



*Voor de nazi's geen Jood. Hoe ruim 2500 Joden door ontduiking van rassenvoorschriften aan de deportaties zijn ontkomen*

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## **Refusing to be Jewish for the Nazis**

### **How more than 2500 Jews were able to escape deportation by evading racial regulations**

#### SUMMARY

#### SURVIVAL

How was it possible, in the context of the meticulous Dutch population register, to escape deportation through evasion of racial regulations? How many Jews who registered in 1941 as 'full-Jewish' were herewith able to stay in the Netherlands and what percentage of this group was able to survive? These questions envelop this research. Regardless of the population register that was used to double-check the registration of the Jews in 1941, this study shows that a small group of Jews (2%, at least 2659 people) were able to escape deportation and subsequently survive. They managed to do this through the use of article 3 in the registration regulation VO 6/41. This article opened up the possibility to revise the Jewish status that was administered in 1941. Considering the low survival rate of Jews who resided in the Netherlands during the occupation (27%), survival with the use of racial regulations was an atypical outcome. It came into existence by applying for an 'Aryan' or 'safe' half-Jewish (*GI*) or quarter-Jewish (*GII*) status whilst making use of fraudulent evidence to do so. Two-thirds of the people (70%) who applied for a revision gained a place on the so-called Calmeyer-list and thus their deportation was postponed. This meant that the application was accepted by the *Entscheidungsstelle*. This department within the *Generalkommissariat für Verwaltung und Justiz*, was responsible for these alleged 'doubtful' cases. By far the most people (89%) had only applied for this change in status once deportations had already begun, in the summer of 1942.

Most of those who gained the 'safe' status managed to keep it during the entire occupation. It was even possible with, for example, an Orthodox-Jewish background or a Jewish family name to gain or request an 'Aryan' status. Moreover, petitioners who were refugees from Nazi-Germany and who fled because of their Jewish descent, were able to survive with an 'Aryan' or half-Jewish status. They were successful despite being initially registered in foreigner-records or in the population register in the Netherlands. In 1941 there was already a group who chose to declare as unfamiliar with the nature of their own descent. Of this group it became evident that 73% (670 of the total 916) obtained a 'safe' status from the *Entscheidungsstelle*.

Of all the people who petitioned to the *Entscheidungsstelle*, 71% were able (at least 3313 of 4670 people) to survive. Included in this group were those who were accepted onto the Calmeyer-list but also petitioners whose request was not admitted. In total this research could connect at least 5446 petitioners with a request. Of these, 86% (at least 4670 people) petitioned to the *Entscheidungsstelle*. A percentage of 8% (at least 414 people) had an application where the Inspectorate of the registries decided. It was established that at least 3663 people (78% of the total 4670), approached the *Entscheidungsstelle* while having a Jewish descent.

The people accepted on to the Calmeyer-list had the biggest chance to survive. Their request for a revision was based on anthropological and ancestral arguments or on the argument that they denied their membership of the Dutch or Portuguese Jewish church. In this way it could happen that 82% of the petitioners on the list (at least 1145 people) who claimed to be a child out of an extramarital relationship or who made a claim based on an adoption, were able to survive. In total 79% of all the petitioners on the Calmeyer-list (at least 3007 of 3795) survived. The lowest chance of survival was where the petitioners based their claim on ancestral arguments. Their survival rate was 69% (751 persons). This relatively low rate was related to the involvement of the Dutch SS man, Ten Cate, the authorized representative to establish descent and director of the 'Centrale Dienst voor Sibbekunde' who was capable of discovering ancestral fraud. Revision

requests that were based on foreign ancestral claims did however have a realistic chance to get accepted up until the spring of 1943.

The handling of an application for a revision took on average six months. With the extra time that was won, 17% (505 people) could still survive regardless of a later rejection from the *Entscheidungsstelle*. It has been determined that during the operational time of the *Entscheidungsstelle* (February 1941 - August 1944), the request of 63% of those (at least 2376 people) on the Calmeyer-list was accepted.

This research has shown that by evading registration regulation VO 6/41 there was a realistic chance to avoid deportation. Nevertheless there are a few remarks to be made on this matter. Based on a sample from The Hague and Amsterdam, 81% of the people who applied for a revision turned out to live in middle or upper class neighborhoods. Only once the costs for a revision were limited did the number of people from a working class neighborhood grow. This was the case if the only evidence needed was a declaration of the Jewish church that denied membership or a court verdict. Even though the *Entscheidungsstelle* itself did not ask for financial compensation, there were still costs that had to be taken into account in order for the request for revision to get accepted. Assistance provided by a lawyer, the creation of an anthropological report, or a notary statement, had financial consequences. Furthermore, costs were involved in the forgery of archival information. Due to these implications the evasion of registration regulation VO 6/41 was primarily a rescue operation for those who were well-off.

