

Country Report Germany

by Marina Seveker & Anne Walter

The INTEC project:

*Integration and Naturalisation tests: the new way to
European Citizenship*

This report is part of a comparative study in nine Member States on the national policies concerning integration and naturalisation tests and their effects on integration.

Financed by the European Integration Fund

November 2010

Centre for Migration Law
Radboud University Nijmegen

List of Abbreviations

ALTE	Association of Language Testers in Europe
Art.	Article(s)
AufenthG	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act), <i>Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Aufenthaltsgesetz)</i> (German)
AufenthV	Ordinance Governing Residence, <i>Aufenthaltsverordnung</i> (German)
AuslG	Aliens Act, <i>Ausländergesetz</i> (German)
BAMF	Federal Office for Migration and Refugees, <i>Bundesamt für Migration und Flüchtlinge</i> (German)
BMFSFJ	Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, <i>Bundesministerium für Familie, Senioren, Frauen und Jugend</i> (German)
BMI	Federal Ministry of the Interior, <i>Bundesministerium des Innern</i> (German)
BRat-Drs.	Printed papers of the German <i>Bundesrat</i> (Federal chamber), <i>Drucksachen des Deutschen Bundesrates</i> (German)
BTag-Drs.	Printed papers of the German <i>Bundestag</i> (Parliament), <i>Drucksachen des Deutschen Bundestages</i> (German)
CEFR	Common European Framework of Reference: Learning, Teaching, Assessment
cf.	Compare with
DaF	Deutsch als Fremdsprache
DaZ	Deutsch als Zweitsprache
DIMR	German Institute for Human Rights, <i>Deutsches Institut für Menschenrechte</i> (German)
DTZ	German Test for Immigrants, <i>Deutsch-Test für Zuwanderer</i>
e.g.	For example
e.V.	incorporated society, <i>eingetragener Verein</i> (German)
ibid.	Ibidem = 'in the same source'
EC/EU	European Community/European Union
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms, <i>Europäische Menschenrechtskonvention</i> (German)
Ed.(s.)	Editor(s)
EEA	European Economic Area
EIF	European Integration Fund
EMN	European Migration Network

GERMANY

et al.	and others
ff.	following pages
GG	Basic Constitutional Law, <i>Grundgesetz</i> (German)
GmbH	Private limited company, <i>Gesellschaft mit beschränkter Haftung</i> (German)
i.e.	that is
Iaf	Association of Dual Nationality Families and Partnerships, <i>Verband binationaler Familien und Partnerschaften e.V.</i> (German)
IMIS	Institute for Migration Research and Intercultural Studies, <i>Institut für Migrationsforschung und Interkulturelle Studien</i> (German)
IMK	Conference of the German Federal Ministers of the Interior <i>Innenministerkonferenz</i> (German)
InfAuslR	Fact Sheet for Alien Legislation, <i>Informationsblatt für Ausländerrecht</i> (German)
JZ	Legal Journal, <i>Juristenzeitung</i>
KJ	Critical Justice, <i>Kritische Justiz</i>
KSh	Kenyan Shilling
lit.	Litera
Mio.	Million
NIP	National Integration Plan, <i>Nationaler Integrationsplan</i> (German)
NJW	New Legal Weekly, <i>Neue Juristische Wochenschrift</i> (German)
No.	Number
NVwZ	New Journal of Administrative Law, <i>Neue Zeitschrift für Verwaltungsrecht</i>
OVG	Higher Administrative Court, <i>Oberverwaltungsgericht</i> (German)
p.	Page
Par.	Paragraph
RLUmsG	Act to Implement Residence and Asylum-Related EU Directives (Directives Implementation Act), <i>Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union (Richtlinienumsetzungsgesetz)</i> (German)
SGB	Code of Social Law, <i>Sozialgesetzbuch</i> (German)
StAG	Nationality Act, <i>Staatsangehörigkeitsgesetz</i> (German)
SYP	Syrian pound
TGD	Turkish Community in Germany, <i>Türkische Gemeinde Deutschland</i> (German)
TL	Turkish lira
UE	Teaching units, <i>Unterrichtseinheiten</i> (German)
USD	US-dollar
VHS	Adult Education Center, <i>Volkshochschule</i> (German)
VwV	Administrative Ordinance, <i>Verwaltungsvorschrift</i> (German)
ZAR	Journal for Alien Legislation and Policy, <i>Zeitschrift für Ausländerrecht- und Ausländerpolitik</i> (German)

Introduction

Objectives, Sources and Research Methods

This report reviews the reasons for and effects of the German language test, the test of basic knowledge of the legal and social system and the way of life in the Federal territory. The tests have become a recent condition for admission to Germany within the context of the subsequent immigration of a spouse, a settlement permit, or naturalisation. The aims of the study are to identify the legislation and the practices of these so-called integration and naturalisation tests and to analyse their effects.

Sources and Methods

The legal basis and legal reasons for the introduction of the various tests will be described on the basis of the law in force at the time and the respective legislative materials. They will be compared, in part, with the former legal situation. A limited literature review should provide an overall picture of the backgrounds and legal issues surrounding the tests. The current implementation practices have been considered in official documents and statistics by the Federal Office for Migration and Refugees (BAMF), the Federal Government Commissioner for Migration, Refugees and Integration and the Federal Statistical Office of Germany, among others. Semi-structured interviews follow from these sources and provide an empirical basis for analysing the effects of the tests. Interviews will be conducted with immigrants who sat the tests, immigrants who are preparing for the tests and immigrants who are not sure if they want to do the test or who decided not to do the test, as well as with teachers of integration courses, advisory services for immigrants and municipal officials.

Selection of Respondents and Response

Forty-nine persons were interviewed between 9 March and 20 May 2010. The length of interviews varied from ten minutes, for interviews with immigrants, to 130 minutes for interviews with migrant advisory services and municipal officials. The interviews took place in ten towns in eight federal states (*Bundesländer*): Berlin (in the districts of Mitte, Kreuzberg, Neukölln and Spandau), Cologne (North Rhine-Westphalia), Frankfurt am Main (Hessen), Hamburg, Munich (Bavaria), Osnabrueck (Lower Saxony), Potsdam (Brandenburg), Stuttgart (Baden-Wuerttemberg), Wesel (North Rhine-Westphalia) and Weyhe (Lower Saxony). The main focus was on interviews with immigrants. Twenty-seven immigrants were interviewed: 12 women and 15 men.

GERMANY

Immigrants were mainly contacted through Adult Education Centres (VHS) and/ or test centres, supported by staff members. Persons with a migration background aged 22 to 50 as well as three immigrants aged 18 and younger, who took part in integration courses for youth, were interviewed as part of the study. Respondents with a migration background came from the following 18 countries of origin: Egypt, Argentina, Bosnia, Brazil, China, India, Indonesia, Iraq, Kenya, Lebanon, Nicaragua, Romania, Russia, Serbia, Sri Lanka, Syria, Thailand and Turkey. The length of their respective stays in Germany was at least one month and at most 20 years. The respondents were mostly course participants and test candidates. Most course participants were unemployed at the time of the study. The test candidates were (self-)employed and/or qualified in professions such as architect, orchestral conductor, postgraduate student at the Law Faculty, waiter, cook, taxi driver and shop assistant. At least four respondents had obtained a settlement permit. Twelve out of the 27 respondents had passed the integration test at the time of the study. Eight respondents had passed the integration test as a condition for admission. Ten respondents had passed the integration test for naturalisation at level B1. One woman had passed the '*Deutsch für Beruf*' test at level B2; the language ability of two respondents was tested as part of the visa procedure by officials abroad. Two immigrants had been awarded an academic degree in Germany and fulfilled the requirements for naturalisation without taking part in integration tests.

Two staff members from the Goethe Institute and three teachers of integration and basic language courses who had acquired long-term experience with various test formats took part in the interviews. The interviews were conducted with two Heads of Language Department at the VHS, seven officials from Foreigners' Authorities or Naturalisation Authorities and an official from the Office of Multicultural Affairs. Overall, the authorities expressed either very little interest in participation and critical attitudes. *Especially* noteworthy in this regard is *the particular* participation of the local authorities (*Kreisverwaltungsreferat*) in Munich.

In addition, interviews were conducted with two adult migrant advisers from the Workers' Welfare Association (AWO), a team member from an Internet portal (<http://www.info4alien.de>), a staff member of the Association of Dual Nationality Families and Partnerships (Iaf e.V.) and three representatives of the following migration organisations: Turkish Community in Germany (TGD), Association Against International Sexual and Racist Exploitation (Agisra e.V.) and BAN YING e.V.

The AWO was founded more than 90 years ago. It has 145,000 employees and is divided nationwide into 29 district associations and *Land* associations, 480 regional associations and 3,800 local associations (<http://www.awo.de>). The AWO has made efforts to integrate migrants and advised them for over 40 years. It also provides advice on long-term care, pensions and legal matters.

GERMANY

Info4alien.de is a commercial-free Internet portal for the Aliens Act and the Naturalisation Act that is also free of charge. Current and former officials as well as concerned users offer information (laws and links), professional forums and regular chats for interested people and officials from foreigners' authorities, voluntarily and without public subsidies. The public Board has nearly 14,000 members, while 1,800 members are registered on the internal Board.

The Association of Dual Nationality Families and Partnerships was founded in 1972 as a 'Community of Interests for Women Married to Foreigners' (Iaf e.V.). It supports dual nationality partnerships and families as an intercultural family association and lobbies for their legal and social equal treatment (<http://www.verband-binationaler.de/>). Iaf e.V. has a nationwide structure. It offers advisory services in 25 towns. Around 10 full-time staff members guarantee the framework of its activity and continuity. On average, it receives 16,000 inquiries from throughout Germany per year. The central office alone receives 800 inquiries via e-mail.

TGD was founded in 1995 in Hamburg. It is currently an umbrella organisation of 270 associations in Germany (<http://www.tgd.de>). The aim of the activity of the TGD is to achieve equal rights for all minorities. In particular, it represents interests of the Turkish community in Germany.

Agisra e.V. was founded in 1993. It is an autonomous, feminist advisory service organised by migrants for migrants, black women, Jews and refugee women who face problems because of the situation in their country of origin, migration or life situations in Germany (<http://www.agisra.org/>). Agisra e.V. is a member organisation of the *Paritätische* (Welfare Organisation) and the German Nationwide Activist Coordination Group Against Trafficking in Women and Violence against Women in the Process of Migration.

BAN YING e.V. provides informational events concerning the social and legal systems with translation into the mother tongues of immigrants. It also organises integration courses and German language courses for Thai women in cooperation with the VHS of Berlin Mitte and supports monthly meetings of a Thai integration group (<http://www.ban-ying.de/>). It also offers advisory services for women with a migration background, predominantly Asian women who have marriage problems or are concerned about human trafficking.

Chapter 1. Integration Tests in Germany

1.1 Which Integration Tests are used in Germany?

Three different integration tests were introduced in Germany in the period 2005-2010: a German language test before entry, tests after entering the Federal territory at the end of an integration course – consisting of a German language test and an orientation course test (referred to here as an integration course test) – and a naturalisation test. There have been various chronological developments regarding the legal basis: the integration courses after entry (into the country) were first introduced in accordance with the Immigration Act 2004; the language tests for admission to Germany (abroad) were introduced as statutory requirements in 2007. Furthermore, the possession of ‘basic knowledge of the legal and social system and the way of life in the Federal territory’ was imposed as a further condition for naturalisation. Since September 2008, this knowledge has been demonstrated in the nationally standardised naturalisation test.

With the introduction of this legal integration policy, the Immigration Act (ZuwG) marked a legal turning point compared to the previous legal situation: In the Aliens Act 1990, the fact of immigration itself was ignored. Formal access to the job market and issues of legal equal treatment – social rights, residence or citizenship rights – formed the cornerstone of the debate (cf. 7. *Lagebericht* 2007). Moreover, language ability at a basic or at an ‘adequate’ or intermediate level of proficiency was particularly relevant as a condition to a permanent residence permit as well as – since the reform of the Naturalisation Act in 2000 – for (entitlement) naturalisation (*Anspruchsseinbürgerung*). An overview of the relevant language assessment criteria in the Aliens Act 1990 (in force until 2004) is given in table 1.1

Since 2005, integration in Germany has meant, above all, language integration. The new ZuwG contains integration courses as the central and only integration instrument. These courses comprise, above all, a basic language course and an advanced language course. In addition, the so-called orientation course is supposed to impart a basic knowledge of the legal system, culture and history (Hentges 2010). Both the language course and the orientation course (also nationally standardised since the end of 2007) have to culminate each in a final examination and together they constitute the integration test. The integration course programme is intended to facilitate newly arrived immigrants’ first steps in integration. Immigrants for family reunification, for employment or refugees or residents whose stay in Germany is not temporary are the target group. Immigrants who stay temporarily in

GERMANY

Germany should be exempt from the integration course.¹ The aim is the CEFR (Common European Framework of Reference: Learning, Teaching, Assessment) level B1 – the previous intermediate level of proficiency. Immigrants who reach level B1 should be able to produce a simple connected text on topics that are familiar or of personal interest and to understand the main points of standard input about work, school, leisure, etc. The integration course is aimed not only at newly arrived immigrants, but also permanent residents in Germany to promote so-called sustainable integration (cf. e.g. Coalition Agreement, 2009). For both groups, newly arrived immigrants and immigrants with long-term residence, CEFR level B1 is a condition for a permanent residence permit and naturalisation.

For the first time, the German language test *before* entry was introduced in accordance with the Directives Implementation Act (RLUmsG) in 2007. The background was adaptation to Community Law in the area of migration, developed in parallel. Now, spouses of a third-country national or a German must prove a basic oral and written command of language at CEFR level A1 before entering Germany.

The integration requirements for naturalisation were also changed. Since 2007, level B1 has been a national standardised requirement. Moreover, proof of ‘knowledge of the legal and social system and the way of life in the Federal territory’ was introduced in Germany. This regulation is based on the orientation course, which has been required for the settlement permit since 2005. To prove this societal knowledge, immigrants must pass a naturalisation test, in force since September 2008. An overview of the legal situation in the Immigration Act (ZuwG) 2004 is given in table 1.2.

1 For example, students, au pairs, trainees, seasonal workers, etc. This also excludes migrants who have been granted a temporary status on the basis of a decision by the Council within the meaning of Directive 2001/55/EC (Temporary protection). The residence permit can be limited in this case by the possibility of renewal for six months at a time. They have access to the (self-employed) labour market and have to live in a place assigned to them. The residence permit will not be withdrawn if the country fled becomes safe or if the person requests social security assistance (Section 24 Residence Act). The general rules apply to the possibility of changing to a permanent status.

GERMANY

Table 1.1: Language assessment criteria for third-country nationals in the former Aliens Act of 1990

Levels of proficiency	Basic oral language ability (<i>einfach</i>)	Intermediate language ability (<i>ausreichend</i>)
Before entry		Subsequent immigration of children aged 16-18
After three years	Permanent residence permit for the foreign spouse of a German	
After five years	Permanent residence permit for foreigners	
After eight years	Permanent residence permit (Aufenthaltsberechtigung)	Permanent residence permit for subsequent immigrated children on reaching the age of 16
After eight years/ Nationality Act		Naturalisation (since the Reform of 2000)

Table 1.2: Levels of proficiency for third-country nationals since the Immigration Act of 2004

Level/ laid down in ...Act	A1 (‘basic’ oral and written language ability, ‘Breakthrough’)	B1 (‘intermediate’ oral and written language ability, ‘Threshold’)	B2 (‘Independent’)	C1 (‘proficient’ use, ‘Effective Operational Proficiency’)
Before entry language test/ Residence Act	RLUmsG (2007) spouse of a third-country national or of a German			ZuwG (2004) subsequent immigration of children aged 16-18
After entry and integration course (= language and orientation course) Language test and orientation course test/ Residence Act		Settlement permit and residence permit ZuwG (2004) employees, spouses of a third-country national or a German, refugees RLUmsG (2007) mobile long-term residents		
After three years/ Residence Act/ Nationality Act	ZuwG (2004) Settlement permit of spouses of a German	RLUmsG (2007) Naturalisation of spouses of a German		
After five years/ Residence Act		ZuwG (2004) Settlement permit		

GERMANY

Level/ laid down in ... Act	A1 (‘basic’ oral and written lan- guage ability, ‘Breakthrough’)	B1 (‘intermediate’ oral and written language ability, ‘Threshold’)	B2 (‘Indepen- dent’)	C1 (‘proficient’ use, ‘Effective Op- erational Profi- ciency’)
After six years/ Nationality Act			RLUmsG (2007) Naturalisation in cases of special inte- gration achievements	
After seven years/ Nationality Act		RLUmsG (2007) Naturalisation if an integration course has been successfully completed		
After eight years/ Nationality Act		RLUmsG (2007) Naturalisation		

1.2 Development of the Debate on Integration Tests

The chronology of legal developments shows that the introduction of various integration tests was not the original idea. The reform process in the area of migration policy was gradual, but the debate on it had already started at the end of the 1990s. A changed legal and political understanding of immigration is supported by this reform process, after summing up the lack of consistent immigration and integration policy in the final report of the ‘Süssmuth Commission’, named after its head. As a comparison, the commission particularly referred to Dutch and Swedish experiences in the area of integration programmes for newly arrived immigrants available at that time. Their proposals for the introduction of promotional material for newly arrived immigrants (besides *Spätaussiedler*) based on these ‘models’ were voted at cross-party level (Michalowski, 2007) and were utilised in the draft law. The requirement of the Immigration Act 2004 was to initiate a historical paradigm shift in issues of immigration in modern law. The perspective of German immigration law has been moved from the entry and immigration to residence and integration. In general, the introduction of the first national integration concept was positively emphasised. Furthermore, section 43 of the Residence Act (former version) reads as follows: ‘Foreigners living lawfully in the Federal territory on a permanent basis are provided with support in integrating into the economic, cultural and social life of the Federal Republic of Germany and are expected to undertake commensurate integration efforts in return’.

These resulted in two fundamental developments during the subsequent years: On the one hand, a shift in terms of content took place. Knowledge of the German language was regarded as a key to successful integration and is the main focus of integration policy now (7. Lagebericht 2007). Language ability is also a central issue in the discourse on social integration (cf. Zwengel & Hentges, 2010). In accordance with the Coalition Agreement 2009, 'command of the German language is a basic prerequisite for education and training, for integration into a profession, for civic participation and for social advancement'. It also justifies most statutory measures. On the other hand, implementation took place between the two poles of the principle known as 'promoting and demanding'.²

The statutory possibility of obliging an immigrant to attend an integration course was an important instrument from the beginning. It was justified by the meaning of integration assistance as well as by the argument that women who are isolated at home can be accessed and brought into German society using this tool (Administrative Ordinance). Since 2007, the aspect of 'demanding' has definitely become more important. Section 43 of the Residence Act, mentioned above, says: 'Foreigners [...] are expected to undertake commensurate integration efforts in return'. The tool of legal obligation was expanded gradually: the obligation to attend the course was coupled with the obligation to take the final test. The statutory aim of successful attendance on the course was extended to successful completion of the course. Failure to pass the final test is tied to possible sanctions. In addition, the binding language test before entry was introduced for spouses, based on arguments in favour of integration assistance and the prevention of forced marriages. Since the end of 2007, the orientation course has culminated in the passing of the nationally standardised test. A naturalisation test with an appropriate (non-binding) course was introduced nationwide in 2008. The current idea of an integration agreement according to the French model should also help 'to increase commitment levels in individual integration assistance' and create an integration agreement instrument 'that will apply to both new immigrants as well as those that have lived in the country for some time' (cf. Coalition Agreement 2009, in further detail see in 2.1.3 at the end).

1.3 The Relationship between the Different Tests

The developments³ over the various tests mutually influence each other.

2 See the Coalition Agreement 2002: 'We want to promote and also demand the integration of immigrants by means of better national integration assistance [authors' emphasis]. We want to see the decade of integration.'

