

ANALYSIS

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THE GERMAN NATIONALITY REGIME AND THE RIGHTS OF FOREIGNERS IN GERMANY

SONER TAUSCHER





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ABSTRACT

Each state develops a citizenship definition according to its cultural values and historic phenomena. The citizenship definitions across the world can be categorized into three main groups. The first two are the recognition of citizenship on the basis of blood kinship (*jure sanguinis*) and birthplace (*jure soli*), which comprise the main types of citizenship, while the third one is the citizenship vested after birth (naturalization).

As of 1913, the Federal Republic of Germany defined citizenship on the basis of the principle of blood relation and conducted its politics and foreign relations accordingly. With a new regulation in 2000, the principle of birthplace became more prominent although the blood relation principle did not disappear. With this regulation, the obligation of choosing one nationality in the cases of dual citizenship started to be implemented. The children of immigrants born in 1990 and onwards in Germany could have dual citizenship on a temporary basis; they had to make a choice between the two nationalities before the age of 23. However, the obligation to choose between the two nationalities was not imposed on citizens of many countries, including citizens of EU member countries.

While the citizens of other nationalities were not obliged to conform to this law, immigrants working in Germany and contributing economically to the state and society had to give up their Turkish citizenships for their political rights, a situation which was highly debated and triggered discrimination.

Before the elections held in 2013, the German Social Democratic Party (SPD), the Green Party, and the Left questioned the legitimacy of this discriminatory implementation. The SPD promised to end this discrimination following a possible victory. After the elections, the Christian Democrats (CDU/CSU [Christian Democratic Union and Christian Social Union]) and the Social Democrats formed a coalition. The SPD, which did not come to



The gradually increasing refugee inflow to Europe beginning in 2014 reached a peak in 2015 both in Europe and Germany, and provoked a different sociology of discrimination and marginalization.

power alone and did not form a coalition with either the Greens or the Left, had to make some concessions on their promises.

The new dual citizenship regulation that the SPD stipulated as the condition of a coalition entered into force at the end of 2014 with some deficiencies. According to the regulation, immigrants' children born in Germany could have dual citizenship on the condition that they are raised or educated in the country. However, the new regulation excludes children who are not born in Germany. So, many immigrants are still excluded from the German political system due to the obligation of choosing one of their two nationalities.

The gradually increasing refugee inflow to Europe beginning in 2014 reached a peak in 2015 both in Europe and Germany, and provoked a different sociology of discrimination and marginalization. Moreover, due to the terrorist attacks in France and Belgium, refugees and newcomer Muslims are currently the main groups subjected to discrimination and exclusion; Turks and immigrant workers are now regarded as "native." It is assumed that the movement of PEGIDA (Patriotic Europeans Against the Islamization of the West) emerged as a result of all these incidents. PEGIDA has been striving to find a societal base for Europe's long-standing anti-Islamic stance.

Beginning in October 2014, PEGIDA kicked off its demonstrations in Dresden based on an antagonistic rhetoric against foreigners, refugees, and Islam. Before the refugee inflow and terrorist attacks, the anti-immigrant views endeavored to be legitimized on the assertions that immigrants abuse the state and its rightful citizens by receiving social aid, taking Germans' jobs, and sabotaging their educational and medical rights.

However, PEGIDA's evolution into an organization and its expansion to other European cities outside of Germany brought to the fore the deep-rooted antagonism against different ethnicities and religious groups. German Chancellor Angela Merkel was slammed by PEGIDA and conservative parties (CDU/CSU and AfD-Alternative for Germany) for some of her policies favoring refugees. The situation indicates that the definition of citizenship, which is in a state of constant transformation, has reached a point of polarization, of "we" versus "them," and will not easily be exempt from the deep-rooted ethnic, religious, and cultural codes of the past.

INTRODUCTION

While citizenship offers an identity and sense of belonging to individuals within the state and society, it also presents the human factor - in other words, people - to the state and enables the continuity of the state based on the definition of citizenship. Thanks to their citizenship status individuals have some of their rights and duties placed in a legal framework. In return, the state expects certain duties from its citizens such as loyalty and military service.

Citizenship binds a person to the state in legal and political terms. To consolidate this bond, the state expects loyalty from its citizens. This expectation is unchangeable regardless of whether citizenship is granted with birth or with naturalization.

The state is the sole determinant force in the acquisition of citizenship. States make certain citizenship regulations for the sake of protecting their political integrities, As stated in the “Eu-

ropean Convention on Nationality” signed in 1997, “Each State shall determine under its own law who are its nationals” (3/1). Although states have the right to make free regulations regarding the persons who can be granted citizenship, these regulations cannot violate international conventions or general nationality law.¹ Along with the “European Convention on Nationality,” the “Convention on Certain Questions Relating to the Conflict of Nationality Laws” signed in 1930 and the “UN Convention on the Reduction of Statelessness” signed in 1961 play major roles on an international scale in determining nationality law.

In these conventions, some highlighted principles include the requirement that every person belong to a state, the fact that nobody can be forced to be naturalized or expatriated, and that everyone must have only one nationality. However, with the increasing impact of globalism and the acceleration of the EU integration process, the obligation to have only one nationality has been overshadowed. Today, there are many persons with more than one nationality and states can make regulations on dual or multiple citizenships.

Those having parents with different nationalities and those residing in a state other than their own for various reasons demand regulations that enable more flexible nationality implementations. Despite all the developments and regulations, there are around ten million stateless people in the world according to data by the United Nations High Commissioner for Refugees (UNHCR).² Along with factors such as wars, famine and terrorism, the nationality regulations implemented by states play a major role in the high number of stateless people. Since states grant citizenship to individuals under certain conditions, those who cease to be cit-

1. European Convention on Nationality, Article 3/2.

2. Fragen & Antworten: Staatenlosigkeit, UNHCR <http://www.unhcr.de/questions-und-answers/staatenlose.html>, (Accessed February 4, 2016).

izens of a state are required to undergo a series of difficult and demanding proceedings to acquire another citizenship.

There are three different general procedures to acquire citizenship. The first is acquiring the nationality of one's parents; this is known as the principle of blood, or *jure sanguinis*. The second is acquiring citizenship according to the country where the person is born regardless of the parents' nationality. This is known as the principle of birthplace, or *jure soli*. And the third is the person's transition into a different nationality after birth under certain conditions; this is known as naturalization, or *civitatis donatio*.

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States generally make their regulations on nationality law in accordance with the first two principles above by considering their history, cultural past and socio-economic conditions. If a state is defined as an immigration country, such as France and the U.S., and aims to provide public accord by incorporating these people into society, it regulates its nationality law by focusing on the birthplace principle (Doğan, 2002:25-41). If a state's nationality policy is introverted like Germany or the state experiences more emigration than immigration, it focuses on the blood principle. Naturalization occurs by fulfilling certain conditions and specific criteria such as family reunification, asylum, migration, or staying in a country for a certain number of years (Erdem, 2010: 8-12, Aybay, 2004:25).

NATIONALITY REGIME IN GERMANY

The idea of nation-building that arose with the French Revolution lies behind the implementation of acquiring citizenship through blood relation or birth. The thoughts of nationalism and equal citizenship evoked by the French Revolution caused different historical processes in France and Germany, two leading European countries. In France, where the revolution originated, a citizenship notion promoting universal and equal political participation was developed. The citizenship notion in Germany, on the other hand, has been expressed mostly with kinship-based, ethnic, cultural, and linguistic ties. One of the main reasons for this has been that the consciousness of being German is more prominent than the consciousness of forming a state. The definition of German citizenship developed as an ethnic and cultural phenomenon rather than an abstract and political one. As a result, along with the concept of citizenship (*Staatsbürgerschaft*) that defines belonging to state, the concept of nationality (*Nationalität*) that defines ethnic and cultural identity has been maintained.

