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U.S. Department of State

Germany Country Report on Human Rights Practices for 1996

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GERMANY

The Federal Republic of Germany is a constitutional parliamentary democracy with an independent judiciary; citizens periodically choose their representatives in free and fair multiparty elections. The head of the Federal Government, the Chancellor, is elected by the lower house of Parliament. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states enjoy significant autonomy, especially as concerns law enforcement and the courts, education, the environment, and social assistance.

Law enforcement is primarily a responsibility of state governments, and the police are organized at the state level. The jurisdiction of the Federal Criminal Office is limited to international organized crime, especially narcotics trafficking, weapons smuggling, and currency counterfeiting. Police forces in general are well trained, disciplined, and mindful of citizens' rights, although there were occasional instances of police abuse.

Germany's highly advanced economy affords its residents a high standard of living. The economy has had difficulty pulling out of its 1993-94 recession, which followed a reunification boom in the early 1990's. The economy picked up in the second half of 1996, but unemployment remains high, as the structural rate of unemployment rose again with the most recent recession. In the East, where economic integration and growth continued particularly strongly, employment has increased more noticeably than in the West. Nonetheless, overall unemployment in eastern Germany remains significantly higher than in the country's western half as the region continues to grapple with adjustment to free market conditions. Unemployment in the East affects women disproportionately more than men.

The Government fully respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with instances of individual abuse. However, there were continued allegations of police abuse of prisoners, especially foreigners. Although violence or harassment directed at foreigners continued to occur within society as a whole, the number of incidents declined markedly, as was the case in 1995. Rightwing violence against foreigners decreased by nearly 50 percent, with 154 cases reported in the first 6 months of 1996, compared with 313 in the same period of 1995. Rightwing extremist violence rose sharply after German unification but peaked in 1992 and has since been declining sharply. Still, there were a significant number of attacks on property or persons, and foreigners were disproportionately the victims.

Anti-Semitic incidents decreased in the first 6 months of 1996. Most involved graffiti or distribution of anti-Semitic materials. The overwhelming majority of the perpetrators of attacks on foreigners or anti-Semitic acts were frustrated, apolitical youths and a small core of neo-Nazis. All the major political parties and all the highest officials of the Federal Republic denounced violence against foreigners and anti-Semitic acts.

Women continue to face wage discrimination in the private sector. The Government is taking serious steps to address the problem of violence against women.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings by government officials.

Some murders occurred among rival factions of Iranians, Kurds, Turks, and other foreign nationals. The federal and state authorities sought to find and prosecute the perpetrators of such crimes and pressed charges in several trials.

The trial of Red Army Faction member Birgit Hogefeld, which began in November 1994, ended on November 5. Hogefeld was sentenced to life imprisonment by the State Superior Court in Frankfurt. She was found guilty of participating in a 1993 bombing of a prison in Weiterstadt, Hessen; participating in 1988 attack on Bundesbank President Hans Tietmeyer; and participating in the 1985 bomb attack at the U.S. Rhein-Main Air Base.

Lebanon extradited Yasser Mohammed Shraydi to Berlin in May in connection with his alleged participation in the April 1986 bombing of the Berlin discotheque "La Belle." The attack killed one Turkish and two U.S. citizens, and injured 230 persons. Prosecution is expected to begin in spring 1997. Three further suspects were arrested in October: Ali Chanaa, alias Alba; his former wife, Verena Helga Chanaa (a German national); and his wife's sister, Andrea Haeusler (also German). Also in October, warrants were issued for the arrest of three former Libyan diplomats and a former member of the Libyan Security Service who were stationed in East Berlin.

On September 10, six former East German generals were sentenced to prison for terms ranging from 3 years 3 months to 6 1/2 years, for ordering the shooting of persons who fled across the Berlin Wall and the former border between East and West Germany. The six included former Deputy Defense Minister Klaus-Dieter Baumgarten, who was accused of direct complicity in 11 killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Torture is not mentioned in the Basic Law, but it is forbidden by law.

There continue to be serious allegations of police brutality against foreigners, but fewer than in previous years. No action was taken against individual Hamburg policemen being investigated since 1995 for possible mistreatment of arrested foreigners as the witnesses were considered unreliable.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Basic Law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition. To make an arrest, police must obtain a judicial warrant. By the day after arrest, police must bring the suspect before a judge and lodge a charge. The court must then either issue a warrant stating the grounds for detention or order the person's release.

There is no preventive detention. If there is evidence that the suspect might flee the country, police may detain the suspect for up to 24 hours pending a formal charge. The right of free access to legal counsel has been restricted only in the cases of terrorists suspected of having used contacts with lawyers to continue terrorist activity while in prison. Only judges may decide on the validity of any deprivation of liberty. Bail exists but is seldom employed; the usual practice is to release detainees unless there is clear danger of flight outside the country.

