

# Nationality Act

of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as last amended by Article 2 of the Act to Implement Residence- and Asylum-Related Directives of the European Union and to Adapt National Legal Provisions to the EU Visa Code of 22 November 2011 (Federal Law Gazette I p. 2258)

## Section 1

### [Definition of a German]<sup>1</sup>

A German within the meaning of this Act is a person who possesses German citizenship.

## Section 2

*(Repealed)*

## Section 3

### [Acquisition of citizenship]

(1) Citizenship is acquired

1. by birth (Section 4),
2. by a declaration pursuant to Section 5,
3. by adoption as a child (Section 6),
4. by issuance of the certificate pursuant to Section 15, sub-section 1 or 2 of the Federal Expellees Act (Section 7),
- 4a. for Germans without German citizenship within the meaning of Article 116, paragraph 1 of the Basic Law, under the procedure laid down in Section 40a below (Section 40a),
5. for a foreigner by naturalization (Sections 8 to 16, 40b and 40c).

---

<sup>1</sup> Titles in square brackets are not official titles.

(2) German citizenship shall also be acquired by any person who has been treated by German public authorities as a German national for 12 years and this has been due to circumstances beyond his or her control. In particular, any person who has been issued a certificate of nationality, a passport or a national identity card shall be treated as a German national. Acquisition of citizenship shall apply as of the date when the person was deemed to have acquired German citizenship by treating him or her as a German national. The acquisition of German citizenship shall extend to those descendants who derive their status as Germans from the beneficiary pursuant to sentence 1.

#### **Section 4**

##### **[Acquisition by birth]**

(1) A child shall acquire German citizenship by birth if one parent possesses German citizenship. Where at the time of the birth only the father is a German national, and where for proof of descent under German law recognition or determination of paternity is necessary, acquisition shall be dependent on recognition or determination of paternity with legal effect under German law; the declaration of recognition must be submitted or the procedure for determination must have commenced before the child reaches the age of 23.

(2) A child which is found on German territory (foundling) shall be deemed to be the child of a German until otherwise proven.

(3) A child of foreign parents shall acquire German citizenship by birth in Germany if one parent

1. has been legally ordinarily resident in Germany for eight years and
2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons (Federal Law Gazette 2001 II p. 810).

The acquisition of German citizenship shall be recorded by the registrar responsible for certifying the child's birth. The Federal Ministry of the Interior shall, with the consent of the *Bundesrat*, be authorized to issue regulations concerning the

procedure for recording the acquisition of citizenship pursuant to sentence 1 by way of ordinance.

(4) German citizenship shall not be acquired pursuant to sub-section 1 in case of birth abroad if the German parent was born abroad after 31 December 1999 and is ordinarily resident abroad, unless the child would otherwise become stateless. The legal consequence pursuant to sentence 1 shall not ensue if within a year after the child's birth an application for certification of the birth pursuant to Section 36 of the Civil Status Act is filed; to observe this deadline it shall be sufficient if the application is received within the above deadline by the competent diplomatic mission. Where both parents are German nationals, the legal consequences pursuant to sentence 1 shall ensue only if they both fulfill the conditions stipulated therein.

## **Section 5**

### **[Right of declaration for children born before 1 July 1993]**

By declaring a wish to become a German national, a child born before 1 July 1993 of a German father and a foreign mother shall acquire German citizenship if

1. paternity has been recognised or determined with legal effect under German law,
2. the child has been legally ordinarily resident in the federal territory for three years and
3. the declaration is submitted prior to the child's 23<sup>rd</sup> birthday.

## **Section 6**

### **[Acquisition by adoption as a child]**

A child who is below eighteen years of age at the time of application for adoption shall acquire citizenship as a result of valid adoption by a German under German law. The acquisition of citizenship shall extend to the child's descendants.

## **Section 7**

### **[Acquisition by issuance of the certificate pursuant to Section 15, sub-section 1 or 2 of the Federal Expellees Act]**

Repatriates of German ancestry and their family members included in the admission notice shall acquire the German citizenship when they are issued a repatriates certificate in accordance with Section 15, sub-section 1 or 2 of the Federal Expellees Act.

