

GERMANY 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Germany is a constitutional democracy. Citizens choose their representatives periodically in free and fair multiparty elections. The lower chamber of the Federal Parliament (Bundestag) elects the head of the federal government, the chancellor. 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. Observers considered the September national elections for the Bundestag to have been free and fair. Authorities maintained effective control over security forces. Security forces did not commit human rights abuses.

Right-wing extremism continued to be a serious problem. Perpetrators attacked ethnic non-Germans on a number of occasions, and there were many other expressions of xenophobia. Continuing manifestations of anti-Semitism were another serious source of concern, as there were reports of many anti-Semitic acts and behavior. Authorities attributed them primarily to adherents of the extreme right, but Muslims and persons hostile to Israel perpetrated others.

There were a number of other human rights problems. Authorities continued to incarcerate certain categories of offenders after they served their sentences, asserting they remained a threat to society. The government limited the freedoms of speech, press, assembly, and association of neo-Nazi and other groups the government deemed extremist or threats to the constitution. Observers questioned whether the country's "fast procedure" for determining the refugee status of asylum seekers gave applicants a fair hearing. There were reports of gender-based violence, and trafficking of men, women, and children for sexual exploitation and labor. Societal violence and discrimination because of sexual orientation persisted, as did some societal discrimination against persons with HIV/AIDS.

The government took steps to prosecute and punish officials in the security services and elsewhere in government who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, and there were few reports that government officials employed them. In a widely publicized case cited by some media as an example of police brutality, a Munich court found a police officer guilty of punching a detained young woman in the face, breaking her nose and eye socket. The court sentenced the officer to 10 months on probation and a 3,000 euro (\$4,000) fine.

Prison and Detention Center Conditions

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

Physical Conditions: As of March 31, according to the Federal Statistics Office, the prison population was 64,379, including 3,541 women and 11,119 pretrial detainees. Of the latter, 655 were women and 348 were juveniles younger than 18. The prison system had a capacity of 77, 243 inmates. Convicts and detainees had access to potable water. Statistics on the prevalence of death in prisons or pretrial detention centers were not available.

A 2010 report by the Council of Europe's Committee for the Prevention of Torture (CPT) noted that authorities occasionally held two prisoners in cells designed for single occupancy. In February 2012 the German government responded that it had advised the federal states to take appropriate action and had delivered comprehensive information on implemented measures. These measures included increasing personnel at the national CPT branch to monitor law enforcement agencies and prisons, continuing already existing police training in legal matters and conflict prevention (there is no national statistic on sanctions against offenders within the police force), renovating prison cells, improving access to social and legal advice, implementing violence prevention measures among prisoners, and improving detainees' health services. The government statement also listed independent options prisoners can access, including courts, prison advisory boards,

and state-level parliamentary institutions, such as petition committees and state party caucus ombudsmen.

Administration: Authorities kept adequate records. They used alternatives to sentencing for nonviolent offenders, including fines and social work. Prisoners had reasonable access to visitors and could engage in religious observance. Authorities permitted convicts and detainees to submit complaints to judicial authorities without censorship. They investigated credible allegations of inhumane conditions. The government investigated and monitored prison and detention center conditions. During the year the Federal Agency for the Prevention of Torture conducted numerous visits of facilities throughout the country and reported on them. During a September visit to the Federal Agency for the Prevention of Torture, the UN Subcommittee for the Prevention of Torture expressed concern that the agency had insufficient equipment for the performance of its monitoring responsibilities. The subcommittee called upon federal and state governments to provide appropriate financial and personnel resources, including medical and psychological experts. The federal government added one position, a deputy director, at the national level. There was 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

Police forces of the 16 states and two federal law enforcement agencies, the Federal Criminal Police Office (Bundeskriminalamt, or BKA) and the Federal Police (Bundespolizei), maintain internal security. The state police report to their respective interior ministries; the federal police forces report to the Ministry of the Interior. The Federal Office for the Protection of the Constitution (FOPC) and respective state offices are responsible for intelligence gathering on threats to domestic order and certain other security functions. Like the police, the OPCs report to their respective state ministries of the interior. Effective mechanisms were in place to investigate and punish abuse and corruption in the police and security forces. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

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 suspect they have apprehended before a judge no later than the day after taking him into custody. At that time the judge must inform the suspect of the reasons for detention and provide opportunity for objections. The court must then either issue an arrest warrant stating the grounds for detention, or order the individual's release. Authorities generally respected these rights. The law entitles a detainee to prompt access to an attorney at any time, including prior to any police questioning. According to the law, before interrogations begin, authorities must inform suspects, arrested or not, of their right to consult an attorney.

Bail exists but authorities granted it infrequently. They usually released individuals awaiting trial without requiring bail unless a court decided 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 toward 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.

