German authorities use a number of databases that collect data on political activists, even if they hadn't been sentenced or tried. Names are stored if people have had their identity checked, or if they have registered a demonstration under their name. Many are recorded under false designations. Such entries have raised concerns around them being used for further repression […]. Discriminatory and stigmatising labels have also been applied to people whose data is held by the police.

Suspicion Files

German Police Databases on Political Activists

No Trace Project / No trace, no case. A collection of tools to help anarchists and other rebels **understand** the capabilities of their enemies, **undermine** surveillance efforts, and ultimately **act** without getting caught.

Depending on your context, possession of certain documents may be criminalized or attract unwanted attention. Be careful about what zines you print and where you store them.

controls at border crossings, personal searches, or the imposition of travel bans. Also, whoever is encountered as a contact person can end up in one of the databases. Entire groups travelling together have been under investigation in a number of cases around protest events, even if only one of these individuals was recorded in the database.

Most recently, the Federal Constitutional Court ruled that the authorities are obliged to check the legality of the storage regularly. There are no indications that this has happened for quite some time. In particular, with databases on activists, a constant pattern is that as soon as a data protection officer scrutinises the files, a solid number of entries are found to be illegally stored. For instance, between 2012 and 2015, the number of people held in "PMK-left" was slashed from 2,900 to 331 following an audit.

The bigger problem, however, is that the parties affected by such data retention normally do not know about it. Because no notification requirement exists, it is common among activists to submit requests for information on the data stored in police or domestic secret services of the federal government and federal states.[21] These must be answered within a certain period and the trend of such inquiries is still rising. In 2017 more than 3,200 people have made use of it at the BKA alone.[22] However, information is denied if the information provided informs them that it has been acquired by police spies, informants or other covert measures.

[21]"Generator für Auskunftsersuchen".[a]
    [a]https://datenschmutz.de/cgi-bin/auskunft
[22]"Bearbeitungszeit für Auskunftsersuchen bei Polizeibehörden des Bundes",[a] 19 January 2018.
    [a]https://dipbt.bundestag.de/dip21/btd/19/004/1900490.pdf

Ver.di (DJV) in condemning what they labelled "attacks on the press":

> "The DJV and the German Journalists' Union (DJU) lodged complaints to the Federal Criminal Police Office (BKA). 'The way BKA dealt with accreditations is legally highly questionable,' said Cornelia Hass, chairwoman of the German Journalists' Union (DJU). 'One cannot help but think this happened to prevent disagreeable media coverage,' says Hass. 'This procedure defies our democratic principles, therefore we filed an objection with the authorities.' DJV has called the decision to withdraw press accreditations 'entirely arbitrary'. DJV chair Frank Überall has requested the Federal Office of Investigation (BKA) not to impose any further restrictions on journalists. In a letter addressed today to the BKA, DJV President Holger Münch asked the Office to justify their approach against journalists."[20]

Nine of the journalists who had their accreditations revoked will take Germany's Federal Press Office (BPA) to court, complaining that the move was unlawful. The German Journalists' Union further affirmed that neither the Federal Criminal Police Office (BKA) nor the BPA has provided any valid reasons for blacklisting the journalists. "Now the court must determine whether the handling of our members holds up under legal examination," she said. "I have reason to be doubtful."

Stigmatising consequences for those affected

There are numerous other reports documenting how the storage and transfer of personal data to foreign authorities has had stigmatising consequences for those affected. These include preventive detention before major demonstrations, increased

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[20]"Press accreditations stripped and violence against journalists at G20 protests in Hamburg",[a] IFJ, 11 July 2017.

[a]https://ifj.org/nc/news-single-view/backpid/1/article/press-accreditations-stripped-and-violence-against-journalists-at-g20-protests-in-hamburg-1

Contents

Introduction

German authorities use a number of databases that collect data on political activists, even if they hadn't been sentenced or tried. Names are stored if people have had their identity checked, or if they have registered a demonstration under their name. Many are recorded under false designations. Such entries have raised concerns around them being used for further repression, including the revocation of journalists' accreditation. Discriminatory and stigmatising labels have also been applied to people whose data is held by the police.