Germany inherited this notion of citizenship from Prussia's national identity encompassing multiple identities. Binary sects and binationalism were prominent in Prussia, which consisted of autonomous principalities unlike the absolutist regimes prevalent in European states (Brubaker, 2009:9-30). This notion is the opposite of the universalist, holistic and monist citizenship notion represented by France and stems from the fact that historical conditions functioned differently for Germans. Unlike France, the German Empire (1871-1914) was based on principalities and feudalism. Rather than being a modern state, the German Empire consisted of the territories of principalities and, in this manner, they could preserve their power in relation to the center.

In such conditions, it was not possible for a central and civilian citizenship to emerge. In the constitution of the Empire, a distinction was made between Empire citizenship (*Reichsangehörigkeit*) and province citizenship (*Landesangehörigkeit*). Meanwhile, the citizenship status of the Polish immigrants coming from Eastern Prussia was uncertain. Those immigrants were useful in terms of providing a labor force to the state. However, the German state had difficulties in assimilating them. This difficulty led the state to define an ethno-cultural and restrictive notion of citizenship.

Moreover, citizens acquired the right to travel freely without being subjected to limitations within the state, which made void the concept of citizenship based on the provinces. The state became open to citizens from across the country; an initiative that required defining who was from which state. The situation of immigrants and the poor formed the driving force of this definition.

The law that obliged the protection of the poor by the communes of the cities where they were registered, which was valid since 1530, was replaced by the “General State Laws” (*Allgemeines Landrecht*) promulgated in 1794. With the new law, the protection of the poor was undertaken by the state. The obligation to look after the poor citizens led the state to define its own poor. The surreptitious expulsion of the poor and unwanted persons for various economic and political reasons did not resolve the state’s problems but rather created problems for its neighbors. Likewise, a neighboring state could also deport unwanted people. Stateless people either joined the bandit gangs ensconced along borders or secretly reentered the county they were deported from. In order to resolve the problem of statelessness and identify the poor and needy people in the country, the German state formulated the concept of citizenship.

However, states confronted certain problems in the determination of the definition of citizen-

ship. Since the borders could not be strictly controlled and in the mercantilist economy departures - rather than entrances - from the country were controlled, the question of who would acquire citizenship and with what kind of qualifications came to the forefront. In this scope, the notion of state membership based on residence was abolished and the rule of residence permit based on citizenship was introduced.³ According to the law enacted in 1842, nationality was attached to kinship by blood, evidence of kinship, marriage, or naturalization (Brubaker, 2009:75-99).⁴

The citizenship regimes in the 15th and 16th centuries that were based on distinguishing their subjects according to the poor, the orphaned, and people with no land have undergone transformations in legal terms over the course of centuries. Germany also developed different legal definitions of citizenship during its history. Nevertheless, the country has always distinguished its citizens in a way independent of the laws. This distinction has sometimes been formed solely on a behavioral basis without adopting any written or oral statements. These distinctions most of the time are not clear for Germans.

First of all, religion occupies an important place in this distinction. Christianity is given primacy. However, the European Wars and World War I and II demonstrated that religion or being a European does not have any importance in the context of *realpolitik*. Germany was forced to pursue a new foreign policy in Europe after losing World War II. It reconciled with its archrival France and prioritized economic interests rather than political ones.

Both the German state and the German public regarded the immigrant workers arriving in the country as guest workers. The workers also believed that they had moved to Germany on a temporary basis. As a result of changing

3. Law Respecting the Acquisition and Loss of the Quality of Being Prussian by a Prussian Subject dated 1842

4. *Ibid.*, Article 1.

conditions, the “guest workers” settled in Germany, which necessitated new legal regulations. The German state and society, however, have always had difficulty in accepting this situation. Irrespective of their contributions to the state and economy, immigrant workers have always been associated with the welfare benefits they receive and their failure to integrate with German culture. The reflex of associating them with welfare benefits goes as far as not considering the poor and the orphaned as citizens. German elites and political figures have attempted to exclude immigrants based on fictional factors such as welfare benefits and statuses rather than directly naming the reasons as their ethnicity or religious backgrounds - an admission that would go against basic human rights that have been recognized as universal values in the 20th and 21st centuries.

The German “Nationality Law” (Staatsangehörigkeitsgesetz-StAG), which has undergone many amendments, was based on the “Nationality Law of the German Empire and States” (Reichs- und Staatsangehörigkeitsgesetz, or RuStAG) from 1913 until its reform in 2000. Following the reform, additional regulations were added in 2005, 2007, and 2014. While the law remaining from the Empire was tied to kinship by blood (RuStAG 4/1), the new regulation is based on the principle of birthplace (StAG 3-4). However, while naturalized foreigners in Germany could have the right to have dual citizenship according to the 1913 law, the new law does not give them this right. With the new law, a child born to a foreign parent can have the right to become a German citizen. However, with the old regulation if a person acquiring German citizenship by birth was a subject of a country outside the EU, s/he was required to make a choice between the two nationalities by the time s/he was 23 years old. With a new regulation made in December 2014, the obligation to choose one nationality was abolished under certain conditions.

THE STATUS OF FOREIGNERS AND THE ACQUISITION OF CITIZENSHIP

General regulations on nationality law are usually part of a state’s constitution, while detailed regulations are found in special legislations. In Germany, many factors including the foreigners’ entrance into the country, residence and working permit, family reunification and deportation are regulated by the “Law on Immigration” (Zuwanderungsgesetz-ZuwandG) that entered into force in 2005. The “Law on Foreigners” that was valid beforehand was abolished and the “Law on Residence” was also combined with the “Law on Immigration.” Along with this law that determines the status of foreigners, StAG Articles 4, 8, 10 and 12 also determine the naturalization conditions for foreigners. In general, the following methods are pursued in granting German citizenship:

Principle of Blood (Jure Sanguinis)

A child whose parents are German citizens can automatically become a German citizen through blood kinship.

Principle of Birthplace (Jure Soli)

Irrespective of the nationalities of parents, the children born in Germany can directly acquire German citizenship. This right was acquired with the new regulation in 2000 and requires certain conditions. The child born to foreign parents has to make a choice between the two nationalities by the time s/he is 23 years old. If s/he does not make a choice, German citizenship is automatically renounced. This law, however, is not implemented if the person or their parents are citizens of an EU country or Switzerland. The new regulation of 2014 stipulates that those meeting the conditions could keep their dual citizenship. Citizens acquiring dual citizenship by birth are required to fulfill one of the conditions below by the age of 21;

- To have resided in Germany for at least eight years.
- To have been enrolled in a school in Germany for at least six years.
- To have a school diploma from Germany or to have completed vocational training in Germany (StAG 29/Article 5).

However, the obligation of choosing one nationality is still valid for those who cannot fulfill these conditions or who have acquired German citizenship by ways other than the birth principle (principle of request, etc.).

Between the years of 2000 and 2012, about five percent of nine million children born in Germany, which corresponds to around 460,000 children, acquired German citizenship while having two foreign parents.⁵ When it is considered that most of these children can fulfill the conditions, it can be said that around 40,000 young people could annually acquire dual citizenship by benefiting from the new regulation starting in 2018.⁶

Principle of Request

Foreigners fulfilling the conditions below can request German citizenship from the German state:

- Those who hold an unlimited residence permit when the request is issued,
- Who have legally resided in Germany for at least eight years,
- Who earn a livelihood without receiving unemployment or welfare benefits,
- Who have a sufficient knowledge of the German language with the exception of the elderly and ones with medical conditions,
- Who have passed the test for the granting of citizenship,

5. Doppelte Staatsbürgerschaft: Rund eine halbe Million Optionskinder, German Statistical Office, 9 April 2014 <https://www.destatis.de/DE/ZahlenFakten/ImFokus/Bevoelkerung/DoppelteStaatsbuergerschaft.html>, (Accessed January 25, 2016).

