



Germany

Country Reports on Human Rights Practices - [2003](#)

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The Federal Republic of Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. The last national election was held in September 2002 and resulted in a continuation of the coalition government of the Social Democratic Party (SPD) and Green Party. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the only directly democratically legitimized legislative body. The second legislative body is the Bundesrat, which represents the 16 states at the federal level and is comprised of members of the state governments. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states represented in the Bundesrat 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 are primarily responsible for law enforcement, and the police are organized at the state level. There have been instances in which police committed human rights abuses.

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

The Government generally respected the human rights of its citizens; although there were problems in some areas, the law and judiciary provided effective means of addressing individual instances of abuse. There were at least two reports of alleged police mistreatment or use of excessive force against detainees, which the Government investigated. 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 wage discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem, which the state and federal governments took steps to address.

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 of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

By year's end, there was no court decision on the 2002 appeal by three Federal Border Police Officers who were indicted for the 1999 death of Amor Ageeb, a Sudanese asylum seeker, during a deportation flight.

In July, a court in Cologne found six police officers guilty of the beating death of a man who had been arrested in 2002. The court gave the men sentences ranging from 12 to 15 months in jail; the officers appealed the decision.

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; however, there were at least two reports of alleged police mistreatment or use of excessive force. Amnesty International (AI) reported that there was a persistent pattern of alleged ill-treatment and excessive use of force by police. The Government investigated abuses and prosecuted police who mistreated persons in custody (see Section 1.d.).

In February, in a detention center in Cologne, a prison official beat a detainee who was allegedly verbally

abusive. Authorities reassigned the official to another position and began an investigation, which remained pending at year's end. In April, three police officers in Frankfurt am Main were charged with assault for beating Andre Heech after arresting him in February for failing to return from a prison work release program in January (Heech had been serving a 4-year sentence for fraud). Heech, an amputee, alleged that one of the officers struck the remaining part of his leg with a metal pipe, and that he was not provided medical assistance. The case remained pending at year's end.

Four Chinese nationals facing deportation from Rhine-Palatinate brought charges against the police in Trier for failing to protect them against abuse by Chinese police officers in June. They claimed that in June, German police left several Chinese police officers in a locked room alone with them; however, the plaintiffs claim that there were no German police present during the incident. Rhine-Palatinate Interior Minister Walter Zuber defended the procedure, claiming that it is common practice to have deportees interviewed by home-country authorities.

There were a number of violent attacks by rightwing groups on minority groups and foreigners (see Section 5).

Prison conditions generally met international standards. Men were held separately from women, juveniles were held separately from adults, and pretrial detainees were held separately from convicted criminals.

The Government permits visits by independent human rights monitors, although there were no reports that such visits were requested during the year.

d. Arbitrary Arrest, Detention, or Exile

The Basic Law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police force is organized at the state level. The jurisdiction of the Federal Criminal Office is limited to counterterrorism, international organized crime, particularly narcotics trafficking, weapons smuggling, and currency counterfeiting. Police forces in general were well trained to a high professional level, disciplined, and mindful of citizens' rights. The Government investigated abuses and prosecuted police who mistreated persons in custody (see Sections 1.a. and 1.c.). Allegations of corruption were very rare.

A person can be arrested only on the basis of an arrest warrant issued by a competent judicial authority, unless the person is caught in the act of committing a crime or the police have strong reason to believe that the person intends to commit a crime. 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. Anyone detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order their release.

Police at times detained known or suspected radicals for brief periods when they believed such individuals intended to participate in illegal or unauthorized demonstrations (see Section 2.b). The rules governing this type of detention are different in each state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial apprehension. There were no reports of such detention during the year.

Detainees have access to lawyers. Only judges may decide on the validity of any deprivation of liberty. Bail exists but seldom is employed; the usual practice is to release detainees unless there is clear danger of flight outside the country. In these cases, a person may be detained for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual.

The Basic Law prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are four levels of such courts (local courts, regional courts, higher regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also have different levels, and appeals may be made to the next higher level.

In addition, there is the Federal Constitutional Court, which is the supreme court. Among other responsibilities, it reviews laws to ensure their compatibility with the Basic Law and adjudicates disputes between different branches of government on questions of competencies. It also has jurisdiction to hear and decide claims based on the infringement of a person's basic constitutional rights by a public authority.

The judiciary provided citizens with a fair and efficient judicial process, although court proceedings at times were delayed because of increasing caseloads. For simple or less serious cases, the Government adopted a procedure allowing for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to 1 year, provided the accused has a defense counsel and execution of the punishment is suspended on probation.

