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COUNTRY REPORT: THE NETHERLANDS

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Report on The Netherlands

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The Netherlands

Ricky van Oers, Betty de Hart and Kees Groenendijk

1 Introduction

Dutch citizenship law has been influenced mainly by both concerns about gender discrimination and ideas about immigrant integration. By providing for acquisition of Dutch citizenship by birth through a Dutch father, automatic acquisition through marriage with a Dutch man and loss of Dutch citizenship if a Dutch woman married a foreigner, the first Dutch Nationality Act of 1892 contained several gender discriminatory provisions. These regulations were abolished in 1964. It was, however, not until 1985 that Dutch citizenship regulations provided for acquisition of Dutch citizenship through Dutch mothers. A bill introduced in December 2008, providing for an option right for children born before 1985 of Dutch mothers and non-Dutch fathers has become law in 2010.

Starting in the 1980s, integration concerns began to influence Dutch citizenship policies. The Dutch government had no interest in developing a policy aiming at the integration of immigrants before that time. In the 1950s and 1960s, the Netherlands was a country of emigration, and the stay of those that migrated to the Netherlands was considered to be of a temporary nature. In the 1970s, the policy was two-fold, aiming both at the integration and the return of immigrants to their home-countries. In 1979, the Scientific Council for Government Policy (WRR) published its influential report *Ethnic Minorities*, advising the government to accept the fact that most immigrants would stay permanently in the Netherlands, and to develop a policy aimed at equal participation of minorities in society. The Minorities Policy of the 1980s intended to improve immigrants' legal position by facilitating access to Dutch nationality. The 1985 Act contained relatively easy naturalisation conditions, and in 1992, the renunciation requirement was abolished. This condition was, however, reintroduced in 1997, after a considerable rise in the number of naturalisations. The idea had emerged that naturalisation had become 'too easy', and that immigrants had been treated too liberally or had even been 'pampered', without having to face any obligations. Starting in 2000, several events, such as the publication by an influential Social democrat of an article entitled 'The Multicultural Tragedy' (*Het multiculturele drama*), followed by the events of 9/11, the rising influence of the populist politician Pim Fortuyn, his subsequent murder in May 2002, and finally the murder of cineaste Theo van Gogh in 2004, led to an atmosphere of increasing tension and the idea that the integration of immigrants into Dutch society had failed. Immigrant integration was no longer to be stimulated but demanded. Dutch integration policies have hence shifted from what has been called a 'pacesetter of multicultural policies' to a more assimilationist approach, and this shift influenced Dutch citizenship law. The current policy, in which admittance, a secure legal residence and Dutch citizenship are regarded as remuneration for integration, is the opposite of the minorities' policy of the 1980s. Former Minister of Alien Affairs and Integration Verdonk (VVD) repeatedly referred to naturalisation as 'the first prize'. Currently, instead of being a means of integration, acquisition of Dutch nationality is hence seen as the crown on the completed integration process. The amended Citizenship Act of 2003 introduced a stricter residence requirement and a naturalisation test as requirements for naturalisation, a ceremony celebrating the moment of acquiring Dutch nationality, and stricter requirements for opting for Dutch nationality.

Citizenship and Nationality in the Netherlands¹

For the legal bond between an individual and a state the Dutch term ‘*nationaliteit*’ is used, which can be translated into English as ‘nationality’. This term nowadays mainly has a legal connotation, though when used in a different sociological context can also be understood as referring to ethnicity or cultural background.

When talking about the legal bond between an individual and a state, one can also refer to the term ‘*staatsburgerschap*’, similar to the German ‘*Staatsbürgerschaft*’. This term, which is used less often, has a somewhat stronger political connotation than the term ‘*nationaliteit*’ and may refer particularly to the substantial democratic rights and obligations related to the legal status.

The Dutch term ‘*burgerschap*’, which can be translated as ‘citizenship’, encompasses a sense of political belonging rather than a legal status and can also be used to denote the activity of being ‘a good citizen’.

The Dutch nationality act is called ‘*Rijkswet op het Nederlanderschap*’. ‘*Rijkswet*’ refers to the fact that this is a legal act for the whole Kingdom (‘*Koninkrijk*’ or, in short, ‘*Rijk*’) of the Netherlands, including the overseas territories. ‘*Nederlanderschap*’ refers to the status of being ‘Netherlander’.

2 Historical background (1892-1985)²

2.1 1892-1953: The first Dutch Nationality Act

The first rules on Dutch citizenship date from the nineteenth century. As of 1838, the Dutch Civil Code stipulated that everyone born in the Netherlands or in one of its colonies had Dutch citizenship. The Nationality Act of 1850 regulated who was a Dutch citizen for the purpose of the exercise of political rights.³ For the purpose of the 1850 Citizenship Act, only persons born in the Netherlands or persons descended from such persons were considered Dutch citizens; native inhabitants of the colonies were excluded from the scope of this Act.

In 1892, the two sets of citizenship rules were replaced by one Dutch Nationality Act. The gender neutral *ius soli* acquisition was replaced by the gender specific *ius sanguinis a patre*. Since from 1 July 1893,⁴ Dutch citizenship was acquired through Dutch fathers, it was important to decide who would be a Dutch citizen as of that day. The government decided not to attribute Dutch citizenship, including political rights, to the ‘native and assimilated inhabitants’ of the colony of the Dutch East Indies. The notion of ‘native and assimilated inhabitants’ referred to the existing racial division of the population of the Dutch East Indies with, on the one hand, ‘Europeans and assimilated’ (mostly Christians) and, on the other hand, ‘natives and assimilated’ (mainly Arabs, Chinese, Mohammedans and pagans) (Heijs 1991: 24). A similar distinction did not apply in the other colonies. Because they were much smaller in number, the native inhabitants of Surinam and the Netherlands Antilles were allowed to retain their Dutch citizenship.

¹ The analysis was made by Maarten Vink.

² This part of our study primarily relies on E. Heijs 1995.

³ The right to vote and the right to hold public office.

⁴ The day on which the 1892 Act came into force.

An unwanted side-effect of the decision to exclude the native inhabitants of the Dutch East Indies from Dutch citizenship was that the majority became stateless. Although the government continued to treat them as Dutch citizens, this offered no solution in international law. In 1910, the native population of the Dutch East Indies was offered a 'second rank' Dutch citizenship, namely that of 'Dutch subject non-Dutch citizen'. After Indonesia's independence in 1949, the Dutch government would use the status of Dutch subject non-Dutch citizen to allocate citizens to Indonesia (see sect. 2.4).

Under the 1892 law, naturalisation was the only way for immigrants, who at that time were mainly Germans and Belgians, to obtain Dutch citizenship. This was subject to the requirements of being of age, five years residence in the Netherlands or in one of the colonies and renunciation of the former citizenship. This last requirement, which in practice had already applied since 1860, was strictly enforced. Public order and financial requirements did not appear in the Act, but they were applied in practice. If a man acquired Dutch citizenship through naturalisation, his wife and children obtained it automatically. Naturalisation of foreigners took place by individual Act. Every application for naturalisation was decided upon in Parliament. The costs of a naturalisation procedure were fairly high.⁵

The 1892 Act provided for loss of Dutch citizenship after ten years of residence abroad without expressing the wish to remain Dutch at the municipality of the last place of residence or at a Dutch consulate. Ten years after the Act came into force, parliamentary discussions mainly focussed on re-naturalisation of former Dutch citizens who had forgotten to make the necessary statement (Heijs 1995: 75).

This changed in 1914. After the First World War broke out, the number of applications for naturalisation rose considerably. The Minister of Justice saw no need for preventing the naturalisation of long-term immigrants who had successfully assimilated into Dutch society. Although the regular naturalisation policy was said to be applied, naturalisation rates dropped. In 1915, only 23 persons obtained Dutch citizenship through naturalisation, a number that had not been that low since 1872. Nevertheless, in the view of some Members of the Dutch Parliament, mainly liberals and members of the Anti Revolutionary Party (ARP), Dutch naturalisation policy was still too tolerant. They stressed the importance of an emotional tie to the Netherlands and saw the practical application in the implementation of naturalisation guidelines. A request for naturalisation had to be turned down if an applicant was not considered to feel sufficiently connected with the Netherlands (Heijs 1995: 83).

The interest in acquiring Dutch citizenship increased further in the 1920s (Heijs 1995: 84). This rise can be explained by the tighter labour market policy that linked the right to work and reside in the Netherlands to the possession of Dutch citizenship.

Due to the economic crisis and the political situation in Germany, the number of applications for naturalisation grew fast in the 1930s, from 414 applications in 1929 to 1,648 applications in 1933.⁶ During the crisis years, economic interests had an impact on naturalisation policy. The protection of the labour market and of the public funds caused the policy to become more restrictive. In 1933, the Catholic Minister of Justice instructed his Department to intensify the investigation into the applicant's background and motives for naturalisation (Heijs 1995: 90). In the second half of the 1930s, this inquiry was extended. Applicants were required to fill out detailed questionnaires, so-called

⁵ After extensive debate, it was decided upon a charge of 100 guilders.

⁶ *Bijlagen Handelingen Eerste Kamer* (Appendices Proceedings Upper House), 1931-1932, IV, no. 78a, p. 10, 1934-1935, no. 41a, p. 1.

‘Staten van Inlichtingen’, that contained questions regarding the applicant’s motives for naturalisation, the applicant’s education, membership of a political party, whether he was known to be a spy, whether he was likely to become a burden on the Dutch state in the future, etc.⁷ A residence requirement of fifteen, instead of the statutory period of five years was applied in practice (Heijs 1995: 91). Applicants were not informed of the progress of their application or of the reasons for a denial.

It was not only applicants who were sparsely informed of the naturalisation procedure. Parliament was rarely involved in matters concerning the naturalisation policy and it was only informed of important policy changes after it took the initiative to ask questions. Most applications passed Parliament without discussion (Heijs 1995: 93).

On 10 May 1940, the Netherlands were drawn into the Second World War. Soon afterwards, the Dutch Parliament stopped assembling and Queen Wilhelmina and her Ministers fled to London. The naturalisation of aliens came to a standstill (Heijs 1995: 107). The naturalisation of married women, however, remained under discussion. Alterations of Dutch citizenship law that followed these discussions will be treated later on in this overview (see sect. 2.3).

In the post-war years, the Netherlands had to cope with poverty, housing shortage and high birth-rates. The Dutch government actively promoted the emigration of Dutch citizens. Large numbers of Dutch citizens moved to Canada, Australia and elsewhere. The Netherlands became a country of emigration.⁸

Naturalisation policies remained restrictive. Feelings of suspicion regarding the motives for naturalisation prevailed and the thorough inquiry of these motives and the applicant’s background that had been introduced in the 1930s was still applied (Heijs 1995: 109). The primary question was whether Dutch interests might be damaged by the naturalisation, while the assimilation of the applicant was a secondary concern. For several years, naturalisation rates were low. The ideal of the nation-state, one that expects a loyal attitude of members of the Dutch nation towards the Dutch population and State, greatly influenced the naturalisation practice during this period.

Behaviour during the war became an important criterion for naturalisation. Priority was given to persons who had been actively involved in the Resistance during the war and to men who fought in the allied armies. For these people, naturalisation was free of charge. Priority was also given to persons whose naturalisation would serve the country’s social, cultural or economical interests.⁹

Another issue in the post-war years was the naturalisation of Germans. The first Dutch government after the War made plans to expel all Germans living in the Netherlands. Because of fierce opposition by the allied forces occupying Germany, these plans did not materialise. In 1946, the first post-war naturalisations took place. Germans who had shown good moral behaviour were not excluded.¹⁰

⁷ In 1935 it becomes clear that the Dutch citizenship is only granted if it is more or less certain that the applicant will also be employed in the future.

⁸ It is not until 1961 that the Netherlands experiences its first net immigration since 1945 (Groenendijk & Heijs 2001).

⁹ Because of the shortage of qualified staff, priority was given, for instance, to primary school teachers. Persons conducting business of importance to the Netherlands can also obtain Dutch nationality with priority (Heijs 1995: 110).

¹⁰ E.g. the taking part in the Resistance, joining the Dutch armed forces, helping the persecuted, etc. (Heijs 1995: 115).

2.2 1953-1975: A period of liberalisation

In 1953, a process of liberalisation started with the introduction of the 1892 Act of automatic acquisition of Dutch citizenship for immigrants of the third generation. A legitimate child acquired Netherlands citizenship if he or she was born to a father who had residence in the Netherlands at the time of the child's birth, where this father was born to a mother residing in the Netherlands at the time of birth of her child (De Groot 1996: 552).¹¹ One of the reasons for introducing this rule was the presence in the border region of large numbers of Belgians who were born in the Netherlands, but did not hold Dutch citizenship (Heijs 1995: 115). Large numbers of Dutch citizens found themselves in a similar position on the other side of the border. The new *ius soli*-provision, which would apply to many more than merely the Belgian inhabitants of the border area, was defended with the argument that third generation immigrants in fact belonged to the Dutch community. The third generation immigrants were deemed to have integrated in Dutch society and they were no longer required to individually prove that they fulfilled the conditions for naturalisation.

The provision, which had retroactive effect until the coming into force of the 1892 Act, was likely to create cases of dual or multiple citizenship. This did not concern the Dutch government. It attached greater value to the equal treatment of individuals who could only be distinguished from Dutch citizens in a legal sense. Another argument was the lowering of the administrative burden (Heijs 1995: 135-36).

The liberalisation also included first generation immigrants. In 1953, the first naturalisations of former Dutch citizens who had served in a German army took place through a ministerial decision. In the years thereafter, the possibilities for naturalisation outside Parliament were extended. In 1954, the governor of Surinam was attributed the authority to naturalise Indonesians living in Surinam. In 1958, the Crown was authorised to naturalise minor children whose father had deceased and whose mother possessed Dutch citizenship¹² and in 1962 the government was authorised to naturalise former inhabitants of New Guinea (Heijs 1995: 137). The last and most important extension of the possibilities of naturalisation by Royal Decree took place in 1976, when this new naturalisation procedure was made available to persons having a strong connection with the Netherlands (see later in this section).

Under the influence of the ratification of several international treaties, naturalisation was more and more perceived as a right, especially for refugees and stateless persons.¹³ In an unpublished White Paper concerning naturalisation in 1965, the Social Democratic Minister of Justice stated that naturalisation of permanent residents in the Netherlands should be promoted and that it was no longer necessary that every single naturalisation should serve specific Dutch interests.¹⁴ Still, naturalisation of assimilated immigrants was in the Dutch public interest, since it would prevent problems relating to

¹¹ Before 1953, the third generation or double *ius soli* rule only applied to stateless children.

¹² Act of 16 July 1958, *Staatsblad*, 1958, no. 342.

¹³ The Refugee Convention that entered into force in the Netherlands in 1956 prescribes that naturalisation of refugees should be facilitated as much as possible. The UN Convention relating to the Status of Stateless Persons, which entered into force in the Netherlands in 1962, prescribes the same for stateless persons.

¹⁴ Provided to Eric Heijs by F. Th. Zilverentant, expert on citizenship law at the Justice Department.

ethnic minorities, and those who were not likely to adapt to Dutch norms and values were not eligible for naturalisation.¹⁵

The necessity of addressing every single application for naturalisation individually in Parliament was questioned. Naturalisation took place by Act, which meant that Parliament was involved in each individual application, but the applications were rarely the subject of discussion (Heijs 1995: 143). The denial of an application was exceptional. From 1955 until 1964 less than 2 per cent of the applications were refused. At the beginning of the 1970s, less than 0.5 per cent of the applications were refused.¹⁶

After a long debate between the Secretary of State for Justice (ARP) and the Parliamentary Commission for Naturalisation, it was agreed that the legal position of applicants ought to be improved and that the naturalisation procedure had to be simplified. The Secretary based his arguments on the abovementioned unpublished White Paper on naturalisation dating from 1965. He stated that the views on citizenship had considerably changed during the past decades (Heijs 1995: 161). With the incorporation of the right to a citizenship in the Universal Declaration of Human Rights, a process of liberalisation of the naturalisation policy had started. Also, the number of naturalisations had risen and the number of denials had dropped. According to the Secretary of State, it was no longer necessary to treat nine out of ten naturalisations in Parliament. These political and practical arguments led to a partial amendment of the 1892 Act in 1976 (Heijs 1995: 162). In that year, it was decided that, as of 15 March 1977, certain categories of applicants for naturalisation could be awarded Dutch citizenship upon a simple decision by the Minister of Justice instead of by Act.¹⁷ The latter procedure used to be long and complicated. A large number of authorities had to be consulted and consensus had to be reached in both houses of Parliament.¹⁸ Generally, the procedure took 2 years or more (Groenendijk & Heijs 2001: 149). Under the new procedure, applications had to be made to the Queen's Cabinet, who then forwarded them to the Ministry of Justice. The procedure of naturalisation by ministerial decision was simpler, because the request was not treated in Parliament. The official investigation was also more limited; it was generally only the police that undertook a short inquiry. In case of a denial of the application by the Minister, there was a possibility for appeal.¹⁹

The new procedure applied to applicants having a strong connection with the Netherlands. The Dutch government considered second generation immigrants, former Dutch citizens and former Dutch subjects and non-Dutch citizens, as applicants having such a connection with the Netherlands.²⁰ However, proposals from the Parliamentary

¹⁵ In this context, he explicitly refers to applicants who have committed a crime in the past, Germans that voluntarily joined the German army, applicants that live in concubinage and homosexuals.

