

# Dual citizenship

## The discourse on ethnic and political boundary-making in Germany<sup>1</sup>

Discussions on the permissibility of dual citizenship play a special role in social discourse. In addition to technical and practical considerations, this concerns ideas of citizenship and naturalisation as ethnic and political boundary-making, as well as attitudes within a country towards permanent residents of a different origin their integration in the social system.

Two recent developments have given the impetus to revisit this topic. Firstly, since January 2008 the first consequences of what is known as the option model have become apparent. Although the reformed German nationality law of 2000 refrained from generally acknowledging dual citizenship, it did introduce a limited *ius soli* regulation (birthright citizenship). According to this, children born in Germany to foreign parents are entitled by their birth to a German passport, even if they possess another citizenship.<sup>2</sup> Only when they obtain the age of majority, but at the latest upon reaching 23 years of age, must they decide on one of the two citizenships (*Optionspflicht*). Transitional arrangements meant that children born in Germany but not yet ten years old in January 2000 could be naturalised without giving up their parents' citizenship in order to do so.<sup>3</sup> Since January 2008, however, the first of these young adults have been able to choose between their two citizenships, and from January 2013 they must do so.

Secondly, in 2007 it was recognized that EU citizens could have multiple nationality and thus from 2007 any EU citizen

naturalised in Germany may retain his or her former nationality.<sup>4</sup>

Moreover, cases of multiple citizenship are not limited to individual instances in Germany. Apart from the circumstances listed above and cases where children of binational parents are granted citizenship of both countries on the basis of descent<sup>5</sup>, of the more than 620 000 people naturalised between 2003 and 2007, half were allowed to retain their previous citizenship – and as Figure 1 shows, the tendency is rising. A mere 18 % of new dual nationals come from an EU country, while the others originate from so-called third countries. This retention of former nationality is legally permissible if the country of origin does not permit opting out or if there are other unreasonable conditions such as high release fees.

These developments, and the reservations against accepting dual citizenship which exist as a matter of principle in any case, give rise to the discussion in this policy brief of the pros and cons of this concept and its effects. The first part of this policy brief introduces and comments on classic objections to dual citizenship before changing focus in the second and third parts to concentrate on the actual foundations of the frequent criticism associated with key aspects of naturalisation and the definition of society.

### Classic objections and possible counter-arguments

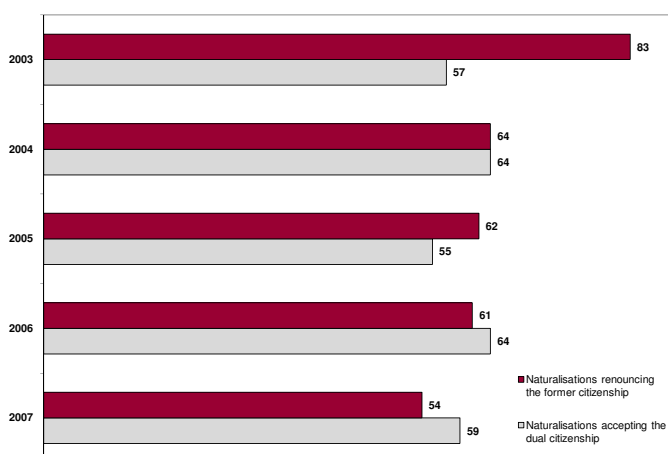
Classic arguments against recognising dual citizenship may be divided into three groups. The first group is directed at the question of whether dual citizenship is permissible under (international) law. Another group of arguments relates to technical difficulties and the third group includes socio-political objections to the concept of dual citizenship per se. Some of the objections deriving from the above groups are explained in more detail below.

### International law and dual citizenship

The most important international treaties on dual nationality are the 1963 “Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality” and the 1997 “European Convention on Nationality”.<sup>6</sup>

According to its preamble, the 1963 convention finds its basis in the concern that “cases of multiple nationality are liable to cause difficulties and that joint action to reduce as far as possible the number of cases of multiple nationality, as between

**Figure 1: Naturalisations with and without accepting dual citizenship (in thousands)**



Source: Naturalisations Statistics.

member States, corresponds to the aims of the Council of Europe". Since, however, only a few states became members of the convention, it never had any particular practical significance. In 1977 and 1993, furthermore, two protocols were added to the convention, which no longer aimed to abolish dual citizenship. In any case, in 2002 Germany was the first country to make use of the option to denounce the treaty and since that time has no longer been a member of the convention.

Instead, since 2005 Germany has been a signatory to the above-mentioned "European Convention on Nationality" which expressly recognises dual nationality. It even determines that renunciation or loss of the former nationality should *not* be a condition of naturalisation if such renunciation is not acceptable in the other country (Art. 14-16).

For these reasons there is now consensus that recognition of dual citizenship is not a problem under international law.<sup>7</sup> Another indication of this is the fact that states increasingly opt to accept it (state practice).<sup>8</sup>

### Technical objections to dual citizenship

The technical concerns expressed against multiple citizenship are based first and foremost on possible conflicts that may arise from military and tax obligations, choice of law, and confusion with regard to rights to diplomatic protection.

