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32 Ds 5 OJs 9/21

Plön Local Court

Judgment

In the name of the people

In the criminal proceedings against

**Prof. Dr. Sucharit Punyaratabandhu Bhakdi,**

born on 01.11.1946 in Washington, married, nationality: Thai,  
German, resident: [REDACTED]

Defence counsel:

Lawyer Sven Lausen, [REDACTED] reference number:  
[REDACTED]

Lawyer Tobias Weissenborn, [REDACTED] reference  
number: [REDACTED]

Prof. Dr. Martin Schwab, [REDACTED] Germany

for incitement of the masses to hatred

the Plön Local Court—criminal judge—in the main hearing on 23.05.2023,  
in which the following participated

Judge Dr. Grundmann  
**as criminal judge**

Senior State Prosecutor Füssinger  
**as representative of the prosecutor's office**

Lawyer Sven Lausen, Lawyer Tobias Weissenborn and Prof. Dr. Martin Schwab  
**as defence counsel**

Senior Judicial Clerk Brekoff  
**as clerk of the court office**

**has decided:**

1. The accused is acquitted.
2. The costs of the proceedings and his necessary expenses shall be borne by the state treasury.

Reasons:

I. The accused was 76 years old at the time of the main hearing. He is married XXXXXXXXXXXXXXXXXXXX He studied medicine from 1964 and had worked in research since 1970. In his scientific career, he worked, among others, at the Max Planck Institute for Immunobiology, at The Protein Laboratory of the University of Copenhagen and at the Institute for Medical Microbiology of the University of Gießen. From 1990 to 2012, he

was professor and chair at the Institute of Medical Microbiology and Hygiene at the Johannes Gutenberg University in Mainz. The accused retired in 2012. He worked as a visiting scientist at the University of Kiel from then until he was terminated.

II.

1.

In its indictment of 01.05.2022, the Public Prosecutor's Office accuses the accused of the following in [REDACTED] Kiel and elsewhere from April 2021 and on 24.09.2021 by two acts

a) acting in concert in a manner likely to disturb public peace, inciting hatred against a religious group and attacking the human dignity of others by insulting and maliciously disparaging that religious group, and

(b) having publicly trivialised an act committed under the rule of National Socialism of the kind referred to in section 6(1) of the International Criminal Code in a manner likely to disturb public peace.

“Re 1.:

On an unspecified day in April 2021, the defendant gave a video-documented interview to the separately prosecuted [Mr. Kai] Stuht in the living room of his home in [REDACTED] which was then to be published by the separately prosecuted Stuht on the Internet in words and pictures. In this interview the accused expressed himself critically about Covid-19 vaccinations and the vaccination policy of the state of Israel and that the same could happen ‘faster than lightning’ also to the Germans. Escape from the country would then no longer be possible, just as escape was no longer possible in Israel because the borders were ‘closed.’ The

defendant further stated that he had once been asked by an American what he had to say about Israel, whereupon he had said that he admired the people of the Israelis more than any other people in the world. He had been an admirer of Jews. The greatest spirits had been Jews. He had gone after Jewish musicians to get their autographs. Subsequently, the defendant expressed himself in detail as follows:

'I adored them. And now they're doing this. They, the people who fled from this land, from this land where arch evil was, and have found their land. Have turned their own country into something even worse than Germany was. So unbelievable. And then I told the Americans, that's the bad thing about the Jews. They learn well. There is no people who learns better than they do. But they have learned evil now. And implemented it. And that's why Israel is now ›living hell‹. And I told the Americans, ›and if you're not careful, America will be living hell too, and I'm telling you now, your country will be turned into living hell if you don't rise up soon‹.'

And I told the Americans, and if you don't watch out, America will be living hell too, and I'm telling you now, your country will be turned into living hell if you don't get up soon.'

Following the original plan of the accused, the interview was then published on the Internet by the separately prosecuted Stuht, starting on July 8, 2021, under the title 'Vaccination! Hell on earth! Professor Bhakdi' via the platform PeerTube and the website <https://kai-stuht.com> as well as via the Odysee channel of the Kai Stuht. In addition, the Kai Stuht published the video on July 9, 2021 via his Telegram channel. In this way, the interview was in any case freely available to all Internet users until December 14, 2021. Furthermore, the interview was publicly available via K1a.TV's Odysee channel from July 3, 2021 and was copied by other internet users in the

further course and shared in social networks, via video platforms and messenger services. Via Kai Stuht's Telegram channel alone, the video received around 37,900 views.

In the context of his aforementioned statements, the defendant deliberately detached himself from Israel as a point of reference in order to then describe all Jews, and thus also the Jewish women and Jews living in Germany, as evil. This behavior was objectively suitable and subjectively intended by the accused to incite in an unbiased and reasonable average recipient a hostile attitude that went beyond mere contempt and rejection, also toward the Jews living in Germany. With his statements, the accused also consciously portrayed the Jews living in Germany as unworthy of the respect of the citizens and as inferior, because his statements were not directed against individual behavior patterns of the Jews, but against the core of their personality, which constitutes their human dignity. In doing so, he belittled the Jews out of a hostile attitude and offended them in the core area of their personality. The accused was aware that by stigmatizing Jews as evil, he was evoking anti-Semitic stories and by saying ‘...That's the bad thing about Jews. They learn well. There is no nation that learns better than they do’ echoed Nazi racial ideology, according to which ‘the Jews’ were ascribed certain characteristics and abilities that were passed on from generation to generation.

The defendant knew that in the context of the ongoing pandemic and the resulting high level of uncertainty and fear among many people, as well as the increasing anti-Semitic agitation in Germany, his statements were particularly suited to provoke aggressive emotionalization, especially among the anti-vaccination camp, and thus to prepare the ground for attacks and criminal acts against Jews. The accused deliberately intensified this effect through the forceful nature of his communication, with which he attempted to influence his viewers and the drastic-aggressive

choice of words with which he addressed them directly and warned them what the evil of the Jews could lead to, namely the transformation of Germany, too, into a “living hell”.

Re 2:

For the election to the 20th German Bundestag on September 26, 2021, the defendant put himself forward as a candidate for the Basic Democratic Party of Germany. The latter held an election campaign event on September 24, 2021, on Rathausplatz in Kiel. The election campaign event took place there in the time of 17.00 o'clock to approx. 19.00 o'clock and was visited by approx. 200 persons. During this event, the defendant gave a speech to the attendees in which he was critical of vaccinations with COVID-19 vaccines. Thus, he shared that it was frightening that the world elite had already managed to inject over a billion doses of the genetically adept substance into unsuspecting people. He further commented as follows:

‘It is clear to all in the know that with the formal approval of the vaccines, the first milestone of the agenda has been reached and the race is on to achieve the ultimate goal. This final goal is the creation of the new reality and involves nothing less than the second holocaust. The abolition of humanity in its current manifestation.’