6. "Bundestag weitet doppelte Staatsbürgerschaft aus", Die Zeit-Online, 3 July 2014, <http://www.zeit.de/politik/deutschland/2014-07/doppelpass-doppelte-staatsbuergerschaft-bundestag-beschluss>, (Accessed February 2, 2016).

- Who have renounced their other nationality,
- Who have no criminal record or penalty,
- Who pledge allegiance to the principles of the German Constitution.

As can be seen, the German state stipulates many conditions to grant citizenship to foreigners who do not have a German ethnicity or are not related to the state by blood or birthplace. The test to grant citizenship, knowledge of German and pledging allegiance to the constitution are particularly noteworthy. It is questionable whether those who have German citizenship by blood kinship could pass this citizenship test that obligatory for foreigners.

Principle of Discretion

The German state can grant citizenship to foreigners not fulfilling the aforementioned conditions according to the "Geneva Convention Relating to the Status of Refugees." However, some conditions are required including familiarity with the German language on an elementary level, allegiance to the constitution, and renouncing the other nationality.

German elites and political figures have attempted to exclude immigrants based on fictional factors such as welfare benefits and statuses rather than directly naming the reasons as their ethnicity or religious backgrounds in the 20th and 21st centuries.

Principle of Special Groups

Along with the conditions for the principle of request, legal regulations were created for special conditions. For people fulfilling special requirements such as family reunification, the spouses or registered partners of German citizens, refugees, etc., the aforementioned conditions in granting German citizenship could be eased.

The usurpation of a universal right: the condition of language in the family reunification of foreigners

As can be seen, although there are many ways to acquire German citizenship, almost all of the ways involves arduous efforts and difficult tests. For immigrants, challenges do not end by becoming a German citizen. They also face similar hardships when they wish to bring family members who have been left in their homeland to Germany. Since 2007, Germany has been asking that the spouses of Turks residing in Germany who are living in Turkey and wish to apply for a family reunification visa to obtain the German language certificate (minimum A1 level) from the Goethe Institute as a prerequisite for the application.

In July 2014, the European Court of Justice (ECJ) found the language test applied to Turkish citizens incongruous with the EU directive of 2003 on family reunification and described the practice as unacceptable. Unlike Turkish citizens, the citizens of Japan, South Korea, the United States, Australia, Andorra, Brazil, El Salvador, Israel and EU countries are not obliged to take the test as a condition to family reunification. The Interior Ministry governed by the Christian Democratic Union (CDU) chose not to comply with this decision and the Foreign Ministry governed by the SPD announced that they would like to comply with the decision. However, since no new legal regulation was passed by the German government, Germany still demands a language certificate for the visa applications and does not conform to the ECJ decision.

Germany has not been conforming to the decision of the ECJ, which is the highest judicial institution of the EU, for approximately two years. It has also been acting in a fashion that is incompatible with universal human rights since 2007.

Apart from the illegality of the requirement, the situation has many practical problems. First of all, the educational background, financial situ-

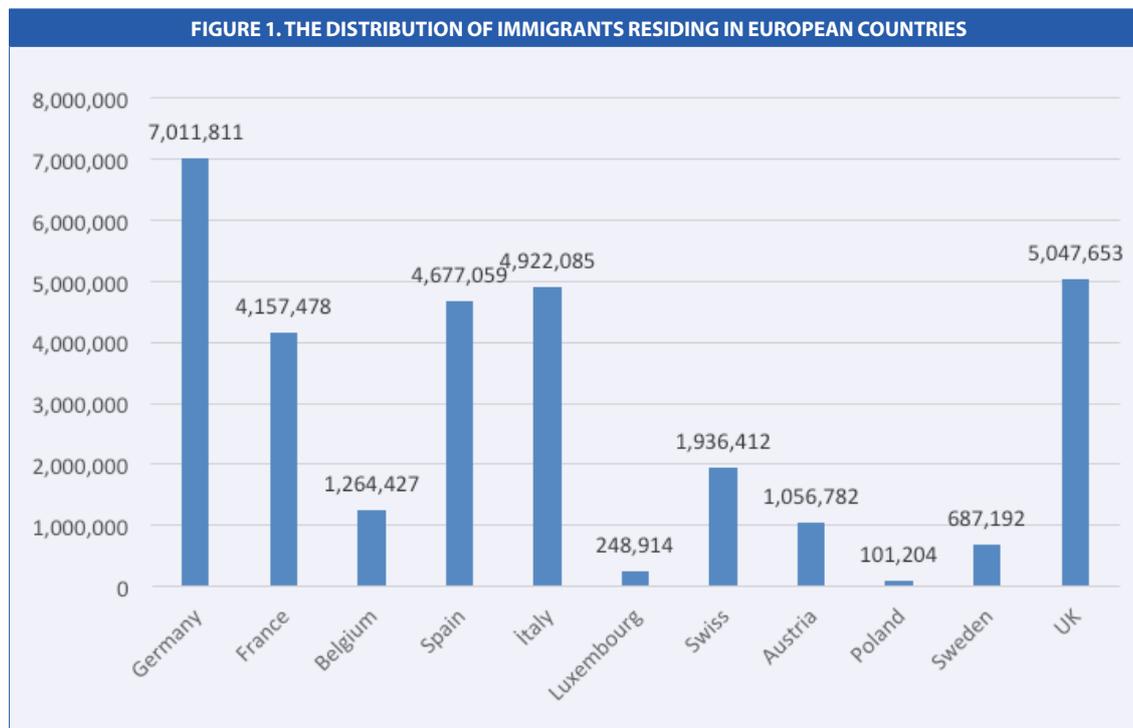
ation and age of the spouses residing in Turkey are not taken into account. The hardship an elderly person might encounter while learning a foreign language is not considered. The people not residing in Turkey's large cities undertake a serious financial burden to fulfill this condition since finding German courses is only possible in several major cities.

The test, which is held only at the Goethe Institute, costs more than 300 Turkish liras. The cost of German courses should also be added to the expenses. Out of the persons taking the test in 2013, 12,828 failed; while 12,448 failed the test in 2014. These numbers correspond to about one third of those taking the test. In other words, one in every three people whose spouses are in Germany is obliged to live separately due to the German laws and repeatedly take the test to live with their family after spending considerable amounts of money.

Protecting and maintaining family integrity is achieved by the coexistence of parents and children. Restricting family reunification is unacceptable. And putting forward a prerequisite like German language competence, which is irrelevant to family life, does not seem sensible in legal terms. This decision by the German state is political rather than legal. On the one hand, the implementation is justified with the efforts to prevent arranged marriages, while on the other it is argued that German competence is necessary to integrate into society.

However, both situations lose their validity when citizens of the U.S., Japan, Israel or South Korea apply for family reunification. So, this regulation, which in legal terms is already against the right to protect family integrity, disregards the equality principle by discriminating based on ethnicity. This situation demonstrates the political dimension of the implementation of the law. The German state wishes to keep its Turkish and Muslim population at controllable rates and in order to do this selectively applies an illegal regulation.

FIGURE 1. THE DISTRIBUTION OF IMMIGRANTS RESIDING IN EUROPEAN COUNTRIES



Source: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&plugin=1&language=de&pcode=tps00157>, (Accessed February 1, 2016).

Citizenship in figures

The nationality laws implemented in EU countries vary according to culture, economic level, life standards and processes of building nation-states. Consequently, the number of refugees living in EU countries varies. As can be seen in the figure below, Germany, England, Italy, France and Spain are the countries with the most immigrants (Figure 1).

