

German government plans second "anti-terror" package

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Only one week after the German government rushed through a first package of measures limiting democratic rights, a second "anti-terror" package with even more extensive restrictions has been set in motion. It will become law by mid October.

The governing coalition of the Social Democratic Party (SPD) and the Green Party is utilising the shock over the terrorist attacks in the USA in order to drastically curtail democratic rights and civil liberties, without any significant public debate and against the objections of lawyers and data privacy experts.

The September 19 cabinet meeting had already decided a series of measures: Over the coming year some three billion marks in additional expenditure was agreed to strengthen domestic and external security. The cash will benefit the armed forces, the Federal Border Guard, the police, the secret services and the Federal Prosecutors Office.

Alongside Paragraph 129 ("formation of a criminal organisation") and Paragraph 129a ("formation of a terrorist organisation"), Paragraph 129b was added to the penal code, which can be used against those living in Germany who are supporters and members of foreign organisations suspected of terrorism. For supporting such an organisation—the definition of which organisations fall under this law remains disputed—up to five years imprisonment can be imposed, for membership of such an organisation, up to ten years.

Religious privilege was deleted from the law governing voluntary societies and associations, in order to be able to crack down on or ban Islamic groups suspected of extremism. Here also there is a grey area between suspicion and actual proof of Islamic fundamentalists committing punishable offences.

These legal measures had been planned and prepared long in advance, as Interior Minister Otto Schily (SPD) acknowledged in an interview with *Der Spiegel* news magazine last week: "We didn't only start planning the initiatives that we agreed in cabinet last week after September 11. For example, months ago I suggested the abolition of religious privilege in the law relating to associations. And it was not without reason when we substantially tightened up access to German citizenship under the general criterion of loyalty to the constitution and rule of law in 1999."

Another important measure in the first package was the

regulation strengthening the security checks made on flight crews and airport staff. After the packet of measures was subject to consultation in the *Bundesrat* (upper house of parliament) on September 20, this regulation was sharpened even further. The five-yearly background security checks on aircrews and airport personnel decided by the federal government can now be carried out annually at the request of the state authorities, a move supported above all by the Christian Social Union (CSU) state legislature in Bavaria.

If such checks reveal the slightest thing out of the ordinary, or even a police record involving a minor offence, this can be used to justify dismissal or not hiring someone. The checks will involve examining data from military intelligence, the security services, prosecution authorities and the central aliens register as well as the Gauck Authority, which is responsible for the records of the former East Germany's secret police, the Stasi. The new measures will apply equally to airline employees and personnel involved in loading luggage or cleaning. With this amendment, the *Bundesrat* then agreed the first packet of measures.

The second packet of measures introduces more invasive and universal checks for all foreigners coming to Germany, regardless of whether they are tourists, students, asylum-seekers, skilled workers taking up employment, emigrants of German origin from any East European state or the relatives of immigrants who have already been living in Germany for a long time.

SPD domestic affairs spokesman Dieter Wiefelspuetz stressed: "We will be looking far more closely at everyone who enters Germany." The identity of those entering the country must be "established without any doubt". Suggestions include the general use of fingerprints, which is already often the case for asylum-seekers; the introduction of computer-assisted face recognition systems; making routine enquiries with the secret services (both those responsible for domestic and foreign intelligence), and requesting information from the authorities and secret services in the person's country of origin.

Until recently, the Foreign Ministry under Joschka Fischer (Green Party) had resisted the general use of fingerprints, e.g. in the case of visa applications at German embassies. This was not based on democratic principles, but from concern for

Germany's reputation abroad, especially when it concerned the highly qualified specialists that big business wanted to bring to Germany.

Following the terrorist attacks in the USA, the Foreign Ministry is also "consciousness of additional problems", according to Wiefelspuetz. After agreement between Schily's Interior Ministry and the Foreign Ministry, these measures can now be rapidly introduced Wiefelspuetz told the press. He said the use of fingerprints would not be restricted to visa applications, but could be prescribed for identification documents and passports, thus affecting all German citizens.

Other measures in this additional package concern sections of the draft immigration bill submitted by Schily at the beginning of August. Passages in the draft legislation granting the police and judiciary greater access to data contained in the central aliens register and other restrictive measures are to be lifted out of the bill, so that they can be passed independently of whether the new immigration laws are agreed in this legislative period or not. As part of this, all visa applications as well as information about those sponsoring foreign visitors are to be collected and stored electronically.

Two weeks ago, Schily indicated that he intended to revue data privacy regulations and to loosen them "where data privacy protects terrorists". The flow of information between the intelligence services is running "perfectly", but Schily still sees a need to alter the present set up governing data exchange between various national bodies. Not only would this involve the prosecution authorities, but also the aliens department, expressly naming the central aliens register. Comparing any suspect data from the register with that held by other authorities could result in "quite useful clues", he said.

The central aliens register stores data about all foreigners, refugees and asylum-seekers registered as living in Germany. It also contains information about all persons "for whom a residency decision, whether for or against has been made", whose entry to Germany should be refused at the border or for whom "doubt" exists, etc. The register records personal details, address (changes), dates of entry and departure, decisions concerning residency and asylum requests, and in addition, "factual indications giving rise to the suspicion" of drug dealing, membership in a criminal or terrorist organisation or a foreign political organisation.

In the context of the new immigration bill, the routine inquiry lodged with the security services is supposed to establish whether each immigrant to Germany respects the constitution.

In a newspaper interview, Chancellor Gerhard Schroeder (SPD) said he had "nothing against the intention of making routine inquiries with the secret service about anyone who is to be granted German nationality".

Despite the agreement of one packet of measures after another—all including the overturning of democratic rights, politicians and civil servants continue to call for a further tightening up of laws governing immigration and asylum rights,

as well as other attacks on civil liberties.

Bavarian premier Edmund Stoiber (CSU) supports the demands of the secret services for their authority to be extended. Among other things, a 31-point paper includes the demand that undercover agents are allowed to participate in serious criminal offences committed by Islamic fundamentalists. Other points are the demand for banks, the postal services and airlines to provide information.

In addition, the recording of data about under-age extremists is to begin at the age of 14 years, instead of at 16, as before. The secret services are also calling for the monitoring of telephone traffic to be simplified. The paper was discussed last Friday in Duesseldorf by Interior Ministry officials, before being passed on to ministers.

The national leadership of the Christian Democratic Union (CDU) decided to table a parliamentary motion containing even more far-reaching legal changes. Apart from the expansion of video and telephone surveillance, they are now calling for the introduction of a "final rescue shot" that would permit the police to kill any presumed terrorists. Their motion also calls for the removal of the strict separation of the secret services and the police. The last time this distinction was lifted was some 60 years ago, with the creation of the Nazi Gestapo. The use of the Armed Forces in a domestic setting is to be investigated, according to the CDU motion.

The Social Democrats are not to be outdone by these demands. Schily has since called for a centralised European Union register for people from non-EU states, that investigations using racial and other profiles be coordinated European-wide, that the European police authority Europol be given executive rights and that a European public prosecutor's office be created. Other laws should also be adapted on a European-wide basis to less exacting German legal standards. Only last week at a meeting of EU Interior and Justice Ministers, Schily once again prevented EU regulations being relaxed that would allow easier family reunifications for immigrants.



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