

Committee for Fundamental Rights and Democracy

Blockupy 2013

**The Frankfurt police kettle
June 1, 2013:**

**Report on the observations of the demonstration
from May 30 to June 1, 2013**

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Introduction

In May 2012, the city of Frankfurt wanted to ban all meetings against the austerity policy in Europe. The courts came to the conclusion that the large demonstration on Saturday, May 19, 2012, could take place. In the first instance, at first they confirmed all other prohibitions. Neither, it was allowed to stay in a camp or to meet in public places. In 2013, the public pressure on the city of Frankfurt was growing. Further, the city had lost some cases in court. Nevertheless, it was feared that the financial city of Frankfurt would restrict the protests against the crisis regime and the impoverishment policy of the troika consisting of the EU Commission, the European Central Bank (ECB) and the International Monetary Fund (IMF). The Assembly at the St. Paul's Square, "For the full fundamental right to freedom of assembly" of the Committee for Fundamental Rights and Democracy, which had also been banned in May 2012, decided to organize a observation of the demonstration in 2013.

Since 1981, we have organized demo observations over again to report on the demonstrations and how the government and police deal with them (see Excursus p 62ff). The right to assemble, demonstrate and to express ourselves directly, is one of the few radical democratic constitutional standards. This corrects the otherwise remoteness of the representative democracy from its citizens, as it is defined through the Constitutional laws. Restrictions such as prohibitions of assembly, requirements for the organizer, camera surveillance, the use of civil police and the use of force by the police put this right in question. We observe and document the demonstration events, put them into the context of their history and evaluate them accordingly to their importance, which this fundamental right has.

With a total of 23 demonstration observers we were from May 30 to June 1, 2013, in Frankfurt accompanying all the different kinds of protests. Friday was marked by a resourceful, self-determined and purposeful protest, in which several thousand people participated. In the early morning hours, the European Central Bank was surrounded. Then the aim was to seek out profiteers exemplary of the crisis with flash mobs and colorful actions. The German bank, the textile businesses of the Zeil, the real estate industry and the Frankfurt Airport ("Deportation Airport") were to be "marked" as they stand exemplary for a policy of global hunger, for the exploitation of human and natural resources, for low-wage work, social exclusion, housing shortage and racist deportation. Again, there were reasons to complain about the surveillance of the government and the quick grab to the instruments of police repression. Overall, however, we came to the conclusion that a living protest had ruled the day. We saw that meetings in the city of Frankfurt were possible. As a result of these impressions, we assumed that the mass demonstration the next day would run without problems.

For large-scale demonstrations the consensus of the organizing groups stands in the foreground and the common interest lies in a media coverage of the political content and the criticism. For the participation of a broad range of the population, including families with

children, elderly or disabled people a peaceful order of such events for all participants is necessary. However, we've been already alarmed by the additional upgrade of the fencing at the ECB with Nato razor wire in the evening hours of Friday and the dense police presence on Saturday morning. These were dubious signs of a police being ready for violence.

What happened shortly after the start of the demonstration with many participants from different European countries took us all by surprise and shocked us all. The Frankfurt police encirclement, by which a part of us were removed from the demonstration and then besieged for hours, suspended fundamental democratic rights of assembly and freedom of expression to such a degree that had not been observed in recent decades: The police and the (un)responsible politics had prevented a legal mass demonstration. They had demonstrators, both the surrounded ones as well as those in the front and behind the encirclement, physically heavily injured. So they violated fundamental rights of the citizens.

Like so many kettles before (which were confirmed by judgments in many cases, see below) this one was also illegal and exorbitant in our eyes. Neither the state nor the police have to decide how wide a political alliance is allowed to be and who should belong to it. The courts will decide on it. The organizers as well as various citizens have filed in lawsuits. With dismay, we recognized later that the few restraining orders and temporary arrests outside the encirclement we had observed on June 1 only affected black people. Although we certainly have not observed all restraining orders and temporary arrests, this can still be understood as a sign of racism practiced by the police.

In this brochure, we will inform you on the background, the demonstrations and the kettlement. We will refer our assessment on the ruling of the Constitutional Court of Germany in 1985, the Brokdorf decision, which is important for the understanding of the fundamental assembly and freedom of expression rights. Freedom of assembly, untouched by state and in the hands of citizens, is an essential element of democracy, which is violated in essence by any limitation. In the Chapter VII "democracy, demonstration, law and violence" we will explain these relationships. We will give an account of our understanding of the fundamental rights of assembly and freedom of expression. The misunderstanding of these Constitutional rights, which was practiced by political actors and police, was scary.

Our thanks go to all the demonstrators who let democracy come to life with their commitment. Before, during and after the encirclement, they all persisted and did not allow to be divided and have fought together through persistence, acts of solidarity and patience for their right of freedom to demonstrate. Our gratitude and solidarity is especially for the beleaguered, who didn't let themselves be provoked by the police force. Thus, they have made the extent of the violations of the fundamental rights by the police, with their state monopoly on the use of force, in its for the democracy harmful profile, visible.

Many of the demonstration observers had experiences with this form of action while others were new. It is encouraging to note that a trusting relationship and a common perspective could evolve on the past experience and develop further. All who were watching with us, writing down what was observed, made efforts and took risks, we want to thank :

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For this brochure primarily responsible is Wolf-Dieter Narr and Elke Steven, who have written it. Without the input from the demo observers, however, this would not have been possible.

I. A first résumé

1. While protests and actions could take place in the city of Frankfurt on Friday, May 31, 2013, a large-scale demonstration of a broad alliance on Saturday, June 1, 2013, was prevented. Later it was primarily reported to the public that this mass demonstration had been prevented. A week later, a large demonstration was held in Frankfurt mainly by the citizens from Frankfurt and the surrounding area. Many protesters wore sunglasses and umbrellas as a sign of protest against the police, which prevented the mass demonstration a week earlier. They could walk past the building of the ECB and thus give their demonstration the expression the people wanted. Especially, also one thing is made clear here: Essentially, it is in the hands of the police, how a demonstration runs. They can provoke and escalate, harry the assembly and prevent that the content of the speeches reaches the public.

Any criticism of the police procedure, of how fundamental rights of assembly and freedom of expression were canceled out will remain shortened if the policy that systematically misunderstands these fundamental rights is not also included in the critique. All assembly laws of the federal states are the evidence of this lack of understanding for this "special" fundamental right. It must be the task of politics to enforce and protect this fundamental right and the peaceful intent of the demonstrators. Of course, the citizens have to fight in the first place for this fundamental right on the road again and again.

2. The Assembly Authority of Frankfurt wanted to prohibit the path along the European Central Bank from the beginning. Only the court confirmed the concern of the person responsible of the assembly and realized that the risk prognosis was too poor, especially that it was not proven. That the police then prevented the route through the encirclement of a part of the demonstration, is democratically fatal. The impression of a law-breaking and self-administering justice created by the executive, has to emerge.

3. "Dangers" for the city of Frankfurt were hailed in advance, but with no prove, as the courts confirmed. But also during the demonstration and in the subsequent justification of the police intervention, "violence" is attributed in general to certain groups. This corresponds to a preventive security logic that makes the subjunctive to the starting point of repressive measures. Far too often, the police is successful with such general accusations. Neither broad alliances, nor the participation of citizens from other European countries, or the color of the clothes are signs for readiness to use violence or even for violence in itself.

4. The regulations on weapons of protection and disguise in the Assembly Act create arbitrary powers of intervention. Article 8 states clearly that the fundamental right may be exercised "peacefully and unarmed." Each additional regulation is unnecessary. If sunglasses and umbrellas can be reinterpreted as objects to prevent identification, this leaves the door

wide open for arbitrariness. Anyway the notion of "weapons of protection" is generally misleading. It's not about weapons, but about an equipment which offers protection from the ravages of nature (rain jacket), or to offer some protection from the violence of the police, like batons, water cannons and pepper spray.

5. In Frankfurt pepper spray was used not only against whole groups from which no threat emanated, but also it was used on people who stood just on the edge of the demonstrators. From the second row of police, protesters were sprayed, which means that they were physically massively injured. They have been denied not only the fundamental right to the freedom of assembly, but also the right to physical integrity. If citizens have to fear to be hurt when they exercise their fundamental right to freedom of assembly, they could withdraw from participation in social actions. This endangers democracy. Pepper spray is a dangerous weapon that can't be used in assemblies at least. The use of distance weapons is entirely to prohibit in political meetings.

6. It's not the police who has the right to decide who may participate in a meeting. With alliances are not a danger for the "public order and security" but on the contrary, they are the protectors of democracy. It is the responsibility of the police not to categorize citizens due to their clothing, nationality, membership in political organizations, as being ready for violence, just to deprive them of their fundamental rights. With the construction of a prosecution for nearly a thousand protesters in a demonstration, a Constitutional right for all participants has been undermined.

II. Background

1. Blockupy 2012 and "M31"

Already in 2012, the alliance of "Blockupy" had officially declared the protests in Frankfurt against the European crisis policy and the impoverishment of large sections of the population in the European Union. From 16 to 19 May 2012, a wide variety of demonstrations and protests were to take place in Frankfurt. The regulatory agency of the city of Frankfurt just forbade any kind of demonstration during the period. Since the Blockupy protesters could join another demonstration, all other meetings, which had nothing to do with Blockupy, were banned too. So the announced meeting for the full fundamental right to freedom of assembly by "The Committee for Fundamental Rights and Democracy", a memorial event of the "Young Socialists (Jusos)" as well as an event against the power of the banks by "The People of Religious Orders for Peace" were banned - the last two have a long tradition in Frankfurt.

The city council argued with an "oversized" threat assessment, which they spread in the public quite efficiently. They warned against masses of people who wanted to paralyze the city. Each meeting was also classified as a part of the announced blockades of Blockupy. In consideration of the fundamental rights under Art. 2 (freedom of the person), 4 (freedom of religion), 12 (freedom of occupation), 14 (ownership; notes from the authors), which are likewise to be protected, the "expected serious disadvantages," could not reasonably be required from the citizens of Frankfurt, the business residents, travelers and all the other people who want to go to the center of Frankfurt these days (1). Any consideration, any realistic assessment of the possibilities of a blockade and its effects, any consideration of how the various interests could be reconciled or under which conditions the right of assembly was to be ensured, were missing in the risk prognosis.

The undisturbed everyday life of consumers, the interests of the business community to strive after profits unhindered, and the work of the banks were upgraded to be fundamental rights, which allegedly legitimized to override the fundamental right to freedom of assembly. How unimportant these fundamental rights actually were, was made clear when the police builded their barricades which switched off the civil liberties of all.

A second thread runs along the city's lines of reasoning. Through the events of March 31, 2012 in Frankfurt, the "European day of action against capitalism", it was affiliated that considerable proportions of "violent" groups would mingle with the demonstrators. Then paint bombs were thrown at the European Central Bank, windows were shattered and trash containers had been set on fire. One police officer was injured. It was reported that he had been seriously injured. At least he was hospitalized. Further details were not to be found out until today.

The police separated a part of the demonstrators from the protest march with the use of force. 456 demonstrators, who had nothing to do with the paint bomb throws and the attack on a police officer, were for many hours - unlawful (2) - surrounded and deprived of their liberty. The rights of the underage youth were systematically violated (see also.: ea-frankfurt.org/).The police said that they already had been noticed on March 31, 2012, at the demonstration "M 31" - European day of action against capitalism. Only urgent applications to the Administrative Court had led to the withdrawal of all travel restrictions (3).

1: The prohibition order of the city of Frankfurt from the Mai 15, 2012, to the Committee on Fundamental Rights and Democracy, which had registered a meeting on the feast day, Mai 17, 2012, on the Paulsplatz.

2: To date only one plaintiff successfully fought the judgment that their detention was unlawful. The public reports of this day were dominated by the perspective of the police, giving the impression that Frankfurt had been hit on this day by massive destruction of property and violence. So, before the Blockupy Action Day's 2012 also about 480 persons received travel restrictions for the entire center of Frankfurt.

3: See on these procedures: Martin Heiming „Frankfurter Kranz - Keine Teestunde“ in: Grundrechte-Report 2013, p. 109

In May 2012, the courts had also not really been of any help. The oversized threat assessment was not reviewed by the courts in the urgent procedure. If they had paid a little bit of attention on the consistency of the police diagnoses, or asked for concrete information and the findings, their judgment would have been significantly different. In the end, the Administrative Court decided that the planned mass demonstration on Saturday could take place with the precondition of a long list of requirements and the condition that no "riots, violence or any crime" would occur beforehand. Explicitly, it was referred in this case to the possibility of a renewed prohibition order. Also, the Federal Constitutional Court followed the fatal fundamental right balance of the regulatory agency of Frankfurt and approved the prohibition of almost all meetings in an urgent decision.

The official declared meeting of the Fundamental Rights Committee stayed illegal. Administrative Court and Supreme Administrative Court of Frankfurt confirmed the city's ban again in urgent proceedings. The Administrative Court of Hessen preferred not to come to a decision in near term. Only in the lawsuit, which followed after the demonstrations against the prohibition, the same administrative court judged that the banning of the meetings had been unlawful.

We argued that the Federal Constitutional Court of Germany had stated in the Brokdorf decision in 1985, that prior to the decree of the ban of an assembly, there had to exist clear evidence of an actual threat against the public safety, assumptions and fears are not sufficient. Individual events and incidents of violence were not enough to be taken as an opportunity to break up a demonstration as a whole, nor could single acts of destruction of property in another demonstration be used as a conclusion for a subsequent demonstration. Even "if violence through individuals or a minority is to be expected" - writes the Federal Constitutional Court - the guaranteed protection of freedom of assembly" remains.

In May 2012, however, the citizens took their fundamental right to freedom of assembly in their own hands. "The right to assemble freely and without special permission with others," is considered by the Federal Constitutional Court in 1985, as a "sign of freedom, independence and responsibility of self-conscious citizens". Since the 60s, the citizens have learned a lot about how they can exercise their rights of assembly and freedom of expression. The protest is colorful and creative and at the same time it has become both persistent and tactical smart.

The prohibitions of the city gave rise to the fear that many citizens would be prevented from taking part in the protests. Yes, that precisely the peace-loving people, the families, the middle-class citizens would remain at home in the face of the picture of terror that was painted. On one side, it is well known that actually many do not dare to defy the bans issued by the government. Recently, however, a different development strikes the eye. Many groups have learned that they have to take their rights in their own hands to protest colorfully, loudly and peacefully with creative means. Rhythm instruments, clownish acts, a group sitting or

holding up hands can help to withstand the provocations of the strong mobilized police force (sent in force. Frankfurt was, in spite of all the prohibitions occurring in May 2012, a colorful city with speeches, cultural contributions and discussions - but only in relatively small groups.

However peaceful the citizens besieged the city these days, the police kept going depriving individuals and groups of their liberty. Buses from Berlin and Hamburg were stopped and detained in place just out of town for several hours. Approximately 150 people in three buses from Berlin were stopped about 30 km before Frankfurt and held at a nearby located motorway maintenance facility. They were detained for more than seven hours, controlled, searched and videotaped. In some cases, this police action was per definition a detention. The bus occupants received then - illegally - travel restrictions for the city center of Frankfurt, for being on the way to a prohibited meeting (4).

Travel restrictions, however, may only be issued for the prevention of a crime and not to prevent a possible administrative offense. During the meetings 1,430 people have been taken into custody, sometimes for several hours. Oversight by a judge usually did not take place. Lawyers were denied access to their clients and tents and sleeping bags were seized. The head of the regulatory agency falsely informed the public that citizens committed a criminal offense if they demonstrated despite the ban. The court proceedings of the events of March 31 and May 2012, are still going on. Only on some developments we will briefly inform you here:

Approximately 50 people, who had received a travel ban for the center of Frankfurt after the bus controls, went to the small town Eschborn, which is located on the edge of Frankfurt, to hold a rally there. They were taken into custody by the police and illegally detained in the police stations Wiesbaden and Gießen until after midnight. They allegedly tried to violate the travel ban, which applied only to the Frankfurt city center. Regarding the appeal by the persons affected, the District Court of Gießen came to the conclusion that this deprivation of liberty had been illegal. The affected then demanded from the police headquarters in Frankfurt Main, which had been responsible for the illegal actions, 500.00 EUR for compensation for the injuries and pain suffered. This was approved (5).

4: See press release of the law firm Hummel, Kaleck from January 31, 2013: „Blockupy-Aktionen in Frankfurt/Main: Schadensersatz nach Freiheitsentziehung“ (<http://www.diefirma.net/index.php?id=1,332,0,0,1,0>)

5: Ibid.

One demonstrator from Blockupy 2012 was accused of having resisted the police officers during an identification procedure. On July 11, 2013, the Court in Frankfurt closed the process after a few minutes.

In the criminal prosecution of the events of March 31, 2012, not much has happened since. The Frankfurter Rundschau (FR) reported on September 18, 2012, relating to the prosecution of Frankfurt, that "the violent anti-capitalist protests from the M31 Spring" had no legal consequences.

In September there should have been a process before the Frankfurt District Court against a 24-year-old who was accused of having badly insulted several policemen. "The 24-year-old, as the documents of the investigation files state, met that day in the "Langen Straße" three police officers to whom he showed the middle finger, called them fuckers and later shouted the slogan:" hate, hate, hate as never before, all cops are bastards - ACAB."

(Fri, September 18, 2013) The prosecution had requested a sentence of 45 day's, each fined with 30 EUR. The court proceedings were initially canceled. But the police remains on the lookout for factual proofs. Like they hoped to get clues about the actions in 2012, also at Blockupy-2013.

On the morning of February 6, 2013, the police raided ten flats of eight photographers from Hessen, Berlin, Brandenburg, Baden-Württemberg and Nord Rhein-Westfalen. They were searching for photos of the M31 demonstration. Only after public pressure, the non-utilization and the return of the photos was partly initiated by the police and the prosecutors.

One plaintiff, who took part in the demonstration "M31 - European Day of Action against capitalism", fought successfully before the District Court for the judgment that it was illegal, to be held that long in the kettle of the M31 demonstration, to search them, and to be brought afterwards to the police headquarters in Wiesbaden (Ref: 5/27 Qs 38/13). She was encircled with 456 other protesters over five hours, fingerprinted and was taken for four and a half hours to the Wiesbaden police headquarters. The investigation, that was initiated against them, was previously abandoned (6) out of lack of suspicion.

6: See the report of the "Roten Hilfe" and the judgment of the District Court: <http://rhffm.blogspot.eu/archives/510>

2. Blockupy 2013

Again in 2013 the Alliance of Blockupy officially declared the protests in the city of Frankfurt. On Friday, May 31, 2013, a call went out to besiege the ECB in the early morning hours. After that, actions should follow in the city and at the airport, "in which the activists should mark other actors of the crisis" with creative protest. On Saturday, June 1, a large demonstration was signed in.

The first task was to make sure that the protesters could stay overnight in Frankfurt. After all, the controversy over a location for the tents, accompanied by public attention and protest, had the result that a camp became possible on the "Rebstockgelände" (a park area).

This time, the mass rally was not completely banned by the regulatory agency of the city, but "only" conditions were imposed. In addition to the other illegal assembly conditions, the city authorities wanted the demonstration to march far out of the City center, at the river, Main. It was argued that a close distance to the ECB would endanger public safety, at least, when the protest march would pass in throwing distance of the building. The appeal by the head of the demonstration against these requirements was successful, insofar as the court found that the risk prognosis was not proven in reality. The court ruled that the demonstration could go its desired path.

In that regard, the conditions 10 (age of majority of the demo security and ID required), 11 (length of flag poles), 12 (length of transparencies) 13 (carrying of ropes) and 15 (bringing of dogs) was objected, and a suspensive effect of the objection was requested, the request was not successful. Consistently, it was criticized that a concrete risk assessment was needed to issue such requirements. However, this was not the case.

"As long as the administrative authority, in its risk assessment, literally takes over word by word alleged police findings from the assessment by the police and uses specific groups to support their risk prognosis, also this risk assessment is not sufficiently proven through specific and comprehensible actual evidence. (...) In both forecasts it were mere presumptions, and to be more specific it were sheer speculations. " (From the urgent application from Mai 22, 2013)

A demonstration at the airport with the theme "Deportation Airport" was officially announced for Friday, May 31, 2013, and initially banned entirely by the city of Frankfurt in the area of the terminal. As usual in the city of Frankfurt, the ban was justified with the old arguments. A demonstration was therefore only possible outside the terminal between the bus station, the car park and the highway. The requirement was justified with the feared, "interference with the operability of the airport". Against the regulations, imposed by the City,

an appeal was filed in. "The ruling cited many pages with calls from Blockupy on the Internet, but no call from the blockade of the airport." (7)

Also at the airport, which is in the hands of Fraport AG, however, the fundamental rights to assembly and free speech must be guaranteed. In the so-called "Fraport-Decision", the Federal Constitutional Court (1 BvR 699/06) (8) found that, especially with regard to the increasing privatization of public space and public facilities, the fundamental rights have to remain binding. Already in the hearing, the company representatives had feared that airports could become major demonstration areas, if instead of their householder's rights the fundamental civil rights would apply. The Constitutional Court ruled, however, clearly: "A from the miseries of the world undisturbed mind of the citizen" is "not of such a relevance that the State could restrict fundamental rights for its protection".

From the Administrative Court of Frankfurt until the Administrative Court of Hessen the courts recognized, that a demonstration - of up to 200 people - must also be possible in the terminal. Left for complain is, however, that only 200 people were allowed to enter the terminal for a demonstration. Again and again adversaries of the deportation praxis at the airport made protest against its expansion in larger groups in the Frankfurt airport. A fundamental right cannot be limited to a few citizens.

Excursion: requirements for meetings

In recent years it became a common practice of regulatory authorities and police officials to impose "requirements" on political meetings. It seems natural for them that the fundamental right can only be exercised, if in addition to the applicable law and the limits it formulates, additional restrictions are made. In the Brokdorf decision of the Constitutional Court, however, it was noticed instead that:

7: From the letter from Mai 27, 2013, to oppose the city regulations.

8: http://www.bundesverfassungsgericht.de/entscheidungen/rs20110222_1bvr069906.html;
see also: Deppe, Rainer: „Der Flughafen ist nicht das Wohnzimmer der Fraport“ at: Grundrechte-Report 2012, p. 88ff

"This protection is not limited to events where people argue and discuss, but includes many forms of common behavior up to non-verbal forms. Also included are all meetings with demonstration character where freedom of assembly is used for the purpose of placative or sensational opinion proclamation. "

In urgent proceedings, objections to such restrictions have often only limited success. In subsequent lawsuits, the chances are better. Requirements are only legal if there exists a reason to believe that threats to public safety and order emanate from an assembly. They should allow meetings, when there are justified reasons for their prohibition. They should therefore protect the right of the freedom of assembly.

