



ACTION GUIDE

Stay Safe! Know Your Limits!

IMPORTANT :

This guide only deals with Austrian
law!

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A. WE HAVE A COMMON ACTION CONSENSUS !

For a successful day of action, where everyone pulls together and can feel good, the action consensus is central. All people who join the action consensus are welcome to participate. The action consensus states that the safety of all participants (activists, passersby, etc.) is the first priority. There will be no escalation from the activists and we will not use physical violence against living beings. Everyone is responsible for their own behavior and should check it against the action consensus.

Link: <https://blockgas.org/action-consensus/>

B. WE STAND IN SOLIDARITY! NO ONE IS LEFT ALONE !

Repression exists on many levels and ranges from pressure that can be exerted on you by your relatives right up to police and legal measures against you. Regardless of the action, it makes sense to give thought to possible repression, be it governmental or by civil law, and to know the legal situation beforehand. We understand repression as a political means of pressure, which we have to oppose together. We cannot promise a safe answer to every question, because repression is not always predictable and depends on tactics and strategies of the repressive authorities. But it remains clear that repression aims to isolate and intimidate. Therefore, it is important for us to emphasize: We stand in solidarity! No one is left alone!

We wish that anti-repression work is carried by the movement and that it unitedly stands behind the people who are concretely affected by repression. Dealing with repression is part of the resistance against prevailing conditions - it cannot rest on a few shoulders. It affects individuals, but it means all of us. In these cases, solidarity is the most important remedy we have. Repression does not affect all people equally. It is therefore all the more important that we stand in solidarity with those who are more severely affected by repression.

1. Racism and Repression

PoC are more affected by repression than white people. It is the task of all activists who plan and participate in the action to develop an anti-racist practice that takes into account the different realities of participants and enable a solidary and emancipatory cooperation. Racism concerns us all. *Antiracism is a duty!*

But not all bodies are equally at risk or protected. PoC and non-white persons are affected by racial profiling and more than average by police violence. Also queer persons, young and old people, as well as sick people are particularly at risk.

This can happen on the way to, during, or after the action. Unfortunately, no legal norms can protect you against it in a concrete situation. Such behavior of the police is clearly illegal, but nevertheless happens again and again. Therefore, it is important that all people and especially privileged persons who witness such a situation act in solidarity and supportive. But also note that people wish for different reactions in such a situation, so there is not the one solution. Always try to contact the affected person first: Ask how she/he is doing and what she/he needs. Signal that you are on her or his side. If you cannot talk to the person try to find out whether the person's affinity group or friends are nearby. They may be the people who know best what the person needs. As the person affected: The most important thing is that you focus on your needs. You know best what you need, whether you want to get out of the situation as quickly as possible, or whether you want attention or

interference from other people. It can be helpful to talk through possible scenarios with your affinity group beforehand.

C. BEHAVIOR BEFORE AN ACTION

What do I need to consider in advance of the action? How do I prepare for the action? And what do I (not) take with me on the action?

1. How do I prepare for an action?

We strongly recommend that all activists take part in an action training before going into an action. Before, during and after the action, your buddy and your affinity group are your most important points of contact. Talk about your expectations, concerns, and anticipations in advance and how you plan to handle potentially tricky situations! Also, write down the phone number of the legal aid (and possibly your individual pseudonym / number) for the action somewhere easily accessible on your body with a waterproof pen, so that you can find it quickly in stressful situations and it cannot get lost. The legal help is available during the action for legal questions by phone. Legal aid takes care of arrested people and especially that no one is forgotten at the police station. Afterwards the legal help is reachable by mail and can give advice or mediate advice if there are legal consequences after the action.

