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## U.S. Department of State

### Germany Country Report on Human Rights Practices for 1997

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#### GERMANY

The Federal Republic of Germany is a constitutional parliamentary democracy with an independent judiciary; 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 counter-terrorism, 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 alleged police abuse.

Germany has a well-developed industrial economy that provides its citizens with a high standard of living. Although plagued in the past few years by sluggish growth, the economy is slowly recovering. Gross Domestic Product (GDP) growth was estimated to reach 2.25 percent in 1997, mostly due to increased exports, and growth for 1998 was expected to reach as high as 3 percent. Despite these optimistic growth prospects, unemployment affects women disproportionately more than men. Unemployment remains a volatile political issue, especially as Germany prepares for the fall 1998 elections.

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, there were continued allegations of police abuse, especially against foreigners. Violence and harassment directed at foreigners continued to occur. While there was only a slight increase in the overall

number of antforeigner crimes during the first 6 months of 1997, compared with the first 6 months of 1996, the number of violent antforeigner crimes rose by 11 percent. This marked a change in what had been a downward trend since 1992.

Anti-Semitic incidents increased by 9 percent in the first 6 months. Most involved graffiti, the distribution of anti-Semitic materials, or the display of symbols of banned organizations. The overwhelming majority of the perpetrators of attacks on foreigners or anti-Semitic acts were frustrated, largely apolitical youths and a small core of rightwing extremists. All the major political parties and all the highest officials of the Federal Republic condemn mistreatment of foreigners and anti-Semitic acts.

Women continue to face wage discrimination in the private sector, as do members of minorities and foreigners. The Government is taking serious steps to address the problem of violence against women and children.

## **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.

On November 18, prosecution began 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. The attack killed one Turkish citizen and two U.S. citizens, and injured 230 persons.

On April 10, the trial dealing with the September 1992 murders in Berlin's Mykonos restaurant of four Iranian Kurdish opposition figures came to an end. Four of the five defendants, an Iranian and three Lebanese, were found guilty. Two received life prison sentences, one received 11 years in prison, and another received 5 years and 3 months in prison. The Berlin court concluded that the highest levels of Iran's political leadership had ordered the killings. In the wake of the decision, the Government suspended its "critical dialog" with Iran and recalled its ambassador. Authorities decided not to pursue a high-level investigation of the "Committee for Special Operations" of Iran's leaders that the court accused of masterminding the shootings.

In August three former East German Politburo officials, Egon Krenz, Guenter Schabowski, and Guenter Kleiber, were sentenced to prison terms ranging from 3 to 6½ years for their roles in issuing orders that resulted in the shooting of persons who attempted to flee from the former East Germany. The sentencing of these former high-level civilian officials capped an effort to hold East German officials responsible for hundreds of killings which began with the prosecution of former East German border guards who were directly responsible for shootings on the border.

#### **b. Disappearance**

There were no reports of politically motivated disappearances. In May a court found Markus Wolf, a high ranking state security official of the former East Germany, guilty on 4 counts of kidnaping, including orchestrating the abduction of a former East German state security agent who had escaped to the West. Wolf received a 2-year suspended sentence.

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

The law prohibits such practices, and the authorities generally respect this in practice.

However, there continue to be serious allegations of excessive use of force by the police, especially against foreigners. In July the Council of Europe published a report of a delegation that toured detention facilities in Germany in 1996. The delegation heard no allegations of abuse of persons in custody but did note allegations of excessive use of force during apprehensions. Also in July, Amnesty International published a report that found a "continuing pattern of police ill-treatment," largely affecting foreigners.

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 only be arrested 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 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 200 persons suspected of heading for illegal rallies to mark the 10th 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 the suspect 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.

There is no use of 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 courts. These courts are also established 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 there are

complaints that 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.

### **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. There is no official censorship. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and the press, including academic freedom. Propaganda of Nazi and other proscribed organizations, as well as statements endorsing nazism, are illegal.

The authorities have sought to block what they consider dangerous material on the Internet. However, in June a local court in Berlin dismissed charges against politician Angela Marquardt, who had provided an electronic link on her Internet home page to a leftist magazine that published articles about techniques for making bombs and derailing trains. The judge's ruling was based on fairly narrow legal points. In July Parliament passed a law to prohibit access to prohibited material on the Internet (for example, child pornography and Nazi propaganda), which took effect on August 1. The law's implications regarding possible liability of on-line service providers are not yet clear.

#### b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice. The Basic Law permits banning 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 August the state of Brandenburg banned the Kameradschaft Oberhavel as a rightwing organization, and in September the state of Bremen banned the Bremer Volkskulturverein as a foreign extremist organization. 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 specifically provides for religious freedom, and the Government respects this right in practice. Most religious organizations are granted 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.

Beyond the basic tax-exempt status, state governments grant certain religious groups "public-law corporation" status. This status entitles an organization to levy taxes on its members; the taxes are collected by the state and distributed proportionally to the religious group's enrolled membership. State governments also subsidize various institutions affiliated with such public-law corporations,

such as schools and hospitals. In order to attain public-law corporation status, a religious organization must show that its constitution and membership offer an assurance of its permanency. Although commonly thought to include only the Lutheran and Roman Catholic churches, Jewish congregations, and a few small free churches, the number of religious groups that have acquired public law corporation status is significantly larger.

