

From Stammheim to Düsseldorf

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Staging of the show trial against 20 Kurds by the federal prosecutor

Introduction

On 24 October 1989 the main public hearing against 20 Kurds on several charges posed by federal prosecutor Rebmann began in Düsseldorf at the 5th criminal court in the higher regional court. The trial was estimated to have a duration of two years with two days of hearings each week in an adjacent building of the higher regional court, which was remodelled for 7 million DM (Deutsche Mark) specifically for this trial.

At least during the first days of the trial, German media will cover the hearing with much sensationalism, and the spectre of international terrorism will be conjured into the living rooms of a televised nation: 17 Kurdish defendants behind armoured glass in a semi-underground, bombproof courtroom, a large contingent of security personnel in the courtroom and its surroundings, and viewers can only enter after thorough controls and examinations.

Most of the defendants already have one year and nine months in custody in solitary confinement conditions behind them at the time the trial begins and sit opposite to the same criminal court that sentenced journalist Ingrid Strobl due to her buying an alarm clock to five years imprisonment for “aiding and abetting a terrorist organization.”

Court reporters and security experts of all kinds will remind us that the defendants are affiliated with an organisation, which the Federal Criminal Police Office, or Bundeskriminalamt, the Office for the defence of the Constitution, or Verfassungsschutz, and federal prosecutor Rebmann consider to be the most dangerous terrorists in Western Europe as a new main enemy of internal security in Germany.

With the beginning of the mammoth trials in the year 1989, which is steeped deeply in history in terms of anniversaries, – a few months after the 200-year anniversary of the French Revolution and shortly after the 50th Anniversary of the Nazi annexation of Poland during WWII – could go down in history itself as the beginning of the largest terrorism trial in the history of the BRD, or the Federal Republic of Germany. The start of the main trial, which would take several years against 20 Kurds following §129a in the criminal code, or Strafgesetzbuch, could be a similar rupture in the history of the “most liberal state on German ground that has ever existed” as were the Stammheim trials more than ten years earlier. And this is not only the case according to committed critics of the “security state,” of the so-called “defensive democracy,” which derives its legitimacy first and foremost from the fight against “violent extremists,” earlier against communists and currently against “terrorists.”

Even the essential protagonists of the “security state” find grave words for the characterization of the trial, like federal prosecutor Kurt Rebmann:

“This mammoth trial is a challenge for the German judicial system, which will have to meet this challenge.” (Press conference of the federal prosecution on 27.7.1989, Karlsruhe, page 12) The German criminal justice system has already taken on different challenges throughout the years. Not only – to remain in the historical frame of anniversaries – in the form of martial law during WWII and the extensive exemption of fascist violent offenders after the end of the “thousand year Reich,” but also already during the trials for treason against Karl Liebknecht on the one hand and the acquittal of his murderers and the murderers of Rosa Luxemburg on the other hand, not to even begin to speak of the contribution of the German criminal justice system to the “Cold War” through the communist trials of the 1950s.

Undoubtedly, the German criminal justice system has already faced great “challenges” thus far. The system is also characterised through two other extraordinary accomplishments: Through the mainly voluntary synchronization of the judiciary in the Third Reich (compare Ingo Müllers “Furchtbare Juristen”), and after the war, through the fact that none of the murderers and at times even mass murderers in robes have received fair punishment. Only rarely the German criminal justice system has been confronted with challenges unsuccessfully, as was the case during the Reichstagsbrandprozess, or Reichstag fire trial, when the attempt to prosecute Dimitroff, the leading representative of the Communist International, as the head of a group of arsonists that set fire to the Reichstag, backfired completely. This happened 55 years ago, also a kind of anniversary, which, however, is celebrated just as little as the November Revolution in Germany in 1919, because such events are not suited to the celebratory speeches in the “most liberal state on German ground.”

The German criminal justice system 1989 is thus a topic for public examination. And while the civilized world celebrates the ideals of the French Revolution, freedom, equality and fraternity, and the BRD celebrates the ideals of the Grundgesetz, the German constitution, as the unalienable right to human dignity, 14 Kurds are held over one year in custody awaiting trial, with the permission to receive private visitors twice a month for maximally 30 minutes in the presence of officers from the Federal Criminal Police Office, the state Criminal Police Office, and an officer from the prison, behind a separating glass panel and after searching the prisoners before and after each visit with the specific demand, to completely undress the prisoner until naked, and the specific prohibition to receive just one Kurdish magazine or newspaper.

We will permit ourselves to judge the entire trial, the charges and the accompanying measures according to the lofty ideals proclaimed in these celebratory and memorial speeches. If the results are shattering, it is no fault of ours.

We are faced with the challenge to report on a trial that is set against a rarely known liberation movement in Germany, which works with the §129a StGB (German criminal code) as the problematic basis for its criminal proceedings, and which concerns a group of foreign citizens, which in Germany would in complete ignorance of the realities probably be recognized as “Turks.”

Who, except the writers of history, the security politicians, and terrorism investigators will still be interested after a few weeks in the affected Kurds?

