p. 46.

cial assembly, a residence of four years without interruption in the region Trentino-South Tyrol (with a majority of time in South Tyrol) has been introduced by the Autonomy Statute⁵² as a criterion to register in the electoral lists. This requirement has been declared by the Council of Europe (CoE) as proportional and reasonable because it was “intended to ensure a thorough understanding of the regional context so that the citizens’ vote could take into account the concern for the protection of linguistic minorities”.⁵³

However, this regulation applies only to Italian citizens and EU citizens. Third country nationals are excluded from the right to vote at provincial level. EU citizens are, however, as everywhere in Europe, able to vote at the municipal level. However, based on the Autonomy Statute, also for the municipal level a residence of four years is required for Italian citizens moving to South Tyrol from other Italian regions and thus also for EU citizens⁵⁴. Third country nationals, on the contrary, are excluded also by the national legislation from all levels of political participation: the national, the provincial and the municipal. In this respect South Tyrol is equal to all other Italian regions and provinces.

In order to overcome this barrier of political participation for third country nationals, the cities of Bolzano and Merano have introduced a “Consulta degli immigrati” (advisory body of immigrants) which is composed of those elected representatives of Non-EU immigrants and stateless people residing in the city. However, this organ has only consultative functions at the mu-

52 Autonomy Statute, Art. 25.4.

53 Opinion n.617/2011 of 1. 12 2011 della Commissione Europea per la Democrazia attraverso il Diritto, organo consultivo del Consiglio d’Europa che richiama la precedente decisione del 15 settembre 1997 della Commissione Europea dei diritti umani del Consiglio d’Europa nel caso Polacco and Garofalo v. Italy, n. 23450/94

54 Autonomy Statute, Art. 63.

nicipal level and is thus considered by the immigrants themselves as very weak.⁵⁵ This has resulted in a low voter turnout at the last elections for the “consulta” in 2012.

Recently the “Law on the integration of foreign people” (nr. 12, 28.10.2011) introduced a provincial advisory body on issues of immigration and integration, which is composed of immigrants from EU countries as well as third country nationals as well as members of the German and Italian language group. This organ is consultative to the provincial government on all issues regarding integration and immigration, but the members are first of all not elected but appointed by the “Coordination service on immigration” and secondly, the opinions of this advisory body are not binding for the provincial government, although the government could have given the body a stronger weight through the “Law on the integration of foreign people”. Thus, also this body is no real alternative to or compensation for the restriction on the right to vote for EU citizens and third country nationals.

Conclusion for South Tyrol

The criterion of residence, similar to the situation on Åland, is the most important criterion implemented and used in South Tyrol when restricting access to the welfare system, but also to the right to vote at provincial level. Although this criterion has been declared unconstitutional in relation to the welfare system, the political elite has so far not removed this barrier, and it needs to be seen how the next provincial government will approach this issue. So far in particular the opposition party Die Freiheitlichen actively campaigns for a restriction of the access to social services.

55 P. Attanasio, G. Pallaver: “Integrarsi partecipando: le consulte stranieri di Bolzano e Merano”, *Politika – Jahrbuch der Südtiroler Gesellschaft für Politikwissenschaften* 2011, p. 241- 270.

While competences in the Italian language are required for the extension of the residence permit of immigrants to South Tyrol, as a part of the so called integration contract⁵⁶, immigrants are not legally required to obtain knowledge of the German language. Although the social welfare system, but also the distribution of posts in the public administration is organized along the lines of proportional representation of the autochthonous language groups (German, Italian, Ladin), and thus connected to the individual declaration of belonging to one of the three language groups, third country nationals are not required to declare themselves belonging to one of the groups. Nevertheless, the language competences of immigrants are indeed one of the most important aspects in the integration discourse in South Tyrol, as will be shown below.

56 The integration contract has been introduced by the so called security package, law Nr. 94/09 and implemented by the legislative decree Nr. 179/14.09.2011. The integration contract is the basis for the granting of a residence permit and demands from migrants to collect 30 points in two years. Points are given for the knowledge of the Italian language, and for knowledge of the Italian culture, history and society, and in particular on Italian institutions. Thus the integration contract can be compared to integration tests that exist in other countries such as Germany or UK.

