

German interior ministers end separation of police and intelligence services

Martin Kreickenbaum**20 July 2004**

On July 9, the German upper house of parliament, the Bundesrat, enacted the “Hartz IV” bill, containing drastic cuts to the social welfare system, unprecedented in this country’s history. On the same day, the state’s interior ministers met in the northern German city of Kiel and agreed on a series of further restrictions on democratic rights.

Although these two events happening at the same time may have been a coincidence, there exists a fundamental connection between these two policies of the federal Social Democratic Party (SPD)-Green coalition government.

With the Hartz IV law, hundreds of thousands of the unemployed will be driven into poverty, exacerbating social inequality in Germany. This unparalleled social polarisation is being imposed on the one hand by attacks on democratic rights and on the other by increasing powers to the police and state security services, in order to confront the growing popular resistance to these policies.

The most important decision made at the Kiel conference by the state interior ministers, as well as federal interior minister Otto Schily (SPD), was the abolition of the separation between the police and the intelligence services. No time is to be lost: by the end of the year, a new, central office is to be built in Berlin for the Federal Office for the Protection of the Constitution (as the intelligence service is known). It is to act as a central point for the collection and analysis of information from various state and federal agencies, including the State Domestic Intelligence Services (*Inlandsgeheimdienst*), the Foreign Federal Intelligence Service (*Bundesnachrichtendienst*), the Military Intelligence Service (MAD), and the Federal Police Agency (BKA) as well as the state police. The information collected will not only be made available to all the aforementioned agencies, but this new office will itself be able to issue direct orders for investigations, raids and arrests.

Every office of the German security services, right down to the local police, is to have access to this data. Hence, in one action, the government has removed the separation of the police and the intelligence services, which had been legally established at the foundation of the Federal Republic of Germany in 1949.

The aggregation of the security services was justified, like other recent measures, by the supposed danger posed by Islamic terrorism and extremism. The chairman of the interior minister conference, Klaus Buß (SPD), defended the measures by declaring that Islamic terrorism posed a “very high” threat for an “indefinite

period,” and maintained, therefore, that it is “absolutely necessary that we take full advantage of information retrieval.”

In the coming weeks and months, the currently available intelligence about Islamic terrorism and extremism is to be brought together. However, as historical experience has shown, intelligence gathered will not be confined to a single, so-called “Islamic file.”

The close cooperation between the police and the intelligence services rescinds fundamental constitutional principles. This cooperation should, in the words of the president of the BKA, Jörg Ziercke, develop a “network of information.” The data that the intelligence services obtain via bugged telephone discussions and recorded conversations in people’s homes can now be used by the police, too, even if they are legally prevented from carrying out similar surveillance operations themselves.

Not only has the protection of one’s private sphere against incursions by the state become null and void, so too has data privacy. The circulation of even the most personal and confidential data is now allowed between the different bureaus. The government is not even making attempts to conceal this fact. The Interior Minister for Bavaria, Günter Beckstein (Christian Social Union—CSU), speaking on behalf of all his colleagues in the SPD and the CSU/CDU (Christian Democratic Union—the CSU’s sister organisation), announced: “The circulation of data is not to be confined within individual departments.”

Schily argued that the previous separation of the police and intelligence services was simply a meaningless façade: “The separation law between the police and intelligence agencies did not forbid the exchange of information nor cooperation,” he told the weekly news magazine *Stern*. But if this law was not designed to forbid collaboration and unbridled information exchange, what was it supposed to do?

In this respect, the decisions made at the conference of interior ministers did not go far enough for Schily, who is determined to build the BKA into an almighty executive organ in which the authority of the intelligence services and the police departments are bundled together.

According to Schily’s plan, the BKA should, in future, take on preventive assignments. Until now, the BKA was expressly forbidden to undertake such work and was restricted to assignments arranged with the prosecutor’s office regarding concrete crimes. With this preventive brief, the BKA has been handed unlimited powers. It is allowed to carry out surveillance

like a secret service, and has the judicial powers of a regular police agency.

The separation of the police and intelligence services, which is now being treated as an irrelevance, had its origins in a “police letter” written by the three Western allied powers on April 14, 1949, to the German parliamentary council, regarding the constitutional laws of the new Federal Republic. The allies pointed out to the council that the future intelligence services should have “no police powers” and that no federal police agency was to have authority over state or local police departments. The separation law thereby held constitutional status.

