

EUI WORKING PAPERS

RSCAS No. 2005/01



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and Catalyst of the Inherent Paradox of Nation-States

Helene Oger



EUROPEAN UNIVERSITY INSTITUTE
Robert Schuman Centre for Advanced Studies

EUROPEAN UNIVERSITY INSTITUTE, FLORENCE
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BADIA FIESOLANA, SAN DOMENICO DI FIESOLE (FI)

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ISSN 1028-3625

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Printed in Italy in February 2005
European University Institute
Badia Fiesolana
I – 50016 San Domenico di Fiesole (FI)
Italy

<http://www.iue.it/RSCAS/publications/>

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Abstract

Integration has become a popular word to describe the march towards a fairer treatment of immigrants and their incorporation in host societies. However, by becoming a legal pre-requisite for long-term immigrants before the acquisition of any more favourable status (one to integrate them better), integration reflects the discomfort and the tension in our societies, rather than a solution to the problem of the permanent presence of non-citizens within the boundaries of nation-states. As such, for the time being, the master metaphor of integration, in its vitiated use, mark of an unbalanced relationship, might not favour in practice integration, neither at the level of immigration law, nor at the level of citizenship. Unbiased and fair integration requires a revision of citizenship based on residence.

Keywords

Integration; citizenship; immigration; European Union; residence permits

Introduction

The traditional concept of the democratic nation-state has to face the difficult phenomena of globalisation, fragmentation and migration. There is a discrepancy between pluralism and diversity on the one hand and European countries designated as Nation-States, with their homogeneous body of citizens-nationals, on the other. This division of the world also remains deeply rooted in international public law for which personality of law and thus nationality is still the fundamental principle, in contrast with its private counterpart where the territorial principle is dominant.

This discrepancy is particularly obvious in the situation of permanent non-citizens, sometimes called denizens or long-term resident third-country nationals in EC terms. Indeed, their very existence questions the nation-state system, and this question turns to confusion between human rights and citizens' rights, since, in the name of human rights and equality, nation-states grant them more and more rights, thus blurring the difference between citizens and non-citizens.

The question that all member states have to solve nowadays is how to treat those people without losing states' national identity and sovereignty. Which status should they grant them, which strategy should they adopt? It is here that the question of how to incorporate or integrate them becomes relevant. If they are granted citizenship more easily, or have more rights, or more secure status, will they be better integrated? Will the state also be reconciled with its own democratic but national model?

The question of integration of non-nationals within European societies is complex. Not only must all European states—based on the model of nation-states, in contrast with countries founded on immigration such as the US—revise their model of immigration. They also have to re-define the content and boundaries of the body to which immigrants will be incorporated.

Indeed, once there is no longer an homogeneous body of nationals, or no longer any belief in an imagined and virtual homogeneous community, then the whole system is questioned. Consequently, the question of integration demands a deeper interrogation into the values and the delimitation of citizenry within host societies, and into true democracy.

In other words, integration is a fundamental and complex notion. As such, integration perfectly highlights the complexity of immigration law, since it implies subsidiary questions of a sociological, philosophical, strategic and political nature. Whereas the question of integration is a consequence of the inadequacy of the mythical homogeneous nation-state system, it reciprocally refers back to the definition of our democratic nation-states. In other words, there is a reciprocal process of mutual influences.

Integration works as the current master-metaphor for the tension of the member states with, on the one side, the incorporation of excluded immigrants within the society and, on the other, the conservation of the traditional skeleton of the state.

Furthermore, beyond this theoretical understanding, integration has acquired another dimension, namely its use as a legal constraint for immigrants. It has recently become, not only a political aim to be achieved through easier naturalisation and a more secure status for long-term immigrants, but also a requirement in order to be granted permanent residence permits—permits which secure important rights to denizens—both at the EU level and at the national level in some countries, such as Germany and France.

This legal use of integration underlines the strategic aspect of immigration law. Indeed, in the context of an increasing demand for immigrants for economic and demographic reasons, the European Union applies a selective policy of human rights according to states' strategic interests—rather than a dedicated and consistent search for an ideological constitution of a homogenised nation. The state's choice takes precedence over that of individuals. This is not surprising since traditionally immigration is a sovereign matter for states. Some international human rights have been introduced but only very restrictively, particularly regarding refugees, the right to family life and the prohibition of inhuman treatment. Additionally, at the EU level, hopes were raised for a greater consideration of immigrants and their individual

choice, and for a fairer balance between state and individual. Thus, since the Amsterdam Treaty, some fields have become EC competence. Typically, however, the attempt to achieve a fairer balance has failed.

Consequently, integration is both a legally binding requirement¹ for the enjoyment of a privileged status, and an aim to be reached by virtue of the granting of privileged status whether through the grant of a residence permit or nationality. Thus, rather than profoundly questioning the functioning of the states' system, member states attempt to adapt their model to contemporaneous needs and realities, by redefining a new line of exclusion.

As a result, member states may re-create a new type of discrimination, a new, more insidious, disguised line of demarcation, based on a pre-requisite of some commonalties, before the third-country national is allowed to be part of a society, enjoy a full equal status, and hence be totally incorporated. This is for the time being only a risk, which should however not be neglected.

This may not only reinforce the paradoxical situation of our democratic societies, between universalism and particularism, human rights and citizenship, but also makes the opposition more obvious.

In my understanding, the only way on a long-term basis to reconcile these two currently opposing principles is to rethink the very basis of our understanding of citizenship, leading to a revision of the concept. Residence could become a major criterion for the acquisition of citizenship. On a more short-term basis, integration, if rightly defined and understood, might be the key for a 'loyal co-operation' between universalism and particularism.

For the time being, the master metaphor of integration, in its vitiated use as the mark of an unbalanced relationship (I) might not favour in practice integration at the level of immigration law, and (II) highlights the inherent tension in the traditional understanding of citizenship. An unbiased integration, on the other hand, requires a revision of citizenship.

I. Loaded Integration, Imprint of the State's Ascent

The ambiguous notion of integration is used in paradoxical ways. The reciprocal dimension of this notion, being in principle an obligation both for the state and for the immigrant, explains the tension in its use, namely the double use of integration both as a pre-requisite for the immigrant and as an aim to be reached by the state through the medium of a more privileged status for immigrants.