Although Germany has the greatest number of immigrants in the EU, particularly the CDU, which is a conservative and right-wing party, has kept away from defining Germany as an immigration country for years. At a congress held in 2006, former Interior Minister Wolfgang Schäuble, who is one of the important names of the CDU, repeated the opinion that Germany is not a country of immigration.⁷ Lately, Merkel has started to show efforts to subvert this view,

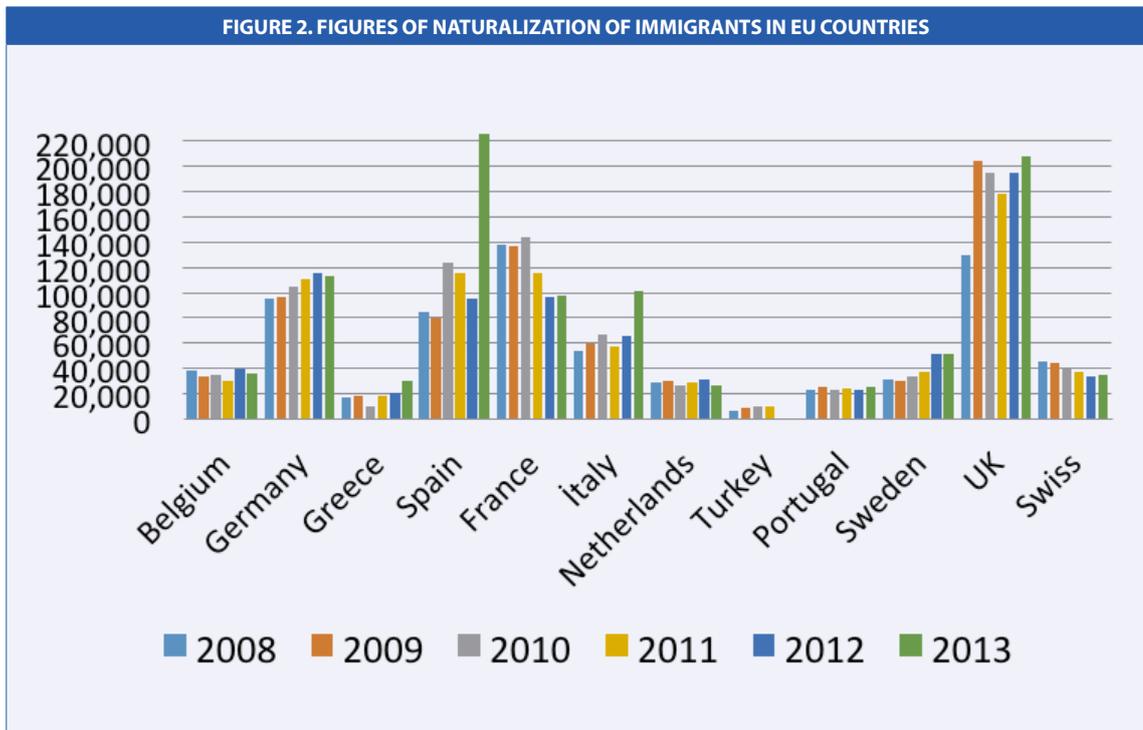
which has been prominent since the 1980s. In November 2014, at a CDU conference, Merkel said that Germany might be a great integration country.⁸ In June 2015, Merkel stated that Germany is a country of immigration.⁹

Merkel has entered a phase of moderating Germany's anti-foreigner policies, which have been ongoing since the foundation of the country, with the pro-refugee discourses and policies she has adopted in the face of the increasing refugee inflow. The first sign of this moderation were the policies towards immigrants and people of different faiths pursued by Merkel's first government, founded in November 2005. With the adoption of multilingualism at municipalities, foreigners' offices and public institutions,

7. "Wir sind kein Einwanderungsland", *Der Tagesspiegel*, <http://www.tagesspiegel.de/politik/wir-sind-kein-einwanderungsland/783936.html>, (Accessed January 25, 2016).

8. "Deutschland kann tolles Integrationsland werden", *Frankfurter Allgemeine*, October 22, 2014, www.faz.net/aktuell/politik/inland/cdu-konferenz-angela-merkel-ueber-integrationspolitik-13223513.html, (Accessed February 2, 2016).

9. "Deutschland ist ein Einwanderungsland", *Frankfurter Allgemeine*, June 1, 2015, <http://www.faz.net/aktuell/politik/ausland/europa/angela-merkel-sieht-deutschland-als-einwanderungsland-13623846.html> (Accessed February 1, 2016).



Source: European Statistical Office
<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&plugin=1&language=de&pcode=tps00024>, (Accessed January 25, 2016).

immigrants were accepted to a larger degree by the states. Then, as the private sector, particularly banks, insurance companies and communication firms realized the marketing potential, the visibility of immigrants in German society gained a societal dimension.

However, relating this new political atmosphere favoring refugees and immigrants exclusively to human rights, democracy and a multicultural political mindset might lead to a deficient analysis of the situation. As can be seen in Figure 2, the German policy of granting citizenship to immigrants stands out even more when compared to other EU countries (Figure 2). Having the highest immigrant population, Germany falls behind England, Spain and France in granting citizenship to immigrants. In addition, the populations of these countries are smaller than the population of Germany.¹⁰

10. According to 2015 Eurostat data, the population of Germany is 81,174,000, while that of Spain is 46,439,864, France's is 66,352,469 and England's is 64,767,115.

As a matter of course, these figures are directly related to the countries' nationality laws and historic and cultural heritage. Although Germany has been hosting immigrants for years, it has implemented anti-immigrant policies. The foreigners who migrated to Germany as laborers were seen as guests, and their return was demanded after benefiting from their labor.

There are more than eight million immigrants in Germany. Of course, the data encompasses the foreigners who do not have German citizenship. As shown in Figure 3, the number of foreigners in Germany climbed by 519,340 as of early 2015 (Figure 3). However, a decrease of 22,690 is seen in the number of Turks. According to the news reports of the German press, EU countries including Romania, Bulgaria, and Poland are now the leading countries where immigrants come from.

FIGURE 3. THE DISTRIBUTION OF FOREIGNERS RESIDING IN GERMANY ACCORDING TO NATIONALITY

FOREIGNERS' COUNTRY OF ORIGIN	NUMBER OF FOREIGNERS (31.12.2014)	DIFFERENCES IN FOREIGN POPULATION			
		BETWEEN 2013 AND 2014		BETWEEN 2012 AND 2013	
		NUMBER	PERCENTAGE	NUMBER	PERCENTAGE
Total	8.152.968	519.340	6,8	419.920	5,8
EU Countries	3.672.394	306.717	9,1	316.093	10,4
Romania	355.343	87.945	32,9	62.372	30,4
Bulgaria	183.263	36.435	24,8	28.069	23,6
Croatia	263.347	22.804	9,5	15.572	6,9
Poland	674.152	64.297	10,5	77.480	14,6
Hungary	156.812	21.198	15,6	28.216	26,3
Italy	574.530	21.587	3,9	23.526	4,4
Greece	328.564	12.233	3,9	18.077	6,1
Spain	146.846	11.307	8,3	15.308	12,7
Syria	118.196	61.295	107,7	16.457	40,7
Serbia	220.908	15.865	7,7	2.522	1,2
Turkey	1.527.118	- 22.690	- 1,5	- 25.909	- 1,6

Source: German Federal Statistical Office https://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2015/03/PD15_097_12521.html, (Accessed January 27, 2016).

