



2008 Human Rights Report: Germany

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2008 Country Reports on Human Rights Practices

February 25, 2009

Germany is a constitutional parliamentary democracy with a population of approximately 82 million. Citizens periodically choose their representatives in free and fair multiparty elections. The head of the federal government, the chancellor, is elected by the Bundestag (federal parliament). The second legislative chamber, the Bundesrat (federal council), represents the 16 states at the federal level and is composed of members of the state governments. The Basic Law (constitution) sets forth the powers of the chancellor and of the legislative branch. The most recent national elections for the Bundestag took place in 2005. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The government limited the freedoms of speech, press, assembly, and association for groups deemed extremist. There was governmental and societal discrimination against some minority religious groups. Harassment of racial minorities and foreigners, anti-Semitic acts, violence against women, and trafficking in persons were problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

On March 12, the Muenster Regional Court issued judgments against the remaining 10 defendants of the 18 military instructors on trial since March 2007 for degrading treatment of subordinates at an army garrison in Coesfeld in 2004. The court acquitted four defendants for lack of evidence and sentenced five noncommissioned officers to suspended prison terms of 10 and 22 months. The court ordered the commander, an army captain, to pay 7,500 euros (\$10,500). The public prosecutor appealed three of the verdicts (two acquittals and one fine).

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers; however, one reported incident and conditions in some facilities were causes for concern.

On December 9, the Dessau regional court acquitted two police officers of causing bodily harm with fatal consequences and involuntary manslaughter in the death of Oury Jalloh from Sierra Leone, who died in 2005 when his cell in a Dessau police station caught fire. The public prosecutor and the joint plaintiffs in the case appealed the decision to the Federal Supreme Court. The appeal was pending at year's end.

In April 2007 the Council of Europe's Committee for the Prevention of Torture (CPT) reported on its 2005 visit to the country's prisons and detention facilities. The CPT received no allegations of recent physical mistreatment of persons during their period of custody in police establishments. However, the CPT reported a number of allegations of excessive use of force by police officers. The CPT criticized the conditions under which one prison held immigration detainees and raised concerns about the level of violence and intimidation among prisoners observed at three prisons. The CPT also expressed concern about inadequate prison staffing. The government responded in detail to the CPT's recommendations, comments, and requests for information in its report to the CPT in April 2007.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police and the Federal Criminal Investigative Service. The government has effective mechanisms to investigate and punish abuse and corruption. No cases of impunity involving the security forces were reported during the year.

Arrest and Detention

Authorities may only arrest an individual on the basis of a warrant issued by a competent judicial authority unless the police apprehend a suspect in the act of committing a crime or have strong reason to believe that the individual intends to commit a crime. Authorities generally promptly informed detainees of charges against them. The law entitles detainees to prompt access to an attorney. For all offenses that proceed to trial, the law provides for all accused persons to have access to a lawyer. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. To continue holding a detainee, police must bring the detainee before a judge and the court must charge the individual at the latest by the end of the day following the arrest.

The court must then issue an arrest warrant stating the grounds for detention; otherwise, the court must order the individual's release. Authorities generally respected these rights in practice.

Police may detain known or suspected criminals for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations.

Although the law does not allow courts to punish persons twice for the same crime, it allows for "subsequent preventive detention." In cases involving rape, homicide, or manslaughter, courts may order offenders to serve supplemental detention. Such preventive detention requires a court finding, based on at least one expert opinion, that the convicted person could pose a danger to the public. Such detention may last indefinitely.

Detainees employed bail infrequently. Authorities usually released detainees unless there was a clear risk that they might flee the country. In such cases authorities could hold detainees for the duration of the investigation and subsequent trial. Such decisions are subject to judicial review, and time spent in investigative custody applies towards any eventual sentence. If a court acquits a defendant who was incarcerated, the government must compensate the defendant for financial losses as well as for "moral prejudice" due to the incarceration.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Heavy caseloads at times delayed court proceedings. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. These procedures are limited to cases for which the maximum sentence is not greater than one year. Courts generally suspended one -year sentences and placed the convicted individuals on probation.

Trials are public; juries are not used. Either one judge, a panel of professional judges, or a mixed panel of professional and lay judges try cases, depending on the severity of the charges. The law requires defendants to be present. Defendants have the right to consult with an attorney in a timely manner. The government provides an attorney at public expense if defendants demonstrate financial need. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to all court -held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

An independent and impartial judiciary in civil matters provides access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative remedies for alleged wrongs are available as well.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and authorities generally respected these prohibitions; however, members of organizations that were monitored by the federal (FOPC) and state offices for the protection of the constitution (OPCs) charged that these agencies violated their privacy. For example, in June 2007 the Left Party caucus in Lower Saxony's parliament initiated legal proceedings against the Lower Saxony OPC, accusing that office of illegally observing the caucus and individual members. The case was pending at year's end.

