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2010 Human Rights Report: Germany

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

Germany is a constitutional, parliamentary, democracy with a population of approximately 82 million. Citizens choose their representatives periodically 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 2009. Security forces reported to civilian authorities.

The law provides fundamental rights for citizens; however, the government limited the freedoms of speech, press, assembly, and association of neo-Nazi and other groups it deemed extremist. There was governmental and societal discrimination against some minority religious groups. There were instances of 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 against and harassment of racial minorities, foreigners, and sexual minorities.

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.

In October the Nuremberg Higher Regional Court upheld on appeal lower-court findings that police officers acted in self defense in the 2009 shooting death of Tennessee Eisenberg. On November 22, Eisenberg's family filed a complaint with the Federal Constitutional Court in Karlsruhe, which was pending at year's end. The shooting took place in Regensburg, Bavaria, where two police officers killed the 24-year-old man after he allegedly refused police demands to drop a knife. Eisenberg's corpse had 12 bullet wounds. Both the public prosecuting office and the Nuremberg higher district court had reached findings of self defense.

The trial of former concentration camp guard John Demjanjuk continued during the year in the Munich Regional Court. Prosecutors accused Demjanjuk 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. Demjanjuk was deported from the United States in May 2009.

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

As of year's end, the Muenster Regional Court had not initiated its review of the cases of three Bundeswehr staff sergeants charged with hazing subordinates at a training site in Coesfeld in 2004. The sergeants were acquitted by the regional court in 2008, but in October 2009 the Federal Court of Justice reversed the decision and returned the case to the regional court for review.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers.

On January 7, the Federal Court of Justice returned to the Magdeburg regional court for retrial the regional court's 2008 acquittal of one of two police officers charged with causing the death of Oury Jalloh from Sierra Leone, who died in 2005 when his cell in a Dessau police station caught fire. The new trial, originally scheduled for October 25, was postponed due to the illness of the defendant. The 2008 acquittal of a second police officer in the case was not appealed.

According to the Federal Statistics Office, the country's prison population at the end of November was 69,385, including 3,755 women and 10,781 pretrial detainees. Of the latter, 374 were juveniles (under 18 years of age). The prison system had a capacity of 77,944 inmates.

Prisoners and detainees had reasonable access to visitors and could engage in religious observance. Authorities permitted convicts and detainees to submit complaints to judicial authorities without censorship. Authorities investigated credible allegations of inhumane conditions. The government investigated and monitored prison and detention center conditions.

The National Agency for the Prevention of Torture is the country's independent institution for preventing torture and other cruel, inhuman, or degrading treatment or punishment. Only institutions under federal jurisdiction, i.e., the Federal Police (Bundespolizei) and Federal German Defense Forces (Bundeswehr) fall under the mandate of this agency. It reports annually to the parliament and government. In the 12 months ending in April, the agency conducted four official inspections at Federal Police installations and two at Bundeswehr installations. These found no evidence of inhuman treatment of detained persons. In some cases, the agency proposed improvements, including the installation of fire detectors, improved daylight access, and the provision of equipment for a medical treatment room.

Most institutions for the incarceration of detainees, including police stations, detention centers, and prisons, are the responsibility of the states (Laender). In November the federal authorities informed the UN high commissioner for the prevention of torture that a Joint Laender Commission had been established to inspect such facilities, including those operated by police, the judiciary, detention facilities in psychiatric clinics, persons held pending deportation, nursing

homes, and youth-welfare establishments. The joint commission began its operations on September 24; it conducted two visits to inspect facilities during the year. It was too early to evaluate the effectiveness of the commission. Together, the National Agency for the Prevention of Torture and the Joint Laender Commission for the Prevention of Torture make up the national preventive mechanism required by under the Optional Protocol to the UN Convention against Torture.

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A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the country from November 25 to December 7. It reviewed measures taken by authorities to address earlier CPT recommendations, in particular those concerning instituting fundamental safeguards against mistreatment of persons in police custody and improving conditions in the units in various prisons holding persons involved in immigration matters. The delegation also examined in detail the situation of persons subject to preventive detention (Sicherungsverwahrung) and juvenile offenders held in penitentiary establishments. For the first time, the delegation visited a women's prison. In one of the states visited, Berlin, the delegation collected information on the surgical castration of sexual offenders. No report by the delegation was available by year's end.

There is no ombudsman for prisons or prisoner affairs.

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, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

On July 8, Amnesty International (AI) released a report covering 2004-08 that found investigations of police officers who killed, injured, or mistreated persons in custody to have been at times half-hearted, partisan, and lacking in thoroughness. While AI found no evidence of systematic, unlawful police violence, the organization called for the creation of an independent special commission for investigations of police officers. Hamburg already had such an institution.