These regulations were a response to the experiences of the Nazi regime, which, over the course of many years, built up a highly centralised and powerful security apparatus that was used to terrify the population.

Even in the days of the Weimar Republic, the state surveillance and prosecution organs were, with the help of the social democrats, heavily expanded. When the Nazis came to power in January 1933, they inherited in nearly every state of the German Reich a political police to fight against subversive activities—comparable to the intelligence services of today. In April 1933, two months after the Reichstag fire, Hermann Göring, at the time Prussian interior minister, brought to life the secret state police, the Gestapo. In June 1936, Heinrich Himmler centralised all state police departments and thereby extended the Gestapo’s powers throughout the entire country.

Soon thereafter, the Gestapo was merged with the police to create the Police Department For Security (Sipo). Finally, in September 1939, at the beginning of the Second World War, this agency in turn merged with the Federal Security Department (RSHA).

It was this amalgamation of all the state’s security powers that turned the Gestapo into a powerful instrument of repression for the Nazi regime. The intention of the “police letter” was to prevent a similar concentration of security agencies in Germany after 1945. The interior minister conference in Kiel has now unceremoniously bid farewell to these considerations.

The Gestapo was above all used in the systematic struggle against government oppositionists. Until 1939, this primarily meant employees of workers’ organisations, communists and social democrats. The victims were arrested, denied legal counsel, and placed for indefinite periods in “protective custody.” Statements and confessions were often forced through the use of torture.

“Protective custody” was introduced as part of the decrees issued in February 1933 after the Reichstag fire, which were aimed at stabilising the National Socialist regime. After just four months, 26,000 political prisoners found themselves in “protective custody.”

The Gestapo, whose manpower in 1944 had reached 32,000, possessed a very efficient surveillance organisation, aimed at tracking down seditious communications and opponents of the government. The victims held in protective custody and in concentration camps numbered in the hundreds of thousands.

These bitter historical experiences with a centralised security apparatus, in which the police and intelligence services worked

side by side, are now being tossed aside by a social democrat.

Schily gave an interview to *Stern* magazine in which he justified his centralisation measures by dismissing this history: “The constitutional fathers could not possibly have imagined a threat like that posed today by Islamic terrorism. This is what I have to deal with, not with the situation 50 years ago.”

Such clear contempt for the principles of the German constitution has seldom been so openly evinced by a leading politician. At the same time, Schily’s statement is an apt summary of his policies in office. In the name of the “war against terror,” Schily’s balance sheet over the last years is simply staggering.

Attacks against the right to organise, restrictions on freedom of expression and the press for foreigners, the practical abolition of the right to asylum, and the gutting of data privacy are all part of Schily’s record in office. Restrictions on the right of assembly are already on the way, and now the lifting of the prohibition separating the police and intelligence agencies and the establishment of a central security apparatus. Germany’s conservative opposition (CDU/CSU) union has announced that it intends to introduce a security detention bill into the Bundestag (parliament), which Schily has been strenuously demanding for weeks. The road to the “protective custody” of the Gestapo is not so far away.

This massive buildup of the state’s repressive apparatus has nothing to do with the threat of terrorism. Under conditions in which the SDP is breaking up, sections of the bourgeoisie, like Bavarian Prime Minister Edmund Stoiber (CSU), have fears for the political stability of the entire country. The democratic structures of Germany, introduced after 1945 with the support of the victorious allied forces and conditioned by economic recovery, are being preemptively sacrificed to prosecute the permanent dismantling of the social welfare system as well as to combat broad popular opposition. It is for these reasons that the call by the ruling elite for a police and military state is continually growing louder.

At the end of June, the CDU agreed on a “total security concept,” which, among other measures, demands the establishment of a 25,000-man domestic security force. It should be as well equipped as the army and spread across 50 locations. This “national guard” will not prevent terror attacks, but is designed moreover to counter large-scale domestic protests and demonstrations. In this regard, parallels should be drawn not just with the Gestapo, but also with the Freikorps of the Weimar Republic, which put down the 1918 revolution and which in 1923, after being integrated into the national army, employed the most brutal means to defeat armed workers organised in the red Ruhr army.

These are the types of right-wing forces that are being encouraged by the policies of the German SPD-Green government.



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