On January 17, the Cologne Administrative Court ruled that the observation by the FOPC of a specific member of the Bundestag from the Left Party since 1999 was illegitimate considering his status as parliamentarian, his party functions, and his actual political activities. The politician had claimed that the observation of the FOPC impaired his work as a parliamentarian. The court pointed out that this ruling only referred to the specific case and did not refer to the Left Party as a whole or parliamentarians in general.

In investigations of certain serious crimes, law enforcement officials may monitor the telecommunications of suspects, but only with court approval. In intelligence-related cases, such as suspicion of involvement in terrorism, the law permits intelligence services to engage in surveillance activities, such as monitoring telecommunications, without court approval; however, an independent commission elected by a parliamentary control body has to approve such activities.

On February 27, the German Constitutional Court declared unconstitutional parts of a law that had been introduced in the state of North Rhine-Westphalia in 2006 allowing security officials to carry out online searches of computers in serious criminal and terrorism investigations. The court ruled that such searches interfere with an individual's personal freedoms pursuant to the constitution and are therefore only permitted for compelling reasons, such as actual threats to life or liberty or to the foundation of the state. Furthermore, the court ruled that legal safeguards must exist that protect the "core areas of private life."

On November 6, the Constitutional Court further limited the government use of saved telecommunications data. In an interim decision against the January law, the court ruled that data can be transmitted only from telecommunication companies to the police if required to prevent an immediate threat to life or serious injury, to a person's freedom, or to the security of the country. The court's final decision on more detailed criteria for data filing was still pending at year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; while the government generally respected these rights, it imposed limits aimed at groups deemed extremist.

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust.

On October 8, the trial of a prominent member of the right-wing extremist National Democratic Party (NPD), Horst Mahler, began in the Potsdam regional court for incitement of hatred and was ongoing at year's end. During the ongoing trial, he repeatedly denied the Holocaust--a criminal offense in Germany.

On April 28, a regional court in Erding convicted Mahler of incitement and denial of the Holocaust and sentenced him to 10 months in prison. In a November 2007 interview with Michel Friedman, former vice president of the Central Council of Jews in Germany, Mahler had greeted him with "Heil Hitler, Herr Friedman." The court

used this affront, among others, as the basis for its ruling.

On July 21, the Cottbus Regional Court sentenced Mahler in an appeals procedure to eleven months in prison for displaying the Hitler greeting at the start of his 2006 custody. For this offense he received a prison sentence of seven months.

Apart from these limitations, an active independent media expressed a wide variety of views without government restriction.

Internet Freedom

Access to the Internet was widely available and unrestricted in most respects, and most individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail, with some limitations on access and expression.

Federal and state laws permitted OPCs to monitor the private e-mails and chat rooms of individuals and groups under OPC surveillance; an independent commission elected by a parliamentary control body was responsible for oversight of such activities. The law prohibits access to material such as child pornography and Nazi propaganda.

Access to the Internet was widely available.

Academic Freedom and Cultural Events

There were few government restrictions on academic or cultural events; however, the law bans Nazi propaganda, material denying the Holocaust, and pornography.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. However, the government prevented certain prohibited organizations from holding public assemblies.

Permits must be obtained for open-air public rallies and marches, and state and local officials have authority to deny permits when public safety concerns arise or when the applicant is a prohibited organization. Denials were rare but did occur.

On June 25, the Federal Administrative Court upheld the ban on a march in Wunsiedel in 2005 commemorating the death of Rudolf Hess, former deputy to Adolf Hitler.

On October 1, Bavaria enacted a law prohibiting right-wing extremists from gathering or demonstrating on certain historic dates or in certain places of historic significance, such as concentration camp memorials.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice; however, the law permits the prohibition of organizations whose activities have been judged illegal or opposed to the constitutional democratic order. While the Federal Constitutional Court is the only body that may prohibit political parties on these grounds, federal or state governments may prohibit or restrict other organizations, including groups that authorities classified as extremist or criminal in nature; organizations have the right to appeal prohibition or restrictions.

On January 8, the trial of one member of an elite police unit began in a Frankfurt court. Authorities began an investigation of three men for alleged neo-Nazi affiliations in March 2007 but only brought one of the men to trial. He was accused of treason, possession of an illegal weapon, and posing for a picture in an SS uniform, then signing the picture "Adolf Hitler." The trial lasted only one session before the case was dismissed.

