

# “Last Generation” climate protest group faces criminal charges in Germany: A massive attack on democratic rights

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German public prosecutors have charged the “Last Generation” climate protection group with forming a criminal organisation under Section 129 of the Criminal Code. The charges are a massive attack on the freedoms of association, assembly and expression, fundamental rights without which there can be no democracy.

Indictment under Section 129 means that a group pursuing political goals is placed on the same level as a criminal gang. Forms of protest such as civil disobedience are being criminalised. Persons charged under this statute do not have to have committed the incriminating acts themselves to be convicted. It is sufficient that they were members of the accused association.

On 28 February, 2025, the Munich Public Prosecutor’s Office filed charges at the Munich I Regional Court against five members of Last Generation. The document accuses the activists of forming a criminal organisation with the intention of committing crimes. The indictment is 149 pages long. Among the accused is the well-known climate activist Carla Hinrichs, the group’s former press spokeswoman. Also indicted is the founder of the Augsburg Climate Camp, Ingo Blechschmidt.

In May 2023, the Munich Public Prosecutor’s Office carried out a nationwide raid against Last Generation in which 170 police officers searched 15 properties in seven federal states. The group’s website was temporarily shut down, its funds seized and its phones tapped. The “criminal acts” of which the defendants were accused consisted exclusively of peaceful protests. In most cases, activists glued themselves to the road or elsewhere, briefly obstructing traffic or other operations.

In 2023, the far-right Alternative for Germany (AfD) called for Last Generation to be placed under surveillance “with the help of the Federal Office for the Protection of the Constitution,” as Germany’s domestic secret service is called, and for a ban to be considered. The action taken by the Public Prosecutor’s Office and police authorities is now putting the far-right extremists’ demands into practice.

The Neuruppin Public Prosecutor’s Office has also brought charges against five members of the climate protection group on suspicion of forming a criminal organisation. The charges relate to actions at the PCK oil refinery in Schwedt, where the activists closed a valve, and to actions at Berlin’s city airport, BER, where they glued themselves to the airport grounds and rode bicycles

across the grounds. At the Barberini Museum in Potsdam, they threw mashed potatoes at a Monet painting. The painting was behind glass and was not damaged. The Neuruppin Public Prosecutor’s Office has been investigating suspicion of “forming a criminal organisation” under Section 129 of the German Criminal Code since December 2022.

The Flensburg Public Prosecutor’s Office is also conducting a similar investigation against Last Generation.

Section 129 of the German Criminal Code is also referred to as the “Mafia Statute” because it is actually aimed at organised crime, mafia and biker gangs or white-collar criminals. Most people associate the term more with mafia-like structures than with climate activists protesting for environmental protection. Paula Zimmermann, an expert on freedom of expression and assembly at Amnesty International in Germany, explained:

The indictment marks a new escalation in the criminalisation of climate protests in Germany. Section 129 of the German Criminal Code is actually used to combat organised crime. Applying it to non-violent protest criminalises civil society activism and thus restricts democratic freedoms. Using criminal law to delegitimise and intimidate unwelcome protest is contrary to the freedoms of expression and assembly, as enshrined in human rights and the German constitution.

The investigative methods used by the Munich Public Prosecutor’s Office to take action against the climate group are typical of authoritarian police states:

- The tapping of the movement’s press telephone for months, which also recorded conversations with journalists;
- The confiscation of thousands of addresses of Fridays for Future activists, although their forms of protest differ from those of Last Generation;
- The temporary shutdown of the group’s website, claiming that Last Generation represented a criminal organisation according to Section 129.

The main accusation used to justify prosecution as a “criminal organisation” is the classification of blockades of road traffic by

gluing oneself to the road as “coercion.” This accusation alone is highly controversial. Lower courts have repeatedly rejected it.

Defining blockades, peaceful protests and disruption of traffic and business operations as criminal acts of violence and coercion, and the prosecution of protest groups as though they were mafia gangs, are far-reaching steps towards a police state. Last Generation has since abandoned these methods and changed its name.

