



## Germany

### Country Reports on Human Rights Practices - [2005](#)

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Germany is a constitutional parliamentary democracy with a population of approximately 82 million. Citizens periodically choose their representatives in free and fair multiparty elections; a national parliamentary election took place on September 18, resulting in almost equal representation for the two largest parties, the Christian Democratic Union/Christian Social Union and the Social Democratic Party of Germany, which agreed to form a grand coalition government. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- instances of ill-treatment of prisoners and detainees by police
- limits on freedom of speech, press, assembly, and association aimed at neo-Nazi groups
- government and societal discrimination against minority religious groups
- violence against women, instances of "honor" killings and forced marriages
- trafficking in persons
- harassment of foreigners and racial minorities

### RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

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

In the August 2004 case of a man who died shortly after arrest in Berlin, an investigation determined that death resulted from a ruptured spleen due to hepatitis. Both the Interior Committee of the Berlin State legislature and the Berlin Public Prosecutor's Office determined that the Special Unit Commandos had performed their duties correctly.

#### 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 these prohibitions were generally followed. The government investigated a number of abuses committed in previous years and prosecuted police who mistreated persons in custody.

The investigation of abuse of a kidnapping suspect in 2004 by three Baden-Wuerttemberg police officers continued, with no new information reported. There were no known developments in the 2003 case of a Cologne police headquarters employee who struck a detainee or in the 2003 beating of Andre Heech in Frankfurt am Main.

There were the following developments in the 2004 case of mistreatment of army recruits in Coesfeld: Two Bundeswehr trainers were dismissed in March. In December a criminal division of the Muenster Regional Court found there was not sufficient evidence for opening a trial against 9 of the 18 Bundeswehr instructors indicted the previous June by the Muenster public prosecutor on charges of "maltreatment or degrading treatment of subordinates" during military training exercises. The court also ruled that the charge of degrading treatment be dropped against the remaining nine Bundeswehr instructors, whose trial was pending at year's end.

There were a number of violent attacks by right-wing groups on members of minority groups, foreigners, and political opponents (see section 5).

#### Prison and Detention Center Conditions

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

In January a detainee, who was an asylum seeker from Sierra Leone, died in a Saxon-Anhalt jail-cell fire. Police had placed ankle and wrist restraints on the man who appeared to be under the influence of alcohol and drugs and placed him in a holding cell "for his own safety." When the fire broke out, wardens failed to take action in time to save the detainee's life. A state investigation was pending at year's end.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

## Role of the Police and Security Apparatus

The police forces are organized at the state level. The Federal Criminal Investigative Service has responsibilities regarding counterterrorism and international organized crime, coordinates crime suppression at the national and international level, and investigates certain limited cases of international crime as mandated by the law or the public prosecutor. Police forces in general were trained to a high professional level, disciplined, and mindful of citizens' rights. The government investigated abuses and prosecuted police who mistreated persons in custody. Allegations of corruption were rare.

## Arrest and Detention

An individual may be arrested only on the basis of a warrant issued by a competent judicial authority, unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. Detainees should be allowed prompt access to lawyers and, if indigent, to one provided by the state. 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. An individual detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the individual's release. These rights were generally respected.

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

Although criminals cannot be punished twice for the same crime, the law allows "retroactive preventive detention" in cases involving such crimes as rape, homicide, or manslaughter, which permits courts to order that detention be continued after the sentence has been served. Such preventive detention requires a court finding that the convicted person could pose a danger to the public, based on at least one expert opinion. The detention could last indefinitely.

Bail exists but was employed infrequently; detainees usually were released unless there was clear danger of flight outside the country, in which case a person may be detained for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the government must compensate the individual.

There were no reports of political detainees.

In August the Federal Statistical Office reported that approximately 19 percent of prisoners were in pretrial detention. Statistics for 2003 in the former West German states and Berlin indicated that just under 20 percent of pretrial detainees had been held 6 months or more, while 32 percent had been held 1 month or less.