On May 7, the Interior Ministry banned the right-wing extremist organization "Collegium Humanum (CH)," including its branch organization "Bauernhilfe e.V." (Farmers' Aid), as well as an organization called "Verein zur Rehabilitierung der wegen Bestreiten des Holocausts Verfolgten" (Association for Rehabilitation of Those Persecuted for Denying the Holocaust). In connection with the ban, the police searched approximately 30 locations of the organization nationwide (with a focus on North Rhine-Westphalia, Lower Saxony, and Hesse) and confiscated material. The Ministry of the Interior banned the associations for opposing the constitutional order of the country, disseminating anti-Semitic propaganda, glorifying the Nazi dictatorship, and continually denying the Holocaust.

On October 9, the federal interior minister initiated police searches in 14 federal states (out of the 16) of some 100 offices and apartments used by the right-wing extremist youth organization "Heimattreue Deutsche Jugend" (HDJ). According to press reports, the search provided evidence that the group is a successor organization of the so-called "Wiking Jugend," which authorities banned in 1994.

On August 6, the Dresden District Court sentenced the two leaders of Sturm 34, captured in an April 2007 raid, to three and three-and-a-half years in prison, respectively, for a series of assaults in Saxony. However, the court acquitted five others on charges of forming a criminal organization. The prosecuting authorities appealed this acquittal. The trial of 10 other individuals connected to Sturm 34 began on October 1 and was ongoing at year's end.

Federal and state OPCs responsible for examining possible threats to the constitutional democratic system monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts; however, OPCs could employ more intrusive methods, including the use of undercover agents who were subject to legal checks. OPCs published lists of monitored organizations, including left-wing political parties.

Although the law stipulates that OPC monitoring must not interfere with an organization's activities, representatives of monitored groups complained that the publication of the organizations' names contributed to prejudice against them. For example, in North Rhine-Westphalia, Pro-Koeln, a citizen's group known for its opposition to the construction of a mosque in the city of Cologne, frequently challenged the publication of its name in the annual North Rhine-Westphalia OPC report as evidence of prejudice.

c. Freedom of Religion

The Basic Law provides for freedom of religion, and the government respected this right in practice with some exceptions; however, discrimination against certain religious minorities remained a problem.

Religion and State are separate, although historically a special partnership exists between the State and those religious communities that have the status of a "corporation under public law." If they fulfill certain requirements, including assurance of permanence and size of the organization, and do not demonstrate disloyalty to the State, religious organizations may request "public law corporation" (PLC) status, which, among other things, entitles them to levy taxes on their members, which the State then collects as part of the overall taxes. Organizations pay a fee to the government for this service, and not all PLCs availed themselves of this privilege. The decision to grant PLC status is made at the state level, and there have been cases where states have denied this status to an applicant. For example, to date, only the State of Berlin has granted the Jehovah's Witnesses PLC status.

While the federal government has encouraged the states to grant PLC status to Muslim communities, the federal government preferred that the Muslim community designate a single organization with which federal and state authorities can negotiate. To date few Muslim organizations have applied for PLC status. In some cases intra-Muslim disputes prevented organizations from establishing their right to represent that community.

The Muslim Coordination Council, a coalition of the four largest Muslim religious organizations in the country, was in the process of registering as a PLC at year's end despite government reservations that the organization represented only 10 to 15 percent of the Muslim population.

The states of Baden-Wuerttemberg, Bavaria, Berlin, Bremen, Hesse, Lower Saxony, North Rhine-Westphalia, and Saarland prohibit teachers in public schools, but not civil servants in general, from wearing headscarves. The courts have consistently rejected legal challenges to the prohibition.

The government continued to deny recognition of some belief systems, including Scientology, as religions; however, the absence of recognition did not prevent their adherents from engaging in public and private religious activities.

Federal and some state authorities continued to classify Scientology as a potential threat to democratic order, resulting in discrimination against Scientologists in both the public and private sectors. Scientology members reported the use of so-called "sect filters" by many associations and organizations, where eligibility for membership is contingent upon applicants confirming that they do not belong to the Church of Scientology. On June 27, the Hamburg Administrative Court fined the city of Hamburg 5,000 Euros (\$7,000) for violating a 2006 court decision banning the use of "sect filters." The Hamburg Interior Ministry's Working Group on Scientology continued to maintain links to sample filters for use by businesses.

The FOPC and the state-level OPCs in Baden-Wuerttemberg, Bavaria, Berlin, Bremen, Hamburg, and Lower Saxony kept the Church of Scientology under "observation" (surveillance) based on a stated concern that its teachings and practices contravene the democratic constitutional order or violate human rights. The courts have considered but rejected cases brought by the Church of Scientology to force the federal- and state-level domestic intelligence agencies to halt surveillance of the church.

On November 21, the conference of state interior ministers decided not to consider a ban of the Church of Scientology, citing insufficient legal evidence to support such an approach. Nonetheless, in its report the ministers concluded that Scientology had little in common with the country's democratic constitution and that its goals were "incompatible with the essential characteristics of a free and democratic basic order." Therefore, the FOPC also recommended continued observation of the organization's activities.