3 The respective arguments will be discussed in subsection 2.1.2, 2.2.2 and 2.3.2.

GERMANY

- *Higher level of proficiency and societal knowledge for permanent residence.* The settlement permit has been combined with higher language requirements since 2005: 'Adequate (oral and written) knowledge of the German language as well as basic knowledge of the legal and social system and the way of life in the Federal territory or if an integration course has been successfully completed'. The requirements are different from the permanent residence permit in the Aliens Act 1990 in that (only) basic oral language ability had to be demonstrated, not the societal knowledge. In this respect, the orientation course is a novelty of the integration policy (Hentges 2010).
- *Higher level of proficiency and societal knowledge for naturalisation.* As a consequence, the level of knowledge required for the settlement permit has also influenced the level required for naturalisation: the proof of the language ability at the level B1 has been a nationally standardised condition since 2007. As a result, the level of language proficiency for permanent residence and naturalisation were brought more into line insofar as those who passed the language test at the end of the integration course have fulfilled the language requirement for naturalisation.
- *Interaction between the orientation course test and the naturalisation test.* The orientation courses were introduced in 2005 and, since 2007, have been supplemented by passing the nationally standardised test. By contrast, the naturalisation course (test), introduced in 2008, should be based on the subjects from the orientation course within the integration courses. In the mean time, the high content overlap raises the question of a long-term merger of the tests.
- *Higher and previous language requirements for spouses.* The statutory integration concepts are different for family immigrants. Since 2004, the law has provided for the obligation to attend a German language course in Germany in the event of the lack of any basic command of the language. With the introduction of the pre-entry tests in 2007, the underlying assumption of the targeted promotion of initial language integration after arrival through integration courses did not seem sufficient for spouses. Compared to other immigrants, proof of language ability or initial language integration has already been required of them abroad. The conceptual contradiction with the obligation to attend an integration course has been fixed, while the level of spouses' proficiency was raised: the degree of obligation to attend an integration course after arrival is derived from the criterion of adequate (intermediate) language ability – the (previous) level for naturalisation.
- *No further exception for illiteracy in the naturalisation procedure.* 'To be able to communicate on topics which are familiar or of personal interest without any significant problems' (to some extent, without including written language ability), is no longer sufficient for naturalisation in cases they apply under Article 10 StAG ('entitlement naturalisation', *Anspruchsein-*

bürgerung). While this question had been treated differently before, illiteracy has also been a statutory obstacle to entitlement naturalisation since 2007, after the requirement of written language ability came to be considered in conjunction with admission to Germany and the integration course.⁴

- *Reduction in the privileged position of marriage to a German in the Residence Act (AufenthG) and the Nationality Act (StAG)*. Marriage to a German is no longer sufficient for the assumption of integration into the host country. Persons wishing to join a spouse in Germany have been obliged to meet the integration requirement through the language test before entry since 2007. Privileged early naturalisation of spouses and civil partners of German nationals has so far also built on the particularly favourable integration situation brought about by conjugal community with a German partner. Proof of language ability at level B1 is a new condition now.
- *Effect of the Residence Act (AufenthG) on naturalisation: less stringent and stricter requirements*. The incentive system for the so-called last integration step towards naturalisation is new: The term for the 'entitlement naturalisation' (*Anspruchseinbürgerung*) may be reduced from eight to seven years based on successful attendance of an integration course. Moreover, the possibility exists of reducing the required length of time spent in Germany to six years by submitting special integration achievements, such as language ability above CEFR level B1.

In general, there is a high level of course offerings and course diversity, but also a higher degree of (test) obligation. However, this allows not only for stricter obligation enforcement and measurability of the obligations, it also opens up new control options (Michalowski 2007). While there has been only one nationally standardised language test at the end of the integration course since the Immigration Act 2004 came into force, four possible 'integration tests' currently lead to naturalisation. In this respect, immigrants can reach naturalisation level towards the end of the integration course.

4 The possibility to apply Art. 8 StAG – discretionary naturalisation (*Ermessenseinbürgerung*) – represents rather an exception in practice.

Chapter 2

2.1 Integration Test as a Condition for Admission

The language requirements as a condition for ‘integration in advance’ and admission to Germany concern spouses of a German or a foreigner⁵ living in Germany who intend to live together in the Federal territory. The following section will debate and discuss the procedure in which the required language ability of spouses may be tested or should be valid as achieved. Higher integration requirements also exist for the subsequent migration of children who are between the ages of 16 and 18 and whose parent(s) are already been living in Germany (Section 32, par. 2, Residence Act). Generally, a positive integration forecast is decisive for the settlement permit. It depends on whether the child possesses the language ability at CEFR level C1 or if it appears, on the basis of the child's education and way of life to date, that the child will be able to integrate into the German way of life.⁶ This consideration has already been expressed in the Aliens Act 1990. However, only a sufficient command of language was required. Moreover, a principal consideration in the policy regarding foreigners and a decisive factor in the language test for admission in cases involving ethnic Germans (*Aussiedler*) was that they were not immigrants and were able to integrate more easily into the way of life in Germany as repatriates because of their German ethnicity. The use of a German dialect has served as an indication of their German ethnicity. A basic command of language has been required of spouses and descendents of ethnic German applicants in order to improve their integration capacity before entry since the Immigration Act came into force on 1 January 2005 (cf. Seveker 2008: 198-226). Jewish immigrants⁷ as well as their spouses and descendents who are aged 15 and over also have to prove their language ability at level A1 in the admission procedure before entry.

5 See, for the reasons for the requirement of means of subsistence with regard to target groups, footnote 17.

6 The certificate, issued by a reliable and appropriate organisation after passing the language acquisition test, which may not be dated more than one year previously, serves as proof of language ability (BRat-Drs. 669/09, p. 260). It is assumed that children are more easily able to integrate if they have grown up in a Member State of the EU or EEA (cf. § 41 paragraph 1, sentence 1, Ordinance Governing Residence) or if they come from a German-speaking parental home or have attended a German-speaking school abroad for a substantial period.

7 Pursuant to the Immigration Act, the test before entry was extended to that population group. Jewish immigrants may obtain the settlement permit with a specific residence immediately after arrival in Germany.

2.1.1 Description of the Test

Target Groups

The subsequent migration of the spouse of a German or a foreigner was made dependent on demonstration of language ability before entry after the introduction of the Directives Implementation Act (RLUmsG) on 28 August 2007⁸. Spouses have to prove, as part of the visa procedure, that they are able to communicate in German at least at a basic level (Section 30, par. 1, sentence 1 no. 2 and Section 28, par. 1, sentence 4 Residence Act).

Exemptions

- By Nationality

Exemptions are made from the language criterion for spouses of a sponsor from the USA, Australia, Israel, Japan, Canada, the Republic of Korea and New Zealand, as well as Andorra, Monaco, San Marino and Honduras (new: Brazil and El Salvador) in the interests of close economic relations. Spouses of the nationals who may enter Germany without a visa pursuant to Section 41 *AufenthV* and may obtain the residence permit in the Federal territory are also excluded from having to demonstrate language ability.

- For certain groups/on humanitarian grounds

Spouses of a third-country national or a German must pass the German language test before entry. Some exceptions are made in relation to spouses of a third-country national: firstly, the subsequent migration of spouses who are married to a highly skilled person, a researcher or a self-employee as well as a (mobile) permanent resident is possible without taking a test before entry ('because of migration policy-related interest from the Federal Republic'). Secondly, exceptions are made to the language criterion in cases involving marriage to a resident on humanitarian grounds: Spouses of a foreigner who is recognised as being entitled to asylum or a refugee according to the Refugee Convention 1951 (including after naturalisation) do not have to take the German language test. Pregnancy is not an exception on humanitarian grounds.

- Illness or handicap/No exception for illiterates

Furthermore, the exceptions to the language criterion are considered for spouses of a third-country national or a German, who are unable to provide evidence of a basic command of language on account of a physical, mental or

8 The EU Directives on the Right of Residence and Asylum, *Bundesgesetzblatt 2007 I*, p. 1970.

GERMANY

psychological illness or handicap⁹. Illiteracy¹⁰ is not accepted as an illness or handicap (Higher Administrative Court of Berlin-Brandenburg, ruling of 14 November 2008). Pregnancy is not regarded as an illness either.

- Temporary stay/Minimal need for integration

Spouses whose need for integration is discernibly minimal (Section 4, par. 2, Ordinance on Integration Courses) and spouses whose stay in the Federal territory is temporary (Section 44, Ordinance on Integration Courses) are also exempt from the language test abroad. Therefore, the spouses' need for integration is discernibly minimal if they are in possession of an academic degree or a comparable qualification¹¹ or if they are employed as managing executives, professional sportsmen, journalists, scientists, researchers or teachers. Moreover, business people who have been transferred by the Head Office of an enterprise to a branch in Germany for a maximum of three years (Section 31, BeschV) and their spouses (Section 4, par. 2, no. 2, Ordinance on Integration Courses) are also covered by this exception. The Foreigners' Authority has to give consideration to the integration and employment forecast in a statement on the visa granting procedure (no. 30.1.4.2.3.1 Administrative Ordinance - Residence Act).

In practice the requirement is targeted at poorly-educated spouses from certain non-Western third-party countries, i.e. Turkey, Kosovo, Russia or Thailand respectively spouses of a foreigner in Germany.

Type of test

'Reliable and appropriate certificates of language acquisition are accepted as proof of language ability in the visa procedure: certificates of successful attendance of one of the following standardised language tests should be recognised: 'Start Deutsch 1' test set by the Goethe Institute or telc GmbH;

9 In individual cases, proof of language ability is not required of spouses, e.g., if they were 65 years of age on 31 December 2009 (BRat-Drs. 669/09, p. 561). According to the Goethe Institute, German Diplomatic Missions abroad have some latitude in dealing with the age limit (WS 30039 interview of 29 April 2010).

10 Initial literacy in the mother tongue is the competence of educational institutions in the respective country of origin, which is why the Goethe Institute has only limited means for offering language courses for functional and primary illiterates. However, preliminary courses in the German language have recently been offered in Thailand and Ghana (WS 30039 interview of 29 April 2010).

11 In conjunction with the Foreigners' Authorities, the German Diplomatic Mission should control whether such an exception is made and whether the foreigners can start working in the Federal territory in line with their qualifications within a reasonable period (no. 30.1.4.2.2 General Administrative Ordinance - Residence Act). Nevertheless, a detailed inspection of the qualification in the country of origin can often be debatable if a positive employment situation and integration cannot be predicted for the foreigner (BTag-Drs. 16/10732, p. 14).

'*Grundstufe Deutsch 1*' test for the Austrian Language Diploma (ÖSD); or 'TestDaF' organised by the TestDaF Institute e.V. (ibid. p. 257). The Goethe Institute, telc GmbH and the TestDaF Institute are German members of the Association of Language Testers in Europe (ALTE). Language tests at a higher level administered by other members of the ALTE should be also recognised in the visa procedure. If an appropriate language certificate cannot be obtained in the country of origin, the Diplomatic Mission has to ascertain in an appropriate way whether the applicant possesses a basic command of the German language at CEFR level A1 (BRat-Drs. 669/09, p. 247). This can occur in a free 'interview' based on the '*Start Deutsch 1*' test. In this regard, the '*Start Deutsch 1*' test is of indicative value for family reunification. Therefore, this test format will be considered below in more detail.

The '*Start Deutsch 1*' test can be taken in Germany as well as abroad at the Goethe Institute or telc GmbH (at VHS in Germany and at the telc office in Istanbul). The Goethe Institute is closely involved in providing proof of language ability abroad. Its current responsibility consists of creating an infrastructure and offering examinations to cover the new need, which originated from this amended legislation. Currently, 149 Goethe Institutes and ten liaison offices exist in 91 countries, as well as test centres in at least 104 countries. The introduction of the test as a condition for admission implied a re-orientation of language services or an expansion of language courses for the Goethe Institute in new regions and provinces,¹² as well as a new target group that is no longer represented by an academic clientele and is consultation-intensive (WS 30039¹³ interview of 29 April 2010).

In this regard, teachers and 80 multipliers were trained, new course models and information and consultation services were offered, e.g., the website of the Goethe Institute in 18 languages, phone hotlines dealing with the subsequent migration of spouses in German, English and French in Germany and in the respective national languages in Turkey and Thailand (ibid.). Two EU projects are financed by the European Integration Fund (EIF) and the BAMF, and the EIF and the Goethe Institute that are dedicated to a 'pre-integration language test', set by the Goethe Institute and aimed at expanding consultation and information services (1), improvement of language courses (2) and language learning materials (3), safety measures and expansion of the network (ibid.). The experience of the Goethe Institute shows that the duration of language acquisition varies between 80 and 200 teaching units (UE) depending on individual learning conditions (WS 30039 interview of 29 April 2010). The Goethe Institute offers language courses at CEFR level A1, which usually consist of 160 UE with a duration of 45 minutes per UE

12 The institute's networks and the licensee's networks were extended. The test centres in Turkey were also extended from three to eight (soon to be nine); in addition, eight test centres were established in Morocco (WS 30039 interview of 29 April 2010).

13 This is an automated filename of the WS 300-M Digital Recorder Olympus.

and last for about two or more months, depending on the frequency of the teaching units. In order to fulfil language requirements for the subsequent migration of spouses, it is not important how – independently or as part of the course – the spouse has achieved basic oral and written language ability in German.¹⁴

The ‘*Start Deutsch 1*’ test requires payment of a fee. It is offered by the Goethe Institute and telc GmbH jointly. It consists of a written individual examination and an oral examination in a group. Two testers evaluate the test achievements. The tasks of the language test are action-oriented and involve all four language skills. The written examination lasts 65 minutes and contains listening, reading and writing. The oral examination lasts approximately 15 minutes and is taken in a group: each candidate has to introduce himself, provide information and ask for information, as well as make a request and respond to it. The maximum number of test candidates in the group oral examination is four. Every task in the oral examination is complicated and involves several cognitive operations: test candidates have to communicate basic information about their name, age, country, address, active working languages, profession and hobby. They also have to be able to spell their names and to deal fluently with numbers. Every task should be introduced with a sample. Furthermore, the appropriate situational use of linguistic means is decisive. This means the candidate’s knowledge of certain everyday situations in Germany in which they know how to react linguistically. That means that candidates must be familiar with text types such as signs, posters, catalogues, e-mails, postcards, and similar forms. They must also possess specific information about the country, culture and everyday life. To pass the test, the candidates must score 60 points.¹⁵

Proofs

The statutory condition of being able to communicate in German at a basic level corresponds in practice to the definition of CEFR level A1 (BRat-Drs. 669/09, p. 246, BTag-Drs. 16/5065, p. 311). Proof of language ability is basically led in the visa procedure. Nevertheless, proof of the language acquisition is not required if it is evident from a personal conversation that the spouse possesses German language ability at least at level A1 (BRat-Drs. 669/09, p. 248). Level A1 is the lowest level of proficiency. It includes all four

14 The ‘place of language acquisition’ is of particular importance for ethnic German applicants. Since 1996, they have had to demonstrate German language knowledge that has been acquired in a family and is sufficient for basic communication in German in an interview (*Anhörung*) organised in the country of origin (Seveker 2008: 199).

15 It is to be emphasised here that the test of language acquisition for dependants of ethnic Germans (*Aussiedler*) is also based on the directives of the ‘*Start Deutsch 1*’ test. If they have non-German spouses aged 60 and over or descendants aged 14-16, knowledge of the German language at a reduced level of 52 points is accepted as adequate (Seveker 2008: 211).

basic language skills (listening, speaking, reading and writing). Proof of societal knowledge¹⁶ before entering Germany is not required. It is different from granting a settlement permit, or the naturalisation procedure.

Costs of the (preparation for the) test

According to the Goethe Institute, the amount of the test fee is adapted to the local conditions, to cover the costs of management and administration of the test (WS 30039 interview of 29 April 2010). Moreover, no allowances are made. Internal test candidates pay reduced fees; internal test candidates are people who have taken part in a language course at the Goethe Institute. In some countries, internal test candidates have only to pay the course fee and are exempt from the test fee (to some extent in Turkey). A reduced fee is required in few countries to retake the test: The test fee in Kenya amounts to 5,000 KSh (approximately €50) for internal test candidates (3,500 KSh for retakes) and 6,500 KSh for external test candidates (5,000 KSh for retakes); the fee for the test preparatory course at level A1 amounts to 2,000 KSh (approximately €18, situation on 6 July 2010). No language courses are offered in Iraq, the test fee here is 200 USD (approximately €135). The test fee in Syria amount to 3,500 SYP (approximately €58) for internal candidates and 4,500 SYP for external candidates. The test fee in Bangkok (Thailand) is 2,500 THB. The course fee in Turkey is normally 990 TL (approximately €490) and the test fee (e.g. in Istanbul) 140 TL (approximately €68, external) and 120 TL (approximately €60, internal). Payment by instalment is possible at the Goethe Institute of Ankara.

Spouses have to acquire the required language skills at their own expense. The test fee at the Goethe Institute in Germany does not differ considerably from the fee abroad. Internal test candidates at the Goethe Institute in Germany should pay €60 for the test (external €80). A higher test fee of €150 is due at telc GmbH (situation on 6 July 2010). A standard fee of €60 may be normally charged for issuing visas (Section 46 *AufenthV*).

The costs for an immigrant from Turkey, for example, in order to fulfil the integration requirement for admission amount to €610 (€490 course fee, €60 test fee and €60 visa fee).

The visa may not be granted if a spouse has not passed the language test before entry. Therefore, it is not possible to enter the Federal territory. The test can be repeated unlimited times. This does not imply legal consequences for the affected parties. However, it does imply high financial costs and a long period of separation. The language certificate issued by the Goethe Institute does not expire. Nevertheless, the Goethe Institute emphasises that

16 The TGD offers orientation courses for spouses who live mostly in the eastern areas of Turkey and throughout Turkey and wish to join a spouse in Germany. The aim of these courses is to improve the integration of Turkish families in Germany (WS 30029 interview of 25 April 2010).

employers and institutions usually require a language certificate that should have been issued within the past two years. If the language certificate was issued more than a year ago, the content reliability of the certified language ability can be demonstrated in the visa procedure (BRat-Drs. 669/09, p. 248). The reason given for this is the quick loss of acquired language ability. This practice calls into question the reliability of the language requirements before entry with a view to the subsequent migration of spouses.

2.1.2 Purpose of the Test

The language test was introduced with reference to non-compulsory restrictions of the Family Reunification Directive, pursuant to the Act on the Implementation of the Directives of the EU on the Right of Residence and Asylum that came into force on 28 August 2007. Although there is no direct relationship, the Directive constituted the 'folio of new rules' (Kreienbrink & Rühl 2007).

The debate showed the clear influence of the politics of other countries: in the legal policy debate about the restrictions on the reunification of spouses, reference was made to the integration requirements of the neighbouring country and it was pointed out that Denmark and the Netherlands had had 'positive experiences' with raising the age limit for spouses. The language test was also extended to spouses of Germans. However, an explicit distinction between Germans, or a special legal justification of Germans as opposed to third-country nationals, is lacking in terms of restrictions. The restrictions initially apply to both. Although the restrictions on the family reunification of spouses are phrased neutrally in the wording of the law and apply to reunification with German nationals as well as foreign nationals, they are meant to avoid the situation where Turks, in particular, who hold traditional values and who are living here, bring very young wives uninfluenced by Western values from their country of origin to Germany. This objective is the direct result of the Explanatory Memorandum as far as it argues in favour of application of the language requirement for third-country nationals. According to this, the language requirements are geared towards certain naturalised immigrants on the assumption of a certain 'family concept of the affected groups': They are justified by promoting or demanding integration (through language), protection from forced marriages and violations of human rights as well as the protection of the social welfare state (BT-Drs. 16/5065 of 23 April 2007, pp. 307-314).¹⁷ This objective is the result of the

17 The position of German law regarding Germans with a migration background becomes even clearer in the justification of economic discrimination, which was introduced with respect to family reunification with Germans. Concerning the requirements guaranteeing subsistence, a decisive factor is whether it is possible to build family unity in the

regulation system after the deduction of numerous exceptions concerning highly skilled persons, researchers or self-employed persons and, in the case of permanent residence status, of the sponsor, or in the interests of close economic relations with certain countries (see 2.1.1).

