

**Reducing diversity: The Framing of
Civic Integration Abroad. Policies
in France and the Netherlands**

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EURODIV PAPER 75.2010

JANUARY 2010

GLOBAL CHALLENGES Series

Saskia Bonjour, *Université Libre de Bruxelles (GERME)*

The special issue on *Cultural Diversity* collects a selection of papers presented at the multidisciplinary and multinational Marie Curie project on “Cultural diversity in Europe: A series of Conferences” (EURODIV).

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This batch of papers has been presented at the Fifth Conference “Dynamics of diversity in the globalisation era”.

Reducing diversity: The Framing of Civic Integration Abroad. Policies in France and the Netherlands

Summary

Recently, the Netherlands and France have introduced policies of civic integration abroad: family migrants have to familiarize themselves with the language and customs of the host society before being admitted to the country. In both countries, this policy reform was a response to a growing concern about the consequences of past and present immigration flows for the cohesion of their societies. However, while French and Dutch politicians defined the problem of immigration and integration in very similar terms, the modalities of the civic integration abroad policies they designed to solve this problem were crucially different. The Dutch version is much more restrictive than the French. In this paper, I argue that the explanation for this difference should be sought first in party politics, and second in judicial constraints.

Keywords: Diversity, Integration Policies, France, The Netherlands

JEL classification: Z1

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Reducing diversity: the framing of civic integration abroad policies in France and the Netherlands

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Paper prepared for the 5th EURODIV conference on
Dynamics of Diversity in the Globalisation Era, 22-23 October 2009, Milan.

Introduction

Until recently, no country in Europe or in the world had imposed integration requirements on family migration, that is on the admission of foreigners who come to join a partner, parent or child. The Dutch centre-Right Balkenende government was the first, in 2005, to introduce such a requirement. (Groenendijk 2005:12) The French right-wing Fillon government followed suit in 2007.

The civic integration abroad programs introduced by the Dutch Law on Civic Integration Abroad¹ and the French Law on Migration Control, Integration and Asylum² are similar in broad outline: they require family migrants to familiarise themselves with the language and customs of the host society before being granted entry. These Dutch and French policies are part of a broader European trend towards the introduction of compulsory civic integration programs (Jacobs & Rea 2007, Goodman forthcoming). Originally, such programs were aimed at providing immigrants with the skills deemed necessary for their socio-economic integration in the host country, primarily in the labour market. Civic integration abroad decisively changes the scope and purport of such policies, not only by incorporating cultural values and skills, but also by making entry rights conditional on participation or successful completion of the programs.

In France as in the Netherlands, the introduction of civic integration abroad was a response to a growing concern for the societal consequences of past and present migration flows. Both French and Dutch politicians perceived the process of migrant incorporation as failing, to the extent that the cohesion of society as a whole was endangered and that State intervention was necessary to restore the minimum conditions for society to function harmoniously.

However, while French and Dutch politicians defined the problem they were confronted with in very similar terms, the modalities of the civic integration abroad policies implemented to solve this problem are significantly different. In the Netherlands, family migrants are required to pass a test. The government provides neither courses nor learning material. In France, in contrast, applicants are obliged to participate in the program, not to achieve a certain results. Courses are organised by the

¹ *Wet van 22 december 2005 tot wijziging van de Vreemdelingenwet 2000 in verband met het stellen van een inburgeringsvereiste bij het toelaten van bepaalde categorieën vreemdelingen (Wet Inburgering in het Buitenland).*

² *Loi n° 2007-1631 du 20 novembre 2007 relative à la maîtrise de l'immigration, à l'intégration et à l'asile.*

government, free of charge for the applicant. In other words, the Dutch civic integration abroad program is much more restrictive than the French.

This begs the question: how can we explain that in France and in the Netherlands, political discourses about the problem of immigration, integration and social cohesion that were much alike resulted in civic integration abroad policies that are strikingly different?

To answer this question, I have analysed the parliamentary debates pertaining to civic integration abroad that took place in the Netherlands between June 2004 and April 2005, and in France between July and October 2007. Starting from a constructivist approach to the study of policy-making (Schön & Rein 1994; Hall 1993; Hajer 1989) I investigated how Dutch and French politicians framed the problem of immigration, integration and social cohesion, and how the civic integration policies they designed were intended to contribute to solving this problem. The first two sections of this paper present the findings of this analysis. In the second half of the paper, I discuss three hypothetical explanations for the difference between the Dutch and the French programs. The first explanation pertains to 'national models', that is to country-specific institutional and discursive traditions in the policy field of migration and integration; the second to party politics, that is to the positions adopted by the parliamentary parties and the relations between them; and the third to the judicial constraints that weigh upon family migration policies in France and the Netherlands.

