

GERMANY

EXECUTIVE SUMMARY

Germany is a constitutional, parliamentary democracy. Citizens choose their representatives periodically in free and fair multiparty elections. The head of the federal government, the chancellor, is elected by the Federal Parliament (Bundestag). The second legislative chamber, the Federal Council (Bundesrat), represents the 16 states at the federal level and is composed of members of the state governments. The most recent national elections for the Bundestag took place in 2009. Security forces reported to civilian authorities.

Right-wing extremist offenses were a source of significant public and official concern. In November police arrested persons linked to a right-wing extremist group, the National Socialist Underground, for the killings of nine persons with Turkish or Greek backgrounds as well as one policewoman over a period of 13 years. Members of the extreme right also perpetrated a number of anti-Semitic acts, the most widespread of which were the desecration of Jewish cemeteries or other monuments with graffiti including swastikas and racist slogans. Challenges facing persons with disabilities were the topic of public discussion: e.g., some nongovernmental organizations (NGOs) questioned the practice of teaching children with disabilities in designated schools with special facilities, fearing that this segregates the children from society and hinders their future integration as full members of society. Finally, there was also some societal violence and discrimination because of sexual orientation.

Human rights problems during the year included the system of “subsequent preventative detention” that European and national courts have ordered reformed. Citizens challenged the government’s collection of a vast amount of cell-phone data during demonstrations on February 19, resulting in court decisions requiring the government to be more selective in its collection of information and to protect it better. The government limited the freedoms of speech, press, assembly, and association of neo-Nazi and other groups it deemed extremist. There were questions about whether the country’s “fast procedure” for determining the refugee status of asylum seekers gave applicants a fair hearing. There were reports of societal violence against women, and sex and labor trafficking of women, men, and children. The gender disparity in pay was significant, as women were concentrated in lower-paying jobs and in part-time work. Some societal discrimination against persons with HIV/AIDS was reported.

The government took steps to prosecute and punish officials in the security services and elsewhere in government who committed abuses. There were no reports of impunity involving the security forces.

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.

On May 12, John Demjanjuk was sentenced by a Munich court to five years' imprisonment on 28,060 counts of accessory to murder--the number of inmates who died during the time he worked as a guard at the Sobibor extermination camp in German-occupied Poland during World War II. The 91-year-old Demjanjuk was released to a retirement home south of Munich pending appeal. In July prosecutors in Weiden, Bavaria, opened an investigation of Demjanjuk's work as a guard at the Flossenbuerg concentration camp in 1943-44, during which time more than 5,000 inmates were killed.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

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

According to the Federal Statistics Office, the country's prison population as of August 31 was 69,697, including 3,869 women and 10,783 pretrial detainees. Of the latter, 359 were juveniles under age 18. The prison system had a capacity of 78,762 inmates. Prisoners and detainees had access to potable water, reasonable access to visitors, and could engage in religious observance. Authorities permitted

convicts and detainees to submit complaints to judicial authorities without censorship. Authorities investigated credible allegations of inhumane conditions. The government investigated and monitored prison and detention center conditions. There is no ombudsman for prisons or prisoner affairs.

The government permitted the monitoring of prison and detention centers by independent nongovernmental observers, including the Council of Europe's Committee for the Prevention of Torture, in accordance with their standard modalities. During the year the Federal Agency for the Prevention of Torture conducted numerous visits of facilities throughout the country and reported on them.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over police and the Federal Criminal Investigative Service, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

Authorities may arrest an individual only on the basis of a warrant issued by a competent judicial authority, unless police apprehend a suspect in the act of committing a crime or have strong reason to believe that the individual intends to commit a crime. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. The constitution provides that authorities must bring a person detained on suspicion of having committed a criminal offense before a judge no later than the day after his arrest. At that time the judge must inform him of the reasons for the arrest and give him an opportunity to raise objections. The law entitles a detainee to prompt access to an attorney, either one of his choosing or, if he does not select one, one appointed by the court. The court must then issue an arrest warrant stating the grounds for detention; otherwise the court must order the individual's release. Authorities generally respected these rights in practice.

Bail exists but was infrequently granted. Authorities usually released persons awaiting trial unless a court decided that there was a clear risk that they might flee. In such cases authorities could hold detainees for the duration of the investigation and subsequent trial, subject to judicial review. Time spent in investigative custody applies towards any eventual sentence. If a court acquits a defendant who was incarcerated, the government must compensate the defendant for financial losses as well as for “moral prejudice” due to the incarceration.

While the law does not allow courts to punish persons twice for the same crime, a court may order an offender convicted of rape, homicide, or manslaughter to spend additional time in subsequent preventive detention after completion of sentence if the court determines that the offender represents a continuing danger. The law permits imposition of subsequent preventive detention for an indefinite period.

