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TITLE: GERMANY HUMAN RIGHTS PRACTICES, 1993  
DATE: JANUARY 31, 1994  
AUTHOR: U.S. DEPARTMENT OF STATE

#### GERMANY

The Federal Republic of Germany (FRG) is a constitutional federal republic and a parliamentary democracy. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the lower house of Parliament. The powers of the Chancellor and of the Parliament, which are substantial, are set down in the Basic Law, Germany's Constitution. Governmental authority is also divided between national and state (Land) governments. The states enjoy significant autonomy, especially in matters relating to law enforcement and the courts, culture and education, the environment, and social assistance.

The police system is organized essentially at the state level and operates under the direction of state governments. Police forces, in the vast majority of cases, are well-trained, disciplined, and careful in respecting citizens' rights. Police in eastern states, almost exclusively holdovers from the former German Democratic Republic (GDR), are still undergoing a difficult transition to a complex new legal system and different police methods. For example, a 6-month investigation of last year's Rostock riots resulted in the dismissal of the Land Interior Minister (who refused to accept any criticism of his conduct or police actions). A western German was appointed to replace him. The Mayor of Rostock announced his resignation in November 1993 after the City Parliament produced a report critical of his actions during the disturbances. Police in the Hessian city of Fulda came under heavy criticism in August when they failed to prevent an illegal right-wing demonstration marking the suicide of Nazi war criminal Rudolf Hess while simultaneously detaining a group of left-wing counter-demonstrators outside the city. In contrast, police forces in the eastern states of Thuringia, Saxony-Anhalt, and Brandenburg, who had in previous years been criticized for their failure to deter right-wing extremists, received praise for their success in thwarting illegal right-wing

demonstrations on the anniversaries of both Hess's suicide and 1992's Rostock asylum home attacks. Improved police training and law enforcement methods, as well as new preemptive measures, contributed to the police's successes.

Despite a decline in economic output and rising unemployment in 1993, Germany's industrial economy afforded its residents a high standard of living. In eastern Germany, the number of registered jobless reached almost 1.2 million by the end of the year, a rate of over 15 percent, as adjustment to the market economy continued. These figures did not reflect the substantial number of underemployed workers, persons enrolled in temporary work or training programs, or those forced into early retirement, which would swell the proportion to perhaps one-third of the work force. Women continue to suffer disproportionately from unemployment in Eastern Germany. Unemployment also worsened in the west as the jobless rate there rose to 8.1 percent, with some 2.5 million without jobs. Most observers forecast a return to modest economic growth in 1994, but saw little hope for relief on the employment front in the near term. Germany's leadership began a discussion of some of the structural issues which were perceived to contribute to economic stagnation and unemployment, such as inappropriate fiscal, regulatory, and social policies.

The Basic Law, adopted in 1949, rests firmly on the principles of liberty, equality, and the free exercise of individual rights. In practice, these human rights are protected in almost all cases; further, protection against racial and ethnic intolerance is provided for under law. However, incidents of violence and harassment directed at foreigners, particularly non-Europeans, continued in 1993 and occurred throughout Germany. According to the German Federal Police, 5,681 anti-foreigner incidents (1,341 of which were violent) occurred during the first 11 months of 1993, compared to 5,306 during the first 11 months of 1992. The Federal Office for the Protection of the Constitution recorded 1,699 instances of violence committed by right-wing extremists (against foreigners and others) in the first 11 months of 1993, compared to 2,584 during all of 1992. Federal authorities recorded 267 antiforeigner motivated arson attacks through November 30, including the May 29 firebombing of a Turkish home in the town of Solingen which killed five persons. As of November 30, right-wing violence had claimed a total of 19 lives. To a large degree, these attacks were perpetrated by alienated youths, many of them "skinheads", and a small core of neo-Nazis. All the major parties and all of the leading representatives of the Federal Republic denounced the violence, and there was widespread acknowledgment that police willingness and ability to deal with such violence has notably improved.

In the wake of criticism over lenient treatment of perpetrators of antiforeigner violence, judges began to levy heavier sentences in cases where defendants were motivated by right-wing hatred. Critics continued to maintain, however, that the judicial system failed to treat rightist perpetrators as severely as leftists had been treated during previous decades' political violence. Government officials recommended new legislation designed to enhance law enforcement authorities' abilities to cope with right-wing violence. There was also extensive debate about changing citizenship and naturalization laws to enable second and third generation non-Germans to attain citizenship more easily. Some of the actions taken by the Government to address antiforeigner

violence--such as the banning of certain neo-Nazi organizations, the investigation of extremist political parties, and the censoring of right-wing rock music, books, and symbols--raised legal and human rights concerns (see Section 2.).

