Citizenship and naturalisation in France and Germany

After the collapse of the Soviet Union, most of its successor states are engaged into building or restoring their own nation-state. The nationality policy of the Soviet Union has however rarely left ethnically homogeneous republics, and as a consequence, many successor states have to handle a large ethnic Russian population. The general aim of my Ph.D. dissertation is to study how and why Latvia, urged by different European institutions (such as the OSCE and the Council of Europe), has proceeded with modifications to its citizenship legislation. It was said that Latvia should comply to European norms with regard to immigrant groups. The European Commission wrote for example in its report that Latvia “needs (...) to accelerate naturalisation procedures to enable the Russian-speaking non-citizens to become better integrated into Latvian society”. European norms on immigrant groups are however few and it is important to know how EU member-states themselves treat citizenship and naturalization issues.

One chapter of my Ph.D. dissertation and the present paper will therefore analyze two citizenship models standing almost at opposite ends of a spectrum of citizenship legislation in Europe - France and Germany. France gives a large place to the principle of *jus soli* (i.e. citizenship is accorded to children that are born in France of foreign parents and that grow up in France) while in Germany dominates the principle of *jus sanguinis* (i.e. children acquire at birth the citizenship of their parents). It is thus necessary firstly to explain how and why France and Germany have developed different citizenship legislation, and secondly to consider how foreigners in France and Germany acquire citizenship of the two countries.

The paper consists of four parts. The first part gives a historical development of the understanding of nationhood and citizenship in both France and Germany. The second part presents current citizenship laws and naturalisation requirements. Thereafter, in the third part is summarized the post-war immigration which is a source of foreigners applying for naturalisation. Finally, we give rates of naturalisation between 1985 and 1997. The paper ends with a short summary and discussion on the French and German models of citizenship.
Understanding of nationhood and citizenship in France

The French understanding of both nationhood and citizenship are closely related. In French the two words nationalité and citoyenneté are even used as synonyms. This confusion of terms is the product of the French Revolution which legitimized the breakup with the social order of the Ancien Régime through the nation. The constitutional theorist Sieyès had defined moreover in his 1789 pamphlet “Qu'est-ce que le tiers état?” the Third Estate as the French nation. A political conception was thereby attached to the French nation. In order to fulfill one of its principal tasks, i.e. the abolishment of the inequalities and privileges that characterized the old society, French revolutionaries developed further the embryonic concept of citizenship existing under the French monarchy.

Citizenship under the Ancien Régime established a judicial difference between those born inside the kingdom (Frenchmen) and those born outside the kingdom (foreigners, also called aubain). The distinction between Frenchmen and foreigners gave to the king a right of inheritance on the proprietie and fortune of foreigners, established in France, who died without direct French heirs (i.e. the so called droit d’aubaine). Foreigners could however easily be exempted from the droit d’aubaine or even receive a lettre de naturalité which assimilated them to Frenchmen. With time the birthplace became less important. In the XVI century a person was Frenchman if he was born in France, had at least one French parent and domiciled in France. By the XVIII century, a person had to respond to two conditions to be Frenchman: be domiciled in France and be either born in France or born of French parents. Thus under the pre-Revolutionary period a dominant place was accorded to the principle of jus soli.

Conceiving the membership of the French nation-state in political rather than ethnocultural terms, the French Revolution abolished the droit d’aubaine and invited all foreigners, “friends of Liberty”, to join the French state. For example, the decree of 26 August 1792 gave French citizenship to foreigners who by their writings or acts had defended liberty and the principles of the revolution. Besides the principle of jus sanguinis attributing automatically French citizenship to persons born in France to French parents, the revolutionaries attributed to the principle of jus soli specific conditions which guaranteed attachment and loyalty to France. In 1790 all foreigners domiciled in France for at least five years and married to a French woman or being owner of a house or a commerce could, if they wished and after taking a civic oath, obtain French citizenship. The Constitution of 1791 specified furthermore that all children born in France of foreign parents had the right to become Frenchmen if they lived in France. The sympathy towards foreigners turned however soon into suspicion. From 1793 to 1795 the acquisition of French citizenship became more strictly conditioned. Foreigners who were suspected to be potential spies or enemies of the political ideas of the French revolution could not have a place in the French nation-state. In spite of Napoleon’s attempt to introduce an unconditional jus soli (i.e. to give French citizenship automatically to children born in France to settled foreign parents) the Civil Code of 1804 reinforced the principle of jus sanguinis by bringing the possibility to recover French citizenship after having lost it. The Civil Code adopted a conditional jus soli, giving a right to claim French citizenship at majority to foreigners born and raised in France.

The revolutionaries broke decisively with the old system by proclaiming the equality of all men before the law, transferring political rights to the citizens, creating the
nation and strengthening a central and bureaucratic state. The proclamation of civil equality of all men before the law gave common rights and obligations to all persons members of the French nation-state abolishing thereby the privileges of the old society. The extension of political participation and representation to active citizens viii gave them right to rule the state affairs. The creation of a “nation une et indivisible” permitted not only to abolish particularities existing between localities, regions or provinces within France but also to unite the people against other nations, especially the German one. Centralization and bureaucratization fixed finally direct contacts between the new French nation-state and its citizens. The state had thereby greater control, it could compel the citizens to military service and increase the finances through direct taxation. ix

The egalitarian and republican principles of the Revolution were interpreted by the revolutionaries in such a way that French citizens had to adhere to universal political values, rather than share ethnocultural features. Linguistic variety was considered as bearer of conservatism and hinder to the propagation of republican ideas. In the name of national unity the existence of ethnic minority populations (such as Basques, Britons, Corsicans, Flemish) was denied and the use of regional languages and cultures was forbidden. Linguistic unity would permit equality of all citizens before state offices and make possible communication between all citizens of the country. Assimilationist politics were therefore conducted throughout the 19th century. France’s national unity was completed in the late 19th century as the result of administrative work, schools and military service as well as the development of communication and transport networks. x

The basic principles of the French nation-state were in place before the beginning of the large scale economical immigration into France. This, as we show later, led to the last important modifications of French citizenship legislation. During the second part of the 19th century France, whose population was weakened by a poor demographic situation and whose internal migration from rural to urban areas was insufficient, started to recruit foreign working force from neighboring countries. From 1851 to the end of the 19th century, immigrants to France were thus mainly Belgians, Italians, Spaniards and Swiss. xi

During the 1870’s and 1880’s the dissatisfaction with the presence of a large foreign population on French territory increased. Republican egalitarian ideology made the exemption of second-generation immigrants from military service unacceptable. Their military and economic privileges were to be abolished. It was also imperative to hinder the formation of foreign communities which could challenge France’s national and cultural unity. xii In fact the assimilationist capacity of French schools had furthermore turned second-generation immigrants into Frenchmen. It was therefore natural to suppose that they were strongly attached to France. During the debates on the reform of citizenship legislation the superiority of the principle of jus sanguinis over jus soli was reaffirmed with unanimity in both parliament and senate. At the same time the use of jus soli was to be extended. While 1851 citizenship law gave French citizenship to third-generation immigrants, the 1889 citizenship legislation attributed automatically French citizenship to second-generation immigrants. xiii 1889 law, with small modifications, exists until nowadays.
Understanding of nationhood and citizenship in Germany

While the ideas of nationhood and citizenship were conceived in purely political terms during the French Revolution, citizenship of the German nation-state was the result of a long process where the idea of nationhood prevailed before the political idea of citizenship. The Napoleonic wars and the 1806 defeat of the Prussian state pushed a nationalist drive in the building of the German nation-state. Both the Romantic movement and the Prussian reform movement laid the bases for the German understanding of nationhood and citizenship.

