



WHEN THE GOING GETS ROUGH

WHAT FOREIGNERS NEED TO KNOW ABOUT THE GERMAN POLICE AND LAWS AS ANTI-G-8 DEMONSTRATORS IN HEILIGENDAMM, GERMANY

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Monopoly on the legitimate use of physical force; abuse by the police-state

Much of the following information on the procedures of the German police forces can be better understood, if the background ideology of the police is clearly understood. The quintessence of police action is epitomized by the state's monopoly on the use of force. Therefore only the government (in inland in the guise of the police force) may enter into conflict situations carrying arms and exercise physical force against all those who do not adhere to its laws and directives. Consequently all other persons are enjoined, under penalty, from carrying weapons, wearing protective clothing and defending themselves against police assaults. Thus while police officers march into political and social conflicts armed (firearms and police truncheons) and well protected (equipped with plastic body protectors, helmets, special hardened footwear, shields), demonstrators are systematically placed in a weaker position by appropriate laws, decrees and, in addition, by simple demonstration restrictions.

Under consideration of all of the following information, we should also mention that the intervention of the police always depends on the local political balance of power. Thus the police, without further use of force, will sometimes carry people away from blockades, on other occasions blockades will be dispersed with the use of truncheons and pepper spray. Moreover, in one demonstration people masking themselves will not be prosecuted, whereas during another wearing sunglasses and a baseball cap would be grounds enough for someone to be pulled out of the demonstration.

This variable conduct can be accounted for by police units acting on their own initiative, by the general orders of superiors, by a bad meal, by the private frustration of the officer in charge on-site - causes which the demonstrators usually cannot influence at all.

It is therefore all the more important, despite all the threats of repression, not to allow the police to dictate or even forbid ones own form of resistance and protest and to stand up concertedly and to show solidarity against assaults and violations by the police.

Some important legal regulations

Obligation to identify oneself

In the FRG it is mandatory that everyone carry national identity papers with a photo (e.g. identity card, passport) so that the police can determine a person's identity immediately, during a stop and search, which can take place independent of any suspicion and without cause. If the person in question is

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not in possession of an ID document, it is not uncommon that he or she be temporarily brought to a police station and be held there for up to 12 hours in order to determine her or his identity. In order not to supply any pretext for several hours of detention, it is therefore, in any case, sensible to have your ID with you at all times.

Personal data will be collected at border control points and during stop and searches and probably compared and linked, perhaps even filed. Be aware that travel tickets, bankcards, receipts, etc. can be used to construct a "personality profile".

Concealing your identity prohibited

Since end of the 1980's Germany prohibits the attempt to conceal one's identity during demonstrations. Participants in demonstrations are therefore forbidden to make their faces unrecognizable by any means. But particularly as protection against the common police practice of making video films of demonstrations, in addition to protecting oneself against anti-fascist film teams, it is often expedient to conceal one's identity. The police are keen on using "offences against the prohibition of concealing one's identity" as a pretext, in order to systematically club people in crowds or to have grab-teams forcefully drag individuals out of a demonstration. What behavior may be considered exactly as "concealment," can be broadly or narrowly interpreted by the local police and is naturally dependent on the respective political balance of power during the demonstration.

In the case of ski masks (motorcycle masks) and gas masks the police will obviously follow a zero-tolerance line. Even with sunglasses plus bandana or scarf and a cap or a hat there is quite some danger of this leading to police intervention for "concealed identity". Wigs, false beards, multicolored made-up faces, Latex masks of George W. Bush or Frankenstein, white plastic masks etc. could lead the police to intervene at their own discretion. In particular, activists planning or expecting forms of action such as a clown's army or street theater should prepare themselves in advance for dealing with possible problems with the police. The simple possession of paraphernalia for possibly concealing one's identity can be sufficient for someone to be pulled out of circulation.

The police officers are allowed, by the way, to conceal themselves; they don't even wear name or number tags - and use this to their obvious advantage.

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Wearing uniforms prohibited

Taking part in demonstrations wearing a uniform is prohibited in Germany. It is, as usual, at the discretion of the local police force to determine what in fact a uniform is. Forbidden are not only traditional uniforms (e.g. military uniforms), but also the attendance of demonstrators in any sort of uniform clothing, e.g. the police can interdict the wearing of overalls of the same color. That is naturally again at the discretion of the local police force.

