

Country Report France

The INTEC project:

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

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

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Introduction

Integration with regard to third-country nationals is a rather new issue in French policy. It was not considered to be crucial for a long period because France was a country of immigration, which implied that it had been able to cope with this issue without putting the question at the forefront of public debate or legislation. Nevertheless, the question of integration and its relation to migration issues has progressively arisen in the debate to become nowadays a central issue of legislative modification. Broadly speaking, this issue has been addressed since mid-2000 so, in that sense, the movement is quite recent.

Nevertheless, it should be emphasised that the core questions relating to integration have been taken into account in legislative modifications but are still 'anonymous' in the debate or in the media. This could be explained by the fact that the modifications proposed in successive laws are often hidden by more sensitive political debates. This was the case, for instance, in 2007 when an extensive debate was launched on the question of DNA testing. This debate, which was very sensitive in France, had the effect of excluding from the discussion other major proposals, such as the ones relating to integration. As a consequence, the debate relating to integration has been quite 'cheap' both in the media and in academic literature. Nevertheless, we have been able to rely on some relevant documents in drafting this report (see annex).

For this national report, our research has targeted books, articles and also reports where the issue of the French rules relating to integration have been addressed. In the list reproduced in annex, we have mentioned the different reports issued for the preparation of laws already adopted. For a more detailed approach on Parliamentary debates, please refer to Pascouau (2010).

The analysis of the current and forthcoming rules applicable in the Aliens Code (Code de l'Entrée et du Séjour des Etrangers et du Droit d'Asile, hereinafter CESEDA) and the relevant literature have been the primary sources for this report.

We are also still waiting for the responses to the questionnaires to be returned (end August).

With regard to case law, a distinction must be drawn between cases related to integration schemes and those relating to access to nationality. The first category has not given rise to cases, unless they relate to the lawfulness of integration measures abroad. The second category is more specific and there is some jurisprudence. We have, nevertheless, decided not to go into too much detail regarding jurisprudence but instead to underline general rules and trends.

Chapter 1: The Development of Integration Requirements in France

It must be emphasised from the start that the schemes applicable in France do not constitute tests *per se*. Except for the procedure for the acquisition of French nationality, the rules applicable in France have to be considered to be more like integration measures than an integration test, as they do not constitute conditions for the acquisition of rights. The particularity of the French rules is that they were instituted in a very short period of time, between 2003 and 2007, and pursued dual objectives. In other words, the French authorities have been engaged in a double and opposite movement. They have, first, had the idea to 'copy' neighbours, such as the Netherlands, in their method of instituting mandatory integration conditions for migrants. But, in this situation, the French authorities have also taken into account the limitations imposed by EU Law. As a consequence, and secondly, they have been very careful not to impose integration conditions where prohibited by EU Law. As a result, the French rules cannot be regarded either as imposing tests or as testing. They have to be regarded as requiring third-country nationals to become involved in an integration process. Therefore, the effects of the French rules do not focus on the success of a test but rather on the positive involvement of the migrant in the integration process, whatever the results of the test are.

These distinctions being made, the French rules institute four different steps with regard to integration measures that have to be fulfilled by third-country nationals.

- Integration measures in the country of origin: a Law adopted in 2007 instituted integration measures within the framework of family reunification. In order to be granted a visa to enter France and join his/her family, the family member has to undergo an evaluation of his/her knowledge of the language and values of French society in the country of origin. If the evaluation is successful, the visa is issued. If not, the family member has to attend sessions of formation in the country of origin. These latter sessions should not last more than two months.
- Integration in France: in 2003, an informal welcoming contract (*Contrat d'accueil et d'intégration*) was established in some French sub-regions and proposed to migrants in order to help them to acquire language knowledge and knowledge of the values of the Republic. In 2006, this scheme was extended to the entire country and became mandatory for all migrants arriving in France for the first time. Hence, and with some exceptions (see below), every migrant wishing to settle in France for more than one year has to engage in a welcoming contract. This contract contains language training and also lessons on the values of the French Republic and information about daily life in France. The fulfilment of the integra-

tion contract is taken into consideration when renewing the residence permit for the first time, i.e. after one year of legal residence.

- Integration evaluation for the issuance of a long-term residence permit: the issuance of a long-term residence permit is subordinated to the Republican integration of the applicant into French society. According to article L 314-2 Aliens Code, this implies respect for the principles of French society, sufficient knowledge of the French language and also attention paid to the involvement in and completion of the welcoming contract. This provision in the Aliens Code is very widely drafted and leaves margins of manoeuvre to the authorities to assess whether the applicant fulfils the criteria set by the Law.
- Acquisition of nationality: as a general rule, article 21-24 of the Civil Code states that no one can be granted French nationality unless he/she justifies his/her assimilation into the French Community, in particular with regard to a sufficient knowledge of the French language and the rights and duties conferred by French nationality. This provision also mentions that the requirements related to the assimilation are to be evaluated with regard to the condition of the applicant. The evaluation of these requirements takes place during an interview with a state agent.

The relationship between those rules are primarily of two kinds. The first one relates to the central role played by the welcoming contract. Hence, the welcoming contract is taken as a basis when assessing the level of language knowledge in the country of origin. If the applicant for family reunification possesses language skills, he/she will be exempted from taking language lessons on arrival in the country within the framework of the welcoming contract. On the other hand, fulfilment of the welcoming contract is an element that is taken into consideration when assessing the application for the issuance of a long-term residence permit.