German ethnocultural understanding of nationhood found its initial expression in Romanticism, a literary movement that flourished from the late 18th to mid the 19th century. It took a particular importance in the early 19th century for German intellectuals who conceived nations as historically rooted and united by a distinctive national feeling (Volkgeist) expressed in language, culture and customs. The romanticists regarded ethnocultural unity as a constitutive element of the nation that should be expressed in the political state.

At the same time, the unification of the German states under Bismarck was viewed as a necessity in order to preserve Prussia’s position as a great power. Prussia’s leading position was the fruit of social, political and administrative reforms carried on through the 19th century. The reforms conducted from above in the Prussian state were rapidly expanded to other German states. Prussia established a direct relationship between individuals and the state by abolishing the autonomy of the corporations (Stände). All people on the Prussian territory were henceforth placed under the state’s public law and the administrative central authorities. The creation of a Bürgerstand, consisting of all persons who did not belong to the nobility or the peasants, achieved the breakup of the old social order. In the early 19th century, after the Prussian state lifted restrictions on freedom of movement and of occupation, the poor of overpopulated rural areas migrated massively to Prussia. In order to protect themselves against this unwanted population inflow the Prussia state defined who were citizens (i.e. belong to the state) and who were foreigners. The need to coordinate and to regulate expulsion practices led the German states to settle treaties specifying the status of citizenship in the individual member states of the German Confederation (Staatsangehörigkeit). According to the 1842 Prussian law on “the acquisition and loss of the quality of Prussian subject” the status of citizen was attributed to persons born to Prussian parents and could be acquired through marriage or naturalization. Similar citizenship legislation was adopted by the different German states.

The reference to the German ethnocultural nationality which characterizes present German citizenship law appeared in the second half of the 19th century. Citizenship of the German Empire (Reichsangehörigkeit) was attributed solely on the basis of descent, as it was in all of its member states. The coexistence of Germans with other nationalities in Eastern and Central Europe and the presence of a large Polish population in the Prussian east provinces strengthened the German feeling of nationhood.

From an ethnocultural point of view the Bismarckian state was regarded as imperfect: it included non-Germans (French in Alsace-Lorraine, Danes in North Schleswig and Poles in Eastern Prussia) but excluded Austrian Germans. The Prussian failure to germanize its Eastern borderland and the growing national consciousness of the
Empire’s Polish population in the late 19th century was exploited by the German nationalists who wanted to introduce ethnocultural principles in the citizenship law of the Empire.\textsuperscript{xx}

The migration dynamics as well as inconsistencies in the Empire’s citizenship legislation were soon invoked to revise the citizenship law. In the late 19th and early 20th century Germany’s demographic situation had changed sharply. Emigration waves of Germans decreased, while immigration of Poles, Slavs and Jews increased.\textsuperscript{xxi} This situation nourished the fear of a mass-immigration from Eastern Europe that could endanger “Germandom” (\textit{Deutschtum}).\textsuperscript{xxii} The Empire’s citizenship law was criticized for its inconsistencies\textsuperscript{xxiii} which could be solved by giving special rights to Germans residing abroad (\textit{Auslandsdeutsche}) and their descendants. If \textit{Auslandsdeutsche} were allowed to retain indefinitely their German citizenship and to transmit it to their descendants, this would further preserve and strengthen \textit{Deutschtum}. A revision of the Empire’s citizenship legislation was therefore necessary.

The 1913 reform of the citizenship law proposed therefore to facilitate the preservation of citizenship by \textit{Auslandsdeutsche}, even in cases of naturalization abroad\textsuperscript{xxiv}, and to allow former German citizens and their descendants to reacquire German citizenship. In order to ease the creation of an ethnoculturally homogeneous German nation-state the naturalization of ethnic German immigrants was encouraged and that of non-Germans was restricted.\textsuperscript{xxv} These propositions found a broad support in the Reichstag. 1913 German citizenship law was thus constructed around two principles: a pure \textit{jus sanguinis} and \textit{Deutschtum}\textsuperscript{xxvi}. The principle of \textit{jus soli} for the attribution of citizenship has never been considered in Germany.\textsuperscript{xxvii} German 1913 citizenship law is still valid today.

### Citizenship laws in France and Germany

Revisions to citizenship legislation in France and Germany have not really challenged the fundamental provisions of 1889 French and 1913 German citizenship laws.\textsuperscript{xxviii} The combination of \textit{jus sanguinis} and \textit{jus soli} for the attribution of French citizenship transforms automatically second- and third-generation immigrants into French citizens. The pure \textit{jus sanguinis} governing the attribution of German citizenship gives German citizenship solely to ethnic Germans and favors the acquisition of citizenship by ethnic German immigrants from Eastern Europe and the Soviet Union. The acquisition of German citizenship is difficult for non-ethnic German immigrants.

#### Citizenship by attribution

Citizenship by attribution concerns the unilateral attribution of citizenship by the state to an individual at birth.

**France**

Following the principle of \textit{jus sanguinis} French citizenship is automatically given to children of French citizens. Article 18 of the Civil Code states that French citizenship is attributed to the legitimate or illegitimate child of at least one French parents. Since 1993, the child born abroad of one French parents can renounce its French citizenship at majority (Law 93-933). Since 1851 France attributes automatically French citizenship to a child born in France of foreign parents if at least one of the parents was also born in France.\textsuperscript{xxix}
This principle of double *jus soli* presumes attachment and loyalties of persons assimilated into French society. Simple *jus soli* is only applied to children born in France of unknown parents, of stateless parents or of foreign parents whose citizenship cannot be assigned to the child. Although not initially anticipated, Article 19-3 of the Civil Code has implications for second-generation immigrants. "France" is to be understood in the law as including Algeria and other French possessions before their independence. In order to avoid cases of statelessness France gave citizenship to persons who were not granted a citizenship in the new independent states, and until 1973 to persons who established their domicile in continental France. As a consequence, many second generation immigrants, mainly children born in France of a parent born in pre-independent Algeria, are automatically granted French citizenship. Since 1993 the attribution of French citizenship to children born in France after 31 December 1993 of parents born in pre-independent Algeria is conditioned to a legal residence in France of 5 years. The attribution of French citizenship to children born in France of parents born in other former French possessions has been annulled.

