DUAL CITIZENSHIP IN THE TRANSNATIONAL GERMAN-TURKISH SPACE: NOTES FROM GERMANY

Barbara Pusch*

Executive Summary

Parallel to the consolidation of the transnational German-Turkish space, dual citizenship has become an important point of conversation as the status of dual citizenship provides transnational actors with the legal framework to operate as full members within both Germany and Turkey. While Turkey has granted its citizens the right to acquire multiple citizenship statuses as early as 1981, Germany has yet to grant this legal right to its citizens. This policy brief will look at the main citizenship reforms in Germany since 1999 and their implementation. By doing so, this policy brief will conclude that, on the one hand, Germany’s Nationality Act of 1999 and all subsequent reforms are essential for stepping towards a contemporary citizenship regime that would meet the needs of a globalizing Germany. However, on the other hand, this policy brief argues that the various reforms and amendments introduced since 1999 are problematic in political terms since they have created new inequalities among migrants and have led to the perpetuation and increase of so-called “exceptional cases.” This policy brief aims to draw attention to the asymmetric, de facto naturalization policy in Germany. In order to overcome the pitfalls of this development, the importance of dual citizenship status from the German perspective will be emphasized.

February 2015

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The interpretations and conclusions made in this article belong solely to the author and do not reflect IPC’s official position.
Pusch, Barbara

Dual Citizenship in the Transnational German-Turkish Space: Notes From Germany. 16 p.; 30 cm. - (Sabanci University Istanbul Policy Center; Stiftung Mercator Initiative)

ISBN: 978-605-4348-93-0

Cover Design: MYRA; Implementation: grafikaSU


Printed by: Fabrika Basim

ISBN: 978-605-4348-93-0

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Introduction

Parallel to the general consolidation of transnational spaces, the question of dual citizenship has gained significant importance in recent years as multiple legal statuses of membership provide actors with the necessary legal framework to operate in transnational spaces or two countries simultaneously. Transnational spaces are strongly determined by national structures; however, they are not constructed by nation-states but by pluri-local and cross-border practices of political, cultural, and economic activities of a large variety of people. Faist (2000: 209) argues that dual state membership is the “natural equivalent” to these activities. Together with Gerdes, he points out that dual citizenship is both advantageous to individuals as well as to the states that grant these citizenships (Faist/Gerdes 2007).

A glance at the transnational German-Turkish space reveals that dual citizenship still is a highly problematic issue. It is worth noting that in this context Turkish citizenship law meets the needs of the increasing migration between the two countries much better than Germany. While maintaining dual citizenship has been possible in Turkey since 1981, there is still no legal right to obtain dual citizenship in Germany today.

While Germany has prevented dual modes of membership, Turkey has granted special privileges—also known as “Blue Card”—to Turkish migrants who are naturalized in Germany.\(^1\)

A Blue Card provides these German Turks with a “citizenship-light” (Cağlar 2004) in the Turkish context and thus a de facto “dual-citizenship-light-status”. However, within times of worldwide globalization and steadily increasing migration movements political pressure for reform of German citizenship policies has grown. Therefore Germany has begun to face the challenge of revising its citizenship policies. Germany’s Nationality Act of 1999 can be interpreted as an important step in this direction as Germany’s national citizenship policies have undergone considerable changes with the implementation of this act. However, neither the Nationality Act of 1999 nor its further amendments have led to the implementation of a legal right to obtain dual citizenship in Germany. All of these reforms have rather prepared the ground for more and more so-called “exceptional cases” that are creating a hotbed for new inequalities. In this context, Prof. Dr. Klaus J. Bade (2013), the founding chairman of the Advisory Council to German Foundations for Integration and Migration, has stated that the citizenship reforms of 1999 have applied double standards. While the 1999 reform opened paths to dual citizenship for “autochthonous” Germans in “exceptional cases,” it introduced the so-called “option obligation” for children of migrants born in Germany. According to this “option model!” children born to foreign parents in Germany are granted two citizenships by birth, but they are obliged to decide in favor of either German citizenship or the citizenship of their parents by the time they are 23.

