



## U.S. DEPARTMENT of STATE

### Germany

#### Country Reports on Human Rights Practices - 2006

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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 Federal Parliament (Bundestag). The second legislative chamber, the Federal Council (Bundesrat), 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 Federal Parliament took place in September 2005. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, there were reported instances of mistreatment of prisoners and detainees by police, and there were limits on freedom of speech, press, assembly, and association aimed at groups deemed extremist. Extremists engaged in intimidation during the electoral process; there was governmental and societal discrimination against some minority religious groups; and cases of societal harassment of asylum seekers and other foreigners occurred. Violence against women, trafficking in persons, and harassment of racial minorities 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. Investigations of earlier instances of alleged abuse continued.

In 2004 prosecutors indicted 18 army instructors on charges of degrading treatment of subordinates in Coesfeld. In December 2005 the Muenster Regional Court refused to begin trials involving nine of them, citing lack of evidence. However, the Higher Regional Court in Hamm reversed the Muenster Regional Court's decision and ruled in August that all 18 instructors must stand trial. The trials had not begun by year's end.

There were a number of violent attacks by right-wing groups on members of minority groups, foreigners, and political opponents (see sections 3 and 5).

#### 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.

In February an interim report of the Committee for the Prevention of Torture (CPT) of the Council of Europe criticized conditions at prisons in Hamburg, Baden-Wuerttemberg, Brandenburg, Saxony-Anhalt, Lower Saxony, Schleswig-Holstein, and Thuringia. According to the report, none of the inspected prisons had adequate staffing or facilities. The report criticized "dirty and seedy cells," "systematic censorship of correspondence," and a lack of television sets and books. Addressing the CPT's allegations, the speaker of the Hamburg justice ministry referred to financial constraints and stated that the cited conditions affected only a few detainees.

The authorities continued to investigate the January 2005 death of a detained asylum seeker, Oury Jalloh, from Sierra Leone. The death occurred during a fire in a jail cell in the state of Saxony-Anhalt. The state district attorney's office charged officers on duty with involuntary

manslaughter. Court proceedings against one police officer were scheduled to begin in March 2007 at the Dessau Regional Court. Authorities had not decided whether a second officer would have to face court proceedings.

#### 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

Police forces are organized at the state level. The Federal Criminal Investigative Service has responsibility for counterterrorism and international organized crime. It also coordinates crime suppression at the national and international level and investigates certain limited cases of international crime as mandated by the law or instructed by the public prosecutor. Police forces in general were well trained, well disciplined, and mindful of citizens' rights. The government investigated abuses and prosecuted police who mistreated persons in custody. Allegations of corruption were rare.

#### Arrest and Detention

An individual may be arrested only on the basis of a warrant issued by a competent judicial authority unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. By law most detainees are entitled to prompt access to lawyers and, if indigent, to lawyers provided by the state. 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. An individual detained by police must be brought before a judge and charged by the end of the day after the arrest. The court then must issue an arrest warrant stating the grounds for detention; otherwise they must order the individual's release. These rights were generally respected.

Police may detain known or suspected radicals for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations (see section 2.b.). The rules governing this type of detention differ by state, with authorized periods of detention ranging from one to 14 days, provided judicial concurrence is given within 24 hours of initial detention. There were no reports of such detention during the year.

Although criminals may not be punished twice for the same crime, the law allows "retroactive preventive detention" in cases involving such crimes as rape, homicide, or manslaughter. This procedure permits courts to order that detention be continued after offenders have served their sentences. 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. The detention could last indefinitely.

Bail exists but was employed infrequently; authorities usually released detainees unless there was clear danger that the detainee might flee the country, in which case a detainee could be held for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the government must compensate the individual for pecuniary losses as well as a lump sum for "moral prejudice" if prison time was served.

#### e. Denial of Fair Public Trial

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

Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: administrative, labor, social, and fiscal, each with an appellate process.