The problem of immigration, integration and social cohesion

Both in France and in the Netherlands, recent political debates about migration and integration have been characterised by an atmosphere of crisis and failure. The way Dutch and French politicians perceive the problem at hand is strikingly similar. They fear that, as a result of past and present immigration flows and failing immigrant integration, their societies are disintegrating into distinct, isolated, even hostile groups. A French UMP deputy raised the spectre of 'different cultures and ethnicities living together on the same territory while preserving their specificities, thus resulting in the formation of ghettos, the juxtaposition of antagonist blocs'.³ In the Netherlands, the first Balkenende government described the situation as follows:

Differences in ethnic origin, ways of life and habits are placing a burden on daily contacts and on residing, working and living side by side. Moreover, differences in ethnic origin increasingly correlate with differences in education, labour participation and involvement in criminality. It triggers centrifugal forces in society and leads to the physical, social and mental separation of population groups. Isolation leads to misunderstanding, then to mutual repugnance and finally to ever sharper oppositions.⁴

The problem then, is perceived to affect society as a whole: ethnic and cultural diversity presents a threat to the very cohesion of society.

³ *Assemblée Nationale* (further : AN), *Amendement No 59*, 14 September 2007.

⁴ *Tweede Kamer* (further: TK) 28375 (5): 15-16, 3 July 2002.

More specifically, this problem of social cohesion is defined as a problem of migrant groups. French and Dutch politicians are worried that migrants are oriented towards their own group, culture and identity, rather than to society as a whole. The French government describes this phenomenon as '*communautarisme*', which consists of a '*repli*', i.e. a 'drawing back' and which results in 'fear of the other', in 'indifference, violence and refusal of the other'.⁵ The Dutch government mirrors these views closely, in stating that 'the marginalisation of certain groups of the population' increases the risk of 'turning away from society, anti-western feelings, segregation and delinquency'.⁶ Migrants are considered both the actor and the victim of the problem. On the one hand, they are the ones who are 'pulling back into their community',⁷ 'turning away from society and reverting to archaic norms and values'.⁸ On the other hand, they are the ones to suffer from 'marginalisation' and 'isolation',⁹ from being 'locked up in communautarist schemes'.¹⁰ When speaking about migrants as victims, Dutch and French politicians refer primarily to women of migrant origin: to their exclusion, dependency and vulnerability, and to the suppression and violence they are thought to be subjected to within their families and communities.

In politicians' perception of the problem of migration, integration and social cohesion, both socio-economic and cultural aspects play a role. Indeed, it is precisely the idea that socio-economic disadvantage in the fields of labour, education and housing overlaps with ethnic and cultural difference, that socio-economic gaps and cultural cleavages are mutually reinforcing each other, that is cause for concern. When specifying the differences in values and customs they find problematic, politicians in France and the Netherlands refer first to matters related to gender, family and sexuality – forced marriages, domestic violence, child rearing, polygamy and, in the Netherlands, homosexuality – and second to issues regarding religion and Church-State relations. It is in these respects that groups of migrant origin – and more particularly, though rarely explicitly mentioned, of Muslim faith – are deemed most worrisomely different from the host society.

The solution: civic integration abroad

As a partial solution to a problem of social cohesion defined in very similar terms, French and Dutch politicians have chosen to introduce civic integration abroad programs. Both programs require family migrants to familiarize themselves with the language and customs of the host country, before being granted admission. The specific modalities of the French and Dutch programs are crucially different however: this difference is related to the objectives pursued through civic integration abroad.

⁵ AN, plenary debate 10 February 2004; *Question orale No 81*, 23 October 2002.

⁶ TK 29700 (6): 4, 6 December 2004; TK 29700 (3): 17, 21 July 2004.

⁷ AN, plenary debate 10 February 2004.

⁸ TK 29700 (6): 47, 6 December 2004.

⁹ TK 27083 (44): 6 & 9, 21 June 2004; TK 28198 (5): 6, 4 October 2002.

¹⁰ AN, plenary debate 19 September 2007.

The French civic integration abroad policy, entered into force on 1 January 2008, stipulates that family migrants' knowledge of the 'language and values of the Republic' will be evaluated before they are granted entry to France. The language test evaluates both written and oral knowledge of the French language at a very modest level. The knowledge of Republican values is tested orally in a language that the foreigner understands. These values are defined as 'in particular, equality between men and women, *laïcité*, the rule of law, the fundamental freedoms, the security of persons and property, as well as the exercise of citizenship that is permitted notably through obligatory and free of charge access to education'.¹¹ Should this evaluation reveal insufficient knowledge, then the applicant is obliged to follow a language course or a course about the Republican values. These courses are organised by *Agence nationale de l'accueil des étrangers et des migrations* (ANAEM), a governmental agency, and are free of charge for the applicant. Admission to France is conditional not on the applicant achieving a certain level of knowledge, but on his or her satisfactory participation in the evaluation and the course.

