

# GERMANY 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Germany is a constitutional democracy. Citizens choose their representatives periodically in free and fair multiparty elections. The lower chamber of the federal parliament (Bundestag) elects the chancellor as head of the federal government. 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 country's 16 states exercise considerable autonomy, including over law enforcement and education. Observers considered the national elections for the Bundestag in 2017 to have been free and fair, as were state elections in 2018 and 2019.

Responsibility for internal and border security is shared by the police forces of the 16 states, the Federal Criminal Police Office (BKA), and the federal police. The states' police forces report to their respective interior ministries; the federal police forces report to the Federal Ministry of the Interior. The Federal Office for the Protection of the Constitution (FOPC) and the state offices for the protection of the constitution (OPCs) are responsible for gathering intelligence on threats to domestic order and other security functions. The FOPC reports to the Federal Ministry of the Interior, and the state OPCs report to their respective ministries of the interior. Civilian authorities maintained effective control over security forces.

Significant human rights issues included refoulement of those with pending asylum applications; crimes involving violence motivated by anti-Semitism or other forms of extremism, and violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons or members of other minority groups.

The government took steps to investigate, prosecute, and punish officials in the security services and elsewhere in government who committed human rights abuses.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

In June, Kassel Regional Administration Chief Walter Luebcke was shot and killed at his home. Police apprehended a suspect with an extensive background in right-wing extremist organizations and a history of violent behavior. The suspect confessed to the killing but later recanted his confession. Luebcke gained prominence in October 2015 after confronting antimigrant hecklers during an event at a refugee reception center, where he told the hecklers they were free to leave the country if they did not identify with Christian values such as helping people in need. Allegedly, the suspect was present during the event. The remarks made Luebcke a target of antirefugee activists, especially on the internet; he received death threats and was temporarily put under police protection. The killing was reminiscent of a series of political killings committed by the National Socialist Underground (NSU) terrorist cell between 2000 and 2006. The last killing committed by the NSU also occurred in Kassel. As of November police were investigating connections between the far-right networks of the NSU and the suspect in the Luebcke case.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and the law prohibit such practices, but there were a few reports that government officials employed them. According to some human rights groups, authorities did not effectively investigate allegations of mistreatment by police and failed to establish an independent mechanism to investigate such allegations. An ongoing study by researchers at the University of Bochum estimated police used excessive force in approximately 12,000 cases annually, of which authorities investigated approximately 2,000. The study's head researcher told media many cases of police violence are not reported, in part because social groups frequently affected by police violence, including the homeless and refugees, rarely report such violence. Investigations were discontinued in 90 percent of the cases, and officers were formally charged in approximately 2 percent of the cases. Less than 1 percent of the cases resulted in conviction of the accused officer.

In October, two police officers in Thuringia were taken into custody for raping a woman while on duty. After checking a Polish couple's identity papers and

determining they were fake, the officers drove the woman to her apartment, where they allegedly raped her. According to the public prosecutor's office, the officers could face between three and 15 years in prison if found guilty. Police are also investigating the two officers' past assignments to determine whether they may have committed similar crimes previously. The investigation was continuing as of November.

### **Prison and Detention Center Conditions**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse.

Administration: Authorities conducted proper investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted monitoring by independent nongovernmental observers.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Between 2017 and 2019, several state parliaments expanded police powers. The new state laws enable police to take preventive action against an "impending danger." Critics argue that this provision gives police the power to intervene before an offense has taken place, and expands their surveillance power, which historically is reserved for the country's secret services. In August a commission assessed that the new Bavarian laws needed to be adjusted, and the state Ministry of Interior announced it would present its new proposal in November. As of November cases were pending at the Federal Constitutional Court against the new police laws in Bavaria and Baden-Wuerttemberg, and on August 1, members of the Green party and the Left party in Saxony's parliament submitted a request to the Saxony Constitutional Court to strike down sections of the state's new police law.

In December 2018 Hamburg Data Protection Officer Johannes Caspar issued a legally binding order requiring Hamburg police to delete any facial recognition templates partially produced through surveillance cameras in public areas. He did not demand that police stop using the software in question but stated that the police database into which it feeds is illegal, as it automatically and constantly captures images of innocent citizens in real time.

The nongovernmental organization (NGO) Amnesty International Germany criticized the lack of nationwide requirement for police to wear identity badges, although several states require them to do so.

In April a 28-year-old man was acquitted a second time of charges of resisting police officers, causing bodily harm, and insulting an officer in Cologne. The Cologne District Court judge dismissed the charges as manifestly unfounded and apologized to the defendant, saying he was ashamed of the state's actions against him. The judge also commended a police officer who testified against her colleagues, whom she witnessed beating a detained suspect. The police officers were themselves placed under investigation, but press reported in July that the public prosecutor filed another appeal, and the case could go to trial a third time.

### **Arrest Procedures and Treatment of Detainees**

Authorities must have a warrant issued by a judicial authority to arrest an individual. Police may also arrest individuals they apprehend in the act of committing a crime, or if they have strong reason to suspect the individual intends to commit a crime. The constitution requires authorities to bring a suspect before a judicial officer before the end of the day following the arrest. The judge must inform the suspect of the reasons for his or her detention and provide the suspect with an opportunity to object. The court must then either issue an arrest warrant stating the grounds for continued detention or order the individual's release. Authorities generally respected these rights.

Although bail exists, judges usually released individuals awaiting trial without requiring bail. Bail is only required in cases where a court determines the suspect poses a flight risk. In such cases, authorities may deny bail and hold detainees for the duration of the investigation and subsequent trial, subject to judicial review. The courts credit time spent in pretrial custody toward any eventual sentence. If a court acquits an incarcerated defendant, the government must compensate the defendant for financial losses as well as for "moral prejudice" due to his or her incarceration. From 2017 to 2018, pretrial detention increased by 25 percent,

despite fewer crimes and fewer convictions. State justice ministers attributed the increase to a strengthened focus on particular offenses, long court proceedings, and a rise in the number of foreign suspects.

Detainees have the right to consult with an attorney of their choice; the government provides an attorney at public expense if detainees demonstrate financial need. The law entitles a detainee to request access to a lawyer at any time, including prior to any police questioning. Authorities must inform suspects of their right to consult an attorney before questioning begins.

### **e. Denial of Fair Public Trial**

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

### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and have the right to be informed promptly and in detail of the charges against them. The trial shall be fair, public, and held without undue delay. The law requires defendants be present at their trials. Defendants have the right to consult with an attorney of their choice, and the government provides an attorney at public expense if defendants demonstrate financial need, as stated above. Defendants and their attorneys have the right to adequate time and facilities to prepare a defense. The government provides an interpreter to any defendant who cannot understand or speak German and does so free of charge if the defendant demonstrates financial need or is acquitted.

Defendants have access to all court-held evidence relevant to their cases.

Defendants may question the prosecution's witnesses and may introduce their own witnesses and evidence in support of their case. Defendants may not be compelled to testify or confess guilt. Defendants have the right to appeal.

The law does not allow courts to punish a person twice for the same crime. A court may, however, order an offender convicted of rape, homicide, or manslaughter to spend additional time in "subsequent preventive detention" after completing a sentence. The court can only order preventive detention if it determines that the offender suffers from a mental disorder or represents a

continuing serious danger to the public. The law permits the imposition of such detention for an indefinite period, subject to periodic review.

