



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Europe and Eurasia](#) » [Germany](#)

2009 Human Rights Report: Germany

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

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 constitution (Basic Law) sets forth the powers of the chancellor and the legislative branch. The most recent national elections for the parliament took place in September. 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 neo-Nazi and other groups it deemed extremist. There was governmental and societal discrimination against some minority religious groups. Anti-Semitic attacks and vandalism; violence against women; trafficking in women, men, and children for sexual exploitation and forced labor; and right-wing extremist violence and harassment of racial minorities and foreigners 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

The government or its agents did not commit any politically motivated killings. However, on April 20, in Regensburg, Bavaria, police killed 24-year-old Tennessee Eisenberg after he allegedly refused police demands to drop a knife. Eisenberg's corpse had twelve bullet wounds. The public prosecuting office subsequently found that the two police officers involved in the shooting were acting in self-defense and cleared them of wrongdoing. Tennessee Eisenberg's family appealed the verdict.

On July 7, the Federal Constitutional Court decided not to take up the appeal of former concentration camp guard John Demjanjuk against his deportation from the United States. German prosecutors have accused him of being a guard at the Sobibor extermination camp in 1943 in German-occupied Poland and charged him as an accessory to the killing of 29,000 persons. Medical officials deemed Demjanjuk fit for trial.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The C
Affair
the U
Exter
cons:
polici

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

On January 14, the Federal Constitutional Court reversed some of the acquittals by the Muenster Regional Court in North Rhine-Westphalia of military instructors accused of hazing subordinates in 2007 and 2008. The federal court remanded the cases to another division of the Muenster court for review. However, a court spokesman stated that a retrial would not be possible during the year due to a case overload. The appeals of other verdicts in the case were pending before the Federal Constitutional Court at year's end.

Prison and Detention Center Conditions

Prison and jail conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

One reported incident and conditions in some facilities were causes for concern. On November 3, Berlin's Constitutional Court ruled that the holding of a prisoner in a 5.25-square-meter (56.5 sq. ft.) cell in a city prison violated that prisoner's human rights.

In December 2008 the Dessau regional court in Saxony-Anhalt acquitted two police officers of causing 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 Court of Justice. The appeal was pending at year's end.

d. Arbitrary Arrest or Detention

The constitution 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 Procedures and Treatment While in 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. The constitution provides that a person detained on suspicion of having committed a criminal offense be brought before a judge no later than the day following his arrest. At that time, the judge must inform him of the reasons for the arrest, and he must be given an opportunity to raise objections. The law entitles a detainee to prompt access to an attorney either of his choosing or, if he does not select one, one appointed by the court. 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.

The law does not allow courts to punish persons twice for the same crime. In cases involving rape, homicide, or manslaughter, courts may order offenders to serve additional time in "subsequent preventative detention" if they are determined to be dangerous. 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. On December 17, the European Court for Human Rights (ECHR) ruled that the country must compensate a man held in "subsequent preventive detention" since 1991 after the end of his five-year sentence for attempted murder and robbery. The ECHR reasoned that the country's "subsequent preventative detention" violates the European Human Rights Convention.

Bail exists but is infrequent. Authorities usually released detainees unless a court decided that 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 constitution provides for an independent judiciary, and the government generally respected this provision in practice.

Trial Procedures

The constitution provides for the right to a fair, public trial, and an independent judiciary generally enforced this right. 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. Defendants enjoy a presumption of innocence and have a right of appeal. The law requires defendants to be present at their trials. Defendants have the right to consult with an attorney. According to the law, before any interrogation begins, a suspect, arrested or not, must be informed about his or her right to consult an attorney before the interview. The government provides an attorney at public expense if defendants demonstrate financial need. Defendants may confront and 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.

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 more than one year. Courts generally suspended one-year sentences and placed the convicted individuals on probation. Heavy caseloads at times delayed court proceedings.

In 2008 the ECHR found one violation by the country of the right to a fair trial, five violations regarding length of proceedings, and one violation of the right to an effective remedy, as provided under articles 6 and 13 of the European Convention on Human Rights.

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 constitution prohibits such actions, and authorities mostly respected these prohibitions in practice. However, members of organizations monitored by the Federal Office for the Protection of the Constitution (FOPC) and state offices for the protection of the constitution (OPCs) charged that these agencies violated their privacy.

In 2007 the Left Party caucus in Lower Saxony's parliament initiated legal proceedings against the Lower Saxony OPC, accusing that office of illegally monitoring the caucus and its individual members. On November 26, the state's interior minister, citing a ruling by North Rhine-Westphalia's Higher Administrative Court on February 13 that the Left Party strives to undermine the country's democratic order, confirmed that the state OPC only monitors the Left Party, and not individual Left Party members.

On September 9, the federal government confirmed the FOPC collected information on all 53 members of the federal parliament from the Left Party. The government asserted that the North Rhine-Westphalia Higher Administrative Court decision on February 13 authorized surveillance of the Left Party.

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, for example, monitoring telecommunications, without court approval; however, an independent commission elected by a parliamentary control body has to approve such activities.

In an interim decision against a January law obliging telecommunication companies to store telephone, cell phone, e-mail, and Internet services data for six months, the Federal Constitutional Court ruled that data could be transmitted from telecommunication companies to the police only 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 began its review of the law on December 15.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; while the government mostly respected these rights in practice, it imposed limits aimed at groups deemed extremist. On November 17, the Federal Constitutional Court limited free speech that specifically endorses neo-Nazi doctrines, claiming this was "an exceptional circumstance."

