



Rainer Zitelmann is the third prominent commentator in five months to have been investigated under a postwar propaganda law

LECO VIANA/ALAMY

## Germany uses anti-Nazi law to investigate critic of, er, Hitler

Rainer Zitelmann called the dictator ‘one of the greatest criminals in human history’, but retweeting a post with a swastika in it has landed him in trouble

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[Oliver Moody](#), Berlin

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If anyone is unsure what the German columnist Rainer Zitelmann makes of Adolf Hitler, they need only to read the blurbs of his books on Nazi economic doctrine.

As well as calling Hitler “one of the greatest criminals in human history”, Zitelmann argues over more than 1,000 pages that the dictator was a fervent anti-capitalist who opposed everything that had made the West pleasant and prosperous.

This appears to have been lost on the Berlin police, who have put the writer under criminal investigation for republishing a Ukrainian tweet that noted [similarities between President Putin and Hitler](#).

The offending detail — a swastika armband in the image of Hitler — supposedly violated a postwar law that prohibits the use of slogans and symbols associated with the Nazis and other “anti-constitutional” groups that are banned in Germany.

Zitelmann, 68, is the third prominent commentator to have been investigated under this law in the past five months in what he and other critics have characterised as a crackdown on free speech that frequently crosses the line into absurdity.

“Until a few years ago, the left tried to bring down liberals and conservatives with so-called cancel culture,” he said. “After that approach no longer worked, it is now being done through open repression.”

For many years, the expansive apparatus of rules determining what people could and could not say in public drew little attention outside Germany.

That changed a year ago when JD Vance, the American vice-president, condemned the authorities' heavy-handed use of hate speech laws in a tirade at the Munich Security Conference.



Jan Fleischhauer, a mainstream conservative writer, was put under investigation for using the Nazi propaganda phrase "Deutschland, erwache" (Germany, awake)  
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Zitelmann, who is a combative free-market liberal and emphatically rejects right-wing extremism and authoritarianism, believes Vance had a point.

"The climate has changed," he said. "Numerous surveys in Germany show that more and more people feel they can no longer express their opinions openly. In the past, people were simply afraid of being defamed as right-wing extremists, but today they fear that the police might show up at their door."

Speech crime prosecutions have risen sharply over the past few years. Last year the police investigated 6,246 cases of alleged verbal abuse against politicians under the notorious section 188

of the criminal code, which provides for prison sentences of up to five years.

Police have raided the homes of a man who called Hamburg's state interior minister a "willy" and another who mocked the federal economics minister as a "dunderhead". Last month, the police opened a case against a pensioner who described Friedrich Merz, the chancellor, as Pinocchio.



Norbert Bolz was visited by police after he mocked a left-wing newspaper by satirically quoting a Nazi propaganda slogan

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The Zitelmann case has thrown the spotlight on to another category of crime known as section 86a. This was designed to stamp out the glorification of Nazism and other banned groups, such as Hamas. But it is increasingly weaponised against individuals by their political opponents, who can report them to the authorities in a couple of clicks through online portals that are supposed to catch the extreme right.

The number of [convictions for "propaganda offences"](#), including under section 86a, rose by 57 per cent in 2024 alone, from 19,905 to 31,229.

The first cause célèbre in recent months was that of Norbert Bolz, 72, a media studies scholar and right-wing commentator.

In October, the police visited Bolz at his home in Berlin and questioned him about a tweet where he had mocked a left-wing newspaper by satirically quoting the Nazi propaganda slogan *Deutschland, erwache* (Germany, awake).



JD Vance condemned the German authorities' heavy-handed use of hate speech laws

THOMAS KIENZLE/GETTY IMAGES

Last week, it emerged that Jan Fleischhauer, a mainstream conservative writer, had been placed under investigation for jokingly using the same phrase in a podcast discussion about the new youth wing of the hard-right Alternative for Germany party.

Yesterday, the case was closed and Fleischhauer, 63, was exonerated — but left bemused. “Has the state lost its mind? ... We are rediscovering a number of legal paragraphs we had forgotten,” Fleischhauer wrote in his blog. “They used to be irrelevant, because free speech used to be interpreted in such a way that you could overlook the existence of these paragraphs.”

Zitelmann faces criminal proceedings because he retweeted a social media post in Ukrainian that likened Putin's insistence that his territorial expansion would stop at Ukraine to Hitler's pledges that his own revanchist ambitions would be sated with the annexation of Czechoslovakia in 1938.

In theory, the law allows journalists, historians and others to use Nazi symbols when they are analysing historical or current events, especially when it is clear that they themselves want nothing to do with Nazism.

It is unclear why the Berlin police did not apply this exemption to Zitelmann. "The original purpose of section 86a was to prevent people from walking around with swastika armbands or shouting 'Heil Hitler'," he said. "But now liberals are being targeted who are clearly opponents of National Socialism.

"In my case, Hitler serves as a negative warning example in drawing an analogy. I have the impression that Section 86a is being instrumentalised against critical journalists and scholars, and that was clearly not what it was intended for."