In an alleged case of unlawful detention, on August 6, the Higher Regional Court in Nuremberg ordered the immediate release of Gustl Mollath and granted him a new trial. The Constitutional Court confirmed on September 5 that Mollath's continued detention on psychiatric grounds since 2006 lacked substantial justification, reversing previous 2011 decisions by the Regional Court in Bayreuth and the Higher Regional Court in Bamberg, which had ruled to keep Mollath in detention. The case involved charges of spousal abuse against Mollath by his (until 2004) wife and Mollath's subsequent charges that his wife was part of a conspiracy involving employees of Munich's HypoVereinsbank to facilitate some customers' tax evasion. In 2006 the regional court of Nuremberg-Fuerth acquitted Mollath of abusing his spouse on the grounds that he was mentally ill, a conclusion based in part on his accusations of conspiracy involving bank employees. The court then declared him a danger to society and committed him against his will to a psychiatric ward. In 2012 the press reported on a leaked internal bank report indicating Mollath's accusations against the bank and his wife were partially correct. Following numerous media reports and the appointment of an investigative committee in the Bavarian parliament, the Bavarian Justice Minister requested a new trial due to new evidence. On August 7, in ordering a new trial,

the court declared that a key medical report on Mollath's abuse of his wife was prepared by a doctor who never examined her.

While the law does not allow courts to punish persons twice for the same crime, a court may order an offender convicted of rape, homicide, or manslaughter to spend additional time in "subsequent preventive detention" after completion of sentence if the court determines that the offender represents a continuing danger. The law permits the imposition of subsequent preventive detention for an indefinite period. At the end of March, according to press reports, prisons held 475 offenders, including three women, in preventive detention.

In 2011 the Federal Constitutional Court ruled that regulations governing subsequent preventive detention, including recent reforms that authorities introduced to comply with rulings of the European Court for Human Rights (ECHR) critical of the practice, were an unconstitutional violation of the basic right of personal freedom. The court's ruling ordered the legislative branch to amend the law to limit imposition of preventive detention to the most serious circumstances, such as a serious risk that the convicted person would commit severe, violent, sexual criminal offenses, or suffered from a mental disorder. On June 1, the new law and implementing regulations entered into force. Because the law does not regard such detention as punishment, conditions must be better than in prison and include a range of therapy programs.

On September 19, confirming an earlier decision by the Karlsruhe Higher Regional Court, the Federal Court of Justice ruled that, based on an ECHR 2009 ruling against subsequent preventive detention, the state of Baden-Wuerttemberg must pay compensation between 49,000 and 73,000 euros (\$66,000 to \$98,500) each to four offenders whose convictions included child abuse, rape, and attempted murder but who were all kept in retroactive preventive detention for more than 10 years after completing their prison sentences.

During the year the states also initiated legislative procedures to bring themselves into compliance with the court's ruling. They took measures to rebuild existing facilities or construct new buildings especially for preventive detention, often accompanied by therapy arrangements. Some states (such as Rhineland Palatinate, Saarland, Hesse, and Thuringia) worked out cooperative arrangements to accommodate such prisoners and meet the requirements of the court. This was work in progress, and its status varied from state to state.

Detention of Rejected Asylum Seekers or Stateless Persons: Authorities in the various states continued to detain rejected asylum seekers awaiting deportation, sometimes for protracted periods of time. The nongovernmental organization (NGO) ProAsyl continued to express concern that their accommodations, especially those for women, were inadequate.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution provides for the right to a fair, public, trial without undue delay, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence, have the right to be informed promptly and in detail of the charges (with free interpretation as necessary), and have the right to adequate time and facilities to prepare a defense. Juries are not used. A single judge, a panel of professional judges, or a mixed panel of professional and nonprofessional judges may try a case, depending on the severity of the charges. The law requires that defendants be present at their trials. Defendants have the right to consult with an attorney, and the government provides an attorney at public expense if defendants demonstrate financial need. Defendants have the right to adequate time and facilities to prepare defense. Defendants and their attorneys have access to all court-held evidence relevant to their cases. Defendants may confront and question adverse witnesses and present witnesses and evidence on their behalf, and are not compelled to testify or confess guilt. Defendants have a right of appeal. These rights are extended to all citizens.

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. Persons may appeal adverse decisions of domestic courts in human rights cases to the ECHR.

Regional Human Rights Courts Decisions

From January to July, the ECHR ruled on 1,816 cases involving Germany, and in all but four of these cases, the ECHR struck the case down or declared the case inadmissible. The court delivered four decisions and 23 interim measures. As of July, 1,645 cases were pending. The state generally paid monetary judgments against it within the time period ordered by the court.

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

The constitution prohibits such actions, and the government generally respected these prohibitions.

The Federal and State OPCs continued to monitor political groupings deemed potentially hostile to the constitution, including the Left Party and the right-wing extremist National Democratic Party. They monitored the Left Party because they considered that it tolerated left-extremist groups within its ranks. The FOPC monitored several Bundestag members of the Left Party, including Bundestag Vice President Petra Pau. On February 21, in a suit Pau initiated at the Administrative Court in Cologne, authorities stated the FOPC stopped monitoring Pau in November 2012. In 2013 Pau filed another suit demanding full access to any FOPC files about her, but the FOPC rejected it, arguing that her request was “inappropriate” because it would require screening more than 400 files. Former Left Party Bundestag member and current Left Party caucus chief in Thuringia’s state parliament Bodo Ramelow filed a complaint with the Federal Constitutional Court about the FOPC monitoring him. On October 9, the Constitutional Court ruled that FOPC’s monitoring of Ramelow was unconstitutional and inappropriate and that it must end. The court stated that an elected member of parliament may be monitored only in exceptional cases. Ramelow had been fighting against the observation by the OPC in German courts for approximately 10 years. In January Federal Interior Minister Hans-Peter Friedrich stated that a November 2012 order directed the FOPC to monitor only extremist groups within The Left Party and not the party as a whole. In September the press reported the OPC in Lower Saxony had monitored a staff member of the Left Party’s national chairwoman Katja Kipping.

