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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.

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 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 occasional instances of police abuse.

Germany's highly advanced economy affords its residents a high standard of living. The economy has been growing over the past 2 years, recovering from a deep recession earlier in the decade which followed the postreunification boom. This growth, however, has resulted in an only gradual reduction of unemployment through mid-1995. In the East, where economic integration and growth continued particularly strongly, employment has increased more noticeably than in the West. Nonetheless, overall unemployment in eastern Germany remains significantly higher than in the country's western half as the region continues to grapple with adjustment to free market conditions. Unemployment in the East affects women disproportionately more than men.

The Government fully 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 instances of admitted police

abuse of prisoners, frequently foreigners. Although violence or harassment directed at foreigners continued to occur within society as a whole, the number of incidents declined markedly, as was the case in 1994. Official data show that the number of violent offenses of all kinds by rightwing extremists decreased by 14 percent in the first 6 months of 1995 compared with the same period in 1994. Rightwing violence against foreigners decreased by 27 percent. Rightwing extremist violence rose sharply after German unification but peaked in 1992 and has since been declining. Still, there were a significant number of attacks on property or persons, and foreigners were the victims somewhat more often than not.

Anti-Semitic incidents increased but remained few in absolute terms. Most involved graffiti or distribution of anti-Semitic materials. The synagogue in Luebeck, firebombed in 1994, was subjected to another arson attack on May 7, but the alleged perpetrator was apparently not acting for political or anti-Semitic reasons. The overwhelming majority of the perpetrators of attacks on foreigners or anti-Semitic acts were frustrated, apolitical youths and a small core of neoNazis. All the major political parties and all the highest officials of the Federal Republic denounced violence against foreigners and anti-Semitic acts.

Women continue to face wage discrimination in the private sector. The Government is taking serious steps to address violence against women.

#### 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.

Some murders occurred among rival factions of Iranians, Kurds, Turks, and other foreign nationals. The federal and state authorities sought to find and prosecute the perpetrators of such crimes and pressed charges in several trials.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Torture is not mentioned in the Basic Law, but it is forbidden by law.

There continue to be serious allegations of police brutality against foreigners. Hamburg officials instituted investigations of over 80 police and other officials for possible mistreatment of arrested foreigners; 16 were eventually charged. The Hamburg chief of police went into early retirement shortly thereafter. A policeman charged with mistreating an Iraqi asylum seeker during the 1994 Ascension Sunday antforeigner violence in Magdeburg was found innocent.

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. To make an arrest, police must obtain a judicial warrant. By the day after arrest, police must bring

the suspect before a judge and lodge a charge. The court must then either issue a warrant stating the grounds for detention or order the person's release.

There is no preventive detention. If there is evidence that the 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 the right to a fair trial, and an independent judiciary vigorously enforces this right. 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 at 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 a claim 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.

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. Nazi propaganda and that of other proscribed organizations are illegal. Statements endorsing Nazism are also illegal. Several persons were indicted for making statements or distributing materials that were alleged to fall into these categories, including two American citizens, one of whom was said to be the producer of the majority of neo-Nazi material imported into Germany.

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 political parties found to be "fundamentally antidemocratic." A 1950's ruling by the Federal Constitutional Court outlawed a neo-Nazi and a Communist party. State governments may outlaw only organizations that are active solely within their state. If a group's activities cross state lines, the Federal Government assumes jurisdiction.

Four far-right political groups, not organized as political parties, were banned in late 1992. The Kurdish Workers Party (PKK), along with 35 subsidiary organizations, was banned in 1993. Also in 1993, the Federal Government asked the Constitutional Court to ban the far-right Free German Workers' Party; the Court's decision was still pending at year's end. Several extremist parties were under observation by the Office for the Protection of the Constitution (BFV, the internal security service), although such monitoring may by law not interfere with the organizations' continued activities. The BFV reported that 56,600 people belonged to far-right organizations in 1994, of whom some 5,600 were considered violence-prone.