Because the law does not regard such detention as punishment, authorities are legally required to keep those in preventive detention in separate buildings or in special prison sections with better conditions than those of the general prisons. Authorities must also provide detainees with a range of social and psychological therapy programs. According to the Federal Statistics Office, 566 offenders were held under preventive detention at the end of March.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Citizens may file complaints about violations of their human rights with petition committees and commissioners for citizens' affairs. Citizens usually referred to these points of contact as "ombudsmen." Additionally, an independent and impartial judiciary in civil matters provides court access for lawsuits seeking damages for, or cessation of, a human rights violation. Persons who exhaust domestic legal remedies may appeal cases involving alleged government violations of the European Convention on Human Rights to the European Court of Human Rights.

As of January 1, private individuals (including noncitizens) in North Rhine-Westphalia (NRW) can file a constitutional complaint at the highest court in NRW. Previously these complaints were reserved for groups or communities. In April the four leading parties in the state parliament voted unanimously to change the state constitution accordingly. In May a visually impaired woman successfully claimed financial legal aid through this process after having been denied previously.

### **Property Restitution**

The government has laws and mechanisms in place, and NGOs and advocacy groups reported it made significant progress on resolution of Holocaust-era claims, including for foreign citizens. Since the end of World War II through 2018, according to the Federal Ministry of Finance, the government paid approximately 76.7 billion euros (\$84.4 billion) in Holocaust restitution and compensation. The

country has also supported numerous public and private international reparation and social welfare initiatives to benefit Holocaust survivors and their families.

After World War II, the government adopted legislation to resolve compensation claims stemming from Nazi atrocities and Holocaust-era property confiscation. In 1952 the government designated the Conference on Jewish Material Claims against Germany (also known as the Jewish Claims Conference or JCC) as its principal partner in handling restitution and compensation claims made by Jewish victims of Nazi persecution.

Before German reunification in 1990, in accordance with the Federal Restitution Law, West German authorities provided property restitution and compensation payments for properties and businesses that were confiscated or transferred during the Holocaust era. The JCC assumed ownership of and auctioned off heirless properties, using the proceeds to fund the organization's efforts to support Holocaust survivors and fund Holocaust education. For confiscated Jewish property located in what was formerly East Germany, the JCC filed additional claims under the 1990 Property Law, enacted after reunification. Since 1990 authorities have approved and granted restitution in 4,500 cases and provided compensation in approximately 12,000 cases. There were approximately 5,000 cases involving fixed assets pending processing at the Federal Office for Central Services and Unsettled Property Issues, including land, real estate, and company shares.

Regular negotiations between the JCC and the country's federal government have expanded existing programs and introduced additional ones, including a child survivor fund and the provision of home care services for elderly survivors. In negotiations during the year, the government agreed to increase the total funding level for 2020 to 524 million euros (\$576 million), including for the first time Holocaust survivor pensions to widowed spouses, for which approximately 30,000 individuals will be eligible.

In 2015 the federal government established the German Lost Art Foundation (DZK) to promote provenance research. The DZK maintains an online "Lost Art" database. The database documents objects suspected or proven confiscated by the Nazis. In 2013 Christie's auction house used this database to determine that two vases consigned for sale had been looted by the Nazis in 1939. Following further investigation, an art crime team organized the return of the vases to the original owner's heirs in an August 1 ceremony.

In July the city of Duesseldorf successfully adjudicated the restitution request of the heirs of the late Jewish timber merchant Curt Schueler, who was forced during the Nazi era to sell at a very low price a rare double-sided painting by Emile Nolde.

The heirs of Max Emden, once Hamburg's largest real estate owner, accused the state of Hamburg of insufficient Nazi restitution and called on the Hamburg Senate to properly compensate their family for the Nazi expropriation of more than 30 properties worth billions of dollars today that the Nazis either confiscated directly or forced Emden to sell at extremely reduced prices. Emden's heirs have not filed a legal claim, as they insisted that they were not seeking "one-to-one restitution" but rather were asking the city to acknowledge the injustice Emden suffered.

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

The constitution prohibits such actions, and there were no reports the government failed to respect these prohibitions.

The federal and state OPCs continued to monitor political groups deemed to be potentially undermining the constitution, including left-wing extremist groups inside the Left party, which has seats in the Bundestag, and the right-wing extremist National Democratic Party. Monitoring requires the approval of state or federal interior ministries and is subject to review by state or federal parliamentary intelligence committees.

In January the Federal Office for the Protection of the Constitution (FOPC) announced it would monitor a loose network known as "the Wing" within the far-right Alternative for Germany (AfD) party because it aims "at the exclusion, disparagement, and extensive deprivation of rights" of minorities and "violates the guarantee of human dignity as well as the principles of democracy and the rule of law." Additionally, the FOPC asserted that members of the Wing have links with members of extremist organizations.

All OPC activities may be contested in court, including the Federal Constitutional Court. Following a 2014 Constitutional Court ruling, the government stated the FOPC would no longer monitor Bundestag members.



Hamburg's Education Ministry confirmed in March that it had ordered a local high school to remove left-wing extremist paraphernalia based on a complaint through the Hamburg AfD's "Neutral Schools" reporting tool.

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

### **a. Freedom of Expression, Including for the Press**

Freedom of Expression: While the government generally respected these rights, it imposed limits on groups it deemed extremist. The government arrested, tried, convicted, and imprisoned a number of individuals for speech that incited racial hatred, endorsed Nazism, or denied the Holocaust (see also section 6, Anti-Semitism).

In May, Facebook announced it had removed 2.19 billion "fake profiles" between January and March, including some that promoted the AfD, after the NGO Avaaz identified them as sources of targeted misinformation. Saarland AfD politician Laleh Hadjimohamadvali claimed her posts had been deleted or blocked in the past, which deprived her of her freedom of expression.

Lower Saxony's government approved a law in March that makes it illegal for judges and state prosecutors to wear religious symbols openly during public trials. This includes (Muslim) headscarves, (Christian) crosses, and (Jewish) kippas. Similar laws already existed in Baden-Wuerttemberg, Bavaria, Berlin, and Bremen, while Hesse and Thuringia imposed more vague limits on religious attire for judges and state prosecutors.

Georg Restle, the host of the left-leaning political TV program "Monitor" on Westdeutscher Rundfunk (WDR), received a death threat by mail after he made critical comments about the AfD on July 11. WDR has filed charges against the unknown perpetrator, and 44 WDR journalists expressed solidarity with Restle in an ad in the local newspaper *Koelner Stadt-Anzeiger*. After the threat, Restle requested stronger protection for freedom of speech and press. The threatening letter appeared to have the same author as similar letters sent to Cologne Mayor Reker and to Altena Mayor Hollstein. The Federal Prosecutor assumed that an individual with a right-wing extremist background was responsible. Cologne police were investigating.

Press and Media, including Online Media: The constitution provides for freedom of expression, including for the press, and the government generally respected this

right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press. The law bans Nazi propaganda, Holocaust denial, and fomenting racial hatred.

Violence and Harassment: On May 1, during a demonstration of the far-right Pro Chemnitz movement in the city of Chemnitz, a journalist from the local daily *Freie Presse* was threatened by protesters. Instead of defending the journalist's right to cover the demonstration, police forced him to delete his pictures and afterwards expelled him from the demonstration site. Later, police released a statement saying it was a "misunderstanding." Pro Chemnitz is a right-wing organization which the Saxony Office for the Protection of the Constitution monitors to evaluate whether it should be banned.

In August 2018 representatives of the anti-Islam Patriotic Europeans against the Islamization of the Occident movement and the AfD party protested Chancellor Merkel's visit to Dresden. A demonstrator (an off-duty police employee) claimed privacy laws prohibited a ZDF camera team from filming him, and he filed a complaint with police on the spot. Police held the camera team for 45 minutes, reportedly to verify their identities. Chancellor Merkel issued a statement in support of press freedom and noted that demonstrators should expect they may be filmed. The Dresden Police Commissioner apologized to the journalists, and the police employee was transferred to the state directorate in September 2018. In June the employee sued ZDF for violating media law and his personal rights. The case was ongoing as of November.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, with one notable exception, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The exception is that the law permits the government to take down websites that belong to banned organizations or include speech that incites racial hatred, endorses Nazism, or denies the Holocaust. Authorities worked directly with internet service providers and online media companies to monitor and remove such content. As of July authorities monitored several hundred websites and social media accounts associated with right-wing extremists.

