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► To cite this version:

Vincent Hoffmann-Martinot. The process of citizen's political emancipation in European cities: the case of Stuttgart. XIII Nordiske Kommunalforskerkonferansen, Nov 2004, Oslo, Norway. pp.25. halshs-00003783

HAL Id: halshs-00003783

<https://shs.hal.science/halshs-00003783>

Submitted on 22 Jan 2005

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**The process of citizen's political emancipation in European cities:
the case of Stuttgart**

Vincent Hoffmann-Martinot

Paper presented at the XIII Nordiske Kommunalforskerkonferansen, Oslo, 26– 28.11.04

“A number of historians, jurists and political commentators, study today the origins of modern democracy in France. In general, they find it in the institutions created in the revolutionary era. But none of these authors has directed their research to the organization of the French municipality in the ‘*ancien régime*’ one of the origins and perhaps the most important of the representative system, and therefore democracy...But apart from Tocqueville, no one has tried to demonstrate the continuities and discontinuities between the municipal organization of the ‘*ancien régime*’ and those of today...For most researchers it seems that the revolution constitutes an insurmountable divide.”

This lucid observation of Godechot (1972: 363-4) is equally applicable to Germany. It encourages us to analyze and understand the evolution of municipal representation in a long term perspective, unfortunately, infrequently taken into consideration by the majority of political analysts almost entirely preoccupied by contemporary politico-institutional debates and issues. But municipal political representation and the foundations of contemporary democracy were not invented in the 19th century. They appear at the same time as the birth of the *communes* or municipalities, that is to say, at the beginning of the High Middle Ages, and continue thereafter in different phases more or less oligarchic or democratic. The present capital of the Land of Baden-Wuerttemberg, Stuttgart, will provide the most useful politico-historical perspective of the long transformation of the democratization of municipal representation in Germany.

Pre-democratic political representation

What is called the *communal* or municipal movement corresponds to the increasing autonomy of the seigniorial authority that occurs, at various rhythms and according to different methods, in European cities beginning at the end of the 11th century. A body of rights and privileges will be afforded to these new actors of the socio-political order which are the municipalities, in the form of charters and edicts granted by the seigniorial and state authorities. Spokesmen of their population and mediators with other authorities, municipal representatives will emerge and occupy diverse responsibilities. They are the ancestors of our municipal councilors, but represent only a part of the population: those historically considered to have founded and embodied the municipality and directed and defined municipal decisions with legitimacy, the bourgeoisie.

According to this original and patrician conception of urban government, only the bourgeois are endowed with civil rights and policies of the first order. The *Bürgerrecht* or right of citizenship is only conferred to a minority, a socio-economic elite, a new aristocracy of which the former is generally excluded.

In German cities, one distinguishes thus until the 19th century, three groups of inhabitants: the *Bürger*s, or citizens, the only ones to enjoy *Bürgerrecht*; the *Eximierter*, or expatriates encompass the non-bourgeois municipal elite, that is to say, the nobility, high ranking civil servants, educators, and officers, who as inhabitants of the city, are not subject to its jurisdiction but to the jurisdiction of the state; and then the others, the *Schutzverwandte*, regionally referred to as *Beisassen* and in Wuerttemberg *Beisitzer*, or assessors, who benefit, like the bourgeois, to the right of permanent residence and the protection of the municipality, but who cannot freely exercise a profession relating to a corporation or enjoy the right of land ownership in the municipality – the two conditions necessary to be bourgeois – and who are not authorized to hold a position of municipal responsibility. Some differences of status coexist even within this "third class". Thus, in

Wuerttemberg, while the *Beisitzer* have the right to implant themselves, establish a home, and to practice certain trades, but without exercising any political rights, the *Schutzgenossen* are barely tolerated in the municipality, but have the right of abode (*droit de séjour*). This is the case for the vast majority of Jews, of which only a small minority obtain the *Bürgerrecht*. It is not until the decree of October 7th 1809 that the *Schutzjuden* is more easily granted the *Bürgerrecht*. Then the rights of assessors and those of the bourgeois are assimilated July 6th 1812, and the category of *Schutzgenossen* is thus suppressed (see Waibel 1992).

A city relatively new in comparison to its very old neighbor Cannstatt or the imperial city of Esslingen, Stuttgart was founded in the first half of the 13th century by the margraves of Baden, before being inherited by the counts of Wuerttemberg. Its population evolves progressively, from 1,146 in 1393, to 9,000 in 1598 and 16,000 in 1707 (Keyser 1962, Ströhmfeld 1925). To be bourgeois in Stuttgart, one has to come from a family of the bourgeoisie, or be generally accepted as a new bourgeois, after having completed a process generally complex and dissuasive for applicants who are not immediately desirable (because of their professional qualification) to the authorities of the city, or one must be actively supported by the authorities of Wuerttemberg. To be admitted into bourgeois society, it is not only essential to bring the proof that one holds a sufficient patrimony to contribute an entrance fee and a bourgeois tax – in order to avoid any element that could become a burden for the municipal finances - , but again one must appear as though capable of contributing a real value to the city, and in accordance with economic opportunities to which the organization of shopkeepers and artisans are attentive, and whose interests are handled by the municipal leadership. Between 1660 and 1706, 908 candidates entering the bourgeoisie will thus take an oath, of which 57% originate from Wuerttemberg, 33% from other German regions and 10% from abroad. According to the socio-economic and political situation the authorities of the city pursue a policy more or less protectionist, making slight changes in the municipal law the criteria of admissibility in the bourgeoisie. A municipal decision is thus taken August 13th 1540 concerning the level of minimal patrimony necessary to become bourgeois (with a digressive differentiation of “tariffs” in five categories: foreigners, men, women,

boys, girls) and specify that a son of a bourgeois is obligated to pay a duty in order to conserve his rights while a bourgeois girl will lose her quality if she chooses a spouse from outside the city (Pfaff 1845, vol.1: 124). Following the Reformation that spreads to Stuttgart after its introduction in 1534, a new condition of entrance to the bourgeoisie is imposed in the second half of the 16th century: the obligation to belong to the Lutheran Evangelical Church. With the Peace of Westphalia in 1648, Protestantism becomes, moreover, the definitive religion of the state in Wuerttemberg. After 1580, the city therefore decides to no longer accept the Savoyard chimney sweeps and “Welch” grocers. The Austrian victims of the Counter Reformation are on the contrary generously welcomed, as are the Lutheran refugees from Alsace in the 17th century. Meanwhile measures tending to dissuade the immigration of Catholics are reinforced, excluding them most notably from the status of bourgeois, but also of assessors.