Individuals could criticize the government publicly or privately without reprisal, and an active independent media expressed a wide variety of views without government restriction. However, making or disseminating oral statements or propaganda inciting racial hatred, endorsing Nazism, or denying the Holocaust is prohibited. On August 13, the Federal Court of Justice ruled that persons can be prosecuted for displaying Nazi slogans in the country only if they are in the German language. The court argued that translations of Nazi slogans cannot be considered as Nazi symbols, since Nazi slogans are inseparably connected with the use of the German language.

On June 15, a judge in Passau, Bavaria, found a prominent neo-Nazi guilty of displaying unconstitutional symbols after he buried a "comrade" with a swastika flag; the neo-Nazi was fined 1,200 euros (\$1,700).

At the end of July, the Saarbruecken state prosecutor's office in the Saarland opened an investigation into right-wing extremist politician Udo Pastoers, the caucus leader of the National Democratic Party (NPD) in the Mecklenburg-West Pomerania state parliament. In a speech in Saarbruecken on February 25, Pastoers allegedly denigrated Jews and Turks. In order for the proceedings to move forward, the Mecklenburg-West Pomerania state parliament voted on July 15 to lift Pastoers' immunity.

On January 27, Hamburg police confiscated 500 copies of the second edition of the "Newspaper Witnesses" that contained a supplement of the Nazi-era newspaper *Racial Observer* (*Voelkischer Beobachter*) and a Nazi poster. The confiscation was part of a nationwide action initiated by the Munich Municipal Court, which claimed that the reprint used banned symbols (e.g., swastikas) and infringed on the copyrights for the *Racial Observer*, which the state of Bavaria had

inherited following World War II. A total of 150,000 copies of the offensive supplement were distributed throughout the country.

On March 31, then federal interior minister Wolfgang Schaeuble banned the Kiel-based right-wing extremist group German Youth Faithful to the Homeland (HDJ) for distributing racist and Nazi propaganda. Searches were also carried out in Berlin, Brandenburg, Lower Saxony, and Saxony in an effort to confiscate the HDJ's assets.

On August 10, the Munich Higher Regional Court in Bavaria upheld the six-year prison sentence of a prominent member of the right-wing extremist NPD, Horst Mahler, for denying the Holocaust and incitement of hatred.

Internet Freedom

There were no government restrictions on access to the Internet; however, government agencies may monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 75 percent of the country's inhabitants used the Internet.

Federal and state laws permitted the FOPC and OPCs to monitor the private e-mails and chat room postings of individuals and groups under FOPC and 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.

According to the July 13 newsletter of the Hamburg OPC, the Federal Department for Media Harmful to Young Persons identified as "harmful" a Web site run by "neo-Nazis in Hamburg" that sought to recruit youths. The newsletter stated that efforts by the "Campaign Office North Germany" to recruit young persons into right-wing extremist organizations via the Internet have been successful.

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.

On April 18, police prevented a right-wing extremist concert from taking place in Guestrow, Mecklenburg-West Pomerania. According to a police spokesperson, five bands with names suggesting right-wing extremist content and attitudes, such as Task Force D (Task Force D was a paramilitary SS unit sent to Ukraine during World War II to kill Jews, Roma, and Communist Party members), End of System, and Nation of Perpetrators planned to perform at a motorcycle club. Approximately 200 police officers prevented 100 persons, among them known right-wing extremists as well as criminal elements, from attending the concert.

On May 23, police stopped a neo-Nazi concert disguised as a birthday party in Peine, Lower Saxony, after they discovered the ruse.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government usually respected this right in practice. However, the government prevented certain prohibited organizations, mainly right-wing extremist in nature, 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.

Police may detain known or suspected criminals--usually right- or left-wing extremists--for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations. The length of time varies from state to state and can range from one to 14 days.

The Hanover chief of police barred a neo-Nazi demonstration planned for May 1 in Celle, Lower Saxony. He claimed that the demonstration could result in rioting and violence and that he could not provide the necessary police support for the estimated 1,000 neo-Nazis expected to attend a demonstration calling for "National Socialism Now!". Subsequently, the Celle-based organizers filed a petition in court. The Hanover Administrative Court, the Higher Administrative Court in Lueneburg, and the Federal Constitutional Court in Karlsruhe affirmed the prohibition.

In July 2008 the federal state of Bavaria passed legislation on the right of assembly that was aimed primarily at controlling extremist demonstrations. In February the Federal Constitutional Court ruled that the Bavarian law was unconstitutional because it would restrict inappropriately any type of public demonstration. Despite draft amendments to revise the law, the court in August extended the interim injunction against the law for another six months.

Freedom of Association

The constitution 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 only the Federal Constitutional Court may prohibit political parties on these grounds, federal or state governments may prohibit or restrict other organizations, including groups that authorities classify as extremist or criminal in nature. Organizations have the right to appeal prohibition or restrictions.

The FOPC 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, the FOPC and OPCs could employ more intrusive methods, including the use of undercover agents who were subject to legal checks. The FOPC and OPCs published lists of monitored organizations, including left-wing political parties. The OPCs in Baden-Wuerttemberg and Rhineland-Palatinate continued to monitor the Left Party.