All OPC activities are challengeable in court, including ultimately in the Federal Constitutional Court. The Lower Saxony OPC revealed it monitored several journalists in the period 2008-13, including Andrea Roepke. Her reporting and other activities in combating right-wing extremism put her in contact with

extremists, although the OPC gave no official reason for the monitoring. In 2012, when she asked to see her file the OPC asserted there was no file. The OPC later revealed it deleted Roepke's file after receiving her request. In September 2013 Roepke filed a complaint with the public prosecutor over the Lower Saxony OPC's false denial that it was monitoring her.

In investigations of certain serious crimes, law enforcement officials may monitor the telecommunications of suspects only with court approval. In intelligence-related cases, such as suspected involvement in terrorism, the law permits intelligence services to engage in surveillance activities without court approval. An independent commission elected by a parliamentary control committee must approve such activities.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press. The law bans Nazi propaganda, Holocaust denial, fomenting of racial hatred, and child pornography.

Freedom of Speech: While the government generally respected these rights, it imposed limits aimed at groups it deemed extremist. During the year the government arrested, tried, convicted, and imprisoned a number of individuals for speech that incited racial hatred, endorsed Nazism, or denied the Holocaust (see also section 6, Anti-Semitism).

Internet Freedom

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. Individuals and groups could engage in the peaceful expression of views via the internet, including by e-mail. According to the World Bank, 84 percent of the country's population used the internet in 2012.

In April the Rostock district attorney charged four German operators of the right-wing internet forum Thiazi with forming a criminal association with the purpose of incitement. According to the Rostock district attorney, it was the first time that

authorities identified the operators of a large right-wing extremist internet platform. According to a local association assisting victims of right-wing violence, the forum had more than 30,000 users and maintained “closed areas” where users could speak openly with one another. Users could upload right-wing songs, texts, and albums. The district attorney removed the site and secured all of the data located on foreign-based servers.

Academic Freedom and Cultural Events

There were some government restrictions on academic freedom or cultural events supporting extreme right-wing neo-Nazism.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government usually respected this right. The government occasionally prevented certain prohibited organizations, mainly right-wing extremist groups, from assembling publicly, but during the year they allowed several right-wing extremist or neo-Nazi groups to hold public rallies or marches when they held them in accordance with the law and the organizations themselves were not prohibited.

Groups seeking to hold open-air public rallies and marches must obtain permits, and state and local officials have authority to deny permits when public safety concerns arise or the applicant is a prohibited organization. In rare instances, authorities denied applications during the year.

It is illegal to block an officially registered demonstration, including demonstrations organized by neo-Nazi groups. Many anti-Nazi activists refused to accept such restrictions and attempted to block neo-Nazi demonstrations or to hold counterdemonstrations, resulting in clashes between police and anti-Nazi demonstrators.

Police detained known or suspected activists, primarily right- or left-wing extremists, when they believed such individuals intended to participate in illegal or unauthorized demonstrations. The length of detention varied from state to state and ranged from one to 14 days.

The city of Frankfurt-am-Main denied German-born Salafist Pierre Vogel permission to hold the Second Islamic Peace Conference in Frankfurt. Vogel filed an emergency appeal to the city's administrative court, which affirmed his right to hold the conference. On September 7, approximately 700 supporters attended the conference. The Hesse state OPC stated that an estimated 900 Salafists were active in Hesse.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right. The law permits authorities to prohibit organizations whose activities the Constitutional Court or federal or state governments determined to be opposed to the constitutional democratic order or otherwise illegal. 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 such prohibitions or restrictions.

The FOPC and state OPCs monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts but also included intrusive methods, such as the use of undercover agents who were subject to legal oversight. 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.

Authorities banned organizations and raided their premises in a number of cases during the year. On March 13, they banned three Salafist Muslim groups in Hesse and North Rhine-Westphalia. The interior minister described the banned organizations DawaFFM, Islamische Audios, and an-Nussrah, as representing a form of Salafism that was incompatible with the country's democratic order.

In January the North Rhine-Westphalia (NRW) OPC reported on the growth of a regional organization, "Die Rechte" (The Right-Wingers), composed of former members of a local right-wing extremist party banned in 2012. In June Die Rechte reportedly had a membership of approximately 130. Authorities were examining whether they could ban the new party. The NRW OPC also monitors the right-wing parties known as "pro Koeln" and "pro NRW" on the basis of

anti-constitutional activities. In January the NRW Ministry of the Interior reported on Ku Klux Klan activities in the state, estimating membership at fewer than 10.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with 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.

