

Stop the right-wing conspiracy! Defend the SGP against the *Verfassungsschutz* secret service!

Socialist Equality Party (Germany)
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On January 24, the German section of the International Committee of the Fourth International, the Sozialistische Gleichheitspartei (Socialist Equality Party—SGP), filed a lawsuit against the Federal Ministry of the Interior before the Administrative Court in Berlin. The lawsuit challenges the SGP’s classification as “left-wing extremist” in the 2017 Report of the *Verfassungsschutz* (Office for the Protection of the Constitution), the Interior Ministry’s secret service. With this designation, the SGP is made subject to surveillance by the *Verfassungsschutz*.

The SGP justified its complaint on the basis that its inclusion in the report and surveillance by the secret service was a massive and illegal violation of its democratic rights. The *Verfassungsschutz* did not allege the SGP was either violent or anti-constitutional. It explicitly acknowledged that the party pursued its goals by legal means. The government justified the surveillance of the SGP exclusively on the grounds that the SGP advances a socialist program and opposes capitalism.

Now the Ministry of the Interior has responded to the SGP’s complaint with a detailed statement written by Professor Dr. Wolfgang Roth of the law firm Redeker Sellner Dahs. This response is, in essence, not a legal argument but a diatribe against Marxism and every form of socialist, left-wing and progressive thought. It could have been written at the party headquarters of the neo-fascist Alternative für Deutschland (AfD). The response exposes the extent to which the *Verfassungsschutz* has become a mouthpiece for the extreme right.

According to the Ministry of the Interior, “the struggle for a democratic, egalitarian, socialist society” and “agitation against alleged ‘imperialism’ and ‘militarism’” are anti-constitutional. The government is attempting to impose a ban on thought, including “thinking in class categories” and “belief in the existence of irreconcilably opposed competing classes.”

The court received the Ministry of the Interior’s document two weeks before the neo-Nazi attack on the politician Walter Lübcke, a member of the ruling Christian Democratic Union (CDU). The murder is the latest in a series of violent attacks that have been carried out by neo-Nazi terrorists who are operating with high-level state protection. The suspect, Stephan E., a member of a network of violent neo-Nazi organisations, has a long record of convictions for violent assaults. This network has been infiltrated with dozens of *Verfassungsschutz* agents, who effectively run its operations. The neo-Nazi terrorist NSU (National Socialist Underground), which murdered nine immigrants and a police officer, is part of this network.

While the *Verfassungsschutz* protects terrorists and is financing and directing the right-wing extremist milieu with its own officials, it is targeting organizations and individuals who oppose the AfD and the right-wing murder gangs. This includes not only the SGP, but also left-wing bands, youth groups and even the Rock Against the Right concert in Chemnitz, which was defamed as “left-wing extremist” by the

Verfassungsschutz of the state of Saxony.

The SGP has been placed in the crosshairs of the *Verfassungsschutz* because it is waging a political campaign against militarism and the massive shift to the right of the entire political establishment, thereby giving expression to the broad opposition to these developments within the population. It has exposed the right-wing conspiracy in the state apparatus and is fighting for a socialist program in the working class. In particular, it has opposed the revival of right-wing extremist and militaristic ideologies in the universities by professors such as Herfried Münkler and the Hitler-apologist Jörg Baberowski.

The SGP has gained broad support among workers and students and has been able to greatly expand the work of its youth organisation, the International Youth and Students for Social Equality (IYSSE). In response, right-wing extremists from the Identitarian Movement and the AfD have attacked public meetings of the SGP and the IYSSE. Right-wing media, such as the leading conservative newspaper, the *Frankfurter Allgemeine Zeitung*, and the influential political magazine *Cicero* have published defamatory articles.

Now the entire state apparatus has been set in motion against the SGP. The Ministry of the Interior has devoted enormous resources to branding the party as anti-constitutional. It has commissioned a leading law firm to produce a 56-page document, which is based on an examination of the political statements and programme of the SGP and its sister parties in the International Committee of the Fourth International.