#### (a) *Dual military obligations*

A point of criticism previously levelled against dual citizenship, concerning the risk that people might be doubly obliged to complete national service, is nowadays no longer at the centre of debate. This is firstly due to the fact that there is a recognisable trend in most states towards abolishing general conscription.<sup>9</sup> Secondly, there are numerous multi- and bilateral treaties in existence that address this matter.<sup>10</sup> Germany, among other nations, is a signatory to the above-mentioned European Convention on Nationality, Art. 23 of which provides guidelines for precisely this case. Even the German Government declares that choosing between German and (for example) Turkish military service does not lead to complications between the two countries.<sup>11</sup>

#### (b) *Citizenship as the basis to determine applicable law*

Under international law, nationality is one of the criteria to determine the applicable domestic law, especially in the area of family and inheritance law. However, according to private international law – i.e. the principles which decide which domestic law applies in a given situation – the principle of effective citizenship means that the applicable law is that of the country to which those concerned have an effective tie, in other words the country where they normally reside.<sup>12</sup> In Germany, Art. 5, para. 1, Sentence 1 EGBGB [Introductory Law of the German Civil Code] governs this case, which is why German courts state that they do not see any particular concern in this regard.<sup>13</sup>

#### (c) *Possible double taxation of dual nationals*

A state can tax its nationals regardless of their place of residence. Further, people must regularly meet their tax obligation in the country where they are economically active. This obviously gives rise to the risk of double taxation. This is, however,

to a large extent insignificant,<sup>14</sup> since firstly, only very few states tax their nationals on their global income; and secondly, there are numerous bi- and multilateral agreements to exclude this type of double taxation.<sup>15</sup>

#### (d) *Diplomatic protection for persons with dual nationality*

Another technical objection relates to claiming diplomatic protection, whereby a state is entitled to protect its subjects against acts contrary to international law committed by another state. In the case of dual nationals, there could be some dispute as to which state may provide legal protection. On the other hand, conflict may arise if a state intervenes on behalf of a citizen residing in another state of which he or she is also a citizen.

Apart from the fact that experience has shown that states do not clash on account of overlapping consular rights and obligations, the International Court of Justice decided as early as 1955 that, in order for a State to exercise diplomatic protection, in addition to the formal citizenship status, there must be a genuine link with that State.<sup>16</sup> In so far as this genuine link exists with both states, then the country of domicile is entitled to protect that person's interests.<sup>17</sup>

Just a hundred years ago, the second concern, i.e., state intervention within another state, was a decisive inducement to take action against dual citizenship. According to international treaties concluded since 1930, and according to the rulings of international tribunals, diplomatic protection cannot be exercised by one State against another of which the person concerned is also a national.<sup>18</sup> Experience, too, shows that this objection lacks substance, since the millions of dual nationals living around the world have not yet led to any international tension in this regard. This is also confirmed by the German Foreign Office, which reports that there are no difficulties associated with consular support for dual nationals.<sup>19</sup>

### Socio-political objections against dual citizenship

#### (a) *'Unjustified' double voting rights*

In nearly all states, voting rights are given on the basis of citizenship. Some commentators, therefore, critically point out that persons who are the citizens of two countries can also vote in two countries, whereas the voting rights of people with solely German citizenship are limited to Germany. Critics argue that this undermines the basic principle of equality of citizens, which is expressed by "one person, one vote".<sup>20</sup>

In this regard it should firstly be noted that, generally, voter turnout amongst the overseas electorate is low. Moreover, many countries of origin have neither established a system of postal ballots, nor do they facilitate voting in their diplomatic missions.

On a theoretical level, the response to the objection that citizens' equality is being infringed may be that the frame of reference for the principle of electoral equality is the single State.<sup>21</sup> No anti-discrimination norm in national or international law aims at equal treatment before different and independent states. Furthermore, the principle of equality only guarantees that there must be plausible reasons for unequal treatment. Where the double voting rights of dual citizens are concerned, the plausible reason is obvious: unlike non-migrants in both countries, they are influenced by both cultures, are rooted in both spheres and belong to both societies.<sup>22</sup>

*(b) Integration*

A significant objection to dual nationality lies in the assumption that it restricts the integration of dual citizens, as they do not fully identify with the country of immigration.<sup>23</sup>

This objection may be responded to on four points. First, states can bar people who do not wish to accept their values and culture from obtaining citizenship. Thus German naturalisation requirements since 2007 include knowledge of the German social system, culture, history and language.<sup>24</sup>

Second, there are no empirical studies that indicate that retention of another citizenship would erode any existing integration; there are no empirical findings to support those social-psychological assumptions which claim that, for example, an Afghan-German cannot be fully committed to Germany because he possesses two citizenships. Research on transnationalism is only gradually beginning to put forth better hypotheses as to how transnational activities and the feeling of belonging change during the course of a migrant's life, and how this varies between individuals and groups.<sup>25</sup> As sociologist Tomas Hammar observes, civil and cultural identity is not a zero-sum game<sup>26</sup>, which means that individuals do not have a limited number of "identification units" that they have to divide between different states and that, therefore, increase in identification with one country proportionately reduces ties to the other. In layman's terms, if a person can simultaneously have sincere ties to a father, a mother, a spouse and children, why should a person not be able to extend his or her patriotic ties to two States at the same time? On the contrary, it is increasingly maintained that combined identities are a sociological reality. In this regard, dual nationality may be seen as legal recognition of these composite national identities.<sup>27</sup>

Third, making it compulsory for German-born people of foreign origin to opt for one of the two nationalities between the age of 18 and 23 may be understood by some as a signal that they are expected to be "just German" and that "Germany" does not recognise their mixed identity, despite their acknowledgement of German values. Such a perception can only have a negative effect on integration.