In practice, requirements are usually adopted without such justifiable reasons. The risks are suspected, but not proven. At best, it is asserted that the regulations only serve the protection of the meeting. The Bavarian Court in Munich ruled in 2007 that 21 out of 25 regulations issued in Mittenwald in 2006 were unlawful. This ruling prevented the authorities from imposing requirements at the next opportunity again.

Also the requirements of the City of Frankfurt for the small demonstration at Frankfurt Airport and the big demonstration on June 1, 2013, in the city center, out of alleged "immediate threat to public safety and order", were considered possible only with requirements, which defined in detail how the participants would have to behave. We will quote below from the catalogue of requirements for the big demonstration on June 1, 2013:

"8. The carrying of objects that can serve the blockade, such as trolleys, hospital beds, inflatable boats and ladders shall be prohibited. 10. Flags, banners and carrying signs may only be placed on poles with a maximum length of 2 m. The rods must be made of soft wood or plastic, and the diameter of the rods must not exceed 2 cm. 13. In regard to the use of loudspeaker systems and megaphones including any musical performances police instructions on site have to be followed. ..."

Requirements such as these give the police a reason to intervene in the meetings as they see fit. Thereby, the Assembly Act already provides basic starting points to unlawfully intervene randomly in a meeting. Just someone has to be found who is wearing sunglasses, has coiled a towel around the head and thus disguise can be alleged. These restrictions lever out the demonstrators' right of self-determination to decide the course of the meetings and the chosen forms of representation.

Although the provision is even cited by the Federal Constitutional Court, a threat assessment must be "based on recognizable circumstances (...), so on facts, and other details," - as already in 2012 - only fears, possibilities and conjectures were presented. A risk forecast, however, has nothing to do with the subjunctive. The reason of a demonstration is to "increase the awareness of the issue". Therefor, no danger can be derived.

In addition, as a precautionary measure, the blockades of the previous day were attributed to the mass demonstration, although these had been independent forms of action on another day. As far as for the previous day blockades were announced, no requirements for the big demonstration on the next day are to be derived. Contrary to the statements of the city, blockades are also falling under the protection of the fundamental right to freedom of assembly. As early as 1995, the Federal Constitutional Court found that blockages are not necessarily violence under § 240 of the Criminal Code (StGB). They are not per se a "threat to public safety".

Delay caused by (large) demonstrations must be accepted. Again, it is alleged that among the 20,000 expected participants mingled "500 violent and 1,500 ready to be violent activists". These numbers were not proved at all. It is not proven who intends a crime and how the whole assembly is. Thereby, contributing to be a threat to the city. The fear alone, "the bulk of the participants" could shut down the "entire city", does not qualify for a threat assessment, which entitles to impose certain restrictions. What "for a demonstration accompanying typical offenses" are, nobody knows. Unless one assumes that each major event attracts pickpockets.

The fact that citizens form wide coalitions for their demands likewise provides no evidence of a threat to security. A concern that is supported by many different groups, makes it politically more important. That the "predominant anti-capitalist oriented Blockupy Action Days", now also enlarged by the "UmsGanze" Alliance, an anti-racist coalition, is likewise not justifying a threat to the public safety and order. Again, it is only alleged this would involve violence-oriented forms of action, proven is nothing. Moreover, the conditions read as if the one responsible for the meeting is a command receiver and at the same time an agent of the police.

"3. The responsible person for the meeting must be present throughout the event and must ensure the orderly conduct of the meeting. At the beginning of the demonstration, he has to connect with the chief police officer to submit a list of the names of the ones holding a speech. He has to make sure that he is permanently accessible by the police chief in charge on an always-on mobile phone.

4. The head of the rally has to ensure that the provisions of the Assembly Act, in particular the prohibition of carrying weapons (§ 2 para. 3 VersG) and the prohibition of disguise (§ 17a Para. 2 are VersG), are strictly followed and enforced.

7. The leader of the rally is instructed to act against violations of imposed requirements without delay; if this is not possible, the meeting must be declared finished immediately. "(9)

9: From the decree of the city of Frankfurt on the demonstration of June 1, 2013, from Mai 16, 2013

The Brokdorf decision of the Constitutional Court in 1985 was also due to the dispute over the rights and duties of the head of a rally. The Federal Constitutional Court argued that one person can't be made responsible for a variety of events that can happen in a large demonstration for which many different groups have made a call. It called for a far reaching interpretation in the defense of the right to assembly. Disorders of individuals or individual groups were to be solved without dissolving the entire demonstration.

With the imposition of restrictions, the regulatory authorities try to overturn this indicative and binding law. Since they could, accordingly to the Brokdorf decision of the Constitutional Court, dissolve a demonstration only if violence was emanating from the meeting, they now impose this task on the person officially responsible for the rally. Against single offences and acts of violence, the police have to take action against the guilty. Otherwise, the police has institutional and fundamental rights assignment to allow a meeting. But now the leader of the rally is forced to prevent any violation "without delay (...)", otherwise to end the meeting. A "threat to the security and order" is no longer even discussed. Safety and order, in the context of the liberal democracy of the Constitutional Law, would be jeopardized down to its basic terms of the Constitution if the separation of powers would be suspended.

Such an approach makes it more difficult for the citizens to take the responsibility for the management of a demonstration. They are blamed for everything in advance, for what could happen in a demonstration, and they can be liable to prosecution. This type of deterrent in advance of the application of a heterogeneous mass demonstrations ultimately nullifies the essential fundamental right of assembly and freedom of expression in a democracy.

III. The demonstrations of Blockupy

1. Structure of the camp, arrival and inspection of buses

On the Rebstockgelände, that can be easily reached from Central Station by tram, the camp is prepared on May 30, 2013. Common tents for meetings and trainings, kitchen tents "Volxküche" stand ready, books and information desks are built, the new arrivals build their sleeping tents. On the site and in the vicinity of the place, no police is to be seen.

At around 15.00 o'clock (or 3pm), five buses were arrested at the highway service area Butzbach by the police (call at 15.35 o'clock). Buses and persons were searched before being allowed to continue. Later, we were informed that the people and luggage were searched completely. Visits to the toilet were not admitted. Instead, the bus passengers had to relieve

themselves in a plastic bucket. Seven bus passengers refused to be controlled, possibly because they were affected by the illegal residence obligation for migrants. Being not controlled, they went back to where they started.

Not until 21.00 o'clock, at least two of the detained buses from Berlin and Upper Havel (Brandenburg) reached the Rebstockgelände. In the evening, there is a general meeting at the camp where the plans for Friday are reported and discussed.

2. Friday: Day of Actions

2.1. European Central Bank

On Friday, the European Central Bank (ECB) will be surrounded and besieged early in the morning. It is anticipated that the police would first seal off the building at Willy-Brandt-Platz. For this case, it is demonstrated in front of the police barriers to block the access. Demonstration columns are supposed to leave early in the morning from the camp, from the Paul's Square and the Central Station. The first groups want to leave the camp early in the morning to take part in the campaign to blockade the ECB.

At about 5.00 o'clock about 1,500 protesters gather in order to move to the city. Police is not to be seen.

Shortly after leaving, at 5.20 o'clock, three fireworks fly at 5.32 o'clock, which were no threat to anybody.

At about 5.40 o'clock, police vehicles drive in a roundabout before the demonstration and accompany the front from now on. However, the demonstration takes a road to the right and goes its own way.

At the next street, corner police cars come again and place themselves in front of the march. The demonstrators then switch to the wide sidewalk and go quickly their way without any police at their front. At the same time, more and more police cars gather next to the demonstration, accompanying it.

At about 5.52 o'clock, the police calls the demonstrators to appoint a responsible person to ensure that the demo route can be discussed. The protesters, unimpressed and in closed ranks, go on more quickly. They go right past the police cars and cross on the right side of the road. Police stands on the left side of the road. Both sides are separated by a green strip. The

police moves in the same direction as the march and goes to the next corner trying to take the lead again.

At 5.55 o'clock, a renewed invitation to appoint a responsible person. However, the demonstration turns into a street where there are no police cars. The cat and mouse game continues. Behind the Congress Center of the Maritim hotel, another request is made to appoint a leader of the march. But the demonstration makes a turn over and over again into side streets, in which the police can not easily follow with the cars.

Around 6.20 o'clock, the demo, which is now led by police, passes the Swiss bank (UBS) in the opera tower. A few bags of paint are flying against the wall. They leave one or two small spots of color.

At 6.30 o'clock, the front part of the march reaches a police barrier with double grating array at the Neue Mainzer Straße. Police units from Baden-Württemberg close the barrier. Behind them, water cannons are standing. The protesters pull up just before the barrier and stay there.

Accordingly to the idea of a blockade around the ECB, other parts of the demonstration took a turn previously and moved on to other intersections. From the Paulsplatz, around 6.15 o'clock, a group of about 120 people marches to the Willy-Brandt-Platz, corner "Neue Mainzer Street" to make a block there.

As this group arrives at 7.00 o'clock, the grids are not connected to each other, only a few police officers standing without a helmet on the grids. So some demonstrators go on, accordingly to their intentions, and clear the fence parts slightly to one side. Quickly, pepper spray is used by the surprised police.

At 7.20 o'clock the police moves a water cannon in. The demonstrators sit down and make themselves - as much as possible - comfortable. The police welcomed the demonstrators by loudspeaker and announced that they are going to take back the fence parts. This is done without conflict. They call for the few masked people to remove their disguise and "show their face".

From the Central Station at the Kaisersack around 6:30, a demonstration marches to the Willy-Brandt-Platz. There, the protest march stops in front of the police cordon.

Another group that arrives around 7.10 o'clock, shook the fence a little when they arrived at the barricades, they will do it again later. A water canon is immediately brought to the side.

At about 7:30 o'clock, when some protesters shake again at the grids, pepper spray and batons are used. The police gives a warning by loudspeaker announcement, if the fence is further shaken they would use the water cannon.

Shortly after the police had claimed that one demonstrator had picked up a stone, a police group moves into the demonstration. The group is surrounded by protesters. About ten minutes later, more police squads penetrate into the demo. They are requested by the demo speakers to retreat. At least one person is taken into custody but later released. Again and

again, music and clown groups show up at the blockade places to entertain and relax the situation.

The chorus of "No TroikaSingers" sings rewritten old hits on the European austerity policy. Despite the peaceful mood already this morning the rapid and multiple use of pepper spray injured several participants.

At about 10:30 o'clock, the blockade at the ECB is ended, to visit new places of action. A large group sets off to gather again in front of the Deutsche Bank.

2.2. Activities in the city

From midday on activities in the city to create awareness for different topics are planned. Already, around 10.45 o'clock a large group moves towards the Deutsche Bank with speakers. In the call it says "land grabbing creates hunger, displacement and war ... (...) ... the German bank thus makes profits. The German bank operates with its fund GALOF (Global Agricultural Land and Opportunities Fund with a volume of 110 million EUR) and DWS Access Global Timber GmbH & Co. KG directly takes part in land grabbing. The Bank is also involved with an investment of over 250 million EUR in agricultural corporations acting aggressively like Olam International, ADM and Syngenta, making thus further businesses at the expense of the hungry. (...) "(10)

Before the bank, the demonstrators are beating on pots against speculation on hunger. The theme "Together, we create noise against the business of war, land grabs and hunger" is also featured in the rally speeches. The German Bank is secured with fences and police lines. Three water cannons and a sweeping tank are available. However, there is no confrontation between police and demonstrators as both sides keep their distance. At 12.00 o'clock, this action is completed.

10: Taken from the call of Blockupy: <https://blockupy-frankfurt.org/31-mai/gegen-landgrabbing-und-nahrungsmittelspekulation/>

Other address the right to the City: "... because the capitalist exploitation logic ensures that houses are not built to enable people to live in, but as an investment. Those who can not pay, are thrown out, while many buildings are empty. Who still remains or squat one of the many unused buildings is brutally evicted by the police - a situation that is becoming increasingly common in the current crisis, particularly in the countries of the European south, but also in Germany " (11).

At about 12.00 o'clock, a demonstration with about 200 people moves from the Zeil past the Roßmarkt and right in the front of the Garden Towers at Neue Mainzer Strasse.

In a small theater, a negative awards ceremony is played, justifying the awards. There is just a megaphone present that is not very loud. At around 12.40 o'clock, the demonstrators move back to the Zeil. Global Exploitation in the clothing industry and precarious employment in the retail sector will be the subjects in the actions on the Zeil shopping street.

The demo stops in front of the building. The commercial bank Societe Générale is "marked" as a place of crisis. As protesters advance on the building, a few martial equipped policemen storm forward (presumably to protect the building). They urge surprised protesters aside and try to arrest a person. Immediately, they are surrounded by many protesters and the clown army intervenes. As far as we could see, nobody has been arrested.

Meanwhile, the demonstrators secure many symbolic "cobblestones" at the windows and on the signboards. These symbolic stones adhere to glass and have a hook and loop fastener. When some time later such a plastic paving stone is thrown, the police storms forward again to protect the glass facade. Also, confetti is thrown again and again.

"On May 31, we will block with many different people the normal capitalist operation mode with disobedient actions and attack exploitative working conditions locally and globally. For this purpose we bring our creative resistance to one of the best-selling shopping streets in Europe, the Zeil. We are not against workers or consumers, but against the global relations of production."(12)

From noon (12.00 o'clock), groups block repeatedly shops on the Zeil. They inform about the business practices and their backgrounds. This results in a colorful scene of demonstrators, tourists, consumers, strollers, bands and police in the pedestrian zone.

At 12.15 o'clock, in solidarity with the strike of Karstadt employees, a group is standing right in front of the shopping center Karstadt. At first, police units secure the entrance, but then pull off.

11: From the call of Blockupy: <http://blockupy-frankfurt.org/31-mai/recht-auf-stadt/> ...

12: From the call of Blockpy: <http://blockupy-frankfurt.org/31-mai/zeil/>

At about 13.00 o'clock, before the Haberdasher Eckerle, demonstrators are shoving and pushing with the police. On the façade, one can see a splash of color. When the police unit that initially secured the entrance, is withdrawn, it shoves and pushes the protesters aside who are standing before them.

At around 13.30 o'clock, the demonstrators move on. At the door of the Eckerle, one overturned dumpster, a collection of pans, pots, and toilet brushes are left behind.

At around the same time, a group marches to the entrance of Primark. There, the grid is lowered immediately and the store closed.

In front of the Douglas the "No Troika Singers" give a concert and enthrall protesters and buyers alike. The shop remains open.

The gallery my Zeil is shut down at around 14.00 o'clock with a singing and sitting blockade. The mood is cheerful and peaceful. Ultimately, there are so many that buyers can not get in. Additionally, the entrance of New Yorker is temporarily blocked. Here, the police tries to clear some of the sitting blockade with the use of force. A megaphone reports on the working conditions of the suppliers. At 14.24 o'clock, the staff of the New Yorker closes the entrance. Next to the shopping center, H+M is targeted.

Further actions that happened:

At 17.30 o'clock, a group is coming from the Kaisersack at the main train station. Just by happenstance they stand waiting on the pedestrian crossing, as the cars get the green lights. When they go to the middle of the traffic lane, two police motorcycles come, one places itself in front and one in the back of the group. On the Karl Street, a sports car driver tries to turn to the right, straight through the group. The police officer is outraged, stops him and gives him a speech to the delight of the protesters who are giving an applause.

2.3. Deportation Airport

"Frankfurt is a center of the European crisis regime. From here the German export hit "austerity" finds its way to Europe and the world. Frankfurt is also a key node of the racist border and deportation regime of the EU. The Rhein-Main Airport, an integral part of the "Global City Frankfurt", is Germany's No.1 deportation airport, and the most important EU deportation hub.

From here, refugees and migrants are flown via direct way to poverty, discrimination, political persecution and war. For the coercive action, the Federal Police is responsible - which prides itself on the thereby obtained "intercultural competence". All this is coordinated through the European border agency Frontex. Frontex has made itself a name in recent years for even taking willingly into account drowning refugees. In the Mediterranean sea and along other European borders, every year, hundreds of people who are looking for protection in Europe die. (...) "(13)

The previous legal dispute over the fundamental right to freedom of assembly in the airport had led to the result that only 200 protesters were allowed to demonstrate in the airport building.

In the basement, one floor above the exit of the S-Bahn station, some protesters gather. Police preservation of evidence and arrest units (BFE) block the entrance from Terminal 1.

Only persons with air ticket are allowed to pass. All the time pushing and shoving, skirmishes break out and batons are used by the police.

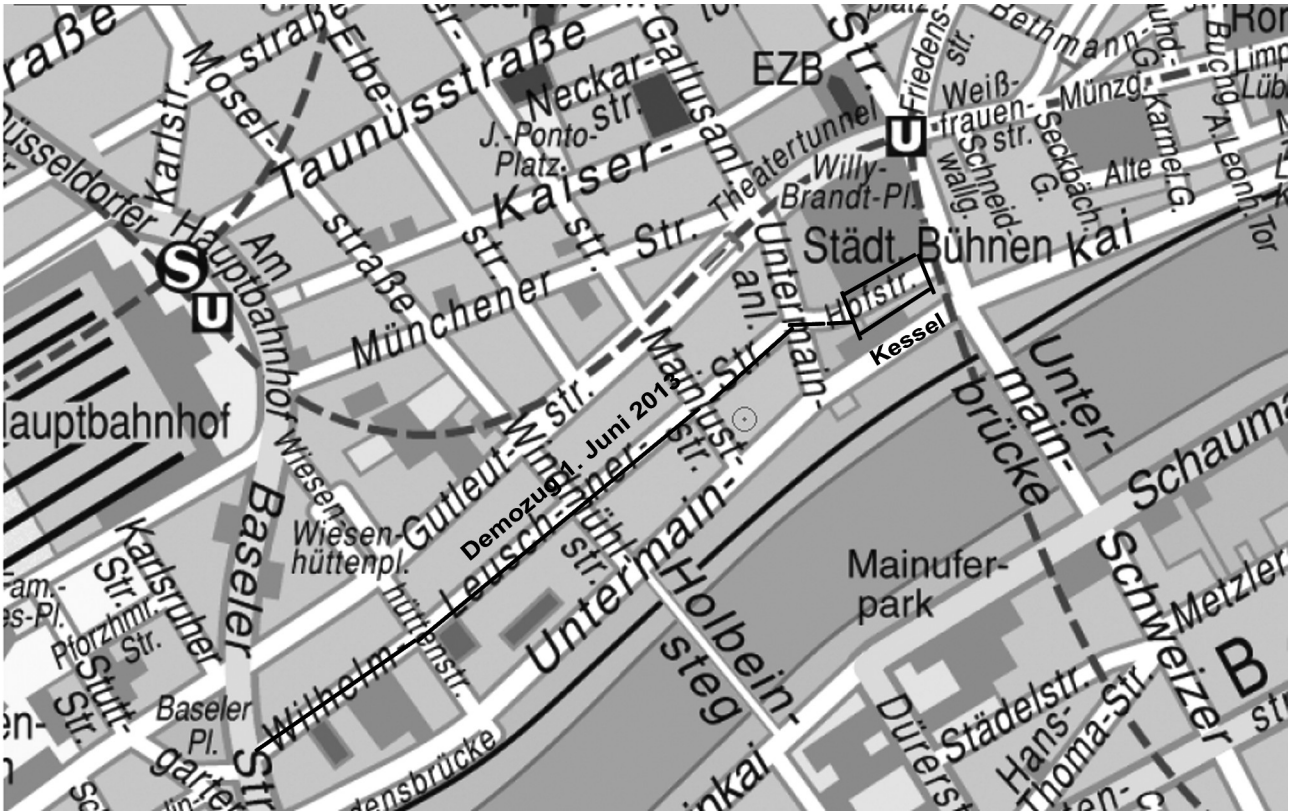
At the bus station, on the opposite side of the departure terminal 1, some several hundred protesters have gathered at approximately 12.45 o'clock. Before the two entrances into the buildings sit protesters which do not prevent the access for passengers, but hinder something.

At around 14.00 o'clock, the police tried to clear this hindrance with pepper spray. Because more than 200 people express their protest at the airport, the police led at first no demonstrators into the building.

Only shortly after 15.00 o'clock, they form a small opening and let 200 people through, which then go into the terminal. At the counters of Lufthansa, a rally with two short presentations takes place. Then they go on to the next floor where all the shops are. In the foyer area, the final rally is held till 17.00 o'clock.

13: From the call of Blockupy: <http://blockupy-frankfurt.org/31-mai/airport/>

Late in the afternoon, after 17.00 o'clock, a part of the group who could not go to the airport, makes a spontaneous demonstration in the city center from Galluswarte S-Bahn station to the foreigners registration office in the Kelsterbachstraße. Friday evening at the Willy-Brandt-Platz, the barriers before the ECB are upgraded with Nato razor wire, which was already provided in the morning.



3. Saturday: the short and the long way of the demonstration and the long police encirclement

(see diagram on page 24)

3.1. The beginning of the demonstration

During the morning, the demonstrators gather on the Baseler Platz, near the main train station. Targeted police controls on the new arrivals take place. Some protesters have even to present their identification card.

This control to access a demonstration is a violation of the fundamental right to freedom of assembly. At the opening rally, the speakers are hard to understand.

Two of our demonstration watchers come from the Konstablerwache at 12.00 o'clock to meet the protest march from the east. They learn from a police officer that the demonstration had yet not started, because they are waiting for a delayed train from Stuttgart with about 500 participants. They note that at Konstablerwache and at the Berliner Straße there are no signs that a big demonstration is expected. At the Berliner Straße, only one side of the road is blocked. The police officer thinks it questionable whether the demo will ever come to this place.

At around 12.15 o'clock, the demonstration starts at Baseler Platz. They wait no longer on the train which is late. Just behind the front transparent and the group surrounding it, the "anti-capitalist block" is forming, which is usually rated by the police as the "black block" and as to be "violent". This time, the block was colorful and mixed.

The police films on both sides of the march. While the uniformed and recognizable police wait in the background at the beginning. Soon, more police forces are coming from the side streets after the first demonstrators have passed the Hotel Intercontinental.

At about 12.40 o'clock, police units (example: 1 EHU NRW 7 BPA) are coming from the Mainluststraße and are walking right next to the colorful and black "anti-capitalist block". They flank this part of the march closely. From the speaker truck, the demonstration is informed.

The police is called to withdraw. In the Hofstraße, police cars parked on the right side of the road so that the demonstration route is narrowed.