**Germany**

The Federal German Republic (FGR) emphasises in its Constitution (*Grundgesetz*) the unity of the German nation and the continuity of the German Empire. Article 116 of the *Grundgesetz* announces that "everyone is a German in the eyes of the Constitution ... who holds German citizenship or who, as a refugee or expelled of German Volkszugehörigkeit, or as a spouse or descendant of such a person, has been admitted to the territory of the German Reich as it existed on December 31, 1937."

Two implications follow from this provision. Firstly, the existence of a unique German citizenship was incompatible with the partition of Germany in two separate states. The FGR therefore never recognised the citizenship of the German Democratic Republic (GDR). At reunification Germany could attribute its citizenship to former East-Germans without any procedure of naturalisation. Secondly, Germany recognised a special group of persons entitled to German citizenship: ethnic German refugees and expellees (also called status Germans). Although this category was initially designed as a transitional one, intended to facilitate the return of millions of ethnic Germans who had been driven out of Eastern Europe after the war, it still plays an important role today. Since 1988 thousands of persons arriving from Eastern Europe and the former Soviet Union are accepted in Germany under this status. Article 116 of the German Constitution legitimated thus the reintroduction of the 1913 citizenship law (*Reichs- und Staatsangehörigkeitsgesetz* - RuStAG) on which present German citizenship law is based.

The main principles of the *Reichs- und Staatsangehörigkeitsgesetz* (RuStAG) of 1913 remain valid until today. The German citizenship law, characterised by the principle of pure *jus sanguinis*, bears no trace of *jus soli*. According to RuStAG - Section 4, a legitimate child acquires German citizenship at birth if one of the parents is German and an illegitimate child if the mother is German. Since June 1993 an illegitimate child acquires German citizenship if the father is German and his paternity is recognised by German laws. The child must have its legal residence in Germany for at least three years and the application must be handed before age 23. Foreign citizenship which could be assigned at birth to the child by one of its parents does not prevent the attribution of German citizenship if the other parent is German.
The principle of *jus soli* has recently been introduced in German citizenship legislation. Since 1st January 2000 German citizenship is attributed to a child born in Germany of foreign parents if at least one of the parents has continuously and legally resided 8 years in Germany. The child must between the ages 18 and 23 choose between the German and foreign citizenship and communicate it in writing to the German administration. The person is dismissed of its German citizenship if no declaration has been given to the German administration. If the person adopts German citizenship a proof of renunciation to the second citizenship has to be presented. The second citizenship can only be kept if the law and practice of the other state make it impossible to renounce the citizenship.xxxvi

**Citizenship by acquisition**

Citizenship by acquisition designs the voluntary act of a foreigner to become citizen through declaration or naturalisation.

**France**

The 1889 provision giving automatically at majorityxxxvii French citizenship to second-generation immigrants was integrally expressed until 1993 in Article 44 of *Code de la Nationalité*. During the 1980s the principle of *jus soli* and particularly Article 44 were questioned. Under the pressure of the National Front, whose program was concentrated around the issues of citizenship and naturalisation, more traditional political parties (UDF and RPR for example) took up the issue in the 1986 election campaign, proposing a reform of the law. The argument put forward was that the citizenship law transformed second-generation immigrants automatically into French citizens without their knowledge or against their will. In the fall of 1986 a bill suppressing "automatic" acquisitions of French citizenship provoked a strong opposition and huge demonstrations. The government withdrew the bill and appointed a commission to study the question. The Commission’s report formed the bases for the Law n°93.933 from July 22nd, 1993. The most important reform introduces the notion of consent by stating that “persons born in France of foreign parents can acquire French citizenship between the ages of 16 and 21 by declaration” (if the five-years residence requirement and the non-convictions requirement are satisfied). Persons who have expressly declined French citizenship during the year preceding their majority and persons who have been convicted of certain crimes are excluded from this provision.xxxviii The law understands "France" as constituted of the territories of continental France and DOM-TOMxxxix.xl Consequently children born in France of parents born on a former French territory that has gained independence can not any more use this provision to acquire French citizenship. The modifications of 1993 did not have the effects hoped by the public opinion: the law does not concern the majority of children and persons who have been convicted of certain crimes are excluded from this provision.xxxviii The law understands "France" as constituted of the territories of continental France and DOM-TOMxxxix.xl Consequently children born in France of parents born on a former French territory that has gained independence can not any more use this provision to acquire French citizenship. The modifications of 1993 did not have the effects hoped by the public opinion: the law does not concern the majority of children and persons who have been convicted of certain crimes are excluded from this provision.xxxviii The law understands "France" as constituted of the territories of continental France and DOM-TOMxxxix.xl Consequently children born in France of parents born on a former French territory that has gained independence can not any more use this provision to acquire French citizenship. The modifications of 1993 did not have the effects hoped by the public opinion: the law does not concern the majority of children and persons who have been convicted of certain crimes are excluded from this provision.xxxviii

Naturalisation is a second procedure to acquire French citizenship. In contrast to the declaration, the naturalisation procedure is discretionary, i.e. subject to the control and approbation of the administration. Since 1993 administrative refusal to accord naturalisation must be motivated. The naturalisation procedure in France requires five years of permanent residence, majority, linguistic competence, assimilation to the
French community, and good moral and customs which means no sentences to more than six months or to offences or crimes against the State’s security. A medical examination is also required as well as a fee. Unlike many other countries, France does not require from the candidates to naturalisation to renounce their original citizenship. The requirements to naturalisation are founded on the presumptions of the assimilation, attachment and loyalty of foreigners settled in France. Therefore the administration usually rejects demands of naturalisation from foreigners whose family live abroad.

Anyone meeting the above mentioned requirements has access to naturalisation. France requires however a shorter length of residence (or exemption) to certain categories of foreigners. A first privileged group concerns spouses of French citizens. The spouse of a citizen can acquire citizenship after six months of marriage, if all other conditions are satisfied. Since 1993 the required length of marriage has been prolonged to two years (one year since 1998) which can be annulled by the birth of a child. France can however refuse to naturalise the spouse of a citizen if the person is not considered assimilated to France. Two years of residence are required for the second privileged group: persons having successfully completed two years of higher education in France and persons who might or have delivered ”important services” to France. A third group is exempted from the residence requirement to obtain French citizenship: children and spouses of persons who acquire French citizenship, persons belonging to ”the French cultural and linguistic sphere”, and persons having family ties with a French citizen, personal merits, or special ties with France.