Fourth and last, an argument against the supposed adverse effect of dual citizenship on integration is: recognizing multiple citizenship creates an incentive for naturalisation. No one would maintain that granting citizenship – with or without the retention of another nationality – will inevitably lead to the integration of the new citizen. Yet, it is certainly a safe assumption that the granting of citizenship will simplify and improve the integration of those who would not otherwise apply for naturalisation. Even if there are few empirical studies on the outcome of these status passages, it can be expected that, due to increased political rights and formal belonging, naturalisation would lead to better positioning within, and interaction with, the majority population.<sup>28</sup> Further, migrants may be induced to identify more readily with a receiving country that recognises mixed-cultural identities.

*(c) Loyalty*

One of the main objections to dual citizenship lies in a suspected conflict of loyalties. Here, a distinction may be made between conflicts specifically mentioned and less explicit gen-

eral doubts about the necessary degree of loyalty. One such possible specific conflict is that in the event of war a state depends on the undivided loyalty of the nationals it can call to arms in its service. Further, it is assumed that participation in a country's political life – as a voter or office-bearer – could be adversely affected by divided loyalties.

With regard to the first objection, it should be pointed out that wars involving the mass drafting of civilians in countries such as Germany are unlikely. Like most modern armies, the German armed forces are constantly developing in the direction of having a smaller body of specialists, so that the non-availability of dual citizens for mass conscription in the unlikely event of war would not compromise the ability of a country such as Germany to defend itself. This would in any case only affect dual nationals from a country with which there was armed conflict.

Proponents and opponents of dual citizenship, meanwhile, agree that persons holding important public offices should give up their second citizenship.<sup>29</sup> As regards electoral behaviour, however, critics of dual citizenship perceive the danger of "instructed voting", whereby dual nationals vote according to the will of the government of their other nationality. However, it seems doubtful whether the state of origin is actually able to make its nationals living abroad behave in a certain way. In particular, experience in many countries where dual citizenship is permitted shows that in practice this does not lead to any appreciable influence on the part of a foreign state.<sup>30</sup>

Moreover, it should be borne in mind that not allowing dual citizenship is no guarantee that the population in Germany will consist only of loyal mono-nationals. Rather, a comparison must be drawn with the reality that, for decades and generations, millions of people have been living in Germany with just one –non-German – citizenship. These people will remain on German soil in the future, too. What are we to make of the fact that this section of permanent residents has no formal ties of loyalty with the state in which it resides?

## What characterises the current debate?

Many analysts study the interests of "states" and their objections to dual citizenship. However, the necessary legal regimes, which recognise or reject the simultaneous possession of multiple citizenships, are not created by "the state" in a "black box mechanism". Rather, there is a multi-layered policy process in which the interplay of different actors and coalitions with a wide variety of values and interests leads to the adoption or non-adoption of a law. In addition, it is tempting in political and social discourse to allow one's personal political convictions to colour the interpretation of data and views and present them less objectively.

Many of the points against dual citizenship discussed above seem less than convincing. The following three hypotheses aim to show why the heart of the discussion is mostly veiled, as are the assumptions on which the discussion is based, and the content of the discussion.

### A limited field of discourse

The first hypothesis proposes that the field of discourse on dual citizenship – as on other discussions concerning migration policy – is limited in so far as certain arguments are regarded as essentially illegitimate in the first place and, therefore, outside the permissible frame of discussion.<sup>31</sup> As a result, many of the real arguments against dual citizenship are not brought up, or if so, then only in a veiled form. Arguments relating to matters of loyalty, equality and integration, just like objections emanating from the sphere of international law and double military, tax and legal obligations, are more readily accessible and can be made without the proponent running the risk of appearing undemocratic and xenophobic. It is therefore especially important to scrutinise what lies behind the objections aired against dual citizenship and consider the actual interests and motives.

### A prototypical foreigner as the basis for the negative attitude towards dual citizenship

According to the second hypothesis, a certain negative image of the “the foreigner” dominates critics’ perception, whereby negative attitudes towards immigrants are mixed up with views of dual citizenship. Here, in particular, the objectively and subjectively perceived composition of migrant flows plays a role.

A certain perception of details from official statistics concerning the origin of migrants, their educational and professional achievements as well as their religious affiliation and unemployment levels<sup>32</sup> means that to many “the immigrant, the religious, the racial and the socio-economic underprivileged ‘other’, all tend to coincide”.<sup>33</sup> This generalised, and inevitably incomplete, image of the prototypical foreigner is often supported by indiscriminate press coverage.

Many objections formulated in a linguistically abstract manner, such as criticism levelled at the incompatibility of differing loyalties and the way this limits integration, are often not meant to be either abstract or general. Rather, they are based on an image of a specifically identifiable person, the supposedly standard type of foreigner. In other words, it is not that critics doubt that people can generally have genuine links to two states. Rather, what they have in mind when they raise this objection is the picture of a group of persons with certain negatively perceived socio-cultural characteristics, who would not be able to do so. Due to limitations in the discourse, as indicated above, this matter is therefore only referred to in vague and general terms.