The objective of this policy, according to the government and the right-wing majority in Parliament, was threefold. First, it offered family migrants the possibility to prepare their migration to France, so as to avoid their being 'utterly disoriented' when arriving in France.¹² Second, the new program would 'globally improve the integration process', since conditioning the admission to France on the evaluation would provide the government with strong leverage to ensure effective participation in the integration courses. The pressure instruments at the government's disposal once migrants had entered France were much less efficient.¹³ Finally, the government saw the new program as a means to 'evaluate the motivation of the foreign candidate who wishes to come to France'.¹⁴ It emphasised that entry would be made conditional not on the results obtained but on the 'assiduity' of the candidate in following the courses, since this assiduity 'in itself presents a guarantee for integration'.¹⁵

The Dutch civic integration program entered into force on 15 March 2006. It introduces a new entry criterion for family migrants: they have to possess a sufficient knowledge of Dutch language and society. Unlike the French program then, the Dutch policy imposes a condition of result, not of participation. Applicants' level of knowledge is tested through an oral exam conducted over the telephone from Dutch Consulates and Embassies abroad, using voice recognition software. The language test mainly consists of repeating sentences and answering short questions. The knowledge of Dutch society tested in the exam would cover 'legislation and democracy, the history and culture of the Netherlands, religion in the Netherlands, the geography and population of the Netherlands, housing and transportation, upbringing and education, health care, work and income, the first period of

¹¹ *Code de l'entrée et du séjour des étrangers et du droit d'asile* (further : CESEDA) L211-2-1 & R311-22 & 23.

¹² *Projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile*, 4 July 2007.

¹³ AN, *Rapport No 160*, 12 September 2007.

¹⁴ *Sénat*, plenary debate 3 October 2007.

¹⁵ AN, *Commission des lois constitutionnelles, de la législation et de l'administration générale de la République*, *Compte rendu No 7*, 25 July 2007.

newcomers in the Netherlands and the practicalities of the civic integration abroad program'.¹⁶ The Dutch government does not provide either courses or learning material. It has however compiled a practice pack which can be purchased at 63,90€ and which consists of a film and a picture booklet about Dutch society, an exhaustive list of questions that may arise during the knowledge of society test, and a set of mock language tests. Applicants are charged 350€ each time they take the exam.

The government declared that the purpose of the new civic integration abroad policy was fourfold. First, integration abroad would enable family migrants to 'get by' better as of their arrival. Second, it would allow them to make a more deliberate and better informed choice on moving to the Netherlands. Third, it would ensure at the earliest possible stage that both the migrant and his or her family member in the Netherlands were aware of their responsibility for the integration of the newcomer in Dutch society, and of the active efforts that were expected of them.¹⁷ Fourth and finally, the integration requirement would work as a 'selection mechanism': only those with the 'motivation and perseverance' necessary to integrate successfully in the Netherlands would be admitted.¹⁸

It is in this selective purpose that the Dutch civic integration abroad policy differs most crucially from the French. The French government emphatically presented the evaluation and courses abroad as a service offered to family migrants, as an 'additional means given to strangers who wish to settle in France to prepare their integration'.¹⁹ The UMP rapporteur explicitly stated that 'our objective is not to limit family reunification'.²⁰ The fact that there would be an obligation of effort, not of result, and that the courses would be offered for free, underpinned this presentation of civic integration as an integration provision, rather than an obstacle to immigration.

The Dutch government on the other hand elaborated at length on the problematic nature of family migration. It stated that 'the large scale immigration of the last ten years has seriously disrupted the integration of migrants at group level. We must break out of the process of (family) migration which time and again causes integration to fall behind'. In particular, the integration process was thought to have been 'held back by the fact that a large number of second generation migrants opts for a marital partner from the country of origin'. According to the government, 'an important part of these [family migrants] has characteristics that are adverse to a good integration into Dutch society. Most prominent among these – also in scale – is the group of marriage migrants from Turkey and Morocco'.²¹ Both in terms of their chances on the labour market and of their cultural orientation, these family migrants were deemed unlikely to fit into Dutch society.

Therefore the Dutch government, unlike the French government, explicitly presented its civic integration abroad criterion as a 'selection mechanism'. The criterion would select not on education,

¹⁶ TK 29700 (6): 2, 6 December 2004.

¹⁷ TK 29700 (3): 5-6, 21 July 2004; TK 29700 plenary debate: 4002, 22 March 2005.

¹⁸ TK 29700 (3): 6 & 11, 21 July 2004.

¹⁹ *Sénat*, plenary debate 3 October 2007; cf. AN, plenary debate 18 September 2007.

²⁰ AN, plenary debate 19 September 2007.

