

## **Changes in Nationality Regimes and Citizenship Conceptions: A Comparative Analysis between Germany and Spain**

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### **Abstract**

*Germany and Spain have recently modified their nationality laws in order to liberalize them granting more access to immigrants. The central purpose of this paper is to examine these changes in nationality regulations from a comparative perspective in the light of contemporary conceptions of citizenship. At the same time, the paper provides a critical appraisal of the reforms introduced. This entails a discussion of the conceptions about citizenship in the context of immigration and the analysis of the main changes in relevant national laws and practices concerning access to citizenship.*

**Keywords:** Citizenship; nationality regimes; immigration; Spain; Germany; naturalization; jus soli; jus sanguinis; dual citizenship

### **1. Introduction**

Over the past twenty years, scholars have focused on the study of citizenship and immigration, in particular in industrialized states such as North America and Western Europe. In the case of Europe, studies have addressed the question by focusing on the traditional receiving countries such as France, Germany, the United Kingdom and the Netherlands (Jopkke, 1999; Koopmans & Statham, 1999). No extensive research has so far been carried out on Mediterranean countries like Spain, which represents a very interesting case due to its rapid transformation into a receiving country and the introduction of a so-called “contingent legality” (Calavita, 2004:8). The consequences of these new legislative and policy measures are still unexplored from the perspective that I am proposing.

In sum, I intend to examine these topics, offering a broader perspective and including an analysis of the situation in Germany and Spain. These two European cases selected reflect two different situations: a country which can be seen as a point of reference because of its longer immigration experience (Germany) and a Mediterranean country which has only recently become a receiving country (Spain). Census data from Spain and Germany revealed different immigration patterns. Despite these differences, in both cases there have been changes in the nationality laws introducing the jus soli criterion alongside the jus sanguinis criterion in order to facilitate the access to formal citizenship of migrants and their descendants. As EU member states, Spain and Germany have to apply the common norms emanated by the EU institutions. Consequently, from a legal point of view, apart from national citizenship, various regimes (statuses) as regards citizenship can be differentiated; EU citizenship; non EU/EFTA citizens with long-term residence; and other special statuses (such as Guest Worker programmes). All these statuses imply different mobility rights and different access to social and political rights.

In the case of Germany, the original citizenship law (the “Wilhelminian citizenship law” of 1913) relied on the jus sanguinis criterion to strengthen ties with German overseas emigrants. The first migrants arrived through the Guest Worker (Gastarbeiter) programme. This “guest-worker” recruitment (1955-73) initially only attempted to provide temporary labor, but in the long run led to family reunion and permanent settlement. Consequently, German migration policy has had to evolve to address this new situation. With the stabilization of the German borders after the fall of the Berlin wall, different legislative changes have taken place in order to include a jus soli approach alongside the jus sanguinis criterion. Hence, a new Foreigners Law was approved in 1990 and the citizenship law was reformed in 2000. The subsequent reforms to the citizenship law and the immigration law of 2004 represented important steps in the adoption of a new citizenship policy.

With regard to Spain, it has recently undergone a major shift from being an emigration country to an immigration country. The incorporation of Spain in the European Community in the 1980s provoked the transformation of it from a transit country into a country of destination. At the beginning of the 2000s, Spain became recipient of the highest numbers of immigrants in the European Union. This rapid growth of the influx of immigrants was reflected in the adoption of a new legislation on immigration and reforms to the citizenship system. In this paper I discuss these legislative changes in a cross-country comparison between Germany and Spain. In order to do so, I present a detailed analysis of the citizenship laws, highlighting the drivers of the reforms and assessing the practical impacts of them.

## ***2. Nationality and citizenship in the immigration context***

Recently, scholars from different disciplines have devoted their attention to citizenship policies and the connection with immigration discussing the new contours of membership in multicultural societies. Legal, political and sociological aspects are involved in these contemporary citizenship studies. As Martiniello points out, “conceptions of citizenship vary according to the academic discipline but also according to the school of thought within the various academic disciplines” (Martiniello, 2000: 345).

