

Coronavirus COVID-19 outbreak in the EU

Fundamental Rights Implications in Germany

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1. Measures taken by government/public authorities

1.1. Introduction

In Germany, government action to fight infectious diseases falls under the 2001 Protection against Infectious Diseases Act (*Infektionsschutzgesetz* (IfSG), last amended on 1 February 2020. Paragraphs 16 and 17 of this act empower the relevant authorities to adopt risk preventing measures and stipulates that, if needed, these measures can limit the fundamental rights to bodily integrity, liberty, freedom of movement, freedom of assembly, inviolability of the home and property. Paragraphs 28-32 enable the adoption of protection measures, including limitations to freedom of movement, observation measures of persons suspected to have contracted a disease, quarantine and prohibition to carry out economic activities.

The power to adopt these measures lies with the authorities of the individual federal states (the *Länder*) including the health authorities. The Federal Government has primarily coordinating functions.

On 23 March, the Federal Government adopted a proposal for a Population Protection Act in cases of epidemic situation of national relevance¹ (*Gesetzentwurf zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite*) which substantially modifies the Infectious Diseases Protection Act. It grants the Federal Government more powers to intervene in the event of an "epidemic situation of national relevance", notwithstanding the competencies of the *Länder*.

Once enacted, the Federal Government will have the power to declare this situation when the WHO declares the existence of a pandemic and there is a risk that a dangerous transmissible disease enters Germany or when there is risk of a dangerous transmissible disease expanding across more than one *Land*. Any of the two chambers of the German Parliament can request the Government to cancel this declaration.

During the situation of epidemic situation of national relevance – and only as long as the situation that triggered the declaration persists - the Federal Ministry of Health will be empowered to adopt measures for the protection of the population, and ensure the provision of healthcare, including:

- Measures regarding cross border transport such as reporting duties in the train or bus transport
- Reporting and investigation obligations
- Measures to ensure the basic provision of medicines, protective gear and lab diagnostics.
- Granting exceptions from rules in medical and care institutions.

¹ Germany, Federal Government (Bundesregierung) (2020), 'Gesetzentwurf zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite', 23 March 2020, available at <https://www.bundesgesundheitsministerium.de/presse/pressemitteilungen/2020/1-quartal/gesetzspakete-corona-epidemie.html>

1.2. Brief timeline of developments and measures taken

As of 23 March, no state of emergency has been declared for Germany.

On 22 March, the Federal Government and the governments of the *Länder* have agreed to extend the measures issued on 12 March to limit social contacts to contain the Coronavirus as follows:

- People should reduce their social contacts to persons not living in the same household to an absolute minimum.
- Wherever possible, a minimum distance of 1.5 metres is to be kept from other persons in public space.
- Staying in public space is only permitted alone, with another person not living in the household or in the company of members of the same household.
- People are permitted to travel to work, do their shopping, go for medical or other necessary appointments, to help someone, and to exercise or go for a walk outdoors.
- Restaurants are closed with the exception of delivery/pick-up of food consumed at home.
- Parties in public places, in private homes or organisations are not permitted.
- Authorities and the police will monitor the situation and will sanction any violation against the social distancing measures.
- Service providers such as hairdressers, beauty or massage or tattoo salons or similar are closed. Medical treatments can be provided.
- All companies, and in particular those with visiting customers, need to adhere to hygiene standards for staff and visitors.
- Drugstores, gas stations, banks, courier services and the post offices are open. Craftspeople can continue with their services.
- Bars, clubs, pubs and similar facilities are closed.
- Theatres, operas, concert halls, museums, exhibitions, trade fairs, cinemas, amusement parks and zoos are closed. Sports facilities, gyms, swimming pools and playgrounds are also closed.

These measures apply for the period until 19 April. The Federal Government and the governments of the *Länder* will closely cooperate on these measures, however, the *Länder* can take further measures to react to regional specificities or epidemiological developments.² The Federal Government underlined that these measures are necessary and proportionate.³

On 20 March, Germany closed the borders to Austria, France, Luxembourg, Denmark and Switzerland. Persons can only cross the borders at specific border check points and only for urgent reasons. Persons with an urgent reason to travel and commuters are requested to carry with them documentation that confirm the

² Welt, 'Sachsen verhängt ab 0 Uhr strenge Ausgangsbeschränkung', 24.03.2020, available at <https://www.welt.de/politik/deutschland/article206674921/Coronavirus-Deutschland-Sachsen-verhaengt-ab-0-Uhr-Ausgangssperre.html>

³ Germany, Federal Government (Bundesregierung) (2020), 'Erweiterung der beschlossenen Leitlinien zur Beschränkung sozialer Kontakte', 22.03.2020, available at <https://www.bundesregierung.de/breg-de/themen/coronavirus/besprechung-der-bundeskanzlerin-mit-den-regierungschefinnen-und-regierungschefs-der-laender-1733248>

necessity to travel. The Federal Ministry of the Interior published a list of the aforementioned specific border check points.⁴

The Federal Minister of the Interior stressed that these restrictions are important measures for combatting the spread of the virus. Cross-border movement of goods as well as entry of commuters and German citizens or residence permit holders is allowed.⁵ The border checks also apply to flight passengers arriving in Germany from Italy, Spain, Austria, France, Luxembourg, Denmark and Switzerland.

The Federal Government uses chartered aircraft to bring back German tourists from other countries if their actual flights are cancelled. To this end, the Federal Government has announced a major return campaign. Numerous holidaymakers are still stuck abroad.^{6 7}

After several EU countries have already introduced national entry restrictions, an entry ban is now to apply to the EU as a whole. For one month, persons from outside the EU will not be allowed to enter the country. Chancellor Merkel said that Germany would implement the plan immediately. There are exceptions for countries that belong to the European Free Trade Association EFTA, as well as for Great Britain and certain groups of people such as diplomats and doctors.⁸

Concerning the legal basis for restrictions on the freedom of movement, it is noted that the German Constitution (*Grundgesetz*) does not explicitly foresee a general curfew but allows fundamental rights to be limited through measures that are necessary and proportionate. The authorities of the *Länder* have adopted measures to limit freedom of movement based on Paragraph 28 of the Protection Against Infection Act. The freedom-restricting measures foreseen therein are primarily aimed at persons who either suffer from a contagious disease, could spread a pathogen or are directly endangered by an infection. Paragraph 28 provides for limitations to basic rights only "until the necessary protective measures have been taken". Consequently, it does not, at least not explicitly, authorise the competent authorities and the *Länder* to impose comprehensive and long-term curfews. The Infectious Diseases Protection Act also provides for a catalogue of penalties for violations. Authorities can impose fines of up to 25,000 euros for violations of measures adopted on the basis of this act.⁹

⁴ Germany, Federal Ministry of the Interior (Bundesministerium des Innern, für Bau und Heimat) (2020), available at

https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2020/liste-grenzuebergangsstellen.pdf?__blob=publicationFile&v=8

⁵ Germany, Federal Government (Bundesregierung), 20.03.2020, available at

<https://www.bundesregierung.de/breg-de/themen/coronavirus/kontrollen-an-den-grenzen-1730742>

⁶ Deutschlandfunk, 'Wie sich das Coronavirus auf das Reisen auswirkt', 24.03.2020, available at

https://www.deutschlandfunk.de/covid-19-wie-sich-das-coronavirus-auf-das-reisen-auswirkt.1939.de.html?drn:news_id=1113310

