

Fragnet National contribution to the Fundamental Rights Report 2024

Germany

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1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

The German government has responded to rising energy and living costs with 28 measures in three relief packages totalling almost 240 billion Euros for the period 2022-2024.¹ The first relief package was approved on 23 February 2022, the second relief package was launched in May 2022, and the third relief package was launched in December 2022. All relief packages are relevant for 2023. The main relief measures include:²

Electricity and gas price brakes

In 2023, citizens and companies will be granted price reductions for gas and electricity, offering relief from the increased costs.

The electricity price cap has been in effect for all electricity customers since January 2023. The relief amounts for January and February were distributed by the electricity suppliers in March 2023. The electricity price for private consumers and small businesses is limited to 40 pence per kilowatt hour. This limit applies to the base consumption level of 80 % of the historical usage, typically evaluated against the preceding year.

¹ Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

² Germany, Press and Information Office of the German Government (*Presse- und Informationsamt der Bundesregierung*) (2023), '[Wir entlasten Deutschland](#)'.

The Gas and Heat Price Brake was implemented in March 2023, with retrospective coverage for the months of January and February. The government is implementing proposals for price restraints based on suggestions from the independent "Gas and Heat Experts Commission".³ The government pays a subsidy dependent on the historical consumption, regardless of the actual usage in 2023. Any consumption exceeding this amount must be paid for at the contract price.

The energy price brakes introduced in autumn 2022 expired on 31 December 2023.⁴

Additional hardship assistance was introduced for households who utilize pellets, heating oil, or liquefied gas as a heating source. If heating costs in 2022 are proven to be at least double those of the reference price of 2021, 80 % of the costs above the double rate will be reimbursed. The maximum reimbursement amount per household is 2,000 Euros.⁵⁶

Reduced Tax Rate for Gas

According to the "Law on the Temporary Reduction of Value Added Tax Rates for Gas Deliveries Through the Natural Gas Network," the value added tax rate for gas deliveries will be reduced retroactively from 1 October 2022 to the end of March 2024 from 19 % to 7 %.⁷

3,000 euros tax-free from the employer

The law permits employers to offer an amount up to 3,000 Euros tax and national insurance-free to their employees. The inflation compensation bonus is valid from 26

³ Germany, Federal Ministry for Economic Affairs and Climate Action (*Bundesministerium für Wirtschaft und Klimaschutz*) (2022), '[Unabhängige ExpertInnen-Kommission Gas und Wärme](#)', article, 10 October 2022.

⁴ Germany, Press and Information Office of the German Government (Presse- und Informationsamt der Bundesregierung) (2024), '[Fragen und Antworten zu den Energiepreisbremsen](#)', 1 January 2024.

⁵ Germany, Federal Ministry for Economic Affairs and Climate Action (Bundesministerium für Wirtschaft und Klimaschutz) (2023), '[Härtefallhilfen für private Haushalte](#)', article, 03 April 2023

⁶ The average price of the respective energy source in 2021 is used as the reference price.

⁷ Germany, Press and Information Office of the German Government (*Presse- und Informationsamt der Bundesregierung*) (2023), '[Ermäßigter Steuersatz für Gas, weniger Stromkosten](#)', 6 July 2023.

October 2022 until 31 December 2024.⁸ This measure provides for the exemption from tax and social security contributions of an amount of up to 3,000 Euros for additional payments made by companies to their employees. The bonus is a voluntary payment by the employer, the amount of which (up to 3,000 Euros) can be determined by the employer. For social benefits that depend on income, the inflation compensation bonus will not be calculated as income.

Suspension of higher CO2 taxation:

After the national introduction of CO2 pricing in January 2021, the initial price for a tonne was 25 Euros. In 2022, the price rose to 30 Euros per tonne. To further reduce energy costs for citizens and businesses, the planned increase in the CO2 price for heating oil, natural gas and fuel at the beginning of 2023 was postponed.⁹ On 15 December 2023, the Bundestag approved a higher CO2 price for petrol, gas and heating oil, which will amount to 45 euros per tonne from 1 January 2024.¹⁰

Introduction of the citizen's income (Bürgergeld)

The Citizen's Income Act (Bürgergeld-Gesetz) has been in force since 1 January 2023.¹¹ The citizen's income (Bürgergeld) secures the constitutionally guaranteed economic existential minimum. It replaces the previous unemployment benefit II and social assistance. The Citizen's Income Act contains a number of changes: As the current inflation rate will now be taken into account to a greater extent, as a result, the standard benefits will increase significantly as of 1 January 2023. Depending on the standard needs level, the introduction of the citizen's income leads to an increase between 33 euros (children from 0 to 5 years) and 53 euros (single persons/single parents). In the case of a single person, the standard rate increases from 449 euros to 502 euros per month, which corresponds to an increase of about 11.8 % or 53 euros.

⁸ Germany, Press and Information Office of the German Government (Presse- und Informationsamt der Bundesregierung) (2023), '[Sonderzahlungen bis 3.000 Euro steuerfrei](#)', 6 July 2023.

⁹ Germany, Press and Information Office of the German Government (Presse- und Informationsamt der Bundesregierung) (2023), '[Ermäßigter Steuersatz für Gas, weniger Stromkosten](#)', 6 December 2023.

¹⁰ Germany, Press and Information Office of the German Government (Presse- und Informationsamt der Bundesregierung) (2023), '[CO2-Preis steigt auf 45 Euro pro Tonne](#)', 18 December 2023.

¹¹ Germany, Zwölftes Gesetz zur Änderung des Zweiten Buches Sozialgesetzbuch und anderer Gesetze – Einführung eines Bürgergeldes (Bürgergeldgesetz) (2022), [Bundesgesetzblatt Jahrgang 2022 Teil I Nr. 51, Bonn](#), 20. December 2022

To qualify for the citizen's income, the income must be below the minimum subsistence level which means that applicants are not able to cover their living expenses from their own resources.

Children's immediate supplement (Kindersofortzuschlag)

The children's immediate supplement applies to children, teenagers and young adults up to the age of 25 who still live in their parents' household and receive unemployment benefits II, social benefits, education and participation benefits or child supplement.¹² The immediate supplement amounts to 20 Euros per month and has been automatically paid since 1 July 2022. The measure is a specific relief for low-income households with children.

Higher child benefit (Kindergeld)

Child benefit has also been increased and families have been receiving 250 Euros per child per month since 1 January 2023. This corresponds to an increase of 31 Euros per month for the first and second child, and an increase of 25 Euros for the third child. The child supplement, which benefits households with low income, has also been raised to 250 Euros per month as of 1 January 2023.

Energy price bonus for students

In 2023, students will receive a one-off energy bonus of 200 euros. The prerequisite for the payment of the bonus was that the beneficiaries were enrolled at a university or college on 1 December 2022 at a university or college in Germany.¹³

More housing benefit for two million households

On 1 January 2023, the Wohngeld-Plus (housing benefit) reform will come into force. By increasing the general level of benefits (adjustment of the housing benefit formula), the number of housing benefit households will be increased from around 600,000 to around two million. The new housing benefit is on average twice as high as before. A permanent heating component as well as a climate component will be introduced in

¹² Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

¹³ Germany, Press and Information Office of the German Government (*Presse- und Informationsamt der Bundesregierung*) (2023), '[Energiekosten: Zuschuss von bis zu 300 Euro](#)', 4 October 2023.

order to compensate for higher housing costs.¹⁴¹⁵ 40 percent of housing benefit receivers are families, including many one-parent families. 48 percent are households of retirees.

National public transport ticket

The 9-euro ticket has not been extended.¹⁶ Instead, it has been replaced with a 49-euro ticket starting from 1 May 2023.

Basic child allowance

On 27 September, the Federal Cabinet approved the draft law proposed by the Federal Minister for Family Affairs Lisa Paus to introduce a basic child allowance to lift children out of poverty. The draft law aims to replace existing financial aids with the new Child Basic Security benefit.¹⁷ A single allowance will combine all relevant existing benefits. In future, there will be a guaranteed, income-independent child benefit - the former child benefit - and a supplementary child benefit. The latter will be differentiated according to the age of the child and the income of the parents. To this end, the current child supplement will be further developed and children whose parents receive the citizen's basic income or social benefits (SGB II/XII) will also be entitled to this new supplement.¹⁸ The socio-cultural subsistence level will also be reassessed to determine the children's current real needs. It is also ensured that the combination of benefits does not worsen the financial situation of any child. It is envisaged that families will be able to benefit from a child basic income for the first time in 2025.

¹⁴ Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

¹⁵ Germany, Press and Information Office of the German Government (*Presse- und Informationsamt der Bundesregierung*) (2023), '[Wir entlasten Deutschland](#)'.

¹⁶ In June, July and August 2022, this ticket was valid on all local and regional buses and trains for just nine euros per month.

¹⁷ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*) (2022), '[Gesetzesentwurf Gesetz zur Einführung einer Kindergrundsicherung und zur Änderung weiterer Bestimmungen \(Bundeskindergrundsicherungsgesetz - BKG\)](#)', press release, 27 September 2023, Berlin.

¹⁸ Germany, Press and Information Office of the German Government (*Presse- und Informationsamt der Bundesregierung*) (2023), '[Die Kindergrundsicherung kommt](#)', press release, 28 August 2023.

The Paritätische criticises that many children and young people are excluded from basic child allowance, especially those with a refugee background and those living in households with precarious residence status.¹⁹ 23 civil society organisations are calling on the government coalition to do justice to the provisions of the UN Convention on the Rights of the Child and to include all children living in Germany in basic child allowance security scheme.²⁰ Discrimination would affect children of asylum seekers or children whose parents hold certain humanitarian residence permits, for example.

National Action Plan "New Opportunities for Children in Germany"

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) developed the National Action Plan "New Opportunities for Children in Germany" (Neue Chancen für Kinder in Deutschland) in response to the recommendations of the Council of the European Union on the implementation of the European Child Guaranty.²¹ The aim is to ensure that by 2030, disadvantaged children and young people have access to early childhood care and education, learning opportunities and school-based activities, health care, healthy food and decent housing. The National Action Plan was adopted by the Federal Cabinet in early July 2023.

Rights of persons with disabilities and energy crisis

An additional state report for the 29th Session of the Committee on the Rights of Persons with Disabilities provides an overview of the most significant progress in the policy for persons with disabilities in the Federal Republic of Germany between September 2019 and March 2023.²² According to this report (Art. 26; Energy crisis), the Federal Government supports the institutions financed with public funds that provide

¹⁹ Germany, the Paritätische (der Paritätische Gesamtverband) (2023), '[Stellungnahme des Paritätischen Gesamtverbands zum Entwurf eines Gesetzes zur Einführung einer Kindergrundsicherung](#)', Fachinfo, 7 September 2023

²⁰ Germany, PROASYL (2023), '[Alle Kinder haben dieselben Rechte – Kindergrundsicherung muss auch Geflüchtete einschließen](#)', press release, 27 September 2023

²¹ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend) (2023), '[Bundeskabinett beschließt Aktionsplan für chancengerechtes Aufwachsen](#)', press release, 5 July 2023, Berlin.

²² For more information, see CRPD - Convention on the Rights of Persons with Disabilities, 29th Session (14 Aug 2023 - 08 Sep 2023), available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2622&Lang=en

benefits, rehabilitation and participation services (social service providers) with a subsidy for their increased energy costs in 2022. The launch of a relief fund of the Federal Government under section 36a SGB IX aims to prevent any restrictions in services for persons with disabilities.²³

Aid at the level of the Länder

In addition to support at federal level, there is partly support at the level of the Länder.²⁴ This is the case, for example, in North Rhine-Westphalia: Municipalities in North Rhine-Westphalia have been granted financial support for the period from January to December 2023 to maintain the operation of social infrastructure facilities. In addition to individual facilities of the social infrastructure, citizens can also be supported via municipal funds or hardship provisions. This applies in particular to the prevention of debt, energy cut-offs and loss of housing. The North Rhine-Westphalian government is providing around 150 million Euros as part of the "Strengthening Pact for North Rhine-Westphalia - Together Against Poverty".²⁵

²³ Germany, Federal Ministry of Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales*) (2023). Measures of the Federal Republic of Germany implementing the United Nations Convention on the Rights of Persons with Disabilities in the period from September 2019 until March 2023, p. 10, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCRPD%2FAIS%2FDEU%2F52967&Lang=en

²⁴ Germany, Ministry of Labour, Health and Social Affairs of the State of North Rhine-Westphalia (*Ministerium für Arbeit, Gesundheit und Soziales des Landes Nordrhein-Westfalen*) (2023), '[Stärkungspakt NRW – gemeinsam gegen Armut - Umfangreiches Unterstützungsprogramm der Landesregierung zur Bekämpfung von Armut](#)'.