Carrying weapons prohibited

Carrying arms during a demonstration is forbidden. The range of what the police can consider as a "weapon" is rather extensive. Covered are of course every kind of firearm, knives (also pocket and bread knives), blackjacks, Molotov cocktails and similar devices. In the same category are also fire works, pepper spray, CS gas spray, stones, sling shots, chains, protective gloves (e.g. gloves strengthened with quartz sand, like those used in some sports and by the police), clubs, every sort of glass bottle, beverage cans, blank cartridge pistols etc. The police will likewise attempt to construct a case of "possession of weapons" out of flagpoles and poles for mounting banners if they exceed a certain length or a certain diameter.

Moreover in Germany steel-caped shoes can be interpreted, at a demonstration, as "weapons". It would not be the first time that people were transported to a detention center for that reason.

Passive armament

The term "passive armament" conceals a juridical construction, by the use of which self-defense against police assaults is to be circumvented. While police officers are equipped with various plastic protectors, special vests and helmets, demonstrators are denied the possibility of effectively protecting themselves from injuries by police truncheons.

In particular, the following are considered as passive armament: helmets (also bicycle helmets), plastic protectors of any kinds (for shins, elbows etc.) goggles or gas masks. A protest-march like the "tute blanche" in Genoa in 2001 (where demonstrators wore plastic padding and helmets) is currently inconceivable in Germany.

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Frequently encountered repressive measures

Border controls and entry prohibitions

During the run-up to the summit protests an intensification of stop and search controls at border crossings and airports has to be reckoned with. Due to international data sharing between national authorities it is not improbable that activists known to the police will early on be prevented from entering Germany. One possibility is to enter as "inconspicuously" as possibly in small groups, dressed casually and "decently". Non-European Union citizens should in every case procure a valid tourist visa. European Union citizens can safely claim that they are looking for (or already have) work in the FRG. The much-praised freedom of movement refers exclusively to jobs and the service industry, since the European Union is a capitalist business enterprise! Thus regulations do not cover entry for the purpose of protesting or demonstrating (see also further below under deportation). Otherwise, European Union citizens may remain in the FRG for up to 3 months as tourists.

For persons who may be affected an emergency legal aid telephone number will be established. The persons concerned can ask for assistance there. The number will be published shortly before the G-8 summit. In so far as the individual national or regional affinity groups abroad cooperate with the protest organization in the FRG, this number will most likely be available before departure to Germany.

Stop and search

One popular method of the police in its everyday repression of leftists is the stop and search, which can take place independent of any suspicion and without cause, during which the identity of the person controlled is determined on the basis of her or his ID document and possible entries in the police computer are retrieved. Also tote bags, clothing and backpacks may be searched and articles be seized, whereby the physical search (pat down) must be done by a police officer of the same sex.

Exclusion zone

A very excessively used police instrument of repression is the ban from a specific place for stated period of time (exclusion zone). Thus persons can be denied entrance to certain limited public or private areas for a specific time period. The local police can rather flexibly and vaguely define the zone of enforced exclusion. As the bans are usually declared only verbally and not fixed in writing, the local police will interpret the ban to their own advantage. Whoever violates such a ban (from an exclusion zone) by remaining or

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returning to the specified area during the duration of the ban can be taken into custody. Therefore it is urgently recommended to at first comply with the order in order to avoid the danger of possible detention.

Detention

The fundamental form of detention is (provisional) arrest, for which the suspicion of having committed a criminal offence or some other violation of the law must be on hand. Therefore, arrests usually occur during or after political actions; the release takes place, at the latest, at midnight of the following day, if a judge has not ordered a remand in custody, which is usual only when serious accusations have been made.