A. Integration: An Unbalanced Dialogue

The broad and imprecise notion of integration is not limited to non-citizens. It is also used for naturalised immigrants, minorities, or indeed any socially excluded person. The idea of integration implies the movement of an excluded person towards the group in order to be included. The very idea of integration refers to the lever inclusion/exclusion, as the notion of citizenship does.

However, integration is not limited to this dimension. It also includes a reciprocal movement of the body-receptacle to adapt to the changes in order to realise a shared civil project and secure social cohesion. Thus, it implies some questioning of its own identity.

The kind of integration chosen will depend on the existing system of society. A more rounded concept of integration might be a corrective for each model's deficiencies.

Indeed, for example, the so-called 'multicultural' British model, more eager to recognise diversity within the public sphere, or the French Republican model based on blind-neutrality, might both define a fairer and more workable society, in that they would both, at different degrees, include recognition of diversity in the public sphere but also some tentative form of commonalty. Integration would then

1 There is, however, no obligation on states at the European level, it is simply a possibility left open to them.

be a way to perfect each system, since immigration highlights the impossibility of continuity with uncompromising systems, oscillating between blind neutrality and mere coexistence or ‘assemblage’ of diverse communities, without in both cases fairly recognising the individual in its complexity.

1. The Reciprocal Dimension of Integration: More Inclusive but More Burdensome

For the European Commission, in its June 2003 communication on immigration, integration and employment,²

Integration should be understood as a two-way process based on mutual rights and corresponding obligations of legally resident third country nationals and the host society which provides for full participation of the immigrant. This implies on the one hand that it is the responsibility of the host society to ensure that the formal rights of immigrants are in place in such a way that the individual has the possibility of participating in economic, social, cultural and civil life and on the other, that immigrants respect the fundamental norms and values of the host society and participate actively in the integration process, without having to relinquish their own identity.

Integration involves a balance of rights and obligations over time; thus the longer a third-country national resides legally in a member state, the more rights and obligations such a person should acquire. The conditions of entry and residence of immigrants in the EU, the long-term residence Directive,³ and also national laws on naturalisation will be important means to reach this global aim.

This holistic and comprehensive approach should not only deal with employment, education, language, social security, family reunification, but also with cultural and religious diversity and the questions of discrimination, citizenship, participation and political rights.

Although no member state has a uniform definition of integration, they do to a certain extent agree that integration is composed of different elements, namely respecting fundamental values in a democratic society, the right to maintain one’s cultural identity, rights comparable to those of EU citizens and corresponding obligations, and active participation in all aspects of life on an equal footing.

Integration is a reciprocal process, demanding some efforts from the immigrant and implying for the state different obligations and the granting of rights to immigrants. It is an aim to be reached for all states through the granting of privileged status, especially long-term residence permits and naturalisation. There even exists a *right* to integration for immigrants according to EC⁴ and domestic laws. Therefore, integration must be a two-fold, reciprocal and equal process, involving two actors, the immigrants and the host society.

In this sense, integration is rather a positive move in that it does consider and treat immigrants as people to dialogue with. Reciprocity and contract imply dialogue and no longer *unilogue* of the sovereign imposing state. It asserts a more active role of immigrants as participants. This might mean a certain alteration of state sovereignty.

In conclusion, the master-metaphor of integration is both more inclusive and more burdensome, implying some thick form of togetherness. However, the apparent balance between these two actors is breached in favour of states’ interest.

2. Integration: An Unequal and Temporally Asymmetrical Relationship

At the scale of the state, integration refers to an *abstract dimension*, a model of society, the choice of general strategy rather than precise legal obligations. This is emphasised by the fact that the EC does

2 Communication from the Commission to the Council, the EP, the EESC and the Committee of the Regions on immigration, integration and employment, Brussels, 3.06.2003, COM (2003) 336 final, p.17.

3 25/11/2003. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. *Official Journal L 016*, 23/01/2004, pp. 0044 – 0053.

4 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

not have any competence in the matter of integration (as recognised by article 63 of the EC Treaty and the recently adopted EC constitution).⁵

In contrast, the obligations for immigrants are *legally binding pre-conditions*. Abstract states' obligations shift to practical legal obligations for immigrants. Indeed, some national laws and also the EC long-term residents' directive require immigrants to be integrated in order to be able to benefit from privileged status due to their long residence.

In other words, integration may be required in order to be granted a better status whose *main aim* is integration.

However, one may argue that the legally binding obligation of integration limits administrative authorities' discretion, in that, with additional criteria, authorities have to better define and justify their refusals. Yet, this is only an acceptable argument if the criterion of integration limits the administration's discretion as much as possible.

To require pre-integration for the sake of a better integration through a more generous status is in itself *paradoxical*. Indeed, there is a *temporal asymmetry*, the immigrants being *a priori* obliged to fulfil some of their obligations and show their willingness to integrate,⁶ whereas the state gives itself only *a posteriori* obligations.

This absence of the simultaneous realisation of reciprocal obligations upsets the relationship between the two parties. Hence, there are *two differences*: one in *nature* (political/legally binding) and one in the *temporal discrepancy* of its realisation. This double tension underlines the state's advantage over the individual, the individual joining an already constituted community, rather than founding an original community. Immigrants must fulfil supplementary obligations, as the candidate countries in the EU if they want to join the limited 'European Club'. The state clearly dominates the individual-to-be-incorporated. The individual needs to make a great effort of adaptation, to make a move to enter the pre-existing system. The contract of integration, developed hand in hand with this new criterion in some countries, precisely stresses this.

Consequently, there are two paradoxical dimensions for immigrants: a positive one, abstractly defined in political terms, and a negative one, legally binding. It is negative in that if their culture and language of origin are very diverse, it might be more difficult for them to be integrated, since integration is based on pre-integration as a legal condition to enjoy a more favourable status in order to become more easily incorporated. In order to be fully integrated, long-term immigrants with a closer culture will be advantaged. There is here a connection between closeness / similarity and accession to integration. Significantly, the explanatory sentence of 'integration' in the Cambridge Advanced Learner's Dictionary is the following: 'It is very difficult to integrate yourself into a society whose culture is so different from your own'. As such, integration is no open key for entry but a selective filter in the state's hands.

B. Integration: A Substantial Selection in States' Hands

The legal pre-condition of integration has a substantial and discretionary content (1), thus implying a new line of demarcation outside of citizenship (2).

5 Nevertheless, the Communication of July the 9th 2001 of the Commission on an open method of co-ordination for Community immigration policy (COM/2001/0387 final) had suggested, among others, the area of integration.

