Hamburg: Proceedings against G20 protestors partially dropped

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13 February 2024

Six and a half years after the massive police crackdown on G20 protests in Hamburg, a trial began for the third time on January 18 against demonstrators who had been arrested on Rondenbarg Street. A trial against other demonstrators from Rondenbarg had failed twice for formal reasons.

The new trial is significant for two main reasons: Firstly, the Hamburg public prosecutor's office is persistently and vehemently trying to bring about a far-reaching abolition of the fundamental right to freedom of assembly by changing case law. This coincides with attacks on this fundamental right in connection with protests against the genocide in Gaza.

On the other hand, the present trial continues the excessive repression against demonstrators for which the then Hamburg mayor, now Chancellor Olaf Scholz (Social Democrat, SPD), was responsible and which he still advocates today. It shows what this government is capable of when confronted with protest and resistance.

After the protests, the Hamburg police initiated several large-scale raids in Germany and abroad and launched 3,500 investigations. Hundreds of trials were held. Some defendants were sentenced to exemplary prison terms for trivial offences, others were given a fine in exchange for a "confession," or were acquitted.

The first day of the most recent trial began with a delay of around 1.5 hours. This was due to extensive, harassing public admission controls ordered by the court. Visitors had to enter the court through a side entrance, their belongings were x-rayed and they even had to take off their shoes.

On January 20, 2024, 1,500 people demonstrated under the slogan "Community resistance against state repression! Defend freedom of assembly!" expressing their solidarity with the defendants.

At the G20 summit, the police had used enormous brutality against demonstrators, accompanied by an extreme smear campaign in the media, which fabricated claims of "civil war-like conditions" in the city. The "Rondenbarg complex" was a particularly drastic case, as reported by the WSWS.

A demonstration march was surrounded by police units from the front and rear in Rondenbarg Street, and after unknown persons threw a handful of fireworks and stones in the direction of the police officers, without hitting them, the police immediately attacked and broke up the march within a few minutes. Not a single police officer was even slightly injured, but numerous demonstrators were, some seriously, with some left with open fractures. Despite the outrageous brutality, no police officer involved has been convicted of any offence to date.

Protesters not even accused of violence by the public prosecutor's office are now being prosecuted all the more vehemently. Around 80 of the demonstrators have since been charged with aggravated breach of the peace. The criminal charge ultimately became the mere participation in a demonstration in which any other participants—possibly even state security forces in plain clothes (*agents provocateurs*)—had carried out acts of violence. For this, peaceful demonstrators with no criminal record were to receive prison sentences of several years.

The public prosecutor's office wants to reverse the reform of the law on breach of the peace from 1970. Before 1970, the mere presence in a "violent assembly" was a punishable offence. Today, so-called psychological aiding and abetting is sometimes used to convict people for "participation."

This prosecutorial construction was used, for example, in the G20 Elbchausee trial—although the Federal Court of Justice (BGH) has repeatedly pointed out in the past that mere presence in a "violent crowd" is not sufficient for a conviction for breach of the peace.

In 2017, however, the BGH ruled that "brazen" marching could be punished as a breach of the peace. However, this supposedly did not concern demonstrations, but organised groups of hooligans who marched in uniform clothing and in formation for the sole purpose of coming to blows. In its decision, the BGH emphasised that this could not be applied to political demonstrations.

However, this is exactly what the public prosecutor's office has repeatedly tried to do in the Rondenbarg trial. In the indictment, they carefully avoided the word "demonstration" and instead spoke of a "march" in "uniform black clothing."

None of this is true, as was confirmed on the second day of the trial at the beginning of the hearing of evidence. Several video recordings were shown. The defence pointed out that the defendants were not visible on them. The videos also showed

that what happened at Rondenbarg was a demonstration. Participants did not march in a closed formation, nor were they all wearing masks or black clothing. Banners and flags can be seen. Slogans were also shouted, and a speech given over a megaphone. All things that are customary at a political demonstration.

The opening statement for the defence was made by lawyer Sven Richwin. He spoke about the notorious task force of the federal police department from Blumberg, which played a central role in the events of July 7, 2017.

In Berlin courts, Richwin said, he had repeatedly witnessed police officers in civilian, supposedly "appropriate clothing" mingling with assembly participants as so-called observers. "In the present proceedings, there is now a risk that undercover police officers will not only participate in the creation of a basis for an intervention, but through their actions can even establish criminal liability for people who do not commit any offences themselves."

The WSWS had already warned in 2018 that the G20 trials were intended to undermine basic democratic rights. With the "Brokdorf" decision in 1985, the Supreme Court had recognised in principle "that acts of violence at demonstrations by some of their participants may not be used to ban the demonstration as a whole and criminalise all its participants," we wrote. "Such principles are to be overturned today in order to suppress any form of social and political opposition and establish a police state."

During the trial, defence lawyer Franziska Nedelmann pointed out that the orgy of violence and repression against the G20 protests was the result of a deliberate political decision by the Hamburg state government led by Olaf Scholz.

With the appointment of police director Hartmut Dudde as police commander of the operations surrounding the summit, "the course was set for harsh and escalating confrontations," said Nedelmann.

Dudde was not an unknown quantity. He had made his career under the right-wing populist and former interior affairs senator (state minister) Ronald Schill and "committed multiple breaches of the law during his time in the overall command of the riot police: unlawful encirclement of assembly participants, detentions, dispersal of assemblies." Courts had repeatedly found that the Hamburg police under his leadership had "violated the right of assembly and the fundamental rights of protesters."

Olaf Scholz had always rejected any criticism of police violence and instead called for harsh punishments for the accused demonstrators.

In view of the disproportionately long duration of the proceedings and the lack of evidence for the public prosecutor's claim that the protests at Rondenbarg were a violent march and not a political demonstration, the presiding judge made clear early on that she would not follow the argumentation of the public prosecutor. However, she was only willing to discontinue the case in return for accepting a fine and a statement "distancing [themselves] from violence"—not by the police, who were responsible for all the injuries, but by the defendants, none of whom had been accused of committing acts of violence.

Two defendants did not feel able to continue the trial, which was scheduled to last 25 days, and accepted the deal. Continuing the trial means having to travel long distances on many trial days, which can be financially problematic for those with employers as well as freelancers. One defendant was at risk of deportation if convicted. Two further proceedings were detached from the main case.

Two defendants decided to continue the trial. They issued a joint statement, saying, "We are aware of the legal and political significance of this trial. We know how many current and future proceedings are linked to it and we have already pointed out on the first day of the trial how much freedom of assembly is threatened by these proceedings. Every additional day of the trial would be one day too many: the mere possibility of ending up in court without an individual alleged offence can already deter people from taking part in assemblies at all. The proceedings must therefore be discontinued today and without conditions."

Even if the proceedings result in acquittals for the two remaining defendants—which seems legally compelling in view of the clear evidence—the threat to freedom of assembly remains. This is shown not only by the actions of the public prosecutor's office and the court in these proceedings.

In November last year, the opposition Christian Democrat (CDU/CSU) federal parliamentary group introduced draft legislation in the Bundestag that, in addition to criminalising the "denial of Israel's right to exist" and "promoting sympathy" for "terrorist organisations," also tightened up the law on breach of the peace. "Sympathisers and curious onlookers" are also to be prosecuted in cases of crowd violence, as it was "often impossible to determine" whether someone was involved in violence against the person or property as a "perpetrator or participant." The bill has been referred to the parliamentary committees.