Stemming only from the bourgeoisie, the first municipal representatives have in the first place the function of being the interlocutors of the lord and of the state. For several centuries their selection depends on various degrees and combinations of influence from the superior authority and the most powerful families.

We know of the existence, in Stuttgart, after 1286 of an administrative and judicial college, the *Gericht* or tribunal, composed of twelve bourgeois named by the lord. To this first structure tending towards a profession specializing more and more in the line of judicial work, is added, in the 14th century, an institution also counting twelve appointed bourgeois mostly concerned with recurring financial questions, the *Rat* or council. These proto-assemblies sit regularly together as *Stadtmagistrat*, and circulate their members, the council playing the role of fish tank or learning arena and training for the ascension to the tribunal. Sitting in the council is generally a necessary passage in order to later occupy a function more financially appealing than the pay of a councilor, such as *Bürgermeister* (responsible for either taxes or common goods), or eventually secretary of the town hall (*Stadtschreiber*).

These two organs are controlled by the same family clans who maintain a system of general nepotism, tempered from time to time by interventions from the lords when the unpopularity or inefficiency of this oligarchy reaches a certain level. They decide,

therefore, in 1530 to implement in a restrictive sense the principle of co-optation for life of the members of the council.

From their emergence in the 13th century until the 19th century, instances of municipal representation are consequentially characterized in Stuttgart by the domination of an essentially oligarchic bourgeois system controlled by a patrician elite attempting to make itself, as much as possible, autonomous from the seigniorial supervision or state. The biggest part of the population – the non bourgeois like the many bourgeois not belonging to the dominant circle – hardly feels as though their interests and aspirations are represented. Certainly, there exists, at least in theory, moments of enlarged representation, but it is usually just a matter of occasional minor assistance to the municipal authorities. The entirety of the population can otherwise be summoned under grave circumstances such as the outbreak of war and other fundamental issues necessitating it, or to strengthen the legitimacy of the municipal power such as a vote of acclamation or ratification. Plenary assemblies (*Gemeindevollversammlungen*) thus take hold in the 16th century. It can also happen that municipal magistrates decide to establish a municipal commission composed of representatives of the population (*Gemeindeausschuß*) that one consults when particularly delicate decisions are envisaged. But in general the ruling elite have a fundamental distrust of an extensive association with the population for it would necessarily lead to intrigue and corruption (for a parallel with the French municipal context: Chartier and Neveux 1981: 158-9). And while it happens that municipal authorities summon an assembly of the people, it is mostly a matter of monitoring whether or not the people have other leaders or assemblies than their own.

From the city of the bourgeois to the city of citizens

The turn of the 19th century marks a fundamental divide in the conceptions and practices of political representation. The principle of the city embodied and controlled by the bourgeois class alone will be progressively substituted by that of a city of citizens. This profound change will not be accomplished in one or two days. The liberal politics

that inspires it will be regularly and passionately fought by opponents of this process of democratization judged audacious and fundamentally dangerous.

It is very telling that “among the terms giving nightmares to people learning German, the adjective *bürgerlich* is, no doubt, one of the most difficult” (von Thadden 1997: 68), because it implies both bourgeois and citizen. It happens that the quality of urban bourgeois (*Stadtbürger*) long considered a privileged minority from the point of view of its legal and socio-economic status, will progressively extend to all social and territorial groups of each of the German states (*Staatsbürger*). The terms *bürger* and *bürgerlich* will thus undergo throughout the 19th century a progressive shift in meaning and usage, oscillating between the traditional pole restrictive to the bourgeois and the universalistic pole, inspired by the French revolution, of the citizen. But these two acceptations find themselves deeply mired in the German language, leading Hegel to turn to French when he evokes, in the Philosophical Propaedeutic, the transcendence of the urban framework to attain the sphere of general interest: “Members of a people are all the more inclined to sacrifice their goods and their lives for the Whole because they are capable of acting for this Whole autonomously and out of their own goodwill and because they have a greater trust in the Whole...(Distinction of the Bürger as bourgeois, and as citizen)”(cited in :Ayçoberry 1981: 49).

The consolidation of state structures accompanies a harmonization of municipal status historically characterized by a strong heterogeneity (Brubaker 1997: 106-118; Matzerath 1974; Walker 1971). Wuerttemberg is thus the first state in Germany to carry out a codification of municipal texts with the *Württembergische Communeordnung* of June 1st 1758¹ (Engeli and Haus 1975), succeeded by the *Verwaltungsedikt* in 1822. The “modernization” of municipal institutions implemented by a state such as Wuerttemberg necessitates the establishment of general rules of organization applicable to all municipalities. This centralizing reform is characteristic of the vast consolidation of territory brought about by Napoleon Bonaparte beginning in 1805: in the space of only a couple of months on the borders of the principalities of Hohenzollern-Hechingen and Hohenzollern-Sigmaringen, two new states of average strength, the Kingdom of

¹ Followed in 1760 by Baden (Bade-Durlache Communeordnung), and in 1794 by Prussia (Preußische Allgemeine Landrecht).

Wuerttemberg and the Grand Dukedom of Baden are formed from the mosaic of some 600 autonomous entities that coexisted until then (Hoffmann-Martinot 1994). The alliance between France and its two new allies is sealed in April 1806 by the marriage of prince and heir to the throne Charles of Bade and Napoleon's niece Stephanie of Beauharnais, then in August 1807 between Katharina, only daughter of King Frederick of Wuerttemberg and the king of Westphalia, Jerome, brother of the Emperor. The new Kingdom of Wuerttemberg, of which the area and population doubled compared to the former Dukedom of Wuerttemberg, swiftly copies its centralization policies from the Napoleonic model of administration, establishing a vast bureaucratic state and creating departments baptized with French names (Lac de Constance (Bodensee) and Haut Neckar (Oberer Neckar),...).