6 As written in the individual contracts of integration, '*Signer le contrat d'accueil et d'intégration c'est le gage de votre volonté de vous intégrer en France, dans le respect des valeurs fondamentales de la République que sont la démocratie, la liberté, l'égalité, la fraternité, la sûreté et la laïcité*'. See one example at: http://www.social.gouv.fr/htm/pointsur/accueil/cai_depliant_v.pdf

1. *The Substantial and Discretionary Content of the Legal Pre-Condition of Integration*

The legal pre-condition of integration is for the time being not applied in a majority of member states, but is gradually becoming more prominent. Indeed, in countries such as Finland, Denmark and The Netherlands, national legislation on integration was passed in 1998 and 1999; and in Austria, Germany and France, initiatives in this respect have recently been taken. The national integration programmes consist of three main components: language tuition, orientation or introduction courses and professional labour market training.

Legally, according to EC and national laws, integration as a criterion refers to the knowledge of language and knowledge of the way of life, principles and democratic system of the host society. This conflicts with the more generous *political* use of integration.

One of the aims of the long-term residents' Directive is to ensure the full integration of immigrants, in particular through freedom of movement, secure stay and equality of treatment. The Commission even added the necessity to grant them local political rights and develop a coherent naturalisation policy.⁷ On the other hand, states may plan that integration, as a necessary legal condition, to be required either at the stage of the granting of the permit (art.5-2), or at the stage of the exercise of free movement by the applicant (except if he has already been granted it) in order to enjoy long-term resident status (art.15-3). The European Parliament, like the Council, was favourable to this. Integration thus becomes a necessary condition.

At the national level, integration is also both a legal condition and a political aim for naturalisation and the grant of residence permits. Indeed 'naturalisation is a decisive step on the way to successful integration' (p.14).⁸ This ambiguity disadvantages immigrants and undermines favourable political aims since an immigrant will be required to be pre-integrated in order to benefit from equal treatment (only *almost* in all domains) thanks to his privileged rank and thus be integrated!

This lack of balance is generally justified both by the fact that the state has in this domain a supreme power and that integration is supposedly voluntary. Indeed,

given that immigrants move by their own choice, a more equitable expectation might be that it is the immigrants who should make the effort to adapt to the country they have chosen to live insofar as there may be any incompatibilities of custom or values or in the matter of language⁹

In the 2004 German law,¹⁰ the two major legal obligations created by integration are the requirement for a basic knowledge of the Constitution and the legal and societal order, and a sufficient knowledge of the German language.¹¹ Nevertheless, certain persons needed on a long-term basis, such as highly-skilled workers, do not have to fulfil these conditions. The aims of integration courses are the achievement of a sufficient linguistic knowledge, the introduction to the German legal order, culture and history, and gaining confidence in individual relationships. The means are basic language courses, advanced language courses once they successfully terminated the basic courses, and

7 13/03/2001. COM(2001)127 final. Proposal for a Council directive concerning the status of third-country nationals who are long-term residents. *Official Journal C 240 E*, 28/08/2001 pp. 0079 – 0087.

8 Report by the Independent Commission on Migration to Germany, the so-called Suessmuth-Kommission, 'Zuwanderung gestalten—Integration fördern', 4/07/2001, Berlin (Part IV, 7.1). Available at: http://www.bmi.bund.de/top/dokumente/Artikel/ix_46876.htm

9 David Coleman, *Migration to Europe: A Critique of the New Establishment Consensus*, Federal Institute for Population Research, Workshop on Demographic and Cultural specificity and Integration of Migrants, 10-11/11/2000, Bingen, Germany, pp. 9-10. Available at: <http://www.apsoc.ox.ac.uk/Oxpop/wp01.pdf>

10 After the first unsuccessful attempt with the 2002 law, struck down on procedural grounds by the constitutional court, the first immigration law in Germany (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet—Aufenthaltsgesetz*) was finally passed on the 9th of July 2004, and will enter into force on the 1st of January 2005.

11 The direct link with integration is made because if immigrants successfully attend an integration course, these two legal obligations (Conditions 7 and 8 for the granting of the permanent resident permit—*Niederlassungserlaubnis*) are automatically fulfilled (Par.9 *Aufenthaltsgesetz*).

orientation courses. All foreigners (such as members of families, self-employed, refugees) who have the *right* to attend the courses are indeed obliged to if they do not have a basic knowledge of German (par. 44a). And if they do not attend, it will be taken into consideration by the administration for the *renewal* of the temporary residence permit (prior to the permanent one). And to be granted the permanent permit, they must, in principle, have followed the courses successfully, i.e. they must have passed the final examination. Those who have basic knowledge in German and were, neither entitled, nor obliged, to follow the courses, are exempt from these requirements.

By contrast, in the 1991 German law (in force until January 2005), there is no such obligation at the level of the residence permit and the sole condition of the knowledge of the language is less demanding, because it only refers to a basic knowledge in order for the immigrant to be able to be orally understood for basic needs. The 2004 law does therefore set up more burdensome criteria, since in German law, once immigrants have fulfilled the conditions, they are entitled to the permanent permit. Whereas in French law for example, it might be argued that it is less burdensome for immigrants since the criteria are indicators, in that administrative authorities have a general discretion. Thus, if there are further legal obligations, the area of discretion is less important and the power of control of judges is greater.

Hence, if Germany facilitates on the one hand the opportunity for an immigrant to be granted the status of permanent resident by reducing the number of years of legal residence required,¹² it increases the substantial conditions required in order to enjoy it. In other words, whereas the granting of permanent residence used to be limited to economic conditions and the length of residence, integration has now been added. Thus, if the conditions required are quantitatively lower, there are qualitatively higher, demonstrating a modification regarding the choice of immigrants.

Because the criterion of integration is unclear, there is a risk that the discretion of the state will be widened. As a consequence, it could be more difficult for an immigrant to get a more privileged status, whereas the official discourse precisely seeks to do the contrary. There is here an impression of reform *'en trompe l'oeil'*.¹³ Moreover, there is an important dimension of learning since integration courses are set up (§ 43 Immigration Law¹⁴).

According to new art 6(3), the granting of the first *carte de résident* (which is the French long-term residence status), when stated by law, is conditioned by the 'Republican integration' of the foreigner to French society. Immigrants who are automatically granted integration (foreigners married to a French national, children of French nationals, stateless persons, and foreigners legally residing for 10 years in France) are exempt.¹⁵ Thus, the position has not necessarily worsened. On the other hand, some who were automatically granted the *carte de résident* have had their status downgraded to *discretionary* granting status (family members, parents of French children,¹⁶ those who enjoy a temporary permit *vie privée et familiale*), obliging them to comply with this condition of integration.

