
Republicanism and the Politics of Citizenship in Germany and France: Convergence or Divergence?

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Abstract

In this article it is argued that the models of German citizenship are quite dynamic and evolving. The German tradition today is more in line with the French and U.S. republican model of jus soli citizenship than the ascriptive jus sanguinis. The analysis concludes that legislation and public discourse about German citizenship politics have converged toward the French model during the 1990s. This means a normalization of the long awaited “delayed” nation in the field of citizenship politics.

1. Introduction: Is the distinction between *Kulturnation* and *Staatsnation* still adequate?

The often simplified definition of two citizenship models is *Jus sanguinis* in Germany and *Jus soli* in the USA or France. Rogers Brubaker (1992) who analyzed the subject exhaustively in his book *Citizenship and Nationhood in France and Germany*, postulates that Germany and France represent antagonistic ideas about the nation. In Germany, he argues, nation and state form two independent elements, which stand in tension to one other. In France, on the contrary, the national and the political-territorial unity have fused.ⁱ In the short formula Germany is therefore often called a “cultural nation” and France as “state-nation”. A classification, which was developed by Friedrich Meinecke as early as 1908.ⁱⁱ According to Brubaker, the antagonistic ideas of the nation-state continue to the present and find their expression in antagonistic citizenship models: Germany seems to prefer ethnic understandings of belonging, whereas France underlines a more republican and political belonging. “How could one otherwise explain” Brubaker posits “that Germany and France have such a divergent citizenship policy, despite a very similar immigration history?” French

citizenship policy, orientated towards assimilation, is characterized to be generous, because it converts immigrants into French citizens by the second generation. On the contrary, German naturalization law seems to assign immigrants a permanent alien status and therefore accentuates the difference between alien residents and persons of German descendants (ethnic German migrants or *Aussiedler*).ⁱⁱⁱ These considerations lead to the question, if the antagonistic citizenship models are really so stable and dogmatic as Brubaker predicted in 1992. The multiple legal changes that took place in the 1990s in France and Germany suggest another view.

Table 1: Major reforms of citizenship law in Germany and France in the 1990s

Year	Reform in Germany	Reform in France
1991	Creation of the Alien Act with a chapter titled "Facilitated Naturalization"	
1993	Conversion from a discretionary procedure to a legal claim on German citizenship	Introduction of the <i>manifestation de volonté</i> , abolition of the automatic naturalization for the second generation
1998		Abolition of the <i>manifestation de volonté</i> , re-introduction of the automatic system
2000	Automatic birthright citizenship for the second generation (optional model), reduction of the minimum residence time from 15 to 8 years	

Were these only superficial modifications or signs of a paradigmatic change? Do French and German citizenship and naturalization policies continue to diverge or can a convergence be found in essential points? And what role does the Republic play in all this?

I shall analyze these questions by considering the following:

- laws and their implementation
- outcomes of naturalization policies
- political discourse.

2. Implementing Citizenship Laws

2.1 The naturalization of the first generation in Germany: From the 1913 RuStAG to the Alien Act of 2000.

Until 1990 the *Reichs- und Staatsangehörigkeitsgesetz* (henceforth, RuStAG) of 1913 was the only legal basis for naturalization in Germany.^{iv} In the 1980s, when it became evident that “guest-workers” would not return to their home countries, the German government started to think about other solutions. In 1990, the German Parliament (*Bundestag*) passed the Alien Act containing a section that was aimed to facilitate naturalization for legal permanent residents and young aliens. Both groups are explicitly mentioned and together with the programmatic title the government wanted to demonstrate its special interest in these persons. Since then the Alien Act exists parallel to the RuStAG.

The change of government in 1998 made a further reform possible. The new Red - Green coalition (Social Democratic Party – SPD – and the Green Party) pursued a reform of the citizenship law the RuStAG. However, the opposition conservative Christian Democratic Union (CDU) captured the issue for their own purposes. In January 1999, the CDU started a campaign against dual nationality in order to win the state election of Hessen. The SPD and the Green Party lost the election and, as a consequence, the majority in the Federal Council (*Bundesrat*). In order to pass the law, the coalition Red-Green government had to find a compromise with the Free Democrats (FDP). The accepted version led to the amendment of the RuStAG as well as the Alien Act in spring 1999. In addition, the states agreed on general administrative rules for the interpretation of the new law. Table 2 illustrates the period of validity of the respective laws.

Table 2: Legal bases for the naturalization in Germany

Until 1990	Reform 1990	Reform 1999
Nationality law (RuStAG) of 1913		Nationality law of 2000
Naturalization guide-lines of 1977		Administrative regulations of 2000
	Alien Act of 1991	Alien Act 2000
	---	Administrative regulations of 2000

For the naturalization of the first generation the Alien Act became the most important law. At the same time more than three-fourths of all naturalizations are decided on the basis of the Alien Act not the RuStAG. The Alien Act of 2000 establishes the following:

§ 85 of the Alien Act amended in 2000: naturalization of an alien

- a minimum residence of eight years,
- a secured income,
- no criminal record,
- the renunciation of former citizenship and
- integration.

The newly amended law retains the criteria of the original text of 1991 yet with minimum residence time reduced from 15 to 8 years, clean criminal record, a secured income, and proof of integration in form of language comprehension and a declaration of allegiance. With the adoption of the Alien Act of 2000 exceptions and deviations from earlier legislation, i.e., shorter residence requirements for family members, citizenship despite small criminal offenses, dependence on social aid and the tolerance of dual nationality, were included in the new law. Although the official discourse is that Germany adheres to the principle avoiding dual nationality, there is a great deal of tolerance for dual nationality. Dual nationality is accepted in 25 % of all naturalization cases.^v

Some of the new conditions of the Alien Act imply a strong symbolic character. For the first time, the question of allegiance, vaguely formulated in the guidelines of 1977, has been specified and formalized. Applicants now have to declare their loyalty to the democratic order. This is close to the U.S. example and is the expression of a new, though moderate, patriotism based on German constitutional values. The declaration of loyalty is part of a more comprehensive integration requirement, which includes again a language test. The earlier Alien Act of 1991 abolished the language test as well as any other integration test, although this was not perceived by the public.

Retained in the Alien Act of 2000 was the legal claim for naturalization. Since July 1, 1993, the applicant *has to* be naturalized, when he fulfils all mentioned conditions. Some scholars even evaluate this change as the decisive turning point in German citizenship law, because it broke with the principle of discretionary naturalizations.^{vi} Since then, the German government has no longer a possibility to refuse unwanted but qualified new citizens. Other countries like France and the U.S.A. still hold on to their discretionary rights in the naturalization process of the first generation. Of course, more subtle mechanisms still may influence the outcome of citizenship policies. Potential factors are the scope of legal interpretation

and the modalities to apply for citizenship. But they are normally controlled by the state governments and not the federal government.

The question, whether a discretionary decision or a legal claim, is not only important for the legal status of the applicant, it is also important for processing because legal claims can normally be decided at the local level. On the other hand, discretionary naturalizations have to be delivered to the regional or state level, which often prolongs the procedure. Nevertheless, the time of processing varies even between on the local between the cities. An inquiry of the North-Rhine-Westphalia Parliament *Landtag* revealed, that the average time of a naturalization stretches between two weeks and two-years.^{vii}

2.2 The Naturalization of the First Generation in France: A Waiting Game.

The conditions for naturalization for the first generation in France are very similar to those in the German guide-lines. Contrary to the German Alien Act of 2000, the French *Code Civil* of 1993 (formerly the *Code de la nationalité*), does not provide a legal claim for naturalization. Even if the applicant fulfils all requirements, he can be refused by means of a discretionary decision. The actual requirements are:

Art. 21 of the <i>Code Civil</i> of 1993: Naturalization of aliens
<ul style="list-style-type: none"> • minimum residence time of 5 years, • no criminal record • secured income and • societal and cultural assimilation.

As in Germany, shorter residence time is required for family members and some other groups. However, the flip side to this is that the entire family is expected to naturalize. Otherwise, the applicant can be denied citizenship. In Germany, this provision was abolished in 1991. What the French state does not require from the applicant is that he renounce his former citizenship. In other words, dual nationality is tolerated without being explicitly stated in the laws.