In July the NRW Justice Minister announced the creation of a central office for severe cases of politically motivated hate speech on the Internet, such as death threats against politicians on social media.

In February 2018, NRW launched the statewide project “Prosecution Rather Than Deletion--Law Enforcement on the Internet.” Through November it received 378 offense reports, leading to 182 investigation procedures and the identification of 73 defendants. Other contributors to the initiative include NRW Justice and Interior Ministries, the Cologne police headquarters, and media outlets *Rheinische Post* and RTL.

### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

While the constitution provides for the freedoms of peaceful assembly and association, the government restricted these freedoms in some instances.

#### **Freedom of Peaceful Assembly**

The government restricted the freedom of peaceful assembly in some instances. Groups seeking to hold open-air public rallies and marches must obtain permits, and state and local officials may deny permits when public safety concerns arise or when the applicant is from a prohibited organization, mainly right-wing extremist groups. In rare instances during the year, authorities denied such applications to assemble publicly. Authorities allowed nonprohibited right-wing extremist or neo-Nazi groups to hold public rallies or marches when they did so in accordance with the law.

It is illegal to block officially registered demonstrations. Many anti-Nazi activists refused to accept such restrictions and attempted to block neo-Nazi demonstrations or to hold counterdemonstrations, resulting in clashes between police and anti-Nazi demonstrators.

Police detained known or suspected activists when they believed such individuals intended to participate in illegal or unauthorized demonstrations. The length of detention varied from state to state.

In February the Duesseldorf administrative court ruled that the police ban of the planned Kurdish demonstration “Against the war in Afrin” in February 2018 was unlawful. The court found the police assumption that the protest group was a suborganization of the banned Kurdistan Workers’ Party was false and the ban disproportionate. It ordered the police to compensate the protest group 5,000 euros (\$5,500).

### **Freedom of Association**

The government restricted freedom of association in some instances. The law permits authorities to prohibit organizations whose activities the Constitutional Court or federal or state governments determine to be opposed to the constitutional democratic order or otherwise illegal. While only the Federal Constitutional Court may prohibit political parties on these grounds, both federal and 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 such prohibitions or restrictions.

The federal and state OPCs monitored several hundred organizations. Monitoring consisted of collecting information from public sources, written materials, and firsthand accounts, but also included intrusive methods, such as the use of undercover agents who were subject to legal oversight. The federal and state OPCs published lists of monitored organizations, including left- and right-wing political parties. Although the law stipulates surveillance must not interfere with an organization’s legitimate activities, representatives of some monitored groups, such as Scientologists, complained that the publication of the organizations’ names contributed to prejudice against them.

The FOPC monitored approximately 19,000 so-called *Reichsbuerger* (citizens of the empire) and *Selbstverwalter* (self-administrators). These individuals denied the existence of the Federal Republic of Germany and rejected its legal system. The FOPC considered the groups to represent a potential threat due to their affinity for weapons and their contempt for national authorities. In 2018 members of Reichsbuerger and Selbstverwalter groups committed 804 extremist politically motivated crimes; authorities categorized 157 of them as violent.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

#### **d. Freedom of Movement**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; the government generally respected these rights. 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, or other persons of concern.

In-country Movement: Authorities issued three types of travel documents to stateless individuals: those with refugee or asylum status, and foreigners without travel documents. Stateless individuals received a “travel document for the stateless.” Those with recognized refugee and asylum status received a “travel document for refugees.” Foreigners from non-EU countries received a “travel document for foreigners” if they did not have a passport or identity document and could not obtain a passport from their country of origin.

In 2016 the federal government issued a law requiring refugees with recognized asylum status who received social benefits to live within the state that handled their asylum request for a period of three years, and several states implemented the residence rule. States themselves can add other residence restrictions, such as assigning a refugee to a specific city. Local authorities who supported the rule stated that it facilitated integration and enabled authorities to plan for increased infrastructure needs, such as schools.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

Abuse of Migrants, Refugees, and Stateless Persons: On August 21, the law addressing deportation, known as “better implementing the obligation to leave the country,” entered into force. In an open letter, 22 NGOs, including lawyers’ and judges’ associations and child rights, welfare, and human rights organizations, called on the Bundestag to reject the law, which they criticized for its focus on ostracizing migrants and for its alleged violation of human rights. Under the law,

all asylum seekers will have to remain in initial reception facilities until the end of their asylum procedure, up to 18 months. Until passage of the new law, this only applied to those from “safe countries of origin.” Rejected asylum seekers who do not cooperate sufficiently in obtaining travel documents can be obliged to stay in the institutions for longer than 18 months. Authorities are now able to arrest persons who are obliged to leave the country without a court order. Persons obliged to leave the country who do not attend an embassy appointment to establish their identity can be placed in detention for 14 days. The law indicates that persons detained under “deportation detention”--including families and children--will be held in regular prisons. NGOs such as Pro Asyl, Amnesty International, and the Jesuit Refugee Service criticized this as contradicting “the clear case law of the European Court of Justice,” which calls for a strict separation of deportation detention and imprisonment. Refugees deemed to be flight risks can be taken into preventive detention. Officials who pass on information about a planned deportation are liable to prosecution. Legal scholars stress the regulations are legally problematic, as both the German constitution and the EU Return Directive pose high hurdles for deportation detention. The law also provides for the withdrawal of all social benefits from those recognized as asylum seekers in other EU states after two weeks. Of the 16 federal states, 11 announced they would not implement the law.

Assaults on refugees, asylum seekers, and migrants continued, as did attacks on government-provided asylum homes. On April 14, a video appeared online showing four security guards beating an asylum seeker in Halberstadt, Saxony-Anhalt. Saxony-Anhalt’s Interior Ministry suspended the four security guards and ordered an investigation of the incident. The investigation was ongoing as of November.

In May the Council of Europe’s Committee for the Prevention of Torture (CPT) criticized the country’s deportation practices for rejected asylum seekers, including the practice of not informing detainees of their exact deportation date. In its report the CPT also called on the country’s government to refrain when deporting migrants from “disproportionate and inappropriate” use of force, such as methods that cause suffocation or severe pain. On a deportation flight in August 2018 the CPT’s experts had witnessed a police officer pressing his arm against a deportee’s neck, which restricted his ability to breathe. Another police officer repeatedly squeezed the genitals of the same man, who was tied with tape. The CPT also specifically condemned methods in the Eichstaett, Bavaria, detention center, where security guards were not specially trained and detainees lived in prison-like conditions that included limited access to multipurpose rooms, lack of access to

their own clothing, and no ability to speak directly to a doctor. In response, the Federal Ministry of Justice rejected accusations that a direct visit to the doctor was not possible. It further asserted detainees usually did not have enough clothing to change regularly and needed to supplement this with clothing from the detention center when their own clothing was being washed.

Refoulement: In 2018 the government lifted its deportation ban for Afghanistan, and approximately 200 refugees were deported to that country during the first six months of the year. Previous federal policy permitted deportations only of convicted criminals and those deemed a security risk. NGOs including Amnesty International criticized the policy as a breach of the principle of refoulement.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The country faced the task of integrating approximately 1.3 million asylum seekers, refugees, and migrants who arrived between 2015 and 2017, as well as an additional 305,943 who requested asylum in 2018 and during the first six months of the year. The heavy influx of asylum seekers, refugees, and migrants taxed the country's infrastructure and resources.

