

German Chancellor Merkel gives green light for prosecution of satirist Jan Böhmermann

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The German government has given the green light to criminal proceedings against the satirist Jan Böhmermann for supposedly “insulting” Turkish President Recep Tayyip Erdogan. Chancellor Angela Merkel announced the move in a statement at the Chancellery on Friday.

Merkel has given in to pressure from the Turkish government, which has been demanding Böhmermann’s prosecution. Ankara acts mercilessly against oppositionists and journalists inside Turkey; there are currently more than 1,800 such legal proceedings for “insulting” Erdogan, and over a dozen journalists are in prison.

Paragraph 103 of the German Penal Code, under which Böhmermann is being prosecuted, is a relic of authoritarianism. It makes the “insulting of the institutions and officials of foreign states” a punishable offence. The penalty ranges from a fine to up to three years imprisonment, and five years in the case of supposed “defamation.”

In the Kaiser’s Empire, Paragraph 103 protected crowned heads. In 1948, the news magazine *Der Spiegel* was banned for two weeks for revealing that Prince Bernhard, the spouse of Dutch Queen Julianne, had been an honorary SS officer. In the 1960s, the Persian royal family used it to suppress criticism of its regime of torture. And in 1975, it was used to prosecute demonstrators who correctly characterised Pinochet’s military dictatorship in Chile as a “band of murderers.”

Unlike other sections of the penal code, paragraph 103 requires the direct authorization of the Federal government. In order not to jeopardise the dirty deal with Turkey to stem the influx of refugees to Europe, and to suppress opposition to the persecution of refugees, Berlin has imported Erdogan’s authoritarian methods into Germany.

Merkel is trying to disguise this reality by promising to abolish paragraph 103 by 2018 and declaring that the government’s decision to apply it in the Böhmermann case does not amount to a rush to judgement. She has justified its application, saying it was “not a matter for the government but for the state attorneys and courts to weigh up the personal rights of those affected and other concerns about the freedoms of the press and artistic expression.”

But that is a sham. In reality, Merkel condemned Böhmermann shortly after his controversial broadcast, when she telephoned Turkish Prime Minister Ahmet Davutoğlu and assured him that she considered it to be “consciously damaging.”

Erdogan himself had not reckoned with the German government agreeing to the use of paragraph 103, and as a precaution had instigated a private libel suit under paragraph 185, which foresees far milder penalties.

The vast majority of the German population oppose the prosecution of Böhmermann. In a poll conducted by Emnid, more than two thirds said they thought Merkel was making too many concessions to Erdogan in this case. Many prominent artists have expressed their solidarity with Böhmermann.

An open letter published in news weekly *Die Zeit*, signed by many renowned actors, states: “Discussions about and criticism of Jan Böhmermann’s Erdogan poem belong in the country’s literary supplements and not in a Mainz court room... Art cannot take place in a climate in which artists have to have second thoughts about whether their creations may lead to legal proceedings, and begin to censor themselves, or be censored.”

Even the German government is divided. There were “differing views between the Christian Democrats and the Social Democrats,” Merkel said. While the

Christian Democratic Union (CDU) and Christian Social Union (CSU) agree with the application of paragraph 103, the Social Democratic Party (SPD) rejects it. “I think the decision is wrong,” SPD parliamentary group leader Thomas Oppermann commented on Twitter. “Penalising satire for ‘Lèse majesté’ does not sit well in a modern democracy.”

The broadcaster ZDF, which transmitted the controversial episode of Böhmermann’s satire programme “Neo Magazin Royale” on March 31 on its ZDFneo channel, has taken down the episode from its web site, saying it did not meet ZDF’s quality standards, but would defend Böhmermann legally.

“The form and content of the satirical contribution were not meant to impugn the honour of the Turkish president, but were part of a critical debate,” according to the legal submission made by ZDF to the State Attorney in Mainz. The “constitutional guarantee of freedom of satire” embraces “especially in connection with matters of public interest the use of coarse stylistic devices.” It is part of the essence of satire that “well aimed excesses, which are meant to elicit emotions and reactions in the public, draw attention to a topic and express criticism.”

Standing in front of a Turkish flag, Böhmermann recited a poem against Erdogan that viciously insulted the Turkish president. He employed obscene insults and vulgar racist swear words. He called the poem “abusive criticism,” and stressed several times that he was seeking to make clear what was not permitted in Germany, what traverses the boundaries of the freedom of satire and was punishable.

He was reacting to the attempts of the Turkish government to censor a song, broadcast on March 17 by ARD and entitled “extra 3,” that mocked Erdogan. This satirical song had not personally vilified Erdogan, but criticised—completely legitimately—the limiting of press freedom, the persecution of critical journalists, the suppression of the Kurds and other human rights violations in Turkey.

Nevertheless, the Turkish government summoned the German ambassador and demanded that the satirical song be deleted. The ambassador declined to do so, with reference to the freedom of expression, but the German government did not make the incident public, and did not take a position.

When parliamentary deputy Sevim Dagdelen (Left

Party), who had spoken to the ambassador, reported this, the government came under fierce criticism. It was accused of sacrificing freedom of expression in the interests of the EU deal with Turkey.

Böhmermann’s “abusive criticism” must be seen in this political context. By illustrating what, in contrast to “extra 3,” is not permitted, he provoked a debate. It is not “abusive criticism, but playing with it,” as *Der Spiegel* put it, and is therefore protected as freedom of expression.

The approval of criminal proceedings against Böhmermann reveals the true character of the German government. Last year, Merkel was celebrated as the refugees’ chancellor, whose “welcoming culture” stood in contrast to those who sought to close off the borders.

At the time, we explained that Merkel was not concerned for the fate of the refugees, but for the preservation of the European Union, which Germany needed “in order to again play the role of a world power.”

But after concluding the deal with Erdogan, refugees fleeing war who made the life-threatening sea crossing over the Aegean are being locked up, mistreated and brought back to Turkey, where the Turkish government detains them and deports them.

In response to the growing criticism of the EU’s refugee policy, the German government has acted with the same methods as Erdogan: suppressing and persecuting dissenting voices.



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