

# Silencing alternatives

*Sabine Beppler-Spahl*

Germany's war on free speech

February 2025





Silencing alternatives:  
Germany's war on free speech

Sabine Beppler-Spahl



# Contents

<b>Executive summary</b>	<b>6</b>
<b>Introduction</b>	<b>8</b>
<b>1 'Defensive democracy': protecting democracy from citizens</b>	<b>10</b>
<b>2 Pilloried by the state: Germany's anti-free-speech laws</b>	<b>12</b>
2.1 Section 188 criminal code	12
2.2 Section 130 criminal code: fearing the masses	15
2.3 Section 86 criminal code: the case against Björn Höcke (AfD)	17
2.4 Cementing divisions and turning against voters	18
2.5 The Office for the Protection of the Constitution: determining the limits of public debate	19
2.6 Media: self-restrained and consensual?	21
<b>Conclusion</b>	<b>25</b>
<b>End notes</b>	<b>26</b>

## Executive summary

Under the guise of defending democracy from the threat of the far-right, the German government attempts to systematically silence and punish critical voices. Not only politicians and journalists, but an increasing number of ordinary citizens face police investigations, heavy fines and even prison sentences for posting a single critical comment online. Such forceful silencing of opposing views, however, is deeply anti-democratic and violates the basic rights of German citizens.

Germany's constitutional guarantee of free speech has been significantly eroded in recent years. Legal restrictions and institutional controls that limit free speech have become powerful tools in the establishment's struggle against populism, with the government using the 'defensive democracy' doctrine to justify repressive measures.

The key mechanisms that have been used to restrict free speech are:

- 1 Section 188 (Criminal Code) which criminalizes 'insults' to politicians, leading to prosecutions of ordinary citizens for social-media posts or protest letters;
- 2 Section 130 ('incitement of masses' law), repeatedly amended and broadened in the past few years, resulting in prosecutions for criticism, such as of Germany's immigration policies;
- 3 The Office for the Protection of the Constitution (BfV), which monitors citizens' speech and can designate groups as 'extremist', effectively stigmatising political opposition.

The climate of stigmatisation and exclusion has impacted public debate. A 2024 survey revealed less than half of Germans feel they can express

political opinions freely. Rather than address this concerning trend, the current government has intensified its attempts to marginalise critics.

Public broadcasters primarily reflect establishment views, while too many independent media outlets have engaged in self-censorship to avoid being labelled as right-wing populist – particularly on issues like immigration, Islamism, Covid-19 policies and international populist movements.

Alternative media platforms have emerged and gained popularity despite facing pressure through advertising boycotts and legal threats – reflecting a growing public demand for more open debate.

## Introduction

Germany is a democratic country in which free speech is guaranteed by law. Article 5 (1) of its Basic Law states: ‘Everyone shall have the right to freely express and disseminate his opinions [...] There shall be no censorship.’<sup>1</sup>

If this were the full story, there would be no need for this policy paper. But much like in Orwell’s *Animal Farm*, where the animals’ original commandments were gradually subverted until they meant the opposite, Germany’s constitutional guarantee of free speech has been hollowed out through an expanding set of legal restrictions and other institutional means.

Since 2015, Germany, like many Western nations, has experienced deepening social divisions. As populist movements have gained strength, a political establishment, facing growing challenges to its authority, has increasingly resorted to authoritarian means to suppress and intimidate dissent. A growing number of ordinary citizens have had to face prosecutions, police raids and formal warnings for unruly speech. There have also been procedures against counter-media outlets, and bans – or the threat of bans – to political movements that have given voice to populist, public discontent. Research by the prestigious Allensbach Institute has revealed that less than half of Germans now feel they can ‘express their political opinion freely’.<sup>2</sup>

Laws that restrict free speech have become a powerful tool in the current culture war. Much of this has been justified by the fight against the ‘far-right’, following the logic of Germany’s ‘defensive democracy’ model.



This paper looks at how the pledge to free speech, as promised in the constitution, has been undermined. It will consider the key legislation and institutional structures that have served this purpose. It will also show that the establishment's 'crusade' against the 'populist far-right' has affected Germany's media landscape. While mainstream outlets – particularly the state-funded public broadcasters – have increasingly acted as echo chambers for official narratives, alternative media platforms have gained influence.

## **1 'Defensive democracy': protecting democracy from citizens**

Germany's doctrine of 'defensive democracy' is based on eliminating perceived threats to democracy at their earliest stages. The concept was introduced after the Second World War to demonstrate the determination of the new elite never to allow Germany to fall victim to dictatorship again. It was based on the idea that it was the masses who had been responsible for the rise of fascism, and that pre-emptive suppression of 'dangerous' speech and action was therefore necessary.

But while the German establishment's impulse to control public discourse dates back to this earlier era, it was during the twilight of Angela Merkel's chancellorship that the fight against the 'far right' became one of the central organising principles of German politics, ushering in increasingly authoritarian measures such as anti-free-speech laws that are being used against ordinary citizens.