⁷ Deutschlandfunk, 'Wie sich das Coronavirus auf das Reisen auswirkt', 24.03.2020, available at

https://www.deutschlandfunk.de/covid-19-wie-sich-das-coronavirus-auf-das-reisen-auswirkt.1939.de.html?drn:news_id=1113310

⁸ Deutschlandfunk, 'Wie sich das Coronavirus auf das Reisen auswirkt', 24.03.2020, available at

https://www.deutschlandfunk.de/covid-19-wie-sich-das-coronavirus-auf-das-reisen-auswirkt.1939.de.html?drn:news_id=1113310

⁹ Badische Neueste Nachrichten, 'Ausgangssperre wegen Coronavirus', 20.03.2020, available at <https://bnn.de/nachrichten/suedwestecho/coronavirus/ausgangssperre-wegen-coronavirus-wer-darf-sie-verhaengen-welche-strafen-sind-moeglich>

All *Länder* have different measures in place, however, the main measures concern social distancing, social isolation (*Kontaktverbot*) and restrictions of free movement.¹⁰

Measures to address the crisis' impact on work and the economy

Many companies and employees are already strongly affected by the crisis. On 22 March, the German government agreed on a package of measures to protect jobs and support companies to equip them with sufficient liquidity to manage the crisis and to bring the economy back onto a growth path as quickly as possible. This is happening in close coordination with the *Länder*.¹¹

The package of measures consists of:

- Making reduced hours compensation benefit (*Kurzarbeitergeld*) more flexible (granted for up to twelve months and is paid at the same level as unemployment benefit and compensates for 67 or 60 per cent of the net pay lost as a result of the reduced hours work).
- Tax-related liquidity assistance for businesses: the options for deferring tax payments and reducing prepayments will be enhanced and enforcement rules will be adapted.
- Existing liquidity assistance programmes will be expanded to facilitate companies' access to cheap loans.
- Small enterprises, self-employed persons and liberal professions can apply for a one-off allowance to cover for fixed costs such as rent.

The website of the Federal Ministry for Economic Affairs and Energy provides extensive information on the package of measures in German and other languages and has set up a helpline to answer any queries concerning the new measures.

On 23 March, the German government also agreed on a bill on social protection measures to mitigate social ramifications of the crisis. The measures would facilitate access to the basic social security systems particularly for families on a low income and the self-employed.¹²

The Federal Ministry for Justice and Consumer Protection drafted a bill which ensures that tenancy agreements cannot be terminated if the tenant accumulates rent arrears over the next months during the pandemic. The same applies to water and electricity supply. The bill also provides for debt deferrals during the crisis.¹³

¹⁰ Focus, 'Verschiedene Corona-Regeln: Welche Verbote nun vor ihrer Haustür gelten', 25.03.2020, available at https://www.focus.de/finanzen/recht/ausgangssperre-was-verboden-und-was-erlaubt-ist-und-welche-strafen-es-gibt_id_11793149.html

¹¹ Germany, Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie), 23.03.2020, available at <https://www.bmwi.de/Redaktion/DE/Dossier/coronavirus.html>

¹² Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales), 'Ein starker Sozialstaat in Zeiten der Krise', 23.03.2020, available at <https://www.bmas.de/DE/Presse/Pressemitteilungen/2020/sozialschutzpaket.html>

¹³ Germany, The Federal Ministry for Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz), 24.03.2020, available at https://www.bmjuv.de/DE/Themen/FokusThemen/Corona/Miete/Corona_Miete_node.html

Measures to address impact of school/pre-school/university closures

Most *Länder* closed schools and pre-schools from 16 March for several weeks as a precautionary social-distancing measure. Many *Länder* provide for 'emergency child care' (*Notfallbetreuung*) at schools and pre-schools for children of parents who work in 'frontline' professions – professions that are crucial for the functioning of public life (police, fire brigade, medical staff, energy and water supply, food production and trade, etc.).

The final exam of medical students may be postponed for about a year and medical students may have to work in hospitals during that time.¹⁴

There are no uniform nationwide rules concerning the closure of pre-schools, schools and universities, as the education system is under the mandate of the *Länder*.¹⁵

School and pre-school closure affects families massively because the parents themselves now have to look after the children or alternative child care needs to be organised, as the childrens' grandparents are a high-risk group and should not be asked to look after them.

The Federal Ministry of Labour and Social Affairs called on all employers to work with the affected employees to agree on pragmatic solutions (e.g. working from home, creative working time models, use of holiday leave and working time accounts, etc.) which take into account families' needs and enable organisations and facilities to keep functioning. Employers are encouraged to continue to pay the salaries to parents while they take care of their children during the crisis.¹⁶

1.3 Access to justice

The Coronavirus also affects the courts. Some courts are cancelling hearings, others are reducing the number of seats and the presence of the public in court and it occurred that divorces are tried over the phone. The German constitutional state and the courts are challenged by the crisis. Courts all over the country are facing a dilemma these days: procedural security versus security of the persons involved.^{17 18}

¹⁴ Süddeutsche Zeitung, 'Prüfungen im Medizinstudium – Klinik statt Klausur', 22.03.2020, available at <https://www.sueddeutsche.de/bildung/medizinstudium-auf-dieses-letzte-examen-kann-man-auch-verzichten-1.4852474>

¹⁵ Stern, 'Mecklenburg-Vorpommern zieht nach: In 15 Bundesländern bleiben Schulen über Wochen dicht', 14.03.2020, available at <https://www.stern.de/politik/deutschland/schulschliessungen-wegen-coronavirus---die-aktuelle-entwicklung-9180570.html>

¹⁶ Germany, Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales), press, 15.03.2020, available at <https://www.bmas.de/DE/Presse/Meldungen/2020/lohnfortzahlung-bei-kinderbetreuung.html>

¹⁷ Tagesspiegel, 'Das Grundgesetz wird nun im Schichtdienst überwacht', 19.03.2020, available at <https://www.tagesspiegel.de/politik/die-justiz-faehrt-wegen-des-coronavirus-runter-das-grundgesetz-wird-nun-im-schichtdienst-ueberwacht/25658666.html>

¹⁸ Zeit, 'Richter als Seuchenbekämpfer', 20.03.2020, available at <https://www.zeit.de/gesellschaft/zeitgeschehen/2020-03/corona-krise-deutschland-richter-gerichte-kirchenaustritte-scheidungen-coronavirus>

The German justice system slows down its day-to-day business but it nevertheless continues to perform and the rule of law is in order even in times of crisis. ¹⁹

The Federal Ministry for Justice and Consumer Protection drafted a bill that would prevent criminal proceedings being declared null and void due to breaks of longer than three weeks. The bill provides for breaks of three months and ten days if the main trial could not take place because of the pandemic. ²⁰

1.4 Access to healthcare and medical supplies

On 23 March the Federal Government adopted a proposal for the Covid 19 Hospital Discharge Act (*Covid 19 Krankenhausentlastungsgesetz*). The proposal includes measures to boost financial liquidity of hospitals, compensate practitioners and psychotherapists for decreased revenues due to the Covid 19-pandemia, ensure coverage of increased costs of treatment of Covid 19 patients, and guarantee nursing care capacities²¹.

