

# Legal Aid Manual for North Rhine-Westphalia

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# 1 Introduction

This brochure offers legal advice from activists for activists. It aims to support resistance against the prevailing conditions. It takes into account the specific legislation in the relevant federal states ([North Rhine-Westphalia](#)) and is therefore applicable throughout Germany in large parts, but not in every detail. In the PDF version, we have linked the relevant sections to the current legal text online. You can find all relevant laws here:

- Federal laws: [gesetze-im-internet.de](https://www.gesetze-im-internet.de)
- [North Rhine-Westphalia](#): [recht.nrw.de](https://www.recht.nrw.de)

## 1.1 We stand in solidarity! No one is left alone!

Repression occurs on many levels: from the pressure that may be exerted on you by family members to police and legal actions taken against you. No matter what action you take, it makes sense to consider potential repression—whether state-sanctioned or civil—in advance and to understand the legal situation. We view repression as a political tool of coercion that we must collectively resist. We want to provide you with the necessary support and share our knowledge, but at the same time, we rely on your attention and cooperation. We cannot promise a foolproof answer to every question, because repression is not always predictable and depends on the tactics and strategies of the repressive authorities. What remains clear, however, is that repression aims to isolate and intimidate.

That is why it is important for us to emphasize: **We stand in solidarity! No one is left alone!**

First and foremost, we want to provide legal support and ensure that people affected by repression are not left in isolation. In doing so, we work with diverse individuals from various backgrounds.

Together with people affected by repression, we want to develop options for action in each specific case so that individuals can decide which path to take based on as many options and perspectives as possible. We want to enable informed, self-determined action. Therefore, we hope that those affected are just as willing to engage with the facts of the matter as we are.

We also hope that the movement will take on the task of countering repression and stand united behind those who are directly affected by it. Dealing with repression is part of the resistance against the status quo—it cannot rest on the shoulders of just a few. In recent years, we have noticed that individuals are often targeted with particular severity. It affects individuals, but it is meant for all of us. In these cases, solidarity is our most important antidote. Moreover, repression does not affect everyone equally. This makes it all the more important that we stand in solidarity with those who are more severely affected.

## 1.2 Racism and Repression

BIPoC<sup>1</sup> are more severely affected by repression for racist reasons than *white*<sup>2</sup> people. It is the responsibility of all activists planning and participating in the action to develop anti-racist practices that take into account the diverse realities of participants and thereby enable a solidarity-based and emancipatory coexistence. Racism concerns us all. Anti-racism is a duty.

It is a very empowering feeling to participate together with hundreds and thousands of people in the various actions taking place during the days of action. But not all bodies are equally at risk or equally protected. BIPoC and *non-white* people are disproportionately affected by racial profiling and police violence. This can happen on the way to an action, during the action, or after the action. Unfortunately, no legal norms can protect against this in a specific situation. While such behavior by the police is clearly illegal, it still occurs time and again. That is why it is important for everyone — and especially *white* people — who witnesses such a situation to act in solidarity and offer support. Keep in mind, however, that people may want different reactions in such a situation; there is no one-size-fits-all solution.

- Always try to make contact with the affected person first: ask how they are doing and what they need. Let them know that you are on their side. If you cannot speak with the person, first check to see if their affinity group or friends are nearby. They may be best able to assess what the person needs.

Possible actions include, for example:

During the event:

- There is no right or wrong way for those affected to handle the situation. The most important thing is to prioritize your own needs. You know best what you need—whether, for example, you want to get out of the situation as quickly as possible, or whether you want others to pay attention or intervene. It can be helpful to discuss possible scenarios with your affinity group beforehand.
- If you witness or are subjected to racial profiling or racist police violence, ask for the officers' badge numbers and names. Refusing to provide a badge number is illegal, but it is still common practice.

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1 BIPoC: stands for Black, Indigenous, and People of Color. The term is a self-designation that resists discriminatory labels imposed by the *white* majority society. It does not describe people's biological characteristics, but rather a social construct that assigns people a specific social position. BIPoC are united by shared experiences of racism, exclusion from the *white* majority society, and being labeled as »different.«

2 *White* or *whiteness*, just like the term BIPoC, does not refer to a biological characteristic but to a political and social construct. Unlike the term BIPoC, however, *white* is not a self-designation. *Whiteness* refers to the dominant and privileged position within the power dynamics of racism. It often remains unspoken and unnamed, even though it is present in every instance of discrimination both a discriminated-against and a privileged position. To emphasize that *whiteness* is a construct, it is written in italics here.

- Anyone can register as a witness<sup>3</sup>. However, we see a risk in this: you could be called as a witness against the person involved if the police file a counter-complaint, which is indeed standard police practice. It may be more helpful to leave your contact information (email address or cell phone number/Signal contact) with the person involved. They can then decide later how they want to proceed and whether you can support them.
- Depending on the person's wishes, the following may also be helpful: staying nearby, observing, intervening, saying "stop," drawing attention to the situation, calling the EA/legal team, getting additional support, and, if necessary, filming as discreetly as possible. Keep in mind that taking photos and filming can result in repressions for you and others.
- If you're unsure as an observer, you can also first approach other people nearby and discuss together what you can do. As a *white* person, inaction or silence should not be an option (*white silence*). If you yourself are affected by racism, your focus should not only be on the person involved, but also on your own safety.

After the action:

- Approach the person involved carefully and ask if you can help them (e.g., talk to them, drive them somewhere, provide medical care, exchange contact information).
- As a person involved or an observer, it can be helpful to write a written account<sup>4</sup>

**Note for observers:** All actions can have different effects on those affected and may even make the situation worse. Therefore, you should, as far as possible, discuss in advance with your affinity group. In such situations, listen carefully. You should take seriously what the person involved is telling you. For example, if the person prefers a calm approach, you shouldn't ignore that request just because you personally feel it's politically important to make a big deal out of the situation.

Furthermore, non-*white* people without an EU passport, with precarious residency status, or people who are being criminalized may be at risk of deportation. You can find information on this topic in Chapter 6. If you have any questions, feel free to reach out to us or send us an email. We aim to provide you with the information you need to assess the risk of repression for yourself. However, as a *white* person, be careful with assumptions—many BIPoC activists hold German passports.

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3 Be aware that both disciplinary complaints and, even more so, witness statements can result in you not remaining anonymous after the action.

4 Tips for writing a witness statement as well as information about risks can be found, for example, here: <https://antirepression.noblogs.org/polizeikontakt/gedaechtnisprotokolle> to help you remember the incident later.

- A disciplinary complaint can be filed afterward with the police chief of the respective police department, but this should be discussed with those involved.  
Beschwerde erhoben werden

- If you are affected and wish to take action against racial profiling or racist police violence, we recommend that you first discuss this with other affected people, anti-repression structures, or solidarity lawyers.

### 1.3 What exactly does a legal team do?

As the Ermittlungsausschuss (EA) / legal team, we're available by phone during the actions. We take care of those who have been arrested and, in particular, ensure that no one is left behind at the police station. In the run-up to the actions, we offer workshops and advice. Stop by if you have any questions. We'll do our best to answer them. After the action, the legal team is available by email and can provide advice or connect you with legal counsel if there are any legal consequences resulting from the actions.

#### Calling the legal team

The EA / legal team is available by phone 24/7 during the action. The number will be provided before the event (e.g., at a camp or online). If you witness arrests, violence, or other police misconduct, report it to the legal team! If you are arrested yourself, notify the legal team from the police station! You have the right to make a phone call. Please use it to notify us. If the police do not allow you to make the call yourself, insist that they notify us of your arrest in your presence. If anything changes — for example, if the police want to bring you before a judge — insist on calling us again so we can arrange for a lawyer (you have the right to legal counsel).

When you call, you should mention the following to the legal team if possible:

- ✓ Your name and date of birth (if you provided your personal information)
- ✓ Your personal identification number (if you have one →Section 3.2.1)
- ✓ Where exactly are you being held?
- ✓ What is the police's allegation against you?
- ✓ What did the police say about what they plan to do with you next?
- ✓ How are you doing? Do you need any essential medication?
- ✓ Were any other people taken into custody with you? (Please only mention names if you are **absolutely certain** that the other people have already revealed their identities to the police!)

Here's what you should **NOT** say during your call with the legal team:

- × What you actually did or didn't do.
- × Your name, if you haven't told the police yet and don't want to reveal your identity.
- × Who else was involved but has not been taken into custody.

The legal team is in contact with lawyers and will arrange for a defense in case of summary proceedings (see Section 4.3.4) or if the police intend to hold you there for an extended period. We will also try to find people to meet and pick you up at the detention center (Gesa) or police station. We'll make sure no one is forgotten. Call the legal team when you're free again so we know!

## 2 Forms of Action and their legal base

In this chapter, we'll explore different forms of action and offer tips on what to keep in mind from a legal perspective, as well as the legal frameworks that apply specifically to demonstrations. This isn't meant to discourage you, but rather to encourage you and help you choose appropriate forms of action. It should also be noted in advance that the police often do not know the legal basis for their actions or deliberately ignore it. The information provided here is based primarily on experience. However, this does not mean that an action cannot have other consequences. Repression is, unfortunately, somewhat unpredictable. That is part of the concept of intimidation.

### 2.1 Demonstration, Assembly

You are considered part of an assembly whenever you and others communicate outdoors and carry out an action aimed at shaping public opinion. This applies regardless of whether the event has been registered or not. In this section, you will find information on registered and unregistered demonstrations. Assembly laws contain regulations on what is legal at assemblies, what measures the police may take, and specific criminal and public order provisions. If a state has enacted its own assembly law, that takes precedence; otherwise, the old federal assembly law applies.

- [In North Rhine-Westphalia, assemblies are regulated by the Assembly Act of the State of North Rhine-Westphalia \(VersG NRW\).](#)

#### 2.1.1 Participation in a demonstration, assembly

Demonstrations are an important means of building political pressure and are often aimed at attracting public attention.

#### Legal Background

Demonstrations are legally classified as *assemblies* (German: *Versammlungen*). A stationary assembly is sometimes referred to as a *manifestation* (German: *Kundgebung*), and a moving assembly as a *march* (German: *Aufzug*). Legally, however, this makes no difference.

Whether stationary or moving: organizing and participating in demonstrations are protected by the Constitution. This means that the police may only deny you access to a demonstration under strict conditions. As a legal form of protest, demonstrations planned to be peaceful, diverse, and relatively quiet can reduce the risk of facing criminal charges. This can be particularly important, for example, for people with uncertain immigration status.

### **Keep in mind // Important**

At demonstrations, you may be accused of criminal offenses or administrative violations, e.g., if you are alleged to be wearing a face covering or carrying so-called passive or protective weapons. In 2025, the [European Court of Human Rights](#) ruled that wearing a plastic protective sheet (as a face shield) at assemblies may not automatically be prosecuted as a violation of the ban on protective weapons. While such rulings are not binding on German courts, they must be taken into account. Some people also decorate their masks or protective goggles with political messages to use them as a means of expressing their opinions.

It can also happen that a demonstration or assembly is dispersed. This is only permitted if it turns “unpeaceful” or if there is an immediate threat to public safety. If a demonstration has been dispersed by the police, everyone must leave. Failure to do so may be prosecuted as a misdemeanor ( → [North Rhine-Westphalia: § 28 \(1\) Nr. 11 VersG NRW](#)).

**North Rhine-Westphalia:** Wearing a mask (or similar props covering your face) at demonstrations is prohibited if the purpose is to conceal one’s identity from the police. However, there are other reasons why people might use dust masks—for example, to protect themselves from coal dust or viruses (§17 VersG NRW).

So-called “protective weapons” or “passive armament” are prohibited. This includes all items that protect against police measures (e.g., padding, protective helmets). The interpretation of this provision varies considerably (§17 VersG NRW).

A violation of the ban on face coverings or passive armament is a criminal offense that, if prosecuted, usually results in a fine (§27 Abs. 7 VersG NRW).

Simply carrying items that could be used for face-covering is a misdemeanor (§28 Abs. 1 Nr. 7 VersG NRW).

It is prohibited to wear uniform-like clothing or to convey a willingness to use violence through a “paramilitary appearance” (§§ 18 and 27 Abs. 8 VersG NRW). This constitutes a criminal offense. The explanatory memorandum to the law cites white painter’s coveralls or the “black bloc” as examples of this. To date, we lack empirical data on whether pink tutus or orange safety vests also qualify as uniforms and can have an intimidating effect.

Seriously disrupting or forcibly preventing another assembly (e.g., blocking a Nazi march) may also be punishable as a criminal offense (§27 (4) VersG NRW).

### **2.1.2 Registering / Organizing a Demonstration or Assembly**

When organizing a demonstration, you must not only take care of loudspeakers, speeches, banners, etc., but also handle the registration. Even before the demonstration is publicly advertised for the first time, it should be registered with the competent (assembly) authority at least two days (48 hours) prior to the announcement ( → [North Rhine-Westphalia: § 10 VersG NRW](#)). If you do not wish to do this, please refer to the following section. Assemblies can also be registered with the police »in advance« and canceled at short notice if plans change.

#### **Anmeldeverfahren**

An assembly must be registered with the competent authority.

In North Rhine-Westphalia, the respective district police authority is responsible for this; there is an online form for filing a notice.

When registering, you must normally specify the time frame, theme, route, number of expected participants, and the person who will lead the assembly on-site.

The 48-hour registration deadline does not apply to so-called emergency assemblies. This is because it is not possible to meet the deadline for emergency assemblies, as they take place for a reason that has just arisen and could not have been anticipated days in advance. However, such urgent assemblies must be registered as soon as possible, specifically no later than when they are advertised (§ 10 Abs. 3 VersG NRW).

Spontaneous assemblies whose cause arises immediately (e.g., the arrest of activists) do not need to be registered in advance. When the police arrive, they often expect a retroactive registration and the naming of the assembly leader. In this case, a reason for the demonstration must be stated that has just arisen at such short notice (e.g., expulsion from the premises or the arrest of another person). However, the failure to register alone does not justify the dissolution of the assembly.

### Keep in mind // Important

- ✓ All assemblies must have a headperson who must identify themselves to the police. The leader is responsible for the “proper conduct” of the assembly. Bei allen Versammlungen muss es eine\*n Leiter\*in geben, der\*die sich gegenüber der Polizei ausweisen muss. Die Leitung ist für den »ordnungsgemäßen Ablauf« der Versammlung verantwortlich ( →NRW: §§ 5 VersG NRW).
- ✓ The assembly authority may impose conditions at any time, including on-site, provided there are concrete grounds to suggest that the specific condition is necessary to prevent criminal offenses or a threat to important public interests. Typically, for larger assemblies (more than 50 people), the assembly authority requires a certain number of stewards to »implement« the head’s »instructions«. The headperson must work to ensure compliance with the requirements. Failure to comply with the requirements may result in proceedings against the assembly leadership ( →NRW: Criminal offense under § 27 (2) VersG NRW). The police may request the personal details of the stewards if there are factual grounds to assume that an open-air public assembly poses a threat to public safety (see § 12 Abs. 2 VersG NRW). Failure to provide this information may constitute a misdemeanor (under § 28 VersG NRW). To date, there is little empirical data on when and for what reasons the police request the personal details of stewards.
- ✓ The demonstrators themselves decide where and how their demonstration will take place. The authority responsible for regulating assemblies must justify every single restriction or requirement it intends to impose regarding the route. There are also court rulings ruling that requires authorities to allow demonstrations to take place within sight and earshot of the target of the protest.
- ✓ In principle, an assembly may take place on private property without the property owners’ consent only if the property is dedicated to general public use (in the sense of a public forum). This is the case when the property is predominantly state-owned and generally accessible, e.g., many (air)ports or train stations. This is also presumed to be the case where the combination of retail stores, service

providers, restaurants, and recreational areas creates a space for strolling, thereby giving rise to places for lingering and socializing (e.g., Potsdamer Platz in Berlin) (→North Rhine-Westphalia: § 21 VersG NRW).

