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The act does not contain anything revolutionary

Individual responsibility

The principle of individual responsibility is a key element of the Swiss Abroad Act. Article 5 stipulates: "Responsibility lies with each person in preparing and undertaking trips abroad or in working abroad." In practice, this means there is no absolute right to consular protection from 1 November. The state will only act in a subsidiary capacity, such as by granting welfare benefits, for example.

If someone acts negligently when preparing or undertaking a journey, a charge will be incurred for consular protection services in future. An example of negligent behaviour is disregarding FDFA travel advice. However, not taking out travel insurance also constitutes negligent behaviour.

Swiss citizens sent abroad by a company must also pay particular attention to this provision. They should check with their employer beforehand whether an insurance policy has been taken out covering staff during stays abroad.

In any case, it is essential that the travel advice on the FDFA website or its helpline is consulted before a journey or stay abroad. (BE)

FURTHER CONSULAR SERVICES

The SAA does not result in any changes with regard to administrative services or other consular services, such as civil status, Swiss citizenship, identity documents, Swiss old-age and survivors' insurance/invalidity insurance and the military registration system.

"Swiss Review": What in your view are the most significant changes involved in the Swiss Abroad Act (SAA)?

Hans Stöckli: One extremely important aspect is that it's now much easier to find out what provisions apply to the Swiss Abroad. Before you had to read countless laws and ordinances whereas today you only have to take a look at the SAA. There's nothing revolutionary about the act but there are nevertheless a few significant changes.

What are they?

They concern political rights in particular. The electoral roll entry no longer has to be updated every four years. However, the option of choosing between the last place of residence and the place of origin for the electoral commune has been eliminated. The reason for this change is that voters residing in Switzerland do not have this choice.

Are there provisions that require particular attention to avoid problems?

Yes, there are. These include provisions on individual responsibility and subsidiarity in particular. Anyone who acts negligently will have to reimburse costs to federal government if he or she requires assistance abroad.

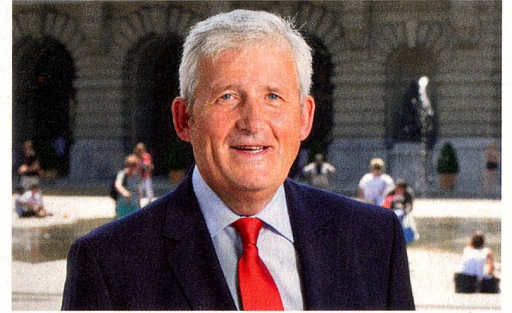
Is negligent conduct defined?

No, it isn't, so we will have to see what happens in practice. Negligence is a complex area of law, and I'm sure there will be court cases sooner or later.

The registration obligation for Swiss citizens living abroad has been contentious for some time.

Why is that?

The Federal Council wanted to abolish the registration obligation – which was previously known as matriculation – because there are no sanctions that can be applied against people failing to comply. It was argued that it is not legally tenable to provide for obligations in a law without stipulating a punishment for violation of the



Hans Stöckli is a member of the Swiss Social Democratic Party (SP). He was mayor of Biel from 1990 to 2010. He has been a Council of States member for the canton of Berne since 2011 and previously spent eight years in the National Council. He was heavily involved in the drafting of the SAA as a lawyer and as a member of the Political Institutions Committee and President of the "Neue Helvetische Gesellschaft" (New Helvetic Society).

law. I believe registration abroad is important because Switzerland should know how many of its citizens live abroad and where.

One of the major problems facing the Swiss Abroad at the moment is their relationship with the banks in Switzerland. Why does the SAA not contain any obligation for Swiss banks to make their services available to Swiss citizens abroad?

That point was discussed. However, the problem is that federal government cannot oblige any bank to maintain a relationship with someone. Banks are private enterprises and can choose their business partners freely. A possibility might be to oblige Postfinance, which is under federal government ownership, to accept Swiss Abroad as customers. However – and this is where the problem starts – Postfinance would argue that relationships with the Swiss Abroad are not simply business as they would entail significant costs for which Postfinance would have to receive compensation. The question as to whether providing ordinary banking relationships for the Swiss Abroad in their home country is part of public service will be discussed in Parliament shortly as relevant proposals are pending.

INTERVIEW: BARBARA ENGEL