2. What do I bring to the action?

We have put together a small packing list:

- comfortable shoes
- rain protection, umbrella (against sun or rain)
- sunscreen - sunglasses
- drinking bottle(s)
- small snacks for in between: chocolate, glucose, muesli bar etc.
- first aid kit
- life blanket
- banner
- sturdy musical instruments
- card games, something to read and pass the time
- some cash
- medications, if you need them regularly
- sleeping bag and sleeping mat

3. What do I better leave at home?

- ID cards, if you want to refuse your identity
- everything that could somehow identify yourself (calendars, notebooks, etc.)
- cell phone
- camera

- wallet
- all items that could be considered a weapon (pocket knives, glass bottles, pepper spray, etc.)
- contact lenses (better to take old glasses)

Tip: Check your bags yourself once before you go, especially if these are bags and clothes that you use in your everyday life.

Tip: Valuables could be taken from you by the police, and in order to get them back, you have to identify yourself. It is best to just leave them at home!

4. What are the advantages/disadvantages to leave your ID card at home?

The capacity of the police to carry out identification verifications is limited, as is the reception capacity of police detention centers. When hundreds of people refuse to give their identity, it is difficult to take them all into custody and treat them for identification purposes. However, there are also good reasons to give your personal data, e.g. if you want to stand up with your name or do not want to be taken to the police detention center. Discuss the question whether you want to refuse to give personal data in your affinity group.

Advantages of ID refusal:

- ID refusal can work well when used as a tactic on a huge scale. You don't have to pay a fine in the best case.
- Prevents police from a quick processing and causes significant effort.
- Solidarity with people who don't have papers or residence permits, who have foreign passports, or have outstanding warrants.
- You will not be punished more severely for similar violations of the law in the future (in case of repetition).
- Fewer opportunities for civil proceedings afterwards. This is only valid as long as it is not possible to find out your identity.
- You are in less danger of future repression (by state security, police, Nazis, etc.).
- Smaller burden for anti-repression structures and solidarity pots.

Disadvantages of ID refusal:

- In the case of illegal behavior of the police you have no possibility of legal remedy
- Insults, humiliation, if it gets bad also physical assaults at the police station.
- You can be arrested and detained for 24 hours or longer (for criminal charges). The experience of the last few years shows that the police usually uses the 24 hours completely.
- If you do not reveal your ID when accused of a crime, the risk of custody increases (risk of flight is one of the reasons for custody).
- There is always a possibility that you will be recognized (social media, facial recognition, access to personal data). There is no guarantee that the police will not find out your identity.
- More difficult solidarity work (e.g. if people do not come to processes for the fear of being recognized).

D. BEHAVIOR DURING AN ACTION

Only use your pseudonym (action name or number) during the entire action. Do not talk about action plans, your past action experiences or personal data in front of police officers.

There are spokespersons who take care of the communication with the police - so you should not have to talk to the police. If you are approached by the police, stay calm and don't say anything (=refusal to give evidence). Shouts and slogans can however encourage each other!

If you are, e.g. in a sit-in that is being dispersed by the police, remain calm and passive. You provide little target for criminal charges if you move carefully or not at all. In principle, running away is not punishable. Just watch out if you want to break away or otherwise come into contact with police officers, securities or other.

Be attentive, also to people outside your affinity group! If you observe an escalation and feel comfortable, try to deescalate. It is always best to move nervous people to the center of the group, since they are best protected there. During the action, an awareness team should be present to assist you in difficult situations.

E. LEGAL CONSEQUENCES

What legal consequences could I expect if I participate in an action? Before you read on, please be aware that depending on the situation, other accusations may be constructed that go beyond what is presented here.

Keep in mind // to consider: Criminal liability of attempt: In all the above-mentioned criminal offenses, the mere attempt is also punishable. An act is attempted as soon as the perpetrator makes the decision to carry it out by an action immediately preceding the execution.

1. Unannounced assembly

A sit-in is usually considered a spontaneous, unannounced assembly (= demonstration, rally, blockade). The mere participation in "spontaneous demonstrations" is not punishable. For organizing an unannounced assembly, a person, representing the group, can be fined an administrative penalty of up to several hundred euros. Therefore, you should not present yourself as the organizer.