On April 14, the European Court of Human Rights (ECHR) ruled against the government’s system of subsequent preventive detention and the retroactive application of the law in certain cases involving subsequent preventive detention. The ECHR found that the government violated its commitments in the European Convention on Human Rights to impose “no penalty without a law” and to protect the right to freedom. The ruling came in response to a complaint by a man from Baden-Wuerttemberg who had been sentenced to three years in prison for a sexual offense but was imprisoned for a total of 17 years under the application of subsequent preventive detention. In response to this and earlier ECHR rulings, the government introduced reforms, including one providing that, as of January 1, 2011, subsequent preventive detention could no longer be applied retroactively.

In May the Federal Constitutional Court ruled that regulations on subsequent preventive detention, including recent reforms, were unconstitutional as a violation of the basic right of personal freedom. The court ruling required the legislative branch of government to amend the law by May 31, 2013, and defined tight preconditions for implementation of subsequent preventive detention (such as high-grade risk of severe violent, sexual criminal offenses, or mental disorder).

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The constitution provides for the right to a fair, public trial, and an independent judiciary generally enforced this right. Juries are not used. Cases may be tried by a single judge, a panel of professional judges, or a mixed panel of professional and non-professional judges, depending on the severity of the charges. Defendants enjoy a presumption of innocence and have a right of appeal. The law requires defendants to be present at their trials. Defendants have the right to consult with an attorney. According to the law, before any interrogation begins authorities must inform a suspect, arrested or not, of his or her right to consult an attorney. The government provides an attorney at public expense if defendants demonstrate financial need. Defendants may confront and question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to all court-held evidence relevant to their cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

An independent and impartial judiciary in civil matters provides access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Decisions in human rights cases can be appealed to the ECHR. Administrative remedies for alleged wrongs are available as well.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

State-level offices for the protection of the constitution (OPCs) in Hesse, Baden-Wuerttemberg, Lower Saxony, North Rhine-Westphalia, and Bavaria continued to monitor the Left Party because the party tolerated left-extremist groups within its ranks. Other political parties deemed potentially hostile to the constitution (such as neo-Nazi National Democratic Party) were also under the observation of the federal and state OPCs.

The federal and state OPCs answer for their activities to the federal and respective state ministers of the interior in the first instance. The ministries, in turn, answer to their respective state and federal parliaments. All OPC activities are challengeable in court, including ultimately in the Federal Constitutional Court.

In investigations of certain serious crimes, law enforcement officials may monitor the telecommunications of suspects, but only with court approval. In intelligence-related cases, such as suspected involvement in terrorism, the law permits intelligence services to engage in surveillance activities without court approval. However, an independent commission elected by a parliamentary control body must approve such activities.

On February 19, during a neo-Nazi demonstration and anti-Nazi counterdemonstration in Dresden on the anniversary of the bombing of that city in World War II, police in coordination with local mobile service providers tracked the movements of previous offenders suspected of attending the rally by monitoring cell-phone data. This procedure resulted in the collection of approximately 500,000 to one million calls and text messages of all cell-phone users in the area. Police stated that the data was collected in anticipation that the event would become violent, which it did (see section 2.b., Freedom of Assembly). The data was later used to investigate the injuries of 112 police officers and 200 demonstrators. Dresden Chief of Police Dieter Hanitsch was fired as a result.

On March 2, the Federal Constitutional Court ruled that the law requiring the mass storage of telephone and Internet communications data was unconstitutional because it violated telecommunications privacy. The court ruled that although data storage is not in itself unconstitutional, the law was disproportionate and did not provide sufficient data protection measures. The court called for all the information saved under the law to be deleted “without delay.” The companies holding the data in question announced their compliance with the decision.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and press. However, the law bans Nazi propaganda, material denying the Holocaust, and pornography.

Freedom of Speech: While the government generally respected these rights in practice, it imposed limits aimed at groups it deemed extremist. During the year the government arrested, tried, convicted, and imprisoned a number of persons for speech that incited racial hatred, endorsed Nazism, or denied the Holocaust (see also section 6, Anti-Semitism). The government also arrested, tried, and convicted eight persons for translating and posting al-Qaida propaganda on the Internet. Most of the defendants were juveniles at the time of the incident. Three were sentenced in July. The harshest sentence was six months' jail time with two years' probation. The sole female defendant was ordered to attend an antiaggression course, and the youngest defendant was released. On September 29, the Higher Regional Court of Munich handed down another three sentences. One defendant received an 18-month suspended sentence, while the other two received probation and 80 hours of community service and counseling. On October 11, the seventh defendant was sentenced to 200 hours of community service. On December 6, the Munich Court sentenced the eighth person to 3.5 years in jail for support of a terrorist organization abroad. The court concluded there was evidence he had distributed al-Qaida propaganda material on the Internet and that he had sought military training in a camp in the Iranian-Pakistani border region in 2007.