3. Societal attitudes in South Tyrol and Åland compared

3.1. *The position of the governing parties*

Åland

The Åland social democrat party is since the last elections in 2011 heading a coalition government, which includes representatives from three other parties: Centern, Obunden Samling and Moderaterna. Centern primarily finds its voters in the rural areas, while Obunden Samling and Moderaterna are parties that attract middle-class voters. The similarity between Obunden Samling and Moderaterna is in fact such that the parties are currently negotiating a possible merger of the two into one.⁵⁷

In its program for economic development until 2020, the social democrat party notes the following about the multicultural strength of the Åland society: "A continuous immigration is a prerequisite for the functioning and development of the Ålandic labour market. Åland is today a multicultural society. Multiculturalism is a richness and a strength. The immigrants shall receive directed measures to firmly establish themselves and find their ways on the labour market. Language courses shall be offered in adequate scale. New Ålanders shall be included in the Ålandic society on the same grounds as those already resident and be given the same social, democratic and union-based (in accordance with collective agreements and labour rights) rights as Ålanders otherwise. Their initiatives to new enterprises shall be encouraged."⁵⁸ The label "new Ålanders" signals the willingness

of the social democrat party to include immigrants in the definition of the community, and it has been used also by other political parties and by the previous government. Referring to "new Ålanders" is still common, although Granholm has noted that the use of this label can have assimilationist connotations, and that integration measures should not be aimed at creating "new Ålanders" when many immigrants do not identify as Ålanders and are not aiming to become Finnish citizens.⁵⁹

In its election programme for the 2011 elections, Centern presented itself as a guardian of the protection of the Åland nationality and as a guarantor for the Swedish language.⁶⁰ Labour shortage was a recurring theme in the programme. In a short section on integration, the party declared its desire to make it easier for companies to recruit skilled labour from outside of Åland and to simplify the opportunities for immigrants to access education and Swedish language tuition. The importance of access to education and Swedish language tuition for immigrants' adaptation into the community for the prevention of "cultural clashes" (direct translation by the author) was mentioned as a motivation.

Obunden Samling connected the issue of integration with that of the autonomy and of democracy in its electoral manifesto, which stated the need for a new integration law, and for discussions about integration as a means towards preventing segregation.⁶¹ Obunden Samling also declared that the party was working to ensure that the autonomous government would finance Swedish language tuition for all immigrants and that the requirement

57 In fact, a partial merger took place after the time of writing.

58 Direct translation by the author from the Swedish original, "Rättvisa ideal kräver starka finanser", Program för ekonomisk utveckling för Åland 2010-2020, antaget på Ålands socialdemokraters kongress 23.10.2010.

59 See Granholm, 2009, at p. 14.

60 Åländsk centers valprogram 2011, available at: http://www.centern.ax/valet2011/valprogram#2_nationalitetsskyddet.

61 Obunden samlings valprogram 2011, s. 2-3, available at <http://np.netpublicator.com/netpublication/n10148243>.

of Finnish citizenship for the right of domicile should be scrapped. Also Moderaterna proclaimed themselves to be actively working to see to that the right of domicile would be disconnected from Finnish citizenship and that every immigrant would be given a good opportunity to language learning and education.⁶²

South Tyrol

The South Tyrolean People's Party (Südtiroler Volkspartei, SVP) rules the region since its foundation on the 8th of May 1945. Although the party has always been able to secure the absolute majority⁶³ and can thus be called, according to Sartori, a hegemonic or even predominant party, it has, due to the ethnic quota system which requires governmental representation of all autochthonous linguistic groups, never ruled the territory by itself.⁶⁴ The party defines itself as a catch-all-party for the German and Ladin minority,⁶⁵ who do neither belong to the right nor the left political spectrum. Nevertheless, the party can be characterised as catholic-conservative.⁶⁶ Although the party includes in its statement of basic principles of 1993 the aim to

“protect the rights of the autochthonous population [in their meaning the German and Ladin speakers] and to protect our Land and its people from overalienation⁶⁷ due to increased and uncontrolled migration” it never actively engaged in an anti-immigration discourse.

Having at its core the enforcement of the rights of the German and Ladin population in South Tyrol, the relations to other groups, but in particular the Italian population living within South Tyrol and the Italian state, has always been central topics of the party. In its statement of basic principles of 1993 a first reference to immigration is made: the party lays down its aim to “protect the rights of the autochthonous population [in their meaning the German and Ladin speakers] and to protect our Land and its people from overalienation due to artificially supported and uncontrolled migration”.⁶⁸ In 1993 the party did not specify what is meant by migration to South Tyrol, but the topic is referred to under the heading of “the relation to Italy and between the linguistic groups”. Thus it remains unclear whether immigration at that time referred to internal immigrants from other Italian regions, or to international immigration. An interpretation towards internal migrants could be sustained by the previous experiences of active migration policy by the Italian state to dilute the German population, but also by the fact that in 1993 immigration to South Tyrol had not even reached 2% of the overall population, and international immigrants came mainly from Germany and Austria, and were thus closer to the language and culture of the German speakers. Additionally, the party declared to be “against racial hatred” and called on the youth to stand up against “this newly emerging racism and hatred

62 Moderaternas valprogram 2011, available at http://www.moderaterna.ax/files/valprogram_2011.pdf.

63 Until 2008 the party had the absolute majority in terms of votes and seats in the provincial assembly; after 2008 only in terms of seats. The party lost the majority in terms of votes and seats in 2013, occupying from that moment onwards 17 out of 35 seats in the provincial government.