- ✓ In North Rhine-Westphalia, according to the North Rhine-Westphalia Assembly Act (VersG NRW), assemblies on highways are now generally prohibited (§ 13 Abs. 1 VersG NRW). It is still unclear whether such a blanket and far-reaching ban is constitutionally permissible. A constitutional complaint challenging this is currently pending before the Constitutional Court of North Rhine-Westphalia. There is also a restricted zone around the state parliament where assemblies must be separately approved in advance by the President of the State Parliament. During weeks when the parliament is not in session or when no disruption to parliamentary proceedings is otherwise expected, there is no reason to deny this approval (§ 20 VersG NRW).
- ✓ The police may only openly film assemblies in the event of a concrete threat. If they do so without apparent reason, the assembly's leader may instruct them to refrain from doing so (
- ✓ In North Rhine-Westphalia, the police may take overview footage of large or chaotic assemblies even in the absence of a dangerous situation. However, such footage may only be recorded if the assembly poses a »significant danger« (§ 16 Abs. 2 VersG NRW).

### 2.1.3 Conducting Unregistered Assemblies

There are reasons not to register demonstrations, even if this may lead to more on-site conflicts with the police. One reason, for example, may be that people do not want to be told where, when, and how they can demonstrate, or that it is foreseeable that the demonstration would be banned if registered or would be practically impossible to carry out due to restrictions.

#### Keep in mind // Please note

- ✓ In North Rhine-Westphalia, leading an unregistered, disbanded, or prohibited assembly is a criminal offense (§ 27(1) VersG NRW) and calling for participation in such an assembly is likewise a criminal offense. Participation in an unregistered, disbanded, or prohibited assembly is a misdemeanor (§ 28 VersG NRW)
- ✓ Of course, the police can only prosecute the assembly leader or organizer if they can actually find one. But **beware**: In cases of doubt, they often target conspicuous individuals who, for example, give instructions, make announcements, or moderate plenary sessions.
- ✓ Even unannounced assemblies are subject to the freedom of assembly and are protected at first. They may not be dispersed as long as they do not pose a threat to public safety and order. As always, this does not mean, of course, that the police will adhere to this in every case.

## 2.2 Open actions

Using your own body and the defiant occupation of spaces or facilities creates a unique confrontation. Here you will find some information about the criminal charges that may be brought against you if you carry out direct actions involving physical intervention, including the use of tools such as climbing ropes, *lock-ons*, or *tripods* (see 2.2.5). Before you read on, please be aware that, depending on the situation, other charges may be fabricated that go beyond (or are less severe than) what is described here. Solidarity networks are there to support you even in such cases.

### 2.2.1 Flowing / Breaking Through Police-Lines

During protests, there may be instances where the police attempt to block your path and confront you either individually or in lines—sometimes quite tight—with officers standing one behind the other. You’ll learn how to handle these situations practically during protest training sessions. Here, we’ll focus on the legal aspects. Regardless of how you manage to get past such police lines, you may face the following charges:

- rioting ([§ 125 Strafgesetzbuch \(StGB\)](#))
- resisting enforcement officers ([§ 113 StGB](#))
- Assaulting enforcement officers ([§ 114 StGB](#))
- Other possible charges

The offenses listed above are frequently used charges that the police often employ to justify their own use of force as a necessary response, regardless of whether those involved actually defended themselves or not. With the tightening of the laws regarding [§ 113 StGB](#) and [§ 114 StGB](#), which took effect at the end of May 2017, the consequences of these charges have unfortunately worsened.

#### Rioting [§ 125 StGB](#)

“Rioting” is the legal term for something like “riot,” “disturbance,” etc. For this charge to hold up in court, it must generally be proven that you acted violently against people or property as part of a group, or that you supported such actions by the crowd. However, “support” is interpreted very broadly here, so it can also include standing in the front lines of riots or wearing a mask in the crowd. Merely standing there passively or for other reasons (press, medics, etc.) is, however, insufficient in the vast majority of cases.

In the Rondenbarg case — in the wake of the protests surrounding the 2017 G20 summit — demonstrators were convicted of criminal offenses that could not be personally attributed to them. Their mere participation in the demonstration, which was classified as violent, was sufficient. With this ruling, demonstration participants were prosecuted for the first time without individual proof of wrongdoing (e.g., throwing stones, wearing masks). However, there has not been another such case in connection with a mass protest since then. It is currently difficult to assess whether this approach will be repeated in this form.

### **Resisting Enforcement Officers § 113 StGB**

According to case law, a conviction under § 113 StGB of the German Criminal Code (StGB) requires »active conduct toward a law enforcement officer that constitutes coercion.«. Purely passive behavior toward the police therefore does not meet the elements of § 113 StGB. For example, it is not resistance if you allow yourself to be carried away by the police during a sit-in without putting up any particular resistance, or if you fail to comply with a request to stand up. Even if you simply run away, that is not resistance. The situation is different if, for example, you kick out or violently break free while being carried away. The text of the law states “whoever resists by using force or threatening to use force”—so, for example, bracing yourself against the direction of movement may also fall under this. Chaining or taping someone down can also lead to a charge of resistance. Linking arms is also often considered resistance if you actively disrupt the police action by doing so. This is the case, for example, if you link arms at the very moment police officers are trying to carry you away.

### **Assaulting an enforcement officer § 114 StGB**

Any allegedly violent movement directed toward another person’s body, such as pushing, striking, or kicking, may be considered a physical assault. Neither § 113 StGB nor § 114 StGB of the German Criminal Code (StGB) requires that pain or injury result for the offense to be established. According to the statutory text, such “assaults” can be punished with at least three months of probation or imprisonment, which, if at the lower end of the scale, can be converted into fines. Since the tightening of this law in 2017, judicial rulings on the matter have also become harsher. In the past, there have been cases where activists were placed in pretrial detention in connection with this charge (combined with refusal to provide identification). If the charge is deemed proven, the outcome is usually a fine and sometimes a suspended sentence. This means that, especially when passing through police lines or in other situations where you come very close to police officers, you should be mindful of the movements you make toward the officers’ bodies.

### **More possible accusations**

Furthermore, in altercations with the police, charges of **insult** (§ 185 StGB) and **textbfassault** (§ 223 StGB) may also be relevant.

Generally speaking, addressing a child informally is not considered an insult. Addressing an adult informally, however, might be. If the adult is wearing a uniform, it is almost always an insult. By the way, large, amorphous groups cannot be offended; that is, you can rant about the entire police force, the army, the state, etc., as much as you like. However, it is a criminal offense if you say such statements directly to a specific individual’s face, as this makes it individually attributable. Since this is often difficult for laypeople to distinguish and can sometimes go wrong in a chaotic situation, think carefully about what remarks you are willing to let yourself be carried away by.

A charge of assault may be added if altercations with the police occur »in the heat of the moment«; it sometimes appears as an additional charge on a list of allegations, but since the introduction of the offense of physical assault, it has become rather minor

in the context of minor scuffles with police officers, and is perhaps more relevant in confrontations with Nazis, security personnel, or factory workers.

### Keep in mind // Please note

- ✓ If the police themselves acted unlawfully in the specific situation, rioting, resisting arrest, and assault are theoretically not punishable (even if they can prove it against you). Therefore, it's a good idea to note and document all mistakes and legal violations committed by the police. However: Don't rely on this too much—the law allows the police a great deal of leeway, and in court, even a lying police officer is more likely to be believed than you. For more information, see section 5.1.3 on options during the proceedings.
- ✓ For all three charges, the law also specifically identifies »particularly serious cases,« which are punished much more severely with a minimum sentence of six months (§ 113 Abs. 2 StGB). The following are particularly relevant:

**Committing them collaboratively:** As soon as two of you are involved in the offense (e.g., pushing together), this can be interpreted as joint commission and punished more severely.

**Bearing arms or dangerous objects:** If you are merely in possession of weapons or other dangerous objects while (allegedly) committing the offense, this can result in a harsher punishment. Pretty much anything that can cause injury can be considered a dangerous object: steel-toed shoes, tools, bread knives, ... We therefore recommend that you think very carefully about what you bring to an action and always check your belongings one more time beforehand.

### 2.2.2 Charges after police violence

§ 113 StGB of the German Criminal Code (StGB) is used by the police to shield themselves from prosecution in cases of police violence. It is common practice for you to face charges of resisting arrest or assault if you file a complaint against a police officer. Since the allegation of resisting arrest in such cases is based solely on the police's statements, this gives them significant leverage. It is also not uncommon for multiple police officers to coordinate their statements and thus protect one another. At the same time, almost all cases against police officers are dismissed. This means that, unfortunately, you have very little legal recourse against abusive police officers. We're not saying this to scare you off or discourage you from taking action. We want you to avoid relying on a constitutional state that will let you down in this situation. Although we generally advise against bringing personal smartphones to demonstrations and protests, we would like to point out that it can be helpful for your defense in any subsequent criminal proceedings if you can present photo or video evidence to support your version of events in court and to counter the statements made by police officers. Therefore, it can be helpful if there are people at a demonstration or protest who film cautiously and with the awareness that their equipment and recordings may be seized by the police as evidence. So coordinate with others about when and who will be filming. If an arrest or similar incident occurs, ask the people who filmed for the footage to use in your defense. As

someone who participates in actions yourself, however, you should not bring your own recording device—and certainly not a personal smartphone<sup>5</sup>

### 2.2.3 Trespassing on private or company property

Many political actions are intended to disrupt precisely where something is happening that we do not want. This sometimes involves private property. If you enter someone else's house, fenced-in, or cordoned-off property, this can lead to a charge of trespassing. **Trespassing** (§ 123 StGB) occurs when it is also evident that entry is not permitted — e.g., through walls, doors (even unlocked ones), continuous barriers, clearly visible signage (provided it has not been removed beforehand), or fences (even if they have, for example, isolated gaps). It is also trespassing if you do not leave the premises even though an authorized person demands it.

### 2.2.4 Sit-in blockades

Sit-in blockades are, strictly speaking, legally accepted as a form of assembly; thus, they are generally legal until the police disperse the assembly. Of course, restrictions may apply depending on the location of the blockade. If you block a road, you may be charged with **coercion** under § 240 StGB. This is a typical charge during and after blockades, since a blockade is indeed intended to prevent something—be it access to a site, a deportation or eviction, or the operation of a machine. The wording of the law does not make it clear at what point an action actually constitutes coercion. In the case of purely passive sit-in blockades, it is unlikely that you would be convicted for this, even though the legal precedent is complicated: A blockade using only one's own body (e.g., a sit-in) does not constitute coercion. However, legal experts have argued that in the case of a blockade, for example, the first vehicle is not coerced into stopping; instead, but the second scenario (because in that case, there is not only the group blocking the road itself, but also another vehicle in front of it—one that is theoretically impassable). More often, the assembly is formally dispersed by the police. In theory, you must then leave the area. If you fail to do so and the dispersal was lawful, this may be interpreted as an misdemeanor (→ North Rhine-Westphalia: § 28(4) VersG NRW), and you may receive a fine, similar to that for illegal parking. Depending on the state, this can range up to 1,000 euros, but may also be significantly less. If the blockade is directed against another assembly, it may also constitute a misdemeanor if the organizers or stewards of the other assembly have repeatedly asked you to stop. In some federal states, attacks on, threats of attacks on, or gross disruptions of assemblies may result in fines or imprisonment (→ North Rhine-Westphalia: § 28 Abs. 4 VersG NRW. **Note: In some cases, this may also be prosecuted as a criminal offense — § 27 Abs. 4 VersG NRW**). Additionally, depending on the location of the sit-in, further charges may apply. If you are in an open-pit mine or other fenced-off areas, for example, **trespassing** (see 2.2.3). But legally, it makes

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<sup>5</sup> Personal cell phones contain a wealth of sensitive data, not only about you but also about your family, friends, colleagues, etc., and can reveal—even without direct access—who was near an action and perhaps involved, and when. It is therefore generally not advisable to bring cell phones to protests. Especially if, for whatever reason, you have no choice but to bring your cell phone with you, but also in everyday life, you should definitely take security precautions. You can find a lot of information about threats and tips for effective countermeasures at, for example, [Smartphone Don't Spy](#), [security in-a-box](#) or [esc-it.org](#).

relatively little difference whether you are blocking the excavator at the edge of the excavation site, RWE's tracks, or roads. Furthermore, depending on how the clearance proceeds, charges of **resisting arrest** or **insulting an officer** may also apply — please refer to → 2.2.1 on page 9 for more information.

### 2.2.5 Blockades using technical devices

If the blockade is intended to last longer, technical aids such as tripods (three-legged frames that people climb onto) or chaining devices, so-called lock-ons, can be used. This makes an eviction take significantly longer, but often results in more repression as well.

If you use technical equipment during a blockade, you may face charges of **coercion** (§ 240 StGB) and — depending on the object being blocked — **disruption of public services** (§ 316b StGB). You will be charged with coercion if trains, excavators, cars, or clearing machines are forced to stop because of you. Relevant to the charge of disruption of public services is that it involves an act that disrupts the public supply of an essential good (e.g., the energy supply) by »destroying, damaging, removing, altering, or rendering unusable« the facilities or by »cutting off their power supply.« Some courts have ruled that lock-ons constitute a modification of the tracks, and that blocking a coal train or excavator also disrupts the public energy supply. People have been convicted on these grounds (fines typically ranging from 30 to 120 daily rates).

Since early 2018, some courts have begun to prosecute chain-link protests as resistance against law enforcement officers (Section 113 of the German Criminal Code) (on the grounds that the eviction was foreseeable). Since the tightening of § 113 StGB in 2017, collective resistance (i.e., when multiple people are chained together) or resistance using dangerous tools such as knives or screwdrivers (having them somewhere in a backpack is sufficient) is prosecuted with a minimum sentence of 6 months. Until now, this sentence was often suspended on probation. A suspended sentence means that you do not have to go to jail as long as you comply with certain conditions, e.g., not to violate any criminal laws for the next three years, not to enter the Hambach Forest again, or to report to the police on a regular basis. In the past, when faced with such allegations, refusing to provide personal information has sometimes led to pretrial detention. When preparing (especially for actions that directly interfere with company operations), also discuss how to handle civil claims for damages (→ Section 5.2.4 on page 46).

### 2.2.6 Occupations

You and your affinity group have decided to carry out an occupation — either in a house that belongs to someone else, in a public building (such as a party office or the roof of a police station), or in your favorite little patch of forest. Here, you should expect to be charged with **trespassing** (→ Section 2.2.3), especially if you do not leave when asked. Additionally, depending on how the eviction proceeds, charges of **resisting arrest** or **insulting an officer** may also apply — please refer to Section → 2.2.1 for more information. Depending on how the occupation is organized, the criminal charges mentioned above are also possible.

## 2.3 Other forms of action

Of course, there are numerous other actions directed against various targets, circumstances, or actors that do not necessarily fall under the categories of open actions mentioned above.

### 2.3.1 Removing barriers and signs

To avoid potential charges of trespassing, it may be advisable to ensure that there are no warning signs or fences at the site of the action.

#### Keep in mind // Please note

- ✓ Don't get caught.
- ✓ Criminal offenses you could be charged with include **theft** (→ § 242 StGB) and **property damage** (→ § 303 StGB) if something has gone missing or been broken.

### 2.3.2 Markings (e.g., chalk, paint bombs, graffiti)

In recent years, there have also been calls to mark buildings and infrastructure with color. This has been done, for example, with chalk, paint bags, or graffiti.

#### Keep in mind // Please note

- ✓ **Damage to property** requires an »actual physical damage«." Drawing with chalk does not count as such if it can be easily washed off. However, there are municipal ordinances that impose administrative penalties for »littering« and already classify chalk drawings as such. Paint that cannot be washed off is considered **property damage**. As a rule, a little paint doesn't result in more than a small fine. However, you may be held liable for damages under civil law (→ Abschnitt 5.2.4 on page 46).
- ✓ If you add something without breaking anything, that likely wouldn't constitute property damage either.

### 2.3.3 Sabotage

The term "sabotage" can encompass a wide range of actions, from damaging small items to setting large fires. The potential penalties depend heavily on the severity of the interference and destruction, as well as what was damaged, so it is difficult to make general statements about this. Claims for damages are also not entirely unlikely (→ Section 5.2.4 on page 46).

#### Keep in mind // Please note

- ✓ Don't get caught.
- ✓ Make sure not to leave any traces (fingerprints, footprints or tire tracks, DNA, cell phone locations, surveillance camera footage).
- ✓ In general, depending on the damage, substantial claims for damages may be brought.

