

The reform of the German Federal Office for the Protection of the Constitution

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22 February marked the beginning of the process of reform which the Federal Office for the Protection of the Constitution (BfV) is undergoing. The BfV is the key counter-espionage agency responsible for the country's internal security. The reform is an element of the changes in the German internal security system first announced in September 2012. One of its probable effects will be the centralisation of part of the competences in the area of internal security. The agency's internal regulations will be amended and the consequences of this will include the creation of a central register of undercover agents and informants and the agency's activity becoming more transparent. Furthermore, the changes are expected to improve the agency's technical and analytical capacities (for example in the area of cyber security) and to optimise the management of the documents collected. The third element of the reform is the improvement of the coordination of actions and exchange of information with other secret services and the police, both at the federal and local levels.

The German counter-espionage system has a dual structure, consisting of the central agency and federal state agencies. Sixteen autonomous State Offices for the Protection of the Constitution (LfV) and the Federal Office for the Protection of the Constitution (BfV) operate in this structure. There is no hierarchical dependence between the BfV and the LfV, in part due to the high degree of autonomy the federal states are vested with in German internal policy. This dualist structure impedes the effective operation of the services due to the lack of mechanisms necessary to coordinate their work and to eliminate overlapping competences.

Commentary

- The reform was initiated when the errors in the investigation into the case of Neo-Nazis from the National Socialist Underground (NSU) were revealed. The NSU group, which consisted of three members, murdered nine immigrants and a German policewoman between 2000 and 2007. It was only possible to identify the NSU when one of its members surrendered to the police in November 2011, and the other two members committed suicide. The Bundestag's commission of inquiry first of all found errors made by the secret services (including the BfV) and the police, such as the agencies' failure to inform each other of their evidence and their undercover informants and agents and also

pointed to the destruction of documents which could be of use to other agencies during the investigation.

- The recently initiated reform is aimed primarily at regaining public confidence, which was lost after the NSU case, and at a more efficient use of the agency's resources and adjustment thereof to threats currently existing. Therefore, the BfV intends to focus its actions primarily on extremist individuals and groups which resort to violence, and to enhance the structures in charge of communication between the agency and public opinion.
- The success of the reform depends on the stance the federal states will take and on their readiness to co-operate with the BfV. The amendment of the act regulating the operation of the BfV and the LfV (announced in the context of the modernisation of counter-espionage) will require consent from the Bundesrat, which represents the federal states. It may be expected that the federal states will show resistance and will be unwilling to disclose their key data to the BfV. Nevertheless, according to the plans for changes at the LfV in North Rhine-Westphalia and Saxony presented in February 2013, the State Offices for the Protection of the Constitution will also implement their own reforms with the aim of improving their efficiency and of streamlining co-operation with other agencies. The LfV have announced the changes mainly due to their desire to forestall the centralisation plans of the BfV and the federal Ministry of Internal Affairs concerning the LfV.

Cooperation: *Piotr Żochowski*