At about 12.46 o'clock, two flares are flying on the grass strip next to the municipal theater. One of them ignites at the feet of the police, which is concentrated there. A small fire that is being filmed and photographed by (BILD) journalists.

3.2. The police encirclement

12.48 o'clock: Police units are storming into the demo just behind the front transparent and the people clustered around it. The same happens behind the "anti-capitalist block". Police storms into the demonstration and encircles thus a block numbering about 1,000 people. For this purpose, batons and pepper spray are used against all who stand in their way. Two or three color-filled objects are thrown forward towards the police.

The march is thus blocked by the police, half an hour after its start. The next nine hours, the demo remains in the Hofstraße. The encircled part is being hold behind the theater. Nordrheinwestfälische state police from Recklinghausen blocks from the front in walking direction. The police officers are ready to fight and have batons and pepper spray ready to use in their hands. The police films.

13.00 o'clock: The police demands via a loudspeaker announcement to take off the items used for disguise. In response, the demonstrators demand that the police should also shed their disguises.

13.07 o'clock: The speaker truck of the protesters informs that in the front of the demonstration, several people, including a journalist, have been injured. The police prevents a lawyer to reach the journalist. Due to the international composition of the encircled part of the demonstration, the announcements are made in different languages.

13.23 o'clock: The police calls on all participants in the surrounded group, via a loudspeaker, to go through a "revolving door" and to get rid of all items of disguise. The participants are to be controlled individually by the police.

14.00 o'clock: On behalf of the assembly, the demonstrators are informed that the demo organization offered the police that the participants would give up all items of disguise and everything else that was described by the police as "passive weapons". All the stuff would be left behind, visible on the road. The demo organization was also prepared to renounce to the way won through the court trial and take the desired route of the police along the river Main.

14.20 o'clock: The police informs the protesters that they would identify all the people held in the encirclement. A big part of the protesters crowds together at the wall of the theater. Between the front line of police and the people encircled are several feet of space.

14.28 o'clock: A firecracker explodes. The police forces itself into the encirclement from behind, the Main side. They use pepper spray and batons. At least three wounded are left behind.

14.30 o'clock: Within the encirclement, a parliamentary press conference is held. The parliamentarians present had invited to it.

14.59 o'clock: The police "informs" the participants of the demonstration, that in the middle of their protest march there is an armed and disguised group. This group will be excluded to ensure the smooth conduct of the demonstration. According to § 19 para. 4 Assembly Act the police can exclude "participants who disturb the order of the demonstration." All peaceful participants are asked for their understanding. This announcement lasts five minutes and is repeated seven minutes later. (14) The police makes no announcement as to what should be done to ensure that the demonstration can continue. The police makes no further threats of intervention and the use of force.

15.04 o'clock: A unit is pushing from the front into the encirclement. They harassed those who were at the forefront of the demonstration and have been excluded by the encirclement from it. Again, batons are used immediately, although, it is accordingly to the definition of the police a peaceful part of the demo.

At about 15.30 o'clock: The trapped ones slowly get used to the situation in the encirclement, although there exist no sufficient toilets or water to drink. The first tension follows a more relaxed waiting phase. The demonstrators share the information that, for women, an area for peeing was separated with tarps; men could go to a corner with a gutter. Residents are asked to give toilet paper that comes promptly. From the theater Schauspielhaus, buckets are lowered with water bottles. The demonstrators express their gratitude with music and dancing acts. Flares are held up, but not thrown.

16.00 o'clock: A police arrest unit pushes from the front left into the encirclement. Their composure is very threatening. The demonstrators do not respond to it.

16.02 o'clock: The next police announcement to the persons who are held: A passage point is being prepared. Individuals would be addressed and accompanied to the control station. They are asked to participate actively, as this would make the work of the police more easy. The encircled people are also asked to leave with their identity cards ready to be presented. The announcement is repeated twice.

14: These often cynical sounding loudspeaker announcements of the police are probably attributable to the "tactical speaker squads," as they are officially called in Hessen. (see "Stenografischer Bericht der 96. Sitzung des Innenausschusses", June 24, 2013 p.16).

16.17 o'clock: The exclusion of the demonstration is explained again in a police announcement. Those in the encirclement had been excluded from the demonstration due to violations of the conditions that have been imposed during the meeting. Listed are: Bengal fire, connections with ropes, disguise, fireworks, transparent as a side cover.

16.20 o'clock: Two toilets are brought into the encirclement. In order to organize the police "passage point", the police try to push the tip of the demonstration backwards, which holds out in the front of the encirclement. Also, pepper spray is used again. A participant is arrested for a short period of time. An alley is secured with police cars between the theater at the Neue Mainzer Strasse to the Willy-Brandt-Platz, so the people can be led away.

16.36 o'clock: Once again, there is a loudspeaker announcement by the police. The preparations for identification have been completed. Due to numerous requests, more toilets are provided. First volunteers should come to the passage point, announces the sound truck. Adults with young children, the elderly or other volunteers are to go towards the processing point and they are to keep their passports ready, so that they can be quickly "processed".

16.40 o'clock: A BFE unit comes from the Neue Mainzer Strasse from the encirclement. The BFE unit runs a few minutes later back again. The demonstrators do not respond.

Since 16.40 o'clock, parliamentarians from the German Bundestag and the "State Parliament of Hessen" and observers of the left party from the city council are standing with their hands up before the anti-capitalist block.

Between 16.44 and 17.08 o'clock, the police makes again announcements from the speaker car. The police is forced by the law to determine the detainees' identity. Therefore, the trapped people may come to the passing point to the left (in the march direction of the demo). Elderly and parents with children should pass first. The announcement to come to the passage point is made again. "They are individually reviewed, so that they can be taken to the control point." Later, it is announced that after the identification they are free to move.

17.10 o'clock: Again, a BFE unit runs in the encirclement, distributes itself across the street and films the demonstration. They proceed slowly. Demonstration observers heard a policeman talking to his micro - he tells the filming police officer standing next to him to record the parliamentarians, as they would later make the police responsible for the violence. They have, as parliamentarians, however, the duty to defend the police. Instead, they incite violence in the demo. Of the reason behind the separation of powers and Article 20 of the Constitutional Law - "All power emanates from the people" - it seems, that some police officers have little understanding of the meaning. The people standing on the side are taken in for a closer inspection, members of the demo organization, journalists and demonstration observers can stay standing. Two people are brought out.

17.20 o'clock: There is another speaker announcement from the police. The police action will not be completed until identities are clarified. From the speaker truck of the protesters, the information comes that no one would voluntarily give their personal details. The police should stop the "stupid" announcements.

17.33 o'clock: Then there is a further announcement from the police. The identification starts now. The police will come to the sealed off area to lead the people to the control station. The protesters respond that they will not come voluntarily. It will take a long time. They will not make the repressive police business easier.

17.35 o'clock: Parliamentarian and parliamentary observers (from the city parliament) are led away. Before the crowded people, a small sitting blockade has formed. These people are then addressed and dragged out in a "correct" way. The demonstrators call everyone, via loudspeaker, to remain calm and not to be provoked.

17.40 o'clock: The police acts with the utmost force against the protesters in the block. Three or four police officers grind or pull one at a time the demonstrators out, while arms are twisted, heads beaten against the wall, painful police grips are applied; they touch the faces, arms are twisted so far on the back that the handled must go hunched over, wrists are often angled painfully on both sides ... Actually, sometimes the protesters are "only" removed. Injured are lying on the ground. Paramedics are hindered to do their work. Police units from NRW, Saxen-Anhalt and Baden-Württemberg are deployed. Parts of these units are not marked at all - even the country code is hidden.

Shortly before 18.00 o'clock, journalists are also pushed behind a police cordon, which was built as a visual screen. From there, they can hardly observe the actions of the police and certainly not film the procedure. Shortly, after 18.00 o'clock, a police press officer comes to explain that he could not say anything. He refers to the press office, which would have the facts on the table and could be reached by phone. In the meantime, another police announcement is made: "Let yourself be picked up from the police officers, stay calm, you will be escorted to the identification point, after the police measure you will be dismissed".

At 19.30 o'clock, the police action is justified by the fact that 200 violent criminals were identified. The information is given via loudspeaker.

19.45 o'clock: A police squad rushes forward with ladders, storms the protesters' sound truck and dismantles the wooden construction. They break it up and secure it. These destroyed wooden slats as well as short flagpoles are later presented "as weapons" to the press and brought forth as evidence of the violence of the demo block. The broken slats were, according to the interpretation of the police, pointed weapons.

At around 20.30 o'clock, the press is presented as evidence for the violence of the nearly 1,000-strong black block: 9 Cola bottles with color, 9 color tubes, 7 bars with red flags, 1

wooden slat, 1 bottle of beer Tegernsee bright, 2 bottles of lemonade with a blue screw cap, a black garbage bag with something liquid wobbling inside, 1 bucket of quark. Then there are the controversial "books", polystyrene plates with reinforced hard plastic on one side (the detail in Chapter IV. 2.)

Shortly before 21.00 o'clock, police officers are still running in the street and looking for further evidence in the garbage lying around. Gloves, clear plastic glasses, flags and two bamboo sticks can be secured.

22.20 o'clock: The last demonstrators are removed from the encirclement. Then the front, the previously excluded part of the demonstration, wishes to be reunited with the remaining rear. On this short path, that was discussed with the police, they are quickly stopped again by other police units that now feel themselves surrounded, as they have not yet left the road. This block is lifted soon. The demonstration makes a public talk in what direction they should continue. Some want to finally continue their demonstration and move to the city. However, the police comes in force from behind. The demo committee decides for reasons of time, police violence and the lack of willingness to negotiate, to guide the visiting "guests" back to the station.

After a short speech, the demonstration starts to move to the train station at 22.55 o'clock. The demonstration is accompanied - at times closely and aggressively - by the police. All side streets are blocked off. When a drunk wants to throw a bottle at the police, he is held by others and the bottle is removed and disposed.

Around midnight, the protest march arrives at the central station. Following a short declaration, a special tram is promised but it will not come. The People's Kitchen brings food that is much-awaited after a long day with many who had not eaten during, before or after the encirclement.

As a protester reports that people were arrested at the station, many go there. A man who had nothing to do with the demonstration showed the middle finger to the police. They then wanted to determine his identity. As more and more people come, the crowd gets bigger and people call "let the men go" the police pulls back. A railway policeman tells his colleagues: "If we would make such a fuss about each middle finger, the station would be closed at all times."

As the tram is not coming, most of the campers leave at 00.25 o'clock and continue on foot to the camp.

3.3. The locked out rear part of the demonstration

In the blocks in the back part of the demonstration, demonstrators rallied from eight cities and from Attac, Occupy, Verdi, women's groups, the Left Party and other groups. Many children and older people are present. The atmosphere is casual and relaxed.

When the march comes to a halt at 13.20 o'clock, there is singing and dancing. The reason for the stop is unclear. Between 13.00 and 17.00 o'clock, there are several "friendly and sweet" announcements by the police to the "peaceful demo participants": They say that the march was stopped by police, because the top of the campaign had violated the requirements of the demonstration. The police is negotiating with the demo organizers. They will inform them if it goes on. Some people would have to be removed from the front of the train. After that, the demonstration could be continued. The "friendly" spokesman said authoritatively, that unfortunately no one could leave at the junction of the demonstration. Only the way back towards the station was possible.

In the front part of the demonstration, a black block had formed, which is characterized by massive disguise, shields and protective armament. Pyrotechnics had been thrown in the direction of the police force. For this reason, this group was currently separated.

"For you (!) the police is in negotiation with the responsible person of the demonstration about an alternative route, so the march can be continued." Again, follows the advice that there is no passage forward, right or left. "Please go back. There are ways to leave the demonstration. "

"I beg you not to go forward, so that at the front area no mass panic can occur. It is already very crowded there. Residents who wish to leave the demonstration, please go back to the Windmühlenstraße, where it is possible to leave the demonstration. "

"The demonstration can not be performed on the chosen route, because the black block is now being separated. The police are currently in negotiation with the demonstration organizers, so you can go down right here through this road to the Main and then right back to the Neue Mainzer Strasse, to lead your demonstration right back to the original route. These negotiations are still going on. Please do not continue on this path ... (In fact, many protesters try to come forward to get an idea for themselves of the situation; editor's note) We will inform you of the results. Since, at this point the detour route of your demonstration will perhaps pass through, no one can leave the demonstration here. "

"We are still waiting for the decision of your assembly organizers, if the alternate route is accepted. Please leave the front part of the demonstration, there it is very crowded and some have fallen already, who had to be treated by medics."

At the same time, the demonstrators are - as much as possible - informed by the speakers' truck of the demonstration. Information from the encirclement - tear gas attacks and injuries - are reported, also political speeches are held. In the park behind the encirclement, a first aid station is set up.

At 13.45 o'clock, from the speakers truck comes the explanation that people were encircled by the police and should be left standing. They are informed that the police split the demo and would lead the rear around the encirclement. This request is rejected in disgust.

At 13.55 o'clock, the information is given that the SDAJ block is going forward in order to deescalate the rear of the closed area.

A 13-year-old from this group will report that it was the first time he had taken part in a demonstration. He got a full load of pepper spray in his face as he held the banner up with the group in the first row. His face is now no longer swollen red. However, he is outraged and screams his helpless anger against the police officers, who are standing at the aid station. All adults close by try to help him. His father is also outraged. He wonders how he can still teach his son a political perspective.

At 14.10 o'clock, a demonstration observer sees a young black man who is surrounded by four policemen complaining that they have twisted his wrist. A policeman responds harshly to the demonstration observer and says she has no business here, this is a police action. That she has to go away. This policeman has no country sign on his uniform, but the surrounding police officers bear the lion of Hessen. The young man receives shortly after a dismissal. The medics treat him. His companion tells that he had been singled out from a group of protesters without any reason. Due to the dismissal, which had not been adequately explained to him, the bystanders convince him it is better to leave the demonstration.

As at 14.30 o'clock, a loud bang is heard twice, a water canon is moved to this part of the demonstration. The gun is directly aimed at the protesters. Many of them complain to the surrounding police officers and point to the children. They feel threatened.

At 14.37 o'clock, police units from the park behind the Jewish Museum come to this part of the demonstration, attacking it. The use of fists, batons and pepper spray are observed. Again, a black man is picked up by the police, who discusses with the police and complains about the "democratic conditions".

At 14.40 o'clock, the water cannon is moved back to the Untermainkai. Shortly afterwards police units, this time on the side of the theater, they grab protesters. A few minutes after 15.00 o'clock, a group of injured is brought to the place with the medics. They have bright red backs and necks. A young girl looks as if she had burned her shoulders and arms. This group reports that they were standing in the vicinity of the backside of the theater, jumped in front of the police lines and sung before them.

Some had just sat on the floor. Suddenly, there was pushing and shoving, because a police unit squeezed the crowd. Then they had been "literally showered" from behind with pepper spray. Some did not even make it back onto their legs. Others got pepper spray in the face and had thus become disoriented. The police had the people who were already on the ground, punched and kicked. There had been no request in advance by the police to leave the place. All were surprised. More and more injured by pepper spray are brought to the medics place. Among them is a young black man. He has taken off his shirt and pours water over and over again his burning chest. Some time later, a police unit of up to 15 - 20 officers runs to the medics square. At least five policemen throw themselves on the black man who stands near the police cordon. They tear him down. Then two masked police officers with protective equipment take him between them and take him with them. With arms twisted onto his back, they run with him down the slope and clash him onto the wall. Since he has no hand free, he bangs audible with his head against the wall.

A significant number of people standing outside the demo, behind the police line, scream in horror at the police. All are stunned. The officers dragged him, still with twisted arms, around the corner of the Jewish Museum. He almost loses his sweatpants. His upper body is still naked. No policeman wants to give information, all refer to the press office. This brutal police action has outraged bystanders. Many called on the Commission of Inquiry. Our demonstration observer who has witnessed this, was repeatedly asked about this brutal arrest. Later, we heard that the young man was so excited because of his injuries, that he had insulted the police officers and threatened them.

Shortly before 16.00 o'clock, on the side of the theater, pepper spray is sprayed again by police. A banner is pulled from the demonstration by the police. Plastic bottles are thrown. A glass bottle thrown bounces off the helmet of a police officer and injures a demonstrator. Another woman with muscle seizures is brought to the paramedics. From the speakers truck comes the information that in Berlin, Düsseldorf, Stuttgart and Rostock there are demonstrations as a sign of solidarity.

At 16.30 o'clock, a police unit from Baden-Württemberg forms between police cars and wants to run into the demonstration. The protesters remain close together and don't let themselves be pushed away. From the 3rd or 4th row of the police, pepper spray is sprayed into the crowd. Nevertheless, the group stays together.

From the police speaker, demonstrators are called upon to stop attacking the police. The protesters are, however, standing in the front row with their hands up, shouting, "We are peaceful, what are you?"

The police aborts the attempt. The medics have moved their station from the meadow. Shortly after 17.00 o'clock, a demo observer hears a police officer saying to another: "Message from the top: escalate!"

At 17.20 o'clock, a police speaker informs that a policeman was injured with a sharp object in the abdomen in the encirclement. This story spreads among police officers. Also, it is told several times to the citizens nearby. What actually happened remains unclear. (15) A banner reading "solidarity" is lowered at 19.40 o'clock from out of the theater.

IV. Key features of the state dealing with protest

1. "The joy of encirclements"

The kettle of Frankfurt is not the first encirclement of demonstrators. But still, such an encirclement of a big demonstration is remarkable. Such collective coercion, which is titled as law enforcement, but cancels out fundamental rights of assembly and freedom of expression, both for the beleaguered as well as for the excluded, is an unusual police procedure. It has been publicly criticized from many sides. The mass demonstration in Frankfurt in 2012 was to take place peacefully and without incident and gave no reason for such a police strategy.

The assembly authority did not want to allow the demonstrators' desired route. As for 2012, significant risk to the city of Frankfurt were predicted. The court did not follow the danger forecasts and confirmed the desired route for the demonstration. This was efficiently prevented by police through the encirclement, which was not legitimized through the rule of law. All the signs and informations suggest that the encirclement of the anti-capitalist block at this point, just before the demo would have walked past the ECB, was planned. The rest of the demo track was hardly secured. A police officer is said to have anonymously reported to the BILD newspaper to confirm that the police encirclement was planned from the beginning. Relevant information came several times from individual police officers along the way.

15: Because of another report, the incident becomes less clear. Police officers in front of the encirclement had reported on this incident two hours earlier. Their story was about the injury of a police officer, which took place at the beginning of the demonstration and led to the establishment of the encirclement.

Since 1986, courts have repeatedly ruled that the encirclement of demonstrators was illegal. The police had driven in 1986 in Hamburg an assembly into a corner and surrounded it for hours. They barely allowed toilet visits, did not provide meals and prevented any contact with relatives or lawyers. In 1986, the Administrative Court of Hamburg ruled that the "Hamburger kettle" was illegal (12 VG 2442/86).

The police argued at that time, that they had a resolution for dissipating the assembly "by appropriate action, namely through the kettle". They claimed that participants were passively armed, e.g. by waterproof clothing. A less drastic mean to go against it, they didn't find. The Administrative Court ruled clearly and unequivocally that such action against a gathering is unlawful. "The general action of the defendant, regardless of whether they had peacefully or disruptively participants in front of them, was not in accordance to the importance of the freedom of assembly." "Intervention in the freedom of assembly are interventions in a constitutive fundamental right for a democracy ...".

The plaintiffs then fought successfully in civil courts for compensation for the pain and the suffering of 200, - DM. But who assumes that the police would have kept to this interpretation of the fundamental right to freedom of assembly by the court is wrong. Demonstrators were always surrounded by the police, any list could continue from the Munich kettle, the enclosure of Göttingen, the Brunswick kettle, the kettle in Mainz, the Dortmund enclosure (16) to the various enclosures in the Wendland.

Recently, the district court Lüneburg ruled in August 2013 that the police kettle at Harlingen was unlawful after a Castor blockade in November 2011. Also, the Country Court of Frankfurt presented on July 2, 2013, (Az .; 5/27 Qs 38/13) once again that the kettle of 2012, where the protesters were arrested in Frankfurt on March 31, was unlawful. It is as if the police and the political institutions in charge of them turned the basics of constitutional legitimacy upside down, as if the executive power would be above the law the legislative creates.

The plaintiffs could often subsequently prove the unlawfulness, but the puny pain and suffering compensations did not lead to any change in the police action. On the contrary, despite all this, the encirclement of demonstrators in police training will continue to be strongly recommended and taught, "because it is so effective as the police sees it" .(17)

16: See: Müller-Heidelberg, Till: Kein Kraut gewachsen gegen vorsätzlich rechtswidriges Handeln der Polizei? Die Polizeistrategie der Einkesselung. In: Müller-Heidelberg, Till: Grundrechte-Report 2007

17: Müller-Heidelberg, Till, p. 125

Starting with the Brokdorf decision of the Constitutional Court in 1985, that first recognized the fundamental right in its central importance for democracy, the courts often determined that police actions against demonstrations were illegal. Demonstrations are basically "free of state", it is one of the fundamental rights of citizens to participate in a self-determined way in the political process. And not only democracy thrives on the critical interference of its citizens. The Constitutional Court ruled: Meetings "contain a piece of originally-untamed direct democracy, which is suitable to preserve the political operation before solidification in busy routine". It made it clear that the protection of freedom of assembly must be preserved, if not the whole assembly takes a "violent and rebellious course". Despite the Brokdorf judgment which had the fundamental right first understood as such and interpreted, and other judgments which confirmed this judgment in its interpretation, protesters are far too often at the mercy of unlawful actions of the regulatory agencies and the police.

The kettle in Frankfurt was maintained for more than nine hours on June 1, 2013. Only after police units stormed into the demonstration and used pepper spray and batons in the middle of it, two or three bags of paint flew. Otherwise, this block of "violent and masked criminals" - as the police claimed - was enduring the police provocation. They showed thus to the public how violent the masked police, and the politics behind them are oriented. After nearly six hours, the police began to penetrate into the kettle and led the people away using painful police handles. Wounded remained lying on the road and had to be treated by paramedics.

The kettle was justified on the one hand with the "dangerousness" of the protesters in the anti-capitalist block for the City of Frankfurt, the suspected planned acts of violence and further through the offenses, which were derived from the Assembly Act: Disguise and "passive arming". It is striking that the Assembly Authority meant to see the danger of the Assembly in the fact that the "umsGanze" Alliance had joined the Blockupy Alliance. The "umsGanze Alliance" had been involved in the demonstration on March 31, 2012, in which a police officer was injured and many demonstrators were encircled illegally. The police suspected the participants of the "umsGanze" Alliance in the anti-capitalist block.

