

IMMIGRATION AND ASYLUM LAW AND POLICY IN EUROPE

Deserving Citizenship

Citizenship Tests in Germany,
the Netherlands and
the United Kingdom

Ricky van Oers

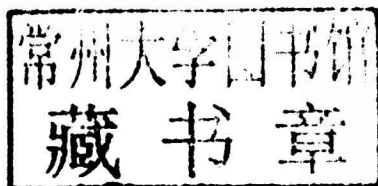
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By

Ricky van Oers



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Chapter One

Introduction

In the past decade, a number of Western European countries have formalised or introduced language and knowledge of society tests for immigrants applying for citizenship, permanent residence or admittance (Van Oers, Ersbøll & Kostakopoulou 2010). In most cases, the language and knowledge of society requirements were initially only required for naturalisation, after which they made their way into other domains.¹ In the area of naturalisation, the language and knowledge of society requirements have been formalised: whereas the integration of the applicants used to be tested in an informal interview by a local government official, their integration is now tested in formal examinations. This formalisation coincided with a considerable increase in the knowledge required. The formalisation and reinforcement of the integration tests at naturalisation and the introduction of such tests in the areas of permanent residence and admittance signals that policy makers and politicians have established a direct link between the acquisition of knowledge on the one hand and integration on the other. The idea that knowledge of language and society is a reflection of the degree to which an immigrant has integrated, has become commonly accepted (Bjornson 2009: 10).

Despite their recent surge, knowledge tests are not a new phenomenon. In the area of naturalisation, informal integration tests have applied in European Member States for more than half a century (Guild, Groenendijk & Carrera 2009: 8). Digging deeper, one will find that language tests were applied in 'classical' immigration countries such as the USA, Canada, and Australia and the British Empire in the 19th century. These tests were often discriminatory in nature, seeking to keep unwanted immigrants from entering the country or to disenfranchise certain parts of the population. In the USA, for instance, between 1890 and 1910, literacy and comprehension tests were used to keep blacks and poor whites from voting (Steiner 2009: 117). Furthermore, the 1906 statute providing for English language skills as a requirement for naturalisation, must be seen in the context of the immigration restrictionists' continuing efforts to use a literacy requirement to decrease immigration from Eastern and Southern Europe (Neuman 1994: 263).

¹ Before 2000, the only EU Member State which applied a language requirement for permanent residence was Germany (Guild, Groenendijk & Carrera 2009: 8).

Canada followed a similar pattern by enacting literacy requirements for naturalisation, designed specifically to exclude Chinese immigrants (Etzioni 2007: 354). In the British Empire, in the South African colony Natal, a language test was introduced in 1897 to exclude immigrants from the Indian subcontinent, who had profited from their imperial free movement rights. In a slightly modified form, the 'Natal Dictation Test' subsequently entered Australia's 1901 Immigration Restriction Act, to stay there until 1957 as an element of the 'White Australia' policy (Bast 2011: 99).² In Europe, the first use of language tests as an instrument for migration control occurred in Germany, which introduced a language test in 1997 to restrict the immigration of ethnic Germans from Eastern Europe, and to gradually terminate the privileged admission policy for Jewish immigrants from Russia (Bast 2011: 96, Groenendijk 2011a: 4).³

The above shows that two distinct functions are attributed to language and integration tests. On the one hand, proponents of such tests argue that the tests contribute to the integration of immigrants whose aim it is to move to the country or to settle there as permanent residents or fully-fledged members. The underlying assumption is that knowledge of the language and the society will enable these immigrants to function independently within the society, which will result in easier acceptance by the host society. Opponents of the tests, however, contend that the tests function as instruments for the selection of immigrants, pointing to the exclusionary effects of formalised tests on lower educated immigrants. While officially aiming at the improvement of the integration of the immigrants, opponents of the tests argue that the tests actually have the effect of excluding immigrants with lower skills, who are generally considered unwanted, as well as hampering the integration of the sponsors of those immigrants who intend to move to the country for the purpose of family reunification.

