

America's Willing Helper

Intelligence Scandal Puts Merkel in Tight Place

Germany's latest spying scandal has created the biggest crisis yet for the country's foreign intelligence agency. The German government appears to have been aware of widespread US spying, possibly including economic espionage, against European targets and yet it did nothing to stop it. By SPIEGEL Staff

July 14, 2013 was an overcast day. The German chancellor was reclining in a red armchair across from two television hosts with the country's primary public broadcaster. With Berlin's Spree River flowing behind her, Angela Merkel gave her traditional summer television interview. The discussion focused in part on the unbridled drive of America's NSA intelligence service to collect as much information as possible. Edward Snowden's initial revelations had been published just one month earlier, but by the time of the interview, the chancellor had already dispatched her interior minister to Washington. Having taken action to confront the issue, Merkel was in high spirits.

Merkel's interviewers wanted to know exactly what data had been targeted in Germany. Reports had been making the rounds, they reminded her, of "economic espionage." Merkel sat quietly. "So, on that," she said, "the German interior minister was clearly told that there is no industrial espionage against German companies."

Only a few hundred meters away from the red armchair, though, more was known. In Merkel's Chancellery, staff had long been aware that the information provided by the United States wasn't true.

By 2010 at the latest, the Chancellery had received indications that the NSA had attempted to spy on European firms, including EADS, the European aerospace and defense company that is partly owned by German shareholders. They also knew that the Americans were seeking to join forces with Germany's foreign intelligence agency, the Bundesnachrichtendienst (BND), in their spying efforts. It would be astonishing if Merkel herself had not known about these occurrences long before she sat down for the interview. Indeed, she would look even worse had she not known.

Total Failure

Officially, the chancellor is in charge of oversight of foreign intelligence and Merkel has an entire department in the Chancellery responsible for formulating the BND's assignments, managing them and, most importantly, keeping an eye on the agency. But the Chancellery wasn't just sloppy in exercising this oversight. It failed completely. As such, the scandal surrounding NSA spying, and the evident cooperation between the BND and the NSA, is an affair for Chancellor Merkel, as well.

An online report by SPIEGEL triggered the latest intelligence service scandal a week ago Thursday. SPIEGEL reported that the NSA had made massive efforts to target and spy on German and European targets using BND facilities. Despite having had indications for years, the Chancellery had essentially done nothing to stop it.

The scope of the affair became increasingly apparent over the past week. It now appears that the NSA, via its cooperation with the BND, didn't just spy on companies, but also on politicians and institutions in Europe. The conclusion can be drawn from search criteria the Americans supplied to their German partners. The German Federal Prosecutor's Office is now reviewing whether there is "initial evidence for a criminal offense that would fall under our jurisdiction." Within the federal public prosecutor's jurisdiction is the prosecution of crimes relating to espionage and treason.

Reporting by SPIEGEL has now found that the BND's willingness to cooperate was even greater than previously known. In the top secret operation Monkeyshoulder, the BND also planned a partnership with Britain's GCHQ intelligence service in a program that involved the NSA's participation as well. In the

beginning, even the Chancellery was kept in the dark about the dubious partnership.

A further suspicion has also emerged in recent days, raising questions about whether the US targeted Chancellery staff in Berlin or spied on journalists.

Thus far, those who may ultimately be responsible have merely let their spokespersons do the talking. But the affair nevertheless has the potential to become a major scandal. In order to protect Germany from terrorist attacks, the American intelligence services were permitted to scoop up millions of data sets from German territory -- with the BND's help and without any real political oversight.

Questions for Merkel

The chancellor now faces questions about how these actions can be reconciled with her oath of office. What is being done to ensure that German law is respected? Are German interests betrayed when American intelligence services are able to spy on German companies -- or at least attempt to -- with impunity? What has gone wrong in a country whose own intelligence services simply look away or even provide their support as this happens? And what about the damage the latest scandal has done to relations between Germany and its neighbors? Is having good relations with the Americans more important than maintaining the trust of European partners?

To better understand how an agency can begin writing its own rules, even in a system robustly outfitted with laws and regulations, it helps to look back at what happened on Oct. 23, 2001.

On that day, German Interior Minister Otto Schily found himself seated in a conference room in Washington, DC next to US Attorney General John Ashcroft. The subject of the meeting was the terrorist attacks that had taken place six weeks earlier in New York and Washington. Ashcroft said that three of the pilots and three of their accomplices had lived in Hamburg. It was a simple statement of fact, but it was also a resounding slap in the face. Later, a US investigative committee concluded that Germany shared responsibility for failing to prevent the attacks.