- ✓ Of course, the charge of **property damage** (→ [§ 303 StGB](#)) is always a possibility.
- ✓ When it comes to items used by the public, this also includes **malicious damage to property** (→ [§ 304 StGB](#)). Other criminal offenses include the **destruction of buildings** (→ [§ 305 StGB](#)) or **the destruction of essential work equipment** (→ [§ 305a StGB](#)) — depending on what you're planning to do, make sure to inform yourself beforehand (or don't get caught).
- ✓ If acts are carried out from within a crowd and violence is directed against property, it may be punishable as **rioting** (→ [§ 125 StGB](#)), even for people who merely provide support without destroying anything themselves (see above for more details).
- ✓ When it comes to facilities that serve public transportation or the supply of electricity (e.g., open-pit mines or pipelines), the offense of **disrupting public services** under [§ 316b StGB](#) may also apply (→ Section 2.2.5 on page 13).
- ✓ If fire or explosives are involved, criminal offenses such as **arson** (→ [§§ 306 ff. StGB](#), always imprisonment, no fine) or **causing an explosion with explosives** (→ [§ 308 StGB](#)) come into play. In this area in particular, experience shows that if someone is caught, the penalties are often no longer fines or probation, but prison sentences.
- ✓ Disruption of public services and arson are also included in the list of criminal offenses for **terrorist organizations** (→ [§ 129a StGB](#)). In recent years, no one from the climate justice movement has been convicted under this provision. However, the less severe [§ 129 StGB](#) (formation of criminal organizations) is repeatedly invoked. For example, since 2022, activists from Letzte Generation (German equivalent of Just Stop Oil) have been investigated under [§ 129 StGB](#) for the alleged formation of criminal organizations. Furthermore, in 2023, the anti-fascist Lina E., among others, was sentenced to several years in prison in connection with [§ 129 StGB](#). In 2025, the Federal Court of Justice (BGH) upheld this ruling in the final instance. Although [§ 129 StGB](#) does not provide a list of possible offenses, the offenses in question must pose a significant threat to public safety and, in that respect, be of considerable gravity.

### 3 Personal identification and refusal

Since the refusal to provide personal information was one of the most discussed topics in past actions, we are dedicating a separate chapter to this issue.

#### 3.1 Personal identification

According to § 163b of the Code of Criminal Procedure (German: Strafprozessordnung, StPO), an identity check is permitted if you are accused of a criminal offense or an administrative offense, or for the purpose of preventing danger — that is, if the police believe you intend to commit an act of violence:

- in North Rhine-Westphalia pursuant to § 12 PolG NRW (Police Act of the State of North Rhine-Westphalia; German: Polizeigesetz des Landes Nordrhein-Westfalen = PolG)

So you can first ask for the legal basis for the identity check. Under the police laws of most federal states, the police are not permitted to verify your identity if you are participating in an assembly.

In North Rhine-Westphalia, the police are permitted to verify your identity even at a gathering if they believe you pose a »threat to public safety« (§ 9 VersG NRW).

- In North Rhine-Westphalia, if criminal offenses are imminent or need to be prevented, or if there is actual evidence of criminal activity, **checkpoints** may be set up on access roads and footpaths leading to the assembly pursuant to § 15 VersG NRW to search individuals and their belongings. However, they may only request your personal information if they find evidence of criminal offenses during the check.

By law, you must provide: your first name, last name, or birth name; place of birth; date of birth, marital status, occupation, place of residence, and nationality. Most of this information is on the ID card they want to see. If you don't have it with you, you can also provide this information verbally. You don't have to provide any more than that. German citizens are not required to carry an ID card, but unfortunately, foreigners are. If you decide to provide your personal information together with others, you can do so by first collecting everyone's IDs and handing them over to the police as a bundle or scattering them on the ground. This makes individual identification more difficult, so it's a thorn in the side of the repressive machinery. You can have some fun while the police try to correctly identify you. From a strictly legal standpoint, however, you are still obligated to provide your personal information to the police verbally as well.

#### 3.2 Refusal to Provide Personal Information – What Can the Police Do?

To establish your identity, you may be (thoroughly) searched, taken into custody, and transported to the police station or a detention center (German: Gefangenessammelstelle or Gesa). . The maximum duration for this varies by state.

- In North Rhine-Westphalia, individuals may be detained for 12 hours for the sole purpose of establishing their identity, and for other purposes until midnight of the following day (§ 38 Abs. 1 PolG NRW). If the identification process was intentionally obstructed (e.g., by taping the fingertips together), this period may be extended, with court approval (detention review), until midnight of the following day for a total of up to 7 days (§ 38 Abs. 2 Nr. 5 PolG NRW).

If your personal details are to be established because you are accused of a criminal offense, this is governed by the Code of Criminal Procedure (§ 163c StPO) and not by the Police Act. According to this provision, you may be detained for a maximum of 12 hours. Regardless of the basis (police law or Code of Criminal Procedure) on which you are detained, you must be released by midnight of the following day at the latest, unless a judge decides that you will be placed in extended custody or pretrial detention. Since the introduction of extended custody in North Rhine-Westphalia, experience has shown that it is used more often than pretrial detention. Based on previous experience, extended custody is sometimes—but by no means always—ordered when people refuse to provide personal information. The prerequisite for this has usually been that the individuals had taped their fingertips so that fingerprints could not be taken. Once personal information was provided or if the police were satisfied with the results of the electronic data processing, release typically followed.

In any case, if you are deprived of your liberty (for any reason), the police must »immediately« apply to the court for a decision on whether you are being lawfully detained or not.

While you are in custody, the police may take further measures to establish your identity, most commonly the so-called identification procedure (German: Erkennungsdienstliche or ED-Behandlung) → in North Rhine-Westphalia pursuant to § 14 PolG NRW. In most cases, this means they take photos and fingerprints; sometimes they also measure you or look for physical characteristics such as tattoos. You are not required to voluntarily participate in the ED procedure, but if you refuse, the police may carry out the ED procedure by force (»immediate coercion«). In some cases, continued refusal to provide personal information has even led to DNA collection. DNA collection (§ 81g StPO) is not permitted without a court order. See also sections 4.2.2, 4.2.3 und 4.3 starting on page 29.

### Advantages

- ✓ Solidarity with undocumented individuals or those without a residence permit, with foreign passports, or with outstanding arrest warrants.
- ✓ Prevents rapid processing by the police and causes significantly more effort. If hundreds or thousands of people refuse to provide their personal details, it will be more difficult to take everyone into custody and process them through the identification unit.
- ✓ Fewer opportunities for civil lawsuits (e.g., cease-and-desist letters) or criminal proceedings afterward. However, this only applies as long as there is no link between fingerprints and photos and your name (e.g., from previous checks) and the police are unable to determine your identity by other means (e.g., by cross-referencing databases).

## Disadvantages

- × Since December 2018, the North Rhine-Westphalia Police Act has allowed people to be detained for up to 7 days to establish their identity. Not everyone has the ability to remain active for such a long period.
- × Difficult to openly admit to the offense.
- × (Higher likelihood of) insults, humiliation, and in the worst-case scenario, physical assault at the police station. After all, you cannot file a complaint against them without revealing your identity (not that this is often successful anyway, but this fact gives police officers additional confidence).
- × It is very likely that the police will search you and your belongings, attempt to verify your ID on the spot, and/or take you to the detention center.
- × The risk of pretrial detention is higher: If the court does not know who you are, you will not appear at the trial, so they can always argue that there is a risk of flight. In addition, pretrial detention can also be ordered for less serious offenses if you do not provide identification (→§ 13 Abs. 2 Nr. 3 StPO) For more on this, see Section 4.3.2 on pretrial detention.
- × Solidarity work becomes more difficult (e.g., when people do not attend court proceedings out of fear of being recognized).
- × If the identity is nevertheless established or suspected (e.g., through photo comparison, a found insurance card, recognition by other police officers) (or similar) an additional fine may be imposed for refusing to provide identification (→ § 111 OWiG).
- × Uncertainty: There is no guarantee that the police will not discover your identity. The technical capabilities for matching image data from the internet are in place, even though the police are not yet authorized to use them for law enforcement purposes.
- × Possibility of a public manhunt: In isolated cases around Lützerath, excavator blockades, or coal-fired power plant blockades, the police have already publicly sought to identify individuals using photos.
- × There is a possibility that, in the event of subsequent identification, criminal offenses may be prosecuted retroactively. This could happen at a time when it no longer fits into one's current life plan, or it could lead to people remaining inactive for a long time because they are concerned about being identified due to another action.
- × **Unfortunately, it is also possible that the police will take your fingerprints, subject you to electronic monitoring, or imprison you, even if you have revealed your identity.**

## Risk Groups

- **Non-EU citizenship:** For individuals who do not hold citizenship of an EU member state (or Switzerland), refusing to provide personal details (age, identity, and citizenship) may constitute a criminal offense if such information is requested in connection with decisions regarding residence status (→ § 95 Abs. 1 Nr. 5 Residence Act, German: *Aufenthaltsgesetz*). Being convicted of a criminal offense can have negative consequences for the issuance of future visas in Germany and is taken into

account in a decision regarding possible deportation (see Chapter 6). A criminal offense can also jeopardize an unlimited residence permit granted on humanitarian grounds.

- **Anonymous individuals:** In the case of anonymous individuals, it is possible that the police may make identifications based on physical characteristics such as skin color (possibly also in conjunction with language skills). As is so often the case, there is therefore an increased risk for non-white people of being subjected to repression!
- **Visa:** Anyone who needs a visa to enter the country must provide fingerprints when applying for the visa, making it easier to identify them even if they refuse to provide personal information during a police operation. Fingerprints can also be checked against German and European databases (see Chapter 6).
- **Previous action:** If you have already been processed by law enforcement (photo, fingerprints) and identified during a previous action (either through law enforcement processing or because you provided your personal information), there is a high risk of being identified again. If you refused to provide personal information during an action related to climate justice or in the same region, keep in mind that if you are identified, subsequent repression for past actions is possible.
- **U18:** If you are under 18 years of age („a minor“) – or could be mistaken for one by the police—you should inform yourself further about your specific rights and possible scenarios during an action (see Chapter 7)

### Other risks you should definitely keep in mind

Experience shows that the police take photos and conduct more frequent »vehicle checks« - for example, when people are arriving at or leaving gatherings—in order to obtain personal information. If you refused to provide your personal information and they took your fingerprints, there is a possibility that older cases could be reopened if they later manage to match them—for example, through photo comparisons or similar methods—and thus potentially establish a name-fingerprint match. Of course, it is also possible that the police will take your fingerprints (or detain you) even if you have disclosed your identity (→ Section 4.2.2).

In general, it should be noted that police attention and efforts following a small-group action can be much more intense than after most mass actions, if only because there are far fewer cases »to process.«

#### 3.2.1 Anonymous identification number

To support the refusal to provide personal information during mass actions, you can usually generate an anonymous identification number on the event’s website, which allows the legal support network (and your affinity group) to keep track of you without knowing your name. Use this number to contact the EA (→ Section 1.3) if you are arrested, and memorize both your number and the numbers of your affinity group members. You can use this number to check with the EA if your group members haven’t returned several hours after the action.

If you refuse to provide personal information at an action where this option isn’t available, you can also come up with a pseudonym. But be careful: Check beforehand

that the legal aid structures also provide support in cases of refusal to provide personal details and know what to do, and make sure your name is definitely unique. This is to prevent two people with the same name/number calling the legal team, and there may be some confusion.

**Tip:** Generate a personal identification number for yourself if you want to provide personal details. If the arrested person gives this number to the EA, you can use it to inquire about your comrade's whereabouts. This way, you won't have to communicate with the EA using the real names of people who may not actually have been arrested.

### 3.2.2 Decision and Preparation

So, before the action, discuss with your affinity group whether you want to refuse to provide personal information or not. If you do, don't bring anything with you that has your name on it or that can identify you (health insurance card, driver's license, cell phone, loyalty card from the kebab shop next door, etc.). Leave all of that at the camp or somewhere else. If possible, tell a trusted person staying at the camp where your ID is in case of an emergency. To make it harder to be identified, you can take additional steps to conceal tattoos, fingerprints, facial features, and other identifying characteristics. This can delay or even prevent identification procedures. There are various strategies available, each with its own pros and cons. Talk to your affinity group to decide what you want to do and how far you're willing to go.

#### Keep in mind // Please Note

- ✓ Even though this may sound harsh: Think ahead about what you want to do if the police threaten to place you in pretrial detention and apply for an arrest warrant. Do you want to provide your personal information then? Or do you want to wait for the court's decision and take the risk for now, since they can hardly lock everyone up?
- ✓ Important: If the lack of personal information was the only reason for the pretrial detention, you will be released after the court's decision if you provide your name. It may take some time—even a few days—before you are actually released from custody, as the court must formally revoke the pretrial detention order.
- ✓ Be sure to discuss with your friends and your affinity group what should happen in the event of detention or if you are held in custody for several days — this helps not only you but also all the organizations trying to support you. Think, for example, about your responsibilities at home, or how you want your loved ones to be notified of your absence. When it comes to support networks, it's helpful to know, for instance, whether your prison address can be made public so you can receive mail.
- ✓ Experience shows that refusing to provide personal information is more successful in large groups. So make sure to inform others and network before the action. Here, too, the saying holds true: Together we are strong.

Ask the Legal Team for information. This information can help you discuss various scenarios. See also Section 4.3.2 on page 32 regarding pretrial detention.

### 3.2.3 Data Processing

#### Police Databases

Here is a brief, non-exhaustive overview of the databases and data storage systems that exist, what the information stored in them might entail, and what your rights are.

INPOL is the central information system of the German police, operated as part of an »electronic data network« by the Federal Criminal Police Office (BKA) and the respective state police forces. Some of the state systems also operate under the name POLAS/POLIS. Here, various types of information are stored that the police can access directly, such as fingerprints, photographs, wanted notices, or person-specific alerts.

In our context, personal records often refer to individuals such as »violent offender« (GEWA) or »left-wing offender« (LIMO). Whether such a record is stored as part of a criminal investigation is arbitrary. However, if a police check reveals that such a note exists in your file, they can issue you with an expulsion order or have you detained as a preventive measure.

There are two different types of warrants. One is an arrest warrant, and the other is a check warrant. If a check warrant has been issued for you, the police must report you to the issuing authority during a routine check. This authority then »tracks« your interactions with the police.

In addition, there are various linked databases that may contain entries, such as the »Internal Security« database or the database on left-wing or right-wing extremists. These databases often contain allegations of (politically motivated) crimes. Access to these databases is restricted to police officers who specifically deal with politically motivated crime. Only police officers who specifically deal with politically motivated crime have access to this data. However, these officers are almost always on duty during demonstrations and frequently request this information during checks.

In addition, there are also police case management systems. The police store every case they open in these systems—that is, every stop they conduct, and in some cases, every time you’ve registered a demonstration or been summoned to court. However, the police have limited access to this data, and it is typically deleted after 2–3 years. As a result, it is usually not very relevant.

In theory, the police review which data they no longer need on the »data retention review date«. In practice, however, data is usually not deleted after this date unless a request is made. Such a request can be submitted informally to the agency holding the data. If the police then refuse, the only options left are to file an objection or take legal action, which can sometimes drag on for years and require some effort, but can sometimes be successful.

#### Palantir and automated data analysis

Palantir is a U.S. company founded in 2003 by right-wing billionaire Peter Thiel and Alexander Karp in the wake of the »War on Terror«, following the September 11, 2001, attacks, the company developed »counterterrorism« systems with financial support from the CIA. Today, Palantir’s software is used by law enforcement agencies for mass surveillance. For example, the immigration agency ICE uses the »Investigative Case Management« (ICM) database developed by Palantir to track down people and forcibly deport them.

At the heart of the company is a software platform called “Gotham.” This is a tool for integrating and analyzing large volumes of heterogeneous data. It enables users to simultaneously search data from various government and police databases. Palantir has also been in use in some German states for several years. Hesse has been the first federal state to use a limited version of the software under the name »hessenData« since 2017. North Rhine-Westphalia followed in 2020 under the name »DAR«, and Bavaria has been using it as »VeRA« since 2024. Little is known about how German police specifically use Palantir’s software services. In addition, there are various software configurations that vary depending on the state and the corresponding legal framework.

In principle, the software is intended to be used in Germany for simple search queries, particularly for outdated databases that would otherwise be difficult to search. In addition, the software is primarily intended for use in »counterterrorism« efforts and in cases of serious crime. However, research has shown that the software has also been used, for example, in cases of minor offenses such as property crimes. It is important to note that the police may only use police data and must submit a request to access other databases. Furthermore, it can generally be stated that the software can only be used to a limited extent in Germany, without cloud or comprehensive AI components.

There is no transparency regarding how the police actually use Palantir. This also makes it difficult for those affected to find out whether the software was used in their case. And as always, we must expect that police and investigative authorities will disregard applicable law.

