

The NSA Given a Free Hand to Operate in Germany

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An interview with historian Josef Foschepoth published in the online edition of the Süddeutsche Zeitung makes clear that US intelligence agencies have a free hand to do what they like in Germany, with the knowledge and blessing of the federal government.

Foschepoth is professor of history at the University of Freiburg, and an expert on the role of Allied intelligence in postwar Germany. In 2012, he published a book on the subject entitled, "Germany Surveilled".

The historian regards the indignant response of the German government regarding the spying activities of American and British intelligence services unmasked by Edward Snowden as pure hypocrisy. For a Western intelligence agency, such as the National Security Agency (NSA), there are in principle no limits in Germany.

"The NSA can do everything in Germany," explains Foschepoth. "Not only because of the legal situation, but above all because of the intensive collaboration between the services, which was always desired and always politically acceptable."

According to Foschepoth, the legal basis for the activity of Western intelligence services in Germany goes back to 1963. At that time, Germany and the Allied nations committed to close collaboration in the collection, exchange and protection of intelligence in a supplementary agreement to the NATO Status of Forces Agreement. The agreement came about through secret negotiations and was strictly confidential.

In 1968, the Western Allies returned responsibility for surveillance officially to Germany, but through an international, legally binding secret supplementary accord maintained the right to continue to conduct their own monitoring measures to protect their forces. At the same time, Article 10 of the German constitution was restricted so profoundly that "there is no longer a fundamental right to the inviolability of postal and telecommunications secrecy."

"It was the biggest bluff of 1968," said Foschepoth. "The Status of Forces Agreement, Management Agreements and secret accords survived [German] reunification, and are in force to this day."

Chancellor Konrad Adenauer (Christian Democratic Union, CDU) and Willy Brandt (Social Democratic Party, SPD) accepted the special rights of the Western intelligence agencies because they aspired to German sovereignty. Likewise with Helmut Kohl (CDU), who did not want to endanger German reunification. Both the Schröder-Fischer (SPD-Green) and Merkel (CDU) governments have not touched the existing regulations. "They are all sitting in the same boat, because they benefit from US information."

According to research by the *Süddeutsche Zeitung*, the NSA currently has at least three facilities in Germany—in Darmstadt, Wiesbaden and Stuttgart. What the NSA does there is top secret. But it is to be assumed “that the NSA people working in Germany are involved in spy programs like Prism.”

“US intelligence agents go in and out in Berlin, Cologne and Pullach, where the German domestic and foreign intelligence agencies reside,” writes the *Süddeutsche*. The newspaper supposes that the reverse is also the case, indicating that there is a lively exchange between the country’s intelligence agencies.

In the government, it has mainly been Sabine Leutheusser-Schnarrenberger, who has long-served as a liberal fig leaf for the Free Democratic Party’s (FDP) right-wing policies, who expressed public outrage over the NSA bugging. However, as Minister of Justice she must have known about the public and secret agreements that allow the NSA to spy unmolested in Germany.

In a guest contribution for the *Frankfurter Allgemeine Zeitung*, SPD chair Sigmar Gabriel expressed outrage over the “betrayal of our core values” and called for a struggle against “data capitalism”. In fact, it was his party colleague, Otto Schily, who as Interior Minister in the Schröder government, massively strengthened the intelligence and security apparatus, and proclaimed a “basic right to security” that does not exist in the constitution.

While Leutheusser-Schnarrenberger pretends to know nothing and Gabriel spouts radical phrases, others are trying to steer indignation about the NSA’s espionage along nationalist lines. The most open in this regard is Jakob Augstein’s regular column in *Spiegel Online*, which is cynically titled “When in doubt, [turn] left”.

“Do the Germans want to submit to the yoke of this power with quiet pleasure like Heinrich Mann’s ‘Man of Straw’? Or do they want to oppose this power with a counter-power?” Augstein asks, pointing to an essay in *Spiegel* titled, “Why this country must finally accept its role as one of the most powerful nations in the world.”

The response to excessive intelligence snooping is: strengthen the power of the German state! Given the traditions of the Prussian authoritarian state, Nazi dictatorship and the subsequent integration of its staff into the West German judiciary and intelligence service, only a narrow-minded journalist with historical amnesia such as Augstein could come up with such an idea.

In fact, the target of the NSA wiretaps and the German secret services, which work together very closely, are their own people. The only “counter-power” that can oppose them is the working class on both sides of the Atlantic.

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