

Germany's High-Level Waste Dump Plan Scrapped

By Christine Manwiller

On September 17, 2021 Gorleben, the highly controversial nuclear waste dump site in Lower Saxony will close. The former salt mine was chosen by government officials in 1977 to be the final repository for high-level waste. This proposal was permanently discarded by the waste management organization Bundesgesellschaft für Endlagerung (BGE) with their 2021 report. In it, a total of 90 sites were identified as being geologically acceptable. The Gorleben salt dome was not included in this list.

Geological issues have always caused criticism of the proposed facility. Critics called the site unsuitable, according to *Deutsch Welle*, “arguing that the salt in the ground could weaken containment structures and cause radioactive leaks.” In addition, a lack of consultation with local residents or municipalities, and the steamroller approach taken by the government inflamed the controversy. Gorleben became the battleground for tens of thousands of farmers, anti-nuclear activists, scientists, medical workers, and students who organized dozens of protests. In 1979, over 100,000 attended a Berlin protest, making it one of the largest in the history of West Germany. The idea of building a waste reactor fuel reprocessing plant at the Gorleben site was abandoned in 1979 largely because of the intense public outcry. However, plans for the permanent waste repository continued, and shipments of “Castor” waste casks continued to arrive and to be stored above-ground awaiting placement underground.

On May 3, 1980 some 5,000 protesters converged on a test drilling site and built a large resistance camp they named the Free Republic of Wendland. After a month, police moved in and destroyed the encampment, but the movement was energized, and shipments of waste from 1995-2011 were regularly interrupted by demonstrations involving thousands of protesters. The site received a total of 13 shipments. According to one report, the first transport held five Castor casks of “reprocessing” waste fuel elements, and the remaining 12 shipments totaled 108 Castor casks, each holding 28 canisters. The

“vitrified” or glassified waste was shipped back to Gorleben after first being transferred to France for reprocessing. The last shipment of waste in 2011



Police officers blocked anti-nuclear activists from interfering with a shipment of high-level radioactive waste Nov. 11, 2001, as it approached Gorleben, Germany, which was until now the proposed site for deep underground abandonment of the waste. This photo by John LaForge, taken with standard 35-milimeter film, was fogged by exposure to gamma radiation emitted by the passing “Castor” casks. Decades of broad-based opposition ended in September when Germany announced the proposal’s cancellation.

incited strong public outrage, with protestors again physically blocking vehicles. Twenty-thousand police were required to hold back the protestors.

Cancellation of the Gorleben dump is a significant win for the local community and for organized anti-nuclear activism. Germany’s state secretary for the environment, Jochen Flasbarth said in September 2021, “I hope that the wounds in [the region of] Wendland can heal now that the decades-long dispute over Gorleben is over.... Gorleben stood [as] a major social conflict in Germany for over three decades.”

However, the fight is far from over as the search continues for a permanent reactor waste abandonment facility. Germany is faced with 1,900 Castor casks of the 1-million-year radioactive hazard, which hold about 27,000 cubic meters of waste. According to BGE chairman Stefan Studt, this inventory accounts for “only five percent of Germany’s radioactive waste [by volume], but 99 percent of its radioactivity.”

Novel Appeal Filed with the European Court of Human Rights in Nuclear Weapons Protest Case

By John LaForge

Two nuclear weapons opponents have filed a novel complaint with the European Court of Human Rights (ECHR) in Strasberg, France, alleging that German courts have unfairly refused to consider defense testimony from expert witnesses regarding the outlaw status of deploying US nuclear weapons in Germany.

On Nov. 11, 2021, Stefanie Augustin of Dortmund and Marion K pker of Hamburg submitted the appeal through their lawyer Anna Busl. The ECHR will now decide whether to review the case and issue a ruling, or to deny it further consideration.

On Sunday, July 15, 2018, Augustin and K pker were among eighteen people from four different countries who entered Germany’s B chel air base, near Cochem, where approximately 20 US nuclear bombs are kept at the ready by the US Air Force’s 702nd Munitions Support Squadron. Seven of the activists came from the United States, six from Germany, four from The Netherlands, and one from England. In five groups, they clipped fences to enter the base and once inside some climbed onto a hangar where nuclear weapons may have been stored, and others read aloud to soldiers a warning about military and civilian laws that prohibit planning and preparing attacks using nuclear weapons.