## RESPECT FOR HUMAN RIGHTS

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

#### a. Political and Other Extrajudicial Killing

Politically motivated killing by the Government or by mainstream political organizations is unknown. For the second year in a row, there were no assassinations by the left-wing terrorist Red Army Faction (RAF). A bungled police action to arrest two suspected RAF terrorists, however, resulted in the death of a policeman as well as one of the suspects. The RAF suspect was killed by a point-blank shot to his head, and witnesses gave contradictory statements. The Government investigated allegations that this shooting was a deliberate, extrajudicial execution, and responsible senior officials, including the Interior Minister and the acting head of the Federal Police, resigned due to the mismanagement of the affair, while the Prosecutor-General was fired. Although questions continued to be raised in the press and elsewhere about who killed the RAF member, two of three independently commissioned reports concluded that the suspected terrorist used his own weapon to kill himself. Swiss police forensics investigators also concluded that the suspect was killed by his own weapon, and probably by his own hand. After reviewing these independent reports, the public prosecutor investigating the case concluded that the RAF terrorist, with the intent to commit suicide, shot himself in the head following the shootout with police authorities.

In a few instances, police in Berlin and the eastern states were accused of mistreating foreigners taken into custody. In one of the most egregious cases covered in the press, an officer in the Saxony-Anhalt town of Stassfurt fatally shot an unarmed Romanian asylum seeker in January as the latter fled from guards inside a detention center. The victim was being held because he was unable to provide police with identity papers. The officer responsible was immediately suspended, but no charges were filed against him as a result of the ensuing internal investigation. The fact that the State Prosecutor's Office did not publicly announce the incident until over 2 weeks later led to charges of a cover-up. The internal investigation concluded that no action needed to be taken against the officer, and at year's end the Saxony-Anhalt State Prosecutor's office was considering whether or not to press charges. Three murders also occurred in Germany among rival foreign political factions (e.g., Iranians, Kurds and Turks, and Serbs and Croats). The FRG pressed charges in these cases.

#### b. Disappearance

Governmental or police authorities do not abduct, secretly arrest, or otherwise illegally detain persons.

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

There was no indication that police authorities engaged in these practices. However, as noted in Section 1.a., there were a few reports of police abuse of foreigners taken into custody. As of September 30, 16 Berlin police officers had been charged with racially motivated physical mistreatment of foreigners. Thus far, the Berlin Prosecutor's Office has investigated four cases, dismissing charges in each instance either because of clear evidence of innocence or because of insufficient proof of guilt. Investigations of the remaining 12 cases were underway or pending at year's end. In August 700 Vietnamese demonstrated in eastern Berlin to protest alleged mistreatment of former GDR contract workers and alleged illegal search and seizure practices by Berlin authorities. A lawsuit filed by a 14-year-old Turkish Kurd boy, who alleged he was injured during a 1992 arrest in Bremen, was dropped by the prosecutor. The plaintiff appealed the decision.

d. Arbitrary Arrest, Detention, or Exile

Unless caught in the act of committing a crime, no person may be arrested except on the basis of an arrest warrant issued by a competent judicial authority. Any person detained by the police must be brought before a judge and charged no later than the day following the day of apprehension. The court must then issue an arrest warrant with stated reasons for detention or order the person's release.

There is no preventive detention. A suspect may be held in custody for up to 24 hours while awaiting a formal charge if there is evidence that he might seek to flee the country to avoid prosecution. German law allows the right of free access to legal counsel to be restricted only if evidence exists that contact with a specific attorney is being used to promote unlawful activity. Only judges may decide on the validity of any deprivation of liberty. Bail bond exists but is seldom employed. There is no exile.

e. Denial of Fair Public Trial

Trials are public. The Basic Law assures due process and prohibits double jeopardy. The judiciary is free of both government interference and intimidation by terrorists. There are no political prisoners. The court system, largely specialized, has five components: "ordinary" (criminal and civil cases); labor (disputes between employers and unions); administrative (administrative law); "social" (social security); and fiscal (taxation). The Federal Constitutional Court is the supreme court.

In the states formerly a part of the German Democratic Republic (GDR), there has been substantial progress in reforming the courts to meet western German standards. One remaining area of weakness concerns a shortage of qualified judges in the eastern states. Many experienced judges were disqualified for reasons relating to their political and judicial conduct under the GDR, and many judges had to be brought in from the west (see Section 2 b.). Virtually all significant Justice Ministry officials and 70 percent of all judges and prosecutors in the eastern states are now from western Germany. Faced with severe personnel shortages, large case backlogs, and deep-reaching reorganization, eastern Germany's legal apparatus was slow to prosecute cases of extremist violence dating from the spate of right-wing attacks in late 1992 and continuing extremist activity in 1993. For example, of the roughly 200 arrests

stemming from the Rostock riots--the largest single incident of right-wing violence in 1992--only about 40 people had faced trial by year's end. Of these, all but three were found guilty, mostly of arson, disturbing the peace, and attempted assault. Several initial charges of attempted manslaughter brought against participants in the Rostock asylum home attacks were reduced to arson, disturbing the peace, and attempted assault. The most severe sentence meted out to an individual connected with the riots--3 years in prison--was handed down for arson and aggravated breach of the public peace. Six persons received prison sentences of up to 3 years. Other convictions resulted in sentences of probation or juvenile detention.

