

No handshake, no citizenship - but with a second wife, everything's fine?

Two recent judgments of European courts have highlighted the difficulty in finding the right balance between the cultural assimilation of Muslim immigrants demanded by national laws on citizenship and the necessary degree of tolerance towards foreign laws and customs. In a widely reported decision of 11 April 2018, the French Council of State (Conseil d'Etat) ruled that a naturalisation of an Algerian-born woman could be revoked because she had refused to shake hands with a male public servant during the naturalisation ceremony.

The Council evaluated her behaviour as proof that she was obviously not sufficiently assimilated to French culture in order to become a French citizen. In sharp contrast to this restrictive attitude, the High Administrative Court of Baden-Württemberg (Germany), in an earlier decision of 25 April 2017, allowed the naturalisation of a Syrian-born man to be upheld although it turned out that he had lied to German authorities about the fact that he had entered into a polygamous marriage abroad. The court argued that the appellant's polygamous marriage as such did not amount to a violation of German public policy, which, in the context of naturalisation, is a rather narrowly phrased concept that presupposes a lack of loyalty to the German constitutional order. From a traditional choice of law point of view, however, there are rather convincing arguments for assuming a violation of German public policy: the husband's first wife was a German national, and both spouses had their habitual residence in Germany, thus creating a very strong connection with the German legal order and its constitutional values on equality of the sexes. The case is now pending before the German Supreme Administrative Court in Leipzig.