²⁵ Germany, Ministry of Labour, Health and Social Affairs of the State of North Rhine-Westphalia (*Ministerium für Arbeit, Gesundheit und Soziales des Landes Nordrhein-Westfalen*) (2023), '[Stärkungspakt NRW – gemeinsam gegen Armut - Umfangreiches Unterstützungsprogramm der Landesregierung zur Bekämpfung von Armut](#)'.

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

Assessment studies

Low-income and no-income households are particularly affected by persistent inflation, as they spend a higher proportion of their income on consumer goods and also spend more on household energy and food than other families. Public support measures should also aim at enabling families at risk of poverty to lead a healthy life. The aim of the support packages is to mitigate price rises for households and prevent inflationary pressures from becoming overwhelming. However, providing targeted assistance to households unable to bear their expenses presents a challenge. Households with lower income are more affected by inflation than those with higher income. This is due to a larger portion of their consumption being spent on goods and services for daily needs, which are particularly affected by inflation. Notably, this includes expenses for energy and food. At the same time, the relief packages are designed in a way that households with low income comparatively benefit more from the measures.

An assessment study by the German Economic Institute demonstrates that the support packages significantly aid in reducing the burden caused by inflation for households of various types and income levels.²⁶ In some cases, the financial relief even surpasses the burden. The study demonstrates this among low-income families who are eligible for housing benefit and thus benefit from the increased benefits of the housing benefit reform, which came into effect in 2023.²⁷ However, some measures are criticised for being less targeted at the most needy groups. The increase of the child benefit - and

²⁶ Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

²⁷ Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

thus also of the child tax exemptions (Kinderfreibetrag) - as a relief instrument is not very targeted, as it is generally available to all households with children, irrespective of their income.²⁸ By contrast, the children's immediate supplement is in principle targeted, as it is only granted to low-income households.

Table 1 – Promising practice

Promising practice	
Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	
Reference (incl. URL, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	

²⁸ Beznoska, M., Hentze, T., Niehues, J., Stockhausen, M. (2023), '[Auswirkungen der Entlastungspakete in der Energiepreiskrise. Berechnungen für verschiedene Haushaltstypen und Einkommensklassen](#)', IW-Policy Paper, Nr. 6, Berlin, German Economic Institute (*Das Institut der deutschen Wirtschaft*), Köln, Germany.

Promising practice	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice	
Explain, if applicable, how the practice provides for review and assessment	

2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights defenders and journalists	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights defenders (including SLAPPs - strategic lawsuits against public participation)	
Lack of media freedom a/o media pluralism; disinformation (incl. online)	
Foreign interference	
Lack of (processes for) transparent, accountable, democratic and pluralistic participation in law and policymaking; incl. access to information	
Lack of election integrity (incl. electoral process, political campaigning and party financing)	
Disproportionate use of law enforcement measures	<p>Restricted space for climate activism</p> <p>Public discourse on climate protests has grown significantly more contentious and polarised: climate activists, especially</p>

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
(surveillance, police violence, unlawful arrest etc.)	<p>members of Letzte Generation (Last Generation), have been maligned as “climate extremists”, “climate radicals” and “climate terrorists” by policy makers and in the media. Those using such terms are also discrediting the activists’ efforts in the cause of more climate protection.</p> <p>An increasing number of criminal investigations and subsequent legal proceedings were conducted against a small segment of the climate movement, particularly, against members of Letzte Generation or Extinction Rebellion who took part in roadblock protests, occupations, or other forms of direct action that potentially involve criminal liability. Legal and political debate turned to the subjects of preventive detention, the tightening of criminal sanctions and the legitimacy of acts of civil disobedience.</p> <p>An aggressive anti-climate-protest discourse became particularly apparent in the media and elsewhere. There were discussions in print and social media, for instance, on whether drivers were entitled to exercise their right to self-defence against persons blocking the road.²⁹ As of July 2023, there were at least 142 investigation proceedings underway on attacks on Letzte Generation members by drivers or passers-by, 99 of these in Berlin. Bodily harm is the subject of the majority of the proceedings.³⁰</p> <p><u>Criminal law measures</u></p> <p>Protests by climate activists have resulted in numerous criminal complaints, followed by criminal investigations and court proceedings. The particular offences at issue vary with the type of protest: charges of coercion are often associated with roadblock protests, as are resistance to enforcement officers or dangerous interference with road traffic. With other forms of protest (such as throwing food at paintings or other pieces of art), the main focus is on criminal damage or trespass. The criminal offence of dangerous interference in air traffic comes into play in cases involving unauthorized access by protestors to airport grounds, while disruption of public</p>

²⁹ Tagesschau (2023), ‘[Gewalt gegen "Klimakleber" - Ist das Notwehr?](#)’, 30 August 2023.