In any case, Palantir’s software is intended to act as a deterrent and thus already functions as a concrete form of repression. We therefore want to provide information and keep the dialogue open, but we will not give in to the threats.

### **Information**

If you’re unsure whether the police have any information about you, you can submit requests for information to the relevant authorities and try to have the data deleted ([www.datenschmutz.de/](http://www.datenschmutz.de/)).

It is usually worth checking with the Federal Criminal Police Office (BKA), the Federal Police, the Central Case Registry, and the State Criminal Police Offices. If you don’t receive a response from them, you can also contact individual police departments.

If the police believe that releasing the data would pose a threat to their work or to the state, they may withhold the data entirely. In that case, the only recourse is to go through the state data protection officers or the courts. In any case, “requests for information” are stored only temporarily in a case management system. The police have only limited access to this system. It is therefore relatively safe to submit such a request.

Wenn die Polizei in der Ausgabe der Daten eine Gefahr für ihre Arbeit oder den Staat sieht, kann sie die Daten ganz zurückhalten. Dann bleibt nur der Weg über die Datenschutzbeauftragten der Länder oder die Gerichte. In jedem Fall „Auskunftsuchen“ wird nur kurzzeitig in einer Vorgangsverwaltung gespeichert. Auf diese hat die Polizei nur eingeschränkten Zugriff. Es ist also relativ sicher eine solche Anfrage zu stellen.

You can also reach out to anti-repression organizations for support!

## 4 Police Measures

In this chapter, you'll find tips, tricks, and legal principles for dealing with the police in specific situations you might encounter directly in the context of demonstrations and actions. As a general rule, you should **not make any statements to the police** about what you did or did not do — they will only use this against you or others.

### 4.1 On the street / On the go

#### 4.1.1 Car / Bus Check

There are several situations in which the police are permitted to stop and check you. The first is a general traffic stop (→§ 36 Abs. 5 StVO), which the police are always permitted to conduct. The other is a personal identity check, for which the police need a specific reason. You can find information on identity verification in Chapter 3.

#### Important to note during a traffic stop:

- ✓ Only the driver is required to provide personal information and show their driver's license; other passengers may not be checked without specific grounds.
- ✓ The police may require you to present vehicle documents, a warning triangle, safety vests, and a first-aid kit (**not expired!**), and they may inspect the vehicle's roadworthiness. If you do not wish to open your trunk for the police, you should keep these items in the front of the car in case of a traffic stop.
- ✓ The driver's fitness to drive may be checked. You may refuse a urine or blood test. The court may order a blood test if there is concrete suspicion of alcohol or drug use and have it performed by medical personnel against your will (→§ 81a StPO).
- ✓ To conduct a search, the police need a search warrant (→§ 102 StPO) or they can invoke »imminent danger« (→§ 105 StPO). In any case, make sure they explain exactly why they believe they absolutely must search your car or your bags and what specifically they are looking for. Insisting on an explanation can sometimes deter them.

#### 4.1.2 Search

Often, it is not enough for the police to know your personal details. They may want to look in your pockets or pat you down, e.g., for dangerous objects. If a criminal offense is suspected, this is based on the corresponding authorization in § 102 StPO. However, searches are also possible under the preventive police laws of the federal states ( →North Rhine-Westphalia: § 12 PolG NRW ).

They may search you if you refuse to reveal your identity, or if they suspect you are carrying items they wish to seize, if you are carrying dangerous items, or if you are listed for inspection (there are specific entries for this in police databases). People may only be searched by police officers of the same legal gender or by medical professionals. For

details, see Chapter 8. Those affected must always be present during the search of their belongings (§ 106 StPO).

### **Dangerous areas, designated checkpoints, weapon-restricted zones...**

The designations vary depending on the state and legal basis; train stations or so-called »crime hotspots« are often designated as such. Within these areas, the police are permitted to check people without concrete suspicion, verify their identity, and search them. It makes sense to object to this measure as well and insist that your objection be recorded. The legality of the check can also be reviewed in court afterward. If you're on your way to a gathering, the right to assembly takes precedence over police authority here as well. As always, however, it's unpredictable whether the cops will respect that.

### **Options for action**

- ✓ Before the action and on your way there, think carefully about what you'll bring and what you won't (e.g., knives, face-covering materials, fireworks, cell phones, drugs).
- ✓ Theatrically emptying your pockets, backpack, etc., as a sort of fashion show («What do we have here? Ahhh... let me smell it...» etc.): Not illegal, but the police might get annoyed (which doesn't have to be a problem). It creates opportunities to hide something or make it disappear.
- ✓ Take out something small and insignificant, act startled, and throw the item into the bushes or a trash can: The police might chase after it, which in turn creates opportunities to hide or dispose of something important.
- ✓ Don't forget that the police must also respect the fundamental right to freedom of assembly during arrival and departure.

### **4.1.3 Bans from premises**

If you're annoying the police or they decide for some other reason that you should leave, a ban from the premises would be the less severe measure (rather than taking you in and detaining you (legally: *taking into custody*) () → [North Rhine-Westphalia: § 34 PolG NRW](#) ). Bans from premises are issued quite frequently; the police will inform you verbally (in rare cases also in writing) that you are no longer permitted to remain in a specific area for a certain period of time. Failure to comply with an expulsion order results in the police being authorized to take you into custody to enforce it (→Section 4.3.3), or enforce it by force (pushing, carrying, or beating). However, violating a simple order to leave is not a criminal offense and does not constitute an administrative offense. The situation is different with a ban on entering a specific area, but these are rather rare.

### **Keep in mind // Please Note**

- ✓ Like other police measures, orders to leave are not always lawful—either the reason is insufficient, the order is unclear, or the instruction is too vague, e.g., not clearly defined in terms of location or time. The problem is, however, that you can only challenge this in court after the fact and must initially comply with the unlawful

expulsion order—otherwise, you will be taken into custody, i.e., locked up at the police station (→ Abschnitt 4.3.1 on page 30). That would also be unlawful if the expulsion order was unlawful—but what good does that do in the situation? In this respect, it is better to structure actions in such a way that one does not give the police any grounds to issue an expulsion order (e.g., creatively retreating and returning).

- ✓ Even if you are asked to leave, it is best not to make any statements—not even »But I didn't do anything...« — so that these cannot be used against you or others later.
- ✓ During demonstrations, the Assembly Act takes precedence over police law. Expulsions are therefore not permitted (as long as the assembly has not been dissolved or the person has not been excluded from the assembly). It can therefore also be a good strategy to organize a spontaneous demonstration before expulsions can be issued.
- ✓ In North Rhine-Westphalia (NRW), however, § 9 VersG NRW permits measures such as expulsion orders even within an assembly if, in the opinion of the police (!), assembly participants pose an immediate threat to public safety.

#### 4.1.4 Seizure / Confiscation

Sometimes the police want to take things away from you. This can happen either outside during a search or at the police station. In principle, this can be done either repressively—that is, for criminal prosecution—if items have been or were intended to be used to commit crimes (→ § 94 StPO and § 98 StPO), or preventively—that is, to avert danger in accordance with state police laws ( → in North Rhine-Westphalia: § 43 PolG NRW). Your personal belongings, money, etc., are generally not among the items the police are allowed to take from you.

#### Keep in mind // Please note

- ✓ You can insist on a seizure report, which the police must provide you with and which must list exactly what they have taken from you. This works relatively often (sometimes even anonymously), especially if they intend to take your belongings permanently and not just for the duration of your detention. The report should also state the legal basis for the seizure (prevention of danger or the Code of Criminal Procedure, i.e., criminal prosecution).
- ✓ If you file an objection, a court must rule on the legality of the seizure within three days. Filing an objection is usually advisable; it also shows that you did not consent to the seizure. Make sure your objection is also noted in the seizure report.
- ✓ If, despite your best efforts, they refuse to return the items, it's important to have documentation that you can use later to prove that the items belong to you (e.g., receipts for an expensive camera or similar items). If you have refused to provide your personal information (see above), non-personalized receipts would be useful, as this would allow others to pick up the items for you later, ensuring your anonymity isn't compromised by the retrieval process.

- ✓ It's best to try to get back items that haven't been officially seized as soon as possible. Dealing with it later usually involves more effort.
- ✓ Generally, you'll get back items that were seized for safety reasons once the danger has passed (e.g., when the event is over). Items seized for criminal prosecution are often only returned at the end of the court proceedings.
- ✓ If you remain anonymous, it is more difficult to get your belongings back, and it doesn't always work out.
- ✓ Try to turn off your electronic devices before the police get their hands on them. This can prevent the police from accessing your data, especially in the case of smartphones and encrypted laptops. The police may use force to compel you to unlock your device if this can be done using biometric data such as your fingerprint or Face ID. This was decided by the Federal Court of Justice (BGH), see [Decision of March 13, 2025, Case No. 2 StR 232/24](#). They do not have this option with password-protected devices (see also [Forced Fingerprint Scanning to Unlock a Smartphone Is Lawful](#)).
- ✓ HambiEA has summarized more tips on recovering seized items (→ [Help: The police stole my stuff on the AntiRRR homepage](#)). Often, it's only worth making this effort if the seized items have significant financial or emotional value to you.

#### 4.1.5 Eviction

You're sitting (or standing or hanging) in a blockade, on an excavator, in a forest occupation, on train tracks, or on a road. At some point, the police usually reach a point where they no longer tolerate it and begin to clear the area. In theory, if it is a gathering (see Section 2.1), they must first disperse the gathering, ask everyone to leave, and only then may they clear the area. However, that does not mean you can count on them always doing so.

#### Keep in mind // Please note

- ✓ **Failure to leave a dispersed gathering** constitutes an administrative offense ( → [North Rhine-Westphalia: § 23 VersG NRW](#) ). If the police and the public prosecutor's office find nothing else (→ Section 2.2), you may receive a fine notice later for this reason.
- ✓ During an eviction, there are various ways to behave. In principle, any passive behavior (e.g., allowing yourself to be carried away) is not a criminal offense. However, if you (accidentally) kick or strike a police officer during the eviction, this can be considered an **assault** (→ [§ 114 StGB](#)). Following the tightening of the criminal code in 2017, suspended sentences are now a possibility; see Section 2.2.1 on page 9.
- ✓ During evictions, the police use varying degrees of force. Sometimes they simply carry people away; other times they use painful restraints. Keep an eye on others, on those who are injured, and on people being taken elsewhere by the police.
- ✓ After a clearance, you may be moved to the edge of the area or taken into custody (→ Section 4.3). If you are only moved to the side, you can consider whether to block the way again elsewhere.

- ✓ Identity checks or attempts at them (→ Chapter 3) often follow, but not always.

#### 4.1.6 In a kettle

A kettle is a common police tactic in Germany. In this tactic, the police surround a group of people to keep them confined to one location. This may be only temporary and often serves to enforce further police measures, such as identity checks, or to process the kettled individuals one by one. Legally, this constitutes either a preventive detention (if done to prevent actions) or an arrest (for criminal prosecution).

#### Options for Action

- ✓ Organize yourselves within the kettle. Try to find out from the police what is going to happen to you (without telling them what you did or didn't do) and secretly call the legal team or send a text message, as long as you have a cell phone inside the kettle. Discuss options for action with the others and act together and thoughtfully.
- ✓ If you're expecting a long wait, try to address your needs early on. Talk to others about the group's needs. For example, send someone to the police who's already saying they really need to use the restroom and/or is hungry. Find out if anyone needs medication or has other needs. The police are slow when it comes to these matters, so start early. If possible and desired, it may make sense to send people from the group who are currently less at risk (those who haven't drawn attention to themselves yet, citizens, *white* people) ahead. See who might be protecting others or can engage in conflict with the police, and who currently needs support. Important: Do not speak on behalf of others without explicit consent. Act collectively.
- ✓ If people are to be led out individually, you can consider whether and how you can make it harder for the police to process the situation efficiently (e.g., to prevent police forces from detaining other people elsewhere). This can be done by everyone insisting on going first, everyone constantly pushing to the front, or alternatively always hiding the person behind you whom the police are currently after, or by sitting or lying down when they try to lead you away.
- ✓ It can also be effective not to comply with the police's demands (e.g., if they insist that only those with ID cards come forward first), but instead to create as much chaos as possible.

#### 4.2 At the police station

The police may take you in for three reasons:

- To verify your identity (see Chapter 3),
- or preventive detention (i.e., if they have specific grounds to believe you might commit another offense or if you have failed to comply with an order to leave the premises), or
- for criminal prosecution, if they accuse you of a specific offense they claim you committed. This is called an arrest and is regulated by [§ 127 StPO](#).

Depending on the specific reason, the police are permitted to take different actions. So be sure to ask them why they are taking you in and what specific charges they are bringing against you.

#### 4.2.1 Interrogation? Refuse to make a statement!

If you are taken in because you are accused of a crime, the police may try to question you immediately. **You are allowed and should always refuse to make a statement.**

##### Keep in mind // Please Note

- ✓ The police are trained in interrogation. Don't try to outsmart them — it's a game you can't win. But they can't read your mind either, and often know less than they claim. So: stay calm and keep your mouth shut.
- ✓ In fact, the police are always looking for information—whether it concerns the specific details of an action or the structures within political movements. To this end, the criminal investigation divisions of larger police departments have a dedicated unit for politically motivated crime.
- ✓ Do not make a statement! Even statements that exonerate you are dangerous, for example, for other individuals who are also suspects. If you really want to say something about the matter at some point, it's wiser to think it through calmly and discuss it with others, rather than doing so directly at the police station (even if the police like to claim otherwise). You should always allow a few days to pass after the action and seek legal advice before discussing any substantive details with the police.

**Refuse to make a statement! Yes, but what is a statement?** A statement is anything you say that provides information about yourself, the facts of the case, or others. So if you're asked whether you were at such-and-such a place that night, saying »No« is a statement because you're telling the police something about yourself. The answer may be true or false, but it is a statement. Responding provocatively with funny counter-questions can be entertaining, but also dangerous. We recommend consistently remaining silent in response to questions. If you find that difficult, you can also sing a song, recite poems, put on a theatrical performance playing a specific role, or ask annoying, unrelated follow-up questions, such as how much a uniform like that costs, etc.

It's best to try out different approaches in role-playing exercises beforehand to see what works best for you. During these exercises, pay attention to when you might inadvertently make statements. You don't have to sign anything (even if the police claim otherwise). This also applies to any signature they try to force you to give at the police station. **Do NOT sign ANYTHING!** If they aren't satisfied, one option is to scribble something like »Abolish the police« or »Defund the police« in the signature field (just make sure it isn't an insult). An interview doesn't have to take place in an interrogation room; it can also happen informally, e.g., during a car ride to the police station. That's why you should always think about what you say and not let yourself be provoked. Even a »chat« with the police carries risks. We hope that people who have had mostly positive experiences with the police (e.g., *white* people) will consider that they might be putting others in danger. If you feel safe around the police, please take a moment to think about why that is the case for you, and why it's different for many other people.

### 4.2.2 Establishing your identity

ID treatment (German: Erkennungsdienstliche Behandlung or ED-Behandlung) is usually carried out during detention at police stations or in detention centers (German: Gefangenessammelstellen or Gesa) ( → North Rhine-Westphalia: § 14 PolG NRW).

Under federal law, ID treatment is regulated by § 81b StPO. This provision applies if the police accuse you of a specific criminal offense or in cases of so-called danger prevention. ID treatment may include taking photographs of you, collecting fingerprints, measuring your height, and recording physical characteristics such as tattoos. However, during some »Ende-Gelände« actions involving several thousand people in the Rhineland, presumably due to capacity constraints, a scaled-down version was carried out for most participants who refused to provide their personal details. In these cases, following a body search for possible identification documents, only a photograph was taken. In some instances, the police also use mobile fingerprint scanners.