On April 10, the Regional Court of Koblenz sentenced nine of the 18 operators of the right-wing extremist Internet radio program, "Resistance Radio," to sentences of 21 months to three years in prison. The court found the defendants guilty of incitement to hatred and instruction in the formation of criminal organizations that exalted Nazism and threatened the lives of Jews and foreigners. In August a prosecutor in Koblenz arrested an additional 12 operators. Their trials were pending at the end of the year.

On May 17, Berlin's administrative court ruled that the city's Kreuzberg district must treat all political parties equally and allow the extreme-rightist anti-Muslim group Pro Deutschland to hold a meeting in a hall belonging to the city. The Kreuzberg district Green Party faction had blocked renting the hall to the group. On the day of the planned event, protesters outside the building blocked access so that Pro Deutschland was unable to proceed with the meeting.

Freedom of Press: The independent media were active and expressed a wide variety of views with few restrictions. There were no prosecutions involving right-wing extremist, racist, or anti-Semitic material.

Internet Freedom

There were no government restrictions on access to the Internet; government agencies may monitor e-mail or Internet chat rooms in certain circumstances. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Federal and state laws permit the Federal Office for the Protection of the Constitution (FOPC) and its state-level counterparts to monitor the private e-mails and chat room postings of individuals and groups under FOPC and OPC surveillance. An independent commission elected by a parliamentary control body was responsible for oversight of such activities. The law prohibits access to material such as child pornography and Nazi propaganda.

On May 17, the Stralsund Regional Court rejected the appeal of a man fined 3,000 euros (\$3,900) on sedition charges. The man operated a neo-Nazi Internet portal, Altermedia, on which he published several anti-Semitic articles and denied the Holocaust. On October 24, the court sentenced him to two years in prison without parole.

Academic Freedom and Cultural Events

There were some government restrictions on academic freedom or cultural events supporting extreme right-wing neo-Nazism.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government usually respected this right in practice. The government occasionally prevented certain prohibited organizations, mainly right-wing extremist groups, from holding public assemblies. Authorities permitted several right-wing extremist or neo-Nazi groups to hold public rallies or marches during the year when the assembly was in accordance with the law and did not involve a prohibited organization.

Permits must be obtained for open-air public rallies and marches, and state and local officials have authority to deny permits when public safety concerns arise or the applicant is a prohibited organization. Denials were rare but did occur.

It is illegal to block an officially registered demonstration, including demonstrations organized by neo-Nazi groups. Many anti-Nazi activists refused to

accept such restrictions and attempted to block neo-Nazi demonstrations or hold counterdemonstrations, resulting in clashes between police and anti-Nazi demonstrators.

On February 19, police in Dresden used water cannons, tear gas, truncheons, and dogs to break up several thousand anti-Nazi counterdemonstrators attempting to block a neo-Nazi rally taking advantage of the 66th anniversary of the Allied bombing of the city. The ensuing clash between police and demonstrators resulted in injuries to more than 200 counterdemonstrators and 112 police officers, according to press reports (see also section 1.f.).

Police may detain known or suspected criminals, usually right-wing or left-wing extremists, for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations. The length of time varies from state to state and can range from one to 14 days.

On May 18, the Mecklenburg-Vorpommern parliament passed a law prohibiting neo-Nazi marches and rallies at memorials for the victims of World War II.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice. The law permits the prohibition of organizations whose activities have been judged illegal or opposed to the constitutional democratic order. While only the Federal Constitutional Court may prohibit political parties on these grounds, federal or state governments may prohibit or restrict other organizations, including groups that authorities classify as extremist or criminal in nature. Organizations have the right to appeal prohibition or restrictions.

The FOPC and state OPCs are responsible for examining possible threats to the constitutional democratic system and monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts, but it also included intrusive methods, such as the use of undercover agents who were subject to legal oversight. The FOPC and OPCs published lists of monitored organizations, including left-wing political parties. Although the law stipulates that OPC surveillance must not interfere with an organization's activities, representatives of monitored groups complained that the publication of the organizations' names contributed to prejudice against them.

In April the interior minister of Brandenburg banned the right-wing extremist group Freie Kraefte Teltow-Flaeming, which avowed Nazi ideology, advocated xenophobic and racist positions, and distributed anti-Semitic propaganda. Police searched 19 sites in Brandenburg and one in Berlin, confiscating Nazi propaganda, flags, and symbols. Authorities seized property and funds of the organization.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: Laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The constitution extends to foreigners persecuted on political grounds the right to apply for asylum in the country. The law also allows the granting of refugee status when the persecutors are not representatives of the state.

Safe Country of Origin/Transit: According to EU regulations, individuals who attempt to enter the country through a "safe country of transit," i.e., a member state of the EU or a country adhering to the 1951 Convention relating to the Status of Refugees, could be turned back at the border or, if they had entered the country, deported to that safe country of transit. Several NGOs questioned this regulation. According to the Interior Ministry, there is no blanket denial of asylum to applicants from safe countries of origin. If the applicant hails from a safe country of origin, appealing a denial of asylum will not prevent authorities from returning the applicant to his country of origin before a court issues a decision on the appeal. An applicant may prevent an early return by filing an urgent motion with the competent court.