While the police spoke of 200 violent persons in the assembly and that on this behalf the encirclement had to be made, it tries in retrospect to justify the high number of almost 1,000 identification measures. Investigations were initiated against 947 persons. At two meetings in the Internal Affairs Committee of the Parliament of Hessen (6 and June 24, 2013) Interior Minister Rhein and the overall chief police officer, Schneider, tried to justify the police action.

Interior Minister Rhein complained that the demonstrators had disguised themselves already in the preparation of the demonstration, armed with firecrackers which they fired. Participants of the "anti-capitalist bloc" had shown in advance through voiced slogans such as "We will destroy the town" their readiness for violence (18). In the two internal committee meetings, he stressed that an aggressive mood was present from the outset of the demonstration. This is deprived from slogans, which are often used by those in the demonstrations who are powerless and need to let out their emotions: "Germany, police state, we are sick of you" or "all cops are bastards" (19) (see the spoken protocol record of the Home Affairs Committee on June 24, 2013, p. 6). The readiness for violence is proved through indications of origin and clothing:

"In the first rows black clothing was worn (...)" (p 12); from Berlin, from Italy, from the Antifa ... the participants came ... Already, the text messages of the Situation Center of the Hessian state government, which also informed the interior minister about the situation, makes clear in what way the situation was assessed wrong, dramatized and described in an escalating manner. After the partial exclusion was decreed, it was reported there were "attacks with sharpened sticks and pyrotechnics "; one group was preparing an "attack on police forces, because they did not want to go through an identification measure".

Accordingly to the statements of Interior Minister Rhein in the Internal Affairs Committee the following "weapons" were seized: 39 pyrotechnic items (20), 65 shields (the books), with paint filled glass bottles, light bulbs, Christmas balls ... (For the construction of "weapons" and "defensive weapons" see also Chap. IV.2.)

18: See: Stenografischer Bericht der 95. Sitzung des Innenausschusses, Juni 6, 2013

19: This police-insulting is ultimately based on a racist image. But also this slogan is covered by freedom of speech.

20: Fireworks are repeatedly cited as the evidence proving the significant threat posed by this block. The few fired flares were certainly not used against people. Apart from the everyday use in the context of football games, a press release of the Police Directorate Göttingen on May 19, 2013, shows that the police can maintain a more relaxed approach to such activities. It is reported that the demonstration before the "Blockupy Action Days" was peaceful. "When the demo passed from two buildings in the Gotmarstraße and the Roten Straße, sympathizers threw confetti and paper scraps from the windows and set ignited fireworks and torches." The resume of the police: "from the perspective of the police Göttingen the demonstration was peaceful and trouble-free. "(from: Stenografischer Bericht der 95. Sitzung des Innenausschusses, Juni 6, 2013, p. 64)

The fact that these messages only serve criminalization is obvious afterwards. That there existed at the beginning no aggressive mood is made clear through the width of the alliance and the persons present. Many families with children were involved, because they could assume from past experiences and with good reason, that such a large demonstration would proceed peacefully and therefore would not be attacked by the police.

The police, represented by the police chief of operations, Mr. Schneider, adds cause and effect, facts and possibilities arbitrarily together to create the impression that only by the imprisonment of hundreds of innocent citizens for several hours, a direct threat to the city of Frankfurt could be averted. Mr. Schneider reports on the "dangerous" material that was found by the police, and ends: "There were stones lying there. Now you can say: Probably they've been there before. Unfortunately, I can not prove otherwise. But in any case there were stones that could easily fit in a bag. " (21)

As a violation of the demonstration regulations, ropes were also mentioned, which were used by the block to surround themselves. In fact, ropes were used to secure the speaker car from all sides. This is quite common and does not contradict the regulations. For them, it is important that the block is not protected by ropes and making it difficult for the police to access the demo.

How much the risk assessment was dramatized and the signs were misinterpreted, becomes also evident through Interior Minister Rhein, who took as a justification for the danger the possibility that acts of civil disobedience were intended.

Criminal offenses within the scope of civil disobedience, in particular coercion, are considered a legitimate instrument of political argument."(22) The day before the big demonstration, May 31, 2013, the activities in the city were also summarized under the term "civil disobedience". Blockades had been undertaken, and business processes had been disturbed. The Federal Constitutional Court judged in 1995 that sit-ins, one of the typical actions of civil disobedience, are falling under the right of assembly and are by no means criminal offenses. In this large-scale demonstration, such actions were not announced.

21: See page 24

22: Stenografischer Bericht der 96. Sitzung des Innenausschusses, Juni 24, 2013, p. 9

One of the variants used for justifying the kettle is that the criminal offenses, which could have had happened, could have been prevented. The minister of interior argues accordingly: "In addition, it was important to recognize disturbances, non-peaceful actions and riots early to prevent them, and prosecute criminal actions and to limit the impairments of onlookers to a minimum." This type of prevention, which makes the suspicion to the starting point, opens the floodgates to arbitrary decisions.

Weeks after the demonstration, the Frankfurter Rundschau reported (June 26, 2013) that 947 people had been in the kettle. "Four of them were fingerprinted, because they were suspected to have resisted against the actions of the police officers. None of them was known to the police in Blockupy 2012."

Christoph Gusy, a professor of constitutional law at the university of Bielefeld and specialist for police law and internal security law explained in an interview with the Frankfurter Allgemeine newspaper that the intervention procedures, on the Blockupy demonstration, had been excessive. (23)

2. "Passive arming" and "disguise"

Concerning the justification of the kettle, the argument that the protesters had been "armed" and "masked" came up. It was not about weapons with which attacks should be executed, but "protective armament," so items which were intended to protect against attacks - which were misunderstood as equipment for "passive arming". When a citizen is disguised in a way that he falls under this act remains an open question of definition.

The problem starts with the Assembly Act itself. "From 1985 on, it was considered a misdemeanor to disguise at demonstrations. It was a criminal act similar to illegal parking." (New Germany (nd), December 6, 2013). (24) At this time, motorcycle helmets were common to see during demonstrations. In 1989, the Assembly Act changed. Since then the § 17 a makes a "disguise" a criminal offense.

23 „Regenschirme sind keine Vermummung“; FAZ, July 5, 2013; <http://www.faz.net/-aktuell/rhein-main/befugnisse-und-grenzen-der-polizei-regenschirme-sind-keine-vermummung-12211378.htm>

24: „Hasskappen weichen Regenschirmen“; Neues Deutschland, December 6, 2013; <http://www.neues-deutschland.de/artikel/824117.hasskappen-weichen-regenschirmen.html>

Such prohibitions of "disguise" and "passive arming" were highly controversial at that time. For example, Burkhard Hirsch (FDP) objected to such a scheme. He feared difficulties of proof would be solved, "that the criminal offenses would be extended without end (...)" (see, also the article in nd, December 6, 2013). In § 17 a it states:

(1) It is forbidden at outdoor public meetings, rallies and other public outdoor events or on the way to such events to carry "protective weapons" or items that are suitable as "protective weapons" and accordingly to the circumstances are determined to ward off enforcement of an official outfitted with sovereign authority.

(2) Further it is prohibited

1. to participate or to travel to such events in a fashion that is appropriate and under the given circumstances serves to prevent the ascertainment of the identity.

2. at such events or on the way to them, to carry objects with you, which are capable and under the circumstances determined to prevent the ascertainment of the identity.

(3) Paragraphs 1 and 2 do not apply if it is about events within the meaning of § 17 (worship services, religious processions ...). The responsible authority may authorize other exceptions from the prohibitions in paragraphs 1 and 2, when a threat to public safety or order is to be feared.

(4) The responsible authority may use orders for the enforcement of the prohibitions of the paragraphs 1 to 2. In particular it can exclude persons who violate these prohibitions from the event.

This section is a good example of what has been called "forward juridification", which is the extension of the scope of legal provisions till the point that they become without borders. On this point this boundless, the legal certainty canceling tendency, includes the frequent use of undefined legal terms. They give the police an unlawful definition of sovereignty. Shortly after June 1, the police counted the dangerous "weapons" which they had found in the block: sunglasses, umbrellas ... The day before it had rained and umbrellas had been seen everywhere. Has one to worry in the future to be accused of a crime, because of this Is it not anymore allowed to use sunglasses for a demonstration? Only when the police assumes that "objects are intended" to ward off the enforcement measures by a carrier of sovereignty rights, they become prohibited items. No one, however, can know when such a definition applies (see also the website of "neusprech": <http://neusprech.org/schutzwaffe/>).

Some demonstrators carried further "books" with them, plates on which book titles were written or slogans such as "some have capital, the rest of us read it" or "Oil - Upton Sinclair," a book that had been reprinted by the Manesse-publishing house and which is advertised as a "key novel" about the tyranny of predatory capitalism. Perhaps these books could have helped a little against the use of batons, weapons to attack the European Central Bank they

had been certainly not. The Minister of the Interior, however, claimed that these books could have been used as weapons of attack, because of their sharp edges that could be dangerous.

The umbrellas, which were symbolizing the European bailout, held tightly together, could have prevented a police helicopter from seeing what was happening below. Is there a requirement for the protesters to allow the police a full scale surveillance? Actually, the video footage by the police is often illegal.

At the Committee on Internal Affairs the Minister of the Interior claimed, that in the anti-capitalist block there were about "900 obviously inclined to violence or violent persons". Evidence of this was the "extensive disguise" by the means of "cold weather masks, scarves, sunglasses and hooded sweaters. Then there were plastic visors (...) These are all prohibited articles and significant violations of the Assembly Act." (25) But of course, these items are prohibited only if the police interpreted them as "passive arming" and disguise for the prevention of identity verification. On the demo a week later, many protesters carried umbrellas and towels with them to protest against the prevention of the demonstration and against the encirclement and the arbitrary police interpretation of armament. However, non-proportionality and the protection of fundamental rights of assembly and freedom of expression were not the ideas behind the effort of the police, but the will to escalate and to prevent an undesired mass demonstration.

3. "Integrity" of a demonstration

The "special thing" of the justification of this kettle in Frankfurt was the attempt to sell this measure as a "meeting friendly" action. The public was deceived to the effect that the measure had only been done to single out the dangerous persons from within the demonstration.

The Brokdorf ruling states:

"If collective not-peacefulness is not to be feared, it is therefore not to be expected that a demonstration on the whole takes a violent or rebellious course (...) or that the organizer or his followers aspire to such a course (...), or at least endorse it, then it has to make sure for

the peaceful participants that their right of freedom of assembly, guaranteed by the Constitution, is protected even if some other demonstrators or a minority commit riots (...). If the violent behavior of single persons would lead to the cancellation of the protection of the fundamental rights not only for them but for the whole demonstration, it would lay in their hands to remodel the entire event and against the will of the other participants the demonstration would become unlawful (...); thus virtually every major demonstration could then be banned, because it is almost always possible to obtain knowledge about unpeaceful intentions of a part of the participants."

Regulatory measures must therefore be primarily directed against the "troublemakers". The Federal Constitutional Court could at that time not imagine that a, for the protection of the fundamental rights, primarily ordered police would become the main danger for the democratically particularly qualified fundamental rights of Art. 8 GG.

In Frankfurt, an image was created as if this whole block posed a threat and for this reason the laws of demonstration could be rightfully be nullified in order to ensure the fundamental rights of the others.

If in doubt, however, it would have been necessary to take action against individual concrete "troublemakers", but not in general against an entire block. Large demonstrations become possible when alliances of heterogeneous groups are forming through long negotiations, discussions and organization processes. Groups and institutions decide whether they want to participate in this alliance. The Alliance decides which groups are welcome. A common political line is negotiated and cohesion and political trust develops.

The idea that the police could then exclude a part of the demonstrators of the assembly, to (the other part; editor's note ...) allow the demonstration to proceed further" (26) (information from the police, July 1, 2013; 15:46 o'clock), illustrates that the fundamental right to freedom of assembly is not understood or purposely not understood. In its press information, the police also writes: "The head of the meeting was repeatedly offered to continue the official route and police assistance would be provided to bring together the peaceful participants."

A police attack on a portion of the protesters must, however, always be understood by the protesters as an attack on the entire group. The police - as well as the Minister of the Interior - are not allowed to decide who is part of the assembly. Even in the run up - in risk assessments, which had nothing to do with concrete evidence of such dangers - the police had made it clear that from their point of view, they didn't want the "umsGanze" Alliance to participate in the Blockupy Alliance.

26: This idea is repeated several times as a generous offer from the police, in the Interior Committee of Hessen.

They supposed that they could reach the "umsGanze" Alliance in the beleaguered block. Neither the actual events (two firecrackers two or three minutes before the enclosure), nor the objects found can even roughly justify such an intervention. It was obvious that the beleaguered did not endanger the public safety. Individual crimes can in no case justify an override of the fundamental right to freedom of assembly and expression for more than 10,000 citizens - because by the intervention, necessarily, nearly all others were affected too.

Evidence securing and detention units are often used against single troublemakers. These were present in force in Frankfurt. But at best, they penetrated into the demo to elicit acts of defense and violence - to escalate - and were not used in accordance with their official tasks. The approach of these units in demonstrations is by no means unproblematic. By far, their actions affect not only offenders and arrests often take place with very little evidence. With their advance into a demonstration they violated their integrity and provoke conflicts or intensify them, as was observed in Rostock during the protest against the G8 summit. (27) These units often use disproportional measures, because they attack the demonstrators which stand in their way.

4. Pepper spray, the lethal weapon that has no business at assemblies

The unrecognizable police, armed to the teeth, equipped with protective clothing used their weapons against the demonstrators without a second thought. Additionally to the physical integrity-violating police grips and the humiliations in removing the protesters from the kettle, the police used very often and quite naturally their batons and their "new" distance weapon, the "pepper spray". "The use of spray gas devices from less than 1 m, with the exception of a self-defense situation, is strictly prohibited." (28)

27: Komitee für Grundrechte und Demokratie: Gewaltbereite Politik und der G8-Gipfel, Köln 2007; <http://www.grundrechtekommitee.de/node/110>

28: Stenografischer Bericht der 96. Sitzung des Innenausschusses, Juni 24, 2013, p. 20

A few years ago, pepper spray became the police repellent. Pepper spray was justified as a "softer" instrument. It should make the use of the firearm (particularly in use far beyond meetings) unnecessary. The use of pepper spray can potentially always kill. However, its dangerousness is denied by the police and its use is trivialized. In Frankfurt a 13-year-old was physically and emotionally injured by pepper spray during his first demonstration. He didn't understand what had happened to him. Moreover, his father understandably doubted politics and a police which allows such abuse by the police.

Many were injured in the locked-out part of the demonstration, which was defined by the police as peaceful. The police rushed in with violence in this part of the demonstration, and thronged the participants. Of a demonstration that should be "state-free" in principle (Brokdorf decision), no trace was to be seen. The baton was used, pepper spray was sprayed randomly into the crowd. Children, women, men, old, young, and journalists doing their public task of reporting were injured. The demo paramedics reported later an estimated 320 casualties. "Additionally, we can also count the ones who could help themselves or who experienced no treatment in the chaos." (29)

The fall back on and the obvious use of distance weapons is a throwback to the policy of combating citizens who stand up for their rights. The strategy of "deescalating" has become increasingly important in recent decades. Conflicts with demonstrations have since then been more influenced by communication. Consequently, standoff weapons play at least only a small role. (30)

In the 1950s, the decision was made to exclude the use of firearms during demonstrations - but even then the firearm was drawn often in the context of meetings. (31) After the times when the water cannons were used with and without CS gas and helicopters attacked, like in Brokdorf, in the 80s and 90s the focus shifted to conversation and conflict resolution. Well, the relatively new equipment with the individually available pepper spray allows the police, however, to make use of it easily, although this is a latent deadly weapon. That kind of use gives the impression of being part of a kind of military riot crackdown with front lines. Meanwhile, it is called even for another distance weapon, the rubber bullets.

29: <http://www.nachrichtenspiegel.de/2013/06/05/blockupy-frankfurt-unheimliche-nachlese-zum-1-6-2013-burger-trifft-markte/> (August 16, 2013)

30: See the development of violent measures by the state: Pütter, Norbert: Gewalt-Polizei-Gewalt - Wandlungen im Kern staatlicher Gewaltpraxis. In: Bürgerrechte & Polizei, Cilip 100, No. 3/2011, p. 17-29

31: In 1952, the police used firearms in a demonstration against the rearmament of West Germany. Philipp Müller was killed and two other protesters were injured by police bullets.

In an interview with Prof. Michael Knape (Director at the Berlin Police President) he, however, accented a very different orientation and training of the police: "But the police is trained quite differently: we want to achieve arrests with good evidence. Here, we use tactics that we have trained in a special way, to get at the criminal offenders, possibly under the protection of water cannons. Distance weapons only help, under state of emergency circumstances, to disperse crowds. But even the use of water cannon is dangerous, one thinks only of water blows and the possibilities to hurt people on the head. The admixture of CN is always a last resort. " (32)

5. Misinformation towards the District Court and the refusal of fulfillment of tasks of the courts

Even at 14.30 o'clock, on June 1, after a request to the police, a lawyer received the information that there was no kettle. Considering that many lawyers were in the kettle and tried to pursue their professional duties, this is an amazing information. It is only later that this kind of reinterpretation of reality becomes understandable. The police initially claimed that they had a thousand people just "stopped". Then they continued their law enforcement duties. Since, only an identification was planned and that there were no arrests, a judicial involvement was unnecessary.

Moreover, the lawyers didn't come out of the kettle despite the fact they showed their identity cards and law passes. One lawyer who wanted to reach an injured "BILD" photojournalist, was not admitted to his client. Another lawyer requested by telephone from the detention judge to review the practiced imprisonment against them judicially.

32: Interview with Prof. Michael Knape on distance weapons, especially rubber bullets, German police, no. 7, July, 2012, p. 27-29 ([http://www.gdp.de/id/dp201207/\\$file/DP_2012_07.pdf#page=29](http://www.gdp.de/id/dp201207/$file/DP_2012_07.pdf#page=29))

The judge explained that she had no jurisdiction because she followed the police information, not even seeing the need to verify it. Even the identity of the lawyer, who was released from the kettle later that afternoon, was checked by the police. On top of that, she was fingerprinted. When they realized that her office was located nearby, they refrained from a dismissal of the Frankfurt city. (33)

During the afternoon, the District Court judge went home, knowing that approximately a thousand people were detained for several hours by the police. Although the district court was thus informed that a significant police action was taking place, it didn't follow its official obligation to investigate.

V. Blockupy in the media

On Saturday, June 1, 2013, media reports were mostly positive concerning the first day of protest that Friday. Under the title "Missed - Thousands protest against bankers in Frankfurt. But they were somewhere else since some time" the Süddeutsche Zeitung (SZ) reports: "Blocked or not - this was of secondary importance in the end. Frankfurt enjoyed a day with actions of civil disobedience with several thousand participants. They called it "resistance in the heart of the European crisis regime". It went off almost continuously peacefully accordingly to the police. Up to the afternoon, there had been only a few scuffles. "

The Frankfurter Allgemeine Zeitung (FAZ) writes that it remained "largely peaceful". Under the title "against capital and rain", they report on the course of the day and the concerns of the protesters. They restrain in estimating the number of protesters and report that they were talking about 3,000 participants. The police, however, only accounted for 1,000 demonstrators.

The "Frankfurter Rundschau" (FR) reports most extensively about "2000 people at the Blockupy actions." From their headline they report that the police used pepper spray. However, they add in the article that the police reported that, "overall, the situation was "relatively calm." In detail, under the title "Blockupy interfere with the course of business", they inform that banks and shops were completely or partly closed on that day.

It has rarely been reported to such an extent of criticism how the city of Frankfurt was handling the fundamental right to freedom of assembly after the events on June 1. In the SZ, we read that the Frankfurt police is criticized after its deployment against the Blockupy protesters."Over and over, the nine-hour kettle is mentioned in the media. Jens Schneider commented in the SZ on the peaceful protest on Friday: "So for the police existed no particular concern for Saturday. It was expected what demo veterans call a walk-demo. Instead, Frankfurt experienced the reuse of a police method that is controversial and correctly called so. With a very little justification, the police encircled hundreds of people and held them up to nine hours. That was inappropriate and disproportionate". He goes on to say that the "freedom to demonstrate is not a gesture that is granted by the state the way it pleases. " It has to ensure it."

The FAZ informs about the many critical voices concerning the actions of the police, but also attempts to justify them. They also identify critical voices arising from the deployment in the police of Hessen. "Officially, the actions of the officials are justified, but some spoke of a confusing situation, in which the police had maneuvered itself. It was also confirmed that there had been troubles in advance of the encirclement, but no crime has been committed. Accordingly to reports, getting the identities of the protesters has been the police's goal since they thought they belonged to the left-wing extremists."

A day later, on Tuesday, June 4, 2013, the FR reports once again on the many critical voices. The police comes increasingly under pressure. "Both SPD and the Green Party openly expressed their suspicion that the police kettle on Hofstraße could have been planned. "If this were true", the SPD subdistrict chairman Mike Joseph said, "there have to be personal consequences at the Ministry of the Interior."

Even the "BILD" arises the question in its title: "Why was the police so tough against Blockupy?" "Several policemen confirm anonymously to the BILD: "The kettle was planned!" Reason: To identify the disguised, to compare them with the M31 rioters in March, 2012. An official: "However, this strategy was a mistake!"

Jakob Augstein in the "Spiegel" compares it with Istanbul: "If the state power dissolves demonstrations by force, this has one meaning in particular: The protest is to be criminalized. But that does not work anymore. Neither in Frankfurt nor in Istanbul." He reports: "during the weekend, violent clashes between the police and anti-capitalist demonstrators happened in Frankfurt. According to the organizers, there had been more than 200 injured people. This is less than in Istanbul where the demonstrations against the autocratic Prime Minister Erdogan is said to have resulted in more than a thousand injured. But the pattern in both cities is the same: the police beats down the civil protest. The assumption that the intent of the police is the same lies near: to create images of violence to discredit the protesters. But that does not work anymore."

Concerning the demonstration, which took place a week later, the reports are positive: "With glasses and umbrellas against the Frankfurt Kettle"(Fri, July 10, 2013). The FR thinks there were more sunglasses and umbrellas to be seen than placates. However, these precise elements were now expressing the protest against the police action and were thus not seen as a disguise. A police spokeswoman said: "The criticism has arrived, we've got it". As a result, the police held back on that day, letting the assembly pass the ECB building, and the riot police standing there did not even put on their helmets (SZ, 06.10.2013). The information printed in the FR in the letters of the readers give a feeling of the general indignation of the citizens over the police action on June 1 under the heading "Where does this open hatred of the police come from?"