Integration is understood particularly with regard to a sufficient knowledge of the French language and the principles governing the French Republic (art.6(3)). This is quite close to its German counterpart. Furthermore, a *contrat d'intégration* for the newcomers has been set up and is currently being tested in *départements pilotes*. This is a question of evaluating the immigrants' knowledge of the language and of the general functioning and values of France. Like in Germany, there is this idea of fulfilment of the condition of integration if they successfully carry out the contract. However, in France, the *contrat d'intégration* is never compulsory and neither is there any direct link with the condition of integration to

12 If the duration was 5 years to get the *Unbefristete Aufenthaltserlaubnis*, it was 8 years to get the *Aufenthaltsberechtigung*. Now it is 5 years in order to get the *Niederlassungserlaubnis*.

13 For a general critic on reforms at the EU level, see Segolene Barbou-des-Places and Helene Oger, *European Migration Policy Making: Decoding Member States' Strategies*, (Working document, 2003).

14 3rd chapter of the 2004 Immigration Law—par.43-45—concerns integration.

15 As if a double duration of stay would erase the condition of integration and fulfil in itself the condition of integration.

16 However, for these 2 categories, 2 years instead of 5, are sufficient to apply for a long-term residence permit.

be fulfilled. The aims of the contract are the systematic learning of the French language, and knowledge and understanding of French fundamental values and principles. Thus, one single civic training day to teach the common laws to foreigners has been instituted,¹⁷ and vocational training is provided.

If language is a hurdle to integration (like the lack of education or formal skills), the facilitation of its learning is favourable to integration, but to define the condition of integration as a sufficient knowledge of the language means that the immigrant needs to be already integrated. And in that case, an improved status, rather than a way to help an immigrant to be integrated, can be seen as a kind of reward for the 'good immigrant'. So is it not in contradiction with the definition of integration given before?

This requirement of a minimum level of pre-integration does in any case highlight the tension between selection (and reward for more valuable immigrants, especially on an economic basis) and integration openly understood. It could disadvantage two categories of people, namely the poor and uneducated, and those having a very different language, such as people of sub-Mediterranean origin. It could also be a handicap for older people.

However, if the level of knowledge required is limited to the minimum to be granted the long-term residence permit, i.e. after 5 years of living in the country, the risks for exclusion would be limited.

What is more questionable is the idea of knowledge of fundamental values and principles of host states. This is a vague concept, and thus discretionary, giving considerable space to subjective interpretation by administrative authorities. The EU Directive does not limit this discretion since there is no recognised EC competence in the area of integration¹⁸ (art. III-168(4) of the Constitutional Treaty), the only indirect reference is to language.¹⁹ Thus, in the laws of the member states' as in the EU, the interpretation is very largely left to the discretion of the states in order to increase their power in the selection process and to ensure their freedom and sovereignty on the matter. Too precise criteria could indeed handicap states and advantage immigrants. The interpretation may be more favourable to *assimilable* people and a selected workforce.

The risk lies, in other words, more in the discretion left to the authorities and the overly onerous standards regarding the language requirement. Moreover, one of the problems raised by Lochak²⁰ is that in practice, training in France is too restricted and short to give genuine and equal opportunities to immigrants. Again, the people favoured could be those having some pre-knowledge, or who are educated.

The legal pre-condition of integration reflects the tension in political speeches developed since Tampere. Indeed, at Tampere, member states agreed on the necessity to develop a 'more vigorous integration policy' leading to the recognition of similar rights with nationals to third-country nationals.²¹ The 'vigorous integration policy' thus became a restrictive policy.

To impose an *a priori* condition of integration requires applicants to have some *pre-knowledge* about the host country, and favours geographically and culturally closer immigrants. Under the guise of a potential right for the immigrant, this becomes in legal terms a different path to exclusion.

17 During this single day, they should be taught common laws, human rights and social principles, the Republican institutions and the meaning and access to citizenship. See Haut Conseil à l'Intégration, *Rapport 2003*, 2nd part: 'La mise en oeuvre du Contrat d'Accueil et d'Intégration'.

18 This is a matter for co-operation and not harmonisation. The only possibility is thus to use the open method of co-ordination (as proposed by the Communication Commission, COM/2001/0387 final, see footnote No5).

19 The Long-Term Residents Directive states that the fact that the person concerned is not subject to the criterion of integration does not exempt him from attending a language course (art.15(3)).

20 Daniele Lochak, 'L'intégration, alibi de la précarisation', *Plein-Droit*, No. 59-60, March 2004, (*Acharnements législatifs*).

21 Tampere European Council 15-16/10/1999, Presidency conclusions, A) III, Fair Treatment of Third-Country Nationals. Available at: http://www.europarl.eu.int/summits/tam_en.htm#a.

2. *The Drawing of a New Line of Demarcation Outside Citizenship*

A condition of integration in immigration law is more serious than in the naturalisation procedure, because it requires people living in the country, non-citizens, to be incorporated and integrated. There is a shift in the borders of obligations but not in terms of equality. It excludes at the first stage of the granting of permits rather than at the stage of naturalisation. This new line of demarcation splits in two the sole line of demarcation citizen and non-citizen. The movement of denizenship blurred the situation started some decades ago. However, this use of integration connotes an effort to make a stronger distinction to replace an evolutionary and unclear boundary. This may mark the birth of an exclusionary concept of multi-level citizenship, with complete outsiders, outsiders-integrated, and citizens.

The criterion of integration gives states the opportunity to try to cope with the current problem from an *external* perspective. It is dealt with in terms of immigration law, where states are sovereign. In other words, they demand that outsiders be *a priori* integrated in order to become still an outsider but a privileged one. And once this step has been fulfilled, they should logically become citizens. It automates the three-step level of the immigrant-to-become citizen, thus confirming the tradition.²²

Beyond this paradoxical dimension of integration, there is another conflicting scale, namely the double use of integration at the level of naturalisation and residence permits. Although, in French law, the term used at the naturalisation level is *assimilation*, the French constitutional court—answering the claim that the criterion of *intégration* could not legally be used both at the level of the *carte de résident* and at the level of naturalisation—has stated that there is no legal objection to this double use.²³ And in any case, France, like the UK or Germany, lists the sufficient knowledge of language as a condition and, as we saw, the major component of the condition of integration in the context of the grant of long-term residence permits.