To this absolutist phase of Napoleonic imitation, after the reversal of alliance by Wuerttemberg and the Congress of Vienna, follows a certain liberalization of territorial institutions. The introduction of the principle of the election of representatives in every municipality—*Gemeindedeputierte* then *Bürgerausschuß*—is from that standpoint, a major innovation, introduced by decree June 7th 1817, confirmed by edict December 31st 1818, and inscribed in the *Verwaltungsdekret* of 1822. Initially provided for in the *Generalreskript* of June 10th 1745, these first municipal elects that are the *Gemeindedeputierte*—the *Stadträte* will also be elected, but only after 1819—owe their acceptance to the author of these precursory texts, Friedrich List, pioneer of the Empire, otherwise known for his writing on the subject of the economy and his preference for a single national market. In 1838 he will take pride in this first step towards municipal democracy, “In Wuerttemberg I proposed and established municipal reform, instituting the only constitutionally democratic mechanism in use in a Land, the *Gemeinde-Deputierte*” (cited in Engeli and Haus 1975: 162).

In opening, quite significantly for the time, the circle of those authorized to participate in politics, these first texts organizing the election of representatives appears particularly progressive to this epoch. The religious restriction had been lifted by the *Religionsdekret* of October 15th 1806 (§ V) permitting Catholics, who constitute a majority in many of the new territories integrated into the new kingdom, to be entirely recognized as *Bürger*. In Stuttgart, even if it tends to grow throughout the 19th century—0.6% in

1807, 3.6% in 1831, 8.7% in 1862, 13.8% in 1895 (according to Köhler 1990)—their proportion within the greater population remains weak compared to the predominant protestant community. What is more, putting an end to more than three centuries of banishment, decided by Wuerttemberg in 1498, a decree of October 7th 1809 establishes the right of citizenship to “protected Jews” or *Schutzjuden*, previously attributed to a few Jews of the court, or *Hoffjuden*², the most famous case of which was in the 18th century the banker then councilor of Prince Charles Alexander of Wuerttemberg, Joseph Süß Oppenheimer, whose exceptional and tragic destiny of impossible assimilation inspired at once the novelist Lion Feuchtwanger in the Weimar Republic (*Jud Süß*, 1925) and the Nazi propagandist filmmaker Veit Harlan (*Jud Süß*, 1940).

The *Verwaltungsedikt* of 1822 extends the right to vote to the entirety of the *Bürger*, consequently excluding the *Beisitzer* from the electoral body. The right of citizenship is thus upheld, the guilds – particularly the tradesmen and salesmen – continuing to see there an effective instrument permitting at once to fight against the economic rivals outside of the municipality and to prevent an increase in spending on social aide provoked by the massive arrival of new socially dependant inhabitants (Hahn 1998). But a large portion of the political and social force is nevertheless unsatisfied with these electoral arrangements and at the beginning of the 1820’s will strive to restrict the definition of the electoral population deemed much too extensive. They defend the traditional and patrician conception of the bourgeoisie as the only ones to participate in municipal politics, for they possess an economic independence and knowledge of municipal interests. According to their political spokesmen, the minister of the interior von Otto as well as numerous deputies (Waibel 1992: 54), the criteria necessary to become *Bürger* proves to be fairly lax from one municipality to another that it becomes necessary to curb the invasion of the municipal council by the humble folk, by reserving the right to vote to sufficiently wealthy electors, and excluding the underprivileged social stratum. The poor are naturally corruptible and subject to the manipulations of various candidates, whereas one does not bribe the wealthy. The *Bürgerrechtsgesetz* law of 1828 solidifies this limitation of the electoral capacity to “active citizens”, in other words

² On the progressive politics of assimilation of Jews in the public life of Wuerttemberg in the 19th century, particularly the law of April 25th 1828 *Gesetz in Betreff der öffentlichen Verhältnisse der israelitischen Glaubensgenossen*, consult: Sauer 1966 and 1996, Schneider 1996.

living in the municipality “independently”. Anyone susceptible of being influenced in their choice because of their economic dependency, either on their family, a patron, or even public aid, is not allowed to vote.

The progress of political liberalism and parliamentarism favored by the democratic push of 1848 (Hahn 1998) leads to the adoption on July 6th 1849 of a particularly progressive law devoted to the abandonment of the link between being *Bürger* and electoral capacity for the municipal vote. A general right to vote, equal and direct is henceforth afforded to all taxpaying men of at least 25 years of age including the *Beisitzer* – whose status has not ceased to approach that of the Bürger since the beginning of the 19th century (cf. Klein 1933) – the residents of Wuerttemberg and the citizens of other German states, on the condition that they have been paying their taxes in the municipality for at least three years. The application of this new legislation naturally leads to an increase in the number of registered voters, from 3,800 to 4,600, then to 5,600 in 1852 (Waibel 1992: 403).

Comparing the municipal legislations of the different German states in the 19th century, Schäffle (1866: 68), professor of public law at Tübingen, doesn’t hesitate to affirm that, “As for the electoral method, the municipal law of Wuerttemberg is the most democratic,” a view shared today by most experts who highlight this precursor to the law of 1849 (Waibel 1992: 53; Wehling 1991). Despite repeated attempts, in 1828, then with the laws proposed by ministers of domestic affairs Schlayer in 1845 and von Linden in 1854, the conservatives of the Chamber of Wuerttemberg never succeeded in reestablishing in the legislation the principals of an inegalitarian and – according to the terms of the liberal opposition – plutocratic regime, favoring the most economically or culturally influential citizens. As Lijphart remembers it (1997: 6-7), such a balance of electors, via the payment of a quota or the division of the electoral body into several classes, had however flourished for a long time in numerous countries, in Europe, but also in other continents. Thus, in Belgium, the municipal electoral law of 1895 organizes an electoral system of plurality that attributes one vote to citizens over the age of thirty, two votes to the heads of family over the age of thirty-five with a minimal income, and three votes to property owners with an income of at least one hundred and fifty francs per year (Shaw 1895). Again a half a century later, between 1940 and 1962, the province of

Quebec imposes, for the election of ninety-nine councilors of the city of Montréal, the constitution of three classes of electors designating to each one a third of the councilor members: class A brings together the property owners, class B the property owners and tenants, class C associations and various organizations (City of Montréal 1992).