A New Era for German Intelligence

Then-German Chancellor Gerhard Schröder quickly promised the Americans "unconditional solidarity." For German intelligence agencies, it marked the beginning of a new era. Authority for their work was no longer Berlin's exclusive domain. Washington had a say too.

It also transformed the relationship the German government had with its secret services. The BND, which is based near Munich, became much more independent of the government, and officials in Berlin did nothing to stop it.

Michael Hayden, who served as the head of the NSA at the time, says he undertook an intensive effort to develop strong relations with the BND in the aftermath of the Sept. 11, 2001 terrorist attacks. "I didn't want to come across as an occupier," he says. "I wanted to increase our cooperation." He met with then-BND President August Hanning, who promoted the cooperation wherever possible.

The result was hundreds of US agents in Germany, monitoring terror suspects in places ranging from Hamburg to Wiesbaden. Very few of those agents had been registered by name with the German government in accordance with established rules. A former Chancellery staffer describes the German foreign intelligence service as the "CIA's and NSA's best branch office." Former NSA staffer Thomas Drake told SPIEGEL last summer that Germany had become "target nation No. 1."

But Germany has also profited from the powerful surveillance apparatus. Officials foiled a terrorist cell known as the Sauerland Group based on information provided by the United States. And so far, no major Islamist terror attack has taken place on German soil.

That could be one of the reasons that the BND and other services allowed the Americans to continue their activities, even after they had stumbled across clues about the extent of the spying. Those inside the Chancellery who were charged with oversight, many of whom had started their careers in intelligence, were similarly indifferent. It was a clique loyal to the intelligence services, a group receptive to the Americans' concerns and not open to external criticism. That continues to be the case today.

"In the eyes of the Americans, we were a US aircraft carrier in the middle of the Continent," says one high-ranking Berlin official.

Even if Germany had wanted greater distance, greater control and more autonomy, it would scarcely have been possible for the country to emancipate itself from the US. One reason for that is that the BND was slow to recognize the need to radically change its technological approach and its reconnaissance objectives. In order to keep pace in the digital revolution, the Germans had little choice but to rely on the NSA. An internal Chancellery paper states that the NSA offers the possibility "to catch up to developments in communications technology and to keep up with them in the long run."

Deep Dependence

This dependence prevented an open and honest discussion within the German government about the problems associated with the cooperation. In April 2002, a "Memorandum of Agreement" -- a six-page document with more than 70 pages of addendums -- laid the foundations for a new and particularly close level of cooperation. It included provisions for a new eavesdropping alliance and was intended to prevent Germans or Americans in Germany from being spied on. Data tapped from Europe was only to be used in instances of a clear terror threat. The partners provided mutual assurances that each would have oversight of the assignments. Over the years, however, it appears that the terms of the agreement were largely forgotten.

One of the American's best-performing listening posts in Europe was the antenna facility at Bad Aibling, which the US built and officially turned over to the BND in 2004. Secretly laid cables lead from the facility to the nearby Mangfall Barracks, where the BND has since covertly conducted large-scale monitoring of satellite communications.

The Americans set up their operations on the barracks property within view of the radomes. They built a large, black, windowless building connected to the NSA data network by fiber optic cable. The barracks is also home to the so-called Special US Liaison Activity Germany (SUSLAG), the liaison office between the NSA and the BND.

With the Americans' help, the BND, from Bad Aibling, has been intercepting huge numbers of signals from crisis regions around the world for more than 10 years now. Telephone calls, emails and text messages are all intercepted. The basis for this interception is, not least, search terms provided by the Americans, so-called selectors. New lists are downloaded from American servers each day, with a sum of 4.6 million such terms downloaded as of 2015. BND technicians then feed the selectors into the system for their colleagues at the NSA. The results are forwarded to the NSA.

A River of Data

A broad river of data flows through Bad Aibling each month. But, according to the BND, it is filtered so as to remove both German and American targets in accordance with the memorandum. Data from connections with the country code +49 and Internet addresses ending in ".de" is not supposed to fall into the Americans' hands. The only exceptions are if the data is believed to belong to serious criminals, like terrorists or arms smugglers.

In 2010, when the Chancellery was provided with evidence that the American hunger for data was larger than thought, Ernst Uhrlau had already been president of the BND for five years. During his first years in office, it looked publicly as though his agency had revised its policy of "unlimited solidarity." Those were the years in which America was showing its ugly side. Images of naked prisoners and torture were emerging from the Abu Ghraib prison in Iraq, the world was learning what it means to "waterboard" a person and the CIA was "rendering" people arbitrarily.