¹⁶ *Bijlagen handelingen Tweede Kamer* (Appendices Proceedings Tweede Kamer), 1971- 1972, 11799, no. 1, p. 2.

¹⁷ Act of 8 September 1976, *Staatsblad* 1976, no. 465.

¹⁸ Before deciding on naturalisation, the ministry consulted several authorities on the applicant's motives for naturalisation, his or her knowledge of the Dutch language, social behaviour, criminal record, political activities and financial situation. As a rule, the ministry received information on each applicant from the Advocate General, the public prosecutor, the local police, the internal security agency, and the governor of the province and the mayor of the municipality in which the applicant was living. In most cases, the applicant was interviewed by the police and the municipal civil registrar, and sometimes by the public prosecutor as well. If the ministry, on the basis of these consultations, considered that there were no obstacles to the naturalisation of the applicant – which was the outcome of the large majority of cases – a bill was sent to Parliament.

¹⁹ Although an application for naturalisation by Act was rarely denied before 1976, the applicant did not have any legal remedy against this decision.

²⁰ Mostly Surinamese citizens who had settled in the Netherlands after Surinam's independence, Indonesian

Commission for Naturalisations in 1972 to grant second generations Dutch citizenship upon birth in the Netherlands or allowing them to opt for Dutch citizenship upon coming of age were too far-reaching for the Secretary of State (Heijs 1995: 163).

The process of liberalisation of Dutch citizenship law continued with the publication in 1977 of a circular specifying the conditions for naturalisation.²¹ The requirements laid down in the 1892 Act were interpreted and specified in considerable detail. For the larger part, they had already been applied in practice for many years. The main reason why the Dutch government had not published the conditions previously was that it did not want to commit itself to obeying its own rules. A further reason was that the government wanted to refrain from giving applicants a handle to oppose a negative decision (Heijs 1995: 169). However, appealing to a negative decision in a Court was still not possible.

The publication of the conditions made clear that naturalisation no longer was a favour, but more and more was perceived as a right, not only for applicants with a strong connection with the Netherlands, but also for applicants to be naturalised by Act. Three requirements had to be fulfilled by every applicant.

The first was that there may not be any objection against the applicant residing in the Netherlands for an indefinite period of time. This condition was to prevent the naturalisation policy from interfering with the admission policy. Another condition was the social integration of the applicant in Dutch society. Integration was assumed to have taken place, if he was both able to speak and understand the Dutch language and had assimilated into Dutch society. Immigrants who still felt mainly connected to the country of origin were not considered to have assimilated completely, even if they had been accepted by their surroundings (Böcker et al. 2005). This was assessed on the basis of a short interview by an official of the (alien) police. Minor children and female spouses of the applicant and former Dutchmen were not required to have integrated. The third condition was that the applicant constituted no threat to the public order.

The liberalisation translated into rising naturalisation numbers in the period between 1975 and 1984. Whereas in 1976, 4,201 immigrants had acquired Dutch citizenship, this number rose to 13,179 in 1984, peaking in 1982 with 19,728 acquisitions. Most naturalisations concerned immigrants from the former colony of Surinam. Although the numbers of immigrants from Turkey and Morocco had grown between 1975 and 1984 from 50,000 to 155,000 (Turkish) and 115,000 (Moroccan), naturalisation numbers of these groups remained low. Only 975 Turkish and 516 Moroccan citizens were naturalised during those ten years (Heijs 1995: 208).

2.3 1936-1985: Equality between men and women

The 1892 Citizenship Act stipulated that the status of women was determined by the status of their husband. This meant that foreign women marrying a Dutch citizen automatically acquired Dutch citizenship, whereas Dutch women lost their citizenship upon marriage with a foreign husband. The Act also stipulated that during marriage, women could not

'repenters' who had not yet acquired Dutch citizenship (see sect. 11.2.4) former Dutch citizens who had fought in the German army during the Second World War and Moluccan immigrants.

²¹ *Hoofdafdeling Privaatrecht afdeling Nationaliteit en Burgerlijke Staat* (Main Department Private Law department Nationality and Civil Status), 10 March 1977, *Staatscourant* (Government Gazette) 27 April 1977, no. 81, p. 4.

independently re-apply for Dutch citizenship. On the other hand, women would acquire Dutch citizenship automatically if their husband was granted it through naturalisation. Re-obtaining or renouncing Dutch citizenship independently was only allowed after dissolution of the marriage after death or divorce (De Hart 2006: 8). Children acquired Dutch citizenship as descendants of a Dutch father if born in wedlock or acknowledged or legitimised after birth.

The main arguments subsequent Christian-Democratic governments used to defend this discriminatory policy was the protection of the ‘unity of the family’, the principle that prescribes the same citizenship for the members of a family. At the same time, it was felt that marriage with a foreigner illustrated the alienation of the woman in question from Dutch society.

The first amelioration in the legal position of married women and their children took place in 1936, subsequent to the Hague Convention on ‘Certain questions relating to the Conflict of Citizenship Laws’ of 1930.²² A foreign woman who married a Dutch citizen still automatically acquired Netherlands citizenship but a Dutch wife who married a foreigner or a stateless person did not automatically lose her Dutch citizenship.²³ She retained her citizenship if she could not acquire a foreign citizenship by marriage. A child of a Dutch mother and a stateless father acquired the Dutch citizenship of its mother he or she was born in the Netherlands.²⁴ In principle a married wife still followed the citizenship of her husband, but one exception was made: if the husband lost his Dutch citizenship, the wife kept her Dutch citizenship, if otherwise she would become a stateless person.²⁵

The outbreak of the Second World War led to a temporary breach in the concept of the unity of the family. The government wanted to put a stop to the uncontrolled access of German women marrying Dutch men and to protect Dutch women who had married a German citizen from expulsion. A Royal Decree of 22 May 1943 stipulated that Dutch women who had married citizens from a country with which the Netherlands had no diplomatic relations would not lose their citizenship. Similarly, German women who had married Dutch husbands after 9 May 1940 did not acquire Dutch citizenship.

In 1950, it was decided that German women marrying Dutch men could again acquire Dutch citizenship, if they had either resided in the Netherlands for one year, or had been married for at least five years. Dutch women would lose their Dutch citizenship upon marriage with a German again as of 1953 (De Hart 2006).

In 1964, as before in 1936, implementation of international law was the main reason to introduce more equality in Dutch citizenship law. In that year, the Dutch Nationality Act was revised when the New York Treaty on the Nationality of Married Women of 1957 entered into force.²⁶ This treaty laid down the independent status of a married woman in citizenship law. As a result of the revision of Dutch citizenship law, a foreign wife of a Dutch citizen did not automatically acquire the Dutch citizenship of her husband anymore; however she could acquire this status by a simple option declaration.²⁷ A Dutch woman who married a foreigner or a stateless person kept her

²² Act of 21 December 1936, *Staatsblad* 209; LNTS 179: 89.

²³ Art. 5 Nationality Act 1892 (1936).

²⁴ Art. 2 sub c Nationality Act 1892 (1936).

²⁵ Art. 5 Nationality Act 1892 (1936); (de Groot 1996: 551).

²⁶ Act of 14 November 1963, *Staatsblad*, 467, in force on 1 March 1964; *Tractatenblad* (Bulletin of Treaties), 1965, 218

²⁷ Art. 8 Nationality Act 1892 (1963).

citizenship, even in cases where she acquired her husband's citizenship by operation of the law.²⁸ A transitory regulation was created to provide for equality for the women who had married a foreign citizen before 1964. During the period of one year, these women could re-acquire Dutch citizenship by lodging a simple declaration, if they were still married and had not acquired another citizenship voluntarily. After the transitional period of one year, a woman could only make this declaration after she had been resident in the Netherlands for at least one year. Of all the women that re-acquired their Dutch citizenship in the first year, 40 per cent retained their husband's citizenship (De Hart 2006). The objections of the Dutch government against dual citizenship were made subordinate to the equality principle.

Another alteration was the termination of joint naturalisation for married couples. As of 1964, both spouses had to individually meet the naturalisation requirements.

Gender inequality was abolished on 1 January 1985. As of that date, children acquire Dutch citizenship at birth when either parent is Dutch.²⁹ The 1984 Nationality Act also provides for the same procedure of acquisition of Dutch citizenship for foreign men and women married to Dutch citizens: as of 1 January 1985, both have to rely on naturalisation if they want to acquire Dutch citizenship. Before that date, foreign women married to Dutch men were able to simply lodge a declaration of option. Instead of according a similar right of option to foreign men marrying Dutch women, the government decided to subject foreign women to the naturalisation procedure. The fear of marriages of convenience lay behind this decision (De Hart 2006) In this context, Jessurun d'Oliveira (1977) spoke of 'good women suffering under bad men.'

Gender differences after gender equality

After the introduction of formal gender equality in citizenship law and before the introduction of the naturalisation test in 2003, gender differences were still relevant in naturalisation policies. The integration requirement was leniently applied to migrant women who were married and whose integration lagged behind that of their husbands. In such cases the woman could benefit from the language proficiency of her husband. Naturalisation was granted because of the interest of retaining the unity of the family. According to the Manual for the application of the Dutch Nationality Act, the 'existing opinions about the role of women among some minority groups should not hinder naturalisation'.³⁰ Since the introduction of the naturalisation test women have to meet the same integration requirements as men.

Scholars also often assumed that formally equal naturalisation requirements are more difficult to meet for women than for men because, for example, exemptions of the renunciation requirement (e.g., inheritance rights, military duty) apply mostly to men (Hagedorn 2003) or because women have more difficulties meeting integration requirements (Groenendijk & Heijs 2001). However, this is not substantiated by recent Dutch naturalisation statistics, which demonstrate that since 2002, women have naturalised in greater numbers than men, even after the introduction of the naturalisation test in 2003 (see table 1).

²⁸ Art. 8a Nationality Act 1892 (1963); (De Groot 1996: 552).

²⁹ If a child is born out of wedlock to a Dutch father and a foreign mother, he or she will acquire Dutch citizenship *ex lege* after acknowledgement or legitimation (art. 4 par. 1 and 2 DNA 1985).

³⁰ Guidelines Dutch Nationality Act 2001, A1, p. 21. See also Van Oers (2006).

Table 1 Naturalisations of men and women 2000-2010

Year	Number of naturalisations men	Number of naturalisations women
2000	23.697	22.243
2001	21.521	21.221
2002	20.619	21.260
2003	12.007	12.574
2004	9.886	10.703
2005	9.783	11.517
2006	9.743	11.237
2007	10.310	11.896
2008	10.396	11.937
2009	9.881	12.738
2010	7.783	10.318

Source: CBS

This evidence does not mean, however, that gender differences are no longer relevant in citizenship law. A decision of the Administrative Jurisdiction Division of the Council of State of 2008 demonstrates the relevance of gendered ideologies. In this decision, the Council confirmed the decision of the Ministry of Justice to refuse the naturalisation of the wife of an imam. According to a security report, the imam had praised the *jihad* and martyrdom and called for resistance against the western oppressor. This report, remarkably, (and not national security objections) was brought to argue that serious doubts existed about the integration of the husband and ‘therefore also about her integration in Dutch society’, and put forward to refuse naturalisation of the imam’s spouse.³¹ The lack of integration of the husband determined the perception of the extent of integration of the woman; her identity was dependent upon her husband. While before, the integration of the husband could benefit the woman, this norm is now inverted: the lack of integration of the husband disadvantages the position of the woman. It is apparent that women are still perceived as not having an independent identity.

2.4 1949-1975: Dealing with the colonies

To conclude, a few words need to be dedicated to the naturalisation policies concerning the inhabitants of Indonesia and Surinam, two former colonies of the Netherlands. When these colonies became independent, the status of the inhabitants of the former colonies occupied the minds in Parliament for several years.

After the recognition of the independence of Indonesia in 1949, it was decided that the 70 million Dutch subjects, non-Dutch citizens, would become Indonesian citizens and lose their former status. The 250,000 Dutch citizens who were accorded the right to

³¹ *Afdeling Bestuursrechtspraak van de Raad van State*, 6 August 2008, Jurisprudentie Vreemdelingenrecht 2008/364, annotation Karin de Vries. See also Spijkerboer, T. (2008). ‘Staatsveiligheidsliberalisme. Over de weigering een Vlissingse imamsvrouw te naturaliseren.’ *Nederlands Juristenblad* (36): 2300-2303. In an earlier case, the district court rejected the refusal by the Ministry of Justice of the naturalisation of a Libyan woman for citizenship security reasons. The woman had kept in touch with her father who had been expelled because of national security reasons (article 9 para. 1 sub. a DNA, 2000). The court wondered why the woman was held accountable for activities of the father. The court ordered that the Ministry of Justice had not convincingly argued that the woman was ‘ideologically or otherwise under the influence of her father’, and therefore only because she stayed in touch with her father justified the serious doubts that she is a danger to public order or security of the country. Court of Utrecht 7 December 2006, *Jurisprudentie Vreemdelingenrecht* 2007/151.

opt for Indonesian citizenship were strongly encouraged to do so by the Dutch government. Eventually, only 13,600 Indonesian Dutch opted for Indonesian citizenship. Later on, many of these persons would regret their decision to opt for Indonesian citizenship. They became known as the 'repenters' who, according to various Members of Parliament, needed to be admitted to the Netherlands. Following Parliamentary attention to this group and to the non-acknowledged Indonesian children with a Dutch father, the so-called social Dutch, the immigration policy concerning these groups became more lenient. This, however, did not count for the policy concerning their naturalisation. It was not until 1960 that the Ministry of Justice embarked on a more liberal policy concerning the naturalisation of the repenters and the social Dutch. As of 1960, it was mostly Indonesians that acquired Dutch citizenship through naturalisation. Previously, German immigrants had always formed the largest group.

When Surinam became independent in 1975, it was harder to legally determine which citizens belonged to Surinam and which did not. Using the indirect criteria of 'country of birth' and 'country of residence', it was decided that Dutch citizens living in Surinam on 25 November 1975 obtained Surinamese citizenship. This provision did not apply to first generation Dutch citizens of European origin. A right to opt for Dutch citizenship was accorded to the second generation of Dutch citizens of European origin. Hence, only Dutch citizens of Surinamese origin and Dutch citizens of Asian origin (the descendants of immigrants from the former Dutch and British East Indies) (Heijs 1991: 35) acquired the new Surinamese citizenship. The 1975 Allocation Agreement stipulated that acquisition of Surinamese citizenship entailed the loss of Dutch citizenship. Dutch citizens of Surinamese and Asian origin did not receive a right of option for Dutch citizenship.

The 1975 Agreement, despite the absence of a legal distinction between natives and Europeans, had the same effect as the 1949 Agreement with Indonesia. Most white Dutch citizens living in Surinam retained their Dutch citizenship (or were allowed to opt for it), whereas the non-white Dutch citizens lost this citizenship (Heijs 1991: 35). The restriction of immigration played a much larger role in the realisation of the 1975 Agreement than it did at the coming about of the Agreement of 1949. Whereas immigration only became an issue after Indonesian independence, due to the deterioration of relations between Indonesia and the Netherlands, the Dutch government wanted to put a stop to immigration coming from Surinam shortly after its independence. This intention of the Dutch government was only partially realised. Whereas at the time of Surinam's independence 100,000 Surinamese Dutch citizens lived in the Netherlands (Reubsaet 1982), their number had grown to 244,000 by 1990. Ten years later, 300,000 persons living in the Netherlands were born in Surinam or had a parent born in Surinam, while only 10,000 of them had Surinamese citizenship.³²

³² Source: Central Bureau of Statistics (CBS).

3 The current citizenship regime

3.1 Political analysis

Introduction: integration policies

In order to understand the developments of citizenship law, it is relevant to describe the Dutch integration policies, which have had a profound impact since the 1980s. Dutch integration policies have shifted from what has been called a ‘pacesetter of multicultural policies’ (Vermeulen & Penninx 2000: 3) to a more assimilationist approach (Joppke & Morawska 2003: 2). In the 1950s and 1960s, the Netherlands was a country of emigration. The Dutch government was not concerned itself with developing a policy regarding the influx of newcomers, mainly because their stay in the Netherlands was considered as temporary.³³ In the 1970s, the policy was two-fold, aiming both at the integration and the return of immigrants to their home-countries. Since the immigrant stay in the Netherlands was still considered to be temporary, ‘integration with preservation of cultural identity’ was the policy’s motto.

In 1979, the Scientific Council for Government Policy (WRR) published its influential report *Ethnic Minorities*, advising the government to accept the fact that most immigrants would stay permanently in the Netherlands, and to develop a policy aimed at equal participation of minorities in society.

