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Austria Joins Other European Countries in Offering Citizenship to the Persecuted Who Never Returned

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**By: Hayley Bronner*



Since September 1, 2020, Austrian survivors of Nazi persecution and their descendants have been able to gain Austrian citizenship, allowing Austria to join a handful of other European countries in inviting back the Jewish communities that they once mistreated. Austria was once home to thriving Jewish communities, but now only contains a fraction of its former Jewish population. In January of 1938, two months before Nazi Germany invaded Austria,[1] there were approximately 190,000 Jews in Austria's Jewish communities.[2] Only about 120,000 of these Austrian Jews survived the Holocaust,[3] and by December of 1945, eight months after Nazi Germany surrendered to the Allied Forces,[4] there were only about four thousand Jews in Austria.[5] Today, between nine thousand and fifteen thousand Jews reside there.[6]

In early fall of 2019, the Parliament of the Republic of Austria adopted an amendment to the Austrian Nationality Act.[7] The amendment allows former Austrian citizens and their descendants, who had been "forced to leave Austria before May 15, 1955, because they [feared]

or even suffered persecution by the [National Socialist German Worker's Party] or other authorities of the so-called 'Third Reich' or [those who feared] or suffered persecution because of defending the democratic Republic of Austria" to apply for Austrian citizenship.[8] "Descendants" are those in the direct line of the persecuted person, including children who had been adopted as minors. [9] Austria adopted the amendment "in recognition of its historical responsibility and as a further gesture in its efforts to achieve reconciliation with the victims of National Socialism and their descendants." [10] There is no exam required to gain citizenship, and there is no deadline by which people must apply.

With rising antisemitism across Europe,[11] as well as Austria's perceived reluctance to take responsibility for its role in the murder of six million Jews,[12] the timing of this amendment, which is coming into effect seventy-five years after the liberation of the Nazi concentration camps, seems unusual. For one, Austria did not formally admit its role in the Holocaust nor its citizens' support of Nazi Germany for forty-five years.[13] Thus, the invitation to Jews is somewhat surprising. Just days before the law was to go into effect, there was a violent anti-Semitic attack against the leader of the Jewish community of Graz,[14] which only has 150 Jewish residents. If the prediction of a Jewish influx to Austria comes to fruition,[15] there is concern that incidents like this may only become more common.

A number of countries reported a higher number of incidents of antisemitism in 2019 than in previous years,[16] with Austria itself citing a ten percent increase. [17] As such, it is hard to see how this new citizenship law may assist in reducing antisemitism. After the recent attack in Graz, the Austrian Chancellery decided that more must be done to address this global issue.[18] After a meeting with Elie Rosen, the Jewish community leader who had been attacked,[19] Chancellery Minister Karoline Edtstadler announced that a new staff unit will be formed in the Federal Chancellery in 2021 to combat antisemitism, along with a new reporting system to better communicate and document such incidents.[20] However, initiatives like these may not be enough to gain control of rising antisemitism because a sudden growth in the Jewish population of Austria may lead to increased hatred against new citizens who Austrians may see as intruding.

Although this law is new for Austria, the concept is not novel. Germany, Spain, and Portugal have similar laws to accommodate survivors of persecution and their descendants, although Spain and Portugal's laws reach back much farther than the twentieth century. Under Article 116 of the German Constitution, those who had their citizenship revoked between January 30, 1933, and May 8, 1945, for political, racist, or religious reasons may obtain citizenship, including descendants whose ancestors were stripped of German citizenship.[21] However, descendants cannot claim citizenship if their ancestor's citizenship was lost upon application for citizenship in another country. [22] Dual citizenship is permissible under this law, but typically Germany only allows it in certain other circumstances.[23] Still, obtaining citizenship has additional obstacles, such as a demonstration of "basic German language skills and basic knowledge of the legal and social order and the prevailing living standards in Germany." [24] This is less stringent than the requirements of other groups who seek German citizenship,[25] yet more rigorous than Austria's requirements, and many people have been frustrated with Germany's reluctance to expand the law and express compassion when reviewing the familial histories of applicants to allow for more people to be accepted in cases where their ancestors were undoubtedly persecuted.[26]

