

German interior minister presses for new repressive police laws

Andreas Kunstmann
9 December 2008

On November 28, the upper house of the German parliament rejected a bill expanding the authority of the Federal Criminal Police Office (Bundeskriminalamt or BKA). The draft of the so-called BKA law had already been passed by the lower house of parliament. An appeal for the intervention of a conciliation committee failed when a number of states withheld their votes.

The vote represented a temporary setback for one of the government's central plans to expand the authority of the state apparatus. Germany's grand coalition government of the CDU (Christian Democrats), CSU (Christian Social Union) and the SPD (Social Democrats) had made clear that passage of the "anti-terrorism" BKA law was one of the most important tasks in its coalition treaty.

Immediately after the bill's defeat in the upper house, the government announced it would make its own appeal to the conciliation committee and the cabinet agreed to call the committee a few days later.

The "law for the defence against the threat of international terrorism by the BKA (Federal Criminal Police Office)" would allow the federal agency to conduct "online computer surveillance" with the help of spyware—dubbed "Federal Trojans" by the public. The law would also permit the police to supervise the apartments of individuals the police think could help with their investigations, even though they are not suspected of involvement in any criminal act. The law would give the Federal Criminal Police Office powers significantly similar to those employed by the despised Eastern German Stalinist security police—the so-called "Stasi."

A comment by the minister-president of the state of Saxony-Anhalt, Wolfgang Böhmer (CDU), made clear the nature of the "opposition" to the bill in the upper house. Saxony-Anhalt is governed by a CDU-SPD coalition and Saxony's SPD voiced its opposition to the bill, forcing the state to withhold its vote. Böhmer then told the media that he presumes the issue has only been briefly postponed and in his opinion the conciliation committee would approve the

measure just a "few minutes" after meeting. Böhmer expects passage of the law before Christmas.

During the vote in the lower house, it was already clear that there would be numerous abstentions in the upper house and that the bill would only receive a narrow majority. Abstentions occur when one of the coalition parties of a state government declines to support a law. After the vote in the lower house, the SPD in Saxony decided not to support the law, providing a majority for states opposing the law.

German Interior Minister Wolfgang Schäuble (CDU) was outraged over the bill's defeat and immediately made clear his contempt for democracy and due process. He publicly appealed for an initiative to change the voting rules in the upper house to facilitate passage of the BKA law. He called for abstentions to be no longer counted, which would allow a law to be passed with a simply majority.

Schäuble is well aware that such a restriction of democratic rights would require a modification of the constitution. Regarding the constitution in the manner of an autocratic ruler, in his opinion it is not a tool for defence of the interest of the population against the state, but rather an instrument to protect the interests of the government against the people.

In pressing for this constitutional change, the interior minister can count on the support of the parliamentary faction leader of the SPD, Peter Struck. "In future, the upper house should be able to decide with a simple majority. Abstentions should no longer be counted as no-votes," Struck told the Berliner daily BZ. "I want to discuss that in the course of the federalism reform."

The BKA law is designed to give the Federal Criminal Police Office far more authority to intervene in the private affairs of citizens and has already been met with considerable opposition from the population. Its most controversial components include "online computer surveillance," which would require no judicial order, and new powers to extract evidence from professionals such as journalists, lawyers and doctors.

With these new surveillance powers, the state can secretly

install software on PCs and other computers. This software then sends the computer's data and files over the Internet or by other connections directly to the BKA. Such forms of telecommunication surveillance could allow the BKA, for example, to track and record Skype conference calls, and other services using voice over Internet protocol (VoIP). In addition, the state could employ "normal" surveillance methods—i.e., telephone calls, video monitoring, audio surveillance of apartments, and undercover surveillance—despite the fact that the target is free of any criminal suspicion.

The bill would also realise a long-time vision of former BKA head Horst Herold, permitting surveillance of the extensive databases of official and unofficial institutions.

The Federal Criminal Police Office is seeking authorization to use the type of online computer surveillance known in criminal circles, in particular by those responsible for the transmission of spam mail, "phishing" of bank accounts and credit card numbers, and similar operations. It now appears that the BKA is quite prepared to use the know-how and experience of such mafia-type organisations for its online computer surveillance.

The BKA law has been prepared over a long period of time. It is based on security laws introduced during the SPD-Green coalition (1998-2005), under then Interior Minister Otto Schily (SPD), following the terror attacks of September 11, 2001. Schily's security package had already taken the first steps toward lifting the separation between police and secret service powers. Such a separation was first introduced in Germany following the Second World War and was based on the experiences of Nazi oppression.

Just a few years ago there was a wide consensus in Germany that a central department with the same authority as the Gestapo, the Nazi's secret state police, should never emerge again. The intensified collaboration between security services and the police is now being promoted by the current interior minister, Schäuble.

In the immediate period before the establishment of the German Federal Republic (West Germany) in April 1949, the Western allied military governors demanded, in light of the Nazi experience, that an interior secret service in Germany "should never have the authority of the police."

On the basis of later judicial amendments it was ordered, that "firstly, police powers are denied to the Department for the Protection of the Constitution (BfV) [secret service]; secondly, the BfV has no authority over other departments, in particular police departments; and thirdly the BfV is not allowed to incorporate its activities with a police department" (*Politik und Zeitgeschichte*, 12/2007).

The new BKA bill provides the judicial basis for the overcoming of all of these restrictions, potentially enabling

the BKA to acquire powers similar to those of the Nazi Gestapo.

The claim that increased powers for the BKA are justified because of the increased danger of terrorist attack is cynical and false. In fact, this danger has been heightened by the actions of successive German governments—first, with the SPD-Green Party government's support of the US war against Iraq, and then with the participation of the German army in the military adventure in Afghanistan.

While there has been some extremely limited opposition to the BKA law by parliamentarians, Germany's aggressive military policy has not been questioned by the government or parliament. In fact, quite the opposite is the case. In the same week that the lower house passed the BKA law it also agreed to extend the mandate of the German army in Afghanistan, despite the opposition of the majority of the population to the war.

At the beginning of October, and in the aftermath of the collapse of the finance markets, Interior Minister Schäuble commented on the possible ramifications of the breakdown for society: "From the global economic crisis of the twenties we know what an incredible threat to the entire society could emerge. The result of the depression was Adolf Hitler, and indirectly World War II and Auschwitz." Nobody knows currently "how serious this crisis could become," he told *Spiegel-Online*.

Wolfgang Schäuble neglects to mention that during the economic crisis of the twenties it was not only the fascist NSDAP (Nazi Party of Germany) that increased its influence, but also left-wing political tendencies, including the KPD (Communist Party of Germany).

Behind this bluster, Schäuble is quite aware of the real danger to society—the radicalisation of broad layers of the population, who are unwilling to accept militarism and austerity while billions are being handed out to the financial elite. The BKA law represents the preparation by the German state to confront precisely such a radicalisation.



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