Germany's 16 federal states (*Länder*) have sovereignty over numerous policy areas, including education, science, art and internal security. The police forces of the Länder have a numerical strength of some 220,000 officers. At the federal level, they are supported by the Federal Criminal Police Office (*Bundeskriminalamt*, BKA) and the Federal Police with some 34,000 officers.

A similar structure exists in the area of domestic secret services. At state level, there are 16 domestic secret services, and at the federal level the Federal Office for the Protection of the Constitution (*Bundesamt für Verfassungsschutz*, BfV). All authorities, including Customs and the Federal Public Prosecutor's Office, coordinate efforts in the Joint "Counter-Terrorism Center in Berlin-Treptow".

This architecture is mirrored in the various police databases hosted by the BKA to exchange and process information between the federal states. Examples include an index of criminal records, a fingerprint database, and a DNA database. The largest is the database called "Internal Security", which is made up of multiple subordinated files. Parallel to the federal structure, each state operates their own databases for operative or investigative files. In fields like political activism or illegal drugs, all information compiled by various police forces is accessible by the BKA.

the Council of the EU are awaiting the results of a technical feasibility study.

Profiling of journalists

In the course of the 2017 G20 summit in Hamburg, the accreditation of at least 32 journalists was revoked and they were denied access to cover the summit. This was based on the journalists appearing in the "Violent Offender, Left" or "Offenders Left-Motivated" files. The revocation was justified by the authorities' belief that some of them would not simply report as journalists, but would also participate in the protests. Some of the journalists were included in the database because they had had their identity checked in the parameters of protests in the past. Others came into the police databases through domestic secret service information.

While working, one journalist received a ticket from police officers and ended up in two databases, despite having the case against them dismissed. A well-known photojournalist had eight entries from different states. The oldest entry was 10 years old and according to the law it should have been deleted, but it had been retained at the discretion of the competent authority. In at least one case, the journalist ended up in a file due to an erroneous identification.

In autumn 2017 the Federal Ministry of the Interior continued to regard 28 of the 32 journalists as posing a security risk, amongst other things because they were accused of "particularly grave breaches of the peace" and "willfully causing of an explosion". The public broadcaster *Tagesschau* investigated the allegations against a portion of the journalists and described them as "obviously false".[19]

As a result of this case, the International and European Federation of Journalists (IFJ-EFJ) joined their German affiliates DJU and

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[19] Arnd Henze, "Das große Löschen",[a] Tageschau, 3 October 2017.
[a] https://www.tagesschau.de/inland/g20-akkreditierungen-107.html

Information System and the Schengen Information System as potential locations for the central "database on violent offenders who are active internationally". Another option on the table was to network decentralised databases on violent offenders in the EU member states.

Germany's requests cropped up again in a European Commission action plan three years later.[17] An appreciable number of the Member States—including Belgium, Lithuania, Poland, Sweden and Slovakia—saw no need at the time for political data collection of this nature. One of the obstacles was the question of whether a common database would be used only for formal investigative enquiries, or for police checks as well. In addition, a number of EU Member States do not define "troublemakers" in their national law, so there would be no common basis for police measures against those stored in an EU-wide database. With this in mind, the German Ministry of the Interior suggested that those countries without a definition of "troublemakers" could help to collect the personal data, while police measures against those people stored would only be carried out by countries where it is legally possible.[18]

A new effort to exchange information on political activists comes with the potential establishment of a decentralised European Police Records Information System (EPRIS). The countries involved would conduct searches to enquire as to whether there is any information regarding specific individuals held in other national databases (a "hit/no-hit" system). If data is available, a further enquiry would be submitted stating legal grounds for access to the data. Further discussions on EPRIS within

[17]European Commission, "Action Plan implementing the Stockholm Programme",[a] COM(2010) 171.

[a]https://statewatch.org/news/2010/apr/eu-com-stockholm-programme.pdf

[18]See the whole story and the idea to label activists as "euro-anarchists" in Tony Bunyan, "'Troublemakers' and 'travelling violent offenders' (undefined) to be recorded on database and targeted",[a] Statewatch.

[a]https://statewatch.org/analyses/no-93-troublemakers-apr-10.pdf

Suspicion files of state security departments

For the alleged "prevention and prosecution of politically motivated crimes", data on left-wing political activists can be stored by the BKA at the federal level in the database "Violent Offender, Left" (*Gewalttäter links*).[1] It is one of the so-called joint files that are fed with data by the various state police forces. The information is accessible through the German Police Information System INPOL, accessible by all federal and state police authorities.