Generally speaking, this double standard has attracted relatively little public attention or academic debate. In contrast, the “option obligation” has been widely criticized and has become one of the top issues within the recent coalition negotiations between CSU/CDU and SPD. Although the current CDU/CSU-SPD coalition government has compromised on the idea to generally not grant dual citizenship, the coalition partners have reformed this highly debated “option obligation.” However, even the reformed version of the “option obligation” should be questioned, since it leads to an asymmetric policy of naturalization. We can question this not only from a humanistic and social perspective but also from the current governments’ pronounced goals and visions.
The coalition agreement of the current CDU/CSU-SPD government not only envisages Germany as an economically strong country but also seeks to foster social cohesion within all levels of society. As development without migration is not possible in an aging Germany, we may assume that the redefinition of Germany as an immigrant country is not solely a change in attitude but also logical and realistic. Accordingly, we should presume that cohesion of autochthonous and non-autochthonous parts of the German population is envisaged regardless of one’s migration background. Official calls for the development of a “welcome culture” can be seen in this light. Instead of realizing a sustainable political framework for Germany as a migration country, Germany rather prefers investing in the creation of a trendy, vague political marketing phrase “We need a culture of welcome.”

Although a large number of people will benefit from the recent reforms regarding the “option obligation,” the implicit inequalities should not be seen as unconditional signals of welcome, especially for those young people with non-EU migration backgrounds in Germany. This implicit inequality is particularly important for Turkish migrants in Germany, who comprise the largest group of migrants from third-countries. Apart from this, it must be pointed out that the lives of all potential transnational actors are shaped by the specific interplay of two or more national laws and practices. Thus, reforms in one country often play a crucial role for citizens living on the other side of the transnational space.

In the case of the German-Turkish transnationalization process, it is striking that there are fundamental inequalities between Turkish citizens in Germany and German nationals in Turkey. Furthermore, German law provides German citizens different rights of legal incorporation according to their country of residence. This must be seen as another indicator of discrimination within German citizenship law.

Policies of Dual Citizenship in Germany between Rejection and Acceptance

Although it had been subject to many changes and amendments, the Citizenship Law of 1913 (Reichs- und Staatsangehörigkeitsgesetz) was effectively in force for approximately 86 years until 1999. Under this law, descendence determined citizenship (ius sanguinis). This meant that children born to foreign parents in Germany did not receive German citizenship by birth; however, foreign nationals, regardless of the place of birth, willing to renounce their previous citizenship were able to naturalize after a certain period of living in Germany.3

Under this idea, dual or multiple citizenships were and still are something to be avoided, as a citizen of Germany cannot be thought of as a “descent” of two different nations. However, due to the loophole in the so-called “domestic clause” (Inlandsklause), many migrants were able to obtain de facto dual citizenship status vis-a-vis the citizenship law of 1913. According to the law, German citizens living in Germany were excluded from the rule that stated they would lose their German citizenship if they obtained another citizenship.4 Thus, people who desired German passports and who originated from countries that accepted dual citizenship (such as Turkey) officially abandoned their former citizenship before naturalizing in Germany only to then later reapply for their former citizenship. Although we do
not have official numbers, it is generally known that this was a widespread practice among migrants from Turkey, not only for emotional reasons but also for practical reasons such as inheritance laws in Turkey, etc. (Kaya, 2012: 165).

The new millennium marked a major change in Germany’s citizenship law, as the Citizenship Law of 1913 (Reichs- und Staatsangehörigkeitsgesetz) was replaced by the new Nationality Act in 1999 (Staatsangehörigkeitsgesetz, StaG). The new Nationality Act was the compromise of several long-lasting, controversial debates between the main political parties around the issues of facilitating naturalization, tolerating dual citizenship, and implementing *ius soli* (right of soil) elements into German citizenship laws (Hailbronner 2012: 1). As of January 1, 2000, the act modified the legal basis for citizenship. Since 2000, the new Nationality Act has been further revised due to the implementation of the Immigration Act (Zuwanderungsgesetz) on January 1, 2005, and the addition of further provisions on August 28, 2007. Apart from this, the current coalition government has agreed on the reform of the so called “option obligation.” This reform passed the German Federal Parliament (Bundestag) on July 3, 2014 and was approved by the Federal Council (Bundesrat) on September 19, 2014. Although the gradual implementation of *ius soli* principles in the overall reform course can be interpreted as the liberalization of the German citizenship laws, the reforms also created new obstacles such as language tests, etc. However, as an overall analysis of the reform process starting in 1999 goes beyond the scope of this policy brief, I would like to concentrate on a few provisions that are crucial for actors in the transnational German-Turkish space. Yet, it must be pointed out that the various amendments are not only of importance for foreigners living in Germany but also for German citizens living abroad.