The requirements for the proof of assimilation are in some aspects more difficult than in Germany. Beside the knowledge of French, the civil administration seeks to verify if the applicant has contact with other French persons, if he participates in French cultural life or is a member of a sports club, and if he is assimilated to French customs and traditions. In some cases, this might be easy to identify. For example political extreme positions or polygamy are clear grounds to refuse citizenship. But in most other cases this is an ambiguous requirement. Is wearing a scarf a sign for incomplete assimilation? In those cases the assessment depends on the local prefecture.

In the French guidelines, not only assimilation but also the applicant's motivation is an important criterion. The applicant is expected to have an "ethical impeccable" motivation to acquire French citizenship. Another objection may be poor health condition of the applicant. In case of doubt, the prefect can demand an official health record. The condition of impunity (*être de bonne vie et mœurs*) goes further than having a clean criminal record for the past ten years- both in France and in the country of origin. Though exceptions can be made for smaller offenses, the prefect also has to deliver a report on the general moral behavior of the applicant.

Typical for France is a decentralized structure to receive applications and a centralized structure to decide them. This means, that the local prefect receives the request and determines if the documents are complete and properly filled out. He then delivers his opinion on every dossier by either approving or disapproving to the naturalization request. The dossier is sent to the central *Direction de Migration et Population* (henceforth, DPM) in Nantes, which makes the final decision. The advantage of such a centralized procedure is that regional differences in evaluating cases can be compensated. Though, if potential applicants are discouraged by the local administration to apply for naturalization, the DPM is not able to intervene. The disadvantages are the proximity to the DPM, the length of processing and the responsibility of a dozen or more civil servants to decide all naturalization cases in France.

The time to process an application is very long. In Paris, where 50% of all naturalization take place, the waiting time for the applicants amounted in 1997 to seven months for a initial meeting with a staff member and additional eight months to have the obligatory interview in which assimilation potential and personal motivation is examined. The delivery to

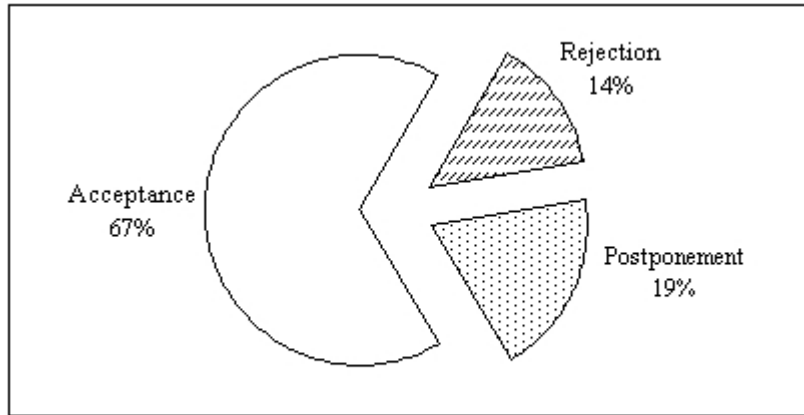
the DPM took another ten months. As in Germany, the bureaucratic process varied in extremes from city to city. According to a study of seven selected prefectures undertaken by the trade union CFDT, the processing lasted between five months in the prefecture of Charente and over three years in the prefecture of *Nord*.^{viii} Corresponding to the German situation, the time to process the application does not correlate with the actual number of aliens or applicants in the region. Rather, the organizational structure and personnel seem to be important reasons for the differences. The prefectures themselves stated the lack of professional education of their administrators and of unified regulations as the most pressing matters in the application review process. Moreover, naturalization is only one of the many tasks of the prefectures. Until 1998, naturalization did not enjoy any priority either in the prefectures or in the central DPM, because there was no time limit for their processing. With the reform in 1998, this changed. The parliament decided to limit the process to a maximum of eighteen months. If the administration does not decide the case in time, the applicant automatically becomes a French citizen. This is nothing new for France, as time limits have already existed for foreign born spouses and for the young migrants (*manifestants de volonté*).

Table 3: Maximum Processing Time for Naturalization

<i>Maximum processing time for naturalization</i>
<ul style="list-style-type: none"> • Normal Aliens: 18 months <i>(Art. 21-25 Code civil, loi n° 98-170 du 16 mars 1998)</i> • Foreign Born Spouses: 12 months <i>(Art. 26-3 Code civil, loi n° 93-933 du 22 juillet 1993)</i> • Young Aliens (<i>manifestation de volonté</i>): 6 months <i>(Art. 26-3 Code civil, loi n° 93-933 du 22 juillet 1993)</i>

The rate of rejection 33% or 19,326 cases is quite high. Some of these applications were only postponed, others were fully rejected. This high quota of rejection is not exceptional for France. In previous years, it tended to oscillate between 25% and 30%.^{ix} In reality, this number is a bit higher because persons whom the administration discourages to apply for citizenship never appear in the statistics.

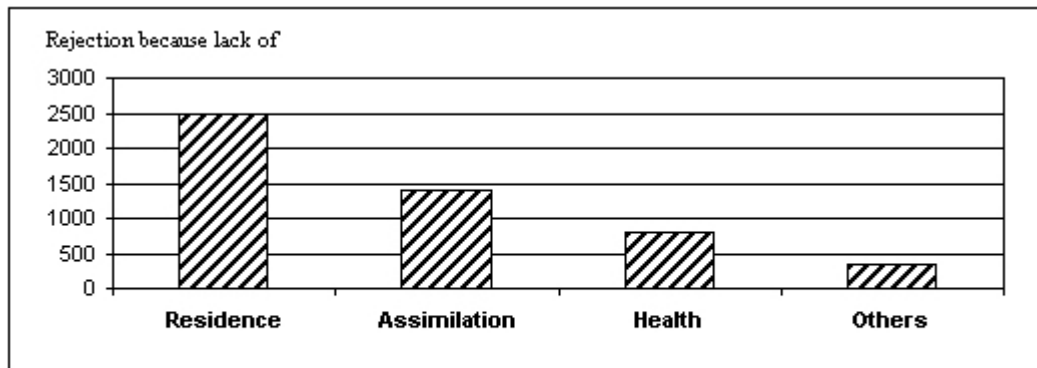
Table 4: Rejected and Postponed Applications of Naturalization in France, 1997



Source: *Ministère de la Justice et Ministère de l'Emploi (DPM): Les acquisitions de la nationalité en 1997*. Paris 1999, p. 16-17; own calculations.

Reasons to postpone a demand can be grounded upon insufficient knowledge of French, a limited working contract or something equivalent. Postponement is only permitted, when there is a chance of improvement. If the demand is postponed for more than a year – normally it is for two years – the applicant has to resubmit a new application because the former documents are considered to be outdated. The most frequent reasons for a rejection are the lack of legal and permanent residence in France (or the impossibility to prove it), the lack of assimilation or a bad health condition.

Table 5: Rationale for Rejection of Naturalization Applicants in France, 1995



Source: *Ministère de l'Emploi (DPM): La politique de la nationalité en 1995*, p. 25; own calculations. Unfortunately the data in detail exists only until 1995.]

Lack of societal assimilation is a good example to demonstrate the capricious nature of the French system. First, assimilation is a vague criterion. Second, if it is considered as insufficient knowledge of French, the average processing time of two years will make invalid the language test because the capacity to speak and understand French may have improved significantly in the meanwhile. The relativistic nature of this criterion becomes even more obvious if one compares preceding years. In 1994, lack of assimilation was the motivation for 1.7% of all negative decisions, but in 1995 this figure climbed to 11.9% of the cases. In other words, in 1995 applications were ten times more often rejected based upon the lack of societal assimilation than in 1994.^x Another thorny justification to reject citizenship claims was the use of the discretionary right enjoyed by public officials. In 20% of all rejected cases, the decision was based on the discretionary margin of the administration. In other words the applicant was refused citizenship though he fulfilled all requirements. This occurred to 1,550 out of 12, 880 rejected cases in 1997. Nevertheless, it should be stated that reviewed cases are quite successful. In one third of all rejected cases the review led finally to the acceptance of the applicant.^{xi} The high rate of rejection in France may be explained by several factors: one reason may be that the political culture in France encourages many aliens to apply for citizenship, even if they are not qualified. Another reason, as we have seen, may be the use of the discretionary right and vaguely formulated criteria. This may result in different standards depending on the prefecture. Moreover, many civil servants state, that they feel overworked and do not see any incentive to raise the naturalization numbers.