Sentences for acts of right-wing violence, such as those meted out in the Rostock trials, elicited widespread criticism that the legal system was too lenient with right-wing extremists. In part due to such criticism, as 1993 progressed, prosecutors increasingly sought convictions for attempted murder or attempted manslaughter in cases where right-wing arson attacks or individual assaults resulted, or could have resulted, in bodily injury to foreigners. When successful, convictions led to sentences of from 4 to 8 years. However, convictions and sentences varied greatly from state to state and from judge to judge.

Germany's Juvenile Penal Code mandates more lenient sentencing and an emphasis on rehabilitation for criminals 21 years old or younger. The vast majority of perpetrators of right-wing crimes are adolescents who fall into this category, some as young as 12 to 14 years of age. German authorities are debating whether to lower the age for adult sentencing to 18, in part in an effort to stiffen punishments for right-wing offenders.

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

The inviolability of the home is ensured by the Basic Law and respected in practice. Prior to forcible entry by police into a home, a warrant must be issued by a judge or, in an emergency, by a public prosecutor. Electronic surveillance or monitoring of mail may be undertaken only after authorization by a court order. Membership in political parties is completely voluntary. Coercive population control and forced resettlement are unknown.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The provisions of the Basic Law, an independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and press. Criticism of the Government is unrestricted. The media are not censored. In an effort to combat right-wing violence, the Government conducted a sweeping crackdown on the right-wing rock music industry. This action included the raiding of homes and offices of industry personnel and the seizing of recordings. The Government outlawed the sale, manufacture, and distribution of materials of at least five neo-Nazi rock bands whose songs advocate violence and racism. There is no general censorship of foreign or domestic books, although Nazi propaganda is illegal. Certain Nazi and neo-Nazi insignia,

slogans, and salutes are prohibited.

Newspapers and magazines are privately owned. Radio and television networks and stations function, for the most part, as corporations under special public laws. They are governed by independent boards made up of representatives of churches, political parties, and other organizations.

Academic freedom is effectively guaranteed.

b. Freedom of Peaceful Assembly and Association

The rights of assembly and association are fully respected, as is the right to demonstrate. Organizers of street demonstrations are required to obtain police permits beforehand and may be asked to pay a deposit to cover the repair of any damage to public facilities. Such police permits are routinely granted. When demonstrators have not obtained the required permits, police have exercised restraint, showing concern ultimately only for the continued functioning of public facilities and for the safety of the general public.

Membership in nongovernmental organizations of all types, including political parties, is generally open. Parties found to be "fundamentally antidemocratic" may, however, be outlawed. Under this constitutionally based provision, the Federal Constitutional Court in the 1950's declared both a neo-Nazi and a Communist party to be illegal, a ban still in effect. In 1993 several extremist parties continued to be under observation, i.e., subject to telephone taps, infiltration by undercover agents, and document searches, by the Office for the Protection of the Constitution (BFV, the internal security service). In order to conduct such monitoring, law enforcement authorities must obtain authorization from a judge to install telephone taps, and search warrants are required for document searches. In September, the Government asked the Federal Constitutional Court to ban the far-right Free German Workers' Party on grounds of threatening the democratic order. Four far-right political organizations, which did not enjoy legal status as political parties, were banned in November and December 1992 on grounds of "endangering or attempting to overthrow the free and democratic constitutional order" or "directing efforts damaging to the idea of international understanding (Voelkerverstaendigung)." The BFV reported that 43,000 people belonged to far-right organizations in 1993, of whom some 6,400 were considered violence-prone.

In accordance with the German Unification Treaty's provision that previous collaboration with the former GDR secret police is incompatible with state service, background checks of all upper-level civil servants from eastern Germany are conducted. Eastern German judges and prosecutors are now investigated to determine whether they collaborated with the Stasi secret police in the GDR or were responsible for politically motivated trials or sentences. Commissions within the state ministries of justice then conduct hearings during which examinees are shown any damaging information and given the opportunity to respond. Decisions of the commissions can be appealed in court. A federal law was passed after German unification providing for similar background checks of eastern German lawyers and notaries. The checks are conducted by state ministries of justice as well as by lawyers chambers. Examinees receive a hearing, and can appeal a negative decision

in court.

c. Freedom of Religion

The full practice of religion is allowed. Almost 50 different churches and religious denominations exist, but most of the population belongs to the Catholic or Protestant churches. Together with the small Jewish community, these churches 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. The rest of the population either practices no religion or belongs to small independent Christian churches or other faiths, such as Islam. The Government subsidizes church-affiliated schools and provides religious instruction in schools and universities for those belonging to the Protestant, Catholic, and Jewish faiths.