The same criterion would be applied for the granting of two different statuses. This contradicts the three-step process towards the holy path of naturalisation. Thus, is the permanent residence status a truncated status, a symbol of a manipulation by states? Indeed, this confusion also gives member states some more discretion on the matter, and it allows them to apply a similar process at the immigration level by adding a substantive criterion. This implies the risk of selection of *similar* or *culturally close* immigrants both at the granting of the residence permit and the naturalisation stages.

Nevertheless, it should be borne in mind that this legal pre-condition does not exist in all countries, although EC law could incite more tolerant states to enact stricter rules. Indeed, integration, imported from Germany, was favoured by the great majority of the member states.²⁴ And, under the influence of the long-term residents' Directive, this condition has been set up as a new condition in the November 2003 French law. By contrast, this condition of integration is limited to naturalisation in the UK, which opted out.²⁵

There is a general trend within the member states, since EC law gives them a lot of flexibility, to use the EU level as a pretext to enact conservative national laws. In other words, EC law could have an important impact on the harmonisation of domestic laws towards the setting up of a minimum rule, a lower limit, thus reducing the standard of protection for immigrants. Furthermore, this condition of integration at the stage of the grant of residence permits is very recent in Europe and has travelled from the national level to the European level, each one influencing its counterpart.

22 Entry – stay – naturalisation. See R. Brubaker, *Citizenship and Nationhood in France and Germany*, (Cambridge Mass.: Harvard University Press, 1992).

23 Decision No2003-484 DC.

24 Council meeting, 'Justice, Home Affairs and Civil Protection'. 14-15/10/2002. C/02/308

25 Indeed, the UK and Ireland may choose on a case-by-case basis if they want to opt-in or out. Denmark opted out on a general basis. See Protocols 4 and 5 annexed to the EU Treaty.

Additionally, the case law of the European Convention on Human Rights²⁶ regarding deportation stresses the risk of ‘similarity’. The question of integration is not directly dealt with. However, the right to family life, which is the main legal argument to prevent deportation, is a consequence of the integration of a long-term immigrant in the host society. Indeed, if the immigrant is too much linked to his country of origin (language, vacations, friends ...), there will be no violation of family life. In other words, the exclusion from his society of origin is as important as the inclusion in the host society. The violation of family life is disproportionate if there is no possible life in the country of origin. This European model promotes strict assimilation rather than any kind of diversity or pluralism. The case law could reasonably focus only on the family life in the host territory, without looking at the immigrant’s relationship to his country of origin. That would promote open integration. Thus, the fear of a misconceived notion of integration appears as being legitimate.

In conclusion, although there is a better search for dialogue and consideration of immigrants, the states’ discretion and sovereignty endangers, through a perpetual legal imbalance, the aim of integration, as an equally reciprocal process yet one that is strongly claimed politically. This is mainly explained by the interlocking of integration and the current search for a re-definition of citizenship, since all states are questioning their own models.

II. Integration as Indicator and Catalyst of the Inherent Tension of Traditional Citizenship

The process of integration disrupts the substantial determination of the society-recipient, and the perverse effect of integration through the re-determination of the content of the society-recipient might be the creation of thicker boundaries.

The new boundaries drawn confirm the exclusive dimension of the nation-state’s system (A). And integration, as a new selective process, leads to the reassertion of state’s power (B).

A. *Rebuilding a New Exclusionary State Citizenship*

The reinforcement of long-term immigrants’ status may be both inclusive and exclusive. Exclusion may have two facets, namely the substantial reinforcement of boundaries (1) and the reinforcement of the substantial content of citizenship understood as nationality (2).

1. *Strategic Substantial Reinforcement of Boundaries*

The boundary at the long-term residence status level implies the creation of an outdoors boundary between long-term and other immigrants. This boundary may become more exclusionary as soon as some legal substantial preconditions, or *qualitative* requirements, such as integration, vaguely defined, are required to enjoy a more secure status. And as soon as we require higher or supplementary conditions, this becomes more burdensome for foreigners and thus *quantitatively* limits the number of permit holders.²⁷

Additionally, a better status for long-term residents may also justify the weaker treatment of non-privileged persons, and may jeopardise their situation.²⁸

Beyond the reinforcement of this boundary created outside the traditional boundary of citizenship, distinguishing between integrated and non-integrated immigrants, the boundary between citizens and

26 E.g. ECHR, *Nasri v. France*, 00019465/92, 13/07/1995; ECHR, *Beldjoudi v. France*, 00012083/86, 26/03/1992; ECHR, *Guel v. Switzerland*, 00023218/94, 19/02/1996.

27 Although it may also be argued that gives more power of control on a discretionary decision of authorities.

28 See Daniele Lochak, ‘L’intégration, alibi de la précarisation’, *Plein-Droit* No 59-60, March 2004, (‘*Acharnements législatifs*’).

non-citizens (the access to naturalisation) has also been reinforced both in countries where the requirement of integration has been added for the grant of a permanent residence permit and in countries where this condition does not expressly apply.

According to art.21-24 of the French Civil Code, no one may be naturalised if he does not justify assimilation to the French community, notably through a sufficient knowledge of the French language and, since 2003, of *rights and duties* conferred by French nationality. The addition of rights and duties constitutes a higher requirement.

The Nationality, Immigration and Asylum Act 2002²⁹ requires that the applicant not only have a sufficient knowledge of the language but also a ‘sufficient knowledge about *life* in the United Kingdom’. Although the term ‘integration’ is not used, this is its equivalent. Its vagueness has been harshly criticised by different associations of lawyers since it makes the conditions more onerous. It is quite similar to the German and French requirements for a residence permit, but more favourable since it is limited to naturalisation. As Trevor Phillips³⁰ recently asserted: ‘It is time to rediscover the nation’s belief in ‘core British values’ and **integrate** under an umbrella marked with the colours of the Union flag’, calling for the end of multiculturalism.³¹ The reinforcement of the conditions in the UK is the illustration of the willingness to deepen the content of British citizenship.

In France and the UK, integration is both a pre-requisite and a consequence of the status of naturalisation (as for permanent residence in France). Thus, to become citizens, immigrants need to be pre-integrated and becoming citizens will integrate them. Is this discrepancy more justified at this level? Anyhow, this reinforces the number of conditions and the discretion of states regarding the vagueness of terms, making the path towards naturalisation more difficult for immigrants.