What began under Merkel's administration has been accelerated by its successor, the 'traffic light' coalition, led by Olaf Scholz of the SPD, since 2021. The official website of the Ministry of the Interior declares: 'Right-wing extremism remains the greatest threat to our democracy.'<sup>3</sup> Nancy Faeser, the minister of the interior (SPD), is quoted as saying: 'We want to use all the instruments of the rule of law to protect our democracy. We want to smash right-wing extremist networks, deprive them of their income and take away their weapons.'<sup>4</sup>

Germany has indeed experienced some horrific acts of far-right violence. A racist attack in Hanau in 2020 claimed nine lives from immigrant communities. In 2019, a far-right, anti-Semitic gunman murdered two people after failing to breach a synagogue in Halle. Yet the state's speech restrictions, described further below, target citizens whose offence is voicing opposition to government policies – not violent extremists.

The concept of 'defensive democracy' has become so malleable that the government now wields it as a convenient weapon even against critics, beyond right-wing parties or groups. During the Covid pandemic, for example, this doctrine was deployed to delegitimise and punish those who opposed lockdowns and vaccine mandates. When Scholz delivered his first government statement in December 2021, he characterised those refusing Covid-19 vaccines as 'a small extremist minority that rejects our society, our democracy, our community and our state'.<sup>5</sup> Germany's 'defensive democracy' would not tolerate such opposition.

Such examples show that the term 'anti-democratic extremist' has constantly been watered down and expanded. Speech that would have been seen as perfectly reasonable some years ago is now deemed threatening. In a truly Orwellian twist, some in the government have indicated that even lawful speech could be a criminal offence: 'Many enemies of democracy know exactly what falls under freedom of expression on social-media platforms', announced Lisa Paus, minister for family affairs (Greens), at a press conference on the topic of 'hate on the internet' in February 2024.<sup>6</sup> The government, she warned, would take this into account and act accordingly.

The numerous hate-speech charges brought against ordinary citizens in recent years show that this was not an empty threat. The main laws behind these attacks on freedom of expression are set out below. Their impact is illustrated by concrete examples.

## **2 Pilloried by the state: Germany's anti-free-speech laws**

### **2.1 Section 188 criminal code**

In the early hours of a Tuesday morning in November 2024, police officers searched the home of a retired man living in rural Bavaria. The search was carried out on the orders of the public prosecutor's office in Bamberg, and the man's computer was confiscated. According to the prosecutor's office, the man was accused of sharing a post with an image file to the social-media platform X in the spring of 2024, showing a portrait photo of Robert Habeck (Green Party), Germany's economics minister and vice-chancellor of the coalition government. The caption under the photo read 'Schwachkopf PROFESSIONAL' (which roughly translates as 'Moron PROFESSIONAL'). This was a play on the name of a brand of shampoo, 'Schwarzkopf Professional'.<sup>7</sup>

Although just one of many similar cases, the 'Schwarzkopf scandal', as it became known, caused some public outrage. The story was first reported on social media and by alternative news platforms. Social-media sites showed images of the man staring defiantly into the camera as his daughter, who has Down's syndrome, clung to his arm.<sup>8</sup>

This case exemplifies the authoritarian character of Germany's recent law against 'insult directed at persons in political life' (Section 188, German Criminal Code). Enacted in spring 2021 as an amendment to existing anti-

defamation legislation, the provision was part of the Merkel government's broader package 'to combat right-wing extremism and hate crime'.

The text of the law reads:

*Section 188: Insult, malicious gossip and defamation directed at persons in political life*

- 1 *If an offence of insult (section 185) is committed publicly, in a meeting or by disseminating content (section 11 (3)) against a person involved in the political life of the nation on account of the position that person holds in public life and if the offence is suited to making that person's public activities substantially more difficult, the penalty is imprisonment for a term not exceeding three years or a fine. The political life of the nation reaches down to the local level.*
- 2 *Malicious gossip (section 186) under the same conditions incurs a penalty of imprisonment for a term of between three months and five years and defamation (section 187) under the same conditions incurs a penalty of imprisonment for a term of between six months and five years.*

Ostensibly designed to protect politicians from defamation, it has led to hundreds of lawsuits. One of its effects has been to provide anti-free-speech activists with a new business model. A start-up called 'So Done', founded by members of Germany's liberal FDP party, monitors the internet for potentially offensive content and encourages politicians to file charges. Although most politicians have shown restraint, others stand out. According to media reports from September 2024, the leading figures up to that date were Marie-Agnes Strack-Zimmermann (MEP, Renew Europe Group) with almost 1,900 reports,<sup>9</sup> Robert Habeck with over 800 reports and Annalena Baerbock (German foreign minister, Green Party) with 513 reports.<sup>10</sup>