There were no reports of political prisoners.

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

The Basic Law and statutory laws prohibit such actions, and government authorities generally respected these prohibitions in practice; violations were subject to effective legal sanction.

Several hundred organizations were under observation by the federal and state Offices for the Protection of the Constitution (OPC). The OPCs were charged with examining possible threats to the constitutional democratic system; they had no law enforcement powers, and OPC monitoring by law could not interfere with the continued activities of any organization. However, because the OPCs published a list of organizations being monitored, being on the list could have a negative influence on an organization's reputation, thus disturbing its normal activities. In observing an organization, OPC officials sought to collect information, mostly from written materials and first-hand accounts, to assess whether a threat existed. At times, more intrusive methods, such as the use of undercover agents, but they were subject to legal checks (see Section 2.c.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Basic Law provides for freedom of the press, and the Government generally respected this right in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of the press and of speech, including academic freedom. However, there were some limits on freedom of speech. Distribution of the propaganda of proscribed organizations, statements inciting racial hatred and endorsing Nazism, and denying the Holocaust, are illegal, and the authorities sought to block what they considered dangerous material on the Internet.

The independent media were active and expressed a wide variety of views without government restriction.

There were approximately 120 Internet service providers. The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and the Government explored ways to expand bilateral and multilateral cooperation in countering Internet crime. German officials estimated that there were approximately 800 Internet sites with what they considered objectionable or dangerous rightwing extremist content. The Federal Court of Justice held that the country's laws against Nazi incitement may apply to individuals who post Nazi material on Internet sites available to users in the country, even if the site resides on a foreign server.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies. For example, in August rallies and marches by neo-Nazis and rightwing extremists commemorating the death of Nazi official Rudolf Hess were prohibited by a court in Bavaria, but the Federal Constitutional Court upheld the extremists' right to assemble and advised police to ensure that the assembly did not endanger public safety.

The law provides for freedom of association, and the Government generally respected this right in practice; however, the Basic Law and the Association Law permit the banning of organizations whose activities were found to be illegal or opposed to the constitutional democratic order as established by the Basic Law. The Federal Constitutional Court is the only body that can outlaw political parties on these grounds. Federal or state governments may ban other organizations on these grounds, but legal recourse against such decisions is available. Such banned organizations included a number of groups that authorities generally classified as rightwing or leftwing, foreign extremist, or criminal in nature. Several hundred organizations were under observation by the federal and state OPCs (see Section 1.f.).

On October 28, more than 300 police officers raided homes and meeting places of suspected neo-Nazi groups in Schleswig-Holstein. Police found weapons and arrested several people suspected of "forming a politically motivated criminal organization." The suspects were associated with the international neo-Nazi group Combat 18.

A commission of experts examined whether evidence against the rightwing extremist National Democratic

Party (NPD) met the threshold to support a legal ban, which was widely demanded after a surge of rightwing extremist activity in 2000. In March, the Court dismissed separate petitions by the Bundestag and Bundesrat for the banning of the NPD because of flaws in the Government's case. In January, Interior Minister Otto Schily used his executive authority to ban the Islamic extremist organization, Hizb ut-Tahrir.

In October, the Federal Constitutional Court rejected the appeal and upheld the ban on the Islamic extremist organization "Caliphate State," exhausting the organization's legal remedies. The "Caliphate State" had appealed the Interior Minister's 2001 ruling banning the organization. Metin Kaplan, former head of the "Caliphate State," was released from prison in May after serving a 4-year sentence for calling for the killing of an opponent. Authorities have denied Turkey's extradition request for Kaplan, who was wanted in Turkey for terrorism-related charges, on the grounds of uncertainty that a fair trial would take place in Turkey. The Higher Regional Administrative Court in Muenster was deciding an appeal on whether Kaplan could be granted asylum, or be deported to Turkey at year's end. Kaplan was not allowed to travel outside of Cologne and was required to report regularly to police.

c. Freedom of Religion

The Basic Law provides for the freedom of religion, and the Government generally respected this right in practice; however, discrimination against minority religious groups remained an issue.

Church and state are separate, although historically a special relationship existed between the State and those religious communities that had the status of a "corporation under public law." If they fulfill certain requirements, organizations may request that they be granted "public law corporation" status, which, among other things, entitles them to levy taxes on their members, which the State collects for them. The decision to grant public law corporation status is made at the state level.