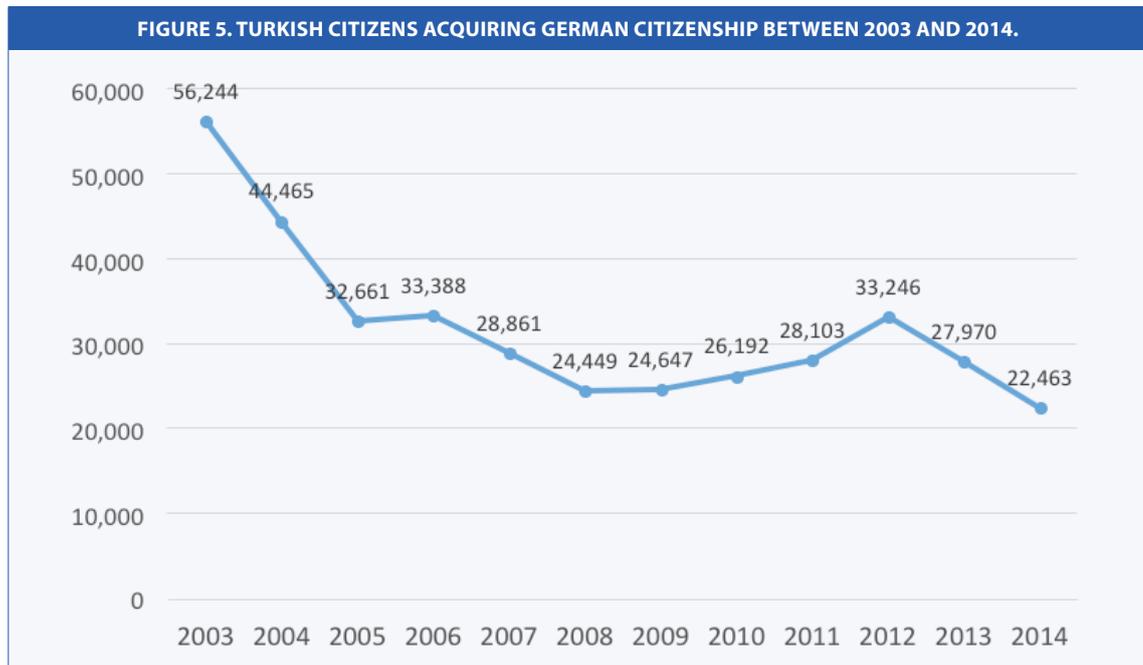
When the distribution of those acquiring German citizenship in 2014 is examined, it is seen that there is a 20 percent decrease in the number of Turks compared to previous years (Figure 4).

FIGURE 4. THE DISTRIBUTION OF FOREIGNERS ACQUIRING GERMAN CITIZENSHIP IN 2014 ACCORDING TO NATIONALITY		
FORMER NATIONALITIES OF NATURALIZED GERMAN CITIZENS IN 2014	TOTAL NUMBER	CHANGE ACCORDING TO PREVIOUS YEAR (PERCENTAGE)
Total number of naturalized foreigners	108.422	- 3,5
Turkey	22.463	- 19,7
Poland	5.932	8,6
Croatia	3.899	126,6
Kosovo	3.506	6,4
Italy	3.245	17,8
Iraq	3.172	0,7
Ukraine	3.142	30,8
Afghanistan	3.000	- 1,8
Greece	2.800	- 20,0
Russia	2.743	- 1,4
Morocco	2.689	- 0,8
Romania	2.566	2,5
Iran	2.546	- 0,5

Also, when the rates of Turkish citizens acquiring German citizenship in 2003 are examined, it is seen that the decrease is not unprecedented. The trend between the years of 2003 and 2014 directly draws attention (Figure 5).

The figure above is not surprising since acquiring German citizenship also means renouncing one's own nationality. According to a survey conducted in 2009, 63 percent of participants said that they would not apply for German citizenship even though dual citizenship was possible.¹¹ When Turkish citizens in specific are observed, different factors stand out among the reasons. As stated before, a Turkish citizen wishing to become a German citizen is obliged to renounce his or her nationality. People who have many relatives in Turkey and feel an emotional belonging to their homeland, do not want to renounce Turkish citizenship since they already have a residence permit in Germany. They often

11. Würden Sie sich einbürgern lassen, wenn eine doppelte Staatsangehörigkeit möglich wäre? <http://de.statista.com/statistik/daten/studie/5159/umfrage/einbuengerungsargument-doppelte-staatsbuergerschaft/> (Accessed February 3, 2016).



Source: German Federal Statistical Office https://www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/MigrationIntegration/Einbuengerungen2010210147004.pdf?__blob=publicationFile, (Accessed February 3, 2016)

plan to spend at least six months a year in their homeland when they retire and plan to make investments in Turkey with the money they have earned. This is true for the first two generations of Turkish immigrants in Germany, while relatively valid for the third generation. The third or fourth generations of descendants of Turkish immigrants have different motivations for their reluctance to acquire German citizenship.

The first two generations of immigrants predominantly had language-related problems, which acted as an impediment in receiving education and ascending the hierarchy of their professions. They focused on working in jobs from which they could retire, or established their own businesses. However, with the third generation, the perspective of Turkish immigrants towards Germany and German society started to shift. The people of this generation, who were born in Germany, developed limited ties with Turkey compared to the previous generations. Living in Germany since birth enabled them to learn better German than their parents and receive a higher

education. Therefore, the third-generation immigrants when compared to the second generation had more qualified jobs after studying at vocational schools in Germany and endeavored to have a place in German society.

The children of the third generation, who were born during the 1990s, are not satisfied with vocational schools since they have more educated and informed parents than the previous generations. This new generation started to apply for higher professional positions in Germany by receiving higher education at universities. Despite becoming engineers, lawyers, journalists, politicians and doctors, they still might confront some hardships in their professional life due to their ethnicity. The immigrants who are able to find jobs compatible with their education are subjected to discrimination or Otherization by means of practices such as the reluctance to assign them managerial positions. This type of discrimination in the workspace did not always disturb the first generation of immigrants. Since they were laborers, they were already at the lowest level of the production

line and, in this manner, there was no lower status where they could be marginalized. In addition, they were better prepared mentally for not getting promotions due to their insufficient language skills and their low education levels.

However, for a person who can speak excellent German and who has the same professional and educational background as other Germans in their profession, the discrimination they face stands out more clearly and tends to have more destructive effects. The economic, cultural and social development that gained momentum in Turkey in the early 2000s presented an alternative to Germany for the educated group of immigrants. Many Turkish citizens born in Germany prefer returning to Turkey to work rather than staying in Germany and being marginalized.

When this situation is considered, it can be better understood why the dual citizenship amendment made in 2014 in the nationality law encompasses those born in Germany instead of the first generation, who were born outside of Germany but have been working and paying taxes in Germany for more than 40 years. German industry is in need of qualified people that have received higher education and know foreign languages. In the face of this need, the CDU, which is an industry and business-oriented party, could not be expected to maintain a strict nationality policy and advocate policies aspiring to build a society with one ethnicity. The German state endeavors to meet its unqualified labor need through the policies that “favor” refugees.¹² The state also tries to attract white-collar immigrants with new reforms on the nationality law, recognition of religious rights and socio-cultural policies.

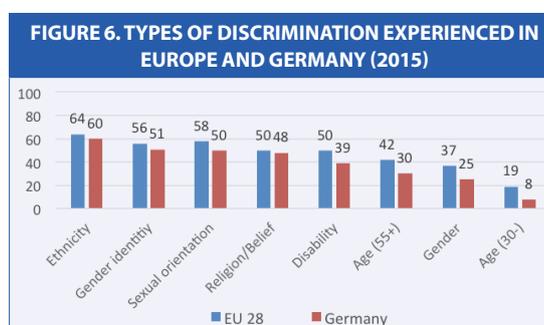
12. Although Merkel’s refugee policy seems more tolerant than the policies of other EU states, it must be considered that the German economy is the one most in need of a labor force. With the latest developments, Merkel has also shown that she is against a free refugee inflow and a new law package was approved by the Parliament, namely “Asylum Package II.” According to this, asylum admission offices will be founded in Germany and the applications issued to these offices will be finalized within 48 hours. Those whose asylum applications are accepted are expected to complete forms that include their resumes. The plan is to employ skilled refugees in accordance with the business lines determined by the German economy.

THE RELATIONSHIP OF CITIZENSHIP AND EQUALITY

When the concept of equality is considered in the context of citizenship, it supposes some natural consequences such as the state’s non-discrimination of its citizens, the equal treatment of every citizen, and the granting of the same rights and responsibilities. At the same time, the German Constitution declares that all people are equal in the face of laws (Article 3). Yet, when it comes to foreigners having the same rights as Germans, there are apparent differences between legal arrangements and de facto applications.