Here, I will use the term “citizenship” with two different meanings: formal and substantive. By formal citizenship (nationality) I understand the “formal link between an individual and a state, (...) the individual belonging to a nation-state, which is juridically sanctioned by the possession of an identity card or passport of that state” (Martiniello, 2000: 345). As for substantive citizenship, it consists of “the bundle of civil, political, social, and also cultural rights enjoyed by an individual, traditionally by virtue of her or his belonging to the national community” (Martiniello, 2000: 345). Even though these two aspects are closely linked, sometimes it is possible to enjoy citizenship rights under another legal status. This situation is defined as “citizenship rights of non-citizen residents” (Bauböck, 2006a:23).

Citizenship at birth can be based on place of birth (*jus soli*) or parental origins (*jus sanguinis*), or in certain cases on both. In the case of migrants, citizenship can be acquired through naturalization based on legal residence in the receiving country. In this case, migrants must meet certain requirements such as possessing knowledge about the country or of its main language. Only under certain conditions are migrants allowed to retain their citizenship of origin (dual citizenship).

Over recent years, the linkage between citizenship and immigration has become an important topic. Indeed, scholars of citizenship (see for instance the review by Jopkke, 2010) have shown how migration has brought various changes to the traditional Marshallian concept of citizenship (T.H. Marshall, 1950). Indeed, in the migration context, for the purposes of this paper, three different approaches to citizenship can be distinguished. The first is the approach oriented towards the analysis of the traditional liberal concept of formal citizenship as a legal status linked to the nation-state (Brubaker, 1992). In this perspective, citizenship laws and migration legislation are two fundamental aspects of the definition of who is entitled to hold the status of citizen.

According to the second approach, substantive citizenship is more relevant than the formal possession of citizenship status. Scholars following this approach emphasize migrants’ entitlement to and enjoyment of citizenship rights more than formal citizenship. K. Calavita refers to this as “de facto” citizenship (Calavita, 2005: 407). The second approach also encompasses theories which consider citizenship as a process of negotiation of rights articulated through the concepts of practices and agency (Kron & Noack, 2008).

The third perspective, however, goes beyond the boundaries of the nation-state and takes into account notions such as transnationalism (Glick Schiller & Basch, 1992; Hannerz, 1996) and Soysal’s concept of a new form of “postnational membership” in the European post-war context based on a discourse on human rights (Soysal, 1994: 144). The starting point is the idea of a separation between citizenship and the nation-state in the analysis of international migration (Sassen, 2002) and includes theories about “transnational citizenship”, “postnational citizenship”, “transborder citizenship”; and “flexible citizenship” (Bauböck, 1994; Bosniak, 2000: 449; Kron & Noack, 2008: 260; Ong, 1999: 1-8). As A. Ong in an analysis of current international migrations suggests, “we have moved beyond the idea of citizenship as a protected status in a nation-state, and as a condition opposed to the condition of statelessness” (A. Ong, 2006: 499).

Despite all these new conceptions about citizenship beyond borders, nationality remains as an important category in the migration context. In Europe, studies of changes in citizenship focused on nationality laws (e.g. Howard, 2005). These studies on citizenship and access to nationality from immigrants cover diverse aspects: comparative analysis (e.g. Bauböck et al., 2006), examinations of naturalization regimes (e.g. Howard, 2009) and national case studies (e.g. Fuentes et al., 2010; Green, 2012).

However, these studies often overlook the practical consequences of these changes and their implementation. As S. Castles suggests, the European debate on citizenship for immigrants has focused mainly on the issue of formal citizenship - in particular on the rules for access to citizenship for immigrants and their descendants - and than less attention has been paid to the rights and obligations connected with being a member of a state (Castles, 2002: 1161-1163). Another crucial question regards the implementation of the reforms of nationality laws in order to have a clear understanding of how these normative changes are impacting on immigration status.

### **3. German nationality after the citizenship and the foreigners laws reforms**

In Germany the original legislation, the 1913 Reichs- und Staatsangehörigkeitsgesetz (RuStAG), encompassed a traditional ethno-cultural conception of citizenship. For this reason, the German system in terms of acquisition of nationality has been traditionally seen as a less flexible or “closed” regime (Brubaker, 1992). Notwithstanding that, citizenship policy in Germany had to evolve to address the new immigration challenge and the law was modified through various reforms operated.