For non-European Union foreigners an increased danger of remaining in custody exists, as detention is a prelude to expulsion or deportation. A "typical" criminal offence during protests is the accusation of breach of the peace. Such an accusation is a legal ground for deportation, if it should arise during a prohibited or dissolved assembly (demonstration). A conviction is not compulsory in order to justify such an expulsion. The local public authority responsible for aliens has their own scope for evaluating a judgment of having committed such an offence. Sometimes the indictment itself is sufficient for detention for deportation. It is to be feared that in this connection accelerated court proceedings (see further below) may be initiated, in order to guarantee a quick conviction and to establish sufficient grounds for expulsion. Incidentally, an alien can be expelled and deported even after committing a single criminal offence. In accordance with the Viennese Consular Convention non-European Union foreigners have the right to have their consulate informed, otherwise the police and public prosecutor's action and/or that of the court is illegal.

Preventative custody

On the fringe of or before the beginning of larger demonstrations activists are, in addition, frequently taken into so-called preventative custody, as the police insinuate that they soon want to commit criminal offences. Usually persons are affected about whom entries on earlier charges or convictions are present in the police database. In the course of the transnational co-operation of the agencies of repression it is quite possible be that they have access to data on violations of the law in other counties.

The various provinces of the FRG administer the duration of preventative custody differently. In Mecklenburg-Western Pomerania it can amount to up to 10 days when the police "find evidence" of the intention of committing a criminal offence. In the case of simply averting danger the police may impose up to 3 day's detention on the person concerned (although the federal police may impose up to 4 days). The imposition of preventative custody (as well as a

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ban from an exclusion zone) is theoretically permissible, according to police laws, only as long as danger exists. Thereafter, the legal basis for the sanction is no longer applies.

Summary proceedings

In German criminal law there is the possibility of sentencing by means of an accelerated procedure, so-called summary proceedings. On this basis a suspect can be brought before the court and convicted immediately after being arrested. The prerequisites are uncomplicated circumstances and incontrovertible evidence. The courts decide themselves when this is the case. Due process is more or less eliminated during such proceedings. Testimonies can be read out in court and based on them a conviction be sustained. The suspect must always object to (oppugn) such a submission so that this "evidence" be disallowed! A defense lawyer can be consulted only when the expected sentence exceeds 6 months imprisonment. According to the European Convention on Human Rights foreigners have the right to legal proceedings in their native language.

Deportation

Non-European Union aliens, who enter the FRG, need a passport and a visa and/or a residency permit and sufficient funds for their own support. If these cannot be produced such foreigners have entered illegally and thus immediately obliged to depart, enforceable by law. The illegal entry represents cause for arrest (if under suspicion of not complying with a request and/or an order to depart the FRG) and for being taken into custody pending deportation. As a rule the official deportation or expulsion takes at least one week. Due to the in-transparent legal situation prior to and during the summit such persons can expect to be immediately denied entry at the border (as well as in a train or at the airport). The situation is somewhat different for foreigners who originate (as citizens or legal residents) from a European Union country. These usually enjoy freedom of movement within the European Union. But even here there are restrictions. As the European Union primarily constitutes an economic union, only employees are entitled to absolute freedom of movement within the EU. Persons who enter the FRG for other reasons are required to prove upon entry (border controls will be in effect again during the summit!) that they are in possession of sufficient health insurance coverage and sufficient financial means for their stay. Likewise entry can be denied for reasons of the public order and security. Because of the unclear legal terms it is to be feared that there will be enormous numbers of denial-of-entry, which can only be remedied through legal assistance. Therefore an around-the-clock emergency legal-aid service will be established.

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Typical charges/accusations

Resisting and disobeying police authorities

We are confronted here with one of the typical paragraphs of the penal law which police officers use after arrests, if no better charge occurs to them. Civil disorder can be rather loosely interpreted: the active resistance against a police measure, to grab hold of something or someone during an attempted arrest, even shifting one's weight during sit-down-blockades. The police like to cite the civil disorder paragraph in revenge, if victims of police violence file charges against a police officer.

Breach of the peace (civil disorders and riots)

One of the paragraphs usually dragged out for charges for offences during demonstrations is breach of the peace. Whoever happens to be in the midst of a crowd from which un-peaceful actions (e.g. defense against police violations or violence) originate, can for that reason be prosecuted for breach of the peace. Also the participation in an un-authorized demonstration or one terminated by the police can be prosecuted on the same grounds. Frequently breach of the peace will be combined with an accusation of bodily injury or damage to property.

