

## **Beibehaltungsgenehmigung - Dual Citizenship for Germans Living in the United States**

The special permit to retain German citizenship, the so called Beibehaltungsgenehmigung, has become a hot topic among Germans living in the United States who intend to become U.S. citizens without losing German citizenship at the same time.

While German law does not favor dual citizenship, Germany has opened a path to dual citizenship and retention of German citizenship for its citizens living abroad.

Under the German Nationality Act (Staatsangehörigkeitsgesetz) the general rule continues to be that German citizenship expires at the very moment the citizenship of another country is acquired. A large number of Germans living in the U.S. have lost their citizenship by operation of this rule in the past. Reforms passed in recent years, however, made it easier to qualify for an exception and to obtain the special retention permit (Beibehaltungsgenehmigung) which is the key to dual nationality.

Applicants domiciled in the U.S. must file the application with the German consulate which has jurisdiction over their place of residence. The German consulate then forwards the application to the Bundesverwaltungsamt in Cologne, the federal government agency which eventually decides the case. The German consulate may conduct an interview with the applicant in order to verify his or her command of the German language which is a prerequisite for a successful application.

It is important to stress that there is no right to dual citizenship under German law. The Bundesverwaltungsamt makes a discretionary decision based on the particular circumstances of each case.

Eligibility for the permit to retain German citizenship (Beibehaltungsgenehmigung) depends on two important criteria: the applicant has the burden to establish both, sufficient ties to Germany and the necessity of becoming a U.S. citizen.

Family relations and friendships preserved by regular visits and contacts, economic ties, property owned in Germany etc. are helpful to establish ties sufficient to support the application.

The necessity to become a U.S. citizen may result from professional or job-related disadvantages, other economic disadvantages related to inheritance rights and/or taxation, the applicant's status as a permanent resident being jeopardized, and a number of other reasons.

German authorities are more lenient with applicants who have lived in the United States for many years, regardless of the date that he or she became permanent residents.

A well drafted application focuses on those factors which are both relevant and sufficient to justify an exception from the rule. Unfortunately, many applications are built around irrelevant or insufficient reasons and are rejected although the applicant may have been eligible otherwise.

It is extremely important to understand that the permit to retain German citizenship (Beibehaltungsgenehmigung) does not have any legal effect until the applicant receives the document (Beibehaltungsurkunde) from the German consulate.

Naturalization of the applicant in the United States prior to the physical delivery of the retention permit (Beibehaltungsgenehmigung) leads to loss of German citizenship by operation of law, regardless of whether or not the applicant would be eligible. This is true, and has in fact occurred, even in cases where the application had already been approved but the permit had not been physically delivered yet.

Individuals born in the United States who have acquired German citizenship through one or both parents are dual citizens from birth. They are not required to obtain a permit to retain German citizenship (Beibehaltungsgenehmigung) nor are they required to opt for one of their citizenships when they reach the age of majority.