Politicians have undoubtedly been subject to some crude insults on social media. But beyond the fundamental question of whether such speech should

be criminalised at all, many of the cases that have reached the courts are best seen as examples of how broad and subjective the concept of 'defamation' is. In some cases, people have even been convicted simply for writing letters of protest to politicians. Take these cases, for example:

- In December 2023, a pensioner posted a comment on the Foreign Ministry's contact page about Baerbock that referenced her trampoline hobby and her support for transgender self-identification laws. The post read:

*Almost the entire nation is feverishly asking the question: when will Baerbock overcome his or her puberty, when will Baerbock finally grow up? Some evil tongues think never, because she has banged her head on the ceiling too often while trampolining.*<sup>11</sup>

He was fined €800 by a court in Celle (Germany) and ordered to cover the costs of the legal proceedings.<sup>12</sup>

- In April 2022, a construction engineer wrote an angry email to Manuela Schwesig (SPD), the prime minister of Mecklenburg-Western Pomerania, who had used dubious means to promote Germany's Nord Stream 2 pipeline with Russia. The letter read:

*Schwesig's lies and deceit: Dear Ms Schwesig, it's too late for you. We still need women in construction. You don't have to sell people stupid things. We are looking forward to you. Do you really want to support the murder campaign of those drunkards in Moscow, as I have heard?*<sup>13</sup>

In March 2023, the public prosecutor's office sought a €3,000 fine. After his refusal to pay, he was sentenced to imprisonment.

In August 2023, police arrested him at his workplace and took him to Dortmund prison, where he served 30 days.<sup>14</sup>

Most cases, however, relate to social-media posts, such as one by a 50-year-old who was fined €2,250 for referring to Strack-Zimmermann as a ‘bitch’ (using the English word) in a post.<sup>15</sup> Other examples include a 28-year-old who received a €600 fine for posting images of politicians with edited black moustaches and ‘offensive writing’ on Instagram, along with sharing a video that labelled Baerbock a ‘terrorist’.<sup>16</sup>

## **2.2 Section 130 criminal code: fearing the masses**

In May 2024, anti-Islam activist Michael Stürzenberger was sentenced to a fine of €3,600 under section 130 of the criminal code: Germany’s ‘incitement of the masses’ law. The conviction came after Stürzenberger had already been sentenced by a lower court to six months in prison without probation for the same offence – a sentence that Stürzenberger had appealed against.

The charge against Stürzenberger followed a rally that he had held with his anti-Islam organisation Pax Europa in October 2020. According to a report, he had ‘made statements in the presence of numerous counter-demonstrators which the regional court condemned as incitement to hatred’.<sup>17</sup> The sentence was reduced in part because in the meantime, in May 2024, Stürzenberger himself had been the victim of an Islamist-motivated attack in which he and four other people were seriously injured and a police officer was killed.<sup>18</sup>

The law against incitement of masses (also known as the incitement to hatred law) perfectly illustrates how the boundaries of what can be said have been increasingly narrowed in recent years. The roots of the law go back to 1871, when it was applied to socialists and referred to as the ‘class warfare paragraph’. It was revised in 1960 following a peak in neo-Nazi activities, such as the desecration of Jewish cemeteries.

Yet, it is only in recent decades that the law has experienced a veritable wave of amendments, some prompted by EU requirements. For instance, the law was amended after the European Commission initiated an infringement procedure against Germany in December 2021 for inadequately implementing the Council Framework Decision 2008/913/JHA on combating racism and xenophobia through criminal law.<sup>19</sup>

In 2022, the government extended Section 130 of the German Criminal Code, which now goes even further than the EU Framework Decision. In essence, the offence is committed when ‘someone disturbs public peace by inciting hatred, violence and arbitrariness against national, racial, religious or ethnic group(s) or against parts of the population or against an individual because of his or her membership of a particular group or part of the population’.<sup>20</sup> (The 2022 extension specifies that anyone who publicly and ‘grossly’ trivialises genocide or war crimes now faces up to three years in prison for incitement to hatred.)<sup>21</sup>

This expansive and ambiguous definition has led to an increasing number of court cases against radical critics of Islam and German immigration policy, with a notable surge following the 2015 refugee crisis. According to a study paper from the University of Marburg, published in 2018, ‘the number of xenophobic hate crimes increased substantially from a total of 512 in 2014 to 918 in 2015 and 1,190 in 2016’.<sup>22</sup> Most of these cases were related to speech violations. Similarly, in January 2025, German news broadcasts reported a ‘new high’ in right-wing extremist crimes. According to the Federal Ministry of the Interior, the figures up to the end of November 2024 were just under 34,000. Over 26,000 of these were so-called ‘propaganda offences’ and offences under Section 130 (incitement).<sup>23</sup>

Apart from Stürzenberger, a 74-year-old woman was among those convicted under Section 130 after commenting: ‘Blablabla. We need skilled



workers, not asylum seekers who just want to make a nice life here without respecting our values and culture. Send those who are here to work. We don't need idlers and scroungers, and we certainly don't need knife artists and rapists.'<sup>24</sup> The comment was posted on Facebook in response to a statement by Robert Habeck about Germany's need for migration. The Düsseldorf district court sentenced the woman to 150 daily fines of €53 euros each, totalling €7,950.