VI. The permanently endangered fundamental right to freedom of assembly

The so-called Brokdorf decision of the Constitutional Court from 1985, to which we will respond thoroughly below, lays a first and significant milestone in the revaluation of the right to demonstrate. After the highly controversial demonstration in Brokdorf 1981 against the proposed nuclear power plant, the Federal Constitutional Court issued a decision that provides guidance until today. Assembly and free speech are "essential and basic functional elements of a democratic society". They contain "a piece of original and untamed direct democracy, which is convenient to preserve the

political operation from freezing in busy routine" (BVerfGE 69, 315 ff. - Brokdorf). This fundamental right has a special significance not only for the individual but also for democracy. The Constitutional Law is characterized by reservation towards demonstrations. Art. 8, para. 2 of the Constitutional Law, puts the fundamental right under the provision of the adoption of a law. Already in 1953, the Parliament decided such a restriction with the Assembly Act, which presents demonstrations as a national security risk, which are to be controlled and restricted. It is characterized by the notion that meetings resemble rallies that would be organized and managed by "leaders".

The Federal Constitutional Court made it clear for the first time in 1985 that only the developments in exercising the fundamental right to freedom of assembly since the late 60s and in the 70s correspond to the ideas of democracy.

"This freedom (to gather) is guaranteed by Article 8 of the Constitutional Law, which protects assemblies and processions -. unlike mere accumulation or amusements - as an expression of community, protects on communication based elaboration. This protection is not limited to events on which it is argued and disputed, but includes a variety of forms of group actions up to non-verbal forms. Moreover, those with a demonstration character are included, which use the freedom of assembly for the purpose of placative or sensational opinion proclamation. "(C, I, 1)

One of the unique and terrifying practices against the Blockupy meeting in Frankfurt is the way the Brokdorf judgment is later used to support the prevention of a major demonstration. In 1985, the Constitutional Court judges came to the conclusion that the non-peaceful behavior of individuals cannot justify the dispersion of a whole demonstration. Against individual disturbers, the police, as the circumstances require, should act concretely and deliberately. With this decision, the Federal Constitutional Court wanted to strengthen the Constitutional law in general.

Yet, the operational control of the police, but responsible for such deployments is the Minister of the Interior, derived from this the right to classify an entire block as violent, whose participation should be prevented. They did not go after crimes committed by individuals or against acts of violence committed by individuals, but against an entire block, from which there was no violence or attacks against other individuals. The initial 200 or 300 suspects who were said to be "ready to violence" mutated in the hustle of the encirclement to nearly a 1,000 people. The procedure is not only disproportionate. The constructed offenses in the use of § 17 of the Assemblies Act make it clear how the police create powers of intervention with this

Act arbitrary. Sunglasses, umbrellas, caps and flagpoles do not justify police intervention.

Meetings must be considered as a whole and protected as such. This even applies for large-scale demonstrations, which are supported by a broad coalition. During a long process of negotiation, a political alliance forms through a consensus, which is supported by heterogeneous groups. They also agree on the nature of their appearance to demonstrate. Unless there are acts of violence going out during the meeting as a whole, the police has the task to enable the Constitutional right to apply and to do everything so that the meeting takes place in the chosen and agreed form. Since each intervention can potentially lead to an escalation and to the cancellation of the fundamental right, it has to hold back as much as possible. But the police's main intent concerning the operation in Frankfurt was the opposite.

The right of assembly is constantly debated. The current discussions about new assembly laws in the countries illustrate this. Since 2006, the federalism reform was realized in all countries and the question of whether an individual meeting law is to be designed appeared. People from left parties, human rights activists and democracy oriented individuals and groups face the question of whether it will be possible to design a meeting law that actually protects them and the fundamental rights.

One that not only reasonably reflects the existing case law, but that at least guarantees the compliance or an increased one that safeguards the fundamental right. However, it becomes clear how wide the pitfalls are designed and how difficult it is to find a fundamentally different approach. Frankfurt has indeed made it clear that even the accordance to the civil rights oriented interpretation of the right to assembly by the Constitutional Court permits many authoritarian interventions. Whoever wants to create a meeting law that corresponds to /respects human rights accordingly to democratic requirements, has to strengthen the citizens' self-expression and limit any police intervention. "A higher recourse to juridification" should be avoided and the police's interesting interpretations are to be drastically limited.

The right to demonstrate is one of the few radical democratic approaches and correctives to the West German approach highly diluted representative democracy. This Constitutional law primarily protects the ones who think differently, for they are not the ones who go with the mainstream and thus need this protection. While the right of assembly is exercised, riot is a possibility. A person who exercises this right often wants to provoke and has to go against certain limits to get the public and

media attention. This right has to be defended against a rule of power which wants peace and order and for which every fundamental criticism seems suspicious and which responds towards it with boundless violence.

Would the Article 8 - "Every person has the right to assemble without notification or permission peacefully and unarmed with others and to hold meetings" - protect this right better than any assembly law that only tries to redraw new boundaries?

Some key elements of the right of assembly are summarized as such:

Protesters decide for themselves where to meet and the forms of expression they want to use. From the fundamental rights generally or currently excluded areas cannot exist.

During meetings "the State", represented by the police, has no place - neither in uniform, nor undercover or with video equipment. At the beginning of November 2013, the Administrative Court of Göttingen ruled (document number: 1 A 98/12) that police officers in civilian clothes, who observe a meeting on duty, have to make themselves known to the organization of the assembly. This is a prerogative that each individual officer has to respect.

The protesters decide on the length and size of banners. They also decide about the rhythm of their march.

Freedom of movement as well as freedom of speech must be respected so as the possibility to be heard and seen. This prohibits any "enclosing", like the so-called moving kettles.

In the "Spiegel", these relationships are concisely summarized following the experience of Blockupy in Frankfurt:

The Frankfurt police already distinguished itself by showing special disproportionality in its response during the 2012 anti-capitalist protests. In February did we learn that the state of Hessen had to pay 500 EUR for pain and suffering to the participants of the Blockupy protests from the previous year because the demonstrators had been taken wrongly into custody for hours. The Gießen district court sentenced the police for this compensation. That was the German state of law in all its awe-inspiring efficiency. People want to demonstrate - the state prevents it - the protesters are arrested. And after that they get money as an compensation for th violation of being ribbed of their fundamental rights: money!

Any resistance is suspicious to the State.

Everything within the law. Everything has its order. But this is a strange order, which sees a threat when people exercise their rights and then wants to buy them. Because with 500 EUR you can also buy fundamental rights. In Frankfurt, in 2012, the police wrote on the form where the "reason" must be filled in for the arrest: "Anti-capitalism".

But regardless of whether the state buys the demonstrators or beats them - it does not appreciate. It distrusts them. It discredits them. The US anthropologist David Graeber described how the anti-globalization protesters in Seattle were either rich parent' children with trust funds or violent anarchists. For the state, each individual who offers resistance is suspect. The law is obeyed. The law is right. For the one who wants to change it, the appropriate methods exist. Although the right to demonstrate is part of the process.

But it is a reluctant granted law. It contradicts the ideology of obedience, which is still much stronger than the ideal of responsibility. (Spiegel, 06/03/2013) As a further consequence, out of the experiences in Frankfurt, the pepper spray weapon has to be banned at least in assemblies. Distance weapons in the hands of the police favor disputes that are performed at a distance, with arms against each other. The more the police is present to protect the assembly and for the necessary regulation of traffic control for the assembly, even without protective equipment, the greater the likelihood that a meeting runs peacefully.

VII. Democracy, demonstration, Law and violence

All demonstrations, practical examples of the Art. 8 of the Constitutional Law formulated fundamental rights of all citizens to assemble publicly and to express their opinion, take place in the context of the four in the title mentioned political practices and rules. In accordance, in tension, in conflict. While democracy and demonstration are intimately linked together and perverted without each other, they are as well regulated by law and violence as they are destroyed to the extreme by them. Therefore, it crucially depends on the forms of democratic and demonstrative organisations. Legal restraints can paralyze demonstrations as an expression of living

democracy as well as demonstrations are shattered by the excessive use of force, regardless of their legitimacy. They basically lose their peaceful essence.

Without going into the detail, let this be said in advance: "Violence" is in every person, in any social phenomenon, in every political institution there is potential for conflicts that can manifest. It could emanate from a cooperation or between individuals within democracy, demonstration and law by all actors. Legal regulations are designed to avoid violent conflict and the violent suppression of conflicts. Legal regulations can be enforced and maintained through a state monopoly of the use of force justified by "rule of law" by means of violence. The problem in the context of law and violence is thus not completely dispelled, that - to use Max Weber - in the monopoly of violence, the property "legitimate" occurs. While this is true in a constitutional state representative democracy. Say: State violence is only to be used to apply the law. This right is only in so far law as the violence that is used for the realization of it, like the law itself, can be democratically justified.

However, since the conceptual relationships in a practical space - it is hard to avoid conceptual ambiguities - can hit hard, violence is as an expression of the "monopoly on the legitimate use of physical force" (M. Weber), at any time in its form of separation of powers, legislative and adjudicative to be checked accordingly to their fundamental rights substance and their democratic form. Under certain circumstances, law and violence can also be controversial "on their part". This states: legally in itself moored violence can break out of the law. The awkward relationship can also occur reversed: the applied probe of force on the law can turn a poorly worded law into injustice. That "the rule of law" in this respect is getting steadily more precarious, could be detected latest between 1933 and 1945. Gustav Radbruch had acted thoroughly and consequently during the course of the "unconditional defeat" of the "Third Reich." (34) One consequence of this finding is the establishment of the Federal Constitutional Court, even the limited legal law creating competence of every court.

34: See Gustav Radbruch, *Rechtsphilosophie*, publisher Erik Wolf, Stuttgart 1956, 5. edition; in particular in the Annex: „Rechtsphilosophische Aufsätze“ et al „Gesetzliches Unrecht und übergesetzliches Recht“ out of the “Süddeutschen Juristenzeitung No. 5, August 1946, p. 347-357.”

Some brief, permanent assignable parts are following: 1. on democracy and the rule of law in the Federal Republic of Germany and the lack of consequences in the use of the Brokdorf's decision of the Constitutional Court from 1985 in an empathic blueprint formula collection like fashion; 2. to recent administrative court judgments in the vicinity of the demo May 31 / . 1 June 2013; 3. A small law philology of the example of a legal opinion on behalf of the Hessian Ministry of the Interior; 4. A review of police violence in the context of the recent major demonstration; 5. A preliminary final note on the principle of proportionality.

1. On democracy and demonstration in actual remembrance of the Brokdorf decision and its reasons for judgment

1.1. Representative absolutism

The bridge article between the fundamental rights part and, in the broadest sense, the organizational part of the GG is determined in Art. 20 of the Constitutional Law. .. Article 20, Paragraph 1 of the Constitutional Law states:

"The Federal Republic of Germany is a democratic and social federal state."

The democratic principle in article 20, paragraph 2, sentence 1 of the Constitutional Law defines: "All state authority emanates from the people."

In the following second sentence, the power of the people, to say the determination of all what happens in the "State", is in the sense of a principle basically continuously mediated and channeled in the same way. "They" - namely the state power - "Is exercised by the people through elections and voting and practiced by particular organs of the legislative, the executive, and the jurisdiction." That is to say that in the place of an immediate or direct democracy an indirect democracy is placed by delegates elected by the population: a functional elite. These have, according to Article 38 of the Constitutional Law and following, the right and the duty to represent the people, more precise: to realize. It does this by separation of powers through three

- coming into being in different ways - for their part additionally mediated powers or functional elites. The only appointed "power" by the act of voting of the population, is the legislature. It includes - said in existing contradiction - those directly representing. The elections provide the representatives. This selected elite therefore determines the democratic representative politics primarily by legislation, secondly through their control of the mediated elected executive. In this respect, the representatives are responsible themselves (see Art. 38 Constitutional Law), first of all, in a democratic sense and according to the Constitutional rights, and then legislatively to guarantee and to enable the responsible policies, especially those of the executive. In addition comes, of course, the judiciary. The legislature is elected periodically by a constitutionally enshrined voting mode of the population in general, equally and in secret. The other two powers are equally part of the representative system. However, with them, the negotiations are increasing. Be it through their own elections of their head of execution (Chancellor) or special qualifications of their legal profession and special committees composed of representatives.

That representative democracy in the meaning of the Constitution of the Constitutional Law, is based upon general elections, a continuously lifted, so to say abstract or mediated democracy. In addition to the direct or indirect, through the electoral process legitimated, between each other through control and cooperation connected three powers, further entities, in the context of a "government", the implementation of predetermined tasks by the Constitution, a number of relevant, politics and civic life influencing, yes nominative "powers" (institutions) is coming.

They compress and obscure the complex mediation of representative democratic politics beyond recognition. For example, the public administration, fiscal and social services, police and military as instruments of public violence and many other more. Because of this thicket of mediation of democratic politics and the form of the Constitution is not foreseen and not individually sponsored by political citizen, the implementation of the representative democracy was named "representative absolutism". Representation is possible to the degree that is enabled through general social conditions, which are for their part mediated far more through top to down structures and by functional elitist parties and highly abstract elections. However, it is insofar absolutistic as is does not emerge out of a living socio-political context of appropriate everyday political institutions and procedures.

1.2. The resistible moving impulse of representative democracy: demonstration

The Fundamental Rights Art. 1 to Art. 19 of the Constitutional Law, "which are under Art. 1, para. 3 legislature, executive powers and the judiciary as directly applicable law", that is binding, are understood as rights of the individuals. They are grounded through general, for their part controversial "welfare state clause" of Art. 20, Para. 1 Constitutional Law, and not through appropriate social conditions. They are also not being supplemented by consistent political participation, despite they implicitly contain such. Coincidentally, the Federal Constitutional Court therefore didn't go any further as the strictly individualistic and defensive legal, so to say state intervention defending interpretation, while developing and advancing the Constitutional Rights. An early liberal interpretation corresponds, if ever, by no means anymore with the objective seemingly uncontroversial conditions - in particular the Article 2 of the Constitutional Law (right to life, physical integrity, freedom of the person) and Article 5 of the Constitutional Law (right to freedom of expression, freedom of media, art and academic freedom).

Art. 8 of the Constitutional Law (freedom of assembly) differs from the others, themselves not being homogeneous fundamental rights, in so far that from the onset there is a collective element in two ways, yes a collective political function included. When people gather with others and express their opinion in a demonstrating manner -.. according to Article 8 paragraph 2 "open air meetings" - then they are a political issue, or - more fittingly to the social phenomenon of demonstrations - a political act.

Here we use - going back to Hannah Arendt to Aristotle - a wide defined policy concept. Its first criterion is that politics starts when a majority of people have something in common with each other. In short, the fundamental right to demonstrate is not to be understood in an individualistic way. In defense of the law, of course, that this entitled right for every citizen to participate in demonstrations or to initiate them is not to be interfered with in a restrictive manner up to the point where it is beyond recognition of a demonstration by free citizens. In this sense, it can be argued that freedom of expression, through a general, non-restrictive, but rather the freedom of expression unabridged corresponding public right of assembly, is necessarily supplemented. The fundamental right to freedom of assembly represents the

essential part, even if it is only an occasionally radical democratic corrective, of a Constitution which has distanced itself from the democratic ground. The Parliamentary Council (PR) discussed and decided 1948/1949 twice to prefer a restrictive democratic demonstrative freedom(s).

The decision was influenced on one hand by the controversial, but here rather uniformly designed "experiences" of the Weimar Republic and in this case especially from the last Weimar years with their galloping ruinous path to the Nazi seizure of power. Anyway, the last governments were no longer able to provide the "protection of the Republic" against the demonstrative, by violence permeated struggles, even internal wars, especially between the Nazi SA and the Moscow loyal KPD since the 1930s. This was not the least the case with the ruthless Nazi Gauleiter Goebbels, in the hot spot of Berlin.

Secondly, the PR was held just at a time when the Cold War threatened to start for real, not to mention the not to be underestimated still living tradition of anti-communist ideologies. Therefore, the mostly open formulated Art. 8 of the Constitutional Right is placed under a reservation of statutory powers (and reservation of statutory powers means for sure, that the following special law defines valid what is permitted or prohibited).

Therefore, not until 1953 is the adopted assembly law normalized in such a way that the fundamental right to freedom of assembly is canalized and perverted by a security and avoidance kind of police law.

Art. 8 of the Constitutional Law (freedom of assembly)

(1) All Germans have the right to assemble without notification or permission peacefully and unarmed.

(2) For outdoor assemblies, this right may be restricted by law or in accordance to a law.

The restrictive "law on assemblies and processions (Assembly Act)" was first issued on July 24, 1953. Meanwhile, the version dated November 11, 1978, is valid, last amended by Art. 2 G v. December 8, 2008. The right of assembly was transferred to the competence of the states by the so-called Federalism Reform of 2006. Some of them like Bayern, Niedersachsen, Sachsen, Sachsen-Anhalt, have meanwhile enacted their own laws. Otherwise, the multiple supplemented Law of Assembly of the federal Germany continues to apply. Neither in terms of the law of Assembly of federal

Germany, nor even more recently regarding the countries laws, the required interpretation for each of the individual paragraphs will be important. Rather, it will be focused here and in the next sections on the underlying premises of the assembly laws.

Only the explicit or the not specifically thematic assumptions about the functions and forms of demonstrations allows us to understand the various terms in their contexts and to assess them in the scale of the normative and functional tandem - Demonstration & Democracy - critically.

1.3. Assembly Act(s) - oppressive standstill and technological expansion

At the heights of the Cold War and its inner and outer military buildup (35) the Assembly Act - see the former debate in the German Parliament since 1950 - was primarily deteriorated by repressive police laws and the possibility of preventive interventions. Apart from paragraph 1, considerations accordingly to the constitutionally democratic quality of demonstrations played no matter at all. Even half a century later, the restrictive and in principle pre-democratic framework of the Assembly laws, still belonged to the countries. The constitutional and above all constitutional political changes, including the expanded context of the EU were not taken into account.

35: See Falco Werkentin; Die Restauration der deutschen Polizei: Innere Rüstung von 1945 bis zur Notstandsgesetzgebung, Frankfurt/M 1984.

The Brokdorf exception and the consequences or the lack of consequences will be addressed in the next section. If considered in an immanent federal-republican way, the internal conditions in the states would have remained largely the same. Moreover, as if since the 70s and after September 11, 2001, only new, worse, in general as "terrorist" qualified hazards appeared. The assumption that the uncertainties increased globally and at state level led to a deterioration of the democratic functions of demonstrations. That demonstrations initiated and renewed policies in federal Germany in important fields such as nuclear power, environment, energy, peace, that they have improved politics in its democratic forms through active citizenship, is, if not anti-demonstrative, at least pre- or after democratic negated by the sovereign. Unless there is an appropriate dealing, meetings are considered as if they were abnormal and potentially dangerous civil acts, "over governed" with so much suspicion, preventive requirements and strangled by the fact that every bigger demonstration is maltreated by the police from the start as being violent orientated. One gets the feeling that what follows the first paragraph of § 1 Assembly Act are only bans and prohibitions. As a kind of meeting prohibition act, the "right of assembly" is never consistent with the Constitutional Law.

The popular expression created by the Federal Constitutional Court that the "principle of proportionality" rotates empty - and therefore can be always claimed as "adhered to" - because there is no such thing as a legal term defining a successful demonstration by the Fundamental Law.

Contrasting with Art. 8 of the Constitutional Law, the freedom of all citizens to gather in public and to voice their interests, the federal and state legal concept of a public meeting is negatively formalized. It consists in conditions, restrictions and prohibitions. Regarding the parts with the prohibitions, the requirements for the potential leader of a demonstration.. They are of a kind that they would only be possible to be fulfilled by an universally, at any time and everywhere present, authoritarian leader enforcing obedience without any means like a anti-human super demonstrator.

A realistic notion is missing of what makes a peaceful demonstration a success or a failure and how or where they could escalate. What responsibilities can be required how and by whom? The authorizing authorities and the controlling police are included like a pro-forma unit. A wide gap is noticeable. It came into existence on the second day of June 1, 2013. A completely by the police blocked and thus divided and, yes, paralyzed "demonstration".

Not the Constitutional Law, but through the Assembly Law and the practice of assembly into the official political expectations, the requirements and the police equipment as the behavior projected by the police, habitually built in and through police practice implemented gap between police officers and citizens.

The gap initially doesn't exist in the different functions. The citizens demonstrate following a frame, that is, for the sake of a vibrant democracy, not to be defined too strictly. They have to go after their demonstrative cause peacefully. The police officers carry out their profession in the context of an Constitution applying equally to all.

Their job is to take care that the most of the registered demonstrations, for large demonstrations that applies naturally, can take place as a social and political civil action. This also means, in a democratic demonstrative systemic sense, that the police has - beside the protesting citizens and in large demos, the stewards - to ensure the peaceful quality of the demo carefully and to create the space for it.

(1) Nowadays, those who want to take part in a demonstration, like the most recent one on May 31 and June 1, 2013, in Frankfurt Main, or watch it from a distance, will be confronted by a priori the peace distorting picture of a violent police. Before the beginning of the demonstrative action, scattered individuals and small groups come slowly together. Before they take their first steps, safety measures can be witnessed. They surround the objects on which the intent of the demonstrators is primarily directed. On May 31, 2013, in Frankfurt, these were in particular the European Central Bank and the Deutsche Bank. The space behind the massed fences, preventing access, is soon filled by police officers, sometimes standing in tight rows and sometimes more openly.

However, they are not standing around casually. No, the police in the "resting state" is already uniformed in a way, with their batons hanging, belts plugged with weapons and, as can be seen shortly after, pepper spray like a filled feather pen in each police jacket, that implies violence even before anything happens. Before any individual or collective actions are taken by the both actors - protesters and police - one thing is obvious:

The constitutionally approved and promised freedom of demonstrative action, takes place in the shadow of police violence from the very beginning, before a single civic rooster crowed demonstratively or a hen scraping for fodder had picked. Paul Klee's famous sketch of the lurking, competitive encounter between two men who anticipate

"each other in a higher position", stays one sided for now. Violence in the status of their potency is radiated one sided from the political officially deployed police.

(2) If it then happens - as on May 31 occasionally, as on June 1 massive - that members of both groups are acting in a corresponding fashion together, the unequal treatment of similar phenomena, according to the law of assembly, becomes in the context of demonstrating and the demonstration protecting citizens with and without a police profession as a background, an even more differentiated profile.