### Exclusion as the main reason for refusing dual citizenship

For practical reasons or reasons of identity, the obligation to renounce their former citizenship may deter immigrants from applying for naturalisation in spite of their already being integrated into Germany.<sup>34</sup> In fact, any ban on multiple citizenship leads to the non-naturalisation of a large group of immigrants and thus to their

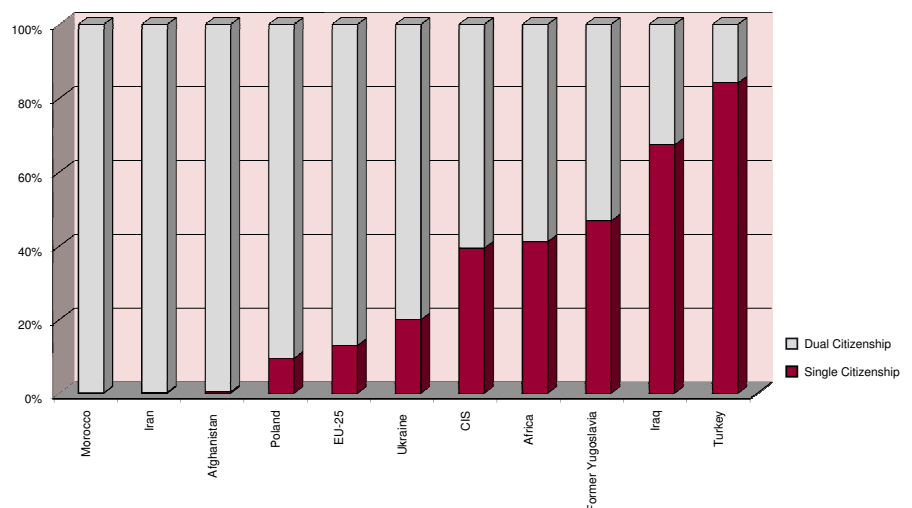
exclusion from participatory rights in their country of permanent residence.

The third hypothesis states that for many critics it is not a matter of preventing dual citizenship as such, but of making naturalisation more difficult.<sup>35</sup> Such attempts at exclusion are not directed equally against all people of different origin, but first and foremost against the prototypical example of “the foreigner” described above. As Figure 2 and Table 1 illustrate, there are large differences in the acceptance of multiple citizenship. The complete recognition of dual citizenship for EU citizens introduced in August 2007 caused no controversy. It can be assumed that the debate would have been a very different matter if the same acceptance were to be extended to Turkish citizens, for whom, for the time being, the ban persists. Thus, in 2007 only 17% of naturalised citizens of Turkish origin were able to retain their former passport. A tendency to exclude certain sections of the population also becomes apparent if we consider the arguments, outlined in the next section, that are levelled against the naturalisation of certain groups of people in discussions on dual citizenship.

## Naturalisation, democracy and rule of law: risks and opportunities

It is especially important at this point to analyse critically whether, and if so, to what extent, the debate about dual citizenship is associated with arguments relating to the naturalisation of foreigners in general. In this regard, objections to dual citizenship are often an expression of fears associated with the notion of an increasing trend towards naturalisation. As is shown in more detail in this section, the concerns put forward are often based on perceived dangers for the country’s internal security as well as on an assumed shift in political power caused by a change in the demographic profile of the electorate. This raises the question of to what extent these concerns are justified and whether arguments against increased naturalisation – both in general and in the context of dual citizenship – can be reconciled with fundamental democratic principles.

Figure 2: Acceptance of dual citizenship by naturalisations between 2004- 2007



Source: Naturalisations Statistics.

Alongside possible risks for society, it is necessary to consider the opportunities presented by conversion from de facto state members into de iure state members.

### Internal security

Concerns for political security raised against naturalisation relate first and foremost to forfeiting the possibility of deportation. It is certainly correct that naturalised persons can no longer be expelled or deported if they commit crimes. This concern can be countered at least in part by the fact that foreigners who are conspicuous for their criminal activities will not as a rule be granted German citizenship anyway.<sup>36</sup> Moreover, critics mostly fail to recognise that even the expulsion of foreigners of long-standing residence is possible only under very specific circumstances. Only as recently as August 2007 did the German Constitutional Court strengthen the special status of so-called “de facto citizens” for whom length of stay in the country is always to be taken into consideration for any expulsion order, as is how well such persons are integrated within German society and whether they actually have ties to the state of which they are nationals.<sup>37</sup>

The fear that recognition of dual citizenship would lead to naturalising terrorists<sup>38</sup> is unjustified. Those who do not shy away from terror surely have no problem giving up their original citizenship. It rather seems that an exclusionist attitude is buttressed by tying it to the important issue of internal security. In

reality this raises the question of whether the risk that a handful of criminals cannot in fact be deported justifies the permanent exclusion of many hundreds of thousands of people from participatory rights.

### Changes in society and politics

At the heart of much of the exclusionary tendency is concern about immigrants emerging as a political lobby. Often there is a fear that the “indigenous population” might be dominated by a large group of immigrants whose status as citizens has been gained merely in a formal sense.<sup>39</sup>

These fears of a loss of power give rise to three questions. First, it should be asked just how many more immigrants would be naturalised if dual citizenship were to be recognised and thus, how many new voters would in fact be created. Second, there is a need to evaluate what resonance might be expected in political circles given a change in the electorate and third, whether considerations of the benefits, and the values that underpin society, do not make an eventual loss of power and other possible negative effects appear rational or even right and proper.