Scientologists continued to report instances of official and societal discrimination during the year.

In September the Hamburg Interior Ministry's Working Group on Scientology hosted a seminar critical of Scientology entitled "That is Scientology! Reports from the U.S.A." for an audience that included representatives of state ministries of interior, education, and social affairs as well as participants from Belgium and France.

Some religious groups expressed opposition to the government's prohibition of home schooling. During the year local authorities brought criminal charges against some parents who refused to enroll their children in government-licensed schools for religious reasons. In a December case, a Saxony court dropped neglect charges against the Brause family after the children passed government-administered written examinations. State authorities generally permitted groups to establish private schools so long as such schools met basic curriculum requirements.

Societal Abuses and Discrimination

There were reports of continuing societal discrimination and hostility toward some minority religious groups, including anti-Semitic acts; the government took measures during the year to address these problems. The federal government also promoted tolerance by establishing regular dialogues on the integration of minorities and immigrants and on Islamic issues between cabinet-level officials and representatives of immigrant and Muslim groups. For example, the launch of the German Islam Conference in 2006 established for the first time a nationwide action framework for the fostering of relations between the State and Muslims. In 2007 the federal government adopted the National Integration Plan with 750 million euros (\$1 billion) of funding to promote integration. On November 4, the Bundestag adopted a resolution pledging to fight anti-Semitism and support the continued revival and protection of Jewish life in Germany. The resolution also tasked an experts group to report regularly on anti-Semitism in Germany and to make recommendations for combating anti-Semitism.

According to preliminary figures provided by the Federal Interior Ministry, there were 797 anti-Semitic offenses from January through September.

On November 2, two men shouted anti-Semitic comments at a rabbi and eight students traveling with him in Berlin and threw an object at their van. The perpetrators confessed and were awaiting further action at year's end.

On January 16, a group of four men unleashed a dog on a group of five Jewish teenagers on their way home from a Jewish high school in Berlin and taunted them with anti-Semitic slurs. The dog chased one 15-year-old student into a bakery.

The most widespread anti-Semitic acts were the desecration of Jewish cemeteries. On November 17, according to police reports, a passerby discovered the desecration of a Jewish cemetery in Gotha where an unknown perpetrator left a pig's head and a cloth with the words "6 million lies," provoking outrage and strong condemnation from local and national politicians. Jewish cemeteries and other monuments were also desecrated with graffiti, including swastikas. From July 1 through year's end, vandals desecrated Jewish cemeteries and places of worship in various locations, including the following cities: Altengronau, Berlin, Cottbus, Elmshorn, Erfurt, Guestrow, Perleberg, Westerstede, and Weyhers.

On August 22, vandals painted 11 swastikas on Germany's central memorial to the six million Jewish victims of the Holocaust. The vandalism came a week after vandals damaged a nearby memorial to gay victims of the Nazis.

The activities of right-wing extremist organizations whose platforms include anti-Semitism continued to be a concern. The government monitored right-wing extremists, conducted investigations into anti-Semitic crimes, and at times banned extremist groups deemed a threat to public order. Authorities sought to address right-wing extremism by conducting a variety of education programs to promote tolerance, many focusing on anti-Semitism. For example, from 2001 to 2006 a total

of 4,470 preventive and educational prototype measures and projects were promoted, primarily in the sphere of information, with total funding of 192 million euros (\$270 million).

On September 19, an estimated 3,000 left-wing activists protested an anti-Islamification rally by the right-wing group Pro-Koeln in the city of Cologne. Police stated that the left-wing protesters threw stones at officers and in some cases tried to steal police weapons. Pro-Koeln filed suit against the Cologne law enforcement authorities for banning the rally. The suit was pending at year's end.

For a more detailed discussion, see the *2008 International Religious Freedom Report* at www.state.gov/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

Although the government processes refugee and asylum cases according to existing law, the approval rate was very low. From January through November, authorities processed 19,049 asylum applications. Authorities granted 6,605 persons (34.7 percent) refugee protection under the Geneva Convention. Of these, 214 persons (1.1 percent) were granted asylum under the German constitution, and 6,391 (33.6 percent) received refugee protection under article 3 of the law on asylum procedures. In addition, the authorities granted 488 persons (2.6 percent) temporary suspension of expulsion due to the situation in their countries of origin or based on other humanitarian grounds. The country rejected 6,182 applications (32.4 percent), and "resolved otherwise" (e.g. procedures were closed or applications withdrawn) another 5,774 applications (30.3 percent). All cases in which asylum was granted must be reviewed after three years to determine whether the grounds for asylum still apply.