Arrest Procedures and Treatment While in Detention

Authorities may arrest an individual only on the basis of a warrant issued by a competent judicial authority unless 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 authorities must bring a person detained on suspicion of having committed a criminal offense before a judge no later than the day after his arrest. At that time, the judge must inform him of the reasons for the arrest and give him an opportunity to raise objections. The law entitles a detainee to prompt access to an attorney, either one 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.

Bail exists but is infrequently granted. Authorities usually released persons awaiting trial unless a court decided that there was a clear risk that they might flee. In such cases, authorities could hold detainees for the duration of the investigation and subsequent trial, subject to judicial review. 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.

The law does not allow courts to punish persons twice for the same crime; however, in cases involving rape, homicide, or manslaughter, a court may order an offender to spend additional time in "subsequent preventive detention" after he completes his sentence if it determines that the offender represents a continuing danger. Until 1998 "subsequent preventive detention" was limited to 10 years, but in that year, a new law removed the limit, permitting the imposition of subsequent preventive detention for an indefinite period. Legislation that took effect on January 1 limited this form of detention to serious crimes. The 1998 law has also been applied retroactively to some prisoners who were originally sentenced while the 10-year limit was still in place. In ruling on such a case, the European Court of Human Rights (ECHR) on May 11, reaffirmed on appeal its December 2009 judgement that the government must compensate a man whom it had held in "subsequent preventive detention" since 1991, when he completed a five-year sentence for attempted murder and robbery. The ECHR held that the country's use of this form of detention violated the European Convention on Human Rights.

On June 1, the ECHR ruled that the trial of Magnus Gaefgen on charges of kidnapping, and later killing, an 11-year-old boy in Frankfurt had been fair, and he had no justifiable claim of a human rights violation against the Justice Ministry or police. Gaefgen was found guilty but contended that he confessed only after the vice president of Hesse's police threatened to torture him. Gaefgen's case and the alleged torture threat were widely publicized, since the child he killed was the son of a well-known Frankfurt banker. The accused police officer eventually resigned over the incident. Gaefgen was serving a life sentence for the crime.

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, authorities must inform a suspect, arrested or not, of 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 one year or less. Courts generally suspended one-year sentences and placed the convicted individuals on probation. Heavy caseloads at times delayed court proceedings.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Courts Decisions

During the year three new suits were brought against the country in the ECHR. Also during the year, the ECHR issued decisions in earlier suits that found 19 violations related to the length of court proceedings. In 2009 the ECHR issued judgments on 10 cases that included five violations regarding the length of court proceedings, one violation of the right to a fair trial, and one violation of the right to an effective remedy.

On September 2, the court set a precedent by ruling in *Rumpf v. Germany* that the government must introduce, at the latest within one year, an effective domestic remedy against excessively long court proceedings.

There were no reports of failure of authorities to comply with ECHR court decisions.

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

The state OPCs in Hesse, Baden-Wuerttemberg, Lower Saxony, North Rhine-Westphalia, and Bavaria continued to keep the Left Party under observation. The State OPC in North Rhine-Westphalia publicly confirmed in November that it continued this practice, arguing that the party tolerated groups within its ranks that are extremist, and it did not sufficiently distance itself from left-wing extremist violence. In November 2009 the interior minister of Lower Saxony stated that the state OPC only monitored the Left Party and not individual Left Party members.

In September 2009 the federal government confirmed that 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's February 2009 decision authorized surveillance of the party.

On August 22, the president of the FOPC stated that continued observation of the Left Party was necessary because the party maintained contacts with communist organizations abroad and left-wing extremist groups in the country.

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 suspected 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.

On March 2, the Federal Constitutional Court ruled that the law requiring the mass storage of telephone and Internet communications data (Vorratsdatenspeicherung) was unconstitutional because it violated telecommunications secrecy. The court called for all the information saved under the law to be deleted "without delay." Although the court ruled that data storage is not in itself unconstitutional, the law was disproportionate and did not provide sufficient data protection measures. The companies that held the data in question subsequently announced that they had complied with the decision.

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 generally respected these rights in practice, it imposed limits aimed at groups it deemed extremist. In November 2009 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. In August 2009 the Federal Court of Justice ruled that persons can be prosecuted for displaying Nazi slogans only if the slogans are in the German language. The court argued that translations of Nazi slogans were not Nazi symbols, since Nazi slogans are inseparably connected with the use of the German language.

During the year courts convicted persons for speech that denied the Holocaust or was deemed offensive to Jews (see section 6, Anti-Semitism).

On May 6, the municipal court of Amtsgericht, Saarbruecken, found Udo Pastoers, a member of the National Democratic Party of Germany (NPD), guilty of sedition. The court gave Pastoers a suspended, 10-month sentence and fined him 6,000 euros (\$7,980). According to the court, Pastoers "went beyond the right of freedom of expression" when he insulted persons of Turkish and Jewish descent in a February 2009 speech. On October 19, Pastoers appealed to the regional court.

