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U.S. Department of State

Germany Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

GERMANY

The Federal Republic of Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. The head of the Federal Government, the Chancellor, is elected by the lower house of Parliament. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states enjoy significant autonomy, especially as concerns law enforcement and the courts, education, the environment, and social assistance. The judiciary is independent.

Law enforcement is primarily a responsibility of state governments, and the police are organized at the state level. The jurisdiction of the Federal Criminal Office is limited to counterterrorism, international organized crime, especially narcotics trafficking, weapons smuggling, and currency counterfeiting. Police forces in general are well trained, disciplined, and mindful of citizens' rights, although there were instances of police abuse.

A well-developed industrial economy provides citizens with a high standard of living.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with instances of individual abuse. However, instances of police abuse continued, especially involving foreigners. Societal violence and harassment directed at foreign residents continued. However, crimes against foreign residents decreased by 25 percent in the first half of 1998, compared with the first half of 1997. Anti-Semitic incidents decreased by 15 percent during the same period. The Government is taking serious steps to address the problem of violence against women and children. Women continue to face some wage discrimination in the private sector, as do members of minorities and foreigners.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings by government officials.

The trial of Yasser Mohammed Shraydi, Ali Chanaa (alias Alba) and his former wife, Verena Helga Chanaa (a German national), and his wife's sister, Andrea Haeusler (also a German), in the case of the April 1986 bombing of the Berlin discotheque La Belle, which began in 1997, continues and is not expected to reach a verdict for at least 2 years. The attack killed 1 Turkish citizen and 2 U.S. citizens and injured 230 persons.

Four former high-ranking officials of the German Democratic Republic (GDR) received up to 2-year suspended sentences in July for fatal shootings that occurred on the GDR-FRG borders. The Berlin State Court found the former German Socialist Unity Party politician Wolfgang Herger, Deputy Defense Minister Hoerst Bruenner, and two other former military officers guilty of complicity in the murders. The judge in the case ruled that the four were jointly responsible for the GDR "basic orders for the protection of the border" and thereby also responsible for the deaths of two persons fleeing the GDR.

Alfons Gotzfried, an ethnic German who immigrated to Germany from Kazakhstan in 1991, was accused of being an accessory

in the murder of 70,000 persons, mostly Jews, at the Majdanek Concentration Camp during World War II. Gotzfried admitted after the war that he took part in the mass shooting of 500 Jews at the camp. Although he was convicted for National Socialist crimes and served 25 years at hard labor in the Soviet Union, he faces a trial and possible reimprisonment in Germany since he was not convicted in a German court and since there was no treaty between the Federal Republic of Germany and the Soviet Union covering such crimes.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and the authorities generally respect these prohibitions; however, there continue to be instances of excessive use of force by the police, especially against foreigners. Amnesty International published a report in July that found that police treatment of foreigners in custody showed "a clear pattern of abuse."

The Government prosecutes police who mistreat persons in custody. For example, in May a Frankfurt (Oder) Brandenburg court sentenced 3 police officers from the Bernau to 10 to 24 months' suspended sentences for mistreating Vietnamese detainees in 11 cases between the summer of 1993 and the summer of 1994. The Vietnamese were arrested for selling cigarettes and physically mistreated while in custody. In addition, the three police officers were suspended from duty in 1994 after initial charges were filed and subsequently were banned from any future work as police officers. A fourth officer had to pay a fine of \$3,330 (DM 5,400) for failing to stop the mistreatment of the detainees. The Attorney General's office appealed the sentence as too light and called for jail terms of 6 months to 4 years. The case was pending at year's end.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Basic Law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition. 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 the person intends to commit a crime. Any person detained by police must be brought before a judge and charged by the day after the arrest. The court must then issue an arrest warrant stating the grounds for detention or order the person's release. Police often detain known or suspected right and leftwing radicals for brief periods when the police believe such individuals intend to participate in illegal or unauthorized demonstrations. For example, in August police detained about 25 persons suspected of heading for illegal rallies to mark the 11th anniversary of the death of Rudolf Hess (see Section 5). 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.

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. The right of free access to legal counsel has been restricted only in the cases of terrorists suspected of having used contacts with lawyers to continue terrorist activity while in prison. Only judges may decide on the validity of any deprivation of liberty. Bail exists but is seldom employed; the usual practice is to release detainees unless there is clear danger of flight outside the country.

The Government does not use forced exile.

e. Denial of Fair Public Trial

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

The court system is highly developed and provides full legal protection and numerous possibilities for judicial review. 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, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also exist on different levels, with the possibility for appeal to the next higher level.

Separate from these five branches of jurisdiction is the Federal Constitutional Court, which is not only the country's supreme court but an organ of the Constitution with special functions defined in the Basic Law. Among other things, it reviews laws to ensure their compatibility with the Constitution and adjudicates disputes between constitutional organs 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 provides citizens with a fair and efficient judicial process, although court proceedings are sometimes delayed due to ever increasing caseloads.