According to the Basic Law, individuals who attempted to enter the country through a "safe country of transit"--a member state of the European Union (EU) or a country adhering to the 1951 UN Convention--were ineligible for asylum and could be turned back at the border or, if they had entered the country, returned to that safe country of transit.

As a rule individuals whose applications for asylum the government rejected have up to two weeks to appeal the decision. If the government rejects an application as unfounded, the asylee must lodge an appeal within one week. In the latter case, the appeal has no suspensive effect. The government processes the applications of individuals who asked for asylum at an international airport and whom authorities found to have come from a safe country of origin prior to their entry into the country. The same applies to applicants without any passport or without a valid passport. In these cases the law requires the Federal Office for Migration and Refugees either to make a decision on an asylum application within 48 hours or to allow the person to enter the country. An applicant has three days to appeal a negative decision to an administrative court. The law requires the court to rule within 14 days or allow the individual to enter the country.

Local nongovernmental organizations (NGOs) continued to criticize these periods of time as insufficient to allow applicants to prepare for hearings. In the case of a final rejection of a claim, authorities did not allow the individual to enter the country, and he or she had to stay at the airport reception center until departure. If it is not possible to return the individual within 30 days after arrival, the law requires a judicial order in order to keep the individual at the airport in the transit zone. The federal government does not maintain statistics about detentions in airport facilities.

To deal with particularly difficult cases, all federal states have formed "commissions on hardship cases," composed inter alia of representatives from churches, charity organizations, and municipal organizations, that could recommend to the authorities to grant rejected asylum seekers permission to remain in the country on an individual basis.

Societal discrimination against, and abuse of, refugees and asylum seekers occurred.

On June 30, the regional court in Halle sentenced four young men to prison sentences ranging from three years and nine months to five years and four months for a January 2007 arson attack against an asylum home in Sangershausen. The court sentenced a young woman, who was also involved and was a minor at the time, to two years' probation.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Basic Law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Elections for seats in the Bundestag were most recently held in 2005; they were considered free and fair. Political parties operate without restriction or outside interference unless they are deemed a threat to the federal constitution.

The federal chancellor is a woman, and there were 197 women in the 612 -seat Bundestag. There were five women, in addition to the chancellor, in the 15 -member cabinet; three of the 16 judges of the Federal Constitutional Court were women.

There were at least eight members of ethnic minorities in the Bundestag and one on the Federal Constitutional Court, but none in the cabinet.

Government Corruption and Transparency

There were isolated reports of government corruption. Parliamentarians are subject to financial disclosure laws that require them to publish earnings made in outside employment. State prosecutors generally are responsible for investigating corruption cases.

Federal law provides for public access to government information. Four states (Berlin, Brandenburg, Schleswig -Holstein, and North Rhine-Westphalia) also have freedom of information laws that provide an appeals process.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of international and domestic human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits the denial of access to housing, health care, or education on the basis of race, gender, disability, language, or social status, and the government generally enforced these provisions in practice. Nonetheless, violence against women and children, trafficking in persons, and harassment of racial and religious minorities and foreigners were problems.

The law prohibits discrimination on the basis of ethnicity, religious affiliation, age, sex, handicap, or sexual orientation.

Women

The law criminalizes rape, including spousal rape, and provides penalties of up to 15 years in prison. The government effectively enforced the law. According to national police criminal statistics, there were 7,511 cases of rape or serious sexual coercion in 2007. The federal government supported numerous projects in conjunction with the states and NGOs to deal with violence against women, both to prevent violence and to give victims greater access to medical care and legal assistance.

The law prohibits violence against women, including spousal abuse; the law may temporarily deny perpetrators access to the household, put them under a restraining order, or in severe cases prosecute them for assault or rape and require them to pay damages. The law did not require a civil court decision for a temporary denial. The government enforced the law; nevertheless, authorities believed that violence against women was widespread. Organizations that aid victims estimated that one in four to one in five women has been a victim of physical or sexual violence.

Forced marriages are illegal and invalid and may be punished by up to five years' imprisonment. While there were no reliable statistics on the number of forced marriages in the country, evidence indicated that the problem occurred more often in the immigrant Muslim community than in the general population. Forced marriages reportedly often led to violence. Victims included women and in some cases young men living in the country for whom the family brought a husband (or wife) from abroad as well as women sent by their families to other countries to marry against their will.

"Hatun und Can Frauennothilfe," a Berlin voluntary NGO assisting women threatened by forced marriages, reported that during the year approximately 2,000 women approached them anonymously to seek help in life-threatening situations. The organization provides advice, physical shelter, and financial support.

On June 18, the Baden-Wuerttemberg Ministries for Education and Social Affairs began implementing several programs to combat forced marriage in the Muslim community. In addition the state government continued to discuss the issue with representatives of Muslim organizations. The city-state of Hamburg also initiated action programs to combat forced marriages, inform the immigrant community, and provide support for potential victims.