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

Within the federal system, the states showed large differences with respect to their treatment of the Church of Scientology. Two states, Schleswig-Holstein and Mecklenburg-Vorpommern, did not monitor Scientology. The city-state of Berlin dropped OPC observation of Scientology in September, and the state of Hesse did not mention Scientology in its 2002 OPC report. Bavaria, on the other hand, announced in November 2002 that it might seek to ban Scientology and indicated that it would ask the Federal Interior Ministry to consider a federal ban. In March, Bavaria found no support among other states, except for Hamburg, for such a ban. Scientology was the only religious community under OPC observation, and Scientologists contended that inclusion in a list of totalitarian and terrorist groups was detrimental to the Church's reputation.

In December, a court in Baden-Wuerttemberg found that the Church of Scientology in the state was entitled to tax-exempt status as a religious community. State officials had maintained for several years that the Church of Scientology was a commercial enterprise, not a religious community, and had refused to grant it tax exempt status.

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 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 were characterized in less negative terms but nevertheless were singled out as "sects."

Private sector firms that screen for Scientology affiliations frequently cited OPC observation of Scientology as a justification for discrimination. The Federal Property Office barred the sale of some real estate to Scientologists, noting that the Finance Ministry had urged that such sales be avoided if possible. Since 1996, employment offices throughout the country have implemented an Economics and Labor Ministry administrative order directing them to enter an "S" notation next to the names of firms suspected of employing Scientologists. 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.

The Unification Church has sought legal remedies against the Government's refusal to grant an entry visa to the founder of the Unification Church, Reverend Sun Myung Moon, and his wife, Hak Ja Har Moon through 2004. Federal courts ruled that the exclusion does not infringe upon church members' freedom to practice their religion. At year's end, an appeal by the Unification Church was pending.

On October 22, the Federal Constitutional Court overturned a lower court's 2002 decision that without the appropriate state legislation, a school in Baden-Wuerttemberg could prohibit a Muslim teacher from wearing a headscarf to work. The ruling does not affect states' ability to establish a legal basis for banning headscarves in schools. After the ruling, several states indicated their intention to enact laws prohibiting Muslim public servants from wearing headscarves on duty. Several states have submitted draft laws prohibiting Muslim teachers from wearing headscarves on duty in public schools. Legislative approval was pending at year's end.

Leading politicians from all major parties stated that neo-Nazi groups posed a serious threat to public order and called for continuing vigilance by law enforcement agencies. Following a rise in the incidence of anti-Semitic crimes and an increase in public criticism of the Israeli Government's actions in the Middle East, Jewish community leaders expressed disappointment in the leaders of other religious communities, as well as in some local and national politicians, for not speaking out more forcefully against anti-Semitism. In October, the public remarks of Martin Hohmann, a Christian Democratic Union (CDU) Member of Parliament, comparing the actions of Jews during the Russian Revolution to those of the Nazis during the Holocaust, led to the opening of an inquiry following a criminal complaint alleging incitement and slander. The CDU subsequently expelled Hohmann from its parliamentary caucus.

Arab youths appeared to be increasingly behind attacks on and harassment of the country's Jews. In May, an American orthodox Jew in Berlin was attacked by a group of teenagers who appeared to be of Arab origin. The attack was the fourth in a series of similar incidents that took place during the year.

During the year, Jewish cemeteries were desecrated in Kassel and Beeskow. Dozens of gravestones were pushed over or painted with pro-Nazi graffiti. In September, police arrested several people for suspected involvement in a plot to bomb a Jewish institution in Munich.

All branches of Islam were represented in the country, with the large majority of Muslims coming from abroad. Reports continued of opposition to the construction of mosques in various communities around the country, generally concerning complaints about increased traffic and noise. There was debate over whether Muslims could use loudspeakers in residential neighborhoods to call the faithful to prayer. There also remained areas where the law conflicted with Islamic practices or raised religious freedom issues, notably the headscarf issue.

Authorities ran a variety of tolerance-education programs, many focusing on anti-Semitism and xenophobia. Government agencies cooperated with nongovernmental organizations (NGOs) in the formulation and administration of these programs.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

The Basic Law provides for these rights, and the Government generally respected them in practice. For ethnic Germans from Eastern Europe and the former Soviet Union, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions. The law provides that children born to legal foreign residents be granted citizenship. Individuals may retain both German citizenship and that of their parents until the age of 23, when they must choose one or the other. The law reduced the period of residence legal foreign residents must spend in the country in order to earn the right to naturalize from 15 to 8 years.