Although the law stipulates that OPC surveillance 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. On November 10, the Higher Administrative Court in Muenster, North Rhine-Westphalia, upheld a lower court decision enabling the state's OPC to continue monitoring Pro-Koeln, a citizens' group with right-wing tendencies. Pro-Koeln had filed suit after the OPC included the organization in its 2005 and 2006 reports. The court found that the group portrayed foreigners and immigrants as "criminal" and "unable to integrate into German society" based on their religion or origin, and disparaged lesbians, gays, bisexuals, and transgender (LGBT) persons.

On August 13, Berlin police searched the homes of 11 men who allegedly belonged to the neo-Nazi organization Frontbann 24, a group of approximately 60 former NPD members between the ages of 30 and 45. No one was arrested during the searches, but police gathered evidence, including pens, lighters, swastika pins, and shirts imprinted with Frontbann symbols, that was sufficient to support a prohibition of the organization. On November 4, Berlin's interior minister, Erhard Koerting, banned Frontbann 24.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government usually 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 an estimated 180 religious communities that have the status of a "public law corporation" (PLC). 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 PLC status which, among other things, entitles them to levy "tithes" (averaging 9 percent) 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 it. The decision to grant PLC status is made at the state level, and there have been cases where federal states have denied this status to an applicant. To date, the federal states of Berlin, Bavaria, Brandenburg, Hamburg, Hesse, Lower Saxony, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein, and Thuringia have granted the Jehovah's Witnesses PLC status.

While the federal government has encouraged the federal states to grant PLC status to Muslim communities, it preferred that the Muslim community designate a single organization with which federal and state authorities could 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 (KRM), a coalition of the four largest Muslim religious organizations in the country that represents 10 to 15 percent of the Muslim population, attempted to set up state-level offices in order to register as a PLC.

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

In January the federal court in Leipzig rejected the appeal of a March 2008 ruling by the Baden-Wuerttemberg Higher Administrative Court in Mannheim that a Muslim elementary school teacher in Stuttgart-Bad Cannstatt must remove her head scarf during class.

On June 23, the Baden-Wuerttemberg Higher Labor Court in Stuttgart ruled that a kindergarten run by the local administration could send a written reprimand to any Muslim female teacher or educator if she continued to wear a head scarf at work for religious reasons after she had been instructed not to.

A debate continued in Lower Saxony's state parliament over police security checks in mosques. The Green Party questioned why random identification checks were performed at the end of a Friday prayer at a mosque in Braunschweig on May 29, and a Green Party member accused the Braunschweig police department of discrimination. The state interior minister defended the checks as necessary to collect leads on individuals involved in Islamist extremism and terrorism.

The government continued to deny recognition as religions to some belief systems, including Scientology; 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 the private sectors. Scientology members reported the use of so-called "sect filters" by many associations and organizations, whereby eligibility for membership was contingent upon applicants' declaring that they do not belong to the Church of Scientology. State education authorities sometimes informed parents and school children of Scientologist activities in their school districts.

An item posted on the Web by the Hamburg Working Group on Scientology alleged a "massive publicity campaign" by the Church of Scientology at several Hamburg schools. The article discussed Scientologist's attempts to introduce its

teachings to Hamburg's school system and urged teachers, parents, and students to acknowledge that the "organization has nothing to do with religion."

Scientologists continued to report instances of official and societal discrimination during the year. On October 8, the Berlin Office of Foreigners denied temporary residency permits for two American Church of Scientology members seeking to train local church staff in Berlin. The denial order noted that it "lies in the public interest to impede the further expansion of an organization whose purposes are directed against the free democratic constitutional order."

On July 9, the Higher Administrative Court of Berlin-Brandenburg confirmed an earlier ruling of the Berlin Administrative Court of February 27, which ordered the immediate removal of two anti-Scientology posters. The Charlottenburg district office of the Berlin city administration placed the posters in front of the Church of Scientology of Berlin on January 22. They displayed a large stop sign followed by a "warning" from the Charlottenburg District Assembly about the activities of Scientology in the area. In reaching its conclusions, the lower court held that the City of Berlin had violated its duty of religious neutrality and its obligation to remain objective on religious matters. The court also ruled that the city's warning campaign served no justifiable purpose. The higher court affirmed the rights of Scientologists and the Church of Scientology Berlin to freedom of religion under the constitution.

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. State authorities generally permitted groups to establish private schools so long as they 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 problems between cabinet-level officials and representatives of immigrant and Muslim groups. Muslim participants generally praised the federal Interior Ministry's fourth and final plenary of the Islam Conference on June 25 for promoting dialogue between the government and the Muslim communities.

On July 1, Alex Wiens, who sympathized with right-wing extremist organizations, stabbed and killed an Egyptian Muslim woman, Marwa el Sherbini, in a courtroom in Dresden, Saxony. She had appeared in the court to testify against Wiens for insulting her for wearing a head scarf and allegedly calling her a terrorist. The Dresden Prosecutor's Office stated the killer was driven by deep hatred of Muslims. On November 11, the Dresden regional court condemned Wiens to a life sentence. The judge determined that the attacker killed Sherbini out of revenge and xenophobic hatred. The federal government and representatives of the German Central Council of Muslims and the Central Council of Jews publicly criticized the killing. The incident generated protests against "Islamophobia" both within the country and abroad; the Muslim community in the country and the Egyptian ambassador expressed satisfaction with the verdict and sentence in November.

According to estimates, Jews number more than 200,000, of which 106,435 are registered members of the Jewish community.