³⁰ Zeit Online (2023), ‘[Behörden ermitteln in 142 Fällen wegen Angriffen auf Klimaaktivisten](#)’, 28 July 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>services is the offence involved in the cases where protestors shut off crude oil pipelines.</p> <p>In December 2022, this last form of direct action resulted in searches across the country of the homes of Letzte Generation members. The initial suspicion of forming or supporting of a criminal organisation (sect. 129 of the German Criminal Code, StGB) formed the basis for these house searches. The decision by a Brandenburg public prosecutor's office to take this step was endorsed by the Potsdam District Court in April 2023.</p> <p>In May of 2023, another set of house searches based on section 129 were conducted as part of an investigation into Letzte Generation members at the initiative of the General Department of Public Prosecution in Munich.³¹ In November 2023 the Munich Regional Court dismissed a total of ten complaints by members of the "Last Generation" and third parties against the search warrants and seizure orders as unfounded.³²</p> <p>In June 2023, it was reported in the media that the Munich General Department of Public Prosecution had had Letzte Generation communications channels held under surveillance for multiple months, including a telephone line and email account specifically dedicated to contacts with the press, in the course of its investigations into the movement, a revelation which elicited considerable criticism from politicians, journalists and legal experts.³³³⁴ In July 2023, journalists affected by the surveillance measures applied to Munich District Court for judicial review thereof, believing that the measures did not take the freedom of the press</p>

³¹ Bayerisches Landeskriminalamt, [Press Release: 'Bundesweite Durchsuchungen und Maßnahmen zur Vermögenssicherung bei „Letzter Generation‘](#), 24 May 2023

³² Landgericht München (LG I), [Beschluss vom 16.11.2023 - 2 Qs 14/23 11](#), beck aktuell, [LG München I bejaht Anfangsverdacht: Letzte Generation als kriminelle Vereinigung](#), 16.11.2023

³³ Zeit Online, ['Staatsanwaltschaft bestätigt Abhören von Klimaschutzaktivisten'](#), 25 June 2023

³⁴ BR24 (24.06.2023): ['Abhörung von Aktivisten: Klarer Eingriff in die Pressefreiheit'](#), 24 June 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>sufficiently into account.³⁵³⁶ In November 2023 the District Court rejected the complaints by Gesellschaft für Freiheitsrechte (GFF), Reporter ohne Grenzen (ROG) and three journalists³⁷ by arguing that the considerable threat to public safety posed by the actions of climate activists justified this interference with the freedom of the press.³⁸ Shortly after, GFF, ROG and two of the journalists³⁹ filed a complaint against the Court's decision with the Munich Regional Court.⁴⁰ In addition, investigative measures that are based on a blanket assumption that sit-down protests that block traffic entail criminal liability may cast a chilling effect on members of the groups concerned and on their immediate communities impacting the exercise of freedom of assembly.⁴¹ Courts have imposed prison sentences as well as fines in criminal proceedings that ended in the conviction of climate activists, particularly in cases of repeated offences. In April 2023, for example, the Heilbronn District Court issued prison</p>

³⁵ The Society for Civil Rights e.V. (*Gesellschaft für Freiheitsrechte e.V.*) (2023): '[Abhören des Pressetelefons der Letzten Generation verstößt gegen die Pressefreiheit – GFF und Reporter ohne Grenzen gehen mit betroffenen Journalisten vor Gericht](#)', press release 07 July 2023.

³⁶ Bayerischer Journalisten-Verband (2023), '[Pressefreiheit verletzt: BJV geht gegen unzulässige Abhöraktion vor](#)', press release, 24 July 2023.

³⁷ Applicants are Ronen Steinke (Süddeutsche Zeitung, SZ), Henrik Rampe (freelancer) und Jörg Poppendieck (Rundfunk Berlin-Brandenburg, rbb), see Gesellschaft für Freiheitsrechte (GFF), [Abhören des Pressetelefons der Letzten Generation verstößt gegen die Pressefreiheit – GFF und Reporter ohne Grenzen gehen mit betroffenen Journalisten vor Gericht](#), 7 July 2023

³⁸ Amtsgericht München, [Press Release: Ermittlungsverfahren „Letzten Generation“ – Telekommunikationsüberwachung](#), 29 November 2023

³⁹ One applicant is Jörg Poppendieck (Rundfunk Berlin-Brandenburg, rbb), see Gesellschaft für Freiheitsrechte (GFF), [Gericht ignoriert Pressefreiheit: GFF und RSF gehen gegen Abhören des Pressetelefons der Letzten Generation in die nächste Instanz](#) , 28.11.2023

⁴⁰ Amtsgericht München, [Press Release: Ermittlungsverfahren „Letzten Generation“ – Telekommunikationsüberwachung](#), 29 November 2023

⁴¹ Von Bernstorff, J. (2023), '[Ist der Umgang mit Klimaprotesten in Deutschland menschenrechtswidrig?](#) ', Verfassungsblog, 04 June 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>sentences of multiple months without parole to five Letzte Generation members who had been convicted of coercion. The public prosecutor's office was cited in media reports as describing this as the most severe judgement ever issued in a case of this kind.⁴²</p> <p><u>Assembly law and police measures</u></p> <p>Climate activists' protests themselves have also been the target of preventive action by state authorities. The most intrusive of the instruments used is what is known as "preventive detention". In October 2022, the Munich District Court in Bavaria ordered the detention of 33 climate activists, in some cases ordering a full month of detention, the maximum duration permissible the first time such an order is issued.⁴³ Large numbers of new preventive detention orders were reported over the course of November and December⁴⁴ 2022 and in September 2023⁴⁵ as well. In addition to Bavaria, Berlin,⁴⁶ Hamburg⁴⁷, Hessen and Saxony⁴⁸ also made use of the instrument of preventive detention, according to media reports. All Länder police laws and the federal police law provide for this possibility, although specific regulation of these powers varies from one statute to the next.</p>

⁴² Wenglarczyk, F., Wolf, J (2023), '[Warum Haftstrafen für „Klima-Kleber“ die falsche Antwort sind](#)', Verfassungsblog, 2 May 2023

⁴³ Germany, Bavarian State Ministry of Justice, Local Court Munich (*Bayerisches Staatsministerium der Justiz, Amtsgericht München*) (2022): '[Klimaaktivisten](#)', press release, 11 November 2022

⁴⁴ Focus Online, '[München greift durch – Klima-Kleber bleiben über Weihnachten in Haft](#)', 23 December 2022

⁴⁵ Amnesty International (2023), '[Deutschland: Präventivgewahrsam für Klimaschützer*innen ist klarer Verstoß gegen die Menschenrechte](#)', press release, 4 September 2023.