Protection of Refugees

Access to Asylum: Laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Safe Country of Origin/Transit: The country adheres to the EU's "Dublin III regulation," according to which authorities may turn back or deport individuals who attempt 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. Several NGOs questioned this regulation. In December 2012 the Interior Ministry continued to suspend until January 2014 its application of Dublin III in the case of asylum seekers who passed through Greece. Based on several rulings by European courts, the legal situation of asylum seekers in this category has improved by allowing them to stay in the country temporarily. According to the Interior Ministry, there is no blanket denial of asylum to applicants from safe countries of origin or transit, and all have an opportunity to appeal. If the applicant comes from a safe country of origin or transit, appealing a denial of asylum will not prevent authorities from returning the applicant to his country of origin or transit before a court issues a decision on the appeal.

In December 2012 approximately 300 refugees of West African origin arrived in Hamburg after 18 months in a refugee camp in Italy. They originally entered Italy

after fleeing from Libya where they had been working. Hamburg's government housed them in a winter shelter but closed it in April. A local church and mosque allowed approximately 100 refugees to stay on their properties with local residents and charitable organizations providing food, clothing, and legal services. Authorities initially cited the Dublin III agreement and insisted the refugees return to Italy; however, the city later agreed to review individual applications. After the city refused the first applications, the refugees demanded the city review them as a group. Officials cited Hamburg's tradition of treating church property as inviolable, and as of December 1, had taken no action to remove or deport the refugees.

Refoulement: 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.

Reports continued of authorities deporting Roma and others to Kosovo, and human rights organizations questioned whether an agreement with Kosovo provided adequate safeguards for failed asylum seekers whom they repatriated. The federal government considered the security situation for returnees in Kosovo as stable, including for members of the Romani minority.

Refugee Abuse: Human rights organizations continued to criticize the "fast procedure" at the Frankfurt airport, under which the Federal Office for Migration reaches a decision on asylum applications within two days and does not permit asylum seekers legal entry to the country. Authorities maintained that they applied this procedure only to persons coming from safe countries of origin. The NGO Pro Asyl stated the number of asylum seekers rejected under the fast procedure was relatively low and the vast majority of asylum seekers entered the country and filed their application from inside the country.

NGOs also called for ending the policy that requires asylum seekers and refugees who are awaiting recognition/acknowledgement of their applications to remain in locations designated by authorities. (In most states asylum seekers can temporarily travel within that state. In some states movement is limited to one or several districts. Bremen and Niedersachsen have expanded movement to include neighboring states.) For more than a year, as many as 100 mostly African refugees occupied a square in Berlin's Kreuzberg district, living in a tent camp. Their legal status was unclear because they entered through Italy, a safe EU country of transit. The refugees protested against the refugee law and also called for free choice of

residence within the country. In October the Berlin city government, which previously called for removal of the illegal camp, stated that it was reviewing options for temporary housing with the approach of winter, still pending as of November.

Access to Basic Services: In July 2012 the Constitutional Court ruled that social benefits for asylum seekers must be equal to those of citizens or other permanent residents. As of October 2013, the federal government had not implemented legislation to meet the court's demands. According to an intermediate regulation stipulated by the court, officials must provide social benefit payments to asylum seekers at the level of such payments for unemployed people.

Refugee and asylum seekers living in inadequate temporary housing in the state of Baden-Wuerttemberg held a five-day hunger strike. The state's minister of integration agreed to transform noncash benefits to cash benefits beginning in 2014 but refused requests to transfer refugees to a different housing unit.

Durable Solutions: The government accepted refugees for resettlement from third countries and facilitated local integration (including naturalization), particularly of refugees in protracted situations. The government assisted the safe, voluntary return of refugees to their homes.

Temporary Protection: During the year authorities granted a number of individuals subsidiary protection status (individuals who do not meet the criteria of the refugee convention but need protection for other reasons, for example, because they faced the death penalty, torture, or risks related to armed conflict in their home countries). The Federal Government agreed to accept a total of 5,000 Syrian refugees who required special protection; 107 arrived in Hanover on September 11, and another 106 Syrian refugees arrived on October 10. The interior minister advised states to suspend deportation of Syrian asylum seekers already in the country and provided options for states to allow Syrians living there to bring in their immediate relatives.

Stateless Persons

Citizenship derives primarily from birth to a citizen parent, but children may also acquire citizenship based on their birth in the country provided one parent has been living there for at least eight years or one parent has had a permanent residence permit for at least three years.

According to UNHCR statistics, 5,683 stateless persons lived in the country in January. The government generally implemented laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis. Refugees and stateless persons may apply for citizenship after six years' residence, but it could be difficult for an applicant to produce sufficient evidence or documentation to establish his or her statelessness; 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 if they faced a threat of political persecution there.

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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In September the country held parliamentary elections that observers considered free and fair.

Political Parties: Political parties generally operated without restriction or outside interference unless authorities deemed them to be a threat to the federal constitution. When the federal authorities perceive such a threat, they can petition the Federal Constitutional Court to ban the party. Of the 58 parties that applied, 38 parties met the required criteria to compete in elections, 34 of which actually participated.