The main influx of immigrants arrived in Germany with the Guest worker programme (Gastarbeiter). At present, new immigrants can enter because of the right to family reunification, as refugees, asylum-seekers or in special cases. In 2007, approximately 6.74 million foreign nationals were living in Germany, comprising 8.9% of the population. The main ‘foreigner’ groups are from Turkey (more than a third of the foreign population) followed by migrants from other European countries.

The Foreigners Law was approved in 1990 and introduced naturalization which represented a significant change to the original citizenship law of 1913. The Citizenship Reform of 2000 and the Immigration Law of 2004 represented two further important steps in the adoption of a new migration policy in Germany.

#### **3.1. Changes and transformations in the German citizenship legislation**

The 2000 Citizenship Law (Staatsangehörigkeitsgesetz – StAG) was intended to liberalize the system. The StAG maintained the three principal ways of naturalization, based on the state discretion (Ermessenseinbürgerung), marriage to a German national or legal entitlement (Anspruchseinbürgerung) with their respective requirements.

The reform focused on three main areas (cfr. Green, 2012). Firstly and with regard to the access to citizenship by naturalization, the reform operated the reduction in the years of residence required in order to qualify for citizenship from 15 to 8 years. This modification brought the main practical effects taking into account that naturalization by residence was (and still it is) the principal way of acquiring German citizenship and the considerable number of non-nationals who had completed 8 years of residence at that time. The second point concerns the introduction of the jus soli principle in the citizenship at birth *ex novo*. According to this principle, from 2000 onwards all children of non-nationals in which one parent can prove 8 years’ residence and are in possession of a permanent residence status become German at birth. The third point was the slight change in the dual citizenship position (traditionally opposed to the German conception of citizenship). Consequently, the reform introduced new exceptions to this rule, including refugees, the over 60s and nationals of certain EU member-states (see below).

Not all the modifications have a positive connotation. Some scholars underline the “restrictions” introduced by the reform (Green, 2012). One example is the economic side of the reform: under the current regulations the cost of the procedures has increased enormously.

After the 2000 Reform there were two further amendments in 2004 and 2007. These reforms went in the direction of establishing additional requirements to obtain the German citizenship. Both amendments emphasized the importance of the “assimilation” in the process of naturalization.

The reform of 2004 was parallel to the adoption of a new legislation on immigration (the *Zuwanderungsgesetz*). This reform implied the consolidation of various provisions for citizenship into the *StAG*. The new legislation reduced the residence titles to temporary and permanent, simplifying access to *jus soli*. The *Zuwanderungsgesetz* introduced integration courses allowing those who complete them to a reduction from 8 years to 7 years in the application for citizenship. As an additional requirement in line with the assimilatory policy adopted the *Zuwanderungsgesetz* provided that all applications for naturalization should be addressed to the federal internal security service (*Bundesverfassungsschutz*) in order to be controlled. The second reform (which came into effect in 2007) introduced the obligation for the applicants to demonstrate language skills at Level B1 GER or its equivalent. Besides, the 2007 reform required applicants to pass a harmonized naturalization test and to make a written declaration of loyalty during the presentation of the naturalization certificate.

### **3.2. A critical appraisal of the reforms: Implementation and citizenship policies**

In an assessment of the reforms operated in Germany, a general clarification must be made relating to the period for the assessment. A twelve-year period after the adoption of the first reform offers the opportunity for an evaluation; however, this is an evolving area and it will take at least another decade to better observe the impacts of these modifications.

The outcome (so far) of the interplay between liberalization and restrictions depicts a new scenario for citizenship in Germany. In order to provide a general appraisal of the reform the following aspects should be highlighted.