Uhrlau installed lawyers at the BND to review and address legal concerns about every operation, especially those involving the Americans. He also drastically reduced the number of joint operations.

Despite this new distance, the joint surveillance conducted by the BND and the NSA continued. Uhrlau, it seemed, didn't want to completely sever connections to the better equipped US. For their part, the Americans also knew how to take advantage of this trust for their purposes.

12,000 Active Selectors

The scope of the US espionage at the Bad Aibling listening station became clear in August 2013. After the Snowden revelations, the BND asked its staff to take a closer look at the search terms provided by the Americans. A specialist sat down at a computer and began combing the NSA's selector data using the abbreviations that are common in email addresses of diplomats, ambassadors and employees of German government authorities. He tested the abbreviations "diplo" and "bundesamt," or "federal office."

Even the search for these terms itself is telling, demonstrating as it does that the BND -- in the wake of the Snowden revelations -- suspected that the NSA may in fact have been ignoring all conventions and agreements and targeting Germans after all. The BND staffer also conducted a search with the abbreviation "gov," which is used as part of the email addresses of many European governments. He immediately was able to find the term in almost 12,000 active selectors, including a number of email addresses leading to high-ranking French diplomats. It was an explosive list, and it clearly violated the provisions of the 2002 Memorandum of Agreement. Email accounts for EU institutions and those of other European governments were also found in the US search terms, according to reports. At first, though, it appears no steps were taken to stop the searches. If it is true that BND President Schindler first learned about the results of the inquiry on March 12 of this year, that would mean that the Bad Aibling unit held on to its findings for quite some time.

Potential proof for this version is provided by a piece of correspondence that was as terse as it was explosive. On August 14, 2013, the BND staffer sent a message to the BND official in charge at Bad Aibling, with the initials R.U., about his finding. "What should I do with it?" he asked the official. The answer was: "Delete."

The fact that the US had also been using its cooperation with the BND to conduct electronic eavesdropping against European defense company EADS and its subsidiary Eurocopter had been known by the government internally since 2005. In January 2006, the satellite station in Bad Aibling cabled information about it for the first time to BND headquarters. In the message, the employee used the terms "EADS" and "Eurocopter," in addition to attaching an Excel spreadsheet with countless terms. Is it really plausible that the BND president at the time was never informed of the suspicion the message documented -- namely that the NSA was spying on companies and perhaps conducting industrial espionage? Or did it just wind up in a drawer somewhere in the BND's Signals Intelligence directorate?

Currently, it looks as though the explosive information only reached Angela Merkel's Chancellery four years later. The recipient was Guido Müller, the chief official in charge of the BND at the Chancellery's Department 6. Today he is the BND's vice president. The memo carried the subject line, "Status Report on Cooperation between (BND) Signals Intelligence and the NSA." The memo states clearly and in no uncertain terms: "The fact that the NSA continues to monitor German targets pursuant to US interests cannot be prevented." Although the report states that US specialists at the Joint Signit Activity (JSA) in Bad Aibling aren't pursuing that target, it does state, "However, the NSA did discontinue recognition criteria in 2005 for the firms EADS, Eurocopter and diverse French authorities at JSA." The document notes that the BND made the discovery that the search terms had been used and "subsequently stopped them."

The background to the surprise briefing was a visit made by the US leadership at Bad Aibling to Chancellor Merkel's intelligence coordinator, Günter Heiss, who had only been in office for a few months at the time of the meeting. During the following months, the information popped up several times, including in reference to a planned meeting between Heiss and then NSA chief Keith Alexander. Seven different memos included the warning, with the last one on Dec. 2, 2011.

But it appears that no one found it necessary to examine the telltale search terms in greater detail. Doing so would have provided a further opportunity to closely examine what the US was up to in Germany.

Far-Reaching Implications

If a report in the April 26 edition of the weekly *Bild am Sonntag* is true, then another incident several

years ago should have made the Chancellery suspicious that US intelligence was, perhaps, monitoring the conversations of German government officials. In 2011, the paper reported, the top CIA official in Berlin told Chancellery officials that a senior Merkel staffer had been trying to plant "good stories" in the media. The newspaper reported that the CIA representative called a group leader in Department 6 a "suspected mole." The official was stripped of his duties a short time later and was supposed to get transferred to another ministry. After the staffer sued in a Berlin administrative court, he was allowed to remain in the Chancellery's intelligence division, although he was only entrusted with archival duties and was not allowed to attend sensitive meetings. Personnel matters at the time were handled by Merkel's then-chief of staff, Ronald Pofalla, and, in this instance, Department 6 unit leader Günter Heiss.