Participation of Women and Minorities: As a result of the September elections, 230 of the 631 members of the Bundestag were women (36.5 percent). Although Bundestag records on members' ethnic and religious background are incomplete because information is voluntary, media sources estimated there were 36 members (5.7 percent) with some non-German heritage, 11 of them with Turkish, four with Iranian, and (for the first time) two with African heritage. Five judges on the 16-member Federal Constitutional Court were women. There was no official data on the participation of minorities in leadership positions.

Section 4. Corruption and Lack of Transparency in Government

Corruption: The law provides criminal penalties for corruption by officials, and the government was generally effective in implementing the law. Most state governments and local authorities had contact points for whistleblowers and provisions for rotating personnel in areas prone to corruption. Government officials may not accept gifts linked to their jobs. There are serious penalties for bribing officials and price fixing by companies competing for public contracts.

Whistleblower Protection: There is no law providing protection to public or private employees for making internal disclosures or lawful public disclosures of evidence of illegality. Government employees may report illegal acts within their agencies' hierarchy or report them directly to the prosecutor general. The labor laws provide protection to employees in the private sector when they report unlawful acts to prosecution authorities.

Financial Disclosure: Members of state and federal parliaments are subject to financial disclosure laws that require them to publish their earnings from outside employment. Members of parliament must disclose categories of outside employment and earnings greater than 1,000 euros (\$1,400) in a month or 10,000 euros (\$14,000) in a year. No special institution has responsibility for monitoring and verifying disclosures. State prosecutors generally are responsible for investigating corruption cases. Disclosures are available to the public via the Bundestag website (next to the parliamentarians' biographies) and in the Official Handbook of the Bundestag. Sanctions for noncompliance can range from an administrative fine to as much as half of a parliamentarian's annual salary.

Public Access to Information: Federal law provides for public access to government information, but there are numerous exceptions, and fees for records searches could be as much as 500 euros (\$675), payable in advance. Eleven federal states also have freedom of information laws. There is 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 often were cooperative and responsive to their views.

Government Human Rights Bodies: The courts were the main resource for individuals seeking protection of individual human rights. A wide range of government bodies and NGOs also worked to protect human rights. Citizens could file complaints with petition committees and commissioners for citizens' affairs. Citizens usually referred to these points of contact as "ombudsmen."

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and laws prohibit discrimination based on sex, parentage, race, language, homeland and origin, faith, religious or political opinion, disability, sexual orientation, and gender identity, or social status. Authorities compiled a strong enforcement record in most of these areas but acknowledged that they needed to do more in some areas, for example, to enforce laws prohibiting discrimination against persons with disabilities.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and provides penalties of up to 15 years in prison. The government enforced the law effectively. According to national police criminal statistics, 8,031 cases of rape or serious sexual abuse occurred in 2012. The federal government supported numerous projects in conjunction with the federal states and NGOs to deal with gender-based violence, both to prevent violence and give victims greater access to medical care and legal assistance.

The law prohibits violence against women, including spousal abuse. Officials may temporarily deny abusers access to the household without a court order, they may put them under a restraining order, or in severe cases prosecute them for assault or rape and require them to pay damages. Penalties depend on the nature of the case. The government enforced the law, but authorities believed that violence against women was widespread.

Organizations that aid victims estimated that between 20 and 25 percent of women had at some time been victims of physical or sexual violence. In 2012 approximately 360 women's shelters were operational, as was a widespread system of emergency hotlines. According to the Federal Ministry of Family Affairs, Senior Citizens, Women, and Youth, 15,000 to 17,000 women and their children used these shelters every year. Many NGOs at the local level provided hotlines, assistance, advice, and shelter.

Harmful Traditional Practices: Forced marriages are illegal and invalid, and punishment may be up to five years' imprisonment. While there were no reliable statistics on the number of forced marriages, evidence indicated that the problem was more prevalent in the immigrant Muslim community than in the general population. Forced marriages reportedly often led to violence. Victims included women and, in some cases men, whose families brought a spouse from abroad. In addition some families sent women to other countries to marry against their will.

"Honor killings" occurred. A study published in 2011 by the Federal Criminal Statistics Office placed the number of honor killings at approximately 12 annually between 1996 and 2005. Official data was unavailable, although some media outlets reported 14 honor killings in 2012.

In February the Detmold Regional Court sentenced the father of 18-year-old Arzu Oezmen to six and one-half years in prison on charges of being an accessory to murder, assault, and kidnapping resulting from his involvement in the Oezmen family's abduction and killing of Arzu in 2011. The court also sentenced the victim's mother to a suspended sentence of four months and community work. Arzu and her family, Kurds who adhere to the Yazidi faith, lived in the country, and Arzu had fallen in love with a man and disobeyed her father's order not to see him. Her father and five older siblings locked her in the basement of their home and beat her, and eventually her oldest sibling shot and killed her. In May 2012 the court gave her siblings prison sentences ranging from five and one-half years to life.

Female Genital Mutilation/Cutting (FGM/C): Female genital mutilation affected segments of the immigrant population, although official statistics were limited. According to the European Institute for Gender Equality, the country has no specific law referring to FGM/C, but instead prosecutes such cases under existing laws on crimes against bodily integrity and on marriage and family. In addition, German immigration law includes provisions stating authorities must consider FGM/C in reviewing immigration and asylum applications.