According to preliminary figures from the Federal Interior Ministry, 817 anti-Semitic offenses ("politically motivated crimes with anti-Semitic background") occurred from January through September. These included 14 violent and 142 propaganda offenses, and 10 persons were injured. The police investigated 426 suspects and arrested 15 persons. One arrest warrant was issued.

On July 28, the Higher Administrative Court in Mannheim, Baden-Wuerttemberg, confirmed the expulsion of two 17-year-old students from a high school in Pforzheim, Baden-Wuerttemberg, following an anti-Semitic incident in December 2008 in which five high school students shouted anti-Semitic phrases at a Jewish student and vandalized a door to his home.

On February 26, suspected neo-Nazis distributed anti-Semitic leaflets to mailboxes in Fuerstzell, Bavaria. The leaflets "warned" inhabitants that "millions of Jews would soon leave Palestine and enter" the country. The letters included images of swastikas and other Nazi symbols.

On September 8, NPD press spokesman Klaus Beier called a national soccer player with Turkish background, Mesut Ozil, a "plastic German" (meaning a German "only by passport"), which resulted in a local lawyer's initiating legal proceedings against Beier for incitement of hatred.

In late September the NPD sent letters to parliamentary candidates and other politicians with non-German ethnic backgrounds instructing them to leave the country and return to their "home countries." The letters reportedly were designed to look like official notifications from an official titled the "commissioner for foreigners' repatriation." The NPD confirmed it sent the letters. The Berlin prosecutor general began an investigation against the chairman of the Berlin NPD, Joerg Haehnel, for suspected incitement of hatred.

While the most widespread anti-Semitic acts were the desecration of Jewish cemeteries, other properties were also subject to anti-Semitic vandalism. On November 7, a synagogue in Dresden was vandalized with swastikas and other anti-Semitic hate symbols. The vandalism took place days prior to events commemorating the 71st anniversary of Kristallnacht.

On March 3, vandals smeared a swastika on a commemorative engraved stone at the memorial site of the former synagogue in the town of Warren/Mueritz, Mecklenburg-West Pomerania.

On March 23, vandals desecrated the Jewish community cemetery in Meiningen, Thuringia, knocking over gravestones and damaging fencing.

On August 5, then interior minister Schaeuble appointed an expert team on anti-Semitism to provide a regular report about anti-Semitism in the country, to coordinate government activities to combat anti-Semitism, and to submit an action plan on the issue. The expert team is expected to produce a report on its findings in 2011.

In September 2008 the police canceled an anti-Islam congress organized by Pro-Koeln on safety grounds after the venue was blocked by opponents. Pro-Koeln later filed suit against the Cologne law enforcement authorities for prohibiting the rally; the suit was pending before the Cologne Administrative Court at year's end.

For a more detailed discussion, see the *2009 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 constitution 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 (UNHCR) 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 constitution prohibits forced exile, and the government did not employ it.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. The constitution extends to persons persecuted on political grounds a right to apply for asylum in the country. The Asylum Procedure Act regulates the asylum procedure. The Residence Act can also grant refugee status in cases of nonstate persecution.

As a rule an asylum seeker whose application has been rejected can appeal the decision within a period of two weeks of a notice being served. If an appeal is filed, deportation cannot be carried out until the court proceedings have been concluded with a final negative ruling. If the court confirms the rejection, the applicant is obliged to leave the country. If the applicant does not comply with this obligation, the applicant is deported to his/her home country.

The government processes the asylum applications of individuals found to have come from a safe country of origin at an international airport 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 claimed not to maintain statistics about detentions in airport facilities.

In May the human rights NGO Pro Asyl sharply criticized the government's "fast" procedure, whereby a person can apply for asylum at the airport and the Federal Office for Migration makes a decision within two days. Based on its examination of 32 cases between 2006 and 2007, the organization asserted that the minimum requirements for a fair procedure were not met, since the decision was made so rapidly. According to Pro Asyl's analysis, several decisions were incorrect and resulted in unjustified deportations. Pro Asyl also asserted that, during the two days they were awaiting an asylum determination, asylum seekers were detained in the transit portion of the airport under "inhumane" conditions.

According to the constitution, individuals who attempted to enter the country through a "safe country of transit," i.e., a member state of the EU or a country adhering to the 1951 convention, were ineligible for asylum and could be turned back at the border or, if they had entered the country, be deported to that safe country of transit. Several NGOs questioned this regulation during the year; they called for a right of appeal and individual consideration of each case in the country. Several courts in the country stopped planned deportations to another EU country under the abovementioned law. On July 20, the Frankfurt administrative court ruled that the federal government had to allow the Iranian defendant to file his asylum application in the country, although he entered the country via another EU country. On September 8, the Federal Constitutional Court suspended, for similar reasons, the deportation of an Iraqi asylum seeker to another EU country, where he had originally filed a first asylum application.

In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In December, the Federal Ministry of Interior instructed the federal states to suspend the deportation of Syrians who face immediate deportation due to uncertainty about their treatment upon return to Syria.

Although the government processes refugee and asylum cases according to existing law, the approval rate was low. From January through July, authorities processed 16,854 asylum applications and granted 5,261 persons (31.2 percent) refugee protection under the 1951 convention and its 1967 protocol. In addition, authorities granted 860 persons (5.1 percent)

temporary suspension of expulsion due to the situation in their countries of origin or based on other humanitarian grounds. The country rejected 6,248 applications (37.1 percent) and "resolved otherwise" (e.g. procedures were closed or applications withdrawn) another 4,485 applications (26.6 percent). All cases in which asylum was granted must be reviewed after three years to determine whether the grounds for asylum still apply.

