

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

Ref.: AL DEU 6/2024  
(Please use this reference in your reply)

1 October 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 48/14, 55/2, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the criminal proceedings and investigations against members of the climate action group Letzte Generation.

**Letzte Generation** is a climate activism group. It engages in non-violent, public civil disobedience with the aim of bringing about lasting change in the approach to the climate crisis by the German Federal Government. Ms. **Mirjam Herrmann**, Ms. **Miriam Meyer**, Mr. **Henning Jeschke**, Mr. **Edmund Schulz**, Mr. **Lukas Popp** and Mr. **Jakob Beyer** are members of Letzte Generation.

According to the information received:

Since at least the autumn of 2022, members of the Letzte Generation have been under investigation in Germany under section 129 of the German Criminal Code for allegedly forming or participating in a criminal association. Investigations have been pursued in Bavaria, Flensburg and Neuruppin.

Based on the provisions of the Criminal Code, a criminal organisation is a structured group of more than two persons, established to last for a "longer period of time", whose objectives or activities are directed at committing offences incurring a prison term of more than two years.

In the course of the investigation, the homes of members of the group have been raided by police in at least seven states. Bank accounts linked to the group have been frozen, and emails and phones of the group and some of its members have reportedly been surveilled, including GPS locations and a press hotline used by journalists to contact the group nationwide. The group's website was also temporarily seized as part of the investigation. This occurred during a fundraising campaign run by the group. The seizure saw a notice posted by the Bavarian State Office of Criminal Investigation on the website's homepage labelling Letzte Generation a criminal organisation under section 129 of the criminal code and stating that any donation to the group

would therefore constitute the crime of supporting criminal activity.

On 21 May 2024, the Neuruppin state prosecutor's office issued a press release announcing charges of forming a criminal organisation, as defined in section 129(1) of the German Criminal Code, brought against Ms. Herrmann, Mr. Jeschke, Mr. Schulz, Mr. Popp and Mr. Beyer based on their activism as members of Letzte Generation. The five climate activists were also charged with disrupting public businesses, coercion, damage to property and other criminal offences. The acts cited by the state prosecutors as the basis for these charges included the blockade of a fuel depot and shutting off or attempting to shut off oil pipelines by turning valves designed to stop the operation of such pipelines in emergencies, in both instances to call for an end to the development of fossil fuel infrastructure; throwing food on the glass and frame of a painting in the Barbarini Museum, without damaging the painting, to draw attention to the climate crisis; entering the runway at Berlin-Brandenburg airport and disrupting air traffic for 90 minutes to call for the public to stop traveling by air and for the Government to end subsidies for air travel and expand subsidies for travel by train, in an action they informed the police of in advance; and entering the runway at Schönefeld airport and spraying a private jet with orange paint. For each of these actions, they wore high-visibility vests.

On 19 June 2024, the Flensburg prosecutor's office issued a press release announcing charges brought against Ms. Meyer on the basis of her activism as a member of Letzte Generation. Ms. Meyer was accused of participating in a criminal organisation, under section 129 of the German Criminal Code, for allegedly organising and preparing crimes directed at Germany's critical transport and supply infrastructure and attempting to recruit people to commit such offences. She was also accused of disrupting public business, damage to property, criminal damage to property and trespass. The acts cited by the prosecutors as the basis for these charges included shutting off and attempting to shut off oil pipelines by turning valves designed to stop the operation of such pipelines in emergencies, to call for an end to the development of fossil fuel infrastructure; entering the security area of Munich International Airport and blocking the northern runway for approximately 40 minutes, causing minor delays but no flight cancellations, in a protest calling for stronger climate action; entering the security area of the Berlin-Brandenburg International Airport, riding bikes to the terminal used by private and business planes, and spraying a private jet with paint to protest against the climate impact of high-wealth individuals, in an action which at no point posed a danger to air traffic, according to Berlin police; entering into the security area of Sylt Airport, spraying a private jet with paint, unfurling banners in protest against the climate impact of high-wealth individuals and recording a speech calling for stronger environmental regulation and laws in Germany, in action that did not affect air traffic; entering a golf course at a hotel and planting trees and flowers on the green to draw attention to the climate impact of high-wealth individuals and water scarcity; and tossing tennis balls soaked in white paint at the facade of the Bavarian State Parliament building as a method of drawing attention to storms in the state and call for action to prevent future extreme weather events.

As of the time of finalising this communication, the investigation in Bavaria remains at the investigation stage.

We express our concerns regarding the above-outlined allegations. In particular, we express our concern at the necessity and proportionality of the investigation into Letzte Generation on the basis of section 129 of the German Criminal Code, including the specific investigative measures taken. We note that section 129 is primarily used to target organised criminal groups seeking to enrich themselves through illegal acts, or who pose a threat to the public, and underline our fear that in this case it appears to be being misused to sanction acts of civil disobedience. A guilty verdict under section 129 can incur a punishment of up to five years' imprisonment. Without wishing to express agreement or disagreement with the form of activism taken by Letzte Generation, we underline our strong concern that such a serious charge has been brought against members of the group, the acts of which are non-violent, carried out publicly, appear to pose no threat to the public, and are motivated solely by legitimate, well-founded concerns about climate change and its impact on human rights. We also note with serious concern that the accusation of forming a criminal organisation would not only criminalise the members of Letzte Generation, but any person deemed to be supporting them, exposing any such person to a sentence of up to three years' imprisonment. We also express our concern about the failure to guarantee members of the climate action group Letzte Generation their right to peaceful assembly and free expression as well as to guarantee the group their right to access and managing resources, that is an intrinsic part of the right to freedom of association.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide a detailed explanation as to how the measures taken in the course of the investigation into Letzte Generation and its members have been compatible with Germany's international human rights obligations, in particular under articles 17, 19 and 22 of the International Covenant on Civil and Political Rights, on the right to privacy, freedom of expression and freedom of association (see annex).
3. Please indicate what steps have been taken and measures put in place by your Excellency's Government to ensure that all human rights defenders taking peaceful action to promote measures to mitigate climate change and a just transition can carry out their legitimate activities, including the right to demonstrate peacefully, free from fear of threats or violence.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also

subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Elisa Morgera  
Special Rapporteur on the promotion and protection of human rights in the context of climate change

Astrid Puentes Riaño  
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Gina Romero  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 17, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Germany on 17 December 1993, which guarantee the rights to privacy, freedom of expression and peaceful assembly.

