

Outside Counsel

Expert Analysis

Restoration of German Citizenship For Holocaust Victims and Descendants

Recent news articles have discussed the possibility of Holocaust victims (including those affected by Brexit and other political upheavals) and their descendants regaining their German citizenship in order to gain the advantages of EU membership (i.e., work permits, free or low-cost education). However, the possibility of Nazi victims and their descendants regaining their lost German citizenship has existed since the late 1940s.

The constitutional law of the Federal Republic of Germany (“Grundgesetz für die Bundesrepublik Deutschland”), enacted in 1949, allows anyone who lost his or her German citizenship as a result of Nazi legislation or of an act of Nazi



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authorities as well as the victim’s descendants to become a German citizen (Article 116 Paragraph 2 Grundgesetz). In order to obtain

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German citizenship an applicant needs to prove former possession of German citizenship by himself or an ancestor and its loss during the Nazi era.

However, not any loss of German citizenship during the period from 1933 to 1945 necessarily entitles the former citizen or their descendants

to apply for naturalization. Former German citizens must in fact have been deprived of their citizenship on political, racial or religious grounds.

Loss of Citizenship

After Adolf Hitler was elected German Chancellor in 1933 the Reichstag enacted the Law on the Revocation of Naturalizations and the Deprivation of the German Citizenship (“Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit”) on July 14, 1933. This law enabled German authorities to deprive Germans of their citizenship on an individual basis. The names of affected persons were listed in the Law Gazette of the German Reich (“Reichsgesetzblatt”).

While relatively few people were deprived of their German citizenship by the German authorities

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based on the above mentioned law, many more persecutees lost their German citizenship through the Eleventh Decree to the Law on the Citizenship of the Reich (“Elfte Verordnung zum Reichsbürgergesetz”) enacted on Nov. 25, 1941 (the “Eleventh Decree”). According to this law, Jews were automatically deprived of their German citizenship, and their property left behind in Germany, if they resided outside of Germany on or after Nov. 27, 1941.

Since by that date most German Jews had been forced to flee Germany due to discriminatory laws, such as the Nuremberg racial laws of 1935, and outright persecution, many German Jews were affected by the Eleventh Decree. Although the Eleventh Decree was repealed after World War II, many holocaust survivors had moved on with their lives and had no wish to restore their German citizenship.

However today, given that Germany has to a great extent repaired the damages caused by Nazi policies, and has become the engine of Europe and a stable democracy, German citizenship, and the EU membership that comes with it, is of interest to a new generation of the descendants of Nazi victims. This possibility is even more interesting, because in many cases, applicants

can retain their current citizenship and also obtain German citizenship.

But there is an important caveat with respect to such applications. The requirement for German citizenship restoration is that the original citizenship was taken away by illegal acts of the Nazis, such as the Eleventh Decree.

It is important to point out that former German citizens who had lost their German citizenship by obtaining another citizenship before November 1941 were technically not deprived of their German citizenship under the Eleventh Decree. Therefore they or their descendants might not be able to obtain German citizenship today, unless their original citizenship was taken by the German authorities on an individual level (such as by publication in a Gazette prior to the enactment of the Eleventh Decree).

New Possibilities

When filing an application for German citizenship, it is crucial to submit comprehensive documentation on the actual circumstances of its loss. The process can take up to one year and often requires extensive research in German and U.S. archives.

If the application is successful, applicants can obtain a German

passport and may keep their U.S. citizenship. They can then enjoy the benefits and privileges of having both a German passport and a U.S. passport.

Besides travel advantages, one could live and work in Germany or any of the 28 member countries of the European Union without the need for a visa and regardless of any time limitations. In addition to that, one may gain access to European educational facilities which generally have much lower tuition fees compared to colleges and universities in the United States.

Although obtaining German citizenship brings with it a reckoning with the past, it holds out new possibilities for upcoming generations.