

NEWSLETTER CLIMATE-ANTIREPRESSION #17 - JANUARY 2022

translated by deepl

Ahoy,

here we are with a new climate anti-repression newsletter, feel free to write us if you have more topics for it. This time there is a focus on the topic of "detention", i.e. being locked up especially at police stations. We wish you a hopefully helpful reading! Stay solidary and militant!

Content

RHEINLAND

- Tough sentence against climate activist from Ende Gelände
- The specific criminal law concept of Rechtmäßigkeit
- The status of Lützerath
- Lützerath - court cases and other repressions
- New assembly law in NRW
- Prozesses because of demo against the new assembly law:

HESSEN

- Public order office and court allow rappelling over highways

FOCUS: CUSTODY

- Calls and lawyers
- Judge's decision and duration
- Search
- Video surveillance
- Mail and books
- Food and other rights
- Gesa support and afterwards
- Outlook: Denial of personal data?

RHINELAND

Tough Sentence against climate activist from Ende Gelände

On September 26, 2020, a day of action of the alliance Ende Gelände took place in North Rhine-Westphalia. The anti-coal kids, who also carry out actions of civil disobedience, were there. From their assembly point, they marched as a demonstration procession along the Garzweiler open pit mine. On the route, a part of the activists split off from the group and tried to get in the direction of the open pit mine. However, this attempt was violently stopped by the police batons. Subsequently, the activists were encircled, disregarding the rules of distance. One activist was later pulled out of the kettle and arrested. At the police station, he was given identification services and was locked up for several hours, denied the right to make two phone calls. He was charged with breach of the peace (which was later dropped), violation of the disguise law and assault on a police officer. In court, the police officer in question made a statement that missed the reality by far; the comrade never made the alleged blows towards the officer. The judge subsequently sentenced him even far beyond the 3 months including suspension as a fine demanded by the public prosecutor's office: 7 months on 3 years probation. Apparently an example should be made at the comrade, which is to be directed against all anti-coal activists. However, this unjust sentence is not yet legally binding, since an appeal is being sought.

The specific criminal law concept of lawfulness

The paragraph "Resistance against law enforcement officers" (§113 StGB (3)) states that resistance is not punishable if the official act of the law enforcement officers was unlawful. The person who won before the Administrative Court that the eviction of Hambach Forest was completely illegal has now been convicted by the Regional Court of Aachen for resisting exactly this eviction. The reason for this violation of the law is the "specific criminal law concept of legality", as the judge emphasised, which the courts have invented in order to convict us anyway, for example for anchoring actions. According to this, it is not at all a question of whether the police acted unlawfully, but whether they also thought they were acting unlawfully. And after all, the individual cops on the spot could not have known whether the eviction was unlawful. That in itself is absurd. During the Hambach eviction, even the police union issued press releases that the police felt they were being misused for political arguments. It was clear to everyone involved that fire protection was a pretext for eviction. The fact that this is an interpretation that directly contradicts the text of the law is irrelevant when it comes to protecting state power, because laws only apply as long as they suit the state. The philosophy of the state says that those who can enforce the law are the ones who are right. It also fits in with this that the Ministry of the Interior has ordered the municipality of Kerpen, against its will, to appeal against the judge's ruling that the eviction was illegal. This is exactly the rule of law of NRW.

The status of Lützerath

In Lützerath, the village threatened by opencast lignite mining, the legal status remains unclear. Everyone is waiting for a decision by the Higher Administrative Court in Münster, which will decide whether farmer Eckhardt Heukamp will be expropriated or not. In the meantime, RWE continues to optimistically prepare the open-cast mine apron for an upcoming enlargement: Walls are being heaped up (so that the open-cast mine has a clear boundary, so that trespassing can be charged), field paths are being closed, and pipes are being laid or excavated.