The starting point was the improvement of the settled immigrants’ legal position. The government mentioned two ways in which the differences in legal status between Dutch citizens and immigrants could be diminished. The first was by naturalisation. The restrictive Dutch immigration policy justified a generous naturalisation policy (Heijs 1995: 180). The second way was by diminishing the differences between Dutch citizens and non-Dutch citizens in laws and policies, where these differences were no longer justified. Hence, in the 1980s many initiatives were taken to improve the legal position of immigrants and to stimulate naturalisation (De Hart 2005: 6). The new Dutch Nationality Act, which came into force on 1 January 1985, was mentioned as being of ‘special importance’ for the new minorities’ policy.³⁴

In the 1990s, a shift from a ‘minorities’ policy’ to an ‘integration policy’ took place. The government developed a new approach, with emphasis on the need for integration of individual immigrants. Providing immigrants with the instruments for a fuller participation in society had replaced the ‘caring’ approach of the 1970s and 1980s (Entzinger 2003: 73). The focus was on the individual obligations. The term ‘active citizenship’ was introduced to re-emphasise the responsibility of each individual for his or her place in society. The 1998 Act on the Civic Integration of Newcomers, which introduced so-called newcomer programmes, required individual immigrants to take obligatory language and societal knowledge courses.³⁵

During the same period, the integration of immigrants became a subject of public debate. The idea emerged that immigrants had been treated too liberally, that they had been ‘pampered’ without having to bear obligations. Several years later, events led to an atmosphere of increasing tension and the idea that the integration of immigrants into Dutch society had failed. This development was triggered by the publication in 2000 of

³³ Report Commission Blok, *Tweede Kamer* 2003-2004, nos. 8-9, p. 28.

³⁴ *Bijlagen Handelingen Tweede Kamer*, 1982-1983, 16 102, no. 21, p. 92.

³⁵ Act of 9 April 1998, *Staatsblad* 1998, no. 261; (de Hart 2005: 7).

an influential article entitled ‘The Multicultural Tragedy’ (*Het multiculturele drama*) by Paul Scheffer, a publicist and prominent member of the Social Democratic PvdA, followed by the events of 9/11, the rising influence of the populist politician Pim Fortuyn, his murder in May 2002, and finally the murder of cineaste Theo van Gogh on 2 November 2004. Integration was no longer to be stimulated, but a requirement for non-western Dutch immigrants of foreign descent, now generally referred to as ‘muslims’ (De Hart 2005: 7). The current policy is the opposite of the minorities’ policy of the 1980s, in which the idea prevailed that a strong legal position would contribute to immigrants’ integration. In the current policy, admittance, a secure legal residence and Dutch citizenship are regarded as remuneration for integration. The former Minister of Alien Affairs and Integration Verdonk (Conservative Liberals) regularly referred to acquisition of Dutch citizenship as ‘the first prize’.³⁶ Currently, naturalisation is the crown on the completed integration process. In what follows, we will describe how the changed thinking on integration influenced Dutch citizenship law.

Acquisition of Dutch citizenship for first generation immigrants

On 1 January 1985, a new Dutch Nationality Act came into force, replacing the former 1892 Act.³⁷ The minorities’ policy, introduced in the early 1980s, clearly influenced the final text of the new Act. Strengthening the legal position of non-Dutch minorities was a central element of this policy. Under the new Act, the procedure for acquiring Dutch citizenship through naturalisation was simplified and applicants for naturalisation were given the possibility of appealing negative decisions. With the coming into force of the 1984 Act, naturalisation became a right rather than a favour.

An example of this transformation was the codification in the Act of the conditions for naturalisation. The new Nationality Act stipulated that, in order to be eligible for naturalisation, an applicant must

- Be at least eighteen years of age;
- Have been granted a residence permit in the Netherlands by the immigration authorities for a purpose not limited in time;
- Have resided in the Netherlands for at least five consecutive years prior to the application;
- Not constitute a danger to public order, public morals, public health or the security of the Kingdom;
- Have made an effort to renounce his or her foreign citizenship, unless renunciation cannot be demanded.

The conditions for naturalisation included in the new Act differ little from the conditions published in 1977.

Integration and dual citizenship: an impossible combination?

The determination of the 1984 Nationality Act and the Act which gave consent to the ratification of the Council of Europe Convention on the Reduction of Cases of Multiple

³⁶ *Tweede Kamer* 29200 VI, no. 7, p. 3 (November 2003), *Hand. Tweede Kamer* 10 December 2003, p. 2486, *Tweede Kamer* 27083, no. 63, p. 15 (June 2004) en *Hand. Tweede Kamer* 2 September 2004, p. 6075 en 6096.

³⁷ Act of 19 December 1984, *Staatsblad* 628.

Nationalities took place on the same day.³⁸ Although the Convention aimed at reducing the number of cases of dual citizenship, the new Dutch Nationality Act generated many cases of dual citizenship. As of 1 January 1985, Dutch citizenship could be acquired from the father and the mother. The government did not consider this amendment in contradiction to the objective of preventing multiple citizenship, because it gave more weight to the principle of gender equality (De Hart 2006: 16).

Under the 1984 Act, second generation immigrants were given the possibility of acquiring Dutch citizenship by lodging a simple, unilateral declaration. This so-called option procedure did not require renunciation of the original citizenship. The third generation-provision, in force since 1953, was retained and expanded in relation to requirements of gender equality. It would also create its share of dual citizens. Nevertheless, the Dutch government explicitly expressed itself to be against multiple citizenship in cases of naturalisation (De Hart 2004: 151).

Although fiercely opposed by left-wing parties, who used as a main argument the incompatibility of the requirement with the goal of making citizenship acquisition easier as incorporated in the new minorities' policy, the renunciation requirement was incorporated in the 1984 Act. However, persons from whom renouncing their original citizenship could not reasonably be expected were exempted from the requirement.³⁹

These exceptions were already laid down in the circular that was published in 1977.⁴⁰ Renunciation was not required if the laws of the country of origin did not allow it (for example Morocco, Greece, Iran and most countries in Eastern Europe), if it could not reasonably be expected that the applicant contact the authorities of his country of origin (refugees), or in case renunciation would cause disproportional (moral or financial) damage. Since retention of the original citizenship largely depends on laws and practices in the country of origin, Jessurun d'Oliveira spoke of a 'shuffling of lottery balls' (Jessurun D'Oliveira 1991).

The dual citizenship of Dutch emigrants abroad was also addressed during the Parliamentary discussion of the 1984 Act. According to the government, automatic loss of Dutch citizenship upon spending ten years abroad was justifiable, since the connection of these Dutch citizens with the Netherlands would be either very weak or non-existent (De Hart 2005: 18). The automatic loss of Dutch citizenship provided for a correction of the growing number of dual citizens under the new Act. Equality between immigrants and emigrants was also used as an argument at the expense of dual citizenship for Dutch citizens living abroad. In 1983, an article by Makaay, a Dutch lawyer living in Canada, concerning the advantages of dual citizenship for emigrants was published in the largest weekly for lawyers in the Netherlands (Makaay 1983). Following this article, hundreds of letters were sent to Parliament and to the Ministry of Justice by Dutch emigrants with dual citizenship. The campaign failed to convince a majority in Parliament. Motions allowing for dual citizenship for emigrants and immigrants put forward by left wing parties were rejected. As of 1 January 1985, Dutch citizenship was lost automatically after ten years of

³⁸ *Tractatenblad* 1974: 4; *Aanvullend Protocol en Protocol tot wijziging* (Additional Protocol and Change Protocol), 24 November 1977, *Tractatenblad* 1981, 45 en 46; *Goedkeuringswet* (Approval Law), *Staatsblad* 1984, 627.

³⁹ Art. 9 para. 1 sub. b Dutch Nationality Act 1984.

⁴⁰ *Hoofdafdeling Privaatrecht afdeling Nationaliteit en Burgerlijke Staat* (Main Department Private Law Department Nationality and Civil Status), 10 March 1977, *Staatscourant* 27 April 1977, p. 4.

residence abroad after majority in the country of birth, if the person concerned also possessed the citizenship of that country.⁴¹

At the end of 1989, the discussion concerning the renunciation requirement was revived. This was mainly due to the Scientific Council for Government Policy's (WRR 1989) report on 'Alien Policy' (*Allochtonenbeleid*). In this report, the Council restated that integration required improvement of the immigrant's legal position and, hence, naturalisation should not be made more difficult than strictly necessary (De Hart 2005: 20). The Council recommended allowing dual citizenship for immigrants.

Initially, the Lubbers III government (Social Democrats and Christian Democrats, 1989-1994) turned down the Council's advice.⁴² Subsequently, pressure was exercised in the second chamber to abolish the renunciation requirement. Outside the second chamber, immigrant organisations spoke out against the renunciation requirement. The IOT, the national body of Turkish organisations, actively lobbied for the abolition of the renunciation requirement. The fact that Turkish men could give up Turkish citizenship only after fulfilling their military obligations explains the Turkish interest in abolition of the requirement (Groenendijk & Heijs 2001: 159).

In May 1991, the government sent the Memorandum 'Multiple citizenship and voting rights for aliens' to the Lower House.⁴³ In this Memorandum, the government observed that a change in the perception of dual citizenship had taken place (Van den Bedem 1993: 33). It acknowledged that allowing for dual citizenship might serve the realisation of the government's drive for integration and participation in society.⁴⁴ The government proposed to abolish the requirement. The Memorandum represented a compromise between the parties forming the coalition government. Whereas the Christian Democrats gave up their objections to the possibility of retention of former citizenship, the Social Democrats gave up their wish to extend voting rights for non-citizen residents to the national level.

The government's proposal caused a division in the second chamber. The conservative liberals and the small right wing parties condemned the acceptance of dual citizenship (De Hart 2004: 153). The Christian Democratic Party was internally divided. The Socialists and the small left wing parties were clearly proponents of dual citizenship. They stressed that globalisation and migration had changed the world, creating the possibility of having a connection with several countries. They also claimed that dual citizenship would promote integration (Böcker et al. 2005).

At the end of 1991, a compromise between proponents and opponents of the renunciation requirement was reached. A motion formulated by Social Democrats and Christian Democrats was proposed. The Christian Democrats could read this as a confirmation that the renunciation requirement still existed, but would in future be applied more leniently, whereas according to the Social Democrats, the motion provided for a choice by the immigrants themselves whether or not to retain their former citizenship.⁴⁵ The motion was adopted by a majority of the second chamber. Pending the required amendment of the citizenship legislation, the Christian Democrat Minister of

⁴¹ Since the Dutch citizenship law only allowed for loss of Dutch citizenship in case this would not leave a person stateless, only dual citizens were affected by the provision.

⁴² *Tweede Kamer*, Bijlagen II, 1989-1990, 21 132, no. 9, p. 43.

⁴³ *Tweede Kamer* 1990/91, 21 971, no. 14. For comments on the Memorandum see Jessurun d'Oliveira 1991.

⁴⁴ *Tweede Kamer* 1990-1991, 21 971, no. 14.

⁴⁵ *Tweede Kamer* 1991/92, 21 971, no. 19; (Böcker et al. 2005).

Justice, with the second chamber's consent, used his statutory discretion to abolish the renunciation requirement in November 1991.⁴⁶ The new policy only applied to immigrants. Dutch citizens who acquired another citizenship or emigrants with dual citizenship who spent ten years abroad would still lose their Dutch citizenship.

The measure was a success, since it led to a dramatic increase in the number of naturalisations, in particular among Turks, Moroccans and refugees. We will discuss the effects of the abolition, and the later reintroduction of the renunciation demand in sect. 3.2.

In February 1993, a Bill was introduced to formalise the practice of allowing for dual citizenship for immigrants and to extend it to Dutch citizens. The discussion in Parliament in the years that followed mainly focussed on dual citizenship for immigrants.

According to the Christian Democrats and Conservative Liberals, the rise in the number of naturalisations clearly showed that naturalisation had become too easy. In their opinion, naturalisation should not be seen as means for integration, but as a crown on the completed integration procedure (Böcker et al. 2005). Social Democrats, Progressive Liberals and Green Left still advocated for dual citizenship, seeing it as a means to further integration.

In 1995, the Parliament was flooded with letters from Dutch citizens living abroad. As ten years had passed after the coming into force of the 1984 Nationality Act, the first Dutch emigrants since then had automatically lost their Dutch citizenship as a consequence of their residence abroad. In these letters, the emigrants pleaded for the possibility of dual citizenship. Both left- and right-wing parties favoured dual citizenship for emigrants, albeit for different reasons. The Conservative Liberals spoke out for dual citizenship of Dutch emigrants, stating that it should be left to the receiving country whether or not to allow for dual citizenship. The main argument of the Christian Democrats was that dual citizenship could be allowed for Dutch emigrants since they did not pose an integration issue. Left-wing parties spoke out for the Dutch emigrants mainly as an argument to allow for dual citizenship also for immigrants. In their opinion, allowing for dual citizenship for emigrants was not compatible with objecting to dual citizenship for immigrants.

Despite renewed doubts concerning the abolition of the renunciation requirement, the bill that allowed for dual citizenship for both immigrants and emigrants passed the second chamber in 1995. But in the Senate, the right-wing majority rejected the government's attempt to codify the abolition of the renunciation requirement. In 1996, the Secretary of State of the Justice department decided to withdraw the Bill.

In 1997, the requirement for applicants to renounce foreign citizenship was reintroduced. A circular laid down the exceptions, which were larger in number than the exceptions that applied to the renunciation demand before 1992.⁴⁷ They concerned the majority of the immigrants that applied for naturalisation (De Hart 2004: 157).

In February 1998, a new Bill on Dutch citizenship was proposed.⁴⁸ In this Bill, the renunciation requirement was retained. During the Parliamentary discussion of the Bill, the major political parties developed a more restrictive attitude towards naturalisation in general, especially concerning the required knowledge of Dutch language and society. Christian Democrats and Conservative Liberals claimed that most immigrants had been obtaining Dutch citizenship for pragmatic reasons rather than as a sign of loyalty to the

⁴⁶ Circular of Secretary of State of Justice of 20 December 1991, *Migrantenrecht* (Migrant Law) 1992, p. 62.

⁴⁷ *Staatscourant* 9 July 1997, no. 128, p. 7.

⁴⁸ *Tweede Kamer* 1997-1998, 25 891 (R 1609), no. 2.

Netherlands. Eventually, the Christian Democrats voted against the bill, arguing that the requirements for naturalisation should be even stricter. Conservative Liberals and the small Christian parties criticised the large number of exceptions to the renunciation requirement. They wondered what was left in practice of the legal obligation to renounce one's citizenship upon naturalisation (Groenendijk & Barzilay 2001: 54).

Finally, the bill was approved in 2000 and it came into force on 1 April 2003.⁴⁹ It still allowed dual citizenship in many cases, but made access to Dutch citizenship more difficult. By then, discussions regarding the integration requirement had led to the addition of a strict language and society test as a condition for naturalisation.

While making it harder for first generation immigrants to acquire Dutch citizenship, the possibilities for Dutch emigrants to retain their citizenship have been enlarged. Dutch citizenship is no longer lost automatically after spending ten years abroad, provided that a passport or proof of Dutch citizenship is applied for each of the ten years (art. 15 para. 3 and 4 DNA 2000).⁵⁰ Those who lost Dutch citizenship in this way were given the opportunity to re-acquire it under easier conditions.⁵¹ Furthermore, Dutch citizens who apply for the citizenship of their partner are allowed to keep their citizenship.⁵²

Effects of the abolition and reintroduction of the renunciation requirement

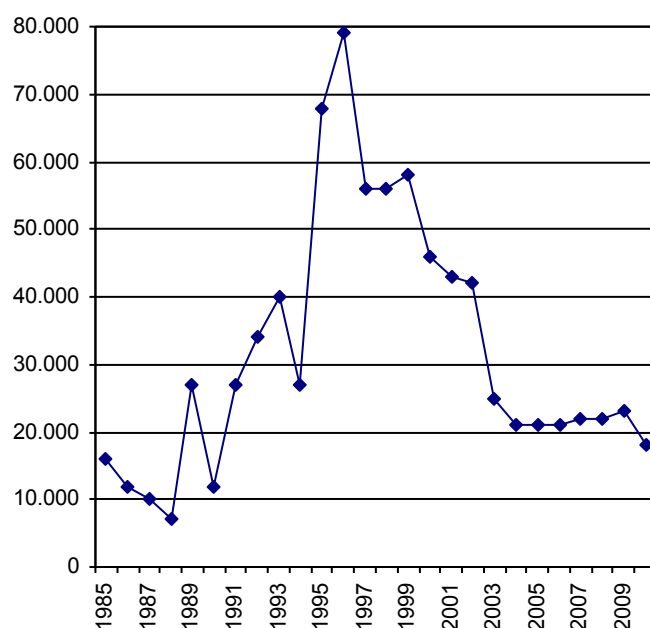
We have seen that the renunciation requirement has had its share of attention over the past few decades. In order to examine the actual effects of the (abolition of) the renunciation requirement, one can compare the numbers of naturalisations prior to the abolition of the renunciation requirement in 1991 with the number of naturalisations between 1991 and 1997, when the requirement was reintroduced. Since some categories of applicants are exempted from the renunciation requirement, a closer look should also be taken at the actual number of applicants that had to renounce their original citizenship.

⁴⁹ Act of 21 December 2000 (*Staatsblad* 618) amended by the Act of 18 April 2002 (*Staatsblad* 222).

⁵⁰ Exceptions apply to those who live within the European Union, are working for the Dutch state or an international organisation, or who are the spouse of or born in the country of the other citizenship or have been living there for a period of five years or more before majority and have their main residence there or are married to a person with the citizenship of the country of residence.

⁵¹ art. V para. 1 DNA 2000.

⁵² Art. 15 para. 2 sub c DNA 2000.

