

# German parliament agrees to massive expansion of digital surveillance

**Sven Heymann****27 June 2017**

Last week, by a large majority, the Bundestag (federal parliament) agreed to a massive expansion of digital surveillance. The state will be given the power to deploy “trojans,” computer code that can bypass a user’s security and implement remote online searches of a person’s devices. The decision effectively eliminates the possibility of secure digital communications in Germany.

The Bundestag passed the necessary amendments to the Criminal Code with the votes of the grand coalition of the Christian Democratic Union/Christian Social Union (CDU/CSU) and the Social Democratic Party (SPD), while the Left Party and Greens voted against. At the end of the state interior ministers conference last week, federal Interior Minister Thomas de Maizière (CDU) had announced that the government would create the legal basis for these powers during this legislative period, and thus before the parliamentary summer break.

Through the introduction of “state trojans” and remote online searches, a devastating attack on fundamental democratic rights is being carried out under the pretext of fighting terrorism. The *Süddeutsche Zeitung* described the draft bill as “one of the most far-reaching surveillance laws in the history of the Federal Republic.” And Reporters Without Borders warned that the new law “means that there is no longer any digital means of communication in Germany that protects journalists from being monitored.” In fact, the law prepares the ground for the total monitoring of the population.

The introduction of state trojans (source telecommunication monitoring) is mainly intended to make encrypted communication available to the security authorities in plain text. To this end, a trojan is secretly planted on the target’s device--for example, on

the user’s PC, smartphone or tablet. Unnoticed by the user, these trojans can capture all communications on the device, even in real time. This includes communications sent via a messenger app or e-mail with end-to-end encryption, as the trojan reads the message directly on the device before it is encrypted. Supposedly more-secure programmes or apps like Signal, Telegram or Gnu-PGP are not hacked, but are simply bypassed by the trojan.

So-called online remote searches make it possible for the investigating authorities to read the entire hard disk on a target computer via the Internet. In contrast to a physical house search, the persons concerned are unaware that this measure is being used and cannot legally defend themselves accordingly.

The two measures are accompanied by a massive expansion of the offences to which they can be applied. While previously the surveillance of suspects was limited to a few serious crimes, it is now also applicable to numerous other offences, such as corruption, robbery, extortion, fraud, organised gangs, tax evasion and counterfeiting. Even the suspicion of the “misuse of an asylum application” can become the occasion for complete digital monitoring in future.

To prevent open resistance developing in the population before the law was passed, the coalition parties have used a perfidious trick. They did not introduce the law into the normal legislative process as a separate bill, which takes several months and requires readings in the Bundestag and a submission to the Bundesrat (second chamber of parliament). Instead, they steamrolled it through by including the new regulations in a law to amend the criminal code. This approach allows the grand coalition to pass the law before the summer break, without the Bundesrat having to pass it again.

The two opposition parties, the Left Party and the Greens, have also contributed significantly to this fraud. While their parliamentary deputies all opposed the law in the debate, they advocate the same political course of increasing state powers as the CDU/CSU and SPD.

In the debate, Hans-Christian Ströbele (Greens) warned against completely unrestrained surveillance, because a judge who orders the use of a state trojan could not properly check whether a time-limited measure had actually been ended. Ströbele assumes the law will eventually fail at the Supreme Court.

Left Party deputy Jörn Wunderlich said this was one of the “most invasive surveillance laws of the past few years,” going even further than the “big eavesdropping attack.”

If the Greens and the Left Party are now hypocritically expressing criticism of excessive surveillance, they are doing so mainly for two reasons. On the one hand, they are trying to give the impression that there is still an opposition within parliament against unrestrained surveillance. On the other, they are trying to conceal their own role in the increasing powers that have been granted to the state. When they were part of the federal government, the Greens had already passed the most stringent security laws under Interior Minister Otto Schily (SPD).

The complaints by the speakers of both parties, that they had been steamrolled by the legislative procedure and had no real means of preventing the adoption of the law, are simply lies. Unlike the public, which was left completely in the dark, both parties were involved from the start of the proceedings. Representatives of both the Greens and Left Party can be found in the Bundestag legislative committee, which agreed on the introduction of state trojans and remote online searches in the new law.

In contrast to previous tightening-up of security laws, where there were sometimes months and even years of disputes between the parties, as well as public protests and demonstrations, this time, all the Bundestag parties tried until the very last to prevent any public outcry. They all ensured the far-reaching decisions were agreed on without any obstacles at the state interior ministers conference, because they all sit in various state governments where they agree to tightening up the security laws.

For example, the SPD, the Greens and the Left Party had only just adopted a joint security package in January, which includes the expansion of public CCTV surveillance and will devour €27 million this year alone. In preparation for a possible joint coalition at federal level after the Bundestag elections in September, the weeks of silence of the Greens and the Left Party before this week’s debate was to signal, above all, that they are ready to help impose further attacks on democratic rights.



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