

German parliament agrees second anti-terrorism law package

Experts warn of destruction of democratic rights

Elizabeth Zimmermann
5 December 2001

Last week, the domestic affairs committee of the *Bundestag* (parliament) heard expert evidence regarding the second anti-terrorism package being proposed by the Social Democratic-Green Party government. The expert witnesses left no doubt that the laws, prepared under Interior Minister Otto Schily (SPD), represent an extensive attack on fundamental democratic rights. It is “a contradiction in itself” when allegedly for the protection of a “civilized state,” its most essential features were largely abandoned, was one of the clearest judgements expressed to the committee.

Similarly to the first anti-terrorism law, which was presented to the *Bundestag* immediately after the September 11 terror attacks and has now been passed by the *Bundesrat* (Upper House), the second package is to be pushed through in a hurry and without any broader social or even parliamentary debate. The third and final reading of the new bill is to take place by the end of this week.

The “red-green” cabinet had agreed the extensive measures contained in the new anti-terrorism bill at its November 7 meeting, after Schily had agreed two small concessions the Greens had asked for in the immigration bill he was also presenting to parliament: the recognition of non-governmental and sex-specific persecution as grounds for asylum. The immigration changes proposed by Schily impose further restrictions and a worsening of the legal rights of asylum-seekers and foreign workers. Moreover, in making his offer to the Greens, Schily had already calculated that these concessions would fall by the wayside when the bill was debated in the *Bundesrat*, where the Christian Democrats have a majority.

The experts’ criticism of the anti-terrorism law, present partly in the form of written assessments, concentrated on the “constitutionally problematic” extension of the powers of the secret services, the almost unlimited access they were being given to data on suspects held by the banks, telecommunications and travel companies, as well as the

sharpening of laws and regulations directed against foreigners.

Access by the secret services to banking and telecom data would not only be used in fighting Islamic terrorists, but also “non-violent domestic extremism”, whereby the definition of terrorism and extremism remains extremely vague.

Since Germany is notorious for its tradition of criminalizing any resistance to social, political or cultural oppression, routinely denouncing it as terrorism or extremism, the secret services are being given what amount to blanket powers. Those defined as “extremists” usually include socialists, those opposing social inequality, the suppression of democratic rights and imperialist wars. But workers, school pupils and students who protest against sackings, social cuts and austerity measures could also fall under this category.

The German Judges Federation says it is “particularly alarming” that the secret services are taking on the powers of the regular civil and criminal investigatory authorities, and “will not be subject to judicial scrutiny”.

Martin Kutscha, professor for state and administrative law, said that the extension of powers to the various branches of the secret service is giving them such a “wide jurisdiction” that they are becoming more like the secret services of totalitarian states. “Without considering the prohibition of disproportionate measures, the bill proposes to implement what appears technically possible, instead of examining what is suitable and necessary”, writes Kutscha in his statement. Thus “the state of emergency is being made the norm”, many blameless individuals will, without their knowledge, be included in official files, “without any concrete suspicion or them posing any danger”.

The criticism of the lawyer and immigration law specialist Reinhard Marx deals particularly with the ability to expel foreigners even when there is only tangential evidence pointing to support for a terrorist organisation. Although this regulation could adversely affect foreigners who have

already been living in Germany for a long time, “nowhere” is there a definition of what constitutes a terrorist organisation, or what supporting it means. And although this alleged crime is not clearly defined, it can become, nevertheless, the connecting factor underlying drastic state interventions affecting a person’s liberty: Second generation immigrants—who by most democratic norms would be considered citizens—suspected of demonstrating their (ill-defined) “support” for terrorist groups can be expelled from Germany.

Reinhard Marx raises the question, “Why a law intended to fight terrorism, at the same time significantly diminishes the rights of a group of people who, from past experience, have never shown any support for terrorist groups”.

In his submission, Attorney Hubert Heinold, who is also a specialist in the rights of refugees and foreigners, deals with the danger of the state taking arbitrary political actions when using the term “terrorism”. He writes, “What is regarded today as legitimate resistance against an unjustified government authority, is tomorrow perhaps already discredited as terrorism. The changing evaluation of the situation in Chechnya, the KLA in Kosovo, the Tamil Tigers in Sri Lanka or other so-called ‘liberations movements’ by the public but also by the judicial system, supplies an eloquent example of the lack of any clear definitions. The same applies to the term ‘supporting’ terrorism.”

Heinold then refers to the fact that even supporting a hunger strike by political prisoners, for example in Turkey, or sending a donation to a prisoner relief organisation could fall under suspicion of supporting terrorism and thus involve deportation. The same applies to participating in demonstrations, which back the supporters of an organization branded as “terrorist”. In the summary to his 11-page submission, Heinold notes: “One has the impression, that the present threat is being used to push through what could not previously be pushed through.”

The *Sueddeutsche Zeitung* newspaper comes to the conclusion that the September 11 events only serve as a pretext to implement long-held plans and attacks on fundamental democratic rights. Heribert Prantl, who is also a lawyer, wrote in the paper on November 7: “The anti-terrorism law will brutally effect those refused asylum, in a way that would never have been possible in normal times: The mere suspicion that a foreigner might endanger the free democratic constitutional structure, leads in future to the fact that a residency permit is neither given nor extended. Foreigners, upon whom such suspicions fall, will be deported with immediate effect. This could not only effect people who have lived here for only a few years, but also second generation immigrants, i.e. those who have grown up here. The mere suspicion they could have something to do

with terrorism or other violent activities is enough, whereby the term terrorism is defined rather vaguely and broadly.”

While the experts were sharply criticizing the planned package of laws in front of the domestic affairs committee in the *Bundestag*, in the *Bundesrat* several state Interior Ministers were simultaneously calling for even harsher legislation. Representatives of the Interior Ministers of North Rhine-Westphalia (SPD-Green), Saxony (Christian Democratic Union), Schleswig-Holstein (SPD-Green) and Bavaria (Christian Social Union) had prepared a paper for their November 30 meeting.

The central demand, above all of Bavaria and Lower Saxony (whose SPD-led state government is headed by Chancellor Schroeder’s successor Siegmund Gabriel), is the clear expansion of grounds upon which foreigners can be deported. In their view, an immigrant can be refused an entry visa or residency permit, if they are under suspicion of endangering the “free democratic” constitutional structures. Deportation faces all those who are involved in “acts of violence in pursuit of political aims or who publicly call for the use of force,” is how the position paper puts it.

Shortly before the *Bundesrat* sitting on November 30, the states of North Rhine-Westphalia and Schleswig-Holstein, governed by the SPD and the Greens, withdrew their support for the paper, to open up room for negotiations. Whereupon, after its first debate about the new package of laws, the *Bundesrat* decided to prepare a statement containing proposals to further tighten up the laws. These will be brought into the *Bundesrat* committees and be agreed December 7 in the third reading.

A closer examination of these new laws makes clear that they are particularly intended to defend the bourgeois state against the opposition of broad social layers. They are characterised by a fear of social protest and political rebellion, which, in view of the recession and Germany’s participation in the Afghanistan war, rushed through parliament by the Schroeder government, are brewing just under the surface of society.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact