



Legal tips for

- **Demonstrations**
- **Cases of abuse**
- **Arrests**
- **Your behavior at the police station**

Edition 2007

What do you do in critical situations?

The first rule is: Don't panic!

This is the basic rule of every emergency plan, and therefore also our own. It should help to prevent your arrest or your preliminary proceedings from turning into a catastrophe.

Arrest during demonstrations or other activities, seizures of leaflets, newspapers etc., house searches, orders of punishment, and finally, trials – these are the measures anyone is confronted today who is politically active in the fight against exploitation and oppression, regardless of whether she or he is an anti-Fascist, an anti-nuclear activist, an anti-militarist, a communist, or an anarchist.

An accumulating series of new laws imposes ever more severe limits on even the few rights the capitalist state concedes in the realms freedom of expression and freedom to organize and demonstrate.

State repression doesn't diminish just because the left is growing weaker – on the contrary. Since state institutions (have to) expect only little organized counter action, they can resort to attempts to criminalize political activity which simply wouldn't go through in times of a strong mass movement. Their attempts at intimidation and their strategies to criminalize generally only work to the extent that we are incapable to overcome our isolation from each other and to organize in a spirit of solidarity.

An important precondition of the ability to actually practice the first basis rule in an "emergency" is trust. Not in god's omnipotence, fate, or the inseparable character of yin and yang, but trust in your comrades who will care for you when the shit hits the fan – and who will keep their mouth shut just as you do when questioned by police and prosecution!

Demo 101

There are of course enormous differences from one demo to the next. We often tell ourselves that nothing bad is going to happen at this particular demo, and often this turns out to be true. All the same, some basic rules should be followed even at a demo with "promenade" character, since they, too have been the target of police action in the past.



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On the way to the demo

If possible, never go alone to any demo or other activity. Not only is it nicer to hit the road with people you know and trust, it is also safer. The professional way is to go to and leave any activity together. You should also beforehand discuss within the group your behavior in certain situations. It should be possible for individual participants to express their fears and insecurities. During the demo or activity, the group should try to stick together.

You should wear appropriate clothing including shoes enabling you to walk comfortably – and run, in case of need. Take a pen and a piece of paper with you to be able to jot down important details (see below, Aide-mémoire).

Carry along a phone card and a few cents. If you're arrested, the police are obligated to concede you two phone calls even if you don't have any money – but don't count on it. Provision yourself with a sufficient amount of any medicine you have to take regularly. Glasses are better than contact lenses. Personal papers, especially address books, should be left at home. Reflect well about what you really need. Anything beyond that can be to the advantage of the police if you're arrested. No drugs of any kind should be consumed before or brought along to the activity: You need to be clear, and able to take decisions at any time. Nor do you need a camera. This is not the right opportunity for sentimental pictures, and the documentation of the activity and the behavior of the police should better be left to experienced and identifiable journalists or demo observers. In case you're arrested, the photos would anyway only help our opponents!

Cell phones should also better be left at home. If you still feel you have to have it with you at the activity, remember the dangers and try to limit them as much as possible: The basic rules would be not to store any numbers (do that at home or at a secure location and delete them from the mobile), to delete any SMS and to take out loading device and card, whenever you're not on the phone (the only safe protection from being localized and overheard). But you should also be well aware that the present technical opportunities (e.g., in recovering deleted numbers) are dangerous and hard to assess.

The fact-finding committee (in German, "Ermittlungsausschuss," or EA)

At activities, there is often an EA whose phone number is spread by mouth or handbill. The EA mainly sees after arrestees and gets attorneys for them. Whoever gets arrested should therefore contact the EA. If you are witness of an arrest, try to assure the name of the person arrested. Inform the EA of that arrest to enable it to help the arrestee. Persons released after an arrest should get back to the EA immediately and write or tape an aide-mémoire.

Such an aide-mémoire can be very useful if proceedings are instituted a couple of months later. (The police also keep records on everything!) Witnesses of abuses should also prepare an aide-mémoire. Such a document should contain at least: Locus, time and mode (arrest, beating, dragging away) of the abuse, name(s) of the victim(s), witnesses, as well as number, service unit and appearance of the abusers ("beard on upper lip" is not sufficient!). This aide-mémoire is only for the EA, if there is one; if not, store in a secure place for the time being.