### **2.3 Section 86 criminal code: the case against Björn Höcke (AfD)**

Though Sections 130 and 188 are the most commonly used provisions criminalising certain forms of speech, the German Criminal Code contains several others. These include Section 166 (defamation of religious beliefs and religious and ideological communities), Section 86 (dissemination of propaganda material of unconstitutional and terrorist organisations) and Section 86a (use of symbols of unconstitutional and terrorist organizations).

In May 2024, Björn Höcke, a far-right AfD politician, was fined €13,000 by the Regional Court of Halle (Saale) for violating Section 86a of the Criminal Code. The case was initiated by a member of the Green Party after Höcke allegedly declared 'Everything for our homeland, everything for Saxony-Anhalt, everything for Germany' to an audience of approximately 250 people during his party's election campaign. The decision was based on the fact that the phrase 'Everything for Germany' ('Alles für Deutschland') was used by the SA (Sturmabteilung), the Nazi Party's paramilitary organisation, during the Third Reich.

The lawsuit against Höcke followed the logic of self-proclaimed anti-fascists who wanted to take a stand and counter the perceived danger of far-right populism. Predictably, this attempt to stigmatise AfD, and to deter voters from supporting the party, has been largely unsuccessful. Less than

four months later, in September 2024, the party notably won the most votes (32.8%) in the election in Thuringia, the very state where Höcke heads the party. However, the establishment parties' refusal to work with AfD has prevented the party from governing in the state.

#### **2.4 Cementing divisions and turning against voters**

By attacking freedom of expression, politicians have alienated large sections of the electorate. If most German voters feel unable to express their opinions freely, as a recent Allensbach survey has found, this should be a cause for alarm for the government. Instead, it has stepped up its threats. 'Anyone who mocks the state, will have to deal with a strong state', Nancy Faeser recently declared.<sup>25</sup> The survey revealed a stark divide: 78% of Green Party and 61% of Social Democrat voters perceive no speech restrictions. In contrast, 88% of AfD supporters feel heavily censored – a demographic the government has deliberately marginalised. Rupert Scholz, a constitutional law professor and a former Berlin senator (CDU), described these actions as a 'massive intimidation campaign' by the government against its critics.<sup>26</sup>

In a liberal, democratic society, citizens must be free to express their frustration with those who govern them. Classical liberalism emphasises the protection of citizens from state power, not the other way around. Hans-Georg Maassen, the former head of Germany's domestic intelligence agency, the Office for the Protection of the Constitution, who fell out with the government, points out that Section 188 'cements a two-tier society'. Criticising the law, he says: 'It is incomprehensible why politicians need to be privileged and specially protected; as a rule, they are even better able to defend themselves than ordinary citizens. Nor are they above the law.'<sup>27</sup>

Fortunately, a group within the conservative CDU has launched an initiative to abolish the section. Their appeal to party members reads:

‘In contrast to many professional politicians, who have learned to use soft language in countless rhetoric seminars, citizens speak and write in a more direct and everyday way. Especially in emotionally charged moments, such as when prosperity, freedom or security are at stake, the state must be able to tolerate careless statements – without citizens’ having to fear house searches or the loss of social standing.’<sup>28</sup>

Not only Section 188, but also the German law on incitement to hatred, with its ever-widening scope, has proved problematic. It has significantly constrained the democratic discourse. A functioning democracy must tolerate even the expression of extreme viewpoints. The democratic process thrives on open debate and the exchange of opposing ideas, ultimately leading to meaningful compromise. Indeed, most of the court cases of the past few years reflect a deeper societal tension – they stem from citizens’ frustration at feeling unheard or dismissed. This is particularly evident in debates around migration, where the political establishment has not only promoted and implemented mass migration but has also worked to suppress criticism of these policies by calling critics xenophobes or even racists.

Yet it is not only through repressive laws that the government, and with it the establishment, have attempted to limit public debates. Germany also has institutions that serve this purpose. One of the main ones is the Office for the Protection of the Constitution, which is introduced below.

## **2.5 The Office for the Protection of the Constitution: determining the limits of public debate**

‘The German Office for the Protection of the Constitution is an internationally unique organisation. In Western democracies, it is not normal for a state authority to concern itself with the views of citizens’, writes Mathias Brodtkorb (SPD), a journalist, politician and former minister in

Mecklenburg-Western Pomerania.<sup>29</sup> Brodkorb's book about the German Verfassungsschutz (BfV) is one of the few truly excellent critiques of this institution.

