

Decree of the Reich President for the Protection of the People and State (“Reichstag Fire Decree”) (February 28, 1933)

Abstract

The Reichstag fire gave Hitler a welcome opportunity to eliminate any and all political opposition. The next day, he persuaded President Hindenburg to issue the “Decree of the Reich President for the Protection of the People and State” (or the “Reichstag Fire Decree”). It suspended most of the basic rights of the Weimar Constitution and tightened the Reich’s control over state governments. Thousands of Communists and Social Democrats were arrested, and their meetings and papers were outlawed, but the National Socialist election campaign proceeded unhindered. Despite the decree, the Nazi Party was still unable to capture an absolute majority in the Reichstag elections of March 5, 1933. With 43.9% of the votes, it still needed the German National People’s Party [*Deutschnationale Volkspartei*, DNVP] as a coalition partner.

Source

On the basis of Article 48, Section 2, of the German Constitution, the following is decreed as a defensive measure against Communist acts of violence that endanger the state:

§ 1

Articles 114, 115, 117, 118, 123, 124, and 153 of the Constitution of the German Reich are suspended until further notice. Thus, restrictions on personal liberty, on the right to free expression of opinion including freedom of the press, on the right to assembly and the right to association; interventions into the privacy of communications by post, telegraph, and telephone; warrants for house searches, orders for confiscations, and restrictions on property, also beyond the legal limits otherwise prescribed, are permitted.

§ 2

If any state fails to take the necessary measures to restore public safety and order, the Reich government may temporarily take over the powers of the highest state authority.

§ 3

State and local authorities must obey the orders decreed by the Reich government on the basis of § 2.

§ 4

Whoever provokes, appeals for, or incites disobedience of the orders given out by the highest state authorities or authorities subject to them for the execution of this decree, or the orders given by the Reich government according to § 2, can be punished—insofar as the deed is not covered by other decrees with more severe punishments—with imprisonment of not less than one month, or with a fine from 150 to 15,000 reichsmarks.

Whoever endangers human life by violating § 1 is to be punished by sentence to a penitentiary, under mitigating circumstances with imprisonment of not less than six months and, when the violation causes the death of a person, with death, under mitigating circumstances with a penitentiary sentence of not less than two years. In addition, the sentence may include the confiscation of property.

Whoever provokes or incites an act contrary to the public welfare is to be punished with a penitentiary sentence, under mitigating circumstances with imprisonment of not less than three months.

§ 5

The crimes which under the Criminal Code are punishable with life in a penitentiary are to be punished with death: i.e., in Sections 81 (high treason), 229 (poisoning), 306 (arson), 311 (explosion), 312 (flooding), 315, paragraph 2 (damage to railways), 324 (general public endangerment through poison).

Insofar as a more severe punishment has not been previously provided for, the following are punishable with death or with life imprisonment or with imprisonment not to exceed 15 years:

1. Anyone who undertakes to kill the Reich President or a member or a commissioner of the Reich government or of a state government, or provokes such a killing, or agrees to commit it, or accepts such an offer, or conspires with another for such a murder;
2. Anyone who under Section 115, paragraph 2, of the Criminal Code (serious rioting) or of Section 125, paragraph 2, of the Criminal Code (serious disturbance of the peace) commits these acts with arms or cooperates consciously and intentionally with an armed person;
3. Anyone who commits a kidnapping under Section 239 of the Criminal Code with the intention of making use of the kidnapped person as a hostage in the political struggle.

§ 6

This decree enters into force on the day of its promulgation.

Berlin, 28. February 1933

The Reich President von Hindenburg
The Reich Chancellor Adolf Hitler
The Reich Minister of the Interior Frick
The Reich Minister of Justice Dr. Gürtner

Source of English translation: Decree of the Reich President for the Protection of the People and State of 28. February 1933. In United States Chief Counsel for the Prosecution of Axis Criminality, *Nazi Conspiracy and Aggression*, Volume III. Washington, DC: United States Government Printing Office, 1946, Document 1390-PS, pp. 968–70. Translation edited by GHI staff.

Source of original German text: Verordnung des Reichspräsidenten zum Schutz von Volk und Staat vom 28. Februar 1933, *Reichsgesetzblatt*, Nr. 17, 1933, I, p. 83. Available online at: <https://alex.onb.ac.at/cgi-content/alex?aid=dra&datum=1933&page=208&size=45>

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