

ARE YOU THE EXTREMIST?

Frequently Asked Questions about surveillance by the Office for the Protection of the Constitution (Verfassungsschutz)

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INTRODUCTION

Many groups and individuals showing solidarity with Palestine have faced wrongful allegations of antisemitism. This false accusation is increasingly being accompanied by another: Palestine solidarity groups are being slandered as 'extremist'.

Extremism - when this allegation is made by the German domestic intelligence service, the 'Verfassungsschutz', it carries particular weight. Since mid-2025, the BDS ('Boycott, Divest, Sanction') campaign, BDS groups in Berlin and Bonn, the 'Jewish Voice for a Just Peace in the Middle East', and 'Palestine Speaks' have been listed as 'confirmed extremist' organisations and are being monitored by the Federal Office for the Protection of the Constitution in its annual report.¹ Locally, too, individual initiatives in solidarity with Palestine, such as Zaytouna Rhein-Neckar-Kreis, Thawra Hamburg and Handala Leipzig, are designated as confirmed extremist in the reports of the state offices for the protection of the constitution and are therefore under surveillance.

Palestinian and Palestine solidarity groups in Germany are suspected of seeking to undermine the constitution simply for expressing their views. This forms part of a broad arsenal of repressive measures and political persecution that has been deployed against the Palestine solidarity movement in Germany, particularly since October 2023. The ELSC's 'Index of Repression'², published in May 2025, reveals only the tip of the iceberg with 1122 verified incidents of anti-Palestinian repression. It also

shows that the systematic attack on the Palestine solidarity movement did not begin in 2023 – calls for groups like BDS to be monitored by the Office for the Protection of the Constitution have existed for many years. In 2017, for instance, the BDS campaign was already mentioned in the Berlin Office for the Protection of the Constitution report..³

When a solidarity group or initiative is listed in the domestic intelligence report, many questions and fears arise: Is it legal to remain active with the group? What am I risking if I am associated with the group under observation?

In this document, we shed light on surveillance by the Office for the Protection of the Constitution as a means of repression, covering legal questions and rights, as well as what it means practically to be subject of surveillance. The aim is to raise public awareness of how this government agency operates and, above all, to provide clear information to those affected so that they can weigh up the risks consciously and continue to campaign together for Palestine. While being on the radar of the domestic intelligence service can carry real risks, the aim of publicly labelling organisations and groups as “extremist” is to intimidate and decapitate the movement. This FAQ serves to empower individuals and groups to continue exercising their fundamental rights, such as freedom of expression and the right to associate with like-minded people, and to show solidarity with those affected by repression. The legal options available to those affected will also be discussed.

In the following, we aim to clarify some of the most important and frequently asked questions regarding surveillance by the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz, BfV or VS). This is not an exhaustive explanation of all issues regarding this topic and does not replace individual legal advice. It is intended to provide information and support to help you make informed decisions, and to serve as an initial source of information.

As the European Legal Support Centre (ELSC), we support active groups and individuals within the Palestine solidarity movement, including by legally challenging their designation as “extremist” by the Office for the Protection of the Constitution..⁴

1 Who is monitored by the Office for the Protection of the Constitution, and why?

The Federal Office for the Protection of the Constitution (BfV or VS) is Germany’s domestic intelligence service. It collects and assesses information on ‘anti-constitutional activities’. The Office for the Protection of the Constitution monitors groups and individuals. The organisational form is irrelevant: whether an association, initiative, political party, company, or informal small group – any group of people can be monitored. The central legal basis is the Federal Act on the Protection of the Constitution (BVerfSchG). Further, detailed regulations exist depending on the federal state, all of which also have their own state offices for the protection of the constitution.

According to the law (Section 3(1) BVerfSchG), the Office must, in order to carry out surveillance, establish that a group or individual is pursuing activities that

1. are directed against the ‘free democratic basic order’ (FDGO) or the existence of the Federal Republic of Germany and its constitutional organs,
2. constitute activities that jeopardise security or involve espionage on behalf of a foreign power,
3. endanger the external interests of the Federal Republic of Germany using violence, or

4. are directed against the idea of 'international understanding' (Völkerverständigung) and the coexistence of peoples.

These criteria are deliberately vague and leave room for political interpretation. In the context of solidarity with Palestine, points 3 and 4 in particular serve to justify the surveillance of organisations, if they strongly criticise Germany's foreign policy or simply interpret current international developments differently from German state institutions.

The authorities consider the following as legitimate reasons for surveilling a Palestinian or Palestine solidarity, in accordance with the above criteria:

1. Rejecting 'Israel's right to exist', for example by calling for a free Palestine 'from the river to the sea'.
2. Expressing sympathy for groups and individuals involved in armed Palestinian resistance and their actions (in some cases merely by providing context) or actively supporting them (not only materially, but also ideologically).