The most important provisions regarding the naturalization of foreign nationals living in Germany can be summarized as follows:

(1) As a general rule, foreign nationals have the right to become naturalized after eight years of residence in Germany, provided they meet the relevant conditions. The preconditions include adequate knowledge of German, a clean record, commitment to the tenets of the German constitution, and the ability to support herself/himself financially.

(2) Children born to foreign parents in Germany acquire German nationality by birth. However, until the recent reform of the so-called “option obligation,” they had to decide in favor of either German citizenship or the citizenship of their parents by the time they were 23. The recent revisions liberalize this “option model.” Accordingly, children born to foreign parents in Germany are released from the “option obligation” if they have been living in Germany at least eight years, have attended a school in Germany for at least six years, have graduated from a school in Germany, or have completed vocational training.

(3) The loophole of the “domestic clause” was closed with the new Nationality Act of 1999. As of January 2000, German nationals lose their German citizenship regardless of their place of residence or if they hold another citizenship without having applied for a permit to retain German citizenship before naturalizing.

(4) Since August 28, 2007, nationals of EU member states and Switzerland who are naturalized in Germany have been allowed to hold multiple citizenships as long as the applicant’s country of origin also permits multiple nationalities.
The most important provisions regarding naturalization for German nationals abroad are as outlined below:

(1) Children born abroad to one or more German parents who themselves were born abroad after the implementation of the Nationality Act of 1999 will in principle no longer be able to obtain German citizenship. The only exceptions to this rule are if the child would otherwise be stateless or if the German parent(s) register(s) the birth with the German mission responsible for where they live within one year of the birth of the child.

(2) German citizens also lose their German nationality if they acquire another nationality abroad without first applying for a permit to retain their German citizenship (Beibehaltungsgenehmigung) in advance.⁸

(3) As there is no legal right to obtain dual citizenship, applicants who wish to keep their German citizenship must justify their request by filling out a lengthy and pervasive evaluation. A key factor for the evaluation of the request is whether the applicant still has ties with Germany, such as close relatives or property; a person cannot merely say “I am German born, that is part of my identity; therefore, I have the right to citizenship.”

(4) The law provides several exceptions, such as for Germans acquiring the nationality of another EU state or Switzerland since 2007 or for foreigners who can prove special ties with Germany.

(5) In addition to this, former German citizens who have lost their German nationality by acquiring a foreign nationality can now re-obtain their German citizenship more easily if they fulfill several preconditions.

In sum, although the exceptions that allow applicants to retain their old nationality have been considerably extended, it is apparent that a key feature of the German citizenship law is to avoid allowing German citizens multiple nationalities. The idea that one person cannot serve two masters remains as the general principle behind these immigration reforms, especially if migrants from non-EU member states are involved. The exceptions made for EU-nationals and Swiss citizens, as well as the various special provisions regarding the “option obligation,” and the relative liberalization of restrictions on former German citizens abroad have created an asymmetric, intergenerational, and spatial naturalization policy.

The Dual Reality of Dual Citizenship in Germany

Contrary to the hesitant liberalization policy, dual citizenship status is widespread in contemporary Germany. Nearly 1.8 million people have been naturalized in Germany in the last 13 years. Although German lawmakers vehemently deny the general implication of the *ius soli* principle and the unrestricted right to hold dual citizenship, dual citizenship has been normalized within Germany. Table 1 indicates that more than 50% of foreigners who were naturalized in Germany in the last eight years were able to keep their former citizenship by applying for a special permit (Beibehaltungsgenehmigung) or exceptional provision, such as the provision made for EU-citizens and Swiss nationals. The overall number of people who were naturalized in Germany in the last 13 years and were allowed to keep their former citizenship because of particular regulations or individual permits is around 850,000. In other words, Germany has started to accept permanent dual citizenship despite lawmakers’ insistence on denying dual citizenship as a general right.
The contradiction between the rhetoric of “one person, one citizenship” and the reality of dual citizenship in Germany becomes even more evident if we look at the population register (Melderegister).\(^9\) The evaluation of the population registers of 2011 reveals that there are around 4.3 million German citizens who live in Germany and hold a dual citizenship. Of these people, 690,000 simultaneously hold Polish citizenship, 570,000 hold Russian citizenship, and 530,000 hold Turkish citizenship. The overall percentage of people who also have a dual citizenship status and hold both German and another foreign citizenship in the old German federal states (former West Germany) is around 6.1%.\(^10\) Although these figures are considered somewhat inflated as this type of data generally includes a significant number of invalid entries of people who do not deregister if they move abroad, etc., we can say that the overall number of Germans with dual citizenship has become a significant portion of the contemporary German population.