The accused was aware that the state measures taken in connection with the COVID-19 vaccinations were not comparable to the systematic persecution, deportation and murder of Jews under National Socialism. He was also aware of the fact that his statements relativized the systematic persecution of Jews and their killing in concentration camps during the National Socialist regime in their unworthiness by presenting state corona protection measures within the framework of German vaccination policy as

comparable to the state-planned and systematically carried out genocide of the Jews. In any case, he considered it possible and accepted the fact that the presentation he had chosen would be understood and perceived in this sense by the audience of the election campaign event.

By describing the state's vaccination policy and the intended immunization of as many people as possible against the Covid-19 virus as a second Holocaust, the accused also deliberately created the danger in the heated political climate prevailing at the time of the crime that a climate of fear and uncertainty would spread, at least among Jews living in Germany. For if what happened under the rule of the National Socialists is degraded to an interchangeable object of comparison for objectionable political decisions and state measures, and if the Holocaust is deprived of its exceptionality, then this also creates the danger of lowering the inhibition threshold with regard to anti-Semitic attacks. Furthermore, the accused was aware that his comparison was concretely suitable to cause aggressive emotionalization among the opponents of vaccination and to lower the inhibition threshold for breaking the law and violent action against state measures and persons who are responsible for them, as well as to create a climate of fear and legal uncertainty. For the persecution and murder of the Jews was institutionalized state injustice, against which resistance with violence was also a legitimate means. The equation made by the accused was suitable to stylize opponents of vaccination as resistance fighters and thus to suggest to them that violent resistance against state measures was also justified.”

2.

a) In addition to the statement quoted in the indictment and its dissemination, the court made the following findings:

In the video-documented interview that was taken into view, which had a total length of approximately 90 minutes, the accused spoke to the separately prosecuted Stucht.

When asked what had changed in the last year, the accused stated the following in the interview:

“Our conviction has changed. A year ago, when we stood up, we thought that all this madness that is now going on and has been going on was not deliberate, but a result of ignorance, of the chancellor and her cabinet. That they simply did not consider what was really true, that they thought they had to protect and help the population. In the meantime, however, we know that this is not the case. We now know that what is going on is intentional. And that fills us with horror and worry, fear. We are afraid.”

Asked later why there was no dispute between the accused and his wife and other scientists in the traditional media, the accused replied:

“That is something we also noticed with uneasiness, namely that our own colleagues always make critical comments about us gladly, but always behind our backs. We actually once invited them to come forward, to discuss on a podium with us. Because in science, in real science you have to argue. And it’s good when scientists disagree, because that means people think, too. That’s the essence of science after all. You have to ask whether something is true or not true. We have our conviction, our conviction didn’t somehow come out of the blue, but a scientist, if he has an opinion that has been actively formed, he forms that opinion because he has researched something. I don’t have to be a corona virus researcher. I am a microbiologist, infectiologist and immunologist, and many say the Bhakdi is retired,



has no idea about this and that anymore. I say, guys, are you sure, I belong to your teacher-generation. Don't forget that. I am your generation of teachers. The people who are doing all this now were once my students and [...] then it's like I say, if a car mechanic repairs cars, he's not limited to Volkswagen or Skoda. He has to be able to repair basically all cars, isn't that so, and infectiology repeats itself, everything. Whether it's viruses or bacteria, if you understand principles, they always work. That's evolution. That's nature, and if you don't have the overview and now I really have to say, yes, I'm afraid that my colleagues and colleagues in the next generation have forgotten that. They have absolute tunnel vision. It's the specialisation today. They are better radiologists or molecular biologists, but they have lost the big picture. And that's very worrying, because with the doctors and I tell you, they are the ones who are mainly to blame for this misery. The politicians, of course, are happy that we as doctors are not fighting, but have been divided. Because only when you are together are you strong and divide et *concora*, that is what Merkel and all these people are doing. They have divided the medical profession. With success, so that now there are doctors who also believe that what they do is good. Then there are those who don't believe that, but whose existence depends on them joining in, otherwise they will be destroyed. That is this totalitarian state [...]"

The accused's motivation for writing the book was to be elucidated. In this regard, he stated the following:

"[...] That was the 2nd of June, online and so on the 20th of June the hardback edition came out, but at that time we didn't think that Merkel and Spahn and Wieler were serious about this vaccination because we thought the vaccination is so stupid, so insane, it's madness what's going on and so dangerous that it will never be approved and

then on the 3rd of June, after our book was published one day, Merkel came and said this pandemic ends when the vaccine is there. And you know what we did. We said, no, it can't be. The woman is serious. And then we immediately sat down and wrote the vaccination chapter. We left that out of the first book because we didn't think it would be necessary and then we wrote this vaccination chapter, and we wrote it in English because we were about to ..., because we said we have to get this book out in English. We put the new vaccination chapter into the English edition and then we translated this chapter back into German and put this chapter online. Free of charge for everyone.

[...]

And in that chapter we actually said everything that then became true. We also said that when this gene-based vaccination comes, it will be terrible. And the catastrophe happened, so we said we have to write a second book. The second book is now finished and will be published in 2 weeks and we also put this chapter 'Vaccine side effects' online on 18 February, free of charge, so that everyone could download and read it in English and in German. And I think, not least because of this chapter, thousands of doctors got in touch and we now have a—not an association—but we call ourselves Doctors for Covid ethics. And have written an open letter to the regulatory authority which they have not answered, that was on the 1st of March and are now in, now the letter is open. Our letter to the EMA has now become open and we are collecting signatures and there are thousands of signatures from all over the world.”

The accused went on to concede everyone the freedom of choice to be vaccinated. However, he spoke out against coercion. To this end, when

asked whether the accused was assuming calculated manslaughter or murder in the vaccination campaign, he stated the following, which was then followed by the statements covered by the indictment.

