

by Ralf Fücks

## Citizenship and Migration: The Debate Surrounding Dual Citizenship in Germany\*

The federal coalition of Social Democrats (SPD) and Greens that has been in power since the autumn of 1998 has faced no more intensely controversial reform project in its first year at the helm than that of the citizenship law. The main point of contention raised by the opposition, organized by the recently ousted Christian Democrats (CDU), was the intention to accept dual citizenship for migrants as a step to facilitate their taking German citizenship. Under the pressure of a plebiscitary mobilization by the CDU, and a surprising defeat of the so-called red-green coalition of SPD and Greens in the Hesse state elections, the SPD made a turnabout and withdrew the dual citizenship proposal.

With that step, a major point in the “red-green” coalition agreement had been annulled. Let me cite the decisive passage in this agreement:

“Our integration policy shall be centered around the creation of a modern citizenship law. In particular, two relaxed regulations are to be implemented:

- 1) Children born in Germany of foreign national parents shall automatically receive German citizenship if [at least] one parent was born here or came to Germany as a minor before his or her fourteenth birthday and has a residence permit for Germany.<sup>1</sup>
- 2) The following persons shall be entitled to naturalization, provided they have no criminal record and have means of support:
  - Foreign nationals who have legally resided in Germany for eight years
  - Under-age foreign nationals, if at least one parent holds at least an unlimited residence permit and if the minor has been living together with this parent as a family in Germany for at least five years

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\* Translated from the German by Allison Brown.

<sup>1</sup> Protocol note: The right to refusal provided for in items 5 and 6.1 of the proposal for the “Revision of the Citizenship Law” submitted by the SPD parliamentary party has been eliminated (File ref. 13/2833, 30 Oct. 1995).

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**In both cases, the granting of German citizenship shall not be dependent on the renunciation of the former citizenship.”**

This proposal was withdrawn. Instead, it was resolved that children born in Germany under the above-named conditions would automatically receive German citizenship, but they would have to decide between German citizenship and the citizenship of their parents by their twenty-third birthday. Multiple nationality is only permitted if the country of origin poses unreasonable conditions or does not decide in due time regarding a petition for release from the former citizenship.

There were also further restrictions in the legislative procedure. Prerequisites to naturalization are the ability to support oneself and competence in the German language, to be verified by a language test.

Despite this setback, which was difficult especially for the Greens to accept, the new naturalization law is a major step forward for the political culture of the Federal Republic of Germany. Up to now, citizenship was granted according to *jus sanguinis*, the right of blood, or parentage, as the justification for German citizenship. Now this has been supplemented by a “birth right” (*jus soli*, or right of the soil). This has paved the way for a new, republican understanding of nation and citizenship.

### The Social Point of Departure

A democratically constituted society can only function in the long term if no large segments of the society are excluded from full participation. As long as the determinant political unit is the nation-state, however, equal participation by migrants can only be assured through the acquisition of German citizenship.

In the future, national citizenship will be subsumed by a fully valid European citizenship within the scope of the European Union, just as national currencies will be replaced by the Euro as a common currency. We are already in the middle of this transitional process. Citizens from all EU member states already enjoy active and passive voting rights in every member state at a local level and for the European Parliament. The right to set up permanent residence, the labor market, and freedom of trade have already been Europeanized.

To this extent, from today’s legal perspective, there are two classes of migrants within the European Union: those from “within” the Union, and those who come from “without.”

Here are a few figures in order to illustrate the magnitude of the issue:

- There are 7.5 million foreign nationals living in Germany.
- Despite the large number of refugees who have applied for political asylum or war refugees who have temporary permission to stay in the country, thirty percent of

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all foreign nationals in Germany have lived there for twenty years or more. Approximately half have been in Germany for over ten years.

- Roughly 100,000 foreign national children are born in Germany annually, a majority of whom will grow up, attend school, marry, and work in the country of their birth. They nevertheless have the legal status of aliens.

According to the old legal situation, naturalization was also possible, and this did have some impact, even though the barriers were relatively high. The naturalization rate (that is, the number of naturalizations relative to the total number of foreign residents) was three-tenths of one percent (.3%) in 1986, increasing to 1.2% in 1996. This naturalization rate was far too low to make millions of foreign nationals into citizens with equal rights.

The Federal Republic of Germany prior to unification, that is, the former West Germany, gradually developed into an immigration country over decades, without having deliberated or reflected on this process politically or psychologically. Germany is in actual fact an immigration country, but it does not perceive itself as one.

Contrary to real conditions—and counterproductive to the interests of an aging and shrinking society—leading politicians, especially from the CDU, have been proclaiming for years that “Germany is not an immigration country.” Yet all demographic studies have emphasized that in the future the Federal Republic of Germany will urgently need immigration in the magnitude of several hundred thousand immigrants per year in order to maintain a relative balance between old and young, that is, between retirees and workers.

This conflict has extended into the current debate on providing residence permits for a limited number of computer specialists, in an attempt to make up for the deficit in innovative experts in the high-tech economy. Major segments of the trade unions and conservative opposition have formed a united front against any move to open the labor market to Eastern European or Asian specialists.

Some fear that this will open the door to a steady flow of immigrants, and others view the foreign experts as unwelcome competition for jobs.