On December 4, the interior ministers of the country's 16 federal states extended the residence permits of "long term" asylum seekers for another two years. This ruling affected approximately 30,000 asylum-seekers in the country who were refused asylum, but who nonetheless could not be sent back to their countries of origin. In order for these asylum seekers to remain in the country as residents, they are required to prove that they have "made a concerted effort" to find employment and can be expected to support themselves in the future. Some human rights organizations criticized the ministers' failure to grant the asylum seekers' residency outright.

During the year there were more than 14,000 officially registered refugees from Kosovo living in the country, including 10,000 Roma, all of whom are required by law to leave the country once the government determines they would no longer face any risks of oppression upon return to their homes. The Federal Interior Ministry has pledged to pursue a maximum of 2,500 repatriations per year to ensure that Kosovo is not overburdened by a sudden influx of returnees. In 2008, 900 Kosovars returned to the region. Some returned voluntarily; others were deported.

Stateless Persons

According to statistics from the UNHCR, 9,322 stateless persons live in the country. There is insufficient data on the number of stateless persons who are also refugees. In general, the government effectively implemented laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis. German citizenship may be acquired by naturalization by those with permanent residence who have lived in the country for eight years. However, refugees and stateless persons may apply after six years' residence. It can be difficult for an applicant to produce sufficient evidence or documentation for the establishment of statelessness status. The burden of proof is on the applicant. In general, the country protects stateless persons from deportation to their country of origin or usual residence when threatened with political persecution.

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

The constitution 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

On September 27, the country held elections for seats in the parliament that were considered free and fair. Political parties operate without restriction or outside interference unless they are deemed a threat to the federal constitution. A report on the parliamentary elections released December 14 by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE) criticized certain legal provisions for the admission of new parties. The election observers noted that the federal election committee, which decides on such admissions, is composed of those parties already represented in parliament and that this could lead to a conflict of interest. The report also noted that the law does not provide for judicial review of election administration decisions before election day, thus diminishing access of citizens to a timely remedy.

On June 7, the country held elections to the European Parliament that were considered free and fair.

The federal chancellor is a woman, and there were 204 women in the 611-seat parliament. In addition to the chancellor, five women sat in the 16-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 parliament, one on the Federal Constitutional Court, and one in the cabinet.

Section 4 Official Corruption and Government Transparency

There were isolated reports of government corruption during the year. 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. On December 9, the Council of Europe criticized the country's anticorruption efforts and recommended the tightening of the criminal code regarding the bribery of parliamentarians.

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

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government has cooperated with international war crimes tribunals. For example, the Federal Ministry of Economic Cooperation and Development and the Ministry of Foreign Affairs pledged a sum of 6.7 million euros (\$9.6 million) to the operational costs of the Khmer Rouge War Crimes Tribunal in 2009-2010.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits the denial of access to housing, health care, or education on the basis of race, ethnicity, gender, religious affiliation, age, sexual orientation, disability, language, or social status, and the government normally enforced these provisions in practice.

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 7,292 cases of rape or serious sexual coercion in 2008. The federal government supported numerous projects in conjunction with the federal 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. Penalties varied depending on the nature of the case. 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 between 20 and 25 percent of women have been victims of physical or sexual violence. There are more than 400 women's shelters in the country, and, according to the Federal Ministry for Family, Senior Citizens, Women, and Youth, approximately 45,000 women per year seek shelter. There are many NGOs on the local level providing hotlines, assistance, advice, and shelter.

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 spouse from abroad. In addition, some women were sent by their families to other countries to marry against their will.

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

Honor killings were also reported. On February 13, the Hamburg District Court found a 24-year-old Afghan-German man, Ahmad-Sobair Obeidi, guilty of the May 2008 stabbing and killing of his 16-year-old sister, Morsal, and sentenced him to life imprisonment with the possibility of release after 15 years. During the trial the defendant stated that his sister had, in his view, turned away from her family, dressed inappropriately in public, and worked as a prostitute.

Prostitution is legal and widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods. A legal framework for improving the legal and social situation of persons engaged in prostitution 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.

On July 26, Baden-Wuerttemberg police raided two brothels in the state. Both brothels were closed because of unsanitary conditions. In one establishment, police arrested the manager and 11 other persons. Police found one confirmed case of forced prostitution. In the other brothel, the police arrested four persons.

On July 7, a citizens' group called Bi-gegen-bordell protested against the introduction of a "flat-rate" brothel for sexual services in Wettenberg-Wissmar, Hesse. The group petitioned the police and local city authorities to take action against the brothel, which was described as "inhuman and misogynistic."

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 are 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. There are no reliable data available on the extent of this problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, skilled attendance during childbirth, and women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

Men and women enjoy equal rights under the constitution. The Federal Ministry for Family, Senior Citizens, Women, and Youth was the primary federal agency responsible for protecting women's rights. The law provides for equal pay for equal work. Employers generally did not discriminate against women in terms of compensation for equivalent work, although women were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations. According to current information from the Federal Ministry for Family, Senior Citizens, Women and Youth, women earn an estimated 23 percent less than men for the same work. This is largely because more women in the country tended to be part-time workers.