“Whether it’s murder and manslaughter, I don’t want to comment on that, but it’s always calculated and calculated with no good intention, but I’m afraid with bad intention. And that’s what scares us so much that we said we have to write this book, it’s all in the book why this vaccination is so dangerous. And we wrote the book because in this book we say it’s past midnight now. People need to, they need to stop, we need to stop fighting each other, guys. We have to come together and think. Start thinking and decide which way we want to go together as a society, as humanity. Because one thing is clear: both sides cannot be right. Either the other side Merkel and Spahn and Wieler and Söder and whoever you want are right, then we are wrong. We are scientists, we are always ready to admit that we are wrong, because too much is at stake. It’s about ourselves. But that is the least important thing of all. It’s about the children and the next generation and, listen carefully, politicians, if you don’t have children it doesn’t matter of course, but it’s about your loved ones, now to the listeners, viewers. It’s about your children, don’t look away, it can affect you and that’s why we have explained why this vaccination is so incredibly dangerous and if they still say ‘I want to be vaccinated’ then it’s up to them, that’s fine, then you can. Try not to exert coercion. This coercion is being exercised. It is exercised in Israel. It is exercised in many other countries already, come on. And if you are not careful, it is coming here so fast, so fast that you don’t know what hit you. Faster than lightning. And if you are so indolent and don’t rise up and say, ‘No, you’re not doing it with us,’ then you are done for. And then you will not have the possibility to flee. Israel, the Israelis

can no longer flee. The country is closed. That is what will happen here.

And I was once asked by an American what I had to say about Israel. For me, the Israelis, this people I admired more than any other people in the world. I was an admirer of Jews, you know I'm a music lover, art lover. The greatest spirits were the Jews. I'm sorry to have to say that.

[...]

Yes, I, I admired them. I am, you have seen my record collection, I went after these Jewish musicians to get a signature from them. Isaac Stern and David Oistrakh. Hundreds of miles I travelled to, to hear them, to get their autograph. I adored them. And now they're doing this. They, the people who fled from this land, from this land where arch evil was, and have found their land. Have turned their own country into something even worse than Germany was. So unbelievable. And then I told the Americans, that's the bad thing about the Jews. They learn well. There is no people who learns better than they do. But they have learned evil now. And implemented it. And that's why Israel is now "living hell". And I told the Americans, 'and if you're not careful, America will be living hell to, and I'm telling you now, your country will be turned into living hell if you don't rise up soon'.'"

He went on to explain in detail the mode of action of the newly approved gene-based vaccine in distinction to traditional vaccines and derived the dangerous side effects resulting from this in his view. In this regard, when asked what he saw as so dramatic about what was happening in Israel at

the moment and what had moved him, as a Thai and as half a German, to say such a thing, to put forward such a thesis, he replied as follows:

“Listen carefully. I am a scientist, it doesn’t matter if I am Thai or German, and I am an infectiologist, an immunologist. I have taught a subject for almost 40 years, which is now being abused. My subject is being abused to turn this country into a living hell and that is what I cannot stand. And that’s the reason why Karina and I said we’ll write another book, damn it, it must be possible to wake up the population in a country of poets and thinkers. We don’t want to make money with this book. We have put this chapter online, for free. Anyone can read this, yes, you don’t even have to buy the book, but do it. I want to say now what fills us with horror about this vaccination, if I may. It’s in the book, but I’ll try to explain it again like this: a normal vaccination works like this: you take a part, say, a virus or a part of the virus—that’s the catching hand—with that, the virus grabs the door handle, opens it up, goes into the cell. That is the cell. Goes in there, makes the cell sick. You unhook that arm, inject it into you and you make antibodies against it so that when that virus comes and wants to get in, the antibodies intercept that and then the virus can’t get in. So you protect against the virus entering the cell. This virus comes through the nose, gets into the lungs and is stopped. By the way, it’s already the first misconception, because if you and I, we are the antibodies. We sit in this room. This space is the blood, this is the vessel, the wall. The virus that comes in through the airway, that’s at the front door. It’s not going into the bloodstream, it’s going into the hallway. And anyone who believes that the antibodies that are formed against this hand, that are in the blood, can catch a virus that comes through the front door, the door handle, is naive, has never learned anything about infection control. Everyone I have taught knows that outside the door there are very, very few antibodies that are spewed out to stop

the viruses that want to come through the front door. But it never happens. They don't. When people tell me, yes there are also vaccinations against bacteria that come through the front door like pneumococcus. They kill so many elderly people. These pneumonias from bacteria are so much more common than from viruses and every year so many more people die from pneumonia from these pneumococci that come through the front door. That they say there is a vaccination against pneumococcus and when that vaccination was developed, I said it won't work. For the same reason. 'Yes we do'. STIKO has approved yes. The whole world has pneumococcal vaccination. This vaccination against the bacteria protect, yes, but only if the bacteria have come through the hallway, this hallway and get into the bloodstream and then want to get to the brain. The antibodies can actually help there, but not very well. That's why the antibodies against the bacteria only protect against spreading in the bloodstream. In principle, all vaccinations against diphtheria and tetanus work, except for a very few, but we don't want to go into that, because the antibodies in the blood catch the intruders, toxins or bacteria or viruses in the bloodstream. Now the thing is that Covid-19, this SARS-Cov 2 is not spreading in the bloodstream. That is not the pathway that leads to death. But that remains mainly, mainly in the lungs mainly I say, and that's why it's pointless to vaccinate against it. This first attack in the lungs will not be stopped. So the second thing is, if you had done that, it would have been half as bad. You see, but there you would have vaccinated for nothing like against the bacteria, for that matter, like against the flu. That doesn't really protect either. The vaccination against influenza is also a vaccination that has been carried out for decades and has also made the industry a lot of money worldwide. But as all insiders know, it doesn't really work."

[...]

“Yes, that’s also a minor point, because in the book, the main point is these gene-based vaccinations. They are completely different and therefore a thousand times more dangerous, really. I say they’re so dangerous that it makes you shudder to think that yes, our child should be vaccinated. And that’s what Gates and Merkel want, they want to vaccinate all the children in the world and AstraZeneca and Moderna have now vaccinated the first children in America who are six months old. This is a crime, guys. That’s something that belongs before a world tribunal. You can’t do this. Yes, you are killing our children, you can’t do that.”