Sexual Harassment: Sexual harassment of women was a recognized problem. The law prohibits it and requires employers to protect employees from it. A variety of disciplinary measures against offenders in the workplace 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. Although the press reported instances of sexual harassment in the workplace and in

public facilities, 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.

Reproductive Rights: 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, prenatal care, and essential obstetric and postpartum care.

Discrimination: Men and women enjoy equal rights under the constitution. The law provides for equal pay for equal work. Women were underrepresented in highly paid managerial positions and overrepresented in some lower-wage occupations. Women occupied 12-13 percent of positions on supervisory boards in the country's top 200 companies and 3-4 percent of the positions on their management boards. The Federal Statistics Office reported in 2012 that, based on 2010 figures, the hourly pay gap between women and men for equivalent work was 22 percent. The survey also found that the gender pay gap increased with age. When the figures are adjusted for structural differences (such as profession, education, part-time and full-time employment), the hourly pay gap narrows to 7 percent.

Children

Birth Registration: In most cases persons derive citizenship from their parents. The law also allows citizenship based on birth in the country provided one parent has either been a resident for at least eight years or has had a permanent residence permit for at least three years. Dual nationality is not recognized, and upon reaching age 23, a dual national must choose which citizenship to retain. Parents or guardians have the responsibility to apply for registration for newborn children. Once officials received registration applications, they generally processed them in an expeditious manner.

Child Abuse: According to NGO Deutscher Kinderschutzbund's analysis of BKA data 3,450 cases of abuse (defined as bodily harm or neglect) of children under 14 years old occurred in 2012, a 3.7 percent decline from 3,583 cases in 2011.

Forced and Early Marriage: The legal minimum age of marriage is 18 years, and forced marriages are illegal and invalid with a punishment of up to five years'

imprisonment. There were no reliable statistics on the number of forced or early marriages.

Sexual Exploitation of Children: The penalty for rape – up to 15 years in prison – also applies to the rape of children. Consensual sex is legal from the age of 14 in most cases. There is an exception if the older partner is more than 18 years old and is “exploiting a coercive situation” or offering compensation, and the younger partner is under 16. It is also illegal for someone older than 21 to have sex with someone under the age of 16 if the older person “exploits the victim’s lack of capacity for sexual self-determination.”

According to the Ministry of the Interior, there were 4,565 reported incidents of sexual abuse by a parent, guardian, custodian, or person in a position of trust in 2012, compared with 4,768 in 2011. Of these, 3,450 involved children under the age of 14 (compared with 3,583 in 2011). Possession of child pornography is a criminal offense. By law possession of, or attempt to acquire, any material reflecting a true or realistic incident of child pornography is punishable by imprisonment from three months to five years.

According to criminal statistics published by the BKA, the number of cases involving the distribution of child pornography increased from 2,376 in 2011 to 2,465 in 2012. In 2012 the number of reported cases of ownership and procurement of child pornography decreased by 16.9 percent, from 3,896 cases in 2011 to 3,239 in 2012.

Displaced Children: There were no reliable statistics on the number of street children. Some observers indicated that there were several thousand, but authorities contended that such estimates were inflated and not a true representation of the often temporary status of homeless children. Authorities believed these children were frequently fleeing violent and abusive homes. Street children often turned to prostitution for income.

According to estimates by Off Road Kids, an NGO active in street social work in major cities, there were up to 2,500 runaways. More than 300 of these children (12-18 years old) lived on the street.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State’s report on compliance

at http://travel.state.gov/abduction/abduction_580.html, as well as country-specific information at http://travel.state.gov/abduction/country/country_5794.html.

Anti-Semitism

The country's Jewish population was estimated to be between 112,000 and 250,000. Deficiencies in Holocaust education continued. Manifestations of anti-Semitism occurred in sports, social events, and certain media.

Of the 17,616 right-wing politically motivated criminal offenses reported to authorities in 2012 (up from 16,873 for 2011), they described 1,286 as manifestations of anti-Semitism (up from 1,162 for 2011), according to the FOPC annual report for that year. Of the anti-Semitic acts, 36 involved violence (up from 22 for 2011). The report noted that membership in skinhead and neo-Nazi groups remained steady at approximately 6,000. Federal authorities generally took action against the perpetrators of anti-Semitic offenses.

The Berlin-based Amadeu Antonio Foundation, which keeps a chronology of anti-Semitic incidents, reported 46 cases of anti-Semitism from January through September. Apart from anti-Semitic speech, desecration involving graffiti such as swastikas and anti-Semitic slogans at Jewish cemeteries or on monuments represented the most widespread anti-Semitic acts during the year.

In January the parliament held its annual special session paying tribute to those who died under the Nazi dictatorship, which this year coincided with the 80th anniversary of the rise of Hitler.

In February a group of fans reportedly made Nazi gestures toward Israeli soccer player Itay Shechter (playing for a German soccer club) and referred to him as a "Dreckjude" (filthy Jew) in an altercation following a match. Police were immediately called and the fan association later apologized for the incident.

In November the EU's Fundamental Rights Agency released a survey on discrimination and hate crime against Jews in eight EU member states, including Germany. According to the survey, 29 percent of German Jews stated they had experienced anti-Semitic harassment in the previous 12 months, while 36 percent stated they had experienced such harassment in the previous five years.