Figure 1 Number of naturalisations 1985-2010

Source: CBS

The renunciation requirement for naturalisation was abolished in 1991. In the 1990s, the number of naturalisations rose considerably. An average of 50,000 persons per year acquired Dutch citizenship through naturalisation, compared to 19,000 persons per year in the 1980s. This rise of naturalisations can partially be explained by the abolition of the renunciation requirement.⁵³ In 1996, the number of acquisitions of Dutch citizenship by naturalisation reached an absolute peak with 78,731. It is possible that applicants for naturalisation were anticipating the re-introduction of the renunciation requirement. Whatever the reason may have been, the number of acquisitions by naturalisation in 2001 was slightly lower than 43,000 (Böcker et al. 2005).

If the effects of the re-introduction of the renunciation requirement are examined per group of immigrants, the results differ significantly. The effects on the naturalisation behaviour of the Turks were considerable. In 1992, the naturalisation quota among this group of immigrants rose to 20 per cent and subsequently dropped to 5 per cent in 1999-2001 (Böcker et al. 2005). The re-introduction of the requirement hardly had any effect on the quota of naturalisations among Moroccans. The difference in the effect of the renunciation requirement on the two groups of immigrants can be partially explained by the citizenship regulations in the countries of origin (Böcker et al. 2005). According to Moroccan citizenship law, it is almost impossible to renounce Moroccan citizenship, whilst the Turkish citizenship law does provide for this possibility.⁵⁴ In her struggle against dual citizenship, the Minister of Alien Affairs and Integration (Conservative Liberals) officially requested the Moroccan government in December 2004 to alter the Mor-

⁵³ Other possible explanations for the rise of the number of naturalisations are the high level of immigration, especially of asylum seekers in the early 1990s, and the policy of decentralisation, applied since 1988.

⁵⁴ The impossibility of renunciation because of the citizenship law of the country of origin constitutes an exemption from the renunciation requirement. In 1996 and 2001, all Moroccans acquiring Dutch citizenship by naturalisation kept their Moroccan citizenship (source: CBS).

occan citizenship law, so as to provide for a possibility for Moroccan Dutch to renounce their Moroccan citizenship.⁵⁵

Two other large groups of immigrants, refugees and EU citizens are hardly affected by the reintroduced renunciation requirement. This can be explained by the exemption of the renunciation requirement of the first category and by the low tendency towards naturalisation of the second (Böcker et al. 2005).

The renunciation requirement is used as an extra criterion for integration. According to the Dutch government, an applicant can only be considered fully integrated if he or she is prepared to have Dutch citizenship as his or her unique citizenship. Consequently, dual citizenship constitutes an impediment for integration. But how many immigrants actually have to renounce their citizenship when they apply for Dutch citizenship? On 1 January 1998, a year after the reintroduction of the renunciation requirement, more than 600,000 persons in the Netherlands held another citizenship with to their Dutch citizenship. In 2003, their number had grown to almost 900,000 persons.⁵⁶ On January 2008, more than one million persons held another citizenship with to their Dutch citizenship (*ibid*). This number is higher than the number of persons with only a foreign citizenship (more than 650,000). In 63 per cent of all naturalisations, the applicant is allowed to retain his or her former citizenship. In half of these cases (32 per cent), dual citizenship is allowed because the legislation of the country of origin does not allow for renunciation of citizenship. In the rest of the cases, the Dutch Nationality Act and the Manual on its application provide for exceptions to the renunciation requirement. Refugees make up 16 per cent of the total of applicants that is allowed to retain their original citizenship, spouses of Dutch citizens account for 12 per cent of the total and the second generation constitutes 2 per cent. The Minister of Alien Affairs and Integration has proposed to no longer exempt second generation immigrants and spouses of Dutch citizens from the renunciation requirement.

It should be noted that the growing number of dual citizens in the Netherlands cannot be explained only by the fact that groups of applicants are exempted from the renunciation requirement. Children born from marriages between citizens of different nationalities often have multiple nationalities and persons acquiring Dutch citizenship by the right of option are not required to give up their original citizenship.⁵⁷ This also applies to third generation immigrants that automatically acquire Dutch citizenship upon birth in the Netherlands.

The former Minister of Alien Affairs and Integration (Conservative Liberals) submitted a Bill aiming to combat dual citizenship. It included the elimination of two legal exceptions to the renunciation requirement, both stemming from the Second Protocol of the Strasbourg Convention, namely the exception for second generation immigrants (born or having resided in the Netherlands for five years before reaching majority) and for foreign spouses or partners of Dutch citizens. The Minister claimed that the introduction of the renunciation requirement for these categories was not contrary to the European Convention on Nationality, since other articles in the Dutch Nationality Act provided for easy access to Dutch citizenship for these groups.⁵⁸

⁵⁵ www.novatv.nl, broadcast 7 December 2004.

⁵⁶ CBS, statline.cbs.nl

⁵⁷ In 2002, 20,422 children born in the Netherlands acquired more than one citizenship at birth. In most cases, the other citizenship was the Moroccan citizenship (5,256) or Turkish citizenship (4,992) (Memorandum Multiple Nationality and Integration, *Tweede Kamer* 2003/2004, 28 689, no. 19, p. 6.).

⁵⁸ Letter from the Minister of Alien Affairs and Integration to the second chamber, *Tweede Kamer*

A further governmental proposal concerning dual citizenship was to withdraw Dutch citizenship from dual citizens who have been convicted for terrorist acts. In a letter sent by the government to the second chamber on 10 November 2004, following the murder on the Dutch film maker Theo van Gogh the week before, the Memorandum that preceded the Bill which included the measures to restrict dual citizenship was mentioned as one of the measures to combat terrorism.⁵⁹ Hence, according to the Dutch government, reducing dual citizenship was an instrument in the fight against terrorism. Meanwhile, the Council of State has already given advice concerning a proposal for withdrawing Dutch citizenship in the case of conduct seriously prejudicial to the vital interests of the State.

The government that came into power in 2007 withdrew the bill because of the different attitude towards multiple citizenship and submitted a new bill (see further par. 4).

Second and third generation: supposed integration?

In the past twenty years, the renunciation requirement is not the only aspect of citizenship law that has been the subject of political debate. Citizenship acquisition by second and third generation immigrants also gave rise to discussion in Parliament. In the original bill for a new Dutch Nationality Act in 1981, the clause on automatic acquisition of Dutch citizenship for third generation immigrants, in force since 1953, was not included.⁶⁰ In the government's opinion, the simple fact of birth in a country did not justify the automatic acquisition of that country's citizenship. According to the government, the assumption that birth in a country generated feelings of connection with that country was superseded.⁶¹

Two years later, the government revised its opinion. In the memorandum of reply, the Secretary of State for Justice (Christian Democrats) stated that the retention of the double *ius soli* provision was desirable, since it would strengthen the legal position of third generation immigrants in the Netherlands.⁶² This change of direction was closely connected to the minorities' policy set out in the governmental White Paper on minorities, which was published a few months later.

However, the government did not intend to retain the third generation provision in its old form. Instead, it proposed to afford the right of option, to be exercised upon coming of age, or earlier by the child's legal representatives. The government, supported by Moluccan lobby organisations, did not want to impose Dutch citizenship. But the strong lobby of the NCB, the Dutch Centre for Immigrants, had a major influence on the Parliamentary debate concerning the third generation-provision (Groenendijk & Heijs 2001: 159). They could not however convince Parliament to allow for automatic acquisition of Dutch citizenship for second generation immigrants.⁶³

Eventually, after the adoption, by large majority, of a Christian Democrat/Liberal amendment, the third generation-provision was maintained in its original form and expanded in relation to norms of gender equality. The third generation was expected to

2003/2004, 28 689, no. 19, p. 3.

⁵⁹ Letter of 10 November 2004 from the Ministers of Home Affairs and Kingdom Relations to the second chamber, 5319045/04, p. 9 and 16.

⁶⁰ *Tweede Kamer* 1981, 16 947, (R 1181), nos. 1-2.

⁶¹ *Bijlagen Handelingen Tweede Kamer*, 1981, 16 947, no. 3 p. 11.

⁶² *Bijlagen Handelingen Tweede Kamer*, 1982-1983, 16 947, no.7, p.8.

⁶³ As a compromise between automatic acquisition and naturalisation, these immigrants were given a right to opt for Dutch citizenship.

integrate in Dutch society automatically hence justifying acquisition of Dutch citizenship at birth.

According to the current Dutch government, the primary goal of the Dutch Nationality Act of 2000, which came into force on 1 April 2003, is to ensure that anyone who, because of birth, integration in Dutch society or other reasons, possesses a sufficiently strong tie with the Netherlands, and fulfils the other conditions for acquisition of Dutch citizenship, has the right to fully participate in Dutch society and, to this end, to acquire Dutch citizenship. A second goal is to promote the exclusive possession of Dutch citizenship as a means to promote integration.⁶⁴ The third generation provision shows that these goals are not always reconcilable. Though the clause can indeed be defended on the basis of the first goal, the same provision is responsible for creating cases of dual citizenship, hence clashing with the second goal of the new Nationality Act. Nonetheless, the provision is still retained in the Act.

During the discussion on the budget for the Ministry of Justice on 3 November 2003, MP Sterk (Christian Democrats), supported by Nawijn (MP for the Centre Right List Pim Fortuyn) and Hirsi Ali (Conservative Liberals), proposed a motion requesting that the government no longer allow for dual citizenship for the third generation.⁶⁵ In the motion, the third generation of immigrants is referred to as *allochtones*, although the automatic acquisition of Dutch citizenship is not questioned. The motion was not passed by the government.

As of 1 January 1985, not only third generation immigrants, but also second generation immigrants could profit from favourable conditions when applying for Dutch citizenship. In 1983, under the influence of the minorities' policy, which aimed at reinforcing the long-term immigrants' legal position in order to further integration, the government proposed to grant the right of option to the second generation. Since 1976, this category had benefited from an accelerated procedure of naturalisation by ministerial decision.

Parliament received the government's proposition positively, and the 1984 Nationality Act, in addition to the retained third generation provision, provided for the right of option for the second generation. As of 1 January 1985, those born on Dutch territory were granted the right to opt for Dutch citizenship between the ages of 18 and 25, under the condition that they had been residing on Dutch territory since birth.

The option procedure differed in many ways from the traditional acquisition of citizenship through naturalisation. Contrary to the naturalisation procedure, the option procedure was a unilateral declaration by the applicant, without further conditions. There was no obligation to renounce the former citizenship and no public order or integration requirement. Whilst during the naturalisation procedure it was evaluated for each individual applicant whether feelings of loyalty and connection towards the Dutch state existed, these feelings were presumed to exist in the option procedure. However, parliament and government shared the opinion that these feelings were not strong enough to provide for acquisition of Dutch citizenship at birth, as was the case for the third generation.

In the amended Dutch Nationality Act, in effect since April 2003, the number of categories of persons that can acquire Dutch citizenship by option is extended from two to eight.⁶⁶ The right of option is also introduced for second generation immigrants that have

⁶⁴ *Tweede Kamer* 2003-2004, 28 689, no. 19, p. 5.

⁶⁵ 3 November 2003, *Tweede Kamer* 2003-2004, 29 200 VI, no. 81

⁶⁶ Under the 1984 Act, persons born in the Netherlands could acquire Dutch citizenship by option

been lawfully residing in the Netherlands since the age of four (art. 6 para. 1 sub e). Furthermore, the maximum age of 25 for lodging a declaration of option has been cancelled. The 2000 Act also offers a possibility for children to share in the acquisition of Dutch citizenship through the right of option by their parents. At first sight, this legislation is favourably disposed towards persons interested in acquiring Dutch citizenship through the right of option. However, it also puts up important barriers.

For persons eligible to acquire Dutch citizenship through the right of option, simply lodging a declaration is no longer enough. Under the new Act, the mayor may refuse confirmation in case of ‘serious suspicions that the person constitutes a threat to public order, public decency or the safety of the Kingdom’ (art. 6 para. 3). In the Manual for the application of the Dutch Nationality Act, what has to be understood by ‘serious suspicions that the person constitutes a threat to public order, public decency or the safety of the Kingdom’ is specified. It appears that this ground of refusal is to be interpreted in the same way as it is in a case of naturalisation.⁶⁷ This means that if an applicant has been convicted of a crime that has been sanctioned in a certain way, within the four years preceding the application, the request for Dutch citizenship will be denied. It also means that a serious suspicion that an applicant has committed such a crime will lead to a refusal to confirm the option procedure. According to the Manual, there is a ‘serious suspicion’ if, for example, the applicant’s case is still pending before a criminal Court or the prosecution has not yet started. Another difference between the old and the new option procedure is that under the new Act, most categories of optants have to have lawful residence in the Netherlands.⁶⁸ Some categories are even required to have had a certain period of habitual residence before making the declaration. The old act did not stipulate such conditions. Moreover, whereas the option procedure for Dutch citizenship was free of charge before 1 April 2003, as of that date a fee has to be paid, which currently consists of 144 Euros. .

Currently, the right of option no longer constitutes a middle course between *ex lege* acquisition and naturalisation. It can be seen as a simplified form of naturalisation. The option procedure and the naturalisation procedure show more similarities than differences (Dekker 2003: 126). The two remaining differences were the absence of the integration requirement and the renunciation requirement; however, both have since been tempered with. From March 2009 those who have an option right are under the obligation to participate in the naturalisation ceremony and take the oath. A bill is pending in parliament to require renunciation of foreign citizenship from second generation immigrants who came to the Netherlands before the age of four.

It is important to point out that option is not the most important mode of citizenship acquisition for second generation immigrants. As table 2 demonstrates, most children are naturalised as minors together with their parents; almost three times more than the number of children that acquires citizenship through option. However, the number of options is rising and option will become more important as access to citizenship has become more difficult for the parents due to the integration exam (see paragraph 3.1).

upon coming of age. If a person born in the Netherlands was stateless, he could opt for Dutch citizenship after only three years (art. 6 para. 1 sub a and b).

⁶⁷ *Handleiding voor toepassing Rijkswet op het Nederlanderschap* 2003, art. 6 para. 3, C.3, p. 1.

⁶⁸ Except for children legitimised or acknowledged by a Dutch citizen (art. 6 para. 1 sub c) and children put under joint custody of a Dutch citizen and a non-Dutch citizen (art. 6 para. 1 sub d).

Table 2 Acquisition of nationality by second generation immigrants (2004-2009)

	Option born in Netherlands (6 lid 1 sub a)	Option residence since age of 4 (6 lid 1 sub e)	Naturalized with parents
2004	1.217	573	6.821
2005	1.620	656	5.172
2006	2.114	742	8.111
2007	2.336	707	8.080
2008	1.376	447	6.910
2009	1.616	478	6.119
Total	10.279	3.603	41.213

Source: INDIAC, Trendrapportage Naturalisatie 2001-2008, table 1 p. 19 and table 4 p. 24, and Trendrapportage

IV.

Integration and the first generation: the language and integration requirement⁶⁹

Proof of integration into Dutch society has always been a condition for naturalisation. Before 1985, integration was mentioned as a condition for naturalisation in the instructions for naturalisation.⁷⁰ According to these instructions, the applicant should have ‘a reasonable knowledge of the Dutch language’ and be ‘assimilated into Dutch society’.⁷¹ In the bill for the 1984 Nationality Act, the requirements for naturalisation were explicitly codified. By listing it as the first condition for naturalisation, the Dutch government showed that in its opinion, the integration requirement was the most important requirement for naturalisation (art. 7 proposition 1984 Act). At the same time, the Dutch government also made it clear that ‘integration’ was not the same as ‘assimilation’. These notions had been synonymous for quite some time in naturalisation policies. But when the White Paper on Minorities (1983) characterised Dutch society as multicultural, giving room for minorities to enjoy their own cultures, the term assimilation was no longer applied. Where ‘assimilation’ was easily associated with unilateral and total adaptation to the Dutch society by the immigrant, ‘integration’ was considered to be compatible with the goals of the White Paper (Heijs 1995: 193).

While the bill was being discussed, practically all of the political parties objected to the integration requirement but for different reasons. Small left wing parties feared that the vagueness of the requirement would lead to legal insecurity and inequality.⁷² Since they had an ‘instrumentalist’ view on naturalisation and saw the acquisition of Dutch citizenship as a condition for integration rather than the other way around, they favoured abolition of the integration requirement. Several left-wing parliamentarians put forward an amendment to this end.⁷³

Although they criticised its vagueness, a large majority in Parliament thought that a total abolition of the integration requirement was too far-reaching. They shared the

⁶⁹ Parts of this section are based on Van Oers, R. (2008), ‘From Liberal to Restrictive Citizenship Policies: the Case of the Netherlands’, *International Journal on Multicultural Societies* 10(1): 40-59.

⁷⁰ Circular of 23 March 1979, altered 27 January 1981, *Staatscourant* 21.

⁷¹ Art. 1 of the instructions for naturalisation, *Staatscourant*, 2 April 1979, no. 65, p. 11.

⁷² Pacifist Socialist Party (PSP), Communist Party the Netherlands (CPN), Political Party Radicals (PPR).

⁷³ Amendment Van Es c.s., *Bijlage Handelingen Tweede Kamer*, 1983-1984, 16947, no. 29.