It also turned out that there was, proportionally speaking, a large percentage of petitioners (23%) who originated from Germany or Austria. Finally, half-Jewish minors had little trouble in gaining a 'safe' GI status from the *Entscheidungsstelle* with the help of a declaration of the Jewish church that denied membership or a relevant court verdict. In these requests for revision it did not even matter if these children originated from Nazi-Germany. Of all the people who applied by denying their membership of the Israeli church, 37% were under-aged. At the same time Half-Jews of a mature age with a J2 status were still deported, as has been confirmed by this research.

The petitioners had made the conscious choice to evade the deportations. Through their actions the perception of passive Jewish victims has become arguable. At the same time the petitioners had been fortunate with the choice to petition their Jewish descent since other lists used by the Nazi's only existed temporarily. In the case of the Calmeyer-list, the *Entscheidungsstelle* was willing to provide definitive postponement. Herewith, the Calmeyer-list differed from other 'postponement'-lists. However, the list required extensive measures from the petitioners since fraudulent evidence was needed to evade their Jewish descent.

The petitioners were, next to the favorable attitude of the *Entscheidungsstelle*, also fortunate because it was only until late in the war that the *SiPo und SD* were willing to undertake action against all the 'aryanisations'. This is why a potential general revision of all the already accepted petitions, was planned only until late in the war. Once it became clear that a general revision was possible Calmeyer, as head of the *Entscheidungsstelle*, had a resistive attitude. Next to this, the allied bombardment at the office of the Inspectorate of the registries only took place in April 1944. Many of the dossiers were stored here. Yet especially through the course of the war, in August and September 1944, a revision of all the earlier decisions of the *Entscheidungsstelle* was avoided. The result of this was that the petitioners' aryanisations remained unrevised.

#### BEARING OF THE DUTCH CIVIL SERVICE

The core of the request for revision was focused on the reconsideration of original registration as Jewish, which the people were forced to undergo in 1941, to a status that prevented them from

being deported. The implementation of the registration-procedure was subjected to the highest level of civil service, Secretary General Frederiks of the Ministry of Home Affairs, and was further elaborated by the Inspectorate of the registries under the leadership of Lentz. Lentz created a detailed enrollment instruction for the mayors, which, was approved by Frederiks. The most important provision in the instruction was article 2 in which the 'comparison of the registration form and if necessary compliance with the details on the identity card of the holder in the population register or in the foreign records' was required. This study has shown that Lentz had already suggested in September 1940 to let the government register the Jews with the personal details that were available with local authorities. If such an approach was chosen then there was little room for people to still dabble with their Jewish descent.

Immediately during the registration process in 1941 there were also Jews that had chosen to evade or avoid the VO 6/41. Nevertheless 800 people were still discovered by, principally, the Inspectorate of the registries. Essentially those who had registered as Jewish in 1941 and only afterwards had petitioned to the *Entscheidungsstelle*, had a better chance to stay in the Netherlands than those who had intentionally incorrectly registered in 1941 or chose not to register at all and thus were discovered. Moreover, Lentz made the conscious choice, as head of the Inspectorate of the registries, together with his colleague Wolters, to reconstruct the information at the population register of Amsterdam, following the attack of the register in March 1943. This was possible with the use of backup files, which were available at the Inspectorate of the registries. Lentz had conformed to the new German administration by collaborating even though he was not the only one accountable for the registration of Jews. The manner at which the assigned tasks were executed and delegated can still, however, be charged upon Lentz and his colleagues.

#### DECISIONS OF THE ENTSCHIEDUNGSSTELLE

Petitioners could go to the *Entscheidungsstelle* with the request for revision of their earlier registration as Jewish because the Nazi's wanted to know for sure that identification was being done correctly. Until the fall of 1943, Jewish people could successfully petition to the *Entscheidungsstelle* if they wished to be perceived as not Jewish. Even when the petitioners were already in the Westerbork transit camp, this was still the case. As long as there was no other fraud from other parties that was found out, other than the *Entscheidungsstelle*, the revised status was maintained until the end of the war. If there was only suspicion of fraud, then this was not enough basis for the *Entscheidungsstelle* to help prosecute the petitioners. In these cases the *Entscheidungsstelle* even refused to change the revised status to the original Jewish status.

