

German interior minister to tighten up “radicalism decree”

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A bill introduced by Interior Minister Nancy Faeser (Social Democratic Party, SPD) is intended to make it easier in the future to “remove” civil servants for “extremist misconduct.” To this end, their democratic rights in disciplinary proceedings will be massively restricted. This is intended to arm the state apparatus for political and social conflicts.

Presently, those classed as civil servants—whether working in city halls, police stations, schools or universities—have lifetime employment, i.e., they are basically not subject to dismissal. Unlike other employees, they do not have to pay into the social security system but receive health and pension benefits from the state. Although a civil servant is bound by directives, he or she does not have to follow arbitrary or unlawful instructions but is bound by law and the constitution. Therefore, so the theory goes, they should be economically and legally secure.

Up to now, only the courts could remove a civil servant from office. According to Faeser, this is now to be a thing of the past. Instead of taking disciplinary action before the administrative court, in future the authorities themselves are to order all disciplinary measures by means of a decree.

It is true that the civil servant could appeal against the order. But for the time being, he or she is faced with a fait accompli. It is no longer the state but the civil servant who must bear the litigation risk, as well as the economic and social uncertainties and disadvantages of the dismissal for the period until a final decision is reached on the complaint. Judicial protection against “disciplinary orders” is also to be limited as far as possible. An appeal is only possible in exceptional cases if it is declared admissible by the administrative court.

In addition, a civil servant “legally removed from public service for extremism” must repay the remuneration paid during the duration of the disciplinary proceedings. He

thus exposes himself to a risk if he defends himself against the dismissal, because the longer the proceedings last as a result, the more he must pay back in the event of defeat in court.

In addition, the bill provides for easier termination of civil service employment in the event of a criminal conviction for incitement of the people. In future, in such cases a sentence of six month’ imprisonment instead of the previous 12 months will lead to the loss of civil service rights or pension benefits.

In this context, it should be noted that the “traffic light” coalition government of the SPD, Liberal Democrats (FDP) and Greens has just drastically tightened up the paragraph on incitement of the people. This was supplemented by a paragraph, according to which it can be punishable with up to three years in prison if one “publicly or in an assembly” approves of, denies or grossly trivializes genocide, crimes against humanity or war crimes.” Even those criticizing government war propaganda therefore run the risk of being dismissed from the civil service.

According to Faeser, this is based on a regulation that has been in effect in Baden-Württemberg since 2008. In that state, all disciplinary measures are implemented via a disciplinary order. The Supreme Court confirmed the basic admissibility of such a regulation in 2020. Shortly thereafter, following the 2021 federal elections, in its coalition agreement the coalition parties agreed to “remove enemies of the constitution from the civil service more quickly than before.”

The legal provision enabling removal from the civil service solely by means of a judge’s decision had been introduced for the whole of Germany in 1932, shortly before the end of the Weimar Republic. Since the end of the Second World War, it then applied to the Federal Republic (West Germany), as the Supreme Court acknowledged in its 2020 majority decision.

Once again, it is the SPD that is leading the way in purging the state apparatus of those it deems politically unreliable. In doing so, it is following up on the 1972 so-called *Radikalenerlass* (Radical Decree), which came about under SPD Chancellor Willy Brandt.

On January 28, 1972, Brandt and the state premiers had agreed “principles on the question of anti-constitutional forces in the civil service.” The aim of this “Minister Presidents’ Decision” was to purge the civil service of federal and state employees alleged to be “enemies of the constitution” via a uniform procedure.

When applying for a position in the civil service, the hiring authorities would normally ask the *Verfassungsschutz* (Office for the Protection of the Constitution, as Germany’s domestic intelligence agency is called) whether it had “knowledge” about the applicant. Often, it was enough to have attended an event or demonstration that the intelligence service classified as “anti-constitutional.”

If such “findings” were said to exist, the applicant had to comment on them in so-called hearing interviews. If they could not dispel the doubts, the applicant was usually rejected. It was possible to take legal action against this, but the possibilities for appeal meant such proceedings usually extended over many years, during which the applicant would not be employed.

According to official government figures, 450,000 such inquiries were made to the intelligence services between the beginning of 1973 and mid-1975 because of the *Radikalenerlass*. This resulted in 5,700 cases of “findings” and 328 rejections. The organization “Weg mit den Berufsverbot” (End the occupational bans) even counted 1,250 rejections.

Some 260 people who were already civil servants were also dismissed. For the most part, it was teachers (about 80 percent) and university lecturers (about 10 percent) who were affected; there were also cases in the judiciary, railroads, and postal services. Despite the official claim that the *Radikalenerlass* was directed equally against “extremists from the right and the left,” almost exclusively members or supporters of left-wing organizations were affected.

Over the course of the 1980s, such routine inquiries were gradually abolished. In most federal states, however, a so-called needs-based inquiry is still lodged with the *Verfassungsschutz* if there are doubts about an applicant’s “loyalty to the constitution.”

In February 1987, a commission of inquiry established by the International Labor Organization (ILO) concluded

that the implementation of the *Radikalenerlass* violated the prohibition of discrimination in employment and occupation. A ruling by the European Court of Human Rights in Strasbourg on September 26, 1995, involving the case of a teacher from Lower Saxony who had been dismissed from the teaching profession in 1986 because of her membership in the German Communist Party (DKP), considered this to be a violation of the European Convention on Human Rights’ right to freedom of expression and association.

The current tightening of the law continues the tradition of the *Radikalenerlass* and *Berufsverbot*. As usual, it is being justified primarily by citing the need to combat right-wing extremism. Most recently, raids against a terrorist network from the “Reichsbürger“ (Reich Citizens) scene gave limited insight into how riddled the state apparatus is with fascist elements.

But one should not be deceived here. Leon Trotsky had warned as early as 1938: “Theory, as well as historic experience, testify that any restriction to democracy in bourgeois society is eventually directed against the proletariat.”

More recently, the domestic intelligence service, which checks the “constitutional fidelity” of civil servants, was led for years by right-wing extremist Hans-Georg Maassen. This once again makes clear that the political instruments of repression, no matter how their introduction is justified, are ultimately always directed against those on the left. Right-wing professors like Jörg Baberowski at Humboldt University in Berlin do not face disciplinary measures even after making physical attacks on their political opponents but enjoy the backing of their superiors against their critics.

Opponents of capitalism like the Sozialistische Gleichheitspartei (Socialist Equality Party, SGP), on the other hand, are slandered by the *Verfassungsschutz* with the blessing of the administrative courts as “left-wing extremists” when they fight for an egalitarian, democratic and socialist society by democratic means. The SGP has filed a constitutional complaint against this and calls on all readers of the WSWs to support it.



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