#### (a) Naturalisation rate and dual citizenship

Criticism levelled at dual citizenship is often based on an assumption that if it is recognised the consequence will be “mass naturalisation”. It is difficult to predict what increase can,

**Table 1: Details of naturalisations for different groups of immigrants**

| Former citizenship               | Number of naturalisations  | Proportion of the total naturalisations | Average quota of naturalisations <sup>1</sup> | Naturalisations with dual citizenship | Average age at naturalisation | Average duration of residence at naturalisation |
|----------------------------------|----------------------------|---|---|---------------------------------------|-------------------------------|---|
|                                  |                            |   | (%)   |                                       | (in years)                    |   |
|                                  | Annual Average 2003 - 2007 |   |   |                                       | Annual Average 2005 - 2007    |   |
| Asia                             | 31,914                     | 26.3                                    | 3.8   | 58.8                                  | 29.6                          | 11.0  |
| EU-Member States <sup>2</sup>    | 12,334                     | 9.7                                     | 0.6   | 86.2                                  | 36.2                          | 18.4  |
| Africa                           | 10,926                     | 8.8                                     | 3.9   | 59.7                                  | 31.0                          | 13.0  |
| Turkey                           | 39,124                     | 31.8                                    | 2.2   | 15.6                                  | 26.5                          | 20.1  |
| Former Soviet Union <sup>3</sup> | 13,357                     | 11.1                                    | 2.7   | 56.5                                  | 35.8                          | 9.2   |
| - Russian Federation             | 4,190                      | 3.5                                     | 2.3   | 66.0                                  | 36.7                          | 9.6   |
| - Ukraine                        | 4,017                      | 3.3                                     | 3.1   | 80.5                                  | 37.5                          | 9.9   |
| Former Yugoslavia <sup>4</sup>   | 12,868                     | 11.0                                    | 1.6   | 52.8                                  | 28.7                          | 16.1  |
| Poland                           | 5,954                      | 5.1                                     | 3.8   | 73.2                                  | 35.2                          | 14.3  |
| Iran                             | 5,413                      | 4.3                                     | 8.4   | 99.7                                  | 36.0                          | 15.3  |
| Morocco                          | 3,731                      | 3.0                                     | 5.1   | 99.9                                  | 28.5                          | 15.0  |
| Afghanistan                      | 3,610                      | 2.9                                     | 6.4   | 99.6                                  | 26.2                          | 11.6  |
| Iraq                             | 3,325                      | 2.9                                     | 4.3   | 30.3                                  | 25.4                          | 8.8   |
| <b>All Countries</b>             | <b>124,544</b>             | <b>100.0</b>                            | <b>1.8</b>                                    | <b>48.3</b>                           | <b>30.5</b>                   | <b>15.1</b>                                     |

Source: Naturalisations Statistics, Central Register of Foreigners, Federal Statistical Office.

<sup>1</sup> The quota of naturalisation reflects the proportion between naturalisations and foreign citizens reported by the Central Register of Foreigners in one year.

<sup>2</sup> 2003: EU15; since 2004: EU25.

<sup>3</sup> The territory of the former Yugoslavia includes Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia.

<sup>4</sup> The territory of the former Soviet Union includes Armenia, Azerbaijan, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russian Federation, Tadjikistan, Turkmenistan, Ukraine, Uzbekistan, Belarus including persons with the citizenship of the former Soviet Union without more detailed information.

in fact, be expected in the rate of naturalisation on the basis of this circumstance alone. Sporadic studies on this subject indicate that should dual citizenship be recognised there might well be an increase in the number of naturalisations, but not the “mass naturalisation” some critics fear.<sup>40</sup> This applies especially in a country such as Germany where there is no particular tradition of naturalisation and where citizenship is not the basis for the granting of social rights.

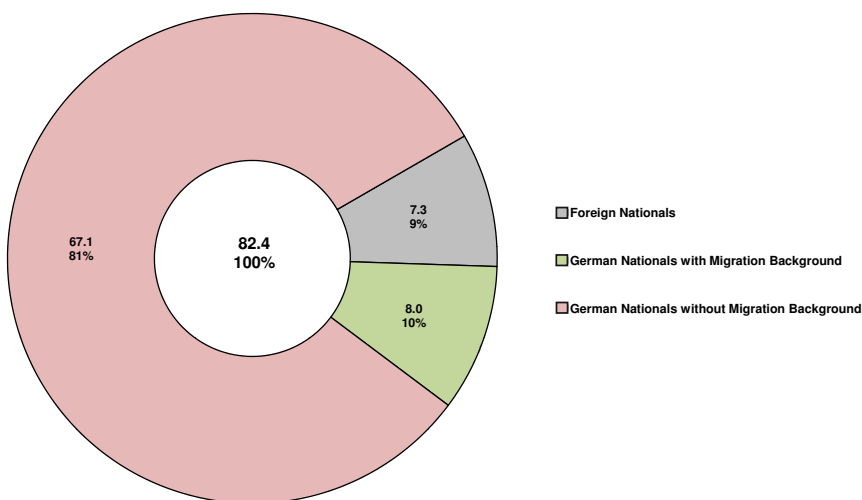
*(b) Change in politics – political resonances resulting from a change in the electorate*

The question as to how the political organisation of new citizens and the changes in the political picture would turn out cannot be answered with certainty. It is not unrealistic to expect to find that increased naturalisation will result in new citizens having a greater presence in German politics.

Nonetheless, it appears misleading to perceive the potential new citizens as a uniform, homogeneous mass joining together as one to represent its own interests. Although people possessing Turkish citizenship represent the largest single group of immigrants, they comprise only one quarter of the foreigners living in Germany.<sup>41</sup> Even Turkish migrants fall into different religious or non-religious, Sunni and Alevite, Kurdish and non-Kurdish, traditional and modern camps. The interests of workers, academics, the self-employed and unemployed of Turkish origin often do not coincide; that they would unite politically merely because they share a common origin seems less than likely.