Unfortunately, in Germany, rejections are not statistically registered, though they have to be justified in each case. Therefore, a comparison with France is not possible in this policy area. In other aspects, the French-German comparison demonstrated, that the conditions for the first immigrant generation to naturalize are similar in many instances. For example, in both countries a certain time of residence, integration (language comprehension), no criminal record and a secured income seem to be general accepted standards. This would contradict the central thesis of Brubaker, who believed in the influence of national traditions and not of international patterns. Nevertheless, a more detailed analysis reveals, that the German Alien Act of 2000 is in many aspects more precise than the French *Code Civil* of 1993. Furthermore, it is not possible to classify the respective legislation as being more restrictive or more liberal, because each contains elements of both. For example, the minimum residence time of five years in France is easier to complete than the eight years required in Germany. On the other hand, the requirements of assimilation, clean criminal record and clean bill of health are more difficult to realize in France than in Germany.

An interesting difference between the two countries concerning citizenship politics is the fact, that in the case of Germany the government changed the naturalization laws for the first generation in 1990, 1993 and 1999, whereas the French government never even considered any modification to be necessary. Hence, since the creation of the *Code de la nationalité* in 1945, the conditions for the first generation to naturalize, were not addressed in any of the French citizenship reform measures.

2.3 The Acquisition of Citizenship of Second Generation Migrants in Germany: An Era of Reform.

The term „young aliens“ or „second generation migrants“ designates the children of immigrants who have been raised in Germany and were often even born in the country. It is rather unlikely that they will return to the country of origin of their parents. Consequently, an important goal of German immigration politics seems to be their full integration and participation in their „new“ home country. In Germany, there has never been the tradition of an automatic acquisition of citizenship for this group as is the case of France or the U.S.A. Before 1990, young aliens were not specially taken into account in German citizenship law. For them, the same

conditions as for the first generation family members applied. This changed with the creation of the Alien Act in 1990. The *Bundestag* wanted to encourage young aliens to apply for citizenship and lowered the requirements for this purpose. Instead of fifteen years of residence, young aliens now only needed eight years to be eligible. They were excluded from the proof of a sufficient income and did not have to submit to any test of integration. In detail, the Alien Act of 1991 demanded that a young alien could apply for German citizenship between the age of 16 to 23, when s/he met the following:

§ 85 of the Alien Act of 1991: Naturalization of young aliens
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- | |
|---|
| <ul style="list-style-type: none"> • resided in Germany for at least eight years, • attended a German school for at least six years, • no prior criminal record and • renounced former citizenship. |
|---|

With the reform of the Alien Act of 2000 the special conditions for young migrants became superfluous because the general residence time was shortened to eight years. The conditions for the young migrants are now identical with the those for adults - with the exception that an applicant under 23 years still does not have to prove a secured income. The minimum age for an independent naturalization is 16 years-old.

The most important change of the German nationality law concerns the introduction of the birthright citizenship for the second generation. In contrast to France and the U.S.A., the place of birth did not play a role until the reform in 2000. At that time, the § 4 of the nationality law, which originally contained only the *jus sanguinis* principle for German descendants, was amended with the paragraph:

§ 4 of the Staatsangehörigkeitsgesetz of 2000: Birthright citizenship
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A child born in Germany from alien parents is a German citizen, if at least one of the parents has had his or her residence for eight years in Germany and possesses a secured residence status.
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Therefore, beside the birthplace, the status of the parents is decisive. This can lead to the situation that brothers or sisters have different nationalities, because the status of the parents may not have fulfilled the requirements, when the first child was born, but did so for the second child.

In cases which the law applies, parents have no right to refuse German nationality for their child. Instead, the child has the right and the obligation to opt for the German nationality or the nationality of his parents, which he will attain in most cases when he turns eighteen.^{xii} The so-called optional model, introduced by the FDP in the legislative debate provides the following possibilities:

- The young migrant person proves that he renounced to the nationality of his parents and therefore retains German nationality.
- The young migrant chooses the nationality of his parents or does not take a decision at all until the age of 23; he will then lose German citizenship automatically.
- The young person can apply to keep both nationalities, if he is not able to give up his foreign nationality.

Contrary to the normal naturalization procedure, the law prescribes that the administration must inform the young dual nationals upon reaching eighteen years of age. This causes several problems. In order to identify the persons concerned, the naturalization service has to keep track of migrant children who were born in Germany. This is typically done through keeping track of personal addresses. Presently, the naturalization services and the registration offices still have to set up an adequate computer system to connect and store this information. Furthermore, the question of data protection and the legal bases to link address and citizenship status has not yet been solved.

The decentralized structure of the registration office as well as the naturalization service leads to other challenges. In Germany, every person residing in the country has to register in the community where he lives. So, every time a young dual national moves from one city to another, the information about his citizenship status has to move with him. It becomes even more complicated when the young migrant moves to a foreign country and then moves back to Germany. The naturalization officers will often have difficulties finding the migrants' new address. If the naturalization office fails to inform the young migrant at the age of eighteen, the migrant will be eligible to keep both nationalities.

2.4 The Second Generation in France: Reform of the Reform

In France, birthright citizenship for the second generation was introduced in 1889 and therefore has a long tradition. Until 1993, an alien child born on French territory was assigned automatically French citizenship when reaching adulthood.^{xiii} In order to benefit from this provision, the young migrant had to prove that he was born in France and resided there for at least five years before reaching adulthood. In short, birthright citizenship has never been unconditional for second generation migrants in France. Unlike this, the third generation profits from the so-called “dual *jus soli*”. If the parents and the grand-parents were born in France the child is automatically a French citizen at birth. Dual birthright citizenship has already been introduced in 1851 and has never really been questioned since then. However, the regulations surrounding second generation migrants accessibility to citizenship were exposed to many controversies during the 1980s and 1990s.

The first legislative reform took place after the conservative government came into power in 1993. The newly elected government adopted the *manifestation de volonté* as one of their first projects and passed legislation which abolished the automatic acquisition of citizenship for second generation migrants. Instead of this, the legislature installed a formal procedure for young aliens born in France to apply for French citizenship between the ages of 16 and 21. Despite the criticism, it should be stressed, that the reforms of 1993 did not restrict the general *access* to French citizenship rather changed the *modalities*. The symbolic dimension seemed to be the most important attribute. This may explain, why the intermezzo of the *manifestation de volonté* lasted only four and a half years until the Socialists regained the majority in the parliament in 1997. The Socialist dominated legislature again adopted a reform of the nationality law as one of their priority projects and reintroduced the former “automatism” to replace the *manifestation de volonté*.^{xiv} Moreover, the Socialists did not miss the opportunity to underline the importance of an inclusive citizenship law in order to realize the ideal of the Republic.

The *Code Civil* of 1998 provides that a person acquires automatically French citizenship, if he fulfills the following:

<p>§ 22-7 Code Civil of 1998: Automatic Acquisition of Citizenship for Second Generation Migrants</p>
<ul style="list-style-type: none"> • born in France and • resided in France for at least five years (continuously or discontinuously between the ages of 11 and 18).
<ul style="list-style-type: none"> • The young migrant has the right to refuse the automatic acquisition of French citizenship 6 months before or 12 months after his eighteenth birthday.

