



Germany

Country Reports on Human Rights Practices - 2004

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Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. A coalition government of the Social Democratic Party (SPD) and Alliance 90/The Greens returned to office in 2002 elections. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the directly elected chamber of the federal legislature. The second chamber, the Bundesrat, represents the 16 states. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states enjoy significant autonomy, particularly regarding law enforcement and the courts, education, the environment, and social assistance. The judiciary is independent.

Civilian authorities maintained effective control of the security forces. State governments have primary responsibility for law enforcement, and the police are organized at the state level. Some members of the security forces are alleged to have committed isolated human rights abuses.

A well—developed industrial economy provides citizens with a high standard of living. The population was approximately 82 million.

The Government generally respected the human rights of the citizens; however, there continued to be instances of ill treatment of prisoners and detainees by police. Under a new law, the courts may order that a person be detained indefinitely if convicted of particularly serious crimes and has completed his sentence but is judged, after expert testimony, to be a danger to the public. There were some limits on freedom of assembly and association. There was some government and societal discrimination against minority religious groups. Instances of societal violence and harassment directed at minority groups and foreign residents continued, and the Government at times did not provide adequate protection. Women continued to face some job discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem, which the Government actively combated.

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 politically motivated killings by the Government or its agents; however, there was one instance in which police may have been culpable in the death of an individual in their custody.

In August, a 35 year old man died after officers of the Special Unit Commandos (SEK) arrested him in his home in Neukoelln, Berlin. The officers are alleged to have held the man down with an iron shield and handcuffed him. Shortly afterwards, the man complained about feeling ill; an emergency physician was called, but the suspect died. The Berlin public prosecutor was still investigating this matter at year's end.

In July 2003, a court in Cologne found six police officers guilty of the 2002 beating death of a man who had been arrested; sentences ranged from 12 to 16 months in jail, and the officers appealed the decision. In July, the Cologne Court of Justice rejected the appeal but justified the comparatively lenient sentences by citing evidence by a medical expert linking the death (2 weeks after the beating) to a pre existing medical condition. Nevertheless, since the sentences were 12 months or more, the police officers were dismissed from the police and lost their status as civil servants.

continuity of existence, and observance of, and consistency with, the Basic Law.

Religious organizations are not required to register, although many were registered and were treated as nonprofit associations and therefore enjoyed tax exempt status.

The Government does not recognize for public administration purposes several belief systems, such as Scientology, as religions; however, it does not prevent them from engaging in public and private religious activities. The Church of Scientology, in particular, is viewed, instead, as an economic enterprise. Moreover, federal and state authorities have classified Scientology as a potential threat to democratic order, measures which have led to employment and commercial discrimination against Scientologists in both the public and private sectors. Within the federal system, the states showed large differences with respect to their treatment of Scientology. Most states did not monitor Scientology, but Bavaria, which had unsuccessfully sought support among other states for a federal ban, continued to do so. The state of Baden Wuerttemberg also continued to monitor Scientology, which it labeled a dangerous sect. In November, the Cologne Administrative Court ruled that the observation of Scientology by the Federal OPC, including the use of undercover methods, was legal. The court found that there were "factual indications" that Scientology sought to undermine the "free and democratic basic order" of the FRG. The court rejected a petition by Scientology to end its observation by the OPC, which has been ongoing since 1997. Scientologists announced plans to appeal.

Scientologists encountered other forms of hostility and suspicion from official sources. According to Scientologists, when the Ministry of Trade and Commerce of Baden Wuerttemberg learned in October that the winner of the "Baden Wuerttemberg Support Prize for Young Companies" had been awarded to a Scientologist, the Ministry withdrew the prize of approximately \$20,250 (15,000 Euro). In another instance, a Scientologist claimed that his license to be an expert witness for cases involving real estate claims, granted by the Berlin Chamber of Industry and Commerce, would not be renewed because of his affiliation with the Church of Scientology. The Chamber claimed not only that Scientologists should not be active on the real estate market but also that many judges would not accept testimony from a witness affiliated with Scientology.

Employment offices throughout the country continued to implement a 1996 administrative order of the Ministry of Economics and Labor directing them to enter an "S" notation next to the names of firms suspected of employing Scientologists, a notation that was subsequently made optional. Employment counselors are supposed to warn their clients that they might encounter Scientologists in these workplaces. Scientologists claimed that the "S" notations violate their right to privacy and interfere with their livelihood. Private sector firms have frequently screened for Scientology affiliations, citing OPC observation of Scientology as a justification for discrimination. Unlike in previous years, there were no reports that the Federal Property Office barred the sale of real estate to Scientologists.

Outside the government sector, the Lutheran Church employed "sect commissioners" to warn the public about supposed dangers posed by Scientology, as well as by the Unification Church, Bhagwan Osho, and Transcendental Meditation. The Lutheran Church also characterizes the Church of Jesus Christ of Latter day Saints (Mormons), the Jehovah's Witnesses, the Church of Christ, Christian Scientists, the New Apostolic Church, and the Johannish Church as "sects," but in less negative terms than it does Scientology.

The Unification Church sought legal remedies against the Government's entry ban on the founder of the Unification Church, Reverend Sun Myung Moon, and his wife, Hak Ja Har Moon. Federal courts ruled that the ban did not infringe upon church members' freedom to practice their religion. An appeal against the ban was pending at year's end. In December, the Berlin Administrative Court offered the Jehovah's Witnesses conditional Public Corporate status. The conditions, if accepted, are as follows: Jehovah's Witnesses would not collect the Church tax, they would not take part in religious lessons in schools, and they would not be appointed to church civil servant status. At year's end, the Witnesses had not responded to this proposal.

In April, following legal maneuvering and debate in 2002 and 2003, Baden Wuerttemberg became the first state to enact a law banning the wearing of headscarves by teachers in public schools. Saarland, Hessen, and Bavaria soon followed. In June, the Federal Administrative Court in Leipzig upheld the law and the state's decision to deny a teaching position to plaintiff Fereshta Ludin. In March, Baden Wuerttemberg authorities suspended teacher Gabriele Graber for refusing to remove her headscarf; the suspension remained pending a decision on Graber's case by the Federal Administrative Court in Leipzig. Other cases were also pending in the court system at year's end. An amended school law that entered into force in Lower Saxony in May also prohibited Muslim teachers from wearing headscarves while on duty in public schools. On October 8, the Hessen state parliament passed a law barring headscarf use by all public officials. In contrast, Hamburg permitted teachers to wear headscarves.

In October, a court in Leipzig ruled that Christian nuns teaching in public schools, a common practice, must also conform to a Baden Wuerttemberg law that prohibited the wearing of religious paraphernalia in schools. When Bavaria banned headscarves and other religious symbols deemed contrary to constitutional order in November, it did not ban the wearing of crucifixes or nuns' habits, claiming that they were