Duress

This accusation is usually raised in connection with blockades, which can also be of a purely symbolic character. Depending on the external circumstances still another charge may additionally be raised, such as (grave) interference in road and/or rail traffic.

Before a blockade can be cleared, the police officer-in-charge is obligated to request the activists three times (a rule not always obeyed) to vacate the area of their own accord. The same applies to eviction from occupied buildings or properties, for which the activist may be threatened by a charge of trespass and unlawful entry.

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Prohibited left-wing symbols

There are some leftist symbols, which are forbidden in Germany and which can lead to police assaults or infringement of rights. Specifically these are: the emblem of the Free German Youth (FDJ, forbidden as of 1952 in West Germany), the logo of the Red Army Fraction (RAF), the logos of the (former) Kurdish Worker's Party and the ERNK, as well as illustrations of Abdullah Ocalan, the emblems of the Turkish leftwing parties DHKP C and Dev Sol. In various German regions the authorities also recently attempted to forbid and to introduce a penalty for the anti-fascist symbol of the smashed or crossed out swastika.

The police will also charge in at the appearance or use of certain slogans, such as ACAB (all cops are bastards), in the case of publications in which, for example the American president or its defense minister is designated as a terrorist, or during actions when Christian emblems become "libeled". During the last visit of the Pope to Germany (during the summer of 2006 in Bavaria) any poster critical of the Pope was used by the police as pretext for "intervening at the lowest threshold".

Mocking the state symbols of the FRG (e.g. by figuratively asserting a continuity of the current state with the Nazi state) and burning the black-red-gold federal flag are likewise punishable by law and can lead to police intervention. But as in many other cases as well it depends very much on the local police authorities and the local political climate as to whether action will be taken or not.

Police equipment and operations during demonstrations

Police uniforms

In Germany the police are subsumed under provincial (Land) law, so that each of the 16 provinces of the Federal Republic has its own police with its own police regulations. Usually the individual provincial police regulations tend to slowly resemble each other, as joint resolutions of the conference of the secretaries of the interior of the provinces are gradually put into effect. Beside these provincial police forces there is also a federal police force (until recently still known as the Federal Border Police), which is regulated by a federal police law. The individual states of the Federal Republic can request police contingents from the federal and other province governments. When demonstrations or other major events are anticipated these are then put at their disposal as auxiliary troops. All of these units have to adhere to the laws and regulations that govern the police of the respective state.

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The provinces of the Federal Republic have special units (just like the federal police force) for counter-insurgency, some of which have been especially trained and schooled for deployment during demonstrations.

Formerly all police units wore green uniforms; currently some provinces of the Federal Republic (due to a general harmonization in the European Union) have changed over to blue uniforms or are gradually changing over. Besides these there are in addition individual units that wear black or grey uniforms, which provides for some irritation: these are certain special units of the individual states which, excepting their unusual uniforms, hardly differ from the remaining police units.

As a special case we have in addition the so-called GSG 9 (border security force group 9), a special-purpose counter-terror force of the federal police. The GSG 9 is fielded however only very rarely in direct connection with demonstration events (for example, in 1986 at the construction fence surrounding the atomic fuel reprocessing plant in Wackersdorf, Bavaria).

The only useful means of differentiating between police units are the coat-of-arms on the sleeves of the police uniforms as well as the license plates on their vehicles (requiring however some practice). It is useful nevertheless to note all other characteristics (helmet color, unit numbers or names pasted on helmets or on backs of uniforms, armament, uniform color) when police assaults or rights violations occur, as there are so far no individual service numbers.

Police operational resources and police weapons

The police differentiates in its equipment between weapons and operational resources. This distinction is however rather arbitrary and in the long run of less importance for activists. The police in the province Mecklenburg-Western Pomerania have approved of the following weapons: police issue pistol or revolver, stun grenade (flash boom), machine gun, police truncheons and tonfas (more flexible Asian truncheons). The use of firearms is theoretically limited to extreme, exceptional situations and should not occur during demonstrations, which, however, cannot be completely excluded. Teasers or electric shock weapons and rubber projectiles have not been approved for use.