There were no reports of political prisoners.

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

The Basic Law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

In July the authorities supported the decision of the Stuttgart school district not to hire a Muslim woman for a teaching position in a public school because she wore a traditional headscarf (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 respects this right in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom. Propaganda of Nazi and other proscribed organizations, as well as statements endorsing nazism, are illegal.

The authorities seek to block what they consider dangerous material on the Internet. A recent law bans access to prohibited material (for example, child pornography and Nazi propaganda). The law's implications regarding the possible liability of Internet service providers who do not filter prohibited material are not yet clear. In May a Munich court sentenced the former head of Compuserve's German operations to 2 years' probation and fined him \$60,000 (DM 100,000) for distributing pornographic materials on the Internet. Despite expert testimony during the trial that it was not feasible technically to screen Internet material, the judge ruled that Compuserve should have deleted material known to be offensive. The verdict was handed down despite the fact that the prosecutors who originally filed the charges later reversed themselves and argued for acquittal. The case was being appealed at year's end.

In a public appearance in Munich late in 1997, French politician Jean-Marie LePen reportedly referred to the gas chambers as a detail in history. The Munich public prosecutor's office undertook an investigation, the results of which were pending at year's end, on a possible charge of inciting hatred--a criminal offense. LePen reportedly submitted a statement to prosecutors regarding this event.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government respects this right in practice.

A number of antinuclear demonstrators who staged an illegal sit-down blockade of the Castor nuclear transport train suffered hypothermia when police ended their 11-hour action with water cannons. In another incident regarding the same transport, police and demonstrators were injured when 3,000 leftwing anarchists attacked police with stones, Molotov cocktails, and tracer bullets.

Authorities prevented several several neo-Fascist marches and demonstrations, and arrested a number of participants (see Section 5).

A number of clashes took place between leftwing and rightwing groups. For example, in May leftwing groups and anarchists protesting a rightwing demonstration fought with police (see Section 5).

The law provides for freedom of association, and the Government respects this right in practice. The Basic Law permits the banning of organizations whose activities are found to be illegal or opposed to the liberal democratic order as established by the Basic Law. A 1950's ruling by the Federal Constitutional Court outlawed a neo-Nazi and a Communist party. A number of other organizations that authorities generally classify as rightwing or leftwing, foreign extremist, or criminal, are banned. State governments may outlaw only organizations that are active solely within their state, with activities crossing state boundaries coming under federal jurisdiction. In February the state of Lower Saxony banned two organizations, Heide-Heim and Heidenheim, as rightwing organizations. In April the state of Bremen banned the Kurdish-German Solidarity Association as a foreign extremist organization. In August the Federal Government banned the Turkish Revolutionary People's Liberation Party/Front and the Turkish People's Liberation Party/Front-Revolutionary Left as leftwing organizations, and the state of Hesse banned and dissolved the "International Citizen's House of Frankfurt/Main," for activities related to the the banned Kurdistan Workers' Party (PKK). In addition, several hundred organizations were under observation by the federal and state Offices for the Protection of the Constitution (OPC). The OPC's are charged with examining possible threats to the democratic system; they have no law enforcement powers, and OPC monitoring by law may not interfere with the organizations' continued activities.

c. Freedom of Religion

The Basic Law (Constitution) provides for religious freedom, and the Government respects this right in practice. Most religious organizations are treated as nonprofit associations and therefore enjoy tax-exempt status. In order to obtain this status, state-level authorities must find that the organization operates on a nonprofit basis and contributes socially, spiritually, or materially to society.

Church and state are separate, although historically a special partnership exists between the state and those religious communities that have the status of a "corporation under public law." If they fulfill certain requirements, including an assurance of permanency and an indispensable loyalty to the state, organizations may request that they be granted "public law

corporation" status, which, among other things, entitles them to levy taxes on their members that are collected by the state for the church. The decision to grant "public law corporation" status is made at the state level. State governments also subsidize various institutions affiliated with such public law corporations, such as schools and hospitals. Most visible among the denominations and religions that were granted this status are the Lutheran and Catholic churches and Judaism. Many others also have been granted such status, including the Mormons, Seventh Day Adventists, Mennonites, Baptists, Methodist, Christian Scientists, and the Salvation Army.

The right to provide religious chaplaincies in the military, in hospitals, and in prisons is not dependent on the public law corporation status of a religious community. The Ministry of defense is currently looking into the possibilities for Islamic clergymen to provide religious services in the military, although none of the many Islamic communities has the status of a corporation under public law. The right to provide religious instruction at public schools also is no longer confined to religious communities with public law corporation status. In November the Berlin Higher Regional Court ruled that the Islamic Federation had to be given the opportunity to provide religious instruction in the Berlin public schools even though it was not a corporation under public law. The decision drew criticism from the many Islamic organizations that the Islamic Federation does not represent.