But the attack on the SGP is, more broadly, directed against all leftwing and progressive movements. The attack invokes the criminal traditions of authoritarianism and fascism in Germany. The Interior Ministry’s attack on the SGP is intended to set a dangerous precedent. It will be used to legitimize state action against organizations, groups and individuals who oppose social inequality, environmental destruction, state repression, the buildup of the military or other injustices of capitalist society.

Therefore, we appeal to all those who support democratic rights and oppose the growth of the far-right to protest against the attack by the *Verfassungsschutz*, support the lawsuit filed by the SGP, and endorse its demand that the government cease the surveillance of the SGP and all other left organizations, and that the *Verfassungsschutz*—a center of anti-democratic conspiracies—be dissolved.

What the federal government wants to ban

In its response to the complaint by the SGP, the German government has revived the reactionary concept of legal prosecution of opinions

(*Gesinnungsstrafrecht*), without the actual commission of a crime. This inquisitorial process found its most brutal application in the Nazis' concept of *Willensstrafrecht* (punishment for thought), in which the accused could be convicted and sentenced to death for merely indicating a mental attitude that might suggest, and possibly encourage in others, disloyalty. The government does not accuse the SGP of unlawful acts, incitement to violence or any extremist acts. In the entire document, there is no claim that the SGP has committed any act that violates existing law. The denunciation of the SGP as a political organization whose very existence is incompatible with the "liberal democratic order" is based exclusively on its view of society, its theory of history, its political analyses and the programmatic conclusions it draws from them.

On this basis, a wide range of left and progressive thinking is threatened with illegality. The government document begins with the assertion that "the fight for a democratic, egalitarian, socialist society" is at odds "with the central values of the Basic Law." The ensuing 50 pages consist of a long catalogue of views which, according to the federal government, violate the constitution.

1. Positive references to Karl Marx, Friedrich Engels, Vladimir Lenin, Leon Trotsky, Karl Liebknecht and Rosa Luxemburg are, according to the government and its lawyers, anti-constitutional. This also applies to the Marxist materialist conception of society and history. Referring to the ban on the KPD (German Communist Party) of 1956, which is now widely viewed as an unconstitutional byproduct of the Cold War, the document explicitly states that the "idea of a class society... and the Marxist-Leninist conception of state and society, which is rooted in thinking in terms of class and the resulting class struggle, is incompatible with the liberal democratic basic order and its conception of man."

2. To challenge the claim that capitalism leads to the gradual reconciliation of classes also violates the constitution, according to the government. In a direct citation from the ruling prohibiting the KPD, the document says: "Liberal democracy is permeated by the view that it is possible to gradually develop the freedom and equality of citizens... into ever greater efficacy and to raise these principles to the optimum attainable."

Opposition to this state-imposed belief in harmony between the classes, based on an analysis of social inequality, may also be labeled an attack on the constitution. On this basis, the books of leftwing sociologists such as Thomas Piketty, the poverty report of the German government itself and the numerous statistics showing a massive increase in poverty and social inequality may be subject to proscription.

3. The SGP's irreconcilable opposition to the establishment parties, including the Left Party, and its fundamental refusal to participate in coalitions with these parties, are also unconstitutional, according to the Interior Ministry.

The statement attacks the SGP because it rejects "compromises by the 'working class' with the representatives of other 'classes'" and because it accuses the establishment parties of "a conspiracy against the population" aimed at "militarism, armament and social austerity." Moreover, the definition of the SPD as "a 'right-wing party of the state, which represents exclusively the interests of the banks, the large corporations, the secret services and the Bundeswehr' and now confronts 'deserved hatred' for the reforms it implemented or supported" is also declared to be in violation of the constitution.

