

Legal briefing in the context of Bure

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Introduction on the context of Bure

The main strategy that the State developed in Meuse and in Haute-Marne against the opponents of the Cigéo project is a repressive one, as it is in many other places. Especially around Bure, the means that the State uses to counter the opposition are impressive :

- many patrols every day and sometimes every hour in the villages and between the villages
- ID checks and roadside checks sometimes many times in a day
- cops stationing in front or near the living places of the opponents

- photos and videos taken by the cops during patrols and ID checks
- judiciary harassment, the opponents are taken to court even when the penal files are empty
- inquiry for « association de malfaiteurs » (association of wrongdoers) that allows wiretapping, tailings, repeated house searches, extension of the custody up to 72 hours, special cops that work exclusively on the surveillance of the opponents, etc

The police forces mobilized around Bure maintain files (most probably not legal) where they keep track of opponents that live in or come to the area. These files are used during ID checks to help the cops differentiate the people they already know from the people they want to control.

This text is neither exhaustive nor perfect. If you have any doubt or questions, you can contact the legal team when you arrive.

A. ID check (« contrôle d'identité »)

1. Where can an ID check happen

If you come to Bure, even for a short period, you may get ID checked, especially if you come during public events. An ID check or a roadside check can happen whenever you are not on a private property. So, simply jumping in a private garden or a house (where you are welcome if possible) can be enough to avoid an ID check. Controls of pedestrians, bike riders and other vehicles follow different rules (see sections A.2. and A.3.).

2. For pedestrians and bike riders

For pedestrians and bike riders, an ID check can in theory only happen in the public space and when the cops are searching for the perpetrator of an infraction or to prevent a « breach of the peace ». Around Bure, this allows the cops to check almost everyone, but it can still be useful to demand to see the « réquisition » (see section A.4.) to try to avoid an ID check (it doesn't always work).

3. The roadside check

The usual roadside check consists only in asking the car registration document and the driving licence of the driver and to check that the vehicle is in good condition. If the cops want to check the identities of the passengers or search the vehicle, they need to have a « réquisition » and show it to you. In theory, the roadside check cannot last for more than 30 minutes (sometimes around Bure they don't respect that), so if they want to check the identities of the passengers they need to show you a « réquisition » during this time.

4. The « réquisition »

Often the cops want to search your car (or ask you to empty your pockets). Those checks can only take place when they have a « réquisition ». A « réquisition » is an official piece of paper that gives special rights to the cops on a given time and territory. Sometimes the cops bluff and say they have one even if they don't.

Before you let them search you or your car, demand to see the « réquisition », and read it carefully to check the rights that it gives to the cops and where and when it applies. The « réquisition » is written in french and the cops usually refuse to translate it.

These times around Bure, cops usually have two or three « réquisitions » each day, everyday, with breaks of around an hour or half hour between them. This often makes it hard to avoid being controlled during a time covered by a « réquisition ».

5. What can they ask you during an ID check

The only informations that you have to give to the cops during an ID check are your name and surname, and your date and place of birth. No other informations are mandatory (including your job or your address). It is quite common that the cops ask for your direction, but, although it will probably upset them, you don't have to answer. There is also no law saying that you should have your ID card with you (despite what some bluffing cops may say).

B. ID verification (« vérification d'identité »)

1. When can an ID verification happen

During an ID check, when you give them your identity verbally, the cops often ask you to prove it. This could be done different ways (for example by letting them call another person that could confirm your identity on the phone) but the cops usually prefer that you present an ID card. If you can't or won't do it or if the cops decide that the card is not valid, they can decide to take you to the police station for an ID verification. The cop that gives the order to bring you to verification must have the grade « officier de police judiciaire » also called « OPJ ». He can give the order by phone.

Sometimes, the cops use the threat of an ID verification as a bluff, when they actually can't take you to the police station. Sometimes they can't take you because they didn't receive the order to do it, or because they are not enough and they have other things to do. It is complicated around Bure to bring to the police station a large group of people (starting around 10 people) to the police station.

2. How is an ID verification going

The ID verification can last for 4 hours, starting from the moment the ID check began. During this time, the cops will try to find out your identity. They will often ask you to prove the identity you declared (if you declared one).