In September the Constitutional Court ruled that the right to a speedy trial had been violated in the case of a criminal suspect who had been in "investigative detention" since 1997. The man was suspected of having caused a gas explosion that killed six residents of an apartment building. The court ruled that the man should not have been detained because the state had no concrete evidence against him.

## e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: administrative, labor, social, and fiscal, each with an appellate process.

In addition the Federal Constitutional Court, the country's supreme court, reviews laws to ensure their compatibility with the constitution and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person's basic constitutional rights by a public authority.

## Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Court proceedings at times were delayed because of heavy caseloads. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to one year. Generally, a one-year sentence was suspended with the individual placed on probation.

Trials are public and juries are not used. Cases are heard either by one judge, a panel of professional judges, or a mixed panel of professional and lay judges, depending on the severity of the charges. Defendants are required to be present and have the right to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants demonstrate financial need. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. In addition defendants and their attorneys have access to government-held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

There are no military, security, or other judicial systems.

## Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions, and government authorities generally respected these prohibitions in practice; however, federal and state offices for the protection of the constitution (OPCs) may have infringed on the privacy of members of organizations under observation (see sections 2.b. and 2.c.).

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; while the government generally respected these rights, it did impose some limits.

In June the district court of Rotenburg (Wuemme) in Lower Saxony fined a Hamburg lawyer \$1,920 (1,600 euros) for making inflammatory threats to a political opponent.

After six-and-a-half-years of proceedings, the district court in Stralsund sentenced the federal chairman of the National Democratic Party of Germany, Udo Voigt, to two years' probation after his conviction for sedition, arising from a 1998 campaign event at which he incited hatred against "established politicians."

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust. Apart from these limitations, an active independent media expressed a wide variety of views without government restriction.

According to media reports, in October then minister of the interior Otto Schily authorized a raid of offices of the periodical *Cicero* to search for classified government documents that allegedly had been leaked to the magazine. Authorities also searched the author's home, allegedly seizing files and documents that were beyond the scope of the search warrant. Schily defended the raid in testimony to the Interior Committee, stating that freedom of the press did not extend as far as violation of laws protecting state secrets. The Interior Committee took no further action. *Cicero* magazine's appeal against the Potsdam court decision that authorized the raid was pending at year's end.

The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and authorities sought to block Internet material considered dangerous. There were no further developments in the 2004 case regarding appeals in North-Rhine Westphalia of ordinances requiring Internet providers to block access to certain Web sites promoting right-wing extremism.

There were no government restrictions on academic freedom.

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

###### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies.

Pursuant to newly implemented legislation that forbids the glorification of National Socialism, authorities banned the "traditional" August neo-Nazi march in Wunsiedel, honoring Rudolf Hess.

###### Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice; however, the law permits the banning of organizations whose activities are found to be illegal or opposed to the constitutional democratic order. While the Federal Constitutional Court is the only body that can outlaw political parties on these grounds, federal or state governments may do so for other organizations, which have the right to appeal. Banned organizations included a number of groups that authorities generally classified as extremist or criminal in nature.

Federal and state OPCs charged with examining possible threats to the constitutional democratic system maintained observation of several hundred organizations. Observation generally consisted of collecting information from written materials and firsthand accounts in order to assess the possible threat; OPCs could employ more intrusive methods, such as the use of undercover agents, subject to legal checks. While OPC monitoring by law may not interfere with the continued activities of any organization, the state OPCs published lists of organizations they monitored, which could affect activities of those organizations (see section 2.c.).

The Islamische Religionsgemeinschaft Hessen (IRH), Hesse State's largest Muslim umbrella organization, protested its listing in the Hesse OPC report. The Hesse interior ministry claimed that IRH activities, such as limiting female student participation and promoting Shari'a (Islamic law), contradicted basic constitutional principles.