There are no clear-cut criteria for when an organisation can be observed. However, from the authorities' perspective, various characteristics of a group determine the need for surveillance ('Beobachtungsbedürftigkeit'). The more criteria a structure fulfils, the more urgent the need to monitor it and the more extensive the surveillance measures may be. Based on a ruling by the Federal Constitutional Court⁵, some of these criteria that reinforce the need for monitoring can be identified as follows:

1. A propensity for violence, particularly serious criminal offences and incitement to hatred emanating from the group.
 - In particular, the charge of incitement to hatred (Section 130 of the German Criminal Code) is relevant as a criminal offence for justifying the surveillance of Palestine solidarity groups. This charge is brought when there is incitement to alleged 'hatred against a national, racial, religious or ethnic group'. Because the authorities equate anti-Semitism with anti-Zionism, sharp, public criticism of Israeli policy is often sufficient to be accused of incitement to hatred.
2. Size and social influence, which make it more likely that alleged anti-constitutional objectives will be realised. The more relevant a group is, the sooner and more closely it is surveilled. On the other hand, however, this does not automatically protect small groups from surveillance. Specific indicators in this regard include:
 - the number of members and sympathisers and how this figure is developing
 - degree of mobilisation and campaigning capacity, as evidenced, for example, by the impact and scope of publications, alliances and support structures
 - Financial situation
 - Number of seats in parliaments and offices

From the perspective of the Federal Constitutional Court, there is somewhat less cause for surveillance if:

1. 'views are expressed openly or, at any rate, are readily accessible to the public, i.e. are not disseminated in closed communication groups' and
2. 'a movement operates solely by legal means'.⁶

However, taking this into account by no means provides blanket protection against surveillance. Even groups that employ exclusively legal forms of action (and, as is well known, most do so) and present their work in a publicly accessible way are not protected from being classified as extremist. Rulings of the Federal Constitutional Court confirm this and state in this regard:

It cannot be ruled out that an endeavour may develop potentiality below the level of behaviour relevant under criminal law, for example by disseminating misinformation on a very large scale in a particularly effective manner or by creating an atmosphere of fear or threat, and this is capable of sustainably impairing the free process of political decision-making and effectively steering it towards the abolition of the free democratic basic order.

(Federal Constitutional Court, Judgment of the First Senate of 26 April 2022, - 1 BvR 1619/17 - BVerfGE 162, 1 - Bay VSG, para. 190 et seq.)

We can see that the decision who the domestic intelligence services monitor is always a political one. There is no such thing as a politically neutral state apparatus that would assess all endeavours against an objective standard of respect for general human and civil rights. Further evidence of this: not a single Zionist group or individual in Germany has so far been publicly listed by the VS because they have politically justified crimes against humanity committed in Gaza or ongoing Israeli land grabs and annexations.

2 What is the report of the Federal Office for the Protection of the Constitution?

Reports by the Offices of the Protection of the Constitution (VS Reports) are published annually by the Federal Ministry of the Interior (BMI) or the interior ministries of the federal states and are intended to inform the public about alleged anti-constitutional efforts, structures and activities. The legal basis for the report at the federal level is Section 16 in conjunction with Section 3(1) of the Federal Act on the Protection of the Constitution (BVerfSchG). According to these provisions, the BfV must inform the public about efforts and activities as soon as there are 'sufficient substantial factual indications' of anti-constitutional activities. This applies to groups or individuals classified as at least 'suspicious cases' or 'confirmed extremists' (see below for the various classifications).

The VS reports describe these organisations and structures sometimes only briefly and other times in more detail, although the length or level of detail of the entry makes no legal difference to the classification of the group. Whether a group is only mentioned in passing or dealt with in a separate chapter, depends on its public perception or significance in relation to security. Note: anyone named in the VS report is under observation.

For the organisations or individuals affected, being named entails increased public visibility, being under surveillance, possibly through heightened intelligence measures. Being mentioned in the VS report is invariably associated with stigmatisation and often has practical consequences, for example regarding the allocation of funding, public events or career prospects (see the relevant sections

below). It is thus a politically motivated executive act with far-reaching consequences, for which no judicial decision is required. The effects are not unintended collateral damage, but intentional. Supposedly anti-constitutional structures are to be singled out, socially isolated and effectively restricted in their activities.