## **Section 8**

### **[Discretionary naturalization]**

(1) A foreigner who is legally ordinarily resident in Germany may be naturalized upon application provided that he or she

1. possesses legal capacity pursuant to Section 80, sub-section 1 of the Residence Act or has a legal representative,
2. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention due to a lack of criminal capacity,
3. has found a dwelling of his or her own or accommodation and
4. is able to support himself or herself and his or her dependents.

(2) The requirements stipulated in sub-section 1, sentence 1, nos. 2 and 4 may be waived on grounds of public interest or in order to avoid special hardship.

## **Section 9**

### **[Naturalization of spouses or life partners of Germans]**

(1) Spouses or life partners of Germans should be naturalized in keeping with the requirements set out in Section 8, if

1. they lose or give up their previous citizenship or a ground exists for accepting multiple nationality pursuant to Section 12 and
2. it is ensured that they will conform to the German way of life,

unless they do not have sufficient command of the German language (Section 10 sub-section 1, sentence 1, no. 6 and sub-section 4) and do not fulfill any condition that would justify an exception under Section 10, sub-section 6.

(2) The provision pursuant to sub-section 1 shall also apply if naturalization is applied for within one year of the German spouse's death or of a ruling dissolving the marriage becoming final and the applicant is entitled to custody of a child issuing from the marriage who already possesses German citizenship.

(3) (repealed)

**Section 10**  
**[Entitlement to naturalization;**  
**derivative naturalization of spouses and minor children]**

(1) A foreigner who has been legally ordinarily resident in Germany for eight years and possesses legal capacity pursuant to Section 80 of the Residence Act or has a legal representative shall be naturalized upon application if he or she

1. confirms his or her commitment to the free democratic constitutional system enshrined in the Basic Law of the Federal Republic of Germany and declares that he or she does not pursue or support and has never pursued or supported any activities
  - a) aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a *Land* or
  - b) aimed at illegally impeding the constitutional bodies of the Federation or a *Land* or the members of said bodies in discharging their duties or
  - c) any activities which jeopardize foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence,or credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities,
2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European

Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons or possesses a residence permit for purposes other than those specified in Sections 16, 17, 20, 22, 23, sub-section 1, Section 23a, 24 and Section 25, sub-sections 3 to 5 of the Residence Act.

3. is able to ensure his or her own subsistence and the subsistence of his or her dependents without recourse to benefits in accordance with Book Two or Book Twelve of the Social Code or recourse to such benefits is due to conditions beyond his or her control,
4. gives up or loses his or her previous citizenship,
5. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention due to a lack of criminal capacity,
6. possesses an adequate knowledge of German and
7. possesses knowledge of the legal system, society and living conditions in Germany.

The conditions under sentence 1, numbers 1 and 7 do not apply to foreigners who do not have legal capacity pursuant to Section 80, sub-section 1 of the Residence Act.

(2) The foreigner's spouse and minor children may be naturalized together with the foreigner in accordance with sub-section (1), irrespective of whether they have been lawfully resident in Germany for eight years.

(3) Upon a foreigner confirming successful attendance of an integration course by presenting a certificate issued by the Federal Office for Migration and Refugees (BMAF), the qualifying period stipulated in sub-section 1 shall be reduced to seven years. This qualifying period may be reduced to six years if the foreigner has made outstanding efforts at integration exceeding the requirements under sub-section 1, sentence 1, no. 6, especially if he or she can demonstrate his or her command of the German language.

(4) The conditions specified in sub-section 1, sentence 1, no. 6 are fulfilled if the foreigner passes the oral and written language examinations leading to the *Zertifikat Deutsch* (equivalent of level B 1 in the Common European Framework of Reference for Languages). Where a minor child is under 16 years of age at the time of

naturalization the conditions of sub-section 1, sentence 1, no. 6 shall be fulfilled if the child demonstrates age-appropriate language skills.

(5) As a rule, the conditions specified in sub-section 1, sentence 1, no. 7 shall be fulfilled if the foreigner has passed the naturalization test. To prepare for the test, foreigners may participate in voluntary integration courses.