If the OVG Münster's decision is upheld, large-scale eviction actions are to be expected. Be prepared for this, get a number from the EA if you want to refuse to give your personal details and talk to your family and friends about what you want to do in case of prolonged detention (see also our focus this time). Discuss possible legal or emotional consequences and how to deal with them beforehand. If you get stressed afterwards, you can of course contact us:

<https://antirrr.nirgendwo.info/kontakt/>

You can reach the Rheinland-Legal-Team (in case of detention/arrest) at: 0641 2010 9954 7.

Lützerath - court cases and other repressions

For about 1.5 years there has not only been a permanent vigil and tree houses in Lützerath, but also squats in empty buildings, sit-in blockades in front of demolition excavators, walks to the edge and much more. In the last few months, we have been receiving more and more repression: Individuals are receiving penalty orders, charges, court cases, are supposed to pay fines or testify as witnesses. Most of the time, the charges are trespassing or resisting to the police.

We do not report on all of these cases, often the people concerned do not want more publicity.

Sometimes there are no court proceedings at all or the person is acquitted!

Nevertheless, we want to counteract the isolation that goes hand in hand with repression: You are not alone! Talk about repression in your affinity groups and support those affected! Collect donations and go to court cases! You can find the account details to donate to our solitopf here:

<https://antirrr.nirgendwo.info/mach-mit/>

If you get mail from the state yourself, contact us and file an appeal against penalty orders or fine notices within the first 14 days. We will find lawyers for you, scrape the legal costs out of our solitpot and, if you want, write your court date in this newsletter.

An activist from Ende Gelände will soon stand trial. The trial is on 07.02.2022 at 12PM in the district court of Erkelenz in room 1.02. The person is charged with trespassing in the context of the EG action on 25.07.2020 in Lützerath. Remember the entrance controls and appear early.

New assembly law in NRW

A new assembly law was passed in North Rhine-Westphalia that is mainly directed against anti-fascists and climate justice activists. The law came into force on 08.01.2022. In particular, we see what the government is afraid of: demonstrations on motorways are explicitly banned. It is forbidden to obstruct other gatherings (for example, Nazis or other full-blown assholes) or to convey a "readiness to use violence" through outward appearance. According to the explanatory memorandum, this also means the white suits of Ende Gelände. Whether the courts will see it that way is not yet clear. The police can also take stronger action against individuals: They are allowed to reject them as unsuitable as leaders of assemblies, to demand names and addresses of stewards in case of a concrete danger situation (suspected by the cops) and to ban people from participating in demonstrations - which is then combined with an obligation to report to another police station. In addition, the police are allowed to enforce measures such as residence bans and expulsions even within assemblies. The new law also allows the police to carry out extensive video recordings and checkpoints.

On the whole, this is another repressive law, which shows how afraid the rulers are of the climate justice movement. We should take this as a positive sign: "First they ignore you, then they laugh at you, then they fight you and then you win."

From our point of view, for practical purposes this means: if you have the nerve, you can take legal action against things from this law. This alliance informs and protests against the law:

<https://www.nrw-versammlungsgesetz-stoppen.de/> (german)

But also think about whether you want to register meetings or just leave it alone in protest against this law - for more disobedience! As always, be prepared for stress, look out for each other, but don't let it stop you. While leading an unannounced meeting is a criminal offence, participating in one is not - so you can gather unannounced relatively legally, as long as neither of you acts as the leader ;-)

The VersG NRW can be found here (german): https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=2&bes_id=47651&aufgehoben=N

Proceedings against the new assembly law

After the large demonstration in Düsseldorf against the new law was subjected to brutal police violence last summer, the second person is now on trial for wearing a mask (especially absurd in times of compulsory masks).

The court hearing will take place on Monday, 31.01.2022, at 11:30 am at the Düsseldorf District Court (Werdener Straße 1, 40227 Düsseldorf). Remember the entrance controls and arrive early.