The report allows for several different scenarios for how the NSA got wind of the suspected Chancellery mole, all of which must certainly have been looked into by the Chancellery at the time. Was the NSA comprehensively monitoring conversations in Berlin's government quarter? Were the Americans targeting Chancellery staff? Or was US intelligence targeting specific German journalists? Any one of these scenarios would mean a scandal with far-reaching implications for the trans-Atlantic relationship.

In hindsight, in light of the revelations that the NSA monitored the Chancellor's mobile phone, anything seems possible. But even in 2011, well before the Snowden archive revealed the extent of NSA data collection, all of the warning lights in the Chancellery should have begun blinking. A list of questions sent to Merkel's staff by SPIEGEL had not yet been responded to by the time this article went to print. But the Chancellery will ultimately have to address the issue before the parliamentary investigative committee -- which is looking into the new allegations -- if not sooner.

The same holds true of the suspicious activities in Bad Aibling. The BND itself recently estimated there were up to **40,000 suspicious search** parameters directed against European and German interests. Traces of those suspicious search parameters can also be found in the archive of whistleblower Edward Snowden.

The document in question is called "JSA Restrictions," and it originated with the British intelligence agency GCHQ. It says that the US-German surveillance unit known as Joint Sigint Activity possesses "unique access," but is subject to "several restrictions" when it comes to choosing surveillance targets.

Those restrictions preclude the monitoring of Germans in addition to citizens of any of the so-called Five Eyes partners, a reference to the intelligence agencies of the US, Canada, Australia, New Zealand and Great Britain. Furthermore, there could be no "European economic targeting" during spying and "sensitive" selectors such as Internet address endings for Germany, Austria and the Five Eyes countries were "not accepted".

A list follows, identifying companies "that should not be targeted due to them being German companies or entities." The names on the list are surprising. On the one hand, "European economic" targets were allegedly off limits anyway. On the other, the list only has 31 entries, making it surprisingly short.

Industrial Espionage?

It also seems a bit erratic. It includes the companies EADS and Eurocopter, both of which make a later appearance in the seven Chancellery memos. In other documents from the Snowden archive, the aerospace concern EADS, which is now called the Airbus Group, is even connected to a specific name together with a Saudi Arabian telephone number.

The EADS employee works in a sensitive department in the company: He is responsible for securing arms exports licenses for the company's defense division. Many such deals are top secret and are reviewed only by the Federal Security Council, a cabinet committee that is not under parliamentary supervision. The man is marked as a hit and as a potentially interesting new surveillance target.

Airbus head Tom Enders, who is very much pro-American, is vexed and extremely upset by the silence of the German government, says a high-ranking Airbus manager. He has demanded that Berlin address the accusations of industrial espionage and his company has filed a criminal complaint against persons unknown for industrial espionage.

It isn't difficult to see why Airbus, or EADS before it, might be of interest to foreign spies. It is the

largest defense company in Europe and manufactures goods that compete with American firms -- with products like the Eurofighter, surveillance satellites and missiles for the French nuclear program. A few years ago, the company found itself in direct competition with Boeing for a \$35 billion contract to supply the US Air Force with aerial refueling tanker aircraft.

Intense Competition

Outside the defense sector, Boeing and Airbus are also in intense competition for leadership in the civilian aircraft market. In both Europe and the US, the rivalry is also about prestige.

The list from the Snowden archive also lists other companies, including Siemens, the pharmaceuticals firm Boehringer-Ingelheim, Deutsche Bank and the telecommunications concern Debitel. The electronics company Rohde & Schwarz, which provides equipment to German intelligence agency BND, is also on the list, as are Mercedes-Benz, the jet engine manufacturer MTU and ND SatCom, which provides satellite communications. Two other entries of interest are Deutsche Börse subsidiary Clearstream, which provides security services from its headquarters in Luxembourg, and the logistics giant DHL.

The one thing the companies all have in common is that their company domains do not end with ".de," signifying a German web address, but ".com," ".org," or ".net." As such, they wouldn't be immediately recognized as German companies by automated filters, which perhaps explains why they are explicitly listed.

The question is whether the companies on the list are selectors that were sent by the Americans to the BND only to be rejected -- or whether the companies had been spied on for years before they were later removed from the target list. Were the companies on the list of 2,000 selectors discovered by the BND to have been contrary to German and European interests? Neither the German intelligence agency nor the Chancellery has provided an answer to that question.

