

German government introduces new mass data retention regulations

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The German federal government is moving towards re-introducing a controversial system of mass domestic data retention. The plan was announced by justice minister Heiko Maas (Social Democratic Party, SPD) and interior minister Thomas de Maizière (Christian Democratic Union, CDU) last week.

The Supreme Court annulled the then legal foundation of data retention in 2010 on the grounds that data protection, data security, transparency and access rights were not clearly enough regulated. Last year, the European Court overturned an EU directive on data retention, ruling that it infringed the fundamental right to privacy and the protection of personal data.

At a press conference in Berlin, Maas presented the new guidelines for mass data retention. The guidelines state that “traffic data generated in telecommunications,” will be retained by the telecommunications companies for up to ten weeks, and can be passed upon request to “law enforcement” agencies.

What would be retained is, “in particular, the numbers of the telephone connections involved, the time and duration of the call; for mobile calls, the location data, as well as IP addresses, including the date and duration of the assignment of an IP address.”

Zeit Online stated that such data retention is “a step towards total surveillance” of the population. The publication commented, “Data retention means that the information about who, where, when someone talked or emailed or texts is stored. Whether someone is a suspect or not, it should be possible for months to trace who has spoken with whom and how often.”

This has far-reaching consequences. Using the retained data, the police and the intelligence agencies can establish retroactively, who has communicated with whom, when, where and for how long, and which web sites each person visited. The state would thus be in a position to make a complete profile of any citizen’s movements and to

monitor their social and political activities.

De Maizière, who has systematically sought to increase the state’s powers at home and has long pushed aggressively for the reintroduction of data retention, described the guidelines as a “good and wise compromise.” Maas, who until recently posed as a critic of data retention, said that it was only about “better solving serious crimes in the future.” He pledged that profiles of people’s movements would not be made and that “civil rights and liberties” would be safeguarded.

This is complete hogwash. Maas’ guidelines merely regulate the retention, but not access to the data. This is regulated by other laws, such as the Protection of the Constitution Act. The guidelines explicitly allow individual federal states to define their own access rules.

In the opinion of experts, other than the shorter retention time, nothing has changed concerning the illegality of data retention. The law is not about fighting terrorism and crime, but the “total surveillance” of the population.

In an interview with broadcaster *Deutschland Funk*, former federal data protection commissioner Peter Schaar said that the new law also gives rise to the accusation of “general suspicion.” As before, it concerns “a widespread, not event-driven retention.”

The reintroduction of mass data retention in Germany is only one element of a massive increase in domestic state powers. At the end of March, the government adopted legislation that hugely expands the powers of the security agencies and provides the basis for a centralized police and intelligence apparatus.

An interior ministry press release elaborated the “core objectives” of the law. To ensure “better cooperation within the various domestic intelligence agencies,” the Federal Office for the Protection of the Constitution (BfV, as the secret service is called) would have its “central office function strengthened.” The BfV supports “the state secret service agencies, coordinates cooperation and

in certain cases, if need be, can even be involved in surveillance.”

In addition, it concerns “improving the flow of information” and the “development of analytical skills.” “All relevant information must be exchanged between the intelligence authorities,” where “the joint network system NADIS (Intelligence Information System) should be used,” the press release states.

NADIS is a non-public automated data network system in which the various secret service agencies are linked at federal and state level. According to Wikipedia, in 2013, it contained the “personal records” of about 1.6 million so-called “targets.” By merging “the relevant information in NADIS,” “cross-state relationships and structures [should be] more visible” and “information islands” avoided.

As stated in the bill: “The federal organization of the unified overall secret service task must not be accompanied by a fragmentation of the information base and archaic work tools.” Even in the “area of non-violence-oriented surveillance ... a comprehensive structured storage of existing knowledge about events and people [must] form the basis for merging information in the network capable of analysis.” “Blind spots in cross-state links” would be overcome “with the network solution.”

The various intelligence agencies would be better linked. For example, the “automated retrieval of files stored by the BfV” should be made possible for the Military Counterintelligence Service (MAD). At the same time, “the automated retrieval of data” from the MAD “central reference file” would be possible for the secret services.

This legal phraseology is deployed to hide the creation of a centralized police and intelligence apparatus, which aspires to comprehensively spy upon the population and permit the exchange of data between security agencies.

The full text of the more than 70-page draft bill is an attack on basic constitutional principles. The constitutionally enshrined principle of the separation of police and secret services, which was increasingly weakened in the past, will more or less be abolished.

The separation of police and secret services was written into the constitution after the experiences of the Nazi dictatorship, to prevent a highly centralised and all-powerful state apparatus of repression from developing again. The Nazis’ Secret State Police (Gestapo) gradually combined all the powers of the police and intelligence agencies to terrorize the population.

Such traditions live on in today’s security authorities in

Germany. In recent months, more and more facts have come to light demonstrating the close involvement of the intelligence agencies and the police in the right-wing terrorist group the “National Socialist Underground” (NSU). It is now known that at least 25 undercover secret service agents were active in the immediate environment of the NSU, and that right-wing organizations such as the Thuringia Homeland Security and the Baden Württemberg branch of the Ku Klux Klan were built and financed by the secret service.

According to the legislation, such controversial undercover agents may now officially commit crimes in the future. De Maizière declared in parliament that “serious offences” by undercover agents were “justified,” in his view, if they could prevent an “attack.” His principle was, “The more serious the offence, the more weight the conceivable information needs.” This is nothing more than a call for state-sanctioned crimes.

Seventy years after the end of World War II, the German elites are removing all the restrictions of the post-war period in domestic politics too. They are preparing to suppress growing resistance to their austerity measures and unpopular policies of militarism and war by force if necessary.

The Interior Ministry’s plan to establish a heavily armed paramilitary “anti-terrorist unit” of the Federal Police must be seen in this context. At the same time, the Interior Ministry budget will rise by 6.7 percent to €6.6 billion as early as next year. Hundreds of millions of additional euros will flow directly into upgrading the surveillance and repressive apparatus of the police and intelligence agencies.



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