1.5 Impact on vulnerable groups

1.5.1 Women and Children / Domestic Violence

People who work in supermarkets, pharmacies or in hospitals cannot work from home and are therefore at higher risk of infection with the Coronavirus. Women are the majority in most of these professions. According to statistics from 2018, 4.2 million women and 1.3 million men work in the 'frontline' professions of medical and social services. Furthermore, many women work in tourism or in restaurants - sectors that are strongly impacted by the crisis.

In Germany women earn approximately 20% less than men, which is partly explained by the fact that women generally work more part-time, work in professions with lower income or are more likely to have temporary work contracts. Single mothers and elderly women are particularly at risk of poverty. ²²

Pre-schools and schools are closed in Germany and this affects women in particular as they undertake the mainstay of childcare responsibilities.

¹⁹ Süddeutsche Zeitung, 'Im Namen des Virus', 17.03.2020, available at

<https://www.sueddeutsche.de/wirtschaft/coronavirus-gericht-verfahren-1.4848486>

²⁰ Germany, Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz), 'Größere Flexibilität für Strafprozesse während der Corona-Pandemie', 23.03.2020, available at

https://www.bmjuv.de/DE/Themen/FokusThemen/Corona/Strafprozesse/Corona_Strafprozesse_nod_e.html

²¹ Germany, Federal Government (2020), 'Gesetzentwurf zum Ausgleich COVID-19 bedingter finanzieller Belastungen der Krankenhäuser und weiterer Gesundheitseinrichtungen' (COVID-19-Krankenhausentlastungsgesetz), 23.03.2020, available at

<https://www.bundesgesundheitsministerium.de/presse/pressemitteilungen/2020/1-quartal/gesetzspakete-corona-epidemie.html>

<https://www.bundesregierung.de/breg-de/themen/coronavirus/covid19-krankenhaus-gesetz-1733614>,

²² Süddeutsche Zeitung, 'Warum die Krise viele Frauen besonders hart trifft', 21.03.2020, available at <https://www.sueddeutsche.de/politik/coronavirus-frauen-supermarkt-1.4852054>

Women could also face some difficulties in access to healthcare in some *Länder* because the healthcare system reaches its limits. For example the access to abortions can become problematic and it is feared that women might resort to 'unsafe abortion methods' - with the risk of health problems such as inflammation, sterility and bleeding and even death. Organisations therefore demand from federal and state governments as well as health insurance companies that abortion with abortion pills be permitted until the end of the ninth week of pregnancy after only one visit to a doctor at home. This is also in accordance with the guidelines of the World Health Organisation WHO.²³

Domestic Violence

Curfew measures impact strongly on women and children, as many are not safe at home. Social isolation and financial worries contribute to increased stress in relationships and families resulting in escalating situations and it is feared that domestic violence will rise during the pandemic.

The Federal Association of Rape Crisis Centres and Women's Counselling Centres in Germany (*Bundesverband Frauenberatungsstellen und Frauennotrufe*), warned that the current measures to tackle the crisis will expose women and children to the danger of domestic violence.²⁴

The NGO Central Information Centre of independent women's shelters (*Zentrale Informationsstelle Autonomer Frauenhäuser*) demands quick, unbureaucratic and nationwide political measures to guarantee women's and children's protection against violence such as financial support for the accommodation of women and children in a hotel should a women's shelter be full or quarantined and for more counselling over the phone.²⁵

The Green Party in the Bundestag calls for exceptions to the curfew measures for women and children at risk of violence. Protection against violence needs to be part of the federal measures during the pandemic and campaigns to raise awareness of domestic violence should be launched.²⁶

²³ Tageszeitung, 'Blutungen bis zum Tod', 23.03.2020, available at <https://taz.de/Schwangerschaftsabbrueche-und-Corona!/5673197/>

²⁴ The Federal Association of Rape Crisis Centres and Women's Counselling Centres in Germany (*Bundesverband Frauenberatungsstellen und Frauennotrufe*), 'Gemeinsames Statement zur Coronakrise: Wenn das Zuhause kein sicherer Ort ist', press, 19.03.2020, available at <https://www.frauen-gegen-gewalt.de/de/aktuelles.html>

²⁵ Central Information Centre of independent women's shelters (*Zentrale Informationsstelle Autonomer Frauenhäuser*), 'Frauenhäuser in Zeiten der Corona-Pandemie', press, 19.03.2020, available at <https://www.autonome-frauenhaeuser-zif.de/de/content/frauenh%C3%A4user-zeiten-der-corona-pandemie>

²⁶ Welt, 'Das eigene Zuhause ist für viele Frauen kein sicherer Ort', 22.03.2020, available at <https://www.welt.de/politik/deutschland/article206709651/Ausgangssperre-wegen-Corona-Fuer-Frauen-eine-bedrohliche-Situation.html>

The Federal Government recognises the difficulty the current measures hold for women and children and provides information on helplines that help in situations of domestic violence.^{27 28}

1.5.2 Care institutions

Around 3.7 million people in the need of care live in Germany, among which 24% live in care institutions. While it is within the remit of the *Länder* and the health authorities to decide which measures need to be taken, the Federal Government has only a coordinating role and no operational powers.²⁹

Due to the spread of the coronavirus, the State Bavaria largely prohibits relatives from visiting homes for the elderly and nursing homes.³⁰

A new campaign for older people in the Coronavirus crisis has been launched by the Bavarian Ministry of Social Affairs together with the welfare associations and the municipal umbrella organisations. Under the slogan 'Our Social Bavaria: We help together', the campaign is intended to help senior citizens, who are a particularly vulnerable Coronavirus risk group.³¹

Protection of health and the right to life in institutions for older persons is also a major issue. In a pensioners' home in Wuerzburg 9 of the 160 residents have died of Corona, 15 are infected and 23 of the employees have had to be quarantined at their homes. The professional organisation representing the interests of patients and persons in care institutions (*Stiftung Patientenschutz*)³² has issued an urgent appeal not to keep the infected persons in the institution.³³

1.5.3 Detention centres

The risk of infection with the Coronavirus is particularly high in detention centres with their crowded living conditions, understaffed medical teams and the poor health of many detainees.³⁴

²⁷ Germany, Federal Government (Bundesregierung), 'Hilfe bei häuslicher Gewalt', 24.03.2020, <https://www.bundesregierung.de/breg-de/themen/coronavirus/ausnahmesituation-fuer-familien-1734472>

²⁸ Germany, 2020, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend), available at <https://www.bmfsfj.de/bmfsfj/themen/familie/aktuelle-informationen-zu-hilfs--und-unterstuetzungsangeboten/153522>

²⁹ Welt, 'Die Angst der Pflegeheime vor dem Corona-Notstand', 11.03.2020, available at <https://www.welt.de/politik/deutschland/article206496989/Coronavirus-Pflegeheime-treffen-Vorkehrungen-vor-Notstand.html>

³⁰ Welt, 'Bayern erlässt Besuchsverbote', 13.03.2020, available at <https://www.welt.de/politik/deutschland/article206529099/Coronavirus-in-Deutschland-Bayern-erlaesst-Besuchsverbote.html>

³¹ Sonntagsblatt, 'Senioren und Corona: Sozialministerium will Ältere durch Hilfsaktionen unterstützen', 20.03.2020, available at <https://www.sonntagsblatt.de/artikel/bayern/senioren-und-corona-sozialministerium-will-aeltere-durch-hilfsaktionen-unterstuetzen>