The Basic Law and legislation provide for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and provided refugee status or asylum. Both the Federal Government and state governments cooperated with the office of U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, although immigration matters were primarily a state-level responsibility.

Individuals attempting to enter via a "safe country of transit" (any country in the European Union (EU) or adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or returned to that "safe country of transit" if they managed to enter the country. Individuals whose applications were rejected on these grounds had up to 2 weeks to appeal the decision. Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases, the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The applicant could appeal a negative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Although stays in the airport facility are limited to a maximum of 19 days, applicants whose claims were rejected, but who could not be deported immediately, allegedly have been held at the airport for months, a practice criticized by some refugee assistance groups and human rights advocates.

Applicants who entered the country and were denied asylum at their original administrative hearing could challenge the decision in court, and 80 percent of applicants denied asylum did so. Only about 3 to 4 percent of such rejections were overturned. The rejected applicant was allowed to remain in the country during the course of the appeal, which usually took at least a year and sometimes significantly longer. Applicants received housing and other social service benefits during this time. Asylum applicants and civil war refugees have been allowed to work after a 1-year waiting period. Individuals who failed to cooperate during the deportation process or who were deemed liable to flee to avoid deportation could be held in predeportation detention, with the average detention period lasting 5 to 6 weeks.

Some foreigners whose asylum applications were rejected, but who would be endangered if they were returned to their home country, received temporary residence permits; however, they were expected to leave when conditions in their home country allowed for their safe return. The vast majority of the approximately 345,000 Bosnians and the approximately 200,000 Kosovars whom the Government admitted during the conflict in the former Yugoslavia fell into this category; most of these persons have since been repatriated or resettled outside of the country. For the remainder, once their residence permits expired they could be deported, although some exceptions were made for certain vulnerable groups, such as members of ethnic minorities, including Serbs, Roma, Ashkalia, and Muslim Slavs. In a number of cases, there also were exceptions made for medical reasons. The Government continued to support voluntary return programs for refugees from the former Yugoslavia, providing financial incentives of between \$956 and \$2,813 (765 and 2,250 euros) to help cover travel and resettlement costs. Many states provided additional resettlement funds. However, failure to accept voluntary repatriation subjected these refugees to the threat of deportation, forced them to leave their personal property behind, and excluded them from reentering the country for a 5-year period.

In some cases, unsuccessful asylum seekers attempted to thwart their deportation by refusing to disclose to authorities their country of origin or their identity. This situation was prevalent among asylum seekers from West Africa; it was also not unusual among asylum seekers from the former Soviet Union. Several states attempted to speed up repatriation of uncooperative rejected asylum seekers by opening communal accommodations where foreigners were housed while authorities obtained valid information regarding their identity and citizenship. Some refugee-rights and church organizations criticized these centers as inhumane. They claimed that the basic amenities and relative lack of freedom of movement exerted psychological pressure on the residents. Authorities countered that the centers' emphasis on counseling and job skill development promoted the residents' willingness to depart voluntarily and enhanced their chances of success in their home countries.

During the year, there were 377 voluntary returns of Bosnian refugees. The Government estimated that since 1999, approximately 100,000 Albanian Kosovars have returned to Kosovo. According to government sources, 85 percent of these returned voluntarily, the other 15 percent involuntarily. These figures were consistent with those of refugee advocate groups. The Government estimated that there were approximately 60,000 deportable Kosovar refugees in the country. Of these, 27,000 were ethnic Albanians and 33,000 were members of ethnic minorities, primarily Roma and Serbs, but also including Bosniaks, Egyptians, Ashkalia, Turks and Torbesh. Roma and Serbs were exempted from forced returns, but other ethnic minorities and Albanians were being returned, increasingly on a forced basis. In coordination with the U.N. Interim Administrative Mission in Kosovo (UNMIK), German authorities in some states provide voluntary returnees with some resettlement funds and in-country assistance.

There were two reports of the forced deportation of Chechens to Russia. After the 2002 incident in a Moscow theater in Russia, the federal Interior Ministry recommended to its state-level counterparts that deportations of Chechens should be temporarily halted and that previously refused asylum cases of Chechens remaining in Germany should be re-evaluated. However, according to AI, many asylum applications by Chechens were refused during the year.

AI reported that the Government deported a Chechen man in Baden-Wuerttemberg whose two applications for asylum were denied. During the year, the Government refused to consider an asylum application from a Chechen man who entered the country through Poland on the grounds that he entered through a "safe country of transit."

