

German parliament agrees to drastically restrict freedom of speech and assembly

Justus Leicht
27 October 2022

The amendment to paragraph 130 of the penal code (incitement of the people), decided in a cloak-and-dagger action, is an unprecedented attack on the fundamental rights of freedom of expression and assembly. In view of the rapid return of German militarism, any expression of doubts about the deafening war propaganda and any opposition to the war policy are to be made punishable offences.

Specifically, the legislation will be amended to include a paragraph stating that it is punishable by up to three years in prison to “publicly or in an assembly” condone, deny, or grossly trivialize “genocide, crimes against humanity or war crimes.” Officially, this will implement a 2008 EU decision to combat racism, so the alleged statement must be “likely” to “incite hatred or violence” against a national, racial, religious or ethnic group, against parts of the population or against an individual because of his or her affiliation with it, and “disturb the public peace.”

The amendment to the law, which was passed with the votes of the Social Democrats (SPD), Liberal Democrats (FDP), Greens and Christian Democrats (CDU/CSU), was deliberately worded in such a way that no limit is placed on the time and place of the aforementioned crimes, nor did they have to be “finally established by a court.” Such a limitation had been made possible by the EU Framework Decision, but the “traffic light” coalition of the SPD, FDP and Greens, together with the CDU/CSU, deliberately did not use it, as the parliamentary Legal Affairs Committee’s recommended resolution on the law explicitly states. Even if such a statement is made in a non-public meeting, it can still be prosecuted.

This means that it does not matter when or where war crimes or genocide took place, or whether they have a

connection to Germany or not. Since they also do not have to be established judicially, suspicion about a propaganda claim can also suffice. It suffices if police officers, prosecutors or judges declare them to be true.

At the same time, the law provides the German judiciary practically unlimited leeway, through undefined legal terms, as to when it will prosecute supposedly illegal statements and when it will not, when “trivialization” is present, when this is “gross,” and when a statement is “suitable” to “disturb the public peace” (an actual disturbance is not required).

Despite all the denials from the Ministry of Justice, which point to EU infringement proceedings against Germany from last year for failing to implement the 2008 EU decision, the reason for the tightening of the law is obviously the Ukraine war. It was literally decided in a cloak-and-dagger action, public discussion was apparently to be avoided, as the *Süddeutsche Zeitung* vividly described:

There had been no major announcement; instead, Marco Buschmann’s (FDP) Ministry of Justice had given an initially non-public “formulation aid” to the Legal Affairs Committee. The committee had then attached the text to an inconspicuous reform bill on the Federal Central Register on Wednesday. So it was able to move quickly: On Thursday evening shortly before 11 p.m., the traffic light factions in the Bundestag, together with the Christian Democrats, had already given their final approval.

Now, only the Bundesrat, the second chamber, must

agree on November 25; after ratification by the Federal President and publication in the Federal Law Gazette it then comes into force.

The reason for the haste and stealth with which this law is being rushed through is the fear and anger of the ruling class that NATO's proxy war in Ukraine against Russia, despite incessant propaganda, is rejected by broad sections of the population. Many working people are not driven by the desire for victory over Russia, but by concerns about rising living costs and fear of war. The answer of the ruling class is to criminalize the rejection of atrocity propaganda against Russia.

The significance of the law, however, goes far beyond the Ukraine war. In most wars and civil wars around the world, allegations of war crimes and genocide play a central political role. Sometimes they are true, but only a pretext; often they turn out to be lies.

Thus, in order to justify the war against Iraq, real past crimes of the Hussein regime, such as poison gas attacks against Kurds during the war against Iran, were brought up, but tales of atrocities were also invented, such as that Iraqi soldiers tore Kuwaiti babies out of incubators. NATO's war of aggression against Yugoslavia, which violated international law, was preceded by propaganda about an alleged "horseshoe plan" by Yugoslav President Milosevic, who was allegedly planning genocide against the Kosovo Albanians. Similar propaganda was used to justify the war against Libya to overthrow and assassinate Libyan leader Gaddafi. The examples could be continued.

In future, using the new law, anyone who questions the war propaganda of the ruling class can be prosecuted. Hatred and the denial of war crimes against Germany's enemies, on the other hand, will continue to go unprosecuted. No state attorney will prosecute Ukrainian nationalists for glorifying Nazis like the Azov regiment or the fascist Stepan Bandera and incitement against "Russian orcs."

The prosecution of opponents of war has a long tradition in Germany. Socialist leaders August Bebel and Wilhelm Liebknecht were sentenced to two years' imprisonment for their criticism of the 1870 Franco-Prussian War. Rosa Luxemburg and Karl Liebknecht were locked up in a penitentiary for their opposition to the First World War. The Nazis eventually imprisoned hundreds of thousands of Communists and Social

Democrats in concentration camps in order to conduct World War II.

In the name of the fight against "incitement of the people," of all things, the ruling class is reanimating this tradition. The new law is part of comprehensive attacks on basic democratic rights aimed at suppressing widespread opposition to war and social devastation.

For example, in the capital Berlin authorities banned all "Nakba Day" demonstrations marking the destruction of Palestinian society and homeland in 1948. In many parts of Berlin this year, it was forbidden to commemorate the liberation from fascism in World War II by the Soviet Union with Soviet flags at Soviet memorials and monuments on Liberation Day, May 9. In a ruling against the left-wing daily *Junge Welt* in March, the Berlin Administrative Court justified allowing publications to be spied on, harassed and discriminated against by the secret service if they advocated against capitalism and for a socialist society.

Previously, the Sozialistische Gleichheitspartei (Socialist Equality Party, SGP) had been placed under secret service surveillance and included in its annual report as being hostile to the constitution. When the SGP took legal action against this, the federal government justified its action against the party on the grounds that the SGP took a stand against nationalism and militarism and was fighting for an egalitarian, democratic and socialist society.

After two courts joined in this scandalous revival of the Nazis' *Gesinnungsjustiz* (prosecution for ideas or beliefs), the SGP filed an appeal with the Supreme Court. With the SGP's campaign, it is not only defending its own democratic rights, but also placing itself at the forefront of the struggle against the growing authoritarian tendencies, most recently expressed in the new paragraph 130 legislation. We therefore call on all WWSWS readers to sign our petition on Change.org and become an active supporter of the SGP today.



To contact the WWSWS and the Socialist Equality Party visit:

wsws.org/contact