The independent media were active and expressed a wide variety of views with few restrictions.

On July 7, the Gera Administrative Court in Thuringia ruled that the mayor of Gera did not have the right to call for a demonstration against an NPD-organized neo-Nazi rock concert scheduled for July 10. The court ruled that the call for the demonstration violated the mayor's duty to be neutral. State parliament representatives from the Left Party criticized the decision, saying that there should not be any neutrality regarding Nazi ideology.

Internet Freedom

There were no government restrictions on access to the Internet; however, government agencies may monitor e-mail or Internet chat rooms in certain circumstances. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics approximately 79 percent of the country's inhabitants used the Internet.

Federal and state laws permitted the FOPC and state 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.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

Once a demonstration is officially registered, it is illegal to block it, even when it is organized by neo-Nazi groups. During the year the Saxony prosecutor successfully sought to have parliamentary immunity lifted from one of two Left Party leaders who participated in the February 13 blockade by anti-Nazi demonstrators of a neo-Nazi demonstration in Dresden. The outcome of the ensuing prosecution was pending at year's end.

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.

In April Bavaria amended its assembly law to meet the requirements of the Federal Constitutional Court, primarily with regard to the duties of organizers, police performance, and penalties. On June 1, the Bavarian state parliament amended the law on the right of assembly with the primary intention of controlling right-wing extremist demonstrations. The amendment was in response to a February 2009 ruling by the Federal Constitutional Court that the state's law was unconstitutional because it could be used inappropriately to restrict any type of public demonstration.

In August the Schaumburg county administration in Lower Saxony prohibited both a neo-Nazi demonstration and a counter-demonstration by trade unions and left-wing groups scheduled for August 14, in Bad Nenndorf. The administration asserted that the demonstrations might result in violence, and it could not provide the required number of police to secure the marches. In reaction organizers of both demonstrations filed a suit. Initially, on August 12, the Hannover Administrative Court decided to permit the Nazi march but barred the counter demonstration, since the police could only handle one demonstration and the right-wing group had registered earliest. However, on August 13, after an appeal by the German Trade Unions Federation, the Lueneburg Higher Administrative Court permitted the left-wing demonstration as well.

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 (see section 2.a.). 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 also 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. 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 June 10, the Berlin-Brandenburg Higher Administrative Court confirmed a 2009 decision by the Berlin senator of the interior to ban the right-wing extremist group Frontbann 24, which had been active in Berlin since 2008. The senator stated that the group was positioned against the constitutional order and had shown affinity to National Socialism. The police simultaneously raided apartments of the groups' members in Berlin.

On September 1, the Leipzig Federal Court of Justice (as a court of last instance), rejected a revision and confirmed a ban on the Kiel-based right-wing extremist group German Youth Faithful to the Homeland (HDJ), on the grounds that the

organization was similar to the Nazi-era Hitler Youth and was directed against democracy and the country's constitution. The ban was imposed on HDJ in March 2009 by then federal interior minister Wolfgang Schaueble for distributing racist and Nazi propaganda. Searches were carried out in Berlin, Brandenburg, Lower Saxony, and Saxony in an effort to confiscate the HDJ's assets.

On December 21, police raided the homes of suspected neo-Nazis in five cities (Hohen Neuendorf in Brandenburg, Ludwigshafen and Bad Dürkheim in Rhineland-Palatinate, and Heidelberg in Baden-Wuerttemberg) in an effort to prevent the holding of a "national year-end camp" for children. The homes in question belonged to members of the IG Fahrt and Lager, the successor organization to the HDJ, an organization banned in 2009 because the group ran camps modeled on those of the Hitler Youth, teaching children as young as six years old that foreigners and Jews were a threat to the nation. According to police, after the HDJ was banned, former members continued their work in the guise of the Young National Democrats, the NPD youth organization. The police seized right-wing extremist propaganda that members of the group allegedly planned to distribute to minors at the upcoming youth camp.

On September 7, Rhineland Palatinate police forces searched offices and apartments of the neo-Nazi group Hilfsorganisation fuer nationale politische Gefangene (HNG). With approximately 600 members, the HNG is the country's largest neo-Nazi group. Police officers raided four apartments in Mainz, including the garden shop of Ursula Mueller, the chairperson and, along with her husband Curt Mueller, central figures of the HNG.

c. Freedom of Religion

For a description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/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's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The constitution extends to foreigners persecuted on political grounds the right to apply for asylum in the country. The Asylum Procedure Act regulates the asylum procedure. The Residence Act also allows the granting of refugee status when the persecutors are not representatives of the state.