The second relationship between these rules is related to language and civic knowledge. At each step of the migratory process, these elements are taken into account besides other core conditions to be fulfilled by applicants.

It must, nevertheless, be underlined that these rules will be changed in the near future as a Bill of Law was issued in March 2010 and will be discussed during the autumn of 2010. These further modifications follow the underlying purpose of integration schemes in France: increasing control over migrants. There are three main provisions. Firstly, the rules regarding the upgrading of language knowledge, from level A 1.1. to level A1 or A2 might be upheld. Secondly, the requirement to respect the welcoming contract obligations will be strengthened. Finally, the acquisition of French nationality will be conditional upon adherence to the principles and fundamental values of the Republic. This means that respect for these principles is no longer sufficient and must be completed by adherence to them. This is in line with the recent and ever-increasing pressure instated by French law and regulations

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over migrants in order to, on the one hand, better regulate migration and, on the other hand, limit the issuance of secure status or subject the issuance of such status to enhanced requirements.

Such purposes underlie the European Pact on Migration and Asylum, adopted under the incentive of France. This is particularly the case for the paragraph relating to family reunification and the need to better manage this type of migration. The European Council agreed in the European Pact 'to regulate family migration more effectively by inviting each Member State, in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, to take into consideration in its national legislation, except for certain specific categories, its own reception capacities and families' capacity to integrate, as evaluated by their resources and accommodation in the country of destination and, for example, their knowledge of that country's language'.

Chapter 2: The integration test as a condition for admission

It is useful to begin this chapter with some comments on the French situation.

- Elements that fall within this chapter have to be clarified. This chapter relates to integration rules that have to be fulfilled in the country of origin. The welcoming contract will be dealt with in the next chapter.
- According to article 7.2 of the family reunification directive, the rules have to be considered as integration measures and not conditions, as the latter are forbidden by EC Law and jurisprudence.

These measures are only applicable in the case of family reunification. Any other applications for entering France, for work purposes for instance, are not subject to such pre-entry schemes. Pre-entry conditions are only applicable in the case of family reunification, except for EU/EEA nationals. This derives also from article R 411-28 CESEDA which states that family members of TCN must be in possession of a long term visa to enter French territory

Description of Integration Measures in the Country of Origin¹

The term evaluation is more eligible than examination, as the French situation as falling within the category of examinations. When the family member enters into the family reunification procedure, he/she has to go through an evaluation of his/her knowledge of the language and Republican values. The evaluation is conducted by the French authorities (Office Français pour l'Immigration et l'Intégration, hereinafter OFII), or the contracting parties. If the evaluation shows a sufficient level of knowledge, the long-term visa necessary for entry into the country is issued. The applicant will also be exempted from taking part in language sessions on arrival in France within the framework of the welcoming contract. If the evaluation demonstrates insufficient knowledge, the applicant is invited to attend sessions of formation in the country of origin. These sessions, which deal with knowledge of the language (up to 180 hours) and Republican values, does not last more than two months. After attendance, a new evaluation is carried out. If it is successful, the visa is issued and the applicant is exempted from language lessons after arriving in France. If the knowledge is insufficient, the visa is also issued but the authorities have to evaluate the length of the formation sessions to be fol-

¹ Article L 411-8 and articles R 311-30-1 and s. CESEDA (Aliens Code) (Article L 411-8 has been inserted into the legislative part of the CESEDA by Law 2007-1621 of 20 Nov. 2007 ; Article R 311-30-1 and following have been introduced in regulatory part of the CESEDA by decret n° 2008-1115 of 30 oct. 2008).

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lowed in France within the framework of the welcoming contract. In any case, knowledge of French is not a condition for the issuance of the visa. In other words, issuance of the visa is not conditional upon the results of the test but upon attendance to training sessions.

Testing and courses are managed by the OFII. Since January 2009, existing OFII representations abroad (Morocco, Tunisia, Mali, Senegal, Turkey and Canada) organise the tests. In these countries, the OFII may subcontract testing and formations to partners. In Morocco, for instance, OFII has signed several conventions with French institutes located in the capital of the countries. In countries where no OFII is established, the competence to conduct the tests and courses is delegated to accredited organs. With regard to courses, the OFII is in close contact with the Alliance française, a foundation established worldwide dealing with the promotion of French language and culture.

Hence and whether or not the applicant possesses sufficient language knowledge or knowledge of French values after the two months' formation, the visa is issued. In that sense, under French rules the issuance of the visa and, consequently, the right to family reunification are not conditional on a test.

Form of evaluation

According to article R 311-1-2 CESEDA, evaluation of language knowledge is based on written and oral tests. Knowledge of French values takes the form of oral questions in a language the applicant declares he/she understands.

Level of evaluation

Level of language knowledge is below level A1 Common European Framework of Reference of the Council of Europe,, i.e. level A.1.1

Preparation

There is no specific preparation for that evaluation. It is after the first evaluation that the French authorities (Office Français de l'Immigration et de l'Intégration, OFII) offer training sessions.

Exemptions

There are three types of exemptions.

The first exemption relates to the age of applicant. Applicants below 16 and over 65 years old are exempt.