Currently around 1,600 people are registered in the "Violent Offender, Left" database, with the data of companions and contact persons (that is, someone in touch with an individual already stored in a database) amongst that on individuals suspected, accused or convicted. The term "violent offender" is therefore misleading, because merely being stopped or detained in the area of a protest is enough to land one's name in the database. Other reasons for being registered in the database range from carrying of sunglasses or scarves during demonstrations, which are interpreted as contrary to the prohibition of covering the face in Germany, to disobeying a command to leave the area (*Platzverweis*).

An entry may contain several dozen data fields, including biographical data, photographs, known whereabouts, nationality, personal description, occupation, knowledge, group membership, "criminological abstract", e-mail and IP addresses and more. In "Violent Offender, Left", information transmitted by foreign police departments can also be stored. This concerns, for example, personal data transmitted in the run-up to expected major international events. Conversely, personal data from "Violent Offender, Left" can also be "loaned" to foreign authorities, but the criteria for choosing the data to be transmitted are unknown.

[1]"Umfang der zum Zwecke der Prävention geführten polizeilichen Dateien",[a] 13 October 2011.

[a]https://dip21.bundestag.de/dip21/btd/17/073/1707307.pdf

A transfer to foreign police agencies is then linked to certain data deletion deadlines in connection with the event to be secured (such as a summit protest). Whether these deadlines are respected is difficult to check from Germany.

The BKA is also home to the so-called central files on "politically motivated crime" (PMK, *Politisch motivierte Kriminalität*), in which only the State Security Department of the BKA can create and delete entries.[2] However, the information may also come from the other federal and state police forces and domestic secret services. Information is held on "relevant persons" and "persons likely to threaten public safety". It falls to individual officials to assess whether to include people in the database or not. As with the files of "Violent Offender, Left" at federal state level there must be no prior criminal offense or conviction, mere suspicion is sufficient. If the authorities suspect a "residual suspicion" of certain people, their data can be stored even after a judicial acquittal.

The PMK files are subdivided into the four main areas: left; right; foreign ideology; and religious ideology (both since 1 January 2017). There is also the heading "other or no category". As of September 2017 nearly 500 individuals were registered in "PMK-left", which is concerned with activists who take "the role of a leader, a supporter, logistics expert or stakeholder". This could be, for example, those who have registered a demonstration with the authorities. Information from investigations, searches, telephone monitoring, computer hard-disk analysis, travel movements and account data is stored in these records.

In 2012, the Federal Data Protection Supervisor reviewed the database and found several flaws, including a lack of grounds for storing data and the storage of incorrect information. Each entry needs to be checked by the police after a set time period (either three or five years, depending on the type) to verify that it is still valid and/or whether it requires further storage. The Federal Data Protection Supervisor found that many entries in the database

Strasbourg NATO summit in April 2009 the BKA submitted information on 232 persons from IgaSt to the French police. More than 100 people were subsequently hindered from crossing the German-French border to attend the demonstrations in Strasbourg. IgaSt has now been merged with the PMK-left database.[13]

Attempts to collect data on "troublemakers" at the EU level

Since the G20 Summit in Hamburg in July 2017, the discussion has returned to setting up a European database on "left-wing extremists". But there have already been several previous attempts at the EU level, all of which have failed. Back in July 2001, one week prior to the G8 Summit in Genoa, EU home affairs ministers agreed to pursue "violent troublemakers" across Europe.[14] Three months later, they declared their intention to gather data on persons who were "notoriously known by the police".[15] Against the backdrop of mass incidents at the G8 summit in Heiligendamm in 2007, Germany—which at the time held the Presidency of the G8 and the Presidency of the Council of the EU—put the pursuit of "violent troublemakers" back on the agenda of the EU's Justice and Home Affairs Council.[16] In the wake of the summit protests, the Upper House of the German Parliament (*Bundesrat*) identified the Europol

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[2]"PMK-links/Z".[a]

   [a]https://fragdenstaat.de/files/foi/603/ifg_bka_pmk-links_eao.pdf

[13]"Umfang der zum Zwecke der Prävention geführten polizeilichen Dateien",[a] 7 December 2011.