Germany

Naturalisation in Germany remains exceptional and shall not be granted because of the applicant’s interest but only in the public interest. The naturalisation guidelines (Ei nbürgerungsrichtlinien) delivered to the administration announce furthermore that. ”Germany is not an immigration country; she does not intend to increase the number of German citizens through naturalisation”. The general naturalisation requirements are given in RuStAg - Section 8. A foreigner can apply for naturalisation if he/she resides legally and permanently in Germany, is of full legal capacity, there is no reason to expel him and has sufficient income to support himself and his family. RuStAG - Section 8 is completed by Einbürgerungsrichtlinien which establish that a candidate to naturalisation must have turned voluntary and definitively to Germany, prove his loyalty to Germany through renunciation of previous citizenship, have a good knowledge of German language, adhere to German political system and its ideas of freedom and democracy be assimilated to the German way of life, have resided in Germany for at least 10 years (8 years since 1st January 2000) and pay a fee. The candidate should further not have been sentenced for severe criminal offenses and be of good moral. Family unity as well as some aspects of foreign policy (for example the objection of foreign states) also have to be taken into consideration. Germany regards that the naturalization of stateless persons lies in the interest of the state. The procedure has therefore been shorten to 7 years for such persons. A right of reject the naturalisation of a stateless person persists if such a person presents a security risk for Germany.

Persons meeting the above mentioned requirements can apply for naturalisation. Germany requires however a shorter length of residence (or exemption) for certain categories of foreigners whose ethnic or personal attachments to Germany are
supposed. A first privileged group concerns spouses of German citizens. The spouse must have resided 3 or 5 years in Germany, have been married for at least 2 years and be assimilated to German society (RuStAg - Section 9). For this group the fee is reduced to the half. A second group is made of ethnic Germans from Eastern European Countries and the former Soviet Union who are exempted from any residence requirements, from renunciation of former citizenship and from the payment of a fee (RuStAG - Section 7).xviii

Until 1 January 1991 naturalisation in Germany depended largely on the discretionary power of the administration. For example the evaluation of the candidate’s attachment to Germany or integration in German society remained subjective and the public interest was often put forward to reject an application. In order to limit the discretionary power of the administration two provisions giving a special right to naturalization to long settled immigrants and their children were introduced. The sections 85 and 86 of the Foreigners Act (Ausländergesetz) facilitate thus the access to naturalisation to foreigners socialised and settled in Germany.lix

Section 85 gives right to German citizenship to foreigner aged between 16 and 23 who loses or renounces his former citizenship, has legally and permanently resided in Germany for at least 8 years, has gone to school in Germany for at least 6 years, and has not been sentenced for severe criminal offences. Section 86 stipulates that a foreigner who has legally resided in Germany for at least 15 years is to be naturalised if he renounces his former citizenship, has not been sentenced for a severe criminal offence, and is able to support himself and his family without receiving social security or unemployment benefits. The spouse and minor children of the applicant have also a right to naturalisation even if the fifteen-years residence requirement is not fully satisfied.

Post World War II immigration to France and Germany

Historical Background

After the Second World War, the decision of the French government to recruit immigrants was motivated by economic and demographic concerns. There was a great need to remedy the labor shortage in the reconstruction of the country, and to compensate low demographic growth and human losses of the war. However demographic considerations were quickly overshadowed by economic ones. The legal bases for the settlement of young immigrant families were laid down by the 2 November 1945 government ordinance.1 Although no ethnic quotas were officially established, the government was inclined to encourage Europeans before Africans or Asians. As Europeans showed low interest in working in France, the government started to look for manpower in its former colonies and protectorates.ii By the beginning of the 1960’s the French authorities tried to slow down the influx of Maghrebs, particularly Algerians, by offering a preferential treatment to immigrants of other nationalities. For example, France started to regularize the situation of Portuguese who arrived illegally to France.iii The strategy to promote family settlement of European immigrants while to discourage non-European immigrants was also widely used.iv

The Second World War had left a devastated and divided Germany. The country’s need of manpower for economic reconstruction in the western occupied sectors (i.e. latter West Germany) was first filled up by a flow of expellees from former German
territories in Poland and the Soviet Union and refugees from the Soviet occupied sector. Although thirteen to fourteen million persons had immigrated to West Germany by 1961 the demand for labor was still large. During the 50’s West Germany also had to face new conditions that strongly contributed to labor shortage: a low birth rate, longer educational attendance, shorter working week, the build-up of the Bundeswehr (West German Armed Forces) in 1955 and the refusal of Germans to have certain occupations. These factors, as well as the construction of the Berlin Wall in August 1961, led West Germany to search manpower abroad. For the Federal Republic of Germany (FRG) the import of foreign workforce was considered to be a temporary measure as indicated by the popular term Gastarbeiter. Consequently recruitment agreements were reached with Mediterranean countries and Turkey.

France and Germany established recruitment offices in immigration sending countries. These recruitment offices were charged to select the best workers, to examine the criminal, the political and the medical background of applicants to immigration, to find workers for the specific requests of French and German firms, to prepare all necessary papers (contract, work- and residence permit), to organize transport and to arrange accommodation in the guest countries. While most of the “guest-workers” chose the recruitment system to enter Germany, non-organized illegal immigration was mainly used to enter France. Once in France immigrants found a job and regularized their situation afterwards. France tolerated this practice so long as the flow of manpower was considered to be in the interests of the state.

Immigrant groups
Prior to the 1970’s, immigrants had generally few contacts with French and German societies. Encouraged by recruitment offices or persuaded of a temporary stay in the guest countries immigrants came often single. Although France favoured family settlement for Italians, Portuguese, Polands and Spaniards, poor housing conditions were offered to Maghrebis, African and Asian immigrants. Germany was on its side convinced of the temporary character of immigration. Immigrants, and particularly those of non-European origin, lived therefore often in worker’s hostels provided by their employers or in shantytowns. Their participation in social, cultural and political life of the host country was limited. After the arrival of their families in the early 1970’s or after they formed new families, the presence of immigrants in daily life became more visible. They moved to apartments, their children went to school and they appeared more often in public areas.

Immigrants of non-European origin are today dominantly represented in both France and Germany. Maghrebis (Algerians, Tunisians, Moroccans) followed by Africans and Asians are to be found in France while Turks dominate in Germany. Among immigrants of European origin, Portuguese and Spaniards constitute today the largest immigrant groups in France while Yugoslavs (9,8%), Italians (8,4%) and Greeks (5%) are largest in Germany. Today most of immigrants entering France and Germany are family members of immigrants established in the guest-countries or asylum seekers.