Later in the interview, the accused made the following comments:

“[...] So we were also advised to leave this country as soon as possible. A few months ago. We got offers that we would be picked up and then that we could go into hiding because we were told that we had to be afraid. Really scared. But now we have said, first of all, we are not fighting anyone. We are not calling for discord. We are calling for understanding and we are calling because those who might still want to destroy us should realise that they are on the way to destroying themselves. Yes, whenever something evil is on its way, it destroys itself. That has always been the case in human history. Why should it be any different this time. Now I will tell you why we are sure that a conversation is necessary. In this case, it is not that the little hand of the virus or this arm of the virus is injected. In here. But it is the gene of the virus. The information, the genetic, that the good Lord, if there is one, created. This gene for the arm is injected. This gene goes into your body or into your body. This gene, and not one gene, but a billion packets of the same gene, some of it always goes into the bloodstream. That’s so and that’s what most people don’t

realise and don't know, you don't know that hasn't been looked at, by anybody, what happens to these gene packets that are now in the blood. You don't know, if this space is a blood vessel, that the blood vessel or all the vessels are interwoven and the whole thing basically forms an insanely great tunnel system in your body. It goes through all the organs. Brain, heart, lungs are all interwoven with these vessels. What you don't know is that the vascular system is tight. No blood flows from the blood vessels to the brain, normally. It can't. Sugar may flow out. Yes, oxygen can flow out. But not a protein and certainly not a gene packet. That's too big. The walls are tight. This wallpaper is tight, so where do these gene packets go? The gene packets have no other option. To a large extent, they have to go into the walls themselves. These wallpapers are cells of these cells are called endothelial cells. It's all in the book by the way, which you can all download, for free. You don't have to pay for it. But read it. They go into these vessel walls, into the wallpaper and so on, now I'll tell you what happens. This gene conditions yes, if it goes in here, that's what's seen. This is the wall, then it's like this little hand is formed by the wall and comes out of the wall. This little hand is now in the wall and looks out of the wall into the blood and, by the way, rubbish also comes out, because while this hand is being formed, rubbish is produced. And this waste is also put in front of the wall, from the cell. I have something like that. Have I got some rubbish, God. You are rubbish. That rubbish comes, that's the rubbish. And this is, this is the hand. Hand and these two have unique abilities. This hand of the virus. The virus is not there. This hand has the ability to tap, platelets, platelets; this is a platelet. Floating around in the blood, tap. When it passes, tap. That activates the platelets. The platelets become active and when platelets become active. That's when the blood starts to clot. Yeah, also, this waste here is seen by lymphocytes, that's a lymphocyte. And killer lymphocytes, which are also here, see this and



lymphocytes don't like waste from viruses. They are trained to kill the cell. They will attack that cell. That is your immune system. These are your killer lymphocytes and believe me, every one of you has these killer lymphocytes that recognise this waste from coronaviruses because we have all dealt with coronaviruses. All our lives. And this virus is not new, don't believe Merkel. Wieler doesn't believe it. The virus is ancient. Yeah, the sequence says so. The virus is known and the rubbish from one coronavirus is very similar to the rubbish from the other coronaviruses we live with all the time. And that's why these lymphocytes will attack, so, the attack on the wall. It's like when the wall gets scratched. The wallpaper gets cracked."

[...]

"The veins get scratched from the inside. I mean usually when you cut yourself, the blood also clots. Any injury to a blood vessel causes the blood to clot. And the platelets are at the centre of this happening. Now the blood clots. Normally, when the blood coagulates, it does so. Then there are scabs and afterwards the scabs fall off. But when the blood coagulates in the vessels, it cannot fall off. And then the vessel is closed inside. And that is not good, guys. Because if your vessel closes up, inside, then you can become very very ill. Extremely sick. And we have and we have written that. The blood is most likely to clot where the blood flow is very slow, because the wallpaper has enough time to absorb the parcels. Sure, where does the blood flow nice and slow?"

[...]

"In the veins, in all the veins, all the veins for example leg veins. People who don't move get leg vein thromboses and when these

thrombi, the clots detach and go to the lungs, then you die of pulmonary embolism, ok? But the thing that people don't know is, where thrombi would like to form, if that gives impetus to form, is the brain. Yes, the brain veins, that's where the blood goes very rarely, er very slowly, but the incentive to form thrombi is very very little up there, because there's no reason why the killer lymphocytes should go and scratch the brain cells, the veins, the wallpaper, the lining of the veins in the brain. There's no reason, and that's why our big fear is, because, you know the thing is, when the side effects became known, of the people, I said, funny, what is actually the side effect at all that you hear about. Headaches, headaches, some people got paralysis, loss of consciousness yes. Spewing sickness was many. Vomiting."

[...]

"Then I started reading, everything I could find about cerebral vein thrombosis, I read. I know now that the incidence is one per million per year in Germany. Yes, but if you don't diagnose that and you had to. You can die and you can get all these symptoms headache quite typical this nausea because when the veins close, then the pressure rises in the brain and this pressure increase caused headache. These terrible pains and the nausea and vomiting. The nerve paralysis. You can be paralysed. You can be half paralysed. You can go half deaf. You can go blind. Anything that describes it. You can get your twitches, depending on where that happens, everything happens."

[...]

"That's the whole point, our killer lymphocytes, they want to destroy the cells that make the viruses and normally the viruses would never

be made up there. But thanks to Merkel and Söder and Spahn and Wieler, that's what's happening now, that these poor people who. We wrote a letter to the licensing authority because of that. That was 1 March, it was handed over by a colleague of ours in Holland, handed over, delivered and it was then announced. In that letter we demanded that the licensing authority show us the documents that ruled out that something like this could happen, to people, they didn't answer us—wait—they didn't answer us, but that week the reports came in. Oh, women died of pulmonary embolism, oh, a young man died of cerebral venous thrombosis. Yes and you know what happened that on the 11th of March, one after another, a total of 16 countries stopped this AstraZeneca vaccination and the EMA this authority, this terrible authority, unholy, unethical, inhumane, irresponsible, said, 3 days later.

'It's all right. Guys, we did find that people had died. A total of 10 from 2 extremely rare blood clot disease.' The thing we said before, 'but it was only 10 and there were I don't know how many millions, maybe 10 million people under 60 vaccinated and 10 died. It's a pity, but the benefit is much greater than what', yes and now let me finish. That's when we got angry so we said this is going public now. We made it public and since we did that, we are no longer vulnerable because we are not the only ones. We have founded these Doctors for Covid-ethics and now thousands of doctors are part of it, if we are taken down, there are thousands of doctors who say the same thing and the same answers from the EMA, soon from Merkel from Wieler and they will be sued. They will be sued because there is no immunity in the world that protects you if you violate the Nuremberg Code and do human trials without informing people what might happen. And that is not being done now. All the doctors who continue to do that can and will be sued. Before the tribunal, and that's not a threat. That is a fact.

Will, he is coming together worldwide to organise this and you have to realise that, guys, it is not a threat. It is a fact. Because we see people getting sick. We see people dying, how many people, I get reports every day from people saying 'Oh, he died. He was 90, in great shape, he had nothing. He died 48 or 96 hours later and then the Paul Ehrlich Institute comes and says that it can't be the vaccination, he was 90 years old, too bad so sad.' And we now demand from Paul Ehrlich Institute, from all of you, that our elderly different citizens, that they are autopsied and that the pathologist looks to see if perhaps a thrombosis, a clot formation has not taken place in the brain."