Members of the Church of Scientology have complained of harassment, including being fired from jobs and being expelled (or not permitted to join) political parties solely because of their affiliation with Scientology. Scientologists have successfully taken such grievances to court.

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

German citizens are free to move anywhere within the country and to leave and return at any time.

The Basic Law guarantees ethnic Germans automatic German citizenship and the right to legal residence without restrictions. The number of such ethnic Germans coming from eastern Europe and the former Soviet Union to settle in Germany in 1993 showed a continued decrease from the all-time high 2 years before. Through November 1993, 191,845 ethnic Germans had registered to resettle in Germany. This total included 181,167 from the countries of the former Soviet Union, 5,228 from Poland, and 5,190 from Romania.

Immigrants who are not ethnic Germans can acquire citizenship if they meet certain requirements: legal residence in Germany for at least 10 years (5 years for those married to Germans); renunciation of all other citizenships; and a basic knowledge of German (along with some other minor requirements). German citizenship is not granted automatically; application is necessary. Legal long-term residents often opt not to apply. They receive the same social benefits as do German citizens and, after 10 years of legal residency, are automatically entitled to permanent residency. Representatives of the Turkish, and of the Sinti and Roma Gypsy communities, have criticized the citizenship policy as unjust and discriminatory. The Government at year's end was considering whether or not to liberalize the naturalization law.

The right to asylum for foreigners who are politically persecuted is guaranteed under the Basic Law. A record 438,191 asylum seekers entered the FRG in 1992. During the first 6 months of 1993, before a new, more restrictive asylum law took effect, another 244,718 applications for asylum were filed. During the first 4 months following implementation of the new asylum law, applications dropped to 47,795. The Government provides food, clothing, and shelter to asylum seekers during processing of their applications, often a matter of several months or more. As the influx of foreigners steadily

increased, placing a heavy burden on an economy already severely strained by the financial costs of reunification, domestic political pressure to restrict the asylum law became overwhelming.

On May 26, the Parliament approved a constitutional amendment reforming the asylum process; it went into effect on July 1. The new law greatly restricted the circumstances under which an individual could qualify for political asylum. Persons originating directly from countries presumed free of persecution ("safe third countries") would not normally be able to claim political asylum. Such applicants would, however, have the right to request an administrative review of their applications while still in Germany. Persons entering Germany via European Union (EU) countries or through identified "safe third countries" also would not be eligible to apply for asylum while in Germany. The new law permits the Government to identify "safe countries of origin" based on criteria such as human rights reports and German Embassy reporting. Adherence to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol is not a criterion for "safe country of origin" status. Countries designated as "safe third countries," however, must be signatories of the Geneva Convention and Protocol.

Opponents of the new law argued that few third countries could be universally termed "safe," and that the law, in failing to allow applicants to rebut the "safe third country" presumption, would prohibit legitimate asylum seekers from entering Germany. The U.N. High Commissioner for Refugees has expressed concerns about the "safe country" concept, and the language is being reviewed by the Federal Constitutional Court. Legal recourse against a negative decision by the authorities on an asylum application also was limited by the new law. Critics questioned too the quality of the hearings allowed for individuals appealing the "safe country of origin" presumption, given the short time (48 hours) allotted for review of these cases. Immediately after the new law went into effect, 14 asylum applicants appealed their deportation orders to the Constitutional Court. Several were granted temporary stays of deportation pending further review of their cases.

Two months after implementation of the new asylum law, the number of asylum applications had fallen by one-half. Processing had already been accelerated following the introduction of new, automated procedures in April. A second law passed in conjunction with the new asylum law, which reduced the share of welfare benefits provided to asylum seekers to 75 percent of that generally allotted to German citizens, was partially responsible for the drop in applications. Exceptions are made in such instances as large families with small children. Vouchers and hot meals replaced the reduced cash payments made to asylum seekers, lessening the appeal of a stint as an asylum seeker in Germany.

Short of the right to vote, those granted formal asylum status enjoy full civil rights. While approximately 5 percent of the asylum seekers succeed in their requests for political asylum, denial of political asylum does not automatically result in deportation. The majority of applicants who are rejected are typically allowed to remain in the country for other humanitarian reasons, especially those from the former Yugoslavia. Deportation of illegal immigrants has, however, become more common due to the new asylum law as well as an



agreement signed with Romania in late 1992 arranging the return of Romanian asylum seekers, primarily Gypsies, whose applications had been turned down.