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Reacting to abuses

The ground rule again: Don't panic. Breathe deeply, stay in place and ask others to do likewise. Now it is high time to form chains and, as a last resort, to slowly and orderly retreat. Often, abuses by "our friends and helpers" can be fought back only by orderly chain formation and staying in place. This also prevents the splitting up of the demo, arrests, and the leaving behind of persons who were wounded.

Injuries

Look for injured persons and help to secure their transport against arrest teams of the police. Contact, if present, demo ambulances, or else organize the transport of and medical care for injured persons yourself, together with friends. If you have to go to a hospital, if possible pick one that won't be connected to the activity. There, too, it is important not to give any information about the preceding events – hospitals have all too often collaborated with the police and passed on relevant data. Your personal data, you must submit correctly anyway because the health insurance will demand it – but beyond that, say nothing or pretend it was an "accident at home" or whatever.

In case of arrest

Make people aware of you (e.g. by shouting "shit" at the top of your lung!), shout your name and the place from where you come to enable people to inform the EA about your arrest.

Once you realize you can't escape, try to retrieve your calm as soon as possible, and most importantly, don't say anything to the police from that moment on! After release, contact the EA immediately. Once you're back home, write down the circumstances of your arrest as precisely as possible, as well as anything else you remember in that connection, especially possible witnesses of the incident. Contact the EA, a trial defense group if there is one, a "Bunte Hilfe," or the "Rote Hilfe."

Being transported

While being transported to the collection points for prisoners or police stations, talk to other arrestees about your rights, but never about what others and you did. It wouldn't be the first time a snitch was in your midst, even though you have a good feeling towards all persons present. Take care of others and take on responsibility if they cope with the situation even worse than you. It will soothe you, too. Talk about the fact that by now you should keep your mouth absolutely shut. Exchange names and addresses with your fellow prisoners to enable those released first to inform the EA.

At the police station

Vis à vis the police, you only have to give information about your person. This information is restricted to:



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- Name, first name, and if applicable, name of birth
- Registered address
- General profession (e.g., "student," "salaried employee")
- Date and location of birth
- Marital status (e.g., "unmarried")
- Nationality

(You can of course also refuse to give even this amount of information, but by this, you only offer them a cheap pretext to photograph you, to take your fingerprints, and to hold you for up to 12 hours – which, however, they can do anyway if they want to. Apart from that, not giving that kind of information is just a summary offense with a fine of a couple of hundreds of Euros). That should be the absolute maximum you say, and nothing beyond that! Nothing on parents, school, employer, the weather: just nothing!

After arrest, you are entitled to two phone calls. You should use these to call up the EA and/or an attorney. Harass the police till they let you make a call, and threaten them with reporting them to the courts. In case of injuries, ask for a doctor, and ask the doctor for a certificate of his findings. After your release, go to another doctor you have confidence in and get a second certificate. If possessions were damaged, demand written confirmation. If subjected to criminal identification (photos, fingerprints, etc.), register protest and have it taken down. But don't sign anything yourself!

During interrogation

Don't be fooled. Be neither intimidated by the brutal types nor let yourself be talked into talking by the understanding "uncle"-variety. Don't think you can outfox the cops. Being caught in the police station is the worst precondition for coming up with a smart response. Whatever – and absolutely whatever – you might want to say, you can say later on after you've communicated with comrades and lawyers, even when the cops tell you it's better for you to make a statement right away: that's a lie! No "harmless" chat "outside" of the interrogation, e.g., while waiting somewhere in the station, no "political discussions" with the guards: Whatever you say after your arrest counts as a statement!

Even when you think you're being accused of things you know nothing about or would anyway never do – keep your mouth shut. What exonerates you may incriminate someone else; if of two suspects, one has an alibi, the other one takes the fall. Even information about what you *didn't* do will help the State Security (in German: "Staatsschutz") to develop a general picture they will turn against you and others.