Article 17 of the ICCPR establishes the right of everyone to freedom from arbitrary or unlawful interference with their privacy, family, home, or correspondence, as well as to unlawful attacks on their honor and reputation, and the right to the protection of the law against such interference or attacks. The Human Rights Committee, in general comment No. 16, has emphasized that the obligations imposed by this article require State parties to refrain from engaging in interferences inconsistent with article 17 and to provide the legislative framework prohibiting such acts by natural or legal persons.<sup>1</sup> Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the ICCPR.<sup>2</sup> The Committee stressed that the introduction of the concept of arbitrariness in article 17 is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the ICCPR and should be, in any event, reasonable in the particular circumstances.<sup>3</sup>

Article 19 of the ICCPR guarantees the right of all persons to freedom of expression, encompassing the freedom to seek, receive and impart information and ideas of all kinds. This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse”.<sup>4</sup> Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19(3) of the Covenant, following which any limitations must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat”.<sup>5</sup>

As underlined by the Human Rights Committee in general comment No. 34, attacks on persons because of the exercise of their freedom of expression cannot under any circumstance be compatible with article 19.<sup>6</sup> As highlighted by the Committee, persons engaged in gathering, analysing and reporting on human rights are frequently

---

<sup>1</sup> Human Rights Committee, *General Comment No. 16*, CCPR/C/GC/16, para 9

<sup>2</sup> *Ibid.*, para 3

<sup>3</sup> *Ibid.*, para 4

<sup>4</sup> Human Rights Committee, *General Comment No. 34*, CCPR/C/GC/34, para 11

<sup>5</sup> *Ibid.*, para 35

<sup>6</sup> *Ibid.*, para 23

subjected to such acts of intimidation because of their activities and States shall put in place effective measures to protect against attacks aimed at silencing them and to enable the safe exercise of their right to freedom of expression.<sup>7</sup>

Article 21 of the Covenant, which guarantees the right to peaceful assembly, may only be restricted where such restrictions are provided for by law, and where they are necessary in a democratic society, in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Elaborating on the obligations of state parties to the Covenant stemming from article 21, the Human Rights Committee, in general comment No. 37, has stressed that peaceful assemblies “can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. ‘Public order’ and ‘law and order’ are not synonyms, and the prohibition of ‘public disorder’ in domestic law should not be used unduly to restrict peaceful assemblies.”<sup>8</sup> Concerning direct action and civil disobedience, the Committee further stressed that collective civil disobedience or direct action campaigns “can be covered by article 21, provided that they are non-violent.”<sup>9</sup> On what should be considered “violence”, the Committee held that this entails “the use by participants [in the given assembly] of physical force against others that is likely to result in injury or death, or serious damage to property.”<sup>10</sup> In the same General Comment, the Committee further held there is a presumption in favour of considering assemblies as peaceful and non-violent.<sup>11</sup>

The report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/56/50 in paragraph 67 indicates that “the obstruction of freedom to peaceful assembly and association rights directly impacts adversely on the development and the implementation of the 2030 Agenda for Sustainable Development. The Special Rapporteur found that “measures aimed at restricting or silencing the exercise of the rights to freedom of peaceful assembly and of association, undermine the empowerment of people and their rights to express themselves and to engage in collective activities — political, economic, social, cultural or environmental — which are at the core of all Agenda commitments”. Paragraph 92 of the same report indicates that “if climate commitments and pledges are to be met, States must respect and protect a participatory and inclusive agenda and protect the rights of environmental activists to freedom of peaceful assembly and of association. By collaborating with trade unions and environmental activists, States can ensure just transitions and inclusive decision-making processes that benefit all and leave no one behind.”

We would also like to recall articles 5 and 6 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders. These articles guarantee the right to meet or assemble peacefully, as well as the right to freely publish, impart or disseminate to other views, information and knowledge on all human rights and fundamental freedoms.

---

<sup>7</sup> Idid

<sup>8</sup> Human Rights Committee, *General Comment No. 37*, CCPR/C/GC/37, para 44

<sup>9</sup> Ibid, para 16

<sup>10</sup> Ibid, para 15

<sup>11</sup> Ibid, paras 15-17

In addition, we refer to article 12(1) and (2) of the UN Declaration on Human Rights Defenders, which provide that everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms, and that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

In this vein, we recall Human Rights Council resolution 31/32, which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, and Human Rights Council resolution 38/12, which calls on States to take all steps necessary to prevent threats, attacks, discrimination, arbitrary arrests and detention or other forms of harassment, reprisals and acts of intimidation against civil society actors, to investigate any such alleged acts, to ensure access to justice and accountability, and to end impunity where such violations and abuses have occurred.

We further recall that the Human Rights Council and the United Nations General Assembly respectively recognized the right to a clean, healthy and sustainable environment with the adoption of resolutions 48/13 and 76/300.

Finally, we wish to refer to the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59), which set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. In particular, we would like to refer to principle 4, which provides, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”