The NGO Pro Asyl criticized the "airport procedure" for asylum seekers who arrive at the country's airports. Authorities stated the airport procedure was used only in less complex cases and that more complex asylum cases were referred for processing through regular Federal Office for Migration and Refugees (BAMF) channels. Authorities maintained that only persons coming from countries the government identified as "safe" (see below) and those without valid identification documents could be considered via the "fast track procedure." The "fast track procedure" enabled BAMF to decide on asylum applications within a two-day period, during which asylum applicants were detained at the airport. If authorities denied the application, the applicant had the right to appeal. Appeals were processed within two weeks, during which the applicant was detained at the airport. If the appeal was denied, authorities deported the applicant. The NGO Fluechtlingsrat Berlin criticized a similar "fast track" or "direct" procedure applied to some asylum seekers in Berlin. The organization claimed asylum applicants were not provided with sufficient time and access to legal counsel.

In April 2018 BAMF suspended the head of its Bremen branch amid allegations that the official improperly approved up to 2,000 asylum applications. In April, however, a BAMF review concluded that just 50 Bremen asylum decisions (0.9

percent) should be subject to legal review--a proportion below the national average of 1.2 percent.

A Hamburg lawyer and former Green party state parliamentarian confirmed in February that he was representing four German families with seven children aged two to 14 who were calling on the German Ministry of Foreign Affairs for repatriation from Syria and Iraq, where they had joined the Islamic State. In April the government allowed one of the mothers to return from Iraq to Germany with her three children; the mother was promptly arrested. In November an appeals court in Berlin ruled the German government must repatriate from Syria the German wife and three children of an Islamic State member. Their lawyer said he hoped the decision would set a precedent for the 20 other German mothers and 40 children he represented.

Safe Country of Origin/Transit: The country adheres to the EU's Dublin III regulation, which permits authorities to turn back or deport individuals who entered the country through "safe countries of transit," which include the EU member states, and Switzerland, Norway, Iceland, and Liechtenstein. "Safe countries of origin" also include Albania, Bosnia and Herzegovina, Ghana, Kosovo, North Macedonia, Montenegro, Senegal, and Serbia. The government did not return asylum seekers to Syria. The NGO Pro Asyl pointed out that refugees who under the Dublin III regulation fell into another EU state's responsibility but could not be returned to that country often remained in a legal gray zone. They were not allowed to work or participate in integration measures, including German language classes.

Employment: Persons with recognized asylum status were able to access the labor market without restriction; asylum seekers whose applications were pending were generally not allowed to work during their first three months after applying for asylum. According to the Federal Employment Agency, approximately 200,000 refugees were unemployed as of July. Refugees and asylum seekers faced several hurdles in obtaining employment, including lengthy review times for previous qualifications, lack of official certificates and degrees, and limited German language skills.

The law excludes some asylum seekers from access to certain refugee integration measures, such as language courses and employment opportunities. This applies to asylum seekers from countries considered "safe countries of origin" and unsuccessful asylum seekers who cannot be returned to the country through which they first entered the area covered by the Dublin III regulation. The government



did not permit asylum seekers and persons with a protected status from safe countries of origin to work if they applied for asylum after 2015.

Access to Basic Services: State officials retain decision-making authority on how to house asylum seekers, refugees, and migrants, and whether to provide allowances or other benefits.

Several states provided medical insurance cards for asylum seekers. The insurance cards allow asylum seekers to visit any doctor of their choice without prior approval by authorities. In other states asylum seekers received a card only after 15 months, and community authorities had to grant permits to asylum seekers before they could consult a doctor. The welfare organization Diakonie criticized the medical insurance card system, which only enabled asylum seekers to obtain emergency treatment. Local communities and private groups sometimes provided supplemental health care.

Durable Solutions: The government accepted for resettlement and facilitated the local integration (including naturalization) of refugees who had fled their countries of origin, particularly for refugees belonging to vulnerable groups. Such groups included women with children, refugees with disabilities, victims of trafficking in persons, and victims of torture or rape. Authorities granted residence permits to long-term migrants, asylum seekers, refugees, and migrants who could not return to their countries of origin.

The government assisted asylum seekers, refugees, and migrants with the safe and voluntary return to their countries. In the first half of the year, authorities provided financial assistance of 300 to 500 euros (\$330 to \$550) to 6,786 individuals to facilitate voluntary returns to their country of origin. Beneficiaries were either rejected asylum seekers or foreigners without valid identification.

The government also offered a return bonus of 800 to 1,200 euros (\$880 to \$1,320) per person to asylum seekers whose applications were pending but who were unlikely to have their applications approved. Most of the applicants who received this bonus came from Albania, Serbia, North Macedonia, and Iraq.

Temporary Protection: The government provides two forms of temporary protection--subsidiary and humanitarian--for individuals who do not qualify as refugees. In the first six months of the year, the government extended subsidiary protection to 11,855 persons. This status is usually granted if a person does not qualify for refugee or asylum status but might face severe danger in his or her

country of origin due to war or conflict. During the same period, 3,872 individuals were granted humanitarian protection. Humanitarian protection is granted if a person does not qualify for any form of protected status, but there are other humanitarian reasons the person cannot return to his or her country of origin (for example, unavailability of medical treatment in their country of origin for a health condition). Both forms of temporary protection are granted for one year and may be extended. After five years, a person under subsidiary or humanitarian protection can apply for an unlimited residency status if he or she earns enough money to be independent of public assistance and has a good command of German.

### **g. Stateless Persons**

UNHCR reported 14,779 stateless persons in the country at the end of 2018. Some of these persons lost their previous citizenship when the Soviet Union collapsed or Yugoslavia disintegrated. Others were Palestinians from Lebanon and Syria whom the government registered as stateless.

Laws and policies provide stateless persons the opportunity to gain citizenship on a nondiscriminatory basis. Stateless persons may apply for citizenship after six years of residence. Producing sufficient evidence to establish statelessness could often be difficult, however, because the burden of proof is on the applicant. Authorities generally protected stateless persons from deportation to their country of origin or usual residence if they faced a threat of political persecution there.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: The Organization for Security and Cooperation in Europe and 45 parliamentarians from 25 countries observed the country's federal elections in September 2017 and considered them well run, free, and fair.

Political Parties and Political Participation: Political parties generally operated without restriction or outside interference unless authorities deemed them a threat to the federal constitution. When federal authorities perceive such a threat, they may petition the Federal Constitutional Court to ban the party.

In April the Federal Constitutional Court in Karlsruhe ruled that the removal of a police officer from his office was legal. From 2010 to 2015, the police officer was a member of Pro NRW, a regional right-wing party classified by the NRW OPC as anticonstitutional. He served as deputy party chairman in NRW and campaigned in the 2012 state elections. The court ruled the police officer violated his duty of allegiance through his active party engagement.

Under the law, each political party receives federal public funding commensurate with the party's election results in state, national, and European elections. Under the constitution, however, extremist parties who seek to undermine the constitution are not eligible for public funding. In July the Bundesrat, Bundestag, and federal government filed a joint claim with the Federal Constitutional Court to exclude the right-wing extremist National Democratic Party (NPD) from receiving state party financing, arguing that the NPD seeks to undermine the democratic order in the country. The case was pending as of November.

On January 15, the Lower Saxony State Constitutional Court rejected the AfD's challenge of the constitutionality of a new law under which the AfD was excluded from the board of Lower Saxony's Holocaust Memorial Site Foundation, which oversees the concentration camp memorial site Bergen-Belsen. The court concluded the lawsuit was unfounded and partly inadmissible, as the foundation is not a parliamentary body and thus does not require representation from all political parties in the parliament. (It is not possible to file an appeal at the Lower Saxony State Constitutional Court.)