There is no use of forced exile.

e. Denial of Fair Public Trial

The Basic Law provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. The court system is highly developed and provides full legal protection and numerous possibilities for judicial review. Ordinary courts have jurisdiction in criminal and civil matters. There are four levels of such courts (local courts, regional courts, higher regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition there are four types of specialized courts: Administrative, labor, social, and fiscal courts. These courts are also established on different levels, with the possibility for appeal to the next higher level.

Separate from these five branches of jurisdiction is the Federal Constitutional Court, which is not only the country's supreme court but an organ of the Constitution with special functions defined in the Basic Law. Among other things, it reviews laws to ensure their compatibility with the Constitution and adjudicates disputes between constitutional organs on questions of competencies. It also has jurisdiction to hear and decide claims based on the infringement of a person's basic constitutional rights by a public authority. The judiciary provides citizens with a fair and efficient judicial process.

There were no reports of political prisoners.

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

The Basic Law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Basic Law provides for freedom of the press, and the Government respects this right in practice. There is no official censorship. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and the press, including academic freedom. Propaganda of Nazi and other proscribed organizations is illegal. Statements endorsing Nazism are also illegal. Several persons were indicted for making statements or distributing materials that were alleged to fall into these categories, including a U.S. citizen, Gary Lauck, who was sentenced August 22 to 4 years' imprisonment for instigating national hatred and dissemination of illegal propaganda materials.

In January the press reported that the authorities pressured a provider of Internet on-line service to block access to material--a neo-Nazi World Wide Web site--that the Government considers illegal under German law.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice. The Basic Law permits banning political parties found to be "fundamentally antidemocratic." A 1950's ruling by the Federal Constitutional Court outlawed a neo-Nazi and a Communist party. State governments may outlaw only organizations that are active solely within their state. If a group's activities cross state lines, the Federal Government assumes jurisdiction.

Four far-right political groups, not organized as political parties, were banned in late 1992. The Kurdistan Workers' Party (PKK), along with 35 subsidiary organizations, was banned in 1993. Also in 1993 the Federal Government asked the Constitutional Court to ban the far-right Free German Workers' Party; the Court's decision was still pending at year's end. Several extremist parties were under observation by the Office for the Protection of the Constitution (BFV, the internal security service), although such monitoring may by law not interfere with the organizations' continued activities. The BFV reported that 46,100 people belonged to far-right organizations in 1994, a decline of 22 percent from the previous year.

c. Freedom of Religion

The Basic Law specifically provides for religious freedom. The Government fully supports religious freedom. Most of the population belongs to the Catholic or Protestant churches. These denominations and the Jewish community hold a special legal status as corporate bodies under public law, giving them, for instance, the right to participate in a state-administered church tax system. State governments subsidize church-affiliated schools and provide religious instruction in schools and universities for those belonging to the Protestant, Catholic, or Jewish faith.

Groups of a religious character, which are not granted special legal status, do not benefit from the privileges granted by the State. A sharp debate surrounds the activities of the Church of Scientology,

whose members allege both government-condoned and societal harassment, including expulsion from (or denial of permission to join) a political party and loss of employment. Business firms whose owners or executives are Scientologists may face boycotts and discrimination, sometimes with government approval. Scientologists continued to take such grievances to the courts. Legal rulings have been mixed.

During the year, the Church of Scientology came under increasing scrutiny by both federal and state officials, who claim that its activities do not fall within the legal definition of a religious organization. Several cabinet officials criticized the organization. In January Claudia Nolte, the Minister of Family Policy, described the Church as "one of the most aggressive groups in our society" and said she would oppose the organization "with all the means at my disposal." The Parliament created a special commission to investigate Scientology's activities and social impact. The press reported that the federal chancellery and state minister-presidents decided on December 19 to create an interministerial group to study Scientology.

Major political parties exclude Scientologists from membership, arguing that the Church is not a religion but a for-profit organization whose goals and principles are antidemocratic and thus inconsistent with those of the political parties. In late summer, the governing Christian Democratic Union (CDU) party approved a resolution saying that membership "in the Scientology organization is not compatible with employment in the public service," and urging that the Church be put under surveillance. The resolution also urged the banning of federal funding for cultural and artistic events featuring Scientologists. In December a state organization of the CDU confirmed the expulsion of three members for belonging to the Church.

Various artists have been affected because of their membership in the organization. Artists have been prevented from performing or displaying their works because of their membership in the Church. In the summer, the youth wing of the CDU in a number of German states urged a boycott of the film "Mission Impossible" because the leading actor in this film is a Scientologist. In Bavaria the Minister of Culture was criticized by the state parliament for allowing American musician Chick Corea, a Scientologist, to perform at a state-sponsored jazz festival.

Individual German states also took action against members of the organization. On November 1, the state of Bavaria began to screen applicants for state civil service positions for Scientology membership. Bavaria also said it would not fund arts-related activities in which Scientologists were to appear. It also decreed that private companies awarded state contracts in certain "sensitive" fields must sign a statement that they do not follow the tenets of Scientology.

The past year has also se