The second relates to educational background. Hence, article R 311-30-2 CESEDA exempts from the test foreigners who justify

- Having completed at least three years of secondary studies in a French school abroad or
- Having completed at least one year of college (University) in France.

This exemption is not automatically awarded and must be requested by the applicant.

The third type of exemption is foreseen in article R 311-30-10 CESEDA. This provision states (approximate translation): 'In case of trouble to public order, acts of war (faits de guerre), natural or technical disaster in the country of residence implying important difficulties to move or endangering foreigner's security or where following formations entails constraints incompatible with his/her physical or financial capacities, or its professional obligations or his/her security, the foreigner may be exempted, upon his/her request, from formation by diplomatic or consular authorities (...)'.

Costs

According to article L 311-9 CESEDA, the formation sessions, in the country of origin and after arrival in France, are free of charge and financed by the Office Français de l'Immigration et de l'Intégration.

Purpose of integration measures in the country of origin

Several arguments have been used to promote integration measures in the country of origin.

At the very beginning, the idea was launched by the Minister of Interior (Nicolas Sarkozy) who wished to copy both the Dutch scheme and the forthcoming German and Danish proposal. The Minister also pointed out the positive impact of such measures (conditions at that time) for fostering integration. Hence, the latter had to be prepared in the country of origin (Nicolas Sarkozy, March 2007).

If the idea to foster and enhance integration was kept in the official discourse and Bill of Law of 2007, another argument appeared in a parliamentary report (Mariani 2007) linked more to the idea of managing migration flows. In this report, MP Mariani pointed out the fact that non-renewal of the residence permit due to failure to comply with the obligations of the welcoming contract was difficult because of article 8 ECHR. He stated that such difficulties could be overcome by integration in the country of origin. In that situation, if attendance at language courses was not completed, the visa could be refused. Hence, integration abroad was not dedicated to the enhancement of integration of third-country nationals but to better manage migration flows. Nevertheless, the only purpose of the integration test mentioned in the official documents is the promotion of integration.

But, on the whole, apart from examination of the Bill of Law in Parliament, the question relating to integration measures abroad has not been discussed. The debate 'was stolen' by the question of using DNA testing for the purposes of family reunification. In this context, integration measures abroad have been sidelined by NGOs, the media and politicians. As a consequence, no real impact assessment has been launched.

The only visible evaluation has been of a legal nature. There has been a major change between the Bill of Law and the Law adopted in 2007. The Bill of Law established integration conditions (as the issuance of the visa was subordinated to attendance at sessions in the country of origin), but the Law finally adopted integration measures.

Effects of the Test/Evaluation

A limited number of articles have been written in French literature regarding integration measures abroad. One survey (Cournil & Depigny2008) underlines possible effects of the integration measures abroad. It estimates that these constitute measures to select migrants and extend administrative control over them. It also points out some difficulties that may result from the setting up of such a test with regard to the migrants and the State. For the former, integration formation that derives from the evaluation may be difficult for children and/or people living far away from formation centres to follow. It might also constitute an additional financial burden. As regards the State, the article recalls that these measures might also be very expensive. It outlines the fear some workers in the field of integration have of a shift of the budget allocated to integration from national programmes to this 'externalised' scheme.

With regard to the statistics and numbers, the effects of integration measures abroad are significant or have to be considered to be so. In the annual report on immigration policy presented to the Parliament in December 2009, it is stated that the number of visa applications for family reunification has decreased by nearly 27%. This fall is considered to be the result of the strengthening of the rules applicable to family reunification and the establishment of integration measures abroad. (In 2006 and 2007 the conditions for family reunification have been strengthened: 1) a law adopted in 2006 has extended the period of sponsor's prior legal residence from 12 to 18 months 2) regarding resources, the law of 2006 introduced the requirement to have stable and sufficient resources without having recourse to social assistance and the law of 2007 has added that resources shall take the number of family members into consideration).

The decrease in visa applications is compared with the first semester of 2008 and the first semester of 2009. Hence, the report indicates: Number of visas issued for family reunification during

- first semester 2008: 8 495
- first semester 2009: 6 237
- = - 26,6%

It could be considered that the aim intended by the government has been attained. In fact, integration measures abroad are part of a very specific politi-

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cal debate, which differentiates between wanted ('immigration choisie') and unwanted migration ('immigration subie'). Wanted migration is labour migration, which has to be increased, whereas unwanted migration is migration for family purposes, which has to be decreased (on this point see for instance Mariani 2006 *a*). Hence, the decrease in the number of visas issued for family purposes fulfils the government's objectives.

Reports and figures show that these measures have a deterrent effect on visas applications. But as we have still not received any feedback from interviews, it is difficult to evaluate to what extent these measures have been considered to be either positive or negative by migrants or other people involved in the process.

Chapter 3: Integration test in the country

This chapter deals with two types of schemes: one related to the completion of the welcoming contract within the first year of legal residence, the other related to the issuance of a long-term residence permit. In each case, and notwithstanding the absence of feedback from the interviews, we will attempt to provide some information about future projects in these areas.

To place the debate within its historical framework (see for more details Pascouau, 2010), the introduction of integration criteria appeared in 2003 for the issuance of a residence card (long-term residence permit). The issuance of such a card was subordinated to the Republican integration of the foreigner into French society. In 2006, the decision was taken to create a welcoming contract applicable for any person wishing to settle in France and to subordinate the renewal of any residence permit to the fulfilment of this contract. We will focus the following developments on the first residence permit (short-term residence permit) and then on the long-term residence permit (residence card).