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and they did participate.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

Corruption: In a June report, the Council of Europe's Group of States against Corruption (GRECO) assessed the country as "globally unsatisfactory" and accused the Bundestag of not implementing its recommendations on the prevention of bribery of members of parliament. Of the eight recommendations GRECO made in 2014, the government had only implemented three of them satisfactorily.

Among other things, GRECO faulted the Bundestag for its unclear rules with regard to dealings with lobbyists and for overly lax reporting obligations of parliamentarians, including existing or potential conflicts of interest.

Research by multiple media outlets in April examined Russia's attempts to influence German politics, in particular through the AfD. They uncovered Russian documents from 2017 recommending that Russia provide concrete assistance to AfD candidate Markus Frohnmaier, as his victory would provide Russia with "its own absolutely controlled MP in the Bundestag." Frohnmaier entered the Bundestag in 2017 and has taken consistently pro-Russia positions.

In March, Transparency Germany, Transparency International's national chapter, filed a criminal complaint against Bundestag member Karin Strenz and former Bundestag member Eduard Lintner over an alleged bribery case orchestrated by the Azerbaijani government. Beginning in the early 2000s, the Azerbaijanis operated a money laundering scheme to, among other things, bribe politicians at the Council of Europe to soften human rights resolutions and election observation reports. Following an investigation, the Council of Europe banned both Strenz and Lintner for life from the Council of Europe in June 2018. In January the Bundestag presidium announced Strenz had violated the Bundestag's rules of conduct.

Financial Disclosure: Members of state and federal parliaments are subject to financial disclosure laws that require them to publish their earnings from outside employment. Sanctions for noncompliance range from an administrative fine to as much as half of a parliamentarian's annual salary. Appointed officials are subject to the public disclosure rules for civil servants, who must disclose outside activities and earnings. If the remuneration exceeds certain limits, which vary by grade, the employee must transfer the excess to the employing agency. Under the federal disciplinary law, sanctions for noncomplying officials include financial penalties, reprimand, or dismissal. In the corruption case involving Strenz, the Bundestag fined her more than 19,000 euros (\$20,900) in March for the late disclosure of her payments from a company that passed along the money from Azerbaijan.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A 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.

Government Human Rights Bodies: A number of government bodies worked independently and effectively to protect human rights. The Bundestag has a Committee for Human Rights and Humanitarian Aid and one for Petitions. The Petitions Committee fields complaints from the public, including human rights concerns. The German Institute for Human Rights has responsibility for monitoring the country's implementation of its international human rights commitments, including treaties and conventions. The Federal Anti-Discrimination Agency (FADA) is a semi-independent body that studies discrimination and assists victims of discrimination. The Office of the Federal Commissioner for Persons with Disabilities has specific responsibility for protecting the rights of persons with disabilities. The Justice Ministry's commissioner for human rights oversees implementation of court rulings related to human rights protections.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, of men and women, and provides penalties of up to 15 years in prison. Without a court order, officials may temporarily deny access to their household to those accused of abuse, or they may impose a restraining order. In severe cases of rape and domestic violence, authorities can prosecute individuals for assault or rape and require them to pay damages. Penalties depend on the nature of the case. The government enforced the laws effectively.

In 2018, 9,234 cases of sexual violence against men and women were reported to police. This is a substantial reduction from the previous year, but the federal police indicated this is due in part to a change in statistical methodology by which certain offenses previously classified as "sexual violence" have been reclassified as "sexual harassment."

In July a Wiesbaden court sentenced an Iraqi asylum seeker to life imprisonment for murder. The court also determined an "exceptional severity of guilt," meaning an early release after 15 years is highly unlikely. In June 2018 he raped and killed a 14-year-old in Wiesbaden. The suspect was also accused of twice raping an 11-year-old girl in a refugee shelter in March 2018. The suspect initially fled to Iraq, but he was subsequently returned to Germany, where he was tried.

In December 2018 an off-duty police officer in Berlin raped a 24-year-old woman. Following consensual sex, the police officer asked for additional services, which she declined. The officer then hit her and raped her until the victim's partner intervened. The Berlin public prosecutor's office emphasized that the officer was off-duty and his status had no bearing on the alleged crime. The case was pending as of November.

The federal government, the states, and NGOs supported numerous projects to prevent and respond to cases of gender-based violence, including providing victims with greater access to medical care and legal assistance. Approximately 340 women's shelters offering a total of 6,700 beds operated throughout the country. The NGO Central Information Agency of Autonomous Women's Homes (ZIF) reported accessibility problems, especially in bigger cities, because women who found refuge in a shelter tended to stay there longer due to a lack of available and affordable housing. ZIF also stated refugee women are particularly vulnerable, as they are required to maintain residence in a single district for three years and many live in districts in which there are no women's shelters.

Female Genital Mutilation/Cutting (FGM/C): FGM/C of women and girls is a criminal offense punishable by one to 15 years in prison, even if performed abroad. Authorities can revoke the passports of individuals who they suspect are traveling abroad to subject a girl or woman to FGM/C; however, authorities have not taken this step since the law took effect in 2017. FGM/C affected segments of the immigrant population, in particular those from Eritrea, Iraq, Somalia, and Egypt, and their Germany-born children. A working group under the leadership of the Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth worked with other federal government bodies and all 16 states to combat FGM/C. While official statistics indicated just four cases of FGM/C in 2018, a March study by the ministry indicated that between 1,558 and 5,684 daughters of immigrants are at risk of FGM/C.

Other Harmful Traditional Practices: The law criminalizes "honor killings" as murder and provides penalties that include life in prison. The government enforced the law effectively and financed programs aimed at ending "honor killings."

Sexual Harassment: Sexual harassment of women was a recognized problem and prohibited by law. Penalties include fines and prison sentences of as many as five years. Various disciplinary measures against harassment in the workplace are available, including dismissal of the perpetrator. The law requires employers to

protect employees from sexual harassment. 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. 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.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Men and women enjoy the same legal status and rights under the constitution, including under family, labor, religious, personal status, property, nationality, and inheritance laws. The government generally enforced the law effectively.

## **Children**

Birth Registration: In most cases individuals derive citizenship from their parents. The law allows individuals to obtain citizenship if they were born in the country and if one parent has been a resident for at least eight years or has had a permanent residence permit for at least three years. Parents or guardians are responsible for registering newborn children. Once government officials receive birth registration applications, they generally process them expeditiously. Parents who fail to register their child's birth may be subject to a fine.

Child Abuse: There are laws against child abuse. Violence or cruelty towards minors, as well as malicious neglect, are punishable by five months to 10 years in prison. Incidents of child abuse were reported. The Federal Ministry for Family, Seniors, Women, and Youth sponsored a number of programs throughout the year on the prevention of child abuse. The ministry sought to create networks among parents, youth services, schools, pediatricians, and courts and to support existing programs at the state and local level. Other programs provided therapy and support for adult and youth victims of sexual abuse.

Early and Forced Marriage: The legal minimum age for marriage is 18 years.

Legislation passed in 2017 nullifies existing marriages conducted in other countries in which at least one spouse was under age 16 at the time of the wedding, even if they were of legal age in the country where the marriage was performed. Individuals aged 16 or 17 can petition a judge on a case-by-case basis to recognize

their foreign marriage if they face a specific hardship from not having their marriage legally recognized. Complete central statistics are unavailable on such cases.

Child and forced marriage primarily affected girls of foreign nationality. The government reported that as of March 31, there were 179 married minors in the country, a substantial decrease from 1,475 in 2016. The majority of married minor registrants were from Syria.

