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Adoption of foreign children

Possibility for a child to acquire Swiss nationality through adoption

It is not uncommon for Swiss abroad to adopt a child that is a native of their country of residence. Until quite recently such a child did not acquire by adoption the Swiss nationality of its adoptive parents, but the position has now changed.

On 1st April 1973 new legal provisions concerning adoption came into force in Switzerland. These appear in the Civil Code. Moreover, two other acts have been adapted to the new adoption law, in particular the Federal Act of 29th December 1952 on the Acquisition and Loss of Swiss Nationality. Briefly, «simple» adoption has been replaced in Switzerland by what is called «full» adoption. Under the new provisions the adopted child is put on an almost equal footing, in law, to a legitimate son or daughter. The adopted child forms part of the family of the adopter as if he were the adopter's own child, whereas formerly assimilation was only partial.

In particular, full adoption under Swiss law confers on the adopted child the *Swiss nationality* of the adopter.

Compatriots who adopted a child *abroad before 1st April 1973* sometimes ask whether their child can now acquire Swiss nationality by virtue of the new provisions. The answer is yes. Foreign children adopted by Swiss abroad can acquire *Swiss nationality* provided certain conditions are fulfilled and certain essential formalities are observed.

Thus, any adoption carried out abroad – whether full or simple adoption – can in principle be made subject to the new Swiss provisions if the request is submitted to the adoption authorities of the canton of origin. If at the time of the adoption the child was a minor (i.e. under 20 years of age) it will become Swiss. **The application must be made by 31st March 1978.**

In cases where an adoption carried out *abroad* does not fulfil the conditions which would enable the child to benefit by the effects of Swiss law, particularly with regard to *Swiss nationality*, the adopter can request the authority of his canton of origin to pronounce a *new adoption*.

Another question is often put to us: What is the position with regard to adoptions carried out abroad after 1st April 1973?

Two types of case are involved: If the *foreign* adoption, pronounced in accordance with foreign law, is a *full* adoption – which thus confers on the adopted child all the rights (and obligations) of a legitimate child with respect to the parents – it can be recognized as such in Switzerland. The adopted child can thus acquire Swiss nationality.

If the *foreign* adoption carried out after 1st April 1973 is a *simple* adoption (with limited effects, as under the former Swiss law), it will *not* confer Swiss nationality on the child. If the adoptive parents wish the child to become Swiss, the only course open to them is to request the Swiss authority to pronounce a *new adoption*.

Swiss abroad who have adopted a foreign child, either before or after 1973, sometimes wish to have information on one or other of the following points:

- How can this adoption be entered in the Swiss register of civil status?
- How can a simple adoption be transformed into a full adoption?
- In a given case, will the entering of the adoption in the Swiss register of civil status have the effect of conferring Swiss nationality on the child?

Our compatriots can write on these matters to the Federal Division of Justice, 3003 Berne, or to the consular mission for their area, which will supply them with all the relevant information. On 28th May 1975 the Division of Justice issued guidelines in our three official languages, and our missions abroad also have copies of these.

Increase in OAI/DI Pensions as from 1st January 1977

By virtue of the Federal Decree of 12th June 1975 concerning emergency measures in the field of old-age, survivors' and disability insurance, the Federal Council has decided to increase pensions by 5 per cent in principle from 1st January 1977. This is to compensate for the price rises which occurred in 1975 and 1976. As with previous pension adjustments, the increase will be effected by recalculating the original reckoning bases. Consequently, the pension increases will not be exactly 5 per cent in every case. Differences will be mainly due to the fact that amounts will be rounded up or down to the nearest franc. Thus, increases in those full pensions which started before 1st January 1976 will vary between 4.4 and 5.4 per cent. The increases in full pensions which began during 1976 will in principle be only half that amount, because when these pensions were calculated the 1975 incomes were taken into account and it is therefore simply a question of compensating for the 1976 price rises. Some small partial pensions may even not be increased at all.

Although the most up-to-date technical aids are being used, the adjustment of about a million pensions and the related supplementary pension benefits will take six months.

Regulations concerning the political rights of the Swiss abroad

(of 25th August 1976)

The Swiss Federal Council,

by virtue of Article 8 of the Federal Act of 19th December 1975¹⁾ on the political rights of the Swiss abroad,

decrees:

Art. 1

Notification

¹ A Swiss abroad who wishes to exercise his political rights shall notify the Swiss diplomatic or consular mission with which he is registered.

