

Terror warning a pretext for an attack on fundamental rights

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The appearance of Germany's streets and public places has changed since Interior Minister Thomas de Maiziere (Christian Democratic Union, CDU) last week warned of a specific threat of terrorist attacks. Heavily armed police officers patrol with machine guns and bulletproof vests at airports and train stations; even police trainees are being armed and sent on patrol.

In the background, new ways of policing and controlling the population are being feverishly developed. The monitoring of telephone and Internet communications is being tested. The monitoring of all those entering and leaving the country is being stepped up. In addition, a media bombardment concerning potential threat scenarios is played out in television and newspaper reports.

While politicians are fomenting a climate of fear and hysteria over terrorist attacks, a package of comprehensive security legislation is being prepared behind the scenes. Its core will be a new version of the data retention act that was struck down by the Supreme Court in March of this year. The detention of those allegedly deemed a "hazard" and the domestic deployment of the Bundeswehr (Armed Forces) are back on the agenda.

The strange coincidence of last Wednesday's statement by the Interior Minister with the start of the conference of state interior ministers on Thursday, and the discovery of a fake bomb in the Namibian capital of Windhoek on an Air Berlin flight to Munich, should raise further suspicions. On Saturday, the news magazine *Der Spiegel* reported on concrete attack plans on the Reichstag (parliament) building in Berlin. This had apparently been leaked to the magazine by the Federal Criminal Police Office (BKA).

Each of these individual events raises many questions.

The public was fed false information by the security authorities for 27 hours concerning the alleged finding of a bomb in Windhoek. The discovery of the bomb was announced on Thursday at 10:42 by the Federal Criminal Police Office, and Interior Minister de Maiziere spoke personally about it. The BKA reported that Namibian security forces had isolated a "suspicious bag" and then informed the German embassy. The suspicious piece of luggage had been found on a baggage cart due to be loaded onto an Air Berlin flight to Munich.

In Namibia, the pilot of the aircraft had then aborted the launch preparations following the bomb alert, and all 296 passengers and their baggage were subjected to repeated security checks; the plane was only able to continue its journey six hours later.

But ever since, the German security authorities have had to back-

pedal. What was initially described as a "very dangerous" looking piece of luggage with a sophisticated firing mechanism later became a home-made detonator. The package itself had stickers attached declaring the bag as a "test" and "non-hazardous". It then emerged that it had not been found on a luggage cart, but in the Windhoek airport departure hall in the vicinity of the departure zone for the Air Berlin flight. It had not been checked in and had no luggage tags. "The object had no destination, no airline, no owner," as Air Berlin spokeswoman Sabine Teller told *Sueddeutsche Zeitung*.

The bag was therefore not intended for the flight to Munich, but on Thursday Interior Minister de Maiziere still insisted on the version that the BKA had disclosed. Only on Friday did the interior minister give the all-clear and report that it had involved a so-called test suitcase, used to regularly test the security measures at airports. The suitcase itself was made by a small Californian security company, whose owner, Larry Copello, could give no public information about who had purchased it.

What is still unclear is on whose behalf the test suitcase was deposited at the airport. On Sunday, the airport's chief of flight safety at Windhoek was arrested, since he was identified on video as the one who had brought the suitcase to the departure area of the Air Berlin flight. But it is unlikely that he did so on his own initiative.

What is far more likely is that German intelligence officials or their allies were behind the whole affair. Evidence for such a supposition is that Larry Copello's security company is strictly monitored, and real test suitcases are only sold to security authorities. The suitcase in question has been in circulation for four to five years, long enough to have covered over the tracks and make it easy for the secret service to deploy it for domestic political purposes.

It would not be the first time that Germany's Federal Intelligence Service had initiated a plot; in the past, it has even been involved in trading in enriched uranium. The domestic intelligence service was responsible for blowing a hole in the exterior wall of Celle jail in 1978 to simulate a terrorist attack.

The bomb alert from faraway Windhoek certainly came at the right time for hard-line, law-and-order politicians. At the interior ministers' conference, they made numerous proposals to drastically extend the powers of the police and secret services.

Foremost in this were the Christian Social Union (CSU) politicians Norbert Geis and Hans-Peter Uhl. In the tabloid *Bild*,

Geis demanded the arrest of “potential suspects”. He was warning to the proposal made by the then-Interior Minister Wolfgang Schäuble (CDU) in 2007: people could be arrested and imprisoned without having committed a crime and without a trial solely on the grounds of their beliefs.

