

Zeitschrift: Swiss review : the magazine for the Swiss abroad
Herausgeber: Organisation of the Swiss Abroad
Band: 11 (1984)
Heft: 3

Rubrik: Official communications

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Acquisition of property by people resident abroad

What changes in the new law?

In the federal plebiscite of 20th May 1984, the electorate rejected the «Initiative against the sell out of the homeland» launched by the National Action Party. Therefore, the new federal law regarding «acquisition of real estate by persons resident abroad» which was passed by Parliament at the end of 1983, will automatically come into force on 1st January 1985. Are the Swiss abroad affected by the new regulations? In order to find out, the Service for the Swiss Abroad enquired from Dr iur. Elmar Reize, Head of the «Section acquisition of real estate by persons abroad» of the Federal Office of Justice.

What are the main changes in the law?

E. R.: Generally, stricter measures are applied in the new regulations. The permits issued for holiday flats and units in «apparthotels» will be limited. Compared with the boom years – in 1980, for example, 5242 permits were issued to foreigners – the quotas are low; at the beginning, some 2000 will be issued each 1985 and 1986. These legally fixed figures are the upper limit. The Federal Council is obliged to gradually lowering these figures. It is important that sales among foreigners are also subject to permit and thus fall within the fixed quota, even though the actual amount of property in foreign hands does not increase. Experience has induced the legislator to define exactly the

term «appartment» in the new regulations. Accordingly, the hotel facilities and residential units must be to at least 51% in the hands of the Swiss owner of the establishment. Furthermore, foreigners may no longer have a share in *property companies*. In this, the law goes even further than the Initiative which wanted foreign participation up to 25% only.

Finally, the new regulations mean more *responsibility for the Cantons and Communes*, or in other words, more democracy. The cantonal legislators decide whether foreigners may purchase flats at all. In addition, individual Communes may limit purchases or even prohibit. In this way, the affected citizen have a say in the matter and the right of self-determination.

Do the Swiss living abroad now come within the law under the new regulations?

E. R.: Under the new law, the people affected are persons abroad who do not have the right to reside in Switzerland. Since Swiss resident abroad can settle in Switzerland without any restrictions, they do not need a permit for acquiring property. Provided that the property is entirely for their own personal use, or is meant as a capital investment. What is important is that the purchase is made with their own capital. To acquire property on a trust basis for a foreigner is definitely against the law.

Will the property registrar demand proof of identity of a Swiss abroad?

E. R.: As we have seen, the Swiss abroad is not formally subject to permit. The property registrar will want to see a Swiss passport or other identity paper in order to ascertain that the applicant is Swiss. Should there be any doubts whether he makes the purchase on his own behalf or possibly for a foreign national, proof of how the deal is financed will be required. The Federal Office of Justice will issue instructions to the local property registrars in due course. These will include advice when an applicant Swiss abroad is to be referred to the cantonal authorities. They will then decide whether the purchase is subject to permit or not. Doubtful cases are extraordinary capital investments and finance measures (such as bearer mortgage notes) or acquisition through a company (legal person).

Will a legal person registered abroad be subject to permit even if a Swiss abroad has the exclusive power of disposition?

E. R.: As soon as a Swiss abroad intends to acquire property through a company, regardless of where its domicile is, the question will be studied whether a permit is required. If the authorities can establish that the company is registered in Switzerland and is not controlled by foreigners, the property can be acquired without a permit. If the company is registered abroad, any purchase of property is subject to permit; if, however, the company is purely a property company, no permit will be issued. Whether the Swiss

abroad has the sole right of disposal or not, is immaterial in this case. The reason for this regulation is clear. It may be the case that the company is controlled by a Swiss at the moment of acquisition. But later the power of disposition could easily be passed on to a foreigner, in which case the Swiss authorities would not be in a position to effect the necessary control.

How does the permit application procedure work?

E. R.: The property registrar, if in doubt, will submit the case to the cantonal permit authorities. The Federal Office of Justice can appeal against the decision of the cantonal authorities, either regarding a permit issued or one not granted. The cantonal appeal authorities will deal with the case, and their findings can go up to the Federal Tribunal.

Does the law provide for any sanctions in case it has been proved that the law has been broken?

E. R.: If a well-founded suspicion regarding a dubious purchase is established, the case is referred to the cantonal permit authorities. If the suspicion is justified, the permit will be withdrawn. If the refusal has final and binding effect, the following measures are available to remedy the position: *Public auction of the property*, which would re-establish the legal position, or a *demand to dissolve the company*. The assets will go to the Commune if the company was founded purely in order to circumvent the law. In any case, the owner loses his invested money. In addition, the law provides for fines up to 100 000 Francs or imprisonment. The scale of the new fines is in proportion to the amount of capital usually involved.