Protection from forced marriages through the introduction of the language test before entry was crucial in public debates and the media. This led, above all, to the death of the young Kurd, Hatun Sürücü, in the spring of 2005, a victim of a so-called 'honour killing' after the separation of a forced marriage.¹⁸ In public discussions in Germany, forced marriage is often defined a human rights question (Ratia & Walter 2009). The participants in the public debates on forced marriages are intellectuals (such as philosophers), politicians, and women's rights advocates with a Turkish background. Bielefeldt and Folmar-Otto, both philosophers at the DIMR (German Institute for Human Rights) and leaders of intellectual debates on the multicultural society, and the Berlin NGO Papatya for migrant women, stress that forced marriage is a breach of human rights.

One can consider the introduction of forced marriage as a specific offence in 2005 as the first legal outcome of this debate.¹⁹ Since then, the debates have mostly focused on how to prevent forced marriages in the area of migration law, especially through the two new additional entry requirements – the minimum age as well as a basic knowledge of the language prior to entry – for spouses of third-country nationals and Germans. By this time, the former red-green Government had been followed in 2005 by the new coalition partners CDU/CSU and SPD. After the presentation of the official draft of the RLUMsG by the Government on 28 March 2007, numerous experts, officials of the *Bundesländer*, NGOs, migrant organisations as well as representatives of the churches, gave their statements in a session of the Bundestag in May 2007.²⁰ On the

country of origin of a spouse. The law makes a distinction between German nationals: in future, family reunification cannot only be denied to third-country nationals but also to Germans if the sponsor cannot guarantee a sufficient income (cf. Section 28, par. 1, sentences 2-4 Residence Act). The former privilege for spouses of a German ceases to apply. Pursuant to the Explanatory Memorandum, 'special circumstances' exist for persons of whom matrimonial cohabitation abroad can reasonably be expected. This especially concerns holders of dual citizenship with regard to the country whose nationality they possess in addition to German nationality, or Germans who have lived and worked for a fairly long time in the spouse's country of origin and who speak the language of this country (BRat-Drs. 224/07, p. 293 f.).

18 The *Terre des femmes* German organisation has already drawn particular attention to the problem through various campaigns since 2002.

19 Political parties, such as the SPD and the CDU/CSU, have also argued for banning forced marriages in their election programme's for the Bundestag elections of 2005.

20 See the materials: http://fluechtlingsinfo-berlin.de/fr/gesetzgebung/2_AendG.html#mozTocId858737. The hearing of the Committee on Internal Affairs in March 2006 was simi-

one hand, there was strong disagreement concerning the constitutional conformity of the provisions, criticised for example by the German Institute for Human Rights, *Verband binationaler Familien und Partnerschaften* (iaf), *Deutscher Juristinnenbund* (djb), Jesuit Refugee Service, Amnesty International, TGD or German Bar Association (DAV). On the other hand, alternative measures with more of a trend towards victim protection have been debated. The green party (*Bündnis90/Die Grünen*) and human rights organisations proposed a further enhancement or establishment of protective provisions, especially the right to return after six months in cases of forced marriage where the right of residence has expired in the foreign country (Sect. 51 AufenthG).²¹ Other critics argue that the phenomenon of forced marriage needs more research before the introduction of legal measures. In the view of the Ministry of the Interior these alternatives are an invitation to abuse and the preventive concept of the official draft is more favourable.²² In spite of numerous statements in the legal procedure, the language requirement entered into force in 2007.

Finally, in the Explanatory Memorandum much emphasis was also placed on protection from forced marriages in terms of human rights. According to the Explanatory Memorandum, in-law families use the lack of the German language ability deliberately or indirectly to prevent the victim (usually female) from having an independent social life. The legislator argues that the obligation to attend the integration course after entering Germany should not apply equally because of the time delay before the beginning of the course and the process of language learning, while the victim would be subjected to the will of the family-in-law. Besides, German language learning would be possible in the country of origin and guarantees (result-oriented) successful language acquisition. The regulation would have a more preventive effect than the attendance obligation after arrival in Germany. Educated men and women would be more unattractive, according to the family concept of affected circles, and would be difficult to 'control', which is allegedly significant for those applying force. A basic command of the language would also be imparted by this education (BRat-Drs. 224/07, pp. 298f.). In general, the Courts also accept these arguments.²³

The Goethe Institute collects the data on language tests within the context of subsequent migration of spouses. The 'test centres' are the Goethe Institutes and the German Diplomatic Missions. An evaluation report on the

lar, concerning the Ministry draft (Referentenentwurf), which came from the former red-green Government in 2005.

21 See 6. Lagebericht (2005), p. 300. There is however a longer time for long-term residents, Art. 9 par. 2 Directive 2003/109/EG (long-term residents).

22 See *Evaluationsbericht 2006 BMI* (p. 114).

23 Higher Administrative Court Berlin-Brandenburg, judgment of 28 April 2009, Federal Administrative Court, judgment of 30 March 2010 (Reference no. 1 C 8.09).

GERMANY

practices for demonstrating language ability has been prepared by the Federal Foreign Office, the Federal Ministry of Internal Affairs and the Federal Government Commissioner for Migration, Refugees and Integration (BTag-Drs. 17/3019 of 24 September 2010).

Effects of the Test

Statistics

A downward trend in visas granted for spouses becomes obvious after the introduction of the proof of the language ability as a condition for admission in 2007 (cf. 8. Lagebericht 2010: 469). The comparison of the visas issued before the amended legislation with visas issued after the legal amendment resulted in a decrease of 25% for the reference period, in general (BTag-Drs. 16/13978, p. 1), and of about 35 to 42% (BTag-Drs. 16/10215) in four main countries of origin (Turkey, Kosovo, Russia and Thailand), and of about 38% only in Turkey (BTag-Drs. 16/13678, p. 1).

The quarterly comparison of visa statistics in 2009 shows an irregular development. An increase in visas issued of about 2.91% is evident from 7,825 visas issued in the first quarter to 8,053 visas granted in the second quarter and an increase of approximately 12.1% to 9,027 visas issued in the third quarter (BTag-Drs. 16/13978, p. 2; BTag-Drs. 17/194, p. 2). In the fourth quarter of 2009, the number of visas issued amounted to 8,289. Therefore, it was lower than in the previous quarter (BTag-Drs. 17/1112, p. 2).

Table 2.1: Family Reunification of Spouses 2007-2009 (main countries of origin)

	I/ 2007	II/ 2007	III/ 2007	IV/ 2007	I/ 2008	II/ 2008	III/ 2008	IV/ 2008	I/ 2009	II/ 2009	III/ 2009	IV/ 2009
Turkey	2583	2314	2068	673	1405	1778	2003	1700	1798	1714	1771	1622
Kosovo	917	868	713	313	413	631	850	794	732	615	809	693
Russian Fed.	731	775	664	468	453	477	540	547	419	494	609	635
Thailand	499	530	433	191	266	329	383	354	340	353	294	338
Morocco	412	358	326	161	268	329	354	338	262	322	436	393
India	277	327	311	288	380	446	419	393	469	450	466	380
China	194	533	190	201	167	232	260	263	278	269	281	258
Bosnia Herz.	272	257	226	158	150	236	219	206	169	177	198	203
Serbia	218	205	305	160	184	255	218	214	173	173	210	158
Tunisia	220	232	201	93	138	155	151	209	194	156	191	161
Macedonia	181	170	183	116	133	144	153	147	144	155	181	129
Kazakstan	184	200	160	105	43	105	118	114	83	89	97	93
Ukraine	157	153	146	153	179	229	262	254	200	228	256	244
Vietnam	174	169	151	104	119	113	138	140	134	131	156	146
Iran	157	154	122	112	110	108	146	157	111	143	154	133
Weltweit	9449	9267	8603	5147	6458	7771	8445	8093	7825	8053	9027	8289

Source: Evaluation Bundesregierung 2010, BTag-Drs. 17/3090, p. 32

In 2008, 30,767 visas as part of the subsequent migration of spouses were granted and 33,194 similar visas in 2009 (*ibid.*). This means a general increase of about 7.89% over the whole year 2009. Generally, a downward trend in visas has become obvious between 2002 and 2006. In 2002, 64,021 visas were granted and 39,585 in 2006 or before the relevant law amendment. Its cause can be found in the accession of ten new Member States (BTag-Drs. 16/13978, p. 3). A sample comparison with the figures for spouses who entered Germany at municipal level – e.g. in Munich – also shows a clear decrease between 2006 and 2008 of on average about 41% (from 4,725 to 2,795); note in particular 34% in cases of the subsequent migration of the spouse of a German and 45% for family reunification with a foreigner. From the municipal officials' point of view, this decrease is related to the introduction of the language tests before entry as well as to the accession of Romania and Bulgaria. Without the observed avoidance cases, the decrease would have been even more significant (WS 30038 interview of 28 April 2010). Entering Germany on a Visitor's Visa to learn German in the country and subsequently applying here for family reunification is only an example of bypassing the tests abroad (*ibid.*).

Since the amendment in August 2007, the number of tests at the Goethe Institute abroad has risen rapidly within a very short time. According to the Goethe Institute, the number of the test candidates has decreased from 60,111 in 2008 to approximately 45,242 in 2009 (situation on 9 April 2010). The Goethe Institute explained this by the fact that some of those affected became stuck because of the introduction of new language requirements (WS 30039 interview of 29 April 2010). The success rate²⁴ was to 59% (54% external and 73% internal test candidates²⁵) in 2008 and to 64% (61% external and 74% internal test candidates) in 2009 (data from the Goethe Institute, situation on 9 April 2010). In this respect, a clear increase in the number of the external test candidates who passed the test is noticeable. On the one hand, this is presumably related to the attendance of future spouses at language courses in Germany, who had given a different purpose for their stay in Germany, in the visa procedure, than language acquisition or family reunification. The teachers interviewed in this study emphasised an increase in interest in the

24 Interestingly, the data on the success rate in 2008 provided by the Goethe Institute (situation on 9 April 2010) did not coincide with those in the printed papers from the *Bundestag* for the same period (situation on 13 March 2009). The comparison of the success rates in 2008 with those in 2009 given in the printed papers from the *Bundestag* shows a decrease from 66% (BTag-Drs. 16/3978, p. 13) to 64% (61% externally (in this case a stagnation) and 78-74% internally). This reduces the validity of success rates and can (presumably) be explained by technical problems concerning the data collection, which currently mean that the data on the retakes have not yet been collected by the Goethe Institute.

25 Internal test candidates are people who have taken part in a language course at the Goethe Institute.

language course at level A1 in Germany (WS 30044 interview of 30 April 2010, WS 30056 interview of 20 May 2010). Language courses for self-supporting participants at levels A1.1 and A1.2 were offered on request in Stuttgart. To some extent, Serbian citizens have taken part in these courses in order to return subsequently to Belgrade to take the test there. Moreover, it should be pointed out that external possibilities for learning German independently are also available on the Internet or by attending a language course given by private providers in the country of origin, for whom the test before entry makes the market attractive because of interest from spouses intending to live together in Germany as a couple.

On the other hand, the increase in the number of the external test candidates who had passed the language test before entry is also dependent on 'test tourism', as migrant advisory services referred to this trend (WS 30023 interview of 16 March 2010). According to the Goethe Institute, the fact that the test candidates made their first attempt, for example in Albania, and their second attempt in Macedonia, makes it difficult to collect data on retakes. 'There are rumours concerning the tests that it is easier to pass the test in one state than in another. We usually prove this if it becomes known. We inspect the institutes and carry out audits. So, there may be a difference with regard to external conditions, but the test itself corresponds closely to uniform standards' (WS 30039 interview of 29 April 2010). With this 'test tourism' in mind, a special regulation was introduced by the Goethe Institutes in Albania, Kosovo and Macedonia, specifying that these countries' nationals should be tested in the country of origin (ibid.).

Looking at the statistics for success rates, the situation is different, it is more of a rising trend from 59% in 2008 (54% externally and 80% internally) to 65% in 2009 (61% externally and 81% internally) in 15 main countries of origin (ibid.). This is an indication of a clear increase, looking at the success rate in Turkey, from 60% in 2008 (92% internally and 57% externally) to 68% in 2009 (92% internally and 64% externally) (data from the Goethe Institute, situation on 9 April 2010). This is (presumably) related to the improved didactic aspects of language learning at the Goethe Institute²⁶ abroad and the activities of the TGD in Turkey. On the one hand, a detailed comparison of the success rates in the main countries of origin shows that the internal candidates usually perform better in the test before entry than in the external

26 The Goethe Institute has developed not only a book in German and Turkish (*Mein Sprach- und Deutschlandbegleiter*, Ethem Yilmaz, Verlag für Deutsch-Türkische Kommunikation, Bochum 2009), also including to some extent data on the respective advisory centres for immigrants, but also a photo box or linguistic game relating to everyday life in Germany for special use in DaF and DaZ courses, covering Shopping, Health, Mobility, Lessons and Living in Germany including tips for beginners' lessons (WS 30039 interview of 29 April 2010). The 7-minute film by Hülya Çağlar (*Guten Morgen Almanya*, Izmir 2007) also offers an insight into the language courses abroad.

test. On the other hand, there is no indication of a constant increase in the success rates for internal candidates. This can be illustrated by the success rates in Macedonia, which were 99% in 2008 and 85% in 2009 (internally). Moreover, an analysis of available statistics shows that available figures can currently provide only limited reliable data for evaluating the effects of the test for entry²⁷ from outside Germany.

Selection

From the migrant advisory services' point of view, the test before entry constitutes a form of selection because it is regarded as an obstacle only for a certain population group with regard to origin, level of education and language learning experiences: 'Only men and women who can read and write may marry de facto' (WS 30027 interview of 14 April 2010). From the teachers' point of view, the test format is an obstacle for a certain population group as well (WS 30038 interview of 28 April 2010 and WS 30044 interview of 30 April 2010). To some extent, the distinction is blurred between CEFR levels A1 and A2, which can be recognised through the use of text types and is an additional difficulty for test candidates, e.g., it causes problems when dealing with a written task. The tasks of the test are related to living situations in Germany, which are unfamiliar to the test candidates abroad. It makes the language standards more difficult because not only language ability, but also certain cultural patterns must be demonstrated by the test (WS 30025 interview of 9 April 2010 and WS 30048 interview of 5 May 2010 with a Thai woman, 26 years old), it is 'a sort of colonial education' (WS 30027 interview of 14 April 2010) if, for example, a Thai woman has to explain snow or activities within associations in Germany during the test, with which she is not familiar (ibid.).

Which part of the test is the most difficult?

From the immigrants' point of view, listening is the most difficult discipline in the test abroad. The spoken language in the recordings for the test and the speech of officials in the Diplomatic Mission is regarded as rapid. To some extent, migrants explain the high number of retakes by the fact that the test

27 Furthermore, looking at the statistics for the success rates in the tests before entry, data are also available for the success rates of the 'Start Deutsch 1' test candidates collected in 2009 in Finland, the United Kingdom, Ireland, Japan, Canada, New Zealand, Norway, Portugal, Scotland, Sweden and Uruguay (situation on 9 April 2010). There are no differentiated data on the test candidates to explain the participation of this population group in the test before entry. It mainly concerns a small number of test candidates. The language ability of Union citizens does not have to be demonstrated in family reunification. This means that changes caused by the rulings in the Metock case do not seem to have reached every country. Besides, it is interesting to note here that success rates have been optimum in the countries mentioned above as well as in Singapore, Sudan and Uruguay.

GERMANY

candidates do not pass the listening part of the test or they sit the test without being prepared for it. The Goethe Institute also confirms that some spouses intending to migrate to Germany register for the test to learn more about it without being prepared (WS 30039 interview of 29 April 2010). 'Native perceptions' by the immigrants with regard to language learning that persist after admission to Germany, when course participants assume that the language can be learned automatically without making any attempt while the learner is regularly present on the course, can be also recognised in the language courses abroad (WS 30056 interview of 20 May 2010). Furthermore, it is remarkable that teachers abroad as well as teachers of integration courses in Germany have to motivate the participants, not only regarding the purpose of the law concerning the subsequent migration of spouses but also, to some extent, regarding language learning in the obligatory integration courses (ibid, WS 30039 interview of 29 April 2010).

Fraud

The Goethe Institute had to address its efforts not only to language teaching, but also to safety measures in some countries. 'A virtual industry was built up – with brand-name ball pens, headscarves and walkie-talkies, as well as passport forgeries. Teachers and course participants have been threatened' (ibid.). There have been cases of avoidance as well as attempts at fraud. To improve identity controls, registration for the test takes place in person and on a different day from the test itself. It is seen as a burden by those affected because of distances to the examination location and the financial expense (WS 30027 interview of 14 April 2010). For an unknown reason, the oral examination also takes place, in some cases, for instance in Egypt, three days later than the written examination (WS 30025 interview of 20 May 2010). In addition, an applicant's fingerprints can be checked during the visa procedure in some countries – West Africa, Nigeria or Guinea – to identify the person in the light of apparently false statements about a previous stay in Germany.

Furthermore, the uncertain source of documents, such as in Nigeria, constitutes serious problems in the visa procedure, let alone in demonstrating language ability. 'The issue of documents and certificates is not based on documents that are registered there, but hearsay. The result of this is different spelling variations and doubts concerning authenticity. However, the document can also be authentic, but with the wrong content. Real life is not straightforward and people get stuck at the edges and corners' (WS 30025 interview of 9 April 2010). The visa procedure is repeatedly criticised in that it lacks transparency and constitutes, in addition, a tripwire.

Test abroad: are the goals achieved?

The purpose of the test is to promote integration and to provide protection from forced marriages. Not only teachers of integration courses, but also mi-

grant advisory services and migrants regard the courses as positive but see the costs and efforts involved in the test as a burden for those affected. On the one hand, those affected as well as the municipal officials in Germany view the possibility of learning German through courses abroad as positive because a basic command of the language may help the persons involved to make purchases by themselves, to ask questions independently and makes the newly arrived immigrants more self-confident (WS 30045 interview of 30 April 2010 with a migrant woman from Turkey, 22 years old, a woman from Kenya (24 Jahre alt) and a migrant woman from China (23 years old) and WS 30054 interview of 17 May 2010). A migrant woman from Turkey interviewed in Stuttgart was graded at a level higher than A1 at the VHS on account of her present language ability in German. In her opinion, this was indicative of the quality of the courses in Turkey. On the other hand, migrants and migrant advisory services have repeatedly closed the discrepancy between what is demanded and the knowledge that those involved actually possess after the test abroad. 'I do not think it is good because people do not speak German after passing the test' (WS 30055 interview of 20 May 2010 with a migrant from Egypt, 30 years old). Some of the immigrants interviewed failed the test several times. Several of the migrants interviewed took part not only in the German language courses at the Goethe Institute but also in private German classes, e.g., in Egypt and Kenya. None of the interviewed migrants emphasised that the language requirements for the subsequent migration of spouses were easy to fulfil.

The fulfilment of language requirements is associated with strenuous effort, psychological burdens, partner stress and family stress: 'Many people are at breaking point over it, which means that I give these couples advice about family reunification and then transfer them to my colleague in the department of separation and divorce' (WS 30025 interview of 9 April 2010). From the migrant advisory services' point of view, this regulation reinforces the imbalance of power between women and men and makes a wife emotionally and financially dependent on her husband. It was quite incomprehensible to all the interviewees how the language test could prevent forced marriages. Migrants, their spouses and migrant advisory services have repeatedly felt that the language test does not prevent forced marriages, but does select or prevent entry from outside Germany: 'A mixed marriage was once forbidden, today, it can be prevented or broken' (WS 30048 interview of 5 May 2010). 'We often had dramatic cases; a girl in Afghanistan had to go to Kabul, through enemy territory, not only to take the course, but also to apply for a visa. Then she was smuggled across the border. [...] We will not get a grasp of the problem of forced marriages through measures provided provided for in the migration law' (WS 30039 interview of 28 April 2010). According to the evaluation of the government however, teachers abroad had noticed in some cases that women deliberately failed the examination in order to avoid a forced marriage in Germany (BTag-Drs. 17/3090, p. 5).