²¹ TK 29700 (3): 2-4, 21 July 2004.

income or origin – this would be infringe on the right to family life guaranteed by the European Convention on Human Rights – but on ‘motivation and perseverance’. Since the government would not assist applicants in preparing for the exam, a substantial investment of time and resources would be required on their part. This was deemed not only acceptable but even recommendable, because appealing to the ‘personal responsibility’ of the persons concerned would ‘yield the best results’.²² Moreover, ‘the foreigner might also face difficulties in the integration process after arrival in the Netherlands, which it will be up to him to overcome’.²³ Those unable to attain the required level of knowledge through their own means while abroad were expected to ‘experience serious problems integrating once in the Netherlands’ and would therefore ‘not be granted permission to settle in the Netherlands’. Although reduction of immigration was ‘not a primary goal’²⁴, as a ‘side-effect’, the new integration requirement was expected to result in a decrease of family migration flows by an estimated 25%.²⁵ The government welcomed this prospect: ‘A reduction of the inflow of migrants whose integration in the Netherlands can be expected to lag behind will alleviate the problem of integration’.²⁶

Thus, both the French and the Dutch civic integration abroad program aim to contribute to solving the problem of social cohesion by obliging family migrants to learn about the language and customs of the host society before entry. The crucial difference lies in the fact that the Dutch program, in addition, aims to assuage the problem by reducing the inflow of ‘problematic’ migrants.

National models

How can we explain that, while Dutch and French politicians defined the societal problems resulting from migration and integration in such similar terms, the policy solutions they designed were so decisively different?

One type of explanation that has long found broad support in the field of migration studies sees differences between national migration and integration policies as the result of so-called ‘national models’, that is of ‘long-standing national cultural understandings and legal frameworks of national identity, citizenship, and church-state relations’. (Jacobs & Rea 2007: 278) Thus, France was considered the prototypical example of an ‘assimilationist’ approach to migrant incorporation, emphasising the assimilation of individual migrants into the Republican nation through their adoption of the French norms and customs, the neutrality and unity of the public sphere, and an open citizenship regime. The Netherlands, in contrast, have been described an example *par excellence* of a multiculturalist country, valuing the plurality of the public sphere and the coexistence of religious and cultural minorities within society. (Brubaker 1992: 1, 184; Entzinger 2003: 59; Bertossi &

²² TK 27083 (44): 24, 21 June 2004.

²³ TK 29700 (3): 13-14, 21 July 2004.

²⁴ TK 29700 (6): 43, 6 December 2004.

²⁵ TK 29700 (3): 14-15, 21 July 2004.

²⁶ TK 29700 (3): 6, 21 July 2004.

Duyvendak 2009: 31) Recently, the validity and value of such ‘national models’ for the analysis of integration policies has been called into question. For instance, Joppke (2007: 1-2) has argued that in view of the current convergence of integration policies in Europe, ‘national models’ have lost their relevance as analytical tools. On the other hand, Jacobs and Rea (2007: 279-280) state that, while existing typologies are in need of re-evaluation, the differences between national integration policies are still sufficiently significant to justify the analytical use of ‘national models’.

Bowen (2007: 1004-1005) has rightly pointed out that we need to distinguish between two dimensions of the concept of ‘national models’. First it can refer to explanatory models, that is to “‘models of’ a social reality that [researchers] build’ for the purpose of analysis. Second, it can be used for normative models, which Bowen defines as ‘cultural resources on which actors draw at particular moments’. These normative models are not analytical tools, but discursive frames which are ‘part of the social life we wish to describe’.

In the latter sense, as a normative model, the ‘Republican model’ is omnipresent in the French political debates about civic integration abroad. French politicians across the political spectrum inevitably refer to the Republican model, to national identity and history, to their pride and love for France. Their discourse is punctuated with concepts that stem from the Republican ideology, such as the ‘social pact’, the ‘national community’ and the ‘desire to live together’.²⁷ This normative model is built in explicit contrast with the ‘anglo-saxon model’ which celebrates differences rather than adherence to common values and a common project. Thus the Socialist deputy Julien Dray declared: ‘either we win the battle of the Republic, or France will end up adopting the Anglo-Saxon model’.²⁸

Bertossi (2009: 55-56) has explained that the importance – the ‘performative effect’ – of the Republican model, lies precisely in the gap that political, social or scientific actors perceive between the Republican ideal and social reality: pointing out this gap ‘generates strategic interests and beliefs’ in the ‘necessity to return to the “model”’ and thus represents a powerful justification for change. Indeed, French politicians from both the Left and the Right refer to the Republican ideal to justify their positions. Right-wing politicians stress that civic integration abroad is necessary to defend Republican values and the ‘tradition of hospitality’ that has made France’s greatness; left-wing politicians argue that the government’s proposal is contrary to Republican values and therefore undermines the Republic’s capacity to integrate newcomers. Thus the Republican model, as a normative frame, may be used to justify contrary policy preferences.

In the Dutch debates about civic integration abroad, positive references to multiculturalism as a normative model are absent. On the contrary, the right-wing coalition parties and the government explicitly reject the pluralist policies conducted in the past as one of the causes of the problems Dutch society is confronted with, stating that ‘in integration policies, the acceptance of differences has too

²⁷ Cf. AN, plenary debates 18 September 2007 & 23 October 2007; *Sénat*, plenary debate 2 October 2007.