Governmental measures for the return of immigrants to their home-countries
A period of economic recession and raising unemployment in the early 1970’s led Germany to introduce a ban on immigration in 23 November 1973. France followed...
Germany some months later and implemented an immigration ban in 3 July 1974. Following categories of persons were exempted from these measures in both countries: EC nationals, asylum-seekers (in the case of France a preference was given to nationals from Vietnam, Cambodia and Laos), certain highly skilled professions, and foreigners married to German and French nationals. The ban on immigration showed little effects on the inflow of immigrants into France and Germany. Spouses and children of immigrants continued to enter through the motive of family reunification. Following categories of persons were exempted from these measures in both countries: EC nationals, asylum-seekers (in the case of France a preference was given to nationals from Vietnam, Cambodia and Laos), certain highly skilled professions, and foreigners married to German and French nationals. The ban on immigration showed little effects on the inflow of immigrants into France and Germany. Spouses and children of immigrants continued to enter through the motive of family reunification. Two other factors contributed to the growth of the foreign population in France and Germany: the increased use of the status of asylum-seeker as a mean to enter and work in France and Germany, as well as a high birthrate among certain groups of immigrants.

In addition to the ban on immigration, France and Germany tried from 1977 to reduce the number of immigrants present on their territories by encouraging them to return voluntary to their home countries. By April 1977 to November 1981 France gave an allowance of 10 000 francs to unemployed immigrants who agreed to return definitively to their home country with their family. However the initial aim of the French repatriation assistance program failed. Mostly Portuguese and Spaniards who had already planned their departure applied for repatriation assistance, instead of Maghrebis as the government had hoped. Germany may have drawn some lessons from the French experiment as it established clear limits for the beneficiaries of the repatriation assistance program. Between the 30 October 1983 and 30 June 1984 unemployed nationals from Turkey, Korea, Marocco, Portugal, Spain and Tunisia (nationals from Greece and Italy were explicitly excluded from this measure) were encouraged to return home definitively with their family by 30 September 1984. Although 300 000 persons left Germany, the government decided to never conduct again this kind of operation. The financial costs were too high and the beneficiaries of the program were, as in the French case, persons who had already decided to return to their home countries, instead of Turks as Germany had hoped. In 1980 and 1983 France resorted to another form of support program to promote return migration. Agreements were reached between the French state and French enterprises. Financial support was given to unemployed immigrants who voluntary returned home and participated in insertion programs in their home countries. Only a small number of persons took part in this measure.

Expulsion was another mean chosen by France to reduce the number of Maghrebis on its territory. After the government failed in 1979-80 to obtain parliamentary support to pass a law permitting mass-expulsions of Maghrebis, it used its discretionary powers to proceed with expulsions. The protests raised by this practice led the new elected left government to abolish them in 1981. Two categories of persons can furthermore no longer be expelled: persons born in France or arrived before the age of 10, and persons who have lived 20 years in France or who have close French citizen relatives (parents, children, spouse).

In order to mark a break with the policy of the previous right government the new government adopted in 1981 a symbolic measure: the amnesty of immigrants who had entered France before the 1 January 1981 and who had an employment. Thus until September 1983 the situation of 132 000 foreigners had been regularized.

Despite the measures undertaken by France and Germany after the 1974 ban on immigration both states acknowledge that immigrants and their children compose now
an integral part of their societies and that housing and education deficiencies should be readdressed.

**Acquisition of citizenship in France and Germany**

Post-war immigration to France and Germany has modified the composition of French and German societies. In spite of different measures aiming to reduce the number of foreigners on their territories, a large foreign population is now settled in both countries. While French citizenship law transforms automatically second- and third generation immigrants into citizens, German citizenship law is generous towards ethnic German immigrants from Eastern Europe and the Soviet Union (*Aussiedler*, i.e. descendants of Germans who lived on non-German territory after Second World War) and restrictive towards other immigrants. The rates of acquisition of citizenship by foreigners in France and Germany are presented in the annex in table 1 and 2. Due to the differences of the French and German systems, the tables do not allow a direct comparison. They nevertheless indicate ways used by foreigners to acquire French and German citizenship.

The size of the foreign population living in France is difficult to estimate. French official statistics are available on the migration process in terms of migration flows (number of persons entering and leaving France) but not in terms of migration stocks (people born abroad and residing in France). It is furthermore frequent that different administrations present different data as they use different ways to calculate. Therefore we cannot estimate the percentage of persons acquiring French citizenship in comparison to the whole foreign population.

The size of the foreign population residing in Germany is on the other hand well documented. Germany had a foreign population of 7,351,516 persons in 1997. By 1997 30% of the foreign population had lived in Germany at least 20 years, 40% had a length of residence of more than 15 years and about the half of the immigrants had resided more than 10 years in the country. Immigrants from Germany’s recruitment countries, and especially from Italy, Spain, Greece and Turkey, have stayed in Germany longer than one decade. For example, almost two thirds of Turks and Greeks, 71% of Italians, 80% of Spaniards and 41.7% of Yugoslavs have lived in Germany for at least 10 years.

Table 1 shows that until 1994 foreigners had acquired French citizenship mainly by declaration. A second way of acquisition broadly used by foreigners was Article 21-7, according to which second-generation immigrants received citizenship if they voluntarily expressed a will to become Frenchmen. This procedure was mostly applied to Portuguese and Moroccans who are the children of immigrants that arrived to France during the 1960’s and 1970’s. Demands of acquisition of French citizenship by declaration generally are made by persons married with a Frenchmen or are made by persons on behalf of a child under age 18. The number of acquisitions of French citizenship by naturalisation has been relatively constant but has sharply increased since 1994. About half of the naturalizations are given to spouses and children of a naturalized person as France regards the unity of the family to be essential. Although naturalizations are not particularly encouraged by the French administration, most of the demands of naturalizations (about 80%) are approved.
The acquisition of French citizenship is generally founded on utilitarian motives. Foreigners do not necessarily consider themselves as Frenchmen but estimate that French citizenship facilitate their contacts with the administration, make it easier to travel or permit the access to certain professions reserved to Frenchmen (for example, public administration, post, medical professions, services for municipal council).

Table 2 shows that the rates of naturalisation are relatively low in Germany. They have however significantly increased since the fall of the Berlin Wall. There is a large difference between the rates of naturalisation of foreigners following the normal procedure (i.e. discretionary naturalization) and that foreigners benefiting from a right of naturalisation. Thus while about 0.5% of the foreign population obtains German citizenship by a normal procedure, about 2% to 4% obtain citizenship because they have a right to it.