GERMANY

The fact that spouses willing to migrate to Germany for family reunification can be repeatedly controlled by the visa procedure based on their language ability is perceived by those affected individuals as trickery and arbitrary measures on the part of the authorities. The Diplomatic Mission proves the authenticity and the correct content of documents suitable for an application, including proof of language ability on the basis of the lists of participants issued by the test centres and asks them for a statement if there are any doubts. If there are considerable doubts about the correctness of the language certificate in the visa procedure, the language ability of the applicant can be proved in a basic conversation in German (BTag-Drs. 17/1112). Those affected were asked, at the Embassy in Thailand, for example, what colour their blouse was and they had to write down their name and address despite having passed the language test (WS 30027 interview of 14 April 2010). There were also complaints about spouses who had migrated to Berlin and were tested by the Foreigner's Authority a second time (WS 30023 interview of 16 March 2010). These administrative procedures and costs on the part of the authorities, as well as the efforts made and expenses incurred by those affected would appear to be disproportionate to a low success rate, taking into account the statements of the teachers in Germany.

Most of the teachers of integration courses interviewed as part of this study considered that the output of the language test before entry is low and the costs for those involved are high. Generally, the teachers in Germany do not regard the results of the language test at level A1 as significant because of differences in the language ability at the first level of proficiency: '[the result of the language assessment test in Germany] is very low, although the participants had passed the language test abroad. As a rule, they decline a little bit' (WS 30044 from 30 April 2010). 'The tests at levels A1 and A2 contribute nothing. Since the introduction of the *'Deutschtest für Zuwanderer'* (DTZ), other tests are dispensable' (WS 30047 interview of 5 May 2010). 'Many participants are only present, they do not say a lot, they can do nothing, and they say proudly that they passed the test at level A1. They have a certain degree of trust in the test; they also do not want to be graded in spite of their obvious lack of language ability' (WS 30056 interview of 20 May 2010). A more or less clear line of reasoning is also adopted by migrant advisory services in Germany interviewed for this study. They do not question that migrants must learn the German language; however, they have spoken out against the fact that this is bound to the tests in the visa procedure. From the migrant advisory services' point of view, attendance of the language course at the Goethe Institute constitutes the best preparation for the test in terms of quality. The fact that more language courses have been offered and teachers have been trained does not change the regulation governing the language test before entry and considered absurd by the migrant advisory services (WS 30025 interview of 9 April 2010). From the migrant advisory services' point of view, it is incomprehensible that those affected have to learn by rote

to pass the test. This practice explains, to some extent, the different language abilities of spouses who migrated to Germany after passing the test abroad (WS 30027 interview of 14 April 2010 and WS 30029 interview of 15 April 2010). A Thai woman residing regularly in Germany founded a private language school in Thailand, in which an obvious drill is used to prepare the course participants for the test (WS 30048 interview of 5 May 2010). In addition, the fact that a visitor's visa could not be granted, in some cases, meant that some of those affected felt compelled to marry. The refusal of visa applications to some extent forces quick decisions about getting married or processes of corruption. Reasons for the refusal of a visa application in Germany have only been required since April 2011. Those interviewed explained the refusal of their application because of doubts about their readiness to return to the country of origin. The visa applications of citizens from African countries and Turkey have been most frequently refused (Guinea 54%, Turkey 20%²⁸). A person in Thailand whose visa application was refused by the embassy was offered the opportunity to move to Germany via the Netherlands. This method of entering Germany would have cost her up to €600 instead of the regular visa fee. According to her information, she would have had to pay €1,000 for the direct route into Germany (ibid.).

In summary, integration assistance through language courses is an advantage. The causal connection between the proof of language ability and the claim to family reunification is a problem. However, it is not possible to judge whether the test protects those affected from forced marriages. The practice of taking the test before entry makes it clear that the regulation has a selective effect and is associated with an invasion of the private family life.

The inferior position of Germans compared to EU Citizens

The language test before entry, cases of suspected fake marriage and the requirements of sufficient earnings have the potential to be an obstacle to family reunification. On the one hand, the procedure shows that the position of naturalised Germans as well as native polyglot Germans is inferior to that of Germans who are native and not multilingual, with regard to handling of the economic situation. On the other hand, the position of Germans that is inferior to EU citizens whose spouses are not subjected to the language test can be also considered: 'I did not understand it, why I am suddenly in a minority?' (WS 30048 interview of 5 May 2010). To avoid the language test before entry, Germans take up temporary residence in a European neighbouring country in order to enable the subsequent migration of a spouse as an EU citizen without 'official red tape' or the spouse can avoid the language test as a condition for admission, e.g. through pregnancy because the parents of a German child do not have to take the German language test before entry.

28 http://www.migration-info.de/mub_artikel.php?Id=100705.

Jurisprudence

The compatibility of the new language requirements before entry with superior rules of law (Article 3 of the Basic Law, the Family Reunification Directive and Article 8 ECHR) is still very controversial in the literature²⁹ and is increasingly a subject of legal proceedings. The Federal Administrative Court handed down the first ruling on 30 March 2010 (Reference no. 1 C 8.09). The Federal Administrative Court of Germany confirmed that the regulation is compatible with the Constitution, the Family Reunification Directive and the EMRK Article 8. The consideration involving the principles of proportionality is central here. The Higher Administrative Court of Berlin-Brandenburg (OVG) argued in its ruling of 28 April 2009 (Reference no. 2 B 6.08) regarding family reunification with a German. Moreover, it ruled that the proof of language ability would not be limited to the appropriate certificate, issued by the Goethe Institute or its cooperating partners, but can also be demonstrated in another way. In the mean time, the Foreign Office envisages, in appropriate regulations, that proof can be also produced by other means; in cases involving applicants whose required language ability is obvious, it can be proved by a personal conversation with a consular employee. The embassies and consulates should also accept the application upon request if the language certificate is not attached (cf. 8. *Lagebericht* 2010: 478). In addition, the issues of inferior treatment in cases of family reunification with Germans compared to EU citizens are dealt with by the courts (regarding the conflict as a result of so-called 'reverse discrimination' see Walter, 2008). Until now, the Federal Constitutional Court of Germany has not commented on this. However, the invalid application of language requirements in the family reunification of EU citizens' spouses that had initially been practised was changed as a consequence of the judgment of the European Court of Justice on 25 May 2008 in the 'Metock' case (Case C-127/08, cf. 8. *Lagebericht* 2010: 475).

2.2 *Integration Test in Germany*

The entitlement to an integration course, which is envisaged for both sponsor³⁰ and dependants, was first introduced in 2004.³¹ It commences with the

29 Critically: cf. Huber, *Die geplante ausländerrechtliche Pflicht zur Teilnahme an Integrationskursen*, Barwig & Davy (eds.), *Auf dem Weg zur Rechtsgleichheit?*, 2004, pp. 250 ff., Markard & Truchseß, *NVwZ* 2007, pp. 1025 ff., Kingreen, *ZAR* 2007, pp. 13 f., Fischer-Lescano, *KJ* 2006, pp. 236 ff.; DIMR in the statement of January, 2006; Funke-Kaiser, *InfAuslR* 1/2010, pp. 9 ff. as well as Gutmann, *ZAR* 2010, pp. 90 ff. Different from, e.g.: Hillgruber, C., *ZAR* 2006, pp. 304 (308 f.).

30 Pursuant to section 44, no. 1 a) and c) Residence Act, this relates to residents for the purposes of their economic activity as well as residents on humanitarian grounds. The Directives Implementation Act also includes mobile long-term residents (d).

first issue of the residence permit. Exceptions are made for children, youth and young adults who have attended a school or continued their school career in the Federal territory, migrants whose 'need for integration is discernibly minimal', or for third-country nationals who already possess intermediate language ability in German³². The entitlement becomes an attendance obligation if the third-country national is not able to communicate in German at the basic level and applies correspondingly to the spouses of Germans or of a third-country national who are not in possession of a sufficient command of the language³³. According to the concept of sustainable integration, all foreigners are considered admitted to an integration course if they fulfil the requirements of lawful, permanent residence and in order to promote their own integration efforts.

2.2.1 Description of the Test

Target groups

Numerous critical opinions of the integration course in 2005-2006 led to substantial changes as well as the new Ordinance on Integration Courses in 2007. Firstly, cases of obligation or admission to an integration course were extended. Now, institutions in charge of the basic state insurance for applicants for social security benefits pursuant to the Code of Social Law (SGB II) can also force migrants to attend the integration course because of the inclusion of the integration course in the agreement on integrating the individual into employment (Section 44a, par. 1, sentence 1 no. 2 and sentence 3, Residence Act). Secondly, test attendance was written into the Ordinance on Integration Courses of 5 December 2007; a general aim concerning attendance of an integration course as well as preparation of candidates for the test was introduced as an integral part of the course in practice in order to raise the success rate (Section 14, par. 5, Ordinance on Integration Courses, new version). Thirdly, the aim of successful course completion is currently explicitly established in the law (Section 43, par. 4, Residence Act). This will ensure in the future that more participants pass the final test. In the future, test attendance is also expected to increase even further. With the entry into force of the Immigration Act and these regulations of the Residence Act, the task of officials of Foreigners' Authority is not to prove language ability within the context of granting permanent residence status, but to prove who should be obliged and who should be given permission for the integration course.

31 Section 44, par. 1, no. 1 b) Residence Act.

32 Section 44, par. 3, nos. 2 and 3 Residence Act.

33 Section 44a, par. 1, sentence 1, no. 1 a) and b) Residence Act. The latter point was increased as a result of newly-introduced language requirements for spouses before entry by the Directives Implementation Act.

GERMANY

Those who do not possess adequate language ability in German and who obtained their first residence permit for the purpose of family reunification, as well as Jewish immigrants who usually obtain a settlement permit after entry and their dependants who hold a residence permit are obliged to participate in the integration course. The obligation is also acknowledged in other cases of the first-time issue of a residence permit, if the foreigner is not able to communicate in German in a personal conversation without the help of third parties. Furthermore, third-country nationals who are 'in special need of integration' can be also obliged to attend the course within the agreement on integrating the individual into employment according to the Code of Social Law (SGB II), regardless of their residence status and the length of time spent in Germany. The officials establish whether the third-country national is able to communicate in German or not, e.g. during his first personal appearance at the Foreigners' Authority or if he is unemployed or speaks to the official about his poor knowledge of German.

German nationals who do not possess an adequate (intermediate) language ability (level B1) are also in need of integration if they have not yet succeeded in integrating into the economic, cultural and social life of the Federal territory without public funds or state assistance (Section 5, par. 3, Ordinance on Integration Courses). However, refugees and foreigners with subsidiary protection are not in need of integration in accordance with the law because of their residence for purposes of an inherently temporary nature³⁴. As soon as this population group obtains its first residence permit, entitlement to the integration course should be also reserved for this population group³⁵. Participation in the integration course may be also envisaged for EU citizens if places are available on integration courses so that they can be admitted to attend the integration course. The BAMF decides on the admittance of EU citizens and their dependants who are entitled to freedom of movement (Section 11, Freedom of Movement Act and Section 44, par. 4, Residence Act). Long-term residents may not have been obliged to attend the orientation course since 2007 if they have already taken part in integration measures in another Member State and this was intended to acquire permanent residence pursuant to the Directives Implementation Act (Section 44a, par. 2a).

34 Persons in possession of a residence permit pursuant to Section 25, par. 3, par. 4, sentence 2 and par. 5, Residence Act have not been entitled to an integration course yet.

35 The settlement permit for freelance workers who are in possession of the language ability at level B1 can be granted because of their self-employment within the three-year limit. Persons entitled to asylum and Convention refugees can obtain a settlement permit because they have held a residence permit for three years (Section 25, par. 1 and 2). Persons who migrated on humanitarian grounds obtain a settlement permit because they have held a residence permit for the required seven-year period (Section 26, par. 4).

GERMANY

Furthermore, another new aspect is that parents with the sole duty of care for minor children living in Germany and in possession of a settlement permit or residence permit, who are dependent on state assistance and are not able to communicate in German at a basic level, are accepted as persons in special need of integration and are thus obliged to attend the integration courses (Section 4, par. 3, Ordinance on Integration Courses). Moreover, one of the duties of public agencies should include reporting to the competent Foreigners' Authority, pursuant to section 87, par. 2, sentence 2, Residence Act, if they obtain knowledge of a special integration need in accordance with the Ordinance on Integration Courses, within the context of the fulfilment of their duties. This regulation was criticised in particular by welfare organisations and unions. From their point of view, schools, for instance, are related to public bodies and parents could regard the teachers with distrust because of this regulation. However, the Foreigners' Authority is currently criticising the cooperation of public bodies that could push forward the integration not only of adults but also of children. 'The opinion still prevails that the foreigner should be deported if a complaint can be filed with the Foreigners' Authority' (WS 30038 interview of 28 April 2010).

Exceptions

Permanently disabled persons who are aged 65 and over or persons who are excluded from the labour market because of the early retirement regulation, are not obliged to participate in the integration course. Foreigners are exempt from the course obligation if it is permanently unacceptable for them to attend an integration course because of special family-related or personal circumstances, for example, if a person is handicapped or cares for handicapped dependants. Nevertheless, a permanent hearing or visual impairment may not be accepted as a reason for not attending the course. Teaching one's own children is also not a reason for failing to attend the course; this is a consideration in particular in conjunction with the possibility of complementary childcare assistance.

A foreigner may be exempted from the language test and the test of basic knowledge of the legal and social system at the discretion of the authority in charge if a physical, mental or psychological illness or handicap make it impossible or permanently difficult to meet these requirements. In accordance with the law, age does not justify an exemption from the requirements. Nevertheless, an exemption from the language and societal requirements may be granted if the foreigner was already aged 50 or older when he entered Germany or if it was unreasonable or impossible in the long term to attend an integration course because of the dependent's need for care.

Type of test

The integration course consists of a basic language course and an advanced language course amounting to a total of 600 UE, as well as an orientation

course³⁶ currently consisting of 45 UE³⁷. The final language test, as well as the orientation course test, have been part of the integration courses since 5 December 2007 and must be completed. Successful participation in the integration course is certified by the BAMF. The *'Zertifikat Integrationskurs'* will be issued after passing the orientation course test as well as the language test (Section 17, par. 4, Ordinance on Integration Courses). The successful completion of the integration course before the introduction of the new Ordinance on Integration Courses was certified by the BAMF with the *'Bescheinigung über den erfolgreichen Abschluss des Integrationskurses'*. The BAMF issues the *'Bescheinigung über das erreichte Ergebnis des Abschlusstestes'* following correct participation in the integration course, but unsuccessful completion according to the Residence Act (= B1).

The nationally standardised test following the orientation course has been in force since 1 January 2009. The orientation course test was developed by the Institute for Development of Quality in the Training System at the Humboldt University of Berlin and contains 250 tasks that are handled in modular fashion. Test candidates have to answer at least 13 out of 25 questions correctly in the orientation course test in order to pass.

The *'Zertifikat Deutsch'* test was conducted in the integration courses until July 2009. The Goethe Institute and the German Adult Education Association developed the test at the beginning of the 1970s. The *'Zertifikat Deutsch'* test has also been conducted in German-speaking countries and worldwide by similar directives following revisions to the test at the end of the 1990s, made by the respective institutions in Austria and Switzerland. The *'Zertifikat Deutsch'* test is a globally-recognised certificate at level B1 that is usually intended by German language learners to be their first certificate.

The *'Zertifikat Deutsch'* test was replaced by the *'Deutschtest für Zuwanderer'* (DTZ) in the integration courses on 1 July 2009. The test was developed by the Goethe Institute and the telc GmbH on behalf of the Federal Ministry of the Interior in the years 2006-2009 and is customised to the special language requirements of immigrants. The DTZ is a scaled language test at levels A2 and B1. The aim of the scaling is to document the language acquisition achieved in some areas of language competence in a sophisticated manner. The scaling is developed to motivate the participants on the integration course to further language learning. CEFR level A2 does not imply the 'successful' completion of the integration course test according to the law, since it is a condition for the issue of the settlement permit or for naturalisation. Level B1 is required for a settlement permit or naturalisation.

From the teachers' point of view, the levels were grouped together in the new test to give the participants the chance to confirm their success (WS

36 On the planned increase in teaching units from 45 to 60, see section 2.2.2 at the end.

37 The whole integration course can comprise 945 UE in accordance with certain conditions at present; the maximum duration is 1,200 UE.

30044 interview of 30 April 2010). Level A2 should be certified as a pass if the participant has not yet reached level B1. From the teachers' point of view, the DTZ test is well-designed and is easier than the '*Zertifikat Deutsch*' test because the written tasks seem to have been reduced. However, it is not yet as fully developed as the former test format. It can be recognised that, 'the task formulation is to some extent unclear, everything in the DTZ test is quicker, there is no time for preparation for the oral test, no break, and the test is continuous compared to the '*Zertifikat Deutsch*' test. The DTZ test can still be improved a little' (WS 30047 interview of 5 May 2010).

The DTZ test consists of an individual written examination and an oral examination in a group. It lasts approximately 110 minutes per participant (25 minutes for listening, 45 minutes for reading, 30 minutes for writing and approximately ten minutes for speaking). Level A2 or B1 is certified according to the number of the correctly completed tasks. Test candidates who attain level B1 at least in speaking and in one of the written tasks should be certified at level B1. The test is carried out in Germany, taking into account the uniform standards, and has been validated.

A renewed obligation to attend an integration course is not considered, unlike previous practice. However, the foreigner should be required to complete the course if he has started attending the integration course but has not completed it yet and this is confirmed by the BAMF. Participants in the literacy courses have not to pass the no longer binding for them final language test since November 2009 if they take the possibility to repeat the advanced language course up to 300 UE. The possibility to repeat the advanced language course was generally limited by the BAMF for all other participants in spring 2010. A participants who has reached level A2, should be permitted to repeat the advanced language course. This change is probimatically for participants with level below A2 who should not be permitted to repeat the advanced course and are in need of further language promotion.

The integration course has aimed to provide intermediate language ability and basic societal knowledge since 2007 (Section 43, par. 2, sentence 2, Residence Act). The lack of a successfully completed integration course is relevant for the issue of the settlement permit or naturalisation. Nevertheless, sanctions related to the right of residence can be only linked to the lack of 'proper' participation in the integration course. If the third-country national has not complied with proper participation in the integration course for reasons attributable to him, various sanctions are possible by considering certain information: 'recognising' non-participation related to extension of the residence permit, granting the settlement permit, as well as naturalisation³⁸. Concerning the renewal of the residence permit, it is possible to react with a discretionary expulsion order to violation of the attendance obligation (not

38 Section 8, par. 3, 9 par. 2, sentence 1, no. 7 and 8, Residence Act, as well as Section 10, par. 3, Nationality Act.

only as a minor infringement of legal regulations)³⁹. Following a lack of cooperation by a foreigner who has repeatedly and grossly violated the attendance obligation, the authority has to justify either ordering him to pay a fine or refusing to extend his residence permit (cf. Section 8, par. 3, sentences 2 and 3, Residence Act). Refusing to extend the residence permit is never possible if the foreigner lives in the family home with a German or a national from another state who cannot, in law or in fact, leave Germany for their common country of origin. However, refusal is possible if the foreigner who has not complied with the proper attendance obligation applies for a settlement permit.

Moreover, the administrative constraints can be imposed, if necessary, following an infringement: it is possible to impose a fine of up to €1,000 in the event of violation of the obligation to attend an integration course⁴⁰. Moreover, there are financial consequences, which were made stricter. In accordance with the former version of 2004, social security benefits were reduced to foreigners by up to 10% for the duration of the violation of the obligation if he was responsible for it. Pursuant to the Code of Social Law (SGB II), these should have been reduced by up to 30% since 2007.⁴¹ Social security assistance should be reduced to zero if the recipient of social benefits does not follow the official request to participate in an integration course (BTag-Drs. 16/12979).

Proof

Language ability in German at an intermediate level is required for the issue of permanent residence permit. Before the Immigration Act came into force, a basic command of language was proposed as part of the permanent residence permit process; 'this corresponds today to level A1 and was proved by the officials in charge and was meant to be sufficient' (WS 30038 interview of 28 April 2010). It involved a simple hearing and simple oral answers. A foreigner who was in possession of a residence permit or residence status for exceptional purposes before 1 January 2005 was required to have a basic oral command of the language and no basic knowledge of the legal or social system for the purposes of granting the settlement permit (Section 104, par. 2). It is also still possible to present a certificate of language ability at level B1. Nevertheless, attendance at an orientation course should generally be required in this case in Bavaria (WS 30038 interview of 28 April 2010).