²⁸ AN, plenary debate 10 February 2004.

often outweighed that which was common and the risks of cultivating particular identities for the preservation of cohesion have been underestimated'.²⁹ The opposition, from the moderate to the far-Left, is silent on the matter, except to criticise, as the far-Left Socialist Party does, the 'indifference' that has kept former governments from providing immigrants with courses in Dutch language and customs.³⁰

Thus, as normative models, the classic 'national model' is used in France to support contrary political positions, while it is absent or condemned in the Netherlands. In the first sense distinguished by Bowen, that is in the sense of explanatory models, the usefulness of 'national models' in understanding the difference between the Dutch and the French civic integration abroad programs is just as limited. This type of explanation would predict that the difference between the two programs stems from a long-standing tradition of assimilationism in France and multiculturalism in the Netherlands, traditions which have shaped the institutional and discursive structure of the policy fields of migration and integration and therefore continue to shape policies and policy preferences, regardless of the normative frames applied consciously and explicitly by political actors.

Certain specific aspects of the debates and policies can indeed be traced back to such policy traditions. For instance, the Dutch government, when setting out the grounds for its policy proposal, refers explicitly to specific migrant groups, i.e. primarily Turkish and Moroccan and less emphatically refugees, Surinamese and Antillean, and provides statistical data about their socio-economic and socio-cultural integration.³¹ In contrast, French politicians as a rule avoid references to national or ethnic origin, speaking in more general terms about 'immigrants' or 'foreigners'. This difference stems from the practice in Dutch policies and research, established since the 1980s, to examine and address the needs of different migrant groups separately and explicitly. (Scholten 2007: 80-82), a practice which contrasts with the French aversion to the recognition of collective identities or claims in the public sphere. (Bertossi & Duyvendak 2009: 31) However, the emphasis put on the problematic position of these groups in Dutch society presents a clear break with a Dutch political tradition that also goes back to the 1980s, namely the reticence of Dutch politicians to speak about migration and integration in negative terms, so as to avoid feeding into xenophobia and stigmatisation. (Bonjour 2009: 197, 244)

As to the content of the policy programs, the French focus on 'values of the Republic' may be understood as reflecting the importance attached in the French tradition to the adherence by all members of the national community to a common political project, and hence to common norms and values. The Dutch requirement of knowledge of 'society', in contrast, seems broader and more geared towards practical autonomy of newcomers, and could be interpreted as flowing from a tradition of policies explicitly targeted at improving the societal position of distinct migrant groups. However, the

²⁹ TK 29700 (6): 3, 6 December 2004.

³⁰ TK 27083 (44): 9, 21 June 2004.

³¹ TK 29700 (3): 4-5, 21 July 2004; TK 29700 (6): 3-6 & 14-15, 6 December 2004.

inclusion of not only Dutch institutions and infrastructure but also Dutch history, culture, norms and manners in the ‘Knowledge of Society’ test points to a pressure on migrants to ‘adapt’ to ‘the Dutch ways’ that does not fit well with the classic multiculturalist model.

On the whole, civic integration abroad policies may be characterised as assimilationist, since they require family migrants to learn the language and customs of the host society and thus are geared towards homogeneity, rather than towards preserving cultural differences. The ‘national models’ hypothesis therefore offers little insight in why ‘assimilationist’ France has adopted a more lenient version of civic integration abroad than the ‘multiculturalist’ Netherlands.

Party politics

Another type of explanation for tendencies in and differences between national migration policies to be found in the academic literature – though somewhat less well-established than the ‘national models’ hypothesis – centres on the positions adopted by political parties and the (power) relations between them. (Cf. Bale 2008a; Perlmutter 1996) This approach seems promising in explaining the disparity between the Dutch and the French civic integration programs.

Indeed, a crucial difference between the parliamentary debates about civic integration abroad in France and in the Netherlands lies in the position adopted by the left-wing opposition. In both countries, there was consensus across the political spectrum as to the definition of the problem at hand as one of a disruption of social cohesion due to failing incorporation of migrants. From there however, views and positions diverged significantly between the Left and the Right in France, whereas there was broad parliamentary support for the government proposals in the Netherlands.

In the Dutch Parliament, all political parties shared the government’s view that family migration, in particular marriage migration from Turkey and Morocco, had very problematic consequences for the migrants themselves, for their partners and children, and for society at large. Thus the Social Democrats concur that ‘marriage migration (...) may lead to a serious delay in integration’, and the far-Left Socialist Party agrees that the choice of second and third generation migrants for a partner from their parents’ country of origin contains the ‘risk of a recurring reproduction of marginalisation from generation to generation’.³² Almost all political parties were in favour of making the admission of family members conditional on integration requirements and of shaping this requirement as an obligation of result, not just of participation. Only the Greens objected, first because they thought a language could much more effectively be learned in the country where it was commonly spoken and second because they considered it unacceptable that ‘the reduction of the freedom of choice due to family pressure’ be ‘replaced by a reduction of the freedom of partner choice by the government’.³³ Again except for the Greens, all parties accepted that the integration abroad requirement would make family migration impossible for a substantial number of candidates, and no-

³² TK 29700 plenary debate: 3885 & 3901, 16 March 2005.