(6) The requirements of sub-section 1, sentence 1, nos. 6 and 7 shall be waived if the foreigner is unable to fulfill them on account of a physical, mental or psychological illness or disability or on account of his or her age.

(7) The Federal Ministry of the Interior shall be authorized, without the need for approval by the *Bundesrat*, to issue ordinances defining the test and certification requirements as well as the basic structure and contents of the naturalization courses under sub-section 5, based on the contents of the orientation course under Section 43, sub-section 3, sentence 1 of the Residence Act.

## **Section 11**

### **[Grounds for exclusion]**

Naturalization shall not be allowed

1. if there are concrete, justifiable grounds to assume that the foreigner is pursuing or supporting or has pursued or supported activities aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a *Land* or at illegally impeding the constitutional bodies of the Federation or a *Land* or the members of said bodies in discharging their duties or any activities which jeopardize foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, unless he or she credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities, or
2. if a ground for expulsion applies pursuant to Section 54, nos. 5 and 5a of the Residence Act.

Sentence 1, no. 2 shall apply *mutatis mutandis* for foreigners within the meaning of Section 1, sub-section 2 of the Residence Act and also for nationals of Switzerland and their family members possessing a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member

States on the one hand and the Swiss Confederation on the other hand on the free movement of persons.

## **Section 12**

### **[Naturalization accepting multiple nationality]**

(1) The condition stipulated in Section 10, sub-section 1, sentence 1, no. 4 shall be waived if the foreigner is unable to give up his or her previous citizenship, or if doing so would entail particularly difficult conditions. This is to be assumed if

1. the law of the foreign state makes no provision for giving up its citizenship,
2. the foreign state regularly refuses to grant release from citizenship,
3. the foreign state has refused to grant release from citizenship for reasons for which the foreigner is not responsible, or attaches unreasonable conditions to release from citizenship or has failed to reach a decision within a reasonable time on the application for release from citizenship which has been submitted in due and complete form,
4. the subsequent multiple nationality represents the sole obstacle to the naturalization of older persons, the process for release from citizenship entails unreasonable difficulties and failure to grant naturalization would constitute special hardship,
5. in giving up his or her foreign citizenship the foreigner would incur substantial disadvantages beyond the loss of his or her civic rights, in particular such disadvantages of an economic or property-related nature, or
6. the foreigner holds a travel document in accordance with Article 28 of the Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).

(2) The condition stipulated in Section 10, sub-section 1, sentence 1, no. 4 shall further be waived if the foreigner holds the citizenship of another member state of the European Union or Switzerland.

(3) Further exemptions from the condition stipulated in Section 10, sub-section 1, sentence 1, no. 4 may be granted pursuant to the provisions of agreements under international law.

**Section 12a**  
**[Decision in case of conviction for an offence]**

(1) The following shall not be taken into consideration in the process of naturalization:

1. the imposition of educational or disciplinary measures under the Juvenile Court Act,
2. sentencing to fines of up to 90 daily rates and
3. the imposition of suspended sentences of up to three months' imprisonment which are waived after expiry of the probationary period.

Where more than one term of imprisonment or more than one fine have been imposed pursuant to sentence 1, nos. 2 and 3, they shall be cumulated, unless the court imposes a lower aggregate punishment; where a fine and imprisonment are imposed simultaneously, one daily rate equals one day's imprisonment. If the punishment or the total of all punishments slightly exceeds the framework under sentences 1 and 2, it shall be decided on the merits of the individual case whether it can be disregarded. Where a measure of reform and prevention under Section 61, no. 5 or no. 6 of the Criminal Code has been imposed, it shall be decided on the merits of the individual case whether this measure of reform and prevention can be disregarded.

(2) Foreign convictions shall be considered if the offence concerned is to be regarded as liable to prosecution in Germany, the sentence has been passed in proceedings conducted in accordance with the rule of law and the sentence is commensurate. Such a conviction cannot be considered if its removal from the records would be required in accordance with the Federal Central Criminal Register Act. Sub-section 1 shall apply *mutatis mutandis*.

