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German-Eritrean Society



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ERITREA FESTIVAL 2023: MAGISTRATE CAPITULATES TO ETHNO-FASCIST VIOLENT CRIMINALS

- Freedom of assembly and "well-fortified constitutional state" suspended in Giessen -

Now it has happened after all. With an order dated 28 June 2023 (yesterday), the municipal council of the city of Giessen, represented by the public order office, banned the "Eritrea Festival 2023". At the same time, the immediate enforcement of the ban was ordered "in the overriding public interest".

Thus, just 9 days before the start of the great event - a higher four-digit number of participants was expected - the magistrate has given the organizers a shambles, in which the social and political damage is joined by the financial one; and it is obvious that this damage will be considerable if the substantial costs of preparation and implementation are not offset by revenues. Not to mention the numerous festival participants who have planned and organized travel, hotel accommodation, booths and other forms of active participation in view of the event.

So far, so bad. In the long run, however, the greatest damage is likely to be done to the reputation and standing of the "university town of Giessen", which flirts with its cosmopolitanism. For the approximately seven-page justification of the festival ban can only cause consternation in any halfway unprejudiced observer; it is adventurous and amateurish to an extent that is probably unparalleled even in administrative practice for so-called "problem events". In its "subsuming" passages, which always follow the prefix of the legal basis referred to (especially the Hessian Law on Public Safety and Order, HSOOG), the justification for the ban look like an instruction for preventing a politically disagreeable event:

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Step 1 is to tie the requested permit to such exaggerated "security requirements" and precautions regarding the security of the venue that they are either unrealizable for the organizer (in this case the Central Council of Eritreans in Germany) or are linked to such high economic expenses that the event's final realization becomes a financial disaster. This approach has already been "successfully" practiced by the Giessen magistrate towards the Eritrean community several times, most recently in the attempt to relaunch the cultural event that was raided on 20 August 2022. Not even commercial organizers of rock concerts and the like are in a position to secure the fences of an extensive area with technical precautions (NATO wire?) in such a way that an intrusion can be ruled out one hundred percent without adequate police protection.

The same applies to other safety-related issues, for example the number of available medical rescue vehicles, appropriately trained personnel and the necessary equipment such as supply facilities (tents etc.). Other issues such as entry controls, escape routes, technical precautions, etc. are added. The list can be extended at will. For the licensing authority, in this case the magistrate, the great charm lies in the fact that a ban on an unwanted event, which is most likely untenable under constitutional law - because it is unlawful - can be enforced **de facto** against the organizer by means of an excessive extension of the conditions, even if it would have to fail **de iure**. As in 2022, the magistrate has once again attempted to create a situation in which the ban for the "protection of life and health" appears to be inevitable and unavoidable by constantly demanding improvements - this time in relation to the medical service and alleged ambiguities in this regard, which are also referred to in the justification for the ban.

Step 2 consists of assigning the responsibility for guaranteeing public safety to the organizer across the board and without exception, without even raising the question of how the supporting role of the state forces of order (sufficient police presence, etc.) could contribute to minimizing safety concerns. Although the justification of the magistrate repeatedly makes a direct reference to the violent excesses of the group "Brigade N`Hamedu" on the occasion of the Eritrean cultural event on 20.08.2022, it is not mentioned at all that the situation in the summer of 2022 was completely different: police forces were not present at the beginning because the threat situation was allegedly "not foreseeable". The fact that now, in 2023, the situation is completely different due to the announcements in the social networks is ignored.

Of course, the magistrate and his public order office are also aware that ensuring public safety and order is primarily an **original police, i.e. state, task**. This is the case with every major event, whether this is a football match, a rock concert or - as in this case - a (cultural) festival. The justification for the ban therefore focuses to a large extent on the question of admission controls and reproaches the organizer for not having a security concept to prevent the potential entry of (violent)

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troublemakers. This is also reflected in the press release issued by the city of Giessen.