In a preventive way and after a legally standardized definition of clothing aesthetics as "disguised", recognized individuals and groups of demonstrators are discriminated as "violent" by the lone observing and acting police and possibly the helicopter flying operational command.

They are, as the circumstances require, as on June 1, 2013, in Frankfurt, encircled by the police and separated from the other demonstrators and subjected to a total of approximately nine hour long special treatment with various kinds of collateral damage. Conversely, in fact innocent citizens who sympathize with the cause of the demonstration are standing - or accidentally take part in the event - in front of a non-obvious diversity of police forces.

These appear even officially, and especially in civilian clothes, disguised, come from different German states and emit a collective violence affecting all not only by their martial appearance but also with the barriers. Moreover, they use, without justification, dogs and the incalculable use of pepper spray against individuals and groups whose injuries are considered acceptable.

About the violent even hurtful pushing and the carrying away, one will not even speak of. No, this anti-bourgeois, the freedom of meetings several times strangling right of assembly, as it would be a unilateral right of the employed police forces, which are not trained in their particular civic duties and in a school sense appear disciplined, is based on the old "pre-basic-law" and the before (or after) fundamental rights motto: "Stay calm is the first civic duty!"

Excurs: Demonstrations observations by the Committee on Fundamental Rights and Democracy

The demonstration in Brokdorf, Schleswig-Holstein, on February 28, 1981, provided the first opportunity of the in 1980 founded Committee for Fundamental Rights and Democracy to take one of its first decisions: to accompany large-scale demonstrations in particular in the Federal Republic of Germany, with a sufficient number of well-informed and accordingly trained observers of at least 15 to 20 persons. The demonstrative action was to be recorded from start to finish, including the associated pre- and post-history noted as accurately as possible, then summarized and evaluated from the perspective of fundamental rights made by the citizens.

Three motives, since then practiced in many demonstrations, influenced this decision. It was encouraged by the experience that large demonstrations as complex social phenomena with hundreds of participants can at best be selectively perceived and just an overall impression can be acquired from a few people or individual journalists. In particular, potential conflicts between the participants in a demonstration and / or between these and officials of the police demand the immediate inspection and have to be written down immediately. More often than on other occasions the memories of the witnesses, especially the official ones, are wrong.

That the democratic and towards the fundamental law and human rights informed and oriented committee just picked demonstrations as a principal object of observation, was due to the insight, learned from the 50s and 60s history of the Federal Republic of how democratic central demonstrative expressions of the population are. Therefore, it was not surprising that democratizing modifications in the history of the Federal Republic of Germany could always be attributed to changes in demonstrating behavior, or if not, at least led to them.

The concern with regard to civil liberties, to proclaim straight controversial opinions in smaller or larger, in out of the moment spontaneous assemblies or to articulate them through programmatic planned demonstrations, build and builds therefore the in turn democratic motive of the committee to observe demonstrations. By itself, it was understood and it will be understood by us that we, as non-authoritative representatives, voluntarily and in turn, expect to protect voluntarily demonstrating citizens through our observations and collected informations.

This is not a general distrust against professional, officially employed police officers but rather an awareness of the given obligations and limitations of their roles. More than it is the case in German (state) tradition, it is however important that citizens are not exposed powerless to the actions and institutions of the state monopoly of force. In a democratic sense, it is due to the fact that citizens are starting to get involved, among other things, in statements and actions of the major instances of the monopoly of force, primarily in its inside, here institutionalized by the police. The facilities of the monopoly of force shouldn't be allowed to become a non-democratic and non-basic-law legal instrument located above the citizens and self-legitimated state. They receive their legitimacy, in contrast to the consistently repeated assumption and practice of the false friends of the monopoly of power, exclusively from the constitutionally and democratically inspired state in its representative democratic form. Therefore, there is no state-owned security overhang, above the protection of civic life and liberty.

That is why democracy and demonstrations, which function in a democratic sense, are only possible if they are grounded in the civil society and controlled by it. Moreover, it should be understood that according to our fundamental rights commitment and the therein also given obligation that the integrity of members of the police within the meaning of Art. 2 of the Constitutional Law is one of our demonstrative tasks of our exact observation and thereof of related concern. Because demonstrations, as social events, are not easy to observe and in their colorful civil look, the often not homogeneous cooperation and counter play, with for their part changing police forces embedded in various contexts, are anything but easy to analyze, we of the Committee for Fundamental Rights and Democracy made out of demonstrations a mainly collective subject / object. To us, demonstrations were and are constitutionally and democratically too important, as that one could assess them due to volatile information, either way seducing images and also from impressions gained from afar or from the near or accordingly to superficial (pre-)judgments that turn out badly. In particular, because suspected or actually happening violent incidents and injured people obscure and distort the seriousness of the demonstration, they create on all sides the additional risk of differently shaped and accented violent fantasies. They are able to lead to further violence, arising from the difficulty to sort out mixture of action segments of the police and the demonstrating provenance. Therefore, apart from general social psychological insights and legal rules, it very much depends on unbiased experienced observers, who have

qualitatively different experiences, to watch each social political demonstration event in a new way.

At the same time, it is important to always suspend oneself anew to the variations of demonstrative action with their main collective, even in themselves being different, actors of citizens and police officers. That is why we have chosen to try and test specific situations in detail and want a flexible method of observation to be our main instrument of perception. Because, as a small institution, we did it partly in the continuity of some representatives of Brokdorf, 1981, to Frankfurt, 2013 at dozens of locations of various interests but mainly protesting ones: in Fischbach and Wackersdorf in Gorleben and in München, in Berlin, in Mittenwald, in Rostock, in Stuttgart, in Dresden and in Hamburg, etc... We still do not claim that we have accumulated such a great deal of experience that some knowledge will become almost evident. We would rather turn our suspicion in direction of everyday produced, then as cocoons, containing prejudice, passed on dogmatisms, against embossed assumptions and phantasms, which, according to their apparently roughly expressed appearances, need no experience and are thereby an associated probe of truth.

We place particular emphasis on the aim to follow the police units back to their political responsibility of origin and their home locations. Police officers are far too often misused by the responsible rotten political authorities and their otherwise pretentious representatives. To use the hermetic monopoly of power in the form of police, seems easier than to change, be it your own policies, be it to legitimate them in a valid way and in public.

The same occurs as we respectively evaluate and always evaluate anew the political state-embedded profession of the police, we attach great importance to emancipate ourselves from fixed discrimination of the demonstrations' participants or circumscribed and marginalized groups of the same.

Here follows examples of police force deployed all too quickly. Such a continued discrimination experiences the always anew fix re-invented, through their garments defined group of "The Autonomen" (or "the black block"). If this political policing construct would exist, it would be represented in the form of an as-if-unit one of the most conservative social phenomena, whose alien physical persistence, in the context of a free democratic basic order, would literally be an element of the same.

"Die Autonomen", "the black block" is condensed into a ghost, that is, repressive and preventive, in a mutually itself confirming mixture, useful to exploit (freely adapted from the ancient children's game that dates back at least to ancient Rome: "Who's afraid of the black man?"). Police violence can thus be justified effortlessly and without prove

1.4. Brokdorf 1981/1985 - an exception with only marginal consequences

A difference, which is next to the other more binding democratic constitutionally deflections between the Weimar Republic (1919-1933) and the Bonn resp. the Berlin Republic (1949, 1990, ongoing), consists in the different installation and not least in the judicial function, especially of the Federal Constitutional Court. In particular, however, habitus and judicial intelligence are a rarity in the Weimar imperial constitution, of the judges and of the lawyers changed altogether. Now they exist and not just as an almost futile search image, according to the constitution not only formal, but substantial versed lawyers. Lawyers in particular played a decisive role (just think of the law office Heinemann / Posser or subsequent to the law office Heinrich of Hanover and the many dedicated law offices present especially around the Republican Lawyers Association). Otherwise the Cold War and some phases of the hegemonic anti-terrorism war would have withered the always vulnerable right to demonstrate and its lurching practice. Not to mention the constitutionally courageous decisions of administrative courts in given contexts which counteracted the prohibitions and constrictions of demonstrations - a storytelling of the same has lagged behind for a long time - it is especially to emphasize the Brokdorf decision of the Constitutional Court.

It reaches far out from a fundamental right perspective. It corresponds in particular to the democratically complementary needs of a representative democracy. Therefore, the assembly act, existing in its basic form since 1953, had to be brought to the democratic standard of the Brokdorf decision. On these the following changes in the right of assembly and its judicial implementation differ in most parts. Furthermore, symbolic bows in the direction of Karlsruhe are and were all what happened.

To these joins - dilutive, cooling down - the practice of the responsible authorities, the Ministry of Interior at the lead, police forces included, which level the legal substance of the Brokdorf decision, yet counteracting it. Nowadays practice of material, non-formal political demonstration law and its administration, especially through the action of the police the Brokdorf decision of the Federal Constitutional Court has been widely diluted to a verbal whiff. Nevertheless, and because of this, for the purposes of activating significant current memory, we will give a lecture of a few key passages of the principles and reasoning of the Court. It will appear later in the context of the often only formulaic use of the "principle of proportionality" of particular use. In addition, especially in the interpretations of the Constitutional Law and in the conflicts about their relevance to individual law mediations, particularly for the Constitutional Law, the freedom of assembly and the Assembly Act, the perspective and its supporting premises already in the perception and description of the behavior of protesting and deployed police, matters more than usual. The way the terms are used and also the assessment of the course of events are otherwise, in their inevitable interest content and their "tendency" not to understand.

We will give a highly selected literal lecture from the Brokdorf decision of the Constitutional Court: Order of the First Senate of May 14, 1985, 1BvR 233, 341/81 - on the constitutionality of prohibitions of demonstrations and on the immediate enforcement of a general demonstration ban.

Own comments are set in cursive type.

Guidelines

1. The right of citizens to actively participate in the political opinion and decision-making process through the freedom of assembly is one of the essential functional elements of a democratic citizenry. This fundamental importance of the right to freedom is to be considered by the legislature when restrictive regulations of fundamental rights are issued. Further, they are in their interpretation and application by the authorities and courts to be respected.

2. The regulation of the Assembly Law on the obligation to notify outdoor events and the conditions for their dissolution or prohibition (§§ 14, 15) meets the constitutional requirements, when in their interpretation and application it is considered that

a) with spontaneous demonstrations, the obligation to register doesn't intervene and their violation doesn't schematically lead to the right to terminate or to prohibit them,

b) resolution and ban may only be made for the protection of equal legal interests in strict compliance with the principle of proportionality and only if an immediate, out of visible circumstances deduce-able risk of these legally protected interests exists.

3. The public authorities are required, along the lines of peaceful running large-scale demonstrations, to proceed with the effective conduct of the meeting and not to stay behind proven experiences without sufficient reason. The more organizers are trying to build one-sided confidence-building measures or a demonstration friendly cooperation, the higher the threshold for intervention to engage out of a danger for the public safety is for the authorities.

4. Is it not to be feared that a demonstration as a whole takes a non-peaceful course or that the organizers and their followers seek such a course, or at least endorse, for peaceful participants, the freedom of assembly guaranteed by the Constitution has to be preserved when violence is to be expected by individuals or a minority. In such a case, a preventive ban for the entire event requires strict requirements for the risk assessment and the previous use of all sensible applicable means that allow the peaceful demonstrators to exercise their fundamental rights.

5. During the hearing for the application of the preliminary legal protection, the administrative courts have to take into account, through a more intensive examination, that the immediate enforcement of a ban on demonstrations usually leads to the final prevention of the realization of the Constitutional Laws.

6. On the limits of judicial continued education of the law.

Section IV 3.b.bb.:

This limit (judicial continued education of the law; the authors) is exceeded, when a court reduces legal positions, which the legislature has granted in concretization of general constitutional principles (see. BVerfGE 49, 304 [319 f.]).

The citations of the quotes follow the reasons for the decision paragraph 1-112. From them, we pick up only a few, so our interpretation of the guidelines, with reasons that the Constitutional Court in 1985 itself had argued, is authentically reinforced in compliance with the constitutional court and our differences mainly in the immanent sense of the Constitutional Court, are distinguished.

C. (...), para. 61

1. The in the main proceedings challenged measures and the underlying statutory provisions restricting the complainants in their liberty to carry out the planned demonstrations. This liberty is guaranteed by Article 8 of the Constitutional Law, protecting assemblies and processions - as opposed to mere accumulation or amusements - as an expression of community, taking their course based on communication. This protection is not limited to events, where there are disputes and arguments, but includes a variety of forms of group behavior to non-verbal forms. Included are also those demonstration purposes which claim the freedom of assembly for the purpose of placative or sensational opinion proclamation.

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2. As a right of defense, which is also and above all to the benefit of minorities, guarantees Art. 8 of the Constitutional Law for the subjects of the Constitutional Law the right of self-determination over the place, time, nature and content of the event and prohibits at the same time enforcement by the state to participate in a public meeting or to prevent its participation. Already in this sense, the Constitutional Law earns a special rank in a liberal state; the right to assemble freely and without special permission with others, has always been considered a sign of freedom, independence and responsibility of self-conscious citizens. In its validity for political events, the guarantee of freedom embodies at the same time a fundamental decision that transcends in its importance over the protection against government intervention in the free development of personality. In the Anglo-American legal system, the idea of freedom of assembly, which was rooted in the natural law, was understood early on as an expression of popular sovereignty and hence as a democratic civil right to actively participate in the political process (see Quilisch, *Die demokratische Versammlung*, 1970, S. 36 ff.; Schwäble, *Das Grundrecht der Versammlungsfreiheit*, 1975, S. 17 ff.). The importance of the right of personal freedom is also highlighted in the opinions of the Federal Minister of the Interior, the police union and the Federation Citizens' Initiatives of Environmental Protection; in the literature it is now recognized throughout.

a) In the Constitutional Court case law, which has not yet dealt with the freedom of assembly, freedom of expression has long been counted as an indispensable and essential functional element of a democratic citizenry. It is regarded as the most direct expression of the human personality and one of the most distinguished human rights, which is a constituent part of a liberal democratic state; because it allows the constant mental struggle and the struggle of opinions as a vital element of this form of government (...). If the freedom is understood as a freedom of a proclamation of collective opinion, for it can in principle apply nothing fundamental different. This is not opposed, especially in demonstrations, where the argumentative moment recedes, which is in general the manifestation of the freedom of expression.

When the protester manifests his opinions by his physical presence, in full public view and without the interposition of media, he instantly develops his personality. In their ideal-typical shape, demonstrations are the common physical visualization of beliefs, whereby the participants learn on one hand, the assurance of those beliefs within a community, and on the other hand to the outside - even by mere presence, type of appearance, their interactions with each other or the choice of location - in the true sense of the phrase "to take a stand" and testifying their views.

The risk that such proclamations of opinions can be abused in a demagogic way and emotionalized in a questionable manner, can't be decisive in the fundamental assessment in the field of freedom of assembly. The same applies for the area of freedom of expression and freedom of press.

b) The fundamental importance of freedom of assembly is particularly noticeable when the nature of the decision-making process is considered by the democratic community. In the KPD judgment, about the liberal democratic system, it is assumed that the existing, historically developed state and social conditions are capable of improvement and in need of it; thereby a never-ending task is placed that must be solved by continually renewed volition (...). The way leading to the formation of these voluntary decisions is described as a process of "trial and error". Constant intellectual engagement, mutual control and critique gives the best guarantee for a (relatively) correct political line as a result of the balance with the state effectively acting political forces (...). To these considerations, the subsequent judgment on party funding is linked and stresses that in a democracy, the formation of the will must go from the

people to the state institutions and not vice versa; the right of citizens to participate in the political process expresses itself not only by voting in the elections, but also in the participation in the ongoing processes of the formation of political thought, which has to be open, unregulated and generally "state-free" in a free democratic state (...).

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In this process, the citizens are involved at various degrees. Large organizations, financially strong donors or mass media can exert considerable influence while the citizen rather experience himself as powerless. In a society in which the direct access to the media and the chance to express oneself through them is limited to few individuals, for the single person, beside the participation in political parties and associations in general, only collective influence remains by using the freedom of assembly for demonstrations. The free exercise of the right of freedom not only combats the feeling of being powerless but also the dangerous trend for disaffection towards the State. Therefore, it is also in the well understood public interest that in the political opinion, only the formation of multiple forces when all vectors are reasonably well developed can produce relatively correct results.

So the conclusion, which is essential for the freedom of democratic demonstrations, is almost mandatory:

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After all these meetings are described in the literature fittingly as an essential element of democratic openness: "... They offer the possibility of public influence on the political process, the development of pluralist initiatives and alternatives or even criticism and protest ...;they contain a piece originally-untamed direct democracy, which is suitable to preserve the political operation before it freezes to a stop in busy routine" (Hesse, Konrad: Grundzüge des Verfassungsrechts der Bundesrepublik Deutschland, 14. Aufl, 1984, p. 157; (...)).The freedom of assembly has the meaning of a fundamental and indispensable functional element especially in democracies with a parliamentary representative system and low plebiscitary participation rights. Here applies - even with decisions with serious, after a change of power not simply reversible consequences for everyone - basically the majority principle. On the other hand, the influence of even the majority of voters between elections is here rather limited; the State authority is exercised by special organs and managed by a superior bureaucratic apparatus. In general, the measures taken by these institutions win their legitimacy on the basis of the majority principle. As more effectively the protection of

minorities is guaranteed; the acceptance of these decisions is thereof affected, whether the minority could insert sufficient influence in advance of the opinion and will formation (...). Demonstrative protest may be particularly necessary, if the representative organs fail to identify possible abuses and aberrations in time or accept them out of considerations according to other interests (...). In the literature, the stabilizing function of the freedom of assembly for the representative system is correctly described to that effect, that it authorizes the dissatisfied to publicly put forward and execute their resentment and criticism and process them, and acting as a necessary condition for a political early warning network, which indicates disturbance potentials, makes integration deficits visible and therefore makes course corrections of the official policy possible (...).

In the following sections 68 ff, important details will be clarified or the direction and its way - unequivocally - will be communicated, how the addressed problems should be solved in each case. First, in terms of legal reservation that has been realized by 1953 to date, through the modified Assembly Act and by the laws of the country since 2006, which followed the given possibilities of federalism reform. In section 68, the basic guideline of the '53s Act and of all organizational-legal and procedural rules is underlined:

The relevant provisions of the Assembly Act for the proceedings - *we add all subsequent amendments* - meet the constitutional requirements, **if they are** (*bold by us*) interpreted and applied in the meaning of the fundamental importance of the freedom of assembly.

In section 70, at the end, a kind of continuous, the interpretation principle highlighting, refrain is emphasized: For all limiting controls, the legislature has to respect the argued, in Article 8 embodied basic constitutional decision; he is only allowed to restrict the exertion of this freedom for the protection of other similarly important legal interests under strict observance of the principle of proportionality. (For this principle see especially the last part 1.5.)

In section 71, the analogy of freedom of assembly is again highlighted as collective freedom for individual personal liberty (Art. 5, para. 1 and 2 GG). *Ana-logy (literally: recurring, wants to say identical logic or sense) means: both forms of freedom of speech and expression are of constitutive, not "only" regulatory, importance for fundamental rights, human rights and democracy. There it follows that basic legal limitations of the just mentioned principle of strict weighting must be set in relation to each other explicitly, comparatively and scrupulously. Depending on the exact*

anamnesis of the given circumstances sometimes one "value", one time the other, thus in a current tension located value, can prevail in the concrete decision. Between the Constitution constituting fundamental rights and qualities (eg, Security), there is no zero-sum game decided from the onset. Therefore, it is never enough to put the "principle of proportionality" with hollow pathos in quotation marks, a formerly known turnable gods corner similar, and then to move on to praise the safety routine. In section 71, additional restrictions are excluded, which are carelessly practiced by official authorities, thus strangling a meeting.

Accordingly to the above mentioned requirements all official measures are incompatible which goes beyond the application of the fundamental rights restricting laws and as an example makes the access to a demonstration by obstruction of approaches and preventive controls that drag along unreasonably difficult or change the state free unregulated character by excessive observations and registrations (...).

1.5. Summary of the Brokdorf decision in 1985 according to our democratic Constitutional rights

(1) Not by any even quasi-official institution since 1949 (primary), was the democratic right to freedom of the collective demonstration so firmly and impressively justified and confirmed as by the Brokdorf decision of the Federal Constitutional Court of 1985 (also not through the experience of the to its best parts demonstrative, brought about end of the GDR by the citizens of the GDR. The only receiving, hardly involved "Bonn Republic" this only had rudimentary consequences for the constitution, which did not really affect whole Germany).

(2) The Constitution judges have profiled two decisive qualities of the demonstrative right to freedom. On the one hand, the why and how of the freedom of civil assembly are elements and expressions of a living democracy. As part of a primary representative democratic constitution, this not channeled freedom is the only unmediated guarantee of article 20, paragraph 2, sentence 1 of the Constitutional Law:.. "All State authority emanates from the people." Otherwise, this sentence

withers into a blind shell in the view of the fact that the Constitution, in the rest of Article 20 para. . 2 sentence 2 GG, follows the representative democratic (all) mediation, if not a deception of the constitutional right in the middle of the constitutive law itself. Secondly, the First Senate of the Federal Constitutional Court has taken the collectively-outreaching fundamental right of Art. 8 of the Constitutional Law in close combination, yes even in consequent context of other fundamental rights. First of all, the fundamental right to freedom of opinion (Art. 5 of the Constitutional Law). This fundamental right would lose one of its main bourgeois muscles, could it not at all times in liberal actions, therefore collectively to be continued. Just because the liberal tradition-bound understanding of fundamental rights ascribes to them the character of a defense of the individual rights in the context of the 18th century not yet fully developed representative democracy, the collective action-oriented aspects of the right to assembly are today a necessary complement of all fundamental rights.

(3) The right of assembly is in reasoning and in the normative institutional context, according to the Brokdorf decision, to such an extent extensive, that it represents the "constitutive principle", to reduce the "principle of proportionality" in the balancing of interests of the constitutionally essential standards to a minimum of inevitable, concrete circumstances owed to arbitrariness. Any other non basic legal norms, however important they may be, such as "public safety", become the function of the "regulative principle" in the process of balancing. This gives the extra weight to each of the to the circumstances related specific decisions. It adds to the main weight of constitutive principles. The substance, therefore, which is optionally available, is determined by the "system" of democratic declined fundamental rights. By itself, it should be understood that no trade-off is to be handled with flat-rate formulas, even if they carelessly are operating with epithets like "immediately" and the like. They are adjectives, which are referred to, as early as in the Iliad and Odyssey of Homer, as being "decorating". "Immediate hazards" - predictions are so to be seen as ornamental epithets of an administrative agency or the formulas of the police to gain legitimacy. They should enforce a political professional interest without serious evidence. The not proved interest to enforce a one sided position is declared by the advertising columns with striking assertions.