Children

Citizenship is derived by birth from one's parents (*jus sanguinis*). However, citizenship also can be granted to children born in Germany as long as one parent has been living in Germany for at least eight years or one parent has a permanent residence permit and has had this status for at least three years. Dual nationality is not allowed, and upon turning 23 a dual national must opt for one citizenship or the other. Birth registrations are recorded by civil registration offices.

The law criminalizes rape and provides penalties of up to 15 years in prison. Consensual sex is legal from the age of 14 in most cases. An exception is if the older partner is aged over 18 and is "exploiting a coercive situation" or offering compensation, in which case the younger partner must be over 16. In addition, it is illegal for someone older than 21 to have sex with someone under 16 if the older person "exploits the victim's lack of capacity for sexual self-determination." According to one estimate, 3-11 percent of all prostitutes in the country are underage.

Under the law possession of child pornography is a criminal offense. A child is defined as a person younger than 14 years of age. According to the law, the mere possession of, or attempt to acquire, any material reflecting a true or realistic incident of child pornography is punished with a prison sentence from three months up to five years. The country's legal system also applies extraterritorial jurisdiction, so that any act of child pornography is prosecuted in the country according to German law, even if the act was not committed on German territory.

According to the Federal Criminal Office (FCO), in 2008 there were 12,052 reported incidents of sexual abuse of children up to 14 years of age compared with 15,935 incidents in 2007. Between 2007 and 2008 the number of cases involving the distribution of child pornography (photographs and videos) increased by 14.5 percent to 18,264 cases. However, the number of reported cases of ownership and procurement of child pornography dropped by 40.9 percent from 11,357 cases in 2007 to 6,707 in 2008.

In March authorities accused Joerg Tauss, then the secretary general of Baden-Wuerttemberg's Social Democratic Party (SPD) and a member of the federal parliament, of possessing child pornography. In June, Tauss left the SPD parliamentary caucus under pressure. The federal parliament lifted his immunity in September, and the Karlsruhe prosecutor's office then filed charges against Tauss for possession and distribution of child pornography.

The Coalition for Street Children estimated there were as many as 11,000 street children in the country during the year. Authorities believed that these children were often subjected to violence and abuse and were frequently fleeing violent and abusive homes. Street children often turned to prostitution for income.

Trafficking in Persons

The criminal code prohibits trafficking in persons for all purposes; 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, women, and children trafficked for commercial sexual exploitation and, to a lesser extent, forced labor. Victims were trafficked to the country from other parts of Europe, Africa (primarily Nigeria), Asia, and the Western Hemisphere. Approximately a quarter of the sex-trafficking victims were German nationals trafficked within the country. In 2008, the most recent year for which trafficking statistics are available, there were declines in the observed number of Czech, Romanian, and Polish victims but increases in the number of Bulgarian, Hungarian, and Nigerian victims. Twenty-four percent of trafficking victims were younger than 18 years of age. The majority of identified sex-trafficking victims were exploited in bars and brothels. Reported incidents of forced labor mainly involved work in restaurants, domestic work, and work in the agricultural sector.

Authorities identified 676 sex-trafficking victims in 2008, compared with 689 in 2007, and 96 victims of forced labor in 2008, a decrease from 101 in 2007. Despite government encouragement of victims to cooperate in antitrafficking investigations, many victims indicated that threats or influence from traffickers made them reluctant to cooperate with

authorities. Foreign victims who resided illegally in the country were given a minimum one-month reflection period to consider cooperating with government investigators before they were subject to deportation. The government provided legal alternatives to victims' deportation to countries where they might face hardship or retribution. These measures included temporary residence permits for the duration of trial proceedings as well as long-term residence permits to victims in certain circumstances, such as when the victim faced severe threats in the country of origin.

Approximately one-third of sex-trafficking victims reported they had agreed to engage in prostitution. Many victims who agreed to work as prostitutes were deceived about the nature of exploitative conditions at their work: 17 percent of victims stated they were professionally recruited (e.g., by talent agencies or newspaper advertisements); 22 percent reported being deceived about the true purpose of their entry into the country; and 14 percent reported that traffickers used violence to coerce them into prostitution. Traffickers promised victims high earnings and better living conditions but then used debts (e.g., for organizing passports or visas and travel expenses) deliberately to create relationships of dependency. The victims felt they had no option but to accept the conditions and permanently work as prostitutes.

Penalties for sex trafficking range from six months' to ten years' imprisonment and for labor trafficking from one to 10 years' imprisonment.

In 2008, the most recent year for which statistics were available, authorities completed 482 sex-trafficking investigations. In 2008 authorities prosecuted 173 persons and won convictions in 138 cases for trafficking for sexual exploitation. In the same year, they prosecuted 25 persons and convicted 16 for labor trafficking. In cases where trafficking offenses carried the most severe sentences, courts gave a suspended sentence to 70 percent of the traffickers who were convicted.

On July 21, a Hamburg brothel owner received a 10-year sentence for his involvement in the rape and trafficking of victims forced into prostitution. The individual was a known criminal who had already spent time in prison in Bulgaria and the Czech Republic.

In March police freed a 36-year-old Bulgarian woman who had been held for weeks in slave-like conditions in a one-room apartment in Oberfoehring, Bavaria, and forced into prostitution.

On March 18, a Munich court sentenced a 43-year-old man and his 31-year-old Romanian accomplice for luring young Romanian women to Munich and forcing them to work as prostitutes. The man received a prison sentence of three years and three months; his accomplice a two-year suspended prison sentence.

