



RETENTION PERMIT



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Retention Permit (Beibehaltungsgenehmigung)

Since its passage in the year 1913, the German Citizenship Law ("Law") had the main objective of blocking the country's citizens from simultaneously holding more than one citizenship. As a result, German citizens who applied for and were granted foreign citizenship automatically lost their German citizenship.

Effective January 1, 2000, the German Parliament amended the Law, which still maintains that persons becoming foreign citizens on their own application lose their German citizenship.

However, an exception exists for applicants who seek a **Retention Permit** ("Permit") from the German Federal Administrative Office (BVA). This entity acts at its own discretion, leaving applicants with no automatic claim to a Permit.

A high number of back-logged applications, coupled with slow processing times resulting from COVID-19 restrictions, have resulted in processing times of 12 to 14 months.

Professional Reasons (Selection)

Certain occupations in the U.S.A. require American citizenship (for example, public sector jobs).

- If applicants travel frequently for business or have extended stays in North America, the USMCA (United States-Mexico-Canada Agreement, formerly known as NAFTA), allows citizens significantly easier entry requirements and a simplified process for obtaining work permits.
- Several jobs (such as the U.S. Armed Forces, various federal agencies and the U.S. diplomatic service) promote career advancement only if spouses are U.S. citizens.

Dear Reader,

This newsletter summarizes the process for retaining German citizenship, a complex procedure.

While the description relates to Germany, Austrian nationals may find this newsletter similarly relevant for their country's own Permit process. If you have questions or comments, please contact me via phone or email.

Very truly yours,

Stephan W. Schenk, Esq.*



Permit Application Requirements

- Oral and written mastery of the German language.
- Sufficient ongoing ties to Germany.
- Convincing declaration, based on supporting evidence, that proves how the applicant accepting foreign citizenship will avoid significant drawbacks or gain significant advantages. Persons with dual or multiple citizenships of European Union (EU) countries do not require a Permit. In 2007, the Law was amended to allow acceptance of citizenship in any other EU state without losing German citizenship.

Application Process

Applicants living outside of Europe must submit their application locally (i.e. at the German diplomatic entity in their domicile).

The application must be delivered in its original, hard-copy format for review by the diplomatic entity and forwarded to the BVA, along with a letter of recommendation.

We must stress the importance of a well-written cover letter, as well as properly-presented supporting documentation.

We highly recommend choosing an attorney experienced in this process, particularly in light of the BVA's recent heightened scrutiny of this type of application.

Many job opportunities and contract bidding processes for U.S. federal agencies require a security clearance ("Secret" or "Top Secret"), normally issued only to American citizens.

In many U.S. States, foreign employees working in public schools will receive an open-ended employment contract only if they swear, under oath, that

they will obtain and accept U.S. citizenship within a certain period of time (usually within 3-5 years).

Legal Residency Reasons

An applicant who frequently travels for business abroad in excess of 180 days annually runs the risk of losing U.S. permanent resident status. The same applies for applicants who, seeking to care for dependent family members abroad, end up exceeding the 180-day limit.

Estate Planning Reasons

Germany has entered into double-taxation treaties with several countries, including the United States. In cases of succession, U.S. citizens (as testator or an heir) enjoy significant financial advantages, not available to foreign nationals, particularly for high net-worth estates.

Examples:

Marital Deduction

If a testator passes away, the U.S. estate Tax Law grants the surviving spouse the maximum available tax-free allowance on the inherited estate, provided the spouse is a U.S. citizen. If the surviving spouse is not a U.S. citizen, the spousal tax-free allowance does not apply and the entire estate is subject to the U.S. estate tax.

Qualified Domestic Trust (QDOT)

This type of trust is intended for married couples with children. Under U.S. law, the estate of the spouse who passed away is transferred to the surviving spouse tax-free (via the Marital Deduction).

If the surviving spouse is not a U.S. citizen, an inheritance tax exemption is granted only if the estate is already embedded in a QDOT. In this case, however, the trustee must be a U.S. citizen. Our law firm does not advise on U.S. tax-related issues, but can recommend a qualified tax advisor.

For Permit and U.S. citizenship applications, our law firm offers attractive pricing, while providing the proper timing and coordination of all processes.

Scholarships, Grants, Fellowships

Many scholarships, grants and fellowships for student tuition and research projects will only be awarded to U.S. citizens.

Integration Interest

Applicants 60 and over who have lived in the U.S. for at least 10 and/or 20 years may receive less scrutiny of their applications.. In these cases, proof of continuing ties to Germany will be deemed sufficient.

Other

If an application for a Retention Permit for German citizenship is approved, a two-year certificate will be issued by the BVA and sent to the corresponding German diplomatic entity for personal retrieval by the applicant.

If applicants are unable to become naturalized in the foreign country within the two-year period of validity, an additional certificate must be formally requested, to extend the validity for another two years. In that case, applicants must demonstrate that naturalization has already been requested, or provide reasonable justification as to why not, while giving a status report on the naturalization proceedings. Ongoing ties to Germany must still exist, as well as convincing reasons for obtaining foreign citizenship.

Besides those already described, other reasons for dual citizenship may exist, such as divorce or custody proceedings.

CAREFUL

The naturalization process for foreign citizenship should not be completed before physically receiving a Retention Permit. Otherwise, German citizenship is lost when the foreign naturalization takes effect.

In cases where a German has already lost German citizenship, it is possible to recover same through a simplified re-naturalization procedure, with which we may also assist.

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Source References

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