(4) The Brokdorf decision makes it throughout insightful how scrupulous weighting- and decision-making processes should have to run, they are calibrated to restrict the practice of free assembly rights or to prevent them: from their alpha, confirming a demonstration, through various restrictions and conditions until their Omega, their

partial or total prohibition of any stage during their development. In this respect, as a consequence of the no-substance-logic of the at that time and nationwide till today, mainly applying Assembly Act is to be thoroughly revised. We repeat ourselves, due to the factual and legitimizing weight of an outdated law which is, accordingly to the Constitutional law, illegal.

This constitutional-politically needed postulate is valid and in regard to the assembly laws all the more urgent, which were adopted in the course of the federalism reform since 2006. For the time being it can only be hoped for a "Brokdorf-consequent" decision of the Federal Constitutional Court in the coming next years, that there will be enough sufficient administrative courts and judges, who correspond to their responsibility in regard to the constitutionally democratic importance of the freedom of assembly.

In a new assembly law, which otherwise was only for a few normative corner post of freedom outstanding - beyond the "occasional decisionism" of a legally quite overloaded Assembly Law (36) - institutional rules would be needed to be included, which ensures that instances which have the monopoly of power are not unilaterally deciding over the whether, the how and the yes and no of a free assembly. They are an important party but still not the only one. Therefore, they cannot weigh exclusively and decide over fundamental rights systematically over the given or not given proportionality.

36: The qualification "of occasional decisionism" Karl Löwith used in its identification of the joyful exceptional lawyer who was consequent faithful to the "Führer" instead of providing legal safety, Carl Schmitt. See, Karl Löwith: Der okkasionelle Dezisionismus von C. Schmitt, In: Karl Löwith, Gesammelte Abhandlungen. Zur Kritik der geschichtlichen Existenz, Stuttgart 1960, p. 93-126.

2. Brief illustration of the meeting laws using as an example the administrative court judgments around the Blockupy demo

We received one order and two administrative court decisions from the period just before the Blockupy demonstration. They were interrupted, paralyzed and canceled by the police encirclement of a part of the participants on the second day, June 1, 2013, shortly after it started at 13.00 o'clock.

First of all, let's address the "order" of the Mayor of Frankfurt via the regulatory agency on April 28, 2013. In it, part of the demonstration is confirmed, provided with a modified route, heavy with restrictions and outfitted with threats. Another airport-related part of the demonstration is, however, prohibited. In the legal objections against the decision of the Administrative Court Frankfurt am Main on May 28, the "suspensive effect of the objection" against the city of Frankfurt was at first "restored". The appeal of the city was dismissed on May 29 by a decision of the Administrative Court of Hessen. Thus, almost nothing was in the way anymore for the demonstrative events of the next few days.

At this point, we will deal with the order of the city and the decisions of the administrative court but not specifically in the context of Frankfurt at that time. We consider the court orders also not there, important enough, where they let demonstrative legally protected action happen - on May 31. Rather, we want to illustrate especially the "order" of the city of Frankfurt am Main, where outrageous conditions, prejudices and speculations, accordingly to the right of assembly were legally protected, but now and then - praising the processes of the constitutional state - judicially annulled, darkening the demonstrative action and citizen-normal - if that could be said so - was made seemingly impossible. That is to say, the fundamental right to the freedom of assembly, that is entitled to every individual citizen and collectively considered, only makes them political citizens in a on demonstrations depending representative democracy. This fundamental right is, as it is officially handled, denied to the majority of those, of which by the Constitutional Law supposedly "all government authority emanates".

In informed arbitrariness, we select some of the aspects from the three documents. We do not consider their forerun and aftermath. As far as we are concerned, it does not depend on the respective result: Demo yes or no. The arguments and their

evidence or non-evidence do count. We will primarily use the most extensive document, the order of the city of Frankfurt / M.

a) The "order" (for the airport demo) starts with the regulation of the exact course of the demo. On the for the fundamental rights qualifying citizen who strides out to demonstrate with respect to the Assembly Act "conditions are imposed". First, the "course", the demo has to "take", is exactly specified. Then the leader of the assembly is addressed that "the orderly flow" has to be "ensured" in a command like way. According to the 3rd edition, "she/he has to ensure" that both the weapons ban and equally (!) the "disguise prohibition" are "strictly obeyed and enforced." Under 5. comes the with strong sanctions provided command: "The meeting leader is ordered to stop violations of the imposed requirements immediately should this not be possible, the meeting must be dispersed immediately." Apart from the command and obedience language, with which the person potentially in charge is addressed, who guides the collective practice of a democratic and essential fundamental right, the order lacks a definition of the term "disguise". What kind of fashion should the participants follow to meet the illegal term of a "disguise"?

As if it were completely natural, nobody talks about the violent police wearing multiple masks and whole equipments. Hereby, no training in "Dialectic" is needed to understand that the as an incorporated weapon - and also not personal recognizable - into appearance coming police causes not the reaction that the participants, who wear only light clothes and at best a hat or a scarf, want to reveal their identity.

Additionally, the fundamental right owners are almost permanently taken under video photographic "fire". Furthermore, comes the staccato of orders, the jargon studded with uncertain legal concepts and other inaccuracies that is not able to notice the social phenomenon of a large demonstration.

At the head of the assembly, sanctions packed expectations are directed, that in the sense of the immediate command-obedience-desire give the attendant police almost any opportunity for the use of force. The principle of legality, cherished in treacherous positivism, drives in the face of the vague and to a large extent not even as legal concepts to be described issues of observation and interpretation, on a through opportunity and its interpretation constructed slide bar. If the "principle of opportunity" would lead, the police and the mission control would need to permanently explain why restrictive and repressive police actions were to be taken or were already taken.

However, if, as a result of an over-regulating Assembly Act, facts were apparently legally uniquely determined, although they are getting legally less complex - again an illustrative example: the prohibition of disguise - and the deployed police follows, according to the prevailing opinion the no longer to legitimize "principle of legality", then the official corruption of a fundamental right is legally camouflaged. The like a holy monstrosity of police violence carried principle of legality is according to the ever changing "nature of things", namely a contextual, situational and additionally from demonstrating dialectic and a through police behavior composed demonstration, almost inevitable in the sense of the hidden "discretionary principle" changed. Since this is not considered as an acknowledged "principle", sheer arbitrariness becomes a trump.

The next digits of the regulation apply to the "marshals". They scrupulously follow the VersG. The "Organizer" of a demo has to deploy marshals. Their "white armband" with the word "marshal" is determined by the law. It is required that their "reliability" has been "checked". Their evidence is presupposed. Then information on "flags, banners and carrying signs" including rod length follow.

Only the "front transparent" (see note 8) rods are allowed to be 3 meters long. Then details on megaphones and the like follow. Dogs are just as prohibited as all inflammable things, likewise drinks in bottles. In section 14, the order is once again positively commanding: police actions to regulate the traffic are to be supported." These orders make the head of the assembly responsible for damages.

Additionally, the prominent threat is coming: a meeting may be dissolved at any time, if "serious violations" against the above and the immediately enforceable requirements" will occur. Moreover, "the investigating officers were authorized to issue further orders in situ with respect to the demonstration which you (the head of the assembly) have declared."

It is remarkable how unequally official trust is distributed. While citizens who sally forth to implement the freedom to assemble and who let civic practice follow the fundamental right of the citizens is confronted with a dense fly net of suspicion, the police which commands over the inevitable, ambivalent and abuse inclined instrument of in advance legitimated violence, is granted a general credit of trust. It becomes an almost interest-free actor who decides over the instruments of a demonstration to express itself. Further, from the beginning owns this "fair" actor the primary definatory power. He is able to shape what is solidifying into reality in the forerun, during the course of events and finally in the judgment. In the by the city of Frankfurt not

created, only applied the right of assembly the experience of the Weimar Republic of being surrounded by enemies is still dominant. In addition, the Cold War legacy of the early years of the Bonn Republic are coming. It is like a militant boulder dragged along in the Berlin Republic after 1990. Both inheritances, being close to one another, block legally, institutionally and habitually the way into the constitutional, democratic freedom. At least, in terms of freedom of association.

How dumb and stupid legislators and law users have become in terms of recognition and reality - just an example from Frankfurt - if the notifying person of a mass demonstration, whose political criticism is due to global phenomena, which the participants want to change to be more responsible, when the head of a major demonstration is made "liable" for any occurrence in the event. This is a bad joke or an attempt to make demonstrations impossible from the first thought on. Approvingly, yes knowingly and willingly it is accepted that many citizens, even some police officers are injured and are distracted not least by pepper spray and by a demonstration arbitrarily destroyed by the police. We spare ourselves from a commenting lecture of the "justification" of the decision, p. 4-17. Here cooperating groups are cited mostly in the demo. Submissions of the meeting leader and "police experience" are quoted. The legal weight of the demonstrative item according to the Constitutional Law, no process of balancing of interests and of the consequences drawn is corresponding. In such a process, representatives of both sides would have to be included in each case. Accordingly, the case has to be, at least partly, public. The interested public or at least Frankfurt's public would have to be informed thoroughly on the result and the way it was achieved. Then a lesson of democracy would leash all out, unscathed from the respective political direction.

We mainly deal with an alleged "insight" from the "legal reasoning" of the "order" (p 10 ff.): Of the alleged "immediate, concrete threat to the public order by the notified assembly".

It permits the prohibition of a meeting according to § 15 para. 1 VersG. It is based in turn on a "threat assessment". We illustrate our arguments repetitively with the initially detailed reported "case" of the major demonstration, which was prevented in Frankfurt by the police on June 1. The city of Frankfurt lectures and makes an example by relying on the Federal Constitutional Court:

"Such immediate concrete threat to public safety and order is given by the notified Assembly. The "public safety" includes protection of central legal interests such as life, health, liberty, honor, property and property of the individual, whereby a threat to

public safety is usually to be assumed if a criminal violation is impending (BVerfG E 69, 315, 352). Beneath, "public order" the totality of unwritten rules is understood, whose compliance after prevailing social and ethical views is considered as an essential precondition of an orderly coexistence within a given area (BVerfG E 69, 315, 352). An immediate threat to public safety and order is to be affirmed, if the occurrence of damage can be expected with near certainty during the conduct of the assembly. In the specific case, a threat assessment which must be based on recognizable circumstances like facts and other details is necessary (BVerfG E 69, 315, 352 ff.)."

Adorned with Amber of a three times repeated citation of the same constitutional court decision, without proper context, this reasoning impresses by its lifted wording, provided with pseudo-definitions like only authorities by the sweat of their brow are capable of, put forward with emphatic urgency of an otherwise criteria free topoi of exact phrases pronounced breathlessly one after the other. None of the terms such as "public order and security" with their supporting terms of an "immediate concrete danger" are even being very delicately defined. This would have required to make the "here and now" given and immediate, so unmistakable, yet palpable prehensile violent threats transparent. Instead, a term "public safety" is almost universally stripped of its boundaries. Those should already be compromised, if a stone of a not designated "criminal breach" could lure. In terms of restrictive and repressive interventions, there would be no way to stop anymore and risk free would become the actual thread. What is then left of the meaning of the fundamental rights and the rule of law founded on them?

In the last of the cited paragraphs it becomes obvious that a constitutional change in accordance with Niklas Luhmann's warnings should be aimed at, if the city of Frankfurt and their helpers understood what they are doing.

Luhmann made a difference in terms of safety and hazard avoidance between what he called conditional program and goal-oriented programs (37). The conditional program works more conservative following the if-then sequence: given, a demonstration, a threat is becoming acute, a more than marginal act of violence happens, then it is about time that other protesters and in particular the police intervene.

37: See Niklas Luhmann: *Das Recht der Gesellschaft*, Frankfurt/M. 1993, look especially at p. 165 ff

By comparison, the legal provisions for this case are to be made very accurate. In this case, the City of Frankfurt however describes it is a "threat assessment" claiming in the following paragraph to have "actual knowledge of the assembly authority", but which is not "concretely and immediately" proven. In that situation, it comes to purpose orientated programmatic intensification of police activity. It turns into prevention. The police is used toward the danger that has not yet occurred. This is not meant to be the case, which, according to earlier processes of law, should have been the case in order to make the police intervene. The following passages of the supposedly "legal reasoning" prove legal- and systemic-risk recognized by Luhmann. Instead of the rather precise legal provisions, if X should be the case, then Y, rather vague conjectures are used, just "forecasts" and "guesses", which can only be legally expressed in a speculative way.

They are therefore difficult to criticize or to question. Legal certainty creates a glissade into the fogged future. Therefore, the authority speculates about those who might join a demo. It grasps after the stick in the bag labeled "left extremist", this way tending to exclude as such designated groups. More precisely, it encircles them and thus ends the approved demonstration. In short, dominant, non-constitutionally democratic arbitrariness builds a school of suspicion. And this justifies itself under the glow of suspicion, as a sort of an "anti-violence" police violence. The self-generated rumor that had already happened.

The official nose with its sense of smell sniffing in advance "violent oriented" and then let the police hands strangle the fundamental right of assembly with preordain on May 31, and definitely on June 1, 2013, with the almost unbearable pseudo-legitimation that the not encircled part of the demonstration is allowed to continue to demonstrate peacefully on detours. Only as a touchstone of evidence: "As a Hessian ally and applicant of this demonstration, the extremist left-wing violence-oriented "Autonome Antifa" is appearing. Through their nationwide network as well as their role in the demonstrating Antifa scene in Hessen, their participation is of prominent significance."

Such authorities protected by the monopol of using force and through the use of the monopol on using force need no proof. They know no hypotheses. Everything occurs in the indicative. And when there is no other way:

It would be ridiculous - and indicate the end of all pre- and post-democratic security - if a demonstration was to be reversed by arguments, especially after it was turned into a preventive purpose program of sparse legal certainty. Legally lucky on the for

June 1 by the police prepared demonstrative misfortune is that the Administrative Court of Frankfurt in its decision on May 28, 2013, and the Administrative Court of Hessen have not given in to the complaints of the city of Frankfurt on May 29, 2013. The Frankfurt Administrative Court emphasizes that the selection of the route by the city was "apparently unlawful". In addition, it criticized the official threat assessment that was in a not acceptable way too general. "Taking into account the importance of the freedom of assembly, the authority is in the adoption of preventive order not allowed to provide too low requirements concerning the risk assessment (...)."

"In order to limit this right (that the protesters can determine the course of the demo; the authors) there has to exist at the time of the adoption of the order, "recognizable circumstances" that a threat to public safety is to be expected with high probability. This requires facts of a risk assessment that can be proven; mere presumptions are not enough (...). On such provable facts, the present regulation is not supported. "

Later there was no evidence in favour of a non-peaceful course or stating that the intention that a blockade of the European Central Bank was planned by the demonstration from the calls of the Blockupy Alliance and the applicants to the mass demonstration on June 1, 2013. The city of Frankfurt is only successful in terms of the other provisions of VersG. In its decision, the Administrative Court of Hessen basically confirmed the decision of the Administrative Court.

3. Small law Philology of the letter with the legal opinion of Prof. Michael Brenner issued by the interior ministry

Shortly after the demonstration on June 1, 2013, and an outrage running across the media about the police action, the Minister of the Interior of Hessen gave professor Prof. Dr. Michael Brenner the assignment to create a legal opinion. Mr. Brenner's legal opinion with the aura of jurisprudential competence, was not only ordered by the Minister of the Interior of the State of Hessen. Instead, he used it internally among other things on the occasion of the 96th session of the Committee on Internal Affairs in the Hessian Parliament on June 24, 2013, in detail as an informational-argumentative proof in form of a general justification for the police action in particular on June 1, 2013, in Frankfurt am Main and emphasizes the alleged proportionality.

To avoid duplication, all of Prof. Dr. Brenner statements and assessments of Prof. Dr. Brenner are equally attributed to the Minister of the Interior or the expert and vice versa. A small right philology is played to put a spotlight on the linguistic form of the legal terms the surveyor used and the way it secretly creates reality with the perfume of jurisprudential integrity. Considering such a ministerial scientifically confirmed view of reality, the conformal behavior is not surprising anymore. Democrats and demonstrators who think and act differently do not appear in this pass-par-tout-world. To keep it that way one has the law, the police and the appearance of representative, democratic competence.

With regard to the StPO (Code of Criminal Procedure; the author), the police was to a certain extent legally "on the safe side"; the enclosure of the block encountered thus no concerns, especially as the remaining rear part of the demonstration had the opportunity to continue using an alternative route- on the Untermainanlage and the Untermainkai -." (38)

Following sentence by sentence, word for word for the love of words (Philology), would be worth out of fundamental legal reasons, but for the citizens sake, who want to understand, we will pick out only a few passages. We will point to mainly methodological characteristics and qualify the tenor of the legal opinion.

(1) The informational basis of the opinion is "the documentation (police; the authors) of the command post" and the information of state security. In addition, there are relevant quotations from laws, especially from the Assembly Act and other in their reliability and validity not further discussed evidence. The Brokdorf decision of the Constitutional Court is mentioned. The fundamental right of Art. 8 of the Constitution Law is touched. Finally, the surveyor holds up several times the privileged "principle of proportionality" by the Constitutional Court, followed shortly after by the Secretary of State. The well-known "principle" is at no point even rudimentary discussed. The circumstances and events of the demo are not mediated. The legitimacy comes quickly without any effort, which is serving like an empty formula. The value of an expert and his report without personal knowledge and without reflecting the facts as closely as possible according to the current law, may therefore be left open. In the matter, even a clueless wide concept of science can be hardly used for this "proportionately".

38: Legal opinions, cited above, p 24. In the following, the page- or accurate information on the findings will be enclosed in brackets.

(2) The at least twice widely apostrophized "proportionality" can therefore not be used to weigh a "relationship" with the German federal and federally applicable Assembly Act.

Neither a "consideration" nor even a "weighting of legal goods" took place. Otherwise, it might even be the case that a "German and European Constitutional and Administrative Law teacher" at the Friedrich Schiller university would note that the individual and collective liberties of citizens under Art. 8 of the Constitutional Law with a primary for the police designed as well as a primarily for the police applied assembly law of 1953 would come into conflict. According to the constitution, the presumption had then to speak for the not unilaterally designed fundamental right.

(3) That a relationship between freedom, limits, restrictions, repression and force can be even considered and balanced, so differentiated and "to be different" is possible to be weighed, presupposes with meetings of a colorful abundance of people to have a great tolerance towards manners, aesthetics and partly to the style of speech. This requirement in a liberal, heterogeneous democracy of the masses is especially needed when a majority of the participants in an extensive assembly is young and unconventional (even more so if black people participate). Instead, the masters claim in this case, be it on the professorial chair, be it on the ministerial chair to know exactly what is "the" (!) "Autonomen", "the", "black" dressed, only in a "block" imaginable, pre-packaged prejudice. They smell them as "violent". Analyzing the content quantitatively, this diffuse threatening adjective rumbles most often in the jargon of the experts, the police and the politicians of the state.

But as "violent" seems to be present like an already loosened boulder on the slope, in the holy Trinity of order, it can be assumed that the alleged willingness to use force is as good as given without any break. In any case, it must be acted preventively on it. In the official opinion as well as in the expert's one, the casually told unpredicted, the term "ready for violence" like a label distributed is forming up, almost like a thing, the whole true disproportionate nature of the pre-fixed perception and of its embedded judgments and actions. How should and could these (ladies and) sirs understand a public meeting of a colorful mixture of citizens, let alone to accompany it, with its almost necessarily sprinklings of spontaneous utterances and not calculable actions. The fundamental right to freedom of assembly is from the onset on and in a preventive manner to be laid in chains.

But this is not only happening through otherwise unjustifiable restrictions of freedom of assembly. It happens likewise by the appearance of the police with their uniforms, equipment and gestures already showing "violence".

(4) As the law prevailing opinion is accustomed to vote without precise observation, it can, in the case of Mr. Brenner, think that the following passage of law is true. These we quote at some length after the subtitle, p.17 f.

"2. Second action section. The formation of the so-called black block and the disguise":

"A. The sequence of events

Concerning the information on the timing of the development of the black block, the command post documentation talks about 500 participants at 12.13 o'clock; at 12.20 o'clock, it is then reported that there are 150 masked people behind the speaker truck (that in direct instead of indirect speech is spoken, is to be regarded as an indication of the uncritical reproduction of what is pre-given by the police; the authors). This message is repeated at 12.38 o'clock. At 12.42 o'clock, the participants in the front part of the demonstration change clothes and ignite pyrotechnics.

b. Legal basis

According to this second part of action, the black block formation, it can a priori be stated that the right of assembly also insofar unfolded its protective effects; measures after police law, the HSoG (law on public safety and order of Hessen, the authors), were therefore not to be considered at this stage.

aa. Measures under the Code of Criminal Procedure

There is no question, however, that the police could proceed to that extent on the basis of the Code of Criminal Procedure. At that time, so many people of the so-called black block were masked and carried items in the form of wooden slats. The latter could be perceived as defensive weapons or at least be seen as items which were suited as defensive weapons and were determined under the circumstances to ward off the enforcement of a carrier of sovereign authority.

Under these pre-settings the police could and had to assume that the initial suspicion of a criminal offense under § 27 para. 2 No. 1 and 2 VersG was met.

In addition, already at this stage violations under § 29 VersG were observed, namely banners that were tied together, the breaking of the requirement of the distance

between the banners, the carrying of ropes and finally the carrying of pyrotechnic products. (...) " On this careless selected slide, fittingly called "slippery slope" in English, the professorial expert, having tight ministerial connections, is sliding down effortlessly through the bushes of the right of assembly. This offers a barn door wide open for abuse, that is, through a hodgepodge of not being necessary, only to a restrictive logic of existing provisions being opened and closed by the police the way they like. Just look at the diverse, by a civil law proliferating vague epithets.