The calculation is to put a point in the foreground where primarily the organizer is required and the police forces of order would only be involved in the event of an incident. In doing so, two important aspects are deliberately ignored:

Firstly, as was the case at previous festivals, people seeking entry will of course be checked to see if they are potential troublemakers. Of course, this does not completely rule out the possibility that individual troublemakers could still get onto the grounds, but it minimizes the overall risk. And secondly, no organizer in the world and no security concept, no matter how profound, can guarantee one hundred per cent that disruptive individuals will not manage to pass through the entrance controls. To use this fact as a central justification for the ban is therefore per se disproportionate, unlawful and ultimately unconstitutional - a **ban cannot be based on the non-fulfilment of an unfulfillable requirement.**

Step 3 is to justify the ban on the event with statements and announcements that the organizer absolutely cannot influence - at least not at short notice and on occasion. "There are increasing calls against your event in the social media". With this sentence, the justification of the ban order introduces a longer passage in which the Office of Public Order of the City of Giessen extensively and in detail reproduces statements from various platforms in order to then come to the conclusion that "it (appears) realistic that up to several hundred persons who feel affiliated with the Brigade N'Hamedu and who are only travelling to Giessen for the purpose of disrupting the Eritrea Festival will be in Giessen in the period from 06.07.2023 - 09.07.2023". It can be assumed that "both opposition and pro-government Eritreans will be highly emotional".

Leaving aside the fact that the "Brigade N'Hamedu" and its thugs are not "opposition Eritreans" but a Tigray group dedicated to Tigrayan ethno-fascism, the magistrate's derivation raises very fundamental questions, such as:

Since when and for what reason have martial announcements of crazed violent criminals in social networks been the yardstick for the handling of constitutionally guaranteed fundamental rights such as the freedom of assembly (**Article 8 of the Basic Law**) by state administrative authorities? Where does this leave the "defensible democracy" or the "well-fortified constitutional state"? Can and may an administrative authority allow itself to be instrumentalized in order to enforce by decree the desired prevention of a large-scale event which in itself is peaceful? The magistrate as a vicarious agent of the "Brigade N'Hamedu", if the latter presents itself on the net as only sufficiently immoderate, violent and infamous? Would such an almost mechanistic causality ("All we have to do is really kick up our heels and the city of Giessen will do the rest for us!") be conceivable in any other

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relevant area of society?

No, of course not. Not in football, not at open air festivals or rock concerts, and not at other "problem" events in the political sphere. Rather, the drastic extent of threats in the run-up would find its reflection in the even more drastic deployment of state power, precisely of the "defensible" constitutional state. Just imagine if an event of exiled Ukrainians were threatened in a similar way. The state and the local authorities would do everything they could to protect them. A ban? Unthinkable, not only because of the professional and political careers it would end. And wiser, foresighted people in charge in the state authorities would of course also raise the question and answer it (through measures) of what can be done preventively to stop disturbances before they happen. Not so with the city of Giessen. And this despite the fact that most of the people who could be considered violent troublemakers are either known to the authorities since the incidents on 20.08.2022 or could be known - due to the many inputs that the state authorities have experienced since then.

This prevention, this prudence and this form of cooperation with the organizer is simply not wanted in the case of Eritrea, where the conflict is reduced to alleged hotheads on both sides ("highly emotionalized", see above), and simply banned. And it is not squeamish to once again pin the indeterminate legal term of "unreliability", which is significant in administrative practice, on the organizers, even though they have proven year after year after year since 2011, a total of 10 times (!), that they are not only willing but also capable in every respect to organize and hold absolutely peaceful festivals in the Giessen exhibition halls without any serious disturbances or incidents! **No one has come to harm at any of these festivals, which have taken place annually except for the Corona years 2020 and 2021, most recently in 2022.** Since the festival always takes place in high summer, at most individual participants had to be treated as heat victims, all events were unsurpassed in peacefulness. Unreliable??

In the name of all the people who were looking forward to a peaceful, happy and culturally invigorating festival, we appeal to the city of Giessen, the magistrate and the public order office to reconsider their previous position, as expressed in the ban order, and to contribute with those responsible, the organizer and the festival management, to ensuring that the attack on the constitutionally guaranteed freedom of assembly is not ultimately successful. There is still time to avert a drastic undesirable development!

Frankfurt, 29th June 2023

Board of the German-Eritrean Society (DEG)