³² Deutsche Stiftung Patientenschutz, <https://www.stiftung-patientenschutz.de/>

³³ Deutsche Stiftung Patientenschutz, 'COVID-19: Maßnahmen für Pfleger reichen nicht', 21.03.2020, available at <https://www.stiftung-patientenschutz.de/>; https://www.general-anzeiger-bonn.de/news/panorama/massnahmen-fuer-pfleger-in-der-corona-krise-reichen-nicht_aid-49680739

³⁴ Süddeutsche Zeitung, 'Corona und der Justizvollzug: In Gefängnissen herrscht gespenstische Stimmung', 19. März 2020, available at <https://www.sueddeutsche.de/panorama/coronavirus-justizvollzug-gefaengnis-1.4851503>

The German Prisoners' Union (*Gefangenen-Gewerkschaft*) describes the situation in detention centres as explosive and demands the temporary release of detainees, as has happened in several German cities.^{35 36}

It was reported that, as a precautionary measure, the detainees of a detention centre in Heinsberg in North Rhine-Westphalia are no longer allowed to receive visitors and that the federal state of Baden-Württemberg ordered a visiting ban for all its detention centres (and, as an alternative, extended the phone time of detainees). Other *Länder* hesitate with imposing restrictions in detention centres.³⁷

It is difficult to assess how precautionary measures against Coronavirus are implemented in detention centres across Germany because detention centres are a matter for the *Länder* and there are currently no uniform nationwide rules.³⁸

1.5.4 Migrants, Asylum-seekers and Refugees

Germany has suspended resettlement programmes for refugees because of the Coronavirus pandemic. However, currently asylum-seekers can still apply for asylum, as a need for international protection implies an exception to border closure.^{39 40}

The capacities of the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge* - BAMF) are limited because of the crisis and it cannot provide asylum procedure counselling for the time being.⁴¹ The BAMF publishes information about the Coronavirus and its implications for asylum-seekers in several languages on their website.

The Bavarian Refugee Council (*Bayerischer Flüchtlingsrat*) appeals for an immediate dissolution of mass accommodation in refugee centres because of the risk of infection for refugees. Refugees from mass accommodation should be housed in apartments or hotels. The Council also presses for an immediate ban on

³⁵ Prisoners' Union, national organisation (Gefangenen-Gewerkschaft – Bundesweite Organisation), 18.03.2020, available at <https://ggbo.de/ufeld-stationen-abgeriegelt/>

³⁶ Zeit, 'Einschließen oder heimschicken?', 18.03.2020, available at <https://www.zeit.de/gesellschaft/zeitgeschehen/2020-03/coronavirus-in-deutschen-gefaengnissen-heaftlinge-infektion/seite-2>

³⁷ TAZ-Die Tageszeitung, 'Das ist ein Pulverfass', 16.03.2020, available at <https://taz.de/Gefaengnisse-in-Corona-Pandemie/!5671910/>

³⁸ Zeit, 'Einschließen oder heimschicken?', 18.03.2020, available at <https://www.zeit.de/gesellschaft/zeitgeschehen/2020-03/coronavirus-in-deutschen-gefaengnissen-heaftlinge-infektion/seite-2>

³⁹ Süddeutsche Zeitung, 'Flüchtlinge finden keinen Zugang mehr in die EU', 18.03.2020, available at <https://www.sueddeutsche.de/politik/corona-krise-fluechtlinge-finden-keinen-zugang-mehr-in-die-eu-1.4850318>

⁴⁰ Tagesschau, 'Aufnahmeprogramm für Flüchtlinge gestoppt', 18.03.2020, available at <https://www.tagesschau.de/inland/fluechtlinge-2185.html>

⁴¹ Germany, Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge - BAMF) 17.03.2020, available at <https://www.bamf.de/SharedDocs/Meldungen/DE/2020/20200316-am-covid-19.html;jsessionid=48F20E15C747B2EC12DDFC3756638B8B.internet572>

deporting refugees, the extension of all residence permits and the release of people in detention pending deportation.⁴²

An asylum-seeker in an asylum centre in Thuringia tested positive for the virus and as a result about 500 asylum-seekers were quarantined. Some asylum-seekers protested against the quarantine and the police had to relocate them to other facilities.⁴³

The association *Women in Exile & Friends* points to the lack of information about the Coronavirus and related measures for asylum centres in languages spoken by asylum-seekers.⁴⁴

1.5.5 Families on low income

In Germany every fifth child is at risk of poverty and families on a low income are faced with extreme difficulties. Pre-schools, schools or youth centres offered free food but now with their closure, children and adolescents cannot even enjoy a free meal. In addition, over 400 *Tafel* centres, food banks that distribute free food, have suspended their services because of the Coronavirus precautionary measures. These developments are very challenging for families on a low income, who already suffer from the crisis because the parents fear they will lose their jobs.⁴⁵

Children of disadvantaged families often live in crowded housing and cannot concentrate on homework they are meant to be doing despite the school closures. Many families do not have access to computers or the internet at home and the policy of 'bring your own devices' discriminates against lower-class families.^{46 47}

The *Tafel* is a food bank collecting qualitatively good food that would otherwise be thrown away and distribute it for free or a symbolic amount to socially and economically disadvantaged people. The temporary suspension of their services is a precautionary measure as the majority of their volunteers are older people and are a group at high risk of severe illness from an infection with the Coronavirus.⁴⁸

⁴² Bavarian Refugee Council (Bayerischer Flüchtlingsrat), Press, 20.03.2020, available at <https://www.fluechtlingsrat-bayern.de/beitrag/items/gesundheitsversorgung-sicherstellen-lager-aufloesen-menschen-und-ihre-rechte-schuetzen.html>

⁴³ Welt, 'Wegen Unruhen nach Coronafall: Polizei verlegt Flüchtlinge', 17.03.2020, available at <https://www.welt.de/regionales/thuringen/article206622159/Wegen-Unruhen-nach-Coronafall-Polizei-verlegt-Fluechtlinge.html>

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Women in Exile & Friends, 'Die Covid-19-Pandemie und Flüchtlingslager', press, 16.03.2020, available at <https://www.women-in-exile.net/die-covid-19-pandemie-und-fluechtlingslager/>

⁴⁵ Spiegel, 'Kinderarmut in der Coronakrise', 23.03.20, available at <https://www.spiegel.de/wirtschaft/soziales/coronavirus-kinder-aus-einkommensschwachen-familien-in-der-krise-a-8ba68f6d-8a12-4271-93e2-7f46127120a5>

⁴⁶ Tageszeitung, 'Corona macht Bildung ungleicher', 23.03.2020, available at <https://taz.de/Folgen-der-Schulschliessungen/!5670367/>

⁴⁷ Stuttgarter Zeitung, 'Kinder aus schwachen Familien werden jetzt noch mehr abgehängt', 20.03.2020, available at <https://www.stuttgarter-zeitung.de/inhalt.interview-zu-armut-in-zeiten-der-corona-krise-kinder-aus-schwachen-familien-werden-jetzt-noch-mehr-abgehaengt.a502f0e4-91b4-40cb-815f-65673817db09.html>