"A priori", "to the extent", "unquestionably could," "in any event to be regarded as objects" or "suitable", "under circumstances determined to", "the police had to assume." And-so-on-and-on! Legitimated delimitations of operational orders are consistently listed. "Therefore," it says further on page 18, "the police were already at this stage in a position to go against the accused on the basis of §§ 163b,127 StPO (Code of Criminal Procedure) and to forward an identity determination or an arrest. "

And it goes on:

"bb. Measures after Assembly Law

But also according to the assembly law (again a flimsy conclusion; the authors), the police was authorized to act at this stage.

a. Insofar as the importance is that, in regard of the in § 17a para. 2 No 1 VersG contained "prohibition of disguise", the competent authority and therefore also the police is on the basis of § 17 para. 4 p. 1 VerG the - according to the assembly law - legal authority that is granted in the enforcement of the prohibition of disguise to issue orders and in particular to exclude persons who act contrary to the prohibition from the event § 17 para. 4 p 2 VersG." (nota bene a glaring example among many concerning the lack of adequacy of the VersG with Art. 8 of the Constitutional Law. The with the time of its construction corresponding conception of the VersG wasn't, from the beginning, in accordance with a liberal democracy and its essential: The democratic source of innovation, the unlimited freedom to assemble peacefully for the citizens wherever possible).

(5) "The separation and the circumvention of the black block" (p 23 f.)

Since professor Brenner's survey nestles itself like a flowing robe on the action described by the police, it also deals with the early, by the police shaped cataract in demonstrative action and to be named last the de facto end: the police kettlement. It has been arranged by the police on June 1, 2013, shortly before 13.00 o'clock.

For Brenner, the two verbs characterizing the police action are: "to sever" and "to enclose". Expert Brenner whilst repeating mantra-like the principle of proportionality - without stripping it, as already said, of his repetitive tone which is always context-, property- and norm-arguing - he makes police action insofar (!) transparent, as deriving from § 15 VersG that almost every time the restriction or liquidation of a meeting may be decided by the police.

Namely, if certain requirements are "counteracted" (§ 15 para. 3) and "if, after the time of the issuing of the requirement, the recognizable circumstances are putting the public safety and order under immediate risk through the execution of the assembly or the demonstration" (§ 15 para. 1). The surveyor does nothing more than to claim through the repetition of scandalous imprecise concepts a for their part only by the use of the time word "immediately" convincing threat assessment. The completely confused running around danger is through the reference to a collective King Kong, here, "the", "black block", as an apparent explanatory concretum taken wondrously abstract.

Only an illustration and a remarkable aspect may preliminary and conclusive supplement our report of an expert report, namely that of Prof. Brenner and its authorized use by the Hessian Minister of the Interior.

Here is an example of preventive recognized "violence" and a "threat to public safety and order" devoid of any proof, analysis or legal trade-offs. It is a patched hole in society and politics through a police expert opinion. "Considering that the participants of the meeting were ready for violence (note the definite article in the sea of conjectures, the authors), it was to be assumed that a unimpeded course of events would endanger the public safety, id est in the particular case a situation had to be assumed that had a reasonable probability to endanger the public security in the foreseeable future. Moreover, the commitment of further offenses was effectively prevented by stopping the demonstration."(P 23)

Can "public safety" be better protected for all possible emergencies. The demise of public assemblies and the end of their liberty must be seen as the necessary price to pay.

"And because the police had affirmed the initial suspicion of the existence of crimes beforehand - particularly criminal offenses under § 27 VersG, possibly also property damage - it was only consequent and logical to decide on a measure about half an hour after the start of the demonstration which enabled the implementation of the criminal procedure - in particular the identity verification as a condition for being able to pursue committed crimes at all. Since the encircling of the block only affected the black block and not, however, the entire demonstration, the police made it clear by their approach that they only wanted to make all these black block persons legally responsible, but not the other participants of the meeting, against whom a corresponding suspicion was not raised." (p 24).

4. A critique of the political-police violence in the context of the large-scale demonstrations on May 31 and June 1, 2013 in Frankfurt

We have explained why, how, and with what results we have accompanied and observed the Blockupy demonstrations on May 31 and June 1, 2013. This is only the end for the time being of a long chain of accompaniments and observations since Brokdorf on February 28, 1981.

This long chain would not have been possible, if there hadn't been any freedom for the civil society to gather under the "blue sky" as stated in Art. 8 of the Constitutional Law. The fundamental right of Art. 8 of the Constitutional Law has thus become an ever revisited opportunity for citizens to attempt democracy first of all with the own person together with selected others who, by chance, share the same opinion. Only then it can and it could be a matter, quoting Willy Brandt's winged words, "to dare more democracy". By the Constitution of the Constitutional Law, the citizen and citizens are kept small although the same Constitution provides that "all power emanates from the people". This, however, is almost exclusively aligned to choose the representatives, who then, by the separation of powers, fill with life what is called consequently "representative democracy", a democracy not from below, but

one from the voted above. Therewith, the rather rare, usually every four years, occurring elections in the Federal Republic, their countries and communities don't remain the electorate 's only expression of their own political act, everyone can in principle, at any time and in any location, participate in public meetings or demonstrations. That is why the demonstrations are so important. They give indirect democracy an element of the immediate through delegates mediated, in the wider sense political interest. This is the first stroke of politics, based on the interests of a minor or peripheral number of people. They discover, be they ever so few, that they have some common issues, and be it only now and then, they can discuss with each other and even perhaps create together.

And all design requires that something is done and the two, three, four increasing their power, so to say have the ability and means to do what they have intended together.

Considerations of theses and consequences

(1) demonstrations - a difficult field to observe and a hard one to judge clearly

Concerning the demonstrative events we surveyed in greater detail for a period of over thirty years, there existed controversial reports. Their controversial assessment can be checked. Also the conclusions drawn from the reports and are renewed, don't differ only gradually but also qualitatively.

That was certainly the case with all large gatherings that consisted of several hundreds or thousands of people. They are no stationary meetings. The demonstrators come from various places to the place or the places.

Be it that they represent symbols. Be it that they are best suited to express the chosen interests and protests. No walking, standing or other forms of assembly are common. They cannot be determined a priori.

In this sense, demonstrations are complex, not to be panoptically surveyed, equally not to be controlled exactly like machines. Rather, they are social events with context-bound macrophysics influences, composed of a plethora of not en détail predictable micro physical sections.

That is why, despite all the surrounding circumstances, despite all the routes and elements of mutual consultation ("order", "steward") agreed by the participants, a fundamental openness is to assume. It contains, like all social, not military strangled occurrences - and especially they can go wrong - risks and opportunities. The experience gained by all major demonstrations, what significant, even spontaneous power of self-regulation they have. Especially when individuals are veering of or groups or when the police intervened hectically for example to stop a demonstration out of inexplicable reasons and makes the demonstrators wait indefinitely. It is assumed that the second powerful defining factor of a demonstration, the way the police is used, for its part omits everything to shake up the gathered using a martial escort and / or to stir them up through interventions causing aggression.

A basic condition of the just expressed assumption is that despite the considerable inequalities, the German living society is not divided into hostile groups without common ground, such as human rights and democracy.

Even with twenty or more pre-informed observers, the committee wasn't able to "capture a demo completely". For that very reason, we have chosen observation as a regular activity, because in general other public institutions are far more overwhelmed.

This is also true, regardless of their own, related perspective, for the present police. They are limited to their actions. They lack the overview. Thereof, it can't be not to act just because there cannot exist a pure neutrality of the matter.

Thereof, the open procedure, the publicized concept, altogether the demonstration according to total public explication and transparency is really important. The ever-creeping tendency to official and semi-official secrecy is counterproductive in the context of demonstrations as public meetings. The same is true in the context of democracy.

That mass events cannot be observed in all aspects and events, a holistic observation requires a good part of scrupulous modesty from all who are commissioned out of professional or private reasons. First, it is revealed that their own premises and objectives are made clear. The monitoring and assessment business then has to happen in a transparent way.

(2) Some memory pads on the event of the two demonstrations on May 31, and June 1, 2013, in Frankfurt / Main accordingly to the viewpoint of the committee:

The possibility of a peaceful demonstrative manifestation of citizens, gathered under the name "Blockupy" was broken by the politicians and police officers who gave the orders and was destroyed by the police units sent forward using pepper spray and who literally strangled through the kettle.

Early in the morning, at 6 o'clock on Friday, May 31, everything was blocked what the protesters wanted to visit and agitate from the ECB to the Deutsche Bank with bars and many police officers, with items of violence attached to their clothes.

In front of the Deutsche Bank, political speeches were made on capitalism and war. At midday, the protesters visited various shops "on the Zeil" and had gleeful fun while the police looked somewhat helpless. They did not seem to understand what was going on. In the course of the afternoon, the protesters splitted up into small groups. The mood was overshadowed not only by the always visible police force, which looked like military with their weapons but it was also occasionally interrupted by pepper spray used by police officers. For the ones targeted or randomly sprayed, it came like a shock with an uncomprehending effect.

(3) Constitutional rights and democracy

“Who can, “How” and “with what”, describe the events correctly, who can properly evaluate them. Which conclusions are on which reference appropriate to draw? (39) Even if the circle of persons and institutions is not drawn too wide, we are in a maze that we have to assess. Unless many official bodies and their representatives and delegates don't want to enter it. In that case, they cover their faces like those established circles of discriminated and demonized "Autonomen" or "black block" followers. The difference between the two would primarily be that one of them wants to simply rule on. But the others pull - whether out of said discrimination and demonization up to constitutionally protected observations - from justified fears in front of established brightness from time to time the stocking over the eyes and face. Let's - gradually - try to find our way out into the less erroneous light.

Even the city of Frankfurt's leadership, the head of operations of the police along with the alleged leading others, the helicopter and its visible pilots constantly in the air above the scene, the police in action, the ministerial requested expert, and the prevailing opinion on the Assembly Act (VersG) had nothing to object on June 1, on the violently stopped demonstration.

On the contrary, they had it preventively prepared in the face of alleged danger hanging like a blade in the air ready to strike: with the consequence that a demonstration was destroyed and besides other collateral damage. The Minister, the surveyor and many others repeatedly pounded afterwards that they had "strictly" followed the interpretation and judgment principle crowned by the Federal Constitutional Court, named: "proportionality".

39: Without continuous single references, we refer in particular to the following informants: Konrad Hesse: Grundzüge des Verfassungsrechts der Bundesrepublik Deutschland, aaO; Oliver Lepsius, Die maßstabsetzende Gewalt, in: Matthias Jestaedt, Oliver Lepsius, Christoph Möllers, Christoph Schönberger, Das entgrenzte Gericht. Eine kritische Bilanz nach sechzig Jahren Bundesverfassungsgericht, Frankfurt/M 2011, S. 159-280; Immanuel Kant, Kritik der reinen Vernunft, hrsg. von Wilhelm Weischedel, Darmstadt 1956, bes. Die transzendente Dialektik, 2. und 3. Hauptstück (Die Antinomie der reinen Vernunft, Das Ideal der reinen Vernunft).

Mind you, a contradiction and a objective impossibility. This is it that creates the captivating charm and the ambiguity of prevention, particularly with diffuse risk concepts and activities that are also caused by others. That they just cannot pre-determine the appropriate ratio of do's and don'ts.

Therefore, out of reasonably defined legal terms, an action results that is trained to assess arbitrarily.

The alleged "strict rule of law" only puts in front and behind of individually not too discernible actions a thick, pathetic the legitimation executive asserting exclamation mark.

We agree with others on the same principle of proportionality. Refraining from periodically used pepper spray temporarily, which in either case injured participants, but didn't destroy the demonstration, we claim, backed with evidence, that the police kettle strangled the demonstration by the use of force.

Moreover, in the light of the progress of the demonstration since the morning of June 1, the kettle hadn't finished the demonstration. Beyond that, the kettle injured in a qualitative leap the fundamental right under Art. 8 of the Constitution. That seems like a fight of principles at eye level to pick up a recently popular metaphor. Since so many institutions and individuals are searching for a usable key that unlocks darned locks judgment smooth, the honorable Constitutional Court created with the interpretation principle of "proportionality", as it seems, an important service for judgments. But has it? Did it not give a measure ready to use, which is not a measure in itself? Unless in a disputed comparison of two goods, if one is fairly qualitative exalted and firm. Then the difference in the offending distance of what has happened could be measured. Otherwise, the comparison would rapidly rotate in an empty formulaic manner. Lepsius noticed in terms of the reasoning mechanism of appropriate "proportionality principle", it could be used per and per casuistic.. Then the knowledge, judgment problems and controversies deducing key would be lost. Relatively tight arbitrariness would remain. Controversies without binding realization and by consensus accepted criteria would continue. In this way, each current decision would be a question of power. In each case, the legitimacy additionally gained from the wording of fundamental rights could not replace the missing foundation of a binding judgment.

The Constitutional Court was quick to realize it. In the case of a demonstration, demonstration rights and the political police practice it involves, therefore above also refereed in detail, the decision about Brockdorf argued accordingly (during the 1981

event and later when the Court of Kiel called the Federal Constitutional Court, the Fundamental Rights Committee was also observing there). We believe that it has convincingly justified, as long as the liberal democratic constitution of the Constitutional Law is anything other than mere "chatter", that the above lectured essential connection between demonstration and democracy has to be the base of any judgment. Following in Konrad Hesse's footsteps, who sat in the court, the socio-political event of a free civic demonstration was declared to be a corrective core element of representative democracy. A correction in the sense of a constantly necessary supplement. If that-- it's difficult to call it anything else in the sense of a mediated democracy, unless you pervert the term "representative democracy", of which this derives its legitimacy - was the case, than a to Kant returning distinction between "constitutive" and "regulative" principles could help (Paul Tillich, among others, has them later used quite obvious).

Without justifying the explanations of the terms here any longer, it could be said that demonstrations represent a constitutive principle of liberal democracy. Otherwise, the other mechanisms of the same rattle.

In early liberal formation, only individually in legal defense comprehensible fundamental rights accompanying like the mill at the rushing stream: slap, slap.

Easy. This smooth the substantially enriched ratio determination has not yet become. Can the dangers that large gatherings bring - they form the core paragraph 15 of the VersG - be absorbed so easily by the constitutive principle of demonstration in the digesting belly of democracy? It seems to us that it is the case. According to Oliver Lepsius (40): For this a general, an abstract determination would not be needed. Rather sufficed, inevitably always in the "second" last (Dietrich Bonhoeffer), would be two arrangements by each mass demonstration in form and content.

40: See Oliver Lepsius: p.205 "But the principle of proportionality still does: On the one hand, it allows the specification of standards on the circumstances of the case, especially on the inquiry side of adequacy. On the other hand, it connects law and politics, especially in the determination of the purpose and on the evaluation levels of appropriateness and necessity." And p. 207, last paragraph: "Any non-empty standard requires the constant back and forth - dialectic - between general rules and specific circumstances. And just as well from the abstract to the specific, like of special features, whose omission one realizes, to the more and more general."

Such, every human judgment needs anyway. Firstly, the representatives of the relevant political and police institutions have to hand out the risk and threat assessments in small coin. They have to submit them as a threat embossed coins, alias terms in a suitable, but publicly accessible frame.

For these, the spiral nebulae of legitimation's whispering of danger and all the existing rumor mill with its turmoil of violent criminals is to be dissolved. Dangers and threats of violence are to concretize and to specify insofar as these are at all tangible. That would help. On the other side, it would be with all that built-in distance necessary - especially not to coopt individuals and groups which organize free meetings - to debate this in public - together with the organizers and within their public context - what is now happening through registering-, consultation, and support constraints. In this regard, the demonstration through the intra-group practice of the organizing would be substantial, that is to democratize it in its aims and forms.

Konrad Hesse's remark is to be underlined: Demonstrations require social elements of the unconstrained spontaneous, of the untamed. They must allow it anyway. Free demonstrations only create then significant difficulties in a given social context when they are cornered through the context of oppression and prohibitions. Even then, their communications can surpass repressive badly positioned reassurances far more than potential light points in our democracy and our fundamental rights.

(4) The abuse of state monopoly on legitimate use of force

"The monopoly of the legitimate use of physical force" was not only in German's history created centuries before the first thoughts of civil participation and control were implemented. Moreover, it was laid in the cradle of the liberal democracy as an almost finished grandfatherly birth gift. It is not surprising that it soon and permanently became, phrased in English words, a "non-decision".

Say, a facility which is assumed to be self-evident to such a degree that it is no longer available for discussion. A not self-composed constitutional principle. Individual aspects and measures related to the monopoly of force, no own actions of the citizens, become here or there an annoyance. The "sole and his obstinacy" are all together almost never in their institutions and thematic functions and problematized, let alone questioned. That's why harmless people who go against rule-oriented people

throw the most dangerous silhouettes as the worst criminals. Thus, the monopoly of power, in its parallel emerging material subset, the tax state, is largely analog to the general civilization premise submerged. The non-decisions mutated social circumstances that aren't altogether the subject of negotiation anymore, have it to themselves, to become the given of declined policy by the state.

A long digression would be required. Nevertheless, we will leave it here. (41) In our context: Demonstration – democracy, in principle, Frankfurt / M. 2013, special - has to upset oneself double. Firstly, even smaller demonstrations are as major police events "politicized". This is not the least the case because they are pimped up to such major events by the assembly law.

It is also because of this that our democratic demonstrative *ceterum censemus* counts. Otherwise we are convinced that the right of assembly, largely dating back to 1953, aggravated by the countries with rampant paragraph versions, is to be thoroughly reformulated.

In its place a slim, out of a few paragraphs consisting comprehensive law is needed, if not, Art. 8 of the Fundamental Law, para. 1, naked and strong, is sufficient. Strange and democratically essential fundamental rights such as Art. 8 of the Fundamental Law require no reservation. They just need one process order without legal status. On the other hand, what was already evident at the time in Brokdorf with low flying helicopters attacks in the end, reappeared differently in Frankfurt a generation later.

The police is politically destined to be used in a not foreseen way in the sense of a civil democracy, like a massive super-body and violence-present alien body alike.

In addition, the police uses its power equipment, beginning with its appearance, in a democratic constitutionally far too naive way. In the process of demonstrations, citizens are threatened to become variables that are formed by the police and not anymore by politics.

The police's on coercion and violation programmed instruments can only scare in their for the citizens hostile character. This use turns security into an object by objectifying demonstrators analog.

41: See. Lepsius admirable concluding remarks p.265 f

Of course, as a precarious and not as a risky security matter. The institutionalized anti-bourgeois, anti-democratic, in an abstract manner on groups of people collectively projected violence "is real". Symptomatic, it reveals on first sight a seemingly harmless weapon:

The pepper spray. This "distance resource for intervention in daily service" is readily and often, almost without reason, used against individuals and groups. (42) If one observes how people who are hit by pepper spray react, and talk to them, it is clear that this "distance measure", combined with bearable, but burning pain, possibly not harmless but at the same time disgusting and nasty, unsettles the victims.

This is a clearly negative socializing effect! And why does the police need to use these alienating means in everyday life especially on the occasion of demonstrations?

If Art. 1 sentence 1 of the Constitutional Law hadn't been formulated as a taboo but had been provided with useful criteria, one had to notice: The use of pepper spray by the police violates the dignity of human beings, against which it is implemented.

More clearly and explicit: even the potential threat of a poor routine deployment is contrary to Article 1, sentence 1 of the Constitutional Law in conjunction with Article 2, paragraph 2 of the Constitutional Law, the integrity of every human being. Pepper spray only means from the police perspective - the protester is your opponent, your enemy - described as a "distance measure". It gives them the opportunity to deal with the protesting citizens like if they were an unsafe thing.

The search for means of violence by the police which paralyze the citizens but does not kill, for the sake of legitimating internal violence endures, since military and police were separated, in difference to the judged to dead military. (43) Of course, in these years of globalization a counter-trend can be observed: the functions of the police and military intermingle more and more.

42: see Steve Feldman, Chairman District Group 4, "Aktion Pfefferspray" on May 25, in: 7 - 2013 Deutsch Polizei 1

43: See historically in a fundamental fashion, also in view on the genetic and functional importance of the rule of law formula against fundamental rights and liberal democracy: Albrecht Funk, Polizei und Rechtsstaat, Entstehungsgeschichte der preußischen Polizei 1848 - 1918, Frankfurt/M 1986.

In addition, the Federal Constitutional Court has recently ruled that, within the Federal Republic of Germany, it is appropriate to resort on military means if appropriate. (44)

Experience shows that the dispute over the right of assembly must always be fought anew. Meetings can be a thorn in the defined and controlled everyday life of power, they can incite and initiate policy changes. Therefore we shall continue to fight - in the field and in court. Thanks to that, the unlawful interference of the police will finally be stopped!

44: See: Komitee für Grundrechte und Demokratie: Krieg beginnt hier - Zur Militarisierung der Bundesrepublik nach Außen und Innen.

Committee for Fundamental Rights and Democracy e.V.

The Committee for Fundamental Rights and Democracy focuses its work on the situation of fundamental and human rights in the Federal Republic of Germany. The focus, themes and actions are based on current issues. Some basic issues repetitively concern the committee. Focus on the present work is to be singled out through key words: criminal law, prison conditions and prisoners assistance; policy of peace; right to demonstrate and observations; escape, migration and asylum; social civil and human rights; violations of fundamental rights in the name of "homeland security"; new technologies and the health care system (electronic health card); process observations; questions of a human rights-democratically necessary German and European Constitution; vacation from war for teenagers and young adults from the former Yugoslavia, Israel and Palestine.

Working groups exist for many of these issues, they plan actions, prepare and enable them. Current issues statements or press releases are published. Backgrounds and contexts of constitutional problems are analyzed at conferences and in publications. Where possible, necessary and useful, the committee fights for threatened human rights and against undemocratic measures with strictly non-violent forms of symbolic action.

The care of inmates includes an extensive correspondence with prisoners and inputs for the authorities to improve the prison conditions, as well as the visits to prisoners.

Upon request, the prisoners receive literature sent to the prisons. A particular focus is put on the critical analysis of the sentence of life imprisonment and its repressive influence on the normal enforcement.

The Committee for Constitutional Rights and Democracy was founded in 1980. The initiative came from people who were involved in the creation of the Russell Tribunal concerning the human rights situation within the Federal Republic of Germany (1978-79). The objectives stated back then are still its guideline: courageous and according to human rights if necessary civil disobedient commitment to human rights of all people, everywhere.

The founding manifesto from 1980 states: "The Committee understands as its main tasks, on the one hand to express current violations of human rights and to defend those whose rights have been violated (eg in the context of so-called demonstration

offenses, judicial arbitrariness, discrimination, prohibitions, xenophobia, total denial of asylum and refugee policy) but on the other hand to find injuries that aren't directly visible and which are invested in the social structures and developments (structural concept of human rights). The threat to fundamental and human rights has many dimensions, from the operation of the "nuclear state" to the question of peace, from the destruction of the environment to the new technologies of freedom of expression to the right to demonstrate, from unemployment to social declassification, up to the police, the numerous minorities to the long unrealized equal rights for women." The committee has the legal form of a registered, non-profit organization. In organizational terms, the Committee consists of a membership and a supporter circle. Interested we like to send information and the list of our publications.

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