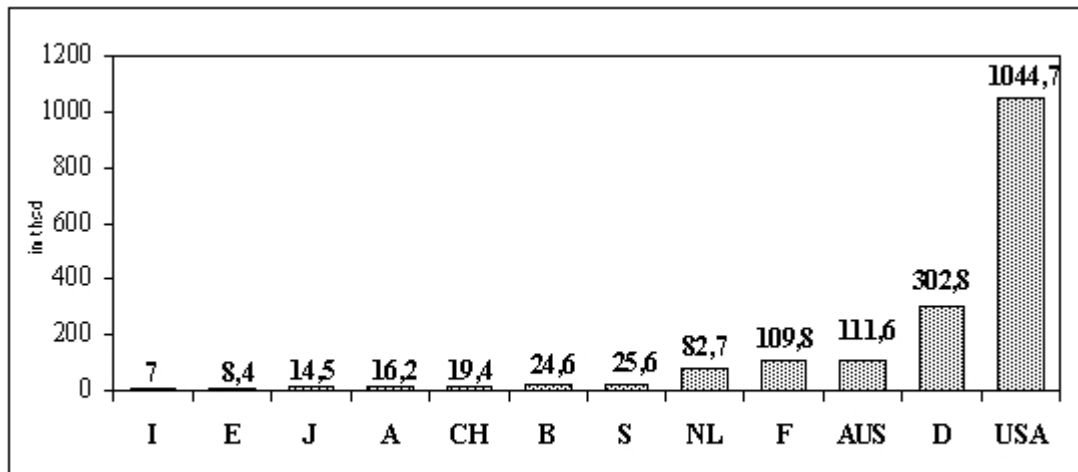
Summing up the results of the legislative comparison between Germany and France, it may be said, that the simplified dichotomy suggested by Brubaker in 1992 cannot be sustained any longer. The detailed analysis of the legal basis reveals that each nationality law contains some liberal and some restrictive elements. Concerning the second generation, both countries have an interest in their integration. After having examined the respective citizenship laws it may be helpful to examine the outcome of the respective citizenship policies. Do the results confirm or contradict the observed convergence in legal aspects?

3. Policy Outcomes:

3.1 Increasing Numbers of New Citizens in Germany

Despite the reputation of having a continual restrictive naturalization policy, Germany has astonishingly high naturalization numbers. Since 1990, each year more than 100,000 persons obtained German citizenship, since 1993 between 200,000 and 300,000 persons have been naturalized annually. Consequently, in a comparison with other OECD countries, Germany takes the second position in naturalization numbers, right after the U.S.A.

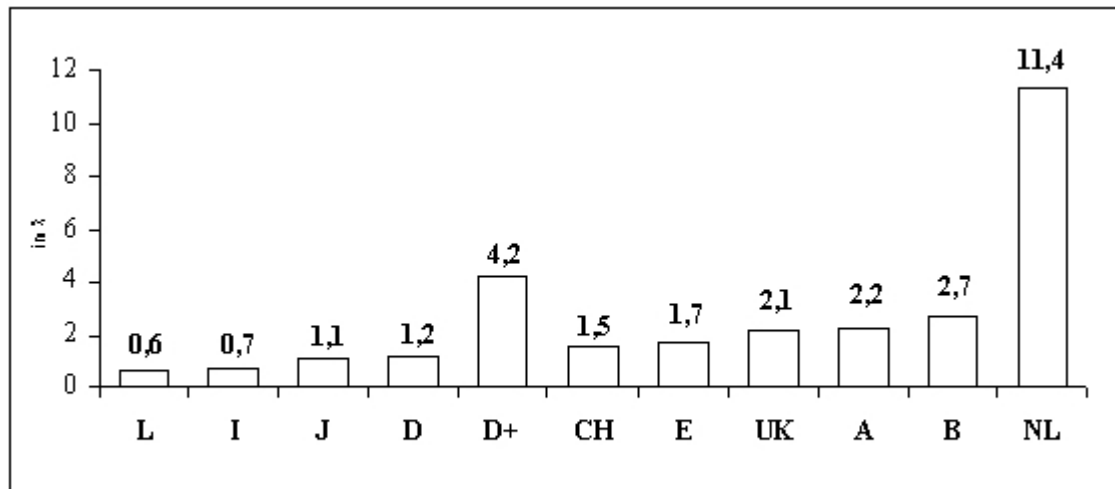
Table 6: Absolute Naturalization Numbers in Selected OECD Countries, 1996



Source: OECD: SOPEMI. Trends in International Migration. Annual Report 1998. Paris 1999, p.225.

Accordingly, the naturalization rate in Germany is clearly above average. Even without the naturalized *Aussiedler* naturalization is quite comparable with other OECD countries. The French naturalization rate can only be estimated because aliens are not registered in continuous manner. If one calculates with a stable number of aliens (1990: 3.6 millions) the rate is between 2% and 3% annually.

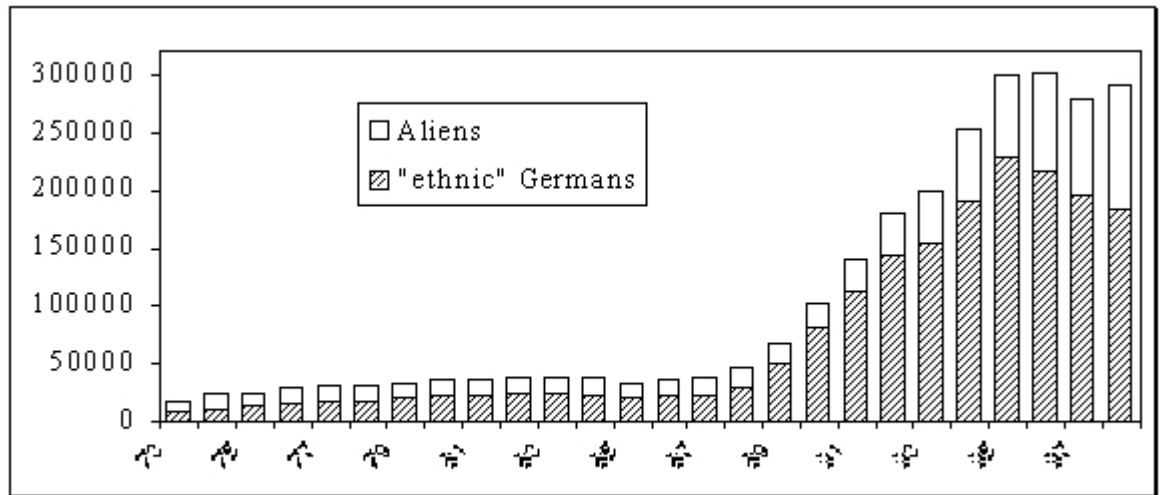
Table 7: The Naturalization Rate in Selected OECD-Countries 1996



Source: OECD: SOPEMI. Trends in International Migration. Annual Report 1998. Paris 1999, p.225.

The letter “D” represents the naturalization rate of immigrants in Germany; D+ includes the naturalization of *Aussiedler*. A closer look at the evolution shows, that the acquisition of German citizenship has risen steadily since the official end of recruitment of migrant workers in 1973-1974. The peak for naturalization was reached in 1996 with some 216.474 *Aussiedler* being naturalized and two years later, in 1998, when 106,790 other immigrants became German citizens.

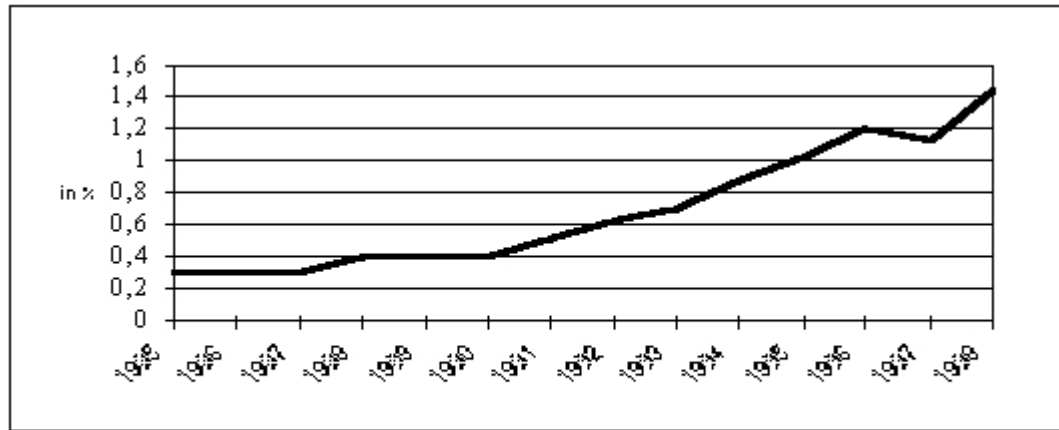
Table 8: Total Number of Naturalizations in Germany, 1973-1998



Source: *Beauftragte der Bundesregierung für Ausländerfragen* (Ed.): *Daten und Fakten zur Ausländer-situation*. Stand Juni 1999. Bonn 1999; own calculations.