Considering the recent reform of the “option regulation,” we can even claim that the figures mentioned above indicate the beginning of a new trend towards multiple citizenship in Germany. With the amendment to the Nationality Act in 2014, around 90% of young people who were previously bound to the option obligation will from now on hold dual citizenship permanently (de Maizière, 2014). Expressed in figures, it is estimated that around 40,000 children born to foreign parents will be subject to this reform every year (Deutsche Botschaft 2014). Table 2 shows that the overall number of young people who are retrospectively covered by this reform until 2012 is more than half a million.

\[\text{Table 1: Retention of former citizenship while naturalizing in Germany, 2000-2013}\]

<table>
<thead>
<tr>
<th>Year</th>
<th>Persons naturalized</th>
<th>With retention of former citizenship</th>
<th>in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>186 688</td>
<td>83 856</td>
<td>44.9</td>
</tr>
<tr>
<td>2001</td>
<td>178 098</td>
<td>85 999</td>
<td>48.1</td>
</tr>
<tr>
<td>2002</td>
<td>154 547</td>
<td>64 117</td>
<td>41.5</td>
</tr>
<tr>
<td>2003</td>
<td>146 731</td>
<td>57 285</td>
<td>40.7</td>
</tr>
<tr>
<td>2004</td>
<td>127 133</td>
<td>55 331</td>
<td>43.5</td>
</tr>
<tr>
<td>2005</td>
<td>117 241</td>
<td>55 319</td>
<td>47.2</td>
</tr>
<tr>
<td>2006</td>
<td>124 566</td>
<td>63 568</td>
<td>51.0</td>
</tr>
<tr>
<td>2007</td>
<td>113 030</td>
<td>59 241</td>
<td>51.0</td>
</tr>
<tr>
<td>2008</td>
<td>94 470</td>
<td>49 937</td>
<td>52.4</td>
</tr>
<tr>
<td>2009</td>
<td>96 122</td>
<td>51 603</td>
<td>52.9</td>
</tr>
<tr>
<td>2010</td>
<td>101 570</td>
<td>53 930</td>
<td>53.7</td>
</tr>
<tr>
<td>2011</td>
<td>106 897</td>
<td>53 902</td>
<td>50.4</td>
</tr>
<tr>
<td>2012</td>
<td>112 348</td>
<td>56 214</td>
<td>50.0</td>
</tr>
<tr>
<td>2013</td>
<td>112 355</td>
<td>63 256</td>
<td>57.7</td>
</tr>
<tr>
<td>Total</td>
<td>1 176 814</td>
<td>653 545</td>
<td>48.7</td>
</tr>
</tbody>
</table>


\[\text{Table 2: Children born to foreign parents after the implementation of the option regulation}\]

<table>
<thead>
<tr>
<th>Year</th>
<th>Figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>41 257</td>
</tr>
<tr>
<td>2001</td>
<td>38 600</td>
</tr>
<tr>
<td>2002</td>
<td>37 568</td>
</tr>
<tr>
<td>2003</td>
<td>36 819</td>
</tr>
<tr>
<td>2004</td>
<td>36 863</td>
</tr>
<tr>
<td>2005</td>
<td>40 156</td>
</tr>
<tr>
<td>2006</td>
<td>39 089</td>
</tr>
<tr>
<td>2007</td>
<td>35 666</td>
</tr>
<tr>
<td>2008</td>
<td>30 336</td>
</tr>
<tr>
<td>2009</td>
<td>28 977</td>
</tr>
<tr>
<td>2010</td>
<td>29 492</td>
</tr>
<tr>
<td>2011</td>
<td>31 091</td>
</tr>
<tr>
<td>2012</td>
<td>34 286</td>
</tr>
<tr>
<td>TOTAL (2000 – 2012)</td>
<td>460 200</td>
</tr>
<tr>
<td>Transitional Provision according to § 40 (1990-1999)</td>
<td>49 228</td>
</tr>
<tr>
<td>TOTAL</td>
<td>509 428</td>
</tr>
</tbody>
</table>