#### c. Freedom of Religion

The Basic Law specifically provides for religious freedom. The Government fully supports religious freedom. Most of the population belongs to the Catholic or Protestant Churches. These denominations and the small Jewish community hold a special legal status as corporate bodies under public law, giving them, for instance, the right to participate in a state-administered church tax system. State governments subsidize church-affiliated schools and provide religious instruction in schools and universities for those belonging to the Protestant, Catholic, or Jewish faith.

Members of the Church of Scientology continue to allege both social and government-condoned harassment, such as being fired from a job or expelled from (or not permitted to join) a political party. Major German political parties exclude Scientologists from membership, arguing that Scientology is not a religion but a for-profit organization, whose goals and principles are inconsistent with those of the political parties. Business firms whose owners or executives belong to the Church of Scientology may face boycotts and discrimination, sometimes with governmental approval. Artists have been prevented from performing or displaying their works because of their Scientology membership. Public criticism of Scientologists by leading political figures increased during the year, with one Cabinet member publicly stating that Scientologists were unfit to serve as teachers, police officers, or professors. Scientologists continued to take such grievances to court, and the courts have frequently ruled in their favor.

#### 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 entering the country, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions. Persons not of German ethnicity 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 residency. Representatives of the Turkish and Roma communities in Germany have criticized the citizenship policy as unjust and discriminatory and have opposed the policy against dual nationality.

The Basic Law provides for the right of foreign victims of political persecution to attain asylum in Germany. However, since an amendment of the asylum law took effect on July 1, 1993, tightening the criteria for granting asylum, applications have dropped sharply. Applications in 1994 were fewer than in any year since 1989, and this trend continues.

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.

Asylum seekers with applications under review enjoy virtually the full range of civil rights except the right to vote. While less than 5 percent of applicants have attained political asylum, denial does not automatically result in deportation. Most rejected applicants are allowed to remain in the country for humanitarian reasons, especially those from the former Yugoslavia.

Applicants who have been conclusively denied asylum are placed in detention pending deportation. Some police detention facilities, particularly in Berlin, are overcrowded or otherwise seriously substandard.

On July 12, Germany signed an agreement with Vietnam on development aid which included funds for the repatriation of Vietnamese citizens living illegally in Germany. The plan calls for up to 300 illegal residents to be deported every month, but the two countries have not worked out detailed mechanisms for the procedure, and only 30 have been deported as of December 1. The Government has said it will begin with illegal immigrants, rejected asylum seekers, and convicted criminals.

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

The Basic Law provides citizens with the right to peacefully change their government, 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 substantially underrepresented in those ranks. Slightly over 26 percent of the Federal Parliament is female, including its President. Women occupy 3 of 16 cabinet positions. One state minister president is a woman. On the Federal Constitutional Court, 4 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 voted at their October convention not to mandate a one-third quota.

#### 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 which are effectively enforced. It is condemned in society, and legal and medical recourse is available. Trafficking in women and forced prostitution is forbidden by law as well. 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.

Germany has been a party to the U.N. Convention on the Elimination of All Forms of Discrimination against Women since 1985 and supported the appointment of a special rapporteur on violence against women at the U.N. Human Rights Commission. The Government has 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 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. Police statistics on rape showed a 4.4 percent decrease to 6,095 cases in 1994 (latest data) from 6,376 in 1993.

##### Children

The Government is committed to protection of children's rights, and there is no culturally based pattern of abuse of human rights of children in Germany. The Government nevertheless recognizes that violence against children is a problem requiring its attention. Police figures indicate there were 15,096 reported cases of sexual abuse of children in 1994 (latest available figures), down slightly from 1993. Officials believe that the numbers of unreported cases may be much higher. The Child and Youth Protection Law stresses the need for preventive measures, and the Ministry for the Family, Senior Citizens, Women and Youth has taken account of this in stepping up its counseling and other assistance.

The Criminal Code was amended in 1993 to further protect children against pornography and sexual abuse. For possession of child

pornography, the maximum sentence is 1 year's imprisonment; for distribution, 5 years'. The 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 handicapped. 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 handicapped.

