

NEWSLETTER CLIMATE-ANTIREPRESSION #10 - July 2019

Once again there are a lot of things to report on concerning antirepression, information which we gathered from the different antirepression groups. There's good stuff (like cases being dropped) and less good stuff, like a once again a high count of incidents of police violence during the Ende Gelaende protests. The focus of this newsletter will be your rights, obligations and opportunities as a witness. Here's an overview over the topics being covered:

Rhineland

- #Tripodprozess
- Résumé of Ende Gelaende in June 2019
- Documenting police violence

Lusatia

- Current state of repression following Ende Gelaende 2016
- Court case concerning occupation of an excavator in 2015
- Supporting the "Lausitz 23"

Focus: Witnesses

- Legal situation
- Consequences of not showing up to a hearing
- Witness assistance
- Lying or not remembering?
- Refusing to make a statement
- Solidarity

Disclaimer: Most of the linked articles are only available in German.

RHINELAND

#Tripodprozess

July 2017: At the same time police was acting out at the G20 in Hamburg, suddenly there was a tripod to be found on the Hambachbahn (coal railway connecting the Hambach mine to power plants). Two years later, legal proceedings because of the tripod are ongoing. The district court in Aachen is currently handling the case, as an appeal was lodged earlier.

The hashtag #TripodProzess was a live documentation of what happened (<https://twitter.com/search?f=tweets&vertical=default&q=%23tripodprozess>), here just a summary of the most essential information: after the case was first handled at the court in Jülich which escalated a bit (<https://hambacherforst.org/blog/2019/05/18/einladung-zur-prozess-party-am-landgericht-aachen-29-05/>), this time, each day at court was accompanied by a group of one hundred police officers.

The first day of the hearing included a bit of questioning of witnesses, but mostly consisted of accepting new defenders to the case (before, one defender who was supposedly "too young" and was rejected by the court in Jülich, a second one was thrown out of the court room in Aachen because of an alleged previous conviction of 20 daily fines). Still, the local newspaper Aachener Zeitung perceived it all as "pretentious playacting" (rough translation of "überhebliche Kaspereien"). Indeed pretentious was the judge Marcus Vogt, who, on the second day of the trial, had the clerks partially clear the court room from visiting supporters, and had the defendants put

into administrative detention for four (!) days – simply because they weren't wearing shoes. He was about to also impose administrative detention on the defenders, but seemed to remember just in time that that would have been illegal.

Transphobia served the judge well that day, not only in deciding to detain the defendants. But according to the district court in Aachen, continued transgression of §5 TSG and §12 BGB does not pose a substantial reason for impartiality. Luna as the only woman in the men's prison did not have access to yard exercise or religious service. B-Mike had to spend the first night in an isolation cell, with the light constantly turned on and without any water.

The third day of trial collided with a more important date – the defendants attended the Fusion festival (<https://hambacherforst.org/blog/2019/06/26/warum-wir-nicht-zum-hauptverhandlungstermin-am-27-06-erscheinen-werden-ein-statement-von-luna-und-b-mike/>).

Their defenders filed “numerous” applications to take evidence (according to the newspaper Aachener Zeitung, about 35 of them), as for example one stating that police roaming the Hambach Forest had to be considered that much an everyday occurrence, that people living in the forest wouldn't easily come to think their behaviour or actions to be unwelcome simply because of police officers being present.

While the district court in Aachen has come to a verdict for now, the controversy continues: a certain kind of appeal (“Revision”, examining whether there were legal mistakes made in the previous trial) has been lodged, also, the judge has been delivered a declaration to cease and desist because he had been using wrong names, and last but not least, the defendants are utilising what happened while they were in detention to file several lawsuits regarding different aspects of trans* and jail at the administrative court.

Résumé of Ende Gelaende in June 2019

Once again, the Ende Gelaende actions were accompanied by numerous violations of people's basic rights, committed by the police and other authorities. Even before the actions, both the police and the administrative authority responsible for assemblies tried to prevent the protests from taking place by prohibiting the protest camp. In the end, a court deciding that forbidding a political assembly is against the law made it possible for Ende Gelaende to pitch a camp in the town of Viersen.