The member states of the EU, Senegal, and Ghana are classified as safe countries of origin. Nationals from both countries were granted refugee status in 2010.

Nonrefoulement: In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year human rights organizations questioned whether an agreement with Kosovo provided adequate safeguards for failed asylum seekers who were repatriated there. The federal government considered the security situation for returnees in Kosovo as stable, even if they belonged to the Romani minority. According to the Federal Ministry of the Interior, 528 Kosovars, approximately a quarter of whom were Roma, were repatriated in 2010. Between January and July, 252 Kosovars, a third of whom were Roma, were returned.

Refugee Abuse: Human rights organizations continued to criticize the “fast procedure” at Frankfurt airport, under which the Federal Office for Migration reaches a decision on asylum applications within two days. Based on its examination of 32 cases from 13 countries in 2009, the NGO Pro Asyl asserted that the minimum requirements for a fair procedure were not met, as decisions were made so rapidly. According to Pro Asyl’s analysis, the two-day deadline is too short for lawyers to contact their client and give them proper legal assistance. Pro Asyl also claimed that the procedure is vulnerable to political influence.

Access to Basic Services: In May the UN Committee on Economic, Social, and Cultural Rights issued a report that criticized the situation of asylum seekers in the country. The committee noted that social benefits were inadequate and that asylum seekers had to live in overcrowded quarters and received only emergency medical care.

Stateless Persons

Citizenship is derived primarily by birth from one citizen parent, but citizenship may also be granted to children based on their birth in the country, provided one parent has been living there for at least eight years or one parent has a permanent residence permit and has had that status for at least three years.

According to UNHCR statistics, there were 7,920 stateless persons in the country at the end of 2010. The government generally implemented laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis. Refugees and stateless persons may apply for citizenship after six years residence, but it can be difficult for an applicant to produce sufficient evidence or documentation for the establishment of statelessness status because the burden of proof is on the applicant. In general the country protected stateless persons from deportation to their country of origin or usual residence where they could be threatened with political persecution.

Temporary Protection: During the year a number of individuals were granted subsidiary protection status (individuals that do not meet the criteria of the refugee convention but need protection for other reasons, e.g., because they faced the death penalty, torture, or risks related to armed conflict in their home countries).

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2009 the country held parliamentary elections that were considered free and fair.

Political Parties: Political parties generally operated without restriction or outside interference unless they were deemed a threat to the federal constitution. Even when the federal authorities perceive such a threat, they have no authority to ban a party; they can only petition to the Federal Constitutional Court to do so.

A total of 31 splinter parties were denied approval to participate in the 2009 federal parliamentary elections. A report on the parliamentary elections released in 2009 by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) criticized certain provisions of the law for the admission of new parties for conflicts of interest in the federal election committee, which decides on such admissions, and a lack of judicial review of election administration decisions.

Participation of Women and Minorities: The federal chancellor and five of the 16 cabinet members were women. There were 204 women in the 620-seat Federal Parliament. Five judges on the 16-member Federal Constitutional Court were women.

There were 16 members of ethnic minorities or members with an immigrant background in the parliament, one on the Federal Constitutional Court, and one in the cabinet. There were three female state-level ministers for integration with a Turkish background and three female minister presidents.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Nevertheless, in the construction sector and public contracting, there were indications of inappropriate political party influence in the awarding of contracts.

Most state governments and local authorities have contact points for whistleblowers and provisions for rotating personnel in areas prone to corruption. Government officials are forbidden to accept gifts linked to their jobs. There are serious penalties for bribing officials, corrupt practices between companies, and price-fixing by companies competing for public contracts.

On March 18, prosecutors accused two executives from Ferrostaal AG of paying foreign officials 62 million euros (\$81 million) in bribes related to the sale of submarines to Greece and Portugal.

Parliamentarians are subject to financial disclosure laws that require them to publish earnings from outside employment. State prosecutors generally are responsible for investigating corruption cases.

Federal law provides for public access to government information. Eleven federal states (Berlin, Brandenburg, Schleswig-Holstein, North Rhine-Westphalia, Mecklenburg-Vorpommern, Hamburg, Bremen, Saarland, Thuringia, Saxony-Anhalt, and Rhineland-Palatinate) also have freedom of information laws that provide an appeals process. Access to records was generally uncomplicated, and responses to requests were swift and positive. The fee for requesting information can be up to 500 euros (\$650).

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

On July 1, an NGO criticized the annual report of the FOPC that indicated a nationwide drop in violence by right-wing extremists and a rise in left-wing extremist violence. This NGO had recorded an increase in right-wing extremist crimes in Saxony-Anhalt over the previous year. The NGO stated that the FOPC had likely failed to identify some crimes as having a right-wing extremist motivation.