64 G. Sartori, *Parties & Party Systems. A framework for analysis*. Cambridge, 1976.

65 SVP Grundsatzprogramm 1993, available at <http://www.svp.eu/de/partei/grundsatzprogramm/>

66 A. Holzer, B. Schwegler, “The Südtiroler Volkspartei: a hegemonic ethnoregionalist party”. In L. de Winter and H. Türsan (eds.), *Regionalist parties in Western Europe*, London/New York: Routledge, 1998.

67 “Überfremdung” is the original term used in the SVP Grundsatzprogramm 1993, translation by Verena Wisthaler.

68 SVP Grundsatzprogramm 1993, p. 22

against foreigners”.⁶⁹ Irrespective of these rather contradictory positions on “overalienation” and against racism, throughout the 1990s the party did neither become active against immigration nor against racism.

Immigration was taken up by the SVP again in the election manifesto of 2003 under the heading of “demographic change”.⁷⁰ It is listed as one of many factors that challenge the provincial welfare system. Immigration is not perceived as a reason for “overalienation” anymore, and although the SVP retains the link to the German and Ladin population, the presence of three linguistic groups is proposed as an added value “to promote mutual understanding and open-mindedness towards other cultures”⁷¹. Moreover, the party claims that “Heimat and tradition create identity which is the basis for openness, open-mindedness, self-confidence and mutual understanding that are needed to encounter fellow citizens from other cultures”.⁷² Compared to the basic principles from 1993 the SVP has moved towards a more open and welcoming approach. Although the aims at “maintaining our identity and developing our South Tyrolean model in times of deep social changes and internationalisation of our lives”⁷³ it claims that South Tyrol would become increasingly attractive to immigrants in particular due to its “relatively high prosperity and high political stability”.⁷⁴ Thus the SVP proposes to tackle immigration not only from the point of view of the economy, but to develop a global approach including also cultural and social aspects. In slight contrast to the open and positive rhetoric, the party demands to get the competences to control immi-

gration from the Italian state and to strengthen the South Tyrolean identity and to focus on language as the main motor for integration. The party remains silent, though, if German or Italian, or rather both languages are meant.

While the SVP party until 2003 has been rather inactive (at least in comparison to the Freiheitlichen, the largest opposition party), the SVP approach could be characterised as fairly moderate and open. However, between 2003 and 2008 a section of the SVP radicalized and became active in particular in relation to restricting immigration and against Muslim immigration. Although the document “Integration in South Tyrol. General remarks and ten guidelines”,⁷⁵ which was presented in 2007 by four leading representatives of the party and members of the provincial parliament, has never been adopted as official party position, its impact on the election manifesto of 2008 cannot be neglected. The document aims in particular at restricting immigration “to European countries with an occidental culture”⁷⁶ and at introducing five years of residence in the province as a means to restrict access to the welfare system for third country nationals. The document introduces integration into the discourse of the party, which had previously not engaged with policies to deal with immigrants once settled down in the province. The ten guidelines for integration, besides restricting the influx and access to the welfare system, proposed language and education as the most important aspect of integration and presented Islam as a barrier for successful integration.

This restrictive approach can also be found in the election manifesto of 2008. Immigration

69 Ibid, p. 22.

70 SVP election manifesto, 2003, document on file with the author.

71 Ibid.

72 Ibid.

73 Ibid.

74 Ibid.

75 F. Pahl, M. Ladurner, s. Lamprecht, H. Munter, Immigration und Integration in Südtirol. Allgemeine Bemerkungen. 10 Integrationsgrundsätze. Bozen, 2007, document on file with the author.