(3) If a foreigner who has applied for naturalization is under investigation on suspicion of having committed an offence, the decision on naturalization shall be deferred until conclusion of the proceedings, and in the case of conviction until the judgment becomes unappealable. The same shall apply if the imposition of youth custody is suspended pursuant to Section 27 of the Juvenile Court Act.

(4) Convictions abroad and criminal investigations and proceedings which are pending abroad shall be stated in the application for naturalization.

### **Section 12b**

#### **[Interruptions of residence]**

(1) Ordinary residence in Germany shall not be considered interrupted by stays abroad of up to six months in duration. In case of longer stays abroad, ordinary residence in Germany shall be considered to continue if the foreigner re-enters the federal territory within the deadline stipulated by the foreigners authority. The same shall apply if the deadline is exceeded solely on account of the foreigner carrying out statutory military service in his or her country of origin and the foreigner re-enters the federal territory within three months of discharge from military or community service.

(2) If the foreigner has resided abroad for over six months for a reason of a non-temporary nature, the previous period of residence in Germany may be counted towards the duration of residence which is necessary for the purposes of naturalization, up to a period of five years.

(3) Interruptions in the lawfulness of residence shall be disregarded if they arise as a result of the foreigner having failed to apply in good time for initial issuance or subsequent extension of the residence title.

### **Section 13**

#### **[Discretionary naturalization of former Germans abroad]**

A former German and his or her minor children who are ordinarily resident abroad may be naturalized on application if they meet the requirements of Section 8, sub-section 1, nos. 1 and 2.

### **Section 14**

#### **[General discretionary naturalization abroad]**

A foreigner who is ordinarily resident abroad may be naturalized subject to the other conditions of Sections 8 and 9 if ties with Germany exist which justify naturalization.

## **Section 15**

*(Repealed)*

## **Section 16**

### **[Certificate of naturalization]**

Naturalization shall become effective upon delivery of the certificate of naturalization issued by the competent administrative authority. Before the certificate is handed over to the foreigner he or she shall make the following solemn statement: "I solemnly declare that I will respect and observe the Basic Law and the laws of the Federal Republic of Germany, and that I will refrain from any activity which might cause it harm." Section 10, sub-section 1, sentence 2 shall apply *mutatis mutandis*.

## **Section 17**

### **[Loss of citizenship]**

(1) Citizenship shall be lost

1. by release from citizenship (Sections 18 to 24),
2. by acquisition of a foreign citizenship (Section 25),
3. by renunciation (Section 26),
4. by adoption by a foreigner (Section 27),
5. by joining the armed forces or a comparable armed organization of a foreign state (Section 28) or
6. by a declaration (Section 29) or
7. by revocation of an unlawful administrative act (Section 35),

(2) Loss of citizenship pursuant to sub-section 1 no. 7 does not affect German citizenship of third persons obtained by law, if they have reached the age of five.

(3) Sub-section 2 shall apply, *mutatis mutandis*, to decisions pursuant to other acts which would result in the retroactive loss of German citizenship of third persons, in

particular in the case of withdrawal of a settlement permit under Section 51, sub-section 1, no. 3 of the Residence Act, in the case of withdrawal of a certificate under Section 15 of the Federal Expellees Act and where non-existence of paternity is determined under Section 1599 of the Civil Code. The first sentence shall not apply if paternity is contested pursuant to Section 1600, sub-section 1, no. 5 and sub-section 3 of the Civil Code.

## **Section 18**

### **[Release from citizenship]**

A German shall, on application, be released from citizenship if he or she has applied for a foreign citizenship and the competent body has furnished an assurance that such citizenship will be granted.

## **Section 19**

### **[Release from citizenship of a person in parental custody or in the care of a guardian]**

(1) Application for the release from citizenship of a person in parental custody or in the care of a guardian may be filed by the legal representative only and shall require approval from the German family court.

(2) The approval of the family court shall not be required where the father or mother applies for release from citizenship for himself or herself and for a child at the same time by virtue of the right of custody and the applicant is entitled to custody for the child concerned.