Government Human Rights Bodies: The courts were the main resource for individuals seeking protection of individual human rights. In addition to the courts, the country has a wide range of governmental and nongovernmental bodies and organizations working to protect human rights. Citizens could file complaints with petition committees and commissioners for citizens' affairs. Such points of contact are usually referred to as "ombudsmen."

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced these provisions in practice.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and provides penalties of up to 15 years in prison. The government enforced the law effectively. According to national police criminal statistics, there were 7,724 cases of rape or serious sexual coercion in 2010, the latest data available. The federal government supported numerous projects in conjunction with the federal states and NGOs to deal with violence against women, both to prevent violence and give victims greater access to medical care and legal assistance.

The law prohibits violence against women, including spousal abuse; the law may temporarily deny perpetrators access to the household, put them under a restraining

order, or in severe cases prosecute them for assault or rape and require them to pay damages. Penalties varied depending on the nature of the case. The law does not require a civil court decision for a temporary denial. The government enforced the law, but authorities believed that violence against women was widespread. Organizations that aid victims estimated that between 20 and 25 percent of women have been victims of physical or sexual violence. There were approximately 346 women's shelters in the country and 18 sheltered apartments/emergency centers for women, as well as a widespread system of emergency hotlines. According to the Federal Ministry for Family, Senior Citizens, Women, and Youth, approximately 400,000 women per year sought refuge from abusive situations. Many NGOs on the local level provided hotlines, assistance, advice, and shelter.

Forced marriages are illegal and invalid, and may be punished by up to five years' imprisonment. While there were no reliable statistics on the number of forced marriages, evidence indicated that the problem occurred more often in the immigrant Muslim community than in the general population. Forced marriages reportedly often led to violence. Victims included women and, in some cases, young men living in the country for whom the family brought a spouse from abroad. In addition, some women were sent by their families to other countries to marry against their will.

"Honor" killings were also reported. In February, a 21-year-old pregnant woman in Taufkirchen, Bavaria, was murdered by the father of the child, allegedly over questions of the child's paternity. The 18-year-old suspect confessed to the murder and, as a juvenile at the time, could be sentenced to no more than 10 years in prison.

Sexual Harassment: Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. A variety of disciplinary measures against offenders are available, including dismissal. The law considers an employer's failure to take measures to protect employees from sexual harassment to be a breach of contract, and an affected employee has the right to paid leave until the employer rectifies the problem. There were press reports of sexual harassment in the workplace and in public facilities, but no statistics were available. Unions, churches, government agencies, and NGOs operated a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the

information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Women and men were diagnosed and treated equally for sexually transmitted infections.

Discrimination: Men and women enjoy equal rights under the constitution. The law provides for equal pay for equal work. Employers generally did not pay women less than men for equivalent work, although women were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations. According to current information from the Federal Ministry for Family, Senior Citizens, Women and Youth, women earned an estimated 23 percent less than men for the same work. The earnings disparity was attributed to the tendency for a greater number of women than men to be part-time workers.

Children

Birth Registration: In most cases citizenship is derived from one's parents. Citizenship may also be granted to children born in the country, provided one parent has either been a resident for at least eight years or has a permanent residence permit and held that status for at least three years. Dual nationality is not recognized, and upon reaching age 23, a dual national must choose which citizenship to retain. Civil registration offices record births.

Child Abuse: The law criminalizes rape and provides penalties of up to 15 years in prison. Consensual sex is legal from the age of 14 in most cases. An exception is if the older partner is over 18 years old and is "exploiting a coercive situation" or offering compensation, in which case the younger partner must be over 16 years old. It is also illegal for someone older than 21 to have sex with someone under 16 if the older person "exploits the victim's lack of capacity for sexual self-determination."

According to the Federal Criminal Office (FCO), 11,867 incidents of sexual abuse of children up to 14 years of age were reported in 2010, compared with 11,319 incidents in 2009.

In February a man identified as "Detlef S" was accused of 160 counts of sexually abusing his now 18-year-old daughter, his 27-year-old stepdaughter, and his stepdaughter's twin brother between 1987 and 2010. He was also accused of prostituting his two daughters. On March 17, he confessed to raping his daughter

and producing seven children with his stepdaughter. In March Detlef S was sentenced to 14 years and six months in prison.

In July an unidentified Roman Catholic priest of the St. Joseph Community in Salzgitter was arrested for allegedly sexually abusing a young boy. After further investigation, authorities charged him with 280 counts of sexually abusing three boys between the ages of nine and 15. The priest confessed to the allegation but denied the number of occurrences. The case continued at year's end.