In 2015, Spain decided to correct its "historical mistake" of expelling Jews in 1492 by passing a law that opened opportunities for those with Sephardic heritage to apply for citizenship.[27] Spain set a deadline of three years to apply, and this was extended by a year to October of 2019. Those who applied did not need to be practicing Judaism, but the process was still "long, complicated and expensive" because applicants needed to take "tests in Spanish language and culture," as well as "prove their Sephardic heritage, establish or prove a special connection with Spain, and then pay a designated notary to certify their documents" personally in Spain.[28] Spain received many applications,[29] but it was still difficult to prove ancestry dating back over six hundred years and to prove a personal connection when one was not already spending significant time in Spain. Although the law allowed genealogical evidence or evidence of a connection to a Sephardic community to prove heritage,[30] traditions and knowledge are often lost over time. Of course, the Spanish language and culture knowledge requirements presented an obstacle for citizenship, making the process difficult,[31] but this path to citizenship is no longer available if preliminary documents were not submitted before October of 2019.[32] While many Jews were able to and still are gaining Spanish citizenship, future generations will not have this opportunity, unlike the descendants of Austrian Jews.

Portugal enacted a similar law to Spain's in 2015, but with a less demanding process. Those with Portuguese Sephardic heritage whose ancestors were persecuted between 1496 and 1821 can seek citizenship under the law.[33] While still an expensive process,[34] Sephardic

Portuguese origin may be proven by “surname, language, genealogy or family memory,”[35] and no personal connection is necessary. There are no exams, deadlines, or other requirements beyond sufficient proof of ancestry, at least for now,[36] making Portugal’s law most closely align with that of Austria. Both Spain and Portugal allow for dual citizenship under the laws, as both typically do for other citizens, with some exceptions in Spain.[37]

Unfortunately, the Portuguese law lead to heightened antisemitism in the country due to reasons that may consequently arise in Austria, especially considering the current state of antisemitism. It is estimated that since 2015, between three thousand and four thousand Jews moved to Portugal when previously there were merely six hundred.[38] Recent attempts by Portugal’s ruling party to limit the availability of citizenship under this law led to increased antisemitism, particularly on the Internet.[39] Jews have already applied for and received Austrian citizenship under the law,[40] even though it only came into effect quite recently. Given the state of antisemitism in the world, as well as the example of Portugal’s similarly inviting law, it is inevitable that many worry about the impact of Austria’s law on the country’s antisemitism issues, but there is no better solution concerning the law because survivors of Nazi persecution and their descendants deserve the opportunity to seamlessly regain an identity that was taken from them.

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[1] *Anschluss*, U. S. Holocaust Memorial Museum, <https://www.ushmm.org/collections/bibliography/anschluss> (last visited Sept. 17, 2020).

[2] *History of the Austrian Jewish Community*, Claims Conf., <http://www.claimscon.org/what-we-do/negotiations/austria/history-of-the-austrian-jewish-community/> (last visited Sept. 17, 2020).

[3] *Id.* (“65,500 Austrian Jews were murdered in the Holocaust, with 62,000 of them known by name, and more than 14,000 Jews were among the 85,000 inmates who died at Mauthausen”).

[4] *World War II in Europe*, U.S. Holocaust Memorial Museum: Holocaust Encyclopedia, <https://encyclopedia.ushmm.org/content/en/article/world-war-ii-in-europe-1> (last visited Sept. 17, 2020).

[5] *History of the Austrian Jewish Community*, *supra* note 2.

[6] *See Austria*, Inst. for Jewish Pol’y Res.: Jewish Eur., <https://jpr.org.uk/country?id=4> (last visited Sept. 7, 2020); *Austria*, World Jewish Congress: Communities, <https://www.worldjewishcongress.org/en/about/communities/AT> (last updated Apr. 2020).

[7] *Austria Extends Citizenship to Descendants of Victims of Nazi Persecution*, Austrian Embassy D.C., <https://www.austria.org/the-latest/2019/10/7/austrian-citizenship-descendants-victims-nazi-persecution> (last visited Sept. 17, 2020).

[8] *Id.*

[9] *Id.*

[10] *Citizenship for Victims of the National Socialist Regime and their Direct Descendants*, Consular Sec. of the Austrian Embassy in D.C., <https://www.bmeia.gv.at/en/consular-section-of-the-austrian-embassy-in-washington/service-for-citizens/citizenship-for-descendants-of-victims-of-national-socialism/> (last visited Sept. 7, 2020).

