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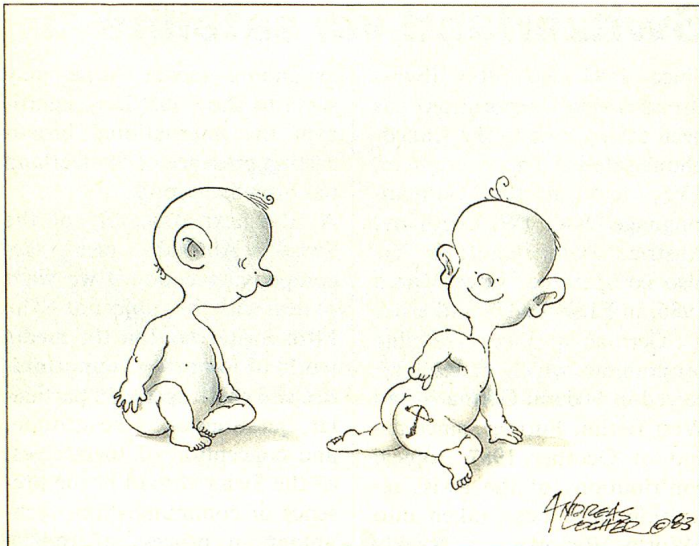
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Nationality of children of Swiss women abroad

Reminder

Children born on or after 1st July 1985 of marriages between Swiss women abroad and foreigners have in principle acquired Swiss nationality automatically. Children born before that date but after 31st December 1952 can still apply up to the end of June 1988 for recognition as Swiss nationals. The more stringent obligation on children born abroad to register should also be noted.

Under the new provisions, children of Swiss women, in principle, automatically acquire Swiss nationality at birth. Since 1st July 1985 it has been immaterial in this connexion whether the mother is married or single. It is advisable to let the compe-

More stringent provisions concerning loss of Swiss nationality

A child born abroad on or before 1st July 1966 which possesses another nationality and whose father or mother was born in Switzerland will lose its Swiss nationality if it has not been registered with a Swiss authority in Switzerland or abroad by the end of June 1988. From 1st July 1988 all children born abroad who, in addition to their Swiss nationality, possess another nationality will lose their Swiss nationality if they have not been registered with a Swiss authority by the time they reach the age of 22 at the latest. Sending in the birth certificate counts as registration, of course.

Hitherto only second-generation Swiss children abroad have been subject to an obligation to register.

tent Swiss embassy or consulate have the child's birth certificate for transmission to Switzerland. Children of women who became Swiss through a previous marriage, however, are excluded from the automatic acquisition of Swiss nationality. Such children only become Swiss nationals automatically if they acquire no other nationality by birth or become stateless before attaining the age of majority. Otherwise they can, within specified time-limits and under certain conditions (for example, if the mother or the child has lived in Switzerland for six years), be granted facilitated naturalization.

Birth before 1st July 1985

What possibilities exist for children who were born before the new provisions came into force (1.7.85)?

- Children who were born after 31st December 1952 of marriages between Swiss women and foreigners have until the **end of June 1988** to apply for recognition as Swiss nationals

if their mother acquired her Swiss nationality through descent, adoption or naturalization.

- If, on the other hand, the mother acquired her Swiss nationality through a previous marriage to a Swiss, the child of her subsequent marriage to a foreigner can under certain conditions (for example, if the mother or the child has lived in Switzerland for six years) apply **up to the end of June 1988** for facilitated naturalization.

Important:

Depending on the legislation of the other homeland, recognition as a Swiss national may result in the loss of the previous nationality. More precise information can only be obtained from the competent authorities of the country concerned.

Application forms for both types of case can be obtained on request from the competent Swiss embassy or consulate.

Federal Office for Police

Disabled Swiss Abroad

Help from Switzerland?

Pedro M. (name invented), aged 16, lives in Peru. Both his parents are Swiss. His right arm was badly crushed in a car accident. Since then he has been unable to move his fingers. His parents have heard that in Switzerland it is possible to have therapy which promises an improvement. Although they are in a good financial position in their country of residence, it would be beyond their means to pay a hospital bill in Swiss francs.

An inquiry at the Swiss Embassy which does not at first seem very promising unexpectedly shows a way out: under the Federal Act on Disability Insurance, Swiss minors from abroad are in principle entitled to the Disability Insurance (D.I.) integration measures when they are in Switzerland, even if their parents are not insured with the D.I. Such integration measures may consist, among other things, of medical and vocational measures (vocational guidance, initial vocational training, retraining etc.). Thus Pedro M. can have a hand operation in Switzerland at the expense of the D.I. which will later enable him to take a job. As the D.I. is not a welfare organization, this possibility exists independently of the parents' financial means.

However, travelling expenses are not covered, nor is the cost of board and lodging except while in hospital.

Voluntary insurance against disability, too

Normally, however, in contrast to the above type of case, only those Swiss abroad who already belong to the voluntary insurance scheme when they become disabled are insured against disability. Such insured persons who will probably be wholly or partially unable to earn a living permanently or for a lengthy period are entitled to D.I. benefits.

Minors qualify as disabled if the damage to their health is likely to affect their earning ability later. It is irrelevant whether the disability is physical or mental and whether it was caused by a congenital defect, an illness or an accident.