The Federal Constitutional Court, the country's supreme court, reviews laws to ensure their compatibility with the constitution and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person's basic constitutional rights by a public authority.

#### 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. The courts generally suspended one-year sentences and placed the convicted individuals on probation.

Trials are public, and juries are not used. Cases are heard either by one judge, a panel of professional judges, or a mixed panel of professional and lay judges, depending on the severity of the charges. Defendants are required to be present and 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.

Military courts include one civilian judge and two lay judges. Appeals of their rulings go to the civilian court system.

### 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 are available as well as judicial remedies for alleged wrongs. There were no reports of problems enforcing domestic court orders.

#### f. Arbitrary Interference with Privacy, Family, Home, or correspondence

The law prohibits such actions, and authorities generally respected these prohibitions; however, members of organizations monitored by the federal and state offices for the protection of the constitution (OPCs) charged that their privacy was infringed (see sections 2.b. and 2.c.).

In criminal investigations of certain serious crimes, law enforcement officials may monitor 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, such activities generally have to be approved by an independent commission elected by a parliamentary control body.

### 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 some 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. Following an unsuccessful effort to win political asylum abroad, Germar Rudolf was deported to Germany, where he was put on trial in November, in Mannheim, for "representing the Holocaust as a myth." Rudolf had been convicted for Holocaust denial in 1995 but fled the country. The trial was underway at year's end.

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

#### Internet Freedom

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

Federal and state laws permitted OPCs to monitor the private e-mails and chatrooms of individuals and groups under surveillance, but such activities were subject to oversight by an independent commission elected by a parliamentary control body (see section 2.f.). Access to such "prohibited" material as child pornography and Nazi propaganda was forbidden by law. Authorities also sought to ban the storing of such material on servers in the country.

A wide spectrum of society had access to the Internet at such places as homes, businesses, schools, and libraries.

Several Internet providers have sued the state of North Rhine-Westphalia over a state ordinance requiring them to block access to certain Web sites determined to be promoting right-wing extremism. In most of these cases, various administrative courts in the state rejected the complaints, although one was partially successful based on technical factors. At year's end two of the suits were pending before the Aachen Administrative Court.

#### Academic Freedom and Cultural Events

There were few government restrictions on academic or cultural events; however, the use of such materials as Nazi propaganda, Holocaust denial, and pornography was prohibited.

At the end of 2005, the Higher District Court of Lueneburg, Lower Saxony, issued a ban on stage appearances by a right-wing songwriter who planned to perform at a "national New Year's Eve" party. The event, which was organized by the right-wing extremist National Party of Germany (NPD) took place.

#### 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, prohibited organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when prohibited organizations attempt to hold public assemblies. Such denials were rare.

#### 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 which have been judged as illegal or opposed to the constitutional democratic order. While the Federal Constitutional Court is the only body that can outlaw political parties on these grounds, federal or state governments may prohibit or restrict other organizations, which have the right to appeal. Such organizations include groups that authorities classified as extremist or criminal in nature. For example, during the year the state of Brandenburg declared the Federation for the Protection of Germany (Schutzbund Deutschland) to be a prohibited organization.

Federal and state OPCs charged with examining possible threats to the constitutional democratic system monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts to assess possible threats; however, OPCs could employ more intrusive methods, such as the use of undercover agents, subject to legal checks. OPCs also published lists of monitored organizations.

Although the law stipulates that OPC monitoring must not interfere with the activities of any organization, representatives of monitored organizations complained that the publication of the organizations' names by state OPCs contributed to prejudice against them (see section 2.c.). The Islamic Religious Community of Hesse (Islamische Religionsgemeinschaft Hessen--IRH), the state of Hesse's largest Muslim umbrella organization, protested its listing in the Hesse OPC report. The Hesse interior ministry claimed that such IRH activities as limiting female student participation and promoting Shari'a (Islamic law) contradicted basic constitutional principles. In May the Hesse interior ministry agreed not to portray the IRH as an extremist organization, unless there were new facts to support its inclusion in OPC reporting. The IRH leadership also announced that the group would relax its position against the participation of female Muslim students in school excursions.