In July and August, two regional German newspapers published anti-Israel cartoons that crossed the line into anti-Semitism through references to

centuries-old anti-Semitic myths.

Observers attributed most anti-Semitic acts to neo-Nazi or other right-wing extremist groups or persons. Some also noted an increase of anti-Semitic attitudes among some Muslim youth.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, and the provision of other federal state services, including access to air travel and other transportation. The relevant law makes no specific mention of persons with sensory or intellectual disabilities, but these are believed to be subsumed under the other headings. The extent to which the government effectively enforced these provisions remained debatable among NGOs, and the government expressed interest in learning about methodologies to enhance enforcement of its antidiscrimination laws. The country's approximately 500,000 children with disabilities attended school. Some persons with disabilities attended special schools, and officials contended that special schools were often better equipped to take care of such students, but critics argued that these institutions prevented the full integration of children with disabilities into the professional world and society as a whole.

The government employed a number of measures to promote the employment of persons with disabilities. Employers with 20 or more employees must hire persons with disabilities to fill at least 5 percent of all positions, with special provisions for companies with 20-40 employees (one position for persons with disabilities) and 40-60 (two positions for persons with disabilities). Companies that fail to meet these quotas face a monthly fine of 100-290 euros (\$135-\$390) per required position not filled with a person with disabilities. According to the NGO Sozialverband VdK Deutschland, this regulation applied to approximately 137, 244 companies in 2012, 60 percent of which had to pay the monthly fine for failing to meet the 5 percent quota.

Pursuant to an agreement between the German Railway and the Federal Ministry for Labor and Social Affairs, persons with disabilities who meet certain requirements can ride all regional trains within the country free of charge.

The federal government continued to provide payments as part of a public housing funding of 518.2 million euros (\$674 million) per year to the states to support barrier-free buildings. Efforts continued to improve barrier-free access to public transportation.

By law the federal government must provide barrier-free access to communications, especially in the field of administrative internet sites and official forms and notifications. Efforts continued to improve barrier-free access to public transportation.

The Office of 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 their rights. 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 responsibilities for addressing the needs of persons with disabilities. The German Institute for Human Rights has responsibility for monitoring the country's implementation of the UN Convention on the Rights of Persons with Disabilities.

National/Racial/Ethnic Minorities

Beatings and harassment of foreigners and members of racial minorities remained a problem throughout the country. According to reports issued during the year, in 2012 the FOPC recorded 17,134 (16,142 in 2011) right-wing "politically motivated crimes" (PMCs) with "extremist background" and categorized 842 of them as violent. (The Federal Criminal Investigation Office defines PMCs as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, worldview, ancestry, sexual orientation, disability status, parents, or social status.) The 2012 FOPC report also counted 6,191 left-wing PMCs (down from 8,687 for 2011), 1,291 of them violent. Foreigners committed 868 PMCs (179 violent). The total number of politically motivated violent incidents declined from 3,108 in 2011 to 2,646 in 2012.

In October 2012, 12 drunken neo-Nazis in Hoyerswerda, Saxony, threatened and insulted a young couple in front of their apartment building because the couple had repeatedly removed xenophobic Nazi propaganda from the streets. After the police

told the couple that they could not protect them, security authorities helped them to relocate. Prosecutors estimated the case would proceed in November; the suspects faced sentences of up to a year in prison.

Trials continued during the year in connection with the alleged killing by members of the right-wing extremist group National Socialist Underground (NSU) of a policewoman and nine persons of Turkish or Greek origins over a period of 13 years. The charges date from 2012. Authorities released the three persons directly charged with the killings in May. Two of the three killed themselves, but on November 8 police charged the third, 37-year-old Beate Zschaepe, with 27 offenses, including murder and arson. Authorities charged four other men with supporting the NSU, including supplying weapons and false identities. Procedural questions and the suspects' refusal to answer questions delayed the trial. The judge scheduled sessions for the trial through the end of December 2014.

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

There were no official statistics on mistreatment of lesbian, gay, bisexual, and transgender (LGBT) persons; the availability of NGO reports on the incidence of such mistreatment varied widely, although some quantitative data was available for cities with large populations of LGBT persons. According to the NGO Maneo, 262 instances of violence motivated by bias against LGBT persons took place in Berlin in 2012, including eight killings, three attempted homicides, 56 incidents involving physical assault or attempted assault, 47 cases of theft, and three of damage to property. Seven of these reported cases were against transgender persons. In Cologne the NGO Koeln 19228 reported that in 2012 LGBT persons experienced one case of damage to property, as well as nine robberies, one theft, one case of deprivation of liberty, one fraud, eight physical assaults (six resulting in serious injury), and six threats.

In a series of rulings, the Federal Constitutional Court (FCC) strengthened the rights of same-sex couples and mandated equal treatment in specific areas. On June 6, the FCC ruled it unconstitutional to exclude same-sex couples registered under the Civil Partnership Act from current tax advantages married (heterosexual) couples enjoy, such as splitting the difference between spouses' income for the purpose of taxation. The court argued existing practice violated the general principle of equal treatment because there were no sufficient substantive grounds for unequal treatment in taxation. The court made the ruling retroactive to

August 1, 2001, when the Civil Partnership Act entered into force. On June 27, the Bundestag amended the income tax law accordingly.