Residence permit and welcoming contract

Since 2006, and as a principle, every third-country national has had to engage in a welcoming contract. The obligations enshrined in the contract comprise language and civic training and an information session about daily life in France. The language training may last up to 400 hours, but the average is 290 hours.

In principle, every migrant has a duty to sign the contract. But there are two exceptions: the first concerns exemption from signing a welcoming contract and the second concerns exemption from fulfilling some obligations deriving from the contract.

People exempted from signing the welcoming contract:

- Persons under 16 years old and over 65 years old (art. L 311-9 CESEDA)
- Persons who have studied for at least three years in a French school abroad
- Persons who have followed higher education studies in France for at least one year (added by art. R 311-19 CESEDA)
- Persons having the right to be issued with a residence card (children at their majority who were born in France to foreign parents and who are residing in France and have resided in France for at least five years since their eleventh birthday, art. 21-7 Civil Code)
- Persons seconded from an employer established outside France (L 311-9 CESEDA)

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- Persons issued a residence card of 'Competence and talent' and their family.

People exempted from fulfilling obligations deriving from the welcoming contract:

- Family members who have passed successfully the language evaluation in the country of origin are exempted from language formation
- According to article R 311-23 CESEDA, where during the first interview the third- country national receives good marks for language evaluation, he/she is exempted from following language training.

Content of welcoming contract

- Language training: after arrival in France, third-country nationals have an interview with officials where the welcoming contract is presented. During this interview, the level of language knowledge is assessed through oral and written tests. If successful, they are exempted from attending language training. If unsuccessful, they have to attend language training (up to 400 hours). (Art. R 311-23 & R 311-24 CESEDA)
- Civic formation includes a presentation on French institutions and values of the Republic. This training lasts six hours
- Information session about daily life in France, which lasts between one and six hours.

End of welcoming contract

The contract is considered fulfilled when third country national has attended the training and information sessions. The French Office for Immigration and Integration (hereinafter OFII) verifies if conditions enshrined into the contract are fulfilled. According to French rules the conditions are fulfilled when the foreigner provides for the certificate of attendance to the sessions and has taken the Diplôme Initial de Langue française test. This diploma contains an oral (35 minutes) and written (40 minutes) exam and corresponds to a level A 1.1 of French language proficiency. If conditions are fulfilled, the OFII delivers a certificate to the third country national. A copy of the certificate is sent to the administrative authority (the Préfet) where the foreigner lives.

Failure to fulfil requirements of welcoming contract

National authorities may take into consideration the fulfilment of the integration contract when renewing the residence permit for the first time. This

means that the authorities might consider the failure to fulfil the welcoming contract as a basis for refusing to renew the residence permit. In practice, however, it seems that no such decision has been taken.

The welcoming contract may be extended for an additional period of one year if the residence permit has been renewed. This provision adds that the extension is a right when language course is ongoing.

To sum up, non-fulfilment of the integration contract does not automatically lead to a refusal to renew the residence permit, which stays within the decision of the authorities. It seems that there are no such cases in practice.

Costs

According to article R 311-21 CESEDA, all training sessions and courses are organised and financed by the OFII.

NB: the Bill of Law presented in March 2010 proposes to extend the evaluation of successful integration obligations. The proposed new article L 311-9 is the following:

'During the first renewal of the residence permit, the administrative authority takes account of non-compliance, manifested by a characterized will of the foreigner, of the terms of the CAI (welcoming contract), concerning particularly respect of fundamental values of the Republic, assiduity and seriousness of his/her participation in civic and linguistic training, realization of his/her professional skills assessment and, where appropriate, the information session on life in France.' (in italics: added by Bill of Law)

The following points from this rephrasing are noted:

- Successful integration obligations are not only assessed when renewing the first residence permit but also each time the residence permit is renewed (see the word 'first' to be deleted in the new Law).
- Third-country nationals do not have to know solely the values of the society, they will also have to respect them. This is a new requirement, which implies increased control over migrants. In brief, the idea, also defended in a report from Haut Conseil à l'Intégration (HCI 2009 ' Faire connaître les valeurs de la République' (2009) is that in order to respect you have to know. Hence, it is not only asked of migrants to know the rules but they now have to respect them as well.
- Fulfilling the welcoming contract does not only imply mere attendance at training sessions but also active participation.

Generally, short-term residence permits are issued for one year and are renewed each year until submission of an application for a long-term residence permit.

Issuance of a residence card, i.e. long-term residence permit

According to article L 314-2 CESEDA, the issuance of a residence card (after five years of legal residence) is conditional on Republican integration into French society. This condition is assessed with regard to

- Personal commitment to respect the principles that govern the French Republic
- Effective respect for these principles
- Sufficient knowledge of the French language
- Completion of the welcoming contract

In this procedure, the evaluation of Republican integration leaves wide margins of discretion to administrative authorities. Nevertheless, we do not have information on the refusal to issue a long-term residence permit on the basis of lack of integration skills or non-fulfilment of the welcoming contract.

However, it could be considered that if the foreigner is still legally living on the territory, because his/her residence permit has been renewed or by virtue of international rules that protect him/her from removal, but has not completed the welcoming contract, the long-term residence permit (residence card) will not be issued (this statement derives from a video played on the website of the OFII). This also has to be linked with article L 314-2 CESEDA, which states that integration conditions are assessed, *inter alia*, on the basis of involvement in and respect for the welcoming contract.