## **Section 20**

*(Repealed)*

## **Section 21**

*(Repealed)*

**Section 22**  
**[Refusal of release from citizenship]**

Release from citizenship must not be granted to:

1. Civil servants, judges, Federal Armed Forces soldiers and other persons employed in a service or official capacity under public law, for as long as they remain employed in said service or official capacity, with the exception of persons employed in an honorary capacity.
2. Persons liable for military service, until it is confirmed by the Federal Ministry of Defence or a body designated by the said Ministry that no reservations exist regarding release from citizenship.

**Section 23**  
**[Certificate of release]**

Release from citizenship shall become effective upon delivery of the certificate of release from citizenship issued by the competent administrative authority.

**Section 24**  
**[Invalidity of release from citizenship]**

The release from citizenship shall be deemed to be null and void if the released person fails to acquire the foreign citizenship of which he or she was assured within one year of issuance of the certificate of release.

**Section 25**  
**[Loss of citizenship on acquisition of a foreign citizenship following due application for the same; approval of retention of citizenship]**

(1) A German shall lose his or her citizenship upon acquiring a foreign citizenship where such acquisition results from an application filed by the German concerned or his or her legal representative, whereas the represented person shall suffer such loss only if the qualifying conditions for application for release from citizenship apply as stipulated in Section 19. The loss under sentence 1 shall not take effect if a German acquires the citizenship of another member state of the European Union, Switzerland or of a state with which the Federal Republic of Germany has signed a treaty under Section 12, sub-section 3.

(2) Citizenship shall not be lost by any person who, prior to acquiring foreign citizenship following their application for the same, received written approval from their competent authority for retention of their citizenship. Where an applicant is ordinarily resident abroad, the German diplomatic mission abroad shall be consulted in this connection. The public and private interests shall be weighed up in reaching the decision on an application pursuant to sentence 1. With regard to an applicant who is ordinarily resident abroad, special consideration shall be accorded to the question of whether he or she is able to furnish credible evidence of continuing ties with Germany.

(3) (repealed)

## **Section 26**

### **[Renunciation]**

(1) A German may renounce his or her citizenship if he or she possesses several nationalities. Such a renunciation shall be declared in writing.

(2) The written renunciation shall require the approval of the authority which is competent pursuant to Section 23 for issuing the certificate of release. Such approval shall be withheld if release may not be granted pursuant to Section 22; this shall not apply, however, if the person renouncing citizenship

1. has been permanently resident abroad for at least ten years or
2. has performed military service in one of the states whose citizenship he holds as a person liable for military service within the meaning of Section 22, no. 2.

(3) The loss of citizenship shall take effect upon delivery of the certificate of renunciation issued by the approving authority.

(4) Section 19 shall apply *mutatis mutandis* for minors.

## **Section 27**

### **[Loss of citizenship on adoption by a foreigner]**

A German under the age of majority shall lose his or her citizenship as a result of adoption by a foreigner in accordance with German law, if he or she acquires the adopting person's citizenship by virtue of such adoption. The loss of citizenship shall extend to his or her descendants where the acquisition of citizenship by the adoptee pursuant to sentence 1 also extends to the descendants. The loss under sentence 1 or sentence 2 shall not take effect if the adoptee or his or her descendants maintain a legal relation to their German parent.

## **Section 28**

### **[Loss of citizenship as a result of joining the armed forces or a comparable armed organization of a foreign state]**

A German who, without the consent of the Federal Ministry of Defense or a body designated by the said Ministry, voluntarily enlists with the armed forces or a comparable armed organization of a foreign state whose citizenship he or she possesses, shall lose German citizenship. This shall not apply if he or she is entitled to enlist in the aforesaid manner by virtue of an inter-governmental agreement.

## **Section 29**

### **[Declaration]**

(1) After attaining the age of majority and after receiving due advice in accordance with sub-section 5, a German who, after 31 December 1999, has acquired citizenship pursuant to Section 4, sub-section 3 or via naturalization pursuant to Section 40b and possesses a foreign citizenship shall declare whether he or she wishes to retain the German or foreign citizenship. The declaration shall be submitted in writing.