³³ TK 29700 plenary debate: 3895, 16 March 2005; TK 29700 plenary debate: 4028, 22 March 2005.

one insisted that the government provide applicants with courses or learning material. The Social Democrats felt that, since applicants made a voluntary choice to move to the Netherlands, it was legitimate to ask them to make efforts to prepare their integration.³⁴ Together with the orthodox-Christian party SGP, they did file a motion however to ask the government to make sure that ‘adequate learning material’ would be available and accessible.³⁵ Their objective was not so much for the government to produce the material, as to supervise its availability and quality. The fact that the motion was rejected did not dissuade either the SGP or the Social Democrats from voting in favour of the Law on Civic Integration Abroad. The only parties to vote against the law were the Greens and the Socialist Party; the latter withheld their support because they were not convinced of the trustworthiness of the technology and method of examination. Only the Greens rejected the legislative proposal on principled grounds.

The French left-wing opposition took a completely different stance: they did not have a good word to say about the government proposals. The Socialist Members of Parliament and their colleagues on the far-Left argued that the French language and values could much more effectively be learned in France.³⁶ They therefore did not believe that the integration abroad requirement would improve the integration of migrants in France, and accused the government and the parliamentary majority of having two other, implicit goals. First, in spite of the government’s explicit denial, the parliamentary Left was convinced that civic integration abroad aimed at reducing family migration. Thus a Socialist deputy stated that the requirement had ‘no other purpose than to deny the right to family reunification to as many people as possible’ through an ‘accumulation of unfounded administrative harassments’.³⁷ The Left feared that the criterion would be especially difficult to fulfil for women and for poor and less educated foreigners. Second, both the Socialists and the parliamentarians on their Left blamed the government and the UMP for exploiting the issue for electoral gain. Thus the Socialist deputy Lesterlin:

the (...) message that you are charged to convey, in this extraordinary session so conveniently opened six months before the municipal elections, is addressed (...) to a popular electorate, to whom you are saying: “Rest assured; we will get rid of those women in boubou for you, and of those ill-bred kids hanging around in your neighbourhoods”.³⁸

The Greens stated that the government was ‘trying to have people believe that immigration presents a danger. (...) In truth, you produce this scare-crow to make people forget the infamies of your government’.³⁹ The fact that the courses would be offered to applicants for free could not mollify the French opposition. The Socialists declared that rather than speaking of the ‘beneficiaries’ of the

³⁴ TK 29700 plenary debate: 3886, 16 March 2005.

³⁵ TK 29700 (25), 22 March 2005.

³⁶ AN, plenary debate 18 and 19 September 2007; *Sénat*, plenary debates 2 and 3 October 2007.

³⁷ AN, plenary debate 18 September 2007.

³⁸ AN, plenary debate 19 September 2007.

³⁹ AN, plenary debate 18 September 2007.

integration program, they would speak of its ‘victims’ and demanded that the program not be presented as a ‘privilege’ but as the ‘additional condition for the deliverance of a visa’ that it really was.⁴⁰ The far-Left emphasised that integration was ‘a duty of the country towards foreigners’ and filed an amendment to the effect of the State covering all costs – including transport and lodging – an applicant would have to make to participate in the evaluation and the course.⁴¹ In the *Assemblée Nationale* as well as in the Senate, the left-wing opposition defended amendments eliminating the two articles about civic integration abroad from the legislative proposal and eventually voted against the law unanimously.⁴²

The much broader political support for civic integration abroad in the Netherlands than in France may explain at least in part why the Dutch program is significantly more stringent than the French. There was almost consensus among Dutch politicians that such far-reaching measures were called for.

How should this significant difference in political constellations in turn be understood? In part, it is probably the result of different political cultures. Dutch politics are traditionally characterised by ‘consensus government’ (Andeweg & Irwin 2005: 220-235), that is by a relatively small difference between the roles of coalition parties and opposition parties. (Daalder 1995: 27; Lijphart 1979: 129) It is much less common in France than in the Netherlands for an opposition party to vote in favour of a government proposal.

It seems very likely however, that beyond such differences in political styles of behaviour, there are also substantial differences of opinion between the French and the Dutch Left on migration and integration issues. To understand Dutch politicians’ approach to this issue in the years following the turn of the century, one must take into account the profound shock caused by the electoral success of the populist Pim Fortuyn in 2002. Until then, the extreme-Right had played a relatively small role in Dutch politics: its electoral successes had never exceeded the three seats in the House of Representatives obtained by the *Centrum Democraten* in 1994. Fortuyn’s LPF, three months after its foundation, gained 26 seats in May 2002, making it the second biggest party in the House of Representatives. Because Fortuyn’s program had combined stark anti-immigrant positions with fierce criticism of Dutch mainstream politics, his success was interpreted as a vote of no-confidence against the entire political establishment. After what has come to be referred to as the ‘Fortuyn-revolt’, the legitimacy and representativeness of the Dutch political system as a whole were at stake in the debates about migration and integration policies. All political parties sought to distance themselves clearly from positions and policies adopted in the past, so as to let their electorate know that their discontent had been heard and understood. (Bonjour 2009: 243-244) This explains the parliamentary support –

⁴⁰ AN, *Amendement No 162*, 17 September 2007; Sénat, plenary debate 3 October 2007.