The police have at their disposal the following operational resources: dogs, horses, water cannons, armored bulldozers, manacles, shackles, fences and moveable barriers, helicopters, pepper spray, teargas, shields, protective clothing with plastic inserts, plastic armor, helmets, different electronic - technical equipment as well as explosives (not for use against persons) at their disposal.

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No obligatory ID-tags for police

In Germany police officers do not wear publicly visible ID tags with their service numbers or similar means of identification. Thusly suits against individual police officials for malfeasance (e.g. police brutality during a demonstration) can be prevented. As the police wear uniforms and are concealed by helmets, chin cups or ski masks the identification of the perpetrator is to a large extent impossible. Accordingly, state authority will be enforced cavalierly, implemented by means of police truncheons or other weapons.

Fundamentals of police deployment during demonstrations

On paper freedom of assembly exists in the FRG, and the police is obligated to de-escalation and to friendliness vis-à-vis demonstrations. In reality however, attempts at intimidation (e.g. by extensive, advance controls), obstruction of the event (e.g. by forming a police cordon) and assaults on participants are the order of the day. Assaults are directed frequently against particular individuals who allegedly violated the concealment regulations or the conditions imposed on demonstrations or allegedly committed some other criminal offence. In such cases seize- or grab-troops are primarily deployed, which try to haul the suspects out of the assembly.

If the whole demonstration or a larger group does not adhere to police instructions or the law governing assemblies, usually well-armed and armored police units, sometimes strengthened by K-9 or horse-mounted units, try to roll back the crowd using truncheons and teargas. Only in the case of huge events will armored bulldozers and water cannons be brought into play.

Riot cops

During the last few years most provinces of the FRG have implemented the organization of so-called "arrest and evidence-securing units" (BFE) and/or similar police units. These are separate police units, which act in smaller groups and are particularly trained for demonstrations. Each of these units has their own video documentation team. In the "ideal case" the criminal offences are first recorded on video, in order to then quickly arrest some specific person in the course of the demonstration. The BFE units usually act relatively autonomously and are characterized by systematic use of physical force. They are usually armed with "tonfa" truncheons and with special hardened plastic gloves, which can also be used very effectively as a club.

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Helicopter deployment

Helicopters are used during large demonstrations for three purposes:

1. Surveillance and documentation by means of videos,
2. Faster transport of deployed troops,
3. Noise generation and diversion.

Particularly the last point is frequently ignored. Communication at the ground level is made more difficult by the rotor noise of the helicopters, which is the reason for the police calling for their use in crucial situations (e.g. police assaults aimed at various places in the course of a demonstration, evacuation of persons from police encirclements). Experience has shown that helicopters are also utilized for psychological attrition, e.g. as they fly over the activists' camps at night.

Deployment of water cannons

Water cannons are used to disperse crowds. Teargas can also be admixed to the water.

Employment of chemical agents

"What is forbidden in war is permitted in inland." As far as the employment of chemical agents is concerned, the federal government acts according to that motto. International pacts signed by Germany forbid their employment in wars. At home, however, the police use several chemical agents. Teargas (CN and CS gas) is quite common as is pepper spray. Teargas is used in different forms, either as a cartridge, which can be thrown by hand or shot by special rifles, as an admixture in the water jet of water cannons, or as a handy chemical mace with a directed, bundled spray. The police seem to be rather keen on pepper spray; in any case, there are many police units that are additionally equipped with it and use the stuff quite extensively. Also (as with chemical mace) they do not flinch back at aiming the agent directly at mouths, noses and eyes.

Police cameras and ones own filming

The police film demonstrations as a matter of principle in Germany. Special police vehicles with permanently installed video cameras are in use, as well as hand-held cameras; in addition, undercover recordings made by plain clothes

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police or photographs taken from helicopters are common. It can be assumed that, in particular, the video films produced during larger or international demonstrations will later be used in order to criminalize demonstrators.