Secretary of State's opinion that 'the circumstance that a precise and sound definition, applicable under all circumstances, is hard to find' was no reason to waive the integration requirement.⁷⁴ Most parliamentarians had an 'emotional' vision concerning naturalisation. In their view, a certain number of years of residence in the Netherlands was not enough to confer Dutch citizenship. A feeling of connection to Dutch society also had to exist. Both the renunciation requirement and the integration requirement safeguarded this connection (Heijs 1995: 22).

To overcome the vagueness of the integration requirement, Christian Democratic and Conservative Liberal parliamentarians proposed to incorporate conditions for integration in the Act. In an amendment which was adopted, they codified the criteria from the old 1977 instructions on naturalisation. Their amendment was adopted. In the 1984 Act, integration in Dutch society was defined as having a reasonable knowledge of Dutch language and having been accepted into Dutch society.⁷⁵

In practice, after 1985, only the language test was used to judge whether an applicant fulfilled the integration requirement. If the language-requirement was fulfilled, it was assumed that the applicant maintained contacts with Dutch citizens. Only in the case of bigamy would sufficient language skills not suffice for a positive judgement on integration (Heijs 1995: 195). The language requirement was considered to be fulfilled if the applicant was able to apply for naturalisation on his or her own and if he or she could have a conversation about common and daily affairs.

The Manual on the application of the Dutch Nationality Act mentioned illiterates, persons with limited education, and the elderly as categories of persons who were to be treated flexibly when it came to knowledge of the Dutch language. Although it provided guidelines for civil servants in charge of determining whether the applicant sufficiently spoke and understood Dutch, the Manual also raised new questions. What, for example, was to be understood by 'flexible treatment' or by 'limited education'?

In research conducted in 1988, it seemed that not all civil servants were well informed about the policy concerning the language requirement (Heijs 1988). The language test was not applied uniformly in all municipalities. In more than 10 per cent of cases, not only speaking and understanding but also reading and writing Dutch was tested (Heijs 1988: 51). Failing the language test was the most important ground for the refusal of applications for naturalisation. However, less than 5 per cent of applications were refused (Heijs 1988: 58).

The content of the integration requirement was considered again during the discussion of the 1998 bill to amend the 1984 Nationality Act.⁷⁶ This bill aimed at a limited relaxation of the renunciation requirement (see earlier in this section). Apart from specifying the language requirement, which aimed at a more uniform interpretation of the requirement, it did not alter the integration requirement.⁷⁷ During the discussion of the bill in Parliament, the major conservative political parties developed a more restrictive attitude towards naturalisation. Just like the renunciation requirement, the integration requirement was subjected to heavy criticism. The larger conservative parties frequently used the term 'loyalty'. The Christian Democrats, for example, expressed the opinion that, in order for an

⁷⁴ Memorandum in reply, *Bijlage Handelingen Tweede Kamer*, 1982-1983, 16947, no. 7, p. 2.

⁷⁵ In the case of residence in the Dutch Antilles, of the language spoken on the island of residence (art. 8 para. 1 sub d Dutch Nationality Act 1984).

⁷⁶ *Tweede Kamer* 1997-1998, 25 891 (R 1609), no. 2.

⁷⁷ Whereas the 1984 Act required 'a reasonable knowledge of Dutch language', the article in the proposal demanded 'a sufficient knowledge of Dutch language necessary for social intercourse'.

applicant to be eligible for naturalisation, he had to feel Dutch. Dutch citizenship was something to be proud of and should not become a throw away or consumption article. Christian Democrats, Conservative Liberals and the small Christian parties insisted on a stricter integration requirement (De Hart 2004: 28).

In February 2000, the Conservative Liberals and Christian Democrats proposed an amendment which aimed to require a higher proficiency of the Dutch language upon naturalisation and to test the applicant's knowledge of Dutch society. At the same time, the Progressive Liberal D66 proposed an amendment to lay down the rules concerning the applicant's reading and speaking skills and knowledge of the Dutch polity in a Decree.⁷⁸ When it became clear that a majority in Parliament was in favour of a stricter integration requirement, the Secretary of State decided to alter the bill for the new Nationality Act. A Decree would specify to what extent applicants for naturalisation were required to demonstrate their command of Dutch language and polity.⁷⁹ In the explanatory memorandum, the Secretary referred to 'oral and written' knowledge of Dutch language and knowledge of the Dutch polity and society.

After the new Dutch Nationality Act entered into force 1 April 2003, a Royal Decree concerning the Naturalisation Test prescribed that applicants had to pass the 'naturalisation test' in which they had to prove sufficient knowledge of Dutch society and to be able to speak, understand, read and write Dutch.⁸⁰ The Decree therefore went further than the wishes of Parliament which had only wanted to test the reading skills and not the writing ability of future Dutch citizens. However, Parliament did not take the opportunity to comment on the Decree before its entry into force.

Exactly four years after its introduction, following the coming into force of the Integration Act (IA), the naturalisation test was replaced by the integration exam. As of 1 April 2007, applicants for naturalisation in the Netherlands are required to pass the same exam as applicants for permanent residence.⁸¹

The shift to a naturalisation test requiring sufficient knowledge of Dutch society and sufficient oral and written knowledge of the Dutch language can be explained by a shift in Dutch integration policy, which became more assimilationist (De Hart 2004: 4). Integration was no longer to be stimulated but was a requirement, and it was to this end that the new naturalisation test was introduced.

The integration requirement was not the only requirement which was made stricter by the 2000 Act. After linking the Nationality Act to the 2000 Aliens Act,⁸² from 1 April 2003, applicants for naturalisation must lawfully reside in the Netherlands without interruption during the entire five years before their applications.⁸³

In addition to these stricter conditions for naturalisation, the possibilities for losing Dutch citizenship were extended. A new provision, providing for the possibility of losing

⁷⁸ Amendment Dittrich (D66), *Tweede Kamer* 1999-2000, 25 891, no. 26.

⁷⁹ *Vijfde nota van wijziging* (Fifth Memorandum of Amendment), *Tweede Kamer* 1999-2000, 25 891 (R 1609), no. 33.

⁸⁰ Decree on the naturalisation exam, *Staatsblad* 2002, 197.

⁸¹ The requirement to pass the integration examination as a condition for permanent residence however only entered into force on 1 April 2010.

⁸² Act of 23 November 2000, *Staatsblad* 495, 7 December 2000.

⁸³ The residence requirement for children who want to rely on their parent's naturalisation to acquire Dutch citizenship also became stricter. For information on the linking of the Aliens Act and the Dutch Nationality Act see K. Groenendijk, 'De Toegenomen Koppeling Van De Rwned Aan De Vw: Meer Barrières En Minder Integratie', *Migrantenrecht* 4/5, (2003), 148-57.

Dutch citizenship following fraud or concealment of a material fact, was introduced in the 2000 Act.

*Three different ways of language and integration testing compared*⁸⁴

In order to understand the barrier which has been thrown up by the formalisation of the language and integration requirement, this paragraph will compare the two formal tests (the naturalisation test and its successor, the integration examination) to the informal integration interview which used to be conducted by municipal officials until 1 April 2003. The differences between the three ways of language and integration testing have been schematically reproduced in table 3 below.

⁸⁴ This section is based on Oers, R. van, *Deserving Citizenship. Citizenship Tests in the Netherlands, Germany and the UK*. Forthcoming

Table 3 Comparison between integration interview, naturalisation test and integration examination

Integration Interview (until 1 April 2003)	Naturalisation Test (until 1 April 2007)	Integration examination
An interview was conducted with all applicants for naturalisation.	Applicants could be exempted on the basis of a diploma or a doctor's certificate. Special exemption procedure for illiterates.	Applicants can be exempted on the basis of a diploma or a doctor's certificate. Special exemption procedure for illiterates.
More lenient treatment of women, the elderly, persons who had followed no or a limited education and illiterates.	Illiterates who wished to qualify for exemption needed to undergo a 'feasibility investigation' in Amsterdam costing € 290.	Illiterates who wish to qualify for exemption need to undergo a 'feasibility investigation' in Amsterdam costing € 290.
Duration of the interview: about 15 minutes.	Total duration of the test: about 4 hours.	Total duration: central part ± two hours; practice part, depending on route chosen, ± one afternoon or several weeks. ⁸⁵
Knowledge of Dutch state and society not required.	Candidate passed the Society Orientation part of the test if he or she answered 70% of the questions correctly.	Central part of the examination contains a 'knowledge of Dutch society' test, of which 62% needs to be answered correctly.
General guidelines for conversation contained in the Manual. Room for interpretation by municipal official.	Test content was secret. Government offered no possibilities for preparation.	Curriculum for the 'knowledge of Dutch society' part of the examination has been published; immigrants can follow courses.
Interview conducted in all municipalities	Test could be taken at nine Regional Education Centres (RECs).	Examination can be taken at seven locations.
Costs of interview: € 0.	Costs of naturalisation test: € 260 (more if re-examination required).	Costs for central part: € 126, for practice part: varying between € 104 and € 1,200. ⁸⁶ Total costs (following course + taking examination) estimated to lay around € 5,300. ⁸⁷

⁸⁵ The integration examination consists of two parts, a central part and a practice part. The central part of the integration examination consists of three parts: an electronic practice examination, asking candidates to answer questions about situations which might occur in practice, a test in spoken Dutch, and an examination regarding knowledge of Dutch society. Candidates can pass the practice part of the integration examination by either submitting a portfolio, taking part in an assessment, or a combination of both. In the assessment, which needs to be taken at an examination institute, the candidate will be asked to fulfil six assignments. Examples are conducting a (simulated) conversation at an infant welfare centre or reading work instructions. A portfolio consists of twenty proofs, collected by the candidate, of written and oral language skills obtained in practice. Situations for which proofs can be gathered are registering a child's birth at a municipality, looking for vacancies, talking to a parent of a school friend of one's child to make an appointment for the children to play, and completing an intake form for voluntary work. A proposal for amendment of the Integration Act, submitted in November 2011, proposed to delete the practice part of the examination, as well as the electronic practice examination in the central part of the examination (TK 2011-2012, 33086, nos. 1-3). The first chamber accepted the proposal on 11 September 2012. The revised law will enter into force on 1 January 2013. As of that date, candidates are able to take the integration examination on one location within one day (EK 2011-2012, 33086, E, p. 8).

⁸⁶ Stouten & Brink 2010: 16.

⁸⁷ Costs estimated by the Dutch Association of Municipalities. 'Integratie de nek omgedraaid', Jonathan Witteman, *de Volkskrant*, 16 September 2010.

From the table above, some striking differences between the integration interview and the formalised language and integration tests that succeeded it become apparent. First of all, with the formalisation of the language and integration test, the costs have risen considerably. Whereas the integration interview was free of charge, € 260 was charged for the naturalisation test, and the costs payable for the integration examination vary between € 230 and € 1,200. Secondly, the formalisation of the test has led to a rise in the level of the language skills required, and has put a stop to the possibility to treat certain categories of immigrants more leniently than others. Those for whom acquiring the level required will prove too difficult can be exempted, but, like the language and integration check itself, this procedure has been formalised. Those who require exemption on grounds of mental or physical disabilities need to submit doctors' certificates, whereas illiterates need to undergo a 'feasibility investigation' at the Regional Education Centre of Amsterdam, for which € 290 is charged.⁸⁸ Thirdly, until 1 April 2003 immigrants could have their language and integration checked at the municipalities in which they lived. However, since the introduction of the formalised tests they have had to travel to one of nine (naturalisation test) or seven (integration examination) examination locations. Travelling to these locations to take a test takes significantly more time and money than going to the municipality for a short interview.

It is clear that with its formalisation, fulfilling the language and integration requirement has become much harder, not only because of the rise in the level of skills required. The integration examination however lowered some of the barriers thrown up by the naturalisation test, namely those relating to the undisclosed test content and the absence of possibilities for preparation.⁸⁹ As was the case with the naturalisation test, the questions in the integration examination have not been published, but the curriculum for the knowledge of Dutch society test in the central part of the examination has.⁹⁰ Furthermore, a report containing materials which can be used for self-study has been published.⁹¹ And last but not least, those for whom self-study is unsuitable can prepare for the test by following an integration course. To emphasise their own responsibility for the integration, immigrants were initially required to pay for the courses and test themselves, if necessary with money obtained from a loan for this purpose.⁹² As the costs appeared to form a barrier for immigrants to start following courses

⁸⁸ In the feasibility investigation, it is checked whether someone is able to reach the level required to pass the naturalisation test, or, as of 1 April 2007, the integration examination, within a period of five years. If so, exemption will not be granted. Only those who can demonstrate that they have made an effort in the past to learn Dutch, above what has been legally required, have the possibility to be exempt. Illiterates will in any case have to pass the test in spoken Dutch, one of the three parts of the central part of the integration examination.

⁸⁹ At the time, the fact that the content of the naturalisation test was kept secret was defended by the leader of the project to introduce the test in the following way: 'There will be no booklet containing sample questions, as is the case for the driver's exam, since one does not only want to test the proper knowledge of the applicant for naturalisation, but also his proper attitude. And this cannot be learnt by heart' (Groenendijk 2005: 30).

⁹⁰ The curriculum has been published as an appendix to article 2.5 of the Ministerial Regulation on Integration (*Regeling van de Minister voor Vreemdelingenzaken en Integratie van 6 december 2006, nr. 5456790/06, tot uitvoering van de Wet inburgering, het Besluit inburgering en tot wijziging van de Regeling verstrekkingen asielzoekers en andere categorieën vreemdelingen 2005*).

⁹¹ 'Onderzoek Zelfstudiemethoden Inburgering', CINOP, October 2009, downloadable from www.rijksoverheid.nl. In the report, books with and without CD-ROMs and e-learning methods are listed which can help immigrants to prepare for the different parts of the integration examination. In the materials listed, all the topics mentioned as 'final achievement levels' for the integration examination are considered. The materials will not only help future candidates to obtain the necessary knowledge in terms of content, but also teach them to make assignments on the computer.

⁹² A loan of maximum € 5,000 could be obtained. If an immigrant fulfilled the integration obligation (i.e. passed the examination) within a given time frame, he or she would get a refund of 70% of the costs to a maximum of € 3,000.

and taking examinations, in 2007 the government introduced the ‘Deltaplan Integration’ which included a decision to start paying for the integration courses in all cases.⁹³ The plan was introduced to give integration a new impetus, as the number of immigrants following courses was disappointingly low. The new plan appeared to be successful, as after its introduction, the number of immigrants following courses and taking part in examinations increased (Significant 2010: 21, 23). Nevertheless, the centre right coalition government, consisting of CDA and VVD, and receiving support from Geert Wilders’ Freedom Party (PVV), in power since 14 October 2010, decided to reduce the integration budget to zero in 2014.⁹⁴ A proposal to revise the Integration Act to this end has been adopted, and will enter into force on 1 January 2013. Once immigrants have to start paying for the courses again, it is expected that the number of course participants will once more decrease dramatically.⁹⁵

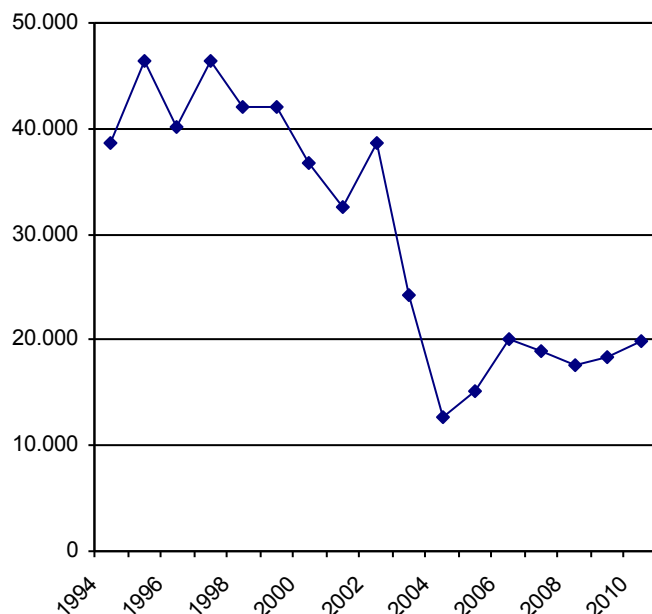
Effects of the formalised language and integration requirement

The entry into force of the 2000 Act on 1 April 2003 has had a considerable effect on the number of applications for naturalisation. This is apparent in figure 1.2, which shows the numbers of applications for naturalisation by adults from 1994 to 2010.

⁹³ Deltaplan Integration: TK 2006-2007, 31143, no. 1. A change in the law, which was introduced on 29 December 2008, but which entered into force retrospectively as of 1 November 2007, allowed municipalities to pay for the integration courses for those with an integration obligation under the IA (*Staatsblad* 2008, no. 604). Until then, only the courses and examinations for those who integrated on a voluntary basis would be paid for.

⁹⁴ The coalition agreement stated that immigrants will in future need to take care of their integration themselves, and that a system of loans will be set up for those lacking the financial means to do so (‘Freedom and Responsibility’, coalition agreement VVD-CDA, 30 September 2010, accessible via <http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2010/09/30/regeerakkoord-vvd-cda.html>, site visited on 11 August 2011). On 14 November 2011, a proposal amending the Integration Act, materialising these plans, was put forward (TK 2011-2012, 33086, nos. 1-3). The first chamber accepted this proposal on 11 September 2012. The revised Integration Act will enter into force on 1 January 2013.