As a rule an applicant for asylum has the right to appeal a denial within two weeks. Once an appeal is filed, authorities may not deport the applicant until and unless the court has completed its deliberations and upheld the denial. In that case the applicant is obliged to leave the country. An applicant who does not comply is subject to deportation.

The government processes the asylum applications of individuals it finds to have adjudicable asylum claims at an international airport prior to their entry into the country (individuals seeking to enter the country by land do so from countries already judged to be safe countries that bear responsibility for adjudicating their asylum claims). The same applies to applicants without passports or with invalid passports. The Federal Office for Migration and Refugees must either make a decision on an asylum application within 48 hours or allow the person to enter the country. An applicant who

is rejected has three days to appeal to an administrative court, which must rule within 14 days or permit 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.

Persons whose asylum claims are rejected may not enter the country but must remain in the airport reception center until their departure. A judicial order is required to continue to hold individuals beyond 30 days of their arrival if authorities are unable to return them to their home countries within that period of time. The federal government claimed not to maintain statistics about detention in airport facilities.

In May 2009 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 from 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.

In the period 2004-09, 4,234 persons sought asylum upon their arrival at Frankfurt's international airport. The transit area of the Frankfurt airport, under the authority of the Federal Administration for Migration, has also been subject to criticism by human rights organizations, including AI in 2009 and during the year. According to Pro Asyl, authorities detained women with children, pregnant women, and children without parents in circumstances very similar to prison. According to the Hesse Ministry for Justice, some minors without parents remained more than 100 days in prison-like circumstances.

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 relating to the Status of Refugees, 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 several courts in the country stopped planned deportations to Greece.

On July 20, the Frankfurt administrative court ruled that the federal government had to allow an Iranian citizen 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 2009 the Federal Ministry of Interior instructed the federal states to suspend the deportation of Syrians, who faced immediate deportation due to uncertainty about their treatment upon return to Syria.

The government processed refugee and asylum cases according to existing law; the approval rate was low. During the year authorities processed 48,187 asylum applications and granted 7,704 persons (16.0 percent) refugee protection under the 1951 convention and its 1967 protocol. In addition they granted 2,691 persons (5.6 percent) temporary suspension of expulsion due to the situation in their countries of origin or based on other humanitarian grounds. The country rejected 27,255 applications (56.5 percent) and "resolved otherwise" (for example, applications withdrawn or procedures closed) another 10,537 (21.9 percent). All cases in which asylum was granted must be reviewed after three years to determine whether the grounds for asylum still apply.

In December 2009 the interior ministers of the country's 16 federal states extended the residence permits of "long-term" asylum seekers for an additional two years for those who otherwise would have had to leave during the year. This ruling

affected approximately 30,000 rejected asylum seekers whom authorities could not return to their countries of origin. In order for these persons 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, including approximately 10,000 Roma, living in the country. All of them were required by law to leave the country once the government determined they would no longer face any risks of oppression upon return. In April 2009 the German and Kosovo Interior Ministries concluded an agreement that provides for the return of Kosovar refugees. The federal Interior Ministry pledged to repatriate a maximum of 2,500 persons per year to ensure that Kosovo was not overburdened by a sudden influx of returnees. During the year 918 repatriation orders were issued, including 556 concerning Roma. Between January and April, 313 persons were deported, including 53 Roma. As an incentive the government provided special support to those refugees who returned voluntarily to Kosovo.

During the year human rights organizations questioned whether the agreement with Kosovo provided adequate safeguards for the refugees being repatriated there. In a report released in October, Human Rights Watch noted that Roma, Egyptians, and Ashkali deported from Western Europe to Kosovo faced numerous obstacles to enjoyment of their basic human rights, including lack of access to personal documents; statelessness; problems repossessing their property or obtaining housing; difficulties accessing education, health, employment, and social welfare; and separation from family members.

Stateless Persons

Citizenship is derived primarily by birth from one citizen parent. However, citizenship may also be granted to children based on their birth in the country, provided one parent has been living there for at least eight years or one parent has a permanent residence permit and has had that status for at least three years.

According to UNHCR statistics, there were 8,226 stateless persons at the end of 2009. Data on the number of stateless persons who were also refugees was incomplete. The government generally implemented laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis. 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 protected stateless persons from deportation to their country of origin or usual residence where they could be 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 based on universal suffrage.

Elections and Political Participation

In September 2009 the country held parliamentary elections that were considered free and fair. Political parties generally operated without restriction or outside interference unless they are deemed a threat to the federal constitution. Even when the federal authorities perceive such a threat, they have no authority to ban a party; they can only petition to the **Federal Constitutional Court** to do so.