Sexual Exploitation of Children: Possession of child pornography is a criminal offense. A child is defined as a person younger than 14 years of age. According to the law possession of, or attempt to acquire, any material reflecting a true or realistic incident of child pornography is punishable by imprisonment for three months to five years. The country's legal system also applies extraterritorial jurisdiction, so that an act involving child pornography may be prosecuted under domestic law, even if it was committed outside of the country.

Between 2009 and 2010, the number of cases involving the distribution of child pornography declined from 3,246 to 2,784. In 2010 the number of reported cases of ownership and procurement of child pornography declined by 14.6 percent, from 3,145 cases in 2009 to 2,687 cases in 2010. According to the FCO, the number of cases involving the distribution of pornography involving youth (ages 14-18) increased from 171 in 2009 to 277 in 2010. Cases involving possession of youth pornography increased 69.4 percent, from 160 in 2009 to 271 in 2010.

According to one estimate, 3-11 percent of prostitutes were 16 years old or younger.

Displaced Children: The NGO Coalition for Street Children estimated there were as many as 11,000 street children in the country. Authorities believed these children were frequently fleeing violent and abusive homes. Street children often turned to prostitution for income.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

In 2010 the country's Jewish population was estimated to be more than 200,000. A government-appointed expert panel on anti-Semitism found that approximately 20 percent of Germans were "latently" anti-Semitic, a very small percentage of whom resorted to violence as an extension of their views. The panel found deficiencies in Holocaust education and widespread anti-Semitism in sports, social events, and certain aspects of the media. The 2010 FOPC annual report listed a total of 1,166 right-wing, politically motivated crimes with extremist and anti-Semitic background in 2010 compared with 1,502 in 2009, a decrease of 22 percent. The report also noted that membership in skinhead and neo-Nazi groups increased over the course of the year to 5,600 and that neo-Nazis groups were increasingly resorting to violence. Federal authorities generally took action against the perpetrators of anti-Semitic offenses.

The most widespread anti-Semitic acts during the year were desecrations of Jewish cemeteries or other monuments with graffiti, including swastikas and anti-Semitic slogans. In 2010, 41 desecrations of Jewish cemeteries were reported. There were no reports that authorities made arrests in any of these cases.

Despite government efforts to prevent the gravesite of Rudolf Hess from becoming a pilgrimage site, right-wing extremists continued to honor the grave of the former deputy to Adolf Hitler in Wunsiedel. The church that owned the property terminated the lease on Hess's family gravesite, dismantled the grave, and on July 20 scattered his ashes over the sea.

On August 28, the chairman of the Central Council of Jews in Germany, Dieter Graumann, called for the prohibition of the right-wing extremist National Democratic Party of Germany (NPD). He stated that the Berlin NPD's provocative campaign posters in the year's local election in that city reading "gas geben" (literally "give gas" but also meaning "accelerate") were tasteless and disgusting references to the Holocaust. He asserted that they were intentionally displayed in the vicinity of the Holocaust Memorial and Jewish Museum. The movement to ban the NPD was reportedly growing among the population and had the support of many politicians, including Federal Interior Minister Hans-Peter Friedrich and the Green party.

Over the past year, the Left Party faced increasing criticism that its anti-Israel policies crossed the line to anti-Semitism. In June the Left Party condemned

traditional forms of anti-Semitism. In various editorials leaders of German Jewish organizations criticized the Left Party's condemnation as inadequate.

While most anti-Semitic acts were attributed to neo-Nazi or other right-wing extremist groups or persons, an expert panel on anti-Semitism noted an increase of anti-Semitic attitudes among Muslim youths.

According to the FOPC's annual report published in 2011, 29 violent anti-Semitic acts committed by right-wing extremists were registered in 2010.

During the year courts punished some persons for attacks on Jews but released others with light or no sentences. Some courts appeared reluctant to ascribe political motivations to attacks that were openly and virulently anti-Semitic or that allowed the perpetrator to get off with a relatively light sentence:

In February the Berlin municipal court sentenced one man to 24 months in prison and a second to 22 months on probation in connection with the June 2010 neo-Nazi attack that seriously injured a 23-year-old man in Berlin-Oberschoeneweide. In October 2010 state police searched four apartments in Berlin and arrested four men suspected of having committed the attack. Police found clothing worn during the attack and also neo-Nazi CDs. The court did not find the attack to have been politically motivated.

In February the Hanover municipal court sentenced a 15-year-old youth to 15 months' probation, antiaggression training, and five days of social work in connection with the June 2010 attack during a street festival in Hanover, Lower Saxony, by a group of children and teenagers who attacked a Jewish dance troupe with stones and anti-Semitic remarks shouted through a bullhorn. The assailants were reportedly of Lebanese, Palestinian, Iraqi, Iranian, and Turkish origin. The court did not find anti-Semitic motives in the youth's actions, and the Jewish community criticized the ruling as belittling the seriousness of the attack.

