



The Citizenship of Jews in Nazi Germany

July 1993

LL File No. 1993-2226
LRA-D-PUB-001022

This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official
opinion of the United States Government. The information provided
reflects research undertaken as of the date of writing.
It has not been updated.

THE CITIZENSHIP OF JEWS IN NAZI GERMANY

Overview

When Hitler came to power in 1933, German Jews enjoyed the same privileges of citizenship as other Germans. At that time, the Imperial Citizenship Law contained precise and non-discriminatory provisions on the acquisition and loss of citizenship.¹ Moreover, this Law was based on the principles of equality of the Constitution of 1919.² Yet, soon after the Hitler regime took over, citizenship law became an instrument for the implementation of national socialist race ideologies. Over the following decade, several laws and regulations were enacted, each of which progressively worsened the citizenship status of Jews. Several of these resulted in the denaturalization of Jews and their children.

Individual denaturalization in 1933

The first measure was a Law on Denaturalization and Revocation of Citizenship of July 1933.³ It pursued two goals: first, it allowed for the revocation of naturalization granted to East European Jews since the end of World War I; second, it allowed for the denaturalization of Jews who had fled from Germany. These purposes were accomplished without specifically naming Jews. Instead, the authorities were given unbridled discretion to revoke naturalizations that had been "undesirable," or to denaturalize persons who sojourned abroad if their "conduct violated the duty of loyalty toward Germany or harmed German interests."⁴

These broadly worded general clauses were used to denaturalize Jews through administrative decisions that were published in a governmental gazette [*Reichsanzeiger*]. The assets of denaturalized persons were confiscated. In addition, the spouses and children of the denaturalized citizen could also be included in the denaturalization decree. No judicial or administrative remedies were available against these acts.

¹ Reichs- und Staatsangehörigkeitsgesetz, July 22, 1913, *Reichsgesetzblatt* (RGBl., official law gazette of the German Reich) p. 583, as amended by Gesetz, Nov. 5, 1923, RGBl. 1077.

² Constitution of the German Empire, Aug. 11, 1919, arts. 109-165, as translated in O. Fisk, *Germany's Constitutions of 1871 and 1919* 146 (Cincinnati, 1924).

³ Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit, July 14, 1933, RGBl. I, p. 480.

⁴ E. Liesner, et al., *Menschenschicksale* 17 (Borken, 1985).

Two classes of citizens in 1935

Another encroachment on the citizenship of Jews came in 1935 with the enactment of a *Reich* Citizenship Law.⁵ It created two types of citizenship and did away with the principle of equality among citizens. In addition to the formerly existing citizenship, which continued to be acquired and retained according to the Citizenship Law of 1913,⁶ a preferred citizenship, the *Reich* citizenship was created.

The *Reich* citizenship was reserved for German citizens who were of "German or kindred blood" and whose conduct showed loyalty toward Germany. Only *Reich* citizens enjoyed full civic rights.

Germans who did not qualify for the *Reich* citizenship (notably the Jews) remained German citizens. According to the letter of the law, they enjoyed the protection of the state and were bound to fulfill all the duties of citizenship. In reality, however, the legal status of "mere citizens" was worse than that of aliens, and any form of discrimination was permissible against them. Instead of enjoying the protection of the state, the mere citizens, particularly the Jews, were soon to be deprived of all civil and economic rights.⁷

The 1935 *Reich* Citizenship Law was implemented through several regulations. The first of these⁸ provided that persons of German or kindred descent automatically became *Reich* citizens. Jews, on the other hand, were explicitly excluded from the *Reich* citizenship. In addition, the regulation spelled out that Jews were not permitted to vote and that they could not be civil servants.

The regulation also went into some detail on who was to be considered as a Jew. Thus, anyone who had three Jewish grandparents was a Jew, whereas those with only two grandparents were to be considered as Jews only under certain circumstances. In particular, half-Jews were to be considered as Jews if they belonged to the Jewish religious community, were married to a Jew, or had parents who had gotten married or had extramarital relations in violation of the miscegenation laws of 1935.

Failed reform plans of 1938

In 1938, yet another reform of citizenship law was contemplated. A draft for a new citizenship law aimed at restricting German citizenship to persons of "German and kindred blood." One of the main purposes of this law was to deprive Jews of their citizenship. In 1941, this draft was further reformed to deal with the inhabitants of the occupied territories. This expansion of the draft proved to be its downfall. The revised draft had become too cumbersome and was abandoned. Henceforth, changes in citizenship law were made through regulations.