A total of thirty-one splinter parties were denied approval to participate in the 2009 federal parliamentary elections. The federal election supervisor based his decisions on formal mistakes made by the parties in the approval process and their allegedly inadequate "manifestations of the characteristics of a political party." A report on the parliamentary elections released in December 2009 by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) criticized certain provisions of the law regarding the admission of new parties. The observers noted that the federal election committee, which decides on such admissions, is composed of those parties already represented in parliament, and this circumstance 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.

The federal chancellor and five of the 16 cabinet members were women. There were 207 women in the 622-seat Federal Parliament (about 32 percent). Four judges on the the 16-member Federal Constitutional Court were women.

There were at least 16 members of ethnic minorities or members with an immigrant background in the parliament, one on the Federal Constitutional Court, and one in the cabinet. On April 27, the first state-level Muslim minister was appointed, in Lower Saxony.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Nevertheless there continued to be reports of corruption. The construction sector and public contracting, where there were indications of inappropriate political party influence in the awarding of contracts, were areas of particular concern.

Most state governments and local authorities have contact points for whistle-blowers and provisions for rotating personnel in areas prone to corruption. Government officials are forbidden to accept gifts linked to their jobs. There were serious penalties for bribing officials, for corrupt practices between companies, and for price-fixing by companies competing for public contracts. Authorities have strengthened anticorruption provisions that apply to support extended by the official export credit agency and have tightened the rules for public tenders. Authorities have prosecuted domestic firms for paying bribes to foreign officials to secure contracts.

Parliamentarians are subject to financial disclosure laws that require them to publish earnings from outside employment. State prosecutors generally are responsible for investigating corruption cases. In December 2009 the Council of Europe criticized the country's anticorruption efforts and recommended tightening the criminal code with regard to bribery of parliamentarians. In its October 26 report, Transparency International criticized the dearth of legal measures to prosecute corruption among parliamentarians. It also recommended a ceiling for donations to political parties.

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.

A November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that Cronimet Mining GmbH, which is based in Germany, directly or indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC.

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.

There is no federal human rights ombudsman and no parliamentary committee with specific responsibilities for overseeing the country's human rights performance. The courts were the main resource for individuals seeking protection of individual human rights. Under the country's legal system, persons who believe that their rights have been violated are entitled to take their cases to court. In addition to the courts, the country has a wide range of governmental and nongovernmental bodies and organizations working to protect human rights. Petitions committees and commissioners for citizens' affairs provide individuals with contact points where they can lodge their complaints. Such points of contact are usually referred to as "ombudspersons."

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 effectively 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 7,314 cases of rape or serious sexual coercion in 2009. 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 were about 360 women's shelters in the country with approximately 7,000 rooms for women and children. According to the Federal Ministry for Family, Senior Citizens, Women, and Youth, approximately 400,000 women per year sought refuge from abusive situations. Many NGOs on the local level provided 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, 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.

Honor killings were also reported. On September 20, the the Federal Court of Justice approved the life imprisonment of a 47-year-old father who killed his daughter in Schweinfurt, Bavaria, stabbing her 68 times.

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 to be 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, but no statistics were available. 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. No reliable data on the extent of this problem was available.

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 and men were diagnosed and treated equally for sexually transmitted infections, including HIV. According to data compiled by international organizations, there were approximately seven maternal deaths per 100,000 live births in 2008.

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 pay women less than men 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

In most cases, citizenship is derived by birth from one's parents. Citizenship may also be granted to children born in the country provided one parent was resident for at least eight years or one parent has a permanent residence permit and has had that status for at least three years. Dual nationality is not recognized; and, upon reaching the age of 23, a dual national must choose one citizenship or the other. Civil registration offices record births.

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 over 18 years old and is "exploiting a coercive situation" or offering compensation, in which case the younger partner must be over 16 years old. In addition it is illegal for someone older than 21 years old to have sex with someone under 16 years old if the older person "exploits the victim's lack of capacity for sexual self-determination." According to one estimate, 3 to 11 percent of all prostitutes were 16 years old or younger.

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 punishable by a prison sentence of three months to five years. The country's legal system also applies extraterritorial jurisdiction, so that any act of child pornography is prosecuted domestically, according to domestic law, even if it was committed elsewhere.

According to the Federal Criminal Office (FCO), in 2009 there were 11,319 reported incidents of sexual abuse of children up to 14 years of age compared with 12,052 incidents in 2008. Between 2008 and 2009, the number of cases involving the distribution of child pornography (photographs and videos) declined to 11,597, a decrease of 36.5 percent. The number of reported cases of ownership and procurement of child pornography declined by 43.0 percent, from 6,707 cases in 2008 to 3,823 in 2009.

In March the community of Schiffweiler voted their mayor, Wolfgang Stengel, out of office after a Saarbruecken court found him guilty of procuring and possessing child pornography and fined him 7,500 euros (\$9,975).