⁴¹ AN, *Amendement No 91*, 17 September 2007; Sénat, plenary debate 4 October 2007.

⁴² With the exception of the centre-Left *Groupe du Rassemblement Démocratique et Social Européen* in the Senat, which voted 7 in favour, 8 against and 1 abstention. AN, *Analyse du scrutin No 33*, 23 October 2007 ; *Sénat, t Scrutin No 15*, 23 October 2007.

very broad even for Dutch standards – for the government’s proposal to introduce civic integration abroad.

In France, the extreme-Right also knew an unprecedented electoral success in 2002. For the first time, Jean-Marie Le Pen made it to the second round of the presidential elections, defeating the left-wing candidate Jospin in the first round. The shock was not quite as great as in the Netherlands however: the *Front National* had obtained around 10% of votes in national elections since 1984, and had reached peaks of around 15% in 1986, 1995 and 1997. Certainly, Le Pen’s success in 2002 contributed to the sense of crisis and failure of migration and integration policies, and the introduction of civic integration abroad should be interpreted at least in part as an attempt by the governmental majority to win back the electorate’s confidence. It was no cause however for the French Left to fundamentally reconsider their position on the migration and integration issue, in any way similar to the course adopted by their Dutch counterparts.

It is broadly accepted – even a ‘common wisdom’ (Bale 2008b: 457) – among migration scholars that electoral successes of the far-Right may decisively influence policies, even if these parties don’t enter government, because they cause mainstream parties to adapt their positions so as to regain their voters’ favour. (Cf. Schain 2006: 287; Givens & Luedtke 2004: 152) Our analysis of the introduction of civic integration abroad in France and in the Netherlands partly corroborates this thesis. Two important qualifications must be made however. First, the impact of electoral successes of the extreme-Right on mainstream political parties may vary significantly from one country to another. Second, it was not only the political Right, but also and probably more importantly the Left which, in the Dutch case, fundamentally reconsidered its positions on the migration issue after the landslide victory of Fortuyn’s LPF. The distinct responses of the Dutch and French Left to the elections in 2002 may offer fruitful ground for further research into the effects of the far-Right on mainstream political parties.

Judicial constraints

In the Netherlands and in France, the question whether the new integration abroad requirement respected the standards set by fundamental rights was an important theme of debate. Both countries are bound by the European Convention on Human Rights (1951), which guarantees the right to family life in its article 8, as well as by the EU Directive on family reunification of 2003. Article 8, as interpreted by the European Court of Human Rights in Strasbourg, does not grant a right to family reunification: however, it obliges states to strike a fair balance between the interest of individuals in living with their family, and the general interest of the host society. Thus far, the Court has granted states quite some leeway in defining and protecting this general interest. (Van Walsum 2004) The EU Directive exhaustively lists the conditions that may be imposed on family reunification. It allows for member states to include integration measures in these requirements. (Groenendijk 2006)

In France, in addition to these European judicial norms, the ‘right to a normal family life’ is considered a *‘principe general du droit’*, that is the equivalent of a constitutional right, protected as such by the Constitutional Court. (GISTI 2002) This constitutional protection played a significant role in the parliamentary debates. In particular, members of the governmental majority in the *Assemblée Nationale* presented a number of amendments that would have made the French civic integration abroad policy much more similar to the Dutch. Two UMP deputies proposed that admission be made conditional on passing the test, rather than on merely participating in the evaluation and the course.⁴³ Two other amendments were submitted by the UMP to the effect of charging applicants for the costs of the evaluation and course, possibly to be refunded after satisfactory participation.⁴⁴ The government however advised against the adoption of these amendments, because ‘the Constitutional Court would most certainly censor a provision that would thus infringe upon the right to family reunification’. For the same reason, UMP rapporteur Mariani also emitted a negative advise, but he expressed his regrets at having to do so, especially where the financial contribution was concerned. He declared that ‘once again, it appears that if we want to push further on this subject, a constitutional reform will be necessary’. All four amendments were withdrawn, but not before the deputies had made the government promise to come back to their proposals in future debates.⁴⁵