This is more or less a case of the importation to North America of the *Dreiklassenwahlrecht*, largely experimented with and spread throughout Germany until the 20th century. It is based on the theory that the right to vote is much too precious to be granted without considering the capacity of he who possesses this right. Those who, by wealth or competence, contribute the most to the prosperity and to the development of the community should weigh in the process of designation of municipal representatives in proportion to their influence. This argumentation is thus at the centre of the debates of the session of the Chamber of Wuerttemberg March 13th 1821. But it's the neighboring state of Baden that is the first to introduce the *Dreiklassenwahlrecht*. Its municipal legislation provides, optionally in 1831, compulsory for towns of more than 3,000 inhabitants in 1837, then all municipalities of more than 80 inhabitants in 1851, the election of a Grand Commission – responsible afterwards for, according to an indirect system, selecting the municipal leadership -, a third of its members being designated by the most taxable sixth of the electorate, a second third by the two sixths in the middle tax bracket, and the last third by the half of the population remaining. This system is also adopted in the code of the municipalities of the Rhine in 1845 and in Prussia in 1850, and spreads to other states according to a number of variable classes: two in Saxe-Weimar, Austria and Schwarzburg-Rudolstadt, three in Hesse-Darmstadt, Braunschweig, Nassau, and Waldeck, four in the rural municipalities of the Kingdom of Hannover and in the towns of the Dukedom of Anhalt-Bernburg.

The three class system in effect in the Prussian cities until the advent of the Weimar Republic appears in principle even less egalitarian than the example in Bade. Taking up the formula of Munro (1909: 132), it rests even further “on the representation of interests than numbers,” the division is not made of three classes of electors, but three classes of fiscal products. The difference is in size. In effect, those who contributed as much as the highest third of the total fiscal product make up the first class, those who have contributed the next third the second, and the other taxpayers the third class. Thus,

the more wealth is concentrated at the top, the more the vote will favor a limited number of the wealthy. The case of Essen is regularly put forward by detractors or observers – notably the pioneers of American political science Goodnow (1889/1890), Munro (1909), and Shaw (1895) – sometimes fascinated other times incredulous at this oligarchic and somewhat baroque logic and technical complexity.³ In 1891, the vote of industrial power Alfred Krupp, who alone constitutes from 1886 to 1894 the first section (*Abteilung*) of the electorate of Essen, weighs as much as 393 votes of the second section and 3,650 of the third section. A third of the municipal council is therefore chosen by only one individual. Over-representation is found in other Prussian cities : in 1902-03, the first class thus brings together 0.5% of the total number of electors in Berlin, 0.8% in Halle, 1.1% in Cologne and in Stettin, 1.7% in Königsberg, 2.5% in Breslau, and 4.9% in Leipzig (Munro, op. cit.). In Westphalia and in the eastern provinces, the preeminence of capital is reinforced by the granting of the right to vote to natural persons such as industrial enterprises and property owners not residing in the community (Krabbe 1989: 56).

In comparison with that of Prussia, the electoral legislation of Wuerttemberg appears noticeably more progressive because it doesn't recognize the electoral class division. But in order to slow the local progression of social democracy, the forces of conservatism do not so easily abandon the vestige of differentiation of the Middle Ages that is the right of citizenship (*Bürgerrecht*) that, practically became obsolete with the law of 1849, is rehabilitated by the Landtag during the adoption of the *Gemeindeangehörigkeitsgesetz* law on June 16th 1885. This final burst of former municipal customs and laws against the current of extending stately norms affirm once again the obligatory and exclusive link between being *Bürger* and the capacity to participate on a municipal ballot, while conserving the same conditions of minimal age (25 years), the duration of residence (3 years), and the fiscal contribution (25 Marks). At least 8,000 people, mainly of modest condition, will lose their right of elector with the application of this law. In spite of it all, this permits 3,500 of them to quickly recuperate their right to vote by paying a sum (*Bürgerrechtsgebühr*) of 5 Marks. Consequentially

³ The embellished or entirely negative perceptions expressed by these American experts of German cities is finely analyzed and put into perspective by Nolte (1998).

the number of electors registered diminishes from 14,094 in 1885 to 9,583 in 1886, before rising to 11,163 in 1890 (Waibel 1992: 139; Sauer 1988: 125).

The modern city of citizens, open to the direct political influence no longer just from the *Stadtbürger* but from all of the *Staatsbürger*, is finally established by the Weimar Republic. The first law voted on March 15th 1919 by the Landtag of Wuerttemberg (*Gesetz betr. Das Gemeindewahlrecht und die Gemeindevertretung*) breaks once and for all the link between right of citizenship and right to vote: from then on those participating in municipal elections are citizens of Wuerttemberg, men and women, of at least 20 years old, and who live in the city. A few months later, the new general principles of voting are ceremoniously asserted in the Constitution of August 11th in article 17:

“Each Land must have a Constitution of a free State. The popular representation must be elected by a general vote, equal, direct and secret, by all German men of the Empire according to the principles of proportional representation. The government of the Land requires the confidence of the popular representation.

The principles for the elections of popular representation hold equally for municipal elections. The legislation of the Land can, however, bond the electoral capacity to a temporary stay in the municipality for more than one year.”

Taking note of these new constitutional measures, the Landtag of Wuerttemberg, by a law of October 20th 1922 (*Gesetz über die Änderung des Wahlrechts*), extends the electoral population of citizens of the Land to those of all Germany, but sets a condition of minimal duration of residence of six months.