Purpose of integration conditions

The official discourse regarding the integration provisions, such as the welcoming contract, is to foster integration of third-country nationals in France. More precisely, knowledge of the language, rights and duties in France help to enhance and facilitate that integration. This official purpose may be challenged as several elements show that integration provisions are primarily used to manage migration or to strengthen the control of the authorities over migrants. These elements are the following:

- The welcoming contract started as a voluntary scheme and became mandatory
- The welcoming contract was initially managed by the Ministry of Social Affairs. After becoming mandatory, the Minister of Interior and then of Immigration took over the responsibility for managing the contract
- Every modification of the Law since then has proposed an ever-increasing position of integration issues within the immigration rules: integration measures abroad in 2007 and the extension of the effects of the welcoming contract in the Bill of Law of 2010.

It should be underlined that the integration rules in France follow more a migration management oriented scheme than a full integration purpose. Hence, the use of integration rules and mechanisms pursue two major trends. They are continuously strengthened and they give administrative authorities more and more power to put pressure on migrants. In other words, by widening the scope of integration measures, such as the possibility to take into account the behaviour of the migrant in his/her involvement in training sessions (see Bill of Law), the Law offers additional criteria in its assessment for renewing the residence permit. Hence, the law keeps the migrant 'under pressure', by the possibility that his/her residence permit might not be renewed. Even if from a legal point of view those rules would be difficult to apply, due to article 8 ECHR for instance, they still constitute an element that plays on a psychological point of view, like the sword of Damocles.

In this situation, it is surprising to note that, notwithstanding some published academic articles, this question has not generated much discussion within France. This might be explained by the fact that these rules are part of the general modification of immigration Law and have been passed over for more sensitive issues. This was the case in 2007 where the biggest issue discussed at that time was DNA testing for family reunification. As for the Bill that will be discussed in the autumn of 2010, some provisions relate to procedural guarantees and the highly sensitive question of the 'zones d'attentes' will in all probability dominate the question of integration. And even if the question of integration appears at the forefront of the debate, it will be related to the withdrawal of French nationality on the basis of the commission of some criminal offences. The ever-increasing trend of using integration as a tool to manage migration flow in a broad way will probably not be addressed.

Official statistics

The annual report on immigration policy presented to the Parliament in December 2009 includes figures relating to the welcoming contract.

With regard to signatories of the contract (103 952 in 2008), the report indicates that in 2008 more than 150 different nationalities were represented. Among them,

- 41,4% were from the Maghreb (18,6% from Algeria, 16,6% from Morocco, 6,5% from Tunisia and 6,2% from Turkey)
- 16,2% were from Sub-Saharan Africa (mainly from Cameroon, Congo, Ivory Coast, Mali and Senegal)
- People from China represented 3,3% of signatories and those from Russia represented 2,3%

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Women represent 53% of signatories whereas men represent 47%. The average age is 31 years. Within these signatories, age distribution is as follows:

- 86,6% are under 40 years and
- 55,65% are between 26 and 40 years old
- 1% are more than 60 years old

99,7% of persons between 26 and 40 years old sign and follow the welcoming contract whereas this number decrease to 85% for signatories over 61 years old.

In 2008, the majority of the signatories of the welcoming contract (around 80 %) spoke French (francophone) and had sufficient knowledge of the French language to be exempted from undertaking language training. In fact, only 21,5% of signatories were invited to undertake language training.

In 2008, 858 language training sessions were organised throughout France.

Figures available in the annual report for 2008 for the evaluation sessions of language knowledge

Number of centres that organised evaluation sessions	43
Number of candidates registered	14 265
Number of candidates who did not attend	1 808 (12,7%)
Number of candidates who attended	12 457
Number of unsuccessful candidates	1 334 (10,7%)
Number of successful candidates	11 123 (89,3%)

The report indicates that migrants have taken note of the importance of attending the sessions of formation provided for within the framework of the welcoming contract. As a consequence, attendance is increasing.

With regard to the effects of failure to comply with the requirements of the welcoming contract, the report does not say much. It recalls that authorities may take this into consideration when renewing the first residence permit, the report nevertheless indicates that a circular was issued in March 2008 on that point. Now available, this circular gives instructions to authorities on this specific issue. The report also states that the effect of the possibility not to renew the residence permit are not known for the moment, on the one hand, because language training may take 18 months to two years and, on the other hand, because a computerised database has to be created in order to collect information relating to the monitoring of these measures.

In this context, it is difficult to evaluate whether the goals of the government have been achieved. Nevertheless some points may be raised:

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- Many migrants come from countries where French is spoken or is sometimes an official language. This minimises to a large extent the idea that the welcoming contract could constitute a barrier or at least a deterrent factor
- For people with insufficient language skills, the very high number of successful evaluations after language training gives a positive view. These people have gained a minimal, but very important, knowledge of French which might help them in their daily life in France and, therefore, enhance their integration
- In this context, the possible increase in the level of language knowledge required, from A1.1 to A.1 or A2, could be seen either as bad news, as it could perhaps constitute a barrier for a larger number of people, or as good news as language training will give better language skills to foreigners and help them to foster their integration.