The police is not allowed to break up a demonstration as long as there is no threat to public order, peace and security. The authorities must conduct an audible dispersal (although not everyone present must have actually heard the announcement). Typical is e.g. the dispersal via megaphone. Often there are several requests to leave the meeting until it is actually dispersed. The dispersal applies instantly, and those present must leave the place immediately. Only after a non-compliance of the order to leave the place, an administrative penalty may follow. After the announcement of the dispersal of the meeting, you practically have two possibilities:

- You leave - often you are simply allowed to leave, you are not asked for your identity and therefore it is not determined.
- You stay and thus commit an administrative offense.

If people remain at the assembly site after the dispersal, the police can use coercion to enforce the dispersal. Carrying away, pain grips, pepper spray and truncheons can be used. The police is called to use 'proportionate' force - but that doesn't always mean anything. Afterwards, the police will usually try to record your personal data.

ID refusal may result in arrest for the purpose of identity verification. If you disclose your identity, experience shows that it is followed by an administrative penalty for "not leaving the place of assembly". Administrative penalties are offenses such as parking on the wrong side of the road or jaywalking. Even if you are eventually convicted, you will not have a criminal record. You can learn how to deal with being carried away, pepper spray, pain grips, etc. in action trainings and the corresponding information booklets.

Keep in mind // to consider:

- However, participation in an unregistered assembly is not indictable. If you stay even though the police has formally dispersed the assembly, this is an administrative offense (→ § 14 and § 19 VersG).
- Leading an unannounced assembly is an administrative offense (→ § 2 and § 19 VersG).
- Unannounced assemblies are also subject to freedom of assembly and are protected for the moment. They may not be dispersed as long as there is no threat to public order, peace and security. As always this does not mean that the police will comply in every case.

2. Resisting the police

As soon as the police wants to disperse the blockade by carrying people away, the following applies: If you actively resist the police by tearing away, pushing away or fighting back, this will quickly be considered resistance to state authority (→ § 269 Criminal Code, an act indictable by law). We therefore recommend to not actively resist the police. The case is different if you hold on to another person or an object during a sit-in. This would be passive resistance (no resistance against state authority) and therefore no subject to prosecution. However, you must be careful not to accidentally drag police officers along, push them or come too close with fast movements. Such actions can quickly be misinterpreted by the police.

Attention: Even the mere attempt of resistance against state authority is indictable. It is therefore sufficient if you, e.g., bump into a police officer in order to prevent her/him from carrying out an official act without actually stopping it.

3. Damage to property

Damage to property is a criminal offense that is subject to legal prosecution (→ § 125 of the Criminal Code). According to the Criminal Code, anyone who destroys, damages, defaces or renders unusable another person's property is liable to an imprisonment of up to six months or a fine of up to 360 daily rates. This includes e.g., throwing paint bombs/ spraying / painting objects (house walls, roadway, etc.). Easily removable stickers that leave no residue are not included. Deflating car tires, even without damaging them, constitutes damage to property, as it significantly restricts the intended use of the vehicle. Knocking down fences, bending them or cutting holes into them also falls under §125 of the Criminal Code.

Attention! In addition a civil damage claim can follow, if e.g. something must be repaired or repainted. It can easily reach amounts of 4-digit €.

Attention! Even the mere attempt is punishable. It is therefore sufficient for a prosecution of damage to property if you e.g. apply the spray can and are just prevented from spraying a wall, even though the wall has not actually taken any damage.

Caution on critical infrastructure:

Anyone who damages an essential component of critical infrastructure commits aggravated damage to property (up to 2 years custodial sentence).

Critical infrastructure: facilities, installations, systems (or parts of them) that are essential for the maintenance of public safety, national defense or the protection of the civilian population against threats of war, the functionality of public information and communication technology, the prevention of disasters, the public health service, the public supply of water, energy, and essential goods, the public waste disposal and sewage system, or public transport.