⁴⁸ Die Tafel, 'Wegen Corona: Tafeln rufen zu Solidarität und Unterstützung auf', press, 13.03.2020, available at <https://www.tafel.de/presse/pressemitteilungen/pressemitteilungen-2020/wegen-corona-tafeln-rufen-zu-solidaritaet-und-unterstuetzung-auf/>

The measures to combat the negative impact on Germany's economy, presented by the Federal Government on 22 March, include financial support for families during the crisis. Parents who lose their income can apply for a child benefit supplement (*Kinderzuschlag*), which is paid in addition to the child allowance (*Kindergeld*). Several children's organisations and politicians have welcomed this move but demand additional financial support for families on a low income so that they can cover expenses for food, rent and childcare.⁴⁹

The Federal Association of Non-statutory Welfare (*Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege - BAGFW*) is the collective voice of the six non-statutory welfare organisations in Germany – the Workers' Welfare Federal Association (*Arbeiterwohlfahrt*), Caritas Germany, German Red Cross, the umbrella organisation *Der Paritätische Gesamtverband*, the social welfare organisation of Germany's Protestant churches (*Diakonische Werk der Evangelischen Kirche in Deutschland*) and the Central Welfare Office for Jews in Germany (*Zentralwohlfahrtsstelle der Juden in Deutschland*). The association welcomes the support measures announced by the German government on 22 March which also include financial support for welfare organisations in Germany.⁵⁰

1.5.6 Homeless

The Coronavirus outbreak poses an existential threat to the homeless. People who are without a home and live on the streets, in shelters or in other precarious living conditions, are more subject to health problems, as they suffer more than the rest of the population from multiple illnesses. Many homeless people belong to the group that is at higher risk of serious illness from a Coronavirus infection but they cannot limit their social contacts or find protection in their own home.

In Germany the homeless can usually turn to a network of services such as medical assistance and counselling, food and clothes supply and shower facilities. During the pandemic this network collapses because precautionary measures force shelters and day centres to close or because many volunteer workers are elderly and at risk themselves and need to self-isolate.⁵¹

Authorities have no coordinated plans on how to deal with the emergency, especially, if homeless people become infected.⁵² In Hamburg a homeless person tested positive for the virus and the entire shelter the person stayed at was

⁴⁹ Welt, 'Eltern stoßen bei notwendigen Einkäufen auf Aggression', 23.03.2020, available at <https://www.welt.de/politik/deutschland/article206751915/Corona-Was-Familien-leisten-muessen-ist-ein-gigantisches-Sozialexperiment.html>

⁵⁰ Federal Association of Non-statutory Welfare (Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege), 'Freie Wohlfahrtspflege unter Rettungsschirm der Bundesregierung', press, 23.3.20, available at <https://www.bagfw.de/veroeffentlichungen/pressemitteilungen/detail/freie-wohlfahrtspflege-unter-rettungsschirm-der-bundesregierung>

⁵¹ Zeit, 'Wie geht es jetzt den Ärmsten in der Stadt?', 19.03.2020, available at

<https://www.zeit.de/hamburg/2020-03/coronavirus-armut-quarantaene-hamburg-obdachlosigkeit>

⁵² The Federal Working Community for Assistance to Homeless People (Bundesarbeitsgemeinschaft Wohnungslosenhilfe BAG-W), 'CORONA und Wohnungslosigkeit', 20.3.2020, available at <https://www.bagw.de/de/neues~178.html>

quarantined.^{53 54} However, the homeless cannot be forced to stay in quarantined buildings and in addition, many suffer from addictions and the supply of drugs and alcohol would not be guaranteed in quarantine.⁵⁵

The Federal Working Community for Assistance to Homeless People (Bundesarbeitsgemeinschaft Wohnungslosenhilfe BAG-W) has called for immediate suspension of evictions so that people who lose their home do not have to seek accommodation in the already overcrowded shelters. The association also points to the need for additional housing options and the 24/7 availability of shelters and day centres.⁵⁶

2. Impact of the outbreak on certain national or ethnic communities

2.1 Xenophobic incidents and discrimination

The Covid-19 outbreak has led to a reported increase in manifestations of racism and xenophobia against Chinese people (sinophobia) and other people that have or are perceived to have Asian origin, such as people from Korea, Vietnam or Japan. Typically, these incidents involve being shouted at or insulted on the streets, in supermarkets and shops or in public transport because of an alleged connection with the Coronavirus. In at least one case reported, the incident even involved physical violence⁵⁷.

In a press release of 12 February 2020⁵⁸ the German equality body (*Antidiskriminierungsstelle*) alerted that it was receiving an increasing number of discrimination complaints from people with Asian background. The complaints concerned cases of discrimination in the access to goods and services such as a medical practitioner refusing to treat a patient of Chinese origin – who had no COVID 19-symptoms and had not been to China for months -, a Chinese student being denied renting a flat on the grounds that the owner “did not want to have Coronavirus”, and the owner of a grocery denying Chinese tourists access to his shop.

⁵³ Welt, 'Für Obdachlose wird die Pandemie zur Existenzfrage', 19.03.2020, available at <https://www.welt.de/politik/deutschland/article206648407/Coronavirus-Fuer-Obdachlose-wird-die-Pandemie-zur-Existenzfrage.html?wtrid=onsite.onsitesearch>

⁵⁴ Tageszeitung, 'Isoliert mit Hunderten', 17.03.2020, available at <https://taz.de/Corona-Fall-in-Obdachlosen-Unterkunft!/5668620/>

⁵⁵ Tagesspiegel, 'Senatsverwaltung sucht nach Gebäuden zur Quarantäne von Obdachlosen', 16.03.2020, available at <https://www.tagesspiegel.de/berlin/coronavirus-vorsorge-in-berlin-senatsverwaltung-sucht-nach-gebaeuden-zur-quarantaene-von-obdachlosen/25649466.html>

⁵⁶ The Federal Working Community for Assistance to Homeless People (Bundesarbeitsgemeinschaft Wohnungslosenhilfe BAG-W), 'BAG-W fordert Schutzmaßnahmen für Wohnungslose', press, 13.03.2020, available at <https://www.bagw.de/de/presse/index~177.html>

⁵⁷ Tagesspiegel, 'Chinesische Botschaft in Berlin beklagt Rassismus', 05.02.2020, available at <https://www.tagesspiegel.de/berlin/wegen-coronavirus-chinesische-botschaft-in-berlin-beklagt-rassismus/25508828.html>

⁵⁸ Germany, Federal Antidiscrimination Office (*Antidiskriminierungsstelle*) (2020), 'Coronavirus: Increase of complaints of discrimination at the Federal Antidiscrimination Office' *Coronavirus: Gehäufte Anfragen wegen Diskriminierungen bei der Antidiskriminierungsstelle des Bundes*, press, 12.02.2020.

On 5 February the journal *Süddeutsche* interviewed a person of Chinese origin who had been refused access to a doctor's office, allegedly to protect other patients from a possible risk of COVID 19 infection⁵⁹.

On the 1 March the football club RD Leipzig expelled a group of Japanese people from its stadium, allegedly because of fear of Coronavirus⁶⁰.

On 5 March the journal *Die Welt* reported on a survey of Chinese students carried out by the Association of Chinese Students and Researchers of the city of Tübingen⁶¹. More than half of respondents had experienced discrimination once or more in the past months. The students reported that they were treated unequally in supermarkets or were insulted on public transport.

