

German court sanctions monitoring of Left Party MP

By Justus Leicht
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In a profoundly undemocratic ruling, Germany's Federal Administrative Court, the highest administrative court in the country, has sanctioned the monitoring of a Left Party parliamentarian by the secret service.

The scandalous ruling by the Leipzig court boils down to the argument that anyone who does not actively combat opposition towards capitalism within his or her own party should be treated as an "enemy of the constitution".

Bodo Ramelow had filed an official complaint in 2007. At that time, he was a member of the Bundestag (parliament), and is now leader of the Left Party in the Thuringian state legislature. The Administrative Court in Cologne and the Higher Administrative Court of North Rhine-Westphalia had found in favour of Ramelow and decided his political activities should no longer be monitored.

But the Higher Administrative Court did not reject in principle spying on party functionaries and members of parliament by the secret service, which in Germany is titled the "federal agency for the protection of the constitution". It concluded that there were Marxist groupings within the party that stood for a socialist society and were unconstitutional. Since Ramelow himself did not belong to any of these groupings, secret service surveillance was a disproportionate restriction upon his activities as an elected representative.

The Higher Administrative Court admitted candidly that surveillance by the secret service affected his activity as an elected representative and hampered his access to the population.

"In parliament, a supra-individual collective reflecting the will of the people can only be formed through the unfettered interaction of all elected representatives", the court found. "It is the result of a

discussion, to which each member of parliament brings his knowledge and personal beliefs".

The contribution that the individual parliamentarians make to this decision-making process, very much rests also on the knowledge he gains through contacts with the public, the court said. "If access to the population for the individual deputy is made more difficult as a result of actual monitoring by the secret service, this not only diminishes the work of this deputy. At the same time, knowledge is lost that is important for the decision-making process of parliament as a whole", according to the Higher Administrative Court.

Elsewhere, the same court verdict found that actual disadvantage resulted from the fact that "the 'stigmatization' resulting from being monitored could hamper the applicant's access to the vast majority of the population, which considers itself loyal to the constitution. If the open monitoring of the plaintiff by the secret service is generally known, it could be more difficult for the plaintiff to win supporters and voters to support him and his party, and to come into contact with the population. Therefore, the latter has a negative impact on his political activity, since this requires he know the opinions and moods of the electorate, and be able to obtain information from the public".

In its ruling, the Higher Administrative Court also referred to a brochure published in 2003 in Thuringia by the Christian Democratic Employees' Association (CDA), a subordinate organisation of the Christian Democratic Union (CDU). The brochure claimed that Ramelow had been close to the German Communist Party (DKP) in the 1980s as a union secretary in Hesse. This claim coincided with information held by the secret service about Ramelow, as he later found out. The state's secret service agency had thus provided the CDU with ammunition against a political opponent.

For the Higher Administrative Court, the case was so clear that there should be no further appeals. However, the secret service did not accept this and challenged the ruling in the Federal Administrative Court. The decision of this court has now come as a surprise to many observers.

The opinion of the Federal Administrative Court has not yet been published. The official press release states tersely that "the monitoring of parliamentarians by the secret services poses significant dangers in terms of their independence and the participation of affected parties in the political process, and thus for the process of democratic decision-making as a whole". Ultimately, however, the protection of the "fundamental democratic order" from the Left Party was more important.

According to a report in the conservative daily *Die Welt*, the presiding judge said one could not hold Ramelow responsible for the whole party. As far as the secret service is concerned, the occasional radical rhetoric of individual groupings within the Left Party suffices to justify the monitoring of all its elected federal and state representatives.

Before the verdict, however, the presiding judge took a telling look back into history and posed the question: "Could the seizure of power by the Nazis in 1933 have been prevented if the secret service at the time had monitored parliamentary deputies, and so have recognized radical tendencies in time?"

Apart from the scandalous equating of the Nazis with the Left Party, which is the implication of this obviously rhetorical question, the only possible response says far more than the court and the secret service would like. The answer is of course, no.

In the 1920s and 1930s, many important government institutions of the Weimar Republic—the police, the army leadership and the courts—more or less openly sympathized with the Nazis, who made no secret of their vehement hostility towards democracy and socialism, and likewise their militant chauvinism and anti-Semitism. As is well known, Adolf Hitler did not become government leader through a coup, but was appointed to his office by the Reich president, Field Marshal Hindenburg, whose election the Social Democratic Party (SPD) had previously supported—as a lesser evil to Hitler.

By contrast, the state institutions had always

ruthlessly pursued "radical tendencies" on the left. Not infrequently, the police and courts based their actions on the 1922 Protection of the Republic Act, which had been enacted at the behest of the Social Democrats after the assassination of the Liberal Foreign Minister Walter Rathenau by a right-wing extremist, ostensibly to fight the right-wing.

More recently, the prohibition against the neo-Nazi German National Party (NPD) failed because many of its most radical officials worked as informers and agents of the secret service.

The ruling of the Federal Administrative Court has been criticized in some quarters, but has also found consent, not only from among the Christian Democrats. The online edition of the supposedly liberal *Zeit* ran an article from the *Tagesspiegel* that went even further than the court's verdict. It took the view that even using spies against the Left Party did not give it any entitlement to raise criticisms. Rather, in the future, the Left Party should not tolerate "extremist", i.e., anti-capitalist tendencies in its ranks. The organisation should not criticise the secret service for spying and stigmatizing the party.

Claus Christian Malzahn, a former reporter for the pro-Green Party *taz* and later an editor at *Spiegel* and *Spiegel Online*, defended the verdict in his present position as an editor of *Die Welt*. He wrote, "Monitoring by the secret service is a state warning: enter at your own risk, you are leaving the secure democratic spectrum".

The WSWS had made clear its political differences with the Left Party. Irrespective of these differences, the ruling of the Federal Administrative Court is a fundamental attack on democratic rights and poses a serious warning. The message is clear: those who merely tolerate any sort of opposition to capitalism within the ranks of their party will be subject to the attention of the secret service.

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