Sexual Exploitation of Children: The law prohibits commercial sexual exploitation, sale, offering, or procuring children for prostitution and practices related to child pornography, and authorities enforced the law. The minimum age for consensual sex is 14 years unless the older partner is older than 18 and is “exploiting a coercive situation” or offering compensation, and the younger partner is under 16. It is also illegal for a person who is 21 or older to have sex with a child younger than 16 if the older person “exploits the victim’s lack of capacity for sexual self-determination.” The government’s Independent Commissioner for Child Sex Abuse Issues offered a sexual abuse help online portal and an anonymous telephone helpline free of charge.

In January police informed the public about a child abuse case on a campground in Luegde, NRW, involving more than 40 sexually abused children aged between three and 14 years. The abuse took place over more than a decade. Three suspects were detained and confessed to the crimes. In July, one man was ordered to attend therapy and was sentenced to two years of probation for taking part in the crime via webcam and for owning child pornography. The public prosecutor appealed the sentence as overly lenient. The other two men were sentenced in September to 13 and 12 years in prison, followed by preventive detention.

On July 12, a parliamentary investigating committee opened an investigation into possible failures, omissions, misjudgments, and misconduct of the NRW state government in the child abuse case. Problems with the investigation included the disappearance from the local police station of 155 USB drives containing child pornography, the placement of a foster child with one of the main perpetrators, and concerns that authorities did not follow up on an earlier suspicion of child abuse. As of November the investigation was ongoing.

The case led to the creation of new resources for abuse victims and prosecutors. In March, Cologne opened a new office to serve as a point of contact for children and youth, and in May the first countrywide center for child protection went into



operation in Cologne. The office combines the expertise of forensic medical specialists and child protection experts to examine suspected cases of child abuse.

Displaced Children: According to the NGO Federal Association for Unaccompanied Minor Refugees (BumF), 4,087 unaccompanied minors applied for asylum in the country in 2018, over half of whom came from four countries: Afghanistan, Somalia, Guinea, and Eritrea. BAMF granted some form of asylum to unaccompanied minors in just 61.5 percent of cases, a sharp drop from 94.5 percent in 2016. BumF observed that some unaccompanied minors might have become victims of human trafficking. For more information see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

According to estimates by the NGO Off Road Kids, as many as 2,500 children between the ages of 12 and 18 become at least temporarily homeless every year. Off Road Kids reported most runaways stayed with friends and were not living on the streets. These minors were generally school dropouts who did not receive assistance from the youth welfare office or their parents, and instead used digital networks to find temporary housing with friends and online acquaintances.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

Observers estimated the country's Jewish population to be almost 200,000, of whom an estimated 90 percent were from the former Soviet Union. There were approximately 107,000 registered Jewish community members.

Manifestations of anti-Semitism, including physical and verbal attacks, occurred at public demonstrations, sporting and social events, in schools, in the street, in certain media outlets, and online. Apart from anti-Semitic speech, desecration of cemeteries and Holocaust monuments represented the most widespread anti-Semitic acts. The federal government attributed most anti-Semitic acts to neo-Nazi or other right-wing extremist groups or persons. Jewish organizations also noted an increase of anti-Semitic attitudes and behavior among some Muslim youth and left-wing extremists. NGOs agreed that right-wing extremists were responsible for

the majority of anti-Semitic acts but cautioned that federal statistics misattributed many acts committed by Muslims as right-wing.

In 2018 the Federal Ministry of Interior reported 1,799 anti-Semitic crimes, an increase from the 1,504 anti-Semitic crimes in 2017. NGOs working to combat anti-Semitism noted the reported number of anti-Semitic attacks was likely too low, and a significant number of cases were unreported due to fear.

The FOPC's annual report stated that the number of violent right-wing anti-Semitic incidents rose more than 70 percent, from 28 in 2017 to 48 in 2018. The FOPC also identified three violent left-wing anti-Semitic incidents, plus four with a religious ideological motivation, and 10 with a foreign ideological motivation. Federal prosecutors brought charges against suspects and maintained permanent security measures around many synagogues.

Many prominent government officials repeatedly condemned anti-Semitism throughout the year, including Chancellor Merkel and Foreign Minister Maas. In 2018 the federal government created the position Federal Commissioner for Jewish Life in Germany and the Fight against Anti-Semitism. Several states also established state-level commissioners to combat anti-Semitism. The positions' responsibilities vary by state but involve meeting with the Jewish community, collecting statistics on anti-Semitic acts, and designing education and prevention programs.

On October 9, a gunman attacked the synagogue in the eastern German city of Halle on Yom Kippur, where approximately 50 individuals were attending a prayer service. When the gunman was unable to enter the building, he shot and killed two German nationals outside the synagogue in a snack bar. He was arrested shortly after the attack. The federal public prosecutor's investigation into the suspect's background and motives was ongoing, but according to media reports he admitted to the investigating authorities that he harbored far-right extremist political sympathies. Several Jewish community leaders called for police protection at all synagogues during services. Leading officials promised a more determined fight against anti-Semitism and far-right violent extremism, and the Federal Ministry of Interior introduced a package of measures to improve security and deter anti-Semitic crime that is expected to be taken up by the Bundestag in early 2020.

In March local media reported criminal proceedings against four police detectives were suspended in relation to an incident in July 2018 in Bonn that involved a visiting professor who was allegedly assaulted by a 20-year-old German with

Palestinian roots. When police arrived, the attacker fled the scene, but the police mistakenly believed the victim was the attacker and allegedly used excessive force to detain him. Police later apprehended the perpetrator and charged him with incitement of hate and causing bodily harm. Cologne police opened an internal investigation and assigned the police officers involved in the incident to desk jobs pending the investigation's results. Prosecutors, however, denied the professor's request to provide testimony for the internal investigation. The police officers returned to regular duty. The attacker was indicted for charges of sedition and bodily harm. His trial took place on October 14 and resulted in conviction for incitement of hate. He was sentenced to youth custody for four years and six months, including a pre-existing juvenile sentence of three years and nine months for robbery, insult, coercion, bodily harm, and fare evasion.

In December 2018 media reported that Frankfurt prosecutors were investigating five police officers who had exchanged right-wing extremist messages, including racist slogans, swastikas, and pictures of Hitler, via text message. Investigators began their work after a lawyer who defended victims' families in the 2013-18 trials related to the right-wing terrorist organization National Socialist Underground (NSU) received a threatening letter in August signed "NSU 2.0" at her private address, which was not publicly known. When she reported the threat, investigators found that an officer in Frankfurt had conducted an unauthorized search for her address and uncovered the right-wing extremist messages. In June the lawyer received additional death threats, once again signed "NSU 2.0." Also in June, another Frankfurt police officer was briefly arrested in connection with the scandal that by March had expanded to 38 investigations into police officers from Hesse.

In July, two men speaking Arabic insulted and spat on Rabbi Yehuda Teichtal and his son as they were leaving a Berlin synagogue. German President Frank-Walter Steinmeier later visited Teichtal in his home to offer his support, saying, "There is no place for anti-Semitism in Germany." Rabbi Teichtal called for "tolerance, dialogue, and training" to counter rising levels of anti-Semitism. Anti-Semitic incidents also occurred in Hamburg and Munich, involving spitting and anti-Semitic slurs.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities. The law makes no specific mention of the rights of persons with sensory or intellectual disabilities, but their rights are considered included under the other headings. NGOs disagreed whether the government effectively enforced these provisions.

The Bundestag approved a measure on March 15 to extend suffrage to the approximately 80,000 adults with disabilities in Germany who are the subjects of court orders declaring that they are incapable of independently managing their administrative and financial matters. The Constitutional Court ruled in April this law must go into effect in time for the European Parliament elections in late May, which it did.