Of course, we do not know. We hope, however, that it will be a growing number of people, who realise that this trial is a scandal. This is what we want to contribute to with this work. To answer potential misunderstandings already at this point: Self-evidently the criminal justice system here has the right to prosecute murder, attempted murder, unlawful deprivation of liberty, document forging etc. criminally and to try all people – even foreigners – with sufficient evidence in court, to determine in a public hearing innocence or guilt. And we cannot and do not want to say at this point, that it is already clear, that the defendants are innocent. The defence will take a stand regarding this during the trial. It is merely important at this point to emphasise that regarding the charges of murder there are neither confessions nor witnesses. Moreover, only a few of the defendants are charged with a felony, most are merely charged with the membership or support of a terrorist organization, and some additionally with unlawful deprivation of liberty or forging of documents.

However, this is not the main goal of the brochure. Rather, in our opinion, after such a 129a-trial independent fact finding has become impossible. Above all, it is not right to criminalise through the accused Kurds a national liberation movement that fights against the military regime in Western Europe.

Some could object: What business is it of ours when “peoples butt heads at the back of the world in Turkey” and when some of them are potentially unjustly prosecuted as “terrorists” here in Germany? Apart from the fact that the treatment of prisoners in such a large trial, especially if foreigners are involved, poses an important question for our democracy, what is on trial in Düsseldorf is not so exotic for the most of us. Turkey is ultimately a NATO partner of Germany, who offers extensive military and economic aid in turn. The repression of the Kurds hence also happens in our names and Western companies profit from this militarization.

In addition, this §129a-StGB trial was only made possible by a special change in the law, which came into force at the beginning of 1987 along with a few other changes in the law, and which was criticized by many critics as an unbearable outgrowth of an increasingly threatening security state.

In a certain sense, the mass proceedings against the Kurds are a touchstone for the changes to the law introduced in 1987. And if you look at the scenarios that critics have developed in this context, it becomes clear how far they are affected:

- Let us assume that the ÖTV union decides to go on strike to enforce union demands from public transport companies, water and electricity companies. After the expansion of the law in 1987, the ÖTV thus becomes a "terrorist" organization whose activities are aimed at committing criminal offenses according to §613 b (= disruption of public operations), among other things. Its board of directors could therefore be punished with imprisonment of three to 15 years because of its "ringleadership", even simple but active members would also be criminals facing imprisonment from one to ten years, supporters and advertisers for the ÖTV and its strike actions with imprisonment of six months up to five years.

- Let's assume that citizens' initiatives from the peace movement or the anti-nuclear movement want to set signals by blocking ammunition transports or tilting nuclear power pylons. These citizens are not only punishable for damage to property, coercion, etc., but can also be punished as "terrorists" according to §129a of the German Criminal Code since the law was changed. And not only them, but also members of such citizens' groups who do not take part in these actions because they judge them rather sceptically, but on the other hand do not condemn them either. The citizens' initiative becomes a "terrorist group". Crimes don't even have to be committed, let alone proven by anyone. It is sufficient for this initiative to include them in its planning. Even those who only give shelter to the alleged members, invite them to dinner, who leave them their bed and donate to them, should also be considered "supporters" according to the new legal situation, and "those who beat the drum for their resistance work, as 'advertisers'" for a 'terrorist association' (after Ralf Gössler, *Resistance against State Power*, Hamburg, 1988, page 80).

These examples show how easily radical opposition groups can become "terrorist groups" today. The criticism of the §129a StGB and especially its intensification has therefore become louder and louder in recent years. It is all the more important for the "preventive security state" to demonstrate the need for the strengthening of the law in a publicly effective manner. In this context, the Kurdish process is of particular importance; it could, as it were, become the touchstone of "terrorist" persecution on a new level.

These interconnections will be explored in this brochure. So the representation does not become too tedious, we will not systematically analyse all different aspects of this mammoth trial. This work will rather trace the developments of the last five years, from the beginning of the armed struggle in the Turkish part of Kurdistan to the different scenes in Western Europe and the Middle East and includes surprising developments until the beginning of the Düsseldorfer trials. The red thread is thus a discussion of criminal history, in which the acting and suffering people necessarily are not represented as brightly as they are in reality or could be in artistic representations. Nevertheless, it should remain captivating enough. We have summarized the most important connections in extra chapters to understand the context (discussions of the history and situation of the Kurdish people, the function of §129a, etc.). These can of course at first be skipped, to be able to follow the red thread better. The extra chapters also lay no claim to be scientific, although the new judicial aspects of this trial (which will be dealt with) offer just as good a reason as many historical and sociological aspects of this trial. However, neither the time nor the space are sufficient.

We are presenting this document as a contribution to the discussion on the occasion of the start of a show trial staged by the German justice system against a young national liberation movement on the fringes of the future "Europe 92".

So, let's turn to the prehistory of the actual trial, which, for the sake of simplicity, we have started in 1984 in northwest Kurdistan - that is, the part of Kurdistan located in the Turkish Republic.