

German minister calls for internment and assassination of terror suspects

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Barely a week passes in German politics without a new proposal by Federal Interior Minister Wolfgang Schäuble (Christian Democratic Union, CDU) regarding domestic security. If the Interior Minister of Germany's grand coalition (CDU, Social Democratic Party, Christian Social Union) has his way, Germany will be transformed into a big brother-type state that would eclipse even George Orwell's "1984" vision.

The proposals put forward by Schäuble—a number of which have already come into force—include wide-scale camera monitoring, the identification of persons via biometric data; police dragnets in which the police, secret services and other authorities can investigate citizens on the basis of an enormous data bank; profiles of the activities of individuals based on the tapping of mobile phones and motorway cameras that control car number plates; secret on-line searches of computer disks; the deployment of the German army for domestic purposes; and, not least, the shooting down of civilian aircraft to thwart an alleged terrorist threat.

In an interview in the latest edition of *Der Spiegel*, the interior minister goes one step further. He is now pushing for the legal means to give the state power to deliberately kill terrorism suspects, or intern them for an indefinite period.

Schäuble poses the question: "If, for example, potential terrorists, so-called endangerers, cannot be extradited—what do we do with them?" He then proposes the introduction of a criminal offence of conspiracy and proposes stipulating certain requirements, "for instance, a ban on communication via Internet or mobile phone." He then poses a further question: "Can one treat such endangerers like combatants and detain them?"

The reference here to the US prison camp in Guantánamo is unmistakable. For years, hundreds of prisoners have been held illegally at the facility under the pretext of being "illegal enemy combatants."

"The legal problems extend all the way to extreme cases, such as so-called targeted killing," Schäuble continues. *Der Spiegel* clarifies that this means "the systematic assassination of suspects by the state."

Der Spiegel then comments to Schäuble, "You stretch the constitutional state to its limits when you reshape it into a state of prevention and thereby also accept state killings." The interior minister then retorts, "Oh, not at all! Just take a look at the police laws of Germany's states: The so-called final saving gunshot has long featured there."

Even if one ignores the fact that the legality of such legislation is

highly controversial, Schäuble's comparison is outrageous. The "final saving gunshot" applies only in a concrete case of emergency. German police are currently allowed to shoot, for example, when it is the only means left to rescue the lives of hostages confronted with execution by a hostage-taker. What Schäuble is proposing is the deliberate assassination of suspects, even in the absence of an emergency—in a manner similar to the assassinations regularly carried out by the Israeli army in occupied Palestinian territory or US missile attacks on alleged terrorist bases.

Schäuble's use of the term "endangerer" is by no means coincidental. It originates from police practice. This is the term used by the German Criminal Investigation Office (BKA) to designate those identified by the secret services as potential sources of terrorism. According to *Der Spiegel*, at the end of March the BKA had identified 65 "endangerers" (level red) and 177 "relevant persons" (level yellow).

The evidence leading to the designation of persons as "endangerers" is just as difficult to verify as the criteria used by the BKA for its investigations. Such factors as frequent attendance at a mosque, accidental acquaintances, or simply unwelcome political opinions can all be cited by the BKA as sufficient grounds for investigation. *Der Spiegel* writes, "If one asks which criteria must be fulfilled in order that the state can call someone an 'endangerer,' there are only murmurs.... The BKA lets it be known that this is a term arising from 'political practice,' which has no legal pertinence."

For anyone identified in the first place as a suspect there is no way out. *Der Spiegel* summarizes a BKA statement as follows: "Because no one is charged and nobody can be acquitted there is only one solution—deportation to a foreign country or internment."

FDP (Free Democratic Party) politician Sabine Leutheusser-Schnarrenberger, a former justice minister under conservative chancellor Helmut Kohl, accused Schäuble of seeking to legalise political murder through his proposal for the assassination of suspects.

Journalist Heribert Prantl, writing in the *Süddeutsche Zeitung*, accuses Schäuble of preparing "a Guantánamoization of the German justice system." He is undertaking the "mutation of the constitutional state into a regime of illegality" and is seeking "a license for the state to kill," Prantl asserts. Prantl then comments on Schäuble's proposal for making conspiracy a criminal offence: "A conspirator is anyone who thinks, talks or acts in a manner

hostile to the state, when such thinking, speeches and acts are otherwise not subject to prosecution.”

The chairman of the Social Democratic Party (SPD), Kurt Beck, also criticized Schäuble: “We cannot protect liberty to the point where we kill it off.”