But to say nothing whatsoever at all and to tell the interrogators right from the start that you won't give any statement is not just recommended by solidarity with others and rational considerations with regard to one's own possible future criminal proceedings, but it's also simply the most simple and, in relative terms, the most "comfortable" and "painless" solution for you in this situation. After the questions about information concerning your person, there are often seemingly harmless questions such as "For how long have you lived in..."; "Have you come here by car?"; "Which semester are you in?" etc. As soon as they realize that you, however reluctantly, respond to these, they will sense their opportunity and will carry on mercilessly once you refuse to answer further questions: "What's wrong with telling me whether you live in one flat with XY?"; "Why do you refuse to give me this particular bit of info?"; "We'll



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find out easily who is the owner of the car, it only costs us all time if you don't tell right away" " etc. etc. They won't leave you alone once you resolve to talk at all.

The situation becomes completely different as soon as you unmistakably tell them, and unequivocally and monotonously enough for even the most aggressive ones of them to comprehend, that you won't give any statement: To any question, just respond like a broken record: "I refuse to give any statement!" "Is it raining outside?" – "I refuse to give any statement!"; "Do you want a cigarette/a coffee?" – "I refuse to give any statement!"; "Do you want to talk with someone else?" – "I refuse to give any statement!"

Don't worry anyone might think you're fool, even though your interlocutor will act as though you were. But on the contrary, s/he will comprehend very quickly that you're serious, can't be trapped, and know exactly what you have to do. After a while, they will give up. For you, that will mean that the interrogation will end for the time being – and in the best case, that you will get out.

The taking of body fluids for DNA analysis

The code of criminal procedure allows for the extraction of somatic material: blood for alcohol- and drug tests or saliva for DNA analysis. Never assent to this voluntarily! Your objection will necessitate a judicial order, which you should appeal under any circumstance. In such cases, immediately contact the Rote Hilfe or another legal assistance group as well as your attorney.

The taking of blood samples must be done by a physician. Saliva can also be taken by the police themselves by means of a cotton swab. You are not obliged to active cooperation in the taking of the samples. It can, however, be enforced. If you resist, you face, as always in dealing with the police, a complaint for resisting law enforcement.

There is a crucial difference between the taking of DNA material and its analysis in the laboratory. The latter is permissible only on a written judicial order unless you agree voluntarily, which of course you don't.

The taking and analysis of DNA material can also be done for *future* investigations. This "genetic finger print" is then stored in the central gene database. You must therefore be aware of the fact that any taking of saliva or blood can haunt you for the rest of your life!

The retroactive taking of DNA

The taking and analysis of DNA material is also possible after you are already convicted in order to store the "genetic finger print" gained thereby. This is justified by the danger of repeat offenses. If you are delivered a request to appear for the taking of saliva or blood, immediately contact a legal aid group or an attorney!

In all these cases: don't testify and don't sign anything! In particular, don't sign any consent to the voluntary taking of saliva or blood! Register explicit and official appeal against the taking of DNA material and any order to analyze it and have it registered in the protocol, but don't sign anything! Make a big fuss, demand a judicial order, and demand an attorney!

They have to release you –



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- if you were arrested to determine your identity:
immediately, after you've given your personal data and if you have valid papers with you; however, they can hold you for up to 12 hours in order to "check" the data you give them.
- if you were arrested as a suspect:
at the latest at the end of day following the day of the arrest, i.e., maximally 48 hours – unless you are brought before a judge and the judge orders either 1) imprisonment on remand (possible only for severe crimes and if there is a "danger of flight and collusion," and then for up to 6 months but possibly also longer), or 2) so-called "summary proceedings" (for more on this, see below).

Preventive detention / protective custody

Since the 1990s several federal states have reintroduced what was called preventive or protective custody under the Nazis and is now called preventive detention. If the police thinks "the facts justify the assumption" that you might commit a criminal act or even a misdemeanor, they can simply put you in prison for a while – between 4 days and 2 weeks, depending on the state – until the putative danger has ended, e.g., the end of the demonstration in question. You don't have to have "done" anything; it is enough that the police believe you might do something. There has to be "instantaneous" judicial review – after 48 hours at the latest. If it hasn't happened up to then, they have to release you immediately. This judicial hearing is no more than a farce. Even in a regular trial, it is difficult enough to defend oneself by means of evidence and witnesses, but in this situation, it is impossible. No evidence – only your word against the claims of the police. Whom the judges will find credible is not hard to figure. Furthermore, every statement you make under that pressure can be used against you in a later criminal trial! So here, too, remember: Bite your teeth and refuse to testify. No later than after the manifestation they have to release you, and then will be the time to strategize with your comrades, the legal aid groups, and your attorneys about what to do against the detention you were subjected to.