Due to continuing security concerns, the Government decided not to compel the return of Afghan refugees.

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

The Basic Law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections. Members of Parliament are elected every 4 years from a mixture of direct-constituency and party-list candidates on the basis of universal suffrage and secret balloting. The second legislative body, the Bundesrat, is composed of delegations from state governments; there are no collective Bundesrat elections.

In the Bundestag, there were two major parliamentary groups, the SPD and the Christian Democratic Union/Christian Social Union (CDU/CSU), as well as two smaller parliamentary groups, the Free Democrats (FDP) and the Greens. Parties that failed to win either 5 percent of the vote nationwide or three seats in head-to-head contests ("direct mandates") were not allotted their proportional share of seats (although they retain any seats won directly). In the 2002 national elections, the Party of Democratic Socialism (PDS) won two direct mandates, but failed to gain the 5 percent needed; therefore, there were only two PDS deputies in the new Bundestag. The federal Constitutional Court may outlaw political parties that actively work to undermine the liberal democratic order (see Section 2.b.).

The law entitles women to participate fully in political life, and a growing number were prominent in the Government and the parties. Close to 31 percent of the members of the Bundestag were women. Women occupied 7 of 15 Federal Cabinet positions. On the Federal Constitutional Court, 5 of the 16 judges were

female, including the Chief Justice. Two of the parties represented in the Bundestag were headed by women: The CDU and the Greens/Alliance 90 (co-chaired by a woman and a man). All of the parties have undertaken to enlist more women. The Greens/Alliance 90 Party requires that women constitute half of the party's elected officials; and 57.5 percent of the Party's federal parliamentary caucus members are women. The SPD had a 40-percent quota for women on all party committees and governing bodies, and they met that goal. The CDU required that 30 percent of the first ballot candidates for party positions be women, a goal that they met.

Few minorities were represented in the Government. There were two Turkish-German Bundestag deputies and one German-Indian mixed race deputy in the Bundestag.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits the denial of access to housing, health care, or education on the basis of race, disability, sex, ethnic background, political opinion, or citizenship.

Women

Violence against women was a problem and was thought to be underreported; nationwide statistics are not compiled, but the Ministry of Family, Seniors, Women and Youth estimated that there were approximately 45,000 cases per year of domestic violence against women. In 2002, countrywide, 8,615 cases of rape were reported, 724 (9.2 percent) more than in 2001. The law prohibits violence against women and the Government has implemented a number of legal and social structures to combat it. Societal attitudes toward such violence are strongly negative, and legal and medical recourse were available. During the year, the Government conducted campaigns in schools and through church groups to bring public attention to the existence of such violence and supported numerous projects to combat the problem. There were 435 "women's houses," including 115 in the eastern states (excluding Berlin), where victims of violence and their children could seek shelter, counseling, and legal and police protection. In the last few years, the Federal Ministry for Families, Seniors, Women and Youth commissioned a number of studies to obtain information on violence against women, sexual harassment, and other matters. The law provides for removing a violent husband or male domestic partner from a shared dwelling.

Prostitution is legal. Lawmakers have approved new rules affording prostitutes more benefits, such as the chance to enter the social security system and to use the courts to obtain payment for their services.

Trafficking in women was a problem (see Section 6.f.).

Sexual harassment of women was a recognized problem. The press reported on sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs ran a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The Government continued to implement its multiyear action plan, "Women and Occupation." The program promoted the equality of women and men in the workforce, including increased vocational training for women, greater representation of women in political advisory councils, and the promotion of female entrepreneurs through government grants and participation in regional projects earmarked for women. The Federal Ministry for Families, the Elderly, Women, and Youth also announced a multiyear initiative designed to increase the number of women and girls who receive training in information technology (IT) and in media careers, with the goal of raising the number of IT-training slots to 60,000 by 2003 and the share of female IT-trainees to 40 percent by 2005. The law provides for equal pay for equal work; however, in practice many employers categorized individual jobs held by women differently from the same job held by a man, thereby creating inequalities in pay for men and women. Union contracts typically identified categories of employment in which participants are to be paid less than 100 percent of the wage of a skilled laborer covered by the same contract. Women were represented disproportionately in these lower-wage scale occupations. In general, a women's average monthly income was lower than a man's average monthly income. However, if factors such as differences in age, qualification, occupational position, structure of employment or seniority are taken into consideration, women usually were not discriminated against in terms of equal pay for equal work, although they were underrepresented in well-paid managerial positions.