On December 16, the Hamburg Higher Regional Court opened proceedings against a 24-year-old Afghan national, who was charged with murdering his 16-year-old sister on May 15 in an honor killing. The defendant stated that his sister had turned away from her family in his view, had been dressed inappropriately in public, and that he believed she had worked as a prostitute. The case was tied to two other pending criminal cases against the defendant for harassment, grievous bodily harm, and battery against his sister.

Prostitution is legal and fairly widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods. There is a legal framework for improving the legal and social situation of persons engaged in prostitution that gives them the right to enforce contracts and to apply for health insurance and other social benefits. Such persons rarely used the provisions of the law.

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. A variety of disciplinary measures against offenders is available, including dismissal. The law considers an employer's failure to take measures to protect employees from sexual harassment a breach of contract, and an affected employee has the right to paid leave until the employer rectifies the problem. There were press reports of sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs operated a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides women the same rights as men. The Federal Ministry for Family, the Elderly, Women, and Youth was the primary federal agency maintaining oversight of women's rights issues. The law provides for equal pay for equal work. Employers generally did not discriminate against women in terms of compensation for equivalent work, although they were underrepresented in well -paid managerial positions and overrepresented in some lower -wage occupations. In 2007 women earned an estimated 22 percent less than men for the same work, largely attributable to the fact that more women in the country tended to be part-time workers.

Children

The government maintained its strong commitment to children's rights and welfare.

There were no developments in the 2007 European Parliament investigation of reports that authorities discriminated against non -German parents in cases where partners in mixed marriages separated by not allowing those parents to have contact with their children. Youth welfare officers allegedly interrupted conversations between children and parents and threatened to halt contact between them if they attempted to converse in a language not understood by the supervisor.

On August 22, Bavarian police concluded the investigation of a ring of child pornographers involving almost 1,000 suspects in the country and links to 98 countries. Authorities searched several thousand computers and confiscated videos in the course of raids. Legal proceedings were continuing and a number of court judgments were issued, including an eight-year prison sentence for a man who sexually abused his own child. Other perpetrators received prison sentences of up to 15 months or fines for possession of child pornography.

According to the Federal Criminal Office (FCO), there were 15,935 incidents of sexual abuse against children (up to 14 years of age) in 2007 compared with 15,996 incidents in 2006. Between 2006 and 2007, the number of cases involving the ownership, procurement, and distribution of child pornography (photographs and

videos) increased by 55 per cent. In 2007 the national police investigated 11,357 cases whereas in 2006 there were 7,318 cases.

The country was not a destination for child sex tourism.

The Coalition for Street Children (Buendnis fuer Strassenkinder) estimated that there were up to 9,000 street children in the country during the year. Authorities believed that these children were often subjected to violence and abuse and frequently were fleeing violent and abusive homes. Street children frequently turned to prostitution for income.

Trafficking in Persons

The Criminal Code prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through and within the country.

The country was a transit point and destination for men and women trafficked for the purposes of commercial sexual exploitation, and, to a lesser extent, forced labor. The largest number of sex trafficking victims came from the country and were trafficked within the country. Victims of sex trafficking also came from Central and Eastern Europe, although authorities also identified African and Asian victims.

Law enforcement authorities recorded 689 victims trafficked for sexual exploitation in 2007 compared to 775 in 2006. Most victims (419) were between the ages of 18 and 24; 184 were nationals of the country. Approximately 12 percent were under the age of 18, including 39 citizens. One percent (seven) were under 14 years of age. In 2007 the FCO registered 92 labor trafficking investigations pursuant to Section 233 of the Criminal Code compared to 78 in 2006. Out of 71 suspected traffickers, 40 were men, and 59 percent were not of local citizenship. The FCO registered 101 victims of labor trafficking in 2007 compared to 83 in 2006. Of those, 39 victims were male and 62 were female.

The FCO reported 714 suspected traffickers in 2007. Local citizens made up 344, or 48 percent, of the total.

The law criminalizes trafficking in persons and provides penalties of up to 10 years in prison. Courts prosecute trafficking cases at the state level.

Courts convicted 150 traffickers in 2006, including six processed in the juvenile justice system, compared with 136 adult and nine juvenile traffickers in 2005. The statistics did not include convictions of alleged traffickers on nontrafficking charges or convictions of traffickers on multiple charges where another charge carried a higher maximum penalty than the maximum penalty for trafficking. Courts sentenced 49 of the 150 adults convicted in 2006 to prison sentences that were not suspended. Courts generally convicted those receiving suspended sentences of playing an auxiliary role in trafficking operations and subsequently required them to perform community service, pay penalties, and, in many cases, meet regularly with a parole officer.