On May 28, the Karlsruhe regional court gave Joerg Tauss, the former secretary-general of Baden-Wuerttemberg's Social Democratic Party (SPD) and a member of the federal parliament, a 15 month suspended sentence for possessing child

pornography. On August 31, the Federal Court of Justice rejected an appeal by Tauss as unfounded. When authorities first accused him in March 2009, Tauss left the SPD parliamentary caucus under pressure. The federal parliament lifted his immunity the following September, and the Karlsruhe prosecutor's office then filed formal charges.

The Coalition for Street Children estimated there were as many as 11,000 street children in the country. 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.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

The Jewish population was estimated to be more than 200,000 persons in 2009. The 2009 FOPC report listed a total of 1,502 right-wing, politically motivated crimes with extremist and anti-Semitic background in 2009 compared with 1,477 in 2008 (an increase of 1.7 percent). Federal authorities generally took action against the perpetrators of anti-Semitic offenses.

While most anti-Semitic acts were attributed to neo-Nazi or other right-wing extremist groups or persons, a number of high-profile anti-Semitic incidents indicated that Muslim youths were increasingly involved in attacks on, and harassment of, Jews. Annual statistics were not available; however, among the violent anti-Semitic attacks that occurred during the year were the following:

- On January 23, two teenage (ages 15 and 16) right-wing extremists committed an arson attack against the House of Democracy in Zossen, Brandenburg, which was hosting an exhibition on Jewish life in the city. Proceedings against them were ultimately dismissed on the grounds that they were too young to understand the gravity of their crimes. The 24-year-old head of one of the largest right-wing extremist groups in Brandenburg, Freie Kraefte Teltow Flaeming, also stood trial at the Zossen local court, for instigating the arson attack. He confessed to doing so, as well as to other offenses, including the use of Nazi symbols and incitement of hatred. Authorities suspected his group of involvement in an earlier attack on the House of Democracy in 2009. No information was available by year's end as to the outcome of his trial.
- On March 26, a man verbally attacked two 10-year-old girls at a local train station in Berlin-Wannsee using anti-Semitic remarks. When a bystander intervened to assist the girls, the attacker grabbed a beer bottle and threatened the girls and the bystander. Police were called, and the perpetrator was charged with incitement of racial hatred. The case was pending at year's end.
- On March 27, a man and two women were beaten on a subway station platform in Berlin. The three were approached by a man who asked if they were Jewish. He reportedly returned with a group of youths who attacked the three, beating and kicking them and hitting them over the head with beer bottles.
- On April 16, a neo-Nazi physically attacked a 17-year-old Israeli in Laucha, Saxony-Anhalt. The Israeli was only slightly injured and was able to escape with the help of a passerby. The offender, a 20-year-old neo-Nazi, was sentenced to eight months in prison and a 360 euro (\$479) fine by the Naumburg regional court on August 31.
- On June 19, a group of children and teenagers threw stones at members of a Jewish dance troupe and used a bullhorn to scream anti-Semitic remarks at them, forcing them off stage during a neighborhood street festival in Hanover, Lower Saxony. One of the dancers was injured, and the dance group subsequently ended their performance. The assailants were reportedly of Lebanese, Palestinian, Iraqi, Iranian, and Turkish origin. Politicians

and local associations responded in outrage and disbelief to the incident. The police identified nine suspects shortly after the incident.

- On June 27, neo-Nazis attacked a 23-year-old man in Berlin-Oberschoeneweide and injured him seriously. On October 13, the state police searched four apartments in Berlin Marzahn-Hellersdorf and Pankow and arrested four young men suspected of having committed the attack. The police found clothing they wore during the attack and neo-Nazi CDs. Arrest warrants were issued for the two suspects.
- On October 13, a group of juveniles insulted three Jewish teenagers using anti-Semitic slogans on a public bus in Cologne-Pesch (North Rhine- Westphalia). When the Jewish teenagers left the bus, they were spit on and kicked. Police were investigating four suspects, ages 11 to 15.

The most widespread anti-Semitic acts were the desecration of Jewish cemeteries or other monuments with graffiti that included the use of swastikas. Incidents during the year included the following:

- On May 2, unknown persons damaged a majority of the gravestones at a Jewish cemetery in Gangelt, North Rhine-Westphalia.
- On June 15, unknown persons spray-painted five gravestones and a wall at a Jewish cemetery in Babenhausen, Hesse, with swastikas.
- On August 29, unknown persons set fire to the door of the funeral hall of the Jewish cemetery in Dresden. Firefighters were able to extinguish the fire. The police had no suspects but did not rule out neo-Nazi involvement.
- On November 19, vandals damaged the historic Jewish cemetery in Wattenscheid (North Rhine-Westphalia). More than 25 gravestones were pulled down and smeared with paint, swastikas, other Nazi symbols, and Anti-Jewish slogans. The vandals also painted swastikas on a commemorative plaque of the former synagogue and on a glass stele commemorating the Shoa victims in other parts of the city. A police investigation was underway.