Jehovah's Witnesses are appealing to the Constitutional Court a July 1997 decision of the Berlin state government that had denied the church public law corporation status. Later in 1997 the Federal Administrative Court in Berlin upheld the Berlin state government's decision. The Court concluded that the church did not offer the "indispensable loyalty" towards the democratic state "essential for lasting cooperation" because, for example, it forbade its members from participating in public elections. The church does enjoy the basic tax-exempt status afforded to most religious organizations.

According to the Christian Community in Cologne (CCK), no incidents of harassment, discrimination, or death threats have been directed at CCK members since 1992, with the exception of occasional letters from a particular individual, whom they describe as harmless. CCK representatives claimed that the church's current tax difficulties were due to harassment by local tax authorities. However, they admitted that the church's tax problems were based on errors made by the church, although they questioned the motivation of the authorities for scrutinizing the church's application for extension of tax-exempt status (which must be renewed every few years, depending on state law). The fact that the church apparently violated tax law, and the authorities' voluntary reduction of the church's tax liability, raise questions about the merit of the CCK's allegations of harassment.

In July the Baden-Wuerttemberg minister of education supported the decision of the Stuttgart school district not to hire a Muslim woman for a teaching position in a public school because she wore a traditional headscarf. The minister took the position that the scarf was a political symbol of female submission rather than a religious practice prescribed by Islam. The Minister permitted the woman to conduct the practice teaching required for her degree, but argued that allowing a state employee to wear a headscarf on the job would violate the religious and political neutrality legally required of all civil servants. The woman concerned announced her intention to appeal the decision in the court system. While the minister held that the political act of donning a headscarf was unacceptable for a teacher as a role model, thousands of Muslim students are free to wear the headscarf in school.

In April in the Frankfurt suburb of Oberursel 100 Turkish families from a moderate Islamic group made inquiries about converting a building into a mosque. Local officials rebuffed the suggestion, and the mayor commented to the press that no mosque would be built in Oberursel until a Christian church is permitted in Mecca. The refusal polarized the local Islamic community, and the Hesse Protestant Church's Ombudsman for foreigners is mediating the dispute. Turkish groups in Stuttgart also failed to get permission to build a mosque or to convert an existing building into one.

The Church of Scientology remained under scrutiny by both federal and state officials who contend that it is not a religion but an economic enterprise. Authorities sometimes sought to deregister Scientology organizations previously registered as nonprofit associations and require them to register as commercial enterprises. In 1997 the Federal Administrative Court in Berlin, in sending an appeal concerning the deregistration of a Scientology organization in the state of Baden-Wuerttemberg back to a lower level for further review, declared that a registered nonprofit association, religious or otherwise, could engage in entrepreneurial activities as long as these were only supplementary and collateral to its nonprofit goals. The case continued in the lower court at year's end.

Some government officials allege that Scientology's goals and methods are antidemocratic and call for further restrictions on Scientology-affiliated organizations and individuals. In 1997 authorities of the federal and state OPC's placed Scientology under observation for a year because of concerns raised by some offices that there were indications that Scientology may pose a threat to democracy. Under the observation decision, OPC officials seek to collect information mostly from written materials and firsthand accounts to assess whether a "threat" exists. More intrusive methods would be subject to legal checks and would require evidence of involvement in treasonous or terrorist activity. Federal OPC authorities stated that no requests had been made to employ more intrusive methods, nor were any such requests envisioned. In November federal and state OPC's agreed to continue the observation of Scientology, subject to another review in 1999. The decision was based on an OPC report that concluded that although there was no imminent danger for the political system or the economy of being infiltrated by Scientology, there were nevertheless indications of tendencies within Scientology, supported by its ideology and programmatic goals, which could be seen as directed against Germany's free and democratic order. One state, Schleswig-Holstein, did not agree to implement such observation, on the grounds that the situation did not appear to justify such measures. Scientology filed a suit in Berlin to enjoin the Berlin Interior Ministry from the alleged practice of bribing members of Scientology to "spy" on other members. The case continued at year's end.

In April officials in Baden-Wuerttemberg posted bail and apologized to Swiss authorities when one of their police investigators gathering information on Scientology's activities in Baden-Wuerttemberg was arrested by Swiss police after interviewing a contact in Basel. The investigator was charged with espionage and violating Swiss neutrality.

Most major political parties continued to exclude Scientologists from membership, arguing that Scientology is not a religion but a for-profit organization whose goals and principles are antidemocratic and thus incompatible with those of the political parties. However, there has been only one known instance of enforcement of this ban. In a 1997 ruling a Bonn state court upheld the expulsion of three Scientologists from a state-level organization of the Christian Democratic Union party, ruling that a political party had the right to exclude from its organization those persons who do not identify themselves with the party's basic goals.