(2) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain the foreign citizenship, German citizenship shall be lost upon the declaration being received by the competent authority. Citizenship shall also be lost if no declaration has been made by the time the person concerned reaches the age of 23.

(3) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain German citizenship, he or she shall be obliged to furnish proof that he

or she has given up or lost the foreign citizenship. German citizenship shall be lost if no such proof is furnished by the 23<sup>rd</sup> birthday of the person concerned, unless the German has previously applied for and received the written approval of the competent authority to retain German citizenship (retention approval). The application for retention approval, including as a precautionary measure, may only be filed up to the 21<sup>st</sup> birthday of the person concerned (preclusive period). The loss of German citizenship shall not take effect until the rejection of the application becomes legally valid. The possibility of provisional legal redress pursuant to Section 123 of the Code of Administrative Procedure shall remain unaffected.

(4) The retention approval pursuant to sub-section 3 shall be granted where renunciation or loss of the foreign citizenship is not possible or cannot reasonably be expected or where acceptance of multiple citizenship would be required in case of naturalization in accordance with Section 12.

(5) The competent authority shall advise the person required to furnish a declaration pursuant to sub-section 1 of his or her obligations and the possible legal consequences as set out in sub-sections 2 to 4. The said advice shall be formally served. Such service shall be effected immediately after the 18<sup>th</sup> birthday of the person who is required to furnish a declaration pursuant to sub-section 1. The provisions of the Act on Service in Administrative Procedure shall apply.

(6) The continuation or loss of German citizenship in accordance with this provision shall be determined ex officio. The Federal Ministry of the Interior may, by ordinance with the consent of the *Bundesrat*, issue provisions regulating the procedure to determine the continuation or loss of German citizenship.

## **Section 30**

### **[Establishment of German citizenship]**

(1) Possession or lack of German citizenship shall be established by the nationality authority upon application. The outcome of this assessment shall be binding in all matters for which possession or lack of German citizenship is of legal relevance. In the case of a public interest, possession of German citizenship or lack thereof may be established upon the competent authority's own motion.

(2) To establish possession of German citizenship it shall be required and sufficient to give reliable evidence that German citizenship was acquired and has not since been lost by furnishing documents, extracts from the citizens' registers

(*Melderegister*) or other written evidence. Section 3, sub-section 2 remains unaffected.

(3) Where possession of German citizenship has been established upon application, the nationality authority shall issue a certificate of nationality. Upon request, the nationality authority shall issue a certificate confirming non-possession of German citizenship.

### **§Section 31**

#### **[Personal data]**

Nationality authorities and diplomatic missions abroad may collect, store, modify and use personal data insofar as this is necessary to discharge their duties under this Act and in accordance with provisions relating to nationality contained in other acts. For the purpose of deciding on the citizenship of persons specified in Article 116, paragraph 2 of the Basic Law, such information may also be collected, stored or modified and used which relates to the political, racial or religious reasons due to which these persons were deprived of their German citizenship between 30 January 1933 and 8 May 1945.

### **Section 32**

#### **[Transmission of data to nationality authorities]**

(1) Public bodies shall transmit personal data to the bodies specified in Section 31 upon request, insofar as knowledge of these data is necessary to discharge the duties referred to in Section 31. Public bodies shall transmit these data to the competent nationality authority even without a request if the public body considers such transmission to be necessary for the nationality authority to decide on a pending application for naturalization or loss or non-acquisition of German citizenship. With regard to naturalization procedures, this refers particularly to data relating to the initiation and execution of criminal proceedings, proceedings for the collection of fines, and extradition procedures of which the foreigners authorities have obtained knowledge pursuant to section 87, sub-section 4 of the Residence Act. The data referred to in sentence 3 shall be transmitted without delay to the competent nationality authority.

(2) Personal data shall not be transferred pursuant to sub-section 1 if such transfer is precluded by special statutory regulations on the use of the said data.

### **Section 33**

#### **[Register of decisions relating to nationality law]**

(1) The Federal Office of Administration (registration authority) maintains a register of decisions relating to citizenship matters. The following shall be entered into the register:

1. decisions on certificates on nationality;
2. decisions on the statutory loss of German citizenship;
3. decisions on the acquisition, possession and loss of German citizenship made between 31 December 1960 and 28 August 2007.