Figure 1 reflects the historical scope of this major act of electoral emancipation: while the proportion of those registered to vote compared to the total population was established at a level of 7.8% in 1840 before rising, after the implementation of the law of 1849, to reach 11.2% in 1852 and diminishing afterwards, because of restrictions brought about by measures of the law of 1885, to 9.7% in 1905, it leaps in December 1922 to encompass two thirds of the municipal population. This change in scale results in the modern definition of the criteria of the right to vote, henceforth extended to women (finally considered as autonomous beings!), to the group of 20-25 years old, to Germans *Bürgers* or not, and to people residing in the municipality for not three years but six

months – a period that will be extended to twelve months in the municipality code adopted by the Landtag of Wuerttemberg on March 19th 1930 -, without consideration of fiscal contribution.

--Figure 1—

A few years later, the progressive framework maintained under the Weimar Republic is denied and emptied of its content by the Nazi dictatorship, before being fully reestablished, with a few adaptations, by the *Gemeindewahlordnung* on December 20th 1945. This text specifies that electors are German citizens over the age of 21 residing for at least a year in the municipality, while ensuring the exclusion from the electoral body:

- a) people having adhered to the NSDAP before May 1st 1937 as well as the active members who subsequently joined the party; former top ranking party officials no matter what date they had first joined
- b) all former SS members
- c) people who had responsibilities in the SA, *NS-Frauenschaft*, the *NS-Studentenbund*, the *NS-Dozentenbund*, the *NS-Kraftfahrerkorps*, the *NS-Fliegerkorps* or the *HJ*
- d) former Nazi partisans and known collaborators

Like the 1920s, the minimum duration of residence is subject to fluctuations: in one year, it changes to three months in 1971, then to six in 1976, before being set at three months since 1995.

Towards a representation of all inhabitants?

The Federal Republic of Germany pursues the extension of the right to vote by lowering the electoral age to 18 in 1975, then with the ratification on December 28th 1992 of the Maastricht Treaty signed February 7th 1992, establishing the principle of a European citizenship that permits all citizens of a European Union member state to participate in municipal elections in the Union country where he resides. It is a decisive step on the path to the recognition of political rights to the entirety of inhabitants of a municipality, consequentially including foreigners.

Certain European states pioneered this right as early as 1970. Denmark granted the right to the municipal vote to nationals of other Nordic countries in 1977, then to all foreigners in 1981. The constitution of the Netherlands, in its version of February 17th 1983, introduces in article 130 the right to vote, active and passive, for foreigners, which is adjusted by the law of August 29th 1985, and applied for the first time to municipal elections in 1986. This right is also accorded in other countries to certain groups of the population, for historical reasons in Great Britain holding to rules of citizenship concerning the whole Commonwealth, or even by the arrangement of bilateral treaties founded on reciprocity such as those decided by Spain in 1990 with Denmark and the Netherlands, and the year after with Sweden and Norway.

Other states, such as Germany, Austria, Belgium, France, Greece, Italy, and Luxemburg, have by contrast maintained a restrictive policy exclusively reserving the right to vote to their nationals.

But the Maastricht Treaty will force them to adapt their national rules to the principle of European citizenship clearly stated in article 8 B, paragraph 1:

“Every citizen of the Union residing in a member state of which he is not a national has the right to vote and eligibility in municipal elections in the member state where he resides, in the same conditions as the nationals of that state.”

Article 28 of the Basic Law thus adds:

“For the elections in the *Kreise* and municipalities, individuals holding the nationality of a member state of the European Community are also electors and eligible under the conditions of the rights of the European Community.”

With its directive 94/80 of December 1994 “setting the terms for exercising the right to vote and eligibility in municipal elections for citizens of the Union residing in a member State of which they do not have the nationality,” the European Council gives to different states of the Union the method to follow in order to enter and formalize in their respective legislations this significant extension of the right to vote, and the need to do so before January 1st 1996. During the negotiations that lead to the adoption of article 8 B of the Maastricht Treaty then to the elaboration of directive 94/80, the states most conservative on the subject of extending foreigners the right to vote battled strongly to convince their partners of the necessity to authorize a certain flexibility in the definition

of the extent of the European citizenship, in order to take into account particular cases or exceptional circumstances. The directive identifies and highlights the spirit and magnitude of these national adaptation-restrictions. It delimits and authorizes the usage by national legislations of three mechanisms having the effect of restraining the full right to exercise the right to vote granted to non-national European citizens:

- the differential, in exceptional cases, of the conditions of exercising the right to vote:

“Whereas article 8 B paragraph 1 of the treaty which states that all citizens of the Union, be they nationals of the member state of residence or not, can exercise their right to vote and eligibility in municipal elections under the same conditions; it is necessary, by consequence, that the conditions, and notably those linked to the duration and the proof of residence applying to non-nationals, be identical to those applicable, if need be, to nationals of the member state considered; non-national citizens must not be subject to specific conditions unless, exceptionally, a different treatment between nationals and non-nationals is justified by specific circumstances to the latter distinguishing them from the former”

- the voluntary inscription on electoral lists:

“Whereas article 8 B paragraph 1 of the treaty which grants the right to vote and eligibility in municipal elections in the member state of residence without that being substitute for the right to vote and eligibility in the member state of which the citizen of the Union is a national; it is important to respect the liberty of its citizens to participate or not in municipal elections in the member state of residence; it is judicious that these citizens can express their will to exercise their right to vote; in the member states where there does not exist the obligation to vote, a registration of these citizens can be automatically authorized”

- the limitation of the right to vote liable to national citizens for the execution of an executive mandate:

“Whereas the local administration of the member states reflects different political and legal traditions and distinguishes itself by a wealth of structures; the concept of municipal elections is not the same in every member state; it is advisable, consequently, to distinguish the object of the present directive defining the notion of municipal

elections; these elections encompass the elections of direct universal suffrage to the level of local communities and their subdivisions; it is as much a matter of elections of direct universal suffrage of municipal representative assemblies than members of the municipal executive;