Chapter 4: Integration test in the naturalisation procedure

There are several ways to have access to citizenship in France. They are in very broad terms the following:

- Persons born in France with at least one French parent or one parent born in France, or parents who are stateless
- Persons married to a French national
- Persons who have lived for a long period in France and who have requested French naturalisation

For the purpose of this chapter, we will focus on the last category of persons, namely those who have lived for at least five years in France and have applied for naturalisation. Apart from some specific exceptions and as a principle, article 21-17 of the Civil Code states that naturalisation may be awarded to a foreigner establishing residence in France for five years before application.

Article 21-24 of the Civil Code indicates that no one is entitled to naturalisation if he/she cannot prove his/her assimilation into the French community, in particular through a sufficient knowledge, upon his/her condition, of the French language and his/her rights and duties conferred by French nationality.

The evaluation of the assimilation of the application is assessed during an oral interview with a civil servant at the Préfecture. According to article 43 of decree n° 93-1362 of 30.12.1993, after an individual interview, the civil servant produces a report on the degree of assimilation of the applicant within the French community and his/her level of knowledge of the French language and rights and duties conferred by French nationality. A by-law defines how the interview is organised.

A by-law of 22 February 2005 relating to the report indicates that the linguistic requirements assume that the applicant possesses the basic competence of understanding/speaking in order to be able to face daily and basic communication. Hence, linguistic assimilation must be assessed with regard to the applicant's ability to communicate in French to accomplish daily steps, such as those related to transport, bank, post, town hall, relations with storekeepers, doctors, teachers, etc. The by-law adds that this appraisal must take into account the personal circumstances of the applicant, such as his/her educational background, social condition and age. And the text concludes that in this regard written competence is not considered a relevant element for assessing language knowledge, in particular where the applicant does not read and write his/her native language. The length of the interview is 20-30 minutes. Examples of questions and evaluation scales are listed in the by-law.

If the applicant does not possess the requisite language skills, French nationality is refused.

Social and cultural assimilation, are considered not to have been attained where, for instance, the person remains solely within his/her own community, and has a way of life incompatible with being part of the French community. Persons expressing extremist ideas and rejecting the fundamental values of the French Republic are not entitled to French citizenship.

If the law establishes a series of exemptions concerning the length of stay required (five years) in order to apply for citizenship, according to article 21-24-1 of the Civil Code, exemptions concerning language requirements are applicable to refugees who have lived in France for 15 years and are over 70 years old. In reality, for this category of persons, the language requirement constitutes an obstacle and has, therefore, been withdrawn by a Law adopted in 2003. It seems to be the only exemption with regard to the language requirement.

In terms of the preparatory courses, French rules do not appear to regulate them in any way. It seems in principle that third-country nationals acquire French speaking skills throughout their life in France.

If after the interview the civil servant considers that the applicant does not fulfil the requirements, either on a language-based assessment or due to social and cultural incompatibility, citizenship is not granted. In that case the applicant may bring a legal action before the administrative court or apply for citizenship again later on.

The consequences of the decision to refuse citizenship are twofold as acquiring French citizenship gives access to two main rights: protection from expulsion and the right to vote. Without citizenship, the applicant is still considered to be a foreigner and subject to expulsion, even though he/she is a long-term resident. He/she will also not be able to vote. Besides this, it must be emphasised that in remaining a third-country national, the applicant will still be subject to specific rules regarding access to employment, does not have access to public sector jobs and is not entitled to free movement either within the EU (unless he or she has been granted a long term residence permit) or in third countries due to visa restrictions.

Apart from these general effects, the refusal to grant citizenship will normally not affect the legal situation of the third-country national. He/she will still be able to remain on the territory on the basis of a long or short-term residence permit and benefit from the rights and social benefits linked to this status.

Purpose of the test

It is acknowledged that the integration requirements, and more specifically the language requirements, are not very onerous in France. With regard to the acquisition of linguistic skills, only a basic command of French is required. In other words, the applicant is required to be able to handle daily

conversation without the help of a third person. Considering that as a general rule, third-country nationals are entitled to apply for French citizenship after five years of residence, one could consider that these basic requirements have been met. Hence, the level of language knowledge required is considered to be quite low.

A more sensitive question might arise from the requirement to assimilate into the French community, which is related to the cultural and social ability to comply with French values. Here, people keeping traditional customs, especially with regard to religion, might have difficulty being granted French nationality. This relates more particularly to questions that derive from the wearing of the hijab, which can be a ground for refusal to grant French citizenship.

In general, the evaluation of integration abilities is not very precisely worded in the Law or implementing rules. From this derive two elements. Firstly, an application for French citizenship can be made after five years of legal residence. It was, therefore, considered that such a long period of time in France was sufficient in itself to prove integration. In this regard, it must be recalled that during the negotiations on the long-term resident directive, the French left-wing government advocated against the introduction of integration conditions. It stated at that time that the sole fact that the person had lived on the territory for five years was sufficient to prove his/her integration in France. Hence, integration requirements had not been considered as key or central elements of the procedure for granting citizenship, as a language skills assessment demonstrated these. Secondly, it must be underlined that the wording leaves wide margins of manoeuvre to the administrative authorities. They are able to reject an application on both grounds, language or cultural and social, without the Law or implementing rules being very precise. As a consequence, the margins of manoeuvre of the authorities are defined by a judge, which does not always contribute to legal certainty. But it should, nevertheless, be recalled and emphasised that recognition of French citizenship in cases where the applicant is not entitled to a right of citizenship (for children born in France with one parent being French, for instance) is a French sovereign power. Hence, even if the criteria to be granted citizenship are met, the Minister in charge of naturalisation always has the discretion to grant citizenship or not.