The only things you have to declare are a name, a surname, a birth date and a birth place. For all other things, you can just say « I have nothing to declare » (« Je n'ai rien à déclarer »).

A report (called in french « Procès verbal » or « PV ») is written at the end of the verification. It really isn't necessary to sign it, neither all other documents they give you. There won't be any proceedings for that. It can be interesting to ask for a copy of this report (even if you don't sign it) because any mistake made on this report could cancel any further proceedings following the ID verification, if any. The ID verification doesn't lead to auditions (interviews with the cops on the facts).

If they consider that you are a foreigner (because you don't speak french for example), they can hold you longer to find out your identity, up to 16 hours. For now, around Bure, they never used this possibility, even when checking the identities of non-french speaking persons. Also, they usually don't call interprets during ID verifications, and french cops don't always speak english very well.

3. Means used by the cops to find out your identity

During the ID verification, the cops may ask you to give them the phone number of someone who can bring your ID card to the police station, search your name on social medias, or any other way they can think of to check your identity. They have access to the file of the french driving licences, the files of wanted people, and the files of people who already went to court in France. They have no access to the file that would allow them to find out if your identity is a real french identity or not, called in french « fichier d'état civil » (however, the magistrates have access to the file of the people born in France).

In the militant context, some people can choose to declare a false identity or not give any at all during the ID checks, because :

- they are wanted by the cops
- they refuse to give informations about them to the State
- they show solidarity with the people that are wanted by the cops
- they don't want to be part of the judiciary system in any way

To declare an imaginary identity can be punished by a fine up to 7.500 euros, but not a prison sentence. So the cops can't take you into custody for this fact only. In the other hand, identity usurpation, which is to declare the name, surname, place and date of birth of another existing person, can be punished by a fine up to 75.000 euros and a prison sentence up to 5 years.

If the cops don't manage to find out your identity, and with the agreement of the prosecutor, they can ask for your fingerprints and pictures. To refuse this during the ID verification can be punished by a fine up to 3.750 euros and a prison sentence up to 3 months. This means that the cops can take you into custody if you refuse to give your fingerprints and pictures. Note that, contrary to some other countries, in France the cops don't take your

fingerprints and pictures by force during an ID verification or a custody (however they do it in prisons).

C. Custody (« garde à vue »)

1. How do you get into custody

When you are suspected of committing an infraction punished by a prison sentence, the cops can call the prosecutor (or the judge), who will decide whether or not you will be taken into custody. An « OPJ » will then tell you on which grounds you have been placed into custody. They are supposed to tell you this « in a language you can understand », so possibly with an interpret or by giving you a translated version on paper.

You are then placed under the responsibility of an « OPJ » (it can be the same than before, but doesn't have to), who will be in charge of your custody. This means that they will notify you of your rights and decide on your schedule : auditions, resting times, meals...

You can be searched in the beginning of the custody, and the cops will often take some of your belongings (bags, stuff you have in your pockets) and give them back after the custody. If « the investigation requires it » you may be asked to remove your clothes as part of the search, which can only happen in a closed room and with cops « of the same sex as you ».

2. Length of the custody

Custodies usually last up to 24 hours, starting from the moment the cops detained you : if you first had an ID check, it starts at the beginning of the ID check. The prosecutor (or judge) can decide to free you at any time of the custody. This happens more often because of material constraints (no interpret, no cell, no staff...) or the media context rather than your good or bad behavior. The prosecutor can decide to renew your custody for up to 24 more hours if you are suspected of committing an infraction punished by a prison sentence of at least a year (which is the case for most infractions). In an inquiry under a judge responsibility, the judge can extend your custody up to 72 hours in total (up to 144 hours in inquiries for terrorism).

3. Your rights during the custody

At the beginning of your custody, your « OPJ » will notify you your rights. They are supposed to notify your rights « in a language you can understand », so possibly with an interpret or by giving you a translated version on paper. You have the right to :

- Keep silent
- See a lawyer
- See a doctor
- Be assisted by an interpret
- Tell one of your relatives where you are (they will be called by the cops)

- Contact the structure where you work, your boss for example (they will be called by the cops)
- Have a 30 min contact with a person of your choice. You will most probably have to declare the name and surname of the person. This will be under the control of the « OPJ », they can be here during those 30 minutes. This will often take the form of a phone call, although it could in theory be in person.
- Eat (the food they give you usually isn't vegan)

4. Using your rights

You have the right to see a lawyer. You will be allowed to see them for 30 minutes in a private room, with no cop nor microphone in the room. This 30 minutes interview is renewable each time your custody is extended. Your lawyer can bring you legal advice and is also your best gateway to the outside world. You will be able to tell them who to contact to get the paper you may need.