2.2 Media reporting stirring xenophobia

Some media have portrayed the origin and spread of the Corona-Virus SARS-CoV2 in a way that may have contributed to xenophobic attitudes of the population, as the newspapers *Frankfurter Allgemeine Zeitung*⁶² and *Neues Deutschland*⁶³ critically reported. This includes the weekly *Der Spiegel* with the title "Made in China" on his front page in yellow letters, with a *Chinese man in the background wearing a protective suit* and the tabloid *Bild* linking pictures of a Chinese family at lunchtime to reporting on the spread of corona virus.

2.3 Use of the crisis for political purposes

Weekly and daily newspapers as *Die Zeit*⁶⁴ and *Der Tagesspiegel*⁶⁵ have reported on politicians using the coronavirus crisis to advance right-wing extremist political agendas and stir hate against migrants and refugees.

2.4 Initiatives to counter racism on social media

The increase in xenophobic incidents against people of Asian origin has triggered a response in social networks, particularly in Twitter and Instagram. This includes

⁵⁹ Süddeutsche Zeitung, 'CoronavirusDiskriminierung in Berlin', 05.02.2020, available at <https://www.sueddeutsche.de/panorama/coronavirus-berlin-diskriminierung-medizin-chinesen-1.4785405>

⁶⁰ Spiegel, 'Rauswurf japanischer Fussballzuschauer in Leipzig', 02.03.2020, available at <https://www.spiegel.de/sport/fussball/rb-leipzig-wirft-japaner-aus-dem-stadion-love-peace-and-racism-a-f9b8b127-8c42-4f95-ac06-bc6700caf305>

⁶¹ Welt, 'Verein: Diskriminierung asiatischstämmiger Menschen nimmt zu', 05.03.2020, available at <https://www.welt.de/regionales/baden-wuerttemberg/article206348163/Verein-Diskriminierung-asiatischstaemiger-Menschen-nimmt-zu.html?wtrid=onsite.onsitesearch>

⁶² Frankfurter Allgemeine Zeitung, 'Wie Rassisten das Coronavirus für sich nutzen', 03.02.2020, available at <https://www.faz.net/aktuell/gesellschaft/gesundheit/coronavirus/coronavirus-in-china-sinophobie-und-rassismus-im-netz-16614102.html>

⁶³ Neues Deutschland, 'Bild' schürt Hass', 15.03.2020, available at <https://www.neues-deutschland.de/artikel/1134321.coronavirus-bild-schuert-hass.html>; see also: Über Medien, 'Corona und der grassierende Virus der Chinesenfeindlichkeit', 03.02.2020, available at <https://uebermedien.de/45749/corona-und-der-grassierende-virus-der-chinesenfeindlichkeit/>

⁶⁴ Zeit, 'Wie Rechte das Coronavirus zur Hetze gegen Flüchtlinge benutzen', 09.03.2020, available at https://blog.zeit.de/stoerungsmelder/2020/03/09/wie-rechte-das-coronavirus-zur-hetze-gegen-fluechtlinge-benutzen_29637; see also: Zeit, 'Der ultimative Niedergangsbeschleuniger', 15.03.2020, available at <https://www.zeit.de/politik/deutschland/2020-03/afd-rechtsradikale-coronavirus-verfassungsschutz-gefahr>

⁶⁵ Tagesspiegel, 'Wie Rechte das Coronavirus zur Hetze gegen Flüchtlinge benutzen', 09.03.2020, available at <https://www.tagesspiegel.de/politik/video-mit-pistolenschuss-wie-rechte-das-coronavirus-zur-hetze-gegen-fluechtlinge-benutzen/25625008.html>

awareness raising campaigns such as the hashtag *#IchbinkeinVirus* (I am no virus)⁶⁶ and hashtags used to report racist attacks linked to the Corona Virus such as *#CoronaRassismus*.⁶⁷

3. Impact on privacy and spread of disinformation

The Federal Ministry of Health drafted a bill (amending the *Infektionsschutzgesetz*) on monitoring potentially infected persons. The bill entailed increased surveillance measures with the possibility of identifying infected persons via mobile phone tracking and would have permitted health authorities to receive from telecommunication providers mobile phone data of infected persons. However, on 23 March, after massive criticism the bill was withdrawn and postponed until Easter.^{68 69 70 71}

3.1 Statement by data protection authority and instances of infringement of privacy and/or data protection rights related to the outbreak

The Committee of German data protection authorities of the Federal Government and the *Länder* (*Datenschutzkonferenz*), has issued a statement with information for employers on data protection during the Coronavirus pandemic.⁷² The Federal Commissioner for Data Protection and Freedom of Information as well as almost all the data protection authorities of the *Länder* published this statement on their websites.

In addition to this statement, the data protection authority for Baden-Württemberg (*Landesbeauftragter für Datenschutz und Informationsfreiheit*)

⁶⁶ Germany, Amnesty International (2020), 'Coronavirus - no justification for racism' (*Coronavirus - keine Rechtfertigung für Rassismus*), 19.03.2020.

⁶⁷ Berliner Morgenpost (2020), 'Asian people complain also in Germany about corona-racism', *Asiaten beklagen 'Corona-Rassismus' auch in Deutschland*. 04.02.2020

Focus, '#CoronaRassismus: Was es mit dem Hashtag auf sich hat', 07.02.2020, available at https://praxistipps.focus.de/coronarassismus-was-es-mit-dem-hashtag-auf-sich-hat_117094

⁶⁸ Spiegel, 'So ringt die GroKo um Verwendung von Handydaten', 23.03.2020, available at <https://www.spiegel.de/politik/deutschland/corona-krise-wie-die-regierung-um-die-verwendung-von-handydaten-ringt-a-8bd7ee23-6a09-4b73-9be3-c0a021f7e70a>

⁶⁹ Finanznachrichten, 'Lambrecht hat weiter Vorbehalte gegen Handydaten-Ortung', 23.03.2020, available at <https://www.finanznachrichten.de/nachrichten-2020-03/49175716-lambrecht-hat-weiter-vorbehalte-gegen-handydaten-ortung-015.htm>

⁷⁰ AFP, 'Lambrecht sieht hohe Hürden für mögliche Handydaten-Ortung von Corona-Kontaktpersonen', 23.03.2020, available at <https://www.afp.com/de/nachrichten/759/lambrecht-sieht-hohe-huerden-fuer-moegliche-handydaten-ortung-von-corona-kontaktpersonen-doc-1q38dz1>

⁷¹ Germany, Federal Commissioner for Data Protection and Freedom of Information (Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit), 'Stellungnahme an den Deutschen Bundestag zur Novelle des Infektionsschutzgesetzes', press release, 23.03.2020, available at https://www.bfdi.bund.de/DE/Infothek/Transparenz/Stellungnahmen/2020/StgN_Novelle-InfektionsschutzG-Bundestag.html;jsessionid=CDECC0957B21F9D40CF17187F488F272.2_cid344?nn=5216976

⁷² Germany, Federal Commissioner for Data Protection and Freedom of Information (Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit), 2020, 'DSK gibt Hinweise zu Datenschutz und Corona', press release, 13.03.2020, available at https://www.bfdi.bund.de/DE/Datenschutz/Themen/Gesundheit_Soziales/GesundheitSozialesArtikeI/Datenschutz-in-Corona-Pandemie.html?nn=5216976

Baden-Württemberg) has issued an FAQ with information for employers and employees on data protection during the Coronavirus pandemic.⁷³

Both announcements can be summarised as follows:

Even if the processing of personal data, and in particular health data, is in principle only possible under certain restrictions, personal data may be collected and processed to contain the coronavirus pandemic or to protect employees in accordance with data protection laws. Where personal data is processed for such purpose, the principles of proportionality and the legal basis must always be respected.