Until October 1943, the *Entscheidungsstelle* was able to deviate from Nazi-Germany rule. This happened with the help of a self-created decision framework and the weight of evidence that was used. Hereby, the *Entscheidungsstelle* in the Netherlands did not only continue longer with the acceptance of requests for revision, but also the range of evidence accepted was wider. Calmeyer, as the head of the *Entscheidungsstelle*, and his colleagues executed work that went against the destructive aim that Nazi's progressed towards. However, at the same time those who were not able to fulfill the decision framework were rejected. In these cases, the decision framework was everything but lenient and lead to the death of 10% of the petitioners (at least 481 people). The *Entscheidungsstelle* was, nonetheless, unbiased in the decisions they made. Moreover, it was also established that the *Entscheidungsstelle* denied 171 petitioners after they had been deported. Regardless of the consistency in the decision-making, Calmeyer deviated in his decisions, where refusal was involved, in 3% of the cases (at least 133 people of which 1% (at least 44 people) were murdered), from the advice of his colleagues at the *Entscheidungsstelle*, or, he individually came to a decision that did not follow the framework. These refusals were particularly present in the last year that the *Entscheidungsstelle* was operational. All the other petitioners who received a

rejection, could in theory have been informed based on the registration regulation VO 6/41 or through the help of an informed helper.

Calmeyer continued his work at the *Entscheidungsstelle*, even though at one point he became aware of the consequences of his decisions. On the other hand, a request that was submitted, for example, only in the summer or the fall of 1943, was difficult to defend. An opinion on Calmeyer and his colleagues at the *Entscheidungsstelle*, thus depends on what options were still available when the fate of the Jews was unveiled. At this point, people could continue their work or leave. Wander, the German employee of the *Entscheidungsstelle* was the only one who left, in March 1943. This had implications for the number of accepted requests for revision he was involved in. (After Wander left, another 1342 people had their petition accepted) The rest of the employees at the *Entscheidungsstelle* chose to continue their work. The result of this was that these employees, as a result of dismissed requests, became accomplices. At the same time the *Entscheidungsstelle* could, because of the rigid bearing it held, continue to exist until August 1944 whereby earlier made decisions were preserved.

Using the fixed decision framework that was wielded as a basis for the decisions of the *Entscheidungsstelle*, it seems that until September 1943 the requests for revision were accepted on structural and consistent reasoning. It included a consistent and structural appreciation of the evidence that was put forward in the petition. This was even the case when petitioners had already been deported to Westerbork. As long as there was doubt about the Jewish descent and this was supported by the German occupier, people did not qualify (directly) from 1942 onwards for 'forced labor' outside of the Netherlands. Petitioners who had still made their request in 1942 with the right evidence, in principle, could depend on acceptance and thus leave Westerbork. Wander, Miessen, De Waard, Aalbersberg, Berger, and even Weinert, who were all involved as an employee or advisor, retained to the decision framework and never went beyond it.

The Jews of Portuguese descent represented a quarter (27%, 1000 of at least 3663 people) of all the people who petitioned to the *Entscheidungsstelle*. There was a group of 171 people whose names with the help of lawyers were placed directly on the special list of 'pure' Portuguese Jews. The *SIPO und SD* were to decide by the beginning of 1944 on the fate of the people on the list of 'pure' Portuguese Jews. Moreover, there were also Jews who did not qualify at all for the special list of Portuguese Jews. In fact, with 34% this was the biggest group of people (515 of at least 1532 people) who were refused by the *Entscheidungsstelle*. Of all Jews with a Portuguese descent who made a request, essentially those who were refused by the *Entscheidungsstelle* in July and August 1942 but also those who via the Calmeyer-list were put on the Portuguese-list, only 32% would survive the war. Many of the people who were not eligible for the Portuguese-list had collectively made a request for revision in the summer of 1942 to the *Entscheidungsstelle*. The Portuguese-Jewish religious community as well as lawyers who had advised the petitioners, just like the petitioners themselves in fact, seemed to not be well informed of the criteria to qualify for the list enforced by the *Entscheidungsstelle*. Not long after their rejection, a large percentage was deported in September 1942 (22%, at least 340 people) along with many other non-Dutch Jews.