The first aspect concerns the impact of the reform on the number of naturalizations. The introduction of a shorter period of residence made the regulations more flexible, allowing many migrants to apply for citizenship. At the moment the reform was passed in 2000, almost two-thirds of the non-national population held residence periods of over 8 years, compared to 40% with over 15 years. Hence, the number of non-nationals who could theoretically benefit of the new legislation in terms of residence periods increased by more than half (Green, 2012). As of 2008, the main groups by nationality of origin of individuals who obtained the German citizenship are from Turkey (25,5 %), Serbia and Montenegro (9,3%), Poland (4,8%), Ukraine (3,9%) and Irak (3,6%) (Worbs, 2008:18). More than two-thirds of all naturalizations are based on residence. In contrast, less than 15% accounts for the other categories combined (Worbs, 2008:19-20).

The second question regards the effect of the reform on migrants' children born in Germany. In the past, the strict application of the *jus sanguinis* principle caused that successive generations of migrants' children who were born in Germany had no access to full citizenship rights. In 2009, they still represented almost one-fifth of the total non-national population (Green, 2012). The 2000 reform to the citizenship law aimed for fairness in the access to citizenship allowing (as a transitional measure) children born after 1 January 1990 to become German nationals under the same conditions.

The third aspect is the dual citizenship, which has been tolerated in Germany in the case of applicants from EU member-states. After the 2000 reform, this was restricted to specific countries on the basis of reciprocity such as Austria and the UK. The 2007 law automatically permitted dual citizenship for all applicants from EU member-states and Switzerland.

The fourth issue, the most controversial one, is related to the restrictions introduced in the new system. Alongside the liberalization of the citizenship legislation by the adoption of the above-mentioned provisions, the reforms also set forth a number of new requirements to obtain the German citizenship by naturalization. These are namely the referral of the application to the security authorities; the declaration of constitutional loyalty; the demonstration of adequate competence in the German language and the citizenship tests. The referral to the security authorities is often interpreted as a defensive and restrictive measure. Besides that, all applicants are obliged to sign a declaration of constitutional loyalty (Spindler, 2002: 67). The requirement of demonstrating adequate competence in the German language introduced by the *StAG* arose multiple difficulties. Neither the main text of the reform nor the secondary legislation provide an initial definition of which would be considered as an "adequate" level. Therefore, this requirement has been subject of different interpretations and variations over time, as seen below. The "integration courses" and "citizenship test" introduced in the subsequent reforms of the citizenship and foreigners' laws put the focus on the controversial issues of 'assimilation' and 'integration' of migrants.

As usual, in the case of reforms “the devil is in the details” and, more specifically, in the implementation of the legislation. The question of the implementation and the new citizenship tests are crucial to understand the current situation from a more realistic viewpoint. Germany, as a federal state, comprises 16 regional states (Länder) with competences in migration and citizenship under which they have enforced the legislation in different manners. The Länder are also responsible for implementing federal policy.

The following examples illustrate the different scenarios. With regard to the dual citizenship principle, it has been interpreted in different ways by certain federal states. For instance, Bavaria and Baden-Württemberg, both conservative states in which there was political opposition to dual citizenship, refused to recognize the principle (Green, 2012). As for the requirement of ‘adequate competence’ in the German language, the Länder have interpreted this provision in different manners. As a result, there was a divergence in the practices. The same reflection applies to the integration courses introduced by the *Zuwanderungsgesetz* in 2005 which set a higher target for language competence for non-national migrants, namely level B1 in the Common European Framework of Reference for Languages. Currently, after the last reform the level B1 or equivalent is considered a requirement to apply for the German citizenship. Another controversy that emerged, regards the adoption of citizenship test which has provoked various reactions in different regions. In addition to that, cities have also implemented the provisions in particular ways. Some cities have started from 2001 to organize formal citizenship ceremonies in which the naturalization certificates are handed over to the new citizens.

In this scenario with regional governments enforcing the same provisions in a different way, the role of the federal court in harmonizing different interpretations of the federal legislation on citizenship became relevant. In 2004, the divergence in implementing the dual citizenship was struck down by the Federal Administrative Court, but even after this, some states like Bavaria continued to hold the right to check whether reciprocity in individual cases was in fact respected (Green, 2012).