The antitrafficking office of the FCO cooperated with Europol and Interpol law enforcement authorities. Federal ministries coordinated antitrafficking efforts on the international, national, and state levels.

In September the Federal Court of Justice confirmed the April 2007 Hamburg district court verdict against a trafficker who received a suspended sentence of one year and 10 months for trafficking and exploitative pimping. Prosecutors accused the ringleader and nine codefendants of controlling 198 prostitutes in Hamburg's red light district.

On September 16, Hamburg police raided 12 apartments, three companies, a bar, and a safe deposit box as part of a nine-month investigation of 14 men they claimed were trafficking underaged boys from Bulgaria to Hamburg for pornography and sexual exploitation. Officers confiscated computers and DVDs during the raid and arrested one of the suspects. On September 15, police took another suspect into custody for committing child sexual exploitation.

On July 2, the Verden Regional Court sentenced two local men to 14 years and 12 and one half years respectively for trafficking in persons, forced prostitution, kidnapping and rape. Both must also pay their five female victims 150,000 euros (\$211,460). The victims were German and Bulgarian and all were resident in the country. The culprits lured the women--who had sought jobs as baby sitters, nannies and cleaning personnel--under false pretenses and then used violence to abduct them.

On the basis of cooperation agreements between law enforcement offices and NGOs, police notify a counseling center of trafficking victims and inform victims of their rights and options for seeking assistance. The centers provided shelter, counseling, interpreting services, and legal assistance.

In 12 of the 16 federal states, there were cooperation agreements between police, state welfare agencies, and NGOs to strengthen the delivery of welfare services to victims. The federal and state governments worked with NGOs and local women's shelters to identify and assist victims of sex and labor trafficking, with the states contributing to funding more than 30 NGO counseling centers for trafficking victims.

The government paid the basic cost of repatriating trafficking victims. The International Organization for Migration administered and facilitated assistance to returning victims.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law requires that the Federal Government Commissioner for Matters relating to Disabled Persons be the principal contact person in all matters related to persons with disabilities and be specifically responsible for protecting the rights of persons with disabilities. In addition the Ministry of Labor and Social Affairs, the Ministry for Family Affairs, Senior Citizens, Women and Youth, and the Ministry of Transportation, Construction and Housing have responsibility for addressing the needs of persons with disabilities.

The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced these provisions.

Government guidelines were in place for barrier-free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states have incorporated the federal guidelines into their building codes. Almost all federal buildings (98 percent) complied with the guidelines for a barrier-free environment.

National/Racial/Ethnic Minorities

Harassment, including beatings, of foreigners and racial minorities remained a frequent problem throughout the country.

On January 2, police in Braunschweig arrested two men and charged them with a brutal, racially motivated attack on two young Syrians. The police described the two suspects as active in a local hooligan gang, but stated they were not politically neo-Nazis. The investigation was ongoing at year's end.

Hamburg's Minister of Justice and the city district director met with Reeperbahn club owners on October 27 to discuss discriminatory practices by doormen. At the beginning of September Awol Allo, a young Ethiopian human rights lawyer participating in the International Tribunal for the Law of the Sea's summer program, claimed that doormen at the popular Reeperbahn clubs and discos denied him entry because of his skin color. Club owners claim that there are only isolated cases of discrimination and that their doormen attempt to keep the bars safe.

There were no developments in the March 2007 cases in which unknown persons vandalized four immigrant -owned stores in Rheinsberg, and two unidentified persons physically attacked and shouted racial epithets at two asylum seekers from Chad and Cameroon in Cottbus.

There was no further information on the continuing investigation into the October 2007 case involving the verbal harassment and beating of an African-American in Berlin Spandau in which the police arrested four juvenile male attackers.

The state district attorney continued to investigate seven persons involved in the August 2007 case in Muegeln in which 40 to 50 young persons took part in a fight with eight residents from India. The altercation developed into a riot with significant injuries, property damage, and several convictions.

There were no developments in the December 2007 case in which three men of European appearance allegedly attacked a 47-year-old Jordanian, beating and castigating him for being either a Jew or an Arab, according to press reports.

There was no further information on the continuing investigation into the December 2007 attack against several Iraqis in Magdeburg while traveling on a bus. The state prosecutor was still investigating three suspects at year's end.