   [a]https://dipbt.bundestag.de/doc/btd/17/080/1708089.pdf

[14]2366th Council meeting, JUSTICE, HOME AFFAIRS AND CIVIL PROTECTION, Brussels,[a] 13 July 2001.

   [a]https://europa.eu/rapid/press-release_PRES-01-281_en.htm

[15]"Changes for extensions on art. 96 and 99 of the Schengen Convention",[a] Council document 12183/01, 15 October 2001.

   [a]https://www.statewatch.org/news/2001/nov/12813.DOC

[16]"Outcome of proceedings of the Article 36 Committee meeting on 22 and 23 October 2007",[a] Council document 15079/07, 13 November 2007.

   [a]http://statewatch.org/news/2007/nov/eu-art-36-public-order.pdf

data was stored without sufficient justification and, most importantly, that data from secret service files was being passed to the police, contrary to the prevailing law in Germany separating police and secret services.

Though these lists are supposed to contain "violent extremist persons", the Data Protection Supervisor found that in the case of an anti-nuclear demonstration, "a large number" of those stored had merely exercised their fundamental rights to freedom of expression and to protest:

> "The object of my investigation was a joint project file of the BfV and the BKA, which was managed by the BfV. It should contain only violent extremist persons. I had to highlight serious legal violations, because the BfV had stored data on a large number of persons who had only exercised their fundamental right to freedom of opinion and demonstration in an anti-nuclear demonstration. This is unlawful—even if in such a demonstration individual people may have been violent. In the wake of my investigation, the BfV explicitly conceded that in the cases I highlighted, those people concerned should not have had their data held."[11]

German police forces also collect data pertaining to "opponents of globalization", which has been stored in its own file for a number of years. The database managed by the BKA previously went by the name "violent troublemakers who are active internationally" (IgaSt, *International agierende gewaltbereite Störer*).[12] It stored activists in the context of previous "events relating to globalization" and included persons who "have become known as globalisation opponents domestically". In 2009 it contained data on 2,966 individuals.

The purpose of the database was to understand networks and unveil social relations. In this database as in others, charges or sentences were not a precondition for storage. Sitting in a car with somebody whose data was already stored, or being seen in the proximity of demonstrations, was a sufficient criterion. At the

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[12]"IgaSt".[a]
[a]https://datenschmutz.de/li/docs/IgaSt.pdf

had no designated review interval, or the highest possible interval was ticked. Ninety per cent of the records (mostly in the category "other persons") needed to be deleted.[3]

The Federal Data Protection Supervisor reported:

> "With regard to the stored 'other persons', in all audited cases a storage basis [legal reason] was missing. Some people were registered for participating or registering an assembly. There were no facts which had a concrete connection with criminal offences or possible security threats from the registered assembly. I regard this as a serious offence against data protection regulations. […] I therefore see the findings in my inspection report confirmed […] even provocative forms of protest are protected by constitutional law and therefore the participants may not be stored."[4]

Storing names of HIV-positive individuals and anti-nuclear activists

The BKA files also contain "person linked indicators" (PHW, *Personengebundene Hinweise*) which are put into different categories or profiles. Most PHW are available nationwide via the federal states. The information is collected in order to prepare measures to protect the police forces in general. In this database, "dangerous" is defined according to various PHW categories: armed; violent; prostitution; consumer of narcotics; contagious; offender (right-motivated, left-motivated, "foreigner crime") or "biker gang".

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[3]Matthis Monroy, "Nachhilfe der Bundesdatenschutzbeauftragten führt zu 90% Schwund in Polizeidatenbank über linken Aktivismus",[a] Netzpolitik, 19 June 2016.
[a]https://netzpolitik.org/2015/nachhilfe-der-bundesdatenschutzbe auftragten-fuehrt-zu-90-schwund-in-polizeidatenbank-zu-linkem-aktivismus
[4]"Beretungs-und Kontrollbesuch gem. §§ 24, 26 Abs. 3 Bundesdatenschutzgesetz (BDSG), Zentraldatei 'Politisch motivierte Kriminalität-links-Zentralstelle' (PMK-links-Z)",[a] 13 September 2012.
[a]https://fragdenstaat.de/files/foi/25343/KontrollberichtBfDIPMK_ links_Zgeschwrzt1.pdf