In May the Munich Administrative Court ordered the state of Bavaria to cease publishing certain allegations in the OPC's report about the Islamic Community Milli Goerues (MG), considered by the Bavarian government to be a Turkish Islamic extremist group. Since 2001 the OPC report quoted alleged statements by several MG members that it considered anticonstitutional and inflammatory. The court ruled that the authenticity of these statements could not be established and asked the OPC not to republish them.

#### c. Freedom of Religion

The Basic Law provides for freedom of religion, and the government respected this right in practice; however, discrimination against certain religious minorities remained a problem. Government policy continued to contribute generally to the free practice of religion.

Religious organizations are not required to register, but must do so in order to qualify as nonprofit associations with tax-exempt status. The state confers certain other advantages upon religious communities that also obtain the status of "corporation under public law," including the right to levy taxes on their members that the government collects on their behalf. In July, after a 10-year legal effort by the Jehovah's Witnesses organization, the State of Berlin granted the organization public corporation status. Few Muslim organizations have applied for public law corporation status, and so far no state has granted corporation status to any Muslim organization, in part because none has met the government's criteria; in some cases intra-Muslim disputes prevented organizations from establishing their right to represent their community.

The government did not recognize several 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, a view that led to employment and commercial discrimination against Scientologists in both the public and private sectors. Administrative action and court rulings, including in Leipzig and Hamburg in late 2005 and during the year, reduced or eliminated some governmental impediments to Scientology. For example, unemployment offices were no longer required to inform job seekers if prospective employers were Scientologists, or whether they employed Scientologists.

During the year several public and private organizations issued public warnings about Scientology after-school study programs.

In October the Federal Constitutional Court, in response to an appeal by the Unification Church, overturned an earlier decision of a court in Rheinland-Pfalz to ban the Sun Myung Moon and his wife from entering the country. Reverend Moon and his wife were originally banned from entry in 1995. In a narrow decision, the Constitutional Court rejected the lower court's reasoning for upholding the ban on the grounds that it was a violation of religious freedom and ordered the case returned to the lower court for reexamination.

Since the 1990s four major political parties--the Christian Democratic Union (CDU), the Christian Social Union, the Social Democratic Party (SPD), and the Free Democratic Party--have prohibited Scientologists from becoming members. Scientologists have unsuccessfully challenged these prohibitions.

Several states have laws that prohibit teachers from wearing headscarves in public schools. These laws have led to dismissals and adverse decisions on the hiring of teachers. Some courts have upheld challenges to these laws.

In February Gilek Yilmaz became a teacher trainee at a school in Schleswig-Holstein. The state Ministry for Education advised her that she would be required to remove her headscarf when a school law prohibiting the wearing of headscarves takes effect in 2007.

In July the administrative court of Stuttgart, reviewing the case of a teacher who had been suspended for wearing a headscarf, ruled that the law of state of Baden-Wuerttemberg prohibiting such attire was discriminatory. While the court agreed with the state that the headscarf violated religious neutrality, it concluded that the state could not prohibit headscarves while allowing Catholic nuns to wear religious dress. The teacher, Doris Graber, had been suspended from teaching in 2004. The state indicated that it would appeal the verdict.

In April 2005 the Bremen education ministry denied the application of a trainee teacher after she refused to sign a commitment to abstain from wearing a headscarf in class. The Bremen Higher Administrative Court ruled that the state could refuse the application because her headscarf would "seriously jeopardize school peace." However, in June the applicant obtained a verdict from the Bremen administrative court calling on the Bremen education ministry to prove that her teaching with a headscarf would concretely, rather than just abstractly, jeopardize school peace.

Most public schools offer Protestant and Catholic religious instruction, as well as instruction in Judaism if enough students express interest. Students may opt out of religious instruction upon simple application to school authorities. Depending upon the state, students may be required to attend a nonreligious ethics course or they may be permitted to choose between such a course and a free period.