Whereas the attributions of the executive of local communities can include the participation in the execution of the public authority and the safeguard of general interests; that taken into account, it is understood that the member states can reserve these functions to their nationals; it is equally understood that the member states can, to this end, take appropriate measures, these measures not being able to limit beyond the degree necessary to the realization of this objective, the possibility for the nationals of other member states of being elected”

While the general conditions of exercising the right to vote must be the same for nationals and non-nationals of the European Union, only one state risks to infringe on the general principle, Greece, on one hand imposing on nationals of other member states who wish to register for the electoral list to be permanent residents of the municipality for at least two years – a condition to which Greek citizens are exempt -, and on the other, prohibiting citizens of other member states who wish to vote or to present their candidacy in municipal elections in Greece to exercise their right to participate in elections in their member state of origin. The commission considers that because it is the sovereign right of each member state to decide to permit or not its nationals residing abroad to exercise their right to vote and eligibility in municipal elections in their member state of origin, that the hosting member state has absolutely no right to interfere with this choice. The Commission has also firmly stated throughout the last couple of years that the Greek legislation transposing the directive relative to municipal elections (94/80/CE) is, in many ways, discriminating against nationals of other member states, which is incompatible with the directive (European Commission 2001b).

The official non-registration of non-nationals of European Union countries represents another form of discrimination as far as they are concerned while nationals are granted an automatic registration. Two German Länder have been called to order for having introduced such a method of differentiation, Bavaria and Saxony. During the elections of February 15th 1996, the German citizens residing in Munich, all

automatically registered, were able to, in this way, more or less increase their political influence to the detriment of the other European citizens residing in the Bavarian capital – who form nevertheless a group of 86,866 potential electors, of which only a fifth, having taken the steps to register on the electoral lists (with significant variations according to national groups : 36.6% of Italians, but only 4.8% of Portuguese) (Dill 1999: 73). This obvious infringement of the Maastricht Treaty and its application directive of 1994 provoked the engagement of the Commission in a procedure against Germany under the form of two firm arguments, which have forced Bavaria and Saxony to suppress this discrimination bringing into effect automatic registration according to the laws of December 27th 1999 and March 15th 2000. Since 2001, the Commission considers the German legislation concerning municipal elections in the two Länder to be henceforward in accordance with the directive 94/80 (Commission of the European Community 2001a: 128).

Voluntary in Austria (except in the Länder of Salzberg and Tirol), Spain, France, Greece, Italy, Luxemburg and Portugal, registration is, on the other hand, henceforth automatic not only in Germany, but also in Denmark, Finland, the Netherlands, and Sweden. These northern European countries have thus deliberately chosen—or, as in the case of Bavaria and Saxony, have been forced—to favor the participation of non-nationals in municipal elections, who are for the most part less informed of their civic rights than national electors, because they are often unaware of the possibility to participate in the local election system at once in their state of origin and in their country of residence.

The last mechanism permitting to restrict the full exercise of European citizenship in municipal politics consists of the reservation of the right to passive voting, or eligibility, for the executive functions (notably mayor or deputy mayor), to national citizens. France has played an important role in the acknowledgment of this “national preference”, with the motive that French mayors would also be considered State agents and would participate in the election of senators of the Republic, two functions no longer directly concerning local communities but responsibilities of the state. Apart from France, other countries have made use of this limited right, such as Austria, Belgium,

Greece, Italy, Luxemburg, but also the two German Länder the most covetous of their stately prerogatives, Bavaria and Saxony.

The Land of Bade-Wuerttemberg is, however, striving the most faithfully and most rapidly to transpose in its legislation directive 94/80, with the adoption of new electoral procedures to this aim by its parliament in November 1995—each party pronounced itself in favor of the proposed law, with the unsurprising exception of the far right *Republikaner* party—to be implemented by December 1st 1995. A few months later, European Union nationals residing in Stuttgart participate for the first time in a municipal election on the occasion of the reelection of the city mayor on October 20th and November 10th 1996.

Figure 2 reflects the evolution in Stuttgart of the number of German, non-German Europeans and other inhabitants (originating from non-member European countries and the rest of the world). While their number tends to diminish (from 49,331 to 44,309 people between 1974 and 1998), to the image of the German part of the population (which changes over the course of the same period from 514,387 to 423, 190), the non-German nationals of the European Union represent since the 1970s a relatively stable proportion of approximately one tenth of the German population.

--Figure 2--

Like most other large German cities, Stuttgart noticed a strong growth in the number of European immigrants only after the mid 1950s. Germany begins at this period to import labor (*Gastarbeiter*) from Mediterranean countries. The agreement signed to this end with Italy in 1955 had the effect of pulling into metropolitan Swabia numerous southern workers: in the space of only five years, the Italian population which counted until then close to 700 individuals rises very quickly to reach 10,000 inhabitants. Similar treaties are also signed with Spain and Portugal in order to resolve the shortage of labor accompanying the strong economic growth in the country and region. A large majority of the European (EU) non-German population are still today native of Southern Europe, and in particular, with a proportion of 71% in 1998, from Italy and Greece. Compared to other foreigners, this European population is further socially integrated in the city,

because of a longer duration of residence—en 1998, 62% of Europeans residing in Stuttgart for more than eight years and 43% for more than fifteen years, while these values are only 48 and 30% respectively for other foreigners (cf. figure 3)—and the diversity of socio-political activities organized since the 1960s by associative networks.