In June the commission established in 1996 to investigate "so-called sects and psycho-groups," including Scientology, presented its final report to Parliament. The report concluded that these groups did not pose a threat to society and state and underlined the constitutional principle of religious freedom and the state's obligation to observe strict neutrality in these matters. However, it called upon the Government to introduce legislation for consumer protection in the "psycho-market" and highlighted the need for the Government to inform the public about dangers to health and property posed by psycho-cults and groups. Particular emphasis was placed on Scientology because it allegedly pursued policies of "misinformation and intimidation" of its critics, according to the report. The report did not classify Scientology as a religion, but as a profit-oriented psycho-group with totalitarian internal structures and undemocratic goals. The commission contended that there were concrete indications that Scientology was a political extremist organization, in German, a "combine with totalitarian tendencies." The commission also recommended to Parliament that observation of Scientology continue. The report also recommended that because of its derogatory connotation the term "sect" should be avoided, and that instead the designation "new religious and ideological communities and psycho-groups" be used. The report referred to psycho-groups as "commercial cults" that offered their services in a fast-growing psycho-market.

The interministerial group of mid-level federal and state officials that exchanges information on Scientology-related issues continued its periodic meetings. The group published no report or policy compendium during the year and remains purely consultative in purpose.

On June 4, Bavarian interior minister Geunther Beckstein released two new brochures warning against the Church of Scientology. "The Scientology System" and "Scientology: An Anti-Constitutional Movement" warned about alleged hard-sell methods by the church and asserted that Scientology was striving for world power. Beckstein asserted that the Church was even ordering the commission of criminal acts and compared its psychological methods to those of the former East German secret police. He added that due to government measures, membership in Germany had dropped to an estimated 10,000 persons.

Scientologists continued to report discrimination, alleging both government-condoned and societal harassment because of their church affiliation. "Sect-filters," statements by individuals that they are not affiliated with Scientology, are used by some businesses and other organizations to discriminate against Scientologists in business and social dealings. Scientologists assert that business firms whose owners or executives are Scientologists, as well as artists who are church members, faced boycotts and discrimination, sometimes with state and local government approval. Other church members reported employment difficulties, and, in the state of Bavaria, applicants for state civil service positions are screened for Scientology membership. However, according to Bavarian and federal officials, no one in Bavaria lost a job, was denied employment, or suffered any infringement of rights by public officials or entities solely because of association with Scientology. Bavarian officials also contended that a Scientologist was teaching in a Munich public school and that another Scientologist was a member of the Bavarian Ministry of Culture. Several states have published pamphlets warning of alleged dangers posed by Scientology. In June foreign professional tennis player Arnaud Boetsch's contract with the Ruppener Tennis Club, to represent the club in the German Championships League, was canceled when the club learned that he was a Scientologist.

A United Nations report in April agreed that individuals were discriminated against because of their affiliation with Scientology. However, it rejected Scientology's comparison of the treatment of its members with that of Jews during the Nazi era.

In August officials in Frankfurt defended their decision to allow about 6,000 Scientology members and supporters to hold a demonstration in the city's Opera Square. Responding to criticism for issuing the demonstration permit, the officials defended Scientology's freedom of assembly.

Scientologists continued to take grievances to the courts. Legal rulings have been mixed. Some individuals who had been fired because they are Scientologists took their employers to court for "unfair dismissal." Several have reached out of court settlements with employers.

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

Citizens are free to move anywhere within the country, to travel abroad, to emigrate, and to repatriate, without restrictions that violate human rights.

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. Other persons may acquire citizenship (and with it the right of unrestricted residence) if they meet certain requirements, including legal residence for at least 10 years (5 if married to a German), renunciation of all other citizenships, and a basic command of the language. Long-term legal residents often opt

not to apply; they receive the same social benefits as do citizens, and after 10 years of legal residency they are entitled to permanent residence.

The Basic Law and subsequent legislation provide for the right of foreign victims of political persecution to attain asylum and resettlement. The Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Asylum applications dropped to their lowest level since the amendment of the asylum law in 1993, when the criteria for granting asylum were tightened. In 1998 the Government received 98,644 applications for asylum, down 9.5 percent from 104,353 in 1997. The acceptance rate was 4.0 percent for the 147,391 asylum cases reviewed during the year.

Persons coming directly from any country that officials designate as a "safe country of origin" cannot normally claim political asylum but may request an administrative review of their applications while in Germany. Persons entering via a "safe third country"--any country in the European Union or adhering to the Geneva Convention--are also ineligible for asylum.