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

Under the Basic Law, the Government is chosen by the people through orderly elections based on universal suffrage. The lower house of Parliament, the Bundestag, which chooses the Chancellor, is elected through a mixture of direct constituency candidates and party lists. The upper house, the Bundesrat, is composed of delegations from state governments. New political parties are free to form and enter the political process, but the Basic Law and the state constitutions stipulate that parties must receive at least 5 percent of the national vote (or win at least three directly-elected seats in federal elections) in order to be represented in the federal and state parliaments. Although party discipline plays an important role, voting on issues in the Bundestag is ultimately a matter of individual decision.

Women are entitled by law to full participation in political life, and all parties have expressed commitment to encourage their greater participation. The Greens require that women comprise half of the party's elected officials. The Social Democratic Party (SPD) requires that women comprise 40 percent of all party committees and governing bodies by the end of 1994. Presently, 37.7 percent of the SPD's Executive Committee members are women. The party has mandated that 33.3 percent of SPD candidates running for office in the 1994 Bundestag elections be women. The Hesse state government has passed laws requiring that 50 percent of all public sector job openings be filled by women. Effective January 1994, the law applies to nearly 400,000 positions. Within the German Government, the Federal Cabinet Minister for Women and Youth is responsible for furthering women's interests in both the public and private spheres. Women comprise 21 percent of the current Bundestag membership, and its president is a woman.

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

Private nongovernmental human rights organizations operated freely and without harassment in all of Germany, as did international organizations.

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

Denying access to shelter, employment, health care, and education on the basis of race, religion, disability, sex, ethnic background, political opinion, or citizenship is illegal.

#### Women

Women generally enjoy full and equal protection under the law, including property and inheritance rights. Young women experience difficulties in gaining access to training in some traditionally male fields, but recent court rulings and government pilot programs helped break down some of these attitudinal and institutional barriers. Women's rights groups are active in combatting pay inequities, sexual harassment, and

violence against women.

Salaries for women in the private sector tend to be lower than salaries for men in similar jobs. The Government, through its Labor Ministry, acknowledged the existence of unequal, sex-differentiated pay scales in the private sector as a violation of the constitutional prohibition against discrimination on the basis of sex. Several decisions by the National Labor Court in recent years were in favor of women who initiated litigation to redress pay inequities.

The issue of equal pay for equal work is addressed also in the private sector in collective bargaining between unions and firms.

In May the Federal Constitutional Court declared abortion to be unconstitutional, ruling that abortion violated the constitutionally guaranteed right to life. The Court also declared, however, that first-trimester abortions would not be subject to prosecution, provided that the woman received counseling beforehand and a doctor performed the procedure. The Court also limited the types of abortions for which government assistance could be provided to cases of rape, danger to the life of the mother, or grave deformation of the fetus. The ruling struck down a "compromise" abortion bill passed by the Parliament in 1992 in an attempt to reconcile the former GDR's liberal abortion laws with the strictly regulated abortion policies of the west. The 1992 law, which permitted abortions during the first trimester after mandatory counseling, did not go into effect owing to a temporary injunction issued by the Constitutional Court at the request of the Christian Democrats and their Bavarian counterpart, the Christian Social Union. Thus, the "divided" abortion law, whereby eastern German women had a legal right to abortion without restriction during the first trimester, and abortion in the western part of Germany was permitted only on medical grounds or in case of extreme economic difficulty, had remained in effect until the May 1993 court ruling.

The unemployment rate for women in the eastern states continued to be high relative to men, with women comprising nearly 65 percent of all unemployed workers. Prior to German unification, women in the then-GDR worked primarily in the health, social work, education, and retail sectors, as well as in light industry. Firms in these sectors were among the first to go bankrupt or be dismantled in the transition from a command to a market economy. As of August, women's unemployment in eastern Germany stood at 21.7 percent while the comparable figure for men was 11 percent.

Violence against women, including wife beating, is not condoned in law or in practice. Interim statistics for reported incidents of rape for the first 6 months of 1993 showed an increase of about 100 cases over last year's figure of 2,406. The women's movement has urged public discussion of the problem and tougher penalties for crimes against women. In recent years, the Federal Ministry for Women and Youth commissioned a number of studies to investigate such topics as violence against women and sexual harassment. One study concluded that most women are unsure of their legal options in cases of sexual harassment and often fail to come forward because of the taboo nature of the topic. The study recommended that legal counseling for victims of sexual harassment should be widely

publicized and more readily available. The study also advocated special training programs for those working in public employment offices.