Authorities tried to massively restrict the freedom of assembly throughout the actions. Properly registered demonstrations were halted for hours without cause, or were prohibited altogether. Despite the burning heat, people entrenched in police kettles were deprived of their basic right to access to drinking water and food. Meaning, a potential damage to many of the activists' health was willingly accepted by the acting authorities.

Batons, pepper spray, kicks and punches injured numerous activists as well. Some activists had to be brought to the hospital to have their serious injuries treated properly. Activists who were arrested were refused their right to make a phone call and to speak to a legal adviser while in the detention centres. They were forbidden from contacting a lawyer. As a result, everyone who was subjected to a court hearing had to endure it without an attorney by their side or having had previous contact to

one. No interpreters (or language assistants of any kind) were provided either.

It is very evident that once more, the police and the authorities acted serving the interests of those profiting from lignite: activists who were protesting the incredibly climate-damaging conversion of lignite into energy were systematically deprived of their most basic rights. So, working against repression remains as necessary as it has always been, in order to stand up to this reality together and take care that nobody is left alone.

You can find media coverage of the actions and police violence and repression here:

<https://www.ende-gelaende.org/en/pressreview/>

If in the aftermath of Ende Gelaende you receive a letter from the police or the state prosecution, please contact the Legal Team for all: legal_team_fuer_alle@posteo.de (you might want to consider encrypting that email). The Legal Team will stay on top of what is happening repression-wise, will help you find lawyers, put you in contact with other people affected by repression, and will discuss with everyone affected how the money that the anti-repression groups have to support people with their legal bills will be distributed among the activists.

You can also contact the legal team if you have been subjected to police violence. There are people willing to help you think about what your course of action could be handling these experiences. In general, we advise against filing charges against police officers, as even if proceedings are opened, the officers barely ever get convicted – but you run an increased risk of police reporting you for alleged criminal acts in return. Here, you can find a longer discussion of this issue:

<http://antirrr.blogspot.de/2019/01/16/we-dont-talk-to-cops-zu-straftanzeigen-und-aussageverweigerung/>

Another way of dealing with this is making the police violence that happened to you public, and we can support you with that.

Documenting police violence

For years, people opposing the existing order or even just coal mining have been facing police violence, sometimes more, sometimes less systematically. We have collected a couple of these cases and are finally ready to publish them systematically. That way, the people affected can have a voice – since neither police nor courts can be expected to let them see anything like justice. They are published in the language we received them, so there are english ones. If you feel up to it, you can read the reports here (including some regarding the latest Ende Gelaende protests):

<http://antirrr.nirgendwo.info/polizeigewalt/>

If you were affected by police violence yourself and would like a report of what happened to be published, you can send it to AntiRRR (antirrr@riseup.net). They will check the reports (to see whether an unedited report could incriminate someone) and talk to you about what changes might need to be made to then publish your text.

LUSATIA

Current state of repression following Ende Gelaende 2016

Local court and state prosecution in Cottbus and Hoyerswerda aren't tired of continuing their repression regarding long-past actions from 2015 and 2016, and keep sending out penalty orders and indictments. The end of the period of limitation is coming closer, but the local court in Cottbus sternly busies itself with alleged acts of resistance or trespassing that supposedly happened four years ago; all the while in the city of Cottbus, the right mob is claiming the streets without being bothered by the authorities. Still today, each and every solidarity demonstration, no matter how relaxed it may be, is lined by at least four police vans on its less-than-half-a-kilometre way from the train station to the court. A demonstration in front of the headquarters of the big energy company LEAG with 25 people participating had an area cordoned off for the protesters that was so large they could barely draw any attention to themselves from passerbys. The entire situation is absurd, but at least the authorities are busy. One case from 2016 is currently pending to be held at the district court, since the state prosecution simply wasn't willing to accept the verdict of not-guilty and decided to lodge an appeal. Some time around winter this year, there will be a couple more dates at court. If you find the time, feel free to come round, Cottbus is worth the trip.