However, the retention of former citizenship while naturalizing in Germany is only one side of the coin. In order to complete the picture of the ongoing spread of dual citizenship and multiple memberships under German law, it is also necessary to point to the possibility of German citizens to retain their German nationality while naturalizing abroad. As table 3 shows, around 50,000 German citizens applied between 2000 and 2013 for a permit to retain German citizenship before naturalizing abroad. (German citizens who naturalized in an EU-country or in Switzerland after the amendment of the Nationality Act in 2007 are not included in this figure, since they no longer need legal permission to naturalize. The EU-figures presented in Table 3
only contain exceptional cases such as applications submitted before the amendment of the Nationality Act in 2007 or applications from former non-EU countries.) In this 13-year period, 42,199 permits were submitted, with an average acceptance rate of 86%. As German citizens do not have a legal right to retain their citizenship while naturalizing in a third country but rather have to painstakingly submit a reasoned application beforehand, this percentage is surprisingly high. Thus, we can interpret this acceptance rate as another indicator of the growing awareness that dual citizenship has become a legal need in our globalizing and transnationalizing world.

Table 3 and 4 also indicate the countries in which German citizens prefer to naturalize, predominantly the classic immigration countries such as the United States, Australia, and Canada and in EU member states and Switzerland respectively. At first glance, the overall number of German citizens retaining German citizenship while naturalizing in Turkey is extremely small in comparison to the number of applicants in the United States, Australia, and Canada. However, a closer look at Table 4 illustrates that Turkey is in the top five countries from which German citizens submit applications to retain German citizenship before naturalizing abroad. Irrespective of the role migrants from Turkey play in German society today, this figure can be interpreted as another indication of the growing significance of the German-Turkish transnational space.

Table 3: Submitted applications and permissions to retain German citizenship before naturalizing abroad, 2000-2013

Table 4: Top five countries of submitted applications to retain German citizenship before naturalizing abroad (2013)

Source: Statistic provided by the German Federal Administrative Office (Bundesverwaltungsamt) in Cologne, 13.11.2014

Source: Calculation by the author. Data provided by the German Federal Administrative Office (Bundesverwaltungsamt) in Cologne, 13.11.2014. Includes rounding errors.

The Vital Implications of Germany’s Dual Citizenship Policy

Without a doubt, the recent reform has reduced the inequalities that were addressed by Prof. Dr. Klaus J. Bade (2013) between migrants living in Germany and German citizens living abroad in terms of retaining original citizenship while naturalizing in the country of immigration. However, upon closer inspection, we can say that the reform process has also led to new inequalities. Three types of inequalities are striking:

(1) Origin-related inequalities: while children born to EU-Citizens and Swiss nationals in Germany have the right to obtain dual citizenship status without any restrictions, children born to parents from third countries have to meet a set of conditions in order to obtain this same status. Thus, a distinction between “good” and “bad” migrants has been established within German legislative.

(2) Intergenerational inequalities: while children born to non-EU parents in Germany have a greater
likelihood of obtaining dual citizenship, their non-German born siblings and their parents have less access to acquire this status.

(3) Spatial inequalities: apart from the inequalities mentioned above, we can also observe discrimination according to the country of residence on various levels. On the one hand, children born to third country parents in Germany or to German parents in the EU obtain lifelong dual citizenship under certain circumstances by birth, while children born to German parents in third countries do not have this right to obtain this status. On the other hand, German adults living in third countries are likely to be allowed to retain their German citizenship while naturalizing in another country. Contrary to this, the probability of achieving this status is, rather low for non-EU immigrants in Germany. By doing so, Germany clearly ranks countries with which they want their citizens to build up closer linkages.