#### Children

While there is no widespread abuse of human rights of children in Germany, the Government recognizes that violence against children is a problem. The Ministry for Women and Youth, releasing its 1992 child abuse statistics in August 1993, cited 16,442 reported incidents of sexual abuse and 1,732 reports of other physical abuse. Government officials believe that the number of unreported cases may be 10 to 20 times higher. Approximately 75 percent of sexual abuse against children is committed by family members, one-third by the child's biological father. Based on these figures, the Ministry for Women and Youth pledged to continue a public awareness campaign initiated in 1992 which seeks to sensitize people to the problem, above all by making them more familiar with its dimensions and symptoms, and by teaching them to recognize appeals for help. According to the Ministry, counseling and assistance in the area of child abuse have been expanded in recent years, in part reflecting the emphasis (as set forth in the Child and Youth Protection Law) placed on prevention.

#### National/Racial/Ethnic Minorities

Incidents reflecting intolerance of foreign, religious, and ethnic minorities occurred in both western and eastern Germany. Foreigners, particularly Romanians, Gypsies, Turks, Poles, and non-Europeans, continued to be harassed or attacked mainly by right-wing extremists during 1993. Incidents of antforeigner violence in the first 9 months of 1993 increased by 36 percent over 1992. The 1.9 million people of Turkish origin in Germany comprise the largest ethnic minority. They have been among the primary victims of right-wing violence and other acts directed against foreigners.

In May a 16-year-old boy firebombed the home of a Turkish family in Solingen, killing five of the inhabitants and wounding three. Following the arson attack, thousands demonstrated to protest xenophobia and right-wing extremism. Chancellor Kohl expressed outrage and dismay over the murders, calling for severe handling of the perpetrator. President von Weizsaecker was present at a memorial service in Cologne for the Solingen victims, although Chancellor Kohl did not attend.

Noncitizen residents of Germany are prohibited from holding most civil service jobs, which include teaching and police posts. Their rights to own property are also limited and they are subject to restrictive quotas in universities. Turkish organizations complain that such restrictions limit their members' economic opportunities and ability to integrate into German society.

Some people of Turkish origin in Germany felt that government institutions, especially the police, were unresponsive to their needs, though most admitted that city and regional "Foreigners' Commissioners" were concerned and helpful, if perhaps understaffed. Some Turks also alleged that not enough was done to prevent recurrences of violence in Solingen or elsewhere. Many Turks think that they and other Muslims are discriminated against on religious as well as ethnic grounds. Some also

pointed out that after the attack at Solingen the press turned for comment, not to a spokesperson of from the Turkish community, but to a leader of the Jewish community. Turks also complained about a perceived lack of high-level political commitment to foreigners. They criticized Chancellor Kohl's refusal to take part in the Solingen memorial services, a refusal some saw as a politically motivated effort to cultivate the right wing. President von Weizsaecker, on the other hand, was generally credited for his frankness and concern about the integration of foreigners.

The Solingen attack prompted a new wave of "copycat" violence, causing government authorities to review measures put into place after the Moelln incident. These measures included personnel reinforcement in certain law enforcement bodies; banning of four neo-Nazi organizations (the Deutsche Alternative, the Deutscher Kameradschaftsbund, the Nationale Offensive, and the Nationalistische Front); increased electronic and open-source surveillance of other right-wing groups, augmented protection of asylum homes, and an outreach program to troubled youth. On the federal level, no concrete changes have as yet been made as a result of the review. Individual local governments have, however, taken some additional action. For example, the city of Solingen augmented police protection of homes belonging to foreigners and developed after-school programs for troubled youth.

In the eastern states, antforeigner crimes attributable to right-wing extremists dropped below 1992 levels in incidence and severity, although on a per capita basis, antforeigner violence was more prevalent in the east than in the west. There still were incidents of arson attacks against asylum homes and assaults against individual non-Germans. Protracted mob sieges of asylum facilities, however, did not recur in 1993. On the other hand, the incidence of desecration of Jewish and Russian cemeteries, as well as vandalism at concentration camp memorials, rose (see below).

Although most acts of violence were, as in the past, committed independently by small groups with widely divergent ideologies, a new trend, evident in both eastern and western states, pointed toward greater coordination among small, previously more diffuse neo-Nazi groups. In western Germany, right-wing attacks also were more often violent than in previous years, as extremists sought to imitate the 1992 Moelln firebombing.