As a final remark, it is interesting to observe how these ideas of integration or assimilation are close to the previous predominant ethno-cultural conception of citizenship. It seems to be the case that what lies beneath the surface of the legislative reforms is the former citizenship tradition resilient, sometimes, to the change (Mouritsen, 2012).

#### ***4. Spanish nationality: Adjusting the legal framework to a new scenario***

Spain has gone through an important transformation from being a relatively homogeneous society into a multicultural one. The initial scenario changed in the beginning of the 1990s and the trend was consolidated through the early 2000s. As a result, Spain (traditionally considered as an emigration country) started attracting an inflow of immigrants due to its favourable economic conditions.

In order to give an idea of this rapid transformation, according to the Instituto Nacional de la Estadística (INE or the National Statistical Institute of Spain) in 1991 the data showed only 360,655 foreigners out of the total Spanish population. In contrast in 2005, about 8,5% of the population residing in Spain was foreign-born. The main drivers of these new immigrations waves were economic reasons, geographical proximity, and historical and cultural ties. The increased influx of immigrants led to discussions on the adoption of an immigration policy and legislative reforms to adjust the legislation to the new scenario.

Currently, the intensity of this phenomenon seems to have stopped due to the financial and economic crisis in place since 2008. However, a closer look reveals different situations. Over the past three years, there has been a reversal of the trend: migrants from Ecuador, Bolivia, Columbia and Argentina returned to their countries of origin. However, in 2009 there was an increase of Moroccan immigrants in about 29,000 migrants (Revenga & El Mouden, 2010). Besides, the arrival of undocumented migrants by sea has continued.

Spain, as a country which has experienced these essential modifications, had to redefine and revisit its immigration and citizenship policies to accommodate these changes including the access to nationality. In the realm of these reforms the question of the citizenship has come under scrutiny. Various scholars have addressed the challenges and obstacles the country faces nowadays in terms of immigration and citizenship (e.g. Calavita, 2005; Benedicto, 2006).

#### 4.1. The evolution of the immigration policy and the citizenship regime

The politics of immigration has gone a different path in Spain than in the rest of Europe (Encarnación, 2004). Among the factors that account for this trend, there are historical and political constraints. Traditionally and for most of the 20<sup>th</sup> century, Spain has been considered as a country of emigration. Consequently, its legislation on nationality was focused on preserving the ties with the emigrant communities around the world and on the relationships with the former colonies, in particular, Latin American countries.

The question of the immigration as such only became part of the government's agenda in 1985, when the first Foreigners Law was passed (Ley Orgánica 7/1985, de 1 de julio, Derechos y Libertades de los extranjeros). Nevertheless, only from the mid-1990s it became a crucial matter both for the political parties and the public opinion (Ortega Pérez, 2003). This first legislation on immigration was strongly criticized by its restrictive approach to migration and the regulation of foreigners' rights and its deficient legal technique. The increase in the number of arrivals determined changes to the legislative framework and also the adoption of immigration policies. This led to a vivid debate on the reform the immigration law, the establishment of a political immigration framework and the discussion about labor quota programs. In the 2000s, the continuous increase in the arrival of undocumented migrants gave rise to the definition of new policies. In 2000 a new immigration act was passed (Leyes orgánicas 4/2000 and 8/2000). This new legal framework implied a modification in the citizenship regulations.

As for the citizenship system, unlike other countries Spain does not have a specific nationality law. The access to citizenship is regulated both in the 1978 Constitution and in the 1889 Civil Code, with all the reforms. The citizenship system traditionally relies on the *jus sanguinis* at birth. The Spanish nationality law is oriented towards the protection of emigrants.