4. Private property

Generally trespassing will not be charged as a criminal offense. However the owner of the property has the right to sue in front of a civil court. (In case your identity is known to the owner). A disruption of ownership is present if the ownership of an item is either being impacted or entirely removed. (i.e. obstruction of entering a driveway or obstruction of a planned work process) If there is a danger of repetition, an action for an injunction can be filed successfully against you. This action contains a judicial directive to desist a certain behavior in the future. Lawsuits concerning disruption of ownership or lawsuits concerning an action for injunction can lead to unpleasant court trials and high cost.

5. Bodily harm (amongst others of police officers)

As agreed upon in the action consensus we will not inflict physical violence upon others. In case a police officer gets injured: The general rule is that also minor injuries such as scratches will be criminally prosecuted (§ 84 StGB punishable up to 3 years). An offense of (heavy) assault is criminally punishable.

What about self-defense or emergency relief towards the police? In this case the law requires an extended amount of conditions that generally won't be met. If the situation was not well documented (aka filmed) the chances are high that you will be convicted in spite of any reasons of justification. In case of minor bodily harm of a persons who is not part of the police the following applies: The injury has to be visible (bruises or wounds etc.). Minor scratches that become invisible within a few minutes will not be regarded as bodily harm. Attention! Merely an attempt of inflicting bodily harm is punishable. As a result it's merely enough to for example raise your fist for a punch, even if you do not end up hitting anyone.

6. Breaking through police chains

During an action it is possible that the police will face you with chains or fences in order to block your way. How to deal with this you can learn in action trainings. We merely want to make you aware that under this circumstances you may be accused of the following offences:

- Resistance against state authority (→ § 269 StGB)
- Assault (→ § 83 und § 84 StGB)
- Criminal property damage (→ § 125 StGB)

7. Refusal of ID

The police has no right to verify your ID without valid reason. There is no general obligation to show your ID (this applies to EU citizens). The police has to tell you a reason before they can verify your ID, e.g. you are being suspected of a punishable action or you are present on an “international traffic route” (e.g. railway, airport). The refusal to show your ID will be punished. However - except in cases of non-cooperation – there is no legal possibility to defend yourself against authority and coercive power.

If you decide to identify yourself to the police you only have to disclose your name, date of birth, registered address and citizenship. Minors (persons below the age of 18) have to disclose their parents' information as well.

The police is authorized to verify your ID for instance if you stay put in case of a terminated gathering. If you refuse to identify yourself the police can arrest you and take you to a designated police station or to the police detention center. The police are authorized to keep you there up to 24 hours should they suspect you of an administrative offence. If the police suspects you of a criminal offence they can hold you up to 48 hours. Usually they will exhaust this allowed amount of time – 24 hours or 48 hours.

Keep in mind:

In Austria there is no punishment if you refuse to identify yourself. However the police can react with direct authority and coercive power, for instance by keeping and searching you. Even though all EU-citizens and Austrian Citizens are formally equal in front of the law, people who are read as non-Austrian are prone to police violence?. For instance in the past activists have been threatened with deportation. Also the risk of custody is higher due to an assumably increased risk of flight.

7.a Regulations/Exceptions for third-country nationals

Persons with non EU citizenship must also indicate their nationality when getting checked for an ID. They always have to carry a document of identification on them or otherwise have to be able to procure their ID from a place that is reachable within one hour. Otherwise this can be charged as an administrative offence. The police is able to compare your personal information against the resident register via radio or at the police station. When non-EU-citizens refuse to identify themselves the police is authorized to make an arrest according to § 39 FPG. The arrest is permissible up to 24 hours, afterwards they must release you. In certain situations (e.g. upright deportation, ban on staying, order to arrest) you may be held up to 48 or 72 hours. The police may with reason “fingerprint and photograph” you (in line with § 99 FPG). This means the police is entitled to take pictures, film you, take samples of your handwriting and voice as well as take your fingerprints. This is especially the case when the police assume that you do not have an Austrian citizenship and cannot identify yourself.