Founded after the Second World War, the BfV embodies the state's deep distrust of its citizens. Established in 1949 by occupying military governors to collect and disseminate information on subversive activities, the intelligence service now operates under the Ministry of the Interior. It has become a primary instrument in the government's fight against populism.

The BfV focuses on identifying potential unconstitutional activities before they become criminal offences, which usually means scrutinising speech. As Brodkorb explains, it doesn't take much to become an object of observation: '[I]n case of doubt, a robustly formulated critical opinion on government action is sufficient.'<sup>30</sup>

As if to highlight this, the BfV introduced a new category of observation in 2021, called 'delegitimisation of the state'. Thomas Haldenwang, then head of the institution, alongside Interior Minister Nancy Faeser, declared: 'We must not only focus on violent right-wing extremism, but also on shifting verbal and mental boundaries.'<sup>31</sup> The message was clear: citizens should avoid disrespectful language towards the government, or other representatives of the state.

Though lacking police powers, the BfV wields significant influence over public discourse – and not just by attempting to define the limits of acceptable criticism. Its task is also to observe and classify political opponents. Since 2021, its designation of AfD as a 'suspected case' and some party factions as 'proven extremist and anti-constitutional' has helped to stigmatise the party and its supporters. It has also effectively limited public engagement for the party, especially amongst public-sector employees who

fear professional repercussions. This suppression has intensified the party's radicalisation, as only those immune to social and professional consequences can openly maintain their membership.

In spring 2024, shortly before the European election, a German court upheld the BfV's authority to designate AfD as a 'suspected right-wing extremist organisation'. The designation has intensified calls for the party's outright ban.

But mainstream media outlets have also happily joined in the stigmatisation game by routinely invoking the BfV's 'proven right-wing extremist' verdict when reporting about AfD. The party's electoral successes, however, show that many normal citizens refuse to be deterred. They obviously see the BfV for what it is: an undemocratic authority that aims to protect the government from its critics.

## **2.6 Media: self-restrained and consensual?**

Daniel Johnson, former Germany correspondent of the *Daily Telegraph*, has argued that 'German correspondents aren't reporting the story of Brexit. They're churning out Merkel propaganda.'<sup>32</sup> He was right. After Britain's EU referendum, German mainstream media presented a uniformly pro-EU and anti-Brexit narrative, effectively suppressing alternative perspectives and reflecting the establishment's drive to enforce a strong consensus against populist movements.

A similar lack of ambition to inform the public could be observed after the election of Donald Trump as US president in 2016. In 2018, Richard Grenell, then US ambassador to Germany, said that the scandal surrounding Claas Relotius, a journalist for *Der Spiegel*, was symptomatic of an anti-American bias across Germany's mainstream media.<sup>33</sup> Relotius had won Germany's most prestigious journalism awards before being exposed

as a fraud. His largely fabricated interviews with supposed Trump supporters, and the applause he received for them, showed the cultural and media elite's eagerness to confirm existing prejudices.

The accusation of one-sided or overly uncritical reporting was also levelled regarding migration, Covid-19 measures such as lockdowns, and the German government's decision to phase out nuclear power in 2011. Despite the potential dangers which the exit from nuclear power poses for the German economy, mainstream commentators largely abstained from criticising the decision and the effective closure of all nuclear-power plants by 2024. Studies by Wolling & Arlt<sup>34</sup> and Meissner<sup>35</sup> revealed how reports, particularly during the Fukushima disaster, were coloured by journalists' personal fears and culturally determined approaches to nuclear risks.

The media's pro-establishment bias stems partly from journalists' increasingly uniform social background. A 2020 study of ARD public-service broadcaster trainees revealed a stark political skew: 57% supported the Greens, 23% the Left Party and 12% the SPD.<sup>36</sup> A subsequent 2024 study further confirmed this trend, showing 41% of German journalists align with Green political ideology.<sup>37</sup> This homogeneity enforces a systemic bias that potentially limits media diversity and critical perspectives.

The media has also been profoundly shaped by the establishment's declared war against populism and the far-right. A stifling anti-free-speech climate has infiltrated newsrooms, muzzling critical reporting. Journalists who dare challenge mainstream narratives on the EU or climate change often face professional ostracism. The harshest spotlight falls on Germany's public broadcasters (ARD, ZDF, Deutschlandfunk), which drain a staggering €9 billion annually through mandatory licence fees. Despite ARD's self-proclamation as the 'epitome of credibility and expertise',<sup>38</sup> a 2023 INSA

survey exposes that fewer than half of Germans, and a mere third of young adults (18–29), consider it trustworthy.<sup>39</sup>

Former ARD planning editor Alexander Teske's recent book delivers a damning insider critique of journalistic practices. He reveals that reporters routinely filter stories through their personal ideological lens. When covering demonstrations and anti-government protests, particularly in former East Germany, journalists deliberately cherry-pick the most simplistic and inflammatory statements. Teske exposes how newsrooms, for fear of missteps, resort to copying each other's coverage rather than pursuing independent journalism.<sup>40</sup>

In response, several journalists – often from mainstream outlets – have opened their own platforms in the past few years. Examples are NIUS, *Tichys Einblick*, *Kontrafunk*, *Die Achse des Guten*, reitschuster.de, etc. Although they only have a fraction of the resources available to public broadcasters and are constantly faced with content restrictions on social-media platforms, advertising boycotts, debanking attempts and defamation as part of the 'fight against the right' – and sometimes even lawsuits – these platforms are becoming increasingly popular.