Court case concerning occupation of an excavator in 2015: "This is where the climate is being negotiated"

In November, two court dates will take place in connection to the occupation of an excavator that supposedly took place in December 2015. Accusations include disruption of public services and maybe resisting enforcement officers. Strikingly, the authorities didn't seem to bother prosecuting these alleged offences for the last four years, until the case of the Lausitz23 in February of this year sparked their interest. Now, each and every act of protest is apparently supposed to be met with tons of repression.

The 2015 action's motto was "This is where the climate is being negotiated", as it was taking place at the same time as the COP21 in Paris. Powerful words were indeed spoken in Paris, but no tangible action could be seen resulting from them. Now, four years later, the excavators in Lusatia are still running. At the time, Vattenfall, the previous owner of the lignite branch in Lusatia, was doing their best to get out of that part of business. It would have been the perfect time to altogether stop the mining of lignite that is threatening every existence. Instead, the branch was transferred to the newly founded LEAG, who couldn't give a crap about the climate and the people threatened by the consequences of excavation, but prefer to make large-scale profit.

#OurClimateNotYourBusiness

The case was initially scheduled to take place on the 8th of July at the local court in Cottbus. Luckily, a motivated team of 4 defenders and some supporters also showed up at court. Even before the main hearing could start at 9:30a.m., the judge met with the state prosecutor, the defenders and the accused. Apparently, the judge had been expecting the accused to be without anyone defending him, and was hence puzzled seeing so many defenders show up. The judge then proceeded to inform everyone present of the two following issues: a), due to being on holiday (!!!), two important

witnesses could not attend court that day, so that the main hearing could not take place, and b), state prosecution would be willing to drop the charges under certain conditions (§153a StPO): the defendant was supposed to admit to the accusations and pay between 700 and 800 euros. The accused did not take that deal.

As a result, the judge had to schedule new dates for the main hearing: the 25th and 26th of November 2019, 10a.m. to 5p.m. each, will see a trial in a larger court room. The defendant is thrilled to see many supporters there. We will be able to publish more info as the date approaches – we know by now that the local court in Cottbus really likes cancelling or postponing court dates on short notice, so let's see what happens...

Supporting the “Lausitz 23”

In February, several excavators were occupied in lignite mining areas in Lusatia and in the area around Leipzig. The local court in Cottbus proceeded to take 18 activists, all of whom decided to remain anonymous, into investigative detention. It was the first time that the accusation of trespassing sufficed to take anonymous people into investigative detention.

In the end, three of the activists remained in investigative detention until their main hearing took place after 21 days (due to the proceedings being accelerated). They did not disclose their identity during the time of their imprisonment. Lengthy proceedings resulted in a two-month prison sentence and the first ever case of a mine being viewed as sufficiently enclosed for entering it to be considered trespassing (a report on that specific case can be found in Newsletter #8 <http://antirrr.nirgendwo.info/files/2019/05/Newsletter-8-Antirepression-climate-movement-1.pdf>). The people affected by that sentence have lodged an appeal, so they don't have to serve prison time right away, but are waiting for their case to be retried at another court. No court date has been set yet.

The remaining 20 activists haven't heard from the repression authorities or the LEAG. That will probably take some time...

Court cases can take a long time and unfortunately often cost a lot of money (lawyers, fines, court bills...). The Lausitz23 and their supporters have already started collecting money to cover their repression costs. A couple of solidarity parties already took place, and there are more to come – so keep an eye out for your chance attend one. It would obviously also be very much appreciated if other people would like to organise a solidarity party for the Lausitz 23. If you are going to one of the climate camps this summer, you can also support them by buying the screen prints they are currently making. If you would like to come up with a solidarity action, please send an email to contact_lausitz23@systemli.org

Or you can simply donate money to this bank account:

Account holder: Bagger Stoppen
IBAN: DE48 4306 0967 1120 8464 00
BIC: GENODEM1GLS
Purpose: Lausitz23

The Lausitz23 still need publicity for their case and support. Be creative and join us in our fight

against lignite and repression, and for a world of climate justice.