This state-imposed belief in class harmony revives the Nazi ideology of "Volksgemeinschaft" (people's community). It is imbued with the same criminal spirit that animated the book burnings of May 1933, which were accompanied by the "fire oath": "Against class struggle and materialism, for the Volksgemeinschaft and an idealist attitude to life! I consign to the flames the writings of Marx and Kautsky."

4. But the Interior Ministry does not stop at Marx and Kautsky. Just as the Nazis also burned the books of the writer Kurt Tucholsky and the

journalist Carl von Ossietzky, the government now declares anyone who criticizes growing armament and war-mongering, or who opposes the European Union, to be an enemy of the constitution. Among other things, it describes the following as "efforts against the liberal democratic basic order": the "demand for the overthrow of 'capitalism' and the establishment of socialism," the "agitation against alleged 'imperialism' and 'militarism,'" as well as the "rejection of nation states and the European Union."

5. Anyone who justifies armed struggle against the Nazi regime is, in the view of the German government, also a left-wing extremist. In order to prove the SGP's alleged readiness to use violence, the document cites, of all things, the founding program of the Fourth International of 1938, which advocates the "arming of the proletariat" in the "fight against fascism." According to this view, leaders of the resistance against the Nazis, those who attempted to take Hitler's life such as Georg Elsner and the members of the failed July 20, 1944 plot, would still end up on the gallows today.

The logical consequence of the Interior Ministry's prohibition catalogue is a fascist dictatorship. It is meant to prevent by all means possible the majority of the population from actively intervening in political events and transforming society on the basis of socialist principles. This is why the Interior Ministry claims that a socialist revolution "cannot be an expression of the will of the people, because [in this revolution] at most parts of the people assert their ideas, whereas the constitutional rights of the other parts of the people are suppressed." This applies, the document states, "regardless whether or not violence is used in the course of the socialist revolution."

Thus, the right of a super-rich elite to own banks and the means of production is declared to be a supreme good and any criticism of this becomes an act of sacrilege. It was dictators such as Hitler, Franco and Pinochet who drew the final conclusion from this kind of argumentation: If the majority gravitates toward socialist ideas, even the most brutal methods of repression are justified to defend capitalism. By "liberal democratic order" the German government does not mean the inalienable democratic rights protected by the Basic Law, but capitalist property and the state apparatus that protects it.

At the same time, the Ministry of the Interior does not limit itself to prosecuting concrete actions aimed at the overthrow of capitalism. Even activities such as "holding public events, publishing contributions and participating in elections" are anti-constitutional if they serve to propagate socialist ideas. The following reason is given: "If an association such as the plaintiff [the SGP] is directed, in its objectives, against the liberal democratic basic order, then relevant active behavior constitutes efforts against the liberal democratic basic order."

As examples of such "active behaviour," the German government cites in particular "the publication of daily analyses of world political and economic developments on the *World Socialist Web Site*" and the publication of "Trotsky's works as well as works by David North" by the party's publishing house Mehring Verlag, the "largest Trotskyist book publishing house in the German-speaking world." The party website, Facebook and Twitter accounts and the YouTube channel are also mentioned.

The anti-socialist laws, *Willensstrafrecht* and the KPD ban

Legitimizing prosecution based on opinions (*Gesinnungsjustiz*), the German government is placing itself in an anti-democratic tradition that dates back to the mid-19th century. Already in the Cologne Communist Trial of 1851 and the Leipzig High Treason Trial against August Bebel of

1872, Marxists were indicted exclusively for their convictions. From 1878 to 1890, the anti-socialist laws made the German Social Democratic Party (SPD) illegal. These laws were directed against all organizations in which “social democratic, socialist or communist efforts to overthrow the existing state or social order in a way that endangers public peace, and in particular the harmony of the different classes of the population, came to light.”