Chancellor Gerhard Schroeder and the Social Democratic Minister of Labor have responded to this resistance by expressly announcing that this would involve only temporary high-tech guest workers, by no means immigrants who will receive permanent, unlimited residence status.

This discussion shows how wary German society still is, regarding migrants and immigration. In times of globalization, in which a mixture of cultures is the key to innovation, these mental barriers will increasingly lead to competitive drawbacks.

### Psychological and Political Resistance

“Alien” or “foreigner” status represents a legal and psychological obstacle to achieving true integration. It maintains distance, from both sides: “Foreigners” do not truly belong.

If we do not want to have to accept a two-class society in the long run, with all the social and political conflicts that are fueled by ethnic-based exclusion, German citizenship must become easier to obtain.

Toleration of dual citizenship is intended to reduce the existing hurdles by acknowledging the fact that migrants feel strong ties both to their home country and to the country to which they have immigrated. Recognition of dual citizenship has led to an open conflict with the long-standing defensive strategy of conservative political and social forces in Germany.

Although the CDU also has its rhetoric for simplified naturalization, it always includes the clause that naturalization can only represent the completion of the integration process. In this context “integration” virtually means “assimilation.” This implies that the immigrants should take on the majority culture, and those affected also understand it that way: “The majority society only wants us if we are willing to renounce our Turkish, Yugoslavian, or Russian heritage.”

Behind this lies the desperate attempt to answer the question “Who is a German?” by claiming a **national identity** that is not defined in a **republican** sense—that is, by recognizing common political values and the active affiliation to a political community. Instead, it is defined **culturalistically**, through common cultural traditions and lifestyles. The opinion that Germany must remain a Christian country is a standard response of this position, as is the attitude that opposes school instruction for immigrant children in their native language. Although English lessons are to be introduced in primary school in the future, and even Chinese is offered in school curriculum, there is great resistance to allowing children from Turkish families to receive school instruction in Turkish.

Demanding commitment to a clearly defined “national culture” is simply anachronistic in times of global migration, multiethnic societies, and multinational identities. Even with respect to the German majority population, one can no longer speak of a homogeneous majority culture.

The lifestyles and cultural traditions even of native-born Germans have gone through strongly divergent developments—as in all modern societies. This applies to opinions on marriage and the family as well as religious issues. Germany has become a thoroughly secular country, since for most Germans affiliation to a Christian church is more a traditional relic than it is a question of lived faith. The Muslim faith held by immigrants from Turkey is thus often questioned, not so much because it challenges the Christian monopoly, but because religion per se plays such a large role in the lives of many immigrants.

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### Dual Rights and Loyalties

A diffuse mixture of arguments are used in opposing dual citizenship—for instance, that anyone who is also a citizen of another country cannot be loyal to Germany. And it is claimed that dual citizenship leads to dual rights and thus privileged status vis-à-vis the majority German population.

But experience has proven otherwise; namely, that multiple nationality leads neither to deficient loyalty nor to privileges or disadvantages for the person involved. The number of people in Germany with multiple nationalities is presently estimated at far more than two million. (Children from binational partnerships receive the citizenship of both parents; ethnic Germans immigrating from Eastern Europe are not required to renounce their previous citizenship; and there is also a considerable number of individual cases in which the multiple nationality of foreign nationals is tolerated when they are naturalized.) This has not lead to any practical problems, either for the person involved or for society.

In Germany, citizens holding more than one passport have the same rights and duties as other Germans. Also, foreign national residents in Germany are subject to German law and they pay taxes and social security contributions, like all other citizens, although they lack the general voting rights necessary to influence conditions.

The German Federal Constitutional Court has determined that, corresponding to the “idea of democracy,” “congruence is to be created between the holders of democratic, political rights and permanent subjects of a certain political sovereignty.”

Whether or not dual nationals living in Germany are also allowed to vote in another country is the decision of the respective country and does not affect their status in Germany. The question of conscription into military service has been clarified through international and bilateral agreements.

### A Look beyond the Border

The new German citizenship law has once again linked Germany to the development of citizenship rights in other European countries:

Great Britain originally had an almost purely *jus soli* model, granting citizenship on the basis of birth in Great Britain. Great Britain still has a rule, according to which a child born there receives British citizenship if the parents have permanent residence status. Thus there are no second or third generation “British residents with foreign passports.” Neither in the naturalization process nor in the case of *jus soli* must a second nationality be renounced in order to hold British citizenship in Great Britain.

France also has strong elements of *jus soli* in its citizenship law. Originally, any child born in France received French citizenship, at the latest when he or she came of age.

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This principle was restricted in 1993 to the effect that a child born in France also had to submit a declaration between his or her sixteenth and twenty-first birthdays, expressing the wish to obtain French citizenship.

The new French government has since reverted to the former law. The question of multiple nationalities is irrelevant when acquiring French citizenship. As a result, in France as well, there are no comparably large groups of immigrants who are excluded from full political and social participation.

Belgium and the Netherlands grant citizenship by birth if the parents were born in the country. For other foreign national children born in these countries, flexible regulations for acquiring citizenship exist, in which a declaration must be submitted once they come of age.

I assume that in the not-all-too-distant future a European citizenship will evolve, creating a new type of so-called supranational citizenship that has definitively abandoned ethnic definitions and is instead based on the conscious and active affiliation to a political union.

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