For decades, such means of civil disobedience were central to the German peace and environmental protection movement. In 1983, leading intellectuals such as the writers Heinrich Böll, Günter Grass and Walter Jens, theologian Helmut Gollwitzer, and Otto Schily, who later become interior minister, took part in sit-down blockades in front of US barracks to protest nuclear rearmament.

Demonstrations and flash mobs almost inevitably obstruct traffic to a greater or lesser extent. Even factory occupations and strikes that go beyond the extremely restrictive German right to strike and the straitjacket of the trade unions can, according to such an understanding, be interpreted as coercion and the groups that organise them criminalised, prosecuted and banned.

This is precisely what the public prosecutors, who are pursuing Last Generation so bitterly, are aiming for. With the exception of sections 129a and 129b of the Criminal Code, which are directed against “terrorist organisations,” there is no other norm that can be used to take similarly harsh and repressive action against members of an organisation and that gives the police and security authorities such far-reaching powers to suppress them.

### **The severity of the offence is irrelevant**

According to the case law of the Supreme Court, Criminal Code Section 129 covers any “activity of any kind that serves the purposes of the association.” It is not necessary to be accused of serious crimes; it is sufficient to “have something to do” with the organisation in question to become the target of spying, searches, confiscation, arrest and prosecution.

In order to maintain a certain semblance of the rule of law, legal commentary and the case law of the highest courts have always required that a “criminal organisation” pose a “significant threat to public security.” This has always been considered an “unwritten element of an offence,” i.e., it is interpreted into the law in order to be able to present it in a constitutionally compliant manner.

Since 2017, however, there have been voices questioning this unwritten element of the alleged offence. This is because, following an EU framework decision from 2008, which was implemented by Germany in 2017, a “criminal organisation” is now defined more precisely in law. Until then, it was defined as an organisation “whose purpose or activity is directed towards committing criminal offences.” From 2017, it was defined as an organisation “whose purpose or activity is directed towards committing criminal offences that are punishable by a maximum of at least two years’ imprisonment.” It is noteworthy here that the

EU framework decision had set the bar higher, at four years.

If Germany had merely implemented the EU framework decision, the charges against Last Generation would not have been possible from the outset. Simple coercion is punishable by a maximum of three years’ imprisonment.

For numerous other crimes, the maximum penalty is at least two, but less than four years. These include threats (up to three years); resistance to law enforcement officers (up to three years, not to be confused with the much more severely punished offence of “assault on law enforcement officers”); rewarding and condoning crimes (up to three years, which can include, for example, support for Hamas’ actions on 7 October, 2023 or Russia’s invasion of Ukraine); insult, defamation, libel (up to two years); insulting persons in a political capacity (up to three years); denigrating the state and its symbols (up to three years); violating the flags and national emblems of foreign states (up to two years); serious trespass (up to two years); breach of the peace (up to three years); denial or trivialisation of genocide or war crimes (up to three years); property damage or unauthorised alteration of the appearance of a foreign object (e.g., graffiti, up to two years).

In Germany, if the unwritten criterion of “significant threat to public security” is dispensed with, any group, no matter how harmless, can be prosecuted like a criminal mafia organisation. This is, in fact, what is taking place in the case of Last Generation.

Even after the 2017 criminal law reform, both the Federal Court of Justice and legal literature have maintained that a “criminal organisation” must not only commit certain criminal offences, but must also, as before, pose a “significant danger to public security,” as an essay in *Verfassungsblog* shows. Other public prosecutor’s offices, such as in Berlin, have so far rejected the approach taken in Munich.

The prosecution of Last Generation is, nevertheless, in keeping with the times. In particular, the actions against Palestinian protests of the genocide in Gaza, including in Berlin, and against “Palestine Solidarity Duisburg” show that major parts of the state are no longer willing to accept protest, no matter how peaceful and harmless it is.

This repression will inevitably increase with the escalation of war and militarism. It is all the more important to oppose it politically as the Sozialistische Gleichheitspartei (Socialist Equality Party) is consistently doing.



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