

German commission defends the framework of a police state

Sven Heymann**7 September 2013**

A six-member government commission published its report last week on Germany's security setup. It makes clear that in the aftermath of the September 11, 2001 terrorist attacks in the US, the framework of a police state have been put in place. At the same time, the report proposes to legitimize this security apparatus by providing it with a new legal basis.

In January, the commission, composed of three representatives from both the judiciary and the Ministry of the Interior, began to examine and systematically assess the new security laws put in place over the last twelve years.

Both sides of the commission were divided on a number of detailed questions, which have been widely discussed in the German media. But the direction of their proposals was clear: the security architecture established over recent years was not to be questioned or overturned.

The commissioners criticized the close cooperation between the police and intelligence agencies, formally prohibited under the postwar German constitution, as well as the escalating powers of the Federal Office of Criminal Investigation (BKA). But all the commission's proposals boil down to legitimizing these unconstitutional practices.

The report reveals that over the past twelve years, a security apparatus has been established with powers reminiscent of the Secret State Police (Gestapo) of the Nazis. The separation of the police and secret services anchored in the constitution—a result of the experience of the Third Reich—has been virtually eliminated. Moreover, the BKA has amassed powers that would have been unthinkable a few years ago.

Under the pretext of combating terrorism, the Social Democratic Party (SPD)-Green government headed by Gerhard Schröder massively extended the powers of the police and intelligence agencies shortly after the September 11 attacks. Under the then Interior Minister Otto Schily (SPD), the so-called Counter-Terrorism Act was introduced in January 2002. It greatly expanded the powers of the secret service, allowing it to gather information about private bank accounts and money transfers, the content of postal

communications and telecommunications data, as well as mobile phone location data. Originally limited to five years, these powers have now been extended several times and are still in force.

The first major step toward the abolition of the separation of the police and secret service was completed in 2004, again under the SPD-Green Party government. The establishment of the Joint Counter-Terrorism Centre (GTAZ) brought together under one roof representatives of all the German security agencies.

The Federal Office for Protection of the Constitution (BfV, as the domestic secret service is known), the German Federal Intelligence Service (BND, responsible for overseas intelligence), the Federal Office of Criminal Investigation (BKA), the Federal Police, the Military Counterintelligence Service (MAD), the Customs Office, the Attorney General's Office, the Federal Office for Migration and Refugees, and all 16 state secret service offices and state Criminal Investigation Departments now work hand in hand.

These various agencies collaborate in numerous working groups (AGs). Besides the daily briefings, there are AGs for hazard assessment, case evaluation and structure analysis. In addition, there is an area for "operational information exchange". All the agencies involved have access to the so-called "antiterrorism database" of the BKA. The commission report notes that currently there are no legal restrictions on the sharing of data between agencies.

Significantly, the Federal Office for Protection of the Constitution praises the elimination of the separation of the police and intelligence agencies. "Essential to the success of GTAZ" is "the cooperation between intelligence and police institutions and actors," the office states on its website. "Strengthening cross-agency cooperation" and the "intensification of cooperation with representatives of law enforcement" has led to a "culture of trust" that is "essential" for the early detection and prevention of threats.

The commission report is concerned that this cooperation between police and intelligence agencies is taking place without any legal foundation. Cooperation in the GTAZ has

now “attained a level of consolidation, extent and significance” that makes a separate law necessary. So far, the work of the GTAZ has not even had any independent legal basis and is only controlled by regulations.

Some individual representatives of the commission expressed the concern that the work of GTAZ was “constitutionally problematic”. They conclude that what is needed is legal certainty in order to legitimize the so-called “super-agency” in the future. The report states explicitly that the work of GTAZ is “not fundamentally put in question by any of the members of the commission”.

The GTAZ, at least officially, was established only for combating Islamist terrorism. In the meantime, the Ministry of the Interior has used the racist murders of the National Socialist Underground (NSU) to deploy the new security structures against political opponents too.

Shortly after the NSU network blew apart in November 2011, Interior Minister Hans-Peter Friedrich (Christian Social Union, CSU) hastily launched the Joint Centre Against Right-wing Extremism (GAR). This is now being used to target other forms of “extremism”.

In November of last year, the then Joint Anti-Extremism and Terrorism Centre (GETZ) was founded. It now forms the umbrella for all the other centres where the police and intelligence agencies work closely together, including the GTAZ. It is explicitly directed against right-wing, left-wing and overseas “extremism” and “terrorism”, and against espionage and proliferation.

Under the guise of the fight against Islamist terrorism and the NSU, a new “super agency” has been established, headed by the secret service and the BKA. Here too, the already mentioned 40 state agencies work directly together, also with representatives of Europol and the Federal Office of Economics and Export Control.

The BKA has evolved into an agency that largely escapes any control. Since 2009, the BKA has also been given intelligence powers, such as the acoustic and visual surveillance of private residences and the monitoring of telecommunications. Moreover, it is allowed to engage in such activities long before any offence is committed, and without any instructions from the attorney general. Only when a concrete suspicion arises as a result of a “pre-investigation” must it be reported to the attorney general. Until then, the BKA can act completely on its own and in secret. This opens the door to all sorts of arbitrary proceedings.

Part of the commission now proposes to subject the BKA to oversight by the Parliamentary Control Committee (PKG). Thus they are tacitly accepting that a police authority now has the status of a secret service agency. But this would merely result in a slightly larger circle of silent accomplices

in parliament, and with the oaths of confidentiality this means that nothing becomes public. The machinations of the secret police are to be covered over with a pseudo-democratic veil.

The PKG also plays an important role in a further proposal of the commission. Future whistleblowers should not be given the opportunity to address the members of the PKG if they want to reveal information from inside the intelligence agencies. It is a transparent attempt to prevent honest employees from publicly revealing illegal practices.

The other proposals of the commission are also intended to legitimize an unconstitutional security apparatus. For example, citizens subject to surveillance measures should be informed retrospectively more frequently. Moreover, BKA antiterrorism investigations will in the future no longer be controlled by the Wiesbaden Regional Court, but by an investigating judge of the Federal Supreme Court (BGH).

The quiet establishment of a police state under the guise of fighting terrorism and “extremism” is aimed directly at the working class and political opponents of the capitalist system. Faced with growing social tensions, a deep international economic crisis and imperialist aggression, including in Syria, the ruling class is anticipating resistance and opposition.

At the same time, the construction of a massive security apparatus in violation of elementary constitutional principles shows that there is no longer any basis for the defence of democratic rights within the ruling class. All the parliamentary parties, including the Left Party, are either aggressively pushing ahead with the strengthening of the state apparatus or support such a course.

There are no longer any bourgeois institutions that respect the principles set out in the constitution. The ruling of the Federal Constitutional Court in April legitimizing the antiterror database shows this very clearly.



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