The naturalization rate illustrates the development in German naturalization policy over the past twenty years. The following graph illustrates that the Alien Act of 2000, which came into force January 1, 1991, initiated a sharp rise in the naturalization rate reaching a peak at 1.2% in 1996. But, in 1997, the naturalization rate dropped slightly to 1.13%, only to rise again to 1.45% in 1998. In other words, the naturalization rate in Germany has quadrupled over the last ten years. If one adds the naturalized *Aussiedler* we see a fifteen fold increase in naturalization rates during the 1990s. As a result of these high rates of naturalization it is clear that German citizenship policies can no longer be deemed exclusionary.

Table 9: Naturalization Rate of Alien Residents in Germany ,1985 - 1998



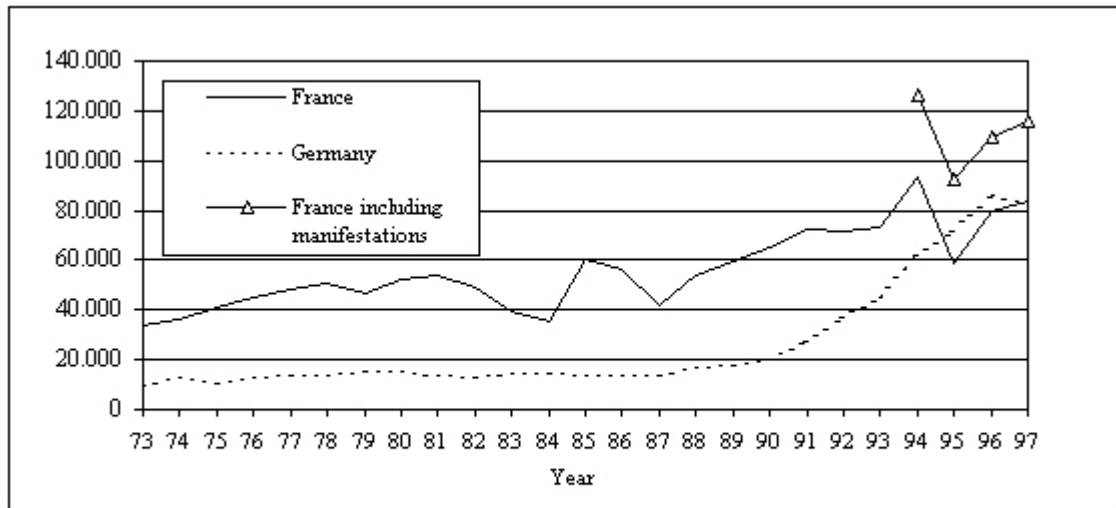
Source: Beauftragte der Bundesregierung für Ausländerfragen (Ed.): Daten und Fakten zur Ausländersituation. Stand Juni 1999. Bonn 1999; own calculations.

The main challenge in the near future will be to naturalize the many legal permanent residents (and their children) living in Germany. This number comprises about 3.5 million qualified but not yet naturalized aliens. Due to the reform and its wide-spread publicity more legal permanent residents are likely to acquire German citizenship. Local naturalization offices already report that the number of applicants has doubled since the beginning of the year. The newly introduced birthright citizenship will contribute its share so that the aim to have more congruence between the resident population and the voting population will be reached in the long run.

3.2 Varying Numbers of New Citizens in France

In real terms, French naturalization numbers are higher than in Germany, but the gap is closing. In 1997, for example, some 116,000 persons acquired French citizenship. Yet Germany followed in 1998 with over 100,000 naturalized aliens.

Table 10: Acquisition of Citizenship in Germany and France, 1973-1997



Source: DPM, Ministère de la Justice, Statistisches Bundesamt. Before 1993 the French numbers do not contain of persons who acquired French citizenship by the automatism. Therefore, the *manifestations de volonté* from 1993-97 listed separately.

The variations in the French curve are striking. They can be explained by bureaucratic and by political reasons. In 1987, for example, the central DPM moved from Paris to Nantes and the work stopped for a few months, which is reflected in the low numbers of naturalization that year. The peak year, 1994, is a clear reaction to the announced and realized reform in 1993. Most of the cases decided in 1994 were leftover from the preceding year. In other words, many aliens perceived the reform as a threat to their residency and applied for citizenship out of fear in view of the reform or of anticipated restrictions. This is even true for persons not directly concerned by the reform. The same mechanism can be observed regularly in the U.S. Each time a restrictive reform is announced or realized, like California's Proposition 187 passed in 1994 or the Welfare Reform Act in 1996 which tied the provision of social goods to U.S. citizens the naturalization numbers raise in a reaction to it.

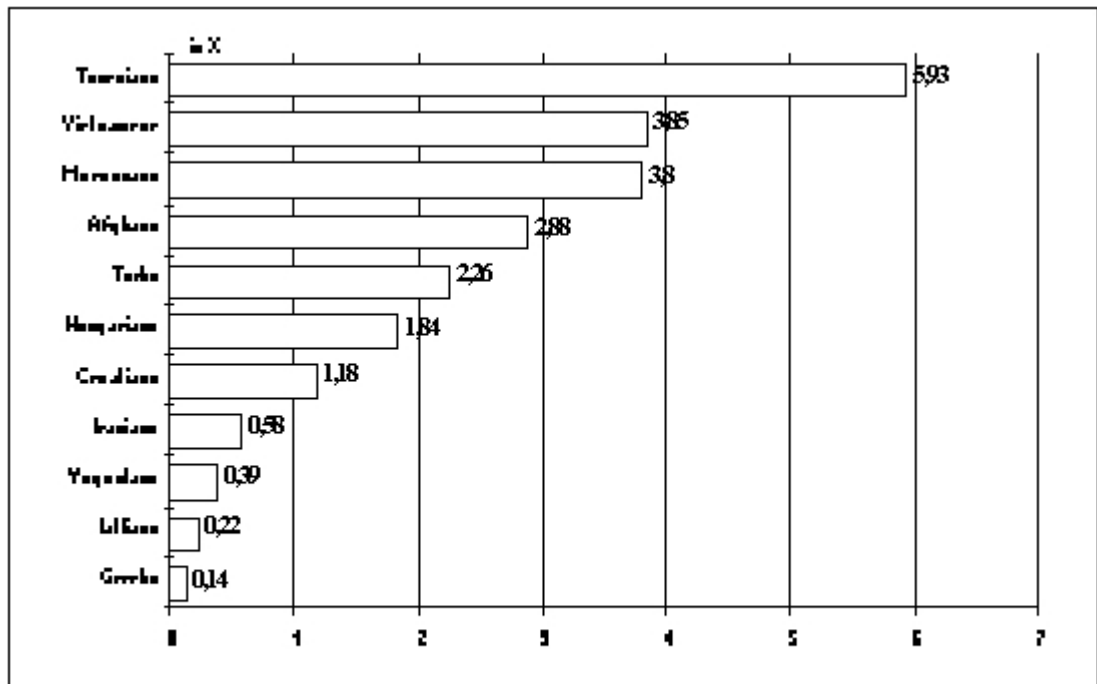
3.3 Countries of Origin of Naturalized Persons: From Europe to the Maghreb

In Germany as well as in France, one can observe, that non-Europeans make up the bulk of naturalization. For Germany this is especially interesting because reality contradicts the oft-held belief of an ethno-

cultural understanding of citizenship. For example, half of the 86,000 persons naturalized in Germany in 1996 were of Turkish origin (46,000), followed far behind by Vietnamese (3,600), Moroccans (3,100), and Yugoslavs (3,000). In contrast to this, the number of EU-alien obtaining citizenship is very low. A convincing explanation may be the relatively secure status and the guaranteed rights that E.U. nationals enjoy. Nevertheless, the attitude leads to the paradoxical situation that persons, who are considered to be well integrated, hardly ask for German citizenship. In consequence, they are excluded widely from full political rights. The same phenomenon can be stated for France, where only 10% of the naturalized are from a West European origin.