3 What do 'surveillance', 'classification as extremist' and 'mention in the VS report' mean?

The differences between being under surveillance by the VS, being classified as 'extremist' and being named in the VS report can be summarised briefly as follows:

Surveillance by the VS can continue for a long period of time without those affected having any idea. If the surveillance leads to substantiated findings, the group is **classified as extremist**. The use of covert investigative methods then becomes more likely and is carried out more extensively. Surveillance has three stages, which are explained below. Initially, only publicly available sources are analysed.

As soon as there is a suspected case of 'extremist activities', intelligence services may deploy surveillance measures (see chapter 'Levels of Surveillance'). The Office for the Protection of the Constitution generally informs the public of this and names the groups under surveillance **in the Office for the Protection of the Constitution Report**. This follows from a legal obligation (Section 16(1) of the Federal Office for the Protection of the Constitution Act). It should be noted that not every instance of observation automatically leads to a mention in the report, and not every mention occurs immediately after the first observation. Usually, the public first learns of groups being listed as suspected cases through parliamentary questions or court proceedings.⁷

4 What are the different levels of surveillance?

The Office for the Protection of the Constitution classifies potential cases of anti-constitutional activities into three categories: cases under review, suspected cases and confirmed extremist cases.

Case under review

The case under review (Prüffall) represents the first and lowest level of monitoring by the Office for the Protection of the Constitution. In this phase, the authorities collect and evaluate initial information to assess whether there is sufficient evidence of anti-constitutional activities. The Federal Act on the Office for the Protection of the Constitution (BVerfSchG) permits the collection and evaluation of information as soon as the first concrete indications arise. The volume of evidence is not yet sufficient to raise a suspicion of anti-constitutional activity - there are merely 'fragments of suspicious information' that require further examination.

During the preliminary investigation phase, the domestic intelligence authorities may only use publicly available sources: newspaper articles, social media posts, public association statutes, party manifestos, public events, or demonstrations are analysed. No covert surveillance measures or intelligence service methods are yet employed. There is no public designation if a case is 'under review'.

Suspected case

If the initial indications are substantiated by the investigation, the observed group or individual is upgraded to a suspected case (Verdachtsfall). Alleged anti-constitutional activities are 'not yet proven with certainty' but are already sufficient to justify more extensive measures from the view of the authorities. From this stage

onwards, the VS may employ intelligence methods, including: observations, the recruitment of informants, telecommunications monitoring, video and audio recordings, and covert data collection. These methods are subject to proportionality requirements and may (in theory) only be used if the suspicion of anti-constitutional activities is concrete and its verification appears possible only through covert investigation. Surveillance serves to further investigate the anti-constitutional activities and may cover both groups and individuals active within or on behalf of the association in question.

For suspected cases, information may also be made public: under Section 16(1) of the Federal Act on the Protection of the Constitution (BVerfSchG), the domestic intelligence agencies are obliged to inform the public about groups under surveillance. As a rule, groups are also named in the relevant domestic intelligence report from this stage onwards. Whether a suspected case is mentioned in the report depends on the relevance of the evidence, i.e. not every suspected case is mentioned in the report.

Confirmed extremist endeavour

The last level is reached when the Office for the Protection of the Constitution assumes a 'confirmed extremist endeavour' (gesichert extremistisch). This classification is made when the evidence of suspicion has 'crystallised into certainty', meaning that the Office assumes it can sufficiently prove the group's anti-constitutional orientation based on the quality and quantity of the evidence.

All intelligence-gathering methods may now be employed without restriction, and public mentioning in the annual Office for the Protection of the Constitution report is the norm. The Federal Act on the Protection of the Constitution also permits a direct upgrade from a case under review to a confirmed extremist endeavour, without taking the 'detour' via the classification as a suspected case, provided that the available evidence justifies this. Classification as a confirmed extremist endeavour by no means automatically leads to a ban on the organisation - it merely paves the way for possible further legal action and informs the government and the public about the identified 'threats'. The group can continue to engage in normal political activities.

5 What technical surveillance capabilities does the VS have?

The Office for the Protection of the Constitution now has a wide range of technical surveillance capabilities at its disposal, the scope of which has been steadily expanded in recent years - partly on the basis of new legislation. Among the most important and controversial methods are telecommunications surveillance (so-called 'source telecommunications surveillance' (Quellen-TKÜ, i.e. access directly at the end device), which also enables the covert reading and recording of encrypted communication content in messaging apps on smartphones or computers; the targeted recruitment and handling of informants, i.e. of individuals from the group and their social circle, in order to obtain information about the group under observation, or the deployment of undercover agents, such as police and domestic intelligence service personnel who use a false identity to gather internal group information; surveillance in public spaces, and the analysis of movement and location data, as well as social media profiles.