⁹⁵ As the practice part of the examination will disappear, the costs for taking the examination will nevertheless decrease considerably.

Figure 2: Applications for naturalisation by adults (1994–2010)

Source: IND

Compared with 2002, 70 per cent fewer applications were filed in 2004. In 2005 and 2006, the applications for naturalisation by adults increased. The number of applications in 2006 was one third higher than in 2005. However, compared with 2002, the number of applications was still 50 per cent lower in 2006. After a decrease in the years 2007 and 2008, the number of applications in 2010 is at the same level as it was in 2006. Seven years after the introduction of the revised Act, the number of applications hence is still half as low as it was prior to its introduction. This means that the decrease in numbers has a durable character.

What is questionable is to what extent the formalisation of the integration requirement has been responsible for the decrease. After all, the revised DNA also strengthened the residence requirement.⁹⁶ Nevertheless, the period of residence required remained the same: five years. Furthermore, changes in the period of residence required will only temporarily affect the number of naturalisations, as with time, most naturalisation applicants will again automatically fulfil the requirement. As the decrease in the number of naturalisations in the Netherlands has a durable character, it is more probable that the naturalisation test and its successor, the integration examination, constitute the main reason behind the decrease. This also becomes apparent when numbers regarding the naturalisation test and the integration examination are examined.

One and a half years after the test was introduced, a spot check revealed that 85 per cent of all applicants for naturalisation were exempt from taking the naturalisation test on the basis of a diploma. 3 per cent of all applicants were exempt due to language or medical impediments. Only 12 per cent of all applicants had passed the test before applying for naturalisation.⁹⁷ More recent statistics show that the percentage of persons who successfully passed the naturalisation test before applying for naturalisation had risen to between 25 and 29 per cent (INDIAC 2007). The conclusion can be drawn that, since the introduction of the test,

⁹⁶ Rather than ordinary residence, as of 1 April 2003 regular and continuous residence is required.

⁹⁷ Evaluation Naturalisation Test, Immigration and Naturalisation Service Information and Analysis Centre (INDIAC), June 2005, p. 33.

most applications for naturalisation are made by immigrants who have a diploma.⁹⁸ Those without a diploma are either held back from applying for naturalisation by failure in the test, or do not even attempt to pass the test.

As regards the pass rate in the naturalisation test, in the period it was in force (April 2003 - April 2007), a total of 23,700 persons registered for the test. 14,300 candidates, i.e. 60 per cent, made it through the complete test.⁹⁹ Part of the explanation for the modest pass rate lies in the fact that not all persons who registered for the test took part in it: of all those who signed up for the test, 81 per cent actually participated in the test. This could be explained by the costs which were payable (€ 260), and by the absence of possibilities for preparation. In total, 19,314 persons participated in the test, of which 74 per cent passed.

The pass rate in the integration examination is similar to that of the naturalisation test: 74 per cent.¹⁰⁰ The absolute number of successful candidates in the integration examination is however much higher: 74,371 persons passed the integration examination between 2007 and June 2011, compared to 14,300 passes in the naturalisation test (April 2003-June 2007).¹⁰¹ How can this difference be explained? First, the scope of potential candidates has widened: not only is passing the examination a condition for naturalisation, it is also obligatory for those with an integration obligation under the Integration Act, and, since 1 January 2010, required for permanent residence.¹⁰² The number of persons who have taken the test in order to obtain permanent residence will however be relatively low, since few people will have realised prior to 1 January 2010 that passing the test was a requirement for permanent residence. Furthermore, those obliged to pass the examination by virtue of their integration obligation will probably be inclined to skip the permanent residence stage and file for naturalisation when they become eligible, considering the benefits attached to holding Dutch nationality.¹⁰³ Add to this the fact that the government, in a letter accompanying the integration certificate, informs those who have passed the test that they can apply for a Dutch passport, the centre-right coalition government's announcement that the requirements for naturalisation will be raised, and the rise in fees for a permanent residence permit, and skipping the permanent residence stage in favour of naturalisation seems rather self-evident.¹⁰⁴

⁹⁸ Since accurate data on the number of persons passing the test before applying for naturalisation were not available, the percentage was based on an estimate using available numbers.

⁹⁹ Numbers obtained from IND. For more information regarding the naturalisation test, see paragraph 3.2. Possibilities to retake parts of the naturalisation test were offered until June 2007.

¹⁰⁰ Sources: Significant 2010: 128, TK 2011-2012, 33000 VII, no. 2, p. 38 and <http://www.rijksoverheid.nl/onderwerpen/inburgering/inburgering-in-cijfers/voortgang-inburgering/slagingspercentage-inburgerings-examen>, site accessed 11 July 2011.

¹⁰¹ Significant 2010, TK 2011-2012, 33000 VII, no. 2, p. 38.

¹⁰² In the years 2007 to 2009, 127,000 persons were given notice that they would have to pass the integration examination within the next 3.5 years (Significant 2010: 26). In the first year the Act was in force, the number of immigrants who followed a course however remained low, because of the fact that the government did not pay for the courses and the tests.

¹⁰³ This assumption was confirmed by two qualitative studies into the effects of the Integration Act, which pointed out that the Dutch passport is the main reason for candidates to take the examination (Strik, Luiten & Van Oers 2010: 87, Significant 2010: 124).

¹⁰⁴ Those who are required to give up their original nationality, but who are unwilling to do so, will however not opt for Dutch nationality. The fees for a permanent residence permit were raised on 1 July 2011 (<http://www.ind.nl/Leges/index.aspx>, site visited 2 August 2011). Since that date, such a permit, which needs to be renewed every five years, costs € 401. This means that the difference in costs for a naturalisation application (€ 789 for a single application) has become smaller.

Another explanation for the higher absolute number of candidates in the integration examination than the naturalisation test could be the fact that funded possibilities to prepare for the examination have been offered. No such possibilities existed for the naturalisation test, and, as we have seen, integration courses and tests were not funded in the first seven months the Integration Act was in force either. Once the decision was made to start funding courses and tests, the number of immigrants following courses and taking part in examinations significantly increased. It is however expected that the number of course participants and examination candidates will decrease once immigrants will again be required to start paying for their own integration.¹⁰⁵

The above shows that part of the immigrants taking part in the test is being held back from making a naturalisation application by actual test failure. Research conducted into the effects of the naturalisation test conducted in 2006 showed that two categories of immigrants in particular were affected by the formalisation of the language and integration requirement (Van Oers 2006). On the one hand, there is a category of immigrants who appear to give up their wishes to become Dutch citizens when they learned that the naturalisation test was a requirement, as they feared they would not pass the test. This category includes elderly people, those with limited or no education, and women in disadvantaged situations. Besides the level of the test, these immigrants were deterred from taking it because of the undisclosed test content, the absence of possibilities for preparation and the high fees: immigrants dreading the level of the test were not willing to pay a lot of money for a test which they were not sure they would pass.

The lack of opportunity to prepare and the high fees were also reasons not to take the test for those immigrants who had few problems integrating in Dutch society. Those who had learned to speak the language well at work or by participating in Dutch society, but who had never learned to read or write Dutch properly, were particularly deterred from taking the naturalisation test. Even though they were fully able to participate in Dutch society, they were put off by the requirement for a written knowledge of the language.

The cost and level of the naturalisation test were thus the main reasons why immigrants in this ‘problem category’ were deterred from taking it. Instead of becoming Dutch citizens, they continued their stay in the Netherlands as permanently residing legal foreigners.

The test clearly disadvantaged weaker groups in society as opposed to those who have little or no trouble integrating. However, the category of the well-integrated immigrant could also might experience difficulties fulfilling the formalised language and integration requirement, even though these problems were not caused by the level, the undisclosed test content or the lack of preparation possibilities.

Well-integrated immigrants who did not hold a Dutch diploma found the obligation to take the naturalisation test very frustrating. Because of the narrowly formulated grounds for exemption, those who resided in the Netherlands for a lengthy period, who worked and raised their children there, and who, in other words, were generally very well integrated into Dutch society, were faced with the expensive and, in their eyes, insultingly easy naturalisation test the moment they wished to become Dutch citizens. This also applied to people holding a Dutch diploma or certificate which did not appear on the list of diplomas qualifying for exemption. Diplomas awarded at the completion of training for jobs such as security guard,

¹⁰⁵ A proposal of law to amend the Integration Act was adopted on 11 September 2012 (TK 2011-2012, 33086). In 2014, the budget to fund integration courses will have been reduced to zero.

welder or beautician did not lead to an exemption from the naturalisation test, even though in order to obtain such diplomas, Dutch texts had been studied.

Finally, the research showed that immigrants who were receiving training, but who had yet to obtain their diplomas, as well as Flemish and Surinamese immigrants whose first language is Dutch, found the obligation to take the naturalisation test unjust.

For this second ‘problem category’, that of well-integrated immigrants, the test was not an impenetrable barrier which kept them from applying for Dutch citizenship.¹⁰⁶ In the eyes of the government, only the possession of certain diplomas shows that integration into society had taken place. No account is taken of other ways to integrate. The fact that they were obliged to take the test implies that the government did not take account of the knowledge and interest of well-integrated immigrants without the ‘right diplomas’.

As the list of exemptions has been extended, the replacement of the naturalisation test by the integration examination slightly diminishes the negative effects produced by the formalisation of the language and integration requirement for the category of well integrated immigrants. As of 1 April 2010, those having Flemish and Surinamese diplomas are exempt from passing a test to prove their integration, and so are those who have spent eight years in the Netherlands during obligatory schooling age.¹⁰⁷ Furthermore, those with good language skills can attempt to pass the ‘short exemption test’, consisting of an electronic practice test and a knowledge of Dutch society test. This test is cheaper than the integration examination, but its level is higher (B1 instead of A2).¹⁰⁸

The replacement of the naturalisation test by the integration exam does not, however, put a stop to the negative effects the naturalisation test produced for the less educated naturalisation applicants. As shown in table 3, depending on which route is taken to complete the practice part in the examination, the price and level of the integration exam are similar to or considerably higher than the price and level of the naturalisation test.¹⁰⁹ Like the naturalisation test, the content of the integration exam is largely undisclosed. However, newcomers are given the opportunity to take part in courses, which allows them to prepare for the exam, which in most cases would be funded by the municipalities. Once immigrants have passed, being newcomers, they will not face extra integration requirements when applying for Dutch citizenship. As of 2014, immigrants will however again be required to pay for their integration themselves, which, if history repeats itself, will probably again lead to a considerable reduction in the number of course participants and test candidates.

From the above it becomes apparent that the formalisation of the language and integration requirement is holding people back from filing a naturalisation application. Prior to the formalisation of the requirement, only 1-2 per cent of all applications were turned down because of insufficient integration. One can conclude that the introduction of the naturalisation test and its successor has had drastic consequences. Despite the significant decline in the number of applications for naturalisation and the strong rise in the percentage of applicants who fail to meet the integration requirement, several conservative parliamentarians asked whether it would be possible to make the language test for naturalisation one level higher.¹¹⁰ The wishes of these parliamentarians have so far not

¹⁰⁶ Research however showed that the test fees might deter them from taking it (Van Oers 2006: 82).

¹⁰⁷ Article 3 paragraph 1 under j, k and l Naturalisation Test Decree. Those holding Surinamese or Belgian diplomas may also be exempt, provided a pass mark has been obtained in the subject ‘Dutch’.

¹⁰⁸ http://www.inburgeren.nl/inburgeraar/korte_vrijstellingstoets/voor_wie.asp.

¹⁰⁹ As the practice part of the examination will be abolished as of 1 January 2013, the price of the integration examination will be considerably lower.

¹¹⁰ *Tweede Kamer* 2004-2005, 29 800 VI, no. 101, p. 34.

become reality. A bill proposing to introduce a qualification requirement for naturalisation was however put forward by the centre right coalition government formed by the CDA and VVD and receiving support from the right-wing anti-immigrant Freedom Party (PVV) in March 2012 (see below).¹¹¹

Citizenship Ceremony and Declaration

Several parliamentarians insisted on the creation of a citizenship ceremony to give the moment of the acquisition of the Dutch citizenship more decorum. In December 2004, the Conservative Liberals put forward a motion stating that loyalty and commitment to Dutch society may be expected of new Dutch citizens and that special attention ought to be paid to their rights and duties as Dutch citizens at the memorable moment of acquisition of Dutch citizenship. The motion was supported by a majority in Parliament. The Minister of Alien Affairs and Integration Verdonk declared herself to be very willing to pursue the course charted by Parliament. On 24 August 2005, the first citizenship ceremony took place in The Hague. The Minister of Alien Affairs and Integration welcomed 30 new Dutch citizens by presenting them with the Dutch flag and a copy of the Dutch Constitution. Attending the citizenship ceremony has become obligatory for all persons obtaining Dutch citizenship via naturalisation or option since 1 October 2006.¹¹² Municipalities are free to decide on the content of the ceremonies and they may also decide how often the ceremonies take place.¹¹³ In every case, however, a ceremony must be held on 15 December, ‘Kingdom Day’¹¹⁴.

During the discussions regarding the introduction of the citizenship ceremony, the idea of introducing a declaration or oath to be taken by future Dutch citizens at the moment of their naturalisation was also put forward. A proposal to introduce a ‘declaration of loyalty’ was rejected because of the negative connotation of such a declaration due to the German occupation during World War Two. At the same time, several Parliamentarians supported the idea of a declaration or oath, which will open up the possibilities for new Dutch citizens to ‘express their feelings towards the Netherlands’ and to ‘declare loyalty to the laws of the Netherlands’.¹¹⁵ On 6 June 2006, a Bill for the introduction of a ‘declaration of solidarity’ was submitted, which was adopted on 27 June 2008.¹¹⁶ Since 1 March 2009, new Dutch citizens need to make a ‘declaration of solidarity’ at the citizenship ceremony.¹¹⁷

¹¹¹ *Tweede Kamer* 2011-2012, 33 201 (R 1977), nos. 1-3.

¹¹² Decision of 19 May 2006 to amend the Decision on acquisition and loss of Dutch citizenship, *Staatsblad* 2006, 323.

¹¹³ In The Hague, for instance, a ceremony is organised each month, whereas a ceremony takes place on a weekly basis in Amsterdam. Smaller municipalities will organise a ceremony less often, which implies that the procedure for naturalisation candidates in those municipalities will be longer than the procedure of candidates in larger municipalities.

¹¹⁴ On Kingdom Day, the signing of the Kingdom Statute by Queen Juliana in 1954 is celebrated. In the Statute, the relations between the Netherlands and its overseas territories are regulated.

¹¹⁵ According to MPs Visser (Conservative Liberals) and Sterk (Christian Democrats) respectively. TK 2004-2005, 28 689, nr. 35.

¹¹⁶ *Staatsblad* 2008, nr. 280.

¹¹⁷ *Staatsblad* 2009, nr. 1. The text of the declaration is the following: ‘I swear (declare) that I will respect the Constitutional order of the Netherlands, its freedoms and rights, and I swear (promise) that I will faithfully fulfil my duties as a Dutch citizen. So help me God (So I declare and promise).’

Loss of citizenship in the case of fraud

As mentioned above, the 2000 Act extended the possibilities of losing Dutch citizenship, for instance by providing for the possibility of losing Dutch citizenship following fraud or concealment of a material fact. Contrary to the other provisions dealing with loss of Dutch citizenship, statelessness does not stand in the way of withdrawal of citizenship under the new provision. In 2004, 55 persons lost Dutch citizenship on the basis of this new article.¹¹⁸

The Citizenship Act of 1985 contained no provisions for dealing with false identities or fraud in the acquisition of citizenship. In practice, cases occurred in which individuals (often refugees) had used false names or dates of birth in their application for naturalisation. The district court of The Hague developed a doctrine according to which in case of incorrect or false personal details, discovered after naturalisation, because the decree identified a non-existing or fictional person, the naturalisation decree had no effect on the individual. In such cases, Dutch citizenship did not have to be withdrawn, because it had never existed. The DNA 2000, which came into force on 1 April 2003, included a provision that allowed for withdrawal of citizenship in case of fraud (article 14 paragraph 1 DNA 2000). It limited the period in which revocation of citizenship could take place to twelve years after naturalisation. The article allowed for discretionary power of the minister to apply general principles of administrative law such as proportionality and legal security.

After the introduction of article 14 paragraph 1, The Hague court concluded in 2005 that its case law had been superseded by the new provision and abandoned it, but the ‘old’ case law was upheld by the Dutch High Court (Hoge Raad), although it left some room for exceptions.¹¹⁹ The High Court excluded false identities from the scope of article 14 paragraph 1 DNA 2000.

This was the situation in 2006 when the commotion about the Dutch citizenship of the controversial Dutch-Somali parliamentarian Ayaan Hirsi Ali (Conservative Liberals) started. After a television documentary revealed that Hirsi Ali had lied about her name and birth date when she acquired her refugee status and citizenship – a fact that Hirsi Ali had admitted publicly on several occasions – and questions were put forward by the right-wing political party List Pim Fortuyn (LPF), the Dutch Minister of Integration and Justice Verdonk (also of the Conservative Liberals) decided to start an investigation into Hirsi Ali’s citizenship. A few days later, the Minister announced that it had to be assumed that Hirsi Ali ‘had not acquired Dutch citizenship’, because of the lies during her naturalisation procedure. The same day Hirsi Ali announced that she would –as already planned- leave the second chamber and leave for the United States. The events caused a political and public storm.