For some administrative offences third-country nationals (= non EEA-persons) may be banned from entering or staying in Austria (in line with § 53 FPG und § 63 FPG). This may even be the case for legally binding administrative offences such as a violation of the Public meetings Act (§ 14 VersG), disturbance of public order (§ 81 SPG) or aggressive behavior towards officials (§ 82 SPG).

The procedure must be completed before the aliens authority can issue an entry or residence ban on the basis of the administrative offense. As long as you have lodged an objection or as long as the authority has not yet reached a final decision, this legal consequence cannot occur. The amount of the penalty is not important.

Therefore, especially in the case of dispersal of assemblies and spontaneous demonstrations, be aware that you take a certain risk in participating.

8. Arrest

In case of administrative charges, the police may detain you for up to 24 hours, in case of criminal charges for a maximum of 48 hours. If they want to keep you longer, they must bring you to a committing magistrate and remand you in custody.

Why can I be arrested?

The police can't just arrest you for no reason. But even if there is actually no reason for the arrest, the police unfortunately wins out and you have no legal right to actively resist. Such an act of resistance would be a criminal offense (resistance against state authority) - but not passive resistance (e.g. letting yourself be carried away or clinging to a lamp post). As person affected, you should always ask "Is this an arrest?", otherwise your going along will be interpreted as voluntary.

The most important reasons for arrest are:

In case of administrative offenses according to § 35 VStG:

- In case of an identity check, if you do not have any identification with you and your identity cannot be verified.
- You continue an administrative offense despite a warning from the police or try to repeat it or try to evade prosecution (running away or similar).

A simple administrative offense does not legally justify an arrest.

In case of judicially punishable acts (e.g.: bodily injury, damage to property, resistance to authority, etc.) according to § 170 StPO:

- you were caught "in the act" or immediately afterwards and there is a concrete suspicion against you.
- You are caught by the police with objects that indicate your involvement in a crime.
- There is a concrete suspicion of a crime against you and a risk of flight is assumed for certain reasons.
- The police suspects you of a felony (more than 6 months imprisonment) and you are suspected of committing a similar offense again due to certain facts.

F. During the arrest

The first thing to note: Police officers don't tell you what they are allowed/ not allowed to do and just do things, or tell you to do something. And if you let them - good for them. Therefore: Know your rights and say very clearly if you don't want something! Say no!

If you are arrested, stay calm, do not actively resist and do not insult the police officers. If you observe an arrest, ask for the pseudonym of the arrested person and where he or she is being taken.

For everything else, the following applies: REFUSAL TO GIVE EVIDENCE! either with clear statements such as: "I refuse to give evidence" or "I don't want to say anything about it" or simply do not say anything at all. "I don't know" or "I didn't do it" are statements and do not help you or others. In the best case you will be ignored, in the worst case you will blab and reveal damning information about yourself or others! Even the most harmless statements can be turned against you, while the fact that you have testified to the police does not give you any advantage.

Do not talk about the alleged crime in front of other activists in the police detention center or in the prisoner transport, no matter how far-fetched the accusations may be and how much they upset you. You could always be bugged here. That doesn't have to mean silence. Talking about quantum physics, architecture, your rights or anything else that has nothing to do with your actions and motivation is fine. At the police detention center, you have the right to make two successful calls. Make your first call to the legal aid. Tell them:

- your pseudonym (action name or number)
- where exactly you are being held
- what you are accused of (only name the accusation, not what you did or did not do!)
- if you are in urgent need of anything and how you are feeling
- if someone should be called
- have more people been arrested with you? What are their pseudonyms?

You should NOT say that in your phone call to Legal Aid:

- What you really did or did not do
- Your name, if you haven't already told the police and don't want to reveal your identity
- Which other people were involved but were not taken into custody

However, the people who answer the phone are experienced in their work and will make sure that you give them all the important information without telling too much at the same time. These calls are practically always listened to by the police.