The federal and state governments worked with NGOs and local women's shelters to identify and assist victims of sex and labor trafficking. State governments funded dozens of NGOs that provided shelter, counseling, and assistance and facilitated protection for victims of trafficking. The Federal Ministry for Family, Senior Citizens, Women, and Youth fully funded the umbrella organization representing 36 NGOs and counseling centers that assisted trafficking victims. The vast majority of these NGOs focused on adult female victims. Based on cooperation agreements between law enforcement agencies and NGOs, police notified counseling centers of trafficking victims whom they identified and informed victims of their rights and options for seeking assistance. In 12 of the 16 federal states, there were cooperation agreements between police, state welfare agencies, and NGOs that governed the provision of welfare services to trafficking victims.

Police and NGOs jointly organized specialized seminars for investigating officers, victim protection officials, and prosecutors as well as workshops in source and transit countries.

The country also made increased efforts in combating labor trafficking. The German Institute for Human Rights began a three-year, 600,000-euro (\$860,000) project to assist trafficking victims to claim their rights in the country's courts.

During the year the International Organization for Migration received one million euros (\$1.43 million) in funding from the Federal Ministry for Labor and Social Affairs and the Berlin Senate to administer a three-year project to examine and determine the extent of labor trafficking in the country and the government's responses. The project will also establish a network of civil society and government actors involved in the issue.

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

Persons with Disabilities

Under the law, the Federal Commissioner for Matters relating to Disabled Persons is the principal government contact in all matters related to persons with disabilities and has specific responsibility for protecting the rights of persons with disabilities. In addition the Ministry of Labor and Social Affairs, the Ministry for Family, Senior Citizens, Women, and Youth, and the Ministry of Transport, Building and Urban Affairs have responsibility for addressing the needs of persons with disabilities.

In 2008 there were eight violent right-wing extremist crimes against persons with disabilities; there was a total of 45 such crimes between 2001 and 2008.

The constitution prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, and the provision of other federal state services, and the government effectively enforced these provisions. However, the federal states of Bavaria, Baden-Wuerttemberg, North Rhine-Westphalia, and Saxony limited the number of children with disabilities attending secondary schools. For example, in Baden-Wuerttemberg 54,200 students with disabilities were required to go to special schools, which often prevented them from attending secondary school. During the year only 15.7 percent of children with disabilities attended regular schools together with children without disabilities. While special schools are often better equipped to take special care of students with disabilities, critics argue that such separation prevents the full integration of children with disabilities in the professional world and in society as a whole.

The number of schools and day care facilities that accommodated both children with disabilities and children without disabilities increased from 7,789 in 1998 to 14,143 in 2008, while the number of day care centers and schools exclusively for children with disabilities decreased from 691 in 1998 to 378 by mid-2008.

In July the government released a report on the status of persons with disabilities which indicated that unemployment among persons with disabilities decreased by more than 14 percent between 2005 and 2008. The number of employees with disabilities increased from 7.3 percent in 2005 to 8.5 percent in 2006. In 2007-2008, 72 percent of all juveniles with disabilities started professional training, and 27 percent found slots in preparational professional training programs.

The federal government has developed guidelines for barrier-free public buildings and for modifying streets and pedestrian zones to accommodate persons with disabilities. All 16 federal states have incorporated these guidelines into their building codes. Almost all federal buildings (98 percent) complied with the guidelines for a barrier-free environment. The federal government provided payments of 518.2 million euros (\$741 million) per year through 2019 to the states to support barrier-free buildings. Efforts are continuing to improve further barrier-free access in public transportation.

National/Racial/Ethnic Minorities

Beatings and harassment of foreigners and members of racial minorities remained a frequent problem throughout the country.

The FCO defined "politically motivated crimes" as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world view, ancestry, sexual orientation, disability status, appearance, or social status. The FOPC report

listed 156 right-wing extremist organizations and groups. Authorities estimated that as of the end of 2008 there were approximately 30,000 persons who either belonged to one or more of these groups or were right-wing extremists without an organizational affiliation.

In 2008 the FOPC recorded 19,894 right-wing politically motivated crimes compared with 17,176 such incidents in 2007. Of these, 1,042 were violent in 2008, compared with 980 in 2007. The government registered 308 right-wing politically motivated crimes involving the use of weapons in 2008, compared with 359 in 2007. According to recent statistics from the federal government, 12,066 right-wing extremist offenses occurred in the first nine months of the year, including 572 violent acts and 8,369 instances of propaganda. In these incidents 576 persons were injured.

On August 13, in the federal state of Thuringia the NPD threatened a 45-year-old Angolan-born citizen who had supported the Christian Democratic Union (CDU) party on campaign posters for the August 30 state elections. In a press release the NPD insulted him with a racial epithet and announced it would seek "direct talks" with the man to make him "begin a new life in his home country, Angola." Thuringia authorities placed the person under police protection. The CDU state party filed a complaint against the Thuringian NPD for incitement of hatred.

On August 22, three supporters of the NDP in Hamburg attacked a British citizen of African ethnic background at an NDP election stand. The NDP supporters sprayed the man with pepper spray after he tore up an NDP flyer they had been distributing. The victim received outpatient treatment at a hospital. Police arrested the three attackers.

In January 2008 police in Braunschweig, Lower Saxony, charged two men for a 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 neo-Nazis. The investigation was continuing at year's end.