If one examines the number of naturalizations with the total number of the national group living in Germany, the picture becomes more differentiated: Tunisians, Moroccans, Vietnamese and Afghans show relatively high naturalization rates, yet they account for a small percentage of the overall foreign population. Turks and Croatians present average naturalization rates. Low naturalization rates (under 1%) appear for large migrant groups such as Poles, Yugoslavs, Italians and Greeks. In other words: Tunisians are naturalized four times more often than Turks and 52 times more often than Greeks.^{xv}

Table 11: Naturalization Rtes Relative to the Total Number of the National Group Residing in Germany, 1996

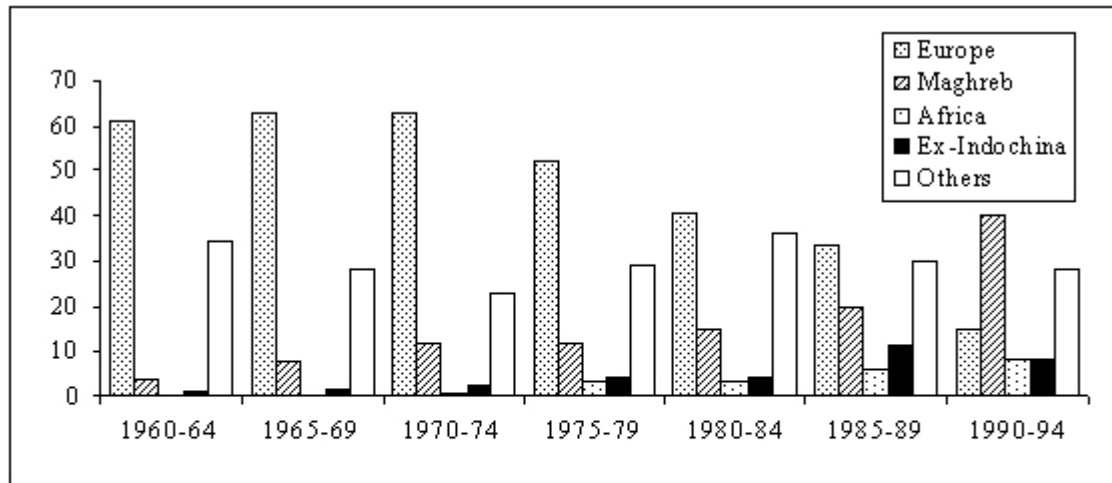


Source: Beauftragte der Bundesregierung für Ausländerfragen (Ed.): Daten und Fakten zur Ausländersituation. Stand Juni 1999. Bonn 1999; own calculations.

The different naturalization rates among migrant communities may be explained as a result of turmoil in the sending country. For example, political refugees such as the Vietnamese have a strong interest in possessing a secured status in their newly adopted homeland. In the cases of the Tunisians, Moroccans and Afghans, the acceptance of dual nationality is very high at some 80%. For EU-citizens the relationship between the secured status and the willingness to naturalize seems to be inverse. In other words, the expansion and consolidation of rights for legal permanent residents were not followed by a full integration through citizenship, rather slowed the process down. Similar observations can be made with Canadian immigrants in the U.S.A. The above interpretation proceeds on the assumption, that mainly rational reasons determine the decision for or against naturalization as a result of the transaction costs to acquire citizenship.

The countries of origin of the naturalized persons in France shifted – similar to Germany – from the European to non-European persons. In the 1960s and early 1970s more than 60% of the naturalized persons came from a Western European country. Their portion has dropped to 10% in 1995. In the counter-move only 4% of all naturalized persons originated from the Maghreb, whereas in 1995 the same group represented 44% of total naturalizations. The naturalization of sub-Saharan African immigrants also increased, though not to the same extent. The naturalization of persons from Vietnam, Cambodia and Laos reached its peak at the end of the 1980s and has declined since then. Table 12 illustrates the shift in the regions of origin.

Table 12: Countries of Origin of Naturalized Persons in France, 1960-1994 (in percent)



Source: DPM: Nationalité en 1995, S. 53. The numbers include the naturalization of the first generation and foreign born spouses, but not the children. Europe: Italy, Spain, Portugal; Maghreb: Morocco, Algeria, Tunisia; Africa: Benin, Burkina, Cameroon, Republic of Central Africa, Comoro Islands, Congo, Cote d'Ivoire, Djibouti, Gabon, Guinea, Madagascar, Mali, Mauritania, Nigeria, Senegal, Chad, Togo; Ex-Indochina: Vietnam, Cambodia, Laos.

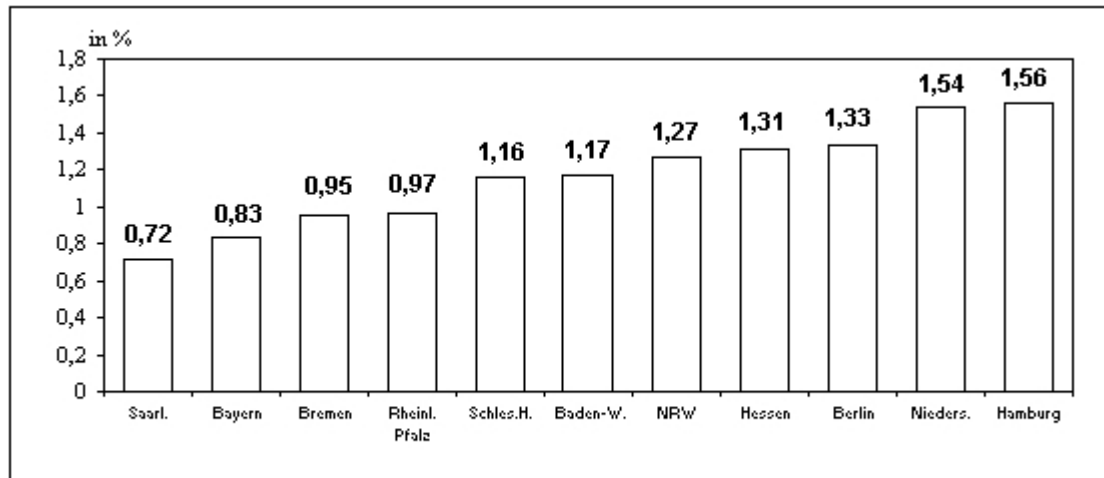
Other than Germany, where Turks make up some 54% of all naturalizations, in France naturalization rates are shared among four to five countries of origin: Morocco, Algeria, Portugal, Tunisia and Turkey. Overall, these countries comprise 62% of all naturalized persons in France. The fact, that almost 70% of the applicants come from a “Francophone” country does not really play a big hand in the process. Although these “Francophone” nationals normally have solid language and cultural knowledge, they are frequently perceived as foreign due to their Islamic background. This situation portrays the ambivalence of the colonial past, which influences immigration and citizenship politics until today: on the one hand, strong links still exist between the former colonies and the “motherland,” on the other hand, a deep mistrust persists

4. Regional Differences in the Politics of Citizenship: Germany and France.

The analysis of the outcome of the citizenship policy has revealed another aspect: Although there is federal legislation on the acquisition of German citizenship, considerable differences appear between the *Länder* concerning the interpretation and the application of the law. The Alien Act of 1991 lacked official guidelines for ten years and only non-binding agreements were reached. In contrast to this, Alien Act of 2000 included the explicit task for the states to develop administrative guidelines before January 2000. Although the latest version is yet to be ratified by the *Bundesrat* the provisional administrative regulations are already practice. Some requirements are prescribed in detail, such as residence status, others are intentionally kept vague, like the security check or language test, because the states could not find an agreement on them.

The German *Laender* show a great disparity in their naturalization policies. Whilst the national average of the naturalization rate was at 1.2% in 1997, it ranged from 0.72 % in the Saarland to 1.56 % in Hamburg. As the rate relates the naturalized persons to all aliens living in the state, it is possible to compare states with different population sizes. The five new states in East Germany were not taken into account because they have only a very small percentage of all foreigners (1,6%) and possess a different demographic make up due to 40 years of communist rule.