In April the Flensburg district court in Schleswig-Holstein imposed sentences on members of suspected neo-Nazi groups who had been arrested in 2003 and tried on charges of coercion, extortionate robbery, and production of illegal propaganda material. The sentences included three probation terms ranging from 12 to 21 months. In addition the court fined one defendant \$900 (750 euros) for causing bodily injury; a fifth defendant was acquitted.

##### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice; however, some religious minorities

continued to experience discrimination.

Religious organizations are not required to register, although many did so and were treated as nonprofit associations with tax-exempt status. The state confers certain further advantages upon religious communities that obtain the status of "corporation under public law," which entitles the communities to levy taxes on their members that the government collects on their behalf. No state has granted any Muslim group public law corporation status, because no Muslim organization has been able to show that it meets the necessary criteria.

The government does not recognize several belief systems, such as Scientology, as religions; however, it does not prevent them from engaging in public and private religious activities. Federal and state authorities classified Scientology as a potential threat to democratic order, a status that led to employment and commercial discrimination against Scientologists in both the public and private sectors. Jehovah's Witnesses' efforts to obtain public corporate status remain unresolved. In March the Berlin administrative court ruled for a second time that there was no proof of the allegation that Jehovah's Witnesses' loyalty to a democratic state was questionable, and the court ordered the senate to grant the status. The senate appealed the decision to the federal administrative court in Leipzig, and the case was pending at year's end.

The states' treatment of the Church of Scientology varied widely. Most states did not monitor Scientology, but Bavaria and Baden-Wuerttemberg continued to do so. In April the superior court of Saarland ruled that the state could no longer clandestinely observe the Church of Scientology. A Scientologist appeal of the Cologne administrative court's November 2004 ruling that observation on a federal level was legal remained pending at year's end.

In November the Federal Employment Office stated that it does not use the S notation or other designation for companies with a connection to Scientology and that it had not used any such designation "for years." Private sector firms frequently screened for Scientology affiliations, citing OPC observation of Scientology as a justification for discrimination.

There were no new developments in the Unification Church's case against the government's entry ban on Unification Church founder Reverend Sun Myung Moon and his wife.

Laws enacted by several states ban the wearing of headscarves by teachers in public schools, which led to dismissals of teachers. In April the Bremen education ministry denied an applicant a trainee teacher position after she refused to sign a commitment to abstain from wearing a headscarf in class. The applicant obtained a preliminary injunction from the Bremen Administrative Court, but in August the Bremen Higher Administrative Court ruled that the state could refuse her traineeship because her headscarf would "seriously jeopardize school peace."

On August 22, teacher Nuray Arioiz was fired for wearing a headscarf during working hours in the public kindergarten of Ebersbach, Baden-Wuerttemberg. The city's administration defended its ban on wearing religious symbols in public kindergartens on the basis of the state's headscarf law, although kindergartens were not considered schools and were not directly covered by the law.

Fereshta Ludin, who was denied a teaching position in 2004, did not appeal the Leipzig Federal Administrative Court ruling upholding the Baden-Wuerttemberg headscarf law. Doris Graber, who was suspended from teaching in 2004, returned to teaching at a public school in Stuttgart after agreeing not to wear a headscarf during classroom hours.

#### Societal Abuses and Discrimination

There were reports of societal discrimination, including anti-Semitism, against members of religious groups, which federal and state governments sought to combat.

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

Many branches of Islam were represented in the country. There remained areas where the law conflicted with Islamic practices or raised religious freedom issues, notably the wearing of headscarves. The authorities continued surveillance of some mosques, ostensibly to prevent Islamic extremist terrorism. Some Muslim organizations claimed that regular incidents of unjustified police checks at mosques in which mosque attendees were sometimes not allowed to leave until all identities had been verified, created a general atmosphere of suspicion against all Muslims. Large antiterrorism operations involving raids on mosques and Islamic centers took place in Bavaria and Baden-Wuerttemberg in January and throughout the country in April. The Muslim community criticized these raids as hindering their freedom to practice their religion and stigmatizing them.