A workshop in Leverkusen, NRW, that employs persons with disabilities separately from others dismissed two caregivers after a February 2017 TV report disclosed secret recordings taken in 2015 showing them humiliating a young woman with mental disabilities. The workshop management criticized the TV station for not sharing its insights earlier. In June the local court in Opladen, NRW, sentenced one of the dismissed caregivers to pay a fine of 2,400 euros (\$2,640). The Cologne prosecutor indicted two more defendants, but these cases were not pursued due to insufficient evidence.

Persons with disabilities faced particular difficulties in finding housing.

State officials decide whether children with disabilities may attend mainstream or special needs schools. In 2017-18, 544,630 children with special education needs attended school; of these, 317,480 attended special needs schools. In some instances, parents or teachers in mainstream schools protested against the inclusion of students with special needs, primarily because the schools had insufficient resources and capabilities to address their needs.

## **National/Racial/Ethnic Minorities**

The annual FOPC report for 2018 recorded 1,088 violent, politically motivated crimes committed by individuals with right-wing extremist backgrounds. Of these, 821 were categorized as xenophobic.

In July a 55-year-old right-wing extremist shot and gravely wounded a 26-year-old Eritrean man in the town of Waechtersbach, Hesse. Before the attack the

perpetrator had announced his intention to kill a refugee. A search of the perpetrator's home confirmed suspicions of a racist motive, a police spokesperson said. Police found the perpetrator's body in a car in a neighboring town, where he had shot himself in the head.

On March 20, the press reported legal authorities had initiated 239 criminal proceedings in connection with demonstrations in Chemnitz in August 2018, when approximately 6,000 right-wing demonstrators and 1,500 counter protesters took to the streets in response to the fatal stabbing of a German man, reportedly by two immigrants. Newscasts showed right-wing extremists giving the Hitler salute, which is illegal, and chanting anti-immigrant slogans. On August 22, the district court of Chemnitz sentenced a 23-year-old Syrian asylum seeker to nine years and six months in prison for the fatal stabbing that led to the demonstrations. Authorities believe the other suspect, a 22-year-old Iraqi, fled the country.

Hostility focused on asylum seekers, refugees, and migrants from the Middle East and Africa. On March 17, two men threw explosives at a home for asylum seekers in Nussdorf, Bavaria; two weeks later they perpetrated a similar attack on the same home. Police arrested two offenders, 20 and 23 years old, who were tried and convicted and sentenced to three years and nine months in prison.

Persons of foreign origin faced particular difficulties with finding housing. The Federal Anti-Discrimination Agency (FADA) reported cases of landlords denying rental apartments to persons not of ethnic-German origin--particularly of Turkish and African origin.

Harassment of members of racial minorities such as Roma remained a problem throughout the country. In March statistics from the Federal Ministry of the Interior reported a 54 percent rise in attacks on Sinti and Roma in 2018. The ministry considers all but five of the crimes as right-wing, and of 36 suspects identified, 32 belonged to the extreme right spectrum. The Federal Interior Ministry stated "even if the number of cases increased compared to 2017, they are still at a very low level." The head of the Sinti and Roma Council, Romani Rose, suggested, however, that many crimes against Sinti and Roma go unreported.

In May in the town of Erbach, Baden-Wuerttemberg, a burning torch was thrown at a vehicle in which a Romani family slept with their nine-month-old baby. No one was injured, as the torch missed the caravan. The Stuttgart public prosecutor suspected a politically motivated offense, and in July, police arrested five Germans aged 17 to 20 in connection with the crime.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law prohibits discrimination based on sexual orientation and gender identity. LGBTI activists criticized the requirement that transgender persons be diagnosed as “mentally ill” in order to obtain legal gender recognition.

In March the then federal justice minister Katrina Barley announced that gay men placed under investigation or taken into investigative custody between 1949 and 1969 under the law criminalizing male homosexuality would receive compensation from the government. The government began paying compensation immediately to those who filed for it. Barley said the anti-homosexuality law known as Paragraph 175 “destroyed lives, led to sham marriages, harassment, blackmail, and suicide.” In 2017 the country approved compensation to gay men who were convicted under the antihomosexuality law; however, Barley’s announcement extended this to men who were placed under investigation but not convicted. West Germany decriminalized homosexuality in 1969, but approximately 50,000 men were convicted between 1949 and 1969.

In June the Regional Court in Chemnitz declared it could not identify a homophobic or right-wing motive for beating a 27-year-old gay man to death in April 2018. The court found the three men guilty of manslaughter rather than murder. The three were known members of the right-wing scene, and one of them had a swastika tattoo. Police classified the crime as a “right-wing motivated homicide.”

## **HIV and AIDS Social Stigma**

The NGO German AIDS Foundation reported that societal discrimination against persons with HIV/AIDS ranged from isolation and negative comments from acquaintances, family, and friends to bullying at work. A domestic AIDS service NGO continued to criticize authorities in Bavaria for ongoing mandatory HIV testing of asylum seekers.

## **Other Societal Violence or Discrimination**

In March 2018 unknown perpetrators wrote anti-Muslim graffiti on the Fatih Mosque in Bremen-Groepelingen. The Bremen Police State Protection unit investigated. The chair of the Fatih Mosque, Zekai Gumus, called on the Bremen

senate and authorities to solve the crime, noting police had not identified suspects responsible for a 2017 attack on the mosque. As of July police had yet to identify any suspects for the March 2018 attack.

On June 8 in Bremen, unknown perpetrators desecrated 50 copies of the Quran by throwing them into toilets when the mosque was open to the public. As of November local police were investigating.

Civil society organizations continued to report discriminatory identity checks by police on members of ethnic and religious minorities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution, federal legislation, and government regulations provide for the right of employees to form and join independent unions, bargain collectively, and conduct legal strikes. Wildcat strikes are not allowed. The law prohibits antiunion discrimination and offers legal remedies to claim damages, including the reinstatement of unlawfully dismissed workers.

Some laws and regulations limit these labor rights. While civil servants are free to form or join unions, their wages and working conditions are determined by legislation, not by collective bargaining. All civil servants (including some teachers, postal workers, railroad employees, and police) and members of the armed forces are prohibited from striking.

Employers are generally free to decide whether to be a party to a collective bargaining agreement. Even if they decide not to be a party, companies must apply the provisions of a collective agreement if the Federal Ministry of Labor and Social Affairs declares a collective bargaining agreement generally binding for the whole sector. Employers not legally bound by collective bargaining agreements often used them to determine part or all of their employees' employment conditions. Employers may contest in court a strike's proportionality and a trade union's right to take strike actions. The law does not establish clear criteria on strikes, and courts often rely on case law and precedent.

The government enforced applicable laws effectively. Actions and measures by employers to limit or violate freedom of association and the right to collective

bargaining are considered unlawful and lead to fines. Penalties were adequate and remediation efforts were sufficient.

Laws regulate cooperation between management and work councils (companies' elected employee representation), including the right of the workers to be involved in management decisions that could affect them. Work councils are independent from labor unions but often have close ties to the sector's labor movement. The penalty for employers who interfere in work councils' elections and operations is up to one year in prison or a fine. Findings from 2018 showed that a significant number of employers interfered with the election of work council members or tried to deter employees from organizing new work councils. This practice has been criticized by labor unions for a long time; they call for stronger legislation that shields employees seeking to exercise their rights under the law.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution and federal law prohibit all forms of forced or compulsory labor. Penalties for forced labor range from six months to 10 years in prison and were generally sufficient to deter violations.

The government effectively enforced the law when they found violations, but NGOs questioned the adequacy of resources to investigate and prosecute the crime. Some traffickers received light or suspended sentences, consistent with the country's sentencing practices for most types of crime.