39 See section 55, par. 2, no. 2, Residence Act, Administrative Ordinance 44a., 3.2.6. Information on cases of use is not available to the authors at present.

40 Section 44a, par. 3, sentence 2, Residence Act; Section 98, par. 2, no. 4, Residence Act.

41 Cf. 7. *Lagebericht* (2007: 231) as well as Administrative Ordinance 44a., 1.3.1.

Permanent residence status may be granted in the form of a settlement permit or EC long-term residence permit.⁴² A migrant who is in possession of a permanent residence permit not only has the security of being allowed to stay, but also advantages with regard to family reunification, employment, and finding accommodation. The essential difference between the EC long-term residence permit and the settlement permit is the fact that the former permit provides those affected with more mobility within and outside the EU. 'The EC long-term residence permit plays a minor role because it concerns people who want to work in other European countries. The conditions are basically similar and differ only in few respect' (ibid.). The permanent residence permit may be granted if the applicant has intermediate language ability and a basic knowledge of the legal and social system. The Foreigners' Authority has to prove that the foreigner has not successfully completed the integration course (Section 9, par. 2, sentence 2).

Societal knowledge usually has to be proved by passing the nationally standardised orientation course test within the integration course. Proof of societal knowledge is also accepted without taking the test if the foreigner can prove that he has finished German secondary school (*Hauptschule*), a comparable or an 'advanced' German secondary school.

The required language ability should generally be regarded as achieved if the foreigner possesses the '*Zertifikat Deutsch*' or has passed the DTZ test at level B1, successfully completed at least four classes at a German-speaking school (and progressed to the following class), finished German general secondary school (*Hauptschule*) or at least an equivalent German secondary school, or if he was moved into the tenth year of an upper German-speaking secondary school (*Realschule, Gymnasium* or *Gesamtschule*), if he has been awarded an academic degree or diploma from a German-speaking university or University of Applied Sciences or successfully completed vocational training in Germany. If the required language ability is not or not sufficiently demonstrated by diplomas or certificates, it should be recommended that the foreigner attend a language course. If the Foreigners' Authority is convinced, during a personal interview, that the foreigner apparently possesses the required language ability, the language test will not be required (BRat-Drs. 669/9, p. 98). It was not emphasised within the interviews if this possibility has been used in practice yet. Intermediate language ability should be assumed if the foreigner is able to communicate on topics covering everyday life and can carry on a conversation and express himself in writing in accordance with his age and educational level.

42 The fee for the granting of the settlement permit for highly qualified immigrants is €200 (Section 19 par. 1 Residence Act), for migrants who are self-employees €150 (Section 21 par. 4 Residence Act), for the settlement permit in other cases €85 (Section 44 Directives Residence Act), for the EC long-term residence permit €85 (ibid.).

Costs of preparing for the test

If necessary, the subsidies from the BAMF should cover the costs of traveling to the course if the participant is obliged to attend the integration course by the Foreigners' Authority (Section 4, par. 4, sentence 2, Ordinance on Integration Courses). Participants with an order (*Berechtigungsschein*⁴³) to attend an integration course (i.e. self-funding participants) have to pay €100 per module (100 UE). Participants without an order may pay a reduced course fee (between €200 and €350 per 100 UE). The fee for the orientation course is €45 for participants with an order and €60 without an order (Munich, situation as of May 2010). Recipients of social welfare and unemployment benefits do not have to pay for the integration course or the tests within the integration course. The costs for the whole integration course are normally €645. The costs for the target group-specific courses are between €945 and €1245 depending on UE. Guidelines are set by the examination institutions for test fees; however, the test fees are different in the various federal states: The test fee in Munich for internal candidates is €110; the test fee for external candidates is €160 (situation as of May 2010). Self-funding participants have to pay €97 for the test in Brandenburg, applicants for naturalisation pay €78.65. The fee for the '*Zertifikat Deutsch*' in Osnabrueck is €125. The fee for the '*Zertifikat Deutsch*' in Mainz is €100; it is about €78.65 in cases where the naturalisation procedure has to be proven.

The costs for immigrants to fulfil the integration requirements for the permanent residence status amount to €85 (the cost of the settlement permit) or €730 (the cost of the settlement permit and the course fee) or at most €1.440 (for the settlement permit, the course fee, and the test fee).

On the one hand, analysis of the test format and the language requirements for residence by immigrants in Germany shows that language courses are being extended and made available not only to newly-arrived migrants, but also to the so-called 'long-term residents' with regard to promotion. On the other hand, an obligation to attend the course and to take the test or to prove language ability in order to guarantee the progress made towards integration are required of migrants for the purposes of extending their residence status in Germany. This development will be discussed in the next section.

Purpose of the Test

The Immigration Act 2004, with the new concept of the integration programme, was agreed on a cross-party basis. The financing of the integration course alone was the subject of debates at parliamentary level. It was decided in favour of giving (main) responsibility for funding to the federal government. The central aim of the integration course is to enable foreigners to act independently as

43 Der Berechtigungsschein ist amtliches Papier, das dem Migranten sein Recht bestätigt, an Integrationskursen teilzunehmen.

quickly as possible, without state assistance or the mediation of third parties. The aim of the integration course stipulated in the law is to acquaint foreigners with the way of life in the Federal territory to such an extent that they can act independently in all areas of daily life. In addition, pursuant to Section 43, par. 2, Residence Act, the German language, legal system, culture and history are taught to foreigners [successfully since 2007]. The first two years are considered essential in this concept (Michalowski, 2007). Hence, newly-arrived immigrants have a legal basis for attending an integration course within this time.

The target group is immigrants whose stay in the Federal territory is not temporary, which means that they are in possession of a settlement permit or a residence permit for the purposes of employment, for the purposes of family reunification or on humanitarian grounds. However, the integration course also focuses on so-called sustainable integration and is geared towards 'old immigrants', which means people who have lived in the Federal territory for over two years. They should attend the integration course if places are available. Both groups can be also compelled to attend the course: 'old' immigrants can be requested by the Foreigners' Authority or the institution in charge of the basic state insurance to attend such a course; new immigrants can be requested by the Foreigners' Authority to attend the course if they are unable to communicate in oral German at a basic level upon arrival (after the introduction of the language tests abroad in 2007, the same is true for spouses if they do not possess adequate language ability).

The discussion about the integration course was criticised by numerous migrant organisations and social services. They focused on evaluations and the underlying effects. Thus, the TGD emphasises the fact that German language learning and integration cannot be achieved by constraint, but by incentives. Pro Asyl warned about the nationalisation of the integration policy and its reduction to the integration courses, which may be part of other instruments of integration policy. Besides, the concrete design of the courses was criticised⁴⁴. In spite of numerous statements on the legal procedure, the Immigration Act entered into force in 2005.

This process, after the introduction of the course concept, is accompanied by an intensive evaluation. Since then, there has been some debate on the need for reform of the integration course. Some of the criticism resulted in the new Ordinance on Integration Courses in 2007. In the same year, legal changes were made as a result of the RLUMsG (introduction of the language tests before entry, introduction of the naturalisation test). Evaluations are given above all in the following official reports and expert opinions: the inte-

44 The cost burden for participants with regard to course fees and the costs of travelling to the course, the number of training units in proportion to the level of language proficiency and childcare assistance were criticised, among other things; for further details, see Hentges (2010).

gration courses were evaluated by the BAMF and the results of the language tests have been determined since 2005. In addition, the Rambøll Management Consulting Company evaluated the implementation of the integration courses. The final report and the expertise in the potential for improvement in the implementation of the integration courses were published in December 2006. Furthermore, it issued opinions in brief on the financing system of the integration courses on behalf of the Federal Ministry of the Interior and the BAMF in December 2009. In addition, the Assessment Commission on the integration courses was set up by the Federal Office to evaluate the curricula, teaching and learning materials and the contents of the tests and to develop the quality control procedure as well as the concept of the integration courses on a progressive basis (Section 21, par. 1, Ordinance on Integration Courses⁴⁵). Working Group 1 'Improving the Integration Courses' submitted its final report on 16 April 2007 to the Federal Ministry of the Interior within the National Integration Plan initiated by the Federal government. Since then, a long-term study has been prepared by the Federal Office: This representative longitudinal study has built on the results of the survey of participants, carried out by the Federal Office in 2005, and the evaluation issued by the Rambøll Management Company in 2006. Approximately 4,000 participants in the integration and literacy courses were interviewed and compared to a control group in the study at the beginning, at the end, and a year after completing the course in the period 2007-2010 (8. Lagebericht 2010: 245).

The introduction of the standardised final orientation course test (also) goes back to the recommendations of the Rambøll Company within the evaluation of the language and orientation courses. The test has been justified by the improved and homogeneous measurement of results and improvements to the course contents (see, for more detail, Hentges, 2010). In the Coalition Agreement of 2009 the increasing number of teaching units in an orientation course (from 45 UE to 60 UE) was explained by the opportunity for the course graduates 'to become familiar with how our democratic constitutional state functions'.

Effects of the Test

Statistics

No quality control is exercised on the language ability of immigrants entitled to attend an integration course not based on results of the tests. The current nationwide participation rate of immigrants entitled to participate in the integration course is 77% and the course drop-out rate amounts to about 10% (BTag-Drs. 17/194, p. 12). No reliable, differentiated data are available on the

45 Pursuant to par. 2 the Federal Ministry of the Interior has appointed the members of the Assessment Commission for three years.

immigrants who have not met the obligation to attend an integration course (ibid.). After the highest number of course graduates in 2008, the number of participants newly-entitled to attend the course has fallen to 145,934. Of these, 116,052 have begun to attend an integration course; 600,374 persons with a migration background have taken part in the courses since the integration course was introduced (8. Lagebericht 2010: 238). According to the BAMF, the current number of people who refused to take part in the integration course is 8-10% (ibid.). Compared to the number of participants in 2007, the proportion of recipients of unemployed benefits in accordance with the SGB II who are entitled to attend an integration course has sharply increased in recent years. More than half of the attendance obligations were imposed on foreigners with a longer period of stay in Germany (8. Lagebericht 2010: 239f.).

Municipal officials have been able to judge the changes in the language ability of those entitled, beginning in 2010 when immigrants who were obliged to attend the course applied for permanent residence status after spending five years in Germany. This means that they have had no means of proving the figures for this yet. As a rule, the officials estimate the improved language ability of applicants. According to the officials interviewed as part of the study, it has not been a problem – with a few exceptions – to implement the obligation since the Immigration Act came into force (WS 30039 interview of 28 April 2010 and WS 30054 interview of 17 May 2010). Rather, there has been something of a ‘run’ on participation in the language courses in Munich, regardless of the obligation, whereas teachers of the integration courses in Potsdam have had to motivate entitled migrants to learn German: ‘I can make them willing to learn only if I am open to methodical approaches and teach them true-to-life. At the moment, I have many English speakers; they usually manage to get by in life because they speak English. It is very difficult. [...] It is very difficult to motivate them to take the tests’ (WS 30039 interview of 28 April 2010 and WS 30056 interview of 20 May 2010). On the one hand, different perceptions of language courses probably have to do with employment opportunities for immigrants, which are greater in regions with a strong economy, such as Bavaria, than in Brandenburg for example. This can be a stronger motivating factor. By externally exerted pressure in regions with economic strength, the courses encourage immigrants to improve their integration possibilities, so they gave the municipal officials positive feedback (WS 30039 interview of 28 April 2010). On the other hand, this cannot be separated from the integration efforts made by the municipalities, which can be additional motivation for the participants and create a climate of integration promotion.

Furthermore, the teachers interviewed within the study pointed out the fact that there are no motivation problems in the so-called standard language courses, which have been attended optionally by direct fee-payers (WS 30047 interview of 30 April 2010). 56.4% of participants have taken part in a course

without being obliged to do so (8. *Lagebericht* 2010: 239). In Munich, the proportion of immigrants not entitled to attend the course amounts to 60%: 'If we look at how many courses have been completed by participants without being obliged that is a considerable number. There are many voluntary participants who want to learn without being under pressure. It has already been successful. The efforts of the participants are remarkable' (WS 30039 interview of 28 April 2010). According to the teachers, the number of course participants in Potsdam and Stuttgart would decrease without imposing the obligation to participate in the integration course, although there would still be continued interest in the courses (WS 30056 interview of 20 May 2010, WS 30044 interview of 30 April 2010).

However, from the municipal officials' point of view, it is not possible to assess now whether enforced participation in the integration course has really improved language ability and whether immigrants have completed the integration course successfully, although forced to do so, or have just been muddling through (*ibid.*). The teachers have also reported that success rates are always different. On the one hand, from the interviewees' point of view, the teachers can train course graduates for the test and can motivate them, so they play an important role in terms of their success. On the other hand, the test results are of limited reliability: 'Passing the examination has not resulted in language competence yet' (WS 30044 interview of 30 April 2010). Some participants on the courses in Stuttgart as well as in Potsdam, for instance, have successfully passed the test at level B1 and have then repeated the integration course as voluntary direct fee-payers because their command of the language was not adequate, or rather not consistent, and a new grading test at level B1 shows that they do not possess intermediate language ability. According to statements by the teachers, the following phenomenon occurs at the same time: 'Participants who have completed their modules have to fail the DTZ test to obtain further language promotion, so why would they not want to pass the examination? This must be regulated differently. Course instructors can estimate further participation. Otherwise, it is a torment' (WS 30047 interview of 5 May 2010). This means that individual participants fail the examination for this reason. In 2009, 33,367 persons were admitted by the BAMF to retake the course, while 27,174 of them grasped this opportunity in the same year (8. *Lagebericht* 2010: 242). Since spring 2010, in accordance with a reorganisation by the BAMF, participants may be permitted to repeat the advanced language course if they have reached level A2 in the DTZ test (*ibid.* 243). In view of the development described above, this reorganisation is problematic.

According to the teachers interviewed in this study, participants who have made an effort in the integration courses can reach CEFR level A2. That should not mean many cases of refusal of the settlement permit in the coming years because these persons will not apply for this status. Nevertheless, the number of persons who are in possession of the settlement permit will

probably decrease. University graduates can also reach level B1. This is different for those not used to learning and for educationally deprived immigrants. From the teachers' point of view, this may be partly caused by the lack of motivation, which is the result of excessive demands (WS 30056 interview of 20 May 2010). If the proportion of educationally deprived participants is high, the success rate is 40%: 'I have never known educationally deprived participants, who have completed the course with 1,200 UE, to have reached level B1, quite possibly level A2' (WS 30039 interview of 28 April 2010). Illiterates and educationally remote participants have difficulties gaining a foothold in regular courses and to passing the test⁴⁶ (WS 30044 interview of 30 April 2010). At the same time, the teachers emphasised in the interviews that literacy courses and courses for women with childcare assistance are required, and the number of these places is limited, e.g., in Munich (WS 30039 interview of 28 April 2010). The *Lagebericht* emphasises that literacy courses and integration courses for parents and women have experienced nationwide popularity (2010: 240), so that childcare assistance is a current problem, e.g., in Munich, and no courses with childcare assistance are currently offered there (WS 30039 interview of 28 April 2010). Furthermore, courses for shift workers are also required in economically strong regions (*ibid.*). Another population group which has not been addressed yet is immigrants who moved to Germany in the years 2005-2007 and were not obliged to attend an integration course and whose entitlement has lapsed because of the two-year obligation (*ibid.*).

Table 2.2: Success rates for the integration courses

Year	Number of course graduates	Number of test candidates	Number of test candidates who have reached level B1 A2)	Success rate test candidates	Success rate course graduates
2008	73,557	61,025	37,438 (B1)	61.3 % (B1)	50.9 % (B1)
2009 (1st half-year)	33,057	38,284	21,942 (B1)	57.3 % (B1)	66.4 % (B1)
2009 ⁴⁷ (2nd half-year)	37,911	53,451	25,212 (B1) 20,225 (A2)	47.2 % (B1) 37.8 % (A2)	66.5 % (B1) 53.3 % (A2)

Source: 8. Lagebericht (2010: 244), own interpretation

46 It should be pointed out here that the BAMF has allowed the participants in literacy courses not to participate in the compulsory test since November 2009, as long as they have looked into the possibility of repeating the advanced course and have completed the integration course with 1,200 UE (8. Lagebericht 2010: 242).

47 The scaled DTZ test was introduced in the second half of 2009, so differentiated data are available on the achieved level of proficiency. The number of test candidates is higher than the number of course graduates because the course graduates can be counted only once and retakes are included among the test participants.

The data collected by the BAMF show the following development of the success rates in the integration courses: 46.3% of course graduates reached the legitimate target level B1 between 2005 and mid-2008 (BTag-Drs. 16/13329, p. 1), while the success rate for course graduates continued to increase in 2008-2009, or since the new regulation was introduced, and was 50.9% in 2008 (8. Lagebericht 2010: 244). The table above shows the success rates in the years 2008-2009.⁴⁸

It has been possible to present differentiated data on the language ability of test participants and course graduates since the DTZ test was introduced. On the one hand, an analysis of the data on success rates shows that the course graduates have reached level B1 to a greater extent than the test candidates, i.e. two-thirds of the course graduates have reached level B1. This number is a little higher than in previous years, however, it represents only a single-digit change and shows room for improvement. On the other hand, the results of the currently introduced DTZ test show that only half of the participants was able to reach level B1, whereas 15% of test candidates or 21% of course graduates remain below level A2 (8. Lagebericht 2010: 244). The statistics for the success rate of the nationally standardised orientation course test that have been separately collected since 2009 show that 88.7% of course graduates and 91.9% of test candidates passed the orientation course test (ibid: 245).

Tests in Germany: are the goals achieved?

From the course graduates' and course instructors' points of view, regional aspects within the integration course are particularly interesting (WS 30047 interview of 5 May 2010). According to the teachers of integration courses and the course graduates, a very high level of proficiency in the orientation course, as well as the examination vocabulary, which is very difficult for participants, are drawbacks (WS 30056 interview of 20 May 2010). According to statements by advanced language learners, the orientation course is the most interesting and most important part of the integration course. From the teachers' point of view, the orientation course is very good in general, 'because some people have no idea about Germany or may also have a lot of prejudices, and the relationship between men and women is very important' (ibid.). Furthermore, it was also pointed out in the interviews that some participants, particularly those who are obliged to attend the course and for whom it is difficult to pass the orientation course test, want to know exactly

48 The success rates for the years 2008-2009 cannot readily be compared because the integration course was completed by passing a newly-scaled test in 2009 and the success rate has been separately processed with regard to the language test and the orientation course test since 2009. The success rate showed the overall result of the successful language and orientation course tests until 2008.

the information that is requested in the test in order to cram for the orientation course test, which means that they are not interested in other information (WS 30056 interview of 20 May 2010). The fact that the integration course is over-regulated, which causes poor quality, is viewed in a negative light by the teachers interviewed. For example, a political scientist who taught orientation courses in Hamburg in the first few years following their introduction may not run further orientation courses without additional education. At the same time, some teachers expressed the view that it would be more advantageous if the responsibility for the form, content and implementation of the orientation course were transferred to the Federal Agency for Civic Education or the State Agency for Civic Education, because they have more experience in this area.

Furthermore, not only language aspects but other spin-offs from the integration course were also verbalised in the interviews: 'It is not the most important aspect, that participants reach level A1 or level B2, but also that they can feel good here, that they do not become criminals. We do a lot of social work; make them feel at home, it depends on the course how this can be strengthened. This is the most important aspect. [...] the language ability is important, but the social aspect is much more important for the process of integration. Passing the examination at level B1 has nothing to do with integration. It is difficult for some participants to contact other people; some participants boycott the group work. The course is important for those participants to win trust, in general, so that they can be included in a course together with other people, for the first time' (WS 30056 interview of 20 May 2010); 'Many participants are also fond of the content of the integration course, it is true to life, and the composition of the course is often fairly good. Contacts with other people are spin-offs' (WS 30039 interview of 28 April 2010).