In order to remove these differences, the “General Equal Treatment Law” (Allgemeines-Gleichbehandlungsgesetz-AGG) was enforced in 2006.¹³ AGG not only defends the rights of foreigners, but also aims to prevent any discrimination in the business world and civil society. In addition to this law, the state founded the anti-discrimination office (Die Antidiskriminierungsstelle des Bundes-ADS) so as to prevent discrimination.

Many kinds of discrimination based on race, ethnicity, gender, or religion occur in Germany. Nevertheless, due to the difficulty of specifying and measuring discrimination against a specific person, all surveys and data collection studies usually focus on whether the person feels discriminated or not. Certain types of discrimination that people have experienced are provided below (Figure 6).



13. General Equal Treatment Law (Allgemeines Gleichbehandlungsgesetz-AGG), [http://www.bgb.de/xaver/bgb/start.xav:startbk=Bundesanzeiger_BGBI&jumpTo=bgb1106s1897.pdf#_bgb1_%2F%2F*\[%40attrid%3D%27bgb1106s1897.pdf%27\]__1442095371815](http://www.bgb.de/xaver/bgb/start.xav:startbk=Bundesanzeiger_BGBI&jumpTo=bgb1106s1897.pdf#_bgb1_%2F%2F*[%40attrid%3D%27bgb1106s1897.pdf%27]__1442095371815), (Accessed January 9, 2016).

FIGURE 7. EXPERIENCES OF DISCRIMINATION OF IMMIGRANTS IN SPECIFIC LIVING SPACES IN EUROPE AND GERMANY						
THE COUNTRIES OF ORIGIN OF IMMIGRANTS LIVING IN GERMANY	THE RATE OF IMMIGRANTS SUBJECTED TO DISCRIMINATION	HIRING AND JOB DISCRIMINATION	DISCRIMINATION IN OFFICIAL INSTITUTIONS	HOUSING DISCRIMINATION	DAILY LIFE DISCRIMINATION	DISCRIMINATION IN CONSTABULARIES
28 EU member countries	46	50	47	34	38	17
Turkey	63	58	54	51	57	23
Countries of Former Yugoslavia	50	52	60	55	45	24
Commonwealth of Independent States	45	49	44	32	40	12
Arabic and Muslim countries	60	63	59	61	59	25
Rest of the world	60	54	64	40	49	18
Total	52	54	53	44	47	18

Source: IABKurzbericht, Auf demWegnach Deutschland Neue Muster der Migration (The Institute for Employment Research (IAB) 21/2014 Short Report) <http://doku.iab.de/kurzber/2014/kb2114.pdf>, p. 32, (Accessed January 13, 2016).

According to the Eurobarometer 2015 survey, the most common type of discrimination is that of ethnicity in both Germany and Europe - this was the same in previous years. Turks, Arabs and Muslims have experienced this type of discrimination the most (Figure 7).

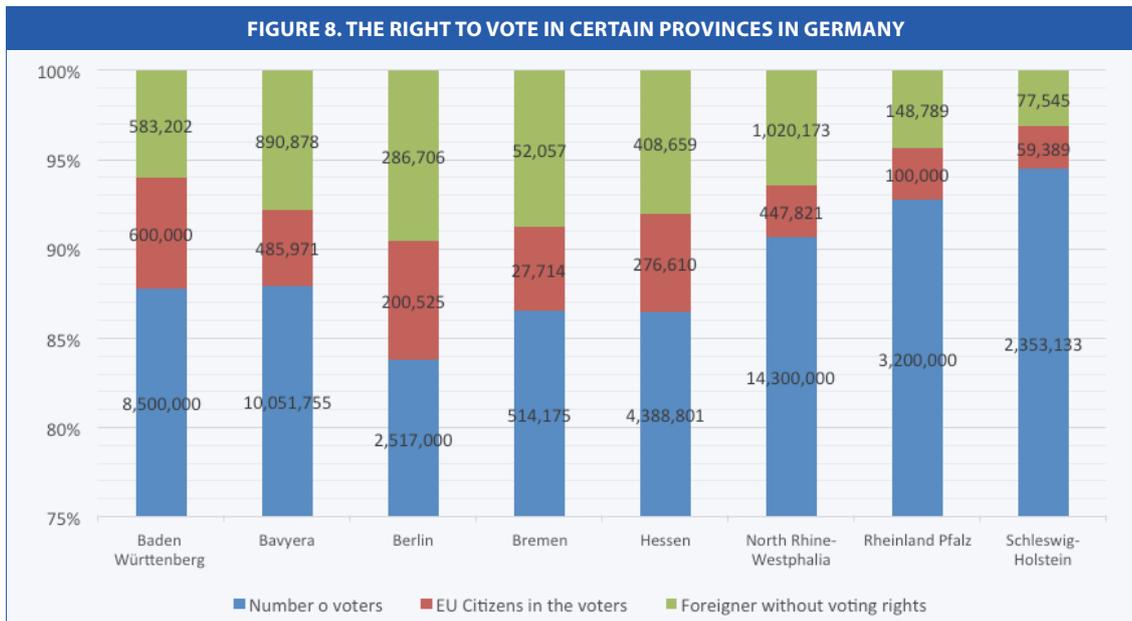
Nevertheless, as it is obvious, despite legal arrangements, the discrimination that Turks and Muslims are exposed to cannot be eliminated. Not only new immigrants and asylum seekers are subjected to this discrimination. With the labor migration of the 1960s, the migrants that moved to Germany for working and their children/grandchildren also experienced their share of discrimination. Along with the discrimination based upon their ethnic, religious, and cultural affiliations, migrants are also politically excluded since they are not naturalized German citizens. The most apparent examples of this discrimination is their inability to access their rights to establish an association or organization, to participate in political life, and to be represented.

The domestic law systems of different EU states differ from one another. One of the most distinctively important differences is that citizens

of the EU member countries can benefit from the right to vote and stand for election in local and European Parliament (EP) elections on condition that they reside in Germany. EU citizens can take part in two of the municipality, province, federal and EP elections (local and EP elections) available in Germany and are distinct from other foreigners who do not have any right to participate in these elections.