- Employers may collect and process personal data (including health data) of employees and visitors in order to detect whether they tested positive, had contact with an infected person, or stayed in a risk-area.
- Personal data may only be processed for a specific purpose (Covid-19 containment) and must be deleted after the end of the pandemic, at the latest.
- Employers are generally not permitted to disclose the name of infected employees, as this could lead to social stigmatisation and discrimination. Exceptions may apply where disclosure of the name is necessary in order to allow the employer to take effective precautionary measures.
- Employees may be obliged under employment law to inform the employer in case they are infected with the coronavirus. As a consequence, employees may disclose information to their employer about persons they have been in contact with.

FRA contacted the data protection authorities of the *Länder* mostly affected by the Coronavirus Covid-19 outbreak - Baden-Württemberg, North Rhine-Westphalia and Bavaria - to enquire about instances of infringement of data protection rights related to the outbreak.

The Bavarian data protection commissioner (Der Bayerische Landesbeauftragte für den Datenschutz) reported of complaints that dealt with the methodology of the testing for the virus, the forwarding of test samples to laboratories and personal information about the individuals concerned. Another source of complaint were public authorities providing the media with information that could lead to the identification of individuals.

The data protection authority for Baden-Württemberg (*Landesbeauftragter für Datenschutz und Informationsfreiheit Baden-Württemberg*) referred to one complaint concerning a new legislative order in Baden-Württemberg which requires restaurant owners to keep guest lists to ensure that the contact persons of an infected guest can be tracked for a month.

On 17 March 2020, the German telecommunications company *Deutsche Telekom* provided, free of charge, the national health monitoring institute *the Robert Koch Institute (RKI)* with anonymised mass data from its mobile communications network. This nationwide data can be broken down to federal states, districts and municipalities and can be used to map movement streams and to statistically predict the spread of the Coronavirus. *Deutsche Telekom* claims that individuals

⁷³ Germany, Data Protection Authority for Baden-Württemberg (Landesbeauftragter für Datenschutz und Informationsfreiheit Baden-Württemberg), 2020, 'FAQ Corona', 13.03.2020, available at <https://www.baden-wuerttemberg.datenschutz.de/faq-corona/>

cannot be tracked and no conclusions about the individual user can be drawn from the data.⁷⁴ The Federal Commissioner for Data Protection and Freedom of Information, Ulrich Kelber, confirmed that this action is in line with data protection law because individual tracking is impossible.^{75 76}

He also remarked that his office monitors the *Robert Koch Institute's* development of an app, which uses near field communication technology and stores individual movement data of the app users. In case app users become infected with the Coronavirus, they can voluntarily provide the app with their data so that other app users who were closely located to the infected can be informed about it.^{77 78 79}

On a general note, Ulrich Kelber, cautioned against careless processing of personal data during the pandemic and stressed that sick persons in particular need to have their personal data protected.⁸⁰

In Germany several Coronavirus tracking apps are being developed in parallel to the app by the *Robert Koch Institute*.⁸¹

According to data protection expert Constanze Kurz, such apps are principally unproblematic provided that their use is voluntary and non-commercial. She does, however, find the use of mass data, as in the aforementioned case of mass data provided by *Deutsche Telekom* to the *Robert Koch Institute*, problematic. She is sceptical that the anonymisation of the mass data is irreversible and demands transparency on how the data were anonymised and how the *Robert Koch Institute* protects them against third party access.⁸²

⁷⁴ Deutsche Telekom, press, 18.03.2020, available at

<https://www.telekom.com/de/konzern/details/corona-vorhersage-telekom-unterstuetzt-rki-596772>

⁷⁵ WDR 5 Morgenecho, 'Corona-Tracking: Für den Zweck geeignetes Verfahren', radio interview with Ulrich Kelber, Federal Commissioner for Data Protection and Freedom of Information (Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit), 19.03.2020, available at <https://www1.wdr.de/mediathek/audio/wdr5/wdr5-morgenecho-interview/audio-corona-tracking-fuer-den-zweck-geeignetes-verfahren-100.html>

⁷⁶ Twitter, Ulrich Kelber, 18.03.2020
<https://twitter.com/UlrichKelber/status/1240239195236466688>

⁷⁷ WDR 5 Morgenecho, 'Corona-Tracking: Für den Zweck geeignetes Verfahren', radio interview with Ulrich Kelber, Federal Commissioner for Data Protection and Freedom of Information (Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit), 19.03.2020, available at <https://www1.wdr.de/mediathek/audio/wdr5/wdr5-morgenecho-interview/audio-corona-tracking-fuer-den-zweck-geeignetes-verfahren-100.html>

⁷⁸ Süddeutsche Zeitung, 'Warum die Telekom Bewegungsdaten von Handynutzern weitergibt', 18.03.2020, available at <https://www.sueddeutsche.de/digital/coronavirus-telekom-smartphone-tracking-datenschutz-1.4850094>

⁷⁹ Tagesspiegel, 'Verantwortung statt Verordnungen', 18.03.2020, available at <https://www.tagesspiegel.de/kultur/datentracking-verantwortung-statt-verordnungen/25657290.html>

⁸⁰ ZDF, 'Datenschützer warnen: Patientendaten in der Krise schützen', 19.03.2020, available at <https://www.zdf.de/nachrichten/digitales/datenschutz-corona-google-100.html>

⁸¹ Spiegel, 'Elektronische Impfung', 20.03.2020, available at <https://www.spiegel.de/netzwelt/apps/corona-apps-aus-deutschland-elektronische-impfung-a-c0a45175-3fa5-4c2f-a264-35ecb36594fd>

⁸² Tagesschau, 'Mit Apps gegen die Pandemie?', 22.03.2020, available at <https://www.tagesschau.de/inland/coronavirus-forschung-bab-101.html>

3.2 Measures to counter the spread of disinformation online

Public sector initiatives

The Federal Government, the federal ministries, the governments of the *Länder* and other key organisations during this crisis such as the *Robert Koch Institute* and the Federal Centre for Health Education (*Bundeszentrale für gesundheitliche Aufklärung*) have published on their websites information and FAQs in German about the Coronavirus and the measures to combat it. On most websites this information is also available in other languages and on a few websites information is also provided in sign-language or in an easy-to-read version.

This rich body of Coronavirus information on the websites of official bodies is necessary as many fake news and conspiracy theories circulate on the internet and social media and official bodies as well as the media had to react to debunk the myths around the virus.