The draft law introduced in March 2010 foresees two modifications to article 21-24 of the Civil Code. The first one relates to an additional requirement with regard to the principles and values of the Republic. The proposed article reads as follows (added words in italics):

'Nul ne peut être naturalisé s'il ne justifie de son assimilation à la communauté française, notamment par une connaissance suffisante, selon sa condition, de la langue française et des droits et devoirs conférés par la nationalité française ainsi que par l'adhésion aux principes et aux valeurs essentiels de la République.'

Here the legislation no longer foresees the mere knowledge of the principles but requires the applicant to adhere to them. The impact assessment published simultaneously with the Bill of Law indicates that many applicants for citizenship have a good knowledge of the language and institutions but this does not mean that they adhere to them. In this regard, a report (Enel F. et Gazave C. 2008) has shown that for some people acquiring French nationality is an opportunity and not a step towards entry into a new community. As a consequence, the draft law proposes to uphold this requirement in order to grant French nationality for persons who consider becoming French to be more a personal involvement than a formal procedure.

The second modification consists of the introduction of a second indent in article 21-24 of Civil Code. It states:

‘Le contrôle de l’assimilation s’effectue notamment au cours d’un entretien avec un agent de l’Etat et par la signature par l’intéressé, à l’issue de cet entretien, de la charte des droits et devoirs du citoyen français. Cette charte, approuvée par décret en Conseil d’Etat, rappelle les principes et valeurs essentiels de la République.’

In other words, this provision states that control of assimilation takes place during the interview and on the basis of signature to the charter on rights and duties of French citizens. This charter comprises the fundamental principles and values of the Republic. This is to ensure that the applicant and future French citizen has full knowledge of the implications of his/her new status.

With this proposal, the government wishes to strengthen the conditions and control regarding the granting of citizenship. Some of these proposals are grounded in a report published for the Ministry of Immigration in 2008. The report conducted a large-scale study of over 500 persons who applied for and acquired French nationality. It showed the goals pursued by applicants, their difficulties with the procedure and their evaluation of the process after being granted citizenship.

Effect of the test

On the basis of the report issued in 2008, it appears that people granted French nationality came from different backgrounds (either geographical or educational) and experienced the naturalisation process differently. It, nevertheless, appears from interviews that applicants:

- are generally positive and willing persons
- consider values such as merits, honesty and righteousness to be important
- are generally open minded, sociable and well integrated persons
- consider it crucial to speak French

Statistical Analysis

Considering the low level of language and other requirements, it does not seem that the French rules affect the number of applications. Hence, the figures have remained very much the same over the years. The chart below shows the number of citizenships awarded by decree of the Minister (application after five years of residence and application to be reintegrated into French citizenship, i.e. persons who were French before and lost this status for different reasons):

2003	77 102
2004	99 368
2005	101 785
2006	87 878
2007	69 831
2008	91 918
2009	91 979

With regard to the effect of the evaluation from the point of view of the applicants, the report published in 2008 shows that they were sometimes a bit disturbed by the fact that the interview did not last very long, approximately 10 minutes for some of them. Some had prepared for the interview and others had not. But in general, people being naturalised had a positive impression of the interview with the civil servant. They indicated that the interview was less difficult than they had expected. Hence, and on the basis of this, the requirements instituted by French Law have not been considered to be a deterrent to the naturalisation procedure.

Chapter 5 Conclusions

First, and as a general comment, integration measures and conditions instituted in France are not very 'demanding' compared to other Member States.

For the integration abroad measures, it should be noted that they do not condition the exercise of the right to family reunification. Currently, they consist of the appraisal of the applicant's level of language knowledge and the values of the Republic and, if considered necessary, of attendance at training sessions that might not last more than two months. In any case, the visa for family reunification must be granted after these training sessions.

The welcoming contract consists of three areas of training. Language training is not obligatory where third-country nationals have proved to command a basic knowledge of the French language. The level of language knowledge is quite low: A 1.1. The welcoming contract is to be completed during the first year of residence but can be extended for another year. For the moment there is no known case or jurisprudence relating to the non-renewal of a residence permit due to failure to complete the welcoming contract. In this sense, the scheme created in 2006 is not very tough towards migrants.

For long-term residents, the issuance of the card is principally based on a series of steps, such as language skills, knowledge of Republican values, schooling of children, etc. In other words, all the steps completed and information received within the welcoming contract constitute the basis of the integration condition. In this context, the completion of this contract constitutes a major element of appraisal.

Finally, the integration rules regarding access to nationality are very broadly drafted and do not constitute an obstacle to engaging in such a procedure.