Both the teachers and the migrant advisory services expressed the view that language ability and test results are overstated in the process of integration. However, the social and integrative implications of the courses were emphasised in the interviews. Municipal officials, teachers, migrant advisory services to some extent, as well as migrants, agreed that integration requires more services than integration courses and that the language courses have only barely addressed unskilled migrants, so that they do not have the chance to acquire more advanced qualifications through these courses: 'The educational offensive that took place in the 1960s, something like that is important for immigrants and there is too little progress in this direction' (ibid.). 'Skilled people could manage it without a knowledge of the German language. Germany's problem is that there are many unskilled people with a migration background. They are currently learning this by heart. I would do something else; I would invest in school education and vocational education. I have almost never used my German language knowledge and was able to start my business as an architect. [...] the social laws are wrong if the state is

still afraid of immigration in the social system'' (WS 30053 interview of 7 May 2010 with a migrant woman from Serbia, 50 years old).

The migrants' line of argument in the interviews within this study is recognisable. They identify themselves as a part of German society not through language ability, but through their employment: 'Because I work, I feel integrated' (WS 30030 interview of 15 April 2010 with a Turkish migrant, 26 years old). 'I am part of society because I work here, taxes are paid and this is already enough integration.' 'Integration is more than answering a few questions in German about Germany' (ibid.). In addition, for some immigrants, integration means tolerance of cultural differences: 'I am a Muslim; I drink no alcohol and say nothing about people who drink alcohol, so I call this integration. I had a neighbour who told me that my children should not speak Turkish. If Germany demands the same from me, I am not able to do this' (WS 30031 interview of 15 April 2010 with a Turkish migrant, 38 years old). Other migrants assume that some culture-based attitudes may pose more of an obstacle to integration than inadequate language ability (WS 30053 interview of 7 May 2010 with a migrant woman from Serbia, 50 years old). Nevertheless, the migrants think otherwise about the relationship between the citizenship and language ability. Moreover, they were of a common opinion during all the interviews, that applicants for German citizenship should be able to speak German.

The teachers emphasised that it is generally adequate to require level B1 of applicants for German citizenship or a resettlement permit, whereas level B1 is not adequate for the professions because it is very basic. On the one hand, that means that it is easier to attain level A2. On the other hand, level B1 should be required from these applicants from the point of the teachers interviewed. There has recently been a rise in the demand for language courses at level B2 for the professions, as well as for general courses at level C1, which are not for professional purposes (WS 30047 interview of 5 May 2010). 'We receive inquiries from organisations that would like to send people to us who should be qualified for the next level, B2. Level C1 is obtained by medical graduates and doctors.⁴⁹ We have offered the language course at level C1, including the test, since September 2010. We are receiving inquiries in this direction, it is quite new. Within the recognition procedure, it will increase even further' (WS 30039 interview of 28 April 2010). The migrant advisory services set the following target with respect to integration: 'Depending on where I want to go, it deals more or less with knowledge of the German language. I do not need level B1 for every profession' (WS 30025 interview of 9 April 2010).

49 Background: Pursuant to the EC Directive 2005/36 the language ability, which is essential for profession, is admissible (Art. 53). That means in Germany, that the CEFR level B2 (Federal Law Gazette 2007, I p. 2686) is a condition for the granting of a medical professional permit and/or a licence to practise medicine.

GERMANY

The experience that the municipal officials have gained is that the requirements regarding means of subsistence cause greater difficulties for migrants than the language requirements: 'Especially in Munich, rent costs are high and subsistence is expensive. The needs of both spouses must be covered within the family. These requirements should arise if the family has many children. Foreigners in the guest worker generation and former refugees still have problems with this. That does not mean that they do not work, but that they earn relatively little because their salaries are in the low wage sector' (WS 30039 interview of 28 April 2010). The ruling by the Administrative Court of Luneburg of 18 January 2007 clearly showed that migrants who work in the low-wage sector have no chance of obtaining the settlement permit, 'even if they have not asserted their entitlement to complementary benefits in accordance with the SGB II for years' (8. *Lagebericht* 2010: 465). The number of affected persons compared to the general population amounts to 25% (ibid.). The ruling of the Administrative Court of Stuttgart of 23 January 2006 to require the means of subsistence not only from an applicant for a settlement permit, but also from his dependents, was written in the General Administrative Ordinance-Residence Act, although it has not yet been confirmed by the Supreme Court (8. *Lagebericht* 2010: 468).

An analysis of the residence status of immigrants at the end of 2008 shows that two-thirds of foreigners – including third-country nationals and European Union citizens – were granted permanent residence status at the end of 2008 (Rühl, 2009: 39). Taking only the third-country nationals into consideration, only about half of the third-country nationals living in Germany (55.8%) at the end of 2008 possessed a permanent residence permit. The differentiation according to nationality shows that Croatian, Turkish and Ukrainian nationals were most often in possession of the permanent residence status at the end of 2008 (83.9%, 68.9% and 68.8% respectively) and Chinese and Iraqi nationals, as well as Kosovars, were the least likely to hold that status (15.5%, 24.9% and 30.2% respectively) (ibid: 41 f.).

Jurisprudence

The federal government reiterates that, 'command of the German language is a basic prerequisite for education and training, for integration into a profession, for civic participation and for social advancement' (Coalition Agreement, 2009). Besides, the integration courses are described as the most effective federal instrument for language promotion.

Spouses are again a target group that plays a special role in the manifesto: 'We will incentivise successful learning. We want to improve the management of integration courses specifically to enable persons who have acquired preliminary German language skills in their country of origin outside Germany to join their spouses and be able to transfer to the integration course as quickly as possible' (ibid.). In accordance with the Coalition Agreement (2009), an integration agreement should be created to increase

commitment levels in individual integration assistance: '[...] Integration agreements will contain commitments for the necessary measures to be taken to ensure successful integration into German society and into the German labour market; they will be reviewed on a regular basis. Emphasis will be placed on information and advice about the services offered by government and community organisations. We will include models featuring individual consultation such as *Integrationslotsen* (integration facilitators). Interfaces between advisory services and education providers will be verifiably improved'.

Moreover, further ideas for language promotion exist. Nationally standardised and binding language tests should also be expanded to all four-year-olds, if they have not passed the new language acquisition test, but also for the purposes of language programmes that should accompany school education: 'Parents who are responsible for the education of their children must be able to speak our language so they can provide their children with the best conditions for being successful in school' (Coalition Agreement, 2009). In addition, it should be possible in the future to require parents to participate in an integration course because, from the federal government's point of view, the welfare of the child is jeopardised by the parents' lack of knowledge of the German language (*ibid.*). In this case the parent's lack of the language ability may be regarded as grounds for expulsion.

The federal government puts more emphasis on the language offensive instead of the education offensive, which is expected of those affected and the migrant advisory services. It is doubtful whether further obligations to attend the language courses can produce more rapid success in the process of integration. Political interests obviously invade privacy and family life more deeply.

2.3 Integration Test in the Naturalisation Procedure

The requirement of 'knowledge of the legal and social system and the way of life in the Federal territory' was included in the Directives Implementation Act 2007 as a further prerequisite for naturalisation. This knowledge has been demonstrated by the nationally standardised naturalisation test since 1 September 2008.

Description of the Test

Background

Until 2000, as part of the naturalisation procedure of applicants who had spent at least 15 years in Germany, their previous knowledge of German at the time of the application is already assumed. This means that naturalisation took place without proof of any language ability in German and it was possi-

ble for migrants with no knowledge of the German language to be naturalised. That practice has changed since the new version of the Nationality Act (StAG) came into force in 2000: this required not only that the length of time spent in Germany⁵⁰ be reduced (to eight years), but also that immigrants interested in gaining citizenship had to be in possession of intermediate language ability. Proof of language ability in the naturalisation procedure was possible in different ways. There were no nationally standardised tests and either oral or oral and written language ability was required.

In Bavaria, the language tests have already been conducted beforehand in cases where naturalisation is granted at the authorities' discretion, where every official in charge runs his own dictation and conducts a conversation with a naturalisation applicant (WS 30039 interview of 28 April 2010). For example, one official read an article from the newspaper *Bild* and the applicant had to write down that text. Another official used his own text. That was not standardised. Furthermore, in accordance with the amendment in 2000, knowledge of the German language in oral and written form or proof of language ability by means of the 'Test Deutsch' at level A2+ were required in Bavaria. Since 2007, this has changed to the 'Zertifikat Deutsch' test in cases of claims for naturalisation (ibid.). Since 2000, in Baden-Württemberg, the language test has been conducted by the VHS at a level slightly below the level that is required in the present-day naturalisation procedure (WS 30043 interview of 30 April 2010). The previous language test (A2+) in the naturalisation procedure in Baden-Württemberg was easier in terms of listening and speaking (WS 30044 interview of 30 April 2010). To take the oath of loyalty as part of the naturalisation procedure, when required, the conversation between an applicant and the official in charge was conducted in Baden-Württemberg, in which not only verbal expression, but also specific knowledge was further examined. Naturalisation applicants may have been asked what they understand by democracy (ibid.).

In accordance with the amendments of the Directives Implementation Act since August 2007, migrants intending to acquire German citizenship must be in possession of adequate language ability and – since the respective Ordinance of September 2008 – knowledge of the legal and social system and the way of life in the Federal territory. This also applies to spouses of Germans within the privileged naturalisation process.

The requirements of appropriate language ability and civic knowledge should be ascertained by the Naturalisation Authority or Nationality Author-

50 The spouse of a German must spend three years in Germany to be eligible to acquire German citizenship. The co-naturalisation of a spouse and descendents is possible after four years spent in Germany. Furthermore, foreigners are normally eligible to acquire citizenship after eight years, or after seven or even six years, in cases of special integration achievements.

ity⁵¹. Only migrants intending to acquire citizenship do not have to be in possession of civic knowledge if they applied for citizenship before 31 March 2007 and if their naturalisation procedure was completed before 1 September 2007.

Proof

The prerequisite of language ability within the naturalisation procedure does not necessarily require the test to be taken and should be accepted as being fulfilled upon presentation of the following certificates, which state language ability at CEFR level B1: ‘*Zertifikat Deutsch*’ (German language Certificate) (also ‘*Zertifikat Deutsch für Jugendliche*’ (German Language Certificate for Youth); ‘*Zertifikat Deutsch für den Beruf*’ (German Language Certificate for Work); ‘*Zertifikat Deutsch Plus*’ (German Language Certificate Plus); ‘*DTZ*⁵²’ at level B1, ‘*Zertifikat Integrationskurs*’ (Integration Course Certificate) (participation in the integration course is successful if the number of points that are sufficient for level B1 is stated, in other words least 180 out of a potential maximum of 300 points), TestDaF, ‘*Zentrale Mittelstufen- oder zentrale Oberstufenprüfung*’ (Intermediate Examination or Advanced Level Examination) (ZMP or ZOP), ‘*Kleines Deutsches Sprachdiplom*’ (Basic German Language Diploma), ‘*Großes Deutsches Sprachdiplom*’ (Advanced German Language Diploma) and certificates of higher-level tests (e.g. ‘*Goethe Zertifikat*’ (the Goethe Institute Certificate) at level B2, ‘*Prüfung Wirtschaftsdeutsch*’ (Business German Test), etc.).

Furthermore, the following school certificates and university diplomas, as well as vocational diplomas, will be recognised as proof of language competence in the naturalisation procedure: successful four-year visit to a German-speaking school; German general secondary school certificate or an upper secondary school certificate; progress to the tenth year of intermediate secondary school, comprehensive school or grammar school; diploma from a German-speaking university or the University of Applied Sciences; German language certificate from the *Kultusministerkonferenz* (the Conference of Ministers of Education of the Federal States) (levels 1 and 2); and certificate of having completed at least a two-year vocational training course or continuing education in German. To meet the civic knowledge requirement, it is sufficient to be in possession of a German general secondary school certificate or similar, or an upper German secondary school certificate. An academic degree does not constitute proof of societal knowledge. In Baden-Württemberg this ruling has been adjusted in so far as science graduates in public admini-

51 Different municipal authorities may be responsible for naturalisation procedure: Registry Offices, Foreigner’s Authorities or Residents’ Registration Offices (Thränhardt, 2008: 21). The Foreigner’s Authorities and Naturalisation Authorities constitute in some municipalities one department (in Munich or Stuttgart).

52 Cf. subsection 2.2.1 in this report.

stration, law and politics do not have to take the naturalisation test (WS 30043 interview of 30 April 2010). Those who are not capable of acting (Section 80, par. 1, Residence Act) as well as minor children aged 16 and under do not have to take the naturalisation test either.

If the naturalisation applicant is able to convince the Nationality Authority, in a personal interview, that he is in possession of the required language ability, the language test will be renounced in this case (annexe to the *BMI-Rundschreiben* to the Ministries of the Interior of the federal states of 17 April 2009, p. 28).

Exceptions

Explicit legal exceptions were newly introduced for foreigners who cannot fulfil the required language ability in German because of a physical, psychological or mental illness or handicap or for age reasons (Section 10, par. 6, Nationality Act). This should avoid potential future cases of hardship, which have repeatedly occurred in practice, e.g. in the event of the naturalisation of people with a speech impairment. Not every illness or handicap results in the exclusion of the requirements of language ability in German and civic knowledge, only those that prevent the naturalisation applicant from acquiring this knowledge, in particular the inability to express himself orally or in writing, as well as congenital or acquired mental disabilities or age-related impairments. More favourable standards for language ability should be applied to older people, aged 60 and over, who have been living in Germany for twelve years.⁵³ Naturalisation applicants have to produce a medical certificate if the causes of the aforementioned exclusion are not obvious. Illiteracy has also been an obstacle to naturalisation since 2007. Illiterates can acquire citizenship only at the discretion of the authority pursuant to section 8 of the Nationality Act. Moreover, no general regulation exists. In Bavaria illiterates can take the 'Alpha' language test at the VHS, which is adequate proof of language ability in the naturalisation procedure and is targeted at illiterates. No special nationally standardised naturalisation test exists for illiterates (WS 30039 interview of 28 April 2010).

Preparation for the test

If naturalisation applicants cannot produce language certificates that state the required language ability, it will be recommended that they take the language test or, if necessary, attend the language course. Attendance at the

53 This rule can be found in the Administrative Ordinance of the federal states (vgl. auch <http://www.bundesregierung.de/Webs/Breg/DE/Bundesregierung/BeauftragtefuerIntegration/Einbuengerung/Ermessen/ermessenseinbuengerung.html>).

language courses is not obligatory within the naturalisation process. Naturalisation applicants who are not in possession of the appropriate language certificates may register for the language test at the VHS without having to finish an integration course. It is possible to try the sample on the Internet or to take a grading test at the VHS to check one's own language ability in German. The VHS offers tests and preparatory courses that generally take place at weekends. Naturalisation applicants can decide between the '*Zertifikat Deutsch*' test and the 'DTZ' test. The VHS in Berlin has conducted the language test for naturalisation since September 2007; it lasts 65 minutes (30 minutes for reading, 20 minutes for writing and 15 minutes for speaking). The Berlin language test is based on the level of the '*Zertifikat Deutsch*' test. Test candidates have to achieve at least 60% (36 points) out of a possible maximum of 60 points, although at least 15 points are required in both the oral and written parts. Compared to two other tests that generally demonstrate level B1 in the naturalisation procedure, the Berlin language test contains no explicit task to demonstrate listening skills. Therefore, it is easier to pass this test.

Since the introduction of the naturalisation tests, the VHS has offered preparatory training. Hardly any preparatory courses or events to provide information on the naturalisation test have been offered because of the lack of demand. Most naturalisation applicants prepare for the naturalisation test on the Internet or using published booklets. Booklets are published not only by the Government but also by various publishing houses. Individual migrants take the test without being prepared. Only a few migrants attend the specific course. The VHS in Munich offers a one-day course, '*Concise knowledge: History and Politics in Germany*', and at least 20% of the test candidates participate in this course. Since the end of the 1970s, Politics classes for immigrants have been offered in Hamburg. These classes are similar to the orientation course in terms of content. The classes are currently offered in the form of a ten-day seminar, which is recognised as educational leave by the federal states of Hamburg and Schleswig-Holstein.

Type of tests

The naturalisation test is nationally standardised. It is a test of knowledge and a multiple-choice test. The questions in the naturalisation test relate to the subject areas of '*Living in a Democracy*', '*History and Responsibility*' and '*People and Society*' as well as questions about the federal states. The naturalisation test is taken in writing. The VHS has to collect the test forms and forward them to the BAMF. The naturalisation test certificate is issued by the BAMF. The naturalisation test can be taken more than once. Every naturalisation test candidate receives a test form with 33 questions. At least 17 questions have to be answered correctly within 60 minutes in order to pass the naturalisation test. There are four possible answers for every question, but only one answer is correct. The naturalisation test bank contains a total of 330

GERMANY

questions (300 questions on German federal subjects and 30 specific questions on the federal states). A residential address has to be given during registration for the test. A test candidate who lives in Schleswig-Holstein, for example, and works in Hamburg can take the naturalisation test in Hamburg. His test form with 33 questions will contain three questions that refer to the federal state in which he lives. Except for the specific questions about the federal state, the naturalisation test in Baden-Württemberg is identical to the tests in other federal states. The additional form should be used in the naturalisation procedure in Baden-Württemberg with regard to the declaration of the free and democratic basic order if there is any suspicion that the activities of the applicant are not based on the Constitution and an inquiry to the Office for the Protection of the Constitution (*Verfassungsschutz*) results in relevant findings. In this case, the naturalisation applicant has the chance to explain these activities in a personal interview and to invalidate the reproach.

Costs of preparing for the test

The fee for the 'Zertifikat Deutsch' test, 'DTZ' test and language tests at the higher level is over €100; participation in the language test in all Berlin districts costs €23. According to the rules of the BAMF, the test fee is €25. If the test has to be retaken, the fee of €25 must be paid again. The naturalisation fee is €255 not only for adults, but also for children. In cases of the so called co-naturalisation of minor children, the fee is €51 (Section 10, par. 2, Nationality Act). In some federal states, the Naturalisation Authorities may decide in favour of naturalisation. The costs to immigrants in order to fulfil the integration requirements for naturalisation amount to €390 (naturalisation fee and test fees) or €1,035 (naturalisation test, test fees, and course fee).

In some federal states, the decision on naturalisation is taken by the Naturalisation Authority. The *Regierungspräsidium* (Regional Council) or the Ministry of the Interior of the federal state have to confirm the decision on naturalisation only in cases requiring approval, e.g., if it is more a matter of the acceptance of multiple citizenship. In some federal states, e.g. Brandenburg, the naturalisation decision is taken not by the Naturalisation Authority, but by the Ministry of the Interior.

The analysis of exceptional cases shows that societal knowledge carries more weight in the naturalisation procedure than language ability in German at CEFR level B1. The content of the naturalisation test is based on the subjects of the orientation course within the integration course and is thus very similar to the orientation course test; the number of questions in each test is different. It is currently not enough simply to pass the orientation course test to demonstrate the civic knowledge required in the naturalisation procedure.

Purpose of the Test

Several proposals by the Conference of the German Federal Ministers of the Interior (IMK) regarding the naturalisation procedure were included by the

legislator in the Directives Implementation Act 2007. The IMK argued in favour of the national chiefly uniform standards within naturalisation in the rulings of 4-5 May 2006 and 16-17 November 2006⁵⁴.

Since then, the requirements of possession of adequate language ability have been defined lawfully on the basis of the '*Zertifikat Deutsch*' test (CEFR level B1)⁵⁵. The background was that various requirements have been applied in the practice of the federal states so far. In particular, oral language ability was to some extent sufficient⁵⁶. The reason given for this was the purpose of the legal requirement – the guarantee of participation in the political decision-making process (cf. BT-Drs. 14/533).