#### Options for action

- Under the German Constitution, you are not obligated to cooperate with investigations against you! Even if the police intimidate you, it is not considered resistance if you let them carry you, contort your face, etc. However, the police are then authorized to use direct coercion, meaning they can force you by force. In theory, the mildest means must always be chosen, but experience shows that the police still use painful holds. However, a photo with a distorted or covered face is worse than a neutral photo of you without any covering. Your weight and height can also be difficult to measure if you resist.
- ID treatment is often the most painful and emotionally taxing part for people. So it's important to check in with yourself and figure out what approach works best for you right now. **Be kind to yourself and do only what feels right for you!**
- You do NOT have to sign ANYTHING.
- A proven method against the fingerprint scanner is to cut or prick the top layer of skin with razor blades or needles and then apply superglue mixed with glitter to the area. It also helps a lot to wiggle your finger slightly on the scanner—the police can do almost nothing about it except cause you pain. Sometimes they resort to an ink pad.
- For tattoos, scars, and the like, a strong, opaque adhesive has proven effective, though removing it can sometimes be painful (it should actually be removed by a doctor).
- If many people cover their fingertips with adhesive (or have paint on them, even if there are no tattoos underneath), the police may eventually get annoyed and stop after a while.
- Occasionally, the police also photograph activists' ears during ED treatment. During the action, you can cover your ears, e.g., with a hat. of resisting arrest are very common during ED treatment. Either the police are trying to force you to cooperate by scaring you, or you have actually resisted by, for example, pulling your hand away when it is placed on the scanner. However, this does not mean that the accusation will be pursued every time and lead to a trial.

- You are not required to provide audio recordings or reenact any movements (e.g., a throwing motion with your right arm). You also do not have to allow your pulse to be measured or provide breath samples. Recording social behavior patterns is also not permitted. On the other hand, the police may alter your appearance by putting a wig on you or removing your makeup.
- You can also object to the measure (either immediately or afterward). There have been cases where the police refrained from taking the measure due to an objection, but this is rather rare and more likely to happen if they have your personal information. If they have your personal information anyway, filing an objection can make it easier to take action against the storage of fingerprints afterward. Rote Hilfe advises against filing an objection during ED processing, as this can lead to costly objection proceedings in some federal states. Instead, it is recommended to have the ED processing and its scope reviewed by a court afterward (see Rote Hilfe brochure [ID treatment](#)).
- If you receive a summons for ID treatment, you should contact a legal aid group and a lawyer as soon as possible; this will allow the scope of the measure to be reviewed and may result in a postponement.

### 4.2.3 Taking your DNA

DNA collection may **only** be carried out **pursuant to a court order**. The police may only do so if they accuse you of a serious criminal offense (this does not include offenses such as trespassing) (→ [§81g StPO](#)). Always refuse a DNA sample! If the police threaten you with a DNA sample, insist on speaking by phone with the Legal Team and a lawyer, and then also insist on seeing the court order.

## 4.3 If I am taken into custody: At the police station and in court...

### 4.3.1 Detention and Arrest

During protests, people are frequently surrounded and detained for extended periods. The police often use these tactics to intimidate people and build pressure. Because being arrested and the accompanying feeling of being at the mercy of others are, fortunately, not everyday occurrences, many people find themselves in an exceptional situation. This makes it all the more important that you know your rights and assert them. Keep in mind: Under the law, arrests are among the most serious infringements of fundamental rights. You can find details in Section 4.3.3.

At the same time, arrests place a significant burden on the authorities: those detained must be housed in cells. In addition, the cases must be processed and decided immediately—meaning they must be handled concurrently. The more people who are taken into custody, the more work this creates for the police and the local district court. Often, there aren't enough detention spaces available; the few case workers can't keep up; and the courts in rural areas are understaffed and unable to properly process the cases. So if you can manage the situation reasonably well and support one another, you can easily throw a wrench into this bureaucratic machine as a group by significantly delaying the proceedings simply through the sheer number of cases that need to be processed. This is helpful because it increases the chance that the authorities will give up after a few

hours, and more people will be released unharmed over time. It can also be useful if those arrested who have not yet been registered in the past deliberately draw the police's attention with fooling around, nonsense and draw attention to yourself with stupid questions and distract others. Because anyone who has been recorded in the past but not identified may face more problems, since the police are particularly keen to identify such individuals. The same applies to detainees with precarious immigration status. Talk it over with the others and help each other out. There are various ways to slow down police procedures and make it harder for them to process all their cases. Move as slowly as possible: Walk slowly to the interrogation room, ask about the purpose of every document you're asked to sign, then read everything five times (and, of course, never actually sign anything), ask every question that comes to mind (without ever answering any of the police's questions yourself), do nothing unless asked—and then do everything very leisurely, almost reluctantly—ask to use the restroom even if you don't need to, ask for food, games, cigarettes, whatever. This alone means that processing each individual case takes longer, and after a while they might give up simply because the officers want to go home, no one is working at the district attorney's office or the court anymore, the protest is over anyway, and they don't know what to do with all these unnamed people at the police station. Anyone who hasn't identified themselves may have to wait longer at the police station (for information on the possibility of pretrial detention, see section 4.3.2). But if everything goes well and nothing gets in the way, the likelihood that something else will happen after release is significantly lower.

**As a general rule: Only do what works for you!**

Not everyone is still capable of »deliberately« delaying things after a long action and perhaps exhausting detention. That's okay too — don't put additional pressure on yourself. The police can search you and your belongings. They will do this to find clues about your identity. The police can also search you to find prohibited items on your person. In doing so, the police may theoretically require you to strip naked. A doctor does not need to be present for this. However, complete undressing is only permissible in exceptional cases if the police have concrete grounds to believe that you are carrying prohibited items that they cannot find by other means (e.g., by pat-down). In practice, it is more common for the police to attempt to enforce this measure on every person in custody. The Federal Constitutional Court has ruled that this must under no circumstances be treated as standard procedure, but rather always requires careful consideration and justification in each individual case. You can therefore refuse the demand to undress and try to speak directly to nearby officers to ask for support against this unlawful and degrading treatment. Ask them to explain why they believe there is no other option. Such degrading searches should actually be a rare exception; nevertheless, many people report experiencing them after their release. So be prepared for the possibility of being put in this situation. You can have this reviewed in court afterward. Like all other forms of searches (frisking, etc.), undressing is only permitted in compelling exceptional cases in the presence of persons of a different binary legal gender—if necessary, the request must be explicitly stated ( → [North Rhine-Westphalia: § 39 Abs. 3 PolG NRW](#) ). It also cannot be ruled out that you might be subjected to verbal abuse or painful restraints at the police station (especially during ED treatment, see Section 4.2.2) so talk to your affinity group beforehand about your fears and how to handle them. If you have experiences at the police station that continue to weigh on you afterward, talk to the *Out of Action* team in your city, your friends,

and/or your affinity group so you don't have to deal with these experiences alone and can process them more effectively.

Under police law, you may be taken into custody, or under the Code of Criminal Procedure, you may be provisionally arrested. You can find more information on custody in Section 4.3.3. In practice, it's hard to tell the difference since you're in the same cell. However, the distinction is important for the duration of your detention, so feel free to ask and let the EA know. In the event of an arrest or detention review, you then have the right to a public defender.

### **Your rights in custody / upon arrest**

- **Without a court order, you must be released by midnight of the following day in any case (→[Art. 104 II 3 GG](#)). It does not matter which state you are in or why you are being detained.**
- You must be immediately informed of the reason for your detention (and, in theory, of the legal options available to you to challenge it).
- You have the right to inform a person you trust, i.e., to call them (often the EA/legal team), as well as to contact your defense attorney (this can be arranged through the legal team).
- If you need medical treatment, the police must ensure that you receive it immediately. Unfortunately, experience shows that they often fail to do so and instead try to use this as leverage to extract statements or personal information. It is best to carry any medication you urgently need with you; this increases the likelihood of receiving it. A doctor's note can also help (be mindful of your desire for anonymity in this context).
- You always have the right to water and to use the restroom. You have the right to food at mealtimes (at 7 a.m., 12 p.m., and 6 p.m.) and the right to a blanket.
- You have the right to remain silent and not to cooperate with investigations against you.
- You have the right to have a judge decide immediately whether you will remain in custody if you were detained for public safety reasons.
- **In North Rhine-Westphalia, the Police Detention Regulations provide for, among other things, daily outdoor exercise and the right to vegan meals. For more information, see the [North Rhine-Westphalia Police Detention Regulations](#)**

### **4.3.2 Pretrial Detention (German: U-Haft)**

If you are accused of a more serious crime and there are grounds for detention, the police and the public prosecutor's office may apply for (long-term) pretrial detention. Grounds for pretrial detention include, in particular, the risk of flight and the risk of tampering with evidence, i.e., the police believe you might manipulate evidence or witnesses (→[§§ 112 ff. StPO](#)). If you refuse to disclose your identity, the police and the public prosecutor's office may request (long-term) pretrial detention on the grounds of flight risk in order to try to find out your name. If they allege a risk of flight, pretrial detention may be ordered even for minor offenses if you refuse to provide identification (→[§§ 112 ff. StPO](#)).

The same applies here: The whole process takes a lot of time and effort on the part of the police and the judicial system. You have to be transported to court, paperwork must be prepared individually for each person, a detention cell must be arranged, and so on. At any time, you can decide to reveal your name after all (see below). With this in mind and with individual legal advice, it is still possible—despite threats from the police—to remain confident, throw a wrench in the works, and ultimately be released anonymously. To do this, you can let the proceedings continue (as long as you can endure it) and thus tie up police resources, so that other detainees can be released with as little interference as possible. However, this can become problematic if you do not have a residence in Germany, if your residency status is precarious or is presumed to be so, or if you are accused of more serious offenses such as assault or physical attack on police officers. In this case, be sure to seek personal legal advice again before or during your detention.

### **Keep in mind // Please Note**

- The police and the public prosecutor's office can only *request* pretrial detention (and often threaten it, which they frequently do); a court must always(!) *decide* on the matter.
- Insist on making (another) call to the legal team, which will connect you with a lawyer as soon as you know about the detention review. You have the right to legal representation! If you do not choose a lawyer, a public defender will be assigned to you.
- When a decision is made regarding pretrial detention, you must always be heard in person by a judge in a formal proceeding.
- Even before the detention judge, you should of course not incriminate yourself or others, but rather refuse to make a statement. You may already see fellow inmates in the prison transport vehicle. **Even in front of fellow detainees, avoid talking about the alleged crime, no matter how far-fetched the accusations may be or how much they upset you.** This doesn't have to mean silence. Talking about quantum physics, architecture, your rights, or anything else unrelated to your alleged crime and motivation is fine.
- The less serious the charge, the harder it is for the authorities to get you remanded in custody, even if you don't give your name. In 2019, however, following an excavator blockade in Brandenburg (Lusatia), remand in custody was ordered for the first time ordered on the grounds of an alleged trespass, because the individuals had initially failed to provide their personal information. This order was based on  
If the investigating judge has decided that there are grounds for detention pursuant to § 112 StPO (e.g., risk of flight), you will be taken to the correctional facility no later than the following day. Mail screening will likely also be ordered, meaning that the responsible officers will then read your incoming and outgoing letters. Correspondence between you and your attorney is exempt from this monitoring. Be sure to write »Defense Counsel Mail« in bold on letters of this kind. As a pretrial detainee, you are presumed innocent by law. The impression should not be created that you are being held to serve a sentence. Of course, this does not correspond to reality. You can apply for a judicial review of your detention at any time or file a detention complaint against the arrest warrant. If pretrial detention has lasted

six months, the Higher Regional Court will independently review whether you must remain in pretrial detention. Pretrial detention is a world where you have to request everything—from books and medical examinations (unless your case is urgent) to cleaning supplies for your cell. To do so, you'll receive request forms from the correctional officers, which usually must be submitted in the morning when breakfast is served. In some detention facilities, a visitation permit and/or an appointment must be requested from within—that is, by the detainee themselves or, alternatively, by their attorney. In other facilities, this can be arranged from the outside by the visitors. Especially if you are incarcerated anonymously, it is very helpful to have people on the outside whom you trust, e.g., to inform your relatives after consulting with you.

Reading this text is by no means sufficient preparation for a possible pretrial detention. If you want to defend yourself against abusive and unlawful treatment, it is advantageous to familiarize yourself in advance with the Pretrial Detention Act, the Code of Criminal Procedure, and the Constitution, and to obtain copies of these documents as soon as possible while in custody so that you can identify illegal conditions and actively counter them (e.g., by filing a motion for a judicial ruling with the presiding judge, etc.). Discuss the topic with your affinity group and your support network; ask your loved ones how much they can support you during your detention, and which of them have the strength and ability to visit you in prison. Clarify with your affinity group what kind of public outreach you would like to see, and what is realistically feasible from the outside. How much detail you go into, of course, may depend on the forms of action you choose.

Inform and organize yourself independently as much as possible, and keep in mind that pretrial detention does not only happen to people who are active.

### 4.3.3 Legal base for imprisonment

There are various circumstances and legal grounds that may authorize the police to deprive individuals of their liberty. Of course, being surrounded by police or forced to stay in a police car also constitutes a deprivation of liberty. The same applies to all follow-up measures, such as being taken to and detained at a police station or a detention center. These measures may be based on state police laws or the federal Code of Criminal Procedure (StPO). The maximum duration of a deprivation of liberty depends on the specific reason cited for the measure. Therefore, make sure to ask the police under which provision they are detaining you, and inform the EA of this. The police often take a long time to obtain court confirmation of their detentions. However, [Art. 104 Abs. 2 GG](#) stipulates that a judge must decide on every deprivation of liberty without delay. You should always point this out to the police. If, by midnight of the day following your arrest, no court has decided whether they may continue to detain you, the police must release you. This applies regardless of the reason for the deprivation of liberty!

- ✓ **Verification of your identity.** In North Rhine-Westphalia, people may be detained for a maximum of 12 hours solely for the purpose of verifying their identity; this may be extended to up to seven days by court order. If your identity has been intentionally concealed (e.g., by taping your fingertips

together), the police may detain you until midnight of the following day before a judicial review is required (§ 38 Abs. 2 Nr. 5 PolG NRW).

§ 163b StPO is another provision under federal law that would allow the police to take action in this situation. This is only possible if you are accused of a specific criminal offense. In such cases, the maximum period of detention solely for the purpose of establishing your identity, pursuant to § 163c StPO, is limited to 12 hours.

- ✓ **Prevention of a criminal offense or a serious administrative offense, as well as enforcement of an order to leave the premises..** In North Rhine-Westphalia § 35 Abs. 1 Nr 2 PolG NRW permits the detention of individuals in order to enforce an order to leave the premises or to prevent criminal offenses or administrative offenses »of significant importance to the public.« Ask them to explain exactly what they allege has occurred in your case and what grounds the police cite for this. Take note of the arguments, but do not comment on them. As soon as the purpose of the measure no longer applies, you must be released immediately. This is the case at the latest when the event has ended or the expulsion order has expired. To assess when the purpose no longer applies, it is important to know what specific reasons the police cited for their action in each instance. Following judicial review, extended preventive detention for up to 14 days is possible in North Rhine-Westphalia, but only if a crime (carrying a minimum sentence of 1 year, e.g., robbery, manslaughter, etc.) is alleged (§ 38 Abs. 2 Nr 1 PolG NRW). As a rule, preventive detention ends with the conclusion of the action and/or the camp.
- ✓ § 127 Abs. 1 StPO also provides for a right of provisional arrest. Under this provision, anyone is authorized to arrest another person if they catch them in the act of committing a crime. Accordingly, you would also be permitted to detain the thief of your bicycle if you actually wished to do so. If the police act on their own, they may also rely on this provision (in conjunction with § 127 Abs. 2 StPO) if they believe they have caught you in the act of committing a crime. The arrest may be lawful if it serves the purpose of initiating and conducting criminal proceedings. If the police wish to detain you longer, they must apply for a pretrial detention warrant, state grounds for detention pursuant to § 112 Abs. 1 StPO, and obtain a judicial decision by midnight of the following day at the latest. At that point, at the latest, you have the right to speak with a defense attorney. Only a judge—not the police—can decide on extended detention after midnight on the following day.

#### 4.3.4 Accelerated Procedure

In theory, a so-called **accelerated procedure** may also take place. This is a simplified and faster criminal trial that can also be conducted anonymously, meaning without the court knowing your name (→ § 417 StPO). If such a proceeding is to take place, a judge may order detention for a maximum of one week until the start of the proceeding. In such cases, a person may first be taken into custody and then remain in detention until the start of the trial (a judicial order is also required for this). If the summary proceedings were ordered solely because you refused to

provide your personal details, you will still be released later as soon as you do provide your name. It may still take some time before you are actually released from custody (see Section 4.3.2 on page 32).