In July the Federal Administrative Court in Berlin upheld a decision of the Berlin state government that had denied Jehovah's Witnesses public-law corporation status in that state. 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. Jehovah's Witnesses are appealing this ruling in the Constitutional Court.

One Christian Charismatic Church led by an American pastor reported that it had been subjected over several years to vandalism, threats of violence, and public harassment or scrutiny by sect commissioners. The church is challenging a 1995 ruling by authorities in Cologne, who revoked its tax exempt status on the grounds that it was not a charitable organization and did not contribute to the cultural, religious, or spiritual values of German society.

The Church of Scientology continued to be the focus of debate. Scientology has come under increasing scrutiny by both federal and state officials who contend that it is not a religion but an economic enterprise. Authorities have sometimes sought to deregister Scientology organizations previously registered as nonprofit associations and require them to register as commercial enterprises. In November 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 continues in the lower court.

Some government officials allege that Scientology's goals and methods are antidemocratic and call for further restrictions on Scientology-affiliated organizations and individuals. In June authorities of the federal and state Offices for the Protection of the Constitution (OPC) agreed to place the Church of Scientology under observation for 1 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 will seek to collect information mostly from written materials and first hand 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. One State, Schleswig-Holstein, announced in August it had decided not to implement such observation, on the grounds that the situation did not appear to justify such measures. While Federal Interior Minister Manfred Kanther supported the decision on observation, in a written response to an inquiry from the Bavarian state government, Kanther indicated that he did not see sufficient evidence to support a ban on Scientology.

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, although there has been only one known instance of enforcement of this ban. In July a Bonn state court, in the first court challenge to this exclusion, upheld the December 1996 expulsion of three Scientologists from a state-level organization of the governing 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.

Scientologists continued to report discrimination, alleging both government-condoned and societal harassment. So-called "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, have faced boycotts and discrimination, sometimes with state and local government approval. Other Church members have reported employment difficulties and, in the state of Bavaria, applicants for state civil service positions are screened for Scientology membership. Several states have published pamphlets warning of alleged dangers posed by Scientology. In October a Berlin hotel and a firm renting meeting space reportedly refused to rent space for public events to be held at their facilities when they learned that the Church of Scientology was involved in organizing the events.

Scientologists continued to take grievances to the courts. Legal rulings have been mixed. In April the European Commission on Human Rights decided not to pass on to the European Court of Human Rights a discrimination case brought by the Church of Scientology against Germany, on the grounds that the Church had not exhausted domestic legal channels.

A parliamentary commission established in 1996 to investigate so-called "sects and psycho-groups" has included the Church of Scientology among the groups about whose structures, principles, and activities the commission heard testimony. The Commission is expected to produce a final report in the spring of 1998. In December 1996, federal and state government authorities established an interministerial group of mid-level officials to exchange information on policies toward Scientology and to gather and examine charges of discrimination. This body has no decisionmaking authority. It plans to publish a review of state-level policies in 1998.

#### 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 U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Asylum applications continued to decline. In the first half of 1997, Germany received 52,588 applications for asylum and had a recognition rate of 11.4 percent for the 90,922 cases concluded. Since July 1993, when the criteria for granting asylum were tightened with an amendment to the asylum law, the overall trend in asylum applications has continued downward, decreasing by two-thirds from the 1992 all-time high of 438,191.

Under the tightened criteria, 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 legislated changes also limited 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 May state authorities began 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. In June the federal and state interior ministers agreed that, for the time being, the deportation of refugees from the "Republika Srpska" region of Bosnia would be regarded as a low priority. Most states subsequently extended the temporary protection status of refugees in this category. Since 1992 approximately 320,000 Bosnian refugees have lived in Germany under temporary protection, and another 25,000 have applied for asylum. The Government has 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. At year's end, an estimated 100,000 refugees had returned to Bosnia voluntarily, and approximately 900 more had been deported by state authorities.

### **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, but women are still underrepresented in those ranks. Slightly over 26 percent of the Federal Parliament is female, including its President. Women occupy 2 of 16 cabinet positions. One state minister-president is a woman. On the Federal Constitutional Court, 5 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 comprise half of the party's elected officials. 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 shelter, 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 effectively enforced. It is condemned in society, and legal and medical recourse is available. Police statistics on rape showed a slight increase to 6,228 cases in 1996 (latest available data) from

6,175 in 1995.

The Government has conducted campaigns in the schools and through church groups to bring public attention to the existence of such violence and has proposed steps to counter it. The Federal Government has supported numerous pilot projects throughout Germany. There are, for example, 330 "women's houses" in Germany, over 100 in the new states in the East, where victims of violence and their children can seek shelter, counseling, and legal and police protection. Germany supported the appointment of a special rapporteur on violence against women at the UNHCR.

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.