Following this, the accused also deals with the Corona tests and their significance as follows:

"I come to this test which is lying and cheating. The test is positive, but it's like a breath test. You blow into this tube and you measure 0.05 and the test is positive for alcohol but not positive for drunkenness. That is always the case in this PCR test. You can read a value, the so-called CT value. And it says, I'm not positive at all. But no, Wieler goes and says it's positive, yes and, and therefore bang positive, Robert Koch Institute. That's a crime, guys."

Later on, the accused commented on his investigations into the death figures in connection with the vaccinations as follows:

"After that I looked at how many people under 60 have died from Covid-19 in Germany. Of those under 60. Answer, who had no previous disease, 52 died in 6 months."

[...]

“Afterwards it turned out that most of them did have pre-existing conditions and had something but supposedly without pre-existing conditions like the vaccinated. Of the 60 million supposedly without pre-existing conditions, 52 died with or from the virus. Now if you say the 60 million should all be protected, with this vaccination, how many will die. Answer 6 times 10, 60. how can the benefit be greater. Question. And that is just the tip of the iceberg. Where are the others who died, of pulmonary embolism, because the blood did not clot in the brain, but in the legs. Heart attacks because the blood clotted in the heart. It defies description for EMA to say something like that.”

In the further course of the interview, the accused was asked about the swine flu vaccination. He then commented as follows:

“With the swine flu, it was also the case that there were a few people who immediately warned against the vaccination. That was Wolfgang Wodarg. It was Klaus Köhnlein, I was one of them. I even wrote a paper, officially and scientifically published. Nobody read it, but it was clear that this vaccination could not work and it was clear that every vaccination carries risks. Only the difference to the current vaccination and that’s why I didn’t get so excited at that time, because I knew that there would be victims. But this vaccination is still incredibly much more dangerous because it’s a gene-based vaccination.” [...]

When asked if it was communicated that annual vaccinations were planned, the accused replied as follows:

“Yes, that is what we are trying to communicate here. We don’t know what his intention is behind this, we only know that if this is

implemented but it will amount to mass murder. We can't believe that this is intended, but it is not considered and we are trying with all our might and strength to get people to consider that the immune system is smart, that these lymphocytes are there and that if you commit this sacrilege and have a virus part produced in places that are not intended, without having ruled that out first. We wrote to the EMA, showing us that the wallpaper, this gene does not take up and does not produce that. They simply told us, 'It has been shown by AstraZeneca that this is not taken up'. But they didn't send us any data. But we know that these vaccines actually have to be included. It's like, there's no reason why they're not being included. And, to just lie like that is such a disgusting thing."

When asked if it would be a deliberate conspiracy, the accused replied as follows:

"I don't like the word conspiracy because I don't really know what conspiracy is. For me, the word conspiracy has a negative connotation. It is a coming together of people to bring about something not good. Is that so? Then I would say it's not a conspiracy. It is an intention? Yes. A plan? Yes. What that plan is, I don't know, but that the plan is to have vaccinations worldwide with gene-based vaccines, preferably? Yes. Why, I do not know. I only know that the outcome can only be bad."

Asked what the accused meant by "hell on earth", he explained:

"That is what I mean, that society will be changed and will no longer have humanity as we have known humanity. Humanity infused with positive human feelings, closeness to each other, compassion yes?"

[...]

“Staying in the middle. Fact checkers, Merkel, Spahn, where is the middle? There is no middle. You have divided us, we are drifting apart. To the extremes and that’s why this will be living hell.”

b) With regard to allegation 2. of the indictment (speech on 24.09.2021 in Kiel), the court made the following findings in addition to the statement quoted in the indictment.

The speech of the accused on 24.09.2021 lasted a total of approx. 20 minutes and was directed at approx. 200 spectators, who listened to the accused partly sitting and partly standing. The audience was mixed in terms of age. Apart from several short interruptions of applause, the audience behaved calmly and there were no disturbances during the entire event. The entire event was peaceful and free of disturbances.

The speech of the accused was as follows:

“Thank you. I will read from the manuscript, because I have not only worked on it today, but also yesterday. I have thought a lot about what I will say here, in my new second home. I will begin today, as I learned from you a long time ago. At a time when Germany meant to me the good, the honest, the capable. At a time to which I myself long to return.

My dear good citizens of Kiel, about a third of the population knows why this crisis was constructed, invented and lied about. The goals slumbered for decades. Now they are bursting forth like dancing devils and the tsunami is rolling towards us.

The downfall can hardly be stopped because the rest of society is completely oblivious to the danger. It does not want to know about the master plan. Will and cannot even believe that such a plan could be supported by their representatives. They do not want to and cannot believe that the plan, which has been carefully laid out over decades, will proceed in two stages:

The first stage is completed with the proper approval of the gene-based vaccines. Barring a miracle, this goal will soon be achieved. If no miracle happens. So what, would that be so bad? Well, firstly, any vaccine in this particular category of mRNA vaccine would then be automatically licensed against any variant of any coronavirus. Even if, like Delta, it is still less dangerous than the common virus. After all, the efficacy is assured. Safety is assured. No further or renewed testing will be necessary. Then the people's representatives will gladly continue to discuss compulsory vaccination, vaccination apartheid, vaccination passports. With as little sense and reason, but with as assured and agreed a result as ever. Everything perfectly thought out. How frightening! Already the world's elite have managed to inject over 1 billion doses of the genetically based substances into unsuspecting people. The ingredients of the vials have not even begun to be declared, let alone tested. The effects of the substances in the human body were unknown from the outset! What was known, however, were two facts: 1. the virus is much less dangerous than influenza for people without serious previous illnesses. 2. Even for older people with pre-existing illnesses, the virus is no more dangerous than the flu because there are now excellently effective medicines to treat it.



To bludgeon through a vaccination campaign, a vaccination campaign with such brutal methods against something that was not a real threat in the first place, is that not highly suspicious?

We were upset by terrible suspicions from the very beginning, 1.5 years ago. And in the small family circle it was decided: We would have to do educational work for the population, after all, it is my own subject, after all, that is being misused for an incredibly evil purpose. The videos were accessed quite frequently. Then there were the books. But will it be enough to bring in a perhaps decisive contribution on Sunday? I don't know. All I know is that if we fail, there is only one tiny remaining chance to escape impending doom. We must try to reach those who are still attainable.