HESSEN

Court allow climbing action over motorways

In Fulda, a public order office accepted a registration for an assembly with climbing over the motorway and so it could be authorised and take place in January 2022 with the motorway closed. In Frankfurt, the public order office had banned a similar action, but the administrative court then decided to overturn the conditions and allow the climbing action. It was too late for the authorities to appeal - they had scored an own goal by sending out the decision only one day before the meeting.

FOCUS: CUSTODY

The police are allowed to take people into custody in order to prevent danger, to enforce expulsion orders, to prevent criminal offences or to establish the identity of persons. Recently, there has been an increase in the number of cases where 7 days of detention are actually ordered and enforced in cases of refusal to provide personal details. We are taking this as an opportunity to look at rights and conditions of detention in police custody. NRW is the point of reference. In other federal states slightly different rules may apply, check the respective police law and detention regulations if they exist.

Calls and lawyers

If you are taken into custody, you have the right (almost immediately) to make a phone call, i.e. to inform any person you trust. If there is an EA, use the call for that. People who are looking for you can then ask the EA about your whereabouts. Unfortunately, the practice is that telephone calls often have to be demanded vehemently and sometimes are not allowed at all. It's worth trying again after the officers change shifts if it doesn't work before. Sometimes they let you call more often, for example once a day, if you are in custody for a longer period of time. Your call only counts if it was successful: If no one answers at the other end or the reception is too bad, you can try again.

You can always call lawyers as often as you want. You can use the EA to get someone to put you in touch with (the police will give your Gesa number to the EA for this) - especially in cases of judicial examinations (custody examinations or summons to appear before a magistrate) try to call the EA again especially for this. If a lawyer contacts you, it is usually the EA who has organised this. Please talk to the lawyer briefly, even if you think you don't need any help, because otherwise the EA will worry that the cops might have prevented it. If you prefer lay defence, find out in advance who can help you. However, it is possible that this will not be successful, i.e. that your lay defence lawyer will not be admitted.

Judicial decision and duration

Theoretically, the police must immediately get a judge to decide whether they are allowed to detain you for a longer period of time. In case law, this actually means 2-3 hours, but our practical experience shows that this can be as long as 20 hours. Without a court decision, the police may hold you until midnight of the following day at the most, i.e. almost 48 hours if you have been held since shortly after midnight. Otherwise, the regulations on the duration of detention are regulated in the police laws of the individual federal states and vary greatly. You can look up the times at polizeigesetz.nirgendwo.info for the respective federal state (or directly in the text of the law). The time starts from the moment you can no longer move around freely, i.e. even outside in the kettle.

How long a person may be detained by the police also depends on the reason for detention: In North Rhine-Westphalia, the police are allowed to detain you for up to 28 days to prevent crimes (serious crimes, such as manslaughter), up to 7 days in case of danger to life, limb or freedom of anyone, and otherwise only until midnight the following day to avert danger. 12 hours are allowed to establish personal details, unless the identity is concealed, in which case 7 days are allowed. In practice, this means that the police can lock up people with glitter-glued fingertips (to prevent usable fingerprints) for up to 7 days with a court order, and they do so from time to time. This has happened more often recently, especially in small group actions. People have been released early if they have been fingerprinted or if they have given their personal details, sometimes it was necessary to send the police a copy of their identity card.

Search

When you are taken into custody, the police will usually search you and your luggage, sometimes several times. This can be done by a pat-down or by undressing you. Theoretically, there is a court ruling <https://openjur.de/u/865540.html> that forbids the cops from completely undressing people without a concrete danger prognosis for the person, but in practice this happens very often. In most cases, everything is taken off that could theoretically injure the person, often also shoes (or the laces from them), in extreme cases also the glasses or most of the clothes.

Video surveillance

In North Rhine-Westphalia, the police are allowed to completely video-surveil the cells if they think you are going to hurt yourself (another lousy innovation of the last few years). There was also a court that ruled against this after an action against coal trains.