Islamic education is offered in some states, but the overall practice is complicated by differences between Islamic groups.

The legal obligation that children attend a school, confirmed by the Constitutional Court in May and the European Court of Justice in October, and the related bar on home schooling, was a problem for some groups. Generally, state authorities have permitted such groups to establish charter-type schools.

#### Societal Abuses and Discrimination

There were reports of continuing societal discrimination and hostility toward some minority religious groups; however, the government took measures to address the problem. On August 18, a comprehensive federal antidiscrimination law took effect. This law prohibits discrimination on the basis of ethnicity, religious affiliation, age, sex, disability, and sexual orientation.

The federal government also promoted tolerance by establishing dialogues with representatives of immigrant and Muslim groups at the Chancellor and interior minister levels on the integration of minorities and immigrants and on Islamic issues.

Police conducted antiterrorism raids on mosques and Islamic centers in several states. The Muslim community criticized these raids as infringing on their freedom of religion. Authorities stated that some raids were conducted to prevent terrorist attacks during the Soccer World Cup competition. In June law enforcement officials in Baden-Wuerttemberg conducted large-scale raids in areas allegedly frequented by Muslim extremists. The state's OPC continued to monitor what it termed the growing ranks of "homegrown" radical Muslim elements in the state.

Beginning in January authorities in Baden-Wuerttemberg required residents seeking naturalization to complete a questionnaire concerning their political and moral beliefs and their adherence to the constitution. The questionnaire led to protests from the political opposition and from independents such as Paul Spiegel, then-chairman of the Central Council of Jews in Germany. Muslim organizations in Baden-Wuerttemberg announced plans to take the issue to the Federal Constitutional Court. Critics viewed the questionnaire, which included questions on attitudes toward women's and gay rights, terrorism, and other social issues, as discriminating against Muslim immigrants.

Some observers believed that societal discrimination against some ethnic groups, particularly the Turks, was one of the major factors limiting their economic progress. While there were no statistics specifically documenting discrimination, an April 2005 study by the Center for Turkish Studies claimed that one-third of an estimated three million Turks in the country lived below the poverty level; a further third lived just above the poverty level. Only 5 percent of Turkish-origin students attend a gymnasium, a top-tier secondary school necessary to enter university (see section 5). Fewer than 10 percent of 18- to 25-year-olds of Turkish descent were enrolled in higher education. Information released in August suggested that unemployment continued to afflict Turkish immigrants more than the general population, with unemployment among Turkish immigrants at 33 percent compared to 10.5 percent countrywide.

There were a number of anti-Semitic incidents during the year. According to official, but preliminary, data provided to parliament, there were reports of 463 anti-Semitic crimes in the first six months. Of these, seven were violent crimes, 91 involved anti-Semitic propaganda, and four persons were injured. The remainder included desecrations of Jewish sites such as cemeteries, memorials, and synagogues. For example, in January vandals smeared gravestones in a Jewish cemetery in Brandenburg with swastikas, and vandals also desecrated the Jewish memorials of Rabbi Menachem Schneerson in Berlin. In April unknown perpetrators smeared swastikas on 28 graves at the Jewish cemetery in Bebra, Hesse, and desecrated tombstones in Worms, at Heiligen Sand, one of the oldest Jewish cemeteries in Europe. Also in April the site of the Jewish community of Cottbus was smeared with anti-Semitic slogans. In June Jewish memorials to Heinrich Stahl, former chairman of the Jewish community in Berlin were desecrated, as was a memorial to the murdered Jews of Europe in July in Berlin-Mitte. Synagogues were defaced in March in Berlin and in April in Goerlitz. During the year authorities conducted 257 investigations of such incidents and made 29 arrests.

In June six youths burned The Diary of Anne Frank at a summer festival in Pretzien, a small town in the eastern part of the country. On September 26, the players of the Jewish club TuS Makkabi stopped a soccer game in Berlin as a result of taunts and the singing of anti-Semitic songs by spectators.