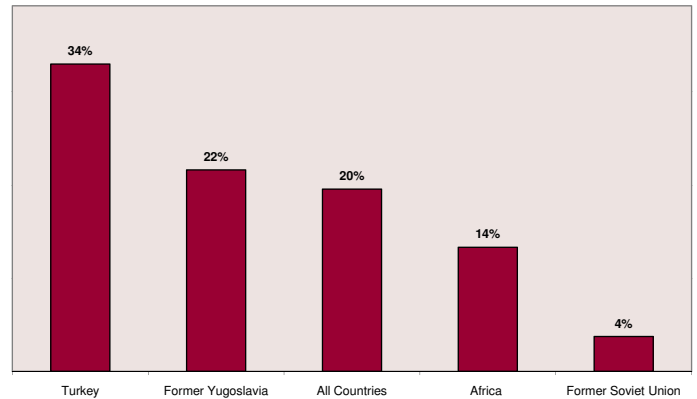
Moreover, people often overlook the fact that, apart from foreigners who do not have a German passport, a further eight million Germans or 10% of the resident population have a migration background (Figure 3). Almost half of them (44%) are naturalised persons. 23% are descendants of ethnic German repatriates (mostly from Eastern Europe), so called ‘Aussiedler’<sup>42</sup> and 34% of Germans with a migration background are the children of foreign-born parents. These people too have, to date, caused no serious power struggles or redistribution of

**Figure 3: Migration background of the population (in million and in %)**



Source: Microcensus, Federal Statistical Office.

**Figure 4: Quota of the in Germany born foreign nationals as measured by the total of foreigners in Germany**



Source: Central Register of Foreigners on 31/12/2007.

power. The behaviour of this diverse group of people as voters has also been very inadequately researched as yet, for which reason it appears premature to draw any definite conclusions with regard to changes in the political structure.<sup>43</sup> Conservative centre-right politicians sometimes fear that the political integration of migrants would necessarily lead to a power shift towards the political left. This is not, however, by any means certain. People usually overlook the fact that migrants are often inclined towards conservatism and thus most definitely represent potential voters for conservative parties.<sup>44</sup>

**The democratic benefits of naturalisation**

As stated, recognition of dual citizenship can lead to increased naturalisation and this, in turn, may exclude the possibility of deporting criminals. In addition, there could be a resultant power shift in society. As explained, however, none of these consequences is likely to be extreme. Arguments concerning the “redefinition of society” or millions of terrorists that cannot be deported therefore lack a rational foundation. The most important question is to what extent and at what cost can and should a community’s original values, and the retention of power by those who hold it, be secured against immigrants. This question leads in turn to the heart of questions about migration, integration and democracy.

At the end of 2007, there were 1.3 million people in Germany who were born in the country but who did not hold a German passport; almost half of them were over eighteen years old. In total, a fifth of all foreigners and a third of all people with a Turkish passport residing in Germany were born in Germany (Figure 4). There are also more than two and a half million people of foreign nationality who have been living in Germany for more than 20 years, one and a half million for more than 30 years (Figure 5). It therefore appears justified to identify migrants in Germany for the most part as immigrants in a

narrow sense who will stay in the country permanently. Despite this situation, Germany's long-standing label as not being a country of immigration has led to the fact that for a long period there has been no substantiated inventory taken of the situation of immigrants in Germany, nor any coherent integration policy developed on that basis. As a result, even second- and third-generation immigrants are still not regarded as "natives".<sup>45</sup>

Discussions on naturalisation are of particular importance in this regard, for, as long as immigrants are not naturalised and as long as there is no indivisible "community of common destiny" (*Schicksalsgemeinschaft*), some people will continue to believe that return migration will one day put an end to the cohabitation of disparate cultures on German soil. This exclusionary tendency is a problem because it excludes the process of rethinking and defining the relationship with people of foreign origin living in Germany.

The naturalisation of long-term immigrants is a democratic necessity, for only then does the electorate reflect the actual population. Otherwise democracy is deficient.<sup>46</sup> In this regard, the key issue is not optimising future immigration;<sup>47</sup> instead, the paramount question is how to reconcile the democratic principles on which our society is founded with the fact that our current population contains people living permanently in the country without political rights. It is a natural reaction of those who fear new competitors in the context of a struggle for resources to develop a tendency to reject such competitors. History is full of efforts to exclude others and the overcoming of those tendencies. And each new insight that appeared at first to be at one's own expense has led to the high level of liberality and freedom that many modern societies have already achieved. The fight to confer full citizenship to Indians and Afro-Americans in the US, the recognition of women's right to vote, as well as respect for human rights – all these status changes were accompanied by major reservations on the part of those who believed these changes would cause them to lose prosperity, power and influence. Now all this is regarded as an irrevocable democratic standard in modern democracies. It has to be noted that the decisive arguments for inclusion are not founded on altruistic motives alone. On the contrary, an inclusive society is stronger and also improves the living conditions of those who at first expect real or apparent loss of power.

## Conclusion

Recent developments in the political system show that despite existing concerns there is a certain willingness to take a fresh look at dual citizenship and to accept it to a higher degree. Recently, the Intercultural Council, an association of individuals and organisations promoting intercultural dialogue, has established an alliance for action called "Against the obligation to opt" in which prominent representatives of politics, trade unions, academia and civil society demand that young adults should not be obliged to choose one of two citizenships upon coming of age. In August 2009, the then-minister of justice in Germany, Brigitte Zypries (SPD), also pleaded against the obligation to opt, on the ground that this would mean a denial of realities.<sup>48</sup>

On the other hand, bills recognising dual citizenship to a greater extent introduced by the party The Left (Die Linke) and the Green party have recently been rejected<sup>49</sup> and it is not likely that the government coalition of Christian Democrats (CDU) and Liberals (FDP), elected in September 2009, will take action on dual citizenship in the near future.