News and details about the proceedings of the #Lausitz23 can be found here: <https://www.ende-gelaende.org/de/aktion-baggerstoppen/>

FOCUS: WITNESSES

So, imagine someone receives a letter being summoned as a witness, and the police is questioning injured people at the hospital, all to solve a case, to reveal the truth. Or that's how the propaganda-story goes. But even if cops are asking about their colleagues' transgressions, their underlying motivation is often to uncover more information about our actions and organisational structures, to come up with better strategies to divide us or to convict people. Since everything you tell them will only be used against you and other people in the movement, we (just like almost all antirepression groups) advise you to refuse to make a statement. But what does it mean to refuse to make a statement when you are called as a witness? With this text focusing on being summoned as a witness, we want to explain a couple of things: what are the legal basics? Which options of actions do you have as a witness? What are possible consequences?

Legal situation

If you are accused of something yourself, you are allowed to refuse to make a statement at any time. With witnesses, that's a bit more complicated. Police can either question or summon people as witnesses. If the summons is just issued by the police, you can ignore it, or if you are already at the station when they want to question you, you can refuse to make a statement. But since 2017, there is such a thing as a summons issued by the state prosecution, obligating people to show up and make a statement. You can tell whether or not that is the case by taking a look at the "Rechtsbehelfsbelehrung" (information about legal remedies) in the letter you receive. If it doesn't state anything about consequences in case of you not showing up or not making a statement, you can simply ignore the summons. If you are summoned to come to the state prosecution or court, you are also obligated to appear and make a statement (§48 Strafprozessordnung (StPO / Code of Criminal Procedure)).

There are a couple of exceptions, though. You have the right to remain silent if you could implicate yourself, e.g. because there are also (potentially) proceedings going on against you (§55 StPO), or if you are related to or in a partnership with the defendant (being engaged is enough) (§52 StPO). People bound by their professional secrecy can also refuse to make a statement (e.g. journalists, doctors, lawyers, clergy people...) (§53 StPO). In any other case, the court presumes that you have to make a statement, which of course doesn't mean that you have to actually do that. After all, we don't stick to laws we consider wrong in other cases, either.

What if I don't show up?

So, what are your options if you would prefer not to provide the police with information arming

them in their quest to prosecute others (which would be contrary to the principle of solidarity, anyway)? All of your options can, but doesn't necessarily have to be, met with repression. We will simply display what might happen, which by no means implies that all these stops will be pulled every time. More often than not, nothing will happen, especially in cases where the interrogation was ordered by the state prosecution, but it's simply the police doing it.

First option: don't show up. The only way you can be met with consequences is if they have prove that the summons was even delivered to you (usually if the letter is in a yellow envelope).

If you fail to show up, you will be asked to pay the costs of your non-attendance, and a fine ranging between 5 and 1000 euros. This can happen again the second time you don't show up for your interrogation, but not a third, fourth... time around.

Furthermore, compulsory attendance could be imposed (§135 StPO). This means that they will pick you up at home or somewhere else, maybe lock you up somewhere in the court building for half a day, and then have a judge question you.

If you want to stall the process of gathering evidence or are optimistic that they will give up at some point, non-attendance can be a way to go.

If I go, I don't go alone

Being picked up by the authorities would be a no-go for you? Wouldn't sit well with your parents or your employer? Would only halt the interrogation, but not actually prevent it? Well, then you seem to have no other choice but to attend. But that doesn't mean you have to go alone! You have the right to a witness counsel who can accompany you to your hearing, who you can discuss your options with during the hearing, who can hand in applications and statements in your name, or who can help you to enforce your rights to refuse to give evidence (§68 StPO). Your counsel can be a lawyer, but it can also be someone else you trust (as stated in §138 III StPO – better write down this paragraph beforehand if you are taking someone other than a lawyer with you, since usually neither police nor court seem to be aware of that right).