This reactionary legal tradition reached its climax in *Willensstrafrecht*, which played a crucial role in the Nazi legal system. For someone to be sentenced, it was no longer required that an actual crime had been committed. Rather, it was sufficient to merely assert a “criminal will (*verbrecherischer Willen*)” on the part of the perpetrator. In order for the government to be able to eliminate all political opponents, lock them up in concentration camps and kill them, criminal prosecution was increasingly separated from any concrete actions by the accused.

In the 1930s, the newly created Nazi People’s Court (*Volksgerichtshof*) interpreted the high treason paragraph in such a way that communists could ultimately be sentenced to death solely on the basis of their convictions. By the 1940s, any form of dissatisfaction that could be interpreted as opposition to the state was sufficient for a draconian judgment. A joke about the “Führer,” doubts about the final victory, even a remark about chronically delayed trains, had fatal consequences.

After the fall of the Nazi regime, this continuity was broken only on the surface. After a brief period of “denazification,” the elites returned to their old offices in the judiciary, the police, the administration, the universities and business. The co-author of the Nuremberg Race Laws, Hans Globke, became the head of the Chancellor’s Office under Konrad Adenauer, the first chancellor of post-war West Germany. In this capacity, Globke was responsible for personnel policy as well as for the establishment and control of the secret services: the BND (foreign intelligence) and the *Verfassungsschutz* (domestic intelligence).

In 1950, a comprehensive amendment to criminal law reintroduced the concept of legal prosecution based on opinions (*Gesinnungsjustiz*). This amendment had been worked out by Dr. Josef Schafheutle, who had been responsible for political criminal law in the Third Reich as a department head in the Ministry of Justice. The same judges who had ruled unjustly under the Nazis again condemned communists on the basis of their convictions. The witch hunt of communists culminated in the infamous 1956 ban of the KPD by the German Federal Constitutional Court. Now this ban is being retrieved from the archives by the federal government and used against the SGP. It serves as the most important legal frame of reference for the document by the Interior Ministry.

Although the KPD ruling has never been formally repealed, it has long been discredited. The president of the Federal Constitutional Court, Jutta Limbach, stated in 1996, based on current views of constitutional law, that she would have rejected the ban. In his book *Verfassungswidrig! (Anti-constitutional!)* published in 2017, the historian Professor Josef Foscith, who has undertaken a thorough study of the trial against the KPD based on previously inaccessible files in the state archives, concludes that the KPD ruling blatantly violated the constitution and was politically motivated. “In this trial there was no longer the separation of powers, but only one state which, under pressure from the federal government, insisted that the KPD be banned,” writes Foscith.

In this trial, the Adenauer government was represented by lawyers from the same radical right-wing circles that had played an active role in the persecution of communists under National Socialism. The head of the government’s Litigation Office (*Prozessführungsstelle*) was Hans Ritter von Lex, who, as a member of the Reichstag for the Bavarian People’s Party (BVP), had declared his party’s consent to the Enabling Act of 23 March 1933, which de facto handed over all legislative power to Adolf Hitler. Just a few days earlier, he had assured Hitler in a personal

conversation that he shared his goal to “exterminate Marxism in Germany.”

“The liberation of the German people from this contamination, including by applying the harshest methods, is a common demand of all patriotically minded circles,” he said.

A right-wing extremist conspiracy

With the return to prosecution based on opinions (*Gesinnungsjustiz*) and the reactivation of the KPD ban, the ruling class is taking up these fascist traditions. The report of the *Verfassungsschutz* and the document of the lawyers of the Interior Ministry are products of a right-wing extremist conspiracy in the state apparatus aimed at intimidating public opinion and criminalizing all opposition to capitalism, nationalism, imperialism, militarism and the AfD as “left-wing extremist” and “anti-constitutional.”