--Figure 3--

After having participated for the first time in a municipal election during the mayoral elections in Stuttgart October 20th and November 10th 1996, European citizens are summoned to participate in the designation of their municipal councilors October 24th 1999. Three factors tend to encourage their “electoral baptism”. First of all, unlike methods that are taking shape or are already put in place in other regions of Europe, the automatic inscription is designed to guarantee to all the access to electoral choice. Thus they are 35,749 to be registered, constituting 9% of the total electoral population; as figure 4 indicates, close to nine out of ten are originally from Southern Europe (36% of them Greek, 34% Italian, 8% Portuguese, 5% Spanish, and 5% French). Second, a sensitization campaign directed at this issue is actively pursued by the municipality, the political parties (conferences, information meetings) and the media (newscasts and debates). Each new European elector will thus receive municipal services such as a bilingual brochure, written in German and one of the other five principle European languages (English, French, Greek, Italian, Portuguese), which clearly details the object and method of the vote. Finally, several European citizens run as candidates in the elections, either appearing on party lists or in forming their own lists. The CDU enters on its list the Italian Camillo Auricchio and the Greek Diamantis Diamantoglou, but only in 38th and 41st places (out of 60), the SPD the Italians Giacomino Da Re and Carmela Cocci (9th and 28th place), the Greeks Georgios Papadopoulos, Charissis Deligiannis and Nikiforos Michailidi (19th, 47th and 52nd place), the Grönes the Greeks Maria-Diana Grammatikopoulos and Georgios Noukas (7th and 20th place), the Italian Anna Picardi (19th place) and the Spaniard Manuel La Calle Gallego (54th place), the FDP the Italians Remo Boccia and Tommaso d'Errico (9th and 53rd place). Two “Greek lists” appeared at the last minute, after their leaders had been refused by the directions of the two principle

parties: one was removed by the christian-democrats, Zissis Pipicos (*SEL, Stuttgarter Europaliste*), and the other by the social-democrats Konstantin Karras (*EDL, Europäische Demokratische Liste*).

This system, apparently inciting the participation of new European electors does not prevent a rather disappointing level of participation, reaching 22%--the same percentage moreover, as the mayoral elections three years earlier—certainly in the general context of a strong rate of abstention since less than half of all electors made it to the voting booths. A sharp distinction divides Northern Europeans, familiarized in their country with the foreign vote in local elections for already several years, and consequentially more open to the practice themselves outside of their own national borders—the participation of the Danish, British, and Dutch is estimated by the municipal office of statistics (Schwartz 2001) to be 40, 72, and 86% respectively-- , with Southern European citizens who do not seem to have really become conscience of the headway made in European citizenship: their participation reaches only about 20% for Italians, 25% for Spanish, 26% for French and Greeks. One should not forget that the latter, despite an abundance of Greek candidates⁴, remain threatened by their government, in flagrant violation of EU texts, of being prohibited to vote in their own country if they decide to participate in local elections in Germany.

This first electoral experience proves to be particularly frustrating for the non-German European candidates: only one of 139 listed is finally elected, the social-democrat Giacomino Da Re, who arrived in Stuttgart in 1963 in the region of Venise at the age of twenty and has been politically active in numerous social, cultural, and trade union activities. The majority of electors favored German candidates to the detriment of the “newcomers”, who are in reality well established and often strongly involved for a long time in the social politics of the city, via notably the cooperation between German and European political organizations belonging to the same ideological family. If Da Re in the end only loses two places in terms of votes compared to those he had been attributed on the SPD list—7th and 9th place—others are more severely demoted : in the same party, Carmela Cocci loses ten places, Georgios Papadopoulos seven, Nikiforos

⁴ 139 non-German European candidates ran as candidates, making 15% of the total. 81% (112) were Greek, 9% (12) Italian, 5% (7) Spanish, 2% (3) Austrian, the remaining 2% were composed of French, Portuguese, Swede, Briton, and a Dutchman.

Michailidis four; the electors of the CDU penalize in a way more spectacular Camillo Auricchio and Diamantis Diamantoglou by sending them to the bottom of the list (60th and 59th places), while with the Grünen Maria-Diana Grammatikopoulos and Georgios Noukas are demoted to 10th and 31st places. The deception is equally large at the heart of the Greek community, of which the SEL and EDL lists only yield, due to the lack of sufficient mobilization of their potential electors, 0.5 and 0.4% of the vote.

References

Ayçoberry Pierre, *Cologne entre Napoléon et Bismarck. La croissance d'une ville rhénane*, Paris, Aubier, 1981.

Brix Josef, Hugo Lindemann, Otto Most, Hugo Preuß et Albert Südekum. *Handwörterbuch der Kommunalwissenschaften*, Jena, 1918-1927, 6 volumes.

Brubaker Rogers, *Citoyenneté et nationalité en France et en Allemagne*, Paris, Belin, 1997.

Chartier Roger et Hugues Neveux, « La ville dominante et soumise », in : Georges Duby (sous la direction de), *Histoire de la France urbaine. Tome 3 . La ville classique*, Paris, Seuil, 1981, p. 15-285.

Commission des Communautés Européennes, *Dix-huitième rapport annuel sur le contrôle de l'application du droit communautaire*, Bruxelles, 16 juillet, 2001a.

Commission des Communautés Européennes, *Rapport de la Commission. Troisième rapport de la Commission sur la citoyenneté de l'Union*, Bruxelles, 7 septembre, 2001b.

Dill Günter W., *Kommunales Wahlrecht für EU-Bürger. Studien und Materialien im internationalen Vergleich*, Sankt Augustin, Konrad-Adenauer Stiftung (Interne Studien Nr. 143/ 1999).

Engeli Christian und Wolfgang Haus (bearbeitet von), *Quellen zum modernen Gemeindeverfassungsrecht in Deutschland*, Stuttgart, Kohlhammer (Schriften des Deutschen Instituts für Urbanistik, Bd. 45), 1975.

Gemeinderat Stuttgart (Hrsg.), *Chronik der Haupt- und Residenzstadt Stuttgart 1906*, Stuttgart, Stadt Stuttgart, 1906.

Godechot Jacques, « Les municipalités du Midi avant et après la Révolution », *Annales du Midi*, tome 84, n°109, octobre-décembre 1972, p. 363-367.

Goodnow Frank J., « Local Government in Prussia », *Political Science Quarterly*, Vol. 4, No. 4, Dec. 1889, p. 648-666, et Vol. 5, No. 1, Mar. 1890, p. 124-158.

Hahn Hans-Werner, « Revolution und Stadtentwicklung. Die Revolution von 1848/49 – eine Zäsur in der deutschen Stadtgeschichte ? », *Archiv für Kommunalwissenschaften*, 1998, I, p. 1-17.