#### National/Racial/Ethnic Minorities

Police data show the number of violent offenses by rightwing extremists decreased by 14 percent in the first 6 months of 1995 compared with the same period in 1994, continuing a downtrend since 1992. Rightwing violence against foreigners declined by 27 percent. As in previous years, most of these offenses were directed against foreign residents, but the decline in xenophobic offenses since 1993 continued to be steeper than in other kinds of manifestations of rightwing extremist violence. Eight American exchange students of Asian descent were attacked and slightly injured by right wingers in July in Merseburg. Charges have been brought in this case, but the trial had not convened by year's end.

Ethnic Turks continue to credibly complain about societal and job related discrimination. Pro-Kurdish demonstrations led to injuries of 47 policemen and 3 demonstrators in Frankfurt in July. Isolated firebombing incidents occurred during this same period targeting Turkish businesses establishments. There have been no arrests in connection with these firebombings.

The Karlsruhe Regional Court sentenced NPD Chairman Guenther Dickert to 2 years' imprisonment in April in connection with denial of the holocaust.

Since late 1993, officials and courts have generally dealt with extremist crimes more vigorously than previously. On October 13, a Dusseldorf court sentenced four men in the May 1993 arson murders of five Turks, the worst killing in the wave of rightwing violence since reunification. Markus Gartmann was sentenced to 15 years' imprisonment for killing two women and three girls--all members of the same family--in a firebomb attack in the town of Solingen. Three accomplices tried as juveniles received maximum sentences of 10 years.

Perpetrators of rightwing violence were predominantly young, male, and low in socioeconomic status, often committing such acts while inebriated. As in the past, most acts of violence against minority groups were committed spontaneously. As in the past, there was evidence that neo-Nazi groups continue to make efforts for greater coordination

among themselves.

In addition to voicing condemnation of the violence, the Government recommended tougher anticrime legislation and lawenforcement measures, as well as measures aimed at the

societal roots of extremist violence and other crime. In the eastern states, governments introduced several model, social and educational programs designed to counteract the root causes of xenophobia and intolerance. Eastern state governments also undertook efforts to reinvigorate enforcement of laws against violence by extremists. For such projects, however, state governments have thus far allocated only limited funds in their tight budgets.

The police in the eastern states continued to become better versed in the federal legal system, better trained, and more experienced, and by year's end they began to achieve the standards of effectiveness characteristic of police in the rest of Germany. Certainly the level of rightwing activity in the new states continued to decrease, and the police and state officials showed greater coordination in moving quickly and effectively to prevent illegal rightwing and neo-Nazi gatherings and demonstrations.

Sinti and Romani leaders expressed satisfaction at the signing by the Government of the Council of Europe Convention on Minorities. Germany submitted an interpretation of the Convention in which Sinti and Roma were explicitly mentioned as ethnic minorities in Germany, providing them the recognition which they had long sought.

#### Religious Minorities

Anti-Semitic acts increased, with 634 incidents reported in the first 6 months of 1995. Over 90 percent of these anti-Semitic incidents involved graffiti, the distribution of anti-Semitic materials, or the display of symbols of banned organizations. The most significant act was the firebombing of the 100-year-old synagogue in Luebeck on May 7, the second such attack in 14 months. Although the building was occupied at the time of the attack, there were no casualties. There have been no arrests in this case. Three perpetrators of the 1994 attack were convicted in April and sentenced to 4 years' and 6 months' imprisonment. A fourth perpetrator received a prison sentence of 2 years and 6 months. A suspect in the 1995 attack was apprehended in September, and there is evidence that the motivation for the attack may not have been anti-Semitic in origin.

#### 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 37 percent of the total eligible labor force belong to unions. The German Trade Union Federation (DGB) represents 85 percent of organized workers and participates in various international and European trade union organizations.

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.

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 centralized 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, and there were no known violations.

d. Minimum Age for Employment of Children

Federal law generally prohibits employment of children under age 15, with a few exceptions: those age 13 or 14 may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; those ages 13 to 14 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 industrial 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. This system now applies in the eastern states, where lax standards and conditions under the Communist regime created serious problems. 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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