### 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 15,674 alleged cases of sexual abuse of children in 1996 (latest available figures), down slightly from 1995. 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 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 has established guidelines for attainment of "barrier-free" public buildings and for modifications of streets and pedestrian traffic walks to accommodate the disabled. While it is up to the individual states to incorporate these guidelines into building codes, all 16 states now have access facilities for the disabled.

### Religious Minorities

Anti-Semitic acts increased 9 percent, with 414 incidents reported in the first 6 months of 1997, compared with 380 in the same period in 1996. About 90 percent of these anti-Semitic incidents

involved graffiti, the distribution of anti-Semitic materials, or the display of symbols of banned organizations. In September unknown vandals desecrated a Jewish cemetery in Berlin, damaging 28 gravestones. In October the president of the Central Council of Jews in Germany (CCJG) protested to the head of Brandenburg state after the town of Gollwitz refused to accept a group of 60 Jewish immigrants from the former Soviet Union. The village council voted against the county's plans to convert a local building into a temporary shelter for immigrants from the former Soviet Union. The president of the CCJG also criticized what he saw as a growing indifference to everyday antifoignner and rightwing incidents.

#### National/Racial/Ethnic Minorities

The number of antifoignner crimes increased slightly in the first 6 months of 1997, compared with the same period in 1996. This increase, which includes an 8 to 10 percent rise in violent antifoignner crimes, marked a change in what had been a downward trend since 1992. 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 antifoignner violence were predominantly young, male, and low in socioeconomic status, often committing such acts spontaneously and while inebriated. Some offenders were rightwing extremists, such as neo-Nazis and "skinheads." Many, however, could best be described as rightwing-oriented, having loose, if any, practical or ideological ties to extremist groups. Other perpetrators were apolitical.

Acts by low-ranking members of the Bundeswehr have caused particular concern. In March, nine soldiers in uniform, under the influence of alcohol, sought out and assaulted at random three foreigners in the city of Detmold. Five soldiers were subsequently discharged from the military and prosecuted, receiving sentences ranging from 6 months' probation to 14 months' imprisonment. In August an arson attack committed in Dresden against the residence of Italian workers, by two army conscripts with rightwing, xenophobic motives led the Defense Minister to call for more careful screening of conscripts. The two incidents received substantial public attention and were followed by a series of revelations of other rightwing offenses committed by military personnel between 1991 and 1997. The offenses ranged from the possession and production of far-right propaganda, to drunken assaults against foreigners.

Acting to increase vigilance, the Ministry of Defense registered 130 rightwing extremist incidents between January and November. the Ministry moved quickly to take stern disciplinary action against those responsible, dismissing and prosecuting perpetrators where possible, and punishing and transferring commanders. In December Defense Minister Ruehe suspended a lieutenant general and ordered disciplinary proceedings against a colonel for inviting Manfred Roeder, a former lawyer who served 8 years in jail for racist bombings against immigrants, to speak in 1995 at a leadership seminar at the military academy in Hamburg. Authorities also confirmed that the military inadvertently supplied several used surplus vehicles to an organization with which Roeder is active. There was no evidence that rightwing offenders are more prevalent in the military than in the general young male population. Nevertheless, the Government stated that it would take all necessary measures to investigate incidents and prevent future ones.

In May and June, two firebomb attacks on Christian churches in Luebeck showed signs of rightwing, antifoignner motives. Rightwing graffiti, as well as the name of a local Pastor known for assisting asylum seekers, was found on the church walls following the attacks. A 19-year-old rightwing radical who admitted committing one of the attacks was arrested in June.

The federal and state governments were firmly committed 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 police in 10 states conducted a coordinated search of homes and firms of individuals suspected of having connections to the growing rightwing, underground rock music scene. During the action, police seized illegal recordings, paraphernalia, and weapons. Also in August, police in several states enforced a ban on demonstrations by neo-Nazis who were attempting to commemorate the 10th anniversary of the death of former Nazi leader Rudolf Hess. 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 office for the Protection of the Constitution (OPC) reported that 47,000 people belonged to far-right organizations in 1997, an increase from 45,300 in 1996.

Isolated attacks targeting Turkish establishments and individuals occurred. Though some attacks were linked to rightwing perpetrators, most were attributed to intra-Turkish political or private disputes, but none directly attributable to the Kurdistan Workers' Party (PKK). In September a court in Duesseldorf sentenced two members of the PKK to 5-year prison terms in connection with a series of attacks on Turkish establishments in 1993. Several other trials of PKK members are also underway.

Resident foreigners and minority groups continue to voice credible concerns about societal and job-related discrimination. Unemployment affects foreigners disproportionately, though this is in part 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 for foreigners' affairs to assist foreigners in their dealings with government and society. In September the Government ratified the Council of Europe's Minority Protection Convention, pledging to protect and foster the languages and cultures of the national and ethnic minorities that have traditionally lived in Germany (e.g., Sorbs, Danes, Roma, Sinti, and Frisians).

## **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 84.9 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 continues to seek clarifications from the Government on policies and laws governing labor rights of civil servants.

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 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. They have not, however, 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.

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

Federal law generally prohibits 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.

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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