



## Germany - Federal Administrative Court, judgment 1 C 23.14

The applicant is a stateless Palestinian, whose naturalisation application was rejected based on the means of sustenance requirement. His dependants (wife and children) live in Jordan, where he is able to sustain them with his consistent employment in low-wage jobs - as undisputed by the authorities, and there was no indication of the family intending to relocate to Germany. The lower instance courts sided with the applicant that the hypothetical case of the family relocating to Germany need not be considered in the context of means of sustenance requirement, and the fact that the applicant never relied on social securities and has always been in gainful employment in Germany should be sufficient, but the Federal Administrative Court overruled those judgments and upheld the authorities decision to reject the applicant's naturalisation request, which left him stateless.

**Case name (in original language) :** BVerwG 1 C 23.14

**Case status:** Decided

**Case number:** BVerwG 1 C 23.14

**Citation:** <https://www.bverwg.de/de/280515U1C23.14.0>

**Date of decision:** 28/05/2015

**State:** Germany

**Court / UN Treaty Body:** Federal Administrative Court

**Language(s) the decision is available in:** German

**Applicant's country of residence:** Germany

**Key aspects:** Access to social and economic rights, Acquisition of nationality, Respect for private and family life

**Relevant Legislative Provisions:**

Section 8 of the StAG, German Nationality Act

**Facts**

The applicant was born in 1972, and is stateless of Palestinian descent. He entered Germany in 1997 and applied for asylum as an alleged Iraqi national, but the application was failed. In the following years he revealed his true identity. Since 2009 he has had a permanent residence permit in Germany in accordance with Section 26 (4) of the Residence Act. The applicant has been married to a Jordanian national since 2003, and they have three children. The wife and children live in Jordan. The applicant has always been gainfully employed since 1999, and was not dependent on social security benefits. He applied for naturalisation in July 2009, which was rejected in November 2010 because the applicant has been a low-wage earner since his entry, unable to sustain himself and his relatives once his wife and children would join him in Germany. There are no indications of an intention on the part of the applicant's wife and children to relocate to Germany, and the applicant has extensively explained the family's reasons for wanting to continue to lead a "distant marriage" in the future.

### **Legal arguments by the applicant**

The applicant argued that the requirement to be able to sustain oneself and one's dependants, in the context of naturalisation, should only cover potential dependants that live in Germany, not dependants who live abroad, as has been ruled by a lower instance court in his case. He further argued that he is able to sustain his family in Jordan, and that the family intends to continue this arrangement, which makes the issue of whether he could sustain them in the hypothetical case of their relocation to Germany practically irrelevant. Further, the applicant argued that denying him German nationality makes it significantly more difficult for him to visit his family and maintain a family life with them, resulting in hardship.

### **Legal arguments by the opposing party**

The authorities argued that the assessment of the applicants ability to sustain himself and his relatives should include all dependent relatives, also the ones living abroad, as naturalisation opens the possibility for family reunification that does not depend on income.

### **Decision & Reasoning**

The applicant's ability to sustain himself in Germany, as well as his ability to sustain

his dependants while they live in Jordan were not disputed. The disputed issue was whether the hypothetical scenario of the family relocating to Germany needs to be considered in the context of means of sustenance requirement for naturalisation.

The Court reasons as follows:

"According to Section 8 (1) of the StAG, a foreigner who is lawfully and habitually resident in Germany can be naturalized upon application if, among other things, he "is able to sustain himself and his relatives" (§ 8 Abs. 1 Nr. 4 StAG). According to Section 8 (2) StAG, this requirement can be waived for reasons of public interest or to avoid particular hardship."

"Section 8 (1) of the StAG generally and without restriction stipulates that the naturalization applicant must be able to sustain not only himself but also his relatives. This is not limited to dependents who already live in Germany or who specifically intend to move to Germany in the event of naturalization. Dependent relatives living abroad are also included."

"When considering the economic capacity required by Section 8 (1) No. 4 StAG, the applicant's family members living abroad (his wife and three underage children) must therefore also be included, regardless of whether there is an intention or possibility of joining."

"According to consistent jurisprudence of the Federal Administrative Court [...], [this legal provision] does not only serves the purpose of ensuring that naturalisations do not financially burden the German state. The purpose of the law is also to indicate that naturalization applicants must meet certain standards of economic integration in Germany. The requirement of economic integration is not met if the focus is solely on whether public funds can or will be used as a result of naturalization [...]. A foreigner is not sufficiently well economically integrated in Germany [...] if he would not be able to support his dependent relatives in Germany, even if the latter currently reside abroad. For the sustenance requirement of Section 8 (1) No. 4 StAG, it is therefore irrelevant whether there are possibilities for family reunification with the prospective German national, or what are the probabilities that such possibilities will be made use of after naturalization. By including dependant relatives living abroad into the test of Section 8 (1) no. 4 StAG, the law relieves the naturalization authority of the potentially difficult examination of whether or with what probability family reunification may be expected to

happen."

There is only indirect mention of the applicant's statelessness, and it is not considered as a possible special reason for authorities to exercise discretion within this naturalisation decision:

"The Court does not see a legal basis for a special hardship claim in this case, even if it may be true that having German nationality would make it easier for the applicant to visit his family in Jordan, and considering normative reasons related to fundamental and human rights protection of marriage and family."

### **Decision documents**

[Federal Administrative Court, judgment 1 C 23.14](#)

### **Outcome**

The applicant won in the lower instance courts, but in the present judgment the Federal Administrative Court ruled against him and upheld the authorities' decision to deny naturalisation.