[11] Walter Reich, *Seventy-Five Years After Auschwitz, Anti-Semitism is on the Rise*, Atlantic (Jan. 27, 2020), <https://www.theatlantic.com/ideas/archive/2020/01/seventy-five-years-after-auschwitz-anti-semitism-is-on-the-rise/605452/> (explaining that “attacking Jews has once again become socially acceptable in many countries—across the left-right ideological spectrum, and among

different groups that blame Jews for their grievances and oppression”).

[12]Toby Axelrod, *New Rules Open Citizenship Door to Thousands of Jews Worldwide*, Jewish Telegraphic Agency(Sept. 1, 2020), <https://www.jta.org/2020/09/01/global/this-will-completely-change-jewish-life-in-austria-thousands-of-jews-around-the-world-expected-to-apply-for-austrian-citizenship-through-new-amendment> (noting that “[f]or decades after the Holocaust, successive Austrian governments adhered to a line that painted Austria as ‘the first victim’ of Nazism, ignoring the mobilization of its society and infrastructure of state for the Nazi war machine after German annexation”). *See also* Eric Rosand, *Confronting the Nazi Past at the End of the 20th Century: The Austrian Model*, 20 Berkeley J. Int’l L.202 (2002).

[13]Michael Z. Wise, *Austria Admits Role in Holocaust*, Wash. Post(July 10, 1991), <https://www.washingtonpost.com/archive/politics/1991/07/09/austria-admits-role-in-holocaust/a7485c1c-3a82-4558-852e-b222983a386a/>.

[14]*Man Arrested in Austria Over Anti-Semitic Attacks*, Times Isr. (Aug. 24, 2020), <https://www.timesofisrael.com/man-arrested-in-austria-over-string-of-anti-semitic-attacks/#gs.ft7rb6>.

[15]Toby Axelrod, *Thousands of Jews From Around the World Expected to Seek Austrian Citizenship*, Times Isr. (Sept. 2, 2020), <https://www.timesofisrael.com/thousands-of-jews-from-around-the-world-expected-to-seek-austrian-citizenship/#gs.gezere>.

[16]*February 2020: Review of Recent Antisemitic Incidents Worldwide*, World Jewish Congress: News(Mar. 6, 2020), <https://www.worldjewishcongress.org/en/news/february-2020-review-of-recent-antisemitic-incidents-worldwide-3-5-2020> (stating that Australia reported fifty-six percent more antisemitic incidents in 2019 than it had over the previous seven years, that the Netherlands and the United Kingdom reported a record high of antisemitic events in 2019, and that antisemitic incidents in Wisconsin alone increased by fifty-five percent from 2018 to 2019).

[17]Yossi Lempkowicz, *Number of Antisemitic Incidents Up Almost 10 Percent Last Year in Austria*, Eur. Jewish Press (May 29, 2020), <https://ejpress.org/number-of-antisemitic-incidents-up-almost-10-percent-last-year-in-austria/>.

[18]*See* Yossi Lempkowicz, *‘Antisemitism is Not Just a Jewish Problem. It’s a European and Global Issue,’ Says EU Commission Vice-President Schinas*, Eur. Jewish Press(Sept. 11, 2020), <https://ejpress.org/antisemitism-is-not-just-a-jewish-problem-its-a-european-and-global-issue-says-eu-commission-vice-president-schinas/>.

[19]Benjamin Weinthal, *Austrian Jewish Leader Violently Assaulted in Graz*, Jerusalem Post(Aug. 23, 2020), <https://www.jpost.com/diaspora/antisemitism/austrian-jewish-leader-violently-assaulted-in-graz-639599>.

[20]Ben Cohen, *Austrian Government Announces Plan to Combat Antisemitism Following Assault on Jewish Leader*, *Algemeiner*(Aug. 28, 2020), <https://www.algemeiner.com/2020/08/28/austrian-government-announces-plan-to-combat-antisemitism-following-assault-on-jewish-leader/>.