The introduction of the naturalisation test was also proposed by the IMK in May 2006.⁵⁷ Until then, the Act and the Administrative Ordinance included an oath of loyalty, which also led to the different federal states' practices. The same conditions should currently be created in this respect. Hence, the legal naturalisation requirements were supplemented with 'knowledge of the legal and social system and the way of life in the Federal territory'. According to the Explanatory Memorandum, the regulation is based on the orientation course or the settlement permit regulation, which requires basic knowledge in this respect. However, this 'knowledge is required for naturalisation; to meet the integration-related levels', BRat-Drs. 224/07). This knowledge can be successfully demonstrated in the naturalisation test or in other manner – possibly by pursuing an appropriate German school education (e.g., secondary school, see above). Naturalisation courses should be offered to prepare foreigners for the naturalisation test. Participation in the naturalisation course is not obligatory. 'The regulations on the basic structure and the learning contents of naturalisation courses to guarantee nationally uniform standards', which are based on the subjects of the orientation course, have been written into the statutory ordinance. The introduction of the naturalisation test was a popular subject in the media, which have presumably spread the most fear of it. This measure was regarded by some migrant organisations as a strengthening of the immigration regulations and a formal

54 Moreover, these imply proof of oral and written language ability at the same level nationwide, higher requirements for the legal loyalty of naturalisation applicants, the introduction of naturalisation courses in which societal knowledge as well as the principles and values of the Constitution have to be provided and the introduction of the methods of proving the appropriate knowledge.

55 The lack of sufficient knowledge of the German language formed the grounds for exclusion so far. Now, it is systematically associated with naturalisation requirements.

56 The Administrative Ordinance (86.1.1 Administrative Ordinance-Nationality Act, *Bundesanzeiger* (Federal Gazette) of 31 January 2001, former version) did not mention that written ability is necessary.

57 Naturalisation applicants have been expected to demonstrate not only language ability, but also loyalty to the constitution. This led to the idea of developing and offering naturalisation courses in Bavaria.

obstacle to naturalisation (Agisra, 2009: 9). Furthermore, it triggered discussions about the tolerance for multiple citizenship in which, the *Paritätische* Welfare Organisation and the TGD, for example, have actively participated.

The federal government⁵⁸ will evaluate the effects and analyse the results of the language tests and naturalisation tests five years after this regulation's entry into force, i.e. in 2012. Moreover, in accordance with the Explanatory Memorandum, consideration should be given as to whether the integration courses that were evaluated in 2006-2007 contribute to achieving the level of proficiency required within the naturalisation procedure in advance (see BRat-Drs. 224/07, Article 5, no. 7, about Section 10, par. 7, p. 435).

Effects of the Test

Statistics

Compared internationally, the number of naturalisations in Germany is low (Thränhardt, 2008: 4). After the highest figures for naturalisation were reached in 1996 (302,800), a continuous decline was observed until 2006⁵⁹. After an increase in 2006 (124,566) to 7,325 naturalised persons, compared to the previous year (117,241) the number of naturalisations decreased in 2007 by 9.3% to 113,030 persons. In 2008, 94,470 persons were naturalised (BTag-Drs. 16/13707, p. 5). Compared to the previous year, this decline of 16.4% was sharper than in the previous period. In 2009, the number of naturalisations unexpectedly increased slightly to 96,121 (*Statistisches Bundesamt*, 2010: 17).

Table 2.3: Number of Naturalisations

Year	Number of Naturalisations	Year	Number of Naturalisations
1996	302,8	2004	117,2
1998	283,6	2005	124,6
2000	178,1	2006	113,0
2001	154,5	2007	94,5
2002	140,7	2008	96,1
2003	127,2	2009	302,8

Source: Federal Statistical Office (Statistisches Bundesamt)

Analysis of the figures for naturalisation shows an irregular development. The present increase is characteristic of German development as a whole. In

58 In cooperation with the Federal Government Commissioner for Migration, Refugees and Integration or, as well as the federal states, authorities that would involve the associations.

59 Comparability of the figures for naturalisation collected until 2000 is limited, because these figures have not been collected nationally standardised and have not been especially adjusted for the number of 'naturalisation' of *Spätaussiedler*.

GERMANY

several federal states the number of naturalisations decreased in 2009. The figures for naturalisation have increased in seven federal states (Baden-Württemberg, Bavaria, Brandenburg, Hamburg, Mecklenburg-West Pomerania, North Rhine-Westphalia and Saarland); a decline is observable in nine federal states: Berlin, Bremen, Hessen, Lower Saxony, Rhineland-Palatinate, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia. In addition, in Baden-Württemberg and Bavaria, the figures for naturalisation have increased for the first time since 2002, e.g. from 11,277 and 9,988 in 2008 to 12,212 and 12,053 respectively. In Berlin an increase was observed in the years 2005-2006 and numbers have now decreased from 6,866 in 2008 to 6,309 in 2009 (*ibid.*). From the point of view of an official, the reason given for the decline in the figures for naturalisation in North Rhine-Westphalia is the fact that naturalisation applicants need a certain lead time for preparation because of new language requirements (WS 30049 interview of 6 May 2010). In 2009, the number of applications for naturalisation in Munich almost reached the level of 1999 (2,957 and 3,009 respectively). It amounted to 3,191 in 2005 and stagnated below that level in the years 2007-2008. The reason given by officials for this development was the fact that implementation of the naturalisation test was delayed from the start (WS 30039 interview of 28 April 2010). In Stuttgart a naturalisation campaign was carried out in 2009. It resulted in an increase in the figures for application of 10% compared to the previous year (WS 30043 interview of 30 April 2010). It should be pointed out here that naturalisation practices differ in the federal states, in spite of the standardisation based on the requirements of language ability at level B1 and civic knowledge in the naturalisation test. Furthermore, the intermediate language ability that should be demonstrated in an interview with the Foreigners' Authority or the certificate of oral and written language ability which is issued as a result of the 'previous language tests' at the VHS are required in cases of naturalisation in accordance with the old law (WS 30044 interview of 30 April 2010). This interview shows that in Baden-Württemberg, for example, German language knowledge can be further tested at level A2+ (using an earlier, easier VHS test). In addition, discrepancies exist not only at federal level among the federal states, but also at municipal level (cf. Thränhardt, 2008: 18). Following Dietrich Thränhardt, the reason given for regional differences can be the fact that 'the intensity of the processing of applications, the length of the procedure [...] and the different administrative qualities cause the extremely irregular legal practices which affect the widely varying figures for naturalisation' (2008: 4).

Furthermore, the naturalisation behaviour of immigrants and how this behaviour is influenced by naturalisation practices and advisory services, the general integration -policy climate and new requirements also play an important role. No sufficiently valid or significant data or research results are available on the naturalisation behaviour of foreigners (8. *Lagebericht* 2010: 444). At the moment, 15.6 million persons with a migration background live

GERMANY

in Germany, 8.3 million of these are Germans (8. *Lagebericht* 2010: 38). The number of persons who have acquired their own migration experiences is 10.6 million, 5 million of these are Germans (ibid: 39). By the end of 2008 nearly two-thirds (65.5%) of foreigners had lived in Germany for at least ten years, slightly over one-third (36.7%) have lived here for more than twenty years and nearly one-quarter (23.2%) for as long as 30 years or more (Rühl, 2009: 38). The average length of time Turkish nationals have spent in Germany was 22.4 years in 2008 (ibid: 39) and about 20 years in 2009 (*Statistisches Bundesamt*, 2010: 28). The length of stay by nationals of candidate countries for EU membership was the same level as in 2009. The length of stay of Union citizens was 17.4 years or just below that level. The length of stay of nationals of the EEA states and Switzerland was higher and amounted to 25.5 years in 2009 (ibid.). Naturalised migrants are increasingly becoming younger. The average age of persons who were naturalised in 2007 was 30.5 years and the average age of persons who were naturalised in 2009 was 29.5 years. Turkey accounts for the most naturalised foreigners. In 2000, nearly 83,000 Turkish nationals were naturalised in Germany whereas, in 2007, the number of naturalised persons with a Turkish background was about 29,000 (Worbs, 2008: 18) and 24,647 in 2009 (*Statistisches Bundesamt*, 2010: 28). In 2009, the number of naturalised nationals of candidate countries for EU membership was 26,019 people and was at a high level (ibid.). The number of foreigners who are eligible for German citizenship because of the length of time they have spent in Germany is high. In 2007, 2.9% of those eligible on such grounds were naturalised (8. *Lagebericht* 2010: 443).

The success rate in the naturalisation test is regularly between 98 and 99% (8. *Lagebericht* 2010: 449). According to the BAMF's data of 9 July 2010 106,831 people took the naturalisation test between 1 September 2008 and 31 March 2010. The success rate was 98.5% (105,205).

Which part of the naturalisation procedure is the most difficult?

A particular obstacle in the naturalisation procedure is the renunciation of previous citizenship. It is often a reason not to apply for naturalisation. This is problematic for potential naturalisation applicants for various reasons. Depending on the country of origin, this procedure can imply high fees, long delays, payment of bribes, blackmails, loss of land ownership, high fees for being discharged from military service or negative consequences for relatives in the country of origin (Thränhardt, 2008: 23). In addition, the possession of a settlement permit is an alternative to naturalisation. The current figures also show this development to some extent. The number of settlement permits obtained, e.g., in Stuttgart in 2009, amounted to 8,145. This is clearly fewer than the number of naturalisations (1,280) as well as the number of applications for naturalisation (2,010). In addition, permanent residence status is sufficient for some migrants and allows them to retain possession of a citizenship other than German: 'If I have German citizenship, I will be not rec-

ognised on the street as a German and may have further difficulties. If I have permanent residence status, it is good. I cannot vote or become an official. Also, the German jobs could be cut. In this sense, why should I become a German national?' (WS 30029 interview of 15 April 2010). It is also problematic for migrants who would like to work or who do work in the academic medical or paramedical professions. With regard to the licence to practise medicine, the following system is in place for third-country nationals: 'Generally, no licence to practise medicine without naturalisation, generally no naturalisation without a settlement permit, generally no settlement permit with a limited permit to practise a profession' (8. *Lagebericht* 2010: 369 f.). Therefore, naturalisation grants access to practise a profession.

The municipal officials interviewed within the study cannot judge the extent to which the language test and naturalisation test are an obstacle in the naturalisation procedure for migrants because those interested in acquiring German citizenship produce the relevant proof if they apply for naturalisation and it is difficult to estimate the lead time. However, of particular note is the fact that self-employees who must prove that they have medical and retirement insurance, during the naturalisation procedure, only take out this insurance policy before naturalisation (WS 30038 interview of 28 April 2010). Furthermore, it is also problematic for naturalisation applicants who have worked in marginal part-time jobs and have not had permanent retirement insurance (*ibid.*).

Migrants interviewed as part of the study largely agreed that every citizen must speak the language of his state. Language ability is similar to citizenship in their opinion; however, it is not similar to integration. Immigrants who have no problem meeting the requirements of the naturalisation procedure were able to identify with Germany and felt part of the society. They felt positive after passing the test; nevertheless, they believed they were not better integrated after meeting the requirements. Naturalisation meant an extension of their opportunities (WS 30019 interview of 9 March 2010 with a man with a Turkish migration background, 26 years old). The reasons given for naturalisation were predominantly of a pragmatic nature: to have the freedom to travel, to have a German passport and avoid stress dealing with authorities, to join dependents who have already become German. In some cases, the right to political participation was also mentioned as a motive.

The migrants interviewed often showed understanding for the naturalisation requirements: 'It is positive that people should learn a little bit about Germany' (WS 30034 interview of 15 April 2010 with a migrant from Lebanon, 40 years old). The naturalisation practice was criticised because it is not service-oriented, but dismissive (WS 30027 interview of 14 April 2010). One migrant was surprised how easy it is to become a German national, compared to other states, and believes that passing the naturalisation test means demonstrating the will to be German: 'I cannot understand it, why people have protested against the tests. I think an individual must also show the will

to be part of society and it is not possible to take everything as a gift' (WS 30036 interview of 19 April 2010 with a migrant from Indonesia, 38 years old). Other migrants who mainly met the requirements for naturalisation pointed out that they knew some people who speak German well, but cannot read or write in German and are avoiding taking the tests as well as applying for naturalisation (WS 30033 interview of 15 April 2010 with a migrant from India, 38 years old). Nevertheless, the tests were seldom viewed by the migrants interviewed as a problem.

The success rate for the naturalisation test is usually between 98 and 99% (8. *Lagebericht*, 2010: 449). According to the BAMF's data from 9 July 2010 106,831 people took part in the naturalisation test between 1 September 2008 and 31 March 2010; the success rate was 98.5% (105,205). Interviews also confirmed that the naturalisation test is not difficult for migrants. Most test candidates have prepared for the test on the Internet. Some of them have overlooked specific questions about their federal state because they have tried the sample test from another federal state. Migrants equally criticised the primitiveness of some questions, false information in the test, as well as the high number of questions. Moreover, not only migrants, but also migrant advisory services, questioned whether an individual who has not crammed for the test enough and has not passed the test is a respectable citizen and whether the naturalisation test makes an individual into a loyal citizen and an equal member of society (WS 30053 interview of 7 May 2010 with a migrant woman from Serbia, 50 years old, and WS 30025 interview of 9 April 2010).

Tests in the naturalisation procedure: are the goals achieved?

Officials pointed out in the interviews that most naturalisation applicants have completed school in Germany and do not have to take the naturalisation test (WS 30049 interview of 6 May 2010). In Stuttgart 50% of applicants had to take neither language tests nor naturalisation tests (WS 30043 interview of 30 April 2010). From the point of view of the officials, naturalisation tests are useful and not difficult: 'Tests are an appropriate form, I could not imagine any alternative. It is not an appropriate standard to learn just before naturalisation. The fact that I am in possession of the knowledge and did not acquire this knowledge at the last minute means that I have already taken part in social life and have been interested in this matter' (WS 30049 interview of 6 May 2010). From the point of view of officials, it is out of the question that societal knowledge is essential; however, it is questionable whether the naturalisation test is an appropriate form: 'An individual has answered this question, but may not have understood the content or has not dealt with it. So, it happens that an individual asks whether we have a male official in charge, because he does not speak to women [...]. Overall values must be imparted that allow people to deal with the Basic Law' (WS 30038 interview of 28 April 2010).

GERMANY

Some migrants have supported the need for the naturalisation test and civic knowledge. Most academic graduates believe that the test is not necessary for them because they are already equipped with an appropriate level of relevant knowledge (interview of 30 May 2010 with a postgraduate student from Brazil). Other migrants showed little understanding for the meaning of the naturalisation tests: 'I live and work here. What a German does, I am also doing. Why should I not vote and why I must take the test?' (WS 30030 interview of 15 April 2010 with a migrant from Turkey, 26 years old); 'Questions that Germans, in some cases those who were born and raised in Germany, cannot answer have made the naturalisation test a formal obstacle that is estranged from its intended purpose of naturalisation, an aspect that can be mainly removed by learning the answers by heart' (Agisra 2009: 9).

From the point of view of a migrant advisory service, it is more important to acquire civic knowledge in the naturalisation procedure than language ability, the meaning of which is overemphasised: 'Does less knowledge of the German language mean less integration? There are equations that do not balance. Integration includes making progress in the non-discriminatory space that we do not have here, because people who do not possess language ability in German are deprived of any opportunity to make good progress or to take up leadership positions. It is an affront to those who make great efforts and do not make progress at the same time. Then other people would think that it has no effects. Rather, it shows a very one-sided shift towards migrants' (WS 30025 interview of 9 April 2010). Demonstrating this knowledge is not the deciding factor, but creating offers that provide such content: 'If I want to participate here, I must learn the infrastructure and know how this system functions socio-politically' (ibid.).

How the authorities deal with language requirements is a problem. In one case, the authority in charge refused to recognise a language certificate that was issued on an earlier date, although the naturalisation applicant spoke fluent German. It was evident that his knowledge of the German language was above the required level, B1 (8. *Lagebericht* 2010: 445). Migrants described their experiences as follows: 'I think it is absurd, I completed my *Abitur* in Germany and graduated from the university there and the official has seriously asked me when I was naturalised whether I am able to communicate in German. I was so insulted and even considered whether I should withdraw my application. In my case, it looked like he would do me a favour. No joy, nothing. In fact, there was only any action because I have actually been a German for a long time. I felt I was being treated like a criminal' (WS 30027 interview of 14 April 2010). It does not mean that the migrant woman interviewed had no need for naturalisation. She felt she was German without being naturalised.

Furthermore, one migrant advisory service wished there were incentives. It criticised the sanctions with regard to the language requirements, which make a bad impression and have a negative effect on public opinion: 'The

atmosphere is negative and has effects on other areas, e.g., education. It is difficult to adjust the long-term effects (WS 30029 interview of 15 April 2010). An official pointed out the meaning of dignified procedures or how important it is to be serious about 'arrival' and to make it attractive (WS 30024 interview of 9 April 2010). 'We are on the wrong track if we treat it only as a matter of language. We do not make any efforts to treat people with accents equally. It is hypocritical to do this in such a way. The nation also has other attributes that determine who should be a German' (WS 30025 interview of 9 April 2010).

Language ability at level B1, as well as longer-term volunteer activities in a non-profit organisation, are considered special integration achievements and are treated as incentives in the naturalisation procedure. In cases of naturalisation granted at the authorities' discretion, this should be an overall consideration in individual cases, which allows for justification of privileged naturalisation based on several achievements and additional rewards for migrants for their integration efforts.

Jurisprudence

Taking into account low or decreasing figures for naturalisation, Sevim Dagdelen, a member of the German Left Party, called for naturalisations after five years regardless of income, a reduction in naturalisation fees to a symbolic amount, the abolition of naturalisation tests and the option obligation, as well as the acceptance of multiple citizenship (MuB 3/2010, p. 3). The federal states formed a working group under the leadership of Schleswig-Holstein, open to all federal states, on the subject of 'Making the acquisition of German nationality attractive', which presented its review in June 2009. This was used to compile an analysis up to March 2010 (8. Lagebericht 2010: 442). The following recommendations are made: active advertising for naturalisation, improvement of advisory and information services concerning naturalisation, improved use of existing incentives and measures to facilitate naturalisation, especially of well-integrated migrants, facilitating the naturalisation of the first immigrant generation and appreciation of their life's achievements and a medium-term merger of naturalisation tests and orientation course tests. Moreover, the pros and cons of multiple citizenship should be weighed up from the legal and integration policy point of view (ibid.).

An analysis of naturalisation practice shows that professionally and socially integrated immigrants receive little recognition in the naturalisation procedure and their integration is unappreciated. In certain professional groups, naturalisation only represents access to employment and integration. In addition, it is controversial whether naturalisation, as it is currently handled, is the culmination of progress towards integration or an essential step on the way to it. The naturalisation test presumably does not go far enough and is not an ideal way of enhancing civic knowledge.

Conclusion

Effects of the Integration Tests in Germany

Three new, so-called 'integration tests' exist in Germany: language tests before entry for spouses willing to migrate to Germany subsequently, tests taken after completing the integration course by immigrants whose stay in the country is not merely temporary – that means a language test and an orientation course test – and language and naturalisation tests for those who are interested in acquiring citizenship. This conclusion summarises the effects of the tests that emerge in this study. The following issues will be discussed below: what are the current effects of the new requirements against the background of their lawful aims? What are the respondents' experiences of these integration tests and what is their perception of them? In what way are these tests connected to the issue of integration? How does the federal government react to this? Are there proposals for improving integration policy?

The Lawful Aims of the Requirements and their Significant Effects

Knowledge of the German language is regarded as a very important part of the federal government's promotion of integration. Thus, the promotion of integration courses was a major innovation. Additionally, various tests were introduced to promote immigrant integration. Since then, less emphasis has been placed on promoting integration as the course objective, but increased emphasis has been focused on the principle of making demands within their implementation. Compulsory participation in the tests gives the government monitoring options. These federal monitoring options have also been extended to the promotion of knowledge of the legal and social system, which has taken on a special significance in recent years within the promotion of integration by the federal government.

The legal aim of integration courses is to enable immigrants to become sufficiently familiar with everyday life in Germany that they can act independently. The integration courses have positive effects on immigrants because they enable immigrants to enhance their language ability. However, the level of proficiency that migrants have reached only testifies to the development of a learner's language variety and do not reflect their integration. Independent use of language cannot be equated with acting independently, i.e. being to support themselves without state assistance or mediation by third parties. It is essential to provide basic knowledge of German history, culture and politics in order to enable immigrants to act independently. This is carried out too quickly because the orientation course is very brief.