Hoffmann-Martinot Vincent, « Allemagne : la dialectique de l'union et de la division », in : Richard Balme, Philippe Garraud, Vincent Hoffmann-Martinot et Evelyne Ritaine, *Le territoire pour politiques. Variations européennes*, Paris, L'Harmattan (Coll. Logiques politiques), 1994, p. 39-73.

Kaelble Hartmut, *Nachbarn am Rhein. Entfremdung und Annäherung der französischen und deutschen Gesellschaft seit 1880*, München, C.H. Beck, 1991.

Keyser Erich, « Stuttgart », in : Erich Keyser (Hrsg.), *Deutsches Städtebuch. Handbuch städtischer Geschichte. Bd. IV : Südwest-Deutschland. 2. Land Baden-Württemberg. Teilband Württemberg*, Stuttgart, Kohlhammer, 1962, p. 218-252.

Klein Ludwig, *Die geschichtliche Entwicklung des Gemeindebürgerrechts in Württemberg*, Inaugural-Dissertation zur Erlangung der Doktorwürde einer Hohen Rechts- und Wirtschaftswissenschaftl. Fakultät der Eberhard-Karls-Universität zu Tübingen, 1933.

Köhler Joachim (Hrsg.), *Katholiken in Stuttgart und ihre Geschichte*, Ostfildern, Schwaben Verlag, 1990.

Krabbe Wolfgang R., *Die deutsche Stadt im 19. und 20. Jahrhundert*, Göttingen, Kleine Vandenhoeck-Reihe, 1989.

Lenger Friedrich, « Großstädtische Eliten vor den Problemen der Urbanisierung. Skizze eines deutsch-amerikanischen Vergleichs 1870-1914 », *Geschichte und Gesellschaft*, 1995, Heft 3, p. 313-337.

Lijphart Arend, « Unequal Participation : Democracy's Unresolved Dilemma », *American Political Science Review*, Vol. 91, Issue 1, March 1997, p. 1-14.

Matzerath Horst, « Von der Stadt zur Gemeinde. Zur Entwicklung des rechtlichen Stadtbegriffs im 19. und 20. Jahrhundert », *Archiv für Kommunalwissenschaften*, 1974, I, p.17-45.

Munro William Bennett, *The Government of European Cities*, New York, MacMillan, 1909.

Nolte Paul, « Effizienz oder « self-government » ? Amerikanische Wahrnehmungen deutscher Städte und das Problem der Demokratie 1900-1930 », *Die alte Stadt*, 1988, Heft 3, p. 261-288.

Pfaff Karl, *Geschichte der Stadt Stuttgart nach Archival-Urkunden und andern bewährten Quellen*, Stuttgart, Verlag der C.A. Sonnewald'schen, deux volumes, 1845.

Sauer Paul, *Die jüdischen Gemeinden in Württemberg und Hohenzollern*, Stuttgart, W. Kohlhammer (Veröffentlichungen der staatlichen Archiv-verwaltung Baden-Württemberg, Bd. 18), 1966.

Sauer Paul, *Das Werden einer Großstadt. Stuttgart zwischen Reichsgründung und Erstem Weltkrieg 1871 bis 1914*, Stuttgart, Silberburg-Verlag, 1988.

Sauer Paul, « Juden im Südwesten seit dem Mittelalter », in : Otto Borst (Hrsg.), *Minderheiten in der Geschichte Südwestdeutschlands*, Tübingen, Silberburg-Verlag, 1996, p. 153-173.

Schäffle Albert, « Beiträge zu einer vergleichenden Darstellung der deutschen Gemeindeorganisation », *Zeitschrift für die gesamte Staatswissenschaft*, 1866, 22, p. 17-86.

Schneider Birgit, « Religion und Bildung der württembergischen Juden im 19. Jahrhundert », in : Otto Borst (Hrsg.), *Minderheiten in der Geschichte Südwestdeutschlands*, Tübingen, Silberburg-Verlag, 1996, p. 174-187.

Schwarz Thomas, « Wahlbeteiligung und Wahlenthaltung bei der Gemeinderatswahl 1999 in Stuttgart », *Statistik und Informationsmanagement Monatshefte*, 2001, 1, p. 14-32.

Shaw Albert, *Municipal Government in Continental Europe*, London, T. Fisher Unwin, 1895.

Statistisches Amt der Stadt Stuttgart (Hrsg.), *Statistisches Handbuch der Stadt Stuttgart 1900-1957*, Stuttgart, Statistisches Amt der Stadt Stuttgart, 1960.

Ströhmfeld Gustav, « Grundzüge der natürlichen und geschichtlichen Entwicklung von Stuttgart », in : Fritz Elsas (Hrsg.), *Stuttgart. Das Buch der Stadt*, Stuttgart, Sentus-Verlag, 1925, p. 40-50.

Ville de Montréal, *La démocratie à Montréal de 1830 à nos jours*, Montréal, Ville de Montréal, service du greffe, 1992, 52 p.

von Thadden Rudolf, « Bürgerlich », in : Robert Picht, Vincent Hoffmann-Martinot, René Lasserre et Peter Theiner (Hrsg.), *Fremde Freunde. Deutsche und Franzosen vor dem 21. Jahrhundert*, München, Piper, 1997, p. 68-71.

Waibel Raimund, *Frühliberalismus und Gemeindewahlen in Württemberg (1817-1855). Das Beispiel Stuttgart*, Stuttgart, W. Kohlhammer (Veröffentlichungen der Kommission für Geschichtliche Landeskunde in Baden-Württemberg, Reihe B Forschungen, 125. Band), 1992.

Walker Mack, *German Home Towns : Community, State, and General Estate, 1648-1871*, Ithaca, Cornell University Press, 1971.

Wehling Hans-Georg, « Zur Geschichte der kommunalen Selbstverwaltung im deutschen Südwesten », in : Theodor Pfizer et Hans-Georg Wehling (Hrsg.), *Kommunalpolitik in Baden-Württemberg*, Stuttgart, Landeszentrale für politische Bildung, 1991, p. 31-46.

Wells Roger Hewes, *German Cities. A Study of Contemporary Municipal Politics and Administration*, Princeton, Princeton University Press, 1932.