

FEATURE

DDR declares employment ban

by Martin Siberok
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Ten years ago in 1972 the federal and state governments of West Germany issued an administrative edict entitled the *Radikalerlass* (Radical Decree). This was an attempt by the authorities to keep "radicals" out of the public service. It was realized after the events of 1968, that many of the participants in the demonstrations and the student movement would seek employment in the public sector during the 70s. The authorities were alarmed by the students' and the left's threat to bring about change from within the system through the *Lange Marsch durch die Institutionen* (long march through the institutions). At a 1972 meeting of the Heads of the individual West German states a set of principles were agreed upon to defend the constitution. It is this agreement that established the practice of *Berufsverbot* (employment ban) as a disciplinary measure to safeguard the public sector.

The agreement stated that all workers in the civil service were "obligated to profess their loyalty to the free democratic basic order according to the constitution and commit themselves to its preservation. ...The membership of civil servants in parties and organizations which oppose the constitutional order — as well as any other sort of support for such parties and organizations — will lead to a conflict of loyalties. ...The appointment to the civil service presupposes that the applicant ensure that he actively supported the free democratic basic order at all times according to the constitution."

The *Radikalerlass* was a public declaration and not a piece of legislation and thus could not be enforced by the law. Nevertheless it was adopted as an official standard without regard to whether it was in conflict with any constitutional guarantees. The West German constitution declares that each citizen shall enjoy freedom of expression and association and the right of assembly and petition. It also guarantees that all Germans shall choose their occupation or profession as well as their place of work and training and, most significantly, that no one may be discriminated against because of his/her political opinions.

These constitutional guarantees are denied to the 3.5 million Germans employed in the public sector — 15 per cent of the work force. The public sector covers a wide range of occupations, which include all federal, state and municipal employees, teachers, professors, judges, postal workers, hospital workers, park and

swimming pool attendants. About 40 per cent of these public service employees are *Beamten* (permanent civil servants) who are tenured for life. The permanent public service is a specifically German characteristic — allowing the state machinery to continue functioning when political governments change.

There is a long-standing tradition in West Germany concerning employees. The constitution requires that the public service be regulated with due regard to the traditional principles of the professional civil service. "Of utmost importance to a government employee is the obligation to obey the law.

- Signing a petition against the *Berufsverbot*
- Informing the public of your own *Berufsverbot*
- Sticking up posters for a radical group
- Conscientious objection to the draft
- Contributing a picture to an exhibition organized by the communist party
- Inviting a political theatre group to a school or university
- Parking in a communist party office when a meeting was being held.

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When an applicant applies for a job in any area of state employment, the domestic intelligence service (*Verfassungsschutz* — literally, the protectors of the constitution) check computer records if they exist or open a new file on the applicant if they do not. With the 1972 edict the *Verfassungsschutz* was given carte-blanche to run security clearances and gather information on all prospective employees.

Between 1973 and 1975 the *Verfassungsschutz* is estimated to have made 1.5 million investigations resulting in the refusal of 3000 applicants. Though this is a small number, more important is that 1.5 million files were made active to ensure loyalty to the state and its constitution. Current estimates place the figure at 2.5 million files and 6000 job bans. If there is doubt about the applicant's loyalty a hearing can be held to investigate. At these hearings the *Verfassungsschutz* provide evidence of "disloyal" behaviour. In the past this had included:

- Attending a communist party meeting
- Signature on a radical leaflet
- Distributing a radical leaflet
- Living or having lived in the same house as a radical
- Signing a petition against the closdown of a hospital
- Participation in an anti-nuclear group
- Being on the mailing list of a leftist publishing house
- Protesting against the abortion laws
- Protesting against cuts in education budgets
- Criticizing the practice of *Berufsverbot*

The application of *Berufsverbot* is both arbitrary and random. Usually defended on the grounds that the *Radikalerlass* was issued to fight terrorism and extremists of the right and the left, the practice is applied more often against legally constituted groups of the left. Not only have members of the German Communist Party (DKP) been affected, but also Social Democratic Party (SPD) members and supporters of the Peace Movement. The ease with which the *Radikalerlass* was adopted and used reveals the hostility towards any leftist political effort in West Germany.

Guidelines on the implementation of the edict were issued in 1975 by the Constitutional Court in an attempt to resolve the ambiguity in the constitution. The court made it clear that the concept of loyalty is above all required by public sector employees.

The way this policy is implemented is a reflection of the thinking upon which it is based.

1. The *Verfassungsschutz* operates on a large scale gathering information on political activity by German citizens, i.e. membership in legal groups and parties, signing petitions, attending public meetings, distributing pamphlets, participating in demonstrations, making speeches and publishing.

2. Legal political parties and groups who are critical of any government policy can be considered "hostile to the constitution" by the authorities. Not only membership in such organizations, but any kind of association with such parties, their members or sympathizers, may be enough to create doubts as to a person's loyalty.

3. Loyalty hearings are held behind closed doors where persons are summoned to be questioned about their political opinions. Refusal to attend or to answer questions is an admission of guilt. The process has been described as a nightmare from which there is no honest escape.

4. A dangerous aspect has arisen concerning guilt: in some cases persons have been found loyal, but because of their associations it has been judged that they might become "disloyal" in the future.

One of the most recent cases of *Berufsverbot* occurred last October when a West German court found Hans Peter, a post office clerk for 22 years, "hostile to the constitution" because of his active membership in the legal German Communist Party. The court decided that Peter, a *Beamte*, could be fired by the Post Office. This decision enlarges the scope of *Berufsverbot* to include those already working in the public sector instead of just those applying for a position. The reaction of a French journalist present at the court's decision was one of disbelief, especially since communists can become government ministers in France, while in Germany minor government employees belonging to the communist party are removed from their positions.

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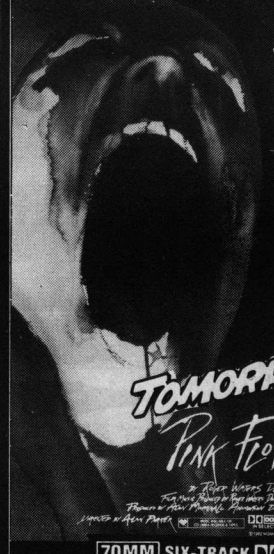
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