There were no developments in the 2004 case of Jewish cemetery desecrations in Neunkirchen or the 2005 cases in Hesse and Rheinland-Pfalz.

The activities of right-wing extremist organizations, whose platforms include anti-Semitism among other forms of intolerance, increased significantly (see section 5). The Jewish community reported a marked increase in anti-Semitic acts and an extremely difficult atmosphere for the country's Jews, especially during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon.

The government monitored right-wing extremists, conducted investigations into anti-Semitic crimes, and at times banned extremist groups deemed a threat to public order.

Statements inciting racial hatred, endorsing Nazism, and denying the Holocaust are illegal. Following an unsuccessful effort to win political asylum abroad, Germar Rudolf was deported to the country from abroad and put on trial in November, in Mannheim, "for representing the Holocaust as a myth." (See section 2.a.)

Authorities sought to address right-wing extremism by conducting a variety of education programs to promote tolerance, many focusing on anti-Semitism (see section 5).

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice.

In January the interior minister of Brandenburg revoked the passport of neo-Nazi Horst Mahler for six months to prevent him from attending a conference in Iran of persons who deny the Holocaust.

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 refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

Authorities processed 30,759 asylum applications during the year. They granted 251 (0.8 percent), and rejected 18,384 (59.8 percent); the remainder were resolved but, information about the manner of their resolution was not available. Approximately 1,700 applicants were granted temporary suspension of expulsion on humanitarian grounds. All cases in which asylum was granted must be reviewed after three years in order to determine whether the grounds for asylum still apply.

There have been instances of refoulement. For example, authorities deported asylum applicant Alassane Mousbaou, a dissident from Togo, from Mecklenburg-Vorpommern to Togo on January 31. According to his lawyer, Togolese authorities threatened Mousbaou immediately following his arrival because of his dissident activities in Germany. Since then Mousbaou was reported to be in hiding, awaiting the conclusion of legal proceedings related to his asylum application. In response to criticism over this case, on April 11 the state government adopted a six-month moratorium on further deportations to Togo.

The federal government, in coordination with the UN Interim Mission in Kosovo, continued repatriation of the estimated 51,000 technically deportable Kosovar refugees remaining in the country. Through September approximately 400 Kosovars voluntarily repatriated and 1,000 had been involuntarily repatriated. Some human rights observers asserted that Roma from Kosovo were particularly liable to be deported; however, the federal Ministry of the Interior stated that Roma and Serbs were excluded from forced repatriation except in a few cases involving criminals.

The government voluntarily repatriated 198 Afghan refugees during the year. Between January 1 and September 30, 140 refugees were involuntarily returned to Afghanistan as criminals, deportees, and persons posing a threat to domestic security.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

According to the Basic Law, individuals who attempted to enter the country via a "safe country of transit"--a member state of the European Union (EU) or a country adhering to the Geneva Convention on Refugees--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."

Individuals whose applications for asylum were rejected had up to two weeks to appeal the decision. Individuals who arrived at an international airport and who were found to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases the Federal Office for the Recognition of Foreign Refugees was required either to make a decision on an asylum application within 48 hours or allow the person to enter the country. An applicant could appeal a negative decision to an administrative court within three days,

and the court was required 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. Although stays in an airport facility were not supposed to exceed 19 days, applicants whose claims were rejected, but who could not be deported immediately, were allegedly held at the airport for months, a practice that refugee assistance groups and human rights advocates continued to criticize.

To deal with particularly difficult cases, all of the states agreed to form "commissions on hardship cases," composed of representatives from churches, charity organizations, and municipal organizations, that could 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. During the year right-wing extremist groups reportedly attacked shelters for asylum seekers in Mecklenburg-Vorpommern (Nordvorpommern), Berlin, and Brandenburg (Cottbus and Neuruppin).

### 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

The most recent national elections took place for the Federal Parliament in September 2005.