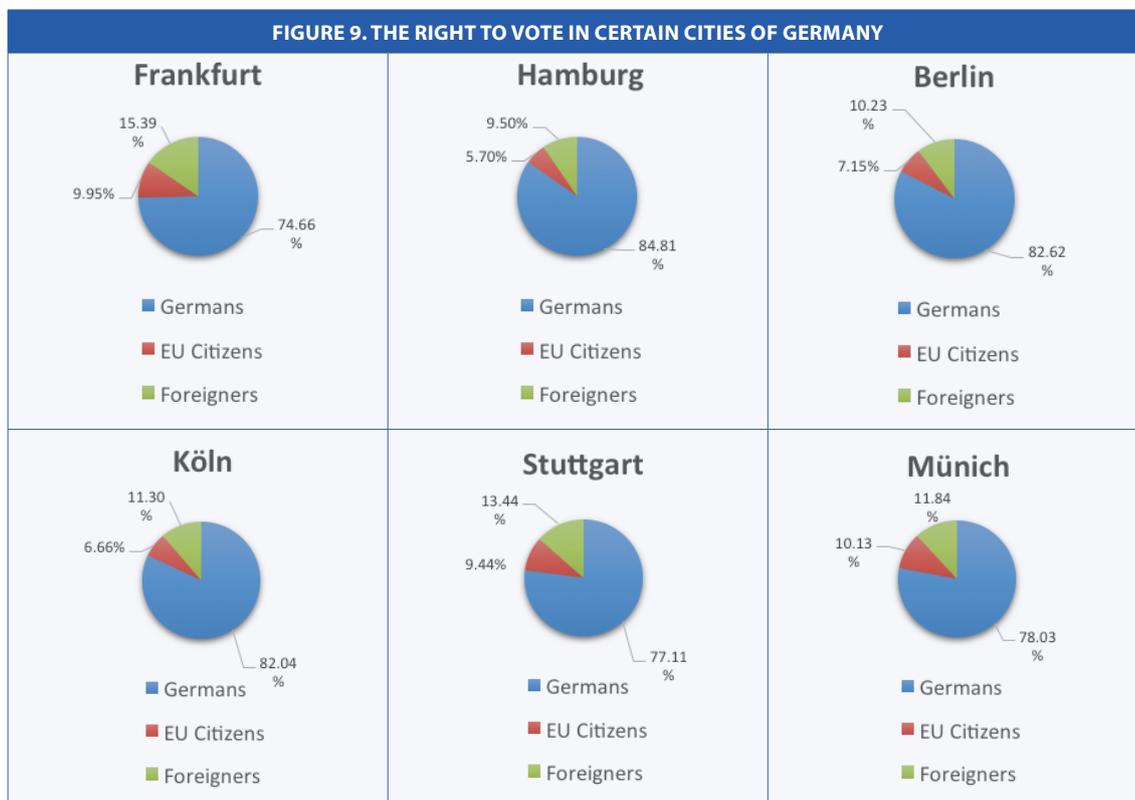
Germany began to accept its first Turkish workers in 1961 after making a workforce agreement with Turkey.¹⁴ As a result of the migration which started with 2,500 people in 1961, who were defined as “guest workers” (Gastarbeiter) by the German government, today there are over 2.5 million people of Turkish origin in the country. Considering other people who reside in Germany and are not EU citizens, it becomes obvious that the foreigners living in the country face a serious problem of representation (Figure 8).

14. These agreements were later made with many countries like Austria, Belgium, Holland, France, Sweden, and Qatar. For the complete texts of the agreements see “International Workforce Agreements” Ministry of Labor and Social Security,” <http://www.casgem.gov.tr/dosyalar/kitap/10/dosya-10-3818.pdf>, (Accessed January 31, 2016).

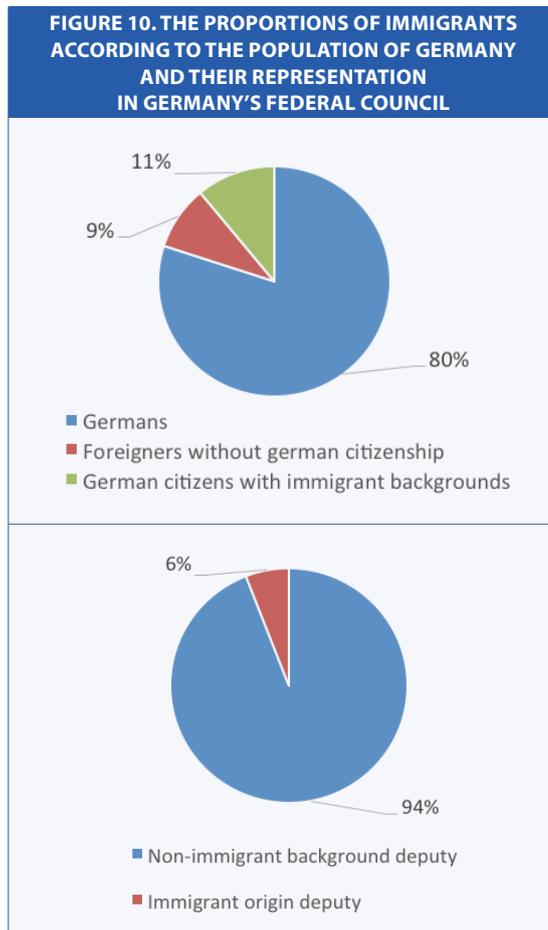


Source: "MedienDienst Integration" <http://mediendienst-integration.de/integration/politik.html> (Accessed September 2, 2016)

In the figure above, the numbers of the foreigners deprived of the right to elect and to be elected on the level of provinces are provided. Accordingly, 6.5% of Baden-Württemberg residents, 8.1% of Bayern residents and 8.5% of Hessen residents are all deprived of the democratic right to elect and to be elected. When this right is customized to some big cities, the gravity of the situation increases (Figure 9).



Source: "MedienDienst Integration" <http://mediendienst-integration.de/integration/politik.html> (Accessed September 2, 2016)



Source: "Medien Dienst Integration" <https://mediendienst-integration.de/migration/bevoelkerung.html#c38>, (Accessed January 8, 2016)

The rate of the foreigners deprived of the right to vote among all the voters in Hamburg, Berlin and Cologne is about 10%. This rate exceeds 15% in Frankfurt. The foreigners who have been residing, working, and paying taxes in these cities for years are not able to take part in the elections which affect them directly and are, thus, excluded from democratic participation. At least for the municipal elections, in the event that the right to vote accorded to EU citizens is also accorded to foreigners, the violation of the rights of foreigners will be removed to some extent. Furthermore, by enjoying the right to shape their city of residence politically, immigrants will become integrated and feel less alienated from the society in which they live.

At the present time, foreigners and adaptation councils have been founded in many parts

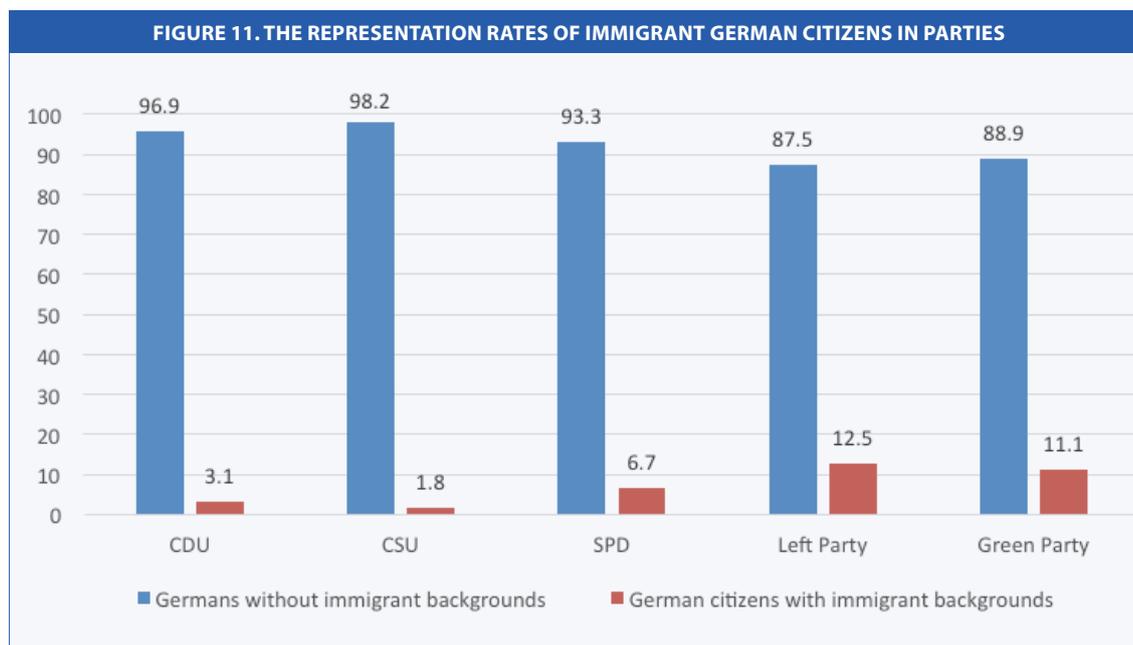
of Germany so as to solve the representation problems of foreigners. These councils do not have any political and legal sanctioning power; instead, they provide advice, opinions and recommendations to political institutions like local municipalities. In addition, the members of these councils are volunteers. Those who cannot earn their keep from these positions naturally are engaged in other jobs. The various associations representing foreigners usually nominate members for these councils. The fact that most of the Turkish associations in Germany are politically inclined causes these elections to turn into an arena for political debate. The current political division in Turkish society re-emerges in these elections. Hence these councils go far from collectively serving as platforms for discussing the democratic problems of the foreign associations and take on a role of discriminating foreigners.