In practice, protection against this surveillance is limited. Everyone should always be aware that it is technically possible for their communications to be intercepted or read. Those seeking maximum protection should consistently use encryption, prioritise face-to-face meetings and never communicate confidential details digitally in plain text. No technology offers complete security against state surveillance, particularly

when one's own circle is already under scrutiny. Usually, activities are entirely legal - this should give us, alongside political and moral legitimacy, the self-confidence to be intimidated as little as possible by their means of surveillance.

Various guides can be found online providing an introduction to digital security in English⁸ and German⁹.

6 What are the consequences of being monitored by the VS for the group concerned?

A group that is under observation by the Office for the Protection of the Constitution and is named in the report need not fear any criminal consequences solely as a result of being observed, but must expect practical consequences, some of which may be serious. Even the mere mention of a group as a 'suspected case' or 'confirmed extremist activity' can have significant repercussions - even if no proceedings to ban the group are initiated and no court has found that any laws have been broken.

This amounts to a pre-emptive imposition of state sanctions: organisations come under scrutiny long before a court rules on actual unconstitutionality. Among the most significant consequences frequently associated with surveillance by the VS and its disclosure in the VS report are the exclusion from public funding and premises. Under current practice and on the basis of administrative decrees, tax offices can withdraw tax-exempt status from associations if they are listed as extremist in the VS report.¹⁰ Particularly controversial: when non-profit status is withdrawn, the burden of proof is effectively reversed for the associations - they must then prove their 'loyalty to the constitution', rather than the state providing clear evidence of misconduct. This can lead to organisations losing their charitable status and the associated privileges very quickly.

In addition, there are significant restrictions on access to state or local funding. As soon as an organisation is designated as extremist in the VS report, state funding and support may be withdrawn. In their own statements on funding conditions, the state governments of Baden-Württemberg and Bremen do not distinguish between 'confirmed extremist' activities and suspected cases but would examine applying and funded groups for 'known or obvious indications of extremist influence', taking into account, among other things, all information from the VS reports.¹¹

The use of publicly funded spaces, for example for events or gatherings, is also prohibited by many local authorities as soon as there are indications of alleged anti-constitutional activity.

Furthermore, affected groups often suffer social and economic consequences: public stigmatisation makes networking and collaboration considerably more difficult. Potential business partners, donors or event organisers may distance themselves. In Germany, being mentioned in the Federal Office for the Protection of the Constitution's report functions as a kind of official 'warning list'. It constitutes a prejudgement and, in effect, has a multitude of negative, sometimes almost inevitable consequences, even well below the threshold of a ban or a court ruling on unconstitutionality.

7 When is a person considered to be a member of an organisation?

Whether a person is considered to be affiliated with an organisation under surveillance by the VS depends primarily on the extent of their support and their specific conduct. The wording of the law (Section 4(1) of the Federal Act on the Protection of the Constitution) stipulates that only those who emphatically support an association's anti-constitutional aims are deemed to be 'acting on behalf of that

association'. This distinction should, in theory, prevent all contacts of a group from being automatically treated as suspects.

In practice, however, the threshold at which support is deemed 'emphatic' is by no means defined in a transparent or verifiable manner. Whilst the active organisation of events, public relations work on behalf of the group or ongoing involvement are definitely regarded as support, there remains considerable room for interpretation in the case of passive members or mere sympathisers who only help out and turn up occasionally - a loophole that the authorities frequently exploit for expanded political repression. The distinction between active and passive participation is thus legally relevant, but in practice it is applied vaguely. Particularly in the case of larger groups, this can lead to individuals being monitored whose actual proximity to or support for the organisation is questionable.

To identify who belongs to the organisation, the authorities tend to rely on various sources: they obtain the relevant information through cooperation with other authorities, by monitoring open and covert communications, and by analysing data collected at events and demonstrations. Nowadays, the VS finds it easier to attribute membership through social media, photos, or videos of events, which underscores the need for a conscious approach to these media.

8 What are the consequences of being under surveillance for individuals?

8.1 Criminal charges

Surveillance by the VS does not automatically lead to criminal charges. This is an important point that is often misunderstood: the Office for the Protection of the Constitution is not an investigative body like the police, but an intelligence service that collects and assesses information. A mention in the VS report therefore does not mean that a criminal offence has been committed or that criminal proceedings will be initiated. House raids or charges are not legally possible solely on the basis of surveillance by the Office for the Protection of the Constitution.