⁵ Reichsbürgergesetz, Sept. 15, 1935, RGBL I, p. 1146.

⁶ *Supra*, note 1.

⁷ Liesner, *supra* note 4, at 20.

⁸ Erste Verordnung zum Reichsbürgergesetz, Nov. 14, 1935, RGBL I, p. 1333.

Collective denaturalization in 1941

In November 1941, a regulation⁹ was enacted that collectively deprived Jews of their German citizenship if they resided abroad. Jews lost their citizenship automatically, by operation of law, if they resided abroad in November 1941 or at any time thereafter when they crossed the border. By 1940, deportations to East European countries had begun. Such involuntary border crossings also led to the loss of citizenship.¹⁰

This regulation did not specifically provide for the denaturalization of the children of Jews; yet this was hardly necessary because the children were deported as well, if both parents were Jewish. In the case of children and spouses of mixed marriages, an unpublished circular clarified the intent of the regulation: Non-Jewish wives of denaturalized Jews could be denaturalized by administrative decision, if they refused to separate from their husband; or, if for various reasons, they could not be brought back to Germany. Children of mixed marriages were treated in the same manner.¹¹

In addition to depriving Jews of their citizenship, the regulation provided for the confiscation of all property belonging to the now stateless Jews. Furthermore, these persons lost all entitlements to pensions.

Denial of citizenship to Jews in occupied territories

In April 1943, a regulation on citizenship created two additional categories of citizenship for the inhabitants of occupied areas.¹² A revocable citizenship was to be granted to individuals or groups of persons whose racial composition made them worthy of German citizenship. A protected status with fewer benefits than citizenship was to be afforded to the other inhabitants. Yet, Jews and gypsies were not granted any citizenship status. In effect, they became stateless. As in previous regulations, half-Jews became stateless under certain circumstances.

Post-war restitution

The West-German Constitution of 1949 provides for the re-granting of German citizenship if it had been lost due to discriminatory measures or laws. Persecuted persons who returned to Germany and re-established a German residence after May 1945 are deemed to have remained German citizens, unless they prefer to relinquish their German citizenship. For those residing abroad, citizenship is to be re-established upon demand.¹³ These rules also apply to the descendants of denaturalized persons.

⁹ Elfte Verordnung zum Reichsbürgergesetz, Nov. 25, 1941, RGBl. I, p. 722.

¹⁰

Bundesverfassungsgericht decision, Feb. 14, 1968, 23 *Entscheidungen des Bundesverfassungsgerichts* 98 (1968).

¹¹ Liesner, *supra* note 4, at 33.

¹² Zwölfte Verordnung zum Reichsbürgergesetz, April 25, 1943, RGBl. I, p. 268.

¹³ Grundgesetz für die Bundesrepublik Deutschland, May 23, 1949, *Bundesgesetzblatt* (BGBl., official law gazette of the Federal Republic of Germany) p. 1, art. 116, para. 2.

In 1955, one of the numerous laws on the resolution of post-war citizenship problems¹⁴ allowed for the re-granting of German citizenship to victims of Nazi persecution who had not been denaturalized but who had acquired the citizenship of another country after fleeing from Germany. Such persons had a right to claim German citizenship until the end of 1970. In addition, this law also gave Jews residing in Germany a right to become German citizens if they had been excluded from a war-time collective naturalization in a country then occupied by Germany.

Finally, in 1968, the Federal Constitutional Court held that the collective denaturalization according to the 1941 regulation were void from the beginning because they violated fundamental principles of law in an egregious manner.¹⁵ According to the Court, deported Jews never lost their citizenship. Consequently, Jews who died in the concentration camps were German citizens. The question came up in an inheritance case involving a decedent who had resided in the Netherlands from 1933 until his deportation in 1942. At issue was the question whether German law was applicable. The lower courts had found that the decedent was stateless. The Federal Constitutional Court remanded with instructions to find that the decedent was a German citizen unless there was evidence that he would not have wanted to remain a German citizen. The citizenship of descendants was not discussed in this judgment.

Prepared by Edith Palmer
Senior Legal Specialist
European Law Division
Law Library of Congress
July 1993

¹⁴ Erstes Gesetz zur Regelung von Fragen der Staatsangehörigkeit, Feb. 2, 1955, BGBl., I, p. 65, as amended, § 12.

¹⁵ *Supra* note 10.