Other Jewish properties were also subject to anti-Semitic vandalism during the year:

- On the night of May 16, unknown persons doused a synagogue in Worms with flammable liquid and set it on fire, leaving a blackened exterior but no major damage. Forensics experts later identified eight sources of fire at the crime scene. The perpetrators also threw a Molotov cocktail through the window of the synagogue's library. Police found eight copies of a note that stated, "As long as you do not give the Palestinians peace, we are not going to give you peace." Rhineland-Palatinate's Minister-President Kurt Beck condemned the attack.
- On July 28, visitors to the Web site of the Buchenwald/Mittelbau-Dora Concentration Camp Memorial foundation were redirected to a Web site denying the Holocaust. Another foundation Web site was deleted. According to the foundation, the attackers left behind messages such as "brown is beautiful" and "We will be back." The Federal Office of Criminal Investigation began an investigation that continued at year's end.
- On August 29, there was an arson attack against the funeral hall of the Jewish cemetery in Dresden- Johannstadt (Saxony). The unknown perpetrators also set fire to the entrance door. An investigation was pending.
- On October 30, unknown perpetrators attacked the new synagogue in Mainz (Rhineland-Palatinate). The perpetrator threw a Molotov cocktail at the synagogue, but missed the building. There were no injuries and no damages. An investigation was pending at year's end. The synagogue had been inaugurated on September 3 with a ceremony that included numerous high-level figures, including President Christian Wulff, Cardinal Lehman of Mainz, and Rhineland-Palatinate Minister-President Beck.
- On December 7, unknown perpetrators defaced a memorial for the former Jewish synagogue in Magdeburg (Saxony - Anhalt) and the wall of the Israeli cemetery with Nazi slogans and symbols. The memorial for the synagogue had been subjected to a similar attack on November 14. A police investigation was pending at year's end.

During the year courts convicted persons for speech that denied the Holocaust or was deemed offensive to Jews (see section 2.a.). On April 16, a court in Regensburg, Bavaria, upheld a lower court's conviction of Richard Williamson, a bishop of the Saint Pius X Fraternity, for inciting racial hatred after he denied the Holocaust during a 2008 interview with Swedish television while he was in Germany. The court reduced his earlier fine of 12,000 euros (\$16,080) to 10,000 euros (\$13,400).

On November 3, it was reported that police arrested 22 persons suspected of spreading neo-Nazi ideology in a major action against the far-right Internet radio station Widerstand-Radio (Resistance Radio). In an operation involving 270 officers, police raided 22 premises across 10 of the country's 16 states, confiscating numerous computers and telephones.

During the year the prosecutor general in Gera, Thuringia, opened investigations against Karl-Heinz Hoffmann (founder of the Wehrsportgruppe Hoffman, which was banned in 1980) and five neo-Nazis in Thuringia suspected of having illegally procured explosives. On October 6, police searched Hoffmann's apartment and two other locations in Nuremberg (as well as 16 sites in Thuringia, Saxony, and Bavaria) and confiscated computers and other material. According to victims' advocacy groups, crimes committed by far-right extremists in Thuringia almost doubled over the five years ending in 2009. The advocacy groups contended that authorities appeared prepared to look the other way.

In August 2009 then interior minister Thomas Schaeuble appointed a group of experts on anti-Semitism to provide a regular report on anti-Semitism in the country, to coordinate government activities to combat anti-Semitism, and to submit an action plan to combat the problem. The group's report had not been released at year's end.

On August 18, the city, the church, and most local social associations, including sports clubs, of Laucha (Saxony-Anhalt) countered a neo-Nazi demonstration held on the same day by organizing "a day of humanity." More than 100 persons, among them Saxony-Anhalt's Interior Minister Holger Hövelmann (SPD), attended discussions and music performances in the church of Laucha. The neo-Nazi demonstration was held to protest the dismissal of the coach of the town's youth soccer team, Lutz Battke, a member of the town council and the NPD. Concern about the influence of Battke's views on the children he coached increased with the attack on an Israeli by a man who had trained with Battke for many years (see above).

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

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. The relevant law, enacted in 2006, makes no specific mention of persons with sensory or intellectual disabilities but these are believed to be subsumed under the other headings. 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 argued that such separation prevented the full integration of children with disabilities into the professional world and 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 2009 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 proportion of employees with disabilities in the workforce increased from 7.3 percent in 2005 to 8.5 percent in 2006. In 2007-08, 72 percent of all juveniles with disabilities, who were eligible to do so, started professional training.

