Germany raises red flags about Palantir’s big data dragnet

Enlarge / German police officers sit in their vehicle at the Neuenburg junction of the A5 motorway and observe the traffic from France.

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Britta Eder’s list of phone contacts is full of people the German state considers to be criminals. As a defense lawyer in Hamburg, her client list includes anti-fascists, people who campaign against nuclear power, and members of the PKK, a banned militant Kurdish nationalist organization.

For her clients’ sake, she’s used to being cautious on the phone. “When I talk on the phone I always think, maybe I’m not alone,” she says. That self-consciousness even extends to phone calls with her mother.

But when Hamburg passed new legislation in 2019 allowing police to use data analytics software built by the CIA-backed company Palantir, she feared she could be pulled further into the big data dragnet. A feature of Palantir’s Gotham platform allows police to map networks of phone contacts, placing

people like Eder—who are connected to alleged criminals but are not criminals themselves—effectively under surveillance.

“I thought, this is the next step in police trying to get more possibilities to observe people without any concrete evidence linking them to a crime,” Eder says. So she decided to become one of 11 claimants trying to get the Hamburg law annulled. Yesterday, they succeeded.

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A top German court ruled the Hamburg law unconstitutional and issued strict guidelines for the first time about how automatic data analysis tools like Palantir’s can be used by police, and it warned against the inclusion of data belonging to bystanders, such as witnesses or lawyers like Eder. The ruling said that the Hamburg law, and a similar law in Hesse, “allow police, with just one click, to create comprehensive profiles of persons, groups, and circles,” without differentiating between suspected criminals and people who are connected to them.

The decision did not ban Palantir’s Gotham tool but limited the way police can use it. “Eder’s risk of being flagged or having her data processed by Palantir will now be dramatically reduced,” says Bijan Moini, head of legal of the Berlin-based Society for Civil Rights (GFF), which brought the case to court.

Although Palantir was not the ruling’s target, the decision still dealt a blow to the 19-year-old company’s police ambitions in Europe’s biggest market. Cofounded by billionaire Peter Thiel, who remains the chairman, Palantir helps police clients connect disparate databases and pull huge amounts of people’s data into an accessible well of information. But the guidance issued by Germany’s court can influence similar decisions across the rest of the European Union, says Sebastian Golla, assistant professor for criminology at Ruhr University Bochum, who wrote the complaint against Hamburg’s

Palantir law. “I think this will have a bigger impact than just in Germany.”

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