⁴⁶ Tagesspiegel, '[Blockadewochen der „Letzten Generation“ in Berlin: Richter schickt drei Klimaaktivisten in Unterbindungsgewahrsam](#)', 05 May 2023

⁴⁷ NDR, '[Elbbrücken blockiert: Klima-Aktivisten kommen aus Gewahrsam](#)', 29 March 2023

⁴⁸ MDR, '[Polizeigewerkschaft Sachsen gegen Ausweitung der Präventivhaft](#)', 19 May 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>In addition to using this instrument, the Berlin Police have issued orders prohibiting individual climate activists from gluing themselves to a carriageway in the urban area or affixing themselves to the carriageway, persons or objects in some other way.</p> <p>In Munich, municipal authorities barred all non-registered assemblies “in connection with climate protests... in the form of roadblocks in which participants affix themselves to a carriageway or to objects on the carriageway... or to other persons” on motorways and on any of approximately 300 specified major roads designated.⁴⁹ Other cities have issued similar, in some cases even stricter, orders prohibiting climate protests.⁵⁰</p> <p>In the context of climate protests there have also been instances of excessive use of force by the police, including the use of so-called ‘pain grips’.⁵¹</p> <p><u>Legislative measures</u></p> <p>Climate activists have been affected in their freedom of assembly and other fundamental rights by changes in assembly law and police law. In the course of the 2006 federalism reform, legislative authority for assembly law was shifted from the federal government to the Länder. A number of Länder used this authority to enact statutory restrictions on the freedom of assembly, some of which are directly related to protests by climate activists. North Rhine-Westphalia’s Assembly Act (in force since January 2022), for instance, is the subject of a constitutional complaint that has been pending at the Constitutional Court of North Rhine-Westphalia since</p>

⁴⁹ Landeshauptstadt München Kreisverwaltungsreferat (2023), ‘[Vollzug des Bayerischen Versammlungsgesetzes \(BayVersG\)](#)’, 09 December 2022

⁵⁰ For example: Landeshauptstadt Stuttgart (2023), ‘[Allgemeinverfügung zu Versammlungen im Zusammenhang mit Straßenblockaden und Protestaktionen von Klimaaktivist*innen auf bestimmten Straßen](#)’.

⁵¹ Green Legal Impact, ‘Green Legal Spaces Report 2023: Beschränkung politischer Teilhaberechte der Klimabewegung in Deutschland’, pp. 9-10, December 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	January 2023. ⁵² The complaint takes issue with the statute's total ban on assemblies on motorways and the provisions extending of the Land's powers to conduct video surveillance of assemblies.
Corruption, including misuse of EU funds	
Lack of (effective judicial protection by) independent and impartial courts	
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of	

⁵² The Society for Civil Rights e.V. (*Gesellschaft für Freiheitsrechte e.V.*) (2023): '[GFF erhebt mit Bündnis „Versammlungsgesetz NRW stoppen!“ Verfassungsbeschwerde gegen massive Einschränkung der Versammlungsfreiheit in NRW](#)', press release, 4 January 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
parliamentary oversight, lack of implementation of final court decisions by executive, etc.)	
Other major developments threatening democratic values	<p>The rise of the right-wing extremist party AfD as a threat to Germany's liberal-democratic system</p> <p>In 2023, Germany witnessed the rise of the Alternative for Germany party (AfD), which poses a significant threat to the liberal-democratic order of the Federal Republic of Germany. The AfD is represented in the Bundestag, as well as in all state parliaments except for two (Schleswig Holstein and Bremen, where they were not allowed to run for formal-legal reasons). In the 2023 state elections, the AfD secured 14.6 percent of the vote (ranked 3rd) in Bavaria, 18.4 percent (ranked 2nd) in Hesse, and 9.1 percent in Berlin. Apart from the high number of seats in parliament, the danger posed by the AfD to the liberal democratic order is also evident in its significant role in the competition for top municipal positions in some regions. In June 2023, the AfD has won a district council election for the first time in Germany's Sonneberg, located in Thuringia.⁵³⁵⁴ In early July 2023, the AfD won the election for a full-time mayor for the first time in Raguhn-Jeßnitz, a town in Saxony-Anhalt.⁵⁵ In December 2023, an AfD candidate won the election for mayor of Pirna, a town in Saxony.⁵⁶ By the end of the year 2023, the party was polling between 18 and 23 % in federal level election polls (known as the Deutschlandtrend).⁵⁷ In the states of Brandenburg, Thuringia, and Saxony, where new regional parliaments will be elected in the autumn of 2024,</p>

⁵³ Nitschke, A. (2023), '[Zweifel an der Verfassungstreue](#)', Verfassungsblog, 30 June 2023

⁵⁴ DW Deutsche Welle, Germany (2023) '[Far-right AfD wins first governing post](#)', 25 June 2023

⁵⁵ t-online (2023) '[Vor Wahl viel versprochen. AfD-Bürgermeister kann Zusagen nicht einhalten](#)', 12 October 2023.

⁵⁶ [ZEIT ONLINE \(2023\) 'Kandidat der AfD gewinnt erstmals Oberbürgermeisterwahl', 17 December 2023](#)

⁵⁷ For more information, see: www.wahlrecht.de/umfragen/, assessed on 3 January 2024

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>the party is currently leading in opinion polls with scores of 32 percent⁵⁸ and 33 percent.⁶⁰</p> <p>The party's programme is based on a national-ethnic concept of the people, which differentiates between people according to racist categories and thus deviates from the concept of the people in the Basic Law and is not compatible with Article 1 (1) of the Basic Law. Above all, the programme leads to a denial of elementary legal equality. It does not accept the dignity of the human being in the sense of Article 1 (1) of the Basic Law, but professes the primacy of a national-ethnically defined people. It undermines the inherent dignity of every person and seeks to create a legally marginalized status for individuals who are not part of the national-ethnic defined "people".</p> <p>The German history has demonstrated that the democratic order of a state can be destroyed when inhumane positions are not met with vigorous opposition, and thus spread and prevail. According to Article 21 of the German Constitution (Grundgesetz), and based on historical experience, it is permissible to ban a party that seeks to abolish the guarantee of Article 1, Paragraph 1 of the Basic Law, which protects the liberal democratic order, as a last resort. An analysis conducted by the German Institute for Human Rights in June 2023 indicates that the legal prerequisites for a ban under Article 21 of the Basic Law exist.⁶¹</p> <p>The analysis indicates that the AfD party is increasingly adopting the policy advocated by Björn Höcke, the AfD's state and parliamentary leader in Thuringia. Höcke, who openly aims for a rule inspired by National Socialism, has come to significantly influence the orientation of the AfD as a whole. He does not have to hold a position at federal level, as he is already a leading voice in the party with many supporters</p>