The increase of the rates of as-of-right naturalization is mainly due to Aussiedlern. Since 1992-93 about 150 000 to 200 000 ethnic Germans arrive each year to Germany, mostly from Eastern Europe and the former Soviet Union. Since 1 July 1993 non-ethnic German foreigners can claim a right to German citizenship: young foreigners who have grown up in Germany (§ 85) and long settled foreigners (§ 86-1). This constitutes a recognition of the place of guest workers and their children in the German society. Naturalizations accorded on the base of § 86-1 were about three times more than those accorded on the base of § 85. In 1997 mostly Turks (47.2%), Moroccans (4.8%) and Vietnamese (3.8%) received German citizenship according to §§ 85 and 86-1.

Even if the rates of naturalisation of non-ethnic Germans have grown since the introduction of §§ 85 and 86, they remain low compared to the number of entitled applicants. One possible explanation is that foreigners perceive the adoption of German citizenship as more than just a legal status, they tend to identify German citizenship with German ethnicity. They hesitate to renounce their former citizenship as it may result in the loss of propriety and inheritance rights in their home country or is considered as a lack of loyalty towards other members of the family. Some foreigners renounce however their former citizenship in order to naturalise and obtain German citizenship, but after a short period they apply for reacquire their former citizenship. They acquire thereby double citizenship without loosing the German one (RuStAg - Section 25).
Summary and Conclusion

The years of formation of the French and German nation-states were not only years of transition from agrarian societies to modern states but also years of formation of the French and German citizenship legislation. Opposite political forces as well as different philosophical conceptions contributed to an understanding of citizenship based on political concerns in France and on ethnocultural principles in Germany. While reforms were conducted from below by the revolutionaries in France, they were led from above in the German states. While the ideas of the Enlightenment prevailed in France, the Romantic movement found wide resonance in Germany. These antagonist views can be seen in the dispute on Alsace-Lorraine where France advanced political arguments while Germany urged ethnocultural ones. Transnational political developments in both countries can either be neglected. Thus following its egalitarian principles but also taking into account the rapid population growth in Germany and its own poor demographic situation, France modified its citizenship legislation in 1889 giving thereby citizenship to second-generation immigrants. Germany on its side concerned by migration problems reformed its citizenship legislation in 1913. Nowadays citizenship legislation in France and Germany are founded on 1889 and 1913 reforms.

After the Second World War French and German citizenship legislation were still mainly based on 1889 and 1913 laws. The reintroduction of 1913 citizenship legislation allowed the Federal Republic of Germany (FRG) to give its citizenship to citizens of the Democratic Republic of Germany and to German expellees from Eastern Europe and the Soviet Union. With the construction of the Berlin Wall in 1961 the inflow of German workers to the FRG stopped definitively. Germany started, as France had done directly after the war, to recruit immigrants to cover labor shortage. Both France and Germany tried initially to recruit European workers. When this was not sufficient they started to recruit non-Europeans - Maghrebis and Africans in France and Turks in Germany. Both countries regarded immigrants as temporary workers. Economic recession and rising unemployment led Germany and France to put a ban on immigration in 1973 and 1974. However, immigration continued because of family reunification. Next step for both countries, France in the end of the 1970’s and Germany in the beginning of the 1980’s, was to encourage voluntary return of immigrants and their families to the home countries. These actions were unsuccessful and indicated French and German unwillingness to accept their immigrants. Today France and Germany have realized that immigrants constitute integral part of their populations.

With respect to the acquisition of citizenship French and German citizenship legislation symbolize two different models, where France gives automatically citizenship to third- and second-generation immigrants while Germany excludes non-ethnic Germans from citizenship. The general conditions of naturalisation are similar in France and Germany (conditions of assimilation, knowledge of the state’s language, and no sentences for severe criminal offenses) but some differences exist that make naturalisation in Germany more difficult. Germany requires foreigners to renounce their former citizenship and a length of residence of 10 years, while France accepts double citizenship and requires only 5 years of residence in France.
Since the 1990’s the French and German citizenship models tend to converge in question of the access to citizenship for second-generation immigrants. As a result of the rise of Le Pen’s extreme right party in France during the 1980’s, both right and left traditional parties took up immigration and citizenship issues in the 1986 election campaign. Their proposition to reform the citizenship legislation led to the adoption of Law 93-933 which introduced the notion of consent for second-generation immigrants who opted for French citizenship. The reform sought to reinforce the presumption of loyalty toward the state. Germany on its side allows simplified naturalisation of second-generation immigrants since 1993 and gives since 2000 German citizenship to second-generation immigrants, who between age 18 and 23 must choose either the German or the foreign citizenship. These recent changes in German citizenship legislation may be a result of European pressure on Germany to relax its ossified jus sanguinis, and is part of the ongoing Europeanisation process leading towards a harmonization of alien policies. Germany may have adapted its legislation and attitudes in order to “fit” with norms and practices prevailing in other EU member states. The convergence of the French and German models of citizenship seems to indicate the emergence of a common view on the treatment of second-generation immigrants. This dynamic could explain the requirements put forwards by European bodies to attribute Latvian citizenship to children born in Latvia of stateless persons.

With regards to the rates of naturalisation in France and Germany one could not argue for the adequateness of one of the two models to naturalize foreigners. In fact, since the beginning of the 1990’s ethnic Germans have formed the largest part of persons naturalized in Germany. In spite of simpler naturalization procedure in France than in Germany the number of naturalized persons (neglecting ethnic Germans) are roughly similar. Also in both countries the number of persons obtaining citizenship because they have right to it is roughly similar to the number of persons going through the normal procedure of naturalization.
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Table 1

Naturalisation in France

<table>
<thead>
<tr>
<th>Year</th>
<th>Acquisition of French citizenship</th>
<th>Article 21-7</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By naturalization</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>Spouse and children of a naturalized person</td>
</tr>
<tr>
<td>1985</td>
<td>26 902</td>
<td>11 978</td>
</tr>
<tr>
<td>1986</td>
<td>21 072</td>
<td>10 344</td>
</tr>
<tr>
<td>1987</td>
<td>16 205</td>
<td>7 848</td>
</tr>
<tr>
<td>1988</td>
<td>16 762</td>
<td>7 948</td>
</tr>
<tr>
<td>1989</td>
<td>19 901</td>
<td>10 178</td>
</tr>
<tr>
<td>1990</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>1991</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>1992</td>
<td>22 792</td>
<td>12 349</td>
</tr>
<tr>
<td>1993</td>
<td>23 283</td>
<td>13 157</td>
</tr>
<tr>
<td>1994</td>
<td>29 106</td>
<td>15 396</td>
</tr>
<tr>
<td>1995</td>
<td>24 718</td>
<td>12 041</td>
</tr>
<tr>
<td>1996</td>
<td>34 650</td>
<td>16 923</td>
</tr>
<tr>
<td>1997</td>
<td>35 703</td>
<td>18 471</td>
</tr>
</tbody>
</table>