By contrast, in German law (par. 86, 1999 Nationality law—facilitating access to naturalisation), there is only a reference to a sufficient knowledge of the language. However, in the 2004 immigration law, if foreigners successfully attend integration courses, the waiting period for naturalisation will be 7 instead of 8 years (whereas it is 5 years in the UK and France). Thus, integration is seen as a reward. Nevertheless, to be naturalised, the immigrant needs to possess the permanent residence permit where strict conditions for its grant have been imposed.

In conclusion, whether at the naturalisation level (UK) or at the residence permit level (Germany), or at both levels (France), integration recreates strategic boundaries, more difficult to reach, rather than opening a right for immigrants. Ultimately, the state retains full privileges and competence. The individual’s choice is not accounted for.

2. Reinforcement of the Content of Citizenship in France and the UK

For Matteo Gianni,³² the pre-requisite according to which immigrants must be able to integrate, limits the immigration to *assimilable* individuals. Citizenship would express a state’s recognition of the integrative ability of immigrants, like a certificate of assimilation. Is this observable in domestic law?

The relationship between integration and a deep content of citizenship in France was obvious both in the *Marceau Long* report³³ and the discussion around the 2003 Immigration Law.³⁴

29 See <http://www.hmso.gov.uk/acts/acts2002/20020041.htm>, Chapter 41, Part I, Section 1(1).

30 Chairman of the British Commission for Racial Equality.

31 Kamal Ahmed, (political editor), ‘How British do You Want to be?’, *The Observer*, 11 April 2004.

32 Matteo Gianni, ‘Quelle démocratie pour les sociétés multi-culturelles? La politique de la Reconnaissance et la question de l’immigration’, in: Maximos Aligisakis, (ed.), *L’Europe face a l’Autre: Politiques migratoires et integration Europeenne*. (Geneve: Institut Europeen, Universite De Geneve, 2003), p. 120.

33 *Etre français aujourd’hui et demain*, rapport Marceau Long, président de la commission de la nationalité. (La documentation Française, 1988).

Identité nationale et intégration des étrangers ne sont pas antinomiques et doivent être étroitement corrélées. L'intégration sera d'autant plus aisée que la conscience d'une identité française sera plus forte

With this coupling of integration and national identity, the positive value of integration, in its dimension of recognition of difference within the public sphere, is indeed eradicated. Far from a decoupling between nationality and citizenship, there is in fact a reinforcement of the link between territoriality and nationality.

If integration implies strong identity, the language of integration might be vitiated. In the name of a more open society integration may give the opportunity to reinforce the content and thus thicken the frontier. According to Zappi, the new Immigration Law reasserts a previously abandoned assimilationist policy. Indeed, in order to finance vocational training, the government has cut its funding for many associations responsible for the integration of immigrants, the funds being instead channelled to organisations that promote French values.³⁵

The French integration policy is aimed at restoring Republican authority (e.g. *contrat d'intégration*), and this endangers the recognition of diversity.

The first element for integration is secular schools. In March 2004,³⁶ a law prohibiting the conspicuous wearing of religious signs at school was passed. Because of a more diversified religious pluralism as a fundamental Republican value, it aims at reaffirming the principle of secularity. This means assimilation in the strong sense, though in the meantime the French Council of Muslims and the first (private)³⁷ Muslim school have been created.

Finally, the pre-requisite of integration for obtaining the residence permit shifted during the process of enactment of the new immigration law from 'sufficient integration' to '*Republican* integration', thus underlying the simultaneous reinforcement of the so-called French cultural values attached to citizenship.

The new criterion of integration tries to re-affirm a past understanding, no longer adapted to social reality.

In the UK, if the White Paper was very positive regarding the recognition of diversity and plurality in the process of naturalisation,³⁸ the new conditions to be fulfilled and the symbolic pledge of citizenship underline another reality, going towards an attempt to substantially deepen British citizenship. After the first citizenship ceremony in February 2004, some voices denounced the risks regarding cultural diversity of an exclusionary reference to the British nation.

This search for a deeper and substantial content of citizenship unmistakably limits and restricts access to it. The condition of 'sufficient knowledge of life in the UK' obviously confirms this direction. Indeed, there is an attempt to feed an embryonic British nationalism. According to Steve Cohen,³⁹ the 2002 law promotes 'social nationalism'. The recent call for the end of multiculturalism by Trevor Phillips and the attempted reinforcement of British core values confirm the new British path.

In conclusion, the British and French use integration to reinforce nationalism. The German case is different, since Germany does not try to limit access to citizenship through a more sophisticated system of selection but tries to make it more open. However, the boundary is stricter at the level of immigration law.

(Contd.) _____

34 See <http://www.senat.fr/dossierleg/pjl02-396.html>, in particular report of the Commission des lois, III B 1) 'Le projet d'intégration et la politique de nationalité sont liés' http://www.senat.fr/rap/103-001/103-001_mono.html#toc0

35 Sylvia Zappi, 01/10/2003, 'French government revives assimilation policy', published in www.migrationinformation.org.

36 Loi 2004-228, 15th March 2004, see <http://www.senat.fr/dossierleg/pjl03-209.html>. Rapport de la Commission de Réflexion sur l'application du principe de laïcité dans la République, Rapport Stasi: <http://www.ladocumentationfrancaise.fr/brp/notices/034000725.shtml>

37 However, it is not yet clear whether these schools will be eligible for state subsidies

38 *Secure Borders, Safe Heaven*, February 2002 Cm 5387.

39 Steve Cohen, *No One is Illegal, Asylum and Immigration Control, Past and Present* (Stoke-on-Trent, UK; Sterling, US: Trentham Books, 2003).

Thus, if there is not a rebirth of nationalism everywhere, there is in each state a new process of selection of migrants through integration favouring a certain profile of immigrants, having to fulfil different obligations before being eventually allowed, once they have been recognised as integrated, to make their own choices and claim their difference.

B. Search for a Balanced Integration

As illustrated by the recent legislative activity, there is nowadays a search for a new definition and reconciliation between the state model and reality. The UK tries to give content to its citizenship. The French model, in crisis, tries to redefine the Republican model, by allowing some more recognition of differences but at the same time more strictly defining the common elements. And Germany is required to find a new approach.

The notion of integration in this search highlights the traditional paradox between universalism and particularism (1), which confirms the irrelevance of the path chosen by states and as a result confirms the need for fundamental reform on a long-term basis and loyal cooperation on a short-term basis (2).