The FCO defines politically motivated crimes as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, worldview, ancestry, sexual orientation, disability status, appearance, or social status. The FOPC report listed 180 right -wing extremist organizations and groups. Authorities estimated membership in these groups, plus right -wing extremists who were unorganized, to be 31,000 at the end of 2007. In 2007 the FOPC recorded 17,176 right -wing "politically motivated crimes" (PMCs) with an extremist background, a decrease of 2.4 percent from 17,597 incidents in 2006. Of these offenses, 980 were violent, compared with 1,047 in 2006, a decrease of 6.4 percent. Approximately 414 (484 in 2006), or 42.2 percent, of the right-wing violent offenses had an extremist and xenophobic background, while perpetrators directed 294, or 30 percent, against (alleged) left wing extremists (2006: 302, or 28.8 percent). Left -wing groups committed 2,765 PMCs, foreigners committed 747 PMCs, and there were 121 other types of PMCs with extremist backgrounds.

To address right-wing extremism, authorities at all levels of government conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. Government agencies cooperated with NGOs in the formulation and administration of these programs. Following the 2007 attack on eight Indians in Muegeln, the federal government announced that it would increase funding for programs to combat right -wing extremism by 5 million euros (\$7 million), in addition to a comparable increase in October 2006.

Other Societal Abuses and Discrimination

Media and other reports indicated that societal and job -related discrimination against homosexuals occurred, although such instances were rare. National criminal statistics do not include a category of hate crimes against homosexuals. However, in Berlin the police registered an increase in antihomosexual hate crimes, with 43 cases reported in 2007, compared with 28 in 2006.

At year's end a Magdeburg court continued to try four right-wing extremists accused of a 2006 attack in Halberstadt on a group of actors still costumed from their performance of *The Rocky Horror Picture Show*.

There was discrimination against persons with HIV/AIDS. The government worked with NGOs, religious groups, and business to educate the public about HIV/AIDS and its prevention.

Section 6 Worker Rights

a. The Right of Association

The Basic Law provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization, and workers exercised this right. Approximately 22 percent of the workforce was organized into unions. The overwhelming majority of organized workers belonged to eight unions largely grouped by industry or service sector and affiliated with the German Trade Union Federation, the country's main trade union umbrella organization. The law permits unions to conduct their activities without interference, and the government generally protected this right in practice.

b. The Right to Organize and Bargain Collectively

The law protects the right to collective bargaining, and the government generally protected this right in practice. Collective bargaining agreements covered approximately 63 percent of the labor force. The law provides for the right to strike for all workers except civil servants (including teachers) and personnel in sensitive or essential positions, such as members of the armed forces. Workers not allowed to strike also had legal recourse through the courts to protect their rights. Collective bargaining agreements reached with those public service workers who had this right were usually extended by legislation to those who did not, although such extensions did not always include all of the provisions of those agreements.

Antiunion discrimination and other forms of employer interference in union functions did not occur.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that men, women, and children were trafficked for sexual exploitation. Incidents of labor exploitation occurred mainly in restaurants against illegal residents working there and against domestic household workers.

d. Prohibition of Child Labor and Minimum Age for Employment

There is comprehensive legislation to protect children from exploitation in the workplace and the government enforced these laws. The law prohibits the employment of children under the age of 15, with a few exceptions. Children who are 13 or 14 years of age may do farm work for up to three hours per day or may deliver newspapers for up to two hours per day, while children who are three to 14 years of age may take part in cultural performances under stringent curbs on the kinds of activity, number of hours, and times of day. Abusive child labor was not a serious problem, although violations did occur, mainly in small, often family-owned, businesses such as pubs, restaurants, and grocery stores.

The Federal Ministry of Labor and Social Affairs effectively enforced the law through its Factory Inspection Bureau.

e. Acceptable Conditions of Work

The country does not have a minimum wage except for construction workers, electrical workers, janitors, roofers, painters, and letter carriers. In July the cabinet agreed after extensive political debate to introduce minimum wage regulations in more sectors of the labor market, but ruled out introduction of a universal minimum wage. Covering an estimated 60 percent of all wage and salary-earners, the collective bargaining agreements set minimum pay rates and are enforceable by law. Individual contracts or company-level contracts negotiated by worker representatives who are not necessarily members of unions covered the remaining 40 percent.

Federal regulations limited the workweek to 48 hours, but collective bargaining agreements may stipulate lower maximums. Contracts that directly or indirectly affected 80 percent of the working population regulate the number of hours of work per week. According to the European Labor Force Survey, an average employee's working week was 30.4 hours for women and 40.9 hours for men in 2007; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations governs occupational safety and health. A comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The Ministry of Labor and Social Affairs and its counterparts in the states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Occupational Safety and Health. At the local level, professional and trade associations--self-governing public corporations with delegates representing both employers and unions--oversee worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

The law provides for equal treatment of foreign workers, who generally worked in conditions equal to those of citizens; however, such workers faced some wage discrimination. For example, some schools paid foreign teachers less than their citizen counterparts. Employers also often paid lower wages to seasonal workers from Eastern Europe who came to the country on temporary work permits. Employers paid workers from other EU countries the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.