GERMANY

Proof of adequate language ability and knowledge of the legal and social system and the way of life in the Federal territory, which are required in the naturalisation procedure, are far too limited in scope. The introduction of naturalisation tests has sent out a signal about the importance of this issue, but it will play a minor role in the future because of the currently high success rates and the overlap with the orientation course. Presently, passing the orientation test within the integration course does not lead to exemption from the naturalisation test. This will probably change in the coming years.

Integration requirements involving a basic knowledge of the German language before entry are aimed at preventing forced marriages, but their effects seem to run counter to that. It is not sufficient to break cultural roots and prevent forced marriages. It is therefore hard to assess whether the test has changed this. The idea that young married women will be able to protect themselves better if they have at least basic language ability has not been confirmed. On the one hand, the number of women entering the country at a very young age remains relatively low. On the other hand, it has not proven that their acquisition of a German language certificate can change the existing family systems. Instead, women are pressurised by families to produce a language certificate as soon as possible.

The Experiences of the Respondents with Different Tests and Special Difficulties

The language requirements before entry are considered one of the greatest difficulties in the visa procedure as part of the subsequent migration of spouses. In some cases and in some countries, this represents an additional obstacle in the visa procedure, which has already been perceived as a non-transparent tripwire. It is also especially difficult to produce a language certificate for the wife and children of a German who has lived abroad for a long time, who wish to join him and leave for Germany for family reunification. The existing test formats still fail to take into account the specifics of teaching concerning educationally and learning-deprived immigrants. The language tests are a very difficult challenge for these population groups, even if they attend appropriate courses. In the case of language tests before entry, they have hardly any access to opportunities to learn the language. While language tests are standardised, external conditions vary greatly. This means that opportunities to prepare for the language test in individual countries are less than ideal or do not exist at all. In this case, the language requirements are an obstacle to family reunification.

The effects of the language test before entry seem particularly questionable to those affected by the tests. Not only do they have to spend considerable time and money to pass the test, but their family relationships are also

GERMANY

put severely to the test because of the financial burden and lengthy periods of separation. This can even lead to a further imbalance of power between men and women. According to the migrants' advisory services interviewed, practice shows that men are usually in a better financial position, women run the risk of become emotionally and financially dependent on men, which could be extremely unfavourable for them after entering Germany. No statistical grounds for this are available.

Positive experiences of immigrants are related only to courses where they can establish contacts and experience their first learning success. This is especially true when immigrants find that their newly-acquired language skills are appreciated in Germany. However, this is rarely the case, since a beginner's knowledge is perceived as of little significance. This is further confirmed by the way in which the newly-acquired language certificates are officially handled. Immigrants' language skills may be tested over and over again, as the content reliability of their certified language ability is questioned even when they present an officially recognised certificate of language acquisition. The reason given for this measure is the rapid loss of language ability during the visa procedure. Consequently, a discrepancy exists between what is required and confirmed before entry and the knowledge that immigrants should actually possess (or must possess) after taking the test. In practice, this means that this takes place at the expense of devaluing language requirements and raises doubts about their plausibility and meaningfulness. It becomes clear that the tests have only little effect on language competence, but determine who enters the country and who does not.

The respondents have acquired different experiences with integration courses after their arrival in Germany. Although the legal obligation to attend integration courses results in binding motivation on the part of the respondents, on its own it is unable to make them aware of the importance of language skills. However, they have positive experiences with the content of the integration courses and the variety of course participants. The problem here is also the lack of opportunities for uneducated immigrants, employed persons, or the parents of young children to learn the language. The number of courses aimed at these population groups is low. Early withdrawal from language courses upon finding a job for which the acquired language skills are sufficient (i.e., below level B1) can cause difficulties for an immigrant who has to submit the relevant evidence when applying for a settlement permit or naturalisation. Even passing the test at level A2 and having duly attended the integration courses is insufficient for a settlement permit or for naturalisation. That means that applicants must improve their language ability and will take the language test to provide a certificate at a higher level (B1). Language tests offered separately or outside the integration courses and preparation for these tests will therefore retain their relevance.

The respondents consider naturalisation tests non-challenging or formal. Compared to this, relinquishing one's previous citizenship is perceived as a

significant obstacle. On the one hand, in some countries the process of relinquishing citizenship is a financial burden. On the other hand, in a globalised world, immigrants are less prepared to give up the opportunities offered by multiple citizenship or (if possible) the combination of having both a foreign passport and domestic permanent resident status. The concerns that determine whether to acquire or relinquish citizenship are mainly pragmatic, not political.

How the Tests are perceived by the Respondents

In the view of the respondents, the test before entry has selective effects because it is a formidable obstacle for certain population groups, depending on their background, level of education, and language-learning experience. To avoid both the possibility of selection via the test and costly language-learning pathways, spouses sometimes focus on possibilities for bypassing the tests. The frequency of this bypass behaviour cannot be estimated now. Presently, the following attempts to bypass the tests are known to have been made: so-called 'test tourism', or entering the country on a visitor's visa only to learn the language and therefore increasing interest in the courses at level A1 in Germany, pregnancy and entry without a command of the language due to having a German child, and temporary residence in an EU country other than Germany. However, even in cases where an attempt is made to pass the test in the country of origin in order to enter Germany as part of the subsequent migration of spouses, immigrants often learn, notably by heart, on private language courses.

Immigrants with advanced speaking skills often avoid the language tests in the naturalisation procedure because they think they will fail the language test due to their inadequate written language ability. Even delinquent migrants with a permanent residence permit deliberately avoid the naturalisation procedure because a conviction for a serious criminal offence makes the naturalisation impossible. However, in most cases, naturalisation tests and orientation courses are considered a good opportunity to learn about Germany's history and current affairs, and to gain an understanding of German society. The obstacle is that orientation courses contain complex vocabulary and require a higher level of proficiency than A2/B1 levels. Meanwhile, immigrants who possess limited German language skills often pass naturalisation tests by learning the answers by heart.

The interviews within the study show that the common feature of both the tests abroad and in Germany is that teachers should motivate participants towards the legal significance of the tests.

Immigrants still have unrealistic ideas about language learning. These beliefs persist despite the obligation to attend the course or to pass the test. Apparently, information on learning strategies and how to use them is

probably still not being adequately provided within the integration courses. Therefore, promoting awareness of language learning and the importance of a knowledge of the German language is more important than participation in the test and the obligation to pass the test. This knowledge can also have a positive effect on the learning processes of immigrant children. Acceptance of the required societal knowledge is clearly much higher than acceptance of the required language skills. Meanwhile, there is no doubt that language courses can improve language competence. It is not possible to say whether obligatory attendance of an integration course can result in advanced language competence.

The Connection between Different Tests and the Issue of Integration

In the opinion of the respondents, integration courses (but not taking the final tests) affect integration in two ways. Firstly, the importance of societal knowledge must be emphasised. Immigrants can become more closely involved with Germany and their life in German society, discuss the viewpoints of other people and learn tolerance, if the course provides them with basic societal knowledge in a form that is comprehensible to adults. Secondly, integration courses are a social learning space where immigrants make contacts, and social and intercultural skills are provided and acquired. During the integration courses, participants start to feel like part of the society and to participate in this society.

Language ability allows access to culture and society. However, this is true only to a limited extent with regard to access to the labour market, which requires the immigrant to demonstrate complex skills, professional knowledge and experience. Still, the language test, which was developed on the basis of uniform standards, makes it possible to assess the level of the participants' language ability. However, it is not an entry ticket to professional life. The certified level B1 is not sufficient for any profession, because the language ability at this level is quite elementary. This is why immigrants who pass the tests can improve their economic situation only to a limited extent. Meanwhile, near-native command of the language cannot be a sign of how well-integrated the respective participants are.

Tests as an instrument for assessing the progress of integration are hardly suitable for testing the degree of progress in society. Moreover, with regard to progress in integration, the language ability is overemphasised. Immigrants define themselves as integrated by their job, not by their intermediate language ability. Therefore, attributes other than language skills are used by immigrants to determine their integration. However, language as an attribute of 'being German' is widely accepted by immigrants. Therefore, progress in integration is not to be equated with naturalisation. Nowadays,

citizenship primarily means better access to professional integration and political participation.

Furthermore, a paradox is observed in the state's handling of language competence. On the one hand, language ability is heralded as a key to integration. On the other hand, German nationals who are multilingual and are able to integrate into different societies may be 'punished' for this by being expected to 'distance themselves' from their own society upon being reunited with their spouses.

The Federal Government's Response to the Effects of the New Regulations

The compatibility of language requirements for admission to Germany with constitutional law is not only increasingly the subject of court proceedings; the Parliamentary fraction of *Bündnis 90/Die Grünen* also reject more stringent rules on family reunification and have been putting forward parliamentary initiatives for their abolition. The party *Die Linke* is also urging an immediate repeal of restrictions on the subsequent migration of spouses via the language test before entry. The federal government has not made any decisions yet that could lead to amendment of these regulations. Nor does the federal government see any current need for further rules regarding hardship cases. The federal government continues to call for the language offensive and emphasises binding language courses and tests together with the commitment to individual progress in integration. Now, this will be agreed upon in integration agreements and should be systematically reviewed afterwards. The federal government will continue to target people who move to Germany to be with their spouses. According to the Coalition Agreement, the compulsory language courses should, under certain conditions, be extended nationwide to four-year-olds, as well as to parents whose lack of knowledge of the German language could be interpreted as being detrimental to the welfare of the child.

As a result of the low figures for naturalisation, *Die Linke* is in favour of relaxing the rules relating to the naturalisation procedure (naturalisation after five years of residence even without proof of income, abolition of naturalisation tests and the option obligation and enhanced acceptance of multiple citizenship). The federal government has formed a working group open to all federal states, which has already outlined initial recommendations for naturalisation (incentives for naturalisation and improvements to advisory and information services, preferential conditions for well-integrated immigrants and first-generation immigrants, merger of the naturalisation and orientation course tests, and a debate on tolerance of multiple citizenship).

Suggestions for Improvement

The discrepancy between the costs and the tangible language ability of migrants who have moved to Germany to be with their spouses shows that the tests before entry are largely ineffective. However, the supply of language learning and information services is an advantage for spouses willing to migrate to Germany subsequently. Access to courses and use of the courses should be facilitated and made more attractive. The test can perform this function only to a limited extent.

On the other hand, the simplification of language requirements within Germany is not as necessary. However, the binding tests in the Federal territory should not be assessed on the premise of integration; they will instead be used more as an instrument for reviewing what has been learned. They are also suitable for this purpose from both a pedagogical and a linguistic point of view. In this sense, tests can serve as an incentive for advanced learners. For example, if course graduates achieve CEFR level B1 after 600 UE, they should not only be able to repeat the course, but also to move to the next level by taking an additional 300 UE.

Language is an important instrument for social progress and for becoming a member of society. It is not only societal knowledge that makes this possible, but also the social importance of courses that should be improved didactically in this respect.

It has been shown in the naturalisation procedure that the acquisition of German language skills and finding employment are not enough to develop an understanding of life in old age. Topics such as health and old-age provision should be included in the orientation courses and should be regarded as additional integration measures.

An improvement in societal knowledge would be an advantage. A revision of orientation courses is needed with regard to the adequacy of the level of language proficiency and the adult learning and teaching methods, as well as enhanced cooperation with the Federal Agency for Civic Education, in order to make civic education a more attractive component of teaching. This might also have a positive effect on naturalisation behaviour. Furthermore, this is also important because, in a few years, the naturalisation test will be discontinued, once most immigrants have completed the orientation course within the integration courses.

A more respectful attitude toward language skills will create more incentives than binding measures. If the migrant's qualification is not recognised in Germany, his chances on the labour market will be similar to those of the German 'lower social classes'. Language proficiency is no guarantee of a job. Access to the job market is a more complex issue. However, since near-native command of the German language does not guarantee better career prospects on the labour market, targeted integration measures are needed. These

GERMANY

may include an educational offensive and a revision of continuing education opportunities for less-skilled migrants.

Activities that have a positive effect on the social climate are also important. One possibility would be to introduce the right to vote at municipal level for immigrants, which would significantly improve their chances of participation in politics and society. Moreover, a local integration policy can be addressed more purposefully to immigrants as a target group.

Bibliography

I. Literature

- Bielefeldt, H. (2005), *Zwangsheirat und multikulturelle Gesellschaft Anmerkungen zur aktuellen Debatte*, DIMR, Essay no. 2, Berlin.
- Fischer-Lescano, A. (2006), Verschärfung des Ausländerrechts unter dem Deckmantel der Umsetzung von EU-Richtlinien, *Kritische Justiz* 39: 236-246.
- Funke-Kaiser, M. (2010): Das Erfordernis deutscher Sprachkenntnisse des nachziehenden Ehegatten, *Informationsbrief für Ausländerrecht* 1: 9-14.
- Gutmann, R. (2005), Integration durch Kurse, *Informationsbrief für Ausländerrecht* 1, 45-48.
- Gutmann, R. (2010), Familiennachzug und Sprachkenntnisse, *Zeitschrift für Ausländerrecht und Ausländerpolitik* 3: 90-96.
- Hentges, G. (2010), Integrations- und Orientierungskurse. Konzepte – Kontroversen – Erfahrungen, in G. Hentges, V. Hinnenkamp & A. Zwengel (Eds.), *Migrations- und Integrationsforschung in der Diskussion, Biografie, Sprache und Bildung als zentrale Bezugspunkte*: 23-77, 2., aktualisierte Auflage, VS Verlag für Sozialwissenschaften, Wiesbaden.
- Hillgruber, C. (2006), Mindestalter und sprachliche Integrationsvorleistung – verfassungsgemäße Voraussetzungen des Ehegattennachzugs?, *Zeitschrift für Ausländerrecht und Ausländerpolitik* 9: 304-317.
- Huber, B. (2004), Die geplante ausländerrechtliche Pflicht zur Teilnahme an Integrationskursen, in K. Barwig & U. Davy (eds.), *Auf dem Weg zur Rechtsgleichheit? Konzepte und Grenzen einer Politik der Integration von Einwanderern*, 250-262, Nomos Verlag, Baden-Baden.
- Kingreen, Th. (2007), Verfassungsfragen des Ehegatten- und Familiennachzugs, *Zeitschrift für Ausländerrecht und Ausländerpolitik* 1, 13-20.
- Kreienbrink, A. & Rühl S. (2007), *Familiennachzug in Deutschland, Kleinstudie IV im Rahmen des Europäischen Migrationsnetzwerkes*, Working paper 10/2007 der Forschungsgruppe des Bundesamtes.
- Markard, N. & Truchseß, N. (2007), Neuregelung des Ehegattennachzugs im Aufenthaltsgesetz, *Neue Zeitschrift für Verwaltungsrecht* 9: 1025-1028.
- Michalowski, I. (2007), *Integration als Staatsprogramm: Deutschland, Frankreich und die Niederlande im Vergleich*, LIT Verlag Münster (Westf.).
- Ratia, E. & Walter, A. (2009), *International Exploration on Forced Marriages. A study on legal initiatives, policies and public discussions in Belgium, France, Germany, the United Kingdom and Switzerland*, Wolf Legal Publishers, Nijmegen.

- Rühl, S. (2009), *Grunddaten der Zuwandererbevolkerung in Deutschland*, Working Paper 27 der Forschungsgruppe des Bundesamtes für Migration und Flüchtlinge, Integrationsreport, Teil 6, Nürnberg.
- Seveker, M. (2008), *Sprachkurse im Kontext von Integration und Aussiedlung. Am Beispiel der Altairegion/Westsibirien*, VDM Verlag Dr. Müller, Saarbrücken.
- Thränhardt, D. (2008), *Einbürgerung, Rahmenbedingungen, Motive und Perspektiven des Erwerbs der deutschen Staatsangehörigkeit*, Gesprächskreis Migration und Integration, Gutachten für die Friedrich-Ebert-Stiftung, Bonn.
- Walter, A. (2008), *Reverse Discrimination and Family Reunification*, Wolf Legal Publishers, Nijmegen.
- Walter, A. (2009), *Familienzusammenführung in Europa: Völkerrecht, Gemeinschaftsrecht, Nationales Recht*, Nomos Verlag, Baden-Baden.
- Worbs, S. (2008), *Die Einbürgerung von Ausländern in Deutschland*, Working Paper 17 der Forschungsgruppe des Bundesamtes für Migration und Flüchtlinge, Integrationsreport, Teil 3, Nürnberg.

II. Documents

7. Lagebericht (2007), *7. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland*, Berlin.
www.bundesregierung.de/Content/DE/Publikation/IB/Anlagen/auslaenderbericht-7-barrierefrei,property=publicationFile.pdf
8. Lagebericht (2010), *8. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland*, Berlin.
www.bundesregierung.de/nn_56546/Content/DE/Artikel/IB/Artikel/Themen/Gesellschaft/2010-07-07-integrationsbericht.html
- Agisra e.V. (2008), *Tätigkeitsbericht 2008*, Berlin.
- BAMF (2005), *Integration. Voneinander lernen – Gemeinsam leben. Integrationskurse – Jahresbilanz*, Berlin.
- BAMF (2008), *Integrationskurse, Eine Erfolgsgeschichte und ein Modell für Europa, Bilanz 2008*, Nürnberg. www.integration-in-deutschland.de.
- BAMF (2008a), *Konzept für einen bundesweiten Integrationskurs*, Nürnberg. www.integration-in-deutschland.de.
- Bericht der Unabhängigen Kommission 'Zuwanderung' (2001). *Zuwanderung gestalten, Integration fördern*, Berlin. www.bmi.bund.de.
- BMI (2006), *Abschlussbericht zur Evaluation der Integrationskurse nach dem Zuwanderungsgesetz, Abschlussbericht und Gutachten über Verbesserungspotenziale bei der Umsetzung der Integrationskurse*, Berlin.

- BMI (2006), *Bericht zur Evaluierung des Gesetzes zur Steuerung und Begrenzung der Zuwanderung und Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz)*, Berlin.
www.bmi.bund.de.
- Bundesregierung (2010), *Bericht über die Evaluierung des Nachweises einfacher Deutschkenntnisse beim Ehegattennachzug nach dem Aufenthaltsgesetz – Sprachlern- und Sprachtestangebote, Visumverfahren, erstellt vom Auswärtigen Amt, dem Bundesinnenministerium und der Beauftragten der Bundesregierung für Integration, Migration und Flüchtlinge*, Berlin, BTag-Drs. 17/3019.
- DIMR (2006), *Stellungnahme des Deutschen Instituts für Menschenrechte zum Entwurf eines Gesetzes zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union*,
www.institut-fuer-menschenrechte.de/de/presse/stellungnahmen/stellungnahmen-2006.html
- European Migration Network (2008), *Small Scale Study IV 'Family Reunification', Synthesis Report*,
www.bamf.de/SharedDocs/Anlagen/DE/Migration/Downloads/EMN/EMNandere/emn_familiy_reunification_2007,templateId=raw,property=publicationFile.pdf/emn_familiy_reunification_2007.pdf
- Koalitionsvertrag 2002 von SPD und Bündnis90/DIE GRÜNEN, *Erneuerung – Gerechtigkeit – Nachhaltigkeit. Für ein wirtschaftlich starkes, soziales und ökologisches Deutschland*.
- Koalitionsvertrag 2009 von CDU, CSU und FDP, *Wachstum. Bildung. Zusammenhalt*.
- Migration und Bevölkerung (MuB) (2010), *Deutschland: Diskussion um Staatsangehörigkeitsrecht*. March 2010, p. 2 f.
- Sachverständigenrat deutscher Stiftungen für Integration und Migration (2010), *Einwanderungsgesellschaft 2010, Jahresgutachten 2010 mit Integrationsbarometer*, Berlin.
www.svr-migration.de/wp-content/uploads/2010/05/einwanderungsgesellschaft_2010.pdf.
- Statistisches Bundesamt (2010), *Bevölkerung und Erwerbstätigkeit, Einbürgerungen*, Wiesbaden, 29 June 2010.