Summary proceedings

In 1994 resp. 1997, so-called "accelerated proceedings" and "main trial detention" – were introduced, with the express purpose to subject "itinerant violent criminals," i.e., demonstrators, to "shortened proceedings" for "minor delinquencies." You are arrested and detained right away (for maximally one week). A couple of days later, you have stand trial, with very limited rights and without proper opportunities to prepare a defense.

All of this should be sufficient to make clear: We never actively participate in summary proceedings! No statements, no cooperation. You have to endure it, just as you don't have any defense against a sudden downpour! Since apart from a few extreme exceptions, you can be convicted only to suspended sentences or fines in these proceedings, you'll be released immediately after this farce of a trial, and from then on, you can catch your breath, think and talk things through, and not least, calmly prepare for the main trial. In the meantime, you have to register your legal appeal within one week.

When in detention preceding the main trial ("Hauptverhandlungshaft"), try to reach your attorney, for one thing, to enable him to try to prevent the summary proceedings and to



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achieve your release. Moreover, it makes sense to have an attorney at your side during summary proceedings, even though a meaningful defense isn't possible in such a trial at all. But under no circumstances should you file any trial motions without your lawyer, even if the court tells you you're allowed to do this! Most of all, don't name any "exculpatory witnesses" and such: it won't help you but will endanger them: it wouldn't be the first time that witnesses named by defendants without lawyers first are accused of the same thing, and second, of "perjury" in the trial in which they appeared as a witness! Thus: don't file any motions or name any witnesses!

House searches

A not unusual phenomenon in connection with more important actions, after arrests, or in connection with aggressive crackdowns by the state are house searches. The theoretically necessary judicial search order is often jettisoned because of alleged "impending danger." House searches are among the most sordid abuses committed by the state: apart from the ostensive goal to find whatever "evidence" that might incriminate you, entering into your private space is always also an attempt to humiliate and demoralize you, and to demonstrate their "omnipotence." The best means to resist this is to keep your cool! If they come early in the morning, first try to really wake up, and then make yourself a coffee, go to the bathroom etc.

As soon as they have entered your home, you can't prevent the search anymore. But you can do a lot to prevent it from turning into a catastrophe:

The most important thing again: No statements and not a word from you, e.g., with regard to the "reason" justifying the search. And anyway: You should never store more than one copy of "explosive" leaflets in your home (you could be accused of "disseminating" them); before demonstrations or other bigger events such as revolutions, you ought to put your home in order (and remove the miscellaneous "piece" as well as the receipt from your last insurance fraud!). If they still find "incriminatory evidence": Don't say anything, not even "I have nothing to do with it"; just say nothing!

Try to bring in witnesses, call friends and undrop the receiver in such a way that the Person(s) you called can hear what's going on. If possible, inform your attorney. Insist on being shown the search order; demand a copy; if they claim "impending danger," demand at least the exact reason for the search as well as a specification of what is being searched for. Put the answers down into writing. Write down the names and badge numbers of the officers. Demand that your protest is registered (without explanatory statement!).

You are entitled to be present in every singly room being searched. Therefore you should demand that one room should be searched after the other. For whatever is seized, demand a list of the relevant items, but don't sign anything! If nothing was seized, demand a receipt to that effect.

After the officers have left, write or tape a detailed aide-mémoire, and inform EA, relevant political action group, Bunte Hilfe or Rote Hilfe, as well as the attorney(s). And then invite your best friend or friends, since after this terror, you're bound to be totally distressed – and you're entitled to gab, to cry, and/or to be pampered!