## 5 After the action

### 5.1 Criminal proceedings

If your personal information was recorded during the action or could be identified in some other way, you will usually receive a summons from the police in the months following the action. Sometimes this can take longer (typically up to a year later; in large-scale cases like Ende Gelände, sometimes even up to two years later). You can use this time to network with others and discuss strategies. For larger planned actions and campaigns (such as Ende Gelände or Widersetzen), the legal team is also available after the action. Check the action's website for an email contact. If that's not the case, or if it's a small or decentralized action, find an anti-repression group near you. **It is important that you contact the Legal Team via email if you have received mail from the police or law firms (whether it's a summons, a penalty order, an indictment, a court date, a dismissal, or a cease-and-desist letter) or if your case has been closed.** An anti-repression group helps you connect with others facing similar situations. They can offer advice on how to proceed and provide both substantive support and solidarity. Additionally, it helps maintain an overview, gather insights, and develop strategies for future actions. It's also about strengthening knowledge within the movement and expanding our collective capacity to act in the face of repression.

#### 5.1.1 Summons (Vorladung) from the police or the district attorney's office

When it comes to summonses, there is a legal distinction between those issued by the police and those issued on behalf of the prosecutor's office. At the start of criminal proceedings, the police will attempt to question you about the matter. There is absolutely no obligation to actually go when summoned by the police—and no reason to do so. If you go there and say anything, it usually only benefits the police. It's also possible that they've already tried to question you on the spot, in which case you won't necessarily receive another summons. As the accused, you must NOT and should NOT go to the police. Alternatively, for minor allegations, you may receive a questionnaire that you are supposed to fill out in writing. You do not have to fill this out and return it if your personal information is correct (regardless of what else is written there). Otherwise, you can only correct your personal information and leave the rest of the form blank. Any statement you make on the form or during a conversation with the police will only be used against you anyway. As a witness, you should review the police summons more carefully. Theoretically, you are only required to appear and testify if the summons was issued by the public prosecutor's office (§ 163 Abs. 3 Strafprozessordnung (StPO)). You can tell if this is the case by checking whether the letter includes a legal notice. In such cases, refusing to testify is almost always the better alternative (even if it is not legal). However, it is best to contact the Legal Team or other legal

aid organizations and agree on a strategy together with other affected individuals. As a witness, you also have the right to legal assistance pursuant to [§ 68b StPO](#), meaning a lawyer or another person pursuant to [§ 138 Abs. 3 StPO](#). If the police try to question you as a witness right on the street and cite a prosecutor's order, point out that you want a witness advocate and that they must formally summon you in writing so that you can come with an advocate. In the rather unusual event that you, as a suspect, are summoned by the public prosecutor's office: You must comply with such a summons (otherwise, the public prosecutor's office can have you brought in by force; see [§ 163a Abs. 3 StPO](#)). However, you are not required to say anything about the matter there either; you need only provide your personal details.

We recommend **consistently refusing to testify**. Silence protects you and others. If, in exceptional cases, it makes sense to correct false assumptions made by the authorities, you can still do so in court after consulting with a lawyer and the Legal Team. You can find more information on refusing to testify, regardless of your role, on the Rote Hilfe website [Website](#) and in detail in the brochures [→Refusal to testify](#) und [→Subpoena/Witness summons](#).

### 5.1.2 Penalty Order (Strafbefehl)

Despite everything, it could still end up in criminal proceedings. But don't panic: a lot of time passes before a conviction (if it even comes to that), during which you can prepare yourself well. For less serious offenses and when the evidence is supposedly clear, summary judgments are often issued ([→ §§ 407 ff. StPO](#)). A penalty order is a letter stating what you are accused of and immediately imposing a specific penalty. This is intended to replace an oral hearing. If you receive a summary judgment, you have only **two weeks** from the date of delivery (the date on the envelope) to respond and file **an objection** ([→ §§ 410 ff. StPO](#)). If you do not do so and miss the deadline, the summary penalty order becomes final. This means:

- × You are convicted and must pay the fine specified in the letter (or serve time in lieu of payment).
- × You have a criminal record, meaning that next time you'll likely face a harsher penalty.
- × In addition, a conviction involving a fine of 90 daily rates or more, or a second conviction, will result in an entry in your criminal record, which may play a role in job applications or similar situations.
- × Your right to remain silent as a suspect or defendant is forfeited because your case is concluded with the final penalty order. If others are still charged with the same offense, you could be compelled to testify against them as a witness from that point on.

There is hardly any reason to accept a penalty order immediately, because the disadvantages—as shown—are enormous. Even if you don't feel like going through a trial and would rather pay the fine and accept the disadvantages: to be on the safe side, file an objection first. You do not need to provide a reason for this. A »normal« oral hearing will then take place a few weeks or months later.

The advantages of filing an objection are:

- ✓ You can take your time to consider how you can or want to proceed and consult with us and others.
- ✓ For the time being, you are protected from having to testify as a witness.
- ✓ You can now review the case files and take your time to check whether there is any evidence against you and, if so, what it is. Sometimes there is very little to no evidence against you. Even if other information is being circulated: You have the right to review your case files even as an individual and without a lawyer; this is based on § 147 Abs. 4 StPO. (If you'd like to know more: <http://www.projektwerkstatt.de/antirepression/akteneinsicht.html>)
- ✓ It is possible that the proceedings will be dismissed following your objection, or that you will at least receive a reduced number of daily fines if convicted.
- ✓ If the case goes to trial, you can still withdraw your appeal — usually without additional costs, right up until shortly before the trial date.

If you do not withdraw your objection and the proceedings are not dismissed, an **oral hearing** will be held. You must attend the oral hearing (in some cases, though very rarely, you may be represented by legal counsel); otherwise, your objection will be deemed withdrawn. However, it is also common for the court to order that you must appear in person, even if you have legal counsel. If you are over 21 years old, the hearing usually takes place where the alleged offense was committed—for minor charges, at the local district court. If they intend to sentence you under juvenile law because you are under 18 years old, the hearing takes place at the court in your place of residence. For young adults (between 18 and 21 years old), both options are possible (see also Chapter,7 on page 55).

### 5.1.3 The Trial: No End to Your Options

As an alternative to a summary judgment, the prosecutor's office may also seek to proceed directly to a trial. In that case, you will be served with an indictment (unlike with a summary judgment, you cannot file an objection to this). Whether you're facing a summary judgment with an appeal or an indictment, you should request access to the case files and take your time to prepare and consider how you want to defend yourself. You can seek advice from us or local legal aid groups; if necessary, we can also refer you to lawyers. The goal of the trial may be to reduce the sentence, prove your innocence, or use it as a political platform. The specific goals you pursue will influence your strategy in court. It's important to keep in mind that what you do should be good for you, shouldn't burden anyone else, and, ideally, should also benefit the movement. When deciding what you want to achieve in a trial, anti-repression networks are here to support you.

We also encourage you to discuss this with your affinity group and/or friends and to work together to develop and propose strategies. During the trial, additional files can be requested and motions for evidence filed that, for example, reveal police strategies or political networks. You can refuse to testify and still ask questions and file motions. This certainly offers opportunities: nowhere else can one question their political opponents or prosecution witnesses so intensively. Some criminal charges and situations are better suited for a more aggressive political defense. For example,

resistance to or physical assault against enforcement actions and breach of the peace may be exempt from punishment if the police acted unlawfully (→§§ 113 Abs. 3, 4, 114 Abs. 2, 3, 125 Abs. 2 StGB). In such cases, criticizing the police's actions can also be legally advantageous. Furthermore, there are repeated attempts to argue under § 34 StGB (→ Justifiable Emergency) that acts which would otherwise be criminal are permitted if they are intended to avert a danger. This certainly offers the opportunity to set one's own agenda during the court proceedings.

But beware: Criminal law is not designed to spare those who mean well or are fighting for a just cause. Anyone who crosses the boundaries of civil order will be punished and, as a rule, cannot hope to escape punishment. For example, a separate concept of legality was created for § 113 Abs. 3 StGB which often prevents its actual application, even when the police are in the wrong. § 34 StGB is also severely restricted when it comes to political goals. The legal arguments vary here, but as things stand, acquittals of activists on grounds of a state of emergency (e.g., the climate crisis) are the absolute exception and are generally overturned by the next higher court, as the goals are deemed to be enforceable through the existing legal system. For example, a criminal judge at *wird stark eingeschränkt, wenn es um politische Ziele geht. Die Argumentationen unterscheiden sich hier, aber Stand jetzt sind Freisprüche von Aktivist\*innen wegen einem Notstand (z. B. Klimakrise) die absolute Ausnahme und werden in der Regel von dem nächsthöheren Gericht aufgehoben, da die Ziele über die geltende Rechtsordnung durchzusetzen seien. Beispielsweise sprach eine Strafrichterin am [Flensburg Local Court acquitted a tree occupier on the grounds of a climate emergency](#) (see judgment of Dec. 6, 2022 Case No. 440 Cs 107 Js 7252/22). However, the judgment was overturned by [the Higher Regional Court of Schleswig-Holstein](#) on August 9, 2023; the interpretation as an act of necessity was rejected, and charges of trespassing were brought.*

We should carefully consider together which strategy is best. Consult with those around you, the legal team, and lawyers. Repression may be isolated, but together we can stand up to it and fight back.

**A court hearing** requires preparation and practice. We recommend litigation training courses on defending oneself in court. In addition to legal representation by an attorney, mutual assistance is also an option. According to § 138 Abs. 2 StPO, laypeople with prior legal knowledge may defend others with the court's consent. There may be legitimate personal and political reasons to opt for **lay defense** if one cannot envision being represented by a lawyer. Furthermore, the joint preparation and execution of a lay defense can be a powerful experience. There are many different ways to structure and experience a court trial. At the same time, legal errors can often be better avoided with legal counsel. Assessments of the opportunities and risks of self-defense vary significantly among different legal aid structures. Self-defense can also be combined with legal representation if the attorney is open to it. We cannot and do not wish to provide a definitive recommendation here.

Lawyers cost money, but the same principle applies here: no one is left to fend for themselves. Together, we can cover the costs of repression. Local groups can organize fundraisers, large coalitions typically have anti-repression funds, and legal aid organizations like Rote Hilfe also provide support for legal costs. Reach out to your local group and the legal team—together, we can cover these costs.

»**Gegenrechtsschutz**« (Reciprocal legal protection) provides legal and financial support primarily to individuals who lack these resources and who, without such assistance, would be unable to take legal action against abusive government measures or abusive legal attacks by private parties. Through »Gegenrechtsschutz«, FragDenStaat and the Society for Civil Liberties are establishing a legal defense framework to protect democratic principles and vulnerable groups against legal attacks.

#### 5.1.4 Possible penalties and how to deal with them

The penalties you face in the event of a conviction are governed by the relevant section of the Criminal Code. There is always a minimum and a maximum penalty—the judge’s decision must fall within these limits (see [§ 46 StGB](#)). However, the maximum penalty is generally not imposed.

#### Penalties (Geldstrafen)

Even though imprisonment or probation are not entirely ruled out, we are usually dealing with fines. Fines are expressed in *daily rates* (→ [§ 40 StGB](#)). The higher the penalty, the more daily rates are imposed. The amount of the daily rates is determined in euros. It is based on your (estimated) income and is set accordingly. A daily rate generally corresponds to one-thirtieth of your monthly net income, although exceptions can be made, e.g., in cases of particularly low income.

If you don’t have the money to pay such a fine directly, there are many options:

- ✓ You and your affinity group can always try to raise money together—organize a solidarity party, collect donations at the next KüfA, etc.
- ✓ Rote Hilfe also frequently assists with the payment of fines in political proceedings. It typically covers 50 % of the costs incurred, on the condition that you do not make any statements regarding the matter and do not apologize. To do so, you must submit an application to your nearest local group (→ [rote-hilfe.de](#)).
- ✓ In principle, you can also apply to the court for payment in installments (→ [§ 42 StGB](#)).
- ✓ You can also request to perform community service instead of paying daily fines. One daily fine typically corresponds to 6 hours of work. So, for example, someone sentenced to 30 daily fines would have to work 180 hours instead.
- ✓ We set aside funds within our organization to provide you with financial support. For more information, just write to us.
- ✓ If the fine cannot be collected, or if a person chooses not to pay it, they must instead serve a corresponding number of days in jail (→ [§ 43 StGB](#)). One day of incarceration is equivalent to two daily rates of the imposed fine. This costs the state a lot of money but can be used for public relations and personal experience. However, a prison stay should not be taken lightly and should be prepared for as thoroughly as possible.
- ✓ It is also possible to pay part of the fine and serve the remainder of the sentence.

### **Fines (Bußgelder)**

If you are only charged with administrative offenses, *finer* (*Bußgelder*) are usually imposed. You can appeal these (as with summary penalty orders)—which leads to a court trial. Fines do not appear on criminal records. If you do not pay, coercive detention may be ordered to compel you to pay.

### **Probation and Prison Sentences**

If you're sentenced to a prison term of up to two years, it can be suspended on probation. The court decides this based on your social prognosis. For example, if this is your first conviction, you have a better chance. Probation means you'll have certain conditions to follow for a few years. If you don't stick to them, you'll have to go to jail after all. There's a bit about prison in the chapter on pretrial detention 4.3.2. If you want to know more, check out resources like *ABC Dresden's guide on writing letters* (→ <https://abcdd.org/briefe-schreiben/>), *der Rote Hilfe's guide on writing letters* (→ <https://rote-hilfe.de/aktiv-werden/gefangenen-schreiben>) or the book *Ways Through Prison (Wege durch den Knast)* (→ <https://wegedurchdenknast.de/>).

### **Entries in the Criminal Record**

Every conviction (including uncontested summary judgments) is stored in the Federal Central Register. However, an entry will only appear on your criminal record—which may be required for job applications, applying for certain permits, or working with minors—if you were sentenced to more than 90 daily fines. Prison sentences of up to three months and juvenile sentences of up to two years on probation are not included in the criminal record on their own. If you are convicted a second time, both entries will appear in the criminal record, regardless of the length of the sentence. With a few exceptions, entries are deleted after a maximum of 15 years; minor convictions or juvenile sentences are deleted after 5 or 10 years (→ § 46 BZRG).

The “Certificate of Good Conduct for Submission to a Government Agency” may include decisions such as the revocation of a firearms license or business license, a declaration of legal incapacity, or court-ordered psychiatric hospitalization. This document is required, for example, when applying for a medical license. In addition, convictions involving less than 90 daily fines may be recorded if they are related to a business venture and you need the certificate, for example, to obtain a business license.

For some professional groups, there are special regulations; for example, admission to the bar may be denied or revoked if the person, due to a prior conviction, appears »unworthy« of practicing the profession. Decisions are made on a case-by-case basis, with the specific circumstances, the severity of the penalty, and the length of the sentence being relevant factors. You should also pay special attention to this issue even if you are not currently employed in the public sector, as a doctor, or as a lawyer, but are aiming for such a career in the future. If you have concerns about this, do your research in advance and factor this (along with other risks) into your

decision for or against a particular course of action. Don't let anyone pressure you into deciding one way or the other.

The "extended criminal record check," which must be submitted to assess personal suitability for working with minors, has no special significance in the context of political actions. In addition to the entries found on a standard criminal record, it includes all entries relevant to such work—primarily convictions for sexual offenses. For the specifics of public service, which may also be relevant for students about to begin a legal clerkship, see →Section 5.3 on disciplinary proceedings in public service.

## 5.2 Civil law (*Zivilrecht*)

In particular, those active in the environmental and climate justice movement often face opposition not only from the government but also from large corporations. These corporations make a lot of money from the destruction of the environment. Those who take action in this area therefore often find themselves facing civil legal reprisals. This section is intended to provide basic information on the topic of »civil law« and highlight the available options for action.

Civil law deals with the legal relationships between private individuals. There are natural persons (people) and legal entities (companies, associations, etc.). Civil law is about who owes what to whom. This means that if you face civil claims from the opposing party, it can be stressful because it involves (sometimes a great deal of) money. However, such proceedings do not result in a criminal record or anything similar. You will primarily be dealing with a company and its lawyers, rather than with government agencies (at most, with a civil court).

### 5.2.1 Declarations to cease and desist

In recent years, a great deal of experience with civil law disputes has been gained in the Rhineland, but also in Lusatia. For example, companies demand that activists who are alleged to have unlawfully entered their property sign declarations to cease and desist. By signing such a declaration, the person commits to refraining from doing what is stated in the declaration in the future — that is, not to do it again. Not every action results in a cease-and-desist letter—that's up to the company in question. If you didn't provide any personal information during the campaign, it's quite possible you won't hear anything further. However, if you provided your identity or it was otherwise determined, you may eventually receive a cease-and-desist letter by mail (regular letter) after a campaign, requesting that you sign it within a relatively short period of time.