On July 11, the Regional Court in Regensburg confirmed an April 2010 ruling against Holocaust denier Bishop Richard Williamson, a member of the conservative Catholic Pius Brotherhood, for denying the existence of gas chambers during the Nazi era. In light of his financial situation, the court fined Williamson 6,500 euros (\$8,450) instead of 10,000 euros (\$13,000) from the earlier ruling.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, and the provision of other federal state services. The relevant law makes no specific mention of persons with sensory or intellectual disabilities, but these are believed to be subsumed under the other headings. The government effectively enforced these provisions. While special schools were often better equipped to take care of students with disabilities, critics argued that such separation prevented the full integration of children with disabilities into the professional world and society as a whole.

On June 15, the federal cabinet agreed on a national plan of action to implement changes in laws that support rights for persons with disabilities, based on the UN Convention on Rights for People with Disabilities. It also provided 100 million euros (\$130 million) in additional funds for a period of five years. Some private groups complained the implementation measures were too vague and practical plans for improvements were missing.

On August 1, a regulation went into effect in Bavaria to give children with disabilities unlimited access to secondary schools under certain circumstances.

The government promoted the employment of persons with disabilities through a number of measures. As of September 1, pursuant to an agreement between the German Railway and the Federal Ministry for Labor and Social Affairs, persons with disabilities who fulfill certain requirements can use all regional trains within the country free of charge. In addition employers with a minimum of 20 employees must hire persons with disabilities to fill at least 5 percent of all positions, and for noncompliance face a fine of between 100 euros (\$130) and 290 euros (\$377) per month. According to the Sozialverband VdK Deutschland, this regulation applies to about 135,000 companies; however, 38,000 chose to pay the noncompliance fine.

The federal government provided payments of 518.2 million euros (\$673.7 million) per year through 2019 to the states to support barrier-free buildings. Efforts continued to improve barrier-free access to public transportation.

By law the federal government is required to provide barrier-free access to communications, especially in the field of administrative Internet sites and official forms and notifications.

The Office of the Federal Commissioner for Matters relating to Persons with Disabilities is the principal government contact in all matters related to persons with disabilities and has specific responsibility for protecting their rights. The Ministry of Labor and Social Affairs; the Ministry of Family, Senior Citizens, Women, and Youth; and the Ministry of Transport, Building, and Urban Affairs also have responsibilities for addressing the needs of persons with disabilities. The German Institute for Human Rights has been designated to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities in the country.

National/Racial/Ethnic Minorities

Beatings and harassment of foreigners and members of racial minorities remained a problem throughout the country.

In November and December, police arrested five persons with links to a right-wing extremist group, the National Socialist Underground, for the killings of nine persons with Turkish or Greek backgrounds as well as one policewoman over a period of 13 years. On November 22, the parliament passed a resolution with the support of all five parties represented in parliament expressing “deep shame” that a neo-Nazi underground group was able to perpetrate these crimes. In a November 19 video podcast, Chancellor Angela Merkel condemned the crimes, calling them a “disgrace for our country.” She added that “Hatred, racism, neo-Nazism, and anti-Semitism have to disappear from the heads of certain people. ... [W]e will reply with humanity, human dignity, and the rule of law.”

On June 25, four unidentified persons attacked an apartment complex housing several Sinti and Romani families in Leverkusen. The attackers threw several Molotov cocktails into the ground floor of the building. Authorities were unable to determine whether the act had a xenophobic motivation. None of the 19 persons living in the building was injured.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Many lesbian, gay, bisexual, and transgender rights groups reported no impediments to their operation or free association. In 2010 the government reported 164 crimes motivated by a bias against sexual orientation, of which 45 were violent crimes. According to German statistics published in the OSCE's 2010 report, *Hate Crimes in the OSCE Region*, 187 hate crimes motivated by sexual orientation occurred in 2010, of which 48 were violent. The NGO RAA Sachsen reported that in eastern Germany, 13 homophobic hate incidents occurred. The NGO Maneo reported one attempted murder, 60 incidents involving physical assault or attempted assault, 69 cases of theft and two cases of damage to property.

On May 10, the EU Court of Justice ruled that same-sex couples should be eligible for the same retirement benefits as heterosexual couples. The case involved a former employee of the city of Hamburg who was in a civil union with another man. He sued the city after it refused him pension benefits equal to those given to heterosexual couples. Under the retirement plan as applied to married couples, he should have received an additional 302 euros (\$393) per month.

Other Societal Violence or Discrimination

There was societal discrimination against persons with HIV/AIDS. The government worked with NGOs, religious groups, and businesses to educate the public about HIV/AIDS and its prevention.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution provides for the right of employees to form and join independent unions of their choice without excessive requirements or previous authorization as well as for the right to strike for all workers except civil servants (including teachers) and staff in sensitive or essential positions, such as members of the armed forces. The constitution protects the right to collective bargaining, and agreements are governed by law.