Even without the benefit of the recent revelations, Merkel should have been well aware, when answering the public television interviewers' questions, that foreign intelligence agencies also perform industrial espionage. For most intelligence agencies, including those in France and the US, economic espionage is even explicitly mentioned as being one of their tasks.

'No Risk, No Fun'

Gerhard Schindler, head of the BND, is said to have learned of the full extent of the impermissible spying operations only on March 12. He immediately reported the transgressions to the Chancellery. One week later, Merkel's Chief of Staff Peter Altmaier, together with a large entourage, traveled to BND headquarters. It was clear that it wasn't just he who had a problem. Rather, the entire agency was in hot water.

Schindler is a man who enjoys confronting problems head on, though sometimes he lacks sensitivity. After he took over leadership of the BND three years ago, he demanded that the BND take "carefully calculated risks" more often. He then said: "No risk, no fun," a postscript that many saw as overly flippant. Schindler was, however, the right man to improve cooperation with the Americans, a partnership that had suffered under his predecessor Uhrlau.

Before making his first visit to the US in 2011, Schindler asked every department in the BND to provide three suggestions for possible joint operations with the Americans. It was a strategy that did in fact result in a more intensive cooperation, with Germany helping out in places, such as some crisis regions, where the NSA could only operate on a limited basis or not at all. In some cases, the BND and NSA also cooperated with a third country, with the Germans acting as intermediary. "We always became involved when the Americans were unable to make progress on their own," says an employee of a German intelligence agency.

On April 30, 2013, Schindler sent a delegation to NSA headquarters in Fort Meade, Maryland. The BND officials were eager to present their ongoing surveillance programs in China, Iran, Pakistan, Syria, Yemen and North Korea. But the NSA also wanted to ask the Germans to propose "new areas of cooperation" in order to close gaps in global surveillance.

Similar motives had led Great Britain to earlier pursue greater cooperation with the Germans. In 2012, the British intelligence agency GCHQ, which is responsible for signals intelligence, made an offer to the BND to work together on the Internet hub in Frankfurt operated by Deutsche Telekom, Germany's leading telecommunications firm. GCHQ offered a sophisticated acquisition and processing system that would help the BND to finally solve its capacity problems. In exchange, GCHQ asked for the raw data from German transit data lines that originated in Russia and China, for example. Were a deal to be struck, Britain was also prepared to give the BND data from its foreign surveillance activities -- data that the Germans could normally not access for legal reasons.

It was to be a lucrative exchange allowing each intelligence agency to eliminate a blind spot. BND head Gerhard Schindler was highly interested, even putting a halt to an internal upgrade project known as "Packed" in the hopes that cooperation with GCHQ would obviate the need for it. Instead, the joint operation Monkeyshoulder was launched.

Legal and Political Concerns

Within the BND, there were significant concerns, both legal and political, about the planned cooperation. If details of the deal somehow emerged, the media would have a field day, critics said. But BND leadership continued to push the project forward despite the complaints. It did, however, take the precaution of not informing anyone: not the Federal Office for Information Security nor the Chancellery, which has political oversight of the BND. The agency, it seems, discovered the allure of complete autonomy, and absolute secrecy was to be its protection.

Before the operation could really get going, it expanded: The Americans had gotten wind of it and offered their cooperation. The BND had nothing against welcoming its old partner on board -- and the resulting triumvirate may also explain the operation's name Monkeyshoulder, the name of a blend of three different single-malt whiskeys.

Starting in mid-2012, BND agents took part in several workshops to receive training in the technology used by the British. Those workshops took place at GCHQ stations in Scarborough and Bude, from where, according to documents from Edward Snowden, the British intelligence agency tapped into the underwater telecommunications cable **TAT-14**. But British agents also came to Germany to share their knowledge with their technically inferior partners.

One of the workshops took place in August 2013, two months after the initial Snowden revelations and after the German government had insisted that it knew nothing about American surveillance programs like Prism and Tempora. It was only that month that BND head Schindler put a stop to Monkeyshoulder. He apparently only then became cognizant of the sensitivity of the operation.

Apparently no oversight agency had learned of the operation by that time. Yet German intelligence agencies are considered to be well monitored -- at least that's what the heads of Germany's foreign, domestic and military intelligence agencies have often maintained. Indeed, three different parliamentary bodies keep an eye on the activities of Germany's roughly 10,500 spies. It isn't an easy task. The four members of the so-called G-10 Commission, for example, meet once a month with high-level intelligence officials in a surveillance-proof room in Berlin's official parliament building, the Reichstag. They are given piles of requests to initiate surveillance operations that they then have to rule on within the space of just a few hours.