The law limits legal recourse against denials of asylum applications. Critics argue that few countries can assuredly be designated as "safe third countries" and that the law unjustly fails to allow applicants to rebut such designations. While the law permits appeals against designations of "safe countries of origin," critics protest that the 48-hour period allotted for hearings is too brief. However, the Constitutional Court upheld the constitutionality of the amendments in 1996.

In 1997 for the first time in more than a decade more foreigners left the country than arrived, partially due to the departure of Bosnian refugees: 615,000 arrivals compared to 637,000 departures. Due to the recent decline in asylum seekers, the welfare office in Stuttgart closed 32 of 150 asylum facilities and over 1,000 beds. Stuttgart had only one-fifth as many asylum applicants as in 1994.

During the year, state authorities continued the "second phase" of Bosnian refugee repatriations, whereby all remaining refugees were to return to Bosnia unless they qualified for an extension of stay on certain humanitarian grounds. A number of prominent national officials, as well as the UNHCR, cautioned that the refugees' place of origin and ethnicity should be given careful consideration in the implementation of returns. During the year, certain states (Bavaria) resumed the deportation of refugees from the "Republika Srpska" region of Bosnia on the grounds that conditions there had improved. Since 1992 approximately 320,000 Bosnian refugees lived in Germany under temporary protection, and another 25,000 applied for asylum. The Government provided first asylum and has granted "temporary protection" (first asylum) to these Bosnian refugees. Government support for these refugees costs an estimated \$2.8 billion annually (DM 4.9 billion). Between January and the end of July, an estimated 75,000 refugees returned to Bosnia voluntarily (compared to 100,000 for all of 1997), roughly 10,000 emigrated to other countries, and approximately 1,200 more were deported by state authorities (compared with 900 for all of 1997). Of those who were deported, less than half were convicted criminals; the majority were persons whose asylum applications were denied. Approximately 210,000 Bosnian refugees left the country since late 1996. However, even those refugees who left the country "voluntarily" were subjected to tremendous pressure. If they did not leave on their own they could have been deported and then permanently excluded from reentering the country. Once their residence permits expire, foreigners are liable to arrest and incarceration for up to 6 weeks pending a final decision regarding deportation. The overwhelming majority of Bosnians legally residing in the country have limited residence permits with no enforceable right to have these permits extended. The Federal Government pays Bosnian refugees who choose to leave the country between \$765 and \$2,550 (DM 1,350 and DM 4,500).

In the first half of the year, some states resumed deportations of Kosovar Albanians to Serbia-Montenegro, in spite of the UNHCR's request that deportations to the region be suspended due to security threats for deportees. In May a Saarland administrative court set aside deportation orders in two cases on the grounds of the race-based persecution Kosovar Albanians would face in Serbia. According to law enforcement officials, Kosovo Albanians control the drug trade. According to the director of asylum and alien affairs for the Bavarian Interior Ministry, up to 50 percent of Kosovar Albanians in the country are serious criminals who are eligible for deportation regardless of the conditions in Serbia. However, by year's end most states lacked the practical means for return.

On May 12, Mehmet Ali Akbas, a Kurd who was deported to Turkey in January after his request for political asylum was rejected by Hannover's civil court, was brought back to Germany. According the Refugee Council of Lower Saxony, a nongovernmental organization, Turkish authorities questioned, detained, and tortured Akbas for 8 days following his arrival in Istanbul. After unsuccessfully trying to acquire an official visa to travel to Germany, Akbas fled to Greece and from there returned to Germany. German authorities approved Akbas' return after a doctor certified for the German Embassy in Ankara that Turkish police tortured Akbas.

A Munich administrative court ruled on October 20 that a 14-year-old Turkish juvenile delinquent named Muhlis A. (also known as Mehmet) could be deported. Mehmet was convicted and sentenced to 1 year in custody for robbery and grievous bodily harm--the latest in a string of crimes. The court ruled that the Munich foreign affairs office was correct in its judgment that the over 60 offenses that Mehmet committed before his 14th birthday were ample evidence that he was a threat to society. The court also upheld that although a juvenile (he was born in Munich), he could be deported without his parents. The Munich city manager stated that Turkish attendants would receive Mehmet upon his arrival and that he could live either with an uncle or in a foster home. He was deported on November 14.

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 exercise this right in practice through periodic, free, and fair elections. The government is elected on the basis of universal suffrage and secret balloting. Members of the Parliament's lower house, the Bundestag, are elected from a mixture of direct-constituency and party-list candidates. The upper house, the Bundesrat, is composed of delegations from state governments.

