

What does the new assembly law in NRW mean for us?

Since the beginning of January 2022, there is a new Assembly Act in North-Rhine-Westphalia (VersG NRW), despite numerous large demonstrations against it in the previous year. Here you can find an overview of the most important changes. How the law will be applied by the police and the judiciary and what that means for us will become in the course of time. In particular, the text of the law remains very vague about what "actual evidence" is or what is meant by a "danger to public safety". The arbitrary power of the police are significantly less limited than before.

go to a meeting (demo, vigil, rally, etc.):

From §15(1) Checkpoints

- The police may set up a checkpoint on the approach and footpath to the assembly, where people and things can be searched if there is a real indication that the following objects that the following items are being taken to the meeting
- Weapons (or things that can be used as weapons),
- Disguise; objects suitable for identity concealment (e.g. „hassi“, tube scarf),
- passive armament; objects that are suitable to protect oneself against enforcement action (e.g., sight visor/democracy goggles, helmet, padding, straw bag),
- items for paramilitary appearance, and uniform-like garments (e.g. white suits)

Note: If we are on the way to meetings and come into a police checkpoint, we can ask what the "actual indications of danger to public safety" are for these checks.

From §17(1) Disguise & passive armament

- No object may be worn or carried on the body at assemblies which are suitable for concealing identity or which are suitable for defending against Enforcement measures are suitable. (ex. see above)
- See §27(7): This also applies to the way to the meeting.

Note: The above examples of mummery/resistance material have in the frequently referred to as such in criminal proceedings in the past. However, this does not mean that they will always be taken or always stand up as evidence in court.

From §18(1) Uniform and paramilitary appearance

- It is forbidden to participate in or to lead assemblies if the appearance is by the wearing of uniform-like clothing or paramilitary appearance conveys a readiness to use violence

Note: In the explanatory memorandum to the law, white painter's suits or the appearance of the black appearance of the black block. To what extent an individual can really be convicted for a black raincoat can be convicted, will be shown in future court proceedings. Until then unfortunately only the police define what they find "paramilitary".

From §9 Applicability of police law

- In contrast to the past, the "policeability" of the assembly no longer applies, i.e., the police may carry out measures according to the police law NRW (e.g. expulsions, detention, control) also within an assembly. However, the prerequisite for this is again the "defense of danger" for the "public security".

From § 7 ban on disturbance / blockade (training) ban

- It is forbidden to disturb an assembly in such a way that it is prevented or significantly hindered. This refers to (sit-in) blockades and similar counter-protests of e.g. Nazi marches. NEW is that now

also trainings or the preparation of such disruptions are blockade trainings" or "action trainings" for civil disobedience are prohibited.

- The ban on disruptions does not apply to "communicative counter-protests", e.g. loud chants on the other side of the street that do not obstruct the assembly.

conduct a meeting:

From § 4 Name of the organizer

The name of the organizer must be stated in the invitation (advertisement/call) to the meeting. must be stated.

From §12 Stewards & Assembly Management

- The assembly leadership must provide the personal details of stewards if the authority requests them, because they assume a danger to public safety.

- Assembly leaders and stewards can be rejected by the authorities if their use directly endangers public safety during the execution of the assembly.

From §13(1) Motorways

- Assemblies are prohibited on freeways.

From §21 Assemblies on private property

- On private property that is accessible to communicative traffic, meetings may be held without the consent of the owner. (This has been very long so, stood before only not in the law but has resulted from court judgments. For example, there have already been vigils at RWE lookouts, which are owned by RWE.

- What is new is that the paragraph also stipulates that the interests of the owner must be balanced with those of the assembly. If the interests of the owner prevail, the authority is to offer an alternative meeting place.

From §13(3) "Danger" from third parties

- If a danger to public safety emanates from third parties (i.e. not participants of your assembly, but for example counter-demonstrators, rabble-raising passers-by) and police forces available nationwide are not able to ward off the danger, restrictions may also apply to the assembly from which the danger does not actually emanate. If life or health of persons or material goods of considerable value are endangered, the assembly may also be prohibited or dissolved.

From § 6 (4) Exclusion of persons

The assembly management may exclude persons from the assembly or expel them from it, however it needs the agreement of the authority

Notes:

- According to § 2 (3), an "assembly" is "a local gathering of at least three persons for the common, predominantly on the participation in the public opinion forming discussion or rally." i.e., even if we have not registered as a meeting the police can determine that in their opinion it is a meeting and apply the VersG accordingly!