The same day an emergency debate took place in parliament. It took eleven hours and Minister Verdonk was heavily criticised. In two motions she was asked to study the issue and reconsider her standpoint.¹²⁰ Verdonk proposed that Hirsi Ali would still be considered as having Dutch citizenship during the investigation and would be speedily re-naturalised if it turned out that she had indeed never acquired Dutch citizenship. Hirsi Ali submitted a defence, claiming among other things that the names she chose were allowed by Somali name law.¹²¹ More than one month after the debate took place, the government decided that Hirsi

¹¹⁸ Source:IND.

¹¹⁹ Hoge Raad, 11 november 2005, *Jurisprudentie Vreemdelingenrecht* 2006/2, annotation G.R. de Groot.

¹²⁰ *Tweede Kamer* 2005-2006, 30 559, nrs. 1 and 3.

¹²¹ For an extensive and personal account, see H.U. Jessurun d'Oliviera, 'Turmoil around a Naturalization Decree. Or How the Dutch Government Stumbled over a Pebble', *Vers De Nouveaux Equilibres Entre Ordres Juridiques. Melanges En L'honneur De Helene Gaudemet-Tallon* (Daloz, 2008), 319-33. D'Oliveira advised

Ali could retain her Dutch citizenship, because the name she chose was allowed according to Somali name law and the false birth date was not counted heavily against her. Minister Verdonk informed the second chamber about this decision, while at the same time Hirsi Ali declared –under pressure, as she stated later- that she had misled Minister Verdonk by saying that she had lied, thereby taking a large part of the blame.¹²² After a second long debate, coalition partner D66 (Progressive Liberals) supported a motion of non-confidence against Minister Verdonk because she refused to admit that she had made mistakes. Since the motion was defeated by 79 to 64 votes, and the government persisted in supporting Minister Verdonk, D66 decided to withdraw from the government. As a consequence of the issue, the cabinet submitted its resignation on 30 June 2006.

The next day the High Court issued its decision on the new direction of The Hague district court and now, within half a year of its earlier decision to exclude false identities from article 14 paragraph 1 DNA, revised this and endorsed the new position of The Hague district court.¹²³ In its decision the High Court ruled that naturalisations which took place after 1 April 2003 fall within the scope of article 14 paragraph 1 DNA, while naturalisations before that date still have to be dealt with according to the old doctrine of the naturalisation never having come into effect.

Of course, Hirsi Ali was not the only one who was affected by these rules. Although she retained her Dutch citizenship, this does not necessarily count for others in similar positions, who are still faced with the revocation of Dutch citizenship.¹²⁴

3.2 Quasi citizenship

In the Netherlands, in 1976, a quasi-citizenship status was accorded to former inhabitants of the Moluccas, one of Indonesia's archipelagos. When Indonesia became independent in 1949, the Moluccans struggled for autonomy. In 1951, because of the war situation, some 12,500 former inhabitants of the Moluccas who had served in the Dutch colonial army were transported to the Netherlands with their families and demobilised shortly after their arrival. Both the Dutch government and the Moluccans, who were waiting for the independent South Moluccan Republic (RMS) to be established, were convinced that the Moluccan residence in the Netherlands was temporary and no measures were taken to promote the integration of Moluccan immigrants into Dutch society. However, in the 1970s, the Moluccan archipelago still formed an integral part of Indonesia. The number of Moluccans in the Netherlands had grown to 30,000 persons. Most of them still believed in the future foundation of an independent Moluccan Republic, and did not wish to obtain Dutch citizenship.¹²⁵ At the same time and without any regrets, most Moluccans had lost Indonesian citizenship because of the new Indonesian Nationality Act of 1958. As a result, most Moluccans in the Netherlands had become stateless.

In the 1970s, many Moluccans started to feel unhappy with the lack of attention from the Dutch government towards the creation of the RMS. They were also disappointed in the moderate course followed by the exiled Moluccan government. In

Hirsi Ali's lawyers.

¹²² Letter Minister Verdonk on the naturalisation of Ms Ayaan Hirsi Ali, 27 June 2006,

www.justitie.nl/actueel/nieuwsberichten/archief-2006/60627Brief-Hirsi-Ali.aspx. Site last visited 10 June 2009.

¹²³ Hoge Raad 30 June 2006, *Jurisprudentie Vreemdelingenrecht* 2006, 314, annotation Jessurun d'Oliviera.

¹²⁴ For an example see Hof 's Gravenhage, 18 juli 2007, *Jurisprudentie Vreemdelingenrecht* 2007, 430.

¹²⁵ At most 25 per cent had obtained Dutch citizenship (Appendices Proceedings *Tweede Kamer*, 1974-1975, 12839, no. 6, p. 6).

order to force the Dutch government to conduct a more active policy, seven Moluccan youngsters hijacked a train in 1975. Partly due to this and other violent actions and previous promises, the Dutch government decided to improve the situation of the Moluccans.¹²⁶ It offered the Moluccans (almost) equal rights to Dutch citizens, without making them Dutch citizens. The rights were incorporated in the 1976 Act on the position of Moluccans, which entered into force on 9 September 1976.¹²⁷ The Act applied to Moluccans, brought to the Netherlands by the Dutch government in 1951 or 1952 and resident in the Netherlands on 9 September 1976, while not in possession of the Dutch citizenship. It also applied to the children of these Moluccans, provided they were resident in the Netherlands on 9 September 1976.

Although the Act considerably improved the legal position of the Moluccans residing in the Netherlands, they faced problems when they wanted to travel abroad. In their newly obtained passports, the words ‘Nationality: Dutch’ had been crossed out and the passage ‘will be treated like a Dutch citizen on the basis of the law of 9 September 1976, *Staatsblad* 476’ had been added. Many countries continued to require visas. A solution to this problem was offered in 1991, when the Dutch government declared that all stateless Moluccans were Dutch citizens in the sense of the Passport Act. From that time on, they were given regular Dutch passports.

In 1976, some 30,000 Moluccans received ‘quasi-citizenship’ status. Because of large-scale naturalisation and acquisition of Dutch citizenship by the second and third generation, nowadays only a small number of Moluccan inhabitants of the Netherlands still have this status, probably less than 1000 persons.

There used to be a second status that could qualify as quasi-citizenship. In 1990 a rule was adopted that foreign citizens after twenty years of lawful residence in the Netherlands could no longer be expelled on the grounds of public order. Under the Aliens Act 2000, an additional protection against expulsion was provided: after twelve years a residence permit could no longer be withdrawn for having provided incorrect information. The permanent residence permit of a foreign citizen with twenty years of residence in the Netherlands could only be withdrawn on grounds of national security or because the immigrant has taken up residence abroad.¹²⁸ Thus, these denizens had almost full protection against expulsion, a protection that may have been even better than the protection granted to EU citizens under the 2004 Directive on the freedom of movement and residence of EU citizens within the Union.¹²⁹ The rule that provided protection against expulsion for those who have been lawfully residing in the Netherlands for twenty years or over has however been abolished. As of 1 July 2012, those who have been lawfully residing in the Netherlands for a period of ten years or over can be expelled in case they have committed a serious crime which can be sentenced with a minimum of six years imprisonment.¹³⁰ It is therefore questionable whether the second status of quasi citizenship still exists.

¹²⁶ In 1959, the Minister of Social Work Klompe’ had already pleaded for more active participation of the Moluccans in Dutch society. In 1971, the same Minister promised to improve the legal position of the Moluccans residing in the Netherlands.

¹²⁷ *Staatsblad* 1976, 468.

¹²⁸ Art. 22 Aliens Act 2000 and art. 3.86(7)(c), 3.97 and 3.98 Aliens Decree 2000.

¹²⁹ Art. 28 of Directive 2004/38/EC, OJ 2004 L 229/35.

¹³⁰ Decision of 25 June 2012, *Staatscourant* 29 June 2012, no. 13324.

3.3 Institutional arrangements

The legislative process

Currently, the regulations concerning loss and acquisition of Dutch citizenship are incorporated in the Dutch Nationality Act. The Dutch Constitution contains no provisions relating to Dutch citizenship.

When the Dutch Nationality Act is amended, the normal legislative procedure is followed. This means that, after the Council of State is consulted for advice, a normal majority is necessary in both Chambers of Parliament before the Act can be adopted.

Royal Decrees and Ministerial regulations are used to provide more information concerning the provisions of the Act, for example concerning the naturalisation test¹³¹ and the fees of naturalisation and the right of option.¹³² A Manual on the application of the Dutch Nationality Act is available for those in charge of applying the provisions of the Act. After the coming into force of the 2003 Nationality Act, a total of three Royal Decrees and two Ministerial regulations have been applied to determine in a more detailed manner the regulations concerning acquisition and loss of Dutch citizenship. Before the coming into force of this Act, the legal provisions were complemented by the provisions of only one Royal Decree, which concerned the fees for naturalisation, the option procedure being free of charge. One may conclude that applicants for naturalisation and the option procedure may have a harder time finding exactly what their rights and obligations concerning citizenship acquisition are. One may also conclude that the Dutch central authorities want to strengthen their influence on the implementation of the provisions of the Act.

The process of implementation

Important changes in the procedure of citizenship acquisition occurred with the coming into force of the 1984 Dutch Nationality Act. As of 1 January 1985, all naturalisations took place by Royal Decree. This was a compromise between the burdensome and archaic naturalisation by Act of Parliament and a simple ministerial decision, which was proposed by the government in its first draft of the 1985 Nationality Act. Another important change in the procedure was the transfer of the inquiries regarding the fulfilment of the conditions for naturalisation from the Aliens Police to the local authorities. As of 1 January 1988, the mayor was required to advise the Ministry of Justice whether an application for naturalisation should be granted or not. In practice this meant that a municipal civil servant had a conversation with the applicant and asked the Aliens Police for information concerning the applicant's residence status and conduct. Subsequently, in 1994, the Ministry had embarked upon an experiment in several cities whereby applications for naturalisation were filed directly with the civil registrar of the municipality in which the applicants live for preliminary investigation and registration.¹³³ In 1998, it was decided to extend this procedure to all applications in all municipalities. This alteration has considerably accelerated the procedure. Since 1998, most applications are dealt with within one year, which is the period prescribed by the 1984 Nationality Act (Groenendijk & Heijs 2001: 150). The new procedure also provided for an appeal against a negative decision on the application for naturalisation with the District Court.

¹³¹ Decree of 15 April 2002, *Staatsblad* 2002, 197, Regulation of 13 March 2003, *Staatscourant* 2003, 57.

¹³² Decree of 17 June 2002, *Staatsblad* 2002, 325.

¹³³ Together handling about 80 per cent of all applications (Groenendijk & Heijs 2001: 149).

A short comment needs to be made about these changes in procedure that are to the benefit of the applicant for naturalisation. In 1993, the Directorate of Private Law, a small section which handled and decided applications for naturalisation, was integrated with the large Directorate for Aliens Affairs to form a new agency: the Immigration and Naturalisation Service (IND). Though both Directorates had always formed part of the same Ministry of Justice, they clearly had a different perspective as to their tasks and to the official view regarding immigrants and their place in Dutch society. Whereas in the Naturalisation Section the predominant view for decades was that naturalisation of long-term resident immigrants was in the interest of Dutch society, the Directorate for Alien Affairs primarily perceived itself as the country's gatekeeper. When the departments were integrated in 1993, approximately 25 civil servants were active in the Naturalisation Service, compared to 900 in the Directorate for Aliens Affairs. It is not hard to imagine which of the two perspectives prevailed after the fusion. Although until 1992 there had been a clear liberalisation of Dutch citizenship law, after 1993, a series of restrictive measures introduced (Groenendijk 2004: 111-12).

As has been mentioned before, civil servants of the municipality were responsible for checking whether an applicant fulfilled the language and integration requirements under the 1984 Act. Discrepancies in the execution of this task were one of the reasons behind the introduction of the uniform and objective naturalisation exam on 1 April 2003.

4 Current political debates and reform plans

On 16 December 2008, the government, consisting of Christian Democrats, Social Democrats and Christian Union, submitted a bill which dealt with several topics which included limiting dual citizenship, the withdrawal of Dutch citizenship in case of terrorism, and the acquisition of Dutch citizenship of children born of Dutch mothers before 1985.¹³⁴ Dual citizenship was no longer considered a problem of integration, but of practical and legal arguments.¹³⁵ In the bill, for the first time in Dutch citizenship law, a renunciation requirement was introduced for option. This renunciation requirement applies to second generation immigrants who came to the Netherlands by the age of four, but were not born in the Netherlands (article 6 paragraph 1 sub e DNA 2000). The government did not put integration problems forward as an argument for introducing the renunciation requirement, but arguments of legal order. The government argued that renunciation could be required from people who did no longer have a real connection with their foreign citizenship. Referring to the Convention of the Rights of the Child and the European Convention on Nationality, the government argued that renunciation could not be required of second generation immigrants born in the Netherlands.¹³⁶

In its advice, the Council of State questioned the motivation for different treatment of those born in the Netherlands and other categories of immigrants who can opt and those in the Netherlands since the age of 4. According to the Council, the government pointed out that the introduction of a renunciation requirement in case of option meant a breach with the existing system, where renunciation was only required in case of naturalisation. It found the argument to defend the difference in treatment of those born in and those living in the Netherlands since

¹³⁴ *Tweede Kamer* 2008-2009, 31 813.

¹³⁵ *Tweede Kamer* 2007-2008, 30 166, nr. 25, p. 1.

¹³⁶ *Tweede Kamer* 2008-2009, 31 813, nr. 3, *Memorie van Toelichting*.

the age of 4 in the Second Protocol of 1993.¹³⁷ However, in spite of these objections, the bill was accepted by both chambers and came into effect on October 1, 2010.

The government also suggested amendments to the registration of multiple citizenships by Dutch civil registrars. In the civil registry, every child is registered with all the nationalities it has, according to the registrars' analysis of foreign citizenship law. In recent years, parents have come to oppose this registration of dual citizenship, because they have no attachments to the country of the other citizenship and because they fear stigmatization of their children as 'allochtones'.¹³⁸ In response, the government has suggested that on the documents provided by the civil registry such as birth certificates, a second citizenship will no longer be mentioned, except on the request of the parents.¹³⁹ After continued pressure from Parliament, the Minister later went further and promised an amendment of law, which would entail that dual citizenship acquired through option and naturalisation would be registered, but dual citizenship registered upon naturalisation would not.¹⁴⁰ This has not become law yet.

Children of Dutch mothers and fathers without Dutch citizenship

In recent years, two issues relating to children with a Dutch parent have come up. These are the position of children born to Dutch mothers born before 1985 and who did not have Dutch citizenship and the children born out of wedlock to Dutch fathers.

In section 2.3 we described the development towards gender equality in Dutch citizenship law. Since 1985 Dutch mothers can pass on their Dutch citizenship to their children. Children born before that date could only acquire Dutch citizenship through an option within a limited transitional period of three years. In our comparative chapter of NATAC (volume 1), we argued that the lack of retroactive effect of the law for children born before 1985 constitutes a continuation of gender discrimination (De Hart and Van Oers: 343).

In 2006, the children of Dutch mothers, now adults, started a political and media campaign in which they asked for an unlimited option for Dutch citizenship and, in this manner, finally removing gender inequality from citizenship law. They organised themselves as the NGO *Nederlanderschap Ja* (Dutch Citizenship Yes!) and successfully campaigned for the amendment of the law, allowing for an option right for these children. The amendment was supported across the political spectrum, including by Minister Verdonk.¹⁴¹ The children were perceived as 'latent Dutchmen', Dutch although without Dutch citizenship. Although the Dutch Ministry of Foreign Affairs warned that around 90,000 people could opt for Dutch citizenship, arguments for restrictive naturalisation policy were not put forward in relation to these 'dormant Dutchmen'.¹⁴²

After the change of government in 2007, the new government of Christian Democrats, Christian Union and Social Democrats introduced a new bill, including the amendment, which stated that 'no decisive objections exist against the principle as such to grant the descendants

¹³⁷ *Tweede Kamer* 2008-2009, 31 813, nr. 4.

¹³⁸ See B. De Hart, 'Children's Citizenship, Motherhood and the Nation State', in M. Schrover and E.J. Yeo (eds.), *Gender, Migration and the Public Sphere 1850-2005* (Routledge New York and London: Routledge forthcoming), 97-117.

¹³⁹ Letter Minister of Justice to the second chamber, 30 166, nr. 25, 12 October 2007.

¹⁴⁰ *Tweede Kamer* 2011-2012, 27859, nr. 58, p. 15.

¹⁴¹ Amendment by Dijsselbloem (Social Democrats), Sterk (Christian Democrats), Koser Kaya (Progressive Liberals) en Huizinga Heringa (Christian Union), *Tweede Kamer* 30 166, nr. 7, 12 September 2006. Minister Verdonk responds with a *Nota van Wijziging* (memorandum for amendment), *Tweede Kamer* 2007-2007, 30 166, nr. 13, 3 October 2006.