On 18 March, Chancellor Angela Merkel addressed the nation and urged citizens to disregard fake news and rumours about the Coronavirus and underlined the importance of information from official authorities.^{83 84}

The Federal Centre for Health Education provides clear guidelines on how and where to find reliable information on the Coronavirus.⁸⁵

Several Federal Ministers and the spokesperson of the Federal Government twittered or issued statements on their websites with calls for caution in relation to fake news.^{86 87 88 89 90}

The circulation of disinformation increased to such an extent that some politicians now call for tougher action against false news during the Coronavirus crisis.^{91 92}

⁸³ Tagesspiegel, 'Die Kanzlerin zum Kampf gegen das Virus', 18.03.2020, available at <https://www.tagesspiegel.de/politik/die-kanzlerin-zum-kampf-gegen-das-virus-wir-werden-auf-die-probe-gestellt-wie-nie-zuvor/25658318.html>

⁸⁴ Germany, Federal Government (Die Bundesregierung), 13.03.2020, available at <https://www.bundesregierung.de/breg-de/aktuelles/was-bei-haesuslicher-quarantaene-wichtig-ist-1730314>

⁸⁵ Germany 2020, Federal Centre for Health Education (Bundeszentrale für gesundheitliche Aufklärung), 'Verlässliche Informationen erkennen', available at <https://www.infektionsschutz.de/coronavirus/verlaessliche-informationen-erkennen.html>

⁸⁶ Tagesspiegel, 'Falschmeldungen und Verschwörungstheorien verstärken die Angst', 03.02.2020, available at <https://www.tagesspiegel.de/politik/fake-news-bei-coronavirus-falschmeldungen-und-verschwörungstheorien-verstaerken-die-angst/25491216.html>

⁸⁷ Twitter, Federal Ministry of Health, 14.03.2020, available at https://twitter.com/BMG_Bund/status/1238780849652465664

⁸⁸ Twitter, Julia Klöckner, Federal Minister of Food, Agriculture and Consumer Protection, 15.03.2020, available at <https://twitter.com/JuliaKloeckner>

⁸⁹ Germany, Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz), 'Christine Lambrecht zur Verbreitung von Corona-Falschmeldungen', 17.03.2020 https://www.bmju.de/SharedDocs/Zitate/DE/2020/031720_Falschmeldungen.html

⁹⁰ Twitter, Steffen Seibert, Spokesperson of the Federal Government, 'Vorsicht for Fake News' 18.03.2020, available at <https://twitter.com/RegSprecher>

⁹¹ Spiegel, 'SPD-Innenminister Pistorius fordert Strafen gegen Fake News', 17.03.2020 <https://www.spiegel.de/politik/deutschland/coronavirus-boris-pistorius-fordert-strafen-gegen-fake-news-a-ed5050b5-c194-4890-a4c3-c713290134f3>

⁹² Welt, 'SPD-Fraktion fordert Strafen für Fake-News zu Corona', 17.03.2020 <https://www.welt.de/regionales/thueringen/article206617483/SPD-Fraktion-fordert-Strafen-fuer-Fake-News-zu-Corona.html?wtrid=onsite.onsitesearch>

Media or private sector initiatives

The German Press Council provides the German Press Code on their website but has not featured any specific guidelines on media reporting for the Coronavirus outbreak on their website.

The German Federation of Journalists (*Deutscher Journalisten-Verband*), the professional association, trade union and service centre for journalists, underlined the need for factual reporting during this crisis and for journalists to follow the guidelines laid down in the German Press Code, which under section 14 reads as follows: *'Reports on medical matters should not be of an unnecessarily sensationalist nature since they might lead to unfounded hopes or fears on the part of some readers. Research findings that are still at an early stage should not be portrayed as if they were conclusive or almost conclusive'*.^{93 94}

The Media Authorities (Die Medienanstalten), the umbrella group of private radio and television broadcasters in Germany, has not published any specific guidelines on reporting during the pandemic on their website.⁹⁵

Facebook partnered with the German Press Agency and the non-profit organisation *Correctiv* to initiate fact-checking of Coronavirus news on their social media network. In addition to this, Facebook cooperates with local health authorities and experts in such way that when they detect false information, Facebook staff will check and delete it; copies will be deleted via algorithms. However, the German Federation of Journalists is critical of Facebook's plans and argued that Facebook would need to employ many more journalists for fact-checking to adequately differentiate between fake news and reliable information, as algorithms cannot provide for this.⁹⁶

The website of the non-profit organisation *Correctiv* features guidelines on how to spot fake news and lots of facts clarifying Coronavirus disinformation. The organisation has also set up an online tool which can be used for reporting fake news about the virus.⁹⁷

⁹³ German Federation of Journalists (Deutscher Journalisten-Verband), 'Fakten statt Panikmache', press, 28.02.2020, available at <https://www.djv.de/startseite/profil/der-djv/pressebereich-download/pressemitteilungen/detail/article/fakten-statt-panikmache.html>

⁹⁴ German Press Council (Der Deutsche Presserat), 'German Press Code', available at <https://www.presserat.de/files/presserat/dokumente/download/Press%20Code.pdf>

⁹⁵ The Media Authorities (Die Medienanstalten), available at <https://www.die-medienanstalten.de/en/>

⁹⁶ Der Tagesspiegel, 'Größerer Schaden als das Virus', 04.03.2020, available at <https://www.tagesspiegel.de/gesellschaft/medien/fake-news-zu-coronavirus-auf-facebook-grosserer-schaden-als-das-virus/25608566.html>

⁹⁷ Correctiv, 'Faktencheck', 20.03.2020, available at <https://correctiv.org/faktencheck/hintergrund/2020/03/18/coronavirus-warum-die-aussagen-von-wolfgang-wodarg-wenig-mit-wissenschaft-zu-tun-haben>

Several media outlets have published articles with advice on the checking of fake news or articles clarifying the content of specific fake news and conspiracy theories about the Coronavirus.^{98 99 100 101 102 103}

⁹⁸ SWR3, 'Fake News: Wie die Lügen funktionieren und wie du sie erkennen kannst', 25.02.2020, available at <https://www.swr3.de/aktuell/Fake-News-Wie-die-Luegen-funktionieren-und-wie-du-sie-erkennen-kannst/-/id=4382120/did=4932068/n7ymd7/index.html>

⁹⁹ Zeit, 'So erkennen Sie, welche Nachrichten zum Coronavirus stimmen', 16.03.2020, available at <https://www.zeit.de/digital/internet/2020-03/fake-news-coronavirus-falschnachrichten-luegen-panikmache>

¹⁰⁰ Welt, 'Polizei ermittelt wegen Coronavirus-Falschmeldung', 26.02.2020, available at <https://www.welt.de/regionales/rheinland-pfalz-saarland/article206140205/Polizei-ermittelt-wegen-Coronavirus-Falschmeldung.html?wtrid=onsite.onsitesearch>

¹⁰¹ Zeit, 'Wissenschaftler warnen vor falscher WhatsApp-Sprachnachricht', 14.03.2020, available at <https://www.zeit.de/wissen/gesundheit/2020-03/syrien-konflikt-syrische-beobachtungsstelle-menschenrechte-todesopfer-zivilisten>

¹⁰² Frankfurter Allgemeine Zeitung, 'Das stimmt NICHT!', 17.03.2020, available at <https://www.faz.net/aktuell/gesellschaft/gesundheit/coronavirus/in-der-coronavirus-krise-mehren-sich-die-fake-news-16682026.html>

¹⁰³ Die Tageszeitung, 'Gefährliche Verschwörungstheorien', 19.03.2020, available at <https://taz.de/Lungenarzt-zu-Corona!/5669085/>