

The Provisions of the New Citizenship Law (August 1999)

Abstract

Despite conservative opposition, the red-green federal government coalition reformed the citizenship law by adding the principle of birth in Germany (*jus soli*) to the traditional principle of ethnic descent (*jus sanguinis*). The reform also eased the process of acquiring citizenship, provided that certain conditions – like knowledge of the language – were met.

Source

Reform of the Citizenship Law

Otto Schily, Federal Minister of the Interior

On May 21, 1999, the Bundesrat approved the law on the reform of citizenship rights. The essential parts of the law enter into force on January 1, 2000.

At the heart of the reform is the augmentation of the traditional principle of descent (*jus sanguinis*) with the acquisition of citizenship through place of birth (*jus soli*). This will make it easier for children born in Germany of foreign parents to identify with Germany as their home. They will be given the chance to grow up as Germans among Germans.

Enshrined in the new law is another important measure to promote integration: the shortening of the naturalization period for foreigners who have already lived in Germany for a long time. Since integration is not a one-way street, this opportunity entails certain minimum requirements. Whoever wishes to live in Germany permanently must respect our constitution and our system of laws. It also goes without saying that he or she will have to learn the German language. Integration can only succeed where there is a will on both sides – among Germans and among the foreigners living in Germany.

Admittedly, the new framing of the German citizenship law cannot “prescribe” integration. But it can give those fellow citizens from abroad who live here permanently a clear signal of our commitment and our desire to promote the peaceful coexistence of all peoples, irrespective of their cultural heritage.

Source: Otto Schily, Federal Minister of the Interior, foreword to the brochure “Citizenship Law,” published by the Federal Commissioner for Foreigner Affairs, the Federal Ministry of the Interior, and the Press and Information Office of the Federal Government, August 1999).

The Law as of January 1, 2000

German by Birth

As before, the basic principle still applies: a child becomes a German at birth if at least one parent is a German citizen (principle of descent).

As of January 1, 2000, citizenship through place of birth shall also apply. From this point on, children born in Germany of foreign parents shall automatically become Germans at birth, if at least one parent has been permanently and legally residing in Germany for at least eight years at the time of birth and has an entitlement to residence [*Aufenthaltsberechtigung*] or has had an unlimited residence permit [*unbefristete Aufenthaltserlaubnis*] for at least three years.

These children will become German citizens at birth – with all the accompanying rights and obligations. Additionally, in most cases they will also acquire the citizenship of their parents at birth.

The “Option Model”

People who become German citizens through place of birth (*jus soli*) and who simultaneously acquire the citizenship of their parents must choose one of these citizenships after attaining the age of majority but before reaching their twenty-third birthday.

- If they declare that they wish to retain the foreign citizenship, they lose their German citizenship. The same applies if they fail to submit a declaration by their twenty-third birthday.
- If they decide in favor of the German citizenship, they must furnish proof by their twenty-third birthday that they have renounced the other citizenship.
- If the renouncement of the other citizenship is not possible or cannot be reasonably expected, multiple citizenship can be tolerated. In this case, an application for the retention of the other citizenship must be filed before the applicant’s twenty-first birthday, even if at that point in time it is still possible that proceedings for the release from the other citizenship might actually succeed.

Upon reaching the age of majority, the young people in question shall be informed of this option model by public authorities.

Interim Regulations for Children

As of January 1, 2000, children up to ten years of age have a special entitlement to naturalization in keeping with the requirements of the new right to citizenship through place of birth.

- An application for naturalization must be filed by December 31, 2000.
- The child cannot have reached his or her tenth birthday by January 1, 2000.
- The child must have been born in Germany.
- At the time of birth, one parent must have been legally residing in Germany for at least eight years and must have had an entitlement to residence or an unlimited residence permit for at least three years.
- The parents must be able to show legal and permanent residence status in Germany not only at the time of birth but also at the time of the child’s naturalization.

The option model also applies to these children when they reach the age of majority.

German by Naturalization

The road to German citizenship for foreigners residing permanently in Germany is naturalization. Unlike citizenship through place of birth, naturalization does not happen automatically; it must be applied for.

The legal provisions on discretionary naturalization [*Ermessenseinbürgerung*] remain essentially unchanged. Entitlement to naturalization [*Anspruchseinbürgerung*] according to the Aliens Act has been improved.

Entitlement to Naturalization according to the Aliens Act:

As of January 1, 2000, a person is entitled to naturalization if the following basic requirements are met:

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- Eight years of legal residence in Germany
 - Possession of a residence permit [*Aufenthaltserlaubnis*] or an entitlement to residence [*Aufenthaltsberechtigung*]
 - Express commitment to the Basic Law
 - No involvement in activities hostile to the constitution
 - General ability to support oneself and one's dependents without welfare or unemployment benefits
 - No criminal record, excluding minor offenses
 - Adequate command of the German language

Multiple Citizenship

As a rule, the foreign citizenship must be renounced. Exceptions apply, as in the past, if this is impossible or associated with considerable hardship. New or more extensive exceptions apply, among others:

- For elderly persons, if efforts to be released from the foreign citizenship meet with unreasonable hardship,
- For recognized refugees,
- If conditions for the release from the foreign citizenship are unreasonable (e.g., excessive fees or demeaning procedures) and
- If it is connected with considerable disadvantages, particularly if they are economic or proprietary in nature.

The same exceptions apply for regular claims to naturalization made by the spouses of Germans.

Source: "Staatsangehörigkeitsrecht", brochure by the Federal Commissioner for Foreigner Affairs, Federal Ministry of the Interior, Press and Information Office of the Federal Government, August 1999.

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