Unsurprisingly, there have been many attempts to stigmatise these outlets as far-right or producers of fake news. In 2020, Roland Tichy won a court case against Germany's no.1 fact-checking organisation, Correctiv. Correctiv, whose main sponsor is billionaire and eBay founder Pierre Omidyar, had flagged an article by Tichy on climate change as fake news.<sup>41</sup> In April, the Jewish publicist Henryk Broder, who writes for *Die Achse des Guten*, won a court case after the Interior Ministry had listed him as an 'anti-Muslim racist' on its homepage.<sup>42</sup>

Most recently, in 2024, Julian Reichelt, NIUS founder and former chairman of the editors-in-chief and digital editor-in-chief of *Bild*, Germany's

largest and highest-circulation tabloid, triumphed over Development Minister Svenja Schulze (SPD), who had accused him of spreading ‘false facts’ for his explosive X post: ‘Germany has paid 370 MILLION EURO (!!!) in development aid to TALIBAN (!!!!!) in the last two years. (...) We are living in a madhouse, an absolute, complete, total, historically unique madhouse. What kind of government is this?’<sup>43</sup>

In August 2024, the Federal Administrative Court partially suspended the immediate enforcement of a ban of *Compact* magazine. It had been banned by the Federal Ministry of the Interior in July of the same year. The publisher – Jürgen Elsässer, a former far-left, anti-nuclear activist turned conspiracy theorist and radical anti-Islamist – was photographed in his dressing gown in front of his house, surrounded by dozens of police officers, as they were enforcing the government’s ban.<sup>44</sup> Typically, the magazine and its staff had been listed as far-right extremist by Germany’s Office for the Protection of the Constitution (BfV).

Thankfully, for now, German courts have upheld the principle of press freedom, as guaranteed in Germany’s constitution. However, the charges against rebellious journalists and the attempts to discredit them – including through criminal charges and ‘fact checks’ – should worry anyone who cares about press freedom in Germany. With the growing economic crisis, criticism of the government in the mainstream media has become stronger. However, many journalists’ and editors’ fear of being associated with the ‘right-wing’ or AfD continues to be a hindrance to truly critical reporting.



## Conclusion

Free speech in Germany has been under systematic attack for the past few years. Laws supposedly aimed at preventing hate speech have been used to stop citizens from voicing criticism against the government. This oppressive practice significantly erodes the principles of democracy – the very institution these laws are supposed to protect.

Whether a new government abolishes Germany's repressive anti-free-speech laws, and resists the temptation to attempt to stigmatise critics, will serve as a touchstone of its genuine commitment to democracy in Germany.

History teaches us that governments typically yield to sustained pressure. The voices defending free speech must therefore grow louder and more numerous – including in mainstream media.