As mentioned in the beginning, the practical consequences of the "option model" and of the associated obligation for many German-born people of foreign parents to choose between German citizenship and that of their parents is set to become increasingly apparent. Perhaps, faced with young Germans with two passports, people will finally come to accept that dual citizenship does not represent a threat to society and values. It is hoped that a critical mass of second-generation migrants in key positions in trade and industry, research and politics, together with increased immigration of highly qualified people, will lead to a change in the perception of immigrants and matters of immigration generally. By this means, and through the growing realisation that an inclusive society not only conforms to our values but also creates a better society, the reluctance to turn de facto German citizens into de iure citizens will abate.

In conclusion, it should be observed that the acceptance of dual citizenship does not, on its own, lead to social inclusion. In addition to objective legal norms, there is, above all, a need to develop a general immigration mentality, characterised by the acceptance of mixed-cultural identities and a fundamental desire for inclusion. Nevertheless, however, the recognition of multiple citizenship would be an important step along this route.

## Endnotes

- 1 My thanks to Dietrich Thränhardt, Uwe Hunger and the editing team of focus Migration for their valuable comments on an earlier draft of this policy brief. Much of the paper is based on Naujoks (2008). In accordance with the bulk of the economic, sociological and legal literature on this topic, we will use the terms "nationality" and "citizenship" synonymously. However, it may be worth noting that generally the term "citizenship" is preferable since "nationality" is sometimes understood as a sociological concept, identifying the bonds between an individual and a nation, not a state.
- 2 For non-EU citizens, however, this only applies if at least one parent has already had his or her domicile in Germany for at least 8 years (Section 4, para. 3 German Citizenship Act).
- 3 In 93% of cases the previous nationality was kept upon acquiring German citizenship (naturalisation statistics, naturalisations in accordance with Section 40, lit. b) German Citizenship Act).
- 4 The law of the country of origin may well still oppose dual citizenship, as is the case in Austria and Belgium.
- 5 According to the 2005 microcensus, in Germany there are 1.3 million marriages where only one spouse possesses German nationality.
- 6 Text and ratification status of both conventions may be viewed at <http://conventions.coe.int>. The conventions' CETS numbers are 043 and 166.
- 7 Hailbronner (1992:16).
- 8 In recent years the following states have fully or partly recognised dual citizenship: Columbia (1991), Italy (1992), Hungary (1993), the Dominican Republic (1994), Costa Rica (1995), Ecuador (1995), Brazil (1996), Mexico (1998), Australia (2002), Pakistan (2002), Finland (2003), Philippines (2003).
- 9 Legomsky (2003:90).
- 10 Legomsky (2003:125 ff.) lists international agreements on this subject according to which dual citizens either have a free choice, where they are to fulfil their military obligations, or have to perform military service in the country of their usual domicile.