The law entitles women to participate fully in political life, and a growing number are prominent in the Government and the parties. Slightly over 31 percent of the Federal Parliament is female. Women occupy 5 of 15 Federal Cabinet positions. One state minister-president is a woman. On the Federal Constitutional Court, 6 of the 16 judges are women, including the Chief Justice. 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; both party co-chairpersons are female, as are 57.5 percent of the party's federal parliamentary caucus members. The Social Democrats have a 40-percent quota for women on all party committees and governing bodies. The Christian Democrats require that 30 percent of the first ballot candidates for party positions be women.

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

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

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

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

Women

While violence against women occurs and is almost certainly underreported, it is prohibited by laws that are enforced effectively. Societal attitudes toward such violence are strongly negative, and legal and medical recourse is available. Police statistics on rape, including attempted rape, showed a 6.6 percent increase to 6,636 cases in 1997 from 6,228 in 1996. Spousal rape, which is illegal, is included in these statistics.

The Government conducted campaigns in the schools and through church groups to bring public attention to the existence of such violence and proposed steps to counter it. The Federal Government has supported numerous pilot projects throughout the country. There are, for example, 387 "women's houses", including 116 in the East, where victims of violence and their children can seek shelter, counseling, and legal and police protection.

Trafficking in women and forced prostitution is also forbidden by law. The laws against trafficking in women were modified in 1992 to deal more effectively with problems stemming from the opening of Germany's eastern borders. In recent years, the Federal Ministry for Women and Youth commissioned a number of studies to gain information on violence against women, sexual harassment, and other matters, producing, for example, a special report on violence against women in 1995. More recently, the Ministry's public information poster campaign to combat violence against women and discriminatory behavior has been highly visible in schools, official buildings, and public spaces.

Union contracts typically identify 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 are disproportionately represented in these lower-wage scale occupations.

Children

The Government demonstrates a strong commitment to children's rights and welfare through well-funded systems of public education and medical care. Public education is provided and is mandatory through the age of 16.

The Government recognizes that violence against children is a problem requiring its attention. Police figures indicate that there were 16,888 alleged cases of sexual abuse of children in 1997, a 7.7 percent increase from 15,674 in 1996. Officials believe that the number of unreported cases may be much higher. The Child and Youth Protection Law stresses the need for preventive measures, and the Government has taken account of this in stepping up its counseling and other assistance.

The Criminal Code was amended in 1993 and in December 1997 to further protect 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 1993 amendment made the sexual abuse of children by German citizens abroad punishable even if the action is not illegal in the child's own country.

People with Disabilities

There is no discrimination against the disabled in employment, education, or in the provision of other state services. The law mandates several special services for disabled persons, and the government enforces these provisions in practice. The disabled are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offers vocational training and grants for employers who hire the disabled. The severely disabled may be granted special benefits, such as tax breaks, free public transport, special parking facilities, and

exemption from radio and television fees.

The Federal Government set guidelines for the attainment of "barrier-free" public buildings and for modifications of streets and pedestrian traffic walks to accommodate the disabled. All 16 states have incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings follow the guidelines for a "barrier-free environment."

Religious Minorities

Anti-Semitic acts decreased 14.7 percent, with 436 incidents reported in the first 6 months of 1998, compared with 511 in the same period in 1997. These incidents included, in part, 86 cases of the distribution of anti-Semitic materials or the display of symbols of banned organizations, 26 cases of desecration of cemeteries, and 7 cases of bodily injury. In a case that received international attention, on December 19 a bomb destroyed the gravestone of Heinz Galinski, chairman of the Jewish Community of Berlin until his death in 1992. This was the second instance of vandalism at this site during the year. While cases of vandalism against Jewish graves have declined nationally, Berlin has witnessed an increase of approximately 20 percent in anti-Semitic incidents during the year. The overwhelming majority of the perpetrators of anti-Semitic acts were frustrated, largely apolitical youths and a small core of rightwing extremists.

Scientologists continued to report instances of societal discrimination (see Section 2.c.).

National/Racial/Ethnic Minorities

The number of antforeigner crimes decreased by one-fourth in the first 6 months of 1998, compared with the same period in 1997. There were a total of 1,164 xenophobic crimes reported in the first 6 months of 1998, compared with 1,544 such crimes during the same period in 1997. Of these, 205 were violent attacks, including 183 cases of attacks on persons and 11 cases of arson. Among the total number of xenophobic crimes reported were 293 cases of the distribution of materials or the display of symbols of banned organizations. The percentage of such crimes was significantly higher in the eastern states. As in previous years, most of these offenses were directed against foreign residents.

Perpetrators of antforeigner violence were predominantly young, male, and low in socioeconomic status; they often committed such acts spontaneously and while inebriated. Some offenders were rightwing extremists, such as neo-Nazis and "skinheads." However, many could best be described as rightwing-oriented, having loose, if any, practical or ideological ties to extremist groups. Other perpetrators were apolitical.