Much societal discrimination was directed against particular ethnic groups, which are also primarily Muslim, especially Turks. While there were no statistics specifically documenting discrimination, an April study by the Center for Turkish Studies stated that one-third of an estimated three million Turks in the country lived below the poverty level; a further third lived just above the poverty level. Only 5 percent of Turkish students attend a *gymnasium*, a top-tier secondary school, necessary to enter university (see section 5).

There were an estimated 120 thousand members in the Jewish Community. The federal OPC's 2004 report registered 1,316 anti-Semitic crimes, compared with 1,199 in 2003. Among these the number of violent crimes increased from 35 to 37, but reported desecrations of Jewish cemeteries, synagogues, and memorials decreased from 113 to 100.

There were no developments in the 2004 case of Jewish cemetery desecrations in Neunkirchen.

In January following criticisms from a member of parliament, the Hesse criminal office began investigating virulently anti-Semitic reporting by the Istanbul-based newspaper *Vakit*. In January the interior minister banned the newspaper and its publisher. In August prosecutors

concluded they could not charge the editors since the articles were written abroad.

On March 3, the radio station SWR 4 withdrew its invitation to singer Christian Anders to perform at an event, after Anders' holocaust denial on his private Web site was publicized. Anders had also re-edited and published an anti-Semitic song.

On August 15, the Electoral Alternative for Social Justice Party in Trier expelled its county chairman, Wolfgang Schmitt, for using anti-Semitic rhetoric.

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

For a more detailed discussion, see the [2005 International Religious Freedom report](#).

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

The law provides for these rights, and the government generally respected them in practice.

For ethnic Germans from Eastern Europe and the former Soviet Union, the law provides both for citizenship immediately upon application and for legal residence without restrictions.

The law prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the return of persons to a country where the feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol and provided it to 1,956 persons during the year. Almost 4 percent of the processed applicants whose asylum applications were rejected received temporary residence permits on the grounds that they would be endangered if returned to their home country; they were expected to leave when conditions in their home country allowed their safe return.

In a May agreement with the UN Interim Mission in Kosovo, the government began a repatriation program for 10 thousand of the estimated 59 thousand technically deportable Kosovar refugees remaining in the country.

The government also approved repatriation of an estimated 16 thousand Afghan refugees. The decision met with criticism from human rights groups who maintained that conditions in Afghanistan were not sufficiently secure to permit refugee return. In September Hamburg officials began deportation proceedings for resident Afghans.

Both the federal and state governments cooperated with the Office of UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The government continued to assert that individuals who attempted to enter the country via a "safe country of transit" (a member state of the European Union or a country adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or, if they had managed to enter the country, returned to that "safe country of transit."

Individuals whose applications for asylum were rejected had up to two weeks to appeal the decision. Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The applicant could appeal a negative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Local NGOs continued to criticize these periods as insufficient to allow applicants to prepare for hearings. Although stays in the airport facility were limited to 19 days, applicants whose claims were rejected, but who could not be deported immediately, allegedly were held at the airport for months, a practice which refugee assistance groups and human rights advocates continued to criticize.

In November 2004 authorities expelled a refugee family, including a pregnant mother and her infant child, from the refugee shelter at Frankfurt airport. The parents, a Pakistani Muslim and an Indonesian Buddhist, alleged they could face the death penalty in Pakistan because of their mixed religious relationship. Although the case was taken to the appeals commission of the Bundestag, the state of Hesse deported the family couple before the commission reached a decision.

Discrimination against and of abuse of refugees and asylum seekers was not uncommon. There were multiple reports of attacks on shelters for asylum seekers by right-wing extremist groups including incidents in the states of Saxony-Anhalt, Brandenburg, and Rhineland-Pfalz (see sections 1.c. and 5).

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### Elections and Political Participation

Free and fair elections for members of the parliament's Federal Assembly or Bundestag took place on September 18. There are no direct elections for the parliament's Federal Council or Bundesrat, which comprises delegations from state governments.

The Federal Constitutional Court is empowered to outlaw political parties that actively work to undermine the liberal democratic order (see section 2.b.).

