

# Duisburg Regional Court rules chants of “From the river to the Sea, Palestine will be free” and “Yalla Intifada” are not punishable by law

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On May 21, Duisburg Regional Court acquitted one of the co-founders of the now banned “Palestine Solidarity Duisburg” (PSDU), Leon Wystrychowski, of the charge of “condoning criminal offences” by Hamas.

On October 9, 2023, Wystrychowski had registered a demonstration in the Hochfeld district of Duisburg in solidarity with the Palestinians who had broken out of the sealed-off Gaza Strip two days earlier. At the time, the WSWs reported on the demonstration, which was initially attended by more media representatives than participants, who were obviously looking for images and statements to discredit and criminalise the demonstration and solidarity with the Palestinians.

As a result, the Duisburg public prosecutor’s office brought several cases against participants in the demonstration. Leon Wystrychowski was accused of having condoned criminal offences under Section 140 of the German Criminal Code by allegedly chanting the slogans “From the River to the Sea, Palestine will be free” and “From Duisburg to Gaza, Yalla Intifada” at the demonstration and rally on October 9, 2023.

The “rewarding and condoning of criminal offences” is punishable by a prison sentence of up to three years or a fine.

Duisburg district judge Haberland sentenced Wystrychowski in the first instance on April 10, 2024. He relied on the prosecution’s argument that the slogan “From the River ...” was not punishable in principle, but the “close temporal connection” with the “murders, kidnappings and desecrations committed by Hamas” proved that the defendant condoned these offences. It was the first conviction in Germany for chanting this slogan; the judgement was later included in decisions by the Berlin district court, among others, where entire passages were simply reproduced.

At that time, the genocide in Gaza was already taking place before everyone’s eyes. For this reason, Israel and Germany were also subsequently indicted by the International Court of Justice for complicity. The first-instance judgement against Leon, as well as further proceedings and judgements against genocide opponents, were an important step towards escalating the merciless persecution of all critics of the genocide. To this day, pro-Palestine and anti-genocide demonstrations are attacked with police violence, broken up or not allowed in the first place, student protests are bludgeoned and punished with university sanctions, and genocide opponents are inundated with charges. In Berlin alone, the police prosecuted over 5,000 “anti-Israeli” offences in the first year after October 7, 2023. Opponents of genocide without a German passport are now being deported or threatened with deportation.

The PSDU was banned only around a month after Leon’s initial conviction. The North Rhine-Westphalian state Interior Ministry under Herbert Reul (Christian Democratic Union, CDU) set May 16, 2024, as the enforcement date for the ban order, which was issued on March 18.

Leon Wystrychowski and Ahmad Othman have filed an appeal against the ban with the Münster Higher Administrative Court. An urgent appeal against the decision to enforce the PSDU ban immediately has already been rejected.

While critics of the Israeli government and its genocide against the Palestinians are denounced as “antisemites” and “Hamas and terror supporters,” both the previous and new German governments have declared the defence of the Israeli government and participation in the genocide to be a matter of state policy.

The open acknowledgement of the methods of genocide by the German government, state institutions and the country’s largest media outlets have nothing to do with taking

responsibility for the Shoah, the industrial murder of 6 million Jews by the Nazis. In an article on this subject, the WSWS wrote:

Israel serves Germany, as it does the United States, as a military bridgehead in a region that has huge reserves of raw materials and is of central geo-strategic importance. The resistance of the Palestinians, which enjoys broad support among the Arab masses, stands in the way of imperialist control over the region. That is why it must be eliminated.

These economic and geopolitical interests of Germany—and the fact that depending on the poll, 60 to 80 percent of the population oppose Israel’s actions—are the real reason for the merciless persecution of those who oppose the genocide in Gaza.

This broad opposition also became clear during the trial at Duisburg District Court. More than 70 supporters attended the first day of the trial on May 12. As Leon Wystrychowski had submitted motions for evidence, presiding judge Dr. Ostkamp-Zhu scheduled a second day of the trial, which was moved to the largest hall of the district court due to the great public interest. Amid protests from the audience, the judge ordered that no kufiyas could be worn in the courtroom.

It is therefore all the more important that she acquitted Wystrychowski of the charge of condoning criminal offences. Judge Ostkamp-Zhu made it clear in her brief oral reasoning after reviewing all the statements and pleas and the presentation of evidence that firstly, the demonstration on October 9, 2023, was not aggressive or heated, as reported by the press and television stations. There was aggression and tension, but only when the demonstration met with a counter-protest from a few Zionists and supporters of the Netanyahu government. Secondly, she made it clear that the defendant had neither glorified violence nor called for criminal offences in his speech. Rather, he had called for international solidarity and support for the Palestinians.

Ostkamp-Zhu referred in particular to court judgements by the Hesse state Administrative Court in Kassel (case no. 8 B 560/24) and the state Higher Administrative Court in Bremen (case no. 1 B 163/24).

Both courts had made rulings on the slogan “From the River ...” in 2024. On March 22, 2024, the 8th Senate of the Hesse Administrative Court ruled that when classifying this slogan under criminal law, it should be considered that it expresses the desire for a free Palestine from the (Jordan) river to the Mediterranean—including the territory of Israel

within its current borders. However, the slogan said nothing about how this goal should be achieved. “In principle, various political ways and means are conceivable to achieve this abstract goal, for example through international treaties, a two-state solution, a unified state with equal civil rights for Israelis and Palestinians or by means of armed struggle,” the Kassel court said in its press release. On summary examination, the statement was not punishable under the Criminal Code or the Associations Act.

The Bremen Higher Administrative Court had also stated that even the implied denial of Israel’s right to exist, which may also be meant in the slogan, was not punishable: “Statements questioning Israel’s right to exist, however, do not necessarily constitute a criminal offence.”

In this specific case, the Bremen court had prohibited the use of the slogan for a registered assembly in an urgent application but made it clear that it was not punishable as an endorsement of criminal offences, as a public incitement to commit criminal offences or as incitement to hatred under penal codes prohibiting incitement to hatred against the Jewish population living in Germany.

The Bremen court prohibited the use of the slogan because in the meantime, on November 2023, the federal government had banned Hamas as a terrorist organisation and classified the slogan as an “attribute of Hamas.” The slogan therefore violated Section 86 of the German Criminal Code governing the use of symbols of unconstitutional and terrorist organisations.

With regard to Section 140, however, the Bremen court ruled that the slogan “From the River ...” was not punishable, “since a direct temporal connection with the Hamas attacks on Israel on October 7, 2023, can no longer be established with certainty due to the changes in the Middle East conflict.”

Judge Ostkamp-Zhu now reasoned that even a temporal connection, as defined in the first instance by the Duisburg district judge Haberland and confirmed by Bremen in reverse, did not justify the assumption that Hamas violence was being condoned.

The acquittal by the Duisburg District Court is therefore likely to have an impact on ongoing and upcoming court proceedings and decisions.



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