1. Integration as the Symbol of the Traditional Paradox between Universalism and Particularism.

The criterion of integration may lead to a new means of exclusion, going beyond nationality. Privileged immigrants will enjoy more rights than other immigrants on the basis, *inter alia*, of their pre-integration. This may create a thicker and subjective distinction between privileged and non-privileged immigrants. Moreover, since the state has wide discretion, this highlights the possibility of a system of preference based on subjective rather than objective criteria. Thus, according to Carens,

to require integration beyond the criteria of residence, as a pre-condition for the granting of citizenship is to violate the principles of toleration and respect for diversity to which all liberal-democratic states are committed and to call into question the equal status of current citizens who differ from the majority⁴⁰

In other words, integration should only be an aim. As soon as there is a legal pre-condition of integration, whether at the stage of naturalisation or grant of the residence permit, it is more difficult to justify since the state externally imposes some allegiance by the immigrant to the state, whereas this is normally reserved for naturalisation.

The legitimacy of the distinction is not only doubtful regarding the privileged and non-privileged immigrants, but also becomes a source of suspicion with regard to the distinction between privileged immigrants and citizens. Indeed, immigrants, with integration as substantially and subjectively understood, will necessarily have to become loyal to the host state as a pre-condition. Yet, in that case, why do they only enjoy *almost* equal rights? There is at the same time a bringing together of the conditions to achieve two different statuses but the distinction and boundaries between them are maintained.

This tension highlights the inherent paradox of any democratic nation-state, namely the opposition between universal human rights and their particular application.

Long-term immigrants, in the name of the universality of human rights (i.e. basing this extension on the territorial principle rather than on the principle of personality of law) have always been granted more rights, especially civil, economic and social rights, but excluding political rights, which are a symbol of citizenship. This has blurred the frontier between recipients and non-recipients of rights within the society and has decoupled the confusion between human and citizens rights, or—differently

40 Joseph H. Carens, 'Membership and Morality: Admission to Citizenship in Liberal Democratic States', in: William R. Brubaker, (ed.), *Immigration and the Politics of Citizenship in Europe and North America*, (Lanham, Washington, D.C.: University Press of America, 1989, pp. 31-49), p.38.

expressed—between the status of a human being and the status of a citizen, confusion which is a pivotal element of the social contract fostered by the Westphalian system of states.

While the state as a legal institution has declared that it must protect the rights of men, its identification with the nation implied the identification of the citizen as national and thereby resulted in the confusion of the rights of men with the rights of nationals or with national rights⁴¹

By their mere presence, permanently resident non-citizens question this classical division, since they are subject to the law, but excluded from the citizenry—inhabitants but non-nationals. This consequently questions the very equilibrium of the nation-state.

The new criterion of integration increases this paradox, shedding light on the tension in its articulation, because this pre-condition tries to define and thicken boundaries. Integration, being both a right and a legal pre-obligation to be granted a status ensuring integration, is in itself the synthesis of the fundamental antinomy of the nation-state, as built in the past and faced with a divergent reality.

It is in this sense that integration becomes an ‘enlightener’ to the inherent paradox of our nation-states.

Additionally, because integration as a pre-condition exacerbates the difficulties in being granted the status, it might be argued that it would be a new kind of discriminatory exclusion. It is exclusionary in France and Germany at the stage of the residence permit. This confirms the status of denizens, of privileged immigrants, pre-integrated to become citizens, but makes it more difficult to achieve this status. States are trying to enclose and control the current precarious system.

And in the UK, but also in France, this higher barrier is also situated at the stage of naturalisation. Moreover, in these two countries, this development went hand in hand with a reinforcement of the content of citizenship as a logical consequence.

To limit the current maladjustment, one solution would be to limit the discretion and set up clear legal obligations limited to the knowledge of language.

There is a merger between new concepts of citizenship, more dynamic and instrumental, and integration policies, since if nationality is no longer the only way to be granted an enlarged conception of citizenship (being conceived more in social terms), the new way to make the distinction between those who belong and those who do not, and thus the new way to link individuals with the state will be integration. The final step regarding this evolution will be to revise the legal concept of citizenship as merging with its social counterpart. This requires the re-definition of the understanding of the state and the glue and solidarity among its citizens. But because I believe that this requires a profound evolution of mentalities, a short-term solution would be the re-definition of the long-term residents’ status towards a social or participatory approach of citizenship. EU citizenship might be a catalyst since, although statutorily reinforced, its substantial content is much closer to the content of the status of long-term residents than member-state nationals.

2. Call for Fundamental Reform on a Long-Term Basis and ‘Loyal Co-Operation’ on a Short-Term Basis

Because the principle of the nation-state is based on a paradox between human rights and their particular application by the state, there is no human right for immigrants as such, disconnected from the state. When there is a reference to equal treatment, this is under the condition of nationality. Consequently, there is nowadays in legal terms no direct way to denounce inequality between immigrants and citizens on the ground of non-discrimination based on nationality⁴² (except the case

41 Delo quoted by Arendt in Arendt, *Essays in Understanding 1930-1954, Uncollected and Unpublished Works by Hannah Arendt*, (Literary Trust of Hannah Arendt Bluecher, New York: Harcourt, Brace & Co., 1994) p.208.

42 See the decision of the French Conseil Constitutionnel, No 2003/484 DC, 20/11/2003. See also Decision n° 93-325 DC, 13/08/1993, *Loi relative à la maîtrise de l’immigration et aux conditions d’entrée, d’accueil et de séjour des étrangers en France*.

law under Article 14 ECHR prohibiting discrimination on the basis of nationality, when another right of the ECHR is engaged⁴³). Indeed,

Nationality is the only ground of discrimination to which a liberal society, confined to national bounds, cannot respond without denying itself (Somek).⁴⁴

Discrimination on the ground of nationality is the cornerstone and should ideally be revised. However, since it is the foundation of the national system, this might be a difficult task.

According to article one of the International Convention on the Elimination of All Forms of Racial Discrimination, racial discrimination means distinctions concerning recognition or enjoyment of human rights and fundamental freedoms based on national origin. However, according to article 2, this principle does not concern the difference between nationals and non-nationals.⁴⁵ Similarly, in the Equal Treatment Directive,⁴⁶ if the right to equality before the law and protection against discrimination for all persons constitutes a *universal* right, the prohibition of discrimination does not cover differences of treatment based on *nationality*.