Sources: Direction de la Population et des Migrations - André Lebon - 1990 and 1997

* no sources for the years 1990 and 1991

Article 21-7 of the Civil Code, modified in 1993, gave citizenship to second-generation foreigners who between the ages of 16 and 21 declared their will to become French citizens
## Naturalisation in Germany

<table>
<thead>
<tr>
<th>Year</th>
<th>Discretionary naturalisation</th>
<th>“As of-right” naturalisation</th>
<th>Total</th>
<th>According to § 86-2</th>
<th>Total</th>
<th>According to § 85</th>
<th>According to § 86-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>13 894 (0.3%)</td>
<td>21 019 (0.5%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1986</td>
<td>14 030 (0.3%)</td>
<td>22 616 (0.5%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1987</td>
<td>14 029 (0.3%)</td>
<td>23 781 (0.6%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1988</td>
<td>16 660 (0.4%)</td>
<td>30 123 (0.7%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>17 742 (0.4%)</td>
<td>50 794 (1.0%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>20 237 (0.4%)</td>
<td>81 140 (1.5%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1991</td>
<td>27 295 (0.5%)</td>
<td>114 335 (1.9%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1992</td>
<td>37 042 (0.6%)</td>
<td>142 862 (2.2%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1993</td>
<td>44 950 (0.7%)</td>
<td>154 493 (2.2%)</td>
<td></td>
<td></td>
<td>6 948</td>
<td>22 160</td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>26 295 (0.4%)</td>
<td>232 875 (3.3%)</td>
<td></td>
<td></td>
<td>10 419</td>
<td>32 565</td>
<td></td>
</tr>
<tr>
<td>1995</td>
<td>31 888 (0.4%)</td>
<td>281 718 (3.9%)</td>
<td></td>
<td></td>
<td>12 141</td>
<td>41 242</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>37 604 (0.5%)</td>
<td>265 226 (3.6%)</td>
<td></td>
<td></td>
<td>14 409</td>
<td>34 343</td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>39 162 (0.5%)</td>
<td>239 500 (3.3%)</td>
<td></td>
<td></td>
<td>12 859</td>
<td>30 892</td>
<td></td>
</tr>
</tbody>
</table>

Source: Statistisches Bundesamt

§ 85 gives a right to naturalization to young foreigners non ethnic German who have grown up in Germany

§ 86-1 gives a right to naturalization to foreigners who are long settled in Germany

§ 86-2 can give naturalization to spouses and children of long settled foreigners in Germany
Notes

i The term Ancien-régime refers to the period preceding the 1789 French Revolution. Ancien-régime society was divided in three estates (nobility, clergy and Third Estate). Each person was subject of the King of France, as well as member of an estate and province.
ii In May-June 1789, disappointed by the reforms of King Louis XVI, the Third Estate proclaimed itself a National Assembly and claimed sole authority to the sovereign nation.
iii i.e. What is the Third Estate?
iv During the Ancien Régime rights and obligations of individuals were conditioned by their social category (nobility, seigneurie, clergy, peasantry, regional parliament) rather than by their birthplace. Being Frenchmen was therefore not of great importance.
viii The 1791 Constitution distinguished two categories of citizens: French citizens (citoyens français) and active citizens (citoyens actifs). The former were nationals of France, the second had political rights. A citoyen actif was a male Frenchmen aged of at least 25 years who had paid a direct tax equal at least to the salary of 3 workdays and had taken a civic oath. The next Constitutions abandoned this distinction and understood the term “citizen” a person who enjoys political rights.
x Brubaker , 1992 : 7 ; for more details on rural France in the period 1870-1914 and assimilation policies, see Eugen Weber
xi Lequin, 1988:335-344 ; Hargreaves, 1995: 8-9
xii Lagarde suggests that the introduction of the principle of jus soli into French citizenship law was motivated by demographic and military concerns. Brubaker rejects this argument. (Brubaker, 1992:103-104 ;Lagarde, 1996:309-310
xiv Brubaker, 1992: 6 and 9-10
xv The Congress of Vienna (1814-15) reorganized Europe after the Napoleonic wars. It concluded among other things the creation of a German Confederation, a loose political association of German states which preserving most of their rights of sovereignty. The German Confederation was largely dominated by Austria which opposed itself to the movement for German national unification lead by Prussia. In 1866 Prussia formed a federal union with 17 other north German states, called the North German Confederation. After the German victory over France in the 1870-71 war, southern German states, except Austria, joined the North German Confederation to form the German Empire.
xvi Until the early 19th century, membership in a guild or corporation (Stände) was considered to be more important than membership of individual German states. Law was not general and valid for all people but specific law existed for specific group of peoples. The abolition of the autonomy of corporations didn’t lead to the disappearing of privileges for the nobility. (Brubaker, 1992: 53-54 and 57-61)
xvii The Stände were before related to provinces and not to the state. The Bürger category designated a privileged category of a town, to which special rights were assigned. The new Bürgerstand was created by and for the state. (Brubaker, 1992:59-60)
xviii Since the late 15th and 16th centuries German towns were required to take care and offer assistance to the poor living on their territory. Municipalities distributed therefore authorizations of residence to new-comers very carefully. In the 17th and 18th centuries the right of municipalities to accept or not foreigners started to be challenged by the growing authority of German states. In the early 19th century German states held the formal responsibility for the support of the poor. Therefore they solely determined who was a member of the state and of its communes. (Brubaker, 1992:64-67)
xix Brubaker, 1992: 50-62 and 64-71
xx Brubaker, 1992: 5-6 and 125-132
xxi During the late 19th century Germans left agrarian Prussia to work for higher wages in the industrial areas of the Empire located in the Western part. In order to counter the shortage of labor, Prussia turned to Polish and Russian immigrants. Their stay in the Empire was however strictly regulated. (For more details, see Brubaker, 1992:132-134 ; Bade, 1994:20-29 and 32-34
xxii Brubaker, 1992:136-137
xxiii The provisions on the acquisition of citizenship were based on the principle of jus sanguinis, while the provisions on the preservation and loss of citizenship referred to the territory. It was stipulated that
Germans absent from the Empire (i.e. the territory) for more than 10 years lose their German citizenship. (Brubaker, 1992:114-115)

The preservation of German citizenship was allowed if a foreign citizenship had been attributed to a German as a consequence of the citizenship legislation of the country of immigration (for example the USA) but refused if the foreign citizenship resulted from a voluntary act of naturalisation.