#### **What are the basic (theoretical and legal) conditions for declarations to cease and desist?**

A person may be required to sign a cease-and-desist letter if an initial entry or infringement has occurred, or if there is a reasonable risk of such an initial act taking place. In other words, if it can be plausibly demonstrated that a person

is alleged to have infringed the corporation's rights, or if it can otherwise be assumed (e.g., through a personal public announcement of participation) that an infringement is imminent. Cease-and-desist declarations can be sent by mail, but they can also be handed out in person by individuals authorized by the owner (e.g., RWE, Vattenfall/LEAG, Tönnies, YARA, ...). It is more common to receive a letter in the mail afterward—which, of course, requires that the company knows your identity.

The cease-and-desist letter may also be directed »against an unknown party« if the police are unable to determine the person's identity. A declaration to cease and desist is only permissible if there is a »risk of repetition« (i.e., the possibility that the person could engage in the conduct in question on multiple occasions). The letter must clearly define what is to be refrained from and where. The claim for injunctive relief must have a sufficiently close connection to the threatened infringement, and companies can only assert their own rights. This means, for example, that a corporation cannot demand that an activist »refrain in the future from entering all coal mines in Germany«, because this would also include mines that do not belong to that corporation.

### **Which options do you have when asked to sign a declaration to cease and desist?**

In any case, contact an anti-repression group (e.g., the campaign's legal team (EA) or your regional Rote Hilfe group) and discuss the matter with other campaign participants! Together, you can decide what course of action is best for you.

- ✓ **Signing the declaration to cease and desist:** By doing so, you accept all the conditions set forth therein.
- ✓ **Modifying the declaration to cease and desist:** Since a cease-and-desist letter is a private-law contract, you can modify it and send it back to the company. Any obligation to pay the opposing party's legal fees — which is sometimes included in such letters — may also be removed. Lawyers often go too far with their demands for a cease-and-desist. Changes should ideally only be made in consultation with a legal aid group you trust or with lawyers. Any changes must be made in such a way that the other party can still agree to them and the »seriousness« of the declaration is not called into question. If the corporation refuses to accept the changes and considers reaching an agreement with you to be futile, it may apply to the court for a **preliminary injunction**.
- ✓ **Do not sign the declaration to cease and desist:** This could lead the company to sue you for an injunction, which could result in costs for you if you lose the case. This can also take place in so-called summary proceedings, i.e., a faster procedure in which the court only examines the facts of the case very superficially.

As a result, in the latter two cases, the court may issue a preliminary injunction against you and order you to refrain from certain conduct in the future. A preliminary injunction is a provisional and urgent court order intended to preserve a specific situation. For example, you may be prohibited from entering certain company premises. However, the petitioner (the company) must be able to prove that the

matter is urgent and that the normal legal process would take too long. If you violate a preliminary injunction, you face a fine.

### 5.2.2 The civil lawsuit (*die Unterlassungsklage*)

If you refuse to sign a cease-and-desist letter, you risk the other party filing a lawsuit to enforce the cease-and-desist order, which can result in court and attorney fees. If the company files a lawsuit against you, the complaint will be mailed to the address listed on your ID card—and you'll need to meet certain deadlines. Depending on the so-called value in dispute, either the Regional Court or the Local Court has jurisdiction. You must be represented by an attorney before the Regional Court. You may represent yourself before the Local Court. You can still decide to sign the cease-and-desist declaration at that point—but doing so will no longer be free of charge. What's unique about civil law is that the costs of a proceeding are calculated based on its *value in dispute*: The higher the value in dispute, the higher the costs for both your own and the opposing party's attorneys. Court costs also rise with the value in dispute. With a frequently set value in dispute of 50,000 euros, costs of 8,000 euros may be incurred for the first instance if you lose the case entirely. The value in dispute is determined rather arbitrarily by the corporation and is based on the alleged damages, without the corporation having to prove this in detail—unlike a claim for damages. The court may accept this amount in dispute or may also modify it. You can also challenge it, which may result in it being lowered. Another distinctive feature of civil law lies precisely in how costs are ultimately allocated between the parties: If one side loses entirely, it pays all costs, including the opposing party's attorney fees. However, if the court decides that, out of a total of five disputed points, three are considered won by one side, the costs are divided accordingly between the parties:  $\frac{3}{5}$  of the costs would then be paid by one side and  $\frac{2}{5}$  by the other. One can also appeal decisions made by the regional or district court and take the case to the next higher court—which also increases the cost risk. Both parties are entitled to file such appeals.

#### What does the declaration to cease and desist mean for me?

You have either signed a cease-and-desist declaration or been ordered by the court (possibly through a preliminary injunction) to refrain from certain actions, such as climbing onto open-pit mining excavators. As long as you , nothing will happen for the time being. At first, the feeling of having signed a cease-and-desist declaration can be quite intimidating and perhaps demotivating. However, this is by no means the end of your ability to take action against the burning of fossil fuels! Even if, for example, you have been ordered to no longer enter RWE property, you can still take a stand against the burning of fossil fuels:

- You can focus on a different mining area and try your hand in Lusatia, the Leipzig mining region, or the coal port of Hamburg.
- You can carry out actions that aren't affected by the declaration to cease and desist and are still effective—for example, on public streets or at police stations (if you want to play it safe, it makes sense to do particularly thorough research here).

- **Please note:** If your cease-and-desist declaration prohibits not (only) entering RWE property but also generally disrupting operations, RWE may attempt to enforce contractual penalties even for blockades taking place outside RWE property. In such cases, they may argue that you are making it impossible for them to operate. This risk exists, for example, if you block the only access road to a facility, or if your group blocks all access roads. In this case, RWE must prove that your blockade was specifically directed against operations. You should definitely study the contents of your declaration carefully! If an action only indirectly disrupts operations (for example, due to traffic chaos, or because the police are hindered in clearing a blockade), there should be no additional problems at this point.
- You can actively support our efforts by cooking, helping with childcare, handling PR behind the scenes, or getting involved in anti-repression work.

Of course, you can still do what you're supposed to refrain from doing (as stated in the cease-and-desist letter). If your personal information is identified in the process, or if the police can otherwise identify you, the penalty mentioned in the cease-and-desist letter will likely be imposed. This is called a **contractual penalty**.

### 5.2.3 Contractual Penalties

As a rule, a penalty is stipulated that the person must pay if they violate the cease-and-desist letter. The contractual penalty may consist of either the payment of a specific sum or, alternatively, a prison sentence. Such a penalty may either be specified in a fixed amount, or the determination of its amount may be set by the company—e.g., RWE—in the specific case or left to a court. Normally, the sums are not small—more likely several thousand euros than several hundred (but also far from the 250,000 euros cited as the maximum penalty). To date, no prison sentences have been imposed in this context. In our experience, the contractual penalty can be »negotiable«. This means that after you violate the signed cease-and-desist declaration, the company will send you a letter stating the amount of the desired contractual penalty. You can pay this amount now, or you can ask a court to decide the matter, or you can respond that, while you do not admit any fault, you are willing to pay a smaller amount to avoid a full-scale legal proceeding. The company may accept this smaller sum (as happened in one case) or sue you for the full amount claimed. Just because this approach worked once does not mean it will work every time. Alternatively, the company could then initiate legal proceedings. The amount in dispute would then be equal to the contractual penalty demanded, and consequently, the cost risk would be significantly lower. It is important to know that contractual penalties increase in the event of a repeat offense. This means: If you violate a signed cease-and-desist declaration for the first time, the contractual penalty you must pay will be lower than for a second or third violation.

### 5.2.4 Compensation Claims

[§ 823 of the German Civil Code \(BGB\)](#) provides that a natural person or legal entity is entitled to compensation if they have suffered damage as a result of an unlawful act committed by another party. This means that if, for example, something in

or at an open-pit mine is damaged to such an extent that one or more power plants must be shut down, resulting in financial losses for the owner, the owner may file a lawsuit. The company will demand a sum that it deems “reasonable” based on its calculations as compensation for damages. Vattenfall, for example, did the same thing in response to a Greenpeace protest in 2013. However, the Cottbus Regional Court ruled that the activists did not have to pay. In general, demanding damages is rather risky for companies and is also viewed quite negatively by the public—this is something one can rely on when developing a solidarity campaign. In recent years, it has not happened very often that RWE has demanded damages. However, RWE has also demanded damages in the past. In November 2017, activists occupied excavators and conveyor belts at the Weisweiler lignite-fired power plant, using technical equipment to block the coal supply there for several hours and forcing the plant to shut down almost completely. After the action, some activists received letters. They are accused of disrupting public operations, resisting arrest, and trespassing. In addition to these criminal charges, RWE is, for the first time, seeking damages on a large scale in the amount of two million euros. A journalist who accompanied the action to report on it is also affected by the damages claim. He is denied the status of a journalist and is also charged with trespassing (further information at → <https://wedontshutup.org/>).

However, if the case goes to court, the company must also prove that it actually suffered damages in the amount in question as a result of the defendant’s actions—this is not entirely straightforward and, in turn, provides deep insights into the company’s operations. Damages can be claimed in addition to a cease-and-desist letter. Damages relate to something you are alleged to have done in the past. A cease-and-desist order relates to something you are not supposed to do (anymore) in the future.

### 5.2.5 Fees

Another avenue for civil claims involves fees. For example, in some federal states and with the Federal Police, there is the option to bill those detained for the costs of detention or removal, either at fixed rates or based on how many officers were required for the operation. Here, too, you have the option to file an objection to the claim and pursue legal action, for example, if you simultaneously sue to have the underlying police action classified as unlawful.

### 5.2.6 Refuse to pay?

All civil proceedings are about demanding money from you. If you fail to pay court fees, the opposing attorney’s fees, or claims for damages, a company or the government may attempt to collect the money from you by garnishing your bank account or through a bailiff. If you’re already living on a tight budget and have few possessions, you might consider filing a statement of financial circumstances (better known as an »oath of disclosure (Offenbarungseid«) and refusing to pay the costs—meaning the company is left holding the bill. For you, however, this entails some restrictions (though they’re certainly manageable). You can find more information on this in a brochure at → <https://vonunsbekommtihrnix.noblogs.org/>.

If you don't pay a contractual penalty, the same applies, unless imprisonment is ordered as an alternative (which hasn't happened yet, but could happen). In that case, you must either pay or serve the ordered sentence in prison (though presumably at the company's expense).

### 5.2.7 Experience with civil claims

In recent years, many climate justice actions have not resulted in civil claims—but some of the many, many actions have. For example, RWE, LEAG, and Mibrag (operators of open-pit lignite mines) sent declarations to cease and desist to participants in mass and small-group actions, ordering them to stop entering company premises. The courts ruled that to be largely lawful.

Claims for damages have been made, for example, following a successful blockade of an RWE coal-fired power plant and during a blockade of the Tönnies slaughterhouse in Kellinghusen (Schleswig-Holstein). In a few cases (e.g., motorway rappelling actions and the eviction in the Dannenröder Forest), attempts have been made to bill participants for the costs of the police operation.

It is often not easy to develop mutually agreeable strategies for dealing with such claims and to find an approach that works for everyone involved. That is why it is worth discussing potential civil claims before an action (especially if you are part of a smaller group).

## 5.3 Disciplinary proceedings in the public service

If you are employed in the public sector as a civil servant (e.g., trainee teacher, teacher), the initiation of criminal proceedings can also lead to professional problems. Under [§ 49 of the Civil Service Status Act \(BStG\)](#), public prosecutors' offices and courts are required to inform your employer about any criminal proceedings initiated against you. If you are then sentenced to a prison term of at least one year (including probation), your tenure as a civil servant is terminated in accordance with [§ 24 Abs. 1 BStG](#) takes effect automatically once the judgment becomes final. A legal clerkship (as part of temporary civil service appointment) is then likely no longer possible; however, regulations vary by state. Different principles may apply to teacher training clerkships. However, even less severe convictions (e.g., a fine) or the dismissal of charges constitute a breach of duty within the meaning of [§ 24 Abs. 1 BStG](#) and may lead to disciplinary consequences (reduction of pay, transfer, reprimand) in accordance with the state disciplinary regulations applicable to you. In this case, a separate disciplinary proceeding will be conducted after the conclusion of the criminal proceedings. Probationary civil servants (which in many federal states also include trainee civil servants) are even more at risk, as they can be dismissed at any time pursuant to [§ 23 Abs. 4 of the Civil Service Status Act, BStG](#), although they should (but are not required to) be given the opportunity to take the second state examination. In theory, even minor penalties can lead to significant problems here. This depends largely on your supervisor and their willingness to sanction you. If you work as a salaried employee in the public sector, you must expect sanctions under labor law, which are governed by collective bargaining agreements and general

labor law. Termination is only possible in the case of serious convictions, meaning a prison sentence of at least one year, even if it is suspended. Salaried employees are no longer required to demonstrate »good conduct« outside of work.

## 6 Information on residence rights

Below, we outline a few points you should keep in mind if you wish to participate in protests without a German passport or permanent residence in Germany. There are differences between people who live in Germany — and may intend to do so long-term — and those who are traveling from outside the country solely for the protest. There are also differences between people who are citizens of other EU countries and those who are citizens of countries outside the EU, as well as for people living entirely without documents. Generally speaking, charges are brought regardless of your nationality. The penalties you can expect are also the same. However, there is a major difference, particularly regarding the immigration-related consequences to be expected after a conviction for people without a German passport. At this point, we also want to point out that German authorities are just as racist as many other social structures. This means: If people decide not to provide their personal details and are classified by the authorities as »non-German« based on their appearance or other outward characteristics, this could lead, for example, to *accelerated procedure* (→ Section 4.3.4 on page 35) and *pretrial detention* on the pretext of a »risk of flight«. People sometimes wonder whether having a criminal conviction in Germany might make it difficult to find a job in other countries. We can't give a definitive answer to this, as it depends on the legal framework (e.g., regarding criminal records) and, of course, on the attitudes of employers in the respective country. However, data on criminal convictions can be transmitted to the authorities of other EU countries by the competent German authority. This means you must assume that authorities in your country of origin will also learn of a conviction. In response to requests from authorities in non-EU countries, the relevant German authority may transmit information regarding convictions under the same conditions as to German authorities (unless otherwise stipulated in an agreement between the two countries).

### 6.1 Travelling to the camps or actions

You are action-bound and stopped at the German border:

- × Under Article 5 of the Schengen Implementation Agreement (SIA), a person may be denied entry if they pose a threat to public safety and order—for example, if it is expected that they will commit criminal offenses in Germany. The police at the border must provide specific justification for this; the hurdles are high, especially if legal demonstrations have been registered, which everyone is permitted to attend.
- × Starting no later than May 2025, Germany will conduct systematic checks at its internal EU borders. People should be prepared to be checked when crossing German borders.
- × Random checks are always possible in principle, meaning your bus or car might be pulled over, or you might be checked on a train. Police officers have already

confirmed publicly and in court that the police engage in racial profiling during these checks.

- × During these checks, the police can run a check on you in the European SIS database (Schengen Information System) as well as in the criminal databases of the Federal Criminal Police Office (BKA) and the State Criminal Police Offices (LKA). They may also contact the police in your country of origin.

### What can I do?

- ✓ You might want to consider whether you are already so well known in your home country or in Germany that you could be listed in the Schengen Information System (SIS). This database stores information such as entry bans issued in Germany or another Schengen country, outstanding arrest warrants, or the initiation of deportation proceedings in a Schengen country. You can also check in advance to see if your data is stored there. This is generally done through the SIRENE information system. However, responses may take some time depending on the country.
- ✓ If you believe you might be listed in the SIS or another database, you can try to enter the country more inconspicuously: for example, by traveling in a small group by train like an ordinary tourist, rather than on a bus that is clearly heading to the event.
- ✓ If you are stopped at the border, a lawyer can try to challenge the entry ban. If you wish to do so, you can contact the Legal Team by phone in this case.
- ✓ The possibility of internal border controls is regulated by the Schengen Agreement.

More details on the databases follow below.