The aim of this book is to assess the explicit and hidden goals the formalised language and knowledge of society tests are meant to achieve, as well as to analyse their intended and unintended effects, thereby focusing on citizenship tests, i.e. formalised language and knowledge of society tests as a requirement for naturalisation. To achieve this aim, the political debates preceding the introduction of the tests, as well as the effects produced by the tests will be analysed. Three countries will be addressed: Germany, the Netherlands, and the United Kingdom.

² What was required was a 50-word dictation in a 'European' language, to be chosen by the immigration official. Together with the absence of control by a neutral authority, this measure was a way of pursuing a racist policy of exclusion (Bast 2011: 99).

³ Germany had previously introduced 'basic' and subsequently 'sufficient' language skills as a requirement for permanent residence in the 1978 residence regulation (*Verfestigungsregelung*; Michalowski 2010b: 188).

1.1. *Structure, Research Questions and Methodology*

The research addresses the issue of citizenship tests from the point of view of liberal, republican and communitarian theory. These theories offer different justifications for the exclusion of legal residents from membership. On the basis of these theories, different justifications for the application of requirements for naturalisation in general, and citizenship tests in particular, can be formulated.⁴ In Chapter 2, models for naturalisation based on the liberal, republican and communitarian theories will be presented, as well as an analysis of the question of whether a citizenship test can be justified in these models, and, if so, under what conditions. The main question this research aims to answer is

- 1) *Can the citizenship tests in the countries under consideration be justified from the liberal, republican or communitarian perspectives?*

To answer this question, I will employ a strategy of simultaneously 'zooming in' and 'zooming out' on the citizenship tests.⁵ By 'zooming out' on citizenship tests, I intend to paint a panoramic picture, focusing on the context, timing, and the official discourses leading to the introduction of the tests on the one hand and the effects the tests have produced in the three countries under consideration on the other. 'Zooming in' on citizenship tests implies an analysis of the content of the tests which are presented to those applying for naturalisation.

'Zooming out' on citizenship tests leads to two distinct research questions:

- 2) *Why have Germany, the UK and the Netherlands introduced formalised citizenship tests into their respective legislations?*
- 3) *What have been the effects produced by these citizenship tests?*

The first question will be considered on the basis of an analysis of the political debates leading up to the introduction of the citizenship tests and the general political and social context and timing in which these debates took place. Chapter 3 analyses the debates leading up to the introduction of the citizenship test in the Netherlands, Chapter 4 focuses on Germany, and Chapter 5 covers the debate in the United Kingdom. The questions used to examine the reasons why the countries under consideration introduced citizenship tests, employed to

⁴ It is possible to identify additional normative models. The liberal, republican and communitarian models will however suffice to reach the goal for which I intend to use them.

⁵ This indication of my way of approaching the issue has been derived from Kostakopoulou's contribution to the discussion 'How liberal are citizenship tests?' on the EUDO-website, downloadable from http://eudo-citizenship.eu/docs/RSCAS_2010_41.pdf (Kostakopoulou 2010a: 15).

analyse the political debates, focus on the arguments which were put forward by the proponents as a justification for the introduction of the tests, and the arguments which were put forward against the introduction of such tests. Who favoured the introduction of the tests and who opposed them and why? How does support or opposition fit with other social and political agendas relating to immigration and integration? What do the advocates of such tests say that they are trying to accomplish? Is there evidence to indicate whether the advocates of the tests also intended to achieve other, hidden goals?⁶ The models for naturalisation based on the liberal, republican, and communitarian theory, as presented in Chapter 2, will be used as an instrument of analysis. In practice, just like the conceptions do not exist in a clearly distinguishable way in the naturalisation laws of individual countries, there will not be one indistinguishable conception that will be used for the introduction of a citizenship test (Kostakopoulou 2003: 94). Using the conceptions of citizenship as an instrument to analyse the debates, as represented in the official parliamentary records, governmental policy documents, literature and newspaper articles, will nevertheless allow me to qualify the arguments in order to identify where the centre of gravity lies in the argumentation of those who support the introduction of citizenship tests and those who oppose them. Arguments which cannot be categorised as belonging to a theoretical citizenship model defined in Chapter 2 will also be reproduced.⁷