You can always ask for the lawyer appointed by the court (« avocat commis d'office ») but in Meuse, they usually don't come and they can be bad advisers. This is why it is really important to know the name of a lawyer friend, that the legal team will give you. In the case where they cannot come, they will try to find another lawyer friend to take their place. However, the lawyer friends have a lot of work and don't often come to Meuse « just » for a custody. In that case, we advise you NOT to ask for the lawyer appointed by the court but to demand to use your right to a 30 minutes phone call to call your lawyer. Your « OPJ » will be with you during the phone call but it's better than nothing.

Asking to see the doctor can reduce the risk of being injured by cops and sometimes allows you to get out of the police station for a while and/or at least to see someone that isn't a cop. All the doctors aren't our friends but they are not all our enemies (any doctor can be asked to go to a custody). A large part of this interview with the doctor is ruled by professional confidentiality. The cops should let you alone with the doctor, if the doctor doesn't oppose it.

About the food, sometimes around here the cops allow us to bring vegan food to people in custody, but they don't have to allow it.

5. Auditions

The custody is the time for investigation. The cops will try to charge you and gather evidence against you. In the context of the struggle in Bure, we can imagine that those custodies also serve the purpose of gathering informations about the struggle.

You will be auditioned as many times as your « OPJ » wishes and everything you will say (and sometimes do) during those auditions will be written in reports (called in french « Procès Verbaux » or « PV »). Even when you haven't done anything « wrong », it's always better not

to participate to the investigation work and remain silent (after giving an identity if you decided to give one).

The french justice is very much based on writings, and the auditions are used to record written evidence on paper. For example, wearing clothes with paint when you got arrested is not the same as answering « yes » to the question « were you wearing clothes with paint when you got arrested ? ». For all the questions, even the most trivial ones the good answer is « I don't have anything to declare » (« Je n'ai rien à déclarer ») or « I use my right to remain silent » (« J'utilise mon droit de garder le silence »). Be careful, what you say or do outside of the auditions may also be recorded in the files.

6. Fingerprints, pictures, and DNA sample

Every person in custody is asked to give their fingerprints and pictures. Depending on the charges against you, the cops can also ask you to give a DNA sample (by taking some of your saliva with a small stick in your mouth). You can refuse all or part of those demands. Refusing one of these demands constitutes an infraction punished by a fine up to 15.000 euros and a prison sentence up to one year. Note that, contrary to some other countries, in France the cops don't take your fingerprints, pictures, or DNA samples by force during a custody (they do it in prisons). However, especially for DNA samples, they can try to trick you to get them, for example by retrieving a sample on a spoon you used, a glass, a cigarette, a sock, etc.

7. Charges can change

The grounds on which you were taken into custody (which are notified to you at the beginning of your custody) rarely match with the charges against you when you get out. Indeed, those charges can change in both ways during your custody. It is quit common that when taken into custody you are charged with everything possible, and then the charges are dropped during the custody because the cops cannot find any evidence that you did this or that.

You can also get more charges if you committed new infractions during your custody : refusing to give your fingerprints, pictures or DNA samples, insults, violence, threats...

At any time you can ask your OPJ what are the charges against you and what is the maximal sentence for each infraction or crime you are charge with.

8. You don't have to sign any paper

Signing a paper means that you fully agree with everything written on it. If you decide to sign any paper, stick your signature as much as possible to the « signature » mention and cross every blank space so it is not possible for the cops to add anything after you signed.

In any case, you don't have to sign any paper, and there won't be any proceedings for that.