The chancellor was a woman, and there were 195 women in the 613-seat Bundestag. There were 4 women in the 15-member cabinet; 4 of the 16 Federal Constitutional Court judges were women.

There were 5 members of ethnic minorities in the 613-seat Bundestag but none in the cabinet or on the Federal Constitutional Court.

#### Government Corruption and Transparency

There were isolated reports of government corruption during the year.

A federal freedom of information law passed in July (effective January 1, 2006) provides for public access to government information. Four states (Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia) also have freedom of information laws, which provide for an appeals process. In these states denial of access to information was usually attributable to concern for the protection of business confidentiality.

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

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

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits the denial of access to housing, health care, or education on the basis of race, gender, disability, language, or social status, and the government generally enforced these provisions in practice. Nonetheless, violence against women and children, trafficking in persons, and harassment of racial minorities and foreigners were problems.

The government had not implemented a 2000 European Union (EU) directive establishing a general framework (antidiscrimination act) for equal treatment in employment and occupation.

#### Women

The law prohibits violence against women, including spousal abuse; perpetrators can be temporarily denied access to the household, put under a restraining order, and in severe cases prosecuted for assault or rape and required to pay damages. The government enforced the law; nevertheless, violence against women was believed to be widespread. For example, the state of Brandenburg registered 2,457 cases of domestic violence during 2004. Victim-aid organizations estimated that one in four women is the victim of spousal abuse. The government conducted campaigns in schools and through church groups to draw public attention to the existence of such violence and supported numerous projects to combat the problem. There were 380 state government-supported "women's houses," where victims of violence and their children could seek shelter, counseling, and legal and police protection.

On May 22, the German-Turkish Health Foundation, the Turkish newspaper *Hurriyet* and the Hesse social ministry launched an anti-violence campaign in Frankfurt. A *Hurriyet* editor reported that 50 percent of Muslim women in the country had been victims of domestic violence.

The law criminalizes rape, including spousal rape, and provides penalties up to 10 years in prison. The government effectively enforced the law. In 2004 national police criminal statistics recorded 8,831 cases of rape and serious sexual coercion. The government supported numerous projects in conjunction with the states and NGOs to deal with violence against women, both to prevent violence and to give victims greater access to medical care and legal recourse.

Forced marriages are illegal and invalid, and the act of coercing another person into a marriage through force or threat of force or other negative consequences is punishable with up to three years' imprisonment. While there are no conclusive statistics regarding the actual number of forced marriages in the country, evidence indicated that the problem was common. Lawyer and author Seyran Ates, among others, estimated that half of the young Turkish women living in the country were forced into marriages arranged by her parents and in-laws, a situation that often led to violence. Forced marriages affected not only young women living in the country for whom the family brings a husband into the country, but young women sent back to their native countries against their will to be married.

Unlike the previous year, there were reports of honor killings. On April 11, the youth chamber of a Stuttgart court sentenced a 19-year-old Turkish man to 9 years' imprisonment for the murder of his sister's boyfriend, whom he reportedly killed to restore the honor of the family.

On June 13, a 22-year-old Turkish woman was shot to death in Wiesbaden-Dotzheim. The victim's older brother confessed to the crime; police stated that he committed the "honor killing" because the woman had a German boyfriend.

In September three Turkish brothers were tried on charges of killing their sister, Hatun Surucu, in February. The brothers allegedly were motivated by their sister's immoderate lifestyle. She was living apart from her husband of an arranged marriage while raising a young child and had begun seeing another man whom the brothers allegedly found objectionable. The trial remained ongoing at year's end.

Prostitution is legal and fairly widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect their employees from sexual harassment. Various disciplinary measures against offenders are possible, up to and including dismissal. An employer's failure to take appropriate measures is considered a breach of contract, and the affected employee has the right not to work (while still receiving pay) until the situation was rectified. There were press reports of sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs ran a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides women the same rights as men, including equal pay for equal work. The Federal Ministry for Family, Seniors, Women and Youth primarily maintained oversight of women's rights issues. Women generally were not discriminated against in terms of compensation, although they were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations; their average monthly incomes were lower than those of men.

