



**Speech by Federal President Frank-Walter Steinmeier
at a ceremony marking the 50th anniversary of the
passing of Fritz Bauer
in Frankfurt am Main
on 1 July 2018**

It is Alexander Kluge we have to thank for a brief autobiographical piece describing the funeral of Fritz Bauer. It depicts a day in July 50 years ago. It was raining. A small group of close companions had come together, family, friends and a few members of the Government who had taken office after 1945 to pursue an anti fascist course. The deceased had written in his will that there were to be no speeches.

This wordless farewell after the unexpected passing of Fritz Bauer which came much too early was presumably even more difficult to stomach than funerals tend to be.

Three of Beethoven's late string quartets chosen by Theodor W. Adorno and performed in their entirety could do nothing to change that. "This music is meant to be comforting," Kluge notes. Only to add: it isn't.

The friends were inconsolable not just at losing Fritz Bauer but also because their deceased friend had in his own life experienced so little consolation, because in this country for which he had engaged in such tireless efforts and made such a contribution he had barely received support and experienced little recognition.

Fritz Bauer who was mourned on this day in July 50 years ago, and whom we remember today, was a man who was feared by his opponents. The respect he would have deserved is something his contemporaries failed to give. Reflecting today, however, he is one of the key figures in the young democracy that paved Germany's route back into the international community of nations. At that time, there was only a small group of his closest friends: Ernst Schütte, Minister of Education and Culture in Hesse, a Social Democrat like Fritz Bauer, son of a labourer who attended evening classes to complete his university

entrance qualification and went on to obtain a doctorate, Thomas Harlan, son of the director Veit Harlan, or Ilse Staff, who in 1969 was the first woman in Germany to be appointed professor of constitutional law. An important companion, perhaps the most important, was Georg-August Zinn, Minister-President of Hesse from 1950 to 1969, who did not just appoint Fritz Bauer Prosecutor-General, but also, where possible, enabled him to focus on the matter at hand.

Yet, it seems that Fritz Bauer was a lonely figure, an outsider, a man who was vulnerable and who had suffered hurt. Those mourning him knew. They also knew that the wounds had not just been caused by his enemies.

It was the country he lived in that treated him with suspicion. And it was the state he worked for that mistrusted him. A country to which he returned from exile to play a part in a political new start. And a state to whose judicature and political culture Bauer had contributed so much in the 1950s and 1960s that his role is almost unparalleled.

The Auschwitz trials which would not have happened without Bauer were a milestone in the history of the Federal Republic of Germany. But it was not the trials alone. It was Bauer's example, his resistance to the continued presence of the faces and ideology of the Nazi regime which played a decisive role in making this Republic into the democratic state based on the rule of law that it is today.

During his lifetime, he was denied the recognition he deserved. Also in the Office of the Federal President, until his death no one thought of awarding a figure like Fritz Bauer the Order of Merit of the Federal Republic of Germany. In the founding documents drawn up by Theodor Heuss, we read that it is awarded for political, social, economic or intellectual work that serves the reconstruction of the fatherland. That is exactly what Bauer had wanted and exactly what he did. Yet at the time not everyone saw what he achieved as service to the fatherland and too many considered it akin to betrayal.

Fritz Bauer returned to Germany because he saw this new state, the Federal Republic of Germany, as his state, because he, alongside Thomas Mann, considered democracy to be the form of state and society that is most inspired by the feeling and awareness of human dignity.

In this state, he wanted to be a lawyer doing more for law and justice, for humanity and peace than merely paying lip service. Yet this state had not yet come into being. The Basic Law was in force, and the Federal Republic was therefore a democracy but it was yet to become a republic of democrats. Fritz Bauer wanted this to happen. He wanted to play his part in bringing democracy to Germany.

He knew it was a matter of letting this Basic Law take root, both in the everyday lives of the Germans and in jurisprudence. And just three years after the end of the Nazi dictatorship, he knew that democracy had to be learnt to ensure it did not fail again. Part of the lessons in freedom, democracy and constitutional theory was for Bauer also accounting for the most recent past and the role played by each and every individual.

