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Coronavirus lockdown: German lawyer detained for opposition



by Alex Thomson, Eastern Approaches
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A large number of well-established doctors and lawyers in the German-speaking countries have [questioned the constitutionality](#) ^[2] of their governments' stringent confinement measures, which are commonly being referred to by the English loan-word *der Shutdown* (as there is no precedent for what to call the situation in German). These measures have begun to be [challenged openly on the streets of Berlin](#) ^[3]. The medical and legal dissidents number in the [dozens](#) ^[4]. None, however, has paid such a price for that freedom of speech as the German medical lawyer Beate Bahner, who has been committed to a psychiatric institution for publicly disagreeing with the measures and policies followed by the German government.

No right to demonstrate

Beate Bahner, in the southern German state of Baden-Württemberg, has a 25-year career and has won three cases before the Federal Constitutional Court (German Supreme Court) in the domain of unlawful infringements of the right to practise one's profession. She has written [five books](#) ^[5] on medical law, most recently an analysis of the 2016 federal act to tackle corruption in the healthcare system.

On Friday 3 April 2020, Ms Bahner issued a [press release](#) ^[6] decrying the German government's Coronavirus measures as "flagrantly unconstitutional, infringing to an unprecedented extent many of the fundamental rights of German citizens". The statement argued that the small minority of the public that was at risk of serious harm in the event of contracting Covid-19 could be far more suitably protected by means of targeted measures based on the principle of adult responsibility for safeguarding one's own health.

She continued:

In particular, these measures are not justified by the Infection Prevention Act, which was hurriedly amended just a few days ago. Long-term restrictions on leaving home and meeting others, based on high-death-rate modelled scenarios (which fail to take account of actual critical expert opinions), and the complete shutdown of businesses and shops with no proof that they pose any risk of infection, are thoroughly unlawful.

Noting that the Federal Ministry of Health had failed so far to supply protective equipment to medics and care workers and to conduct enough random tests to establish the actual rate of infection in the population, Ms Bahner went on in her press release to predict that the shutdown would have "devastating consequences for society, the economy, democracy and above all human health", and indicated her readiness to take the matter to the Federal Constitutional Court, since the lockdown represented a grave violation of the constitutional principle of proportionate measures and an abandonment by the state of its duty to guarantee the liberty and health of its citizens.

Ms Bahner followed up that press release with a nineteen-page [legal analysis](#) ^[7] published on 7 April entitled *Why the shutdown is unconstitutional and the greatest legal scandal in the post-1940s history of Germany*. The headings of the document are as follows:

1. The Coronavirus Regulations in the State of Baden-Württemberg — grounds;
citizens' responsibilities and demands made on them;
lack of state competence to issue the regulations;

curtailment of practically all fundamental rights and freedoms;
the need to nullify all Coronavirus regulations with immediate effect

2. The Infection Prevention Act forms no legal basis for the shutdown —
intent and purpose of the Act;
notifiable diseases and evidence of pathogens

3. Epidemic containment measures —
those restricted to persons actually ill or suspected of being bearers;
those applying only marginally to healthy persons;
the administrative law precedent from the measles ruling;
the unlawfulness of a blanket shutdown of institutions and businesses;
shutdown constitutes a severe and unconstitutional impingement of the freedom to practice one's profession

4. The Act is meant to ensure people assume responsibility for their own health —
spread of Covid-19 by droplets;
following the Chancellor's guidance;
every citizen's right to immunisation;
quarantines are supposed to confine the sick, not the healthy

5. The local state Coronavirus Regulations flagrantly breach the Basic Law —
state governments have disregarded the federal government's lawful regulation;
the shutdown is the greatest legal scandal in the history of post-War Germany;
criminal offences by the state government and police;
the ban on demonstrations has suspended the right to resist;
fines and detentions are unlawful

After these substantive sections, Ms Bahner closed her document with three brief appeals:

An appeal to the Chancellor and all heads of government to end the tyranny at once

A call for a nationwide demonstration at 3 pm on Easter Saturday

The oaths of all lawyers and judges bind us to safeguard the rule of law

It was the second of these appeals, to demonstrate against "coronoia" (Coronavirus paranoia), that landed Ms Bahner in trouble. In full, it read:

Fellow citizens,

I hereby invite all 83 million of you across the nation to gather and demonstrate peacefully at 3 pm on Easter Saturday:

Coronoia 2020 — [Tyranny] never again. We rise up today!

