

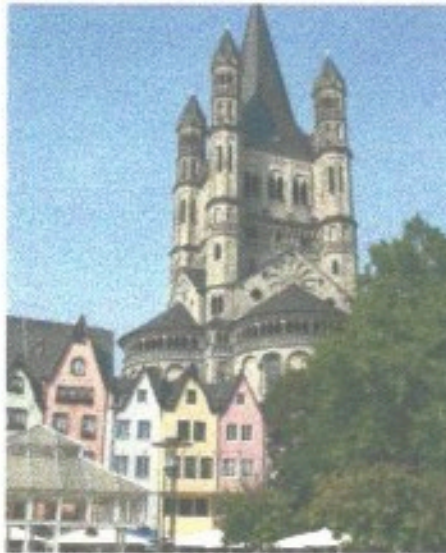
Germany: Dual Citizenship & Foreign Clients

by Ellen von Geysso

Lawyers who serve clients seeking to obtain citizenship in another country should be aware that naturalization may result in unintended consequences. Among those consequences is the possibility that a voluntary naturalization may result in the loss of a client's original citizenship.

Fortunately, under certain circumstances, a German citizen may avoid such a consequence by obtaining a *Beibehaltungsgenehmigung* (a "Retention Certificate"). More particularly, the *Staatsangehörigkeitsgesetz* (the "StAG" or "German Nationality Act"), as amended, provides that Germans may apply for permission to retain their citizenship before being naturalized under the laws of

Cologne, Germany



another country. However, should a German fail to have a Retention Certificate in hand before obtaining another citizenship, then he or she will automatically lose German citizenship.¹

Retention Certificates are issued by the Bundesverwaltungsamt (the "Federal Office of Administration") in Cologne,

Germany. To obtain one, a German national must file an application at the appropriate German Consulate. The Consulate will preview the application before submitting it to the Federal Office of Administration for final approval; the latter's decision with regard to each application is discretionary.

In the Retention Certificate application, the applicant must show: (a) that he or she continues to have such close ties to Germany that keeping German citizenship upon acceptance of foreign citizenship is justified; and (b) why acquisition of foreign citizenship (in his or her particular situation) is advantageous or why it avoids significant disadvantages.

Examples of acceptable specific benefits include training, study, employment, business relations

CONTINUED on pg.2 >>

GERMANY from pg.1 >>

or inheritance matters. In contrast, a general disadvantage, such as the lack of eligibility to vote, will not suffice. Moreover, the other state must allow dual citizenship.¹

Of course, dual nationality can occur as the result of a variety of circumstances. For example, one may automatically acquire another citizenship through birth or marriage. In such cases, it is not likely that German citizenship will be lost. Rather, the loss of citizenship occurs only when a German citizen becomes a U.S. citizen based upon application.

Fortunately, should one lose his or her original citizenship, some countries have put in place procedures to re-establish it. For example, § 13 of the German Nationality Act provides a facilitated process through which former citizens may seek re-

instatement. However, that procedure is only available if an applicant can demonstrate that he or she (a) would have been granted a Retention Certificate (had a timely application been made), and (b) maintains sufficient ties to Germany that still exist today. A reinstatement application must be made within 12 years of loss of German citizenship.

While this article uses a particular example of German citizenship law as an illustrative example, the analysis required and practical considerations facing naturalization applicants and their immigration counsel are relevant to any foreign client. Thus, prudence suggests that practitioners confirm whether dual nationality is permissible under local law. To that end, we recommend that practitioners consult with lawyers who are admitted to practice in the jurisdiction(s) giving rise to potential citizenship

questions. By engaging in such robust consultations, practitioners will be providing their clients with the efficient representation that they deserve.

Ellen von Geysto, JD, LL.M. is an attorney at Law in Miami, Florida, admitted to the practice of law in Germany and Florida. She can be reached at info@vongeysto.com or 305.3650325.

¹ Since 2007, there are exceptions to this rule when applying for citizenship of other European Countries or Switzerland.

² U.S. law recognizes the existence of dual nationality and permits Americans to have other nationalities; however, the U.S. Government also recognizes that problems may arise in such circumstances. Indeed, another country's claims upon a dual-national U.S. citizen may place him or her in situations where obligations to one country are in conflict with the laws of the other. In addition, dual nationality may hamper U.S. efforts to provide diplomatic and consular protection to its citizens who find themselves in other countries.