- The "organizer" is the person who has registered the meeting. The "leader" is the person who actually carries out the assembly on site, i.e. also opens and ends it. Often both are one and the same person, but the leadership of the assembly is transferable. When we (e.g. at a Sponti) do not name a leader of the assembly, it can be that the police nevertheless considers persons as leaders and prosecute them if necessary. Therefore it is advisable at (especially at unregistered) meetings not to appear as "contact person", "leader of the discussion" or "Orga-Person" or to take turns in this role if necessary. The police needs hierarchies, but we can organize without them ;-)

Surveillance:

From §16 Image and sound recordings

- Police may make visual and audio recordings of the assembly if "facts justify the assumption that there is a danger to public safety". -> However, this is already possible under the new Police Act of NRW and has been common practice since then.
- Both overview recordings and individual recordings may be made, in particular for the prosecution or prevention of crimes. Actually, these must be deleted and the person concerned be informed if he or she has been identified -- but only, if the "purpose" of the exception (e.g., police investigations) would not be jeopardized. In the case of overview recordings, the assembly leaders must be informed.

Notes:

- The basis for video surveillance is again the "facts to justify the assumption that there would be a danger to public safety". Assembly organizers can then ask the uniformed as soon as recordings are made.
- For overview recordings, there needs to be a "size and lack of clarity" of the assembly. This can also be discussed with the authorities, although the police will always decide for themselves what they perceive as too large or unclear.

The full text of the law can be found here: https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=2&bes_id=47651

The alliance against the assembly law, which also accompanies the first lawsuits, can be found here: <https://www.nrw-versammlungsgesetz-stoppen.de/>

Field reports are welcome: Since this is a new law, we don't have a lot of experiences how police and justice actually apply the changes. If you have experiences with it report to us about it! Maybe we can even sue against it together in individual cases...?

As always: Our solidarity against their repressions! No one is left alone.

Yours, Rhineland EA (legal team)
contact: rheinlandea[at]riseup.net, pgp-key on request

Appendix:

"Hard Facts"; What do I get for ... ?

§ 27 Criminal offenses

- to lead an unannounced, triggered or forbidden meeting or to participate in this call --> imprisonment up to one year or fine
- to conduct an assembly in a different way (e.g. deviating from the route of the demonstration) than or disregarding conditions (restrictions) --> imprisonment of up to six months or a fine of up to or fine up to 180 daily rates
- obstructing, blocking, significantly disturbing another assembly (not only moderately loud counter-rally, but sit-in blockade etc.) imprisonment up to two years or fine
- Bringing weapons (or objects that can be used as such) to the demonstration → imprisonment up to two years or fine

- Using or threatening violence against the assembly leadership or stewards → imprisonment up to two years or fine
- Bringing or carrying objects for the purpose of disguise/identity veiling → Imprisonment for up to two years or a fine
- Wearing uniform-like clothing or "paramilitary appearance" --> imprisonment for up to up to two years or a fine

§ 28 Administrative Offenses

- In general, all criminal offenses can be punished alternatively as administrative offenses. In this case, a maximum fine (up to 1500 or 3000 €) is possible, and nothing is added to the certificate of good conduct.
- The leader/applicant does not provide the names and addresses of the stewards requested by the authorities or uses persons rejected by the authorities anyway --> fine up to 1500€.
- Disregarding the obligation to register (i.e. the police have forbidden you to take part in the demo and you should report to the police station xy on the said day as proof) --> fine up to 3000€
- violate judicial restrictions --> fine up to 3000€
- not leaving dissolved assembly --> fine up to 3000€
- Do not remove yourself from the meeting after exclusion or appear despite a ban on participation --> fine up to 3000€
- Participate in or call for an assembly in the pacified perimeter around the Landtag (see § 20) --> fine up to 10.000€

Notes:

- Daily fines are calculated according to the average net income per day of the person. I.e. the fine is divided into many small bites and the amount depends on the income.
- Do not panic: Just because you have done what it says, does not automatically mean that it comes to this penalty. There may be other charges or none at all or you may not be identified or there is no evidence or you can prove that the paragraph doesn't fit or or or ...
- Repression is arbitrary and unpredictable. It affects few, it means all of us. For there is financial, legal and psycho-social support, you are not alone!