It is now known that right-wing extremist circles participated in the drafting of the 2017 *Verfassungsschutz* report. Hans-Georg Maassen, then head of the *Verfassungsschutz*, had met several times with leading representatives of the AfD and discussed the report with them. In November of 2018, Maassen was sent into temporary retirement after he had denied—withstanding overwhelming evidence to the contrary—that radical right-wing riots had taken place in Chemnitz and denounced “left-wing radical forces within the SPD.” Now Maassen, a right-wing member of the ruling CDU, is openly promoting the formation of government coalitions with the AfD.

Under its new president, Thomas Haldenwang, the *Verfassungsschutz* is continuing the same course. Thus, once again there is not a single syllable on the AfD, its fascist wing led by Björn Höcke or the neo-Nazi milieu surrounding the party, in the chapter on right-wing extremism in the new 2018 *Verfassungsschutz* report. They are cited merely as “victims” of alleged “left-wing extremists.” The report states literally: “In 2018, in addition to members of right-wing extremist parties, the Alternative für Deutschland (AfD)... which left-wing extremists have declared to be right-wing extremist across the board, continued to be the focus of left-wing extremist agitation.”

The report also systematically ignores the extensive right-wing terrorist networks in the police and the Bundeswehr (German army). One will search in vain for terms like Franco A., the head of a fascist conspiracy in the German army, or NSU 2.0, the continuation of the far-right terrorist NSU network. The terrorist group Revolution Chemnitz, which has not only attacked foreigners and political dissenters but also had plans for an armed “action” and right-wing radical overthrow on the Day of German Unity 2018, is downplayed as a mere “militia” by the *Verfassungsschutz*. The right-wing extremist terror network “Combat 18,” which maintained close ties to the NSU and to which the alleged murderer of Lübcke was in close contact, was deleted from the new *Verfassungsschutz* report.

By contrast, the SGP is again listed as a “left-wing extremist party” and “object of observation.” In the spirit of the legal persecution of political ideas, the secret service added to this relevant chapter the remark that “dogmatic left-wing extremists” such as the SGP “with their extensive analyses” had “the potential” to act “as ‘intellectual arsonists’ (*geistige Brandstifter*) to ideologically inspire violence-oriented groups.”

While the *Verfassungsschutz* equates Marxist analyses and socialist ideas with “arson” and “violence,” it is building up and covering for neo-fascist murder gangs! In the milieu around the NSU alone, the security authorities have deployed more than 40 informants for the *Verfassungsschutz*. One such operative was even present at one of the murder scenes of the NSU. The domestic intelligence service is “the most dangerous government agency in Germany” and “not capable of reform,”

declared journalist Deniz Yücel, of the German daily *Die Welt* during a public appearance at the beginning of July. The weekly magazine *Stern* has called for the abolition of the *Verfassungsschutz* because it has developed into “a state within a state” and “proven to be uncontrollable.”

With its attack on the SGP, this criminal government agency wants to set a precedent for a new kind of legal prosecution of thought crimes that would provide the basis for the prosecution of anyone who criticises the current reactionary social and political situation. Striking workers would be prosecuted as well as book sellers who make available Marxist literature, or critical artists, journalists and intellectuals.

Many people know the famous poem of the Protestant theologian Martin Niemöller, in which he describes his own path to the concentration camp:

First they came for the communists, and I did not speak out—Because I was not a communist.

Then they arrested the social democrats, and I did not speak out—Because I was not a social democrat.

Then they came for the trade unionists, and I did not speak out—Because I was not a trade unionist.

Then they came for the Jews, and I did not speak out—Because I was not a Jew.

Then they came for me—and there was no one left to speak for me.

This question is again being posed today. If the right-wing conspiracy in the state apparatus is not stopped and the SGP is not defended, the dam will be broken for even more far-reaching measures. We therefore appeal once again to all those who want to defend democratic rights and oppose the growth of the right: Protest against the attack of the *Verfassungsschutz* and defend the SGP.

We demand that the *Verfassungsschutz* cease the surveillance of the SGP and all other left-wing organizations and that this right-wing hotbed of anti-democratic conspiracies be dissolved.



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