AHV/IV: Wives of Swiss abroad who are insured compulsorily

A federal law of 7th October 1983 enables Swiss women who are or were married abroad to a Swiss citizen, or a foreigner, or a stateless person compulsorily insured under the AHV/IV, to join the voluntary Swiss old-age pension for Swiss abroad subsequently and retrospectively. These women who are not insured through their husbands, **may now join up to the 31st December 1985**. The Federal Office of Social Insurance has issued a leaflet which contains all the necessary information. It is available at all the compensation offices in Switzerland and at all the Embassies and Consulates abroad.

Important notice: The wives of persons abroad insured under the AHV/IV who applied to join the voluntary AHV for Swiss abroad before 1st January 1984 have not been accepted with retrospective effect. These must apply anew before 31st December 1985 in order to be covered.

Federal Plebiscites

On **2nd December 1984**, the Swiss electorate will have to decide in three matters in a federal plebiscite:

- Initiative on motherhood protection
- Counter proposal to the «Beobachter» Initiative
- Radio and Television Article

The editors of the «Beobachter» have withdrawn their Initiative launched in 1980, regarding «compensation for the victims of violent crimes» («Beobachter Initiative») in favour of counter proposals. They consider of great importance that not only the originally proposed deliberate attacks on body and life are included, but also manslaughter.

The Federal Council has announced the following dates for federal plebiscites in **1985**:

10th March
9th June
22nd September
1st December



Schweiz **Dauermarken (Volksbräuche)**
Suisse **Timbres ordinaires (Coutumes populaires)**
Svizzera **Francobolli ordinari (Tradizioni popolari)**

Ausgabetag
Jour d'émission
Giorno d'emissione
11 9 1984



Chesslete,
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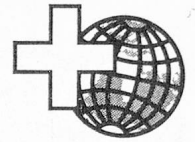
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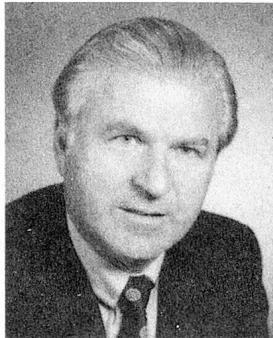
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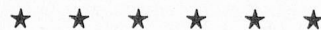
Information from the Solidarity Fund of the Swiss Abroad



The new President of the Solidarity Fund

Dr Hans J. Halbheer, Director of the Swiss Credit Bank in Zurich, was elected President of the Solidarity Fund at its Annual General Meeting in Basle on 12th May. He is the successor to Mr Alfred Matter, a lawyer from Kuesnacht, who has been on the Coun-

cil of the Fund for 16 years and its President for 7. Dr Halbheer was Director of the Secretariat of the Swiss Abroad (NHG) from 1958 to 1964 and the first Manager of the Solidarity Fund after its foundation.



Letter from London

The third «Goldvreneli» or how to express attachment to the Solidarity Fund of Swiss Abroad

Six months already since this year's Assembly of Swiss Abroad in Basle. At that time, we heard a lot about the important part played by the Swiss living outside Switzerland in the field of exports which is so vital for our homeland. Something which got little mention was the special sense of affinity amongst Swiss abroad which is demonstrated vividly in the Solidarity Fund.

This particular fellowship was expressed symbolically when the Fund was created and the then President of the New Helvetic Society in London presented a «Goldvreneli» on the Forch near Zurich. With that act the foundation stone was laid for the beneficial activities of the Fund.

Five years ago, at Einsiedeln, I was entrusted with handing over a second «Goldvreneli» spontaneously given by a Swiss woman living in Switzerland, and now a third precious gold coin has been donated as a symbolic gesture of solidarity by a member of the Fund, who wants to remain anonymous.

This is what makes me appeal to all those who know very well that the Solidarity Fund is an unique insurance in politically unstable times, but who have delayed taking the step which would testify to their own solidarity with their compatriots abroad.

Why not do something immediately? It is so simple to join the Fund by making a single or annual deposits which will give you security in times of need and, at the same time, will provide a useful nest-egg in Switzerland.

The impulsive gift of the three «Goldvreneli» symbolize superbly the idea of solidarity amongst the Swiss abroad. Surely you want to be part of it?

With all good wishes
Yours sincerely
Mariann Meier, London

Authentic extract from a letter written by a member of the Fund on 19th March 1984 to the Office of the Fund in Berne. **In a few words it says a lot:**

«We thank you for the protection you have provided for us during the past few years. Luckily for us (and for you!) we have not needed to accept any benefits. During the troubled times in Sri Lanka last July we became very conscious of the value of such an insurance. We should like to recommend it therefore to all Swiss emigrants...»

Sonderpostmarke Timbre-poste spécial II/1984 Francobollo speciale

Ausgabetag
Jour d'émission 11 9 1984
Giorno d'emissione



Brandverhütung
Prévention des incendies
Prevenzione degli incendi

Are you 50 this year?

You can join the voluntary AVS/AI not later than one year after your 50th birthday. This is **your last chance!** For further information please write to your Swiss representation.