## End notes

- 1 Basic Law for the Federal Republic of Germany, European Union Agency for Fundamental Rights [fra.europa.eu](https://fra.europa.eu)
- 2 Rainer Zitelmann, 'Darf ich alles sagen? Viele Bürger fühlen sich unfrei – große Ausnahme sind Grünen-Fans', *Focus*, 26 October 2024 [focus.de](https://www.focus.de)
- 3 Maßnahmen gegen Rechtsextremismus, Bundesministerium des Innern und für Heimat [bmi.bund.de](https://www.bmi.bund.de)
- 4 Rechtsextremismus, Bundesministerium des Innern und für Heimat [bmi.bund.de](https://www.bmi.bund.de)
- 5 Regierungserklärung von Bundeskanzler Olaf Scholz, Bundesregierung, 15 December 2021 [bundesregierung.de](https://www.bundesregierung.de)
- 6 Gerhard Strate, 'Meinungen unterhalb der Strafbarkeitsgrenze', *beck-aktuell*, 4 March 2024 [rsw.beck.de](https://www.rsw.beck.de)
- 7 'Nach Beleidigung: Habeck stellt Strafantrag', ZDF heute, 15 November 2024 [zdf.de](https://www.zdf.de)
- 8 Christoph Lemmer, "'Schwachkopf' – Meme zu Habeck geteilt – dann kommt die Polizei", *Die Welt*, 21 November 2024 [welt.de](https://www.welt.de)
- 9 Katharina Gilles, 'Strack-Zimmermann zeigt fast 1900 Beleidigungen an', *Rheinische Post*, 24 September 2024 [rp-online.de](https://www.rp-online.de)
- 10 Julian Kaiser, 'Anzeigehauptmeister: Habeck und Baerbock erstatteten mehr als 1000 Anzeigen', *Ruhr24*, 29 November 2024 [ruhr24.de](https://www.ruhr24.de)
- 11 December 2024, [cancelculture.de](https://cancelculture.de) [cancelculture.de/2025/01/03/dezember-2024/](https://cancelculture.de/2025/01/03/dezember-2024/)
- 12 Henry Behrens, 'Baerbock sei "beim Tramplinspringen zu oft an die Zimmerdecke geknallt" – Rentner muss 800 Euro Strafe zahlen', *Apollo News*, 18 December 2024 [apollo-news.net](https://www.apollo-news.net)
- 13 December 2024, [cancelculture.de](https://cancelculture.de)
- 14 Redaktion Tichy, 'Ersatzhaftstrafe für Bauingenieur, nachdem er Manuela Schwesig beleidigt hatte', *Tichys Einblick*, 17 December 2024 [tichyseinblick.de](https://www.tichyseinblick.de)
- 15 Michaela Siegel, 'Mann beleidigt FDP-Politikerin Marie-Agnes Strack-Zimmermann im Netz', 22 September 2024 [augsburger-allgemeine.de](https://www.augsburger-allgemeine.de)
- 16 'Wegen Beleidigung von Politikern: Gericht verhängt Geldstrafen', NDR, 3 January 2025 [ndr.de](https://www.ndr.de)
- 17 Len Sander, 'Islamist wollte ihn töten: Jetzt wurde Stürzenberger zu Geldstrafe für Islam-Hass verurteilt', *Berliner Zeitung*, 28 November 2024 [berliner-zeitung.de](https://www.berliner-zeitung.de)
- 18 Holger Schmidt, Patrick Figaj, 'Messerangriff in Mannheim: Generalbundesanwalt erhebt Anklage im Fall Rouven Laur', *SWR aktuell*, 19 November 2024 [swr.de](https://www.swr.de)
- 19 European Commission, March infringement package: key decisions, 13 March 2024 [ec.europa.eu](https://ec.europa.eu)
- 20 Jura-Forum, 'Volksverhetzung (§ 130 StGB) – Definition, Beispiele und Abgrenzung zur Meinungsfreiheit', 25 October 2024 [juraforum.de](https://www.juraforum.de)
- 21 Hasso Suliak, 'Öffentliche Verharmlosung von Kriegsverbrechen künftig strafbar', LTO, 21 October 2022 [lto.de](https://www.lto.de)
- 22 Ulrich Wagner, Sarantis Tachtsoglou, Patrick Ferdinand Kotzur, Maria-Therese Friehs, Uwe Kemmesies, 'Proportion of foreigners negatively predicts the prevalence of xenophobic hate crimes within German districts', 23 May 2020, Philipps-Universität Marburg [uni-marburg.de](https://www.uni-marburg.de)
- 23 'Höchststand bei rechtsextremen Straftaten', *Tagesschau* (ARD), 6 January 2025 [tagesschau.de](https://www.tagesschau.de)
- 24 Clivia von Dewitz, 'Ist das schon Volksverhetzung? Der Ärger über Robert Habeck kommt eine 74-Jährige teuer zu stehen', *Berliner Zeitung*, 5 January 2025 [berliner-zeitung.de](https://www.berliner-zeitung.de)
- 25 H. Slansky, D. Rzepka, 'Faeser-Pläne: Meinungsfreiheit in Gefahr?', [zdfheute](https://www.zdfheute.de), 11 March 2024 [zdf.de](https://www.zdf.de)
- 26 Einar Koch, 'DK-Interview mit Staatsrechtler Rupert Scholz: "Ampel-Minister wollen Bürger mit Strafanzeigen einschüchtern!"', *Deutschland-Kurier*, 12 August 2024 [deutschlandkurier.de](https://www.deutschlandkurier.de)
- 27 WerteUnion, 'Hans-Georg Maaßen nach der "Schwachkopf"-Affäre: Gesetze gegen Meinungsfreiheit abschaffen!', 29 November 2024 [werteunion-thueringen.de](https://www.werteunion-thueringen.de)
- 28 CDU Basis Antrag, 'Strengthen freedom of expression - decriminalize insults: Motion to the 37th Federal Party Congress of the CDU Germany' [basis-antrag.de](https://www.basis-antrag.de)
- 29 Mathias Brodtkorb, *Gesinnungspolizei im Rechtsstaat? Der Verfassungsschutz als Erfüllungsgehilfe der Politik* (zu Klampen Verlag, 2024) p.4
- 30 Ibid, p.17
- 31 H. Slansky, D. Rzepka, *op.cit.*
- 32 Daniel Johnson, 'German correspondents aren't reporting the story of Brexit. They're churning out Merkel propaganda', *The Article*, 31 January 2019 [thearticle.com](https://www.thearticle.com)
- 33 Kate Connolly, 'Der Spiegel takes the blame for scandal of reporter who faked stories', *The Observer*, 23 January 2018 [theguardian.com](https://www.theguardian.com)
- 34 Jens Wolling & Dorothee Arlt, *Fukushima und die Folgen*, NEU, Heft 2, Universitätsverlag