There were reports of forced labor involving adults, mainly in the construction and food service industries. There were also reported cases in domestic households and industrial plants. In 2018 police completed 21 labor-trafficking investigations that identified 63 victims, mostly from Ukraine (27), Vietnam (9), and Hungary (8).

In August the Federal Customs Office and federal police conducted a raid on more than 100 sites against a construction company in Berlin on suspicion of illegal employment and human trafficking for labor exploitation. Law enforcement officers cooperated closely with a labor protection NGO to provide immediate support and counseling to the victims (approximately 160 Serbian nationals who worked as construction workers).

In August, 800 federal police officers conducted raids in the states of Thuringia and Saxony-Anhalt on the suspicion of human trafficking and labor exploitation of



workers from Eastern Europe. Police arrested two Ukrainian nationals who allegedly paid very low wages to the mostly illegal workers from Ukraine, Moldova, and North Macedonia working in cattle breeding and meat-processing plants.

In September police officers in Berlin, Brandenburg, Saxony, Mecklenburg-West Pomerania, and North Rhine-Westphalia raided 33 sites in connection with human trafficking. They detained nine Vietnamese citizens who allegedly arranged fake marriages and false acknowledgements of paternity to obtain residence or working rights for Vietnamese citizens in Germany.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the worst forms of child labor and provides for a minimum age of employment, including limitations on working hours and occupational safety and health restrictions for children. The law prohibits the employment of children younger than 15 with a few exceptions: Children who are 13 or 14 may perform work on a family-run farm for up to three hours per day or perform services such as delivering magazines and leaflets, babysitting, and dog walking for up to two hours per day, if authorized by their custodial parent. Children under 15 may not work during school hours, before 8 a.m., or after 6 p.m.; or on Saturdays, Sundays, or public holidays. The type of work must not pose any risk to the security, health, or development of the child and must not prevent the child from obtaining schooling and training. Children are not allowed to work with hazardous materials, carry or handle items weighing more than 22 pounds, perform work requiring an unsuitable posture, or engage in work that exposes them to the risk of an accident. Children between the ages of three and 14 may take part in cultural performances, but there are strict limits on the kind of activity, number of hours, and time of day.

The government effectively enforced the applicable laws, and penalties were generally sufficient to deter violations. Isolated cases of child labor occurred in small, family-owned businesses, such as cafes, restaurants, family farms, and grocery stores. Inspections by the regional inspection agencies and the resources and remediation available to them were adequate to ensure broad compliance.

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in all areas of occupation and employment, from recruitment, self-employment, and promotion to career advancement. Although origin and citizenship are not explicitly listed as grounds of discrimination in the law, victims of such discrimination have other means to assert legal claims. The law obliges employers to protect employees from discrimination at work.

The government effectively enforced these laws and regulations during the year. Employees who believe they are victims of discrimination have a right to file an official complaint and to have the complaint heard. If an employer fails to protect the employee effectively, employees may remove themselves from places and situations of discrimination without losing employment or pay. In cases of violations of the law, victims of discrimination are entitled to injunctions, removal, and material or nonmaterial damages set by court decision. Penalties were sufficient to deter violations.

FADA highlighted that applicants of foreign descent and with foreign names faced discrimination even when they had similar or better qualifications than others. FADA stated the majority of complaints concerned the private sector, where barriers for persons with disabilities also persisted.

The law provides for equal pay for equal work. In March the Federal Statistical Office found the gross hourly wages of women in 2017 were on average 21 percent lower than those of men. It blamed pay differences in the sectors and occupations in which women and men were employed, as well as unequal requirements for leadership experience and other qualifications as the principal reasons for the pay gap. Women were underrepresented in highly paid managerial positions and overrepresented in some lower-wage occupations (see section 7.d.). FADA reported women were also at a disadvantage regarding promotions, often due to career interruptions for child rearing.

In December 2018, two teachers filed an action with the Essen administrative court to achieve equal pay for all teachers with civil service status. Under current law, elementary school teachers earn 500 euros (\$550) gross less each month than secondary school teachers, even though the educational requirements for the positions have been identical since 2009. The case was pending as of November.

The law imposes a gender quota of 30 percent for supervisory boards of certain publicly traded corporations. It also requires approximately 3,500 companies to set and publish self-determined targets for increasing the share of women in leading

positions (executive boards and management) and to report on their performance. Consequently, the share of women on the supervisory boards of those companies bound by the law increased from approximately 20 percent in 2015 to more than 30 percent in 2018. The representation of women on management boards in the top 200 companies stood at 9 percent.

There were reports of employment discrimination against persons with disabilities. The unemployment rate among persons with disabilities decreased to 11.4 percent in 2017, remaining considerably higher than that of the general population (on average 5.7 percent for 2017). Employers with 20 or more employees must hire persons with more significant disabilities to fill at least 5 percent of all positions; companies with 20 to 40 employees must fill one position with a person with disabilities, and companies with 40 to 60 employees must fill two positions. Each year companies file a mandatory form with the employment office verifying whether they meet the quota for employing persons with disabilities. Companies that fail to meet these quotas pay a monthly fine for each required position not filled by a person with disabilities. In 2017 more than 123,000 employers did not employ enough persons with disabilities and paid fines.

The law provides for equal treatment of foreign workers, although foreign workers faced some wage discrimination. For example, employers, particularly in the construction sector, sometimes paid lower wages to seasonal workers from Eastern Europe.

#### **e. Acceptable Conditions of Work**

The nationwide statutory minimum wage is below the internationally defined “at-risk-of poverty threshold,” which is two-thirds of the national median wage. The minimum wage does not apply to persons under 18, long-term unemployed persons during their first six months in a new job, or apprentices undergoing vocational training, regardless of age. A number of sectors set their own higher minimum wages through collective bargaining.

The government effectively enforced the laws and monitored compliance with the statutory and sector-wide minimum wages and hours of work through the Customs Office’s Financial Control Illicit Work Unit, which conducted checks on 53,000 companies in 2018. The number of investigations for noncompliance with the statutory minimum wage under the Minimum Wage Act rose 10 percent to 2,744. Employees may sue companies if employers fail to comply with the Minimum

Wage Act, and courts may sentence employers who violate the provisions to pay a substantial fine.

Federal regulations set the standard workday at eight hours, with a maximum of 10 hours, and limit the average workweek to 48 hours. For the 78 percent of employees who are directly or indirectly affected by collective bargaining agreements, the average agreed working week under current agreements is 37.7 hours. According to the Federal Statistical Office, the actual average workweek of full-time employees was 41 hours in 2018. The law requires a break after no more than six hours of work, stipulates regular breaks totaling at least 30 minutes, and sets a minimum of 24 days of paid annual leave in addition to official holidays. Provisions for overtime, holiday, and weekend pay varied, depending upon the applicable collective bargaining agreement. Such agreements or individual contracts prohibited excessive compulsory overtime and protected workers against arbitrary employer requests.

Extensive laws and regulations govern occupational safety and health. A comprehensive system of worker insurance carriers enforced safety requirements in the workplace.

The Federal Ministry of Labor and Social Affairs and its state-level counterparts monitored and enforced occupational safety and health standards through a network of government bodies, including the Federal Agency for Occupational Safety and Health. At the local level, professional and trade associations--self-governing public corporations with delegates representing both employers and unions--as well as work councils oversaw worker safety. The number of inspectors was sufficient to ensure compliance.

The number of work accidents continued to decline among full-time employees, and workplace fatalities decreased to 420 in 2018, down from 451 in 2017. Most accidents occurred in the construction, transportation, postal logistics, wood, and metalworking industries.