Children

The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. Public education was provided free of charge through the university

level and was mandatory through the age of 16; almost all children attended school on a daily basis.

Child abuse was a problem. No statistics were available, but children's advocates from NGOs as well as some politicians considered it a problem, and individual cases received attention in the newspapers. The law stresses the need for preventive measures, and in response the Government increased its counseling and other assistance to abused children.

The Criminal Code provides for the protection of children against pornography and sexual abuse. For possession of child pornography, the maximum sentence is 1 year's imprisonment; the sentence for distribution is 5 years. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. In 2002, there were 15,998 cases of sexual abuse of children recorded (881, or 5.8 percent more than in 2001). There were 2002 cases of possession or distribution of child pornography (down 743, or 27.1 percent, from 2001).

In October, the German UNICEF office published a report drafted by a local social worker that characterized the region along the border with the Czech Republic as a "haven for pedophilia." The two countries have formed a liaison group to increase communication and exchange information on vice crimes, augmenting a 2000 agreement on police cooperation.

Trafficking in girls was a serious problem (see Section 6.f.).

Persons with Disabilities

The Basic Law specifically prohibits discrimination against persons with disabilities, and there were no reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law mandates several special services for persons with disabilities; they are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offered vocational training and grants for employers who hired persons with disabilities. Persons with severe disabilities could be granted special benefits, such as tax relief, free public transport, special parking facilities, and exemption from radio and television fees.

The Government set guidelines for the attainment of "barrier-free" public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings follow the guidelines for a "barrier-free environment." There were no reports of societal discrimination against persons with disabilities.

National/Racial/Ethnic Minorities

The Federal Criminal Police uses a crime definition system for "politically motivated crimes" (PMCs). PMCs are crimes that involve motives that have to do with victims' ideology, nationality, ethnicity, race, skin color, religion, world-view, ancestry, sexual orientation, disability status, appearance, or social status. PMCs are categorized and reported by the Federal OPC in its annual report, according to perpetrator (rightwing extremist, leftwing extremist, foreign extremist) and crime type (propaganda, racist literature or hate speech; property destruction, desecration of Jewish graves; and assaults on persons). In 2002, 10,902 rightwing PMCs were recorded (10,054 in 2001), including 7,294 propaganda crimes (6,336 in 2001), 2,513 "incitement of racial hatred" crimes (2,538 in 2001), 178 property crimes (251 in 2001), 115 criminal threats (190 in 2001), and 30 grave desecrations (30 in 2001). In 2002, 772 of the rightwing extremist PMCs were violent (709 in 2001); the majority of these (440, 56.9 percent; up from 374 in 2001) were perpetrated against foreigners; 28 (2.5 percent) were anti-Semitic (up from 18 in 2001), and 207 (26.8 percent) were against political opponents (197 in 2001).

Harassment of foreigners and racial minorities, including beatings, remained common throughout the country. Media as well as official reports indicated that several such incidents occurred each week. There were several incidents in July. An African woman was harassed with racial slurs and punched as she waited for a streetcar in Potsdam; several Vietnamese were attacked in Berlin; in Rhineland-Palatinate, a neo-Nazi shouted "Heil Hitler" as he kicked a Nigerian in the stomach, sending him to the hospital. In northwestern Brandenburg state, a 13-year-old German of color was assaulted and burned by a group of 14- to 16- year olds who started their attack with racial slurs. In Wittenberg (Saxony-Anhalt), six men hit a young Arab man with bottles, knocked him to the ground, kicked him, and harassed him with racial slurs.

In June, a foreign government granted asylum to a German citizen of color and her children after finding that the Government's failure to protect her rights and address her grievances effectively condoned racist attitudes and discrimination. The asylee alleged that government agencies ignored her complaints against her ex-husband (a Caucasian citizen) of spousal and child abuse because she was a person of color, and that government agencies through malfeasance and discrimination denied her equal access to social services. In an ongoing domestic court case in which she was attempting to obtain a child support enforcement order, she alleged that government agencies continued to deny her access to legal representation to which she is entitled as a citizen.

Membership in rightwing organizations was difficult to ascertain; however, authorities estimated that there were approximately 1,500 persons nationwide who were leaders of rightwing activities. Authorities estimated an additional 10,000 persons were sympathizers.