76 Ibid, p. 12.

is listed under the topic of prosperity, although the party reminds its electorate first of all of the “Christian-social and democratic orientation of the society” which forms the basis for an “equal and dignified” treatment of all persons.⁷⁷ Thus the party further comes back to the notion of intolerance and racism introduced to some extent already in 1993, and which is used, according to the SVP party itself, by other right-wing movements in order to catch votes. In this respect, the party has pointed to the successful election campaign of the Freiheitlichen for the 2003 provincial elections, which caused a loss of votes within the SVP. After the recollection of this basic principles, which presents the party as welcoming towards immigration, the spirit of the election manifesto shifts and the restrictions for immigration are introduced: the party demands to restrict immigration to only those persons that are needed on the labour market. Furthermore, the party proposes to attract more EU citizens who are “closer to our culture, language and traditions”.⁷⁸ Access to social services and social housing should, as proposed in 2007, be linked to the duty to be legally residing and working for at least five years in South Tyrol. Also family re-union should be further restricted and linked to the requirement of a stable job, higher income and an appropriate apartment. The part on immigration within the election manifesto ends again with a general principle, namely the requirement of immigrants to respect the law and institutions and to integrate in the society. Thus the 2008 election manifesto does not show the open and positive approach towards immigration that inspired the 2003 manifesto anymore, but tries on the one hand to present the party in contrast to the much more radical Die Freiheitlichen, but on the other hand, to win back part of its electorate lost to the opposition party in 2003 by harsher tones on immigration.

77 Ibid.

78 SVP, *Mit Euch für Südtirol, Wahlprogramm 2008*, p. 15, document on file with the author.

However, one needs to see these changes within the SVP also in the context of how first of all immigration changed from being a marginal phenomenon in the 90s to a substantial part of the South Tyrolean population in 2008 and secondly, also in light of the substantial development of the European and national legislative framework in the years between 2000 and 2008. Also within South Tyrol changes in the legislative framework where required, and since 2001 each Italian province was supposed to adopt a law on the integration of immigrants. In South Tyrol already in 2003 the coalition partner of the SVP proposed to work on this law, and several attempts were made to present a proposal, but only in 2011 the “Law on the integration of foreign citizens” was finally adopted. Additionally, party competition was an important factor that led the SVP to adapt a more restrictive approach after 2003.

However, since 2008 and in particular during the elaboration of the “Law on the integration of foreign citizens” the party slightly moved away from such a restrictive approach again and presented in 2010 for the first time officially their (common) position on immigration, which they call “Fordern und Fördern” (to demand and to facilitate). The SVP still calls for a control of immigration in accordance with the needs and capacities of the local economy, but focuses also on the integration of immigrants. The party no longer demands integration into the general society, but in particular into the German and Ladin group. The party officially expresses for the first time the necessity not only to learn one language, whereas most immigrants are more comfortable with speaking Italian than German,⁷⁹ but to have competences in both languages. The

79 R. Medda-Windischer et. Al, *Standbild und Integrationsaussichten der ausländischen Bevölkerung Südtirols. Gesellschaftsleben, Sprache, Religion und Werterhaltung*. Bozen-Bolzano, 2011, pp. 71 – 81.

bilingual setting and the importance of the German language are since then accentuated and the party started to lobby for a greater recognition of this regional particularity also on a state level, e.g. German language competence as a criterion for additional points in the integration contract.

The current approach of the SVP could be classified as instrumentalist in the sense that the party has recognized the need of immigration for the wellbeing of the society, but the party has also recognized the possibility that immigrants might integrate in the Italian language group. This would increase the Italian group numerically and consequently shift the sensitive balance of powers between the groups. Hence the party got active in the promotion of the German language groups also for immigrants. Furthermore the party has recognized the necessity to engage with immigration not only at the level of rhetoric, but to propose concrete measures for the integration of newcomers.

In contrast to the SVP, the Freiheitlichen still insist on their anti-immigrant rhetoric and are successful with that since their foundation. Die Freiheitlichen were founded in 1992 as an opposition party to the SVP demanding the secession and establishment of an independent state. The party immediately, at the elections in 1993, entered the provincial assembly with 2 seats (6.06% of the votes). Die Freiheitlichen is now the second strongest ethno-regionalist party, and the largest opposition party occupying 5 seats in the provincial assembly and truly competing with the SVP for the German voters. The party can be situated right of the SVP and claims to stand in the tradition of the Austrian Freedom Party (FPÖ) of Jörg Haider, who has often been present during meetings and events organized by Die Freiheitlichen.