⁵⁸ For more information, see: www.wahlrecht.de/umfragen/, assessed on 3 January 2024

⁵⁹ For more information, see: www.wahlrecht.de/umfragen/, assessed on 3 January 2024

⁶⁰ For more information, see: www.wahlrecht.de/umfragen/, assessed on 3 January 2024

⁶¹ Cremer, H. (2023), '[Warum die AfD verboten werden könnte - Empfehlungen an Staat und Politik](#)', Analyse, German Institute for Human Rights (Deutsches Institut für Menschenrechte), Berlin, Germany.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>nationwide.⁶² Moreover, the analysis makes clear that in the case of the AfD there are concrete indications that make it at least possible that the party's actions can be "successful".⁶³ The AfD takes an active and systematic approach to realising its anti-constitutional intentions. This includes, for example, cooperating with other right-wing extremist actors who support it in achieving its anti-constitutional goals. By obtaining numerous mandates in parliaments, the AfD has gained significant opportunities to influence society. Given its substantial presence in some German federal states and regions, it seems plausible that the party may expand its successes. The growing number of seats held by the AfD in several federal states and regions represents a significant threat to the liberal democratic foundation of the country.</p> <p>Antisemitism and racist hatred in the weeks following Hamas' attack on Israel</p> <p>There is growing concern about the increasing prevalence of antisemitic ideas in Germany in the aftermath of the Hamas attack on Israel on 07 October 2023. In a press release, the German Institute for Human Rights has called on politicians and society in Germany to oppose antisemitic and racist hatred and violence.⁶⁴ The Institute welcomes that the Bundestag and the Federal Government as well as numerous civil society organisations, including Muslim associations, have strongly condemned the acts of violence committed by Hamas against the people of Israel and violence against Jews in Germany. At the same time, the Institute is concerned about the attribution of anti-Semitism to the Arab or Muslim population in Germany</p>

⁶² Cremer, H. (2023), '[Warum die AfD verboten werden könnte - Empfehlungen an Staat und Politik](#)', Analyse, German Institute for Human Rights (Deutsches Institut für Menschenrechte), Berlin, Germany, pp. 40-48

⁶³ See also the discussions at the level of the Länder, for example Wielenga, L. (2023), '[Thüringen-AfD verbieten?](#)', Verfassungsblog, 17 August 2023

⁶⁴ Germany, German Institute for Human Rights (2023), '[Deutschland soll sich für die Freilassung aller Geiseln und Strafverfolgung der Kriegsverbrechen der Hamas einsetzen](#)', press release, 13 October 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>as a whole. Such attributions are racist and ignore the fact that anti-Semitism also exists among the German population.</p> <p>There is evidence to suggest that anti-Semitism as well as racist hatred is widespread in Germany. According to a study by the Friedrich Ebert Foundation, 16.5 per cent of those surveyed believe that Jews today seek to exploit the Nazi past, 19 per cent partially agree with this accusation.⁶⁵ According to a recent study of the situation in Berlin one in seven people believe that the 'influence of the Jews is too big'.⁶⁶ The study also shows that anti-Muslim attitudes are common in Berlin, with 20 per cent displaying an anti-Muslim, racist mindset.</p> <p>In the weeks following Hamas' criminal attack on Israel on 07 October 2023, both antisemitic and anti-Muslim attacks have increased in Germany. For example, the "Anti-Semitism Reporting Centre" points out that between 7 October and 9 November, on average 29 antisemitic incidents took place every day.⁶⁷ The incidents during this period include three cases of extreme violence, 29 assaults, 72 cases of damage to property, 32 threats, and 854 cases of abusive behaviour. The Alliance against Islamophobia (CLAIM) has also highlighted an increase in anti-Muslim racism in Germany documenting 187 cases of violent anti-Muslim</p>

⁶⁵ Mokros, N., Zick, A. (2023), 'Gruppenbezogene Menschenfeindlichkeit zwischen Krisen- und Konfliktbewältigung' in: Zick, A., Küpper, B., Mokros, N. (eds.), *'Die distanzierte Mitte. Rechtsextreme und demokratiegefährdende Einstellungen in Deutschland 2022/23'*, p. 164.

⁶⁶ Germany, Senatsverwaltung für Arbeit, Soziales, Gleichstellung, Integration, Vielfalt und Antidiskriminierung (2023), *'Rassismus und Antisemitismus sind tief in unserer Gesellschaft verwurzelt: Senatorin Cansel Kiziltepe stellt die Ergebnisse des „Berlin Monitor 2023“ vor'*, press release, 18 December 2023

⁶⁷ Germany, Bundesverband RIAS e.V., Federal Association of Departments for Research and Information on Antisemitism (2023), *'Antisemitic incidents in Germany between October 7 and November 9, 2023, in the context of the massacres and the war in Israel and Gaza'*, 30 November 2023

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	attacks, insults, threats and discrimination in the period from 9 October to 29 November 2023. ⁶⁸

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

Freedom of assembly

Amnesty International has released a "Protest Map", which shows visualized limitations on the freedom of assembly worldwide, including in Germany.⁶⁹

Regressive legislation

Detailed regulations regarding the freedom of assembly in Germany are codified in federal assembly law and state assembly laws. Amnesty International reports a trend towards a more repressive approach to assemblies in state assembly laws.⁷⁰ For example, the Bavarian assembly law encompasses problematic provisions for exercising the freedom of peaceful assembly. One such provision is found in the Bavarian Police Tasks Act, enabling the preventive deprivation of liberty for administrative reasons.⁷¹ In 2022 and 2023, it was frequently used to suppress

⁶⁸ Germany, CLAIM (2023), '[Gewaltvolle Übergriffe, Drohungen, Diskriminierungen: Zahl antimuslimischer Vorfälle bundesweit erneut gestiegen](#)', press release, 4 December 2023.