The government promoted the employment of handicapped persons through a number of measures. For example, employers with a minimum of 20 employees must hire persons with disabilities to fill at least 5 percent of all positions, facing a fine if they do not comply.

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 (\$689 million) per year through 2019 to the states to support barrier-free buildings. Efforts were continuing to improve further barrier-free access in public transportation.

By law the federal government is required to provide barrier-free access to communications, especially in the field of administrative Internet sites and official forms and notifications.

In 2008 there were eight violent right-wing extremist crimes against persons with disabilities; there were 45 such crimes between 2001-08.

Under the law, the federal commissioner for matters relating to persons with disabilities 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. The Ministry of Labor and Social Affairs; the Ministry of Family, Senior Citizens, Women, and Youth; and the Ministry of Transport, Building, and Urban Affairs also have responsibility for addressing the needs of persons with disabilities.

National/Racial/Ethnic Minorities

Beatings and harassment of foreigners and members of racial minorities remained a 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.

The FOPC report for 2009 recorded 18,750 right-wing "politically motivated crimes" by extremists (a decrease of 5.8 percent compared with 19,894 in 2008). These included 891 violent crimes (a decrease of 14.5 percent compared with 1,042 in 2008). Of these crimes, 351 were xenophobic acts and 31 were anti-Semitic. The Federal Criminal Investigation Office defines politically motivated crimes as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, worldview, ancestry, sexual orientation, disability status, parents, or social status. The 2009 FOPC report included 4,734 left-wing politically motivated crimes, 707 committed by foreigners, and 761 other types. The report listed 195 right-wing extremist organizations and groups (156 in 2008). Authorities estimated membership in these groups, plus right-wing extremists who remained unorganized, to be approximately 26,600 (30,000 in 2008). For example:

- On February 29, three neo-Nazis attacked a foreigner in Frankfurt. The police arrested three suspects that belong to the right-wing group Freie-Kräfte Schwalm-Eder, a neo-Nazi group in the north of Hesse.
- On August 7, a man from Niger was brutally beaten and kicked by two drunken persons in a pub in Weissenfels, Saxony Anhalt. The victim was treated in a hospital and released. Police suspected xenophobic motivations for the attack as both the victim and a woman who wanted to help were verbally attacked with racist remarks. A police investigation was pending at year's end.
- On December 9, the Islamic Cultural Center of Iranians in Berlin-Brandenburg, located in Berlin-Tempelhof, was subject to an arson attack. The center's façade was damaged, but no one was injured. Berlin police have created a special working group to investigate a series of attempted arson attacks against six Muslim religious institutions, most of whose worshippers were immigrants or offspring of immigrants, during the year.

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 (\$25.3 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 (\$6.7 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 lesbian, gay, bisexual, and transvestite (LGBT) rights groups reported no impediments to their operation or free association. During the year several gay pride marches occurred around the country without hindrance. However, the government reported 164 crimes motivated by a bias against sexual orientation, of which 45 were violent crimes, in 2009 in the OSCE's report, *Hate Crimes in the OSCE Region*, and media and other reports indicated that societal and job-related discrimination against LGBT persons occurred but was rare.

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

The number of reported attacks against LGBT persons in Berlin decreased during the year to 80, compared with 98 in 2009, although the number of violent attacks increased from 33 to 35. Police assumed, and other evidence indicated that many other cases went unreported. The Berlin antiviolence project MANEO maintained an emergency hotline for victims, which was used by 186 persons in 2008 and by 225 persons in 2009.

On June 27, a group of four young men committed separate attacks against four LGBT persons in a park in Berlin-Friedrichshain. The four LGBT persons were asked whether they were gay, and before they could answer, they were slapped and kicked. All victims were slightly injured, but none required hospital treatment. A police investigation was initiated.

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. During the year approximately 21 percent of the workforce was unionized. 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 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. The government generally respected this right in practice. Collective bargaining agreements covered approximately 65 percent of the labor force in the western part of the country and approximately 51 percent in the east. Collective agreements are only binding for trade union members and their respective employer associations; however, many employers of nonunion labor also made use of the agreements to determine part or all employment conditions of their employees. 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 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 forced labor occurred. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip/.

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 farmwork for up to three hours per day or deliver newspapers for up to two hours per day, and children three to 14 years of age may take part in cultural performances under strict limits on the kinds of activity, number of hours, and times of the day. Exploitative 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 16 sectors of the economy, including construction, electrical trades, painting, postal service, waste management, large-scale laundries, and special mining services. In August new national minimum wages for some 800,000 nursing care workers

came into force. The regulation applies to all employees regardless of the country of origin of their employers. The minimum wages in the various sectors generally provided an adequate livelihood for a worker and his family. Minimum wage rates set by collective bargaining agreements 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 were 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 39.8 hours for women and 41.0 hours for men in 2009; 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 Federal 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.

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