The party included immigration in a much more radical way than the SVP already in its first election manifesto in 1993, and since then the topic has become one of the main issues the par-

ty engages with focusing on portraying immigration as a threat to the welfare system and the autochthonous population. The close connection to Haider can be recognized in particular in relation to how immigration is presented: Haider organized in 1993 a referendum called “Österreich zuerst” (Austria first), where he demanded radical restrictions of immigration to Austria, restrictions in the access in particular to social services, the labour market and education. “Südtirol zuerst” (South Tyrol first) has been introduced by the Freiheitlichen as the main proposition of their politics, which is characterized particularly by the opposition to the SVP, who is portrayed as a party detached from the population, and by the opposition to immigration, which is presented as a threat to the South Tyrolean welfare system and population.

Immigration was one of the central topics in the election manifestos of 1998, 2003 and 2008, presented under the heading “Security – Right to Heimat”. Linking immigration to the concept of security already signals the direction of the approach the party takes. Linking it furthermore to a right to its own land and culture underlines the potential of immigration as a threat to this right. The arguments and demands presented by the party remain not only in substance, but in large parts also in specific wordings the same between 1998 to 2008. It has been demanded that the control of immigration needs to be in the hands of the South Tyrolean population in order to restrict the influx of new persons, who need to have a job and an adequate apartment; restriction of family re-union; the access to the social welfare system needs to be restricted through a requirement of five years legal residence. In 2008 the slogan “Südtirol zuerst” shifted and the election campaign was entitled “Einheimische zuerst” (Locals first) in order to further highlight the prevalence of the South Tyrolean population vis-à-vis immigrants.

The party actively campaigns against immigrants not only in election campaigns but regu-

larly issues press releases on the topic and placing request to the South Tyrolean provincial parliament so that the party is constantly present in the media on this topic. However, the party has never presented any proposal during the drafting of the Law on the integration of foreign citizens. Furthermore, Die Freiheitlichen focus on demanding more restrictions, but have never presented any guidelines for an active integration policy. Thus the party is mainly active on the level of rhetoric, but not on the level of practice. However, in particular at the elections of 2003 the party doubled their share of votes from 2.5% in 1998 to 5% in 2003 and it increased significantly in 2008 gaining 14.3%. Thus the contagion effect⁸⁰ of this party is since 2003 significant pushing other competing parties to adopt more radical positions on this issues, as could be seen with the SVP between 2003 and 2008.

Although Die Freiheitlichen never explicitly campaigns for a prevalence of the German group over the Italian language group, the only language the party communicates in is German and the party is strongest in the rural area, which is predominantly inhabited by German speakers. Thus, the approach of the Freiheitlichen of “Locals first” could also be interpreted as “German speakers first”.

To summarize, for none of the two major parties in South Tyrol is immigration an added value for the region. Immigration is rather understood as challenging the linguistic and cultural diversity traditionally present in South Tyrol. Against this background, the Freiheitlichen aim at restricting immigration as well as restricting the access of immigrants to the welfare system. The SVP recognizes the necessity to find policies to integrate immigrants best in the South

Tyrolean society and in the two language groups, whereas it emphasizes the need to attract immigrants also to the German language group.

3.2 Attitudes of the minority population towards immigration and immigrants

Åland

The societal attitudes towards immigrants in the Åland Islands have been the subject of at least one fairly recent scientific investigation. In 2008 a guest researcher at the Åland Islands Peace Institute, sociologist Bogdan State, – constructed a large-scale community survey investigating the identities, values and attitudes towards immigrants of the entire Ålandic population. Questionnaires were sent to a stratified sample of one thousand persons residing on Åland, out of whom 34.4 % returned the survey. The results of the survey were analyzed and published in 2009.⁸¹ The study testified to the existence of an extremely strong regional identity present on Åland among the respondents to the survey.⁸² Almost 60 % of the respondents reported they felt “completely” Ålandic, and just under 90 % reported at least some degree of Ålandic identification, when asked to what extent they identified with being Ålandic. The respondents reported much lower rates of identification with the denominations Finlandic, Swedish, Swedish-Finnish and European, though the degree of identification with these various denominations varied somewhat, largely dividing the respondents into five different groups: Ålandic/Finlandic, Åland Localists, Swedes, Finns and overall high-raters.⁸³ The survey respondents were also asked to rate how important being

80 J. van Spanje, “Contagious Parties: Anti-Immigration Parties and Their Impact on Other Parties’ Immigration Stances in Contemporary Western Europe.” *Party Politics*, 2010.

