

Berlin Administrative Court dismisses *Junge Welt* lawsuit against secret service surveillance

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On Thursday, the Berlin Administrative Court dismissed the complaint filed by the newspaper *Junge Welt* (JW) against its inclusion in the annual report by Germany's domestic intelligence service, the so-called Verfassungsschutz (Protection of the Constitution). The court thus ruled in favour of the spy agency, which has placed the newspaper under surveillance for being "left-wing extremist." A corresponding urgent appeal had already been rejected in March 2022.

This is a drastic attack on freedom of opinion and freedom of the press with far-reaching implications. It means that any left-wing publication that does not reproduce the opinions of the ruling class could be banned.

The judgement aims to establish a legal basis for the claim that the newspaper is "anti-constitutional" and is "rightly" under secret service surveillance. The ban on the far-right magazine *Compact*, which was proscribed with immediate effect on Tuesday and impounded by the Interior Ministry, shows the far-reaching consequences this could have.

Junge Welt's basic rights are already severely restricted. Its inclusion in the secret service annual report has the effect of deterring interview partners and readers and generally complicating and hindering the professional practice of journalists and publishers. The plaintiff had therefore demanded that the newspaper's inclusion in 23 of the secret service annual reports since 1998 be cancelled. Following the judgement, Dietmar Koschmieder, managing director of the publishers of JW, stated that an application for leave to appeal would be made and that the case would be taken to the European Court of Justice if necessary.

The presiding judge, Wilfried Peters, argued in favour of the Verfassungsschutz from the outset and could just as easily have sat on the prosecution bench. He

acknowledged the pointed arguments of defence lawyer Anja Heinrich with a smug smile and made no secret of his view that socialist and Marxist politics should be banned in Germany.

Following the arguments of the defendant's side, Peters argued that the newspaper represented a "class point of view" and refers favourably to Marx and Lenin. This was already unconstitutional, he asserted. *Junge Welt* could not invoke the freedom of the press because it did not limit itself to publishing a newspaper but, by organising an annual conference against capitalism, displayed "political aspirations" that were "directed against the free democratic basic order."

If these are the standards applied to the work of the press, then any newspaper can be labelled a political association and prosecuted by the secret service. The constitutionally "guaranteed" freedom of the press is then a mere waste of paper. Even the publicist and *Welt* journalist Deniz Yücel affirmed the "right of the socialist daily *Junge Welt* to take legal action against its surveillance by the Office for the Protection of the Constitution and its inclusion in the agency's reports" and stated: "Fundamental criticism of capitalism is not only legitimate, it is also protected by the Constitution."

In fact, the action taken against *Junge Welt* is a clear case of *Gesinnungsjustiz* (justice based on opinions) and was justified solely on political grounds. The court stated that the newspaper allowed "left-wing extremist authors" to have their say, made references to organisations of the "left-wing extremist spectrum" and had allegedly not sufficiently distanced itself from political forces that advocate violence in parts of its reporting.

The plaintiff's lawyer Heinrich countered that a positive reference to Marx and Lenin was not

synonymous with the ideology of “Marxism-Leninism,” which had been declared unconstitutional in the 1956 supreme court judgement on the German Communist Party (KPD) for advocating a one-party dictatorship, among other things. Moreover, according to this judgement, only “Marxism-Leninism as interpreted by Stalin” was unconstitutional. The real question was whether the *Junge Welt* was propagating a system that was hostile to the principle of democracy. This was not the case and was not argued by the other side.

In his judgement, Peters insisted that the Verfassungsschutz had pointed out the alleged left-wing extremist views of numerous JW authors and editors and declared that Lenin, as a historical figure, had “fought the constitutional order in the most energetic way.” With this kind of historical decontextualisation, one could also accuse Abraham Lincoln of having attacked the basic democratic order! With this nasty historical distortion, the judge justifies the criminalisation of any positive reference to Lenin.

In addition, Judge Peters set the amount in dispute for the proceedings at a particularly high sum of €115,000, which also determines the legal fees and court costs. The usual amount in dispute regarding the Verfassungsschutz annual reports is actually €5,000, but because a total of 23, albeit almost identical reports are involved, these amounts were to be aggregated, the judge ruled. As a result, the JW publishers now have to transfer large sums to the court, even though the legal dispute is continuing, and the judgement is not yet final. Each further legal instance will cost the publisher correspondingly more money.

Before the same court and the same judge, the Sozialistische Gleichheitspartei (Socialist Equality Party, SGP) warned in November 2021 that Germany’s ruling class was following in the reactionary tradition of the Nazi’s *Gesinnungsjustiz* when it placed the party under secret service surveillance and branded it “anti-constitutional.” According to SGP chairman Christoph Vandreier, the arguments used by the Verfassungsschutz against the party created “the basis for the secret service’s surveillance and criminalising of bookshops selling Marxist literature, critical academics and striking workers.” If the judiciary were to endorse this view, this would be “a step towards a police state.”

Vandreier rejected the view that the state authorities are the guardians of democracy:

On the contrary, basic democratic rights in this country were fought for almost exclusively by the revolutionary workers’ movement, which followed these principles. It was the Marxist Social Democracy that stood up against the Prussian three-class suffrage, and it was only the revolutionary uprising of workers and soldiers in 1918 that finally won free and equal elections in Germany.

The SGP defended basic democratic rights and advocated “finally making them fully effective by abolishing private ownership of the means of production and democratising the economy,” Vandreier said in court.

The Interior Ministry’s claim that a Marxist class analysis contradicted human dignity was borrowed from the traditions of Bismarck’s anti-socialist laws and the Nazis’ *Gesinnungsjustiz*: “According to this, it is not child poverty, homelessness or mass deaths in the coronavirus pandemic that violate human dignity, but the naming of this blatant social inequality,” Vandreier said.

The SGP calls for the dissolution of the German secret service apparatus, the immediate removal of *Junge Welt* and all other left-wing media and groups from the Verfassungsschutz report and calls on all readers to actively oppose the attacks on basic democratic rights. Support the SGP’s constitutional complaint against the criminalisation of Marxism and sign our petition on change.org.



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