One heads up, though: some lawyers might advise you to make a statement, because that's what the law asks you to do and what will supposedly keep you out of trouble at first glance. But making a statement isn't necessarily the right choice politically and strategically. If you would like to take a counsel with you and don't know who to ask, get in contact with the legal aid group of your choice.

Lying or not remembering?

So, now imagine you are at the police station or at court, with or without a witness counsel by your side. If you made a statement and stuck to the truth, it might implicate friends and lead to convictions, or simply to the police finding out more about your organisational structures. In that situation, many people would consider to either lie or say that they don't remember anything. It might sound like a tempting strategy to not remember anything, but it doesn't work with all questions they will ask you. "Do you know that person?" can hardly be answered with "I don't know", since that would be an obvious lie. And once you start answering questions, it might be hard

to stop. And lies can be uncovered.

That's when it gets really sticky: false statements are liable to prosecution (§153 Strafgesetzbuch (StGB)) and will be punished with at least a three-month prison sentence. That's a verdict that will go on your permanent record as a "previous conviction" (even though the sentence will most likely be suspended). If the court is unsure about whether or not you gave a false statement, you can be put under oath. If you make a false statement under oath or make a false "affirmation in lieu of an oath", the minimum sentence goes up to a year (§154 StGB) – so you might very well be going to jail. And that's simply not worth it. In turn, we advise you not to lie or say that you "don't remember". It's less of a cat-and-mouse game and more of an empowering situation for you if you decide to refuse to testify from the very start – no matter whether or not the law is okay with you not making a statement.

Refusing to make a statement

You thought about it for a long time, and now you maybe come to the conclusion that you would like to refuse to give a statement. Now what? You can check whether you have a good reason to refuse, e.g. because you could hypothetically be tried in the very same case (e.g. 1. because you were part of a group of people one of which got accused of being the leader of an unregistered assembly, but they could have picked you just as easily, 2. because another case against you is still in the works or could be picked up again). If anything like that is the case, you can state that and legally get out of your obligation to make a statement. If the underlying reason for your refusal is simple and clear that should work out well, but you should in any case avoid to give them any information they don't already have about pending cases against you – counterproductive, that would be. In some individual cases, bringing forward reasons like an engagement to the accused could be possible, but that can't be applied to all situations.

Let's assume you don't have the right to refuse to make a statement, or you don't want to tell the authorities about how you actually might come to have the right to refuse testimony. In some cases, police and court might just let you go if you continue to simply not say anything or just say that you will not make a statement – or have your witness counsel say that. But it could also play out differently: the state prosecution or the court could order you to pay a fine (Zwangsgeld/ Ordnungsgeld), which means that you either have to pay or instead go to jail for the number of days corresponding to the set amount of your fine. Only the court is allowed to impose so-called coercive detention, which means that you can be locked up until you make a statement. When imposing it, the maximum duration of the detention in your case has to be stated and can not be longer than 6 months. All measures have to be in proportion to the relevance of the statement you are refusing to make and the alleged crime. So, if you are asked to give testimony concerning someone who allegedly committed an act of trespassing, refusing to make a statement is incredibly unlikely to result in coercive detention – if someone is convicted of trespassing, the penalty usually does not involve a prison sentence. A fine (Ordnungsgeld) is much more likely. With bigger court cases (terrorism etc.), people refusing to testify usually saw this happen: first, they were threatened to have to pay a fine, then the fine was imposed, then they were threatened to be put into coercive detention, and only then did the court actually impose coercive detention. Thus, even if things actually went that far, there is a lot of time to figure out how to deal with things.

Solidarity

One way or another, you are not alone in this, neither with your decision on how you want to handle being summoned as a witness, nor with the consequences of your decision. Rote Hilfe (antirepression structure) is happy to pay your full fine for refusing to make a statement. Antirepression-groups from the climate movement also support you with advice, money and prison support, if necessary.

In solidarity,
AntiRRR with the support of Hambi EA, Legal team for all, CAT
antirrr.nirgendwo.info