Mail and books

Let's move on to some good news. If you are in custody for a few hours, the police will usually take everything you have with you. If it takes longer, there is a good chance that you will be able to get books and magazines out of your rucksack. According to the custody order in NRW, you have the right to receive standard magazines and mail (standard letter size up to 50 grams is required), and usually the mail is checked superficially for prohibited items. We have had different experiences with people outside dropping things off for you and you getting them: Often it works at least once or once a day, sometimes more often. Books and clothes have arrived more often, but sometimes also vegan snacks or something to write about. The important thing is to try it out and not be turned away too quickly.

In order for addresses to be published, the UP numbers of the police are helpful for you, so try to inform the EA about it. With the UP numbers, the police sort out several anonymous people who deny their identity, e.g. UP1, UP2, etc. A letter in the cell can save the day and means so much more than outside because it is often the only contact with loved ones. Remember, get over yourselves and write to incarcerated people!

Food and other rights

In NRW, the detention regulations actually state that you have the right to eat vegan food (or to follow the dietary rules of the respective religious community) and you have the right to "appropriate food", but this is often just as bad as the idea of it. A few other important points about your rights: You are always entitled to a blanket and sufficient water and toilet facilities, and you can ask for the lights to be turned off at night. You are also allowed to shower several times a week and have hygiene needs met, you must be provided with items such as a toothbrush for this purpose,

the latter works for longer periods of detention. You also have the right to spend 45 minutes outside under supervision (unless "reasons of security prevent it"). Some police stations have refused this in the past, as it is well known that the police themselves often do not comply with applicable laws. There is also a right to be visited by lawyers or clergy (so if the cops say there is a clergy person for you, maybe the EA was active in organising a visit).

Unfortunately, many of the rights are not granted automatically and as a matter of course, but you have to actively demand them. This can be really exhausting and gruelling. Therefore, it is very important to do what makes you feel better, whether it is to withdraw as much as possible or to actively fight for rights, there is no right or wrong. If you feel comfortable demanding rights and there are others trapped in the same place, try to think about them and fight for things together.

Gesa support and afterwards

When you come out and there are people waiting for you outside, it's often very nice to be supported. Organising a Gesa support is often exhausting, especially when the cops are distributing people to different police stations in NRW and a Gesa support is being set up in every city. Discuss in your action group beforehand how to deal with this and whether you can manage it. After coming out, it can be helpful to talk about the experience with others, e.g. in the reference group or people with similar experiences, in order to process it. Memory protocols (stored in a well-coded form) can also help. If things do not get better, out-of-action structures for emotional problems can be addressed afterwards.

How-To Gesa Support: <http://antirrr.nirgendwo.info/files/2020/02/How-to-Gesa-support-januar-2020.pdf>

Emotional first aid for activists: <https://outofaction.blackblogs.org/>

Outlook: Denial of personal data?

In recent years it has become very common in the movement to refuse personal data and to scratch and glue fingertips. In North Rhine-Westphalia, the state has reacted to this and introduced the 7-day detention with the "Lex Hambli" (police law) and uses it again and again against climate activists. Also on the federal level, the conference of interior ministers has decided to tighten the code of criminal procedure in order to allow a longer detention in case of refusal of personal data. We think it makes sense to discuss again and again, under changing circumstances, whether denial of personal data is still a smart strategy and to consider what could be the least repressive and most politically strategic possible behavior. Of course, it is difficult to decide and, above all, it varies from person to person whether a possibly long court case or 7 days in custody are the worse repression. Court proceedings are not the end of the world. But both have advantages and disadvantages - so please don't feel pressured to deny your personal data (or to glue your fingertips) in any case!

So, that's it again with a lot of practical law. Please write to antirrr@riseup.net if you can imagine to support us by translating the newsletter next time. If you have any topics you'd like us to focus on, please let us know and we'll see if we can get to work on them. Stay healthy, take care of yourselves and don't let it get you down!

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