¹⁴² *Tweede Kamer* 2007-2008, 30166, nr. 25, p. 5.

of Dutch mothers an option to Dutch citizenship'.¹⁴³ The bill was accepted in both chambers and it became law as of 1 October 2010.¹⁴⁴ Already before the law came into force, the courts seem to have changed their position. In a case of three children born before 1985 to a Dutch mother and Australian father, the court of The Hague ruled that the children had acquired Dutch citizenship, although the mother had not opted for them during the transitional period and was not informed about this option right. She had been in contact with the Dutch embassy and would certainly have opted if she would have known.¹⁴⁵

Problems relating to the citizenship of children of Dutch fathers born out of wedlock occurred as a result of the Nationality Law of 2000 which came into effect on 1 April 2003. Before 2003, children acknowledged by Dutch fathers automatically acquired Dutch citizenship. This automatic acquisition was abolished because of the fear of large numbers of so-called 'bogus acknowledgements', where there is no biological bond between father and child and so the acknowledgment takes place only for the purpose of acquiring Dutch citizenship. As of 1 April 2003, children of Dutch fathers born out of wedlock can only acquire Dutch citizenship through option after they have been cared for by the Dutch father for a period of at least three years (art. 6 paragraph 1 c DNA 2000). In practice, this has resulted in the birth of stateless children, in cases where the child has not acquired the citizenship of the mother. Threats to expel stateless babies drew the attention of the media and resulted in several court cases.¹⁴⁶ The Dutch government decided to revise the law. Since 1 March 2009, children automatically acquire Dutch citizenship if they are acknowledged by their Dutch father by the age of seven (article 4 section 2 DNA). In cases of acknowledgement of children of seven years and older, the condition applies that the biological fatherhood must be established by a DNA-test (article 4 section 4). A child who has not automatically acquired Dutch citizenship on this basis acquires Dutch citizenship through option where there has been three years care before the acknowledgement (article 6 section 1 sub c DNA).¹⁴⁷ However, it has been suggested that art. 4. Section 4, is not in compliance with the Genovese case of the European Court of Human Rights, because it discriminates on the basis of gender (De Groot 2012: 138).¹⁴⁸

Revocation of Dutch citizenship in case of terrorism

In the bill, withdrawal of Dutch citizenship is made possible in cases of terrorist acts or crimes against national safety of the state. While in the original bill proposed by Verdonk the crimes that allowed for withdrawal were not written down and they were in principle unlimited, the bill now, upon request of parliament, contains a limited list of a number of a few dozen

¹⁴³ Press Communication Council of Ministers, 12 October 2008, www.regering.nl. New bill, *Tweede Kamer* 2008-2009, 31 813.

¹⁴⁴ Rijkswet op het Nederlanderschap met betrekking tot meervoudige nationaliteit en andere nationaliteitsrechtelijke kwesties, 17 juni 2010, *Stb.* 2010, 242.

¹⁴⁵ Court of The Hague 24 July 2008, *Migratieweb* ve08001444.

¹⁴⁶ *Volkskrant* 30 oktober 2006, IND zou baby van vijf maanden willen uitzetten. For a discussion of these court cases, see G.R. De Groot and K. Saarloos, 'De Valkuil Van De Rijkswet Op Het Nederlanderschap', *Migrantenrecht* 7(2004), 252-58.

¹⁴⁷ *Wet van 27 juni 2008 tot wijziging van de Rijkswet op het Nederlanderschap ter invoering van de verklaring van verbondenheid en tot aanpassing van de regeling van de verkrijging van het Nederlanderschap na erkenning*, *Staatsblad* 2008, 270. Besluit DNA-onderzoek vaderschap van 20 oktober 2008, *Staatsblad* 2008, 417.

¹⁴⁸ European Court of Human Rights, *Genovese v Malta*, 11 October 2011, appl. No. 53124/09.

crimes. It allows for withdrawal not only in case of terrorism, but also in case of crimes against national security.¹⁴⁹

In order to prevent statelessness, withdrawal of Dutch citizenship in case of terrorism is only allowed if the person involved also holds another citizenship. Some have argued that this constitutes discrimination (Stronks 2009).

Although national security is also a ground for the refusal of an application for naturalisation (article 9 paragraph 1 a DNA 2000), this is exceptional. As we have seen, however, refusal also takes place on grounds of lack of integration when national security issues are actually at stake.

Naturalisation of regularised former asylum seekers

Former asylum seekers whose status was regularised in 2007/2008 after they had been in the Netherlands for at least seven years, could probably cause a boost in the number of naturalisations once these asylum seekers have fulfilled the residence requirement, i.e. five years after June 2007. It is however expected that problems will arise in practice as these former asylum seekers are treated as 'regular' immigrants instead of refugees. This means that they are not exempt from the renunciation requirement nor from the requirement to produce documents (a legalised birth certificate and a passport from the country of origin). The NGO *Vluchtelingenwerk* (Refugee Council) warned that the requirement to provide documentation would cause difficulties for many of the people concerned.¹⁵⁰ The Minister however did not think it unreasonable to require the documents, referring to the immigrant's own responsibility. Exceptions to the requirement to produce a birth certificate and passport could consequently only be made in very exceptional circumstances.¹⁵¹ No attention has so far been paid to the problems the renunciation requirement will cause.

Further restriction of citizenship?

The centre-right government of CDA and VVD, supported by the PPV, sent a bill to Parliament in March 2012 which will, if adopted, strengthen the conditions for acquiring Dutch nationality via naturalisation and option.¹⁵² The bill aims to introduce an income and qualification requirement for naturalisation, and a language requirement for option. Furthermore, spouses of Dutch nationals are no longer exempted from the residency requirement. The bill moreover proposes to require those acquiring Dutch nationality through option or naturalisation to renounce their former citizenship(s). Lastly, the public order test will be extended, so that the naturalisation applications of minors aged between 12 and 16 can also be rejected on public order grounds. As the government which introduced the bill fell on 21 April 2012, it is questionable whether the proposed restrictions will be adopted.

The part of the bill regarding the restriction of dual citizenship drew most attention. Dutch emigrants, so-called expats living abroad, started a petition campaign, resulting in 25.000 signatures for withdrawal of the bill.¹⁵³ The campaign received a lot of attention in the Dutch media and met with sympathy in Parliament. D66 and the Social Democrats submitted

¹⁴⁹ *Tweede Kamer* 2008-2009, 31 813, nr 2, introduces new sections 2 and 3 in article 14 DNA.

¹⁵⁰ *Vluchtelingenwerk Nederland*, letter to second chamber 21 February 2012.

¹⁵¹ *Tweede Kamer* 2011-2012 Appendix 1387, questions by PvdA answer 2 February 2012.

¹⁵² *Tweede Kamer* 2011-2012, 33 201 (R 1977), nos. 1-3.

¹⁵³ <http://nederlanderblijven.com/>, last visited 4 October 2012.

amendments to the proposal. The D66 amendment suggested to allow dual citizenship in exceptional cases as regulated in the current Dutch Nationality Act for both emigrants and immigrants. The Social Democrats suggested retaining the exceptions only for emigrants. CDA and VVD also stated that the Dutch emigrants needed not worry and that dual citizenship will remain possible for them- even if it will not be possible for immigrants naturalising in the Netherlands (De Hart 2012: 278). It remains to be seen whether the principle of symmetry (equal access to dual citizenship for emigrants and immigrants), suggested in the literature (Faist 2007: 174) will still be upheld in the Netherlands.

5 Conclusions

If Dutch citizenship law and policy as of 1892, the year in which the first Nationality Act came into force, were to be described in terms of ‘restrictive’ and ‘liberal’, an evolution from restrictive to liberal and back to restrictive can be noted. An explanation for this evolution can be found in the influence exercised by the ideal of the nation-state and the government’s minorities’ policy. Both have been influenced by the actual volume of migration and the prevailing attitude towards immigrants.

Ideas concerning membership of the Dutch nation and ideas concerning the protection of Dutch interests, both inherent in the ideal of the nation-state, have constantly marked citizenship law and policy (Heijs 1995: 217). The ideal of the nation-state presupposes one homogenous people, a community in which individuals feel narrowly connected and collectively and loyally cooperate for the preservation and development of their State. The interest of the nation-state’s ‘own’ population prevails above the interests of aliens. There is a clear difference between ‘them’ and ‘us’ and citizenship is far more than merely a legal status. In the ideal of the nation-state, citizenship is considered as membership of the state, a proof of the fact that one belongs to the national community or one’s own people (Heijs 1995: 9). In order for aliens to acquire the citizenship of the state, it has to be guaranteed that the alien has started to belong to the nation to a certain extent. Whether citizenship is granted subsequently also depends on external factors, such as demographic, economic, social or political factors.

Furthermore, the government’s policy concerning minorities has had an important influence on Dutch citizenship law since the first half of the 1980s. Before that time, the government did not develop a coherent policy on minorities, since it assumed that the immigrants’ residence in the Netherlands was temporary. The policy concerning the integration of minorities first exercised a liberal influence on Dutch citizenship law, supposing that a strong legal status of immigrants would contribute to a speedy integration. Later on, the integration policy started exercising a more restrictive influence on citizenship law. Nowadays, naturalisation is seen as the crown on a completed integration, the ‘first prize’ in the integration contest.

From 1892 to 1953, the ideal of the nation-state had exercised a restrictive influence on Dutch citizenship law and policy. With the coming into force of the first Dutch Nationality Act in 1892, Dutch citizenship could no longer be acquired automatically upon birth in the Netherlands. Acquisition of Dutch citizenship upon birth from a Dutch father became the main mode of gaining Dutch citizenship. Birth from a Dutch parent was seen as a better guarantee for the future development of feelings of loyalty and commitment to the Dutch state than mere birth on Dutch territory. Hence, ideas concerning membership of the Dutch nation have played an important role in the choice of acquisition at birth *iure sanguinis*.

The link between membership of the Dutch nation and legal rules and policy is more explicitly present in the case of acquisition of Dutch citizenship through naturalisation (Heijs 1995: 220). Whether an applicant is eligible for naturalisation is examined in each case on the basis of several conditions. The idea of membership of the Dutch nation, of feeling connected to Dutch society, has always played a role in naturalisation policy.

The ideal of the nation-state exercised an influence of exclusion on naturalisation policy in the first half of the last century. Especially in the 1930s, the attitude towards immigrants who wanted to acquire Dutch citizenship was one of suspicion. Since it was suspected that applicants applied for Dutch citizenship out of self-interest without possessing a strong emotional tie to the Netherlands, the requirements for naturalisation were severe. In the first years after the war, the naturalisation policy remained restrictive.

In 1953, a process of liberalisation of Dutch citizenship law commenced. In that year, an element of acquisition of citizenship *iure soli* was reintroduced into Dutch citizenship law: third generation immigrants would automatically acquire Dutch citizenship upon birth in the Netherlands. According to the Dutch government, these immigrants differed from 'real' Dutch citizens only from a legal viewpoint. Feelings of loyalty towards the Dutch people and order were assumed to be present, which justified automatic attribution of Dutch citizenship. The ideal of the nation-state started exercising an inclusive influence.

The process of liberalisation also had an effect on naturalisation policy. In the 1950s, the possibilities of naturalisation without Parliamentary involvement were extended. This development culminated in 1976, providing for extra-parliamentary naturalisation for persons having a strong connection with the Netherlands, such as second generation immigrants and former Dutch citizens. The process of liberalisation continued when the conditions for naturalisation were made public in 1977.

The new Nationality Act of 1984 made acquiring Dutch citizenship simpler for first and second generation immigrants and remained unaltered for those of the third generation. The naturalisation procedure was simplified, and for second generation immigrants the possibility of opting for Dutch citizenship was introduced. The option procedure consisted of lodging a unilateral declaration to the authorities, without public order and integration requirements. It was assumed that feelings of loyalty and commitment towards the Netherlands exist among these immigrants; consequently, it was no longer necessary to examine whether this was so in each individual case. In the new Act, the third generation provision was retained. Third generation and, to a slightly lesser extent, second generation immigrants were perceived as members of the Dutch nation. Hence, from 1 January 1985, third generation immigrants obtain Dutch citizenship *iure soli*, whereas birth on Dutch territory is taken into account for the second generation by giving them an option right..

The new minorities' policy, which was adopted in 1983, had an important influence on the content of the 1984 Act. With the adoption of an official minorities policy, the government acknowledged for the first time that the residence of most immigrants in the Netherlands was permanent. To prevent ethnic minorities from permanently being part of the weaker groups in society, integration policy had to be intensified. The starting point of the new minorities policy was improvement of the legal position of settled immigrants. This goal could be achieved through naturalisation.

The new Dutch Nationality Act was mentioned as being of ‘special importance’ for the new minorities policy.

The wish to provide easier access to citizenship for long-term immigrants in order to improve their legal position lay behind the discussion concerning the renunciation requirement. In the new 1984 Act, this requirement, which demands that applicants for naturalisation give up their original citizenship, was upheld. After extensive parliamentary debate during the first years after the Act came into force, it was decided in 1991 to abolish this condition for naturalisation. In the opinion of a majority in Parliament naturalisation should not be made more difficult than strictly necessary.

The suspension of the renunciation requirement marked the end of the process of liberalisation of Dutch citizenship law and policy. When a bill was introduced in 1992 to formalise the practice of not applying the renunciation requirement, the Conservative Liberals and Christian Democrats expressed renewed doubts concerning the abolished requirement. They did not interpret the increase in the number of naturalisations as a success of the new policy, but rather as the creation of a possibility of access to citizenship for persons with a very weak bond with the Netherlands. In their opinion, persons wishing to retain their original citizenship cannot feel sufficiently connected to the Netherlands and should therefore not be offered the possibility to become a member of the Dutch nation. In 1997, the renunciation requirement was reintroduced. Views concerning nation-membership started to exercise a restrictive influence on citizenship law and policy.

When a bill providing for an adaptation of the Nationality Act was introduced in 1998, several political parties started expressing a more restrictive attitude towards naturalisation. In particular, the Christian Democrats kept stressing the importance of feelings of loyalty towards the Dutch nation in order to become a Dutch national. Discussions concerning the language and integration requirement eventually resulted in the creation of the strict naturalisation exam. In a revised Nationality Act that came into force on 1 April 2003, access to Dutch citizenship was also made harder since new barriers were raised in the option procedure and the residence requirement was made more severe. The stricter requirements for acquisition of citizenship can be linked to a change in Dutch integration policy. When consensus on the policy as applied in the 1980s had broken down during the 1990s, a shift took place from a minorities policy to an integration policy which focussed on the obligations of individuals and introduced the term ‘active citizenship’. During the same period, integration started playing a role in the public debate. The publication of Scheffer’s influential article ‘The Multicultural Tragedy’ (2000), the events of 9/11, the rise of the populist politician Pim Fortuyn and his subsequent murder, and the murder of cineaste Theo van Gogh led to an atmosphere of increased tension between immigrants and *autochthons* or the indigenous population. The idea emerged that integration of *allochtones* or immigrants, now often referred to as ‘muslims’, was no longer to be stimulated but demanded. The current policy, in which naturalisation is seen as the crown on a completed integration, is the opposite of the minorities policy conducted in the 1980s. During these years, the policy of facilitating naturalisation was seen as a means to increase immigrant participation in society at large. Immigrants who had lawfully lived in the Netherlands for five years or more, who had sufficient command of the Dutch language to communicate with others and wanted to acquire Dutch citizenship, were to be granted that citizenship, unless the applicant had a serious criminal record. Nowadays, long-term residence in the Netherlands is no longer considered to imply integration. A high degree of loyalty towards Dutch society is expected from applicants, who are subjected to a strict computerised naturalisation exam in order to test whether they have sufficiently integrated. Naturalisation is no longer seen

as an instrument for integration, but rather, as already mentioned, as the crown on a completed integration process.

With the coming into force of the 2000 Act, becoming a full member of the Dutch nation has become far less easy. The low numbers of applications for naturalisation and the high percentage of refusals have not yet led to protests in Parliament. Plans to reduce the number of exceptions to the renunciation requirement and to withdraw Dutch citizenship from persons guilty of (conspiring to carry out) a terrorist act show that Dutch citizenship law will continue to develop in a more restrictive direction in the years to come.

The narrative in which Dutch naturalisation policy figures among the most liberal in Western Europe (Howard 2009) does apply to the period between 1980 and 1990. Moreover, the 2000 Act, as well as introducing restrictive changes, such as stricter language and integration requirements for naturalisation, also contained liberal elements, such as the extension of the possibilities of opting for Dutch citizenship. The heated debates which took place regarding the prevention of dual citizenship have not led to substantial changes in practice. The bill, which introduces a renunciation requirement for persons opting for Dutch citizenship on the grounds that they have been living in the Netherlands since the age of four, will only affect a small number of individuals, probably not more than several hundred each year. This regulation will not fundamentally change Dutch practice regarding dual citizenship. Important limits to the efforts of the (previous) Dutch government to restrict dual citizenship are set by the European Convention on Nationality.

The most important change in Dutch citizenship law, however, does point in the direction of a more restrictive attitude towards citizenship policy. The introduction of the naturalisation test has led to a sharp decrease in the number of naturalisations, a gap which cannot be filled by the increase in the number of options since 2003. Furthermore, the introduction of the naturalisation test has had led to the exclusion of certain categories of immigrant, namely the less educated and less well-off groups. The replacement of the naturalisation test by the integration exam does not appear to have changed this situation.

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