In addition, the intelligence operations undertaken by the BND overseas are not legally regulated -- which the BND has interpreted as tacit permission to do as it pleases outside of Germany's borders. However, that may change soon. The German government has said it plans to introduce draft legislation before the summer parliamentary break.

Nine members of parliament are on the Parliamentary Control Panel. But they are almost entirely dependent on the good will of the intelligence agencies, which are required to notify the panel of "notable occurrences." But it is up to the agencies themselves to decide what classifies as a "notable occurrence."

Still, there is an entire department in the Chancellery whose job it is to keep tabs on the agencies. And in the wake of the NSA scandal, a state secretary was put in charge of monitoring the country's three

biggest intelligence agencies. When Klaus-Dieter Fritsche was installed in the new office at the beginning of 2014, some observers criticized Chancellor Merkel, accusing her of only wanting to erect an additional buffer between herself and the intelligence agencies. Now, the downsides of the decision have become apparent.

The blame game has long since begun in the German capital, as have efforts to determine who knew what and when and who misled which supervisory authority and when. Interior Minister Thomas de Maizière has become entangled in inconsistencies. Chancellery head Peter Altmaier and several of his predecessors are under fire. And then there is BND chief Schindler. His agency offered up its services to the Americans, often with -- but also occasionally without -- permission from the Chancellery. Perhaps most importantly, though, the BND's decision to circumvent Chancellery oversight has made Angela Merkel, who has made a career of staying out of scandals, suddenly appear very vulnerable indeed.

Trapped in Solidarity

The consequences of the BND's self-imposed dependence on the US have now become apparent. The BND appears as America's willing helper and Angela Merkel looks helpless, not knowing how to react. She appears trapped by her solidarity with the US.

Merkel is sparing in her use of terms like "raison d'etat. She uses it when referring to Germany's obligation to protect Israel, and she uses it to underline her commitment to keeping the euro zone together. But there is a third thing, something she calls her "maxim" when talking with her closest advisors: to do everything in her power, with the help of German intelligence agencies and the Americans, to prevent a terrorist attack on German soil. That is how she interprets her oath of office, she once said.

But that oath goes much further, and that has now become her problem. Protecting Germans from harm also means preventing German targets from being spied on, no matter who is doing the spying. Allowing a foreign power access to German data and secrets, silently acquiescing to the same, or declaring German companies to be a pawn in a larger game is tantamount to betraying German interests.

From this perspective, the situation in which Merkel now finds herself is remarkably similar to that of the BND itself. She willingly became dependent on the Americans, a position that is now radically limiting her options. That, in fact, goes a long way toward explaining the silence that has descended over political Berlin during the past week. Rarely have those responsible in the cabinet been so withdrawn.

The press statement released by the government in reaction to accusations that the BND had tolerated industrial espionage, by contrast, was unusually terse. Indeed, the chancellor herself read and approved the statements, which were withering in their rebuke of the BND.

A Turning Point for Merkel?

For now, the Social Democrats, Merkel's junior coalition partners, have benefited most from the affair. The party's reaction to the news of the BND's transgressions was swift and sharp. "What's happening here is scandalous," blustered SPD head Sigmar Gabriel. The system of checks and balances failed, added SPD General Secretary Yasmin Fahimi. The outrage was well coordinated, with party leaders agreeing over the course of several telephone conversations to not let the Chancellery off the hook this time. "The chancellor's shiny finish could certainly stand a bit of tarnishing," said one SPD leader.

The affair also presents party head Gabriel with an opportunity. As economics minister, he can now pose as the protector of companies that were perhaps the victims of espionage. More than that, he can once again revert to his favored role of a take-charge party leader who isn't afraid of going after the chancellor. Indeed, the SPD is beginning to feel something it hasn't in a long time: the conviction that it has the upper hand on an issue relative to Merkel's conservatives. Relative to a chancellor who has seemed so unassailable for so long.

It is, in fact, not wrong to say that the affair is the greatest challenge to Merkel that we have seen in some time. The chancellor has enjoyed Germany's trust for so long because voters have long believed that she is adequately protecting their interests and those of the country. But this scandal of the BND, NSA-spying, a lack of control and lying cabinet members could seriously shake the foundations of her

power. It could indeed mark the turning point in her chancellorship.

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