In addition to condemning the violence, the Government recommended tougher anticrime legislation and law enforcement measures as well as measures aimed at the societal roots of extremist violence and growing crime rates. Although better trained, more experienced, and better versed in federal Germany's legal system than in previous years, eastern German police have not yet achieved western German standards of effectiveness and efficiency. However, police in eastern Germany showed greater success in combatting right-wing violence in 1993, in part due to the efforts of special law enforcement task forces created in many states to target right-wing crimes. Though there were no cases in 1993 of eastern police inaction in the face of mob violence against asylum homes (as occurred in 1992 in Rostock and Eisenhuettenstadt) the eastern police continued to face criticism for failing to prevent ongoing incidents of small-scale right-wing violence and illegal neo-Nazi public gatherings.

In one widely reported incident, for example, police in Buetzee in Brandenburg did nothing to halt an illegal demonstration of approximately 200 organized neo-Nazis from all over Germany, some dressed in outfits closely resembling uniforms of the Schutzstaffel (SS), Hitler's elite guard. (It is illegal to wear SS uniforms in Germany. The question of when a uniform closely enough resembles an SS uniform to be considered one is a matter of individual court interpretation, although a uniform which uses SS insignias or swastikas is clearly illegal.) That same day, police in Prieros, in the same state, stood by as nearly 800 "skinheads" gathered at the deputy mayor's home yelling outlawed Nazi slogans.

In response to accusations of inaction and ineptitude, eastern law enforcement and Interior Ministry officials argued that legal prohibitions against surveillance and covert intelligence gathering, such as phone tapping, limited their ability to preempt extremist attacks. Police also contended that they could not guard every asylum home and cemetery and that there was little they could do to stop small-scale "hit and run" attacks against asylum homes or individual non-Germans. In the battle against extremist violence, governments in the eastern states increasingly called on the Federal Government to ban right-wing organizations they considered guilty of anticonstitutional activities. State governments can legally outlaw only organizations active solely within their state, but if the activities of a right-wing group cross state lines, the Federal Government assumes jurisdiction.

In early November, in a verdict that aroused public criticism for perceived leniency, a judge in Dresden sentenced three defendants found guilty of killing Mozambican laborer Jorge Gomodai. Gomodai died from injuries sustained after being thrown from a tram by juvenile skinheads on March 31, 1991. One youth was sentenced to 2 1/2 years in prison, while the two others were given probation and fines. Although the court was criticized in the press for the perceived leniency of these sentences, they were in fact higher than the prosecutor had sought in light of the fact that all three were juveniles at the time of the assault and no "intent to kill" could be proven. The court decided on higher penalties than usual after hearing that the main defendant had beaten up a passerby the night before the Mozambican was killed.

The two neo-Nazis charged with the firebombing in Moelln in November 1992--which killed three Turkish citizens--were found guilty and given maximum sentences on December 8, 1993. One attacker received a life sentence, with parole possible after 15 years, while the other, who was a minor at the time of the attack, got 10 years. Many saw the verdict as a signal that courts will move vigorously against right-wing attacks. The defense said that it would appeal to the Constitutional Court.

Extremists continued to target the Sinti and Roma Gypsy populations. (In addition to asylum-seekers, there are 70,000 Sinti and Roma resident in Germany). Sinti and Roma leaders accused the Government of discriminatory behavior in failing to recognize Gypsies as a national minority. Some human rights groups and journalists also argued that the November 1992 German-Romanian agreement allowing for relatively simple deportation of unqualified Romanian asylum applicants (of whom 60 percent are Gypsies) singled out Gypsies.

The Government of Brandenburg was accused of violating the constitutionally protected rights of the state's Slavic Sorb minority population because of its April decision to allow the eventual demolition and relocation of the small village of Horno in order to make way for brown coal mining. Sorb activists accused the Government of ignoring a provision in the state constitution guaranteeing the protection and continuation of ethnic Sorb settlements. The Government held that Horno was not a Sorb settlement (but rather a village of 360 residents in which some Sorbs lived) and that the policy affected the entire region, not only the Sorbs.

State governments in eastern Germany introduced several model social and educational programs designed to counteract the root causes of xenophobia and intolerance, in addition to their efforts to reinvigorate law enforcement measures to crack down on violent manifestations of extremism. Thus far, however, financially strapped eastern governments have made available only limited funds for such projects.

#### Religious Minorities

A total of 482 anti-Jewish incidents were recorded during the first 10 months of 1993, including 5 cases of assault. Jewish monuments were vandalized and at least 45 Jewish cemeteries were desecrated. There were several incidents of politically motivated vandalism of the memorial at the former Sachsenhausen Concentration Camp. In September over two dozen gravestones were painted with anti-Semitic and Nazi graffiti in the Jewish cemetery in Wriezen. Although the Government condemned such anti-Semitic attacks, Jewish leaders and others felt that the response was inadequate and criticized what they perceived to be the Government's slow reaction to xenophobic violence and insensitivity to the Jewish community.