⁶⁹ Amnesty International (2023), [Protest Map](#).

⁷⁰ Amnesty International German Section (2023), '[Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#)', 13 September 2023

⁷¹ Article 17 BayPAG (Bavarian Police Tasks Act); Kühne, M. (2023), '[Preventive Detention Under the Convention? Recent Police Action Against Climate Activists Violates ECtHR Case Law](#)', [Verfassungsblog](#), 17 July 2023

peaceful protests, particularly those related to the sue of climate.⁷² Accordingly, the Hessian state parliament has passed a new assembly law that grants extensive powers to the executive.⁷³ This law allows, for example, the restriction of assemblies in the presence of an immediate threat to public safety or order.⁷⁴

Amnesty International has been concerned about the curtailment of freedom of expression and freedom of assembly due to the imposition of pre-emptive bans on assemblies during Nakba Remembrance Day in Berlin.⁷⁵ It has been criticised that the authorities also based their threat assessment on a racist stereotype of a young, predominantly male, immigrant/Muslim with a markedly aggressive attitude.⁷⁶

Freedom of assembly / of expression in the aftermath of the Hamas attack on Israel on 07 October 2023

The expression of opinions at assemblies can only be restricted in exceptional cases for constitutional reasons. The police may intervene as soon as the limits of freedom of expression permitted by the constitution are exceeded at an assembly.⁷⁷ After 7 October, however, a whole series of cities in Germany have ordered restrictions on the freedom of assembly.⁷⁸ On 8 December, the Hamburg Administrative Court granted

⁷² Amnesty International (2023), '[Deutschland: Präventivgewahrsam für Klimaschützer*innen ist klarer Verstoß gegen die Menschenrechte](#)', press release, 04 September 2023

⁷³ Germany, '[Gesetz zur Neuregelung des Versammlungsrechts in Hessen](#)', 2023, Nr. 10, pp. 150-159, Gesetz- und Verordnungsblatt für das Land Hessen, 03 April 2023

⁷⁴ LTO Legal Tribune Online (2023), '[Hessen beschließt umstrittenes Versammlungsgesetz](#)', 22 March 2023

⁷⁵ Amnesty International (2023), Germany: '[Protect the Protest: Against blanket bans of demonstrations for the rights of Palestinians](#)', Index Number: EUR 23/7180/2023, 12 September 2023 <https://www.amnesty.org/en/documents/eur23/7180/2023/en/>

⁷⁶ Gutmann, A. (2023). '[Von Brokdorf nach Neukölln. Zum Verbot zweier pro-palästinensischer Versammlungen in Berlin](#)', 30 May 2023

⁷⁷ Arzt, C. (2023). Pro-Palästina als unmittelbare Gefahr? '[Zur Aushöhlung des Versammlungsrechts in aufgeheizten Zeiten](#)', Verfassungsblog, 26 October 2023

⁷⁸ As an example (of the city of Bremen) see here: [Assembly, 5 V 2513/23, decision of 20 October 2023](#)

the applicant's urgent appeal against the general order banning all unregistered pro-Palestinian assemblies as the risk prognosis does not justify a general ban.^{79 80}

The Federal Ministry of the Interior published a decree in the Federal '*Bundesanzeiger*' that bans the association "HAMAS (Harakat al-Muqawama al-Islamiya)" and also prohibits the public use of certain 'signs' associated with Hamas, such as logos and lettering.⁸¹

Excessive Use of Force

Over recent years, numerous instances of disproportionate use of force during assemblies have been documented.⁸² According to the research findings "Violence in office. Excessive use of force by the police and its reappraisal", half of the incidents of police violence considered unlawful by the victims, took place during protests and political events.⁸³

In some sectors of the police, techniques of violence known as pain grips have been implemented in recent times.⁸⁴ Pain grips are various techniques used by the police to achieve desired behaviour in those affected. These can be selective compressions of individual neuronal points in the body or the hyperextension of individual limbs. These methods have garnered significant attention following the forceful evacuation of "Last Generation" sit-ins. However, they are also employed during checks of individuals or vehicles. Pain compliance methods are legally problematic since their primary

⁷⁹ Hamburg, Behörde für Justiz und Verbraucherchutz (2023), '[Verwaltungsgericht Hamburg entscheidet: Eilantrag gegen die Allgemeinverfügung zum Verbot aller sog. pro-palästinensischen unangemeldeten Versammlungen erfolgreich](#)', 08 December 2023

⁸⁰ See also: [Verwaltungsgericht Hamburg, 5 E 5290/23](#)

⁸¹ Bundesministerium des Innern und für Heimat (2023), [Bekanntmachung eines Vereinsverbots gemäß § 3 des Vereinsgesetzes – Verbot der Vereinigung „HAMAS \(Harakat al-Muqawama al-Islamiya\)“](#), 02 November 2023

⁸² Amnesty International German Section (2023), '[Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#)', 13 September 2023

⁸³ Abdul-Rahman, L., Espín Grau, H., Singelstein, L.K. and T. (2023), '[Übermäßige polizeiliche Gewaltanwendung und ihre Aufarbeitung Kernbefunde des DFG-Forschungsprojekts „Körperverletzung im Amt durch Polizeibeamt*innen“](#)', Goethe Universität Frankfurt am Main, May 2023

⁸⁴ Espín Grau, H., Singelstein, T. (2023), '[Schmerzgriffe als Technik in der polizeilichen Praxis Zur Verselbständigung und Normalisierung polizeilicher Gewalt](#)', 20 July 2023

objective is to break the will of the subject through fear of pain.⁸⁵ Frequently, these actions taken by the police fail to adhere to the principles of necessity and proportionality, since there are lesser harmful alternatives available.⁸⁶ This is especially evident when employed against demonstrators who perform roadblocks and who can be easily removed.