- <sup>11</sup> Cf. Proceedings of the German Parliament, document number: BT-Ds.14/9828.
- <sup>12</sup> Hailbronner (2003:26); Bauböck (2005:8).
- <sup>13</sup> Hailbronner and Renner (2005:RN 76).
- <sup>14</sup> Bauböck (2005:8).
- <sup>15</sup> Aleinikoff and Klusmeyer (2002:35); Hailbronner (2003:26).
- <sup>16</sup> International Court of Justice, *Nottebohm Decision* (Liechtenstein v. Guatemala) in: ICJ Report 23 (1955), p. 20 ff.
- <sup>17</sup> Aleinikoff and Klusmeyer (2002:34); Hailbronner (2003:21 f.); Martin (2003:15).
- <sup>18</sup> Martin (2003:15). On the other hand, there is also a view that the country of effective citizenship should be entitled to exercise diplomatic protection against all other states, cf. Hailbronner (2003:22) for further references.
- <sup>19</sup> German Parliament Plenary Protocol 14/24 dated 3 March 1999, p. 1894.
- <sup>20</sup> Roland Koch, for example, writes in *Die Welt*, 15 January 1999: "Why should citizens of foreign origin have a say in politics in Germany, whereas Germans abroad have no right to vote?" [translation by the author] See Naujoks (2008:Fn.24) for further references to this kind of argument.
- <sup>21</sup> Likewise Aleinikoff and Klusmeyer (2002:31).
- <sup>22</sup> Naujoks (2004:21), *ibid.* (2008:392f.); Bauböck (2005:17). Moreover, concerns in this regard may be alleviated by the introduction of an "inactive citizenship status" whereby dual nationals enjoy full and unlimited rights in the country of ordinary residence, whereas in the country in which they do not live they have a kind of "truncated citizenship".
- <sup>23</sup> Günther Beckstein (quoted in *Die Welt*, 4 August 2002): "The dual passport is the enemy of integration. New citizens must be fully committed to their new homeland." [translation by the author] See Naujoks (2008:Fn29) for further references to this subject.
- <sup>24</sup> Cf. Section 10, para. 1 nos. 5 and 6 German Citizenship Act.
- <sup>25</sup> Bloemraad (2004:395).
- <sup>26</sup> Hammar (1985:449).
- <sup>27</sup> Likewise: Hammar (1985:449); Aleinikoff and Klusmeyer (2002:36, 39).
- <sup>28</sup> As Thränhardt (2008) shows, equal involvement of foreign employees in companies' internal governance has led to good integration within companies. Steinhardt (2008) proved empirically that naturalisation per se leads to improved integration in the national labour market and to higher salaries. Also according to Wüst (2006) "the political integration of migrants [makes] a contribution in terms of the acculturation process of majority and minorities that should not be underestimated." [translation by the author].
- <sup>29</sup> Cf. Hailbronner (1992:26); Martin (2003:17); Bauböck (2005:22); Aleinikoff and Klusmeyer (2002:41).
- <sup>30</sup> Bauböck (2005).
- <sup>31</sup> This is also shown by Freeman (1995:884) and Brubaker (1992:906 ff.).
- <sup>32</sup> In the Pisa studies, school children of foreign origin were on an average far behind German school children, who were themselves not exceptional. Moreover, according to official statistics, foreigners are twice as severely affected by unemployment (23.6 %) as the overall average of the working population (12.0 %), German Federal Employment Agency (2007:75). In particular, the high proportion of Muslim migrants is regarded as a threat by parts of the population, cf. Casanova (2006) and Green (2005:933, 942 f.).
- <sup>33</sup> Casanova (2006:185). Thränhardt (2008:5, 14) also sees a connection between discussions on dual citizenship and the "repeated attitudes of distrust against non-European or non-western immigrant groups, especially those of Muslim belief." [translation by the author].
- <sup>34</sup> Firstly, if people lose their nationality they might be excluded from the right to own property or to inherit. Secondly, in such cases migrants may need a visa in order to travel back to their former homeland, and any definite or latent plans to settle there in their old age may be made significantly more difficult. In addition to pragmatic considerations, often identity-related questions make people refrain from giving up their earlier citizenship, since in many cases there is the feeling that by doing so they would betray their roots, cf. Hammar (1985:441); Green (2005:923); Böcker and Thränhardt (2006:124).
- <sup>35</sup> Opponents of dual nationality prophesy the dissolution of the nation through "mass naturalisations" and the associated redefinition or "substitution of the state people (Staatsvolk)" (Bandulet (1999)). As Böcker and Thränhardt (2006) show, as early as the 1960s the debate on reducing Turkish migrants put an end to the discussion about dual citizenship.
- <sup>36</sup> Cf. Section 8, para. 1 Item 2 and section 10, para. 1 Item 5 German Citizenship Act.
- <sup>37</sup> Decision of the German Constitutional Court, 10 August 2007, Ref. 2 BvR 535/06.
- <sup>38</sup> Thus the then Bavarian Minister of the Interior Beckstein (1999): "Acts of terror perpetrated by the PKK make us suspect: if there were millions of German-Turkish, German-Serbian or German-Albanian dual nationals living in Germany, then we would automatically have the conflicts from these regions here in this country." [translation by the author] Edmund Stoiber is also quoted in *Die Welt*, 4 January 1999, as saying dual citizenship is a greater danger to security than the terrorist actions of the RAF (Red Army Faction) in the 1970s and 80s.
- <sup>39</sup> Thus, inter alia, an anonymous comment on [www.welt.de](http://www.welt.de) dated 12 June 2007 predicts "The Turks of today are the SPD voters of tomorrow. The day after that they will found their own party and the SPD will become history." [translation by the author]. Roland Koch (in *Die Welt* dated 15 January 1999) also fears something similar. See also Green (2005:941).
- <sup>40</sup> Thränhardt (2008:30ff.) studies the experience in the Netherlands where dual nationality was accepted upon naturalisation in the 1990s but then rejected again and determines a clear increase in the naturalisation rate for the period when multiple citizenship was permitted. See Naujoks (2008:405ff.) for further references. Table 1 also indicates a positive correlation between the number of naturalisations and acceptance of dual citizenship.
- <sup>41</sup> According to the Central Register of Foreigners (AZR), of 6.7 million foreigners registered on the 31.12.2007, 1.7 million were Turkish nationals (25.4 %).
- <sup>42</sup> Since the reform of the German Citizenship Act, with effect from 1 August 1999 ethnic German repatriates (mostly from Eastern Europe) are granted German citizenship through a separate certificate. Previously, they were formally naturalised.
- <sup>43</sup> For one of the few studies see Wüst (2006).
- <sup>44</sup> In an interview with *Die Welt* on 8 November 2003, Faruk Sen, director of the Essen Centre for Studies on Turkey, points out that the CDU has disproportionately high number of supporters among Muslim migrants.
- <sup>45</sup> Casanova (2006:183).
- <sup>46</sup> Thränhardt (2008:7, 13 f.). At the same time, the granting of electoral rights that are not tied to citizenship would satisfy democratic requirements.
- <sup>47</sup> For information on the subjects of immigration, citizenship and states as strategic clubs see Straubhaar (2003) and Kolb (2007).
- <sup>48</sup> The German minister of justice is quoted in *Berliner Zeitung* of 13 August 2009. The call of the alliance for action can be found under <http://www.wider-den-optionszwang.de>.
- <sup>49</sup> The bill introduced by the Green party (Bundestagsdrucksache BT-Ds. 16/2650 2008) did not aim at accepting dual citizenship generally. However, it proposed to eliminate the obligation to opt, to accept dual citizenship for persons born in Germany and defined further exceptions from the principle of avoiding dual citizenship. The party The Left (BT-Ds. 16/1770 2006 and 16/9165 2008) proposes a general recognition of dual citizenship. The plenary protocol of the parliamentary session of 2 July 2009 documenting the rejection by the Grand Coalition of Social and Christian democrats can be accessed at [http://www.wider-den-optionszwang.de/dl/Plenarprotokoll\\_020709.pdf](http://www.wider-den-optionszwang.de/dl/Plenarprotokoll_020709.pdf).

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