

Germany: report exposes massive state spying

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The latest federal Data Protection report issued in Germany documents the existence of an extensive state surveillance apparatus that has been built up to spy on large parts of the population on the pretext of “combating terrorism.” It also reveals that the German constitutional principle separating the work of the state intelligence services and the police has been abandoned.

In the middle of April, the federal Data Protection officer, Peter Schaar, presented his latest progress report for 2003-2004. The Data Protection officer is elected by the German parliament based on a proposal made by the government and operates under the supervision of the Interior Ministry. His role is to support and advise government authorities and monitor the implementation of data protection legislation. It goes without saying that any criticisms he makes are always of a restrained and diplomatic nature.

Nevertheless, Schaar felt obliged to express his concerns about the effects of anti-terrorism laws that were rushed into place after September 11, 2001. In his report, he warns that data protection needs to be taken more seriously in Germany. Security is too often prioritised at the expense of data protection. The word “security” is used here as a euphemism for the comprehensive state system for spying on the population. Schaar calls for a review of the anti-terrorism laws to be made independently of the Interior Ministry. Additionally he insists that the planned introduction of biometric passports in autumn 2005 should be postponed.

Interior Affairs Minister Otto Schily (SPD-German Social Democratic Party), who is responsible for the anti-terror legislation and the introduction of biometric passports, reacted to Schaar’s exhortations in the manner of an aristocrat dealing with an impudent commoner. Schaar was exceeding his authority, he insisted. “He has no general political mandate which gives him the authority to make comments about these issues.”

Schily refuses to countenance any independent checks on the government. This is shown amongst other things by his commitment to the anti-terror laws. These laws bestow countless previously forbidden surveillance powers onto the police authorities and secret services on both the national and state levels. These powers were not made permanent, and were to be reviewed by parliament three years after their introduction. This point is noted by the Data Protection Report.

The German Anti-Terror Legislation (TBG) included provisions for a parliamentary control body to present a report three years after its implementation (i.e., on January 1, 2005) based on data from the Interior Ministry. The report was to cover the legislation’s implementation, detailing methods used, the extent and rationale for the surveillance operations and measures taken under the new law.

Although the required report has since been prepared, it is being treated as classified information and has yet to be presented to parliament, much less to the public. Instead, on May 11, Schily published a seven-page summary of the report on his ministry’s web site. In it, he categorically maintains that the security services have been exercising their additional powers “successfully with restraint and responsibility.” To back up his words he presented a relatively small amount of information on the work of the intelligence services.

On the other hand, figures that contradict his claims have been suppressed. For instance, the summary refers to “security checks for protection against sabotage in the military security sector and other sensitive areas important to protect life and internal defence,” but gives no concrete data on the grounds that they are classified information.

At the beginning of April, the newspaper *Frankfurter Rundschau* published extracts from the original confidential report. It brought to light the fact that the majority of the “security checks for protection against sabotage”—approximately 1,544 of them—had been carried out for the Ministries of Employment and Industry. The authorities feared that a computer breakdown or glitch in the course of their switch-over to Hartz-IV could delay benefit payments and provoke social protest (Hartz IV is the name of the latest project aimed at eliminating all but the most minimal social welfare provision). Therefore, computer specialists were abruptly told of security risks and were investigated by the secret services. The new powers under the TBG were thus utilised to take actions aimed at forestalling social protest.

The Data Protection Report also documents how the authorities have overstepped the boundaries of even their new expanded powers in spying on the population. For instance, the Federal Criminal Police Office (BKA) has been keeping computer data on participants in demonstrations against globalisation in a database called “Global.” The information comes from police sources both inside Germany and abroad.

After an inspection of the BKA in April 2003, the Data Protection official stated the following: “The information being kept also covers persons who are only indirectly connected with the movement against globalisation. This means that personal data about people who have merely exercised their perfectly legal right to attend an anti-globalisation event or rally is being stored without any grounds on the basis of criminal activity. My conclusion is that the objective of the ‘Global’ database is no different to that of a suspect database prepared for the Federal Criminal Police Office.”

These illegal personal records have been erased after the inspection by the Data Protection officer. But other data that was deemed to have legal relevance was immediately transferred to another central database of the BKA.

The BKA clearly has countless such databases under its control. The Data Protection officer remarked, “Nevertheless, the problem of analysis databases continues. After the example of the ‘Global’ databank, yet more analysis databases will be set up for the extraction of intelligence on other social movements and developments.”

One such database goes by the name of “Campaign against Islamic terrorism.” In this database, too, personal records are kept of people under the heading “known to be in some way connected to Islamic terrorism,” even when in fact they have absolutely no connection.

In December 2004, a new centralised anti-terrorism unit started operating from Berlin. Under the overall control of the National Intelligence Agency (*Bundesamt für Verfassungsschutz*), information from all intelligence services as well as from the federal and central police forces will be centrally stored and analysed there. All security authorities down to the local police will for the foreseeable future have access to the

database in this new security centre.

This step breaks with the constitutional principle separating the operations of the government intelligence services from those of the police force, which was established after the end of the Second World War. The principle of separate operations goes back to the time of the founding of the Federal Republic of Germany, when the three occupying powers of the Western Alliance made written suggestions to the parliamentary council on April 14, 1949. The principle was then included in the constitution that all future secret intelligence service operations should have no special authority over the police forces, and that no central police authorities should have the power to command the operations of the federal state or local police forces.

This stipulation was proposed by the Allies in reaction to the bitter experience of the secret police under the Nazi regime (the Gestapo). The Gestapo was established in 1933 by the then Minister for Interior Affairs, the Prussian Hermann Göring. In a few years, he had built it up into a highly centralised and hugely powerful security apparatus that was used to terrorise the people. Eleven years later, in 1944, the Gestapo had expanded into a force of 32,000 and wielded an exceedingly brutal and effective surveillance system. They worked on the principle of “preventive” action, which specifically meant taking action against anyone reported to be saying or doing anything to criticise or endanger the regime. The victims of the Gestapo numbered in hundreds of thousands.