#### CALMEYER

How should we judge Calmeyer's undertakings during the Second World War? Under the leadership of Calmeyer, 63% of the people on the Calmeyer-list were helped. However, there were requests of others that were refused even though Calmeyer stated after the war that he knew about their fate - mass murder - already at the end of 1941 and definitely by the beginning of 1942. With the exception of the last period that the *Entscheidungsstelle* was still operational, Calmeyer had deviated from the organization he was working for, the 'Commissariaat-Generaal voor Bestuur en Justitie'. Simultaneously Calmeyer still managed to indicate that he was, as

always, loyal to the organization. This demeanor had likely made a contribution to the fact that the *Entscheidungsstelle* could exist until 1944. It was only after the war that Calmeyer visibly distanced himself from the organization, the *Gereneralkommissariat für Verwaltung und Justiz* of which he was a part of for more than four years. If Calmeyer had protested, he would have no longer been a part of the Nazi-organization. During the occupation this was not a realistic option and in addition it would have endangered the accepted requests for revision.

Calmeyer was able to maintain his lenient bearing at least a year after the beginning of the deportations and he expected the same demeanor from his colleagues. This led to an acceptance of 71% of the petitions of all the people that were on the Calmeyer-list. As long as he stayed affiliated with the organization and publicly endorsed its objectives, it was possible to protect the petitioners. The possibility in Nazi-Germany to doubt Jewish descent through family law, helped Calmeyer on the one hand to uphold his legal reputation and on the other hand use the comparable German legal practice for the application of anthropological requests in the Netherlands. This did not take away from the fact that the *SIPO und SD SiPo* would eventually force others to conform to their wishes. Furthermore, in the fall of 1943 various Dutch accomplices, such as lawyer Van Taalingen-Dols and 'kandidaat-notaris' Schepers, protested against the lenient bearing of the *Entscheidungsstelle* to the *SIPO und SD* and the '*Reichskommissariat*'. Fortunately there was a favorable resolution whereby in any case 2659 Jews could survive.

#### PETITIONERS AND THEIR *HELPERS*

With an approach that fit within the decision framework of the *Entscheidungsstelle*, almost three quarters (71%) of the people in the period July 1942 - October 1943 were able to realize an acceptance for their revision request. The petitioners who made a request, were not ashamed to claim extra-marital affairs or fake adoptions, declare fraudulent statements, initiate a court procedure on false pretenses, or base their petition on forged archive documents. By taking these risks, people were not only able to evade the deportations, but 79% of this group also managed to survive.

There were also *helpers* who were prepared to risk their lives. Due to this a part of the requests (41% at least 2236 people), were established with the help of a lawyer. Help with the gathering of evidence, came from different parts of society. It appears, for example, that the court in Amsterdam was involved with 84% of the people (406 people in total) who used a lawsuit as evidence. In addition the defendant, often the synagogue of the Dutch-Jewish religious community in Amsterdam, cooperated in the ruling that the claimant, the petitioner, was not a member of the religious community. This was also the case for the statements that various synagogues had drafted to prove that the petitioners were not a member of the Jewish religious community. In Rotterdam the synagogues provided a forged statement for 3% of all registered Jews. It turns out that in The Hague it was not possible for the *Inspectorate of the registries* and representatives of the *SIPO und SD* to access the personal details from the Israeli religious community. In other words, the judiciary and delegates of the Jewish religious community all took part in the charade. Herewith, the result of this research deviates from the negative image that surrounds the role of Dutch judges during the war. This was also the case for the Dutch-Jewish religious community. The representatives of the Dutch-Jewish religious community did not exactly hold a passive bearing.

It also appears that 15% of the Dutch notary were involved in requests for revision. At the same time, there were notaries within this group that actively helped sell Jewish real estate. Even so, there were also notaries that put in 100% of their efforts for the benefit of Jews, making the depiction of the Dutch notaries during the war more positive than has been the case in the past.

The risks for notaries were quite manageable. Where rejections of the *Entscheidungsstelle* were concerned, the verdict generally had no repercussions for the notary in question.

Additionally, for the involved anthropologists, the risks seemed feasible to undertake because the evidence, the anthropological report, was based on 'scientific' measurements. Moreover, dr. Arie de Froe was backed up by professor Ariëns Kappers and based his motivations on the race experts from Nazi-Germany such as Professor Egon Freiherr von Eickstedt or Professor Weinert. The latter was also involved in Dutch anthropological reports. In the Netherlands, 97% of the people for whom a report was written by Weinert would survive. However, almost 60% of the people who made use of such an anthropological report lived in well-off neighborhoods. In the case of Weinert there turned out to be no altruistic motivations.