The Federal Government and state governments remained firmly committed to combating and preventing rightwing violence, although police resources increasingly were allocated to address the terrorist threat. In September, authorities in Bavaria arrested several members of the neo-Nazi "Southern Brotherhood" organization and seized weapons and explosives from the group in raids. Police discovered plans the group had to attack the cornerstone-laying ceremony of a new Jewish community center and synagogue. State and federal authorities are continuing their investigation of possible links between this group and other violent neo-Nazi groups nationwide.

The Government protected and fostered the languages and cultures of national and ethnic minorities that traditionally lived in the country (for example, Sorbs, Danes, Roma, Sinti, and Frisians). Although the Government recognized the Sinti and Roma as an official "national minority" since 1995, the federal and state interior ministries resisted including Romani among the languages to be protected under relevant EU statutes. Critics contended that the Sinti/Romani minority was the only official national minority that did not have unique legal protection, political privilege, or reserved representation in certain public institutions.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination. Unemployment affected foreigners disproportionately, although at times this was due in part to inadequate language skills or nontransferable professional qualifications of the job seekers (see Section 6.e.). The Federal Government and all states established permanent commissions to assist foreigners in their dealings with government and society.

Section 6 Worker Rights

a. The Right of Association

The Basic Law provides for the right to associate freely, choose representatives, determine programs and policies to represent workers' interests, and publicize views, and workers exercised these rights. Approximately 27 percent of the total eligible work force belonged to unions. The German Trade Union Federation (DGB) represented approximately 83 percent of organized workers.

The law effectively protects workers against antiunion discrimination. Complainants file their cases directly with the labor courts, which are the courts of first instance. Specialized labor court judges render decisions in these cases.

The DGB participated in various international and European trade union organizations, including the European Trade Union Confederation (ETUC) and the International Confederation of Free Trade Unions (ICFTU).

b. The Right to Organize and Bargain Collectively

The Basic Law provides for the right to organize and bargain collectively and workers exercised these rights. Collective bargaining was widespread due to a well-developed system of autonomous contract negotiations; mediation was used infrequently. Basic wages and working conditions were negotiated at the industry level. However, some firms in the eastern part of the country refused to join employer associations or withdrew from them and then bargained independently with workers. In addition, some firms in the west withdrew at least part of their work force from the jurisdiction of employer associations, complaining of rigidities in the industrywide, multicompany negotiating system; however, they did not refuse to bargain as individual enterprises. The law mandates a system, known as co-determination, whereby workers are able to participate in the management of the enterprises in which they work through "works councils" and worker representation on boards of directors. The rights of the works councils are regulated through the Works Constitution. Members of works councils do not have to be union representatives.

The Basic Law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive positions, such as members of the armed forces. In the past, the International Labor Organization (ILO) criticized the Government's definition of "essential services" as overly broad. The ILO continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants. The ILO has repeatedly reminded the Government that this restriction is not in line with Convention 87, and has asked it to change its legislation accordingly. Similarly, teachers in the public service continue to be denied their right to collective bargaining. This has not changed despite ILO criticism of the violation of Convention 98. These groups who are not allowed to strike have legal recourse through the court system to protect their rights.

In June, a strike by the IG Metall labor union for a 35-hour work week in eastern Germany failed in the face of determined resistance by employers, lack of support among workers who feared they would be priced out of their jobs, and objections from western German workers who would have had to cope with

the consequences of disruptions in supplies from the east. The Government did not interfere.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Basic Law and the federal statutes prohibit forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

Since 2001, the "Remembrance, Responsibility, and the Future Foundation," has paid approximately \$2.81 billion (2.25 billion euros) to some 1.4 million claimants worldwide for payments to private and public sector Nazi-era forced and slave laborers and others who suffered at the hands of German companies during the Nazi era. The Government and a consortium of German companies have each contributed \$3.1 billion (2.5 billion euros) to the Foundation, which was established under the law. The Foundation concluded agreements with partner organizations such as the International Organization for Migration (IOM) and the Conference on Jewish Material Claims Against Germany that receive Foundation funds in order to process and pay claims according to agreed procedures and subject to audit.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. The Federal Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

e. Acceptable Conditions of Work

There was no legislated or administratively determined minimum wage; wages and salaries were set either by collective bargaining agreements between unions and employer federations or by individual contracts. Covering an estimated 80-90 percent of all wage and salary-earners, the collective bargaining agreements set minimum pay rates and were enforceable by law. The remaining 10-20 percent were covered by either individual contracts or company-level contracts negotiated by worker representatives who were not necessarily members of unions. These minimums provided a decent standard of living for a worker and family.