There was no further information on the continuing investigation into the 2007 case involving the verbal harassment and beating of an African-American in Berlin-Spandau.

The state district attorney continued to investigate seven persons involved in the 2007 incident in Muegeln, Saxony, 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 was no further information on the continuing investigation into the 2007 attack against several Iraqis traveling on a bus in Magdeburg, Saxony-Anhalt. The state prosecutor was investigating three suspects at year's end.

In the state of Mecklenburg-West Pomerania, the NPD eventually withdrew election posters "Stop the Invasion by Poles" after the Greifswald Higher Administrative Court ruled on September 19 that the display of the posters was an act of incitement of hatred and posed a threat to public order and security.

To address right-wing extremism, authorities conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. The Federal Ministry of Family, Senior Citizens, Women, and Youth implemented three complementary federal programs to combat right-wing extremism: "Diversity is Good," a 19-million-euro (\$27.2 million) per year program designed to train youth, educators, and immigrants about right-wing extremism, anti-Semitism, and xenophobia; "Competent for Democracy," a five-million-euro (\$7.2 million) per year network to provide counseling in conflict situations; and "Places of Diversity," a network of organizations, including political parties, media outlets, churches, and businesses, to promote tolerance and democracy.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Many LGBT rights groups in the country report no impediments to their operations or free association. During the year several gay pride marches occurred around the country without hindrances. However, media and other reports indicated

that societal and job-related discrimination against LGBT persons occurred, although such instances were rare. The government reported 54 hate crimes in 2008 in the OSCE's report, *Hate Crimes in the OSCE Region*.

According to a study by the Berlin antiviolence project MANEO, between April 2008 and April 2009 more than 35 percent of LGBT persons surveyed nationwide experienced some form of violence because of their sexual orientation. Approximately 11.9 percent of all cases were registered with the police.

According to federal statistics, there were seven violent and right-wing extremist crimes in 2008 against persons because of their sexual orientation and a total of 42 such crimes between 2001 and 2008 nationwide.

On April 5 in Berlin, five youths attacked a gay couple, evidently because of the victims' sexual orientation. One 42-year-old man suffered swelling, scrapes, and hematoma on his face; his 35-year-old partner suffered bruises and scrapes on his upper arm. The state criminal investigation department took over the investigation.

On July 6, a 45-year-old gay man was attacked with a stone in Berlin. The police were investigating the attack at year's end.

Other Societal Violence or Discrimination

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

Section 7 Worker Rights

a. The Right of Association

The constitution provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization. There is no minimum membership requirement for a trade union. During the year approximately 21.3 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 constitution permits unions to conduct their activities without interference, and the government generally respected this right in practice.

The constitution provides for the right to strike for all workers except certain civil servants (including teachers) and staff in sensitive or essential positions, such as members of the armed forces. Workers not allowed to strike had legal recourse through the courts to protect their rights. The law prohibits retaliation against strikers, and the government generally enforced this law.

b. The Right to Organize and Bargain Collectively

The constitution protects the right to collective bargaining, and agreements are governed by law. Collective agreements are only binding for trade union members and their respective employer associations. The government generally respected this right in practice. Collective bargaining agreements covered approximately 63 percent of the labor force in the western part of the country and approximately 54 percent in the east. Collective bargaining agreements negotiated with public service employees are usually extended to civil servants via legislation, 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 are prohibited by law and were not widespread. However, the International Trade Union Confederation reported during the year that discriminatory tactics of some employers included targeted dismissals, demotions, transfers, and discrimination in recruitment.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution and federal statutes prohibit forced or compulsory labor, including by children; however, there were reports that men, women, and children from Europe, Africa (primarily Nigeria), Asia, and the Western Hemisphere were trafficked to the country, mainly for sexual exploitation. The majority of incidents of sexual exploitation occurred in bars and brothels; labor exploitation of illegal residents occurred mainly in restaurants, households, transportation, and construction. Researchers estimate 15,000 persons became victims of sexual exploitation and forced labor during the year.

The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

Comprehensive legislation protects children from exploitation in the workplace, and the government enforced these laws.

The law prohibits the employment of children younger than 15 with a few exceptions: children 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 children 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 the day. Abusive child labor was not a serious problem, although violations did occur mainly in small, often family-owned businesses such as bars, restaurants, and grocery stores.

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

e. Acceptable Conditions of Work

The country does not have a statutory minimum wage. However, binding minimum wages have been established in 14 branches or sectors (e.g., construction, electrical trades, painting, postal service) covering an estimated 1.4 million workers. In August employers and union representatives agreed to introduce minimum wages for approximately 170,000 workers in waste management, large-scale laundries, and special mining services. The new government coalition opposed the introduction of a national minimum wage but advocated a legal ban on "immoral" wages, i.e., those wages one-third below average wages in a given sector. No further government action on introduction of minimum wages is expected in the foreseeable future. Collective bargaining agreements setting minimum pay rates are enforceable by law and covered an estimated 60 percent of all wage earners. Individual contracts or company-level contracts negotiated by worker representatives who are not necessarily members of unions covered the remaining 40 percent of the workforce.

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. At times, 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.

Federal regulations limit 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 regulated the number of hours of work per week. According to the European Labor Force Survey, the average full-time employee's workweek was 39.4 hours for women and 40.8 hours for men in 2008; 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. In practice 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 federal 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.