## 6.2 People with an EU passport

You are an EU citizen and are considering not providing your personal information during a protest:

- × The police will then try to obtain your fingerprints. If they succeed in getting them from you (for information on refusing to provide identification, see Chapter 3), they can compare them against various databases.
- × The police have access to several German and European fingerprint databases and will attempt to use them to determine your identity.
- × These databases include, in particular, the European SIS (Schengen Information System) database as well as the case files of the BKA and the LKAs. The BKA maintains a central fingerprint registry (AFIS) in which fingerprints from all these sources are consolidated.
- × The police can also submit targeted inquiries to law enforcement agencies in other countries.
- × If you have entered the Schengen Area and your data was recorded in the process, the Eurodac database (European Dactyloscopy) is also relevant. With the fingerprint data recorded there across Europe, you could potentially be identified by the police even if you refuse to provide your personal details.

### 6.3 People with a non-EU passport

You hold a passport from a non-EU country—what about your identity information?

- × You need valid travel documents to enter the country. If you are found in the country without them, you risk deportation. This will make it difficult to obtain a visa again in the future. part of the visa application process, fingerprints are now routinely taken and stored. The police generally have access to this data. If they take your fingerprints, they could therefore identify you. The U.S. Department of State provides information on the collection of fingerprints during the visa application process at: <https://www.auswaertigesamt.de/en/visa-service>
- × Refusing to provide personal information (age, identity, and nationality) to the police is generally NOT a criminal offense, even for people without an EU passport. Refusal is only a criminal offense if the personal information is requested in connection with decisions regarding residence status (→ § 95 Abs. 1 Nr. 5 of the Residence Act, AufenthG).

#### What can I do?

- ✓ As long as the police don't discover your identity, you should be able to claim that you're a resident of a Schengen country. You can also remain completely silent or speak only English with everyone — especially if your social circle and the people around you also speak only English; we've had good results with this approach.

### 6.4 People without papers, without a valid residence permit, or with travel restrictions

People residing in Germany without legal status are particularly vulnerable to repression. We use the term »illegalized« here because it is clear to us that borders should be abolished and that every person should be free to choose where and how they wish to live! We understand if people hesitate to contact us for counseling. Just this much for now: We're here for you—we won't ask any questions about things that have nothing to do with the specific allegations or the actions you want us to take. We won't share any information with anyone—not with other people within our organization, and certainly not with government agencies. If you came to Germany without a visa, are subject to travel restrictions, or no longer have a valid residence permit, you know far better than we do what you need to watch out for in your daily life to avoid “getting caught.” In the context of political actions where there is a greater police presence, this is, in our view, even more critical. While people from the EU or with a valid visa can simply participate in a demonstration, this is already dangerous for you. Because: Although the police are not allowed to simply check your personal information either on the way to the demonstration or at the gathering itself (exception: checkpoints—see section 4.1.2.), they sometimes try to do so anyway.

## 6.5 Naturalization procedure, permanent stay

If you are seeking naturalization or permanent residency status (or a visa) in Germany, please note the following:

- × A conviction for a criminal offense resulting in a sentence of more than 90 daily fines or a prison sentence without probation precludes naturalization ([§ 12a Abs. 1 StAG](#)).
- × If there are multiple convictions resulting in fines or prison sentences, these are added together. If a fine and a prison sentence are imposed simultaneously, one daily fine corresponds to one day of imprisonment.
- × A conviction to a lesser penalty for participating in a protest may already be sufficient to prevent or complicate the renewal or issuance of a visa. **Depending on the legal basis for your stay in Germany, even minor penalties may be sufficient to deny renewal of your residence permit or to order deportation.** All convictions are added together.
- × As soon as charges are filed against you, the police or the public prosecutor's office will notify the Foreigners' Registration Office.
- × Convictions are typically deleted from the Federal Central Register after 5 to 10 years (from the date of conviction), so they can no longer be used against you after this period expires.
- × If you want to know what our experience shows regarding the severity of sentences for certain offenses, check Chapter 2. However, one thing is clear: there are no guarantees, and penalties may be higher in individual cases.

If you live in Germany and plan to stay for an extended period — for example, to study, complete vocational training, or work—please keep the following in mind:

- × In the worst-case scenario, a conviction resulting in a prison sentence — for example, for an assault on law enforcement officers (see Chapter 2 for various offenses) — could lead to your deportation. For trespassing, for example, we consider this unlikely but not impossible.
- × In the case of deportation, the authorities weigh the interest in deportation against the interest in allowing you to remain. The more serious the charge for which you are convicted, and the weaker your residency status, the easier it is for the authorities to deport you.
- × The likelihood of deportation increases if you are sentenced to a longer prison term (of 1 or 2 years or more).
- × [§ 53 of the Residence Act, AufenthG](#), [§ 54 AufenthG](#), and [§ 55 AufenthG](#) are relevant to deportation.

### What can I do?

Think ahead about how long you plan to stay in Germany and how far you're willing to go with the action, especially in case you come into contact with the police. There are also ways to support the action through legal channels. Feel free to reach out to the legal team or other affinity groups.

## 6.6 Special considerations regarding detention

You are a non-German national and have been taken into custody:

- × If you are taken into custody or arrested, the police must inform your country's consulate. However, they are not required to let you speak with the consulate yourself.
- × While in custody, you have no legal right to translation (this can, of course, also apply to you as a German citizen)—unlike in criminal proceedings. You cannot necessarily assume that the police speak (good) English or other languages. Try to insist on a translation anyway.
- × Under no circumstances should you sign any document that you do not understand. **You are not obligated to sign anything!** This applies to everyone, but of course especially so if you do not understand what you are signing.
- × Depending on your country of origin, your family members may be able to contact your country's consulate to find out whether you are in custody and, if so, where.

You do not have a residence in Germany or do not live in Germany:

- × If you are taken into custody and charged with criminal offenses, there is an increased risk that you will face expedited criminal proceedings. This means that they will initially keep you in custody and then put you on trial fairly soon, e.g., as early as the next day (→ Section 4.3.4 on page 35).
- × There is a higher probability that you will be placed in pretrial detention. However, the charges typically expected in the context of a mass act of civil disobedience are usually not serious enough to warrant pretrial detention.

In both cases, this is because, despite your name being recorded, you are presumed to pose an increased risk of flight.

## 7 Minors in action

If you are under 18 years of age, you are considered a minor. If someone other than your parents has custody of you, everything stated here applies to that person.

### 7.1 Before going to an action

It's a good idea to make arrangements before the event so that, if necessary, other people can pick you up from the police station or the child welfare office, and the police don't take you back to your parents because you were found without them. This is because, if you're a minor, your parents have the right to determine where you live. If the police assume that you are out and about without your parents' knowledge, they can take you into custody to bring you to your parents or the youth welfare office (so-called »custodial care«)

→ [North Rhine-Westphalia: § 35 Abs. 2 PolG NRW](#)).

If you provide your personal information, they will likely try contacting your parents first. You can likely avoid being taken to the police station if you have a written permission from your parents or legal guardians allowing you to participate in the protests. If you get along reasonably well with your parents, it's best to ask them to write and sign a letter along the following lines. The letter must be signed by all legal guardians.

HI/We hereby authorize my/our child XY to participate in protests in the XXX area between XX/XX/20XX and XX/XX/20XX. In the event of detention or deprivation of liberty, my/our child may subsequently return home alone or with the person named below, or return to the camp, or be taken there.

**Power of Attorney**

Ms./Mr./Person:

Address:

is authorized by me/us,

to act on behalf of my/our child: **Name, Address, Date of Birth**

to receive and care for the individual following detention or custody during the period from XX/XX/20XX to XX/XX/20XX.

Signature(s)

When designating a proxy, it's best to choose someone who is of legal age and won't be participating directly in the action. If your parents are participating and you don't know anyone like that personally, you can also bring a signed blank form and fill in a person's name before the action begins. Ask the Legal Team for people who would be willing to do this. Of course, this precaution only works if you're not participating in the action anonymously.

## 7.2 In Custody

Children (up to age 13) and adolescents (ages 14 to under 18) may only be taken into custody if they are accused of a criminal offense or if they significantly disrupt operations. In all other cases, they must normally be immediately handed over to a parent or guardian or to the Youth Welfare Office—for example, in cases of detention for public safety or to enforce an expulsion order. In practice, this usually means that the police will take you in anyway. At some point, they will ask who is still a minor. If you **provide your personal information**, the police must try to call your legal guardians so they can pick you up. Whether you give them the phone number and whether you insist that they actually be notified (which the police often fail to do) is, of course, your decision. Even as a minor, you have the right to make a phone call—so call your guardian and tell them where you are. Then, if you've left a pickup slip (see previous section) from your parents beforehand, the authorized person can pick you up from the police station with that slip. If you **refuse to give your personal information** and the police believe you're a minor, there's a good chance they'll take you to a juvenile detention center. You can't be locked up in such a facility. So you can just walk out of there as soon as the police leave. In practice, experiences with »just walking away« have varied greatly: sometimes it was easy, but other times, for example, personal belongings were locked away or you couldn't leave until the next morning. Try to call the EA from the youth facility or the police station and give them the address or at least the city where the facility is located so that the EA knows where to pick you up. It's best to have cash on hand just in case, so you can take public transportation back to the camp or home on your own. Whether you try to pass as a minor or act like an adult is a strategic decision you have to make yourself. It depends on whether you'd rather be in the common room with lots of others or if you think it's better to run away from a facility. Based on past experience, you'll often have to do the latter on your own, but it also means fewer harsh conditions. If you need help making this decision, talk to your affinity group and the Legal Team. It's possible that the police might accuse you of a crime. This also means that the police might want to question you. Before doing so, they must inform you that you have the right to remain silent (which you should exercise). Since the police often don't follow the rules, don't count on them to inform you of this. During police interrogations, your parents, as your legal guardians, have the right to be present. If you wish, you can insist on speaking with them by phone beforehand. Children under the age of 14 may not be subjected to interrogation. Minors can also be placed in pretrial detention if they face serious charges and there is a risk of them fleeing (see Chapter 4.3.2), in which case they are sent to a juvenile detention center. This does not apply to children (i.e., if you are younger than or appear to be younger than 14 years old).

## 7.3 After the action (juvenile criminal law, court cases)

### 7.3.1 Police summonses

or minors, summonses for police questioning are also sent to the parents. Parents have the right to be present during police interrogations and are therefore informed of such appointments. They also have the right to file motions during the proceedings (§ 67 JGG), meaning they can help determine your strategies. This is often not easy, as many parents tend to want to resolve everything with the police. Most of the time, this is a bad idea, as many parents have little experience with political criminal proceedings. Even if it's not always easy—it makes sense to have a discussion with your parents or guardians. It's important to explain how you intend to proceed in a political criminal proceeding and why it makes sense and is the right thing to do to refuse to make a statement. If in doubt, don't let yourself be pressured; instead, reach out to us or other political anti-repression networks, and if necessary, we'll talk to your parents together.

### 7.3.2 Court cases

There are some special provisions for juveniles (under 18) and young adults (18–21) in criminal proceedings. If you are between 18 and 21 years old, the court must decide, pursuant to § 105 German Juvenile Court Act, JGG whether to proceed under juvenile or adult criminal law. In theory, this depends on how »mature« the court considers you to be and whether the court regards the alleged offense as »typical of juveniles«. In practice, juvenile law is usually applied first. Juvenile law means, on the one hand, that the proceedings take place at your place of residence and not at the scene of the crime. On the other hand, hearings involving juveniles are generally not held in public. For adolescents, the hearing is generally public, but the public may be excluded. The court also has an »educational mandate«, which means that in addition to moral lectures, other penalties may be imposed, such as writing an essay, refraining from visiting certain places, performing community service, attending anti-violence training, or similar measures. Although minors are criminally liable and can be convicted starting at age 14, they do not have full legal capacity. You cannot enter into contracts on your own. Therefore, your legal guardians must handle the hiring of lawyers on your behalf. Try not to let your parents arrange for lawyers who have no experience with political cases or who pressure you to distance yourself from the cause. In this case, too, please reach out to our anti-repression networks or those in your area.

### 7.3.3 Youth Court Assistance

Youth courts assistance is another special feature resulting from the »duty of care«: It intervenes as soon as a case is filed with the prosecutor's office and then attempts to contact you. Its role is to support the court and help it determine what punishment would be appropriate for you. Youth court assistance reports all conversations with you to the court. You are not obligated to speak with them, and in our opinion, you should not do so. In any case, refuse to make any statements

regarding the alleged offense or about other people—because doing so you can only cause harm. You can find a bit more information about youth court assistance in the Rote Hilfe brochure on the right to remain silent, in the section on juveniles as defendants in criminal proceedings ([Brochure on the right to remain silent](#)). If you're unsure about anything, just reach out to us for advice.

## 8 Trans\*, inter, non-binary, and agender people in action

Political actions involving trans\*, inter, non-binary, and agender (TINA\*) people present a particular challenge—both legally and practically. There are special brochures and workshops on this topic. Here, we're just providing a brief overview. Important: Show solidarity with people when they face transphobia during protests.

### 8.1 General Information

- ✓ This applies everywhere and always, but especially for TINA\* people: The police often do not follow the rules they are actually required to follow. We can only tell you what you are entitled to. Whether you actually receive that entitlement is often a completely different matter.
- ✓ When a person discloses their identity, the police consider the gender listed on their ID. Since this isn't stated on the ID card, the police may simply guess the gender based on the first name and appearance.
- ✓ If you take hormones, that is part of your medical care. You have the right to take them and can insist on this while in custody (e.g., Gesa). (However, you may first need to apply for the hormones and, if necessary, provide medical proof that you need them. →It may make sense to carry this proof with you.)
- ✓ The *principle of separation* dictates that people registered as *men* and *women* in custody are housed separately.
- ✓ If you're worried that you might be assigned to the wrong unit or placed in the wrong facility, tell the EA over the phone. If your detention is being reviewed, discuss this with the lawyer assigned to you. The lawyer will do everything possible to ensure you're placed in the safest possible environment and in a way that respects your identity.
- ✓ You may be placed in solitary confinement; this is decided by prison authorities, and there is no right to group or solitary confinement. The same applies to detention at a police station.

### 8.2 Physical search

- ✓ In North Rhine-Westphalia, individuals may only be searched by persons of the »same sex« or by medical professionals. This does not apply if an immediate search is necessary to protect against a danger to life or limb (§ 39 Abs. 3 PolG NRW). The provision regarding a threat to life and limb is rarely applied during a demonstration or protest.
- ✓ In the case of a search for the purpose of criminal prosecution, § 81d StPO stipulates that the search must generally be conducted by a person of the same sex, but that a request should be granted if there is a »legitimate interest«.

- ✓ However, if the request would »jeopardize the success of the investigation«, an exception to this rule may be made. The police must provide justification for this course of action.
  - ✓ The law does not cover people whose gender is listed as »divers« or who have no gender designation. If you have a clear preference for being searched by a man or a woman, state this clearly and insist on it. Alternatively, you can also be searched by a doctor (of any gender). However, this may also mean that you have to remain in custody significantly longer than usual, or that the police refuse this request because it involves more effort for them. There is no legal right to be searched by another person with no gender designation or with »divers«, even in the absence of diversity within the police force. Experiences and legal tips for daily life with a “Divers” or missing gender designation can be found in the [brochure from the Federal Trans\\* Association](#).
  - ✓ Since this regulation is based on the protection of one’s sense of modesty, your registered gender is not the sole determining factor. Under constitutional law, gender is protected even without a change in civil status. If you feel confident doing so, you can inform the police that the gender designation assigned to you (by them or in your documents) does not correspond to your actual identity. You can request to be searched by a different police officer, though your request may be ignored.
  - ✓ Those affected are always entitled to be present during the search of their belongings.
  - ✓ As soon as a person is required to undress or is to be undressed, they may request that this take place in a room not visible to the public, where only the persons conducting the search are present.
  - ✓ People are not required to disclose their gender!
- **This applies to EVERYONE (regardless of ID, residency status, or origin!)**

### 8.3 Supplementary ID

- ✓ Some TINA\* individuals have a dgti supplementary ID issued by the German Society for Transidentity and Intersexuality (dgti).
- ✓ It states which gender and which pronoun the person prefers.
- ✓ There is no direct legal basis for the supplementary ID. Although the EU Commission has called on all member states to recognize such documents, this has not officially happened in Germany. Before the introduction of the Self-Determination Act, however, some people had positive experiences using it to identify themselves to the police.
- ✓ Since the introduction of the Self-Determination Act, the legal status of the supplementary ID has weakened. Some authorities no longer recognize it as a valid form of identification.

For more information, visit:

<https://gefaengnisseelsorge.net/ratgeber-trans>

or in the [brochure »Information for Trans\\* People in Custody«](#) (Please note that

some of the legal information here is outdated, particularly regarding changes to civil status.)