Some state governments, particularly in eastern Germany, established special commissions to deal with incidents of antforeigner violence. Brandenburg established a "Mobile SWAT Team Against Violence and Antiforeign Groups" in February. The force is made up of several dozen officers under the direction of the Brandenburg State Office for Crime Prevention (Landeskriminalamt). The emphasis of the unit is crime prevention, and it is deployed in areas of Brandenburg known to be gathering places for rightwing extremists. According to Brandenburg's interior minister, the number of rightwing incidents declined by 50 percent in the first half of the year, compared with the first half of 1997.

In July the Bundestag Defense Committee completed its report on rightwing extremism in the military. The report noted one incident during the year of a "Heil Hitler" shout. The report concluded that there was no rightwing tendency and were no rightwing structures in the Bundeswehr. Some 95 percent of the incidents involved conscripts who had contact with rightwing circles and thinking prior to their military service. The report noted that the percentage of soldiers oriented to rightwing extremist ideology mirrors the percentage of the population with similar views.

The federal and state governments were committed firmly to combating and preventing rightwing violence and continued to search for more effective law enforcement measures, as well as measures aimed at the societal roots of extremist crimes. Police in the eastern states continued to move toward reaching standards of effectiveness characteristic of police in the rest of Germany and demonstrated greater coordination in preventing illegal rightwing and neo-Nazi activities.

In August 100 German neo-Fascists planned to march in Copenhagen on the anniversary of Rudolf Hess' death but were prevented from entering Denmark by Schleswig-Holstein's police and border police forces. In Goslar, Lower Saxony, police prevented a parade of neo-Fascists from Bremen, Bielefeld, Kiel, and several other cities by detaining 19 neo-Fascists who ignored a police order to disperse. Authorities brought 18 of the neo-Fascists before a custody judge after Fascist propaganda material was found in their possession. Municipal authorities in Lueneburg, Lower Saxony, refused to grant permission for a demonstration of up to 200 neo-Fascists who wanted to march through Lueneburg praising Rudolf Hess. The city justified its decision by the late registration and the likelihood of criminal offenses occurring, like the display of prohibited Nazi symbols and the disturbance of the peace. There continued to be evidence that neo-Nazi groups were making efforts to achieve greater coordination among themselves, particularly through the use of modern communication technologies. The Federal OPC reported that 47,000 persons belonged to far-right organizations in 1997, an increase from 45,300 in 1996.

On May 1, approximately 4,000 supporters of the rightwing National Democratic Party held a largely peaceful rally in Leipzig. Some 6,100 police officers from 7 states kept a tight rein on the rally. However, leftwing groups and anarchists fought a string of violent battles with the police while trying to reach the rightwing demonstrators. Some of the 1,200 protesters built barricades, overturned cars, set fires, and tore up cobblestones to throw at police officers. The authorities responded with verbal warnings, followed by water cannons and baton charges. During the riots, 35 police officers were injured.

Rightwing youth repeatedly attacked foreign students attending the 6th European Summer Academy in Weimar in the

downtown area. A spokesman for Bauhaus University reported that the harassment continued during the entire 4-week course. In one incident paving stones and beer cans were thrown at a teacher from France.

Isolated attacks targeting Turkish establishments and individuals occurred. Although some attacks were linked to rightwing perpetrators, most were attributed to intra-Turkish political or private disputes, but none were directly attributable to the Kurdistan Workers' Party (PKK). Several trials of PKK members were nevertheless under way.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination. Unemployment affects foreigners disproportionately, though this in part is due to the sometimes inadequate language skills or nontransferable professional qualifications of the job seekers. The Federal Government and all states have established permanent commissions to assist foreigners in their dealings with government and society.

In April the rightwing German Peoples' Union (DVU) unexpectedly captured almost 13 percent of the vote in the Saxony-Anhalt state parliamentary elections, which triggered a debate about whether eastern Germany is susceptible to extremist views. However, it appeared that support for the party came primarily from protest voters who were frustrated with the mainstream parties' inability to deal with the issues of crime and unemployment. The overwhelming majority (62 percent) of rightwing extremists now live in eastern Germany although only one-fifth of the overall population resides there. Of the approximately 7,400 violent skinheads in the country, 47 percent live in the East.

In 1997 the Government pledged to protect and foster the languages and cultures of the national and ethnic minorities that have lived traditionally in Germany (e.g., Sorbs, Danes, Roma, Sinti, and Frisians). In July the Saxony state government passed a law to protect the Sorb minority, and the Hesse government recognized Romani as a minority language.