Federal regulations limit the workweek to a maximum of 48 hours, but the number of hours of work per week was regulated by contracts that directly or indirectly affected 80 percent of the working population. The average workweek for industrial workers was 36 hours in the western part of the country and approximately 39 hours in the eastern states; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

There was an extensive set of laws and regulations on occupational safety and health. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. The Labor Ministry and its counterparts in the states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Work Safety. At the local level, professional and trade associations--self-governing public corporations with delegates both from the employers and from the unions--oversaw worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers legally in the country were protected by law and generally worked in conditions equal to that of citizens; however, wage discrimination affected legal foreign workers to some extent. For example, foreign teachers in some schools were paid less than their German counterparts. In addition, seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below normal German standards. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding German worker would receive a higher wage. Foreigners who were employed illegally, particularly in the construction industry in Berlin, were likely to receive substandard wages.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons, primarily women and girls for sexual exploitation, was a problem.

The law specifically prohibits trafficking in persons and makes the offense punishable by up to 10 years' imprisonment. These crimes are prosecuted at the state level. The Federal Criminal Office for Criminal Investigation and state police actively investigated cases of trafficking and published their findings in an annual trafficking report. In 2002 (the latest year for which figures are available), state officials conducted 282 pre-trial investigations, a 5.9 percent increase from the previous year. The number of suspects in 2002 was 821, an increase of 10 percent over the previous year.

In March, a Kassel court sentenced a Czech national to 8 years in prison for trafficking 300 Afghan and Chinese nationals to Germany.

The Federal Criminal Office for Criminal Investigation has a team that coordinates international operations and offers special training. The Federal Ministry for Families, the Elderly, Women, and Youth heads an interagency working group to coordinate the efforts of state and federal agencies to combat trafficking and to aid victims of trafficking. The federal and state Governments worked actively with NGOs and local women's shelters to combat human trafficking.

Germany was both a destination and transit country for trafficking in persons, overwhelmingly women and girls. Most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes; according to police statistics, less than 0.5 percent of trafficking victims were men or boys. Estimates by NGOs varied considerably as to the number of women and girls trafficked to and through the country. The number of known and registered trafficking victims in 2002 was 811. Of these, 87 percent came from Eastern Europe and the countries of the former Soviet Union, primarily from Russia, Poland, Ukraine, Moldova, Lithuania, Slovakia, Latvia, Bulgaria, and the Czech Republic. Frequently crime rings would traffic women who already had been caught in, and deported from, one European country to another. Non-European victims came mostly from Africa and Asia. The UN Center for International Crime Prevention stated that Germany is the most common destination for victims of human trafficking.

Traffickers used a range of intimidation techniques to ensure the compliance of victims, including threats to "sell" the victim, threat of deportation, misinformation about victims' rights in Germany, physical violence, and withholding documents.

The Government was active in combating trafficking in persons at the federal and state levels. There was no known involvement of authorities or individual government employees in human trafficking.

The federal and state governments, as well as private donors, subsidized more than 30 counseling centers for victims of trafficking that are run by NGOs. When an illegal alien is discovered to be a trafficking victim, police were required to notify a counseling center and to inform the victim of his/her rights and options for seeking assistance. The centers provide shelter, counseling, interpreting services, and legal assistance. The NGOs involved with combating human trafficking also worked to raise public awareness through seminars and training courses.

Victims who serve as witnesses in trafficking cases have the right to join the criminal trial against the trafficker as a co-plaintiff, a status that entitles them to an attorney and financial assistance to cover legal expenses. Victims who are illegal residents receive basic health care for acute illness or pain according to the Benefit Rules for Asylum Seekers. Of the 811 registered victims in 2002, 284 were deported, 153 returned to their home countries of their own free will, and 104 were granted a temporary stay. The right to remain in Germany was granted in cases of marriage to a German national, political asylum, or evidence that the victim's life would be endangered by being deported.

The Government covered the basic cost of repatriation of trafficking victims under the Reintegration and Emigration Program for Asylum-Seekers in Germany (REAG). The IOM administers REAG, and is represented in several of the major return countries where the organization assists returned victims.

The Government was actively involved in reaching out to potential trafficking victims before they entered the country. German embassies and consulates as well as NGOs distribute a brochure that provided information on residency and work permit requirements as well as warnings about trafficking. The Ministry of Foreign Affairs sponsored and organized conferences on trafficking issues. Government agencies work actively with NGOs, which were represented in the federal interagency working group on human trafficking.