It is clear to all in the know that with the formal approval of the vaccines, the first milestone of the agenda is reached and the race is on to achieve the ultimate goal. This final goal is the creation of the new reality and involves nothing less than the second holocaust, the abolition of humanity as we know it. No less than Holocaust survivors themselves have expressed this in a historic letter to the medical authorities and to the members of the European Parliament.

The delivery of this letter is documented in a film. A Holocaust survivor read out the letter in front of the building of the licensing authority. Some passages from the German version:

'Ladies and gentlemen, we the survivors of the atrocities committed against humanity during the Second World War feel obliged to follow our conscience and write this letter. It is obvious to us that another holocaust on a larger scale is taking place before our eyes. The majority of the world's population does not yet understand what is

going on. For the scale of an organised crime such as this is beyond their horizon of experience. We, however, know. We remember the name Joseph Mengele. Some of us have personal memories. We experience deja vu so horrific that we rise up to protect our poor fellow human beings. The innocents under threat now include children and even infants. In just four months, Covid-19 vaccines have killed more people than all other vaccines combined from mid-97 to late 2013. A period of 15 years. And the people most affected are between 18 and 64 years old, the group that doesn't even show up in the Covid statistics. The mass media spread fear and panic and use the role of Göbbels propaganda, repeating untruths until they are believed. For weeks they have been calling for the ostracism of those not yet vaccinated. Eighty years ago it was the Jews who were demonised as causing infectious diseases. Today it is the unvaccinated who are accused of spreading the virus. Physical integrity, the freedom to travel, the freedom to work, the whole of living together has been taken away from people in order to force vaccination on them. Principle six of the Nuremberg Code requires that the level of risk to be taken must never exceed that determined by the humanitarian significance of the problem to be solved by the experiment. Vaccination against covid has been shown to be more dangerous than covid for about 99% of all people. As has been documented by Johns Hopkins in a study of 48,000 children, there is no risk to the children from the virus.'

My word on this: So any benefit is zero from the outset.

'In turn, the data published by Johns Hopkins itself shows that children have suffered heart disease and even heart attacks after vaccination. More than 15,000 children have suffered adverse side effects so far. More than 900 with serious consequences. At least 16

young people have died after vaccinations and as you know, only about 1% are even reported. And the numbers are rising rapidly as we write. With your knowledge. Principle 10 of the Code: during the trial, the attending scientist must be prepared to stop the trial at any stage if, in good faith and using careful judgment, he or she has reason to believe that continuation of the trial would be likely to result in injury, disability or death to the subject.'

The letter ends with a call for an immediate end to the vaccination campaign.

Dear Friends. Holocaust survivors stand up to protect us. Truly, this is as good as it gets! Let us take the direct route now. To the doctors and to those in charge. The Kiel march on the state parliament in 2021, that would be a sign that would come from this city again. Let's demand together that they answer to the statements of the Holocaust survivors, who have represented us better, defended us better, than we could ever have done. And I don't believe that anyone, any other party would really have honest answers to these questions that would not lead into the same gear, namely the gear back, back into our old world. That's why my call is that even if we fail on Sunday, that we join with the other few percent who are still free-thinking. Because if perhaps 30% already know what's going on, then it could be that together we will somehow, somewhere become our allies and we will also become their allies. And that also includes, I will say without hesitation, the politicians. I don't believe that all politicians in Schleswig-Holstein are bad. They can't be at all. I don't think they really know what it's all about. They can't do that. So let's talk to them and convince them that there could be another, a better way into the future than the way into the Chancellor's new reality.

III.

The accused did not issue a statement regarding the charges in the main hearing.

1.

The findings concerning the person are based on the credible statement of the defence lawyer Prof. Dr. Schwab, which were confirmed by the accused.

2. a)

The findings on the statements described under II. 1. to 1. and to 2. are based on the videos of the interview and the speech that were viewed.

The findings on the dissemination of the video of the interview are based on the reading of the internet search by Mr. Triebe of the Kiel District Criminal Investigation Department. In the note, the individual publication channels, which were listed on a random basis, are reproduced.

2. b)

The findings on the external circumstances of the speech of 24.09.2021 are based on the video that was taken into view as well as on the credible testimony of the witness Plötz. The witness stated that he had been responsible for the meeting and its smooth running. There had been about 200 people at the spot. It had been a typical election campaign event. There had been no disturbances. After the end of the event, the people left. The meeting had been peaceful and free of disturbances.

#### IV. Legal Assessment

The accused was to be acquitted of both charges on legal grounds.

##### 1. On the charge under 1 of the indictment

According to the above findings on the statements of the accused that are the subject of the proceedings, these do not fulfil the criminal offence of incitement to hatred pursuant to § 130.1 no. 1, no. 2 of the Criminal Code when their content and the context of their content and situation are comprehensively assessed.

The accused's statements were to be interpreted for the legal assessment. According to the case-law of the Federal Constitutional Court and the Federal Court of Justice, the subsumption under this criminal provision requires that the meaning of the expression of opinion is correctly grasped. The decisive factor is neither the subjective intention of the person making the statement nor the subjective understanding of those affected by the statement, but rather the objective meaning of the statement according to the understanding of an unbiased and reasonable audience (cf. BGH judgement of. 20.9.2011 – 4 StR 129/11, BeckRS 2011, 24305 marginal no. 23, beck-online).

The starting point for the interpretation is always the concrete wording of the statement (cf. BVerfG, Order of 28.03.2017 – 1 BvR 1384/16). However, the wording does not conclusively determine the meaning of the statement. Rather, it is also determined by the linguistic context in which the disputed statement is made and its accompanying circumstances, insofar as these are recognisable to the recipient (see BVerfG, loc. cit.).

If a statement is ambiguous, the courts, if they want to base their legal assessment on the interpretation leading to the application of sanctioning norms, have to exclude other variants of interpretation with plausible and solid reasons (cf. BGH judgement of. 20.9.2011 – 4 StR 129/11, BeckRS 2011, 24305 marginal no. 24, beck-online).

a) A prerequisite for both offences is that parts of the population are affected. All parts of the population, i.e. all groups that can be distinguished from the rest of the population on the basis of common external or internal characteristics of a political, national, ethnic, racial, religious, ideological, social, economic, professional, gender or other nature, which are numerically of some significance and thus individually no longer manageable (MüKoStGB/Schäfer/Anstötz, 4th ed. 2021, StGB § 130 marginal no. 30), fall under the protection of the norm. Merely common political or economic interests are not sufficient, so that states are not considered to fall under the protection of the norm (MüKoStGB/Schäfer/Anstötz marginal no. 28). Nevertheless, verbal attacks on the state of Israel can also refer to people of the Jewish faith living in Germany or to “Jews” per se. However, this depends on the nature and circumstances of the statement (BeckOK, Rackow, marginal no. 15.1).