Although the Government has recognized the Sinti and Roma each as an official "national minority" since 1995, the Federal Interior Ministry and individual states have thus far resisted including Romani among the languages to be protected and cultivated under the European Charter on Regional and Minority Languages. During the year, the Hesse government had indicated its willingness to meet the obligations of the Charter to protect Romani, although the other states have not yet followed suit. According to the Chairman of the Central Council of German Sinti and Roma, the Sinti/Romani minority is the only of the national minorities recognized by the Government that does not have any unique legal protection, political privilege, or reserved representation in certain public institutions. According to the chairman, opinion polls indicated that 60 percent of Germans opposed protected status for Sinti and Roma, and public statements of government officials and the media continued to perpetuate prejudice against Sinti and Roma.

The state of Saxony passed a new law in July to protect the Slavic Sorb minority. The law grants Sorb status to the broadest possible spectrum of residents living near the Polish border. The law, together with the recently negotiated agreement between Saxony and Brandenburg, also ensures the Sorb community a steady flow of state financing for educational and cultural activities. The new law and agreement follow a federal government announcement that it would cut grants to the Sorbs from \$9.5 to 5 million (DM 16 million to DM 8 million) by 2007.

Section 6 Worker Rights

a. The Right of Association

The right to associate freely, choose representatives, determine programs and policies to represent workers' interests, and publicize views is recognized and freely exercised. Some 31.6 percent of the total eligible labor force belongs to unions. The German Trade Union Federation (DGB) represents 83.3 percent of organized workers.

The 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) has criticized the Government's definition of "essential services" as overly broad. The ILO was responding to complaints about sanctions imposed on teachers who struck in the state of Hesse in 1989 and, earlier, the replacement of striking postal workers by civil servants. In neither case did permanent job loss result. The ILO continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants.

In 1997 strikes affected 144 companies. Workers numbering 13,801 participated in the strikes, and 56,896 work hours were lost. In February demonstrations were held for the labor unions' "unemployed persons initiative" to protest the high unemployment rate. The demonstrations started with 40,000 to 60,000 persons but soon became smaller. Some union elements staged warning strikes as a bargaining tactic in March.

The DGB participates in various international and European trade union organizations.

b. The Right to Organize and Bargain Collectively

The Basic Law provides for the right to organize and bargain collectively, and this right is widely exercised. Due to a well-developed system of autonomous contract negotiations, mediation is uncommon. Basic wages and working conditions are negotiated at the industry level and then are adapted, through local collective bargaining, to particular enterprises.

However, some firms in eastern Germany have refused to join employer associations, or have withdrawn from them and then bargained independently with workers. Likewise, some large firms in western Germany 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 have not refused to bargain as individual enterprises. The law mandates a system of works councils and worker membership on supervisory boards, and thus workers participate in the management of the enterprises in which they work. The law thoroughly protects workers against antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Basic Law prohibits forced or compulsory labor, including forced or bonded child labor, and there were no reports that it occurred.

The Diehl Armaments Factory in Nuernberg announced that it would pay compensation to Jewish women who were forced to work in two company-owned factories in Poland during World War II. The decision followed a controversy in the Nuernberg city council over conferring honorary citizenship on Karl Diehl, the 90-year-old founder of the family business, despite Diehl's active involvement in the Third Reich's armament policies. Bavarian Motor Works (BMW) and other companies also declared their readiness to contribute to a national fund to reimburse persons subjected to forced labor during World War II. A group of survivors earlier had threatened to sue Volkswagen. In August lawyers put other major companies on notice that they would face claims for compensation in connection with the use of slave labor during World War II.

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

Federal law generally 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; 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 enforces the law through its Factory Inspection Bureau.

e. Acceptable Conditions of Work

There is no legislated or administratively determined minimum wage. Wages and salaries are set either by collective bargaining agreements between unions and employer federations or by individual contracts. Covering about 90 percent of all wage- and salary-earners, these agreements set minimum pay rates and are legally enforceable. These minimums provide an adequate standard of living for workers and their families. The number of hours of work per week is regulated by contracts that directly or indirectly affect 80 percent of the working population. The average workweek for industrial workers is 36 hours in western Germany and about 39 hours in the eastern states.

Federal regulations limit the workweek to a maximum of 48 hours. Provisions for overtime, holiday, and weekend pay vary depending upon collective bargaining agreements.

Foreign workers are protected by law and generally receive treatment equal to that of German workers. However, foreigners who are illegally employed, particularly in the construction industry in Berlin, are especially susceptible to substandard wages. Wage discrimination also affects legal foreign workers to some extent. For example, seasonal workers from Eastern Europe who come to Germany on temporary work contracts often receive wages below normal German standards. Furthermore, workers from other European Union countries sometimes are employed at the same wages that they would receive in their home country, even if the corresponding German worker would receive a higher wage.

An extensive set of laws and regulations on occupational safety and health incorporates a growing body of European Union standards. These provide for the right to refuse to perform dangerous or unhealthy work without jeopardizing employment. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. The Labor Ministry and its counterparts in the states effectively enforce occupational safety and health standards through a network of government organs, 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--oversee worker safety.

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