In the Netherlands, no such constitutional protection exists. The Dutch courts, in family reunification cases, refer only to article 8 of the European Convention on Human Rights and, in recent years, to the EU Directive of 2003. In the interpretation of the Dutch government, it would infringe upon these European norms to deny the possibility of family migration to ‘specific groups’ of foreigners.⁴⁶ Therefore, the civic integration abroad requirement was designed so that any applicant with ‘sufficient motivation’ should be able to fulfil it, without selecting on income, education, origin or gender. The government rejected two parliamentary proposals because they were deemed in breach of article 8 of the European Convention: first, the right-wing Liberals’ suggestion to raise the level of the language test, and second the Social Democrats’ amendment requiring literacy in the applicant’s own language, rather than a basic level of Dutch language skills.⁴⁷ However, the government expected neither the obligation to pass the test, nor the lack of state involvement in providing courses or learning material, nor the exam fees to infringe upon the right to family life as protected by the European Convention and the Court in Strasbourg. The weight of the interests at stake for Dutch society, so it argued, justified this limitation of individuals’ right to family life.⁴⁸ In its advice to the

⁴³ AN, *Amendement No 64*, 14 September 2007; AN, *Amendement No 84*, 17 September 2007.

⁴⁴ AN, *Amendement No 70*, 17 September 2007; AN, *Amendement No 83*, 17 September 2007.

⁴⁵ AN, plenary debate 19 September 2007.

⁴⁶ TK 29700 (6): 6, 6 December 2004.

⁴⁷ TK 29700 (6): 18, 6 December 2004; TK 29700 plenary debate: 3886-3887 & 3897, 16 March 2005.

⁴⁸ TK 29700 (3): 17, 21 July 2004; TK 29700 (6): 47-48, 6 December 2004.

government about the legislative proposal, issued prior to the parliamentary debates, the Council of State had concurred with this view.⁴⁹

Thus, it appears that the judiciary leaves more room for restrictive family migration policies in the Netherlands than in France. In particular, the constitutional protection of family life in France, which is absent in Dutch law, may explain in significant part why France has implemented a more lenient version of civic integration abroad than the Netherlands.

This interpretation is in line with the well-established argument that the courts' defence of individual migrants' rights is among the primary reasons why 'liberal states accept unwanted migration', as Joppke (1998) put it. (Cf. Cornelius e.a. 1994: 7, 9; Guiraudon 2000: 221-224; Joppke 1999: 18-21; Hollifield 2000: 148-150, 163-164) Moreover, it supports two specific statements that have been made in the framework of this debate. First, it would corroborate Joppke's thesis that governments' room for manoeuvre is limited primarily by individual rights stemming from *domestic* legal sources (Joppke 1998: 270-271) and not, as Soysal (1994: 149-151) or Sassen (1996:11-12) would have it, by international legal norms. Second, it fits with Guiraudon's observation that the Dutch courts have played a less important role in the extension of rights to migrants over recent decades than their German and French counterparts. (Guiraudon 2000: 220-221) Bonjour (2009: 312-317) has recently confirmed that the Dutch judiciary has until now granted substantial leeway to the government to impose conditions upon family migration, thus exerting a much less constraining influence on policy development than the one ascribed to the courts in countries like Germany, France and the United States in the academic literature.

Conclusion

This analysis of the parliamentary debates yields two plausible explanations for the fact that, in response to highly similar definitions of the societal problem caused by continuous immigration and 'failing' integration, French and Dutch politicians implemented two very different types of civic integration abroad policies.

First, as a result of the profound shock caused by the electoral success of the populist Pim Fortuyn in 2002, there was very broad support for a stringent civic integration abroad requirement among Dutch political parties. Only the Greens rejected the principle of granting admission to family members only if they passed the integration test. In contrast, the French left-wing opposition was adamantly opposed to compulsory civic integration abroad. Second, due to the constitutional protection of the right to family life, a protection that does not exist as such in the Netherlands, the French judiciary leaves less room for imposing restrictive conditions upon family migration than the Dutch. In particular, setting a requirement of result rather than participation, or charging the applicants for the costs of the course and evaluation – provisions that were part of the Dutch program, and

⁴⁹ TK 29700 (4): 6, 13 April 2004.

favoured by members of the governmental majority in the French Parliament – would, according to the French government, have been censored by the Constitutional Court.

The hypothesis of the ‘national models’ yields little insight in this particular case. It would predict that, as a result of its tradition of pluralism and minorities policy, the Netherlands would favour preservation of diversity, whereas ‘assimilationist’ France would tend to exert pressure on newcomers to adopt common values and customs. The opposite is true however: the Dutch civic integration program is more stringent and compelling than its French counterpart.

Further research is required to assess the relative weight of party politics on the one hand and judicial constraints on the other hand in producing the different policy outcomes in France and the Netherlands. Since the government could adopt the legislative proposal without the support of the left-wing opposition, while it was obliged to respect the standards set by the Constitutional Court, it would seem that the judicial constraints were harder than the political ones, and may have weighed heavier on the outcome. If this was indeed the case, and if the UMP deputies who pled for constitutional reform follow through on their proposals and find sufficient political support to widen the constitutional constraints, then the French civic integration abroad program may come to resemble the Dutch program more closely in the future.

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