In accordance with §14.1 of the [Assembly Act](#) ^[8], please give the competent authority prior notification of your intent to demonstrate.

Website takedown

The next day, Heidelberg Police [announced](#) ^[9] their intention to prosecute Ms Bahner for this appeal, on the grounds of [Article 111](#) ^[10] of the German Penal Code:

He who publicly, whether in a gathering or by disseminating writing, encourages an illegal act will be prosecuted for incitement.

The police notification sent to Ms Bahner, ordering her to appear for interview as a criminal suspect on 15 April, [stated](#) ^[11]:

As I have not been able to reach you personally, I inform you by this letter that due to your public call to commit criminal acts (national gatherings at 3 pm on Easter Saturday despite a ban), your website will immediately be switched off.

An order to that effect is being sent to the company 1&1 Telekommunikation SE.

Ms Bahner's website was duly [switched off](#) ^[12] that day (9 April) but was available again the next day.

Supreme Court declines case

Meanwhile, as previously announced, Ms Bahner had submitted a 36-page [urgent motion](#) ^[13] to the German Constitutional Court regarding the unlawfulness of all 16 German federal states' Coronavirus measures, on 8 April. At closing time on Good Friday (10 April), the Constitutional Court faxed its [refusal](#) ^[14] to hear her motion, finding it [inadmissible](#) ^[15] as a matter of inferior administrative law.

Violent committal to psychiatric clinic

On Easter Monday, a [recording](#) ^[16] was uploaded of a calm 12½-minute voicemail left by Ms Bahner for her sister, describing a massively brutal snoop on her home on Easter Sunday evening (12 April). The voice in the recording matches a [previous video recording](#) ^[17] of Ms Bahner (ironically, one in which she describes nursing liability law). In the voicemail, Ms Bahner recounts:

I went into the garage and found a car following me suspiciously. After standing in front of my car for ten minutes, I sensed something was not right and ran back out of the garage. Stupidly, I didn't run into the house, because my secretary had gone to get her car on Voss-strasse and she just didn't show up again ... I asked a passing car to call the police for me. They

simply kept refusing to [respond] for five minutes, and then I realised it had been a huge mistake to call the police, because at the moment I'm Number One Enemy of the State.

When the police did arrive, I told them I felt threatened. They brought the handcuffs out and pushed me to the ground with massive force. They kept me sitting in their car for ten minutes with my hands cuffed behind my back, then they drove me around the corner to the psychiatric clinic. There were four police officers there, three nurses, and a doctor, though she only arrived ten minutes later.

I asked to be allowed to sit down and was shown to a bench. Then I asked to have the handcuffs taken off, since it was actually I who had requested police protection. But instead, I was thrown to the floor again, having my head hurled onto the stone floor from a metre (3 ft) height, which nobody reacted to. Then they asked me whether I wanted a face mask, which of course I declined.

Because I refused to move, they physically carried me to the doctor, who asked me "why I felt threatened", even though they all know perfectly well who I am. I was told I would not be given a lawyer.

She goes on to describe in the voicemail her unfamiliarity with the psychiatric facility to which she was taken, even though she is a local lawyer who apparently had to visit clients in that clinic in the past:

Then I was forced to spend the night lying on the floor in some high-security Guantanamo psychiatric clinic, which I didn't recognise; it's been renovated. There was no toilet, no sink, though they did allow me water, and there was a bell I could ring, though they ignored it after the third time I pressed it.