Antiunion discrimination and other forms of employer interference in union functions are prohibited by law and were not widespread. In a July 27 ruling, the Kassel Administrative Court weakened the constitutional ban on strikes by civil servants by granting civil servants a limited right to strike. Workers not allowed to strike have legal recourse to the courts to protect their rights. The law prohibits retaliation against strikers or for other union activities, and the government

generally enforced this law. The International Trade Union Confederation reported discriminatory tactics of some employers including targeted dismissals, demotions, transfers, and discrimination in recruitment.

The government generally respected freedom of association and the right to collective bargaining in practice, and worker organizations were independent of the government and political parties. Collective agreements are binding only for trade union members and their respective employer associations; however, many employers of nonunion labor also made use of the agreements to determine part or all employment conditions of their employees. Collective bargaining agreements negotiated with public service employees were usually extended to civil servants through legislation, although such extensions did not always include all of the provisions of those agreements.

b. Prohibition of Forced or Compulsory Labor

The constitution and federal statutes prohibit forced or compulsory labor, including by children. There were reports of forced labor involving adults mainly in restaurants, hotels and in domestic households as well as on construction sites where workers (often illegal residents) were exploited.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Comprehensive legislation protects children from exploitation in the workplace, and the government enforced these laws.

The law prohibits the employment of children younger than 15 with a few exceptions: children 13 or 14 years of age may do farm work for up to three hours per day or deliver newspapers for up to two hours per day, and children three to 14 years of age may take part in cultural performances under strict limits on the kinds of activity, number of hours, and times of the day. Exploitative child labor was not a serious problem, although violations did occur mainly in small, often family-owned businesses such as bars, restaurants, and grocery stores. The Federal Ministry of Labor and Social Affairs enforced the law effectively through its Factory Inspection Bureau.

d. Acceptable Conditions of Work

The country does not have a statutory minimum wage. As of December 31, binding minimum wages were in place for approximately four groups of construction occupations, electrical trades, painting, postal service, waste management, large-scale laundries, nursing care, security services, special mining services, and temporary employment agencies, covering approximately 8 percent of the workforce. Minimum wages vary between eastern and western Germany. In eastern Germany wages ranged from 6.53 euros (\$8.49) per hour in security activities up to 10.80 euros (\$14.04) per hour for erection of roof coverings and frames; minimum wages in the west ranged from 7.65 euros (\$9.95) per hour in commercial cleaning up to 13.00 euros (\$16.90) per hour for skilled construction work. Official social indicators on poverty and social exclusion (“federal indicators”) revealed that persons who had a disposable income of less than 11,151 euros (\$14,496) per year, after inclusion of government transfer payments, were at risk of poverty. While in the eastern German states (including Berlin), 19.5 percent of the population was at risk of poverty, the rate in the former West Germany (excluding Berlin) was significantly lower (12.9 percent). The reference period for collecting the income data was 2008.

The minimum wage rates set by collective bargaining agreements are enforceable by law. Sector-wide collective bargaining agreements determined wages and working conditions in most industries, but company-level agreements frequently deviated from them. Multicompany, industry-wide contracts covered directly approximately 32 percent of all firms; company-level agreements covered 4 percent, 40 percent were guided by a respective industry agreement, and 24 percent were not covered at all. Collective bargaining agreements covered approximately 65 percent of the labor force in the western part of the country and approximately 51 percent in the eastern part.

The law provides for equal treatment of foreign workers, who generally worked in conditions equal to those of citizens, although such workers faced some wage discrimination. For example, some schools paid foreign teachers less than their citizen counterparts. Employers also often paid lower wages to seasonal workers from Eastern Europe who came to the country on temporary work permits. At times employers paid workers from other EU countries the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.

Federal regulations limit the workweek to 48 hours, but collective bargaining agreements may stipulate lower maximums. Contracts directly or indirectly

affecting 80 percent of the working population regulated the number of hours of work per week. According to the European Labor Force Survey, in 2010 the average full-time employee's workweek was 39.8 hours for women and 41 hours for men; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement. Excessive compulsory overtime is prohibited, and workers are covered and protected against arbitrary employer requests either by collective bargaining agreements or individual contracts.

Employees who refuse to work overtime cannot lose their jobs or face other reprisals such as demotion or assignment to unattractive work or to less desirable shift times such as nights or weekends.

An extensive set of laws and regulations governs occupational safety and health. In practice a comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The Federal Ministry of Labor and Social Affairs and its counterparts in the federal states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Occupational Safety and Health (BAuA). At the local level, professional and trade associations--self-governing public corporations with delegates representing both employers and unions--oversee worker safety. In 2010, according to the BAuA, approximately 3,029 factory inspectors and 90 physicians were engaged nationwide in enforcing compliance with the country's occupational safety and health laws. The number of work accidents increased to 1,045,816 in 2010 (up 7.3 percent from 2009), and the number of fatalities at the workplace rose to 674 (up 8.4 percent).