Whoever photographs or documents police actions through videos can expect serious trouble with the police. Although it is perfectly legal to document police behavior, the police flogging troops are reluctant to have themselves filmed in action. They tend to vigilantism (removing the film, destruction of the camera) in such situations under the pretext of protecting their "rights to their own picture". That can happen to both participants in the demonstration and to journalists, whereby the police deal with the latter with somewhat more reserve. (It is thus worthwhile to have a journalist ID document on hand.) By the way, it is common police practice to seize films made (by non-participants) at the fringe of demonstrations, in order to subsequently criminalize participants in demonstrations.

Encirclement of demonstrations

Even for minimal offences against the assembly law or for an alleged present danger to the public order the superior operations officer can have larger groups of activists or whole demonstrations encircled.

Two forms of encirclement are common: on the one hand a narrow cordon of police officers can serve to limit people from entering or leaving the demonstration. As, in addition to hindering access, the public effectiveness of the demo is strongly impaired, as, for example, leaflets cannot be distributed and banners cannot be seen, this measure is usually considered illegal; but that does not seem to disturb the police at all. Ever more often the demo has to proceed down its planned route "embedded in this police escort" ("moving encirclements").

On the other hand encirclements are often utilized for mass detentions, when supposedly punishable actions are committed from within a crowd or the crowd itself is regarded as a potential source of danger. The activists concerned are thereby collectively taken into provisional custody and may not leave the enclosed group for a considerable period of time. It is not uncommon that the police film all those in the encirclement and compare these with photographs of previous actions, in order to be able to arrest people immediately. While the encirclement may sometimes be disbanded without further repressive measures, in many cases particulars of all participants inside will be noted and charges filed.

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Information on the right of assembly

Compulsory registration

In the FRG rallies and demonstrations must be registered at the municipal office for public order 48 hours before beginning public mobilization. The registration must contain the motive, date, schedule, place and/or planned route as well as leader of the demonstration (with a real not fictive name!), whereby the latter usually identical with the person making the registration. Political meetings enjoy the general freedom of assembly and are therefore not in principle subject to approval (for a prohibition conclusive reasons must be presented), but the authorities frequently change important basic conditions (to which demonstrations are subject) and impose limitations (on its public effectiveness) e.g. by the transfer to less busy section of town. They often impose rather grotesque requirements.

Spontaneous demos, which react at short notice to a current provocation, do not have to be registered. However it must be expected that the police insist on the designation of an assembly leader, whereby the legal basis for this practice is very doubtful.

The leader of the assembly is responsible for the course of the demo and has to announce any possible conditions or restrictions to the participants over loudspeakers and see to it that the demo stewards impose these. If the situation threatens to escalate completely it is imperative that the assembly leader dissolves the assembly by a loudspeaker or megaphone announcement and departs the premises. Otherwise he or she may be held liable for any further incidents. However, as of that moment the alleged friendliness of the police towards demos no longer applies, and the continued participation in a dissolved (just like in a proscribed) demonstration represents a misdemeanor. A dissolution of a demo should therefore be considered only in exceptional cases.

Official restrictions on demonstrations/demonstrators

The police and other government officials have been rather creative in the recent past, devising restrictive and partially absurd conditions for demonstrations. Offences against these conditions and restrictions can entail the termination of the demonstration or police abuses. Among the restrictions on demonstrations in recent years were time and again: prohibition of banners carried on the outer fringe of a demo, prohibition of loudspeakers and any amplification systems or analogous maximum decibel limits, certain minimum distances between (political or affinity) blocks of demonstrators (so that the police are better able to drive a wedge between demonstrators), prohibition of banners of a certain size, prohibition of using ropes at the fringe the demo etc.

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The problem with most restrictions on demonstrations is that they may be announced only 48 hours before the registered demonstration takes place and that before the beginning of the demo it is mostly impossible for the registrant to institute successful legal proceedings.

Bans on public assembly

Apart from the well-known inviolable precincts around parliaments and governmental districts, in which demonstrations are permanently forbidden, a blanket ban on public assemblies can be imposed in specific zones for some days or even weeks, if the authorities see "public security and order" in danger. All groups of people or individuals, who remain in the specified zone and within the period concerned and are regarded by the police as potential demonstrators, must accordingly expect corresponding repressive measures (detention, fine) on the grounds of participating in a forbidden assembly.

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