D. After the custody

1. Possible endings

Outside of the framework of an inquiry directed by a judge, at the end of a custody, you may (note that this list is not exhaustive but shows the most common cases) :

- Be released with no summons. If you don't receive a summons afterwards (in a 3 years period), it means your case is withdrawn. Of course, if you didn't give an address during the custody, cops will have a hard time to send you a summons anyway.
- Be released with a reminder of the law (« rappel à la loi »). It means that you will not be prosecuted for the facts but there will be a mention in your B1 criminal record, that magistrates can see (but not on the B2 and B3, asked by administrations and employers).
- Be released with a summons for a future trial. In french this is called a « Convocation par Officier de Police Judiciaire » or « COPJ ».
- Be released with a summons for a negotiation with the prosecutor to be punished by a sentence in theory lower than the sentence that would have been given by a judge. This can be the case if you « recognize you are guilty ». In french this is called a « Comparution sur Reconnaissance Préalable de Culpabilité » or « CRPC ».
- Immediately be presented to the prosecutor and then be released with a summons for a future trial and a judicial supervision in the meantime. In french this is called a « Convocation Par Procès Verbal avec Contrôle Judiciaire » or « CPPVCJ ».
- Immediately be presented to a judge for an immediate trial. In french this is called a « Comparution Immédiate » or « CI ».

In the case of an inquiry directed by a judge, you can be released without charges (for the moment) or be sent to the judge directing the inquiry which will decide your status : witness (« témoin assisté ») or indicted (« mis en examen »). If you are indicted, the judge may decide to put you under a judicial supervision until the trial, or in preventive detention. In the case of preventive detention you will be presented to a special judge, the « JLD » (« Juge des Libertés et de la Détention ») that will validate or not your imprisonment.

2. Judicial supervision

In some procedures (CPPVCJ, CI, inquiry) you can be put under judicial supervision until a future trial. This aims to prevent you from repeating an offense and ensure your presence at the trial. It is made of one or more obligations (such as checking off regularly in a police station) and/or one or more interdictions (being in a place or a region, leaving the country, being in contact with other persons, etc).

3. « CPPVCJ » (having a summons for a future trial with judicial supervision in the meantime)

This possibility has often been used recently by the prosecutor in trials against opponents. At the end of your custody, you will be presented to the prosecutor (with your lawyer if you want to) to negotiate the terms of your judicial supervision. Those negotiations will then continue with a special judge, the « JLD » (« Juge des Libertés et de la Détention »). Then you will be released with a judicial supervision and a summons for a future trial.

4. « CI » (immediate trial)

Depending on the charges held against you and if the prosecutor wants it, you can be sent to court immediately at the end of the custody. The judge will ask you if you agree to be judged on the very day. You can refuse to be judged right now, in order to have the time to prepare your defense. If you do so your trial will take place between 2 and 6 weeks after, and you will be presented to a « JLD ». This judge will decide if you are released with or without a judicial supervision, or if you are sent to preventive detention. As in the case of the CPPVCJ, these measures are supposed to prevent you to repeat the offense and/or ensure you will be at your trial.

In most cases, it is better not to accept being judged in an immediate trial because sentences are often more severe in immediate trials.

Note that you can only be sent to an immediate trial if the charges against you are punished by a prison sentence of at least six months in the case of flagrancy, or at least two years outside this case. You are in the case of flagrancy if the cops notice the infraction in the 48 hours after it was committed, and arrest you in the following 8 days (or 16 days if the infraction is punished by a prison sentence of at least 5 years).

5. « Garanties de représentation »

Prosecutors, judge directing inquiries and the « JLD » use the documents you give them to establish your identity, address and integration in society. From that, they decide which procedure they will use against you, and maybe the terms of your judicial supervision or preventive detention. In french, these documents are called « garanties de représentation ».

In order to try to avoid preventive detention or annoying judicial supervisions (around Bure opponents are very often banned from the region as part of judicial supervisions), it can be useful to think about these documents in advance. Before coming here, or before going to an action/demo, you can give the documents you would like to give in court to a reliable person that would be able to give them to the legal team in case you get arrested. It is better if this reliable person doesn't get arrested at the same time as you do.

These documents can be anything that helps to prove your identity, or show to the judge that you are integrated in society : certificate of accomodation, employment contract, etc. Each document signed by another person must come with the copy of their ID card and a

document linking that person to their house/company/association (for example a recent electricity bill for a certificate of accomodation).

Some people choose not to give « garanties de représentation » in court as a political choice to not collaborate with the judiciary system, and/or because those documents help the justice to judge people based on social criterions.