

Zeitschrift: Swiss review : the magazine for the Swiss abroad
Herausgeber: Organisation of the Swiss Abroad
Band: 8 (1981)
Heft: 2

Rubrik: Citizenship campaign

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Marriage of a Swiss woman

A Swiss woman wishing to retain her Swiss nationality on marrying a foreign national **must** make a declaration in writing to that effect, **before the marriage**, on a form obtainable from the Swiss diplomatic and consular missions abroad.

Citizenship Campaign

With the answer of the Federal Council regarding the parliamentary Initiative of our president, Dr Alfred Weber, the citizenship campaign which is intended to enable Swiss women abroad to pass their citizenship onto their children has reached a new stage. To keep you informed we publish the government statement and the communiqué the Organisation of the Swiss Abroad released in reaction to it in full.

Government statement

18th 2. 1981

1. In its report, the Commission recommends an alteration of Article 44, Paragraph 3 of the Federal Constitution, whereby a child of Swiss parents receives Swiss citizenship automatically at birth. If only one parent is Swiss, federal legislation shall define the provisions required by the child to obtain Swiss citizenship. With this, the legal basis will be created also for Swiss women married to foreigners and residents abroad to pass on their Swiss nationality to their children, a desire which is fully justified in view of equality of rights between men and women. As far as the administration is competent, we have already agreed in principle to the realization of this wish. This is why we doubly welcome that the Initiative proposes this solution and that the Commission too, supports it unanimously.

2. We are in agreement with the substance of the constitutional change, but we cannot agree to the procedure. The Commission would like to have Art. 44, Par. 3 of the Constitution treated on its own, and that all other questions of citizenship which are still open and which require further changes in the said Article should be submitted to Parliament separately (Report: Nr. 33, last paragraph.)

3. As is well known, we have been considering these citizenship questions for some time, and we have announced our report on the guide-lines of the Government's policy for the first half of the present legislative period, i.e. by the end of 1981. We shall be able to do this, as the preparatory work is nearly completed. The problems concerned and their significance are as follows:
a) With the new wording of the family law, equality of the sexes with regard to Swiss citizenship should be realized. Man and wife should have equality in law not only with regard to passing on Swiss citizenship by origin to their children as in the changed constitutional Article proposed by the Com-

mission, but also when marrying a foreigner. The Federal Council is of opinion that this should be realized by explicitly empowering the federal legislator in Article 44 to determine acquisition and loss of Swiss citizenship by marriage, origin and adoption. With regard to this, acquisition by naturalization could replace the automatic right to acquire it, in which case the prerequisites would be greatly simplified as compared with ordinary naturalization. Article 54, Paragraph 4 of the Constitution, which states that the wife acquires the citizenship of her husband automatically by marriage, would then be dropped.

b) Another urgent problem is that regarding naturalization of young foreigners who have been living in our country since birth or have at least spent most of their youth in Switzerland. It is in the interest of the State that these young foreigners who have become part of our public life and who have alienated themselves from their countries of origin, should be naturalized more easily and thus become fully integrated into our society. For this reason, too, Article 44 should be altered by empowering the federal legislator to facilitate such naturalization. The fact that a good quarter of a million of these young foreigners live in Switzerland and will remain here shows plainly the importance of this proposal. At the same time, too, the way to obtain Swiss citizenship should be made easier for the refugees and stateless persons who have been received into our country. This has been recommended by international agreements ratified by Switzerland. With such proposed changes which would include these types of naturalization, the Federal Council would complete its task which has been assigned to it in the form of several parliamentary resolutions.

4. In order to realize this innovation, Article 44 should read as follows:

«1 The Confederation regulates acquisition and loss of citizenship rights by marriage, origin or adoption, as well as loss and re-acquisition of Swiss citizenship.

2 The Cantons are responsible for naturalization. The Confederation sets up the basic

principles governing naturalization of foreigners and may prescribe facilitating methods for young foreigners who have grown up in Switzerland, as well as for refugees and stateless persons.»

Paragraph 1 also empowers the federal legislator to regulate the acquisition of citizenship for the children of Swiss parents or of one Swiss parent. The text of this constitutional change is being discussed with the Cantons. Subsequently, a proposal will be worked out and submitted to you in the course of 1981 as scheduled.

5. The Federal Council is well aware that Swiss women abroad are specially concerned in the matter of passing on Swiss citizenship to their children. But as stated, other aspects of Swiss citizenship are equally important and in the interest of the State. Clearly, if only one aspect of the whole question is treated, all others could be delayed for years. We cannot imagine that one change after another of the same Article could reasonably be proposed within a short time without any compelling reasons. A second proposal would mean a cancellation

of the first and an inclusion of it in the second draft. This would hardly be justified in view of the high costs involved and the overloaded voting calendar. In addition, there is a close connexion between passing on citizenship by the mother to her children on one hand and an automatic acquisition of Swiss citizenship by a foreign woman through marriage on the other, so that separate treatment would not be logical.

6. After this general statement, a few remarks regarding the Commission's report and recommendation:

a) According to the proposed constitutional text, a child will acquire Swiss citizenship automatically if father and mother are Swiss, also if they live abroad and are no longer tied to Switzerland, or if the mother has become Swiss purely through marriage. If only one parent has Swiss citizenship, federal legislation shall define the prerequisites necessary to prove the parents' ties with Switzerland. We, however, prefer it if the federal legislator is authorized in general to regulate

acquisition of citizenship by origin. The legislator would then have the possibility of making the same provisions for every child born abroad, whether both parents or only one have Swiss citizenship, as for the acquisition of Swiss citizenship through origin.

b) Whilst there is specific mention in the constitutional text that concerns Swiss parents or one Swiss parent only, the report (Nr. 33, par. 4) states that children of wives who lost Swiss citizenship through marriage, shall be able to acquire it. Whether this demand is justified and corresponds to a real need has still to be clarified.

7. *Proposal*

For the reasons given above, the Federal Council proposes to postpone the parliamentary Initiative until we are able to submit our proposals in the course of 1981. All the facts will then be known, and it will be possible to come to a decision whether a separate solution as proposed by the Commission is justified and should be treated on its own.

Press release by the Organisation of the Swiss Abroad

At their ordinary meeting in Berne on 7th March 1981, the delegates of the Nouvelle Société Helvétique's Commission of Swiss Residents Abroad were informed of the statement by the Federal Council regarding the parliamentary Initiative on Swiss citizenship of children of Swiss mothers and foreign fathers.

Delegates showed themselves satisfied that the Federal Council welcomed the Initiative and basically agreed with it.

It was regretted, however, that further treatment of it should be postponed in order to combine it with the general revision of citizenship laws. On the other hand, the Commission was gratified to learn that the Federal Council would submit its proposals for constitutional changes on citizenship to the two Chambers in the course of 1981. This meant that the Initiative had reached its purpose as far as the time factor was concerned.

The Commission of Swiss Residents Abroad was of opinion, however, that no further delay should occur. Its members expected that the Initiative's chances of success should not be jeopardized by coupling it with the revision of other points, and that the alteration of the law would be expedited together with the constitutional proposals.

The Commission of Swiss Residents Abroad expressed grateful thanks to the Federal Council as well as to the Parliamentary Commission for their positive consideration.

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J. Gaugler

All future decisions relevant to this campaign will also be recorded in this newspaper.