After a further ten minutes of description of how Ms Bahner was "upgraded" from the floor of an isolation cell to a proper furnished room with good nurses, she ends the voicemail to her sister with the observation:

I have been held here for 20 hours now. If people don't finally wake up, this is going to turn into the worst régime of terror ever ... We are being tyrannised by evil, evil, evil forces. Last night, I was petrified of being killed, of being forceably injected. I am fearful of being disappeared ... Because I had been without a mobile phone at the time I was arrested, I had no way of contacting anyone ... I have a summons for Wednesday [15 April] because I allegedly breached Article 111 of the Penal Code, "Incitement to Criminal Acts". I called upon people to demonstrate! Freedom of speech was the most fundamental constitutional right in Germany, and in the space of three months it has become a criminal act.

Ms Bahner's presence at the [Klinik für Allgemeine Psychiatrie](#) [18] on Voss-strasse in Heidelberg, a university clinic, was confirmed on Tuesday 14 April in a [telephone call](#) [19] by journalist Hagen Grell. The clinic told him that it had put out a public statement on the case and refused to allow him to speak to Ms Bahner, but suggested that if he were able to obtain her mobile telephone number, he would be able to call her directly.

The detention has also been reported by [local Heidelberg media](#) [20], [regional media](#) [21] and a [national news source](#) [22]. Ms Bahner's interview for "incitement to commit criminal acts" is reportedly [scheduled](#) [23] for 1 pm on Wednesday 15 April at the K6 Heidelberg Criminal Police Department on Römerstrasse.

On Tuesday 14 April, Attorney W. Schmitz [wrote](#) [24] to the German Federal Bar Association that it should take up Ms Bahner's case, if only because the Psychiatric Treatment Act did not in his understanding justify the committal of a person to an institution on the "alleged perception of a police officer" that she appeared confused. He added:

I should not have to add that Ms Bahner's claims of very grave abuse have very untoward connotations of the darkest chapters of German history. The mere fact that she claimed to have been so badly abused was what prompted me to write to you.

Ms Bahner is in the company of over 50 well-known experts in criticising the nationwide lockdown; I would be glad to furnish you with a list of their names.

If it really is the case that lawyers critical of government measures can now be intimidated using the state legal apparatus or psychiatry, and can be professionally and socially destroyed, then it is five minutes to midnight in this country.

Confinement of whistleblowers in psychiatric institutions, an old Soviet technique, has previously been reported by UK Column from Lancashire (in our [most viewed ever video](#) [25], an interview with social worker [Carol Woods](#) [26], who we understand has recently been released but remains at threat from persecutors); from North Yorkshire (in the [Hofschroer case](#) [27], extending to Germany and Austria); from Nottinghamshire (the case of [Melanie Shaw](#) [28], who is now being well looked after in another institution); and from Cornwall (the case of [Emma](#) [29], a mother who had reported apparent sexual grooming going on at her child's primary school).

UPDATE: A statement on [Ms Bahner's website](#) [30] of Wednesday 15 April indicates that she was released from psychiatric committal the previous evening. In the early afternoon of 15 April, [dozens of protestors rallied](#) [31] in front of the Heidelberg Criminal Police building where Ms Bahner had just been interviewed for alleged incitement to commit criminal offences. Ms Bahner told the assembled crowd that she had been given a date, apparently for a further interview.

Ms Bahner's statement ends:

Beate Bahner requires no legal representation, since practically the whole legal profession and the whole judicial system has utterly failed in the past two weeks, thereby contributing to the abolition of the rule of law and the lightning-quick setting-up of the most monstrous and appalling régime of injustice that the world has ever seen.

[A statement of 14 April](#) [30] by the Heidelberg Public Prosecutor, the body's second press statement on Ms Bahner, announces that her prosecution by criminal police and the State Security Department is continuing and insists that the criminal proceedings against her have nothing to do with "either the psychiatric committal of the accused or any other use of force by law enforcement".

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