

German chancellor's office declares end to NSA spying affair

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According to the head of Germany's chancellor's office, Ronald Pofalla, the programme of blanket surveillance by the US National Security Agency (NSA) exposed by Edward Snowden "has been dispensed with."

Pofalla, a trusted ally of Chancellor Angela Merkel, declared after an appearance before the parliamentary control committee last Monday that neither US nor British intelligence services had taken any action against the interests of the federal republic on German soil. There was no blanket surveillance of German citizens, he claimed.

"There are not millions of violations of basic rights in Germany as is often falsely claimed," Pofalla declared. The 500 million pieces of data that the BND (German federal intelligence service) passes to the NSA each month relate to information from abroad and thus affect no German citizen, he added.

As proof, Pofalla stated that the British and American intelligence agencies had given him written assurances that they had not breached German laws. It is as if a defendant were to be set free by a court because he provided a written assurance that he had committed no crime, even though overwhelming detailed evidence existed against him.

Pofalla underscored the absurdity of his claim by announcing at the same time that the BND and NSA were negotiating an anti-spying agreement. If the NSA has not been spying in Germany as Pofalla claims, then there would be no need for an anti-spying agreement. On the other hand, if the NSA has been lying and carrying out secret surveillance of German citizens, nothing in such an agreement would change this situation.

Pofalla's choice of words was deliberately aimed at misleading the public. Although he denied the NSA had carried out spying in Germany, he failed to mention the over 200 companies active in Germany that work for the NSA on the basis of a special authorisation granted by the government. He showed just as little concern for the massive quantities of data that pass through cables and servers abroad when travelling between two points within Germany. According to Snowden's sources, this data is systematically mopped up by the NSA.

Pofalla also downplayed the close and partly illegal collaboration between the BND and NSA. It has emerged from documents released by Edward Snowden and several new exposures that both agencies spy on broad sections of the population, monitor targeted individuals and plan illegal drone killings.

The collaboration goes back to the period immediately after

World War II. The Gehlen organisation, the forerunner of the BND, was founded by American occupation forces in June 1946. The organisation established seamless working relations with personnel from "Foreign Armies East" (FHO), the German military intelligence group under Hitler headed by General Reinhard Gehlen that was responsible for the surveillance of the Soviet Union.

During the Cold War, American intelligence carried out massive wire-tapping operations, including in Bad Aibling in Bavaria. This was part of the global spy network Echelon, in which the British, Canadian, Australian and New Zealand intelligence services took part along with the United States.

The facility in Bad Aibling intercepted communications across the whole of Europe. It was finally closed in 2004, after an investigation by the European parliament concluded it acted mainly as a means to conduct economic spying. However, it is now known that the BND moved in with its own surveillance unit shortly afterwards. The NSA has its own building on site. Both obviously work together closely.

The German parliamentary control commission, which is responsible for monitoring the intelligence agencies, confirmed Snowden's revelation that the BND had sent 500 million pieces of metadata to the NSA last December alone. This includes telephone numbers, e-mail addresses, IP addresses, the length of telephone conversations and who participates in them.

Assurances from the BND that they filter out the data of German citizens according to e-mail addresses ending in .de and German dialing codes are an insult to the population's intelligence. The data traffic that passes through servers based in the US alone is so comprehensive that every user is affected by in any case. And the BND has failed to state what happens to the "German" data that is supposedly filtered out. The parliamentary control commission, which is supposed to supervise the work of the BND, is obligated to maintaining strict secrecy.

An official from the highest levels of the intelligence apparatus has confirmed that surveillance has assumed massive proportions. Hansjörg Geiger, who was chief of the Federal agency for constitutional protection (BfV) in the 1990s and then the BND, warned, "the opportunities which a dictatorship has or could have are growing year on year.... We have already left the Orwellian period far behind," he told the *Süddeutsche Zeitung*. "The technical possibilities for surveillance and with that the control of the individual...have assumed dimensions that not even Orwell

could have imagined.”

The cooperation between the BND and NSA also embraces the area of technology. Both agencies use the XKeyscore software, which makes it possible to trace individuals from the metadata. In the next stage, the contents of this person’s communications can be viewed, including e-mails, private Facebook messages, chats, Skype discussions and so on. As Snowden revealed, an intelligence agent does not even require special permission, so long as he is able to operate the software.