Schäuble, however, remains unmoved by such criticism and is determined to press ahead with his plans. He knows that no serious resistance is to be expected from the ranks of the SPD. After all, his own suggestions are merely an extension of the legislation introduced by his social democratic predecessor Otto Schily, who, after the September 11 attacks, passed two extensive packages of security legislation that constituted a full-scale onslaught on a number of basic democratic rights.

In March this year Schäuble activated the so-called “anti-terror file” prepared by Schily, which puts data centralized by the police, central authorities and secret services at the disposal of the country’s security and intelligence agencies. This does away with the separation of the police and secret services, which was laid down in Germany’s postwar constitution, and awards the BKA enormous powers along the lines of the FBI in the US.

The SPD continues to support increased powers for the security authorities, even if it splutters a word or two of protest now and again. The party’s speaker on domestic affairs, Dieter Wiefelspütz, has just published a book dealing with the response to the threat of terrorism, in which he defends the use of the German army for domestic purposes. The immediate response by the chairman of the SPD parliamentary fraction, Peter Struck, who complained that Schäuble was treating the SPD as “uncertain cantonists,” also indicates that the SPD is ready to agree the next tightening up of Germany’s security legislation.

And, despite his rhetorical attacks on Schäuble’s plans, the lame response by Prantl in *Süddeutsche Zeitung* is to call upon the interior minister to subject himself to a vow of silence throughout the summer.

On the other hand, Schäuble’s proposals have been welcomed by three CDU state prime ministers: Roland Koch (Hesse), Günther Öttinger (Baden-Württemberg) and Peter Müller (Saarland).

While the German government has officially dissociated itself from the practice of torture carried out by the US, and Chancellor Angela Merkel has publicly criticized the Guantánamo camp, Schäuble continues to cooperate closely with the US security agencies.

Schäuble told *Der Spiegel*: “We are currently cooperating more closely with the US intelligence agencies than ever before. No country has global intelligence as good as that of the Americans. We profit from it every day. In recent weeks, I have met several times with Michael Chertoff, the US Secretary of Homeland Security. In mid-May, he also visited me with his wife back home in our house in Gengenbach, and we had a very open exchange about the danger of terror.”

It therefore comes as no surprise that Schäuble has so far strictly refused to enforce the arrest warrants issued by the Munich public prosecutor’s office against the CIA agents who kidnapped German citizen Khaled el-Masri and transferred him to the US authorities in Afghanistan.

Der Spiegel about his refusal to abide request of the public prosecutor’s office, Schäuble responded, “Intelligence agencies are also bound to observe the law. But the United States takes the view that it is best for them to manage that themselves. We should respect that.”

When viewed superficially, Schäuble’s campaign for a strong state may appear to be a personal obsession. No other German politician has agitated and worked so tirelessly and doggedly to dismantle all constitutional barriers standing in the way of unrestrained state power. According to Schäuble, the “starting point of modern state thinking is the guarantee of security at home and abroad.”

But there are powerful objective causes for Schäuble’s initiative. This is made clear by the level of support he has received, as well as the limited degree of resistance to his proposals.

The German government has reacted to the US debacle in Iraq by increasing its own military engagement in the Middle East in order to advance its interests. Schäuble also wants to amend Germany’s postwar constitution (the Basic Law) in such a way as to enable German soldiers in future to undertake missions not only within the context of NATO or the UN, but also on the basis of “exclusive national responsibility.” So far, Germany has been relatively unaffected by terrorist attacks when compared to the US, Great Britain or Spain. But Schäuble’s proposal can only serve to increase the danger of such attacks inside Germany.

Above all, however, the strengthening of the German state is a reaction to increasing tensions in German society. Germany lacks any deep-rooted democratic traditions and never underwent a successful bourgeois democratic revolution. To the extent that democratic rights existed in Germany, they were a result of the struggle by the pre-1914 Marxist-led social democratic movement. The limited nature of such democratic rights could only be upheld as long as social conditions remained relatively stable. Long before Hitler took power in 1933 the Weimar Republic was increasingly turning to authoritarian measures, governing by means of emergency decrees, which were then supported in half-hearted fashion by the SPD.

In the final analysis, Schäuble’s bid to implement an enormous rearming of the state is a reaction to the increasing polarization of a society in which the class compromises of the postwar period are no longer possible. Against a background of looming violent class confrontation, Schäuble’s campaign must be understood as a serious warning.



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