Nevertheless, the Office for the Protection of the Constitution acts as a critical catalyst here: it can pass on its findings to other authorities, such as the police or the public prosecutor's office, via so-called 'authorities' testimonies'. If these reveal indications of possible criminal offences, this may lead to independent criminal investigations. It is important to note, however, that these investigations are then based on concrete grounds for suspicion, not merely on the fact of being under observation by the VS. Political engagement and the exercise of fundamental rights are and remain legal - even if one is under surveillance.

8.2 Professional consequences

In the professional sphere, the effects of surveillance by the Office for the Protection of the Constitution are more evident, although a distinction must be made between the private and public sectors.

In the private sector, VS surveillance does not initially have any direct consequences under employment law. However, public stigmatisation can lead to practical problems. Employers can, in theory, suspend employees, or business partners can terminate contracts. Legally, however, this practice can be challenged, particularly if it can be proven that this is happening because of lawful political activities.

In the civil service, consequences are more serious and vary considerably between federal states. The basis for disciplinary action against civil servants is generally the 'Declaration of Loyalty to the Constitution in the Civil Service', which every civil

servant must sign before taking up their post; this includes a clause in which the individual agrees not to be a member of any organisation that is anti-constitutional. However, if one's own organisation is now designated by the Office for the Protection of the Constitution as a confirmed extremist group and membership is alleged, the employer can claim a breach of the regulation or deception at the time of signing the contract and, in the most severe cases, even dismiss the person concerned. If there are concrete grounds for suspicion, employers may ask the Federal Office for the Protection of the Constitution whether an employee is a member of an anti-constitutional organisation. In an increasing number of federal states, this is becoming a mandatory check: Brandenburg and Bavaria carry out routine checks with the Office for the Protection of the Constitution for all prospective civil servants; in Hamburg and Schleswig-Holstein, similar procedures are deployed for all appointments in the civil service;¹² in Hesse, the President of the State Parliament is planning a procedure whereby parliamentary staff will be routinely vetted in the future.¹³ In most other federal states, public sector employers have so far only made enquiries to the VS when there is a specific reason to do so, but it is to be expected that further states will introduce mandatory checks.

For civil servants and employees already in post, the following applies: not every membership of a monitored organisation automatically leads to consequences. The decisive factors are the nature, intensity, and public display of the support, as well as a corresponding political will of the employers.

8.3 Consequences for residence status

Surveillance by the VS can have particularly serious consequences for people with an uncertain residence status. This applies to both naturalisation procedures and the renewal of residence permits or visas. In practice, there has been a significant tightening of the rules in recent years.

In naturalisation procedures, the authorities routinely carry out security checks with the Office for the Protection of the Constitution. Even mere participation in demonstrations or social media activities can lead to intensive security interviews. A documented case from Berlin illustrates the problem: a Palestinian student was refused a visa extension despite having lived in Germany for several years and successfully completing his studies, after he was seen in photos of a demonstration by a group mentioned in a VS report. His social media profiles were analysed and used as the basis for a negative official assessment.

Nevertheless, with appropriate legal representation, visas may be granted and naturalisations approved despite VS findings. It is therefore important for those affected to seek information and professional support in a timely manner.

9 An organisation close to us is mentioned in the report. Could we come under the scrutiny of the VS due to 'guilt by association'?

The mere fact that one sympathises with a group under surveillance, occasionally supports that group publicly or maintains contact with its members does not automatically lead to being placed under intensive surveillance. The decisive factor is whether, as an individual, one actively and 'emphatically' supports the objectives of the organisation under surveillance (Section 4(1) of the Federal Constitution Protection Act). The notion of 'guilt by association' - that is, coming under scrutiny solely due to a loose connection - is indeed a recurring reality (see the question on consequences for residence status), but is often legally untenable.

The case of the Dar-as-Salam Mosque in Neukölln, Berlin, provided an important legal clarification regarding guilt by association. This mosque was named in the VS report because it was alleged to have links to individuals suspected of having contacts with the so-called 'Islamic State' (IS). The mosque took legal action against

the mention and won its case before the Higher Administrative Court of Berlin-Brandenburg in July 2018. The court ruled that a mere association was not sufficient for the VS to classify an organisation itself as extremist and name it publicly. It was necessary for the organisation itself to engage in specific anti-constitutional activities. Consequently, the mention was removed from the report.¹⁴

If a group does not appear by name in the report itself, the most it can generally expect as a result of the naming of an affiliated group is that the Office for the Protection of the Constitution will draw on publicly available information (e.g. social media, disclosure of membership of associations, speeches at demonstrations) to examine further leads ('case under review').

It is important not to withdraw support from a group simply because it was mentioned by a domestic intelligence agency. The authorities hope to precisely achieve this isolating effect through their surveillance and public smearing of the group. Continuing to work together undeterred and speaking out publicly against the surveillance of a group is one of the few means the movement has at its disposal to counter this kind of repression.

