

# Germany: Politicians and media promote a “basic right to security”

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Almost daily, the warnings of whistle-blower Edward Snowden are being confirmed by new reports showing German and American intelligence agencies working closely together in conducting widespread surveillance and spying on ordinary citizens.

In an attempt to justify this practice, politicians and the media in Germany are increasingly developing authoritarian arguments, maintaining that the security of the state takes precedence over all democratic rights and principles.

This was precisely the argument used by Interior Minister Hans-Peter Friedrich (Christian Social Union, CSU) on his return from a trip to the US, where he supposedly wanted to inform himself on the NSA's Prism surveillance programme.

According to Friedrich, “One of my predecessors once said ‘security is a super basic right’. And I think the people must also be told that the security of the population regarding their health and life is an important fundamental right. And all things considered, we must prioritise this basic right, naturally not to limit freedom, but always in the knowledge that there needs to be a balance between security and freedom.”

Friedrich is a qualified lawyer and knows exactly what his words mean. Despite the provisos he attaches, the core message is clear: all of the basic rights anchored in the German constitution only apply insofar as they do not interfere with the work of security agencies and as long as the state does not perceive them as a threat to itself. Such a “super basic right” of security places all other basic rights in doubt.

Despite all the protestations about liberty, the elevation of a so-called super basic right of security provides the ideology for the establishment of a police state where everyone is subject to surveillance. It is then just a short step to repressive measures for those

who post a dissident view on Facebook, in an Internet forum or on a website. There are already cases where this can lead to a visit by the police, being locked up in prison, or disappearing into a detention camp like Guantanamo.

The criteria for such repressive measures are drawn up by a small circle of politicians and representatives of the security services, whose decisions are then rubber-stamped by judges who are neither elected nor responsible to anyone.

Friedrich points to “one of his predecessors” as being responsible for the term “super fundamental right to security”. The most likely candidate is former interior minister Otto Schily (Social Democratic Party, SPD).

Shortly before he took office in 1998, Schily spoke in the Bundestag (federal parliament) about a “basic right to security”. In the speech, he attempted to justify his thesis by reference to the dignity of man, and thus turned the German constitution on its head. Article 1 of the German constitution says that the dignity of man is inviolable, and all state authority is obliged to respect and protect it. *Therefore* the German people possess inalienable human rights and all state force is based on the subsequent basic rights “as directly applicable law”. There is no mention of a basic right to security.

In the liberal tradition, Article 1 of the constitution specifies that basic rights are rights of defence against state force and take precedence over state force, which may only be applied insofar as this is expressly permitted by law and the constitution. For Schily, the matter is reversed, the use of state force is equivalent to basic rights: “When it concerns internal security, the primary issue is the defence of the dignity of man. When we fight crime, we defend the dignity of man. This is why I spoke recently in Bonn quite consciously of a basic right to security.” One cannot try to

counterpose freedom and security, he said.

It was therefore not surprising that major attacks on democratic rights took place under Schily, especially after the terrorist attacks of September 11 in the United States. He quite correctly stands in continuity with the current interior minister, Friedrich.

Friedrich also received support from the weekly *Die Zeit*, which vehemently defends the surveillance uncovered by Edward Snowden. In an editorial titled “Security too is a human right”, the editorial writer Carsten Luther expressly states it is “dangerous” to place security in question.

To justify this, he engages in a roller-coaster ride through legal theory and history, in a manner that bristles with falsifications. He begins by claiming that in his famous speech on the “four freedoms” in 1941, Franklin D. Roosevelt defined security “as equivalent to a civil liberty”. Without glorifying Roosevelt, even the briefest glance at his speech shows that he advances the opposite interpretation of law to that presented by Luther:

“The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want—which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants—everywhere in the world.

“The fourth is freedom from fear—which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbour—anywhere in the world.”

At the time of the speech, the Second World War had already begun, and fascism had conquered the greater part of Europe, Africa and Asia. Nevertheless, Roosevelt stressed—at least verbally—freedom of opinion and religion, economic security and worldwide disarmament, in a manner quite the reverse of that put forward by Luther.

The mass surveillance programmes uncovered by Snowden, on the other hand, spy on “suspicious” opinions and religious affiliations, are used for economic espionage, and do spread fear and terror.

Luther’s line of argument is that of a totalitarian

police state. Because the “interests of democratic states” do not differ “from those of their citizens”, he writes, the surveillance measures exposed by Snowden are also legal.

This identification of “democratic states” with the interests of citizens renders invalid and makes nonsensical virtually all the rights of a citizen that might limit the powers of the state. This argument has nothing to do with democracy.

If everything the citizen does is under state surveillance under the proviso that it pose no danger for “domestic security”, then there can be no talk about the free public debate in a democratic sense, but merely the acclamation by means of a plebiscite of those who rule in the “democratic” state.

In this regard, one should recall that special legislation was introduced after the Reichstag fire of February 28, 1933, just a few weeks after Hitler came to power, by the elected conservative president Hindenburg: “for the defence of the people and the state against violence that might threaten the state”. The legislation then became the basis for abrogating basic rights with reference to domestic security.

For his part, Luther lamely states that one should trust “Western democracies”, since their spying only serves to uncover terrorists. The *Die Zeit* editorial writer chooses to overlook the fact that the fight against terrorism was and is advanced by fascist regimes and military dictatorships using exactly the same arguments.

Luther merely demands that one believe the official propaganda, whereby each undemocratic police state measure—when it is carried out by the “right” states—will turn in the manner of King Midas, into gold. “Snowden is not showing us how states are unscrupulously undermining freedom, but rather what they are willing to do to protect it”, Luther claims disingenuously.



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