The main aim of the D.I. is the integration or reintegration of the insured person into gainful activity. First of all, therefore, it provides the integration measures described above. In exceptional cases they are also provided abroad if the personal circumstances and the prospects of success show that this is indicated. D.I. pensions are paid only when integration measures cannot or can only partially achieve their object or are hopeless from the beginning. However, only those insured persons who have paid contributions for



at least a full year when they become disabled are entitled to ordinary D.I. pensions.

How to proceed

Swiss abroad who think they are entitled to D.I. benefits can apply to the competent Swiss embassy or consulate, which will supply more detailed in-

formation and get the case clarified where necessary. It should be understood that the D.I. is not a welfare institution but an insurance scheme and there is a legal entitlement to its benefits – apart from a few special cases – without regard to financial circumstances.

MZ, DFA

New marriage and inheritance law

Time-limit: end of the year

Since the New Year a new marriage and inheritance law has been in force in Switzerland. Women who married before the new Act came into force have until the end of 1988 to declare that they wish to place the surname they bore before marriage in front of their husband's name and to resume the «place of origin» they had when they were single. Certain adjustments in connexion with the matrimonial property system are also possible up to the end of 1988. The following article explains which Swiss men and women abroad would be well advised to act within the time-limit.

The most important innovations of the new partnership-type Act are the following:

– Surname: the husband's surname is still the family's surname. However, the wife is entitled to place her previous surname in front of the family's surname.

– «Place of origin»: as before, the wife also acquires her husband's cantonal and communal citizenship on marriage. The difference is that she also keeps the citizenship (place of origin) she had when she was single.

– Place of abode: the husband and wife choose the matrimonial home together.

– Maintenance: both marriage partners provide jointly, according to their ability, for the maintenance of the family. They must agree between themselves on the division of labour. The partner who looks after the household and the children and therefore earns no income is entitled to an appropriate sum from the other partner (insofar as the family's economic circumstances permit) which he/she can dispose of freely.

– Matrimonial Property System: what is new is the appli-

cation, if nothing different is agreed, of the so-called «division of acquisitions» («Errungenschaftsbeteiligung»). This means, among other things, that in the event of death or divorce the savings of the husband and wife are divided in half. Marriage covenants already concluded, however, remain valid and the partners continue to be subject to the property system agreed in the marriage covenant.

Note the time-limit

Persons who married before the new law came into force (1st January 1988) have *until the end of 1988* to make certain adjustments. In which cases is this advisable for Swiss men and women abroad? The answer depends on which of the following groups they belong to:

1. Swiss women abroad living in a country whose rules of the Conflict of Laws in the field of marriage state that the law of the country of residence is applicable (see box):

– If the wife wishes to resume the «place of origin» she had when she was single, she can make a declaration to that ef-

fect at the competent Swiss embassy or consulate.

– If she wants to ensure that, should she later go to live in Switzerland, she would be able to place her maiden name in front of the family's surname, she must declare this at the competent Swiss embassy or consulate. It is important to note that this declaration has no application whatsoever to her country of residence.

2. Swiss married couples abroad living in a country whose rules of the Conflict of Laws in the field of marriage state that the national law of the couple concerned is applicable.

– Wives can make the declarations already referred to concerning name and «place of origin» at the competent Swiss embassies and consulates.

Where is the Swiss law applicable?

When at least one of the marriage partners possesses the citizenship of the country of residence, the legislation of that country continues to be primarily applicable, since the authorities there apply their own legislation exclusively in such cases. Otherwise, the couple's national law, i.e. the Swiss law in the case of Swiss nationals, is applied in matrimonial matters by the following countries: Austria, France (partially), the Federal Republic of Germany, Greece, Italy, Portugal, Spain and many countries in Eastern Europe and the Middle and Far East.

Swiss abroad who are affected can obtain a free brochure about the new law (in the four national languages) from the Swiss embassies and consulates or direct from the EDMZ, 3000 Berne.

The law of the country of residence, on the other hand, is applied by Canada, Denmark, Norway, the United Kingdom, the United States and in general by the countries with an Anglo-Saxon tradition, and also by several Latin-American countries. The new Swiss marriage and inheritance law has in principle no relevance for Swiss abroad in those countries (for exceptions, see the adjacent article).

– Married couples to whom the new normal matrimonial property system, the «division of acquisitions», does not appeal, can declare in writing at the competent Swiss embassy or consulate that they wish to keep to the previous normal matrimonial property system, the so-called «Güterverbindung»/«Union des biens». Under this former system, upon the dissolution of the marriage by death or divorce, the husband or his heirs receive two-thirds of the husband's income from assets and earnings and the wife or her descendants only one-third. On the other hand, the wife does not have to share with her husband what she has saved from her earnings. Since the implication and effect of every marriage contract is that both husband and wife remain subject to their previous system, the old property law continues to hold good for married couples who, under the old system, have changed the distribution of acquisition merely through a marriage covenant. However, if they wish, they can choose (under a facilitated procedure) to come under the new normal matrimonial property system. To do so, they must submit a joint written declaration to that effect to the Swiss diplomatic mission or consular post where they are registered. Despite such subjection to the new system, the contractually-agreed special distribution of acquisition continues to be valid.

Federal Office of Justice

Federal Ballots 1988

12 june, 25 september,
4 december.

The issues to be voted on have not yet been chosen.

Editor (Official Communications),
Service for the Swiss Abroad,
Federal Departement of Foreign
Affairs.