10 What am I risking if I offer a group under observation the use of my premises?

Managements of venues that are (partly) funded by public money from city, state and federal funds and institutions refuse to allow groups under observation by the Office for the Protection of the Constitution to use their premises. Sometimes permission to use a venue is initially granted, but then, cancelled at short notice, following pressure from the relevant funding bodies. Groups classified as extremist or merely as cases of suspicion are thus severely limited in their ability to publicly discuss and present their views and face a considerable additional organisational burden for every event.

This pattern of revoking publicly funded spaces stems from the increasing number of guidelines and directives introduced in recent years regarding the exclusion of extremist groups from public funding and spaces, which often legitimate such exclusions by drawing on the problematic IHRA definition of antisemitism, adopted by many cities and authorities.¹⁵

Instrumentalising the IHRA definition and other resolutions provides state authorities with an effective tool for exerting political pressure. Even if public funding is actually withdrawn from publicly funded venues, the recipients of these funds and the managers of the spaces are not powerless. Insisting on one's own decision to collaborate with the organisation in question and defending this stance against state bodies is often successful. If state funding is indeed withdrawn due to collaboration with the organisation under scrutiny, legal action can be taken against this (please contact the ELSC for this); furthermore, publicising the incident and networking with other affected spaces and organisations can help to break the isolation and coordinate response strategies. Affected spaces and associations are often established institutions within communities and local civil society - withdrawing funding from them casts a negative light on the authorities and the administration. One can take advantage of this.

11 How can we legally defend ourselves against surveillance?

Anyone wishing to take legal action against surveillance by the Office for the Protection of the Constitution and public naming in the Office's report must be aware of certain hurdles - but there are precedents where those affected have been

successful. Those affected can contact the ELSC for an initial consultation regarding potential legal action against surveillance by the Office and against being named in the Office's report.

Only the individuals or groups named in the report may bring legal proceedings. The mere use of publicly available sources by the VS ('case under review') is not legally contestable - legal action is only admissible once a group or individual has been mentioned publicly.

In the case of a lawsuit against the surveillance of a group, an elected or otherwise legitimate representative is required to bring the action on behalf of the organisation - without this, the lawsuit may be dismissed on this formal ground, as only the group itself and thus its representative can take legal action against its own surveillance.

As soon as a group or an individual is publicly mentioned in the VS report, legal action can be initiated. The decisive factor is whether the VS can substantiate the allegation of anti-constitutional activity with verifiable facts. Lawsuits are successful if the VS cannot provide sufficient evidence of an anti-constitutional objective or activity, or if fundamental rights such as freedom of expression, freedom of the press or freedom of association are disproportionately restricted.

Legal proceedings are often protracted and require certain financial resources to pursue the case. At the same time, experience shows that there are realistic chances of success.

Examples of legal actions

The ELSC is currently supporting legal actions brought by the groups Jüdische Stimme für gerechten Frieden in Nahost (Jewish Voice for a Just Peace in the Middle East), BDS Berlin and Thawra Hamburg. Thawra Hamburg achieved an initial success: in January 2026, Thawra Hamburg has obtained a decision to suspend (Hängebeschluss) from the Hamburg Administrative Court, which obliged the Hamburg Office for the Protection of the Constitution to immediately suspend surveillance - triggered by the group's classification as 'confirmed extremist' in June 2025, which had been justified on the grounds of allegations of anti-Semitism and alleged violations of the principle of international understanding (Völkerverständigung). At a hearing in March 2026, the 12th Chamber reiterated its substantial doubts regarding the legality of this classification and made it clear that criticism of Israeli policy, allegations of genocide or apartheid, calls for BDS, and contacts with other classified groups do not constitute sufficient grounds for anti-constitutional activity. However, as the Chamber declared that it lacks the competence to judge on this case, Thawra withdrew the urgent application - with the strategic aim of using the clear judicial indications against the unlawful practice of the authorities in future proceedings, should the Office for the Protection of the Constitution maintain the classification.¹⁶

Shortly after, Jüdische Stimme achieved an even more significant victory. In a verbal hearing on 27 April 2026, the First Chamber of the Berlin Administrative Court ruled in interim relief proceedings that the designation of the association as 'confirmed extremist' in the 2024 Federal Office for the Protection of the Constitution report was unlawful and ordered the Federal Ministry of the Interior, as the report's publisher, to amend the relevant passages in the 2024 report. The court thus comprehensively rejected the attempt by the VS and the BMI to classify mere expressions of opinion - including calls for BDS and the refusal to recognise the State of Israel's right to exist - as 'preparatory acts for the use of violence' or as a violation of the principle of international understanding. In the court's view, a classification as extremist requires that a group actively propagate and promote violence contrary to international law and that its statements amount to a concrete call for violence -

mere descriptions or politically charged expressions of opinion are explicitly insufficient for this purpose. The ruling is groundbreaking: it sets high legal hurdles for designating civil society organisations as extremist and is of considerable significance for the other pending lawsuits brought by pro-Palestine groups across Germany.

