

Germany: Federal Constitutional Court legitimises anti-terrorism database

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On Wednesday, the Federal Constitutional Court in Karlsruhe gave its blessing to the so-called anti-terrorism database. Under the guise of “fighting terrorism”, the court has legitimised an instrument of the state that massively expands the powers of the police and intelligence agencies in spying on the population and serves the establishment a police state.

Since 2006, the anti-terrorism database has been controlled by the Federal Criminal Police Office (BKA). It contains information about individuals that can be recorded and accessed by 38 different German security authorities—the BKA itself, the Federal Police, the Secret Service, the Military Counterintelligence Service, the Federal Intelligence Service, the state prosecutors offices, the Customs Office and the Offices of Criminal Investigation and intelligence agencies of the federal states. It is used to conduct investigations, arrests and raids against suspected persons.

It collects together all the data which the intelligence agencies and police can gather. This includes core data about people, information about their training and occupation, their phone numbers and bank details. Photos and lists of special physical characteristics, details of places visited and so-called terrorism-related skills are also stored.

There are virtually no restrictions on what is included in the database. It contains records on more than 17,000 people, of whom only about 400 are classified as violent Islamists. Completely innocent individuals who just happen to have had contact with suspicious persons can be included. In fact, the database is mainly used against immigrants and those who are politically critical. According to the Constitutional Court, in addition to collecting the “fingerprints of asylum applicants,” it also includes information on “globalisation opponents”.

The legitimisation of the anti-terrorism database by the Constitutional Court is an attack on the most basic constitutional principles. It is aimed against the protection of privacy from government interference and abrogates data protection norms. In particular, it highlights the failure to uphold the legal principle of the separation of the police and intelligence agencies, which has been increasingly weakened in recent years.

This principle of separation was enshrined in the constitution of the post-war Federal Republic of Germany after the experience of Nazi dictatorship. The Nazis’ Secret State Police (Gestapo) gradually accumulated all the powers of the police and intelligence services and built a highly centralised and powerful repressive apparatus used to terrorise the population.

In a situation in which class antagonisms are being exacerbated in Germany and Europe, the German bourgeoisie is reversing all the legal restrictions on the state of the post-war period. With the strengthening of the state apparatus, they are preparing to suppress any resistance to their unpopular policies of social cuts at home and against their war policy abroad.

The Federal Constitutional Court is acting as an arm of the bourgeois state, which represents the interests of the ruling elite. It is fully aware of the far-reaching consequences of its decisions. In their verdict, the judges candidly admit that the anti-terrorism database disturbs the separation rule, that anyone can be included in the database, and that this has “serious” consequences.

According to the Constitutional Court, the “principle of separation between intelligence and police authorities” makes the disclosure of personal information a “particularly serious intervention” for “operational actions”. For “those affected”, “being

included in such a database” could have “a significantly burdensome effect”. Constitutional Court judge John Masing added: “Each of us has a skill that could ultimately be used for international terrorism.”

Nevertheless, the Constitutional Court declared that the law governing the anti-terrorism database was fundamentally “compatible...with the constitution.” The court merely criticised some elements of the law, including the fact that citizens could be recorded as terrorists who are merely suspected of “advocating violence” and called for some “improvements”.

In the 1930s, the Nazis gradually amalgamated the police and intelligence services as part of their “fight against political enemies”, establishing dictatorial structures; today, this is happening under the guise of the “war against terrorism”.

The Constitutional Court stated in its judgement: “Offences with the characteristics of terrorism, as referenced in the anti-terrorism law, are directed against the foundations of the constitutional order and the community as a whole.” Therefore, “considerable weight” should be attached to the fight against terrorism.

Last year, the Federal Constitutional Court lifted the ban on military operations inside Germany. It decided to permit combat operations by the Armed Forces in cases where damages took on “catastrophic dimensions”. The ruling allows not only the deployment of the Armed Forces to reinforce the police, as was previously possible, but also the use of military ordnance such as combat aircraft and tanks.

The extension of the powers of the state to suppress the population is supported by all the bourgeois parties. The initiative for the anti-terrorism law goes back to the Social Democratic Party-Green Party government under Chancellor Gerhard Schröder. Under the leadership of the then-federal interior minister Otto Schily (SPD), a Conference of State Interior Ministers in 2004 decided to abolish the separation of the police, security forces and intelligence agencies, and to form a new security centre that centralises information from the police and intelligence agencies (see “ German interior ministers end separation of police and intelligence services “).

During its 10-year reign in the Berlin state legislature in collaboration with the SPD, the Left Party has not only enforced the harshest social attacks on the working

class, but has also exacerbated the state Police Laws, at the core of which is the expansion of video surveillance and the tracking of mobile telephones.

The current Christian Democratic-Free Democratic Party federal government is using the judgement of the Federal Constitutional Court to reinforce the policy of extending state powers. Interior Minister Hans-Peter Friedrich (CDU) spoke for the entire ruling elite when he announced after the verdict, “I think overall we can be very happy that the constitutionality of this law has been confirmed”.

A few days ago, he had already used the dramatic events in Boston to advocate increased monitoring of the population. According to Friedrich, these events showed “once again the importance of surveillance of the public space through video cameras for solving serious crimes”.

As the *World Socialist Web Site* commented on the massive military and police operation, unleashed by the Obama administration to search for the 19-year-old youth blamed for the attack at the Boston Marathon, “The events in Boston have laid bare the modus operandi for the establishment of dictatorial forms of rule in the US. So deeply implicated are all of the organs of the state in these plans that little in the outer trappings of political life would have to be changed. It would not be necessary to overthrow the president or shut down Congress. These institutions would readily play their assigned role, and the imposition of a military dictatorship would be sanctioned by the US Supreme Court.”

The rubber-stamping of the anti-terrorism database by the Federal Constitutional Court and the reactions of the ruling elite in Berlin to the siege of Boston make clear that the same is true for Germany.



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