Four years ago, it became known that some federal states had profiles labelled "junkie" and "vagrant".[5] Some of those titles were changed after there was a public outcry: for example Baden-Württemberg had created the PHW category "gypsy", which was subsequently renamed "frequently-changed location".[6] The equally-criticised category "mentally ill" is maintained nationwide, but is now called "mental and behavioural disorders." HIV/AIDS advocacy organisations unsuccessfully demanded the abolition of the category "contagious",[7] which includes HIV-positive individuals.[8]

The PHW also uses the term "left/right-motivated offenders" (*Straftäter linksmotiviert/rechtsmotiviert*). Contrary to the file name, not only offenders are stored here, but also former suspects or persons against whom there is a vague "initial suspicion" of committing a politically-motivated offense. As well as being used for the officially-declared purpose—the "personal protection" of police officers—this information is also used in investigations for the exploration of political relationships.

For these reasons the police's data collection practices have been the subject of a public debate in recent years.[9] Some of the PHW files (including the political ones) were outsourced to the

"investigative assisting evidence" file (*Ermittlungsunterstützende Hinweise*, EHW) following a decision by the conference of the interior ministers of the federal states. This was heavily criticized by the Data Protection Supervisor:

> "The new EHW should, however, also classify the person concerned and enable it to be assessed quickly (e.g. 'rocker', 'politically motivated offender'). Unlike the previous PHW, there are no specific deadlines [for deleting the data]. The 'label' attaches doubt to the person concerned for the entire storage period. In my opinion, EHWs have a more stigmatizing character. They cannot be justified by the legitimate purpose of self-securing the deployed officers. As with all police data, it should be remembered that it is not just about convicted offenders. Much of the police data relates to people who are saved only on the basis of suspicion."[10]

Special file for critics of globalisation

Finally, the BKA also maintains a "list of left persons". The difference between this list and other politically-motivated files is not known. For investigations that are the sole responsibility of the BKA (without federal state involvement), the authority also uses the central file "PMK-left-S" (politically motivated crime, left, criminal proceedings). In addition, the Domestic Secret Service also operates a so-called project file entitled "violent left-wing extremists".

This data is handed over to the police, the Federal Data Protection Officer discovered.[11] He identified serious deficiencies—personal

[5]"Schriftliche Frage Monat September 2014",[a] 26 September 2014.

   [a]https://andrej-hunko.de/start/download/dokumente/500-schriftliche-frage-zu-kategorien-von-personengebundenen-hinweisen-phw-neue-fassung

[6]"Sinti und Roma stehen oft unter Generalverdacht",[a] Mediendienst Integration, 20 October 2017.

   [a]https://mediendienst-integration.de/artikel/expertise-markus-end-antiziganismus-bei-der-polizei.html

[7]"ANST, Kennzeichnung HIV-Positiver in Polizeidatenbanken",[a] Deutsche AIDS-Hilfe, 25 October 2015.

   [a]https://aidshilfe.de/anst-kennzeichnung-hiv-positiver-polizeidatenbanken

[8]Letter,[a] 2 February 2015.

   [a]https://lsvd.de/fileadmin/pics/Dokumente/AIDS/BKA-150202.pdf

[9]Matthias Monroy and Christian Schröder, "Personengebundene Hinweise: Ein Anfragen-Krimi zu stigmatisierenden Speicherungen",[a] CILIP, 13 January 2015.

   [a]https://cilip.de/2015/01/13/personengebundene-hinweise-ein-anfragen-krimi-zu-stigmatisierenden-speicherungen

[10]Federal Data Protection Supervisor, "Tätigkeitsbericht zum Datenschutz 2015–2016".[a]

   [a]https://bfdi.bund.de/SharedDocs/Publikationen/Taetigkeitsberichte/TB_BfDI/26TB_15_16.pdf

[11]Federal Data Protection Supervisor, "Tätigkeitsbericht zum Datenschutz 2013–2014".[a]

   [a]https://bfdi.bund.de/SharedDocs/Publikationen/Taetigkeitsberichte/TB_BfDI/25TB_13_14.pdf