A month later, however, the Administrative Court in Cologne issued a contrary decision: on 20 May 2026, the Court in Cologne (where the Federal Office for the Protection of the Constitution is based) rejected the Jewish Voice's application for interim relief in its entirety and confirmed that the Office's classification of the association as a 'confirmed extremist movement' was likely to be lawful. The Berlin Administrative Court thus ruled against the group's inclusion in the 2024 Report on the Protection of the Constitution, whilst the Cologne court had to rule on the classification as an extremist organisation per se - that is, the BfV's internal and public classification, irrespective of the report. The Cologne court affirmed that the statements made by the association and its board members - in particular the alleged public endorsement of attacks carried out by Palestinian resistance groups, expression of solidarity with the proscribed group 'Palestine Solidarity Duisburg' as well as the denial of Israel's right to exist - taken as a whole, provided sufficient grounds to argue that the group followed endeavours directed against the idea of international understanding. The fact that two courts reached opposing conclusions on virtually the same facts within one month exemplifies just how controversial and open to interpretation the legal standards for monitoring are. The legal proceedings here are ongoing.

Journalist Rolf Gössner also achieved a significant victory: following decades of surveillance, the Federal Administrative Court ruled in 2020 that his monitoring by the Office for the Protection of the Constitution was unlawful and must cease. The court emphasised that particularly high thresholds for intervention must be observed in cases of long-term surveillance of individuals, particularly with regard to fundamental rights and the importance of freedom of expression and freedom of the press.¹⁷

MASCH Hamburg (Marxistische Abendschule Hamburg) also successfully took legal action against its inclusion in the local VS report. The Hamburg Administrative Court ruled that MASCH's inclusion in the 2021 report of the State Office for the Protection of the Constitution must be revoked, as there were insufficient factual grounds for anti-constitutional activities.¹⁸

By contrast, the lawsuit brought by the daily newspaper *junge Welt* (jW) was largely unsuccessful. On 18 July 2024, the Berlin Administrative Court dismissed its application against its inclusion in the 2023 VS report, ruling it partly inadmissible and partly unfounded. The application was inadmissible with regard to older reports dating back to 2016, as the newspaper had accepted its inclusion for years without seeking legal redress and had thus forfeited its right to sue. On the merits of the case, the court found the infringements on freedom of the press and freedom of expression to be justified: The jW pursues a socialist-communist social order based on the Marxist-Leninist model, does not commit to non-violence, is close to the DKP (Deutsche Kommunistische Partei) in terms of content and personnel, and consistently portrays Lenin and the GDR in a positive light. Taken together, all of this constitutes an anti-constitutional endeavour within the meaning of the Federal Act on the Protection of the Constitution (BVerfSchG).¹⁹

There is also much discussion surrounding lawsuits brought by the far-right party Alternative for Germany (AfD) against the Office for the Protection of the Constitution, some of which have been successful: following a decision to suspend by the Cologne Administrative Court on 5 March 2021, the VS was provisionally barred from publicly designating the party as a suspected case. In a judgement of 8 March

2022, the same court declared the classification of the AfD as a suspected case and its public designation - including its inclusion in the Federal Office for the Protection of the Constitution's reports from 2022 onwards - to be lawful. However, in relation to the reclassification of the AfD as a confirmed extremist organisation, which was made public in May 2025, and its corresponding inclusion in the 2024 VS report, the Cologne Administrative Court, in an interim ruling dated 26 February 2026, prohibited the VS to list the AfD as a 'confirmed right-wing extremist organisation' or to publicly designate it as such until a decision had been reached on the main issue.

Request for information on data held by the VS

Anyone wishing to know what information the VS holds about them has a right to request this under Section 15(1) of the Federal Constitutional Protection Act (BVerfSchG) and can create and submit requests for information via platforms such as www.wirbeobachtenzurueck.de or www.datenschmutz.de/auskunft.

Unfortunately, the authorities often provide only scant or redacted information. Please also note the further guidance on making enquiries to the VS on both websites.