In view of the above-mentioned prerequisite, the accused did not make himself liable to prosecution by calling the state of Israel a “living hell”, since the state of Israel does not constitute a suitable object of crime.

However, the further statements with reference to Israel or with reference to “the Jews” do not constitute a criminal offence either, since according to the court’s interpretation, variants of interpretation without punishment cannot be excluded. The offence of incitement to hatred within the meaning of section 130, paragraph 1, no. 1 of the Criminal Code, which is to be considered here, requires a targeted setting of incentives to an emotionally

charged hostility towards the group of persons attacked, which is intended to cause or increase corresponding attitudes by influencing intellect and feelings, and in doing so must recognizably go beyond a simple expression of rejection or even contempt (BVerfG, NJW 2003, 660, 662).

In the context presented, the accused stated that the bad thing about the Jews was that they were not good at learning. They would learn well. There was no people who learned better than they did. They had now learned and implemented evil. And that is why Israel is now living hell. This statement is open to interpretation, since the terms “Jews”, “people” and “Israel” are mentioned. The starting point for the interpretation is the wording of the statement. Throughout the interview, the accused does not use the terms “Israel”, the “Israeli people”, the “Israelites” and the “Jews” distinctly. There is no clear demarcation and for an objective recipient of the explanation it is not clearly recognisable—without the use of further interpretative aids—what is meant by the respective designation and how this designation should differ from the other designations.

For the first time, the state of Israel was mentioned in the interview by the accused himself when he stated that no coercion should be exercised when deciding on a vaccination, as is the case in Israel, for example. Through this statement, he made a clear reference to a political decision by the government of Israel. The court is convinced that an interpretation that people of the Jewish faith can already be meant here is out of question, since a concrete reference to Israeli policy with regard to vaccination against the coronavirus is to be understood. This is also made clear by the fact that he points out that the country’s borders are closed. Border policy decisions are fundamentally not of a religious but of a political nature, so that in this case no reference to the religion of Judaism can be concluded.

In the further course of the interview, the accused introduced the statement covered by the indictment by saying that he had been asked by an American what he had to say about Israel, to which he had replied that he admired the people of Israel more than any other people in the world. He had been an admirer of Jews. He had followed Jewish musicians to get a signature from them. The use of the terms “Israel”, “people of Israel” and “Jews” in one context, without a clear separation between the terms, makes the use of the terms here open to interpretation. It could be interpreted that the accused does not distinguish between Israel, Israeli citizens and Jews, but that with “Israel” or the “people of Israel” he also always means “Jews” and thus does not make a clear distinction between Israel and Jews. This interpretation is also supported by the fact that he subsequently speaks of Jewish musicians who have no recognisable connection to the state of Israel. And also that the accused speaks of a past admiration by stating, “I adored them. And now they do this.” indicates such an understanding. In this context, it is clear that his adoration has been negatively affected by the Israeli government’s vaccination policies. For “this”, in the context of the previous statements, can only include the vaccination policy measures of the Israeli government, which the accused still previously defined as “coercion”.

Nevertheless, this also opens up the possibility of an interpretation according to which the accused could mean the Israeli government or policy by “Jews”. The wording of his following statement speaks for this interpretation. With the statement that “they”, the Jews, have now learned and implemented evil and that Israel is therefore now living hell, an objective recipient can understand that Israel has become “living hell” due to the vaccination policy. Other reasons than vaccination policy measures, which could be the cause of this event, are not apparent due to the context of the statement. Only the Israeli government can be responsible for these measures, since they were sovereign measures. Therefore, an



interpretation is possible according to which the accused meant the Israeli government as a whole in the passage with the terms “they” and “the people”. That sovereign measures were meant is ultimately also underlined by the fact that the accused subsequently warned the Americans and the Germans that their countries could also be turned into a living hell if one did not stand up soon. The court was convinced that such a “transformation”, by which the accused probably meant a compulsion to vaccinate, could only be achieved through sovereign measures.

The overall context of the interview, in which the defendant clearly spoke out against the German government’s vaccination policy in Germany, also speaks for the fact that the defendant criticised the measures of the Israeli government with the statements in question. In the interview, which lasted approximately 90 minutes, the accused spoke with the separately prosecuted Stuht about vaccination policy measures of the German government. The accused described what had happened in the last year before the interview with regard to the Corona policy and why this motivated him and his wife to write a new book. Furthermore, the accused and the separately prosecuted Stuht spoke about the lack of scientific debate from their point of view, as certain theses or antitheses would have been ignored. In the further course, the accused described the mode of action of traditional vaccines in contrast to the new gene-based vaccines and derived the potential side effects of the vaccines from this. He explained that he wanted to educate about these potential side effects with the new book. Against this background, it would remain in context if the accused directed his statements against the Israeli vaccination policy.

Overall, an interpretation according to which the accused directed his statements against the Israeli government’s vaccination policy cannot be ruled out with comprehensible reasons, taking into account the wording and the context.

b) The alternative offence of § 130, paragraph 1 no. 2 of the Criminal Code is also not fulfilled in the opinion of the court.

Name-calling is to be understood as an expression of disrespect that is particularly disparaging in content or form. Malicious disparagement is to be assumed if other people are portrayed as contemptible, inferior or unworthy for reprehensible motives. The concept of defamation corresponds to § 187 StGB (Fischer, StGB, 69th ed. 2022, § 130 marginal no. 11).

In addition, there must be an attack on the human dignity of other persons because parts of the population are insulted, maliciously disparaged or slandered because of their belonging to this part of the population. The attack on human dignity required for the offence has a limiting function, so that punishability is reduced to particularly massive vituperation, insults and discrimination. The hostile attitude generated by the statements must not merely be directed against individual personal rights, such as the honour of the person concerned, but must strike at the core of the person's personality by portraying him or her as inferior and denying the right to live in the community (Schäfer/Anstötz, Münchener Kommentar zum StGB, 4th ed. 2021, § 130 marginal no. 55 with further references).

If human dignity is impaired, a balancing with the fundamental rights of the person making the statement cannot take place because of Article 1.1 sentence 1 of the Basic Law. For this reason, the fundamental rights of the speaker must also be taken into account when interpreting the statement (Fischer, 32 loc.cit., § 130 marginal no. 12c).