#### People with Disabilities

According to German law, anyone who is physically or mentally disabled is entitled to seek help in order to avert, eliminate, or improve the disability, prevent a deterioration of the condition, or alleviate its consequences and to secure a place in society, particularly in the workplace, according to his or her abilities. Laws providing for the disabled are respected in practice. The German social system provides for medical treatment and therapy for the disabled, as well as sickness, maintenance, and disability allowances equal to 80 percent of lost normal income. The Government offers vocational training programs for the disabled as well as integration grants for employers who hire disabled individuals. Severely disabled persons may be granted special benefits, including tax breaks, free public transport, special parking facilities, and exemption from radio and television license fees.

The Federal Government has provided guidelines for "barrier-free" construction of public buildings, recommending the installation of wheelchair ramps, automatic and extrawide doorways, suitable restroom areas, and the like. Federal authorities have also provided guidelines for city streets and sidewalks, suggesting that states mandate handicapped parking spaces in public lots, low curbs at crosswalks, and audio signals at crosswalk lights. While it is up to the individual states to incorporate these guidelines into state building codes, handicapped-access facilities are standard throughout

Germany.

## Section 6 Worker Rights

### a. The Right of Association

The right of workers to associate freely, choose representatives, determine programs and policies to represent members' interests, and publicize views is recognized and freely exercised. Thirty-nine percent of the total eligible labor force belongs to unions. The German Trade Union Federation (DGB) represents 85 percent of organized workers in both eastern and western Germany and actively participates in various international and European trade union organizations. The unions are independent of government and the political parties, although most union leaders are politically active and some serve as Members of Parliament representing either the principal opposition party or the largest party in the governing coalition. There is no restriction on the number of unions, and small parallel unions operate alongside the dominant DGB federation.

The right to strike is guaranteed by law, except for civil servants (including teachers) and personnel in sensitive positions, such as members of the armed forces, and in 1993 was most notably exercised by eastern German metal workers. International Labor Organization (ILO) bodies in 1993 remained critical of the Government's broad definition of "essential services" which prevents teachers from legally striking. Sanctions imposed on teachers who struck in Hesse in 1989 and the replacement of striking postal workers by civil servants in an earlier incident were the specific cases that provoked complaints to the ILO. In the case of the postal workers, the Federal Labor Court in July 1993 agreed with the ILO, stating the Government may not require civil servants to do the work of those engaged in a legal strike.

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

The right to organize and bargain collectively is guaranteed by the Basic Law and is widely practiced. No government mechanism to promote voluntary worker-employer negotiations is required because of a well-developed system of autonomous contract negotiations, now extended to the eastern states. There is a two-tiered bargaining system whereby basic wages and working conditions are established at the industry level and then adapted to the circumstances prevailing in particular enterprises through local negotiations. In 1993 there continued to be reports that some firms in eastern Germany either refused to join or withdrew from employers' associations and then bargained independently with workers. Some large firms in the west also withdrew at least a portion of their workers from the jurisdiction of the employers' associations, complaining of a lack of flexibility in the system of centralized negotiations. A characteristic of German industrial relations is the legally mandated system of works councils that provides a permanent forum for continuing selective worker participation in the management of the enterprise. Workers are fully protected against antiunion discrimination and can be reinstated if they can prove they were fired for union activity.

Germany has no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor is barred by the Basic Law and is nonexistent in practice.

d. Minimum Age for Employment of Children

Federal law generally prohibits the employment of children under age 15, with a few exceptions: children aged 13 and 14 may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; children aged 13 through 14 may take part in cultural performances under stringent conditions with regard to number of hours, time of day, and form of activity. 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 rate. Wages and salaries are set either by collective bargaining agreements between industrial unions and employer federations or by individual contract. These agreements, which cover about 90 percent of all wage and salary earners, set minimum pay rates and are legally enforceable. These minimum wage levels provide an adequate standard of living for workers and their families. The number of hours of work per week is regulated by contracts which directly or indirectly affect 80 percent of the working population. The average workweek for industrial workers in the western part of Germany is 37.6 hours, and in the eastern states, about 40 hours.

Germany has an extensive system of laws and regulations on occupational safety and health and incorporates a growing body of European Union-wide standards into its own legislation. This system includes the right to refuse to perform dangerous or unhealthy work without jeopardizing employment. For each occupation, there is a comprehensive system of worker insurance carriers that enforce requirements for safety in the workplace. This system has been extended into the eastern states, where lax occupational health and safety standards and conditions under the Communist regime created serious longterm problems. The Federal Labor Ministry and its counterparts in the states effectively enforce occupational safety and health standards through a comprehensive network of government structures, including the Federal Institute for Work Safety. At the local level, professional and trade associations--self-governing public law corporations with delegates from the employers and from the unions--oversee the prevention of workplace accidents as well as worker safety.

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