THE EUROPEAN LEGAL SUPPORT CENTER (ELSC)

The European Legal Support Center (ELSC) is a Europe-wide legal aid organisation that has been campaigning for the rights of the Palestine solidarity movement since 2019. The ELSC comprises, among other things, a network of lawyers who support both individuals and groups facing repression due to their commitment to Palestinian rights or their solidarity work.

The ELSC's work covers three areas:

1. The ELSC offers legal support and advice in cases of state and private repression, connects people with lawyers, and accepts requests for help via a contact form: <https://elsc.support/de/intake/>. Any case of repression can be reported here, regardless of whether one wishes to take legal action against it or not.
2. The cases are published anonymously in a database: The ELSC systematically monitors, documents and analyses cases of restrictions on the Palestine solidarity movement in Europe and makes these available to the public and the media in its own database: <https://www.index-of-repression.org/platform>. Please report all your cases of repression via the contact form mentioned above.
3. In addition, the ELSC itself brings strategic legal actions against actors and companies involved in practices that violate international law.

Further information on the ELSC: <https://elsc.support/>

Contact: info@elsc.support

Date of information: 27 May 2026

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- ¹ <https://www.verfassungsschutz.de/SharedDocs/publikationen/DE/verfassungsschutzberichte/2025-06-10-verfassungsschutzbericht-2024-startseitenmodul.pdf>
- ² <https://www.index-of-repression.org/>
- ³ <https://www.zeit.de/politik/deutschland/2019-09/andreas-geisel-innensenator-berlin-bds-bewegung-verfassungsschutz>
- ⁴ <https://elsc.support/elsc-is-taking-legal-action-against-german-domestic-intelligence-services-for-surveilling-palestine-solidarity-groups/>
- ⁵ Federal Constitutional Court, Judgment of the First Senate of 26 April 2022, - 1 BvR 1619/17 - BVerfGE 162, 1 - Bay VSG, para. 181, 190 et seq.
- ⁶ Ibid.
- ⁷ This is the case, for example, with Zaytouna Rhein-Neckar, which, according to the State Office for the Protection of the Constitution in Baden-Württemberg, has been listed as a suspected case since December 2024, but is not named in the 2024 VS report: https://www.mannheimer-morgen.de/orte/mannheim_artikel%2C-mannheim-palaestina-demos-auch-in-mannheim-verfassungsschutz-stuft-zaytouna-als-verdachtsfall-ein-_arid%2C2317743.html
- ⁸ <https://www.privacyguides.org/en/>
- ⁹ https://archive.org/details/de_beschlagnahm-1.1.0/mode/2up
- ¹⁰ For example, the VVN-BdA (Association of Victims of Nazi Persecution - Federation of Anti-Fascists) <https://taz.de/VVN-BdA-nicht-mehr-gemeinnuetzig/!5644360/>
- ¹¹ <https://www.baden-wuerttemberg.de/de/service/presse/press-release/pid/exclusion-of-extremist-organisations-from-voluntary-state-funding>
https://www.rathaus.bremen.de/sixcms/media.php/13/top%2010_20241015_Foerderung_extremischtisc_h_eingestuftter_Organisationen.pdf
- ¹² <https://www.ndr.de/nachrichten/hamburg/hamburg-will-bewerber-fuer-oeffentlichen-dienst-durchleuchten,regelanfrage-100.html> ; https://www.haufe.de/oeffentlicher-dienst/personal-tarifrecht/pruefung-von-bewerbern-fuer-staatsdienst-durch-verfassungsschutz_144_669742.html
- ¹³ <https://www.lto.de/recht/nachrichten/n/hessen-gesetzesanderung-ueberpruefung-verfassungstreue-mitarbeiter-abgeordnete>
- ¹⁴ <https://mediendienst-integration.de/artikel/die-logik-des-verdachts-1.html>
- ¹⁵ One publicly available example is the City of Cologne's 'Guidelines on the Rental of Public Premises by Extremist, Racist and Anti-Semitic Groups': <https://www.stadt-koeln.de/mediaasset/content/pdf30/leitfaden-zum-umgang-mit-der-anmietung-von-oeffentlichen-raeumen.pdf>
- ¹⁶ <https://www.rae-guenther.de/aktuelles/hamburger-verfassungsschutz>
- ¹⁷ <https://rsw.beck.de/aktuell/daily/meldung/detail/bverwg-rechtswidrige-beobachtung-goessner-verfassungsschutz>
- ¹⁸ <https://www.unsere-zeit.de/verfassungsfeind-marx-480617/> and <https://michael-hopp-texte.de/das-urteil/>
- ¹⁹ <https://www.lto.de/recht/hintergruende/h/verfassungsschutzbericht-verfassungsschutz-junge-welt-pressefreiheit>