In February the FCC ruled it unconstitutional for authorities to prevent gays and lesbians from adopting a child previously adopted by one of their respective registered partners. The court noted that this option was available to married heterosexual couples and instructed the Bundestag to amend adoption laws accordingly. Before the ruling, registered same-sex couples could adopt only the stepchildren of their partners; the law still prohibited gay and lesbian couples from adopting children jointly.

Other Societal Violence or Discrimination

There was societal 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. Freedom of Association and the Right to Collective Bargaining

The constitution, federal legislation, and government regulations contain provisions designed to protect the right of employees to form and join independent unions of their choice without excessive requirements or previous authorization. All workers have the right to strike, except for civil servants (including teachers) and staff in sensitive or essential positions, such as members of the armed forces. The constitution and/or enabling legislation protect the right to collective bargaining and govern agreements between unions and employers.

The law prohibits antiunion discrimination and other forms of employer interference in union functions and such abuses were not widespread.

The government generally respected freedom of association, the right to strike, and the right to collective bargaining, and worker organizations were independent of the government and political parties. Collective agreements are binding for parties of the agreement, such as members of an employer association that agreed to the agreement and companies who are part of their own company specific collective agreement. Hence employers are generally free to decide whether to be a party to a collective bargaining agreement or not (unless the Ministry of Labor and Social Affairs declares a collective bargaining agreement as generally binding).

Nevertheless, many employers not legally bound by collective bargaining agreements also made use of them to determine part or all employment conditions of their employees. All employees, whether trade union members or not, benefit from the provisions of the bargained collective agreement.

b. Prohibition of Forced or Compulsory Labor

The constitution and federal statutes prohibit all forms of forced or compulsory labor, and the government effectively enforced such laws. There were reports of forced labor involving adults mainly in agriculture, restaurants, hotels, and domestic households, as well as exploitation of workers (often illegal residents) on construction sites.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law 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 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 occurred 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.

d. Acceptable Conditions of Work

The country does not have a statutory minimum wage. As of September binding minimum wages were in place for five groups of construction occupations (including electrical trades, painting, scaffolding, and roofers) as well as waste management, large-scale laundries and cleaning management, nursing care, security services, special mining services, and temporary employment agencies, covering approximately 8 percent of the workforce. Minimum wages ranged from 7.50 euros (\$10.00) per hour in the security services to 13.70 euros (\$18.50) per

hour for skilled construction work. Minimum wages generally were lower in the eastern than in the western parts of the country. Official social indicators on poverty and social exclusion (“federal indicators”) revealed that persons who had a disposable income of less than 11,429 euros (\$15,500) per year (60 percent of the medium income), were at risk of poverty. In 2010, 15.8 percent of citizens lived below this threshold.

Most minimum wage rates are set by collective bargaining agreements and enforceable by law. Sector-wide collective bargaining agreements determined wages and working conditions in most industries, but company-level agreements frequently deviated from them. In 2012 multi-company, industry-wide collective agreements covered directly approximately 29 percent of all firms, company-level agreements covered 2 percent, industry-wide agreements guided 29 percent, and 40 percent of the companies were not covered. In 2012 collective bargaining agreements covered approximately 58 percent of all employees (60 percent of the labor force in the western part of the country and approximately 48 percent in the eastern part).

The law provides for equal treatment of foreign workers, who generally worked in conditions equal to those of citizens, although workers faced some wage discrimination. For example, employers sometimes paid lower wages to seasonal workers from Eastern Europe who came to the country on temporary work permits. The Institute of Labor Market Research found out that foreigners tended to earn 64 percent of the average wage of Germans when they entered the German labor market for the first time. The wages converged over several years but did not equalize.

Federal regulations set the working time of an employee to eight hours per day and limit the average workweek to a maximum of 48 hours per week. Collective bargaining agreements, however, may stipulate lower maximums, and in 2012 they stipulated on average 37.7 hours per week. These collective contracts directly or indirectly affecting 80 percent of the working population regulated the number of hours of work per week. According to the European Labor Force Survey, in 2011 the average full-time employee’s workweek was 39.9 hours for women and 41.1 hours for men; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement. Such agreements or individual contracts prohibited excessive compulsory overtime and protected workers against arbitrary employer requests,

An extensive set of laws and regulations governs occupational safety and health. A comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The 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 number of work accidents has been decreasing for the last two decades apart from a minor surge in 2010. Since 1991 the number has dropped by 50 percent. In 2011 the number fell to 1,007,864. There were 26 accidents in the workplace for every 1,000 full-time workers. Most accidents happened in the construction, sanitation, and traffic and warehouse industries. The number of fatalities in the workplace also declined to 664 (down 1.5 percent). The country’s “codetermination” model of employer-labor work councils reinforces federal and state government oversight of occupational safety and health.

Estimates for the shadow economy (i.e., all illegal economic activities, including moonlighting) are around 13 percent of total economic output – 344 billion euros (\$464 billion). The federal Ministry of Finance estimates this sector causes damage of 70 billion euros (\$95 billion) to the German economy annually.