Table 13: Naturalization rates in the *Länder*, 1997

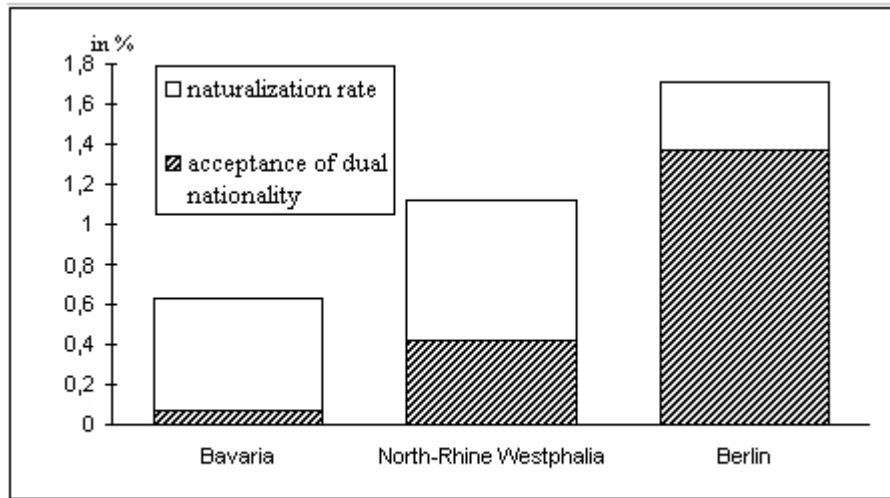


Source: Statistische Landesämter; own calculations.

How can we explain these differences given the federal law and precisely formulated conditions? Moreover, the law does not leave any discretionary margin to the administration. The only possible explanation for such significant differences between the states has to be found in policy implementation.

Implementation is a very complex process. In the case of citizenship politics, the attitude toward naturalization, the information politics and the organizational structure seem to play an important role. One striking example is the different tolerance of dual nationality. Table 14 illustrates the clear discrepancy in three selected states. In 1995, for example, dual nationality was accepted in Bavaria only in 10% of the cases, but in North-Rhine Westphalia in 40%, and in Berlin in 75% of the time. In other words, in Berlin dual nationality was accepted eight times more often than in Bavaria.^{xvi} In this perspective, the example of Berlin demonstrates, that it was possible and obligatory to tolerate dual nationality in many cases within the effective law. As a side effect, a more liberal acceptance of dual nationality can lead to higher naturalization rates.

Table 14: Acceptance of Dual Nationality According to the Alien Act in Selected States, 1995



Source: Statistische Landesämter, own calculations.

The disparities in naturalization rates do not stop at the level of the *Laender*, but continue at the local level. A study of the districts and cities in North-Rhine-Westphalia revealed that the naturalization rate of Turks - all decisions based upon the Alien Law of 1990 - ranged from 0.1 % to 2.7 % in 1996.^{xvii} This finding supports the hypothesis, that the local head of the administration can have a decisive influence on the naturalization rate. Questions as to the priority of the subject, the personnel capacity, the strictness of controlling documents, the time needed for the procedure, can increase or decrease the number of naturalizations. Of course, these unintended consequences were not foreseen by legislators when they crafted the law.

In the case of France, the practice to refuse applicants of the young migrants *manifestation de volonté* is quite revealing. Even in a centralized government the rates of refusal varied extremely between the regions. While the national average of rejected applicants was at a low 2% in 1996, the regions Basse-Normandie (7%), Lorraine (5,3%) and Bretagne (6%) had especially high rates. Seven *départements* showed a rejection rate over 10% in 1996. These include Morbihan (41,2%), Gers (24,3%), Alpes de Haute Provence (20%), Dordogne (17,5%), Meurthe-et-Moselle (10,9%), Lot (10,4%) and Orne (10%).^{xviii} As in Germany, local officials exercise a great deal of discretionary decision making which directly influence the outcome of national citizenship politics.

As noted earlier it is not possible to track the rejection of naturalization requests in Germany. But according to the Federal Administrative Office even in seemingly restrictive *Laender* and localities very few applicants are rejected. As a result, the problem is not so much that migrants do not fulfill the conditions of citizenship but that they do not even apply for naturalization. The question remains why many migrants still hesitate to ask for German citizenship. Putting the focus on the obvious liberal changes that German naturalization policy has undergone during the last decade, perhaps we should consider the wider context of national identity as it relates to the evolving conception of citizenship.

5. Conclusion: Citizenship Policies in a Modern Republic

The aim of this study was to conduct a legislative as well as the statistical analysis between France and Germany to answer the question: is the classification of Germany as a *Kulturnation* and France as a *Staatsnation* still true today? The comparative analysis demonstrated, that German legislation meets international standards with rates of naturalization approaching France. Thus, the findings refute Brubakers' (1992) hypothesis of continuous divergent citizenship policies in Germany and France.

How did the convergence of these nations naturalization and citizenship policies happen? The analysis of the political discourse which cannot be addressed in detail in this article illustrates that the subject of citizenship has in fact a polarizing effect. However, the polarization took place not between nation states but between left-wing and right-wing politicians. It is certainly no accident, that most of the reforms occurred immediately after a change in government. French and German parties used the symbolic value of citizenship for their electoral purposes.^{xix} Conservative politicians are still attracted by the idea of a homogenous nation, whereas left-wing politicians prefer the idea of an open Republic. They agree only on the theoretical democratic point of view, that the resident population should be as congruent as possible with the voting population.^{xx}

In Germany, the SPD and the Green Party won the election in 1998 and included the proposition to reform the citizenship law in their coalition agreement. Under the title "Security for all – strengthen the civil rights" the agreement deals with the politics of integration. In the first place stands the declaration that *Germany is country of immigration* (emphasis added), which has been denied by conservative politicians. The purpose of this Red-

Green coalition is to lead to the creation of a modern and adjusted citizenship law.^{xxi}

In France, after having won the elections in June 1997, the Socialists declared the “reintroduction” of the *jus soli* (it has never been abolished but only modified) as one of their priority projects. The new government had not forgotten the lucrative discourse of defending the traditional republican values. Consequently, socialist prime minister, Lionel Jospin, referred in his Declaration of Government to the French republican myth when he announced the reintroduction of the *jus soli* principle:

„La France, vieux pays d’intégration républicaine, s’est construite par sédimentations, creuset donnant naissance à un alliage d’autant plus fort que ses composants étaient divers et nombreux. C’est pourquoi le droit du sol est consubstantiel à la nation française. Nous le rétablirons. Rien n’est plus étranger à la France que le discours xénophobe et raciste. La France doit définir une politique d’immigration ferme et digne, sans renier ses valeurs, sans compromettre son équilibre social.“^{xxii}

Thus, Lionel Jospin proceeds with the inclusive discourse of the Socialists in the 1980s. The French as well as the German left-wing politicians referred in this context to Ernest Renan’s definition of a nation, who asked in his famous speech given in the Sorbonne in 1882:

„Qu’est-ce qu’une Nation? [...] L’existence d’une plébiscite de tous les jours, comme l’existence de l’individu est une affirmation perpétuelle de vie.“^{xxiii}

In other words, Republicans accentuate the free and daily affirmation to the nation-state as the basis of a political society. Whereas pride in the nation is nothing unusual in France, in Germany, because of her historical experiences, a moderate constitutional patriotism *Verfassungspatriotismus* appears only gradually. In this sense, Chancellor Gerhard Schroeder said in his Declaration of Government in November 1998, that the national confidence is not based on the traditions of a *jus sanguinis*, created in the era of the emperor William II, but on the self-confidence of our democracy. We are proud of this country, its landscape, its culture, its creativity and the capacities of the people. [...] This is the self-confidence of an adult nation, that does not have to feel superior nor inferior, that confronts itself with its history and its responsibility, [...] but nevertheless looks forward. It is the

self-confidence of a nation knowing that democracy is never reached forever, but that liberty, as Goethe says in “Faust”, has to be conquered every day.^{xxiv}

Schroeder’s comments promise that Germany is moving toward a more republican-democratic-constitutional order. In light of this, citizenship politics and naturalization are seen as a desirable aim and encouraged.