² In this notification he shall state:

a. the commune in which his vote is to be counted («voting commune»); the Swiss abroad can choose as his voting commune one of his communes of origin or of former domicile only;

b. if applicable, the commune in which he wishes to pick up his voting material («commune of presence»); the Swiss abroad can choose any political commune as his commune of presence.

Art. 2

Transmission of the notification

¹ The diplomatic or consular mission shall forward the notification to the voting commune and, where applicable, to the commune of presence by means of a special form and shall let the Swiss abroad have a duplicate of this form.

² If the voting commune is a former commune of domicile, the notification shall also be forwarded to the communes of origin.

Art. 3

Entry in the voting register

¹ After receiving the notification the voting commune shall enter the Swiss abroad in a voting register.

² If the communes of origin are informed that an enfranchised Swiss abroad is transferring his domicile to Switzerland, they shall notify the voting commune accordingly; the same applies in the event of the death of an enfranchised Swiss abroad.

³ The Swiss commune of domicile shall notify the communes of origin and, where applicable, the voting commune if an enfranchised Swiss abroad transfers his domicile from the Principality of Liechtenstein.

Art. 4

Despatch of the voting material

If a Swiss abroad wishes to pick up his voting material not in his voting commune but in his commune of presence, the voting commune shall send to the voting register office of the commune of presence, not later than three weeks before polling day, the official voting material, with the polling card, the ballot paper envelope and, where applicable, a covering envelope.

Art. 5

Confirmation of entry

The voting commune or the commune of presence shall confirm to the enfranchised Swiss abroad, using a special form, that he is entered in the voting register, and shall notify him of the address and opening times of the voting register office.

Art. 6

Picking up the voting material

¹ The Swiss abroad must pick up his voting material in person at the voting register office of his voting commune or commune of presence not later than the Thursday before polling day.

² As soon as the Swiss abroad has proved his identity, the voting register office shall hand over to him his voting material and, where applicable, the ballot paper envelope and covering envelope.

Art. 7

Changing the commune of presence

If a Swiss abroad changes his commune of presence, he must notify the Swiss diplomatic or consular mission of this three months before polling day. The same procedure as that laid down in Article 1, paragraph 1, Article 2 and Article 4 is applicable.

Art. 8

Exercise of the voting right in the voting commune

In the voting commune the Swiss abroad can exercise his right to vote either in the voting register office directly after receiving his voting material or at the polling station during the normal opening hours.

Art. 9

Voting by post

¹ The Swiss abroad can exercise anywhere in Switzerland his right to vote by post.

² For this purpose he shall put his ballot paper in the ballot paper envelope. He shall then put the sealed ballot paper envelope and, where applicable, his polling card in the covering envelope, on which he shall complete the printed particulars, seal and stamp it and send it off through the Swiss post.

Art. 10

Signing of requests for federal referendums and popular initiatives

A Swiss abroad can sign requests for federal referendums or popular initiatives only on a signature list from his voting commune.

Art. 11

Domicile in the Principality of Liechtenstein

¹ A Swiss abroad domiciled in the Principality of Liechtenstein shall submit the notification provided for in Article 1, paragraph 1, to the cantonal passport office in St Gallen; the latter is also competent to forward notifications in accordance with Articles 2 and 7.

² The Federal Political Department shall arrange the details.

Art. 12

Voting by civil servants and other employees of the Confederation

¹ An official of the Confederation who is subject to the regulations governing its civil servants or employees and is serving abroad can vote from there by post.

² The Federal Political Department shall arrange the details.

Art. 13

Duty of secrecy

The Swiss diplomatic and consular missions abroad must treat as confidential the lists of Swiss abroad who have notified them under the provisions of Article 1.

Art. 14

Collaboration by the Federal Political Department

The collaboration of the Federal Political Department can only be required for forwarding the notifications provided for in Articles 2, 5, 7 and 12.

Art. 15

Implementation

Implementation is the responsibility of the Federal Political Department.

Art. 16

Repeal of previous legislation

Article 10 of the Federal Council's Decree of 10th December 1945²⁾ concerning the participation of the armed forces in federal, cantonal and communal elections and other ballots is repealed.

Art. 17

Entry into force

These regulations shall come into force on 1st January 1977.

On behalf of the Swiss Federal Council:

The President of the Confederation

(Signed) **Gnägi**

The Chancellor of the Confederation
(Signed) **Huber**

¹⁾ AS 1976 1805

²⁾ SR 161.3

Dates of the four federal ballots in 1977

The following dates have been reserved by the Federal Council:

13th March 1977

12th June 1977

25th September 1977

4th December 1977

Switzerland

Medicinal forest plants

Pro Juventute Stamps 1976



Barberry



Black Elder



Lime



Lungwort

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