In recent years the SPD,¹⁵ the Green Party¹⁶ and the Left Party explained that foreigners have the right to vote in local elections and brought in bills to the Federal Council. However, the CDU and the Free Democratic Party (FDP) have opposed it. Those rejecting the foreigners' right to vote and to be elected claim that this democratic right is directly related with German citizenship.

The number of migrant deputies has reached 37 in the recent elections of 2013. Currently, only 5.9% of 631 deputies are of migrant origin. The proportion of German citizens of Immigrant descent living in the country to the overall population is 11% (more than 9 million) and the proportion of people who are not German citizens is 9% (more than 7 million). In total, foreigners constitute about 20% of Germany and are represented at a rate of 5.9% in the Federal Council (Figure 10).

15. "SPD-Vize Stegnerfordert Ausländerwahlrecht", Spiegel Online, August 3, 2014, <http://www.spiegel.de/politik/deutschland/spd-vize-stegner-fordert-auslaenderwahlrecht-in-kommunen-a-984165.html>, (Accessed January 6, 2016).

16. "Grünefordern Ausländer-Wahlrecht im Grundgesetz", Die Welt, July 10, 2014, <http://www.welt.de/politik/deutschland/article130006131/Gruene-fordern-Auslaender-Wahlrecht-im-Grundgesetz.html>, (Accessed January 6, 2016).



Source: <http://mediendienst-integration.de/integration/politik.html>, Accessed January 8, 2016.

The representation problem of foreigners in proportion to their population is also reflected in the parties in parliament. The proportions in the figure below also reveal the intellectual projection of the parties in regards to foreigners (Figure 11).

The representation problem of foreigners is not restricted to the federal level. Similarly, there are also deficiencies in terms of representation at the provincial level. Immigrants constitute only 2.5% of the state assemblies and 4% of the municipal councils.

The associations as part of civil society constitute another branch of participation in political life and play an important role in this regard. However, people discriminate between the associations founded by German citizens and immigrant associations. The associations founded by German citizens can be prohibited only when they act against the penal code, constitution provisions and international law as pointed out in the Germany Constitution (9/2). The associations, where members or managers are mostly or totally foreigners (foreign associations), can be prohibited in accor-

dance with the Article 14 of the “Associations Law”;¹⁷ however, EU citizens’ associations are not regarded as foreign associations. Among these prohibitions are hindering political processes in Germany, breaking the peace between Germans and foreigners, threatening public security and Germany’s interests. Acts damaging human dignity, recognizing armed struggle for political, religious or other purposes or calling for it necessitate the closure of a foreign association. In this sense, tracking foreign associations, retaining, and prohibiting their activities is much easier.

CONCLUSION

As can be seen, the citizenship regime practiced by a state can directly affect millions of people residing in the state even though they might not be its citizens. Immigrants, who are already subjected to segregation and discrimination in many aspects due to their ethnicity, religion or

17. Gesetz zur Regelung des öffentlichen Vereinsrechts (Vereinsgesetz), <http://www.gesetze-im-internet.de/bundesrecht/vereinsg/gesamt.pdf>, (Accessed January 15, 2016).

cultural roots, are also subjected to an exclusion stemming from the regulations in the citizenship regime in Germany.

Germany still grants the dual citizenship right, which is legal in many Western countries, on the condition of being born in Germany to citizens of countries which are not EU members. Also, immigrants are not enfranchised for the local and the European Parliament elections. Such aspects deprive immigrants of important aspects of social and political life. This double standard between EU citizens and immigrants from non-EU countries needs to be resolved as soon as possible. It is a crucial aspect for the integration of immigrants. Besides this, it is a right of the people who have been contributing to Germany's economic, cultural and social development since the 1960s. This double standard is incompatible with the notion of an egalitarian state of law and occurs in Germany which is regarded as an exemplary state of law. German politicians must question and reconsider this contradiction.

The integration of immigrants to Germany, which is expected by the German state and public, cannot happen with one-sided efforts. The other side, namely the state, opinion leaders, media and society, are required to take some steps in this direction. For this:

- The proposal to grant unconditional dual citizenship to all immigrants, which was brought up by the three parties, with the exception of the CDU, at the Bundestag in 2014, must be practiced by abolishing the obligation of having to choose between nationalities.
- Some constitutional amendments must be made to enfranchise all immigrants who have residence and work permits for a certain period.
- With a legal regulation at the Bundestag, the ECJ's decision that supports family reunification must be fulfilled as a requirement of a state of law.

- Integration courses¹⁸ must be optional and the fees for the courses must be covered by the state as in other public schools.
- People of foreign origin must be actively encouraged to participate in political life to enable their representation in the Bundestag and federal state parliaments in proportion to their population rates.
- Marginalizing refugees, immigrants, Muslims, and particularly the children and youth belonging to these groups, must be prevented systematically by forming a new code of ethics for the media.
- The ghettoization of certain classes at schools and certain neighborhoods in cities must be prevented to render the multicultural and multiethnic life of Germany more visible and approachable.
- Methods exceeding positive law must be developed to prevent new racist and anti-Islamist discourses and insults as witnessed in the cases of political movements like PEGIDA and the AfD.

However, the exclusionist approaches adopted against foreigners, particularly against Turks, have been moderated with the refugee inflow (mainly consisting of Syrians and North Africans) in recent years. The religion of refugees fleeing from DEASH and the Assad regime and the association of the terrorist attacks in Europe with Islam have caused much harsher discriminatory practices against refugees than the practices that have been aimed at Turks.

18. The Foreigners Department can oblige the people living in Germany and receiving social aid or the ones regarded as not fully integrated with the state to enroll in integration courses where German language, culture, history, and law are taught. The charges of these courses vary between €600 and €1,000. The German state's demand of these people, who have residence and working permits, to enroll in courses with such charges introduces both financial and moral difficulties to those who are already in a difficult situation.

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Each state develops a citizenship definition according to its cultural values and historic phenomena. The citizenship definitions across the world can be categorized into three main groups. The first two are the recognition of citizenship on the basis of blood kinship (*jure sanguinis*) and birthplace (*jure soli*), which comprise the main types of citizenship, while the third one is the citizenship vested after birth (naturalization).

As of 1913, the Federal Republic of Germany defined citizenship on the basis of the principle of blood relation and conducted its politics and foreign relations accordingly. With a new regulation in 2000, the principle of birthplace became more prominent although the blood relation principle did not disappear. With this regulation, the obligation of choosing one nationality in the cases of dual citizenship started to be implemented. However, the obligation to choose between the two nationalities was not imposed on citizens of many countries, including citizens of EU member countries.

While the citizens of other nationalities were not obliged to conform to this law, immigrants working in Germany and contributing economically to the state and society had to give up their Turkish citizenships for their political rights, a situation which was highly debated and triggered discrimination.

The gradually increasing refugee inflow to Europe beginning in 2014 reached a peak in 2015 both in Europe and Germany, and provoked a different sociology of discrimination and marginalization. Moreover, due to the terrorist attacks in France and Belgium, refugees and newcomer Muslims are currently the main groups subjected to discrimination and exclusion; Turks and immigrant workers are now regarded as "native." It is assumed that the movement of PEGIDA (Patriotic Europeans Against the Islamization of the West) emerged as a result of all these incidents. PEGIDA has been striving to find a societal base for Europe's long-standing anti-Islamic stance.

This paper analyzes citizenship rights of migrants and foreigners in Germany in addition to policies of the country toward these social groups by also focusing on political and social transformation in Europe and specifically in Germany.



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