The judicial examination of National Socialist injustice that Bauer called for was not an attempt to dispose of the past using the instruments of criminal law. For him, it was about immunising the Germans, about protecting them from slipping back into barbarism. He believed in a renewal of society but even more in the strength of reason, that free people can and will use their good sense. Bauer's childlike belief in a better future, as Johannes E. Strelitz put it 50 years ago, expressed his universal humanism which was his guiding principle in his thoughts and deeds.

For Fritz Bauer and his efforts to shed light on the past, the journey of understanding began with self understanding, the realisation that the past was not over with the downfall of the Thousand Year Reich, the Führer and his accessories. Nazism, here Bauer was absolutely convinced, was a movement within the German people. The Führer, the leader, was there because there were people who wanted to be led.

That is why for Fritz Bauer it was a matter of uncovering the system that was the National Socialist totalitarian state. What he wanted to do was place the blueprint of the National Socialist state under the microscope to reveal the chains of command right down to the very last detail. Each and every former employee of the National Socialist state would have found himself in this chart of responsibility. Each and every one would have had to accept that guilt cannot be obscured by division of labour. And finally, each and every one who had held office in this National Socialist state would have had to recognise that he was involved in an unprecedented crime against humanity.

The psychological effect Bauer was hoping this realisation would bring was to be cathartic. I do not know if he was hoping the perpetrators would thereby be cleansed. What he certainly wanted was for the young, unencumbered generation to gain insights. They were to be able to recognise where unconditional obedience and blind performance of duties can lead and, based on this, to draw the conclusion that there are situations where there is a duty not to obey. This insight into the need for independent thinking and decision-making seemed to him to be the only way to prevent history repeating itself.

Those who recognise the severity of National Socialist crimes will also have to realise that justice can barely be done using criminal law instruments. Allowing the victims to experience justice for Bauer meant using all means at our disposal to ensure something similar cannot happen again.

Fritz Bauer was not a Nazi hunter nor a god of vengeance. He was an enlightener and a constitutional patriot *avant la lettre*.

For Bauer, the point of the Auschwitz trials was to enlighten, to highlight the painful truth that adapting to a totalitarian, unjust state is also unjust. If the state is criminal because it systematically violates human rights and civil liberties, freedom of conscience, the right to belief, to nation and race, the right to life, then concurrence is also criminal. And thus the impunity of the perpetrators a mockery of the victims.

Bauer triggered debate and controversy. He was not afraid to argue and was a passionate democrat. In all these disputes, Bauer was by no means trying to show he was right. What he wanted was freedom of thought and debate. He knew no shyness about sitting down around a table with political opponents and no fear of dispute that was needed.

At the end of the day, he was a realist. I do not believe that he was under the illusion that the fight over and for democracy could ever be brought to a conclusion. He knew the path was arduous and that it would remain so. Yet looking back at the ground we have covered, we can say that we have come very close to the democratic state based on the rule of law for which Bauer so yearned – also with a judiciary that is committed to democracy and whose independence is guaranteed. Were he still with us, he would roll up his sleeves. Today, he would defend this state I am quite sure, this state which in his day sometimes drove him to despair. To my mind, he is defending it to this day with the role model he provides.

Let's go back one last time to the day in July 50 years ago. After the ceremony, the small group of mourners moved on to the Frankfurter Hof.

At the end of Alexander Kluge's account, we learn that those present did not want to leave the deceased. While they sat there together, there was still something of him there. By parting, the good man himself would be gone forever. They felt no one was able to take his place.

We were not able to replace him. Who could have done? But we should stay together and try to keep hold of what lives on.

After all, we need such a figure again, a figure who is not afraid to argue, who opposes the re emergence of nationalism and contempt for human life. Bauer knew that democracy cannot be taken for

granted and is not guaranteed for all eternity. Fritz Bauer would have been deeply concerned by what we are seeing once more at this time – a new fascination with authoritarianism, the revival of old resentment, of irrational thought, the language of fury, the defamation of political institutions. Democracy needs wakefulness. There can be no retreat. It wants people to intervene in the name of democracy, not to cause a stir. This very approach is what Fritz Bauer would have wanted us to take, no, in fact, it is what he would have expected!