In the present case, there is no attack on human dignity. It is true that his statement that there is no nation that learns better than they do also

suggests a body of thought according to which Jews could be attributed certain characteristics. However, in view of the preceding interpretation, his statement does not have the quality of denying people of the Jewish faith the right to live. For overall, the accused expresses his criticism of the vaccination policy measures of the Israeli government with the statements. Furthermore, the expression is also too vague to have attacked human dignity in the presumed manner.

## 2. On the charge under 2 of the indictment

According to the above findings on the statements made by the accused on 24 September 2021, which are the subject of the proceedings, they do not fulfil the criminal offence of incitement to hatred pursuant to section 130, paragraph 3 of the Criminal Code, since in any case it could not be established that they were suitable to disturb public peace.

Pursuant to section 130 (3) of the Criminal Code, anyone who publicly or in a meeting approves of, denies or plays down an act of the kind described in section 6 (1) of the International Criminal Code committed under the rule of National Socialism in a manner that is likely to disturb the public peace shall be punished. In the present case, trivialisation came into consideration as a form of action under section 130 (3) of the Criminal Code, since this requires an explicit quantitative or qualitative trivialisation of the extent, nature, consequences or value of individual or the totality of the violent measures of the National Socialist era, which can also take place through the drawing up of relativising comparisons (BeckOK StGB/ Rackow, 57th ed. 1.5.2023, StGB section 130 marginal no. 35). By describing the approval of the vaccine against the Corona virus as the first milestone of the agenda and as the opening of the race to reach the final goal, which included nothing other than the second Holocaust, the accused compares the introduction of the vaccines against the Corona virus with the

planned persecution, deportation and murder of the Jews under the rule of National Socialism. This can be seen as trivialising the extent, nature and consequences of the violent measures and thus trivialising them in the sense of section 130 (3) StGB.

However, section 130 (3) StGB also requires that the statement be suitable to disturb the public peace. In the specific case, the defendant's statement was not suitable to disturb public peace.

In its chamber decision of 22 June 2018 (1 BvR 2083/15, NJW 2018, 2861 et seq. and juris), the Federal Constitutional Court set out restrictive requirements for the constituent element of suitability to disturb public peace in the light of the fundamental right of freedom of opinion (Article 5(1) of the Basic Law). According to this, an understanding of public peace that aims at the protection against subjective disturbance of citizens by the confrontation with provocative opinions and ideologies is not suitable (cf. BVerfG, loc. cit., juris marginal no. 26). Nor is the protection against a "poisoning of the intellectual climate" or the protection of the population against an affront to its sense of justice by totalitarian ideologies or a manifestly false interpretation of history a ground for intervention (cf. BVerfG, loc. cit.). Public peace, on the other hand, is a legitimate object of protection in an understanding as a guarantee of peacefulness (cf. BVerfG, loc. cit., juris marginal no. 27). The aim here is to protect against statements which, according to their content, are recognisably intended to endanger legal interests. In this respect, the preservation of public peace refers to the external effects of expressions of opinion, for example through appeals or emotionalisation, which trigger a willingness to act in those addressed or lower inhibition thresholds or directly intimidate third parties. A conviction can then be linked to expressions of opinion if they are indirectly designed to have real effects beyond the formation of conviction and can directly trigger consequences that endanger legal interests, for example in

the form of appeals to break the law, aggressive emotionalisation or by lowering inhibition thresholds (see BVerfG, loc. cit.). Whether this is the case is to be determined on the basis of an overall assessment of all circumstances, in which in particular the type, the content, the form and the environment of the statement are to be taken into account, but also—depending on the circumstances of the individual case—the mood of the population and the political situation can play a role (cf. OLG Saarbrücken judgement of 8.3.2021 – Ss 72/20, BeckRS 2021, 4322).

It must be noted that the suitability must be positively established. In contrast to the elements of the offence of condoning and denying, suitability cannot be inferred from a trivialisation of the Holocaust (BeckOK StGB/Rackow, 57th ed. 1.5.2023, StGB § 130 marginal no. 38).

In the legal assessment, the content of the speech made by the accused must first be evaluated. The speech was recognisably primarily aimed at winning more votes for the upcoming Bundestag election, as the accused made various references to the upcoming election in his speech and called for a democratic election campaign. This is supported by the fact that the accused began by stating that a third of the population already knew why the crisis was being engineered. In the further course, he asked whether his educational work would be enough to make a decisive contribution in the upcoming federal election. He said he did not know. They would have to try to reach out to those who could still be reached. Directly after the passage in question and the reading of parts of the “letter” from Holocaust survivors, he continued to call for going directly to doctors and those responsible. He called for talking to the politicians of Schleswig-Holstein, who he said were not all bad, and convincing them that there is another way. And finally, he called for them to join with the few still free-thinking ones in case of electoral defeat, and thus add another 20% to the 30%.

Considering these references, the content of the speech was already recognisably primarily aimed at electing the party of the accused or to animate the audience to a further election campaign and, in the case of electoral defeat, to participate in a democratic process, the connection with another 20% to win a democratic majority. He explicitly called for talks with those in charge and doctors in order to clarify the side effects that he saw as imminent, which is legitimate in a democratic society. No incitement to violence—even if only indirect—could be inferred from the speech.

Suitability could also not be inferred from the manner of the speech. The accused delivered his speech in a calm and even tone and style of speech. This was also reflected in the environment of the speech. The speech was indeed interrupted at various points by short applause. Otherwise, the audience followed the accused in a calm manner, so that according to the testimony of the witness Plötz, the event proceeded calmly and without disturbances overall.

Finally, it had to be taken into account that the speech took place in the context of the election campaign and that it is not unusual at this time for politicians to try to win votes with drastic images and to convince others of their own position.

Considering this, the court does not fail to recognise that the social and political debate was also clearly heated that year, due to the well-known Corona measures of the federal and state governments. Nevertheless, no suitability for disturbing public peace can be derived from this. Taking these circumstances into account can merely lead to the conclusion that the accused contributed to poisoning the political climate with his speech. However, these circumstances are not enough to infer a suitability to disturb public peace that goes beyond this (see OLG Saarbrücken, judgement of. 8.3.2021 – Ss 72/20, BeckRS 2021, 4322 marginal no. 22,

beck-online). Although the comparison between the approval of the vaccine and the Holocaust is unacceptable and difficult for a democratic public to bear, society does not have to be protected from a “poisoning of the political climate” according to the requirements of the Federal Constitutional Court.

V. The decision on costs is based on section 467 (1) of the Code of Criminal Procedure.

Dr. Grundmann  
Judge