This research shows that the survival rate of 83% for the 244 petitioners where De Froe was involved, was much higher than he himself had estimated. The percentage was even one point higher than the general survival rate of the people who requested an anthropological revision. The fact that the anthropological reports created by dr. Henk Bijlmer lead to 81% of the people (at least 182 people) surviving was unknown until now.

The risks that the lawyers ran, who were involved, was due to the nature of their work, possibly the most far-reaching. As the vakeel of the petitioner but also as the procurer in the court case lawyers were, indeed, directly and openly involved and responsible for the forged evidence. In this capacity, lawyers were known to the authorities. From postwar witness accounts of the lawyers Van Proosdij and Kotting, we know that over time they were progressively more prepared to run greater risks. As it turns out, various lawyers who were frequently involved in the requests for revision took part of the resistance in other ways as well. Even Jewish lawyers were involved in the 'Aryanisations'. These people ran the greatest risks. This research shows that the Jewish lawyer Goldstein had protected his colleague Nijgh. Goldstein, by taking on all the blame, helped Nijgh evade the bullet. For the rest of the lawyers, it appears, retrospectively speaking, that due to the presence of Calmeyer as head of the *Entscheidungsstelle*, risks remained limited. There were different occasions where the authorized representative to establish descent and SS'er Ten Cate was able to link the lawyer Kotting to the usage of forged evidence. Nevertheless, both Kotting and Nijgh, who was also linked to the forgery, were never convicted by the Nazi's.

Just like in the case of the notaries, 15% of lawyers in the Netherlands were involved with requests for revision during the occupation. Sometimes these lawyers had a Jewish partner while others were, by chance, involved with the 'Aryanisations'. One lawyer played an exceptionally negative role in the evasion of VO 6/41. Even though Ms. Van Taalingen-Dols had the best wishes for her client in mind she brought at the same time the overall system of the circumvention of VO 6/41, and the lives of those who were already 'Aryanised' into serious danger. Due to the behavior of the lawyer, the *Entscheidungsstelle*, from October 1943 onwards, possibly became more cautious. Van Taalingen-Dols had brought Wimmer, of the *Generalkommissariat für Verwaltung und Justiz*, to the attention of the 'controversial' decisions of the *Entscheidungsstelle*, on three different occasions. Moreover, she also informed the *Reichssicherheitshauptamt* in Berlin. After the war she was never convicted.

The lawyers Kotting, Van Proosdij and Nijgh had all contributed to the requests for revision of at least six hundred people of which at least four hundred people, through the evasion of VO 6/41, were able to survive. However, another part of the petitioners were able to survive because of the help of other lawyers. At least 2236 people had used the services of one or more lawyer(s). It has been established that 41% of the petitioners were represented by a lawyer.

Finally, there were 'Aryan' fathers and mothers who for at least 603 petitioners were willing to play a role to deceive the occupier. The statements of these people have appeared to be crucial for the anthropological requests for revision. Due to the requirement of the *Entscheidungsstelle* that the 'Aryan' parents were alive, these people also ran a certain risk. This was, however, not a hindrance to the decisive role they played in the request for revision. Along with lawyers, doctors and notaries they have been, due to this research, identified by name. Without the help of all these people, the survival of 2659 people was not possible. With the helpers, petitioners were able to gain a status that would safeguard them from further persecution. They managed to gain an 'Aryan' status despite the cooperation that the Dutch civil service had lent to the registration that led to their persecution.

The Christian churches were the only ones who had problems with the forgery of evidence. These problems were to do with antedating baptism registrations. For all the other people who helped and also the petitioners themselves, the violation of societal and professional norms was no reason to not evade the registration regulation VO 6/41.

Through this research, it has also become clear that denied petitioners who were not as fortunate, did not let themselves be 'passively lead to the slaughter house'. We even know the statistic of these Jewish victims. (At least 1237 people, 23% of all 5446 whose petition could be linked to the Collection Calmeyer.) This research supports therefore, the notion that this passivity was less than speculated, and moreover that this speculation of passivity cannot explain the tragedy that took place. Therefore, the role of the perpetrators and their accomplices was too overbearing and the offered help, although admirable, was often too little.