[DE] Cinemas to stay closed in Bavaria for now

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Francisco Javier Cabrera Blázquez
European Audiovisual Observatory

On 22 March 2021, the Bavarian Constitutional Court refused to suspend individual provisions of the *Zwölfte Bayerische Infektionsschutzmaßnahmenverordnung* (Twelfth Bavarian Infection Protection Measures Ordinance - 12. BayIfSMV) of 5 March 2021 by interim injunction. The Ordinance issued by the Bavarian State Ministry of Health and Care contains protective measures for preventing the spread of COVID-19 disease. The petitioners had filed an application for a temporary injunction against regulations of the ordinance concerning, among other things, the closure of certain cultural institutions, as they considered them to be contrary to fundamental rights. The Bavarian Constitutional Court, however, rejected the granting of an temporary injunction, as the complaint did not show a likelihood of success based on the merits. According to the court, it could not be established that the legislature has obviously exceeded the leeway provided under federal law or that it could have carried it out in violation of fundamental rights or other provisions of the Bavarian Constitution. The ordinance was based on the guidelines previously agreed between the Federal Chancellor and the heads of government of the Länder, and the court stated that it did not observe any reason why the challenged regulations could be obviously unconstitutional. Given the current development of the pandemic in Germany, the legislator has the right to relax restrictions only in certain cases and under narrow conditions. The continued closure of cultural institutions such as theatres, opera houses and concert halls as well as cinemas also did not prove to be manifestly unconstitutional upon initial assessment. According to the court, attending cultural venues implies a significantly increased risk of infection compared to other social contacts. Furthermore, the fact that the artistic activities concerned are subject to more far-reaching restrictions than those that apply to the exercise of freedom of religion or freedom of assembly did not manifestly violate the principle of equality.

Entscheidung des Bayerischen Verfassungsgerichtshofs vom 22. März 2021, Aktenzeichen: Vf. 23-VII-21

https://www.bayern.verfassungsgerichtshof.de/media/images/bayverfgh/23-vii-21-

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