(2) More specifically, the following items of information may be stored in the register:

1. the basic personal data of the person concerned (surname, surname at birth, former surnames, given names, date and place of birth, sex, the fact that under Section 29 German citizenship may be lost, as well as the postal address at the date of the decision);
2. the way in which, and the date when the decision or certificate or the loss of citizenship shall take effect;
3. name, postal address and file reference of the authority which made the decision.

(3) The nationality authorities shall be obliged to immediately transmit all personal data specified in sub-section 2 relating to decisions made under sub-section 1, sentence 2, nos. 1 and 2 after 28 August 2007 to the registration authority.

(4) The registration authority shall transmit the data referred to in sub-section 2 to the nationality authorities and diplomatic missions abroad upon their request insofar as knowledge of the data is necessary to discharge their duties relating to nationality law. The provisions of the Federal Data Protection Act shall apply to the transmission to other public bodies or for research purposes.

(5) The nationality authority shall transmit the data specified in sub-section 2 to the competent authority to which a person must report his/her current address or to the competent diplomatic mission abroad immediately after it has established that a

person has been naturalized, retains German citizenship or has lost, renounced or never acquired German citizenship.

### **Section 34**

#### **[Opting procedure]**

(1) With a view to implementing the opting procedure under Section 29, the authority to which a person must report his/her current address shall transmit by the tenth day of each calendar month the following personal data relating to persons who will reach 18 years of age in the following month and may lose German citizenship under Section 29 to the competent nationality authority:

1. name at birth,
2. family name
3. previous names,
4. first names
5. sex;
6. date and place of birth
7. current postal addresses,
8. the fact that under Section 29 the person may lose German citizenship.

(2) If a person referred to in sub-section 1 has moved to a foreign country, the competent authority to which the person must report his/her current address shall transfer the data specified in sub-section 1, the date when the person moved abroad and the new address abroad, if known, to the Federal Office of Administration within the period specified in sub-section 1. If a person immigrates from abroad, sentence 1 applies *mutatis mutandis*.

### **Section 35**

#### **[Withdrawal of an unlawful naturalization or permission to retain German citizenship]**

- (1) Any unlawful naturalization or permission to retain German citizenship may be withdrawn if the administrative act was obtained under false pretences, by threat or bribery or by providing incorrect or incomplete information which determined the issuance of this administrative act.
- (2) As a rule, subsequent statelessness of the person concerned shall not preclude such withdrawal.
- (3) Withdrawal is permissible only within five years after notification of the naturalization or permission to retain German citizenship.
- (4) The administrative act shall be withdrawn with retroactive effect.
- (5) If the withdrawal affects the lawfulness of administrative acts issued pursuant to this present Act with regard to third persons, a discretionary decision on the merits of the individual case shall be taken for every person affected. In particular, involvement of the third person concerned in committing fraud, threat or bribery or in deliberately providing incorrect or incomplete information on the one hand, and his or her legitimate interests on the other, shall be weighed in reaching the decision, also taking particular account of the welfare of the child.

### **Section 36**

#### **[Naturalization statistics]**

- (1) Annual naturalization surveys shall be conducted for the purposes of federal statistics, beginning in 2000 and relating in each case to the previous calendar year.
- (2) The surveys shall cover the following attributes for each naturalized person:
1. year of birth,
  2. sex;
  3. marital status,

4. place of residence at time of naturalization,
5. duration of residence in the federal territory in years,
6. legal basis for naturalization,
7. previous citizenships and
8. continuation of previous citizenships.

(3) Supplementary attributes covered in the survey shall be:

1. designations and addresses of those obliged to furnish information pursuant to sub-section 4,
2. names and telecommunication numbers of the persons available to answer queries and
3. registration number of the naturalized person at the naturalization authority.