- Ilmenau, 2014, p33 [db-thueringen.de](http://db-thueringen.de)
- 35 Florian Meissner, 'The Fukushima Disaster and the "Clash of Risk Cultures": Japanese and German Journalists' Perceptions of a Nuclear Crisis', *Global Media Journal*, Vol 9, No.2, 2019 [globalmediajournal.de](http://globalmediajournal.de)
- 36 Rainer Haubrich, 'Ausgewogene Berichterstattung? 92 Prozent der ARD-Volontäre wählen grün-rot-rot', *Die Welt*, 3 November 2020 [welt.de](http://welt.de)
- 37 Journalismus & Demokratie, Ergebnisse der Journalismusbefragung 2024 [journalismusstudie.fb15.tu-dortmund.de](http://journalismusstudie.fb15.tu-dortmund.de)
- 38 ARD1 Channels international, 'Explore the ARD: Germany's largest public broadcasting network' [ard-channels-international.com](http://ard-channels-international.com)
- 39 'Neue Umfrage zeigt: ARD und ZDF verlieren dramatisch an Vertrauen', *Focus*, 29 October 2024 [focus.de](http://focus.de)
- 40 Anja Reich, 'Tagesschau-Planer packt aus: "Die Berichterstattung passt zum Weltbild der Redakteure"', *Berliner Zeitung*, 17 January 2025 [berliner-zeitung.de](http://berliner-zeitung.de)
- 41 "'Tichys Einblick" gewinnt vor Gericht gegen "Correctiv"', *Süddeutsche Zeitung*, 28 May 2020 [sueddeutsche.de](http://sueddeutsche.de)
- 42 Jost Müller-Neuhof, 'Publizist gewinnt Rechtsstreit: Faeser darf Broder nicht als islamfeindlich hinstellen lassen', *Der Tagesspiegel*, 5 February 2024 [tagesspiegel.de](http://tagesspiegel.de)
- 43 Max Kolter, 'Julian Reichelt siegt vor dem Bundesverfassungsgericht', *LTO*, 16 April 2024 [lto.de](http://lto.de)
- 44 MDR aktuell, 'Rechtsextremismus. Faeser verbietet "Compact"-Magazin', 16 November 2024 [mdr.de](http://mdr.de)

## About the author



Sabine Beppler-Spahl is chair of the German liberal think tank *Freiblickinstitut e.V.*, which organises the Berlin Salons, and she is the Germany correspondent for *spiked*. She is also a regular commentator for the German – Swiss Kontrafunk radio. She has written for several German magazines and newspapers. She is the author of *Brexit: Demokratischer Aufbruch in Großbritannien* (Parodos Verlag).

## **About MCC Brussels**

At a time of unprecedented political polarisation, MCC Brussels is committed to providing a home for genuine policy deliberation and an in-depth exploration of the issues of our time.

MCC Brussels is committed to asking the hard questions and working with people of goodwill from all persuasions to find solutions to our most pressing problems. An initiative of MCC (Mathias Corvinus Collegium), the leading Hungarian educational forum, MCC Brussels was founded in the autumn of 2022 to make a case for celebrating true diversity of thought, diversity of views, and the diversity of European cultures and their values.

Under the guise of defending democracy, the German government is silencing critical voices and punishing ordinary citizens for expressing dissenting opinions online. Germany's constitutional guarantee of free speech has been significantly eroded. This report exposes how the German government uses the doctrine of 'defensive democracy' to justify repressive measures against its own citizens.

It looks at key legislation and institutions that undermine free speech. This includes: laws that criminalise 'insults' to politicians, leading to prosecutions for social media posts; an ever widening prohibition on 'incitement of masses', which has resulted in prosecutions for criticism of immigration policies; and the "Office for the Protection of the Constitution (BfV)", which monitors citizens' speech and can designate groups as 'extremist', effectively stigmatizing political opposition.

The report also reveals how mainstream media outlets, particularly public broadcasters, have become echo chambers for official narratives, while alternative media platforms face pressure and censorship. Despite this pressure, alternative media platforms are gaining popularity, reflecting a growing public demand for more open debate. The government's actions have alienated voters, with a recent survey revealing that less than half of Germans feel they can express their political opinions freely.

Not only are the anti-speech laws backfiring, fuelling distrust and support for populism, they also threaten the democratic fabric of German political life.