For more details on the naturalization policies in the German Empire, see Brubaker, 1992:134-135

Deutschum is an ethnocultural category which includes Volksdeutsche (ethnic Germans) and excludes non-Germans. Brubaker, 1992:117-118 It is close related to German nationhood.

In 1913 social-democrats proposed to introduce jus soli in German legislation for the acquisition of citizenship. They wanted to give persons born and raised in Germany a right to naturalization. This proposition was rejected by both the government and the Reichstag. (Brubaker, 1992:119-122)

France revised its citizenship law in 1927, 1945 and 1973. The Law of 10 August 1927 reduced the length of residence for naturalisation to 3 years and allowed the French woman married to a foreign man to retain her French citizenship and to assign it to her children born in France. The ordinance of 19 October 1945 abolished the restrictions to naturalized Frenchmen introduced under the Vichy Régime. The 1945 reform gave French citizenship to all children born of a union even if the person is born in France and has only one of its parents born in France.


From the 41 original sections of 1913 citizenship law 24 are completely or partially valid today. (Krajewski / Rittstieg, 1996:362)

This provision is expressed in Article 19-3 of the Civil Code and former Article 23 of the Code de la Nationalité. Article 19-4 of the Civil code gives the right to renounce French citizenship at majority if the person is born in France and has only one of its parents born in France.

Jurists make a distinction between simple jus soli and double jus soli. Simple jus soli refers to the birth from foreign parents in the state of immigration. Double jus soli refers to the birth of a person on the territory of the state of immigration of foreign parents which themselves are born there. France applies simple jus soli for the acquisition and double jus soli for the attribution of citizenship. (Lagarde, 1996:313)

Civil Code - Articles 19 and 19-1

Civil Code - Articles 17-6 ; 32 ; 32-1 and 32-3 ; Law of July 28th, 1960 ; Lagarde, 1996:328-329


Krajewski/Rittstieg, 1996:366-367 ; RuStAG - Section 4

RuStAg - Sections 4 § 3 ; 28 and 29

Since 1993 the acquisition of French citizenship through declaration can be made by persons aged 16 or by their legal tutor if they are younger than 16 years. (Law 93-933)

Civil Code - Articles 21-7 and 21-8 ; Law 93-933 ; former Article 44 of the Code de la Nationalité

DOM-TOM are France’s oversea territories: Départements d’Outre Mer (Guadeloupe, Guyane, Martinique, Ile de la Réunion, Mayotte and Saint-Pierre-et-Miquelon) Territoires d’Outre Mer (Nouvelle Calédonie, Polynésie française, Wallis et Futuna)

Civil Code - Article 17-4 ; Law 93-933


Direction de la population et des migrations

Civil Code - Articles 21-16 ; 21-17 ; 21-22 to 21-25 ; 21-27 ; Laws 93-933; 93-1417 and 93-1027


Law of May 7th, 1984 ; Civil Code - Articles 21-2 ; 21-4 ; 21-18 to 21-21 ; Law 93-933

Einbürgerungsrichtlinien 2.2 and 2.3

Hailbronner, 1989:1068-1069

Einbürgerungsrichtlinien ; RuStAG - Sections 7 and 9 ; Krajewski/Rittstieg, 1996:371


The 2 November 1945 government ordinance explicitly specified that the right to live in France was not conditional to that of working there (separation of residence and work permits). It clearly defines the immigrant as “a foreigner who settles on French territory for more than three months and for an
unlimited period of time” (my translation). Tourists, seasonal and frontier workers as well as students are therefore not considered as immigrants. See Hargreaves, 1995:10-11 and Weil, 1991:54-62.

Algeria was, until its independence in 1962, regarded as an integral part of the French territory. As a consequence, all its inhabitants, both those of European and non-European origin, hold French citizenship. On the other hand, nationals of Morocco and Tunisia, which where French protectorates until 1956, had no French citizenship. Algerians enjoyed thus a total freedom of movement to travel to and from metropolitan France and were not subject to immigration regulations. The 1962 Evian agreements between France and independent Algeria allowed freedom of movement for the nationals of both states. The freedom of movement of Algerians to France was limited in 1968. Hargreaves notes that Algerians in France grew from 22 000 in 1946 to 805 000 in 1982 (Hargreaves, 1995:12). See also Weil, 1991: 62-68.

Many Portuguese had fled their country in the hope to avoid fighting in the independence wars against Portuguese colonies. (Hargreaves, 1995:14 and Weil, 1991:68)


Non-organized immigration signifies that all arrangements are left to the potential immigrant.

The measure includes additional allowance of 5 000 francs for the employed spouse and other 5 000 francs per child, employed or unemployed. Due to the lack of interest among the immigrant group concerned, the offer was extended to immigrants who had been employed at least five years.

The German allowance was much more higher than the French one. Germany offered 10 500 DM (= 32 025 francs*) to the applicant and an additional allowance of 1 500 DM (= 4 575 francs*) per child. It was furthermore also possible to recover some social contributions paid in Germany. The beneficiaries of the repatriation assistance program had to give a written promise to never return to Germany. (Weil, 1991:211-212)

* exchange rate of 1984

Weil, 1991:211-212
An average allowance of 45 000 francs is attributed to immigrants who accept to participate in this program. For more details, see Weil, 1991: 174-175, 183-184 and 212-214.

For more details about the project of law of the French government and its opposition, see Weil, 1991: 111-134.


The number of departures shows deficiencies as foreigners are not compelled to announce their departure to the French administration.


A rapport issued in 1997 by the Direction de la Population et des Migrations indicates that the persons acquiring French citizenship through Article 21-7 were from:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Morocco</td>
<td>9 977</td>
<td>10 274</td>
<td>11 043</td>
<td>11 204</td>
</tr>
<tr>
<td>Portugal</td>
<td>12 304</td>
<td>9 802</td>
<td>8 527</td>
<td>9 818</td>
</tr>
<tr>
<td>Tunisia</td>
<td>3 658</td>
<td>3 735</td>
<td>3 668</td>
<td>3 879</td>
</tr>
<tr>
<td>Spain</td>
<td>1 330</td>
<td>1 012</td>
<td>785</td>
<td>910</td>
</tr>
<tr>
<td>Italy</td>
<td>1 330</td>
<td>937</td>
<td>583</td>
<td>767</td>
</tr>
<tr>
<td>Turkey</td>
<td>2 660</td>
<td>3 735</td>
<td>3 038</td>
<td>3 517</td>
</tr>
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</table>


Krajewski/Rittstieg, 1996:366

Mitteilungen der Beauftragten der Bundesregierung für Ausländerfragen, 1999:32

Brubaker, 1992:77-81, Krajewski/Rittstieg, 1996:370