While origin-related and intergenerational inequalities lead to participatory disparity within the steadily growing of the non-autochthones population in Germany, spatial inequalities refer to autochthonous Germans choosing to naturalize in a “good” or “bad” country outside Germany. In times of ongoing globalization and transnationalization processes, this does not simply mean the development of an asymmetric policy of naturalization. As citizenship is essential for various participation and accessibility possibilities, the denial of dual citizenship to certain groups is not simply a matter of inequality but a pure injustice!

A legal right to dual citizenship would help Germany in several respects to include their immigrants as full members. First, in this context, it would help Germany to catch up with its increasing de-facto multiple citizenship statuses as illustrated in section two. Secondly, the implementation of dual citizenship as a general right would be a clear step towards the necessary adjustments with ongoing globalization and transnationalization processes that are reflected in numerous political and economic goals by the majority of political parties in Germany. In this context, third, it must be emphasized that adjustments like this would be advantageous in the further development of German-Turkish relations in general and the transnational German-Turkish space in particular.

As this space has not been shaped primarily by the circulation of goods but by the multifaceted cultural, political, social and economic activities of people beyond the two “national containers,” dual citizenship would first be the “natural equivalent” (Faist 2000: 209) to these activities. In addition to this, dual citizenship rights would also fulfill the long-awaited commitment from Germany emphasizing the political will to foster togetherness and cohesion within this space. This would certainly be of advantage for both societies.

The current policy is characterized by a rhetoric of single citizenship and a hesitant, selective practice of granting dual citizenship to specific groups. This attitude strongly reminds many of the years in which Germany rejected the fact that it had become an immigrant country despite its already de-facto transformation into a country of immigration. Unfortunately, it seems that Germany is not willing to learn a lesson from the multiple subsequent costs related to this policy of denial. It seems that Germany prefers investing into the creation of the trendy but meaningless immigration marketing phrase, “We need a culture of welcome,” instead of realizing a sustainable political framework for Germany as a migration country. Apart from various humanistic considerations, Germany should keep in mind that it has to unite newcomers as well as expatriates in order to keep its position within the ongoing processes of globalization and transnationalization in the future.
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The Turkish invention of the Blue Card (formally referred to as Pink Kart) in 1995 must be seen in this context since the Blue Card provides former Turkish citizens and their descendents with a variety of rights in Turkey such as residence, work, investment and inheritance free from the various restrictions of Turkish laws on foreigners. Thus, Blue Card holders have a privileged status among non-Turkish citizens in Turkey. In other words, Blue Cards provide former Turkish citizens with a legal status between formal citizens and “aliens.”

A third country is the term used by the European Commission to define any country of the world that is not one of the 28 EU (European Union) member States and EEA-EFTA (European Economic Area - European Free Trade Association) states (Iceland, Liechtenstein, Norway).

The required years for naturalization had changed over this time. Important to note is that until the mid-1990s foreign nationals were not legally entitled to naturalization. An exception was the so-called Volksdeutschen, who had a constitutional right to naturalize if they were able to prove their German descent.

The German lawmaker of the time assumed that German citizens living in Germany who were naturalized by other states were not able to accept this citizenship and did not want to lose their German citizenship (von Keller and Trautmann, 1914: 288).

Staatsangehörigkeitsgesetz (StaG) of July 15, 1999. In accordance with Halbrunner (2012), I refer to this law as the Nationality Act because nationality is the literal translation of Staatsangehörigkeit. The term “citizenship” would be a more appropriate translation of the German word Staatsbürgerschaft.

These new obstacles led to a naturalization boom of migrants, particularly from Turkey, before the implementation of the Nationality Act in 2000 (Anil 2007).

For a more detailed overview, see the webpage of the German Foreign Office: http://www.auswaertiges-amt.de/EN/EinreiseUndAufenthalt/Staatsangehoerigkeitsrecht_node.html.


The Residents’ registration offices keep these registers in Germany.

However, this percentage is only around 0.8 in the new federal states (former East Germany). (Online: https://www.destatis.de/DE/PresseService/Presse/Pressemeldungen/2014/04/PD14_135_121pdf. pdf?__blob=publicationFile).

Rest of Europe includes Norway, Island and Turkey (Information by the Federal Administrative Office, 13.11.2014).