During campaigning that preceded the Berlin state elections in September, there were incidents of right-wing extremist intimidation. Extremists forcibly disrupted campaign events of political parties and vandalized campaign posters. For example, on September 8, two neo-Nazis attacked two campaign workers of the SPD, resulting in the hospitalization of one of them with serious head injuries. On August 30, approximately 20 neo-Nazis disrupted an SPD campaign event. At an event held by the Party of Democratic Socialism in late August, 10 to 15 right-wing extremists intimidated participants by wielding bottles and throwing firecrackers. Also in late August, right-wing extremists toppled tables at a campaign event of a CDU member of parliament.

On August 11, during the Mecklenburg-Vorpommern state election campaign, right-wing extremists besieged and threatened SPD state parliament member Margret Seemann at her campaign stand in Hagenow.

In May Mecklenburg-Vorpommern state parliamentarian Stefan Koester (NPD) was found guilty of having beaten a counter-demonstrator at a December 2004 NPD campaign event in Itzehoe (Schleswig-Holstein.)

The Federal Constitutional Court is empowered to prohibit political parties that actively work to undermine the constitutional democratic order (see section 2.b.). No parties were prohibited during the year.

The chancellor was a woman, and there were 194 women in the 614-seat Federal Parliament. 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 Federal Parliament and one on the Federal Constitutional Court but none in the cabinet.

#### Government Corruption and Transparency

There were isolated reports of government corruption.

A federal freedom of information law that took effect on January 1 provides for public access to government information. During the year 2,278 requests for information were filed; authorities complied fully or partially with 1,379. They refused 410 based on restrictions defined in the law, such as protection of public interests or the rights of third parties. Appeals were filed by 142 applicants; 62 of these were rejected. Four states (Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia) also have freedom of information laws that provide for an appeals process. In those states authorities in most cases cited business confidentiality as the basis for most of their denials of access to information.

### 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 minorities and foreigners were problems.

On August 18, the government complied with a 2000 EU directive by enacting an antidiscrimination law prohibiting discrimination on the basis of ethnicity, religious affiliation, age, sex, handicap, or sexual orientation.

## Women

The law prohibits violence against women, including spousal abuse; perpetrators may be temporarily denied access to the household, put under a restraining order, or in severe cases prosecuted for assault or rape and required to pay damages. The government enforced the law; nevertheless, violence against women was believed to be widespread. Organizations that aid victims estimated that one in four to five women has been the victim of physical or sexual violence.

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, in 2005 there were 8,133 cases of rape or serious sexual coercion. 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 recourse.

Forced marriages are illegal and invalid, and the act of coercing another person into a marriage through force or threat of force or other negative consequences is punishable with up to three years' imprisonment. While there were no conclusive statistics regarding the actual number of forced marriages in the country, evidence indicated that the problem was common in the Muslim community. Women's rights activists asserted that one-half of the young Turkish women living in the country were in forced or arranged marriages, a situation that often led to violence. Such marriages affected not only young women living in the country for whom the family brought a husband from abroad, but also young women who were sent to their native countries against their will to be married.

According to a Baden-Wuerttemberg commission, from January to October 2005, 215 persons in the state (of whom 213 were women) sought assistance for problems related to the prospect of a forced marriage (110 persons) or to a recent forced marriage (105 persons). Of those whose religious affiliation was known, 95 percent were Muslims, almost 40 percent were Turkish citizens, and 40 percent were minors. In 46 cases the forced marriage resulted in offspring. Saarland reported 13 cases of forced marriage in 2005.

While there was not complete agreement on the definition of the term "honor killing," the Federal Office of Criminal Investigation (BKA) characterized five killings in 2005 as honor killings. In April a court found the brother of Hatan Surucu guilty of her murder in February 2005. He had disapproved of her Western lifestyle.

In June 2005 a 22-year-old Turkish woman was shot and killed in Wiesbaden-Dotzheim. The victim's older brother confessed to the crime; police stated that he committed the "honor killing" because the woman had a German boyfriend. He was sentenced to a life term by the Wiesbaden Regional Court in September.

