

Law on Freedom of Movement [*Freizügigkeit*] (November 1, 1867)

Abstract

The Law on Freedom of Movement from November 1, 1867, made it possible for inhabitants of the North German Confederation to move their abode from one federation state to another without serious disadvantage. Municipal authorities were allowed to refuse a new resident domicile only if they could prove that he could not support himself and his family. (Local authorities often denied such permission on the grounds that newcomers were paupers and would burden their adopted community.) This significant law, like many others settled upon by Bismarck and the liberals in these years, enhanced the freedom and autonomy of the individual, loosened constraints on Germany's modernizing economy, and contributed to the consolidation of the new union. It was adopted as a Reich Law in 1871.

Source

Law on Freedom of Movement (November 1, 1867)

Art. 1. Within the territory of the Confederation, any citizen of the Confederation has the right to:

- 1) stay or reside in any place where he is able to secure his own dwelling or accommodation;
- 2) acquire real estate of any sort;
- 3) pursue any occupation, whether he be on the move or in his place of abode or residence, under the same legal regulations applicable to local residents.

In exercising these rights, provided that the current law does not allow exceptions, the citizen of the Confederation must not be hindered or restricted by burdensome conditions put in place by either his hometown authorities or by the authorities of the town in which he wishes to stay or reside.

No citizen of the Confederation may be denied abode, residency, the pursuit of an occupation, or the acquisition of real estate on the basis of religious confession or because he lacks citizenship in a given state or municipality.

Art. 2. Anyone making use of the rights derived from citizenship in the Confederation is obliged, if requested, to furnish proof of citizenship in the Confederation and, provided the individual is a dependent, proof of permission by the person under whose (paternal, custodial, or marital) authority he or she stands.

Art. 3. Inasmuch as convicted persons can be subjected to restrictions on residence by the police authorities in accordance with the state laws, the regulations remain as they are.

Such persons, that is, persons who are subject to such restrictions on residence in any federal state or who have been convicted in any federal state within the preceding twelve months on counts of repeated begging or repeated vagrancy, can be denied abode in any other federal state by the police authorities of that state.

With this, any special laws and privileges that were issued by individual towns and districts and that allow restrictions on residence are revoked.

Art. 4. The municipality has the right to turn away a newcomer only if it can furnish proof that the person in question does not have adequate capabilities to provide a basic livelihood for himself and for his dependents who are unfit for work, and if the person in question is unable to do this through his own assets or through the contributions of a relative obliged to provide assistance. It is left to the state laws to restrict this right of municipalities.

Concern over future impoverishment does not entitle the municipal council to refuse residency.

Art. 5. If the need for public support becomes evident after the arrival of the newcomer but before he has acquired a residence status entitling him to benefits (the right of domicile) in the new locale, and if the municipality furnishes proof that assistance has become necessary due to reasons other than a temporary inability to work, then a continuation of residence may be denied.

Art. 6. In cases in which the commencement or continuation of residence may be denied and [when] the responsibility for providing assistance is a source of contention among various municipalities within the same federal state, the decision is made according to state laws.

The actual expulsion from a locale must never occur before the issuance of either a declaration of acceptance by the municipality under obligation, or at least, for the time being, an enforceable decision regarding the duty to provide care and support [*Fürsorgepflicht*].

Art. 7. If different federal states are involved in the cases defined in Art. 5, the process is regulated in accordance with the treaty of mutual obligation to accept persons designated for expulsion, ratified in Gotha on July 15, 1851, and in accordance with subsequent agreements on the implementation of this treaty.

Up to the point at which the obligated state accepts the expellee, the state in which the person designated for expulsion is currently residing is responsible for the care of that person in his place of residence in accordance with the legal principles in force regarding public poor relief in its territory. A claim for compensation for state, municipal, or any other public funds used toward this end by the state to which the needy person belongs can only be made if support for the person designated for expulsion extended for more than three months.

Art. 8. The municipality does not have the right to levy a charge from any newcomer because of his relocation. It can make that person pay municipal levies, just as the rest of the inhabitants of the municipality do. If the duration of residence does not end up exceeding three months, the newcomers are not subject to these levies.

Art. 9. The aforementioned regulation for municipalities applies in those places where, according to the constitution, the burden of public poor relief is not the responsibility of the local community but of other associations (poor communities); it also applies to these associations as well as to those landed estates whose estate district [*Gutsbezirk*] is not part of a municipal association.

Art. 10. The regulations concerning the registration of newcomers with the authorities continue to be under the jurisdiction of state law with the provision that failure to register may only be punished with a police penalty, but never with the loss of the right of abode (Art. 1).

Art. 11. Mere abode or residence does not establish other legal relationships, such as municipal citizenship, local civic rights, participation in the use of common municipal property and in care for the poor.

If, however, according to the state laws, the right of domicile (municipal citizenship, residence status that bestows benefits) has been acquired by means of abode or residence, provided it is maintained without

interruption for a certain time, then the regulations remain as they are.

Art. 12. The police are prohibited from expelling citizens of the Confederation from their place of permanent or temporary residence in cases other than those stipulated by this law.

As for the rest, the regulations concerning the aliens' police department remain unaffected by this law.

Art. 13. This law comes into effect on January 1, 1868.

Source: *Bundesgesetzblatt des Norddeutschen Bundes*, 1867, pp. 55–58; reprinted in Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte*, 3rd rev. ed., vol. 2, 1851–1900. Stuttgart: W. Kohlhammer, 1986, pp. 304–6.

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Recommended Citation: Law on Freedom of Movement [Freizügigkeit] (November 1, 1867), published in: German History in Documents and Images, <<https://germanhistorydocs.org/en/forging-an-empire-bismarckian-germany-1866-1890/ghdi:document-1827>> [May 01, 2024].