According to *Der Spiegel*, the BND has used the software since 2007. Previous programmes used by the BND were praised expressly by NSA contractors, because they were significantly more effective than the US software at the time. In the meantime, the BND has been training workers who are responsible for domestic intelligence gathering on XKeyscore. This shows that highly trained personnel are available to conduct blanket surveillance of the German population for the intelligence services.

The dangers connected with this spying, which breaches the German constitution, can be seen in the collaboration between the BND and NSA in the targeted killing of so-called terrorists by US drones. This has also been officially denied, although the facts prove otherwise.

The BND has admitted that it has been handing over mobile phone numbers to American intelligence agencies since 2003-2004. However, they have denied that such information is sufficient to locate a mobile phone and kill its owner with a drone strike. GPS data was “not accurate enough for the acquisition of a concrete target,” they claimed.

In fact it is possible with mobile network data to establish a clear picture of someone’s movements. With the help of further technical instruments such as a precision camera on a drone, it would be possible to locate and kill a victim. This is why the NSA has long praised the BND for its work in Afghanistan. There, the BND has developed into the “most hard-working partner” in intelligence gathering.

In one case, the BND even supplied US agencies with the phone number and details of a German citizen, who was then killed in a drone attack in the Pakistani region of Warizistan on October 4, 2010. The federal prosecutor halted its investigation after a year with the claim that Bünyamin Erdogan, who came from the town of Wuppertal, was an armed fighter and not a civilian. Therefore, he did not enjoy human rights protections. This view has yet to be confirmed by a court.

Several jurists consider such targeted killings to be clearly illegal. As Heribert Prantl commented in the *Süddeutsche Zeitung* on Tuesday, “According to German criminal law, acting to enforce the death penalty without a judicial process amounts to manslaughter or murder.” According to him, the BND was guilty of supporting a serious crime.

All parties represented in parliament defend the close collaboration between the BND and NSA and their massive surveillance programmes.

The right-wing Christian Democratic Union (CDU) and Christian Social Union (CSU) have declared along with conservative media outlets like the *Frankfurter Allgemeine Zeitung* and *Die Welt* that Snowden’s revelations “have been dispensed

with” following the written assurances by the NSA and British intelligence services. The Social Democratic Party (SPD), Greens and Left Party have made muted criticisms, attempting to find accusations against Chancellor Angela Merkel during the current federal election campaign while avoiding any direct criticism of the intelligence services.

The SPD’s attempts to attack the government on this question have backfired. It was after all the SPD together with the Greens who adopted the strongest security laws and deepened the cooperation between the BND and NSA. Former SPD chancellor Gerhard Schröder declared his “unconditional solidarity” with the government of George W. Bush immediately after the terrorist attacks of 9/11. Frank-Walter Steinmeier, who was the chief secretary in the chancellor’s office, subsequently agreed to deeper cooperation between the BND and NSA, a fact that has only now come to light.

The chair of the parliamentary control commission, the SPD’s Thomas Oppermann, is now defending the BND against the accusation that it supported drone attacks on terrorist suspects by supplying their phone numbers. “I cannot accept that the BND passes on such information,” he said.

The established parties defend the BND, because the ruling class needs the apparatus of state surveillance for the suppression of social resistance, which is becoming ever more likely in the face of the increasing polarisation of society. The anti-terror law adopted in 2002 already served this purpose, coming just before the implementation of the programme of social cuts known as “Agenda 2010.” Its powers were renewed in 2011, although there had been no major terror attacks for some time, and it is still in force today.

The law expanded the powers of the intelligence services, limited the privacy of post and telecommunications, required the recording of biometric data on identification documents and tightened the laws on illegal immigrants. In addition, it allowed for the long-term storing of telecommunications data, bank account details and transfers of money, and the location of mobile phones, as well as air traffic data.

At the time, the law was rushed through parliament just before Christmas without any major discussion, with the agreement of the SPD, Greens, CDU and CSU. It carried the signature of then interior minister, Otto Schily, who declared only a few days ago that “law and order” were “social democratic values.”

The SPD shares the anxiety of all bourgeois parties over coming social unrest. This includes the Left Party. Left Party representatives sit on the parliamentary control committee, and on the g-10 commission, among others. As a result, they are not only fully in the picture when it comes to the extent of surveillance, but they also legitimise the targeted programmes of the intelligence services.



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