Prostitution is legal and fairly widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods.

Trafficking in women was a problem (see section 5, Trafficking).

In September prominent lawyer Seyran Ates temporarily gave up her work as an attorney for women's rights because of numerous serious threats against her life, mainly from the husbands of the women she defended. Ates defended numerous Muslim women in court and spoke out against honor killings, forced marriage, and spousal violence.

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. Various disciplinary measures against offenders are possible, including dismissal. An employer's failure to take appropriate measures to protect employees from this abuse is considered a breach of contract and an affected employee has the right to paid leave until the situation is rectified. 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, Seniors, Women, and Youth was the primary federal agency maintaining oversight of women's rights issues. The law provides for equal pay for equal work, but women earned on average 30 percent less than men. A study conducted during the year found that in private companies, women, who constituted 46 percent of the workforce, held only 24 percent of senior management positions.

Women generally were not discriminated against in terms of compensation for equivalent work, although they were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations; their average monthly incomes were lower than those of men.

## Children

The government maintained its strong commitment to children's rights and welfare. Public education is provided free of charge through the university level, and education is compulsory through the age of 16; almost all children attended school.

The government funded medical care for children, and boys and girls had equal access to medical care.

Child abuse was a problem that received widespread media attention. In 2005, 13,962 cases of sexual abuse of children were reported as well as 199 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. The law provides for the protection of children against pornography and sexual abuse. The maximum sentence is one year's imprisonment for possession of child pornography and five years in prison for distribution. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. The government effectively enforced these laws.

Forced marriage of young girls in various immigrant communities gained increasing public attention. This phenomenon affected both young adult women and minor girls (see section 5, Women).

Although there were no reports of abuse of street children, authorities believed that the life of these children often involved violence and abuse. Often these children were fleeing violent and abusive homes. Street children frequently turned to prostitution for income.

Approximately 8 percent of reported trafficking victims were under the age of 18 (see section 5, Trafficking).

The government provided extensive funding for programs to combat the sale of children, child prostitution, child pornography, trafficking of children, and child sex tourism.

#### Trafficking in Persons

The law prohibits trafficking in persons, but there were reports that men, women, and children were trafficked to, through, and within the country for the purposes of sexual and labor exploitation. Victims of sex trafficking came primarily from Central and Eastern Europe, although some were from Africa and Asia.

In its most recent report, covering 2005, the government recorded 642 trafficking victims compared to 972 in 2004. Of these 115 were German nationals (17.9 percent) and 13 of the 115 were male. Most victims were between the ages of 18 and 24 (544). Of the victims, 79 (8 percent) were under 18 years of age, including 26 citizens.

The BKA registered 683 suspected traffickers in 2005, the latest year for which statistics were available. Citizens made up the largest share of suspected traffickers (283, or 41 percent).

The law criminalizes trafficking in persons and provides penalties of up to 10 years in prison. Trafficking crimes are prosecuted at the state level.

According to the Ministry of Justice, courts convicted 137 adults of trafficking charges in 2004, compared to 145 in 2003. 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. Of the 137 convicted traffickers in 2004, 93 received prison sentences of two years or less; 27 were sentenced to two to three years; 11 were sentenced to three to five years; and three were sentenced to five to 10 years. In keeping with standard practice for sentences of two years or less, 87 sentences were suspended. Those receiving suspended sentences were generally convicted of playing an auxiliary role in trafficking operations and were subsequently required to perform community service, pay penalties, and, in many cases, meet regularly with a parole officer.

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

Police were required to notify a counseling center of trafficking victims and to inform the victims of their rights and options for seeking assistance. The centers provided shelter, counseling, interpreting services, and legal assistance.

In nine of the 16 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, funding more than 30 NGO counseling centers for victims of trafficking.

The government paid the basic cost of repatriating trafficking victims under the Reintegration and Emigration Program for Asylum Seekers in Germany (REAG). The International Organization for Migration (IOM) administered REAG and facilitated assistance to returning victims.