#### Children

The government maintained its strong commitment to children's rights and welfare. Public education is provided free of charge through the university level, and education is compulsory through the age of 16; almost all children attended school.

The government funded medical care for children, and boys and girls had equal access.

Child abuse was a problem that received widespread media attention. In 2004 there were 15,255 cases of sexual abuse of children and 199 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. There were 4,819 cases of possession or distribution of child pornography reported in 2004, a 60 percent increase from 2003, which police attributed to the filing of more complaints due to better information and increasing popular awareness. The law provides for the protection of children against pornography and sexual abuse. The maximum sentence is one year's imprisonment for possession of child pornography and five years in prison for distribution. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. The government effectively enforced these laws.

Forced marriage among various immigrant groups gained increasing public attention. This phenomenon affected both young adult women and minor girls (see section 5, Women).

Although there were no reports of abuse of street children, the life of these children often involved violence and abuse. Often these children were fleeing violent and abusive homes. Street children frequently turned to prostitution for income.

Approximately 5 percent of reported trafficking victims were under the age of 18 (see section 5, Trafficking).

The government amply funded programs to combat the sale of children, child prostitution, child pornography, trafficking of children, and child-sex tourism.

#### Trafficking in Persons

The law prohibits trafficking in persons, but there were reports that persons were trafficked to and through the country.

The law criminalizes trafficking in persons and provides penalties of up to 10 years' imprisonment. In February legislation went into effect strengthening criminal provisions on human trafficking by extending the definition of trafficking to include trafficking for both sex and labor purposes. Trafficking crimes were prosecuted at the state level.

According to a report covering 2003, the number of sex trafficking investigations was 431, an increase of 20 percent compared with 2002. The number of reported trafficking victims increased by 37 percent, a rise attributable to an increase in the number of investigations.

The countertrafficking office of the Federal Criminal Investigative Service (BKA) cooperated with Europol and Interpol law enforcement authorities. Federal ministries coordinated countertrafficking efforts on the international, national, and state levels. A bilateral countertrafficking working group operated control points near the country's border with the Czech Republic.

The country was both a destination and transit country for trafficked persons. The BKA reported in their annual report on trafficking in persons that the numbers of known and registered victims in 2003 was 1,235, and the percentage of registered victims under age 18 continued to be in the 5 percent range. Of the registered victims, 80 percent came from Eastern Europe and the countries of the former Soviet Union, primarily Russia, Poland, Ukraine, Moldova, Lithuania, Slovakia, Latvia, Bulgaria, and the Czech Republic. Non-European victims came mostly from Africa and Asia. The BKA reported that most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes.

Traffickers used a range of intimidation techniques to ensure the compliance of victims, including threats to "sell" the victim, threats of deportation, misrepresentation of victims' legal rights and status, physical violence, and withholding travel and identification documents.

There were no reports that trafficking victims were prosecuted for immigration or prostitution violations.

Police were required to notify a counseling center of trafficking victims and to inform the victims of their rights and options for seeking assistance. The centers provided shelter, counseling, interpreting services, and legal assistance.

Eight of the 16 states had cooperation agreements between the police, state welfare agencies, and NGOs to strengthen the delivery of welfare services to victims. The federal and state governments worked with NGOs and local women's shelters to identify and assist victims,

funding more than 30 NGO counseling centers for victims of trafficking.

The government paid the basic cost of repatriation of trafficking victims under the Reintegration and Emigration Program for Asylum-Seekers in Germany (REAG). The International Organization for Migration administered REAG and facilitated assistance to returning victims.

The government sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking.

#### Persons with Disabilities

The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions.

The government set guidelines for barrier-free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings complied with the guidelines for a barrier-free environment.