This picture of the integration requirements demonstrates that the French rules are not very severe, for two main reasons. The first one is historical. For a long period, French authorities did not consider integration concerns to be sensitive. They relied on the fact that France was a country of immigration and considered integration to be part of the process. Moreover, as there were apparently no problems relating to integration, it was widely considered that integration was also a success. In this context, no real integration policy was elaborated. But during the 1990s this belief was progressively questioned and was reversed in the 2000s. A new policy taking integration issues into consideration and linking them with migration issues was implemented. But as the phenomenon is quite recent, it will take time to be fully applied. This is in fact the second reason why French schemes are so 'liberal'. The process is in its early stages and is programmed to be toughened in forthcoming years. The welcoming contract was officially instituted four years ago (2006) and integration measures abroad three years ago (2007). If integration measures abroad seemed to have had an effect on the number of visa applications, this

is not the case for the welcoming contract, which is still very accessible. Hence, proposals have been put forward by the Minister of Immigration to increase the level of knowledge of the French language up to level A1 or A2. In the same vein is the idea to foster the requirements related to the acquisition of nationality (from knowledge to adherence to the values of the French Republic). In this regard, the process of using integration rules in order to make it more difficult to acquire secure status is in its early stages and should deepen in the forthcoming months or years, depending on the government in place. In that sense it might be said that the objectives are being achieved since this policy will take place progressively.

From a theoretical point of view, it cannot be negated that training sessions and especially language learning sessions have contributed to improving integration. These latter permit third-country nationals to receive free French language lessons and then give them the possibility to be better integrated either within the labour market or socially.

From a practical point of view, and especially with regard to naturalisation procedures, it seems that third-country nationals do regard these mechanisms in a very positive way, be it training for daily life in France, information on French institutions and, of course, language classes (See Enel F. et Gazave C. 2008).

Recommendations

A distinction should be made between integration rules that improve the integration of third- country nationals and integration rules that pursue the objective of managing migration flows. If the former, the organisation of free training within the host country should be encouraged and developed, the latter should, on the contrary, be limited or cancelled. The need to promote legal migration due to demographic and labour market reasons plead for a more liberal way of managing migration flows which does not make the entry and stay of persons conditional on the completion of integration modules. If the contrary applies, integration measures and conditions will be considered as a deterrent element which will prevent Member States from being attractive to both the highly skilled and unskilled workers.

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ANNEX

Books and articles

- Bertossi C. 'French and British Models of Integration. Public Philosophies, policies and state institutions', University of Oxford, 2007, Working Paper n° 46
- Carrera S. 'In Search of the Perfect Citizen', Martinus Nijhoff Publishers, 2009
- Cournil C. & Depigny Y 'Contractualisation et externalisation de la politique migratoire : analyse et critique de la loi Hortefeux', Revue de droit public, 2008
- Fernorod A. 'Aspect du statut des langues. La langue française en droit de la nationalité et en droit des étrangers', Revue Française de Droit Administratif, 2008
- Lochak D. 'Devoir d'intégration et immigration', Revue de droit sanitaire et social, 2009
- Neraudau E. & Kadouci N. 'L'intégration des étrangers en France' *in* Blanquez Rodriguez I 'Regiones, Union Europea e integracion de inmigrantes. Une perspectiva desde el Derecho comparado', Atelier Libros Juridicos, 2008, 172 p., pp. 139-170
- Pascouau Y. 'Integration measures in France: An Evolving Process between Integration and Migration Issues', in Van Oers R., Ersboll E. & Kostkopoulou D. 'A redefinition of Belonging? Language and Integration Tests in Europe', Martinus Nijhoff Publishers, 2010
- Tchen V. et Renault-Malignac F. 'Code de l'Entrée et du Séjour des Etrangers et du Droit d'Asile', LITEC, 2010-08-13

Reports (indicative)

- Cour des comptes Rapport sur 'L'accueil des immigrants et l'intégration des populations issues de l'immigration', Les Editions du Journal Officiel, Paris, 2004
- Haut Conseil à l'Intégration 2002 'Le parcours d'Intégration'
- Haut Conseil à l'Intégration 2003 'Le contrat et l'Intégration'
- Haut Conseil à l'Intégration 2009 'Faire connaître les valeurs de la République'
- Buffet F.-N., Rapport sur le projet de loi relatif à l'immigration et l'intégration, Rapport n° 372, 13 mai 2006, Sénat
- Courtois J.-P. Rapport sur le projet de loi relatif à la maîtrise de l'immigration et au séjour des étrangers en France, Rapport n° 1, 1^{er} octobre 2003, Sénat

FRANCE

- Enel F. et Gazave C. 'L'acquisition de la nationalité française dans le parcours d'intégration', Ministère de l'immigration, de l'intégration, de l'identité nationale et du co-développement, Direction de la population et des migrations, Décembre 2008
- Mariani T., Rapport sur le projet de loi relatif à la maîtrise de l'immigration et au séjour des étrangers en France, Rapport n° 949, 1^{ère} partie, 13 juin 2003, Assemblée nationale
- Mariani T. rapport sur le projet de loi relatif à l'immigration et l'intégration, Rapport n° 3058, 26 avril 2006, Assemblée nationale
- Mariani T, Rapport d'information sur les politiques d'intégration des migrants dans l'Union européenne, Rapport n° 3502, 6 décembre 2006, Assemblée nationale
- Mariani T., Rapport sur le projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile, Rapport n° 160, 12 septembre 2007, Assemblée nationale
- Secrétariat général du Comité Interministériel de Contrôle de l'Immigration, Rapport au Parlement 'Les orientations de la politique de l'immigration', Décembre 2009
- Analyse d'impact relative au projet de loi sur l'immigration et l'intégration, mars 2010