Augustin said: “I took part in this action because it is the only way for me as a citizen to be able to take these state violations of the law to court. This includes the practice of Germany’s criminal nuclear participa-

tion in NATO. Since we have exhausted all national court appeals with our 14th constitutional complaint — which in our case was again rejected by the Federal Constitutional Court — we have appealed to the European Court of Human Rights for the first time.”

K pker (a 2019 Aachen Peace Prize winner for the campaign “B chel is Everywhere: Nuclear Weapons-Free Now!”) added: “International law is superior to federal German law. The courts should have examined whether we actually had sufficient and urgent reasons to draw attention to this state of emergency with such an action. Our requests to provide expert witness testimony were simply rejected by the courts. However, the courts are ordinarily obliged to examine questions of international and constitutional law. So the appeal is based on our ‘right to be heard’ under Article 6, Para. 1 of the European Convention on Human Rights, and on our ‘right to life’ under the convention’s to Art. 2, Para. 1 having been violated in the local, regional and constitutional courts.”

The appellants argue further that the deployed US nuclear weapons violate the public’s “right to life” and thereby the European Convention, because the perpetual threat to use B chel’s 20 US H-bombs in attacks launched by Germany’s Tornado jet fighters is routinely practiced in exercises including October’s “Steadfast Noon” rehearsal. The US bombs hang “like the ‘sword of Damocles,’” K pker said, “because the credible threat of nuclear war is continuous, raises the chances of a global nuclear war, and makes Germany a target.”

Federal Prosecutor Calls Illegality of US Nuclear Bombs in Germany an “Insignificant fact”

On Oct. 12, 2021 Sigrid Eckert-Ho bach, J rgen “Hops” Ho bach, Frits ter Kuile, and Johanna Adickes were on trial in Koblenz, Germany charged with trespassing and damage to a fence during an 18-person go-in protest at the B chel air base in July 2018. The base is the staging ground for 20 US hydrogen bombs, called B61s, kept ready for German Tornado fighter jets to use in attacks against Russia.

The four nuclear weapons resisters had asked the regional court judge to allow expert witnesses to testify about the status of the nuclear weapons under international treaties, and about the risk of accidental nuclear attacks. The senior public prosecutor in the case objected in writing, claiming that even if the “policy” of stationing US H-bombs in Germany was a violation of international law, the request for experts should be rejected “due to the insignificance of the evidentiary fact.”

In a September 21 filing, the prosecutor wrote, “The fact that ... the nuclear weapons policy of the German government is contrary to international law can be assumed to be true.”

This written acknowledgement by a federal prosecutor of the validity of the resisters’ foremost complaint about Germany’s “nuclear sharing” came as a shocking surprise. But the letter went on to claim, without legal analysis, that a justification defense based on international law “cannot be derived from this.”

Expert testimony was excluded from the trial and the four defendants were found guilty.

This Dec. 9, Nukewatch staffer John LaForge will be in the same courtroom on similar charges and has also asked the court to hear expert testimony. Although unlikely to be allowed, Dr. Francis Boyle of the University of Illinois Law School has agreed to testify. He wrote to Nukewatch October 28 that, nuclear weapons resisters have no “criminal intent” — an element the government has to prove. “My testimony will show that planning and preparation of nuclear attacks is ongoing criminal activity under international law. You have no culpability here because you were acting to prevent the ongoing commission of international crimes,” Prof. Boyle wrote.

Over the past two years, about 50 prosecutions for nonviolent “go-ins” at B chel base have taken place in Cochem district court and in the Koblenz regional court. (Trial reports can be found here: www.buechel-atombombenfrei.de). And over the past 25 years, 14 appeals by nuclear weapons critics to Germany’s highest court, the Constitutional Court in Karlsruhe, have been rejected.

The July 15, 2018 action, and others in 2017 and 2019, were organized jointly by Nonviolent Action to Abolish Nuclear Weapons in Germany (www.gaaa.org) and the US organization Nukewatch. The Campaign Council of Germany’s nationwide support group “Abolish Nuclear Weapons - Start with Us!” — made up of over 70 organizations (www.atomwaffenfrei.de) — has declared its support this first-ever anti-nuclear movement appeal to the ECHR.

So, after decades of protests and resistance to the US nuclear weapons in Germany (there were as many as 7,000 during the Cold War), the appeal to the ECHR provides its judges a rare opportunity. Without having to condemn the United States’ hubris, hypocrisy, or destabilizing nuclear threat-mongering, the judges can simply reaffirm a defendant’s right to a fair trial court — a court that is unbiased enough that defendants are allowed to present expert witness testimony — and then urge the German courts to listen to it.