In France, the republican model has been part of the political power for a longer time. Its most outspoken proponent is the minister of Interior, Jean-Pierre Chevènement. Chevènement represents a group which calls itself *Socialisme et République*. On the one hand, they emphasize the social and political significance of immigration. On the other hand, they take distance from the concept of minority rights for aliens, such as local voting rights, and instead favor full membership in form of citizenship. This stands in the tradition of the revolutionary Jacobin ideal of equality, which aimed at the strict assimilation of individuals into the given republican tradition. Consequently, Chevènement encourages the acquisition of citizenship as the proper way to obtain political rights. According to *Socialisme et République* the active allegiance to the Republic creates something like a “republican identity” which supersedes cultural, ethnic and racial differences. Hence, *Socialisme et République* tries to find a connection between integration and the nation-state.

To sum up, the models of citizenship have been much more dynamic than Brubaker predicted in 1992. In regard to legislation, the acquisition of citizenship and public discourse German citizenship politics have converged toward the French republican model during the 1990s. The latest reform in Germany, the Alien Act of 2000 will no doubt reinforce this trend. For Germany, this means a normalization of the long awaited “delayed” nation^{xxv} in the field of citizenship politics which corresponds to a normalization of the German role in international politics.

If one looks at the developments in Germany and France in the European and international context, a general trend towards inclusion becomes apparent and finds its expression in four tendencies:

1. The growing acceptance of universal human rights;
2. The increasing number of denizens as legal permanent residents with a secured status and access to social rights;

3. The liberalization of citizenship laws; and
4. The growing tolerance of dual nationality.^{xxvi}

Concerning the liberalization and the tolerance of dual nationality, in almost all European countries citizenship laws have been opened up. With the exception of Greece, Luxembourg and Austria, presently all European states possess the possibility for the second generation to acquire citizenship either by birth or by adulthood. Moreover, in almost all E.U. member states the conditions for naturalization regarding the first generation have: been reformulated more precisely, the application procedure has been simplified, the integration test restrained and dual nationality is accepted more often.^{xxvii} Out of the signature states of the “Agreement to Reduce the Cases of Dual Nationality” (1963) only Austria, Germany, Sweden and Luxembourg still feel obliged to do so, nevertheless tolerating more and more exceptions. However, the national variations, with which inclusion of immigrants is reached, are still very different, so that in the medium-term no unified European citizenship law should be expected. Furthermore, the French example demonstrates well, that citizenship continues to represent an important value and symbol for national identity in regard to the Republican ideal.

ⁱ Compare Brubaker, Rogers: *Citizenship and Nationhood in France and Germany*. London 1992, p. 1-4.

ⁱⁱ Compare *Meinecke*, Friedrich: *Weltbürgertum und Nationalstaat: Studien zur Genesis des Deutschen Nationalstaates*. München und Berlin, 1908.

ⁱⁱⁱ Compare Brubaker, Rogers: *Citizenship and Nationhood in France and Germany*. London 1992, p. 5

^{iv} For further information about the German reforms compare *Hagedorn*, Heike: *Wer soll Deutscher werden? Liberale Trends in der deutschen Einbürgerungspolitik*. In: Ulrike Davy (Hg.): *Politische Integration der ausländischen Wohnbevölkerung*. Baden-Baden 1999, p.152-172.

^v Compare *Beauftragte der Bundesregierung für Ausländerfragen* (Ed.): *Daten und Fakten zur Ausländersituation*. Stand Juni 1999. Bonn 1999.

^{vi} Compare for example *Joppke*, Christian: *How immigration is changing citizenship: a comparative view*. In: *Ethnic and Racial Studies*, Vol. 22, Nr. 4, July 1999, p. 646.

^{vii} Compare *Landtag Nordrhein-Westfalen*, Ausschuß für Migrationsangelegenheiten, Ausschußprotokoll 12/505 vom 27.2.1997, Anlage 1-5.

^{viii} Compare *CFDT*: *Livre Blanc. Accès à la nationalité française*. Paris 1996, p. 54

^{ix} Compare *Ministère de la Justice et Ministère de l'Emploi (DPM)*: *Les acquisitions de la nationalité en 1997*. Paris 1999.

^x Compare *Ministère de l'Aménagement du territoire (DPM)*: *Migrations et nationalité en France en 1995*. Paris 1996.

^{xi} Compare *Ministère de la Justice et Ministère de l'Emploi (DPM)*: *Les acquisitions de la nationalité en 1997*. Paris 1999.

^{xii} The special case of mixed marriages, where the child will receive three or more nationalities, is not considered in this classification.

^{xiii} For further information regarding the French reforms compare *Hagedorn*, Heike: Die Reform der Reform: neues Einbürgerungsrecht in Frankreich. In: ZAR 1/1999, p. 3-9.

^{xiv} Compare *Weil*, Patrick: Mission d'étude des législation de la nationalité et de l'immigration. Rapports au Premier ministre. Paris: La documentation française 1997.

^{xv} Compare *Beauftragte der Bundesregierung für Ausländerfragen* (Ed.): Daten und Fakten zur Ausländersituation. Stand März 1997. Bonn 1998.

^{xvi} Figures given by the respective State Department of Statistics and Interior.

^{xvii} Compare the study of *Thränhardt*, Dietrich: Einwandererkulturen und soziales Kapital. Eine komparative Analyse der Zuwanderungsnationalitäten und Bundesländer. Münster 1999.

^{xviii} Compare *Weil*, Patrick: Mission d'étude des législation de la nationalité et de l'immigration. Rapports au Premier ministre. Paris: La documentation française 1997.

^{xix} See Harris, Paul A. (2001) *Imagined Identity: Immigration, Ueberfremdung, and Cultural Chauvinism in German Far-Right Partisan Discourse*, in this volume for a discussion on the polarizing effects of immigration policy in Germany.

^{xx} Compare *Thränhardt*, Dietrich: Allgemeines Wahlrecht und Ausschluß von der Wahlberechtigung: Welche Vorgaben enthält das Demokratieprinzip? In: Ulrike *Davy* (Ed.): Politische Integration der ausländischen Wohnbevölkerung. Baden-Baden 1999, p. 15-29.

^{xxi} Compare the coalition agreement of the SPD and the Green Party, printed in: *Das Parlament*, 30.10.1998, Nr. 45, p. 9.

^{xxii} *Jospin*, Lionel: Déclaration de politique générale, 19.6.1997. Internet address www.premier-ministre.gouv.fr/Discours/190697.htm on June 25, 1997.

^{xxiii} *Renan*, Ernest: Qu'est-ce qu'une Nation et autres écrits politiques. Abgedruckt in: Raoul *Girardet* (Hg.): Paris: Imprimerie National, 1996, S. 223-249.

^{xxiv} Translation done by myself. The original text see: "Regierungserklärung des Bundeskanzlers vor dem Deutschen Bundestag: „Weil wir Deutschlands Kraft vertrauen.“ In: Presse- und Informationsamt der Bundesregierung: Bulletin, Nr. 74, p. 910.

^{xxv} Compare. *Plessner*, Helmut: Die verspätete Nation. Über die politische Verführbarkeit bürgerlichen Geistes. 5. Aufl., Frankfurt a. M. 1994.

^{xxvi} Compare. *Bauböck*, Rainer (Hg.): From Aliens to Citizens. Redefining the Status of Immigrants in Europe. Introduction Aldershot: Avebury 1994.

^{xxvii} Compare. *Hansen*, Randall (1998): Citizenship, Immigration and Nationality Law in the European Union" Paper presented at the European Forum on International Migrations, Florence, 06.-07.03.1998; *Çinar*, Dilek: From Aliens to Citizens. A Comparative Analysis of Rules of Transition. In: Rainer *Bauböck* (Hg.): From Aliens to Citizens. Redefining the Status for Immigrants in Europe. Aldershot: Avebury 1994, p. 49-73; OECD: SOPEMI. Trends in International Migration. Annual Report 1998. Paris 1999; *Schärer*, Roland: Einbürgerung und Ausländerwahlrecht in der Schweiz., p. 147-151 und *Gronendijk*, Kaes und Eric *Heijs*: Einwanderung, Einwanderer und Staatsangehörigkeitsrecht in den Niederlanden 1945-1998. In: Ulrike *Davy* (Hg.): Politische Integration der ausländischen Wohnbevölkerung. Baden-Baden 1999, p. 105-146.