The acquisition of citizenship based on legal entitlement is possible after ten years of residence. Both the Constitution and the Civil Code guarantee special treatment (fewer years of residence and double nationality) in access to citizenship for people coming from Latin America, recognizing Spain's historical ties with these countries. This treatment is also granted to nationals from Andorra, Portugal, the Philippines and from Equatorial Guinea. Under the same condition are Sephardic Jews (the descendants of Jewish people expelled from Spain in 1492) who can apply regardless of their nationality of origin. Needless to mention that the acquisition of citizenship is not automatic and such citizens need to prove two years of legal residence as workers. Dual citizenship is tolerated in these cases. In addition to that, there are other specific situations according to which certain individuals can apply for Spanish citizenship after only one year of residence, as follows: a) foreign residents married to a Spanish national; b) those born abroad to a Spanish parent or grandparent who originally was a Spanish-born citizen; c) those born in Spain to foreign parents. The latter exception to the ten-year rule allows immigrants' children to become Spanish citizens, permitting a sort of *jus soli* after birth making the general rules of naturalization more flexible (Martín Pérez & Moreno Fuentes, 2010: 5).

The Civil Code foresees as well an exceptional manner of acquiring citizenship called “*carta de naturaleza*”. This consist in a discretionary mechanism of naturalization used by the government to grant the Spanish citizenship to certain persons or groups under specific circumstances, as in the case of the foreign victims of the 11<sup>th</sup> March terrorist attack in Madrid in 2004 (Martín Pérez & Moreno Fuentes, 2010: 5).

The nationality system was reformed to also include in certain cases the application of the *jus solis* principle at birth, namely in the case of children born stateless on the Spanish soil (Ley orgánica 36/2002). In 2006, with the aim to guarantee the ties with the emigrants and protect them a further reform was passed and the ‘*Estatuto de la ciudadanía española en el exterior*’ (Statute of Spanish Citizenship Abroad) was approved. A recent change in the legislation (Ley de memoria histórica of 2007) has facilitated access to Spanish citizenship on the part of Latin-Americans.

Spain has also concluded bilateral agreement with various countries to regulate the quota of workers admitted, many of them from Latin America. This is a kind of Guest Worker programme. In parallel, various extraordinary regularization processes were implemented. Under the previous Foreigners Law one was implemented and since 2000 there have been two different regularization processes, almost the only way for undocumented migrants to gain a “legal status” and therefore to have the possibility of accessing formal citizenship.

Under the current legislation on nationality, the applicant should prove “legal” residence, continued and immediately prior to the application. As another requirement for naturalization, the applicant must prove “good civic conduct” and “sufficient integration into the Spanish society” (article 22.4 Civil Code). This definition of this requirement is a matter of discretionary interpretation. In practice, it is equivalent to holding a clear criminal record in the country of origin and in Spain and to prove sufficient knowledge of Spanish. With regard to the naturalization application process, it is implemented through the local Civil Registry closest to the applicant’s domicile. The application should be accompanied by the present proof of identity and nationality (passport, birth certificate), proof of employment and income, proof of legal residence, any criminal records, and additional documents in specific cases.

During the procedure, the applicants are subject to an “oral language and citizenship test” in an interview in Spanish. This oral interview is generally seen as just another step in the process rather than a formal citizenship test. After the interview, the applicant receives a confirmation that the application has been accepted. There is a further notification for the applicant to attend an appointment before a public servant of the Civil Registry to swear loyalty to the Constitution and the King of Spain and renounce to the former citizenship (in the cases in which dual citizenship is not tolerated). There is no fee as such to pay during the process; however different fees must be paid in order to obtain the documents required alongside the application and the national identification document (ID or DNI) and passport once the process is concluded.

#### **4.2. A critical assessment of the reforms**

The Spanish citizenship policy is closely linked to the historical background and the ties of Spain with specific countries. As discussed above, this linkage is defined in the citizenship legislation through specific provisions that encourage naturalization of nationals from these countries by reducing the residency requirement to only two years and allowing them to hold dual citizenship. This orientation of the citizenship policy has a clear impact on the number of naturalizations. In fact, in 2009 the data on the naturalized population in Spain shows that the main groups of foreign residents that have achieved citizenship in 2008 are those from Ecuador, Columbia and Peru. According to the same data, the second highest number of naturalizations was awarded to foreign nationals from Africa. In the latter group the citizens from Morocco represent the main population of the newly naturalized. Although this immigrant group is not favored by the citizenship policy in Spain, the number of Moroccan immigrants in Spain partially explains the high percentage of naturalization (The National Statistical Institute of Spain-Instituto Nacional de Estadística {INE}, 2009).