As regards the time frame covered, the period over which the debates have been analysed differs per country researched. In all three countries, the researched period covers the year in which discussions regarding an amendment of the language and integration requirement started, until the actual introduction of the formalised citizenship test. This means that in the case of the Netherlands, the analysis starts in 1993, when a proposal to amend the 1985 Dutch Nationality Act was introduced, until 2007, in which year the Integration Act took effect. In Germany, the researched period runs from the year 1999, when a proposal to reform the nationality law was introduced, until 2007, when the Act for the implementation of eleven Directives on asylum and immigration was adopted. As regards the UK, the period described starts in 2001, when several official reports, urging for amendments to be made in the field of naturalisation policy, were published following the occurrence of riots in Northern England. It ends in 2009, in which year the Borders, Citizenship and Immigration Act was adopted. For all three countries the situation of language and integration testing prior to

⁶ These questions have been derived from Joseph Carens' contribution to the discussion on the question 'How liberal are citizenship tests' on the EUDO citizenship forum (Carens 2010: 20).

⁷ This for instance applies to the argument that language and integration tests need to be introduced to keep up with developments in European law and other EU countries.

the formalisation will be also described, and so will the period after the introduction of the formalised tests, in case of relevant new developments or debates.

The second 'zooming out' question relates to the effects produced by the tests. This question will be considered in Chapter 7, where statistical information regarding the number of naturalisations in the countries under consideration and data regarding the tests themselves are analysed. Where possible, information has been collected regarding the gender, nationality, level of education and age of the naturalisation applicants and test candidates, to evaluate whether the tests have differently affected different groups of immigrants. The information analysed has been derived from available official statistical information, found on websites and in reports from the countries' official statistical bureaus and competent governmental agencies and ministries. These are the Central Bureau of Statistics and the Immigration and Naturalisation Service's Centre for Information and Analysis (INDIAC) in the Netherlands, the Federal Office for Statistics (*statistisches Bundesamt*) and the Federal Office for Migration and Refugees in Germany (*Bundesamt für Migration und Flüchtlinge*), and the Home Office statistics and UK Border Agency in the UK. Where necessary, the information gathered was completed with data from EUROSTAT, and information published on the EUDO-citizenship website.⁸ Furthermore, statistical information found in newspaper articles, parliamentary documents and official evaluations has been used.

The question regarding the effects of the tests will furthermore be answered using qualitative empirical research. In all three countries under consideration, semi-structured interviews were held with immigrants, as well as stakeholders: language teachers, staff members of immigrant organisations and municipal officials. Among the immigrants, three categories were interviewed: test candidates, naturalisation applicants, and immigrants who had refrained from applying for naturalisation. In Germany and the UK, interviews were also conducted with policy makers.⁹ In total, 213 interviews were conducted between January 2006 and April 2009.¹⁰ The majority of the interviews, 163 in total, were conducted with immigrants.¹¹ The analysis of the empirical data gathered in the Netherlands will

⁸ <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>, <http://eudo-citizenship.eu/>.

⁹ Policy makers have not been interviewed in the Netherlands. The reason is that the interviews held in the Netherlands formed part of an earlier research, conducted in 2006, into the reasons for introduction and effects of the naturalisation test (Van Oers 2006). In the light of the limited time which was available for this research, it was decided that policy makers would not be interviewed. Policy makers have however been interviewed within the framework of other research, the results of which will be involved in the analysis (see introduction to Chapter 8).

¹⁰ In the Netherlands, a total of 76 interviews were conducted, compared to 82 in Germany, and 55 in the UK.

¹¹ In the Netherlands, a total of 57 immigrants were interviewed, compared to 69 in Germany, and 37 in the UK.