In reality, you will very often be given no call or only one call during the first hours. Insist on your rights and demand them again and again. You don't have to sign anything at the police station, so pay close attention to what is handed to you! It is best not to make small talk. You do not have to talk to police officers, even if they are friendly to you. If the recorded protocols do not correspond to your statement, data are wrong or you did not mean a statement, you have the right to correct and resubmit the protocol for reading. You can also make such changes in handwriting.

1. Identification measures

Fingerprints, image/video recordings, DNA samples or handwriting and voice samples ("identification measures") may only be taken by the police if you are suspected of having committed a criminal offense (e.g. damage to property, bodily injury, etc.). If you are only accused of an administrative offense, the police are not allowed to do so. Therefore, always ask what exactly you are accused of!

If you refuse to be identified, the police can enforce this examination or data collection by force. Physical examinations such as taking blood samples, body orifices (mouth, anus, vagina), X-rays, etc. may never be carried out by the police on their own initiative. Only a doctor is allowed to perform these examinations if the public prosecution department requests it and a judge agrees. Therefore, in case of an examination, insist on seeing these documents. You are not obliged to actively participate in the examination.

Forced undressing will, in the vast majority of cases, constitute unnecessary and degrading treatment (Art 3 ECHR) and is therefore most likely illegal. We recommend to always refuse to undress completely and to demand a medical officer.

Keep in mind// to consider:

What is the police not allowed to do:

- Beating, torturing etc.
- Undressing you
- Men may only be examined by a man, women only by a woman on the body (male/female interpretation, self-understanding is an unfortunately often ignored topic)
- Refuse to go to the toilet
- Refuse two successful calls

If you are treated very badly, try to memorize the service numbers of the acting police officers! Police officers are obliged to disclose them upon request. Do not believe everything the police says! Even if this sounds harsh: Think in advance about what you want to do if the police threatens to take you into custody and you are actually held for several days or weeks. Do you want to give your personal data? Or do you want to wait for the court's decision and take the risk at first, because it's hard for them to lock up everyone?

Important: If the missing personal data were the only reason for the custody, you have to be released immediately as soon as you reveal your name. Discuss with your friends and your affinity group what should happen in case of imprisonment - this will not only help you, but also all structures that try to support you.

2. Disadvantages if the police has recorded photos, fingerprints, etc. of you.

After all, you haven't done anything wrong and you don't have to expect a high penalty anyway. And they haven't even found out who I am yet, so it doesn't matter! Wrong. Even if the police didn't find out your identity, they might next time. And then they can check where else they saw those fingerprints. That means you can still get in trouble for things that happened long ago. And it also becomes easier to find out who you are every time they collect data about you, because more and more information about you exist.

3. Secure evidence and film official acts

Filming police officers during official acts is almost always allowed and may not be prohibited. You can not be that close that you obstruct official acts or film victims who are worthy of protection (e.g. injured people). If the police sends you away, ask how far you have to go so that you no longer obstruct the official act.

In the case of police assaults, documentation can be decisive in defending against punishment/repression. This includes, for example, videos, photos, eyewitnesses, service numbers, IDs or protocols. At the same time, this material can also incriminate you or others! It is important, however, to keep this evidence safe and not to publish it under any circumstances, as it could incriminate other activists.

Generally, there will be organized documentation teams and observers for the action. You should not need to have a camera with you during the action!

G. WHAT TO DO AFTER THE ACTION?

If you made it back safely, take a few quiet moments to breathe!

Afterwards, report back to legal aid with your pseudonym and let them know that you made it back.

If you had any negative experiences during the action, it's worth writing a memory log right away, noting all the important details.

Visit the Out-of-Action Team after the action if you are looking for support. Continue to build on your buddy and affinity group for reflection. In joint action plenaries, we will reflect on the progress and success of the actions.

If you get mail from the authorities after the action, report it as soon as possible (often there is a tight deadline for legal remedies) to us: rechtshilfe-scnc@riseup.net. We will support you with legal aid, contact to lawyers, networking and solidarity structures!