In the implementation of the immigration and citizenship legislation, the role of the Supreme Court (Tribunal Supremo) and Constitutional Court (Tribunal Constitucional) should be emphasized. The Constitutional Court has functioned as the guardian of the fundamental rights of the immigrants. On different occasions, the Constitutional Court ruled on controversial issues of the immigration and citizenship legislation. For instance, the first ruling by the constitutional Court (relating to the 1985 Foreigners Law) was the Judgment 115/1987, of July 7, which overthrown several provisions of the law and marked a change in the constitutional doctrine on foreigners' rights towards a more progressive line. The Supreme Court through its rulings has often clarified the requirement to be awarded the Spanish citizenship, such as “sufficient social integration” and “good civic conduct” as legal requirements of residence-based naturalization (Judgment 2703/2009 of 16 April 2009 and Judgment 6500/2002 of 5 October 2002).

Another further issue in the evaluation of the reform concerns the implementation of the nationality regulations by the 17 regional states (Comunidades Autónomas) which can vary the general procedure for acquiring the citizenship. For instance, some states require to prove knowledge of the regional and official language (namely Basque, Catalan or Galician) alongside Spanish (Martín Pérez & Moreno Fuentes, 2010: 5). The change in the Spanish nationality system shows, on the one hand, a relatively quick transformation with the inclusion of the *jus soli* principle at birth and, on the other hand, the persistence of the traditional conception of citizenship based on the *jus sanguinis* principle and on the need of preserving the historical ties with emigrants and certain countries. In comparison to other European countries (including Germany), the procedure to obtain the citizenship is relatively simple and not expensive. Overall, the changes in the Spanish citizenship legislation were assumed as a necessary measure to take but lack a systematic approach. Besides, the reform did not avoid the creation of “legal limbos” in the case of undocumented migrants, who are left with no option to regularize their situation.

## 5. Concluding remarks

The immigration and the need to give a response to the new challenges forced the shift in the citizenship regulations and policies in Germany and Spain. Both countries have citizenship policies based on the *jus sanguinis* principle and had to adjust to new immigration contexts. The original German citizenship law represented a particularly restrictive system with an ethno-cultural conception of the citizenship. The Spanish system was more oriented towards preserving the connection with the emigrants and the historical and cultural ties with former colonies. These initial scenarios have been modified by the immigration.

In Germany, the changes in citizenship policy are in line with the trend observed across the EU in other countries with long migration tradition such as the United Kingdom. After the reforms, the access to citizenship by immigrants fluctuates between the liberalization of the system and the imposition of new restrictions in the naturalization procedure; namely the emphasis on achieving an adequate language level as a requirement for naturalization, alongside the introduction of citizenship tests, integration courses and formal ceremonies.

With regard to Spain, international migration has been a driver of changes of the nationality regime in both directions: emigration and immigration. The assessment of the reforms and the enforcement so far gives the impression that more than a comprehensive framework for a new policy there are singular responses to the challenges posed by an unexpected increase in the migration influx. In my view, the question which remains open is whether or not there is an authentic citizenship policy. The overview presented in the article about Germany and Spain provided with some insights about how these reforms to nationality laws are being implemented. Yet, there is a long path to go in the years to come in order to make a more detailed assessment of these legal changes and their impact on the respective citizenries.

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### 7. Comparative Table: Access to Citizenship in Germany and Spain

	Germany	Spain
<b>Citizenship at birth</b>		
<b>Principle</b>	Governed by the jus sanguinis Exception: Jus soli	Governed by the jus sanguinis Exception: Jus soli
<b>Naturalization by legal entitlement (residence)</b>		
<b>Residence requirements</b>	8 years	10 years
<b>Citizenship test</b>	Yes	Oral interview
<b>Integration course</b>	Yes	No
<b>Language requirements</b>	Yes Adequate level – B1	Yes General knowledge
<b>Dual citizenship</b>	Allowed only in certain cases on the basis of reciprocity	Allowed only in certain cases Ibero-American countries, the Philippines and Equatorial Guinea. Under the same condition are Sephardic Jews