The extension of Regulation 1408/71 based on article 63 EC Treaty⁴⁷ only favours rights as much as possible equivalent to nationals. The long-term residents' directive limits the general principle of equal treatment that it recognises. Similarly, the prohibition of discrimination based on nationality in the Europe Agreement between the Communities and Poland is in article 37(1) limited to the *conditions of employment* and dismissal for Polish workers legally employed in the member states, and not a general prohibition.⁴⁸ However, article 12 TEC and the EU Charter of Fundamental rights prohibit discrimination on the ground of nationality within EU competence. This does not mean EU citizens. Thus, with the new directives—passed or being drafted on the basis of article 63—could this principle of non discrimination based on nationality also be applied to third-country nationals? The ECJ with full competence could play an important role here. Nevertheless, the link between EU citizenship and non discrimination based on nationality⁴⁹ weakens the argument.

To re-determine the balance of the relationship between immigrants and states, and to reconcile the latent paradox previously highlighted, a new system free from the fundamental discrimination on the ground of nationality should be envisaged.

The privileged status of European citizens makes the differences with third-country nationals increasingly more difficult to justify. Indeed, with the construction of the European Union, the nationals of other member states are no longer immigrants like the others. They enjoy most of the rights of member-states nationals and particularly the right to vote at the local level. For Balibar,⁵⁰ the disclosure of the latent discrimination between third-country nationals' foreigners and EU foreigners

43 See *Gaygusuz v. Austria*, 16/09/1996, No 39/1995/545/631.

44 Alexander Somek, 'On Supra-Nationality', *Florida Coastal Law Journal*, Vol. III: 23, 2001, p.36.

45 The Committee only obliges state parties to report fully upon legislation on foreigners and its implementation. See http://www.unhchr.ch/html/menu3/b/d_icerd.htm

46 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. *Official Journal L 180, 19/07/2000*, pp. 0022 – 0026. Available at: http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32000L0043&model=guichet

47 Council Regulation 859/2003 extending the provisions of Regulation (EEC) No. 1408/71 to nationals of third-country nationals who are not already covered by these provisions solely on the grounds of their nationality. OJ L 124, 20/05/2003.

48 Since 1 May 2004 EC law prohibiting discrimination on the ground of nationality now applies to Polish nationals in Member States with the exception of those areas (e.g. free movement of workers) covered by the transitional arrangements in the Accession Treaty.

49 See *Carlos Garcia Avello v. Etat Belge*, C-148/02, 2nd October 2003. Available at: <http://www.curia.eu.int/jurisp/cgi-bin/form.pl?lang=eng&Submit=Submit&docrequire=alldocs&numaff=&datefs=&datefe=&nousuel=Garcia+Avello&domaine=&mots=&resmax=100>.

50 Etienne Balibar, *Nous, citoyens d'Europe ?*, *Les frontières, l'Etat, le peuple*, (Paris: La Découverte, 2001).

has been a consequence of the creation of European citizenship. To achieve an anti-discriminatory and inclusive constitution, the nationality principle and thus the current liberal constitution has to be transformed. Since discrimination is constitutive of states, the deconstruction of the current system to further reconstruct⁵¹ it, is necessary. This means that citizenship has to be de-coupled from nationality and from the idea of sameness, since the criterion of integration shows that there is a risk of recreating a new discrimination based on commonality rather than nationality.

In that context, residence is the best criterion for citizenship. Based on a settled community, it does not allow any internal change but contains only an external dimension. Equality should only be a means for integration, and the granting of equal status should be limited to objective criteria, namely residence.

This decoupling between nation and state and even between commonality and citizenship is the way to reconcile our current systems with the paradox denounced by Arendt. To define a system based on differential equality would prevent the risk of covert discrimination towards certain categories of immigrants, especially those from the sub-Mediterranean origin. The weak substantial content of European citizenship might be a further argument towards this new understanding of citizenship.

To secure the evolution of mentalities in the direction of this long-term solution, the exclusion must be on a short-term basis and limited through less onerous conditions, to the enjoyment of long-term residence status and more rights once immigrants have reached this level.

First of all, if certain criteria of integration have to be applied, and thus immigrants must fulfil some substantial obligations to achieve a more secure status or become citizens, then the training has to be serious and with adequate financial support, and efficient courses must be established with competent teachers.

Moreover, to avoid as much as possible the discretion of the authorities which is insidious, the pre-condition of integration should be limited to a specific language requirement, i.e. attendance of language courses rather than successfully passing an exam. Similarly, on a more general basis, we could imagine the institution of new programs in history including the history of countries where the migrants are from, but also some more religious facilities. As a consequence of long-term residence status, equality must be ensured, particularly with respect to political rights, i.e. at least at the local level. As such, if the rights and obligations of immigrants as defined by the EU and national laws are ever closer to those of EU citizens, it might become more difficult to justify the distinction.

Residence must be secured first, in order to recreate a more equal or balanced reciprocal condition of integration, before the state puts too many obligations on individuals. And the more limited the dimension of integration is, the better pure integration, as an equal reciprocal process, will be. Is there any justification, in this light, of the obligation of integration as a pre-condition to the enjoyment of long-term resident status? It should in any case be limited to a basic knowledge of the language.

Conclusion

The misconception of integration by member-states highlights the inherent paradox of the nation-state model, and the unsolvable question of incorporation of people who are inhabitants but not formal co-citizens. Burdensome integration may lead to the creation of a new boundary which is not more inclusive than the national one. The right of residence must be secured first. And if this logic is to be followed, then citizenship should be mostly based on residence. There would be no more fake tolerance and integration through naturalisation as the marker of the downgrading of immigrants' culture for the sake of loyalty.⁵² Equality requires the development of a theory where 'people' means

51 Jacques Derrida, *Politiques de l'amitié*, (Paris: Galilée, 1994).

52 One example of this is that many naturalised immigrants are still not considered as legitimate citizens. The notion 'naturalisation' in itself—meaning becoming natural—carries the idea of sameness. The German expression of *Einbürgerung* (becoming a citizen) is more neutral and should be adopted in other languages (*citizenisation / citizenisation*).

inhabitants, and as such being adaptable to unavoidable, permanent and ongoing change. To have a dynamic concept of citizenship requires citizenship based on residence.

Helene Oger
Ph.D. Candidate
Department of Law
European University Institute
Florence
Italy.

Helene.Oger@iue.it

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