



Written by [Gary Benoit](#) on December 24, 2008

Press Freedom Threatened in Germany

"It would be wrong to grant the BKA [German federal police] powers to demand research material from journalists as this would violate the protection of sources," said the president of the European Federation of Journalists, Arne König. "Our German affiliates, also in cooperation with all major media organisations have continuously criticized the draft law on anti terrorism, which had foreseen extended authority for the Federal Criminal Police Office (BKA) for the defence of serious crimes."



The Federal Association of German Newspaper Publishers called the draft law "an affront to the press" and said it is "concerned by the climate created by the government in which freedom of the press plays only a subordinate role."

According to Wolfgang Krach, the managing editor of the *Süddeutsche Zeitung*, an influential daily newspaper, the law is "one in a series of so-called security laws that have one thing in common: They endanger the freedom of the press and especially investigative journalism." His paper reported in an assessment of the law: "The BKA may now use secret investigative methods that up until now have been primarily the hallmarks of the intelligence services — without there being any of the parliamentary controls such as those underlying intelligence service activities."

Despite being turned down the first time in Germany's upper house of parliament, the Bundesrat, the proposed new law will likely be passed before the end of the year, according to the German newspaper *Spiegel*. The paper also reported that a "large number of Germans have fretted" over the proposal, worried that it would give federal police powers similar to those enjoyed by the FBI or even the Stasi, the secret police of the former East-Germany. Among the new powers that the BKA would receive are the right to tap phone conversations, install Trojan viruses on people's computers which could search through their hard drives, bug houses of suspects and even track the location of their cell phone calls. The most troubling part of the law for journalists, doctors, and lawyers is a provision that would significantly reduce their privacy. Traditionally, they were grouped together with clergy, politicians, and defense lawyers in having their private conversations protected by law. The new provision would break the group into two categories and allow federal police to monitor the phone calls and search the computers of journalists, doctors, and lawyers without even so much as probable cause. The new litmus test: do police see a "public interest" in doing so.

"Journalists' ability to protect the identity of their sources would be severely weakened if the law is passed as it is currently formulated," Hendrik Zörner, a spokesman for the German Federation of Journalists, told *Spiegel*. "Informants will no longer trust that their communication with journalists will remain secret and they won't pass along information anymore. That will result in less critical journalism



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— and democracy needs critical journalism." Lawyers for the German media are already getting ready to take the new law to court if it passes. "We will be looking for appropriate cases to challenge the constitutionality of the law if it goes through," said Johannes Weberling, a German media lawyer who defended a journalist in 2005 after federal police searched his office and apartment looking for information about a source.

A report on the effects of European anti-terror laws on press freedom issued by human-rights watchdog Privacy International and commissioned by the Council of Europe said these new laws have already had a negative effect on freedom of the press while providing few benefits in fighting terror. It concludes that governments seem to be using these sorts of laws for their own political purposes.

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