And now the social democratic Interior Minister has swept aside this hard-won precaution and has paved the way for a new merger between the state security services and the police. The Ministry of Internal Affairs web site states that “around 180 specialists drawn from the Central and Federal states are currently active in the centralised anti-terrorism unit.” It further reports: “the central intelligence service, the federal police and security forces, the border control forces, customs control office, the military counterespionage services, the Attorney of the Federal Supreme Court and the central office of immigration and asylum seekers are all working together with the central police force and the central security service.”

This network of police and intelligence services is being extended from Germany to a European level. The principal victims of this Europe-wide centralised operation are foreigners and refugees. The increasing disregard for the democratic rights of these people serves as a dress rehearsal for an assault upon the democratic rights of the rest of the population.

Representatives of the GKI, a European joint working group on data protection issues, recently warned that civil rights are threatened by the insidious expansion of the already existing Schengen Information System (SIS), which is developing into an information and investigation system for the police throughout Europe.

Up to now, the SIS has been utilised mainly to “record” details of foreigners from so-called “transit countries,” who have been refused entry to member countries of the European Union. The files kept include data on all those whose applications for immigration have been refused at the EU borders, including asylum seekers who have been refused entry or have been deported and others who, for various other reasons, are forbidden entry into the EU.

A detailed investigation of these SIS files made by the GKI shows that at the end of the summer of 2003, about 270,000 of the total of around 800,000 individual records originated from sources in Germany. “Germany has contributed the most data after Italy,” states the GKI report.

The second part of the GKI investigation involved the examination of 400 samples of data records and checking them against the information kept by the usual immigration authorities. This review established that in only nine cases (2.25 percent) did the records pertain to someone who could be definitely considered a security threat. The overwhelming majority of data was captured when applicants were denied entry by the immigration authorities of the member states of the Schengen Agreement

(which comprise all EU countries except Great Britain and Ireland plus Norway and Iceland).

Many foreigners applying for a visa have had their own painful experiences with the thoroughly restrictive immigration policy that prevails in Germany and throughout Europe. Visa applications are frequently rejected, and it is practically impossible to get a review or any real explanation of the refusal.

Grounds for rejecting visa applications can simply be that the applicant is a citizen of a so-called “problem country” and is thereby considered to be a potential security risk. Which countries fall into this category is based entirely upon current political interests.

If any of the inspecting authorities (the central intelligence service, the federal police, security forces) finds there is a reason not to issue a visa, then their decision is taken as valid.

In such cases, reasons for the refusal of a visa are not stated, and the technical system is set up in such a way that the visa-issuing office cannot know which security authority made the decision. This seems to work to the advantage of the BKA, Germany’s federal police. The Data Protection report maintains that the BKA plays “a decisive role” in refusing visa applications. Additionally, it states that “Visa applicants from certain countries...in many cases” are not even considered, but are summarily rejected. The BKA can get away with this because of complete lack of any transparency regarding visa application procedures.

In George Orwell’s book *1984*, written in 1948, the author describes in detail the political methods and mechanisms of a totalitarian state surveillance system. But he could never have imagined at the time the technical means available for such work in the year 2005.

DNA databanks, computer searches, the construction of suspect profiles, extensive CCTV and satellite surveillance coverage, integration of existing databases, the recording of vehicle license plate numbers as people drive, the detection of a person’s whereabouts from his or her mobile phone, examining the master data files of bank customers, recording phone calls and storing data sent via the Internet, accessing medical records and so on—all these methods make it possible to spy on an individual 24 hours a day, seven days a week.

The German State and its Interior Minister, Otto Schily, have laid the ground for the political methods of Orwellian totalitarianism to be combined with the most up-to-date technical possibilities.

One of the most significant steps in this direction—the introduction of biometric passports for all citizens—is due to come into force in November. The new passports will contain a chip that stores a digital photograph of the passport holder. From March 2007 onwards, a graphical image of two digital fingers will be added. Later still, a reproduction of the iris pattern from the eye of the passport holder will also be stored. In this way, every movement across borders can be tracked. These identity checks only make sense if there exists a database in which the biometrical records of every German resident are already stored so that the secret services can monitor everyone’s movements.

Schily is currently working on a third legislative package to add to the Anti-Terror law. His first step will be to lift the restrictions on the current security laws.

Additionally, Schily has plans to give the BKA permission to obtain access to data originating from personal bank accounts, not just in criminal cases, but also on grounds of “preventive” action—in other words, for any reason at all. He is keen to abolish current legal restrictions on accessing information from banks and airline companies in order to achieve his overall aim of making a comprehensive integrated database available to the police forces and secret services.

In the light of the autumn election recently called by Chancellor Gerhard Schröder, it is uncertain whether the current SPD-Green Party coalition will be the agency that pushes these further assaults on democratic rights and widening of state surveillance through parliament.

But one thing is certain: seven years of SPD-Green Party government have resulted in the most sweeping attacks on democratic and social rights since 1945. Moreover, there has been a consensus by all parliamentary parties to enact such measures.

Speakers on Internal Affairs for the conservative opposition parties CDU/CSU (Christian Democratic Union/Christian Social Union) such as Wolfgang Bosbach and Günter Beckstein have already made clear they believe Otto Schily's proposals for a third package of security measures is a step in the right direction. These plans will be definitely pursued and implemented by a CDU government, which if anything will make them even more stringent.

The Data Protection report referred to can be downloaded from the web at http://www.bfd.bund.de/information/20tb_broschuere.pdf.



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