Subpoenas



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Weeks or months after you participated in some action or demonstration, you might get mail from the cops or from the prosecution, and sometimes, they will also call you. Regardless of whether you are supposed to be a witness or a defendant in their game, you should contact the EA and the Rote Hilfe immediately, and get an attorney as well. In most cases, this is the point to make public what's happening, as well as to organize political protest and call for solidarity.

Most importantly, such a subpoena is not a reason to panic or to suddenly trust some attorney more than one's own political conviction and therefore to speculate on whatever "deal" with the prosecution! As always, keep your cool and organize resistance! Up to now, the oppressive apparatus has always been rather inclined to refrain from its measures when met with strong public pressure than when those who were persecuted caved in to the pressure!

Refusal to give evidence as an accused or defendant

As an accused (the term for preliminary proceedings) or defendant (in the criminal trial), you are entitled to refuse any statement in any phase of the trial. This is what you should do in any case at the beginning of the persecution: never any comment after your arrest, the search, or your interrogation! If the police summon you, you don't need to go there; if the prosecution or investigating judge do, you must, as well as you have to appear at your trial, if one is ordered, but you need not say anything. Whether you want to give a "political" or "factual" statement at your trial, you can ponder without haste later on, together with your comrades, the Rote Hilfe, and your attorneys.

Refusal to give evidence as a witness

As a witness, also: not one word to police or prosecution! And here, too: you need not follow summons to the police, but subpoenas to appear before the prosecution or a judge, you must follow, since otherwise they can arrest and drag you there. In the first phase of the proceedings, immediately after the events, after your arrest, after the search, your interrogation, and before you've had the opportunity to talk to fellow accused, the relevant political group, the Rote Hilfe, attorneys etc., any testimony of whatever sort can only be wrong and detrimental for you and others. Just shut up, regardless of any threats and promises they may make. In that phase, there simply are NO "exculpatory statements," and not even "harmless statements"! Not to say even one word is the simplest and quickest way to extricate yourself from the whole machinery (see the section "During Interrogation").

If later on you are summoned as a witness by the prosecution or for the trial, you should thoroughly discuss with all the others involved, in particular the defendants, what sort of testimony by you might hurt or be useful. Since the State Security always aim for more than for the conviction and sentencing of individuals, e.g., finding out about resistance networks, the destruction of solidarity by singling out "guilty" individuals, splitting us by demanding gestures of subjugation etc. – and that is why even in the court room, the only correct behavior of any witnesses is to consistently and completely reject to testify.

As a witness, you are obliged to testify. There are exceptions, e.g., if you are a relative,



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spouse, or fiancé of the accused. Your obligation to testify can be enforced by fines or even coercive detention.

"§ 55"

You have the right not to respond to certain questions if by your answer you could incriminate yourself. This is the so-called right to refuse to give evidence (in German: "Aussageverweigerungsrecht") according to § 55 of the Code of Criminal Procedure). Some people recommend this as a means not to say anything and to still avoid coercive detention. But since you have to give reasons as to why your response to the question would incriminate you, most of the time you end up saying just as much as if you had answered the question directly. And you may even end up giving the opposite side even more information. Moreover, there are always questions where you can't possibly incriminate yourself and which you will then have to respond to. Without even noticing it, you are talking to them, and experience shows that it becomes very quickly impossible to draw the line in such situations. In addition, you offer the political judiciary the gesture of submission demanded by them. You might also contribute to a split within the group of witnesses and accused since a joint legal strategy will then no longer be possible in most cases. We therefore emphatically warn against trying to get off the hook by employing the method "refusal to give evidence because of possible self-incrimination"!

Coercive detention

Persons who refuse to testify without being entitled to such refusal can be subjected to the instrument of coercive detention. This primarily serves to enforce testimony, but it is also used as a purely repressive means against recalcitrants, even though the investigators are well aware that they won't get any statements from them even after coercive detention. Coercive detention can be ordered for an aggregate duration of 6 months, that is, possibly also several time for a shorter duration, provided the aggregate duration doesn't exceed 6 months. Sometimes coercive detention is already threatened by the prosecutor, but here, too, keep your calm! Only a judge can order coercive detention, not the prosecutor! Before any possible coercive detention, you can thus generally prepare for it, plan a campaign, take care of the rent, minimize the consequences for the job, at school etc. If you are threatened by coercive detention, contact the Rote Hilfe immediately. We don't let anyone down who is held in coercive detention!