#### National/Racial/Ethnic Minorities

Harassment, including beatings, of foreigners and racial minorities, remained a problem throughout the country. Although there are no statistics specifically on incidents directed against these groups, media and official reports indicated that several such incidents occurred each week. For example, in June a gang of 13 young men in Munich harassed and physically assaulted a 20-year-old Iraqi and his pregnant friend in the subway; the perpetrators were arrested. In September three neo-Nazis in Berlin assaulted and injured a Ghanaian; the three men were arrested, fingerprinted, and released. Also in June three unidentified men set fire to a Turkish store in Hamburg. Shelters for asylum seekers were attacked in several cities.

There were no new developments in the May 2004 case of a 20-year-old foreigner who applied for an apprenticeship as a technician for the city of Kaiserslautern and allegedly received a racist response from the city administration's human resources department.

The BKA defines "politically motivated crimes" (PMCs) as crimes involving motives related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world-view, ancestry, sexual orientation, disability status, appearance, or social status. In 2004 the federal OPC recorded 12,051 right-wing PMCs, including 8,337 propaganda crimes, 2,578 "incitement of racial hatred" crimes, 243 property crimes, 97 criminal threats, and 20 grave desecrations. In 2004 there were 776 violent right-wing extremist PMCs, almost half of which were perpetrated against foreigners and one-third against political opponents. The OPC report listed 168 right-wing extremist organizations and groups.

The government protected and fostered the languages and cultures of national and ethnic minorities native to the country (Sorbs, Danes, Frisians, Roma, and Sinti).

Critics contended that the Sinti/Romani minority was the only officially recognized national minority without unique legal protection, political privileges, or reserved representation in certain public institutions. In July the state of Rheinland-Pfalz signed an agreement with the National Association of German Sinti and Roma to recognize Sinti and Roma as official national minorities entitled to promotion of their culture and language as well as protection from discrimination. Moreover the state government undertook to foster the Romani language and provide additional support for Romani and Sinti children in schools.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination (see section 6.c.)

#### Other Societal Abuses and Discrimination

Despite increasing public awareness, media and reports from other sources indicated that societal and job-related discrimination against homosexuals occurred.

Discrimination against persons with HIV/AIDS does exist primarily due to lack of understanding of the disease. The government worked with NGOs, religious groups and business to educate the public both regarding prevention, and facts about HIV/AIDS.

#### Section 6 Worker Rights

##### a. The Right of Association

The Basic Law provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization, and workers exercised this right. Approximately 28 percent of the workforce was organized into unions. The overwhelming majority of organized workers belong to eight unions largely grouped by industry or service sector and affiliated with the German Trade Union Federation, the country's main trade union confederation.

##### b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference, and the government generally protected this right in practice. The law protects the right to collective bargaining, which was freely practiced. Collective bargaining agreements covered approximately 74 percent of the labor force. The law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive or essential positions, such as members of the armed forces. Collective bargaining agreements reached for public service workers who did have this right were usually extended by legislation to those who do not, although such extensions did not always include all of the provisions of those agreements. Workers not allowed to strike also have legal recourse through the courts to protect their rights. Workers conducted legal



strikes during the year.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The government effectively enforced laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 15, with a few exceptions: those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. Abusive child labor is not a serious problem, although violations did occur, mainly in small, often family-owned businesses such as pubs, restaurants, and grocery stores.

Trafficking of children was a problem (see section 5).

The Federal Economics and Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

#### e. Acceptable Conditions of Work

There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 to 90 percent of all wage and salary earners; the remaining workers were covered by either individual contracts or company-level contracts. The wages established by these processes provided a decent standard of living for a worker and family.

Federal regulations limit the workweek to a maximum of 48 hours, but collective bargaining agreements may supersede them. Contracts that directly or indirectly affected 80 percent of the working population regulate the number of hours of work per week. The average workweek was 39.9 hours nationwide (OECD data for 2004); rest periods for lunch are accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

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

Foreign workers in the country were protected by law and generally worked in conditions equal to that of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their citizen counterparts. In addition seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.