The government sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking.

Federal and state government agencies took additional steps to prevent trafficking during the World Cup soccer championship by improving screening of possible victims and police safeguards, sponsoring seminars, expanding print and video outreach, and strengthening interagency coordination. NGOs used government funds to conduct public awareness campaigns and establish telephone hot lines for victims. According to government officials and the IOM, there was no increase in the number of trafficking victims during the World Cup. An IOM report attributed this result to enhanced border controls, police surveillance, international cooperation, and extensive public outreach efforts.

#### Persons with Disabilities

The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or in 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 problem throughout the country.

On April 16, two persons allegedly beat and kicked into a coma a man of Ethiopian origin at a trolley stop in Potsdam. They shouted racial epithets at the victim. The Brandenburg public prosecutor took over the investigation and indicted the two alleged assailants on August 22 for very serious injury, defamation, and failure to lend assistance. Court proceedings were scheduled to begin in February 2007.

In the first eight months of the year, according to data from the Federal Criminal Office (BKA), illegal offenses by right-wing extremists increased 21 percent over the same period in 2005. In 2005 the federal OPC recorded 15,361 right-wing "politically motivated crimes" (PMCs), the highest level since 2000. The BKA 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 figures for 2005 included 2,305 left-wing PMCs, 644 PMCs by foreigners, and 191 other types of PMCs. The OPC report listed 168 right-wing extremist organizations and groups. Authorities estimated membership in these groups plus right-wing extremists who remain unorganized to be approximately 39,000 at the end of 2005.

In order to address right-wing extremism, authorities conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. In October the federal government added approximately \$6,550,000 (5 million euros) to the approximately \$27,500,000 (21 million euros) previously allocated to such programs. Government agencies cooperated with NGOs in the formulation and administration of these programs.

In March unknown persons vandalized four immigrant-owned stores in Rheinsberg, Brandenburg. In the same month in Cottbus, Brandenburg, two unknown persons physically attacked and shouted racial epithets at two asylum seekers, from Chad and Cameroon.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination (see section 6.c.).

The government monitored right-wing extremists, conducted investigations into hate crimes, and at times banned extremist groups deemed a threat to public order (see sections 2.a. and 2.b.).

#### Other Societal Abuses and Discrimination

Despite increasing public awareness, media and reports from other sources indicated that societal and job-related discrimination against homosexuals occurred. However, openly homosexual persons occupied prominent positions in many areas of society, including politics, business, and the arts.

There was discrimination against persons with HIV/AIDS, primarily due to lack of understanding of the disease. 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 27 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.

##### b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference, and the government generally protected this right in practice. The law protects the right to collective bargaining, which was freely practiced. Collective bargaining agreements covered approximately 65 percent of the labor force. The law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive or essential positions, such as members of the armed forces. Collective bargaining agreements reached for 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. Workers not allowed to strike also had legal recourse through the courts to protect their rights. Workers conducted legal strikes during the year.

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 such practices occurred (see section 5).

### d. Prohibition of Child Labor and Minimum Age for Employment

The government effectively enforced laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 15, with a few exceptions: Those 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; and those three to 14 years of age may take part in cultural performances, albeit 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.

Trafficking of children was a problem (see section 5).

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

### e. Acceptable Conditions of Work

There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 percent of all wage and salary earners. The wages established by these processes provided a decent standard of living for a worker and family.

Federal regulations limited the workweek to a maximum of 48 hours, but collective bargaining agreements may stipulate even lower maximums. Contracts that directly or indirectly affected 80 percent of the working population regulate the number of hours of work per week. The average workweek was 39.9 hours nationwide (data for 2004 from the Organization for Economic Co-operation and Development); 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 govern 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 Work Safety. 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.

Foreign workers in the country were protected by law and generally worked in conditions equal to those of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their citizen counterparts. Seasonal workers from Eastern Europe who came to the country on temporary work permits also often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.