81 B. State, *Strangers by Degrees: Attitudes toward Migrants in the Åland Islands*, Report from the Åland Islands Peace Institute, No. 3, 2009

82 *Ibid.*, at p. 20

83 *Ibid.*, at pp. 20-23, and tables 3.2 and 3.3.

born on Åland, having Ålandic origin, speaking good Swedish, being a native speaker of Swedish, being born in the Nordic region, or being white was for someone to be called an Ålander.⁸⁴ Of these criteria “speaking good Swedish” received the highest ratings followed by “being born on Åland”. State analyzed the results as follows:

“...the survey findings suggest that immigrants would have to develop both a strong territorial connection with the Åland Islands, and become proficient in Swedish, before they could be considered Ålandic. As the scores of items stressing attributes acquired by birth suggest, such barriers may not fully break down until the second or even the third generation, potentially slowing down by decades the process of full integration.”

While the respondents attached the least importance to “being white”, it nevertheless got such a significant magnitude as to prompt State to say that it remains an open question if non-Nordic immigrants could ever become “full” Ålanders, recognized as such by the population. The survey further asked respondents to report their level of agreement with various statements reflecting stereotypes, racial and xenophobic beliefs, demands placed on immigrants and views of local competition with immigrants.⁸⁵ Here, most respondents reported strong agreement with the statement “immigrants have to adjust to the society to which they come” as well as the statement “it is important to put demands on immigrants”.⁸⁶ After comparing the results of the survey to those of earlier studies conducted in the Finnish and the Swedish mainland, State concluded that the Åland Islands may be placed in-between the Finnish and the Swedish mainland also in terms of the levels of racism and xenophobia present in the population.⁸⁷

84 Ibid., at pp. 30-31 and table 3.4.

85 Ibid, 2009, at p. 42 – 45, and table 5.1.

86 Ibid., at p. 45.

87 Ibid., at pp. 45 – 47

South Tyrol

There are no systematic studies and in particular no particular data available to research how immigration, and the various aspects of it, is perceived by the South Tyrolean population. Opinion polls asking for the main problems South Tyrol faces, regularly list immigration and immigration from non-EU countries on the top of the list.⁸⁸ These data are, however, not particularly significant, since the questionnaire remains on a very general and superficial level and does not give any indication of what is meant by immigration.

More interesting data can be found in the recent study on “Immigration in South Tyrol”⁸⁹, which analysed the living conditions and perception of South Tyrol of the foreign population, but also the perception of immigration by the autochthonous population. This study reveals that 40% of the autochthonous South Tyroleans have personal contact to immigrants, whereas most of the contact takes place in the working environment. The study reveals also, how integration is seen by the autochthonous population: the most important indicators are thus being treated as equal by the local population, having adapted oneself to the having adapted to the local social norms and being able to communicate either in German, Italian or Ladin. Immigrants from Switzerland and other EU countries are those that are most welcome, whereas people from Albania and members of a Roma or Sinti community are those that are characterized as the least “likeable”.⁹⁰ Further, the study asked what are the biggest difficulties faced by immigrants, and lacking language competences is seen not only by the autochthonous population as the biggest obstacle, but also by the immigrants themselves.

88 e.g. ASTAT, Nr. 32, 2008, p. 1.

89 ASTAT, Nr. 183, 2011, “Immigration in Südtirol. Lebensumstände und Sichtweisen der in- und ausländischen Bevölkerung”.

90 The original word used is “sympathisch” which could be translated with “likeable”.

3.3 Attitudes of immigrants towards the national minority and perceived discrimination

Åland

Two studies have been carried out by the official statistics authority of Åland, commissioned by Åland's discrimination ombudsman, that map the experiences of discrimination and awareness of legal protection against discrimination amongst the Åland population. The first study, conducted in 2007, is primarily based on questionnaires that were sent to around 2000 persons, and received 884 responses.⁹¹ In the sample, persons with a non-Nordic mother tongue were over-represented and the questionnaire was offered also in English.⁹² Members of an Ålandic LGBT rights association were sent questionnaires in a special circular.⁹³ The questionnaire study was complemented with semi-structured interviews with 21 of the respondents.⁹⁴ Unsurprisingly, one of the conclusions from the study was that experiences of discrimination on the basis of origin, language, name or appearance were most common among persons with non-Nordic mother tongue, of whom over 50 % reported having experienced such discrimination.⁹⁵ This conclusion was confirmed in 2010 in the second study, which used basically the same questions, but covered a somewhat smaller sample.⁹⁶ The percentage of persons with non-Nordic mother tongue that reported having experienced discrimination in 2010 had, howe-

91 "Olika behandling i lika situation" Om diskriminering i det åländska samhället, Rapport 2007:7, ÅSUB, <http://www.asub.ax/files/Rap20077Do.pdf>.