(4) In respect of the surveys there shall be a duty to furnish information. This duty shall be incumbent on the naturalization authorities. The naturalization authorities shall furnish the information to the competent statistical offices of the *Länder* by 1 March each year. Provision of the information pertaining to sub-section 3, no. 2 shall be voluntary.

(5) Transmission of tables containing statistical results, including where a field in a table only shows a single case, may be effected by the Federal Statistical Office and by statistical offices of the *Länder* to the competent highest federal and *Land* authorities for use in dealings with the legislative bodies and for planning purposes, but not for measures pertaining to individual cases.

### **Section 37** **[Procedural provisions]**

(1) Section 80, sub-sections 1 and 3 and Section 82 of the Residence Act shall apply *mutatis mutandis*.

(2) The naturalization authorities shall transmit the personal data which they have stored on applicants aged 16 or over to the authorities for the protection of the

constitution for the purpose of investigating grounds for exclusion under Section 11. The authorities for the protection of the constitution shall notify the inquiring body forthwith in accordance with the applicable special statutory provisions on use of the said data.

## **Section 38**

### **[Fees]**

(1) In the absence of any statutory provision to the contrary, official acts in citizenship matters shall be subject to costs (fees and expenses).

(2) The fee for naturalization under this Act shall be 255 Euros. This fee shall be reduced to 51 Euros for a minor child which is naturalized at the same time and which has no independent income within the meaning of the Income Tax Act. No fee shall be payable for the acquisition of German citizenship pursuant to Section 5 and the naturalization of former Germans who have lost their German citizenship as a result of marrying a foreigner. Establishment of the possession or non-possession of the German citizenship under Section 29, sub-section 6 and Section 30, sub-section 1, sentence 3, as well as issuance of a retention approval under Section 29, sub-section 4 are free of charge. The fee stipulated in sentence 1 may be reduced or renounced on grounds of equity or public interest.

(3) The Federal Minister of the Interior shall be empowered to determine the additional circumstances in which fees shall be payable and to make provision in respect of the levels of fees and the reimbursement of expenses via statutory order with the approval of the *Bundesrat*. The fee shall not exceed 51 Euros for release from citizenship, 255 Euros for retention approval and 51 Euros for the certificate of citizenship and other forms of certification.

## **Section 38a**

### **[Ban on issuance of citizenship certificates in electronic form]**

It shall not be permissible to issue certification pertaining to citizenship matters in electronic form.

### **Section 39**

*(Repealed)*

### **Section 40**

*(Repealed)*

### **Section 40a**

#### **[Acquisition of German citizenship by Germans without German citizenship within the meaning of Article 116, paragraph 1 of the Basic Law]**

Any person who, on 1 August 1999, is a German within the meaning of Article 116, paragraph 1 of the Basic Law without possessing German citizenship shall acquire German citizenship on the said date. For a repatriate, his or her non-German spouse and his or her descendants within the meaning of Section 4 of the Federal Expellees Act, this shall apply only if they have been issued a certificate pursuant to Section 15, sub-section 1 or 2 of the Federal Expellees Act prior to the aforesaid date.

### **Section 40b**

#### **[Transitional provision for children up to the age of ten]**

A foreigner who is legally ordinarily resident in Germany on 1 January 2000 and is under ten years of age shall be naturalized upon application if the conditions pursuant to Section 4, sub-section 3, sentence 1 were met at the time of his or her birth and continue to be met. The application can be filed up to 31 December 2000.

### **Section 40c**

#### **[Transitional provision for persons applying for naturalization]**

Sections 8 to 14 and Section 40c as last amended before 28 August 2007 (Federal Law Gazette I, p. 1970) shall continue to apply to applications for naturalization filed before 30 March 2007, as far as these sections contain more lenient provisions.

## **Section 41**

### **[No possibility of deviation on the part of the *Länder*]**

*Land* law shall not deviate from the regulations of the administrative procedure set out in Sections 30 to 34 and Section 37, sub-section 2.

## **Section 42**

### **Penal provision**

Anyone who furnishes or uses incorrect or incomplete information concerning essential requirements for naturalization with a fraudulent intent to procure naturalization for themselves or any third person shall be punished with imprisonment of up to five years or a fine.

◆◆◆◆