Another concern is the containment of participants of an assembly in a designated area without permission to leave, commonly referred to as “kettling”.⁸⁷ One such instance occurred in Leipzig in 2023 where up to 1000 individuals were subjected to kettling for approximately 11 hours, including minors. Amnesty International has raised concerns about the treatment of minors who were included in the containment, with reports indicating that many parents were not given the opportunity to contact their children.⁸⁸

In addition, accusations have been made against members of the activist collective "Letzte Generation" for alleged participation in a criminal organization under § 129 of the German Penal Code.⁸⁹ This legal provision has faced criticism due to its broad scope, making it vulnerable to potential abuse.

Freedom of opinion / freedom of press

The Federal Administrative Court dismissed a lawsuit brought by Reporters Without Borders against the use of so-called state trojans by the Federal Intelligence Service on 25 January 2023.⁹⁰ During the main hearing, experts from the Federal Intelligence Service confirmed that state trojans are used by the German foreign intelligence service in both domestic-foreign and foreign-foreign telecommunications surveillance. The software enables the Federal Intelligence Service to infiltrate smartphones and

⁸⁵ Espín Grau, H., Singelstein, T. (2023), '[Schmerzgriffe als Technik in der polizeilichen Praxis Zur Verselbständigung und Normalisierung polizeilicher Gewalt](#)', 20 July 2023

⁸⁶ Amnesty International German Section (2023), '[Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#)', 13 September 2023

⁸⁷ Amnesty International German Section (2023), '[Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#)', 13 September 2023

⁸⁸ Amnesty International (2023), '[Stellungnahme zum sogenannten Polizeikessel in Leipzig](#)', 13 June 2023

⁸⁹ Amnesty International German Section (2023), '[Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#)', 13 September 2023

⁹⁰ RSF Reporter ohne Grenzen (2023), '[Bundesverwaltungsgericht weist RSF-Klage zurück](#)', 25 January 2023

computers of target individuals and retrieve encrypted messages. In response to the decision by the Federal Administrative Court, Reporters Without Borders will be filing a complaint with the Federal Constitutional Court.⁹¹

Table 3 – Case law

Case law	
Deciding body (in original language)	Amtsgericht München
Deciding body (in English)	Munich District Court
Case number (also European Case Law Identifier ECLI , where applicable)	Not available
Parties	Journalists affected by the surveillance measures / Munich District Court
Decision date	14 November 2023
Web link to the decision (if available)	https://www.justiz.bayern.de/media/images/behoerden-und-gerichte/amtsgereichte/muenchen/pressemitteilungen/pm41_-_231129.pdf
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	Freedom of the press (mainly)

⁹¹ RSF Reporter ohne Grenzen (2023), '[Bundesverwaltungsgericht weist RSF-Klage zurück](#)', 25 January 2023

Case law	
Key facts of the case (max. 250 words)	<p>In June 2023, it was reported in the media that the Munich General Department of Public Prosecution had had Letzte Generation communications channels held under surveillance for multiple months, including a telephone line and email account specifically dedicated to contacts with the press, in the course of its investigations into the movement, a revelation which elicited considerable criticism from politicians, journalists and legal experts.⁹²⁹³ In July 2023, journalists affected by the surveillance measures applied to Munich District Court for judicial review thereof, believing that the measures did not take the freedom of the press sufficiently into account.⁹⁴⁹⁵ In November 2023 the District Court rejected the complaints by Gesellschaft für Freiheitsrechte (GFF), Reporter ohne Grenzen (ROG) and three journalists⁹⁶ by arguing that the considerable threat to public safety posed by the actions of climate activists justified this interference with the freedom of the press.⁹⁷ Shortly after, GFF, ROG and two of the journalists⁹⁸ filed a complaint against the Court's decision with the Munich Regional Court.⁹⁹</p>

⁹² Zeit Online, [‘Staatsanwaltschaft bestätigt Abhören von Klimaschutzaktivisten’](#), 25 June 2023

⁹³ BR24 (24.06.2023): [‘Abhörung von Aktivisten: Klarer Eingriff in die Pressefreiheit’](#), 24 June 2023

⁹⁴ The Society for Civil Rights e.V. (*Gesellschaft für Freiheitsrechte e.V.*) (2023): [‘Abhören des Pressetelefons der Letzten Generation verstößt gegen die Pressefreiheit – GFF und Reporter ohne Grenzen gehen mit betroffenen Journalisten vor Gericht’](#), press release 07 July 2023.

⁹⁵ Amtsgericht München, [Press Release: ‘Ermittlungsverfahren gegen Mitglieder der „Letzten Generation“ – Telekommunikationsüberwachung’](#), 13 July 2023

⁹⁶ Applicants are Ronen Steinke (Süddeutsche Zeitung, SZ), Henrik Rampe (freelancer) und Jörg Poppendieck (Rundfunk Berlin-Brandenburg, rbb), see Gesellschaft für Freiheitsrechte (GFF), [Abhören des Pressetelefons der Letzten Generation verstößt gegen die Pressefreiheit – GFF und Reporter ohne Grenzen gehen mit betroffenen Journalisten vor Gericht](#), 7 July 2023

⁹⁷ Amtsgericht München, [Press Release: Ermittlungsverfahren „Letzten Generation“ – Telekommunikationsüberwachung](#), 29 November 2023

Case law	
The key legal question raised by the Court	See question above.
Result of the case in terms of factual outcome, and in terms of assessment of the legal question raised	The applications to review the legality of the telecommunications surveillance measures ordered by the Munich District Court were rejected as unfounded. The Munich District Court stated that in the present case, the interest in criminal prosecution outweighed the fundamental right to freedom of the press of the press representatives affected as third parties.

⁹⁸ One applicant is Jörg Poppendieck (Rundfunk Berlin-Brandenburg, rbb), see Gesellschaft für Freiheitsrechte (GFF), [Gericht ignoriert Pressefreiheit: GFF und RSF gehen gegen Abhören des Pressetelefons der Letzten Generation in die nächste Instanz](#) , 28.11.2023

⁹⁹ Süddeutsche Zeitung, '[Abhören des Pressekontakts der Letzten Generation rechtens](#)', 29 November 2023;
