

German parliament passes Internet censorship law

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On June 30 the German parliament (Bundestag) passed a law, the Network Enforcement Act (NetzDG), which establishes censorship of the Internet.

The measure was introduced by Justice Minister Heiko Maas (Social Democratic Party--SPD) and was passed with the votes of the Grand Coalition parties, the right-wing Christian Democratic Union-Christian Social Union (CDU-CSU) and the SPD.

The Network Enforcement Act is a major attack on freedom of expression in Germany. It turns giant corporations such as Facebook, Twitter and YouTube into prosecutors, judges and juries determining what is and is not permitted on the Internet. If these firms fail to delete alleged “manifestly unlawful” statements within 24 hours and “less manifestly” unlawful items within seven days, they face fines of up to 50 million euros [\$US 57 million].

The short deadlines for the removal of allegedly unlawful content, under the threat of horrendous fines, will facilitate the erasure of legitimate statements of opinion. The user whose entry is deleted must merely be informed about the erasure. Any refusal to accept deletion then involves a lengthy and costly legal action during which time the deletion remains in effect.

A regulation on the authority empowered to act for platforms, which collaborates with government institutions, has been tightened up. If the responsible authority fails to comply with a request for information within 48 hours, then fines are applicable. This is to ensure that deleted utterances--which the provider must store--can also be effectively prosecuted.

In addition, platforms will be required to provide information on who wrote the controversial statements. The government claims this will make it easier to pursue lawsuits. In fact, it is an invitation for all kinds of stalking, bullying and intimidation of political

opponents. A provision allowing for judicial oversight changes little in this respect. Any input by those persons whose data is demanded is not provided for--the platform operator merely has to “inform” the victim of censorship. In practice all it requires is a request from a lawyer to justify judicial approval.

Until now establishing that an utterance was insulting, disparaging or slanderous was often the subject of a lengthy legal dispute. Not infrequently, charges and legal cases have been used to criminalise or silence personal or political opponents and critics. In numerous cases the Federal Constitutional Court has ruled--not always consistently--in favour of the importance of free expression and discussion.

In view of the extremely short deadlines and large penalties, it is clear how corporations like Facebook or Google will respond to reports of allegedly criminal content: deletion. A serious examination of whether or not the assertion is actually unlawful or punishable is neither possible nor intended, given the time limits and draconian fines. Any sharp, critical, polemical, ironic or satirical contribution on a social network can then “disappear” immediately following a denunciation.

The law is such an obvious attack on freedom of expression that even the Scientific Services of the Bundestag (WD) referred in an opinion to a “constitutionally unjustified interference with the basic right of freedom of expression.” The parliamentary jurists warned “that there are already considerable difficulties involved in the conceptual delimitation of illegal content to be deleted and criminally false reports (‘fake news’). ... Guidance, examples or references to examples of obviously unlawful or criminal content” are not specified in the draft law.

In other words, a law that lacks any concrete basis or justification has been rushed through parliament. When

asked, government officials could not name a single example of criminal “fake news.”

In fact, the issue is not about “hate speech” or “fake news”--and it is certainly not about opposing the far right. The issue is censorship of the Internet. Broad sections of the population have lost confidence in the capitalist parties and the bourgeois media and are using the Internet and social media to inform themselves and exchange information. The ruling elite increasingly regards this as a threat.

“Hate crimes”--an all-embracing concept in the current law--“which cannot be effectively combated and persecuted, represents a great danger to the peaceful coexistence of a free, open and democratic society,” the law states. The American presidential election is cited as an example. “After the experience in the US election campaign, the fight against criminally false reports (‘fake news’) has assumed high priority in social networks in the Republic of Germany.”

The fact that such a far-reaching law has been enforced so quickly within the space of a few months, and in the face of broad criticism, reveals the extent to which the powers that be in Germany feel under pressure. They are responding to growing political and social discontent as they have always done in the past--with the erection of a surveillance and police state.

All of the parties in the Bundestag are on board. The Greens abstained in the vote, mainly because they had not been involved intensively enough in preparing the law. “The process up to now has not been good. It was not good that you first had internal discussions without the involvement of the parliament,” declared Green Party spokeswoman Renate Künast. This “has nothing to do with the level and seriousness required.”

The Left Party voted against for the same reasons, while making clear in the Bundestag debate that it approved the general direction of the legislation. “Of course, Mr. Maas is right: there are problems with hate and false news and the role played by social networks as platforms. But these did not just crop up yesterday, and they must be taken very seriously. It is precisely for this reason that a serious and thorough examination of possible solutions is necessary,” declared Petra Sitte, parliamentary manager of the Left Party in the Bundestag.



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