[21]*Restoration of German Citizenship*, German Missions U.S., <https://www.germany.info/us-en/service/03-Citizenship/restoration-of-german-citizenship/925120> (last visited Sept. 17, 2020) (clarifying that since May 2020, “descendants” include “children born in wedlock before 1 April 1953 to German mothers whose citizenship had been revoked and foreign fathers” and “children born out of wedlock before 1 July 1993 to German fathers whose citizenship had been revoked and foreign mothers”).

[22]*Id.* (“If you acquired a foreign citizenship . . . upon your application and lost your German citizenship, not as a result of politically motivated deprivation, you may be eligible nevertheless to re-obtain your former German citizenship, if you emigrated from Nazi Germany for political reasons and applied for naturalization in your new home country as a result of this situation (in this case this would not apply to descendants).”).

[23]*Loss of German Citizenship*, German Missions U.S., <https://www.germany.info/us-en/service/03-Citizenship/german-citizenship-loss/904670> (last visited Sept. 17, 2020).

[24]*Obtaining German Citizenship*, German Missions U.S., <https://www.germany.info/us-en/service/03-Citizenship/german-citizenship-obtain/919576> (last visited Sept. 17, 2020).

[25]*See id.*

[26]Charlotte Potts & Kate Brady, *Descendants of Nazi Victims Continue Fight for German Citizenship*, DW(Feb. 12, 2020), <https://www.dw.com/en/descendants-of-nazi-victims-continue-fight-for-german-citizenship/a-52295031>.

[27]*See* Dogan Akman, *Spain’s Correction of Her “Historical Mistake and Injustice”: Spanish Citizenship for the ‘Sefardies’: An Assessment*, 6 Sephardic Horizons(2016).

[28]Sam Jones, *132,000 Descendants of Expelled Jews Apply for Spanish Citizenship*, Guardian (Oct. 2, 2019), <https://www.theguardian.com/world/2019/oct/02/132000-sephardic-jews-apply-for-spanish-citizenship>; *Spain Gives Sephardic Jews Extra Time for Citizenship Suits*, Star Trib. (May 14, 2020), <https://www.startribune.com/spain-gives-sephardic-jews-extra-time-for-citizenship->

suits/570466652/.

[29]See Jones, *supra* note 28.

[30]*Spanish & Portuguese Citizenship Program*, Sephardic Jewish Brotherhood Am., <https://www.sephardicbrotherhood.com/spanish-portuguese-citizenship> (last visited Sept. 17, 2020).

[31]See Kiku Adatto, *Spain's Attempt to Atoner for a 500-Year-Old Sin*, Atlantic (Sept. 21, 2019), <https://www.theatlantic.com/international/archive/2019/09/spain-offers-citizenship-sephardic-jews/598258/>.

[32]*Spain Gives Sephardic Jews Extra Time for Citizenship Suits*, *supra* note 28.

[33]*Granting of Portuguese Nationality to Descendants of Sephardic Jews*, Comunidade Israelita De Lisboa, <https://cilisboa.org/portuguese-nationality-concession/> (last visited Sept. 17, 2020).

[34]Melanie Lidman, *Portugal's Government Steps Back from Plan to Change 'Law of Return' for Jews*, Times Isr. (July 16, 2020), <https://www.timesofisrael.com/no-dramatic-change-to-portugals-law-of-return-for-jews-government-says/#gs.gg2zw2>.

[35]*Portuguese Citizenship for Sephardic Jews*, Global Citizen Solutions (Jan. 14, 2020), <https://www.globalcitizensolutions.com/portuguese-citizenship-sephardic-jews/>.

[36]Lidman, *supra* note 34.

[37]See *How to Apply for Portuguese Citizenship*, Expatica, <https://www.expatica.com/pt/moving/visas/portuguese-citizenship-1030872/> (last updated July 13, 2020); *Dual Citizenship Spain*, dualcitizenship.com, <https://www.dualcitizenship.com/free-consultation/spain.html> (last visited Sept. 17, 2020).

[38]Lidman, *supra* note 34.

[39]*Id.*

[40]See Marcy Oster, *Vienna-Born Israeli Man Becomes First Jew to Reclaim Austrian Citizenship*, Jewish Exponent (Sept. 9, 2020), <https://www.jewishexponent.com/2020/09/09/vienna-born-israeli-man-becomes-first-jew-to-reclaim-austrian-citizenship/>.