This proposal has met strong resistance. Critics point out what he proposed would overturn any conception of the rule of law and would turn Germany into a prison camp along the lines of Guantánamo.

Hans-Peter Uhl not only favoured increasing police and intelligence agencies funding and personnel, but also called for the use of spyware to intercept encrypted communications over the Internet. This is a fundamental invasion of privacy and communications. It would mean permanent surveillance by the security authorities of those regarded as suspicious.

These demands are centered on the re-introduction of the data retention law, which would give the security agencies virtually unlimited access to all telephone and Internet data.

Social Democratic Party (SPD) politicians are also supporting these demands. The interior minister of North Rhine Westphalia, Ralf Jäger, and the SPD’s influential interior expert Dieter Wiefelspütz both commented approvingly on the plans. Wiefelspütz told the *Mitteldeutschen Zeitung*: “We need to continue to develop the security architecture of our country and bring it up to the level of the digital age. The stagecoach era is over. Terrorists use the latest forms of communication. This must be taken into account.”

One of the targets of this campaign is the Federal Justice Minister Sabine Leutheusser-Schnarrenberger (Free Democratic Party, FDP), who was one of the plaintiffs when the Supreme Court struck down the data retention law. The court had ruled the law unconstitutional, since it enabled the security forces to use the retained data to create accurate personality profiles and reconstruct the movements of the entire population. That went too far for the Supreme Court justices.

But the judges left a back door open for the politicians by outlining a new law that the court could uphold. This procedure was not only unusual, the court also departed from its own case law established since 1983. At that time, the court had ruled in relation to the census that the unfounded storage of data was unconstitutional.

Since the ruling on the data retention law, a dispute has simmered inside the government coalition concerning a new version of the law. Proponents of retention invoke an EU directive requiring the retention of telecommunications data in all member states. However, this policy has only been implemented in few countries and itself faces criticism.

It is therefore all the more necessary for security hard-liners to create a *fait accompli* in Germany in order to break the resistance to data retention in other EU countries. And this is exactly the purpose of last week’s terrorist warnings. Although according to their own information, the security authorities were informed four weeks ago about alleged concrete attack plans, they only made this known on the eve of the Conference of Interior Ministers.

Interior Minister de Maizièrè has thus brought into focus an issue that was not even on the conference agenda. With the press full of

reports about terrorism, the demand was then made to Justice Minister Sabine Leutheusser-Schnarrenberger to quickly draw up a draft for a new data retention law. “Any further delay only helps the criminals do their work,” says the statement by the assembled interior ministers.

In an interview with the *Süddeutsche Zeitung*, the Federal Justice Minister herself spoke relatively openly about simmering conflicts among the security authorities and opposed a further tightening of security laws.

“In the first year of government, we have resisted the illusion of speaking about protecting freedom while in reality pushing forward the dismantling of rights and the elimination of freedom,” she said. “For the first time in the past twelve years, the year has ended without the government tightening up the security laws. For years, domestic and legal policy was marked by an unprecedented erosion of fundamental rights. Never before have such new so-called security laws involved so many interventions in constitutionally protected legal rights of the citizens as in the past twelve years.”

Leutheusser-Schnarrenberger said the old data retention law had “strangled civil rights because it allowed limitless data storage, and seemingly unlimited state access to the stored data.”

Interior Minister de Maizièrè, who has always belonged to the proponents of data retention, has initially achieved what he wanted. Although he had publicly warned against the exploitation of terrorist threats in order to strengthen legislation, he is now using the hysteria to tighten up security policy.

It is likely that further barriers will soon fall. The remarks by the outgoing chair of the Police Union, Konrad Freiberg, that the police were unprepared for terrorist attacks, is aimed at ensuring the Bundeswehr is tasked with the responsibility for dealing with anti-terrorism.

The report in *Der Spiegel* that a terrorist cell was preparing an attack on the Reichstag in February or March should also be seen in this context. Regardless of the veracity of this information, the Federal Criminal Police Office has deliberately leaked it to the press. If the security authorities already knew of such plans in the spring, why was the public not informed until now?

There are a number of indications that figures inside the Interior Ministry and security agencies are pursuing their own agenda and are beyond any democratic control. Civil rights are being gradually eroded and a course set for a police state. No party dares to confront this “state within the state” and to denounce it publicly.



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