Penalty order

Instead of being subjected to a trial, as an accused you can also be delivered a penalty order (a so-called "Strafbefehl"). That means that you are convicted without trial. You should then by all means submit an informal objection within 2 weeks ("I hereby object to the penalty order with the reference number...") in order to win time and get access to information. You need not and should not give reasons for your objection. You should immediately contact the EA, the Bunte or the Rote Hilfe, and possibly also the trial group or other persons accused in the same matter. You can then jointly discuss whether you should get the help of a lawyer. The objection can be withdrawn at any time during the proceedings,



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even during an actual trial. If you don't withdraw the objection, you will be given a normal trial at first instance, and the penalty order is then identical with the bill of indictment. The important thing is to keep to the two-week period, since otherwise the penalty order becomes legally valid! If you shouldn't be able to do this because you are absent from home, e.g., on holidays, you must contact the court immediately after your return and explain the situation (the so-called "reinstatement into one's previous status").

The Office for the Protection of the Constitution ("Verfassungsschutz")

Even though – and often, because – you are subjected to criminal proceedings, the "friendly people" of the Office for the Protection ("Verfassungsschutz," abbreviated VS) may try to enlist you as a snitch. They claim to be able to arrange for a dropping of the charges or a mild penalty, but there is no legal basis for this, and actually they can't guarantee anything.

The VS has no legal right to force you to talk to them. Therefore, don't talk to them! Don't give any information! Send them away, leave them out in the rain, throw them out of your home, point to them in the presence of other people!

You should immediately write an aide mémoire and a personal description! Contact the closest legal aid group and publicize the recruitment attempt. Experience shows this is the only way to get rid of them!

Possible consequences of political criminal prosecution in terms of the Law on Aliens

Already during the preliminary proceedings (i.e., before conviction), the aliens department can try to have you deported. Precondition is that you are charged with a "severe" crime, e.g., severe riot. But in most cases, an attorney is able to successfully prevent that.

For persons without a German passport, help by support groups and attorneys is even more important than in general! The danger to be deported is worst after a conviction.

Refugees whose application for asylum has been granted or who are tolerated because they are threatened by torture or the death penalty in their original country enjoy the – relatively – best protection against deportation. They are protected by the European Human Rights Convention and the Geneva Refugee Convention, both of which ban a deportation in such cases. But the political cooperation between states, e.g., the FRG and Turkey, has already led to the practical and legal softening of that principle.

Most endangered by deportation are persons whose stay in the FRG is illegal, e.g., refugees whose asylum proceedings are completed and aren't even tolerated. In such cases, a (second) application for asylum should be filed by an attorney immediately after police arrested the person. This can at least delay the threatening deportation and win time to determine further steps.

On the one hand, your political activity can lead to criminal conviction, on the other hand, this can generate new reasons for asylum. Thus, a successive application for asylum ("Asylfolgeantrag") can be justified by the fact that you are criminally accused as an activist against the state of your origin.

How do I apply for financial support?



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We try our very best to see to it that the financial burden resulting from state persecution is shared by as many people as possible (see our self-presentation on the next page). Since 2005, the processing of the support cases is done directly by our local groups. Address your application and documents to them. The addresses can be found on our homepage www.rote-hilfe.de and on the back flap of our magazine. If there is no local group in your area, please send your documents directly to:

Rote Hilfe e.V.
Bundesvorstand
Postfach 3255
37022 Göttingen

For an application, we need the following information from you:

- Name, address, if possible phone number, and ALWAYS account number, bank, bank code number
- Political categorization of the incident: reason/pretext of the arrest, preliminary proceedings, trial etc..
- Course and present state of the proceedings

You can always find an updated (German) version of "Appropriate Behavior in Critical Situations" under: www.rote-hilfe.de (title: „Was tun wenn's brennt“).

Contact to the Rote Hilfe: Bundesgeschäftsstelle, Postfach 3255, 37022 Göttingen
Phone: 0551-7708008, Fax: 0551/7708009, E-Mail: bundesvorstand@rote-hilfe.de.

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