92 Ibid., at p. 16.

93 Ibid., at p. 16.

94 Ibid., at p. 17.

95 Ibid., at p. 66.

96 Upplevd diskriminering i det åländska samhället år 2010, Rapport 2010:8, ÅSUB, http://www.regeringen.ax/.composer/upload//do/rapport_2010_8.pdf.

ver, decreased to 49%.⁹⁷ Overall, experiences of discrimination on the basis of gender stood out as the most common among all the respondents both in 2007 and 2010, and it was mostly women reporting such experiences in both studies. The awareness of the respondents of the definition of discrimination and of various venues of redress, such as the discrimination ombudsman, were shown in both studies to be lower among those persons reporting having experienced discrimination, and in particular, among persons with non-Nordic mother tongues.⁹⁸

South Tyrol

Several studies⁹⁹ reveal that 83.4%¹⁰⁰ of immigrants are comfortable living in South Tyrol, whereas in particular the silence, security and peace as well as the nature are important elements for that well-being.¹⁰¹ However, the personal well-being is high in the areas of family life and health, but less so in areas such as economic situation and labour, and also in relation to housing the degree of satisfaction is rather low. Although only 15.8% of the immigrants report that they have been directly discriminated by the lo-

97 Ibid., at p. 76.

98 Upplevd diskriminering i det åländska samhället år 2010, Rapport 2010:8, ÅSUB, http://www.regeringen.ax/.composer/upload//do/rapport_2010_8.pdf, at p. 10, and "Olika behandling i lika situation" Om diskriminering i det åländska samhället, Rapport 2007:7, ÅSUB, <http://www.asub.ax/files/Rap20077Do.pdf>, at pp. 11-12

99 Medda-Windischer, Roberta and Flarer, Heidi et. Al., Standbild und Integrationssaussichten der ausländischen Bevölkerung Südtirols. Gesellschaftsleben, Sprache, Religion und Werthaltung, EURAC, Bozen/Bolzano 2011; ASTAT, Landesinstitut für Statistik, Nr. 183, 2011, Immigration in Südtirol. Lebensumstände und Sichtweisen der in- und ausländischen Bevölkerung.

100 ASTAT Nr. 183, p. 130.

101 R. Medda-Windischer, H. Flarer, 2011, p.40.

cal population, most cases of discrimination are reported in the area of social housing and labour.

Besides discrimination, language competences and perception of the South Tyrolean characteristic of a presence of three linguistic groups are at the focus of a study conducted by the Institute for Minority Rights of the European Academy in 2009-2011. Immigrants were asked which language was important for them to “live well” in South Tyrol, and a majority of immigrants recognized the importance of the German language or the German dialect. However, asked whether they would also speak that language, most immigrants denied. Asked also, to which language group they have more contacts and feel more close to due to contacts and friends, the Italian language group is well above the German speakers. It is possible to interpret this fact as a sign that the prestige of the local German language is high in South Tyrol, but that it has also an exclusionary character, which is high not only among members of certain political parties, and in particular the Die Freiheitlichen, but also among the German-speaking population in general.

4. Comparative conclusion

In our examination above we have focused on the frameworks of exclusion and inclusion of immigrants in Åland and in South Tyrol. As we made clear in the beginning, the Åland Islands and South Tyrol share a number of characteristics, which make these two regions suitable for a matched pairs' analysis of community-making in autonomous regions inhabited by linguistic minorities. Some of these characteristics that we already mentioned in the introduction include autonomous legislative competences, including over education, and a strong regional identification. We set out to answer whether newcomers, irrespective of whether they come from the same nation state, from Italy for South Tyrol or Finland for the Åland islands, from another EU country, or from a third country, are accepted as members of the minority community, and what the criteria for membership are. The time has come to turn back to these questions.

It is argued by Arrighi for the case of Scotland and Catalonia,¹⁰² but also by Jeram for the Basque country,¹⁰³ that minority nationalists follow a more general European trend emphasizing civic integration and thus residence as a significant criterion of membership for internal and external legitimacy purposes. Thus, according to them, minority nationalists want to show, that they are following what has been recognized by Keating¹⁰⁴ as the "European value framework"

102 J. Th. Arrighi de Casanova, *Those who came and those who left - The Territorial Politics of Migration in Scotland and Catalonia*, PhD-dissertation, European University Institute, 2012.

103 S. Jeram, "Immigrants and the Basque nation: diversity as a new marker of identity" *Ethnic and Racial Studie*, 2012, pp1-19.

104 M. Keating, *Nations Against the State: The New Politics of Nationalism in Quebec, Catalonia and Scotland*, 1996, London, Macmillan.

where ethnic nationalism is not easily accepted anymore.

Our observations with respect to the regulation of access to social services on Åland and South Tyrol indeed lend some support to this hypothesis. In both regions, access to social services is mainly determined by criteria connected to (length of) residence, whereas however, a great emphasis and effort is put in particular by the South Tyrolean political elite on trying to expand the required length in order to restrict as much as possible access to social services.

The emphasis of residence is one of two striking similarities between the two cases. Our other finding however, adds another layer to the criteria for community membership, as we see that in both cases the linguistic minority communities place great emphasis on the need for immigrants to learn the local language(s) and for immigrants to adapt to local customs and culture. This means that while residence, if legal and for a certain length of time, will qualify a person for certain social benefits, the minority community will be reluctant to accept residents that do not make an effort to fit in linguistically as well as culturally. This is not to say that the minority communities in Åland and South Tyrol demand that immigrants assimilate, but simply that they see the integration process as a two way process, requiring adaptation from both sides.

When it comes to the differences between the two cases, it has earlier been noted that a fundamental difference in the structure of the two social welfare systems is the so-called consociational feature of the South Tyrolean autonomy. In South Tyrol, a quota-system regulates both access to social housing and almost all public employment based on ethnicity. To support the functioning of the quota-system, everyone resident in the province has to give an anonymous declaration in a decennial census as to which

ethnic group they belong to.¹⁰⁵ This feature has no equivalent within the legislative framework of the Åland autonomy.¹⁰⁶ A comparison of these two registration systems would be interesting but is beyond the scope of this paper. We further note that the jargon of the governing political parties in the two regions is diametrically opposed. Whereas in South Tyrol immigration and immigrants are labelled as a problem, in Åland political parties in general and the governing party in particular are largely welcoming of immigrants.

While immigration for a long time has been presented in the Nordic countries as a solution to the problem of aging populations, a backlash of anti-immigrant sentiments have in connection with the economic crisis brought forward extreme right-wing nationalist parties on the national level in both Sweden and Finland. The Åland Islands is not immune to anti-immigrant rhetoric, but it is clear that none of the existing political parties wants to be associated with attempts to lay blame on immigrants for the problems associated with the economic stagnation of Europe. In addition to, and in line with this difference in the rhetoric of the governing parties in Åland and South Tyrol, the actual access of immigrants to social services and political rights is more restrictive in South Tyrol than in Åland. In South Tyrol, the access of immigrants to social housing in particular has raised controversy, and the requirement that immigrants must have lived in South Tyrol for five years before they are granted access to social benefits has been declared unconstitutional. When it comes to political

rights of immigrants in South Tyrol, third country nationals only have the right to participate in elections to advisory bodies specifically designed to allow some representation for this category of the immigrant population. The Åland Islands have in contrast extended voting rights in municipal elections to immigrants of all nationalities, and are also exploring the possibilities of delinking the franchise in elections to the local parliament from Finnish citizenship.

How can we explain these differences? We believe that there are historical causes to be found in the modern history of each region that explain for example the consociational feature of the South Tyrolean autonomy and its absence in the Åland case. The relatively turbulent history of South Tyrol included in modern times plans of mass deportation and state-led attempts to root out the minority language, while the protection of the minority language and culture of the Åland islands' population has stood firm since the 1920's. These historically fairly recent experiences of subordination of the South Tyrolean minority population is a starting point for understanding the growth of a strict, ethnically-based quota system that encompasses both social welfare and public employment, as well as an ethnically-based provincial party system. It is also within this context that the comparatively more ethnically protective, anti-immigrant rhetoric adopted by the governing parties in South Tyrol should be understood. Further, we believe that there are also underlying causes, primarily to be found in the great discrepancy between the regions in terms of their respective populations with respect to size, composition and density mentioned in the beginning. That the Åland islands are (and for a long time has been) much less populated than South Tyrol, and that the Åland population is (and for a long time has been) more linguistically homogenous, are important underlying explanatory factors for the relatively calmer history and situation of the

105 Parents give the declaration on behalf of their children up to the age of fourteen.

106 However, in accordance with the Finnish Population Data Act, 13 § 20, information about the mother tongue (or chosen contact language) of Finnish citizens and foreigners residing in Finland, including on the Åland Islands, is maintained in state registers.

Åland islands. In this study we have focused on evidence and analysis of factors internal to the two regions studied. Last but not least, we believe, however, that the policies of the “host” and